

June 11, 2013

CSR State of the Art
and Applicability to the
Renewable Energy
and Power Sectors of
Guatemala, Honduras
and Nicaragua



Organización Latinoamericana de Energía
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Foreign Affairs, Trade and
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2013

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This publication was made possible by a grant from the Government of Canada under the OLADE/ Government of Canada Project on Sustainable Energy for Latin America and the Caribbean 2012-2017, as part of the program for promoting Corporate Social Responsibility in the energy sector of the region: "Technical Support for Central America".

The opinions expressed herein are solely the responsibility of the author and do not necessarily reflect the views or official position of OLADE or those who supported the project.

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EXECUTIVE SUMMARY

The main objective of this study was to identify concepts, practices, references and trends of Corporate Social Responsibility (CSR) that provide a frame of reference for defining a strategy for promoting CSR in the renewable energy and power sector of Central America with emphasis on Guatemala, Honduras and Nicaragua.

Based on an analysis of the information gathered, this paper will show that CSR refers to: “A business culture that goes beyond compliance with the law, based on ethical principles that seek a balance between the environmental, social and economic benefits and contribute to sustainable development.” Since it involves practices that go beyond the law, CSR is considered to be voluntary, but it can be essential for fulfilling the expectations of society, and thus become a requirement for obtaining social licenses to operate, which gives companies sustainability.

The social license to operate is seen to be continuous approval by local communities and other stakeholders, and broad social acceptance of a company, project or specific operation. The social license is rooted in the beliefs, perceptions and opinions of local people and other stakeholders.

In order to earn and maintain a social license to operate it is essential to manage relationships with stakeholders formally. A stakeholder is any person or group with an interest in the business. These are persons who can claim that the company impacts them positively or negatively.

It is important to mention human development, including the creation of opportunities for people to succeed on their own and become agents of their own development. The subsidiary role of the State or any social project should thus be co-responsibility, which for those who fund or implement projects could be understood as providing assistance only to the extent necessary, while the beneficiary does much as possible.

The main reference points identified according to their relevance for the region or sector are:

- The Corporate Social Responsibility organizations of Central America: CentraRSE, FundeMAS, CEHDES, FUNDAHRSE, UniRSE, AED, Sumarse.
- The most influential international benchmarks are ISO 26000, the World Business Council for Sustainable Development (WBCSD), Global Reporting Initiative (GRI), the Organization for Economic Co-operation and Development (OECD), International Finance Corporation (IFC) and the United Nations Global Compact.

The newest of the above standards is ISO 26000, which introduces an important innovation compared to other standards and concepts, that is, it refers to Social Responsibility in general, not merely from a business standpoint. It suggests that every actor in society should be socially responsible, that is government, civil society, business, international organizations, academia, and others. Ultimately, this means that everyone should obey the law, be responsible and ethical in order to have the legitimacy to demand that others do the same, and ultimately be a positive player for development.

The most important international conventions shape or could impact social responsibility strategies for the future energy sector are ILO Convention 169, the Kyoto Protocol, the Voluntary Principles on Security, the Equator Principles, Human Rights, as well as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

This analysis included a survey of the perception of Social Responsibility in the renewable energy sector of the three countries. The most significant findings of the study, according to the perceptions of the participants in the survey, were:

- The energy sector is better off economically than the general situation of the countries, yet most consider the situation of both the energy sector and the country to be average. This demonstrates that the sector is interested in investing.
- There is an awareness of the issue of Social Responsibility (SR), and philanthropy is distinguished from simple donations.
- 91% believed that the SR is crucial for the sustainability of their businesses.
- The 3 main barriers to developing Social Responsibility and ensuring greater project sustainability are:
 - Weak government or little capacity for accompaniment.

- Lack of access to funding.
- Difficulties in managing community relations.
- 98% felt that it is important to provide information and socialize power generation projects with the surrounding communities before investing in a particular place.
- 77% considered that it is necessary to consult directly with surrounding communities before installing a power generation plant in a certain place, which is 21% less than those who consider that it is important to provide information only.
 - Regarding this issue, 35% were not aware of ILO Convention 169, and of the 65% who were aware, 54% did not think that it helped to improve community relations.
- 82% were aware of organizations that promote and support the adoption of Social Responsibility in their country, and 97% of them believed that it is important to support those organizations to improve their social responsibility.
- 76% believed that the State should have a strong role in supporting social responsibility.

One of the main challenges observed in the establishment of renewable energy projects involved community relations, as noted above. Likewise, community relations and acceptance of a project in many cases are linked to Free, Prior and Informed Consent (FPIC) and the social license to operate, so it is important to define them and differentiate between them. Consultations are limited in scope and timing to a period prior to any development. They are linked to a unique decision-making process, and according to ILO 169 and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), this is a government obligation. A social license to operate is also evidence of the quality of the relationship between a project or company and its neighbors, which is not limited to a particular time, but extends throughout the life a project in a certain area.

It can be seen that the successful implementation of sustainable energy policies that include a large component of human, social and economic development, help to attract investment, create jobs and, in the future, sell energy surpluses to neighboring countries.

There are many opportunities in Central America for generating renewable energy; however from a Corporate Social Responsibility perspective, these opportunities should include greater well-

structured efforts with a long-term vision that provide social and environmental benefits. It is also important to note that in order to have a greater impact on the use of renewable energies, there is a clear need to continue increasing incentives and credits in this category.

II. ABBREVIATIONS AND ACRONYMS

AED:	Asociación Empresarial para el Desarrollo
AHPER:	Asociación Hondureña de Productores de Energía Renovable
BCIE:	Banco Centroamericano de Integración Económica
BID:	Inter-American Development Bank
BOT:	Build Operate and Transfer
C.A.:	Central America
CDM:	Clean Development Mechanism
CEHDES:	Consejo Empresarial Hondureño para el Desarrollo Sostenible
CentraRSE:	El Centro para la Acción de la Responsabilidad Social Empresarial en Guatemala
ECLAC:	Economic Commission for Latin America and the Caribbean
CER:	Certified of Emissions Reduction
CII:	Corporación Interamericana de Inversiones
CNEE:	Comisión Nacional de Energía Eléctrica
CNP+L:	Centro Nacional de Producción Más Limpia en Honduras
CO₂:	Carbon Dioxide
DGE:	Dirección General de Energía
UNDRIP:	United Nations Declaration on the Rights of Indigenous Peoples
EIA:	Environmental Impact Assessment
ENEE:	Empresa Nacional de Energía Eléctrica
EPC:	Engineering, Procurement and Construction
FUNDAHRSE:	Fundación Hondureña de Responsabilidad Social Empresarial
FUNDEMAS:	Fundación Empresarial para la Acción Social
GHG:	Greenhouse Gases
GRI:	Global Reporting Initiative
GWh:	Gigawatt hours
IFC:	International Finance Corporation
ISO:	International Organization for Standardization
Kv:	Kilovolt
kW:	Kilowatt
kWh:	Kilowatt-hour

MARN:	Ministry of Environment and Natural Resources
CDM:	Clean Development Mechanism
MEM:	Ministry of Energy and Mines
MW:	Megawatt
MWh:	Megawatt–hour
OECD:	The Organization for Economic Co-operation and Development
NGOs:	Non Governmental Organizations
CSOs:	Civil Society Organizations
UNDP:	United Nations Development Program
CSR:	Corporate Social Responsibility
SEPLAN:	Secretaría Técnica de Planificación y Cooperación Externa
SERNA:	Secretaría de Recursos Naturales y Ambiente
SUMARSE:	Nonprofit CSR Association in Panama
UNIRSE:	Unión Nicaragüense para la Responsabilidad Social Empresarial
WBCSD:	World Business Council for Sustainable Development

III. INTRODUCTION

Recognizing the importance of energy for sustainable development, the United Nations General Assembly proclaimed the year 2012 as the International Year of Sustainable Energy for All through resolution 65/151.¹

The International Year of Energy for All was proclaimed at a key moment in the struggle to make the transition to renewable energy generation and transmission alternatives that are accessible to most of the people in the world, especially to those most in need, or who live in remote areas where these services are difficult to obtain.

Energy for all is essential for sustainable economic development around the world, as it is closely linked to issues of productivity, basic services, education, education services, and a host of issues that developed countries take for granted.

Green technologies play a key role in solving the energy problem. While solutions are far from perfect, it is clear that more efficient technologies are discovered every day to help make the most efficient use of existing resources in a world of limited and dwindling resources.

It is now increasingly clear that to find integral solutions to the energy problem societies need to be more interconnected, so that companies, governments, communities and international aid agencies can work toward the same goals.

The need for this cohesion is evident given that most of the natural resources needed for sustainable energy generation are found in rural communities, which are usually poor and therefore lacking the knowledge, technologies and funds needed to carry out such projects. Governments and companies should implement projects in these areas, for which not only a formal license to operate is required, but also wide support and the participation of many stakeholders, especially from nearby communities, so that greater social and environmental benefits can be achieved.

¹
<http://www.un.org/es/events/sustainableenergyforall/> (2012)

This situation of multiple stakeholders and is being successfully addressed through Corporate Social Responsibility (CSR) and given the positive impact generated in several countries, the Latin American Energy Organization (OLADE) in partnership with the Canadian International Development Agency (CIDA) carried out this study to identify Corporate Social Responsibility (CSR) concepts, practices, and trends that provide a frame of reference for the strategies proposed for promoting CSR in the renewable energy and power sector of the region.

It was decided to prioritize renewable energy and electricity, among other energy sources, because only Guatemala, among the three countries in the study, produces oil. SIEPAC, the electrical interconnection initiative of the Central American countries should also be mentioned, as well as the interconnections between Guatemala and Mexico, and Colombia and Panama, which facilitate regional energy exports and early operation of a regional electricity market. It should be mentioned that regional policies are directed toward the use of renewable energy that have a lower impact on the environment, and ensure stable prices as well as less international energy interdependence.

IV. BACKGROUND

The Latin American Energy Organization, OLADE, is a key agency in promoting development in the region by supporting energy, one of the most strategic sectors.

Its vision is:

“OLADE is a political and technical support organization by means of which its Member States undertake joint efforts for regional and sub regional energy integration.”²

Its mission is:

“To contribute to integration, sustainable development and energy security in the region, advising and promoting cooperation and coordination among its Member Countries.”

Through its partnership with the Canadian International Development Agency (CIDA), OLADE has had successful experiences with projects for promoting sustainable development in the energy sector of Latin America and the Caribbean since 1996. Given these positive results, it will now continue to promote sustainability in the energy sector.

Currently, Corporate Social Responsibility and the promotion of processes of strategic dialogue are key determinants for promoting and increasing new investments in the energy sector, as confirmed by the Sustainable Energy Strategy for Central America 2020,³ among many others.

For these reasons, with the support of CIDA and within the framework of the strategic objective of “contributing to sustainable energy development and social inclusion” in OLADE’s Triennial Plan, OLADE seeks to continue contributing in the coming years to Corporate Social Responsibility in the energy sector of the region.

²
<http://www.olade.org/quienes-somos>

³
<http://www.eclac.org/cgi-bin/getProd.asp?xml=/publicaciones/xml/7/31977/P31977.xml&xsl=/mexico/tpl/p9f.xsl&base=/mexico/tpl/top-bottom.xsl>

V. OBJECTIVES AND SCOPE

The main objective of this study was to identify concepts, practices, references and trends in Corporate Social Responsibility (CSR) that provide a frame of reference for the proposed strategies for the promotion of CSR in the renewable energy sector of the Central American region, with emphasis on the following Member Countries: Guatemala, Honduras and Nicaragua.

This document was presented to and supplemented with input from workshops held in early 2013 in each of the countries to collect proposals and suggestions, as well as working meetings with key industry players in each country. It is important to note that this study is complemented by documentation from business cases and the Proposed National Strategies for Promoting Corporate Social Responsibility in the renewable energy sector.

VI. STATE OF THE ART

I. World Energy Sector

Since 2011, the number of people in the world without access to electricity has dropped by 50 million.⁴ However, around the world there are still 1.3 billion people without access to electricity.⁵ Electricity access in the countries of this study is as follows: Guatemala (80.5%), Honduras (70.35), and Nicaragua (72.1%).⁶

Despite efforts at promoting renewable energy, fossil fuels will continue to dominate the global energy mix with strong support from subsidies. However, it should be highlighted that according to the International Energy Agency (IEA), North America and Australia are at the forefront of a radical transformation in oil and gas production that will affect all regions of the world, and change the domination of Middle East in this area.

In this scenario, the best chance of achieving a balance between the environment and energy is by saving energy. The chief economist of the International Energy Agency (IEA) said that saving energy is one of the few viable options for humankind for reducing carbon dioxide emissions, as no global climate agreement is expected before 2020. Any second commitment period of the Kyoto Protocol would be “only a shadow of what it was” due to the absence of states that represent 85% of global emissions. “Therefore substantial reductions in emissions seem unlikely.” “It would be a pleasant surprise if there were an agreement by 2020”.⁷

This does not mean that renewables do not have a positive outlook for future growth. The IEA estimates that by 2015, renewable energy will become the second source of power generation, and that by the year 2035, it will be close to coal as a primary source. This rapid increase is due reduced technology costs and increased fossil fuel prices, but it will fundamentally depend on continued subsidies. In 2011, these subsidies (including those on biofuels) amounted to \$ 88 billion, but in the period to 2035, a total of \$ 240 billion in subsidies will be required. More than half of this has already been committed to existing projects or is necessary in order to achieve 2020 objectives.

⁴ World Energy Outlook (2012)

⁵ World Energy Outlook (2012)

⁶ Banco Mundial (2012), <http://datos.bancomundial.org/indicador/EG.ELC.ACCS.ZS>

⁷ <http://www.euractiv.com> (2012)

II. Central American energy sector

Below is a table summarizing some indicators that provide an overview of the situation of the electrical sector in Central America.

Electricity production 2011	Contribution of renewable energy to total electrical energy	Increase in power consumption
42,115 GWh (3.6% more than in 2010). Details: <ul style="list-style-type: none"> • Hydro (51.6%), • Petroleum Derivatives (34%), • Geothermal (7.6%), • Coal (3.9%) • Bagasse from sugar mills (3.8%), • Wind (1.8%). 	62.1 % Details: <ul style="list-style-type: none"> • Costa Rica (91.2%) • Guatemala (64.2%) • El Salvador (63.3%) • Panama (52.9%) • Honduras (43.5%) • Nicaragua (33.1%) 	4.2 % Details: <ul style="list-style-type: none"> • 6.9% in Panama • 6.5% in Honduras • 5% in Nicaragua • 4.2% in Guatemala • 2% in Costa Rica • 1.1% in El Salvador

Source: World Energy Outlook (2012)

In addition to the data shown in the above table, it is important to note that there was a net increase of about 660 MW in installed capacity in the Central American region. This increase includes the following additions: the Changuinola (222.1 MW) and Bajo de Minas (56.8 MW) hydroelectric plants in Panama, and the Pirris (140.2 MW) hydroelectric plant in Costa Rica; at Mesoamerica (102 MW) wind power plant in Honduras and Los Santos (12.8 MW) wind power plant in Costa Rica, and a coal-fired unit (Palmas, 85 MW) in Guatemala, as well as 13 small and medium hydroelectric plants totaling about 130 MW, four cogeneration additions at sugar mills, and a methane gas facility

at a landfill in El Salvador were commissioned. This solid evidence demonstrates the momentum of investment in power generation, mainly involving renewable sources.

The intraregional trade in electricity (imports plus exports) was 1,260 GWh. The major transactions are exports from Mexico to Guatemala (525.6 GWh). This situation is expected to change over the next few years as a result of the completion of regulatory harmonization, the application of new regulations for the regional electricity market, and the entry into operation of the SIEPAC regional grid.⁸

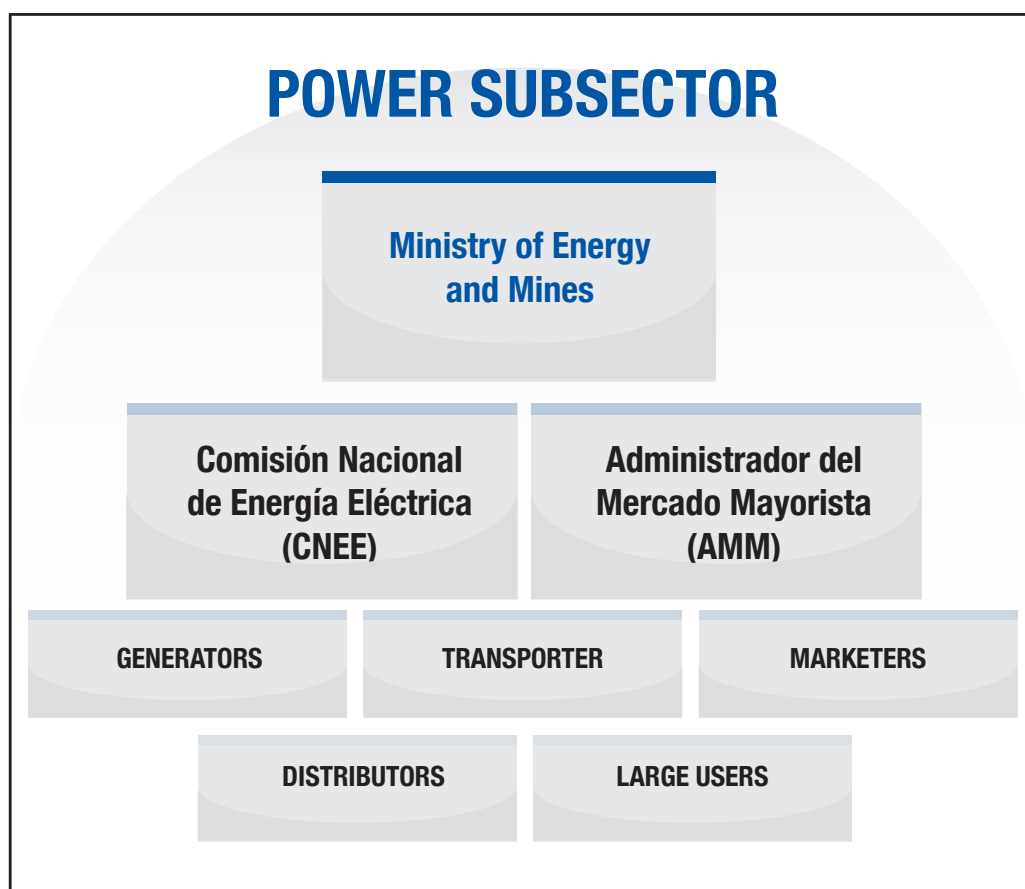
III. Characteristics of the sector by country:

1. Guatemala

a) Institutional Framework

The institutional framework of the electrical subsector includes the agencies specified in the General Electricity Law; that is the Ministry of Energy and Mines - MEM (governing body), the Comisión Nacional de Energía Eléctrica - CNEE (regulator), and the Administrador del Mercado Mayorista - AMM (operator of the electrical system and electricity market) in charge of coordinating transactions between agents and participants in the Wholesale Electricity Market.

8
ECLAC (2012), Central America:
Production Statistics of the
Electricity Subsector, 2011



Source: www.mem.gob.gt, 2012

b) Regulatory Framework

The regulatory framework includes the law governing the activities of the electrical subsector, which is the General Electricity Law, its Regulations and amendments, the Law of Incentives for the Implementation of Renewable Energy Projects and its Regulations, ministerial resolutions issued by MEM, and the rules and resolutions issued by CNEE and AMM.

c) Energy Policy of Guatemala

The Energy Policy implemented by the Ministry of Energy and Mines includes a large component of human, social and economic development; it will turn the country into an energy producer and exporter to neighboring countries, attract investment, create jobs and

change the electrical generation mix of the country in order to reduce in the medium and long term impact of variations in crude oil prices on the international market, which affect electricity generation costs.

(1) Strategic objective of the policy

To ensure that the population has access to adequate, affordable and reliable energy supplies under terms and conditions that support economic growth and prosperity for all Guatemalans.

(2) Electricity generation

In 2011, electricity production in Guatemala grew by 2.9% over 2010, while consumption (at the high voltage level increased by 4.2%). Below are some of the main electrical indicators of Guatemala.

2. Honduras

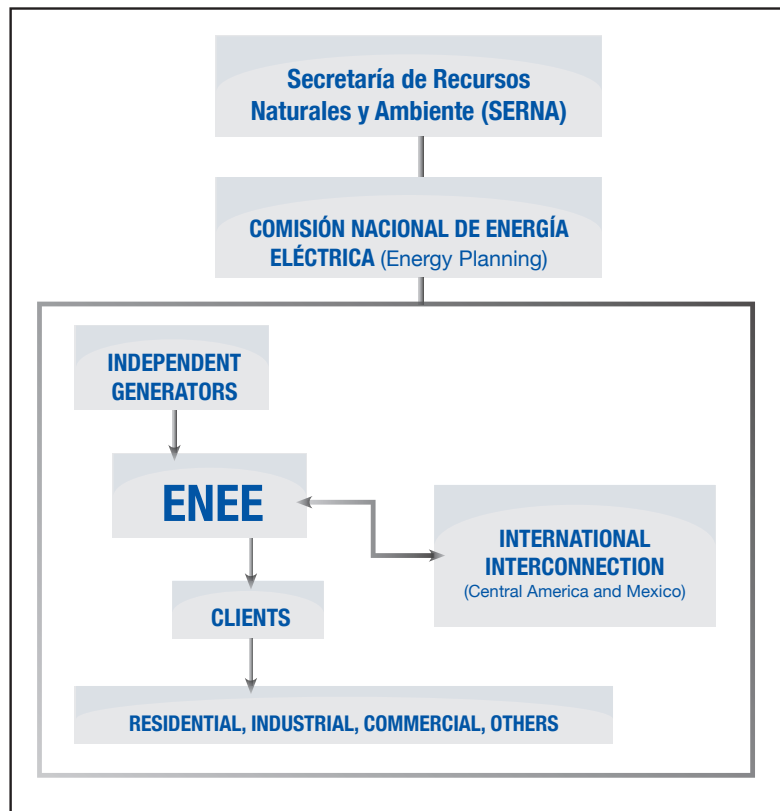
a) Institutional Framework

The institutional framework of the electrical subsector consists of the Secretaría de Recursos Naturales y Ambiente (SERNA), its highest governing body, and the Subsecretaría de Recursos Naturales y Energía is under its mandate, and includes the following departments: a) Department of Water Resources b) Department of Energy.⁹

On February 20, 1957, the Government of the Republic of Honduras created the Empresa Nacional de Energía Eléctrica (ENEE), an autonomous body responsible for producing, marketing, transmitting and distributing electricity in Honduras.¹⁰ In practical terms, ENEE acts as a single buyer in the system and maintains its dominant presence in the sector.

⁹
<http://www.serna.gob.hn> (2012)

¹⁰
<http://www.enee.hn> (2012)



Source: Guide for the development of renewable energy projects in Honduras (2010)

b) Regulatory Framework

The regulatory framework consists of a set of laws, resolutions and decrees that govern the activities of the electrical subsector; that is General Law of the Electrical Subsector, Resolution No. 934-97, Decree 131-98, Decree 85-98, Decree 45-2000, Electric Power with Renewable Resources.

c) The electricity market of Honduras

Honduras stole a march on its Central American neighbors by enacting reforms to the electrical sector in 1994. The General Law of the Electrical Subsector established a competitive market model, and favored open access and a pricing system that seeks to balance supply and demand.

However, after failing to interest private companies in electricity distribution, Empresa Nacional de Energía Eléctrica (ENEE) remained a vertically integrated company that was involved in generating and purchasing electricity and ensuring that all energy needs are met, and responsible for the safety of the electrical system. Sector reform has also enabled substantial private sector participation in generation, reaching more than 70% of the energy produced in the country in 2008.

d) Electricity generation

In 2011, electricity production in Honduras grew by 6% over 2010, while consumption (at the high voltage level increased by 6.5%). Below are some of the main electrical indicators of Honduras.

3. Nicaragua

a) Institutional framework¹¹

(1) Ministry of Energy and Mines (MEM)

MEM governs the energy sector, and is the Institution responsible for formulating, proposing, coordinating and implementing the Strategic Plan and Public Policies for the Energy Sector, Geological Resources, Mineral Resources, Geothermal Resources, Hydro Resources and Hydrocarbons, and managing the operation and administration of state enterprises that operate in the energy sector.

(2) Instituto Nicaragüense de Energía (INE)

INE is the regulator and supervisor of the energy sector. The main objective of the electrical subsector is to promote competition to foster reduced costs and improved customer service in the medium term, and ensure adequate funding of the market players.

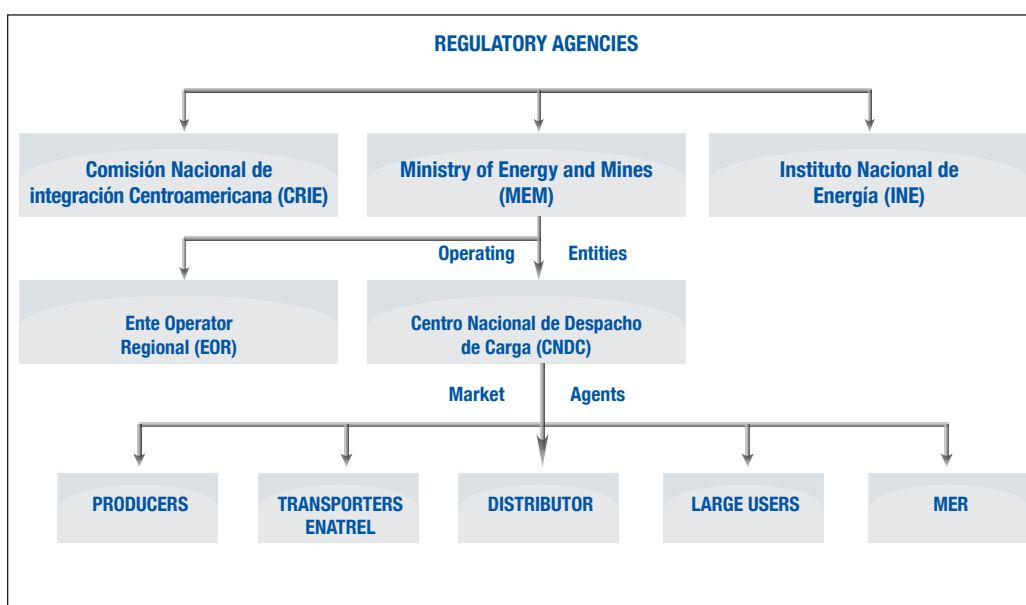
(3) Empresa Nacional de Transmisión Eléctrica (ENATREL)/Centro Nacional de Despacho de Carga (CNDC)

The main purpose of ENATREL is Electricity Transmission and related activities.

¹¹ Department of Electricity and Renewable Resources (2010), “Investor’s Guide, investing in the electrical sector of Nicaragua”, Ministry of Energy and Mines.

(4) Empresa Nicaragüense de Electricidad (ENEL)

ENEL is an agency of the Government of Nicaragua under MEM, which owns geothermal, hydroelectric and thermal power plants of different types and capacities. Its policy, plans and projections are determined by the National Electricity Market in accordance with the energy strategy of the Government of Reconciliation and National Unity, and the Ministry of Energy and Mines.



Source: Centro Nacional de Despacho de Carga, 2010

b) Regulatory framework

The regulatory framework consists of a set of laws governing the electrical subsector, including the Electrical Industry Act, the Energy Stability Law, the Law Establishing Empresa Nacional de Transmisión Eléctrica ENATREL, and another set of specific laws on renewable energy: hydroelectric and geothermal; and non-renewable energy: hydrocarbons and mines.

c) Electricity market of Nicaragua

The electricity market of Nicaragua includes all economic agents (individuals and enterprises) resident in the country that carry out transactions in the electrical sector under any type of ownership.

Economic entities become Market Agents (to supply and receive energy from the national transmission system) to participate and carry out operations on the Wholesale Electricity Market.

(1) Wholesale electricity market

The following products are bought and sold on the wholesale electricity market: power and energy. These are marketed through Contracts Market and/or Spot Market.

Services that are bought on the wholesale market include transmission service, auxiliary services and operation services, dispatch and market administration.

(2) Contracts Market

These can be arranged to buy power and energy, or only power or only energy. The amounts of power or energy contracted per day, per hour or per season can vary.

There are two types in contracts in the contract market depending on the parties involved: Supply Contracts and Generation Contracts. The following types of contracts are used according to the location of the parties: Internal Contracts, Import Contracts and Export Contracts.

(3) Spot market

This market includes the following hourly energy transactions:

- For each Consumer, differences between the consumption recorded and the total energy agreed in the contracts.
- For each Producer, differences between the generation dispatched and the total energy agreed in the contracts.

Energy transactions on the spot market are made at the hourly price of energy. Surpluses and deficits of products (power and energy) and services (transmission and auxiliary services) for each agent are automatically cleared by CNDC.

d) Power generation

In 2011, electricity production in Nicaragua increased by 4.8% over 2010, while consumption (at the high voltage level increased by 5%). Below are some of the main electricity indicators of Nicaragua.

IV. Conceptual framework of CSR

In the late twentieth century the corporate world discovered, often painfully, that ethical conduct is essential for sustainable economic activity.

1. Evolution

Corporate Social Responsibility (CSR) is a concept with different interpretations that come from different sources; below is a brief review of the global trends that gave rise to CSR and the movements it fostered in Central America.

2. Evolution of global trends related to CSR

Although no one knows exactly when the CSR movement began, several authors, including Raufflet (2012) and Niello (2006), claim that its first appearance in the academic world occurred in 1953, when a book by Howard Bowen, *Social Responsibilities of the Businessman*, raised questions about the responsibilities that employers should or should not assume toward society. However, references to the subject in 1923 (Bernays) have been found.

In the 1960s, Davis proposed that corporate responsibility depends on the amount of power they have over society. Those with greater influence and resources thus have greater social responsibility. Nobel Prize economist Milton Friedman stood in opposition to this idea, stating that the responsibility of managers can not be other than increasing the profits of their shareholders, and considered CSR to be a subversive doctrine.¹²

12
Raufflet, Lozano, Barrera y García
(2012), “Responsabilidad Social
Empresarial”, Pearson

In 1971, Johnson found four visions of the concept, which can complement each other in practice. In the first he noted how important it is for companies to understand the environment in which they operate. The second is related to the implementation of social programs intended to generate higher profits. The third focuses the interest of companies on obtaining increasing economic and social gain through their actions. The fourth vision has to do with the specific weight of stakeholders and the generation of wealth.¹³

In the 1970s, a United States religious leader, the Reverend Leon Sullivan, developed the so-called Sullivan Principles as a frame of reference for shareholders and investors when deciding where to invest. This empowered investors to express their disapproval of multinational investment in South Africa where there was apartheid.¹⁴ These principles were an example to investors around the world and resulted in the disapproval of irresponsible companies and support for companies with better social approaches.

An interest in CSR thus arose from the company's pressure groups, including shareholders, investors, workers, unions, consumers and NGOs or global movements.

It was in the 1990s that the CSR movement became a major force. Authors like Donna Wood concluded that the impact of a company must be assessed along three lines: environment, stakeholders, and problems caused by its administration. Donald and Preston put special emphasis on relationships and normative foundations that recognize the intrinsic value of external stakeholders.¹⁵

Today the concept of CSR has been widely circulated around the world. The OECD defines it as "actions taken by businesses to consolidate their relations with the societies in which they operate". The Green Book¹⁶ defines CSR as: "The voluntary integration by companies of social and environmental concerns into their business operations and their relationships with their surroundings. Being socially responsible not only means complying fully with legal obligations, but also going beyond compliance and investing more in human capital, the environment and relationships with stakeholders".

13
Raufflet, Lozano, Barrera y García (2012), "Responsabilidad Social Empresarial", Pearson

14
Acción Empresarial (2003), "El ABC de la Responsabilidad Social Empresarial en Chile y El Mundo", Acción Empresarial.

15
Raufflet, Lozano, Barrera y García (2012), "Responsabilidad Social Empresarial", Pearson.

16
Libro Verde. Fomentar un marco europeo para la responsabilidad social de las empresas. Comisión de las Comunidades Europeas. Bruselas, 2001.

The fact is that this concept is increasingly helping companies become more responsible, and society and the environment are thus benefitting from cleaner surroundings and decent workplaces, and consumers that are more aware of the impact of their choices.

3. Movements and actions leading to the institutionalization of CSR in the region¹⁷

Central America began its cooperation indicatives in El Salvador in 2002. Entrepreneurs from the region gathered at a conference to exchange experiences with CSR and saw an opportunity to work together. The first joint activity proposed was to hold a Central American conference on Corporate Social Responsibility.

In 2003, two CSR organizations were established in the region: CentraRSE in Guatemala and FUNDAHRSE in Honduras. To launch CentraRSE in April of that year, all the countries of the region were invited to share their efforts, and they enriched each other with their learning and experiences. During that event it was confirmed that Guatemala would be the venue for the Central American CSR Conference of 2004.

FundaHRSE was established in June of that year, a meeting was held with the countries of the region, and the Central American conference for 2004 was planned. Finally, within the framework of the First Inter-American Conference on CSR, a meeting was organized in Panama by the Inter-American Development Bank, IADB, with entrepreneurs from Central America and the Caribbean. This activity highlighted the need to join forces and develop a strategy for implementing Corporate Social Responsibility at the regional level.

In 2004, the Central American CSR Conference was successfully held in Guatemala, and was named “ConvertiRSE”. The event brought together over 400 entrepreneurs from Central America. In September of that same year, as part of the Second Inter-American CSR Conference organized by the Inter-American Development Bank, IADB, a regional meeting was held and it was agreed to continue with ConvertiRSE; for the first time the creation of regional indicators was proposed, as well as the development of a tool for measuring CSR indicators in Central American countries.

17

Morataya, Monroy y Pineda (2008), Sistema de Indicadores de RSE para la Región Centroamericana.

In 2005, ConvertiRSE was held successfully in Honduras. The meeting was organized by FundaHRSE, and focused on “Competitive Advantages for Companies.” UniRSE began in Nicaragua in April that same year.

4. References

a) Corporate Social Responsibility in Central America

In Central America, INTEGRARSE, Red de Integración Centroamericana por la Responsabilidad Social Empresarial, is a coalition of organizations responsible for promoting and incorporating Social Responsibility in enterprises with the mission of fostering a sustainable and inclusive Central American society through joint action, helping entrepreneurs to implement responsible business strategies with a vision of establishing a committed business sector, resulting in social, economic and environmental wellbeing in the region.

INTEGRARSE has the following objectives:

- To promote CSR as a management model for achieving competitiveness and sustainable development.
- To enhance efforts for disseminating CSR throughout the productive sector and include SMEs.
- To link the productive sector to the different stakeholders (government, civil society, etc.) in order to create channels of communication and collaboration.
- To strengthen the integration of Central America through CSR.

INTEGRARSE includes more than five hundred ninety companies that have made a formal and ongoing commitment to strengthen CSR in the Central American countries, and it is estimated that they account for 30% of GDP in the region. The organizations in this network are:

- In Guatemala: CentraRSE
- In El Salvador: FUNDEMAS
- In Honduras: FUNDAHRSE
- In Nicaragua: UNIRSE
- In Costa Rica: AED
- In Panamá: SUMARSE

Below is a description of each organization:

b) Guatemala

(1) CENTRARSE¹⁸

i. Background

The CSR movement in Guatemala began in 1998. A group of leaders committed to the idea recognized its importance and began the process of defining and creating awareness of CSR. The process led to the creation of CentraRSE (Centro para la Acción de la Responsabilidad Social Empresarial en Guatemala).

Founded in 2003, CentraRSE now has over 100 member companies from more than 20 productive sectors and subsectors of the country. They represent about 30% of Guatemala's GDP, and employ 150,000 families; it has become the most influential coalition of companies in the country that promotes CSR and one of the most important in the region.

ii. Vision

For Guatemala to be a country with general wellbeing, where sustainable development is generated by companies that operate according to a culture of values, according to the law and with a long-term view.

iii. Mission

We support companies that adopt and transmit a culture of social responsibility that ensures their sustainability.

iv. Membership

110 member companies

18
www.centrase.org/

v. Activities

- National CSR Forum
- Postgraduate degree in CSR
- CentraRSE Award
- CSR Measurement
- CSR Training
- Workshops and events:
 - ° Workshop on ISO 26000
 - ° CSR Workshop for SMEs

vi. Definition of CSR

“Corporate Social Responsibility is a business culture based on ethical principles and firm enforcement of the law, and respects people, families, communities and the environment, which contributes to the competitiveness of companies, general wellbeing and the development of the country.”

c) El Salvador

(1) FUNDEMAS¹⁹

i. Background

On 25 May 2000, a group of Salvadoran entrepreneurs created Fundación Empresarial para la Acción Social (FUNDEMAS) with the objective of contributing to the sustainable economic and social development of El Salvador, and promoting a culture of CSR and entrepreneurship.

FUNDEMAS provides training and consulting in the areas of CSR and Entrepreneurship, related to EMPRETEC workshops of the United Nations, and arranges opportunities or meetings between companies through business forums, guided tours, workshops and business forums.

ii. Vision

To be the leading business foundation that disseminates and promotes the adoption of Corporate Social Responsibility values, policies and

¹⁹
www.fundemas.org/

practice to help companies achieve competitiveness and sustainable economic and ensure social development in El Salvador.

iii. Mission

To promote a culture of CSR and entrepreneurship that adds value and competitiveness to businesses, the community and the country.

iv. Membership

141 members, including businesses, institutions of higher education, business associations, foundations and individuals.

v. Activities

- Value Chains Project (CSR)
- Let's Clean Up El Salvador Project
- Sustainable Communities Project
- Training on different aspects of CSR
- Training on Entrepreneurship

vi. Definition of CSR

It is a strategic necessity that allows a company to implement policies and practices that benefit shareholders, employees, the community, the environment and the entire value chain by aligning its management with ethics and transparency, and making it a competitive agent that contributes to economic and social development.

d) Honduras

(1) CEHDES²⁰

i. Background

Consejo Empresarial Hondureño para el Desarrollo Sostenible (CEHDES) was founded in 1994 by a group of local businessmen who were invited by WBCSD (World Business Council For Sustainable Development) based in Geneva, Switzerland, to form their national chapter and join the Regional Network of Business Councils organized worldwide.

CEHDES is a private, nonprofit association, with its own capital and administration, consisting of well-known domestic and foreign entrepreneurs; it was created by the members of Consejo Empresarial Hondureño para el Desarrollo Sostenible, Fundación Gran Proyecto de Transformación Nacional, and Comité Nacional de Competitividad, linked to INCAE.

CEHDES is now a conglomerate of institutions that carry out specific activities such as the preserving natural resources, improving the quality of life, protecting the environment and advising employers about improving productivity.

The CEHDES conglomerate includes:

- a. Centro Nacional de Producción Más Limpia en Honduras, CNP+LH
- b. FUNDAHRSE
- c. Proyecto de Eficiencia Energética en los Sectores Industrial y Comercial de Honduras (PESIC)

ii. Objectives

- To promote the development and competitiveness of the productive sector.
- To promote the rational and sustainable use of natural resources.
- To promote development and wellbeing in Hondurans.

iii. Vision

To orient, disseminate and implement the Sustainable Development of Honduran companies based on the three supporting pillars: **Economic Growth, Social Development and Respect for the Environment.**

iv. Mission

To be a leader in promoting the Sustainable Development of Honduran companies, and be the focal point for Sustainable Development in Honduras.

v. Membership

28 Honduran companies

vi. Activities

- The promotion of the “Agenda for Competitiveness and Development in Honduras”.
- To support projects promoted by the Gran Proyecto de Transformación Nacional, including the Inter-Oceanic Highway, studies to attract investment to Honduras, and the alliance between the Universities of Louisiana and Honduras.
- CEHDES is part of the Steering Committee of the Project to Support Sustainable Management of Natural Resources.
- CEHDES together with some of its members (Plastics Gamoz, Elcatex, Grupo Amanco, Becamo and Pronorsa of the Alcon group) promoted the EDUCATODOS program.
- CEHDES together with the “Climate Change” project has organized workshops on the National Strategy for Reducing Greenhouse Gases.

vii. Definition of CSR

A business tool that harmoniously integrates business strategy, respect for ethical values, people, community and the environment. This adds value and competitiveness to the company.²¹

(2) FUNDARSE

i. Background and objectives

Fundación Hondureña de Responsabilidad Social Empresarial FUNDAHRSE is a private sector organization established in 2004 as part of the CEHDES conglomerate that seeks to promote good business practices and the exchange of social responsibility experiences among the Honduran businesses.

ii. Vision

To be the Focal Point of Corporate Social Responsibility in Honduras by providing excellent services to our member companies and the different sectors of our country.²²

²¹
FundahRSE Presentation,
University Days, 2011.

²²
FundahRSE Presentation,
University Days, 2011.

iii. Mission

We are an agent of change in the business climate, and are committed to the systematic promotion of Corporate Social Responsibility as a strategic management tool, since it serves two primary goals: ensuring the sustainable growth of enterprises and consolidating peace among the nations to foster economic prosperity, social development, community wellbeing, equitable employment and respect for the environment.²³

iv. Membership

99 member companies²⁴

v. Activities

- University Day on Sustainable Development
- National CSR Conference
- FUNDAHRSE Seal of Socially Responsible Companies
- Training and courses that include:
 - Workshops and seminars for suppliers
 - Seminar for Employees and Stakeholders

vi. Definition of CSR

A business tool that harmoniously integrates respect for ethical values, people, communities and the environment into the business strategy. It adds value and competitiveness to the company.²⁵

e) Nicaragua

(1) UNIRSE²⁶

i. Background

Unión Nicaragüense para la Responsabilidad Social Empresarial, UniRSE, is a non-governmental non-profit organization established by 22 members on April 29, 2005; currently it has over 70 members, including a wide variety of companies, business leaders, individuals and business foundations with a common vision and business culture that is part of a global trend that promotes CSR as a new way of doing business, where companies manage their operations in a sustainable economic, social and environmental manner, and recognize the interests of the different

²³
<http://www.fundahrse.org>

²⁴
<http://www.hondudiario.com/content/fundahrse-reconoce-responsabilidad-social-empresarial-de-la-colonia>

²⁵
Fundahrse Presentation, University Days, 2011.

²⁶
<http://www.unirse.org/>

sectors with which they interact, including shareholders, employees, community, suppliers, customers, with respect for the environment and future generations.

UnIRSE initially directed its activities toward five fields of action, including the quality of the working experience, business ethics, relations between the company and the community, responsible marketing and environmental protection, which have now been transformed and consolidated into the 7 CSR focuses.

ii. Objectives

- To promote, disseminate and analyze the 7 areas of Corporate Social Responsibility (CSR)::
 - Governance
 - Workforce
 - Suppliers
 - Marketing
 - Environment
 - Communities
 - Public Policy
- To organize events for sharing views and making specialized offers to member businesses and agencies of UnIRSE (and/or parties interested in the subject) for training programs on CSR.
- To promote CSR as a tool for improving the competitiveness of companies.
- To apply CSR INDICATORS as a regional self-assessment instrument for measuring the impact of CSR on companies. These indicators are a regional instrument, developed by INTEGRACIÓN CENTROAMERICANA POR LA RSE, INTEGRARSE, a member of which is UnIRSE.
- To study and publish examples of CSR best practices in several Nicaraguan companies to learn from their successes.
- To help Nicaragua achieve a unified concept based on experience in the region and internationally with Corporate Social Responsibility, sustainable development and exchanges with other Corporate Social Responsibility agencies in the region, in the Americas and internationally. UnIRSE is a member of the hemispheric network of RSE FORUM EMPRESA, the INTEGRARSE network, the National Chapter of the World Business Council for Sustainable Development (WBCSD)..

iii. Vision

To be the leading organization in Nicaragua in promoting and disseminating Corporate Social Responsibility in order to contribute to equitable and sustainable development.

iv. Mission

To help companies adopt and transmit a culture of Corporate Social Responsibility to ensure their sustainability and links to similar organizations in order to strengthen CSR in Nicaragua, in the region and in the world.

v. Membership

70 members including a wide variety of businesses, business leaders, individuals and business foundations.

vi. Activities

- National CSR Week
- National CSR Award
- Program for Strengthening the Value Chain
- Training and courses including the following:
 - **“Training, Promotion, dissemination and adoption in Corporate Social Responsibility (CSR) by MSMEs”** in the tourism value chain on Ometepe Island.
 - Course on corporate sustainability using the ISO 26000 standard of CSR.
 - Management Model of Corporate Best Practices with Gender Equality.

vii. Definition of CSR (BUSINESS FORUM - IADB)

It is a new way of doing business, where a company manages its operations in an economically, socially and environmentally sustainable manner, and recognizes the interests of the different stakeholders with which it interacts, such as shareholders, employees, community, suppliers, and customers, with respect for the environment and future generations.

f) Costa Rica

(1) AED²⁷

i. Background

La Asociación Empresarial para el Desarrollo (AED) was founded in 1997 through the initiative of a visionary entrepreneur, Walter Kissling Gam. It is the chapter of the United Way in Costa Rica, and belongs to international organizations such as The Business Forum, The World Business Council for Sustainable Development and the Central American Network in Promoting CSR.

AED is a nonprofit organization that promotes Corporate Responsibility and Strategic Social Investment in the productive sector with practical guidelines, capacity building, the exchange of best practices and the formation of partnerships in priority areas for the Competitiveness and Sustainable Development of the country.

It establishes public and private partnerships and combines the efforts of the business sector, government and civil society organizations to achieve greater social inclusion and cohesion.

ii. Objectives

- To implement an integrated business management system based on the principles of corporate social responsibility in order to ensure the sustainability of enterprises and their contribution to development.
- To channel social investment through public-private partnerships aimed at strengthening public policies that contribute to equity and social cohesion.
- To strengthen organizational and management strategies through which the business partnerships develop their actions.
- To promote a socially responsible corporate culture.

iii. Mission

To promote a new culture of Corporate Social Responsibility, which through direct participation, volunteering, partnerships and

²⁷
<http://www.aedcr.com/>

strengthening nonprofit institutions, will promote sustainable human development in the country.

iv. Membership

More than 100 private and public companies

v. Activities

- Carbon Neutral Schools
- Eco Enterprise Efficiency
- CSR in the value chain
- Youth Zone
- I Entrepreneur
- Inclusive Business Network
- Conferences and workshops
- Work tables
- Intensive course in CSR
- SME Unit

vi. Definition of CSR

It is an ongoing commitment by companies to increase their competitiveness while actively contributing to the sustainable development of Costa Rican society through concrete and measurable actions aimed at solving the priority problems of the country.

g) Panamá

(1) SUMARSE²⁸

i. Background

It was established in 2009 through the merger of Integrarse and Red del Pacto Global. It is an association that promotes the use of CSR as a way of doing business and a competitive strategy, so that enterprises contribute to the socio-economic growth and sustainable development of Panama.

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www.sumarse.org.pa

Sumarse membership includes companies, universities, nonprofit organizations, business and professional associations, and seeks to establish CSR as a way of doing business and a competitive strategy.

ii. Vision

The organization is committed to sustainable development that results in positive impacts on the economic, social and environmental development of Panama.

iii. Mission

To facilitate the use of social responsibility and the Global Compact principles by members to build a just and sustainable society.

iv. Membership

74 companies, 28 NGOs

v. Activities

- Talks on CSR awareness and GP Principles
- Executive Forums
- Work tables
- Field visits
- Assistance with Environmental Responsibility issues
- Value chain
- Consulting Service
- Participation on in Multidisciplinary Committees: Children Committee, Grants Committee, Committee for the disabled

vi. Definition of CSR

It is the way of doing business for a company with the objective of creating triple economic, social and environmental value. It is also a philosophy and voluntary attitude toward business that is adopted by a company.

Why are organizations that promote CSR important for companies in the energy sector?

These organizations are important because they specialize in CSR issues, so they can provide a range of services (training, consulting, forums, etc.) to facilitate the adoption of CSR by companies.

Some of these organizations, such as CEHDES in Honduras and AED in Costa Rica, have specific projects or activities regarding best CSR practices in the electrical sector.

5. ISO 26.000

The International Organization for Standardization, or ISO for its acronym in English, is the world's largest developer of voluntary international standards. International standards provide specifications for products, services and best practices, thereby helping industry to be more efficient and effective.²⁹

a) What is ISO 26000?

ISO 26000 provides guidance rather than requirements so it can not be certified, unlike other well known ISO standards. Instead, ISO 26000 helps to clarify Social Responsibility (SR); it expands on the concept of Corporate Social Responsibility (CSR) and applies it to different types of private, public, civil society, etc. entities.

This guide helps businesses and organizations translate the principles into effective action and share best practices of global social responsibility. It is for all types of organizations, regardless of their activities, size or location.³⁰

The standard was released in 2010 after five years of negotiations by the different stakeholders around the world. Government representatives, NGOs, industry, consumer groups and labor organizations around the world were involved in its development, so it reflects international consensus.

ISO 26000 addresses seven key areas of social responsibility. Each includes issues, which in turn include actions and expectations.

²⁹
www.iso.org

³⁰
www.iso.org

There is no predetermined order in which organizations should address the key subjects and issues; this will depend on the organization and its situation or context.

Although all core areas are interrelated and complementary, the type of the governance of the organization is somewhat different from the other key areas. Effective governance allows an organization to take action on the other key areas and issues, and implement the principles.

An organization should analyze the key areas holistically, and should consider all key subjects and issues and their interdependence, rather than focusing on a single issue.³¹

The seven key areas and their respective issues are:

1. Organizational governance
2. Human rights
 - Issue 1: Due Diligence
 - Issue 2: Situations of risk for human rights
 - Issue 3: Avoidance of complicity
 - Issue 4: Resolution of complaints
 - Issue 5: Discrimination and vulnerable groups
 - Issue 6: Civil and political rights
 - Subject 7: Economic, social and cultural rights
 - Subject 8: Fundamental principles and rights in the workplace
3. Labor practices
 - Issue 1: Employment and employment relationships
 - Issue 2: Working conditions and social protection
 - Issue 3: Social Dialogue
 - Issue 4: Health and safety in the workplace
 - Issue 5: Human development and training in the workplace
4. Environment
 - Issue 1: Prevention of pollution
 - Issue 2: Sustainable use of resources
 - Issue 3: Mitigation and adaptation to climate change
 - Issue 4: Protection of the environment, biodiversity and restoration of natural habitats
5. Fair Operating Practices
 - Issue 1: Anti-corruption

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<http://www.iso26000latam.org/es/materias-fundamentales/introduccion>

- Issue 2: Responsible political involvement
- Issue 3: Fair Competition
- Issue 4: Promoting social responsibility in supply chains
- Issue 5: Respect for property rights

6. Consumer Affairs

- Issue 1: Fair marketing, objective and unbiased information and fair contracting practices
- Issue 2: Protecting consumer health and safety
- Issue 3: Sustainable consumption
- Issue 4: Customer services, support, and complaint and dispute resolution
- Issue 5: Protection and privacy of consumer data
- Issue 6: Access to essential services
- Issue 7: Education and awareness

7. Active participation and community development

- Issue 1: Active participation of the community
- Issue 2: Education and culture
- Issue 3: Job creation and development of skills
- Issue 4: Development and access to technology
- Issue 5: Generation of wealth and income
- Issue 6: Health
- Issue 7: Social Investment

Social responsibility: 7 core subjects

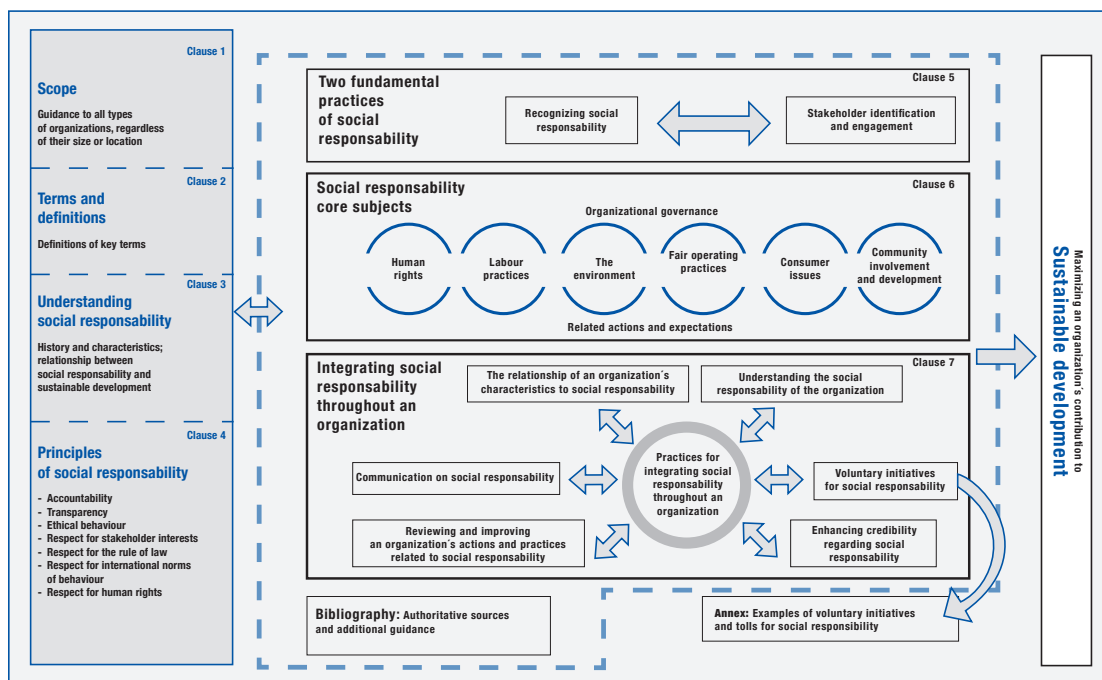


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b) Schematic view of ISO 26000

The following figure provides an overview of ISO 26000 and will assist organizations in understanding the relationships among the different chapters of the standard.

OVERVIEW OF THE STANDARD ISO 26000



Source: Discovering ISO 26000, www.iso.org

c) Importance of ISO 26000 to the energy sector

ISO 26000 is very important because although it is not a certifiable standard like ISO standards usually are, it is a guide that has been developed with the participation of experts from over 90 countries and 40 international and regional organizations involved in various aspects of social responsibility.

Based on the foregoing, ISO 26000 provides a comprehensive understanding of Social Responsibility and what organizations need to do to operate in a socially responsible manner.

6. World Business Council for Sustainable Development (WBCSD)

The World Business Council for Sustainable Development, WBCSD, is a global business coalition of more than 200 companies that have a shared commitment to sustainable development.

Its members are from more than 35 countries and more than 20 major industrial sectors. Organizations also benefit from a growing global network of national councils and partner organizations, and there is a representative from each of the countries of Central America.

The WBCSD also aims to be a catalyst for change and the promotion of closer cooperation between businesses, governments and other organizations interested in sustainable development. It is also a forum where business leaders can exchange ideas and best practices in this field.³³

a) Areas of Focus

The coalition works with specific focus areas, which helps to ensure a quick and agile response to issues of public debate. Currently the focus areas are:

1. The role of business

This area explores the role and actions of businesses moving toward a sustainable world in 2050. This includes ways in which companies can achieve sustainable development in a world with limited resources and how to reap the benefits of the green race.

2. Development

Economic and political power is shifting from developed countries to emerging economies, especially the so-called BRICs (Brazil, Russia, India and China). These countries will have 85% of the population by 2050, and still poverty and inequality continue to be critical problems for sustainable development and global stability. Companies are playing an increasingly important role in efforts to improve the economic, social and environmental prospects of developing countries, and have a strong interest in doing so.

3. Energy and Climate

This area offers a platform for WBCSD members to interact with their peers and parties interested in energy and climate, address critical industry issues and share solutions.

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Díaz, Filomeno y Rizo, “Relación y compromisos con los grupos de interés”, Perú 2021.

The project offers a corporate contribution for the design and implementation of post-Kyoto architecture through active participation in international processes.

4. Ecosystems

The WBCSD has been working on environmental issues for 15 years. The area of focus helps build capacity and develop tools to assess the risks and opportunities related to business impacts and dependence on ecosystems, and it also addresses global biodiversity and ecosystem policy debate.

b) Sectoral Projects³⁴

The WBCSD also implements sectoral projects. These specific and voluntary initiatives of industry demonstrate the power of partnerships and the commitment of companies to dealing with the most difficult dilemmas of the value chain.

Sectoral projects are implemented in the following areas:

1. Water
2. Buildings
3. Cement
4. Power companies
5. Tires
6. Transportation
7. Solutions for forests

The electrical utilities sectoral project is a multi-phase program that includes:

Phase 1: Started in 2000, this phase involved the launching of Sustainability in the electric utilities sector in 2002. In this phase a report was prepared that highlighted the general challenges facing this sector internationally. (See Appendix 3 for details of the challenges).

Phase 2: The companies analyzed these challenges more closely and noted key areas for action with a focus on possible technological solutions.

³⁴
<http://www.wbcd.org>

Phase 3: A stage focused on climate change and the role of the energy sector began in 2007. This resulted in the implementation of an interim report in 2007. A key message was that political and regulatory measures should underpin and support investment in low carbon technologies in the demand as well as the supply side.

Phase 4: A new phase of the project began in 2011, with a focus on developing leadership of thought in three areas: energy efficiency, electricity frameworks, and sustainable development in the sector. The objectives of the new phase include sharing best practices and solutions for the current challenges of the energy sector and communicating them to policy makers and stakeholders, particularly on three international platforms: UNFCCC Clean Energy Ministerial and Rio +20.

c) Importance of the WBCSD for the energy sector

The WBCSD is the largest private organization in the world, and is dedicated to advancing the sustainable development agenda. It is estimated that the total sales of its companies represent the third largest economy in the world. The WBCSD highlights new trends in Sustainable Development. This organization has the utilities sector project (as detailed in the previous section) that works in three areas: energy efficiency, electricity frameworks and sustainable development in the sector.

The WBCSD is represented in Guatemala by CentraRSE, in Honduras by CEHDES, and in Nicaragua by UNIRSE.

7. Global Reporting Initiative (GRI)³⁵

The objective of the Global Reporting Initiative, GRI, is to promote the preparation of sustainability reports by all types of organizations. GRI develops a comprehensive framework for preparing sustainability reports, which are used worldwide. The framework, which contains Guidelines for preparing Reports, sets out the principles and indicators which organizations can use to measure and disclose their economic, environmental and social performance. GRI is committed to continuous improvement and

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<https://www.globalreporting.org>

increased use of these Guidelines, which are available to the public free of charge.

GRI is a nonprofit organization with multiple stakeholders. It was founded by CERES and the United Nations Environment Program (UNEP) in 1997 in United States. In 2002, GRI moved its offices to Amsterdam, where its Secretariat is currently located. GRI has regional offices (“Focal Points”) in Australia, Brazil, China, India and United States, and also has a network of more than 30,000 people worldwide.

a) Vision

A sustainable global economy where organizations manage their performance and economic, environmental and social impacts responsibly, and prepare reports in a transparent manner.

b) Mission

To make the preparation of sustainability reports a standard practice by providing guidance and support to organizations.

c) Importance of the GRI to the energy sector

The GRI is the most important framework for preparing sustainability reports at the international level, which is an increasingly important requirement for all companies in their efforts to be transparent to society about their impacts.

The GRI has even developed sectoral guidelines, including “The Electric Utilities Supplement” that covers key issues such as:

- Management of electrical power availability and reliability.
- Management of Demand.
- Research and development to promote sustainable development.
- Strategies for reducing energy use.
- Power generation methods based on renewable energy.
- Workforce and safety issues.

- Programs for assessing and managing impacts on communities.
- Resettlement of local communities.
- Identification of stakeholders and their relationships.
- Supply chain Policies and practices for procuring product and services.

Companies wishing to develop their sustainability reports can obtain free information from the GRI website, <https://www.globalreporting.org>

8. Organization for Economic Co-operation and Development (OECD)³⁶

The Organization for European Economic Cooperation (OEEC) was established in 1947 to implement the Marshall Plan (funded by United States) for the reconstruction of a war-torn continent. By helping governments recognize the interdependence of their economies, it paved the way for a new era of cooperation that changed the face of Europe. Encouraged by its success and the prospect of working on the global stage, Canada and United States joined the OEEC and signed the new OECD Convention on December 14, 1960. The Organization for Economic Cooperation and Development (OECD) was officially born on September 30, 1961, when the Convention took effect.

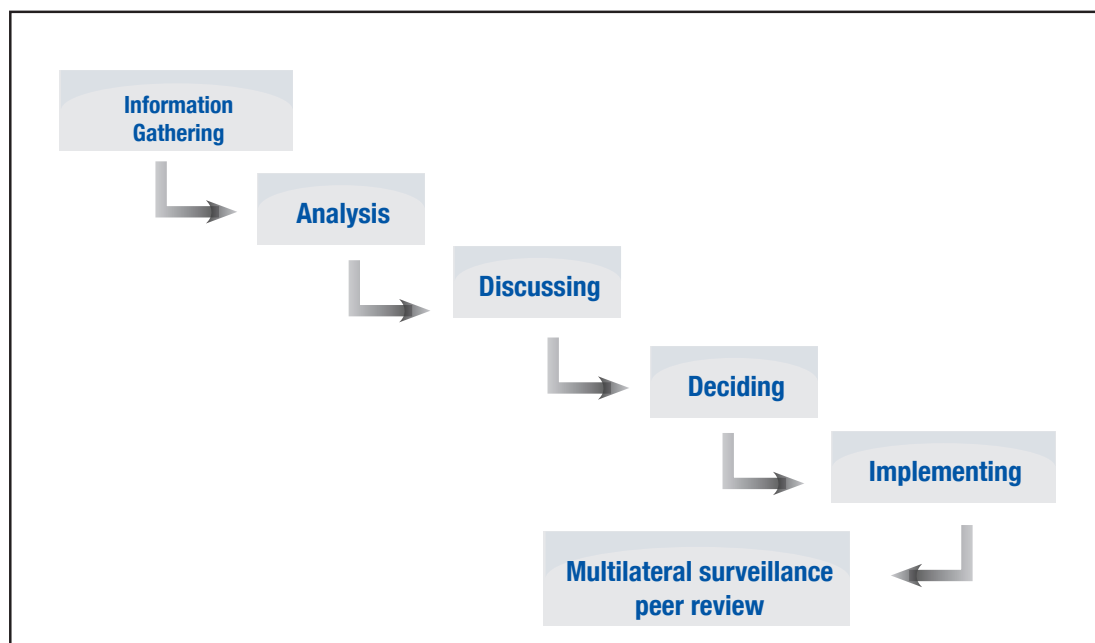
a) Mission

To promote policies to improve the economic and social wellbeing of people worldwide.

b) Work Method of OECD

OECD uses its wealth of information on a wide range of topics to help governments foster prosperity in order to reduce poverty through economic growth and financial stability. The organization helps to ensure that the environmental consequences of economic and social development are taken into account.

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<http://www.oecd.org>



Source: <http://www.oecd.org>

c) Topics

The topics on which the OECD works are as follows:

1. Agriculture and fisheries
2. Bribery and corruption
3. Chemical and biotechnological safety
4. Competition
5. Development
6. Economy
7. Education
8. Employment
9. Environment
10. Finance
11. Green and sustainable development
12. Health
13. Industry and Entrepreneurship
14. Innovation
15. Insurance and pensions
16. International migration
17. Internet

18. Investment
19. Public governments
20. Regional, rural and urban development
21. Regulatory reform
22. Science and technology
23. Social wellbeing issues
24. Taxation
25. Trade

d) *OECD Guidelines for Multinational Enterprises*

This guide contains a series of far-reaching recommendations for responsible business behavior that 44 adhering governments representing all the regions of the world and 85% of foreign direct investment encourage their companies to observe wherever they operate.

In 2011, the guidelines were updated for the fifth time since they were adopted in 1976.³⁷

e) *Importance of the OECD to the energy sector*

The OECD is important for the energy sector because a) it publishes studies and reports specifically geared to sustainable energy production, b) it provides, together with the International Energy Agency (IEA), recommendations for improving energy efficiency and c) it promotes the international platform of energy technologies with low carbon emissions.

9. International Finance Corporation -IFC-

a) *About the Corporation*

The IFC is a member of the World Bank Group, and is the main international development institution that focuses its efforts exclusively on the private sector of developing countries.

Established in 1956, the IFC has 184 member countries that work together to determine the policies of the organization. Its work in more than 100 developing nations enables companies and financial institutions in emerging markets to create jobs, generate tax revenues,

³⁷
<http://www.oecd.org>

improve corporate governance and environmental performance, and contribute to local communities.

The IFC's vision is that people should have an opportunity to escape poverty and improve their quality of life.³⁸

b) Performance Standards

The Sustainability Framework of the IFC embodies the strategic commitment of the Corporation to sustainable development, and is an integral part of the IFC's approach to risk management.

The Sustainability Framework includes the Policy and Performance Standards of the IFC on Social and Environmental Sustainability and its Policy on Access to Information.

The Policy on Social and Environmental Sustainability describes the commitments, roles and responsibilities of the IFC regarding environmental and social sustainability.

The IFC's Policy on Access to Information reflects the IFC's commitment to transparency and governance in its operations, and describes institutional obligations regarding disclosure in relation to its investment and counseling services.

The Performance Standards are prepared for the customers, and offer guidance on identifying risks and impacts in order to help prevent, mitigate and manage risks and impacts as a way of doing business in a sustainable manner, including the client's obligation to include stakeholders and disseminate the activities of the project. For direct investments (including corporate and project financing offered through financial intermediaries), the IFC requires its customers to apply the Performance Standards for managing risks and environmental and social impacts in order to improve the opportunities for development.

The IFC uses the Sustainability Framework in conjunction with other strategies, policies and initiatives in conducting its business in order to achieve its overall development objectives. The Performance Standards can also be applied by other financial institutions.

38
http://www1.ifc.org/wps/wcm/connect/Multilingual_Ext_Content/IFC_External_Corporate_Site/Home_ES

Altogether, the eight Performance Standards (abbreviated as PS) define the standards that the client should take into account during the entire IFC investment cycle:

- Performance Standard 1: Assessment and management of environmental and social risks and impacts.
- Performance Standard 2: Labor and Working Conditions.
- Performance Standard 3: Efficiency of resource use and pollution prevention.
- Performance Standard 4: Health and safety of the community.
- Performance Standard 5: Land Acquisition and Involuntary Resettlement.
- Performance Standard 6: Conservation of Biodiversity and sustainable management of living natural resources.
- Performance Standard 7: Indigenous Peoples.
- Performance Standard 8: Cultural Heritage.

c) Importance of the IFC to the energy sector

Power generation projects are generally large scale and long term, and require high levels of financing with very specific conditions, so a significant number of companies turn to institutions such as the IFC, or IIC, or others that have adopted the Equator Principles, and are required to comply with the above performance standards.

10. Global Compact

Launched in 1999 by UN Secretary General, Kofi Annan, and officially implemented at the United Nations headquarters in July 2000, the Compact calls for companies to adopt ten universal principles related to human rights, labor standards, environment and anti-corruption.

This initiative hopes, in the words of former Secretary General Kofi Annan, to continue contributing to the emergence “of shared values and principles that will give a human face to the global market.” Thus, through partnerships with companies, UN organizations, workers, non-governmental organizations (NGOs) and others, it is hoped to build a global market that is more inclusive and equitable.

Governments have jurisdiction over the Compact and define the principles that guide the initiative; companies whose actions are to be influenced; workers that carry out production; civil society that benefits if companies are socially responsible; and United Nations provides the global forum..

Companies participating in the Global Compact are diverse and pertain to different industries and geographic regions. However, they have two things in common; all are in positions of leadership, and all aspire to manage global growth in a responsible manner that takes into account the interests of a wide spectrum of stakeholders, including employees, investors, customers, social groups, industry and communities.

Being an initiative of the Secretary General of the UN, the Global Compact Office in New York plays an important role, as do the five UN agencies that participate in the Compact: the Office of the High Commissioner for Human Rights, the International Labor Organization, the United Nations Development Program, the United Nations Environment Program, and the UN Office on Drugs and Crime.

The Compact is not a regulatory instrument or code of conduct with legal force, and it is not a forum for developing management standards and practices, or a shelter that allows companies to sign on without demonstrating a commitment to the principles of the Compact and concrete results. It is an initiative that participants enter voluntarily, and it provides a general framework for fostering sustainable growth and civic responsibility by committed and creative companies.

a) Principles

The principles of the Global Compact are:

- **Human Rights**
 1. To support and respect the protection of internationally proclaimed human rights;
 2. To avoid being complicit in human rights abuses.
- **Labor Standards**
 3. To support freedom of association and the right to collective bargaining;
 4. To eliminate all forms of forced and compulsory labor;

- 5. To effectively abolish child labor;
- 6. To eliminate discrimination regarding employment and occupation.
- **Environment**
 - 7. To support a preventive approach to environmental challenges;
 - 8. To promote greater environmental responsibility;
 - 9. To promote the development and dissemination of environmentally friendly technologies.
- **Anticorruption**
 - 10. To act against all forms of corruption, including extortion and bribery.

b) Requirement for remaining in the Global Compact

The only requirement for a company to remain in the Global Compact is the publication of an annual report (such as sustainability reports or communication on progress), a description of how they are supporting the Global Compact and its principles. This report is known as the “Communication on Progress”. The term progress means change and action, so Communication on Progress means communicating progress and therefore advancement. The Global Compact believes that this kind of openness and transparency encourages the development of good practices by the participants.

c) Importance of the Global Compact to the energy sector

The Global Compact is important because it provides ten principles based on the Universal Declarations and Conventions applied in four areas: Human Rights, Environment, Labor Standards and Anticorruption.

The Global Compact principle on Environment aims to a) achieve universal access to modern energy services, b) improve energy efficiency, c) increase the share of energy generated from renewable resources.

11. Business for Social Responsibility (BSR)³⁹

Business for Social Responsibility or BSR was founded in 1992 by a group of entrepreneurs and businesses that wanted to create an organization to help companies act more responsibly.

The founders wanted to bridge a gap between business organizations had yet to accept corporate responsibility, and advocacy organizations that promoted corporate responsibility, but still did not have the business knowledge to allow the community to change..

BSR works with its global network of nearly 300 member companies to build a just and sustainable world. From its offices in Asia, Europe and North and South America, BSR develops sustainable business strategies through consulting, research, and inter-sector collaboration.

a) Mission

To work with businesses to create a just and sustainable world.

b) Lines of work

1. Consulting Services
2. Focus on industry
3. Working groups
4. Partnership for development

c) Why is BSR important to companies in the energy sector?

BSR is one of the leading global organizations that provide advice on CSR issues. The organization has highly experienced internationally recognized consultants.

BSR has a line of consultancy that is specifically dedicated to management issues involving energy and climate change. This service has been used by world-class companies such as AT&T, Coca Cola, Shell, Starbucks, etc.

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<http://www.bsr.org/>

V. Main Concepts

1. Corporate Social Responsibility

Corporate Social Responsibility is a strategic decision and business practice that is based on ethical principles and legality, that is, businesses that respect individuals, families, communities and the environment, and foster competitive, sustainable development for the country according to CentraRSE.⁴⁰

a) *The CSR Pyramid*⁴¹

When beginning to implement corporate social responsibility, there is a logical and optimal sequence of intervention ranging from near the company to the farthest thing from it (from internal to external)..

Internal Dimensions: First the company should ensure that it is complying with the law and that its conduct is ethical and guided by values and transparency. As the next step, the company should be responsible with its employees and ensure that it is developing the full potential of its human capital, which is what ultimately makes business possible.

External Dimension: Outside the “enterprise”, a logical sequence should be followed from the closest to the farthest. That is, it should begin working with stakeholders that are closer to the company and its immediate surroundings. As a first step, it should consider the employees’ families and then the community where the company is established, and finally in relation to the state.

Both dimensions are important but the order “from the inside out” must always be respected, because the internal dimension is critical for giving credibility and meaning to CSR strategy and social and environmental investments made as part of the external dimension.

To illustrate the order in which CSR strategy should be addressed, CentraRSE has developed a CSR pyramid. This pyramid, which includes both the inner and outer dimension, is shown below:

⁴⁰
www.centrase.org

⁴¹
Intellectual property of CentraRSE



b) CSR Areas

Given the breadth and multiple practices of CSR, organizations in the Red para la Integración Centroamericana de la Responsabilidad Social Empresarial –IntegraRSE have divided CSR into seven areas:



FOCAL POINTS:

- **Governance**
- **Internal Audience**
- **Marketing**
- **Suppliers**
- **External Audience**
- **Environment**
- **Communities**
- **Public Policy**

- **Governance:** Principles and ethical foundation of each aspect that is involved in the operation of the company, its internal and external transparency, and its compliance with the legal system.
- **Workforce (Quality of the Work Environment):** Optimal and adequate working conditions in order to achieve greater productivity and personal development.
- **Environment:** Respect and care for the natural surroundings in the way the business is operated, through better use of inputs, reducing emissions and waste, greater efficiency, and producing more with less.
- **Suppliers:** It begins with the selection of suppliers and the establishment of a responsible and sustainable relationship. In its operations, a responsible company also establishes criteria according to its guidelines for the entire the production chain, and builds a relationship based on the transparent exchange of information, technology and ideas. As they benefit mutually, productivity increases, transaction costs are reduced, and they adapt to each other's needs more quickly.
- **Marketing:** The company is responsible to its customers and/or consumers in terms of better customer service, clarity in its business transactions, better products, fulfillment of quality standards, responsible marketing and a better response to their needs and requirements. This strengthens the brand, and increases customer loyalty.
- **Communities:** To contribute to the development and advancement of communities near where the company operates and where it has commercial interests. This relationship should be based on shared responsibility and contributions, because it is a win-win relationship and results in sustainable development, strengthening the reputation of the company, and obtaining the trust of the community. This area is critical for maintaining good community relations, and includes actions such as volunteering, social leadership by the company and social investment.
- **Public Policy:** To participate in the design of state policies and establish partnerships for implementing joint projects with local or central governments in order to expand the impact of best practices throughout the country.

c) *Principios de la RSE*

SE could summarize that CSR should fulfill the following principles in order to include all the aspects mentioned above:

- **Compliance with the Law:** The law is the starting point, but it goes beyond the law.
- **Voluntary:** It is not an obligation.
- **It is a culture:** It is a way of doing business.
- **It should be comprehensive:** It includes several aspects: Economic, Social, Environmental.
- **Start inside:** The internal must be prioritized in order for the external to be legitimate.

THE LAW	• The law is basic, but it goes further
VOLUNTARY	• It is not an obligation
CULTURE	• A way of conducting business
INTEGRATED	• Includes various aspects: economic, social and environmental
INTERNAL	• Should prioritize the inside to have legitimacy on the outside

2. Sustainable Development

Development is a word frequently used to define increased prosperity of the population of a country. In recent years the concept of development has been expanded, especially social development, and the connotation of sustainable has been added to extend the concept to the idea that prosperity that can be maintained over time.

The most commonly accepted definition is:

“To ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs”.⁴²

3. Human Development

It is the expansion of the freedoms of individuals to live long, healthy and creative lives; achieve the goals they value; and participate actively in shaping development equitably and sustainably on a shared planet. Individually and collectively, people are both beneficiaries and promoters of human development.

According to this approach, human development includes wellbeing that expands the real freedoms of people so that they can prosper; empowerment and agency; to allow the actions of individuals and groups to achieve valuable results; justice that increases fairness; to sustain results over time and respect human rights and other goals set by society.⁴³

It is important to highlight the focus on the future and the importance of creating opportunities, in contrast to the traditional way of promoting development, which involved the redistribution of wealth.

4. Social License to Operate

The Social License is rooted in the beliefs, perceptions and opinions of local people and other stakeholders about a particular company or project, in this case power generation. The license is thus “granted” by the community. It is also intangible, unless efforts are made to measure those beliefs, opinions and perceptions. Finally, it is dynamic and non-permanent because beliefs, opinions and perceptions are subject to change as new information is acquired. Therefore, the Social License must be earned and then maintained.⁴⁴

A Social License is said to exist when a project or company has the continued approval of the local community and other stakeholders, or broad social acceptance.

The difference between approval (having a favorable opinion, agreeing with, or being satisfied with something) and acceptance

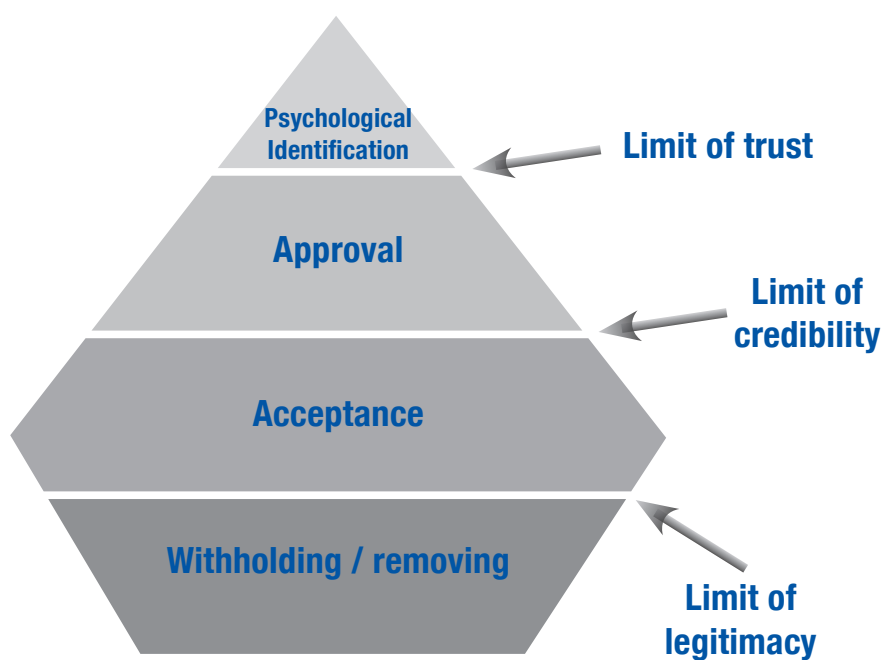
42
World Commission on Environment and Development (Brundtland Commission) Our Common Future 1987.

43
UNDP 2010.

44
http://sociallicense.com/definition_spanish.html

(willingness to tolerate, agree with, or consent) can be shown to be real and indicative of two levels of Social License, a lower level of acceptance, and a higher level of approval. While the lower level is sufficient for the project to proceed and enjoy a relaxed relationship with its neighbors, the higher level is more beneficial to everyone involved, including the industry as a whole.

Occasionally, Social License can transcend mere approval when a substantial portion of the community and other stakeholders incorporate the project into their collective identity. At this level of the relationship, it is common for the community to be transformed into project promoters or defenders because they consider themselves co-owners of the project and feel emotionally that the future of the project belongs to them.



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5. Stakeholders

A Stakeholder is any person or group of persons for whom the company is of interest. They can claim that the company impacts them positively or negatively.

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http://sociallicense.com/measure_spanish.html

6. Social Investment

In its Manual of best practices for companies operating in emerging markets, the IFC⁴⁶ defines Strategic Community Investment (synonym social investment) as:

Voluntary contributions or actions by companies to help communities in their areas of operation address their development priorities, and take advantage of opportunities created by private investment-in ways that are sustainable and support business objectives.⁴⁷

The IFC recommends the following principles and good practices for strategic community investment:

1. Strategic

- It develops Activities based on a well-defined strategy (objectives, criteria, guiding principles) associated with a clear business case and an assessment of the risks and opportunities.
- It addresses short and long term goals through a strategic combination of investments.
- For greater impact, it focuses selectively on certain key areas where the company can maximize its role and unique expertise to address community priorities.
- It goes beyond financial resources and considers how to best utilize the assets, resources, expertise, advocacy and relationships of the company to benefit local communities.
- It evolves with the phases of the business and uses different approaches throughout the project cycle.

2. Aligned

- It aligns the strategic issues of the business with the development priorities of local communities, civil society and government in order to create “shared value”.
- It coordinates community investment with other policies and practices of the company that affect communities, such as managing impacts, the relationship with key stakeholders, hiring staff and the local sourcing.
- It promotes coordination and inter-functional responsibility to

⁴⁶
International Finance Corporation
(Strategic Community Investment.
IFC).

⁴⁷
Inversión Comunitaria Estratégica.
IFC. [http://commdev.org/userfiles/
G49089_IFC_Lo%20Res.pdf](http://commdev.org/userfiles/G49089_IFC_Lo%20Res.pdf)

support the investment objectives of the community across all business units that interact with local stakeholders.

3. Multiple stakeholder orientation

- In promoting local development it positions the company as an additional ally in a broad group of stakeholders and not as the main actor.
- It recognizes that a multiple stakeholder approach reduces the company's control, but adds value by creating local ownership and complementarity around common interests.
- It supports communities and local governments in defining and achieving their development goals and aspirations through participatory planning and decision-making processes.

4. Sustainable

- It avoids dependency, encourages autonomy and creates long-term benefits that will continue after company support ends.
- It does not initiate activities without having a viable exit or transfer strategy.
- It invests heavily in capacity building, participatory processes, and organizational development to enable local communities, institutions and partners to gradually assume greater roles and responsibilities.
- Where feasible, it strengthens rather than replacing local institutions and processes.

5. Measurable

- It measures the benefits of community investment for the company and the community.
- It uses performance and impact indicators to measure the magnitude and quality of the changes.
- It monitors community perceptions to obtain real-time feedback on the performance of the company.
- It uses participatory methods of monitoring and evaluation to develop trust and local ownership of the results.
- It communicates proactively with internal and external audiences about the value generated by community investment.

VI. Roles of the Main Actors in Society

1. The Productive Sector

While the Global Development Report provides a frame of reference and identifies important factors such as security, good governance, democracy, opportunities, and the fight against corruption, these factors, in and of themselves, do not generate revenues. Revenues are an outcome of the extent to which democracy, opportunities and other positive factors stimulate the production units of the economy, i.e., private enterprise, to generate income.

This is why it is so important to recognize that the role of the companies is to generate wealth, bringing their shareholders profits. It is a highly important role that cannot be replaced by any other agent in society.

Business people, as the primary generators of wealth, are the ones creating job opportunities for the people. The productive segment has this role, but it should be performed responsibly in order to be positive agents of development.

2. The State

The primary role of the State is to provide for a Rule of Law and promote the Common Weal by enforcing the law through the necessary regulations and normative devices and favoring basic public services for its citizens. The fundamental principles that should govern public action are democracy, freedom, market, efficiency, and subsidiarity.

The subsidiary role is essential for serving the most vulnerable populations. This function has limits that should be understood. For example, the State should serve the people without falling into assistentialism and paternalism, which limit people's human capacities. Rather, a State should operate in such a way as to help its citizens reach true human development, providing the tools thereby they themselves, by their own means and capacities, can achieve it.

An adequate balance between regulation and the market is essential. As much market as is possible should be promoted, along with as much

State as is needed, in order to foster development and social peace.

3. Civil Society

Civil society should seek social development by creating opportunities and providing support and services to those who need them. It is principle-based, responsive, listened to, integrating, and knows social development.⁴⁸

Civil society is one more social actor and, as ISO 26000 states, it should also be equally accountable. It should work with transparency and social management, especially those organizations that handle funds on behalf of others.

VII. Best CSR Practices in the Power Industry

In selecting the best CSR practices in the power industry as shown below, a search was conducted among the referents approached in the study. We should highlight the cases found on the Global Compact Web page, where much information was found.

In selecting the cases detailed below, the following factors were taken into account:

1. Illustrative cases from each of the power generation, transmission and distribution industries.
2. To have produced demonstrable outcomes.
3. Creation of social, environmental and economic benefits.
4. Having the potential to be replicated.
5. To have had positive impacts on the company..

1. Generation Industry

a) *Endesa Chile*⁴⁹

Endesa Chile is the largest power generation company in that country. Its primary shareholder is Enersis, an affiliate of Endesa S.A., which in turn is controlled by Grupo Enel.

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Adapted from: Ros Tennyson (Director, International Business Leaders Forum and Partnering Initiative), author of The Partnering Toolbook, IBLF and GAIN, 2004.

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Global Compact Network Chile (2010), Best Practice Report 2010.

Endesa Chile operates in four countries of South America: Argentina, Chile, Colombia, and Peru, through thermoelectric and hydroelectric plants and, since 2007, also wind farms.

In Chile, it had an installed capacity of 5,611.17 MW of power at year-end 2010, 34.9% of the entire Chilean power system at that date, 61.75% of which was hydroelectric, 36.86% thermoelectric, and 1.39% wind.

(1) Context

Since 2003, Endesa Chile had a Sustainability Policy that guided its decisions and actions. The economic, environmental and social dimensions are covered through seven commitments that set the corporate priorities. Furthermore, in 2009, two new challenges were taken on to answer needs identified among the different stakeholders: climate change and social rooting and legitimization.

In this country, Endesa Chile is one of the pioneer companies in the publication of sustainability reports.

The first was published in 2002, and since 2006 it has received the highest ratings from the Global Reporting Initiative (GRI) .A+. In addition, it won the award for the Best CSR Action Sustainability Report in 2007 and was classified as the Best Environmental Management Description in 2009.

The company joined the Global Compact in 2004, and in its Progress Report of 2010, Endesa Chile achieved the “Advanced” level for outstandingly fulfilling its commitment with the 10 principles.

(2) Description

Development of the Fundación Pehuén.

In the early 90s, the Pangué hydroelectric plant was built in the High Biobío, part of the territory that is inhabited by communities of the Pehuenche ethnic group.

This plant was built with support from the World Bank’s International Financial Corporation (IFC), which establishes a number of environmental and social commitments that a company should meet as one of the conditions for granting the loan.

To fulfill these commitments, the Fundación Pehuén was created in 1992 to aid Pehuenche communities affected by plant construction and operation. The focus of this support was safeguarding the identity and preserving the customs of the Pehuenche people during the operations, and to ensure active community participation in company decision making.

The *Fundación Pehuén* seeks substantial enhancements in the quality of life of the Pehuenche communities. With this aspiration, two major stages can be differentiated throughout its history.

The first stage, from 1992 to 2000, consisted of aid to address family conditions of social and material vulnerability. This entailed pursuing three goals: implementing wide-coverage programs, validating the Foundation within the territory, and meeting the communities' basic needs. During the second stage, beginning in 2001, this approach changed because the communities already had the groundwork needed to develop capabilities that would afford them greater self-sustenance. From that time on, long-term partnership programs began to strengthen groups more than individuals.

This second stage prioritized investments in education and productive development. Therefore, work sought sustainable use of natural resources and land by developing good practices, vocational training and capacity building for the Pehuenche people.

In addition, another key goal at this stage was to enhance the communities' cultural capital.

Implementing the Fundación Pehuén Activities



Source: Global Pact Network - Chile (2010), 2010 Best Practices Report

b) EGE HAINA in the Dominican Republic⁵⁰

EGE Haina is the largest power generation company in the Dominican Republic, with an installed capacity of 600 MW, representing 20% of the national system's total capacity.

The social action of EGE Haina was translated into projects and programs oriented primarily towards community development, environment, education, and sports.

(1) Description

i. Education and Training

EGE Haina is the largest power generation company in the Dominican Republic, with an installed capacity of 600 MW, representing 20% of the national system's total capacity.

Solar panels and a small wind generator were donated to the Escuela Técnica Guarocuya in Enriquillo, which made it possible for the 430 students and 16 teachers of that school to use their computer laboratory on a continual basis.

ii. Masters Degree in Renewable Energy

Since 2011, EGE Haina has sponsored the Masters Degree in Renewable Energy of the Pontificia Universidad Católica Madre y Maestra in Santo Domingo.

The social action of EGE Haina was translated into projects and programs oriented primarily towards community development, environment, education, and sports.

The agreement with that university sets the company's annual contribution at US\$ 30.000 (thirty thousand dollars) to fund partial scholarships and other training activities in the curriculum.

iii. Environmental Conservation

Habilitating and supplying electricity for the drip irrigation system that supplies water for plots where the Los Cocos Wind Park is located.

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<http://www.egehaina.com/app/do/home.aspx>

(2) Other Contributions

Backup power for the Schoenstatt Monastery, La Victoria.

Electrification of the new Civil Defense building in San Pedro de Macorís.

Support for renovating the southern grids.

In 2011, EGE Haina contributed to improving the quality of electricity received in several communities in the South of the country.

Due to this US\$ 3.2 MM investment, the company made it possible to renovate the electric grids in communities of the South, such as Los Cocos, Juancho, Villa Esperanza, and Oviedo.

The investment followed formalization of an agreement between EGE Haina, CDEEE and EDESUR, and included installing a 138/12.5 Kv transformer.

With these investments, the above communities could enjoy continual electricity service. On the date of this memoir, the community of Juancho already had uninterrupted service.

c) Institución SABES (Basic Sanitation, Health Education and Alternative Energy)⁵¹ in El Salvador

SABES implements water-based alternative energy projects such as micro hydroelectric plants. It also focuses on building public-health infrastructure (safe water systems) and organizing project-beneficiary communities to manage and maintain them. The members of this institution are the same persons who work on the projects (master builders, plumbers, supervisors, coworkers).

(1) Context

Currently, many remote Salvadorian communities have trouble connecting to distribution company grids, which pass by several kilometers away. Based on this need, SABES has developed the following alternative.

51
<http://www.aguasabes.org> (2012)

(2) Description

Stand-alone power generation systems are built on the basis of existing water resources. This is a novel alternative for the Salvadorian context. It requires work and follow-up, but is a form of self-organization and self-management that can have a positive impact on communities. This alternative also obliges communities to take the environment into account and safeguard local resources.

The advantages of project execution, identified by SABES, are the following:

This is a more economic alternative than others currently on the market. Power companies charge an average of \$10 per month, while with the project the estimate is \$5 to %6.

Some 45% of all electricity in the country is produced by thermoelectric plants. Introducing more hydroelectric generation helps to avoid greenhouse gas emissions and ozone layer depletion.

It is ecologically sustainable, because natural resources produce adequate electricity when used correctly. Maintenance costs are scarce, and users are not encumbered with quotas for additional utilities or expenses.

d) ROQUETTE International⁵²

Roquette is a French group that has an industrial presence in 3 continents through 21 production plants in June 2012. Its business consists of transforming raw materials from plant sources. Its cotton operation is energy-intensive and requires a large amount of steam.

Since 2000, the Lestrem plant (62 – France) has been had two efficient cogeneration facilities that make it possible to optimize natural gas consumption and reduce fossil fuel needs in relation to dissociated energy consumption (producing steam and electricity separately).

(1) Goal of the Practice

To avoid heat loss into the atmosphere, to favor caloric recovery and reduce natural gas consumption, to reproduce this effort in other plants

of the group, to reduce greenhouse gas emissions, and so to contribute to the Group's sustainable development process.

(2) Description

One cogeneration facility makes it possible to produce electricity and steam simultaneously to meet production facility needs.

Each of Lestrem's two cogeneration lines expelled some 500,000 kg/hr of smoke at a temperature of over 100° C. The fifty heat exchangers installed in 2009 made it possible to recover heat from this smoke to produce hot water at 90° C. Subsequently, this water was transported to the cotton driers through a 2+ km tubing loop, at a flow rate of 240 m³/hr. The heat exchangers recovered heat from the water upon arrival to preheat the air in the factory driers. The temperature of the smoke expelled by the cogenerators, thus modified, is lowered to some 50°C.

This work required the participation of a large number of in-house and subcontracted personnel. Operation planning lasted several months and required various production shut-downs. Therefore, the cost of this technical enhancement rose to 4 million Euros.

Since then, similar energy-recovery projects were carried out in other French plants: Vecquemont (80) and Beinheim (67)..

This improvement is being studied for other plants of the Group, but installing it will depend on various considerations such as energy price, fatal steam use, weather conditions, or the context in each of the factories.

(3) Contribution to Company Yield

- Increased productivity: 22 t/h of steam reduced, i.e., 110,000 MWh of heat per year.
- Contributed to the Group's overall sustainable development strategy.
- The process was awarded 1st prize in the Nord- Pas-de-Calais Environmental Efficiency Trophy.

(4) Social, Environmental and/or Governance Benefits

- 22,000 tons/year of CO₂ emissions reduced.
- Participating in the Group's energy efficiency improvements.

2. Power Transmission

a) Real-time CO₂ Emissions Published on the Red Eléctrica de España Web page⁵³

Since June 5, 2009, the World Environment Day, Red Eléctrica de España has been publishing real-time data on its Web page regarding the CO₂ emissions produced by the generation units of the peninsular power system and their details by power sources.

It is during peak demand periods that the highest CO₂ emissions are produced. This is why Red Eléctrica advocates more balanced power consumption throughout the day, to enable inclusion of new, non-manageable sources of renewable energy, especially wind power, during low-demand periods.

(1) Description

Red Eléctrica works to develop a more sustainable power system, by including renewable energy sources in the energy system and promoting demand-management measures, seeking to achieve a more balanced demand profile throughout the day, and greater demand-side participation in power system operations.

It is during peak demand periods that the highest CO₂ emissions are produced. This is why Red Eléctrica advocates more balanced power consumption throughout the day, to enable inclusion of new, non-manageable sources of renewable energy, especially wind power, during low-demand periods.

This representation will make it possible to show in real time what energy sources are responsible for the emissions and to provide data that reflect the downward curve in overall emissions in Spain's power system.

53
<http://www.ree.es/>

The CO₂ emissions produced by the power system are available on the Web page of *Red Eléctrica* (www.ree.es).

3. Power Distribution

a) *Chilectra of Chile*⁵⁴

Chilectra is Chile's largest power distribution company in terms of physical power sales, with a total of 13,098 GWh distributed among industries, large companies, trade, tax entities, and private homes.

It has 719 workers and serves 1,609,848 customers who belong to 33 municipalities in Santiago, including residential, commercial, industrial, and others.

(1) Context

In 2009, Chilectra adopted the 2008–2012 Endesa Sustainability Plan (PES). This plan sets the strategic priorities and lines of action for the Latin American Endesa companies to create value by building social trust and creating favorable conditions to achieve its strategic objectives, in order to fulfill the role it seeks to play in society.

Chile's PES is structured around meeting its sustainability commitments, one of whose basic pillars is the environment.

In 2004, Chilectra subscribed to the 10 principles of the UN Global Compact, and that same year prepared its first Sustainability Report, which it has been producing without interruption to this date.

(2) Description

Ecochilectra Program: let's recycle today for a better tomorrow.

(3) Purpose

The purpose for the Ecochilectra Program is to integrate and coordinate all the current recycling actors efficiently, including

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Global Compact Network - Chile (2010), 2010 Best Practice Report.

recyclers, NGOs, recycling companies, municipalities, and customers, through efficient, cutting-edge technologies, and raising awareness for environmental conservation.

(4) Pilot Program

The company implemented a pilot program in the Peñalolén municipality, benefits the 2,500 families that participate in the program and separate their recyclable household waste—PET plastic bottles, cardboard, paper, glass, and aluminum cans—and deliver them to the Ecochiletra Center or to recyclers registered in the Program.

In exchange, customers will receive a discount on their power bills, proportional to the amount of recyclable wastes they are able to collect.

Another option is to donate that power bill discount to one of the foundations that participate in the Program: Centro de la Familia (Cenfa), Corporación de Ayuda al Niño Quemado (Coaniquem) and Fundación San José para la Adopción.

Talks are given at the Ecochiletra Center on managing recyclable household waste, and field trips to recycling companies are organized. In this way, children become aware of the processes involved in reutilizing these materials.

(5) Next Steps

Once the pilot project ends, the Program will be implemented in other municipalities, thereby increasing the number of families and including the high schools in these communities, through initiatives relating to environmental education.

(6) Initial Outcomes

- During its first month of operation, it had already registered 150 inhabitants and two local high schools, and at December 2010, 400 customers had registered.
- The customer that received most discounts on its monthly bill gained over \$4,000, equal to more than 10% less on its power consumption.

- The average discount is \$700 per bill.
- At December 2010, more than 16 tons of recyclable materials were collected, equal to over \$280,000 in power bill discounts, which has also meant increased revenues for recyclers.

VIII. CSR and Community Relations in Energy Projects

1. Related International Conventions and Agreements

a) ILO Convention 169

(1) What is Convention 169?

Convention 169 is an international legal instrument that is open to ratification upon free decision of each country. It deals with the rights of indigenous and tribal peoples.

To date, it has been ratified by 20 countries. Once the Convention is ratified, each country has one year to include the appropriate reforms or extensions in its legislation, in order to generate the policies and programs that will make the provisions of this Convention enforceable.

(2) Why was it created?

It was created to promote respect for the culture and other institutions of each people, so that economic development will not further alter their ways of life, identity, language, religion, heritage, etc.

(3) What ends does it seek?

The ends that it seeks are:

1. Respect for identity. This includes their customs, traditions, institutions, laws, types of land use, and forms of social organization.
2. That indigenous and tribal peoples participate actively in the

economic and social matters developed in the regions where they live. The consultation and participation of each people in the issues that impact them is one of the essential aspects of this convention.

3. Avoiding discrimination against indigenous and tribal peoples. It establishes that each of the peoples has the right to enjoy full human rights and fundamental freedoms, without hindrance s or discrimination against their civil rights. One of the applications that it promotes is that there by no discrimination among workers belonging to indigenous peoples.
4. That each people have representativity in social, political, economic, and cultural development.
5. To promote dialogue among different cultures and peoples.
6. That indigenous and tribal peoples decide on their development priorities.

- (4) Who participated in creating it?

Convention 169 was formulated on June 27, 1989, during the 76th Meeting of the ILO General Conference.

Each ILO member country participates with two government representatives, one for the labor unions and another that represents the employers. Likewise, there is a Commission of Experts on the Application of Conventions and Recommendations, which is the advisory body to the International Conference.

- (5) Why ILO Convention 169 is important for the energy industry?

It is important for the energy industry, especially when operations are carried out in indigenous communities or when company employees are of indigenous origin. The Convention requires considering—together with indigenous representatives—the economic and social impacts of developing installations in the community, as well as safeguarding the human rights and equal treatment of these populations.

b) The Kyoto Protocol⁵⁵

Based on the principles of the United Nations Framework Convention on Climate Change (UNFCCC), this protocol commits industrialized

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http://unfccc.int/portal_espanol/informacion_basica/items/6168.php

countries to stabilizing greenhouse gas emissions, while the Convention only encourages countries to do so.

The Kyoto Protocol, or KP for short, was adopted on December 11, 1997 and structured around Convention principles. It sets binding emissions–reduction goals for 37 industrialized countries and the European Union, recognizing that they are primarily responsible for the currently high levels of greenhouse gas (GHG) emissions into the atmosphere, which is an outcome of burning fossil fuels for over 150 years.

The Protocol has moved governments to create laws and policies to meet their commitments, companies to take the environment into account when making investment decisions, and has lead to the creation of a carbon market.

(1) The way forward

In general, the Kyoto Protocol is considered a first important step towards a truly global scheme to reduce and stabilize GHG emissions, and provides the essential architecture for any international agreement on climate change to be signed in the future. When the Kyoto Protocol's initial commitment period finalizes in 2012, a new international framework will have to be created and ratified to contribute to the drastic emission reductions that according to clear statements by the Intergovernmental Panel on Climate Change (IPCC) are needed.

(2) The Kyoto mechanisms

In accordance with the treaty, the countries need to meet their goals primarily through domestic measures. Nevertheless, the Kyoto Protocol offers them additional measures to reach their objectives targets through market-based mechanisms. These mechanisms are:

(3) Trading in emissions rights: this is known as the carbon market

The parties that have made commitments under the Kyoto Protocol (the Annex B Parties) have accepted goals to limit or reduce emissions.

These goals are stated as allowed emissions levels (or assigned amounts) during the 2008-12 commitment period. Allowed emissions are divided into Assigned Amount Units (AAU).

Emissions certificate trading, as provided in Article 17 of the Kyoto Protocol, enables countries having extra emissions units (emissions allocated but not reached) to sell that excess capacity to countries that surpass their goals. This has created a new commodity in the form of emissions reduction or elimination, referred to simply as carbon trade because carbon dioxide is the primary greenhouse gas. It is subject to the same monitoring and negotiation as any other commodity, and is known as the Carbon Market.

(4) Clean Development Mechanism

The Clean Development Mechanism (CDM), as defined in Article 12 of the Protocol, enables a country that has committed to reducing or limiting emissions (Annex B Party) under the Kyoto Protocol to implement emissions reduction projects in developing countries. Through such projects, Certified Emission Reduction (CER) credits, each one equivalent to one ton of CO₂, will count toward meeting their goals.

Many believe that this is a pioneering mechanism. It is the first global environmental investment and credit plan of its type, and acts as an instrument to compensate for standardized emissions (the CERs). A CDM project activity could be an electrification project that uses solar panels, or installing low-consumption boilers. This mechanism promotes sustainable development and emissions reduction, while providing certain flexibility for industrialized countries when choosing how they want to meet their emissions reduction or limitation goals.

(5) Joint Implementation

The device known as joint implementation, as defined in article 6 of the Kyoto Protocol, enables a country that has committed to reducing or limiting its emissions under the Kyoto Protocol to earn emissions reduction units generated by an emissions reduction or elimination

project of another Annex B Party, each equal to one ton of CO₂, towards meeting its Kyoto goal. Joint Implementation provides parties with a flexible, profitable means to meet part of their Kyoto commitments while the Party where the project is carried out benefits from foreign investment and technology transfer. These devices contribute to promoting green investments and help the Parties to meet their emissions goals in a profitable way.

(6) Adaptation Fund

The Kyoto Protocol, like the Convention, was designed to help countries adapt to the adverse climate change impacts. It facilitates creating and deploying techniques that can help enhance the capacity to recover from the effects of climate change. In order to finance concrete adaptation projects and programs in developing countries that are Parties to the Kyoto Protocol, an adaptation fund was established. This fund will be financed with part of the income from project activities of the Clean Development Mechanism (CDM) and other sources.

(7) Why this Protocol is Important for the Energy Sector?

The Kyoto Protocol represents an immense opportunity to implement renewable energy projects, both for countries that have surpassed their carbon emission goals by marketing them with carbon certificates, and for developing countries that benefit from renewable energy projects funded by developed countries. In other words, this device is a real economic incentive to implement sustainable energy projects around the world.

c) Rio + 20

“Rio+20” is the abbreviated name of the United Nations Conference on Sustainable Development, an international gathering organized by the United Nations Department of Economic and Social Affairs that took place in Rio de Janeiro, Brazil, on June 20–22, 2012, coinciding with the 20th anniversary of the 1992 Earth Summit in Rio de Janeiro.

At the Río +20 Conference, world leaders, together with thousands of participants from the private sector, NGOs and other groups, joined to discuss how to reduce poverty, promote social equality and ensure environmental conservation on an increasingly populated planet.

The official discussions centered around two main issues: how to build an environmental economy to achieve sustainable development and get people out of poverty, and how to enhance international coordination for sustainable development.⁵⁶

(1) Priority Areas for Rio+20

Seven areas that require priority attention were highlighted, namely: 1) decent employment, 2) energy, 3) sustainable cities, 4) food security and sustainable agriculture, 5) water, 6) oceans, and 7) disaster preparedness.

(2) Major Achievements to Date

At Río, member States decided to launch a process to develop a set of Sustainable Development Goals (SDGs), which will build upon the Millennium Development Goals and converge with the post 2015 development agenda.

The Conference approved innovative green economy policy guidelines.

The governments decided to establish an inter-governmental process through the General Assembly to prepare alternatives for a funding strategy for sustainable development.

Governments also adopted the 10-year framework for programs on sustainable consumption and production patterns, as contained in document A/CONF.216/5, and invited the General Assembly at its sixty-seventh session, to designate a Member State body to take all necessary steps to fully operationalize the framework.⁵⁷

(3) Why Rio+20 is Important for the Energy Sector?

It is very important, as this international conference envisioned ensuring environmental protection on an increasingly populated planet.

⁵⁶
<http://www.uncsd2012.org/rio20/about.html>

⁵⁷
<http://sustainabledevelopment.un.org/rio20.html>

As mentioned above, one of the seven areas for priority attention at this conference was energy and how to produce it sustainably. Therefore, companies in the international energy industry need to work towards this to remain at the cutting edge while contributing to the planet's sustainable development.

d) Voluntary Principles on Security and Human Rights

The governments of the United States and the United Kingdom, together with companies in the resource extraction and energy industries and some non-governmental organizations, united by their interest in human rights and social responsibility, have launched a dialogue on security and human rights.

The participants realize the importance of promoting and protecting human rights throughout the world, and the constructive contribution of business and civil society (including NGOs, trade unions and communities) to achieve these goals.

Through this dialogue, participants have drafted a number of voluntary principles that serve as a guide for companies to maintain the protection and security of their operations under conditions that ensure respect for human rights and fundamental liberties.

In keeping with these goals, the participants agreed on the importance of furthering this dialogue and reviewing these principles to safeguard their pertinence and efficacy.

The voluntary principles relating to security and human rights in the resource extraction industry are grouped in the following three categories:

(1) Risk Assessment

The capacity to assess risks in company operations is decisive for the safety of staff, communities and assets, the success of a company's short and long-term operations, and for human rights promotion and advocacy. In some circumstances this is relatively simple, and

in others it is important to gather a large amount of background data from diverse sources, to control and adapt to complex and varying political, economic, police, military, and social situations, and to maintain productive relations with communities and official services.

The quality of complicated risk assessments depends largely on obtaining regular, updated, reliable information from a broad range of perspectives: national and local governments, security firms, other companies, the company's government of origin, multilateral institutions, and civil society entities that understand local conditions. This information can be very useful when shared as much as possible (taking into account confidentiality considerations) among companies, the civil society and governments.

(2) Interactions between Companies and Public Security

Although governments play the primary role in keeping the peace, security and respect for human rights, companies have an interest in ensuring that government actions, particularly by those responsible for public security, are compatible with protecting and promoting human rights. In cases where it is necessary to supplement government security, companies can be asked or expected to contribute, or in some other way cover the cost of protecting company facilities and staff through public security.

Although public security is expected to act in compliance with the law and in accordance with human rights regulations and international humanitarian law, it is possible for abuses to occur in these situations.

(3) Interactions among companies and private security

When a country's government is incapable of suitably protecting the assets or personnel of a company, the latter may have to hire private security to complement public security. In this case, private security should coordinate with public forces (particularly police officers) to

authorize carrying weapons and the possible use of force in legitimate defense while in the country.

(4) Why these principles are important for the energy industry

These principles are very important in the context of building and operating renewable energy facilities. As summarized in this section, this includes: a) assessing security risks to staff, communities and assets, b) that companies help the government by absorbing public security costs incurred to protect their facilities and staff, and c) complementing public security with that provided by private companies.

e) The Equator Principles

The Equator Principles are a credit-risk management framework consisting of certain voluntarily-adopted guidelines that are directly related to the policies of the International Financial Corporation (IFC), as part of the World Bank, to ensure that social and environmental issues are addressed efficiently.

Financial institutions can adopt them and approve project funding in this way, provided they demonstrate that they will be carried out under social and environmental accountability arrangements.

They establish the obligation to avoid adversely impacting ecosystems and communities when implementing projects and, where inevitable, to reduce, mitigate or compensate them.

These principles apply to all new project funding with an investment capital of at least ten million US Dollars.

To date, 77 financial institutions and 2 partner institutions around the world have adopted the Equator Principles.

Currently, the principles being used are the IFC's Eight Performance Standards mentioned above in this document.

f) United Nations Declaration on the Rights of Indigenous Peoples

In March 2008, the United Nations, recognizing among other things that indigenous peoples are equal to all other peoples and that they should be free from all forms of discrimination in exercising their rights, concerned for the historical injustices they have suffered, and acknowledging the urgent need to respect and promote their intrinsic rights, drafted the “United Nations Declaration on the Rights of Indigenous Peoples”.

This declaration, consisting of 46 articles, is a successor of ILO Convention 169. It addresses the individual and collective rights of indigenous peoples, particularly their rights to land, assets and vital resources, to territories and their resources, to their culture, identity and language, to health and education, and to determine their own political status and economic development.

(1) Why the Convention is Important to the Energy Industry

This is a very pertinent convention. Article 8 points out that States should avoid all forms of forced relocation of populations whose rights have been harmed, and article 10 details that relocation shall not be undertaken without their consent. This article is important because throughout history there have been many cases of forced resettlement or damages to indigenous communities in order to build various types of energy projects.

The International Indian Treaty Council has commented on the above, underscoring that the social and economic consequences of building renewable energy sources on their lands should be addressed and that free, prior, informed consent of indigenous peoples should be obtained.⁵⁸

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<http://www.treatycouncil.org>

2. The Status of CSR in the Region

Since Corporate Social Responsibility is directly related to a company's reputation, perception is essential understanding its status. Therefore, communication is basic for company sustainability. It may have good business practices, but not communicate them, and therefore have a negative reputation.

That is why perception is a reality of the social responsibility status, whether of a company, a sector a country or a region.

In order to identify the status of social responsibility, an on-line survey was conducted between November 26 and December 13, the outcomes of which are given below.

The most significant features of those surveyed are:

- 63% women, 37% men
- 57% are 40 years old or less, 43% over 40 years old
- 41% have 5 years or less of experience
- 57% is from the business sector
- 53% is in the power generation industry
- 40% is in the hydroelectric segment
- 37% is from Guatemala, 23% from Honduras, 31% from Nicaragua, and the rest from other Central American countries

The most significant findings are:

Regarding the investment climate, those polled believe that the energy industry is doing better than the country as a whole. However, it is important to note that most feel the situation of both the country and the energy industry is average: 71% think the country's status is average and 52% that the energy industry is the average. Nevertheless, 47% deem that the investment environment is favorable.

As for social responsibility, 91% believes it is crucial for business sustainability, and most feel that energy industry practices are better than the average company nationwide. Those polled showed they understood social responsibility and differentiated it from philanthropy or mere donations. The issues they consider are most highly developed are ethics and internal governance, along with environmental practices. This is followed by community relations, and the area with the greatest opportunities for improvement is public-private alliances. The three major hurdles are a weak State with little capacity for accompaniment, lack of access to funding, and community relations.

It is important to note that 50% of those polled report that communities near their projects lack electricity, which poses both a threat and an opportunity to enhance the quality of life in their areas of influence.

As for community relations, it is significant that 98% believes it important to provide information and socialize power generation projects with nearby communities before investing in a given area. However, only 77% feel it is necessary to consult directly with neighboring communities prior to installing a power generation plant in a given area—21% less than those who think it is important to inform them. 35% is unaware of ILO Convention 169, and 54% of the 65% that is aware of it do not believe it enhances community relations. It is important to note that one third is not aware of that convention.

With regard to support for enhancing social responsibility, 82% knows of organizations that promote and support social responsibility in the country, and 97% of those feel that such organizations are important to help enhance social responsibility.

As for State participation in social responsibility, 76% believes the State should have a strong role in supporting it. The three most important roles they think the State should have are ensuring compliance, promoting public-private alliances, and providing information on the socioeconomic status of communities where projects are located.

3. Survey of Laws that Apply to Consultations and Community Relations

In this chapter we describe and briefly comment on the laws of three countries, referring specifically to the consultation to be held with populations where generation projects are to be developed.

We will base it on a law that three countries have in common, i.e., the Indigenous and Tribal Peoples Convention , 1989 (No. 169) of the International Labor Organization (ILO), which was ratified by the Guatemala, Honduras and Nicaragua, and is therefore applicable law.

4. Review of Convention 169

Below is the text of the standards that apply to this matter, followed by comments and how they are applied by ILO control agencies, that is, the procedures by which actual compliance is reviewed in countries ratifying the ILO Conventions. This is basically the International Labor Conference's Committee on the Application of Standards, which bases its recommendations on the report of the Committee of Experts on the Application of Conventions and Recommendations and complaints regarding convention application, in conformity with article 24 of the ILO Constitution. Then we will mention the domestic norms in hierarchical order, i.e., constitutional, ordinary law, and regulatory provisions.

a) Legislation that is Common to the Three Countries

Guatemala, Honduras and Nicaragua have ratified the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labor Organization, by virtue of which its standards are binding in all three countries.

The Convention standards are complex and elaborate. Nevertheless, they require additional regulations by ratifying countries, especially

on the matter in question, i.e., the way to conduct consultations with indigenous peoples. However, it is clear that even without domestic law to regulate such consultations, they should be carried out using ad hoc procedures whenever the assumptions mentioned in the Convention are present.

b) Major Convention Standards

Below we transcribe and comment on the major standards on consultation contained in this Convention.

i. Article 6

Text of the Standard

1. When applying the provisions of this Convention, governments shall:

(a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly;

(b) establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them;

(c) establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose.

2. The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.

Explanation

This Standard is doubtless one of the most complex in the Convention, having been developed through legal rulings in the ratifying countries and by the ILO control agencies, particularly with regard to the consultations to be held with peoples on legislative or administrative measures that might affect them. Due to this complexity, there should be a review of the different elements of the obligation in question, in order to determine what types of consultations can be conducted, and how.

As for the subjects to be consulted on, two things should be taken into account. First, it has to do with administrative or legislative matters, which are regulated domestically by rules of public order that govern acts of State and the sovereignty to pass laws. Administrative matters are all duties that executive bodies must fulfill pursuant to constitutional or legal provisions, whose performance cannot be delegated or conditioned. Likewise, the power to pass laws is reserved for legislative bodies, which are governed by said rules of public order in fulfilling their duties, which cannot be abandoned under the pretext of finding resistance among social groups or particular populations.

The above implies that consultations cannot have binding effects that limit the above functions for said reasons. A correct understanding of the standard, as deemed by the ILO control agencies,⁵⁹ is that consultations must be conducted in good faith, seeking to achieve consensus, as stated in section 2 of the aforementioned standard. Of course, this does not mean that consensus must be achieved as a requirement for domestic authorities to act one way or the other. It is a procedural matter, but not merely one of form, because consultations should be conducted with the best intention of both parties to reach agreements.

The above takes on special importance vis-à-vis the criteria by pressure groups in different countries, in the sense of attempting to give the consultations contained in Convention 169 binding effects, as this would be contrary to its letter and spirit.

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Many complaints filed under Article 24 of the ILO Constitution have mentioned a lack of consultation on matters affecting indigenous populations by governments that ratified the Convention. As a result, the criteria on the obligation to consult have tightened. See the ILO Web site at: <http://www.ilo.org/ilolex/cgi-x/pqconv.pl?host=status01&textbase=ilospa&hitdirection=1&hitstart=0&hitsrange=1500&highlight=&context=&query=%28C169%29+@ref&chspec=30&chspec=15&chspec=16%2C17&query0=C169&query1=&query2=&year=&title=&query3=&submit=Realizar+la+b%FAsqueda>

Secondly, the subject of the consultation should be something that impacts them directly. The exact interpretation of this standard is of special interest in order to apply the Convention correctly. In the literal sense of the standard, the impact should be direct, and it is understood that the rights involved are of a collective nature, that is, they pertain to the collective subject of the Convention.

Therefore, it should be understood that these rights are clearly differentiated from those of the rest of the respective country's population, because the impacts could not be common to all inhabitants of the country, as that would fall outside of the matter regulated by the Convention—the integrity of indigenous peoples, ensuring their social, economic and cultural rights, etc.

As for the mechanism, the regulation affords ample flexibility, as it uses the term appropriate procedures. It also states specifically that consultations be conducted through the representative institutions.

The above leads to the construal that mechanisms should encourage open, fluid dialogue with the representatives of the affected peoples—elected or appointed using their own procedures or institutions to ensure their legitimacy—seeking to come to an agreement. Therefore, they should avoid referendum procedures such as using ballot boxes, as this would not foster a dialogue among the parties where points of agreement are sought.

Background in the ILO Control Agencies

What there is no doubt about is the obligation to conduct consultations, given the assumptions in the standards transcribed above and, as mentioned, through procedures adapted the circumstances of each people, and carried out in good faith by both parties for the purpose of reaching a consensus. In this regard, the ILO Committee of Experts on the Application of Conventions and Recommendations highlights the following:⁶⁰

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CEACR: General Observation
concerning Convention No. 169.
Publication: 2009.

“With regard to consultations, the Commission takes note of two basic challenges: i) to ensure that appropriate consultations are conducted prior to taking any legislative and administrative measures that might impact indigenous and tribal peoples directly; and ii) to include provisions in the law that require prior consultation as part of the process to determine whether to grant concession for natural resources exploration and exploitation. The form and content of consultation procedures and mechanisms must allow for full expression—with sufficient advance notice based on full understanding of the proposed matters—of the opinions of any concerned peoples, so that they might influence the outcomes and a consensus can be reached, and so that consultations will be conducted in a way that is acceptable to all parties. If these requirements are met, consultations can be an instrument of true dialogue and social cohesion, and play a decisive role in conflict prevention and resolution. Therefore, the Commission deems it important for governments—with the participation of indigenous and tribal peoples—to establish appropriate mechanisms of consultation with the representative institutions of those peoples as a priority. Periodic assessment should be done of how the consultation mechanisms are working, with the participation of the concerned peoples, in order to continue improving their effectiveness.”

ii. Article 7

Text of the Standard

1. The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.

2. The improvement of the conditions of life and work and levels

of health and education of the peoples concerned, with their participation and co-operation, shall be a matter of priority in plans for the overall economic development of areas they inhabit. Special projects for development of the areas in question shall also be so designed as to promote such improvement.

3. Governments shall ensure that, whenever appropriate, studies are carried out, in co-operation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities.

4. Governments shall take measures, in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit.

Explanation

It establishes the peoples' right to decide what their priorities are regarding the development process.

As noted above, the Convention standards do not seek the peoples' independence from the country where they are located. That said, the search for development should meet two requirements: first, it should be done in accordance with their own needs, interests and values; but also, within the legal system of the country where they live.

The essence of this standard should be seen as the need for cooperation among governments and the peoples concerned, and is closely related to the former one, as it is clear that the search for development should be done by two stakeholders—peoples and governments—respecting the spheres of action that pertain to the latter, but in consonance with the values and beliefs of the former. This can only be achieved through consultation in good faith as mentioned in the above article.

iii. Article 13

Text of the Standard

1. In applying the provisions of this Part of the Convention governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship.

2. The use of the term lands in Articles 15 and 16 shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use.

Explanation

As a starting point, the meanings of land and territory are defined, with the difficulties that this poses in cases where such territories are not occupied solely by indigenous peoples. It is important to highlight that the Convention's particular interest is the collective aspect of property, which has given rise to innovations in some laws that did not recognize that concept.

iv. Article 14

Text of the Standard

1. The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognized. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.

2. Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession.

3. Adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned.

Explanation

This standard establishes two assumption: on the one hand, the recognition of ownership and possession rights over land that are effectively occupied by indigenous peoples, and the obligation for governments to identify such lands; and on the other, what could be understood as the right to use land that they do not occupy exclusively, but to which they have had access traditionally.

With regard to the first, there should not be much discussion regarding the need to determine and then recognize the right to ownership and possession of land belonging to peoples, insofar as it is a collective right. The need for it to be a collective right has been recognized by various national courts and by the inter-American human rights system.

For the effects of the above, there should be total clarity regarding the subject of this right and the way it is exercised. First, it should be an indigenous population, as per the definition of Convention 169 itself, that is, a group capable of holding ownership. Second, it should meet the requirements set forth in the Convention, such as being land that was traditionally occupied, but also within the national requirements that govern the duration of ownership and that it be public, peaceful, in good faith, etc.

The second assumption, i.e., the right to use land that they do not occupy exclusively but to which they have had traditional access, implies more risks than the first, because here there are objective criteria to determine ownership and possession, such as actual, effective occupation of

assets. In this case it is a matter of access to such territories, which should not be occupied solely by indigenous peoples. It is here that implementation of the dispute resolution mechanisms mentioned above takes on particular importance.

Finally, with regard to the possibility for the concerned peoples to claim land, although this is a legitimate aspiration and a right that should be safeguarded, one should bear in mind the practical difficulties that it might pose when it clashes with the rights of third parties or with domestic regulations.

Background in the ILO Control Agencies

Difficult disputes have arisen in practice due to possible implications for the rights of third parties or of the State itself, in conformity with domestic law, in territories that are not only occupied by indigenous populations. With regard to the above, when reviewing a claim pursuant to article 24 of the ILO Constitution,⁶¹ the reviewing Committee concluded as follows:

32. With regard to claims for the restitution of land, the Committee would like to point out that it does not claim to issue an opinion on the resolution of individual land disputes under the Convention or to make recommendations to the Governing Body for this purpose. The Committee considers that its essential task is rather to ensure that the appropriate means of resolving these disputes have been applied and that the principles of the Convention have been taken into account in dealing with the issues affecting indigenous and tribal peoples.

34. The Committee considers that the provisions of the Convention dealing with land, and specifically Articles 13 and 14 on which the organization which made the representation bases its allegations, must be understood in the context of the general policy set forth in Article 2(1) of the Convention, namely that governments shall have the responsibility for developing, with the participation of the peoples concerned, coordinated and

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REPRESENTATION (article 24) – 1996 – MEXICO – C169 ---- Report of the Committee set up to examine the representation alleging non-observance by Mexico of the Indigenous and Tribal Peoples Convention, 1989. (No. 169), made under article 24 of the ILO Constitution by the Trade Union Delegation D-III-57 section XI of the Sindicato Nacional de Trabajadores de la Educación (SNTE), Radio Educación.

systematic action to protect the rights of these peoples and to guarantee respect for their integrity. The Committee also refers to Article 6 of the Convention, which provides that consultations shall be carried out in good faith with the peoples concerned and in a form appropriate to the circumstances, and means should be established by which these peoples can freely participate in decision-making on matters which concern them.

This approach is correct in the sense that Convention 169 would not be as useful—in terms of direct application—for a dispute on property rights, but rather should serve to guarantee the existence of a suitable resolution mechanism.

In the same sense, the Committee of Experts on the Application of Conventions and Recommendations⁶² found the following:

Article 14, section 1 of the Convention establishes traditional occupation as a source of rights, according to which “The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognized...” which implies the correlated obligation of the Government to recognize those rights. Section 2 of the same article provides that “Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession,” while section 3 states that “Adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned.” Article 14, section 3 refers to the rights established in sections 1 and 2, so the Committee understands that the procedure, to be adequate, should aim for indigenous peoples to be able to solve their land claims by showing traditional occupation. If indigenous peoples could not make traditional occupation a valid source of possession and ownership rights, then article 14 of the Convention would be devoid of meaning. The Committee is aware of how complex it is to put this principle into law and design suitable procedures, but at the

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CEACR: Individual Observation on the Indigenous and Tribal Peoples Convention, 1989 (No. 169) Mexico (Ratification: 1990), Publication: 2009.

same time underscores that recognition of traditional occupation as a source of possession and ownership rights through a suitable procedure is the cornerstone on which the system of land rights established by the Convention rests. The concept of traditional occupation can be reflected in different ways by domestic law, but should be applied. For these reasons, the Committee requests that the Government make all efforts to ensure that article 14 is applied to resolving this case, including via negotiations, and to provide information in this regard. It further requests that the Government report on the way it sees the proposal of the Bancos indigenous community, and that the Government review its own title-deed legalization to the name of San Lucas to correct the situation under examination. Likewise, it requests that the Government kindly report in detail on how domestic law gives expression to this article, particularly to “traditional occupation as a source of ownership rights, and whether there are suitable procedures in the sense of article 14, section 3 of the Convention. Furthermore, in view of the fact that there is a difference of appraisal regarding the suitability of the procedures set forth in article 14 of the Convention and the duration of those procedures, the Committee suggests that the Government start consultations with the indigenous peoples regarding changes that might be made to better adapt said procedures to the Convention, and to provide information on the measures taken in this regard. Finally, the Committee requests that the Government kindly provide information on its compliance of the recommendations contained in paragraph 45, section a) and section b), paragraphs i), ii) and iii) of said claim, specifying the points on which it deems it has complied with the recommendations, and which are still pending.

With regard to the possibility of the concerned peoples to claim lands, a claim filed under article 24 of the Constitution is of interest, as it refers in part to this topic,⁶³ as follows:

134. With regard to the allegations on lands, the Committee expresses its concern about facts such as the murder of 26

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REPRESENTATION (article 24) – 2001 – MEXICO – C169
 ---- Report of the Committee set up to examine the representation alleging non-observance by Mexico of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), made under article 24 of the ILO Constitution by the Frente Auténtico del Trabajo (FAT).

indigenous people in Agua Fría. It hopes that the Government will inform the CEACR of the outcome of the investigations in this respect and of the legal sentences imposed on those who carried out the murders. It also hopes that the Government will provide information on the allegations relating to the problems of land and forced labor in the Zolontla Community, in the Municipality of Ixhuatlán de Madero, State of Veracruz. Moreover, the Committee is concerned about possible recurrences of these situations, given the existing hostility with regard to possession and ownership of land. The Committee notes the actions taken by the Government in the framework of the Sectoral Agricultural Plan and the Plan for Certification of Cooperative Rights and Title to Land. **It is fully aware of the difficulties of reconciling rights established by the Convention in the area of lands, and, in particular, those established in Articles 13-15 of the Convention, with the provisions of the Civil Code and other provisions arising out of this.** However, it believes that only full application of these Articles, including the establishment of adequate procedures within the national legal system to resolve land claims by the peoples concerned, may prevent the recurrence of violent incidents such as those referred to. Therefore, it hopes that the Government will provide information on: (a) how these procedures work in practice, including information on their duration; (b) the way in which the rights of ownership and possession over the lands which the peoples concerned traditionally occupy are recognized in these procedures; and (c) the measures taken to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities.

As can be seen in the underlined part of the above paragraph, it recognizes the aforementioned difficulty and supports the idea of establishing suitable mechanisms to solve the conflicts in this regard, which should be done in conformity with the Convention Standards and in concordance with domestic law and practice.

c) Article 15

Text of the Standard

1. The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.

2. In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities.

Explanation

Two assumptions are established: the rights of indigenous peoples to the resources on their land, and their rights when the resource owner is the State, which rights are consultation and participation.

As a starting point, bear in mind the definition in article 13, number 2 of the Convention, in the sense that “land” for the effects of this article shall include “territories,” “which covers the total environment of the areas which the peoples concerned occupy or otherwise use.”

In view of this, there is a concern regarding the breadth of the Standard, as it enables those peoples to participate in the use, management and conservation of resources located on their territories, understood as stated above, who therefore may enter into conflict with the recognized

rights of third parties or the State itself over immovable assets located on those territories.

The second assumption is less worrying, in terms of consulting with peoples on the potential impacts of resource-development projects on their territories as defined above. This particular matter has been reviewed by ILO control agencies and domestic courts, and they have been consistent in stating the need for such consultations.

Here we should bear in mind that such consultations, as stipulated in article 6, number 2, should be conducted in good faith and in a manner that is suited to the circumstances, in order to reach an agreement or achieve consent on the proposed measures.

d) Article 16

Text of the Standard

1. Subject to the following paragraphs of this Article, the peoples concerned shall not be removed from the lands which they occupy.
2. Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent. Where their consent cannot be obtained, such relocation shall take place only following appropriate procedures established by national laws and regulations, including public inquiries where appropriate, which provide the opportunity for effective representation of the peoples concerned.
3. Whenever possible, these peoples shall have the right to return to their traditional lands, as soon as the grounds for relocation cease to exist.

4. When such return is not possible, as determined by agreement or, in the absence of such agreement, through appropriate procedures, these peoples shall be provided in all possible cases with lands of quality and legal status at least equal to that of the lands previously occupied by them, suitable to provide for their present needs and future development. Where the peoples concerned express a preference for compensation in money or in kind, they shall be so compensated under appropriate guarantees.

5. Persons thus relocated shall be fully compensated for any resulting loss or injury.

Explanation

Control mechanisms for the ILO Standards have understood this ruling in an extensive manner. In the case of a claim filed pursuant to article 24 of the Constitution,⁶⁴ it is acknowledged that even if the events of the claim occurred decades before the Convention came into force for that country, its effects shall persist in time, and this has legal consequences for the country.

Background on the ILO Control Agencies

The consideration is as follows:

29. The Committee observes that the relocation of the population of the Uummannaq settlement, which forms the basis of this representation, took place in 1953. It also takes note of the fact that the Convention only came into force for Denmark on 22 February 1997. The Committee considers that the provisions of the Convention cannot be applied retroactively, particularly with regard to procedural matters, such as whether the appropriate consultations were held in 1953 with the peoples concerned. However, the Committee notes that the effects of the 1953 relocation continue today, in that the relocated persons cannot

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REPRESENTATION (article 24)
– 2000 – DENMARK – C169 ----
Report of the Committee set up to examine the representation alleging non-observance by Mexico of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), made under article 24 of the ILO Constitution by the National Confederation of Trade Unions of Greenland (Sulinermik Inuussutissarsiuqartut Kattuffiat – SIK)

return to the Uummannaq settlement and that legal claims to those lands remain outstanding. Accordingly, the Committee considers that the consequences of the relocation that persist following the entry into force of Convention No. 169 still need to be considered with regard to Articles 14(2) and (3), 16(3) and (4) and 17 of the Convention, examined below, despite the fact that the relocation was carried out prior to the entry into force of the Convention. These provisions of the Convention are almost invariably invoked concerning displacements of indigenous and tribal peoples which predated the ratification of the Convention by a member State.

There is a concern regarding the implications that a consideration of this nature could have for countries that were subjected to colonization by actions of this type that were taken in colonial times in what are now independent countries.

In this regard, the consideration made upon examination of another claim pursuant to article 24 of the Constitution⁶⁵ seems more balanced, namely:

40. The Committee recalls that according to Article 12(2) of Convention No. 107, which was in force at the time of the relocation, and Article 16(4) of Convention No. 169, when a return to their lands is not possible, indigenous and tribal peoples shall be provided in all possible cases with lands of quality at least equal to that of the lands previously occupied by them, suitable to provide for their present needs and future development. The Committee, in this case in particular and bearing in mind that a number of years have passed since the removal of these indigenous peoples took place, wishes to suggest to the Government that, in the quest for solutions to the problems that still appear to affect the relocated Chinantec communities, it resume a dialogue to enable both parties to seek solutions to the situation facing these peoples in the Uxpanapa Valley.

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REPRESENTATION (article 24)
– 1998 – MÉXICO – C169 ----
Report of the Committee set up to
examine the representation alleging
non-observance by Mexico of the
Indigenous and Tribal Peoples
Convention, 1989

i. Article 17

Text of the Standard

1. Procedures established by the peoples concerned for the transmission of land rights among members of these peoples shall be respected.
2. The peoples concerned shall be consulted whenever consideration is being given to their capacity to alienate their lands or otherwise transmit their rights outside their own community.
3. Persons not belonging to these peoples shall be prevented from taking advantage of their customs or of lack of understanding of the laws on the part of their members to secure the ownership, possession or use of land belonging to them.

Explanation

We should emphasize that this ruling addresses regular aspects of private land-holding for members of an indigenous group, both in the sense of respecting their forms of property transfer and the ability to do so to the name of persons from outside of the group.

There is a concern that one construal of these rulings may result in limiting the individual rights of the members of indigenous peoples, thereby injuring rights that are recognized by domestic law, which allow for disposal of individual property.

Background in the ILO Control Agencies

A claim in conformity with Article 24 of the Constitution referred in part to this issue,⁶⁶ and the Committee in charge of the examination concluded the following:

28. The Committee also notes that the complainants allege that

(No. 169), made under article 24 of the ILO Constitution by the Sindicato Radical de Trabajadores del Metal y Similares.

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RECLAMACIÓN (Artículo 24) - 1997 - PERÚ - C169 ---- Informe del Comité encargado de examinar la reclamación en la que se alega el incumplimiento por Perú del Convenio sobre pueblos indígenas y tribales, 1989 (núm. 169), presentada en virtud del Artículo 24 de la Constitución de la OIT por la Confederación General de Trabajadores del Perú (CGTP).

certain sections of the Act in question blatantly encroach on the organization of the community and of its institutions by forcing the community to fragment its lands into individual plots; that the Act creates a concept of “abandoned lands” only for the peasant farmers’ communities of the coastal region. The Committee notes that the Government maintains that the concept of abandonment for the lands of the peasant farmers’ communities of the coastal region is provided for in the Constitution (article 89) and is a mechanism to grant title to those in peaceful, and public possession for at least two years, and not with the intention of incorporating abandoned lands into state property. The possibility of fragmenting the land is only afforded by decision of the community members themselves, who prefer to work the land individually rather than communally. In this respect, the Committee recalls that under Article 17(2) of the Convention, the peoples concerned shall be consulted whenever consideration is being given to their capacity to alienate their lands or otherwise transmit their rights outside their own community. In this case in particular, the Committee notes that there is no indication that consultations have been held on the implications of these measures to establish title with the people concerned as provided by the Convention.

Although this conclusion refers rather to the procedural aspect—the need for consultation regarding the law—it exemplifies the concern mentioned above, in the sense that individual property rights would be limited by imposing a collectivist approach to landholding. Accordingly, in order to emphasize the concern in question, the Committee’s considerations regarding another conclusion are transcribed below:

30. The Committee considers that it is not for the Governing Body to determine whether individual or collective ownership is most appropriate for indigenous or tribal peoples in a given situation. The Convention recalls the special importance of the relationship of indigenous peoples with the lands or territories, and in particular the collective aspects of this relationship. The

Committee notes further, from its experience acquired in the application of the Convention and its predecessor, that the loss of communal land often damages the cohesion and viability of the people concerned. This is why, in the preparatory work for the Convention, many delegates took the position that lands owned by indigenous persons, and especially communal lands, should be inalienable. In a closed decision, the Conference Committee decided that Article 17 should continue the line of reasoning pursued in other parts of the Convention, according to which indigenous and tribal peoples shall decide their own priorities for the process of development (Article 7) and that they should be consulted through their representative institutions whenever consideration is being given to legislative or administrative measures which may affect them directly (Article 6).

5. Domestic Laws

a) Guatemala

(1) Constitutional Norms

There is no specific norm to regulate consultations on the matters mentioned in Convention 169. At this level, only especially significant issues of a political nature are taken up. We understand that in this category an administrative resolution would not be suitable to authorize a business project, no matter how important it may be, since its nature would in no way be considered political in a strict sense of the word. The norm in question is the following:

Article 173. Consultative Procedure. Political decisions of special importance shall be submitted to a procedure of consultation with all citizens.

This consultation shall be convened by the Supreme Electoral Court at the initiative of the President of the Republic or the National Congress, who shall establish the exact question(s) to be posed to the citizens.

The constitutional electoral law shall regulate all things regarding this institution.

(2) Ordinary Legislation

The development of the constitutional norm cited above is found in the **Elections and Political Parties Act, Decree No. 1–85**, in the following terms:

Article 250 bis. Convening and procedure. In accordance with the Political Constitution of the Republic, referenda shall be convened in all cases by the Supreme Electoral Court. The procedure shall be governed, where applicable, by the electoral norms set forth in this law and in its regulations, and by any specific legislation issued by the Supreme Electoral Court. The system to be applied to referenda shall be the relative majority.

As stated above, the aforementioned legislation refers to consulting on significant political matters, and therefore does not apply to the matter under study. This makes it necessary to seek legal grounding in other norms, such as those contained in the Municipal Code, the Urban and Rural Development Councils Act and the Environmental Assessment, Control and Monitoring Regulations as transcribed below and subsequently commented on:

Municipal Code, Decree No. 12–2002

Article 17. Rights and obligations of inhabitants. The rights and obligations of the inhabitants are:

...

j) To participate in the consultations with inhabitants in conformity with the law

k) Request a popular municipal consultation on matters of great importance, in the way that is set down in this Code.

...

Article 63. Consulting the Inhabitants. When the importance of a matter makes it advisable to consult the inhabitants' opinion, the Municipal Council, with a two-thirds (2/3) vote of the total membership, may decide that the consultation be conducted taking into account the modalities indicated in the following articles.

Article 64. Consultation at the request of the inhabitants. Inhabitants have the right to request that the Municipal Council conduct consultations when referring to matters of a general nature that affect the entire municipal population. The request shall be signed by at least ten percent (10%) of those registered to vote in the municipality. The outcome shall be binding if at least twenty percent (20%) of the inhabitants registered to vote participate, and if most vote in favor of the matter under consultation.

Article 65. Consulting Indigenous Communities or Authorities of the Municipality. When the nature of a matter especially affects the rights and interest of indigenous communities of the municipality or their own authorities, the Municipal Council shall conduct consultations at the request of said indigenous communities or authorities, including the application of criteria that pertain to the customs and traditions of the indigenous communities.

Article 66. Modality of these consultations. The modalities of the consultations mentioned in Articles 64 and 65 of this Code, among others, may be as follow:

1. Consulting on a dossier that is technically designed specifically for the case, with the invitation indicating the matter to be addressed, the date and the places where the consultation will be held.
2. Applying the criteria of the communities' own legal system to the case. The outcomes shall be binding when at least fifty

percent (50%) of the inhabitants who are registered to vote, and the majority votes in favor of the matter under consultation.

Urban and Rural Development Councils Act, Decree No. 11–2002

Article 26. Consulting Indigenous Peoples. As soon as the law is passed regulating consultations with indigenous peoples, consultations with Maya, Zinca and Garifuna peoples on development measures promoted by the Executive Branch that directly affect those peoples may be done through their representatives in the Development Councils.

In conformity with the same law (article 4) there are Development Councils according to the following levels:

- a. National, with the National Urban and Rural Development Council
- b. Regional, with the Regional Urban and Rural Development Councils
- c. Departmental, with the Departmental Development Councils
- d. Municipal, with the Municipal Development Councils
- e. Community, with the Community Development Councils

(3) Regulatory Decisions

Environmental Assessment, Control and Monitoring Regulations, Governmental Decree No. 431–2007

Article 72. Public Participation as a Requirement when Developing Environmental Assessment Instruments. In conformity with the terms of reference set forth by the Ministry of the Environment and Natural Resources, proponents of projects, works, industries, or activities, may enable public participation by a population during the earliest possible stage of developing the environmental instrument, except for the Initial Environmental Assessment, in order to comply with the formal requirements established for review and analysis. Likewise, proposers or their

environmental consultants may record all activities carried out to provide public participation for the population when developing the assessment instrument(s) and also propose communication and participation mechanisms to be developed during the document review stage. Public participation processes shall be conducted in conformity with what is stipulated by the proposer and the Ministry of the Environment and Natural Resources on a case-by-case basis.

Article 74. Public Participation during the Process of Developing Environmental Assessment Instruments. When developing the environmental assessment instruments that are required after the initial environmental assessment, if necessary through consultants, proposers may develop and implement a Public Participation Plan, taking into account the following aspects:

- a) How to encourage public participation during development of the instrument.
- b) How the community will participate (interviews, surveys, workshops, assemblies, and/or work meetings); describing how information is requested and demonstrating the response if there is any.
- c) How to solve potential conflicts.

This public participation plan shall be agreed on by the proposer of the work, industry or activity and the Ministry of the Environment and Natural Resources, and approved in the terms of reference depending on the needs of each case.

(4) Comments

As can be seen from a simple reading of the above rulings, although the obligation to consult is clearly defined in some cases, certain doubts remain regarding its scopes—material and effects—and the persons who should be consulted.

In conformity with the aforementioned legislation, it is clear that municipal laws do not limit the subject matters of the consultation but only their importance, in the sense that they should be issues of great importance, as determined by the authority doing the consultation or by the neighbors themselves when exercising the right contained in the Municipal Code, Article 17, subsection k. The important thing to emphasize is that the topics to be consulted can only include those decided upon by the Municipal Council; in other words, a municipality cannot consult on decisions that should be made by another governmental agency such as a ministry.

Consultations carried out under the above conditions, that is, restricted to decisions to be made by the municipality and not by other governmental entities, are directed towards the neighbors as individuals, and their characteristics are those of a referendum with binding effects, should the majority mentioned in the above regulations be achieved.

Furthermore, the Urban and Rural Development Councils Act sets forth a temporary ruling that is to be applied as long as a specific law for consulting indigenous peoples is not passed. We understand that the matter to be consulted on in this case is what is set forth in Convention 169, as it is the only ruling in effect that establishes the obligation to consult with groups, that is, an indigenous population.

Consultations conducted in conformity with this law, however, do not comply with one of the essential requirements set forth in Convention 169, as the latter states that peoples shall be consulted through their legitimate representatives, and that would not necessarily be the case in Councils established under the aforementioned ruling.

Finally, the Environmental Assessment, Control and Monitoring Regulations establish a procedure for providing public participation to communities, for cases where projects, works, industries, or activities are proposed that in any way might have environmental impacts.

We are therefore dealing with a single subject matter—the environment—and one group—the community—to be determined according to the circumstances of each case. These regulations, although not referring strictly to consultations, have helped to channel the people’s voice when developing certain projects that might impact given communities.

It is also clear that the process by which consultations are conducted cannot be a referendum, being solely a process of public participation, and that their effects can in no way condition the decision-making power of governmental agencies charged with authorizing the projects in question, because such authority derives from the Political Constitution of the Republic and cannot be reduced by regulations of lower category, as is the case of the aforementioned regulation.

b) Honduras

(1) Ordinary Law

Framework Law for the Electricity Subsector, Decree No. 158–94

This 1994 law contains the following articles regarding the matter of consultations:

Article 64. In preparing studies for building generation and transmission projects, stakeholders shall abide by the legal provisions for environmental protection and conservation.

General Environmental Law, Decree No. 104–93

Article 39. Natural protected areas, including their buffer zones, shall be declared by Executive Decree, through the Secretary of State in the Natural Resource Office, at the request of the Secretary of State in the Environment Office, and in consultation with the municipalities of the respective jurisdiction, after informing the public, following the procedure set forth in the Regulations. Once the respective Decree has been issued, it shall be submitted for

approval by the National Congress.

Article 102. The inhabitants of local communities shall participate directly in the actions of environmental defense and preservation and rational use of natural resources of the country. The participation of private organizations of any type in conserving the country's environment and natural resources is of public interest. These organizations shall be consulted in developing plans and measures that are adopted in this matter.

Article 103. Establishes the people's right to be informed as to the status of the environment and all operations and actions being taken in this field by governmental institutions and municipalities.

General Water Law, Decree No. 181–2009

Article 68. Concessions. The Water Authority shall grant use rights through concession agreements based on the precepts of the Concession Law and applicable administrative laws, in the following cases:

- 1) In developing renewable energy projects using water resources, as set forth in the Law to Promote Electricity Generation with Renewable Resources.
- 2) ...

This article establishes that in specific cases, water use rights shall be granted by the Water Authority via concession contracts, pursuant to what is set forth in the Concessions Law and Administrative Laws. This is the case of renewable energy projects developed using water resources, which shall be in accordance with what is set forth in the Law Promoting Power Generation with Renewable Resources, and the applicable legal framework shall be that Law.

(2) Regulatory Provisions

Regulation of the Framework Law for the Power Subsector,
Decree Number 934–97

Article 55. All studies for building power generation, distribution and/or transmission projects must have a favorable ruling from the Ministry of Natural Resources and the Environment.

General Regulation to the Environment Law, Decree Number 109–93

Title V: Special provisions for environmental protection. Chapter I: Inspection and oversight, recognitions. Second section: The right to participation and information, recognitions.

Article 88. Inhabitants in their respective municipalities shall have the duty and the right to participate directly in all actions for environmental defense and preservation and the rational use of natural resources within their respective municipal term.

Article 89. Participation of all inhabitants of the Republic is declared of public interest, whether achieved individually or through organizations that conserve the environment and natural resources.

To this effect, the Ministry of the Environment shall convene representatives from organizations of all types in Honduran society to state their opinions and proposals, shall promote signing agreements with diverse mass media for dissemination, information and promotion of ecological actions, and shall foster ecological awareness-building through joint actions with the community.

(3) Comments

It seems clear that the Honduran legal code is based on the principle of

environmental protection; in effect, the Framework Law for the Power Subsector and its regulations make it mandatory to abide by the legal provisions for that matter when preparing the studies to build generation projects.

As a consequence of the above, it is necessary to study environmental obligations, and accordingly to consider that article 102 of the General Environment Law makes it mandatory to consult private organizations of any type when preparing and adopting plans and measures for environmental preservation and rational use of natural resources.

The above standard leaves doubts regarding the person to be consulted—private organizations of any type—and the subject matter, which seem very broad. This ruling is developed to some degree in article 89 of the regulations, whose second paragraph states that the Ministry of the Environment shall convene representatives of organizations of all types from Honduran society to state their opinions and proposals.

In any case, it is clear that the persons to be consulted, pursuant to the provision of law—article 102—and the regulatory provision—article 88—, are the inhabitants of a given municipality, although consultations should be carried out through representatives of the aforementioned organizations. It is not clear what the representativity criteria are for such organizations, or what should be done if none exist in a given municipality.

For the above reasons, what should be done in practice, taking into account the particularities of each case, is to determine whether a specific project could or should be consulted on—the law says for developing designs and measurements, which would seem to be a more general level—, what organizations to consult, and the specific procedures to be used, as well as what to do when there are no organizations where the project is to be implemented.

Notwithstanding the above, it seems clear that the aforementioned law is insufficient to develop the consultation regulations, as stated

in Convention 169, which should be applied when the person to be consulted is an indigenous group, given the assumptions set forth in the Convention itself, and not all inhabitants of a municipality. Consultation in this case is mandatory and should be carried out through a negotiation efforts with the legitimate representatives of the indigenous group.

c) Nicaragua

(1) Constitutional Norms

The **Political Constitution of the Republic of Nicaragua** states the following:

Article 89. The communities of the Atlantic Coast are an indissoluble part of the Nicaraguan people and as such enjoy the same rights and have the same obligations.

The communities of the Atlantic Coast have the right to preserve and develop their cultural identity within national unity, to use their own forms of social organization, and to manage their local affairs in conformity with their traditions.

The state recognizes the communal forms of land tenure among the communities of the Atlantic Coast. It likewise acknowledges the enjoyment, use and usufruct of the waters and forests on their communal lands.

(2) Ordinary Law

Law No. 757. Law on Dignified, Equitable Treatment of Indigenous and Afrodescendent Peoples, 2011.

It develops the constitutional precept, but does not contain norms regarding consultation.

Law No. 28. Statute on the Autonomy of the Atlantic Coast Regions

of Nicaragua, 1987.

Article 9. For rational exploitation of mining, forestry, fishery and other natural resources in Autonomous Regions, ownership rights over communal lands shall be recognized and their inhabitants shall benefit in a fair proportion through agreements between the Regional Government and the Central Government.

Law No. 445. “Communal Property Regime for Indigenous Peoples and Ethnic Communities in the Autonomous Regions of the Nicaraguan Atlantic Coast and the Bocay, Coco, Indio, and Maíz Rivers,” 2003.

Article 3. The following definitions are set down for the effects of this law:

...Ethnic Community: A group of Afro-Caribbean descendent families that share the same ethnic awareness because of their culture, values and traditions relating to their cultural roots and forms of land holding and natural resource ownership.

Indigenous Community: A group of families of American Indian descent who are established on a territory, who share feelings of identification relating to the aboriginal past of their indigenous peoples and that maintain the identity and values of a traditional culture, as well as forms of land tenure and communal use and their own social organization.

Consultation: Expression and delivery of technical information on the operation or project, followed by a process of discussing and deciding on same; during which communities shall have translators to convey into their languages what is said during this process and shall be assisted by subject-matter technicians. Both the translators and technicians shall be chosen and appointed by the communities.

Article 12. In cases where concessions and contracts are granted

for rational exploitation of natural resources in the subsoil of indigenous lands, the municipality shall issue an opinion following consultation with the indigenous community in whose lands the natural resources are located. This consultation does not extinguish the requirement for the Regional Council or any other entity to consult directly with those communities regarding natural resource exploitation.

Granting all kinds of concessions and contracts for rational exploitation of natural resources shall be dealt with in coordination with the Central Government.

Article 15. Autonomous Regional Councils and Autonomous Regional Governments shall respect the ownership rights that indigenous and ethnic communities within their jurisdictions have over their communal lands and over the natural resources found therein.

Autonomous Regional Councils, within their cognizance, shall be responsible for promoting the procedures of demarcation and legalization of communal land, to which end they shall coordinate with the Central Government.

Article 16. In the case of concessions and contracts granted for the State to rationally exploit subsoil resources in the lands of indigenous and ethnic communities, the appropriate Regional Council shall issue the decision after consulting with the communities in whose lands the natural resources are located.

As a result of the consultation, the communities shall respond positively or negatively to the request of the Autonomous Regional Council.

Article 17. In cases where a community is opposed to a project, when granting the development concession or contract, the Regional Council shall begin a process of negotiation with the

community.

In the negotiation process, communities shall be represented by their traditional authorities, who shall be assisted by technical advisors of their own choosing.

In all cases of negotiation, the Regional Council shall provide indemnity for any damages to communities, without prejudice to their participating in the project; and in no case shall community displacement or resettlement be contemplated.

In each of these procedures, in order to ensure greater protection of natural resources, the Central Government shall participate directly to favor the communities in their negotiations.

Article 18. Once the consultation process has ended, before the project is implemented or the concession or contract granted, the community, Autonomous Regional Council and interested entity or company shall sign an agreement specifying the technical terms and the community's share in the economic benefits.

The negotiation process shall include the following aspects: environmental conservation and the right to indemnity regardless of profit share.

Law No. 217. General Law of the Environment and Natural Resources

Article 4. Economic and social development in the country will be subject to the following governing principles:

...4) The state shall recognize and support indigenous peoples and communities, whether in Autonomous Regions of the Pacific or the Center of the country, in their activities towards environment preservation and sustainable natural resource use.

Law No. 467. The Law Promoting the Hydroelectric Subsector

Article 6. The Ministry of Development, Industry and Trade (MIFIC) is authorized to grant water-use permits to natural or legal persons, whether public or private, for the generation of hydroelectric energy from over one megawatt to a maximum of five megawatts within a specific river basin, following consultation with the affected municipalities. In the case of water-use permits in Autonomous Regions, the MIFIC shall request authorization from the appropriate Autonomous Regional Council. Plants of less than one megawatt shall require no permits, in accordance with Law No. 272, the “Power Industry Act.”

Article 10. The Basin Administrative Commission (CAC) is hereby created for each basin with the MIFIC has granted water-use permits. This commission shall be made up of the following members:

1. The MIFIC Minister or delegate, who presides
2. A delegate from the Ministry of the Environment and Natural Resources (MARENA)
3. A delegate from the National Energy Commission
4. A delegate of the water-use permit holder
5. The mayors of the affected municipalities
6. Two people’s representatives
7. In the case of regional governments, one representative of each Autonomous Regional Government

Article 11. The Basin Administrative Commission will have the duties to oversee fulfillment of the holder’s obligations as established in the permit, including:

1. Fulfillment of the forestry protection plan
2. Rational use of water resources
3. Fulfillment of environmental obligations
4. Friendly resolution of any conflicts that arise regarding resource

use among basin inhabitants and the permit holder

5. Recommendations to the MIFIC regarding the application of appropriate penalties

(3) Regulatory Provisions

Regulations for Law No. 28

Article 24. The powers of the Autonomous Regions in relation to rational development of natural resources within their territories, as contained in Law 28, article 9, include:

...

c) To delegate two Regional Council members to the committees that issue invitations to tender and award licenses, concessions, contracts or permits for developing natural resources within the territories of the respective entities. ...

...

a) For natural resource development on communal lands, the law recognizes communities ownership rights to them, and the benefits shall be distributed in conformity with what is established in Law No. 445 on the “Communal Property Regime for Indigenous Peoples and Ethnic Communities in the Autonomous Regions of the Nicaraguan Atlantic Coast and the Bocay, Coco, Indio, and Maíz Rivers.”

(4) Comments

The Nicaraguan constitution and ordinary law recognizes certain communities that are afforded collective rights, in the same sense as in Convention 169.

In effect, the law regulates the entitlements of indigenous peoples and ethnic communities on Nicaragua’s Atlantic Coast, particularly the right to consent and to enjoy the benefits of resource exploitation on their lands, in the following terms:

Law No. 445, the “Communal Property Regime for Indigenous Peoples and Ethnic Communities in the Autonomous Regions of the Nicaraguan

Atlantic Coast and the Bocay, Coco, Indio, and Maíz Rivers”, defines consultation as stating and delivering technical information on the operation or project, followed by a process of discussing and deciding on them.

The above definition does not clarify how consultations are to be conducted, but does include their main elements, that is, the obligation of prior information, followed by discussing the topic and finally deciding on it.

Two forms of consultation are regulated, and both are necessary. First, when a municipality issues its opinion before concessions and contracts are granted for the exploitation of natural resources, it is obliged to consult with the indigenous communities. The second is when a Regional Council must consult directly with the community.

It is important to realize that in the terms of the above regulations, communities are granted decision-making power over the matter under consultation, which far exceeds the definition in Convention 169 itself and significantly limits the powers of public administration. Communities can oppose project execution, in which case the only option, pursuant to the same law, is for the Regional Council to begin a process of negotiation with the community.

As for the matter under consultation, although the above law refers to subsoil resources, bear in mind that the norms contained in Law No. 28 and its regulations broaden the concept to all natural resources. Furthermore, the Law to Promote the Hydroelectric Subsector specifically establishes that water-use permits granted in Autonomous Regions should be approved by the Autonomous Regional Council.

Finally, the ruling contained in Law No. 445 is of interest, as it instructs Autonomous Regional Councils, in coordination with the Central Government, to ensure demarcation and legalization of title deeds for communal land. Such a record guarantees legal security by delimiting areas that would require consultations regarding projects planned

within them.

6. General Comments

Free, Prior and Informed Consent is based on two international instruments: the International Labor Organization Convention 169 (ILO 169) and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). It is important to note that these instruments are written for governments, not the private sector, and are restricted to interactions with indigenous and tribal peoples. Nevertheless, they do concern the private sector, because introducing a project prior to discussing it with the government and the indigenous population entails a high risk of social conflict.⁶⁷ This is especially important in the case of hydroelectric projects, because as UNDRIP article 32.2 states, it is necessary to consult on all projects that affect their lands or territories and other resources, particularly relating to development, and mineral or water use or exploitation.

Guatemala, Honduras and Nicaragua have ratified the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labor Organization, which makes it mandatory to consult indigenous peoples in the terms mentioned above. Therefore, each one of these countries needs to develop regulations that are applicable to its situation on how that consultation is to be done. This is because the Convention Standards could hardly be applied directly, but rather should be adapted to the situation of each ratifying country.

This should be done at a legislative or regulatory level, depending on the domestic legislation in question, through the Ministry or Secretariat entrusted with ILO-related matters, that is, the labor office. In any case, due to the clear linkage of the matter under consultation to with the environment, energy and mining, the offices in charge of these areas should comment on the regulation, as should the target population of the regulation itself, that is, the group to be consulted.

Passing regulations is a complex process, as acknowledged by the ILO control agencies themselves, particularly in such sensitive areas as traditional use as a source of tenure and ownership rights, which is one of the pillars upon which the land right system established in the Convention rests.

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The Social License to Operate. Ian Thomson, On Common Ground Consultants, Inc., Vancouver, Canada.

To these ends, the following elements should be taken into account:

The first is the people to be consulted. Of course they are various indigenous peoples, but the text of Convention 169 and the background of the ILO control agencies require that consultations be done through the legitimate representatives of those peoples. Therefore, it is necessary to regulate the best way to determine who those representatives are, depending on the situation and customs of each particular group.

Second, the way consultations are conducted should be regulated appropriately. Convention 169 prescribes good-faith negotiations seeking to reach an agreement. As the ILO control agencies attest, it is clearly not an referendum, but rather an interactive process which gathers the interests and concerns of the indigenous peoples, so that the authority responsible for making the final decision can do so in a way that is best suited to the national situation.

Finally, there should be the greatest clarity possible regarding the topic of the consultation and the territories to which it will apply. This is not easy in countries where the indigenous population constitutes a numerical majority.

7. CSR Program Monitoring Mechanism Implemented in Energy Companies

For CSR program monitoring, it is not advisable to create new tools, but rather to use existing, well-recognized tools such as the following:

a) *IndiCARSE*⁶⁸

IndiCARSE, are the CSR indicators for Guatemala developed by CentraRSE in Guatemala and standardized for the entire Central American Region for the entire Central American Region. This is a self-assessment instrument that is based on international and Latin American CSR indicator models and adapted to the Guatemalan context.

These indicators seek primarily to measure the application of CSR policies and practices on a yearly basis. This helps identify the internal and external strengths and weaknesses of an organizational structure

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www.indicarse.org

in different business areas and compare that performance to other evaluated businesses. IndiCARSE is a CSR best-practices guide that can be used as a reference for drawing up a CSR action plan that will make it possible to incorporate new CSR efforts through a gradual process.

A new feature of the 2012 IndiCARSE is that it is aligned with the CSR principles of ISO 26,000.

b) GRI⁶⁹

As mentioned above, the Global Reporting Initiative (GRI) is an organization whose purpose is to promote the development of sustainability memoirs in all types of organizations.

As with other organizations that are well-advanced in these topics, such as the United Nations Global Compact and the WBCSD, both request that their members present sustainability reports as a requirement to continue as members. They both also ask that their members submit sustainability reports as a requirement to maintain their membership. Likewise, as a Social Responsibility monitoring mechanism, it is advisable to ask companies in the region for a report of this type.

The GRI has also devoted itself to developing sectoral guides such as “The Electric Utilities Supplement,” which covers key topics such as:

- Management of power availability and reliability
- Demand management
- Research and development to promote sustainable development
- Strategies to reduce energy use
- Power generation methods based on renewable energy
- Work force and safety issues
- Programs to assess and manage impacts on communities
- Resettlement of local communities
- Identifying and engaging stakeholders
- Supply chain policies and practices relating to product and service procurement

Although this guide is focused more on power distribution and promoting renewable energy from the demand side, many of the indicators are applicable to generation.

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<https://www.globalreporting.org>

However, it is important to help the companies in this reporting process and to implement it gradually, because preparing these memoirs can be a lengthy process, especially at the beginning.

The recommendation is to ask the companies to start reporting at the “C” level, which is voluntary and only requires filling out 10 indicators including at least one in each category: Economic, Social and Environmental.

8. Trends

The latest trends in sustainability and Corporate Social Responsibility relate to raising the global population’s standards of living. This approach has been largely driven by the eight Millennium Development Goals set by the United Nations for 2015.

In light of the above, and within the context of this study, it is important to point out that entities such as the WBCSD claim that it is essential to solve the lack of access to clean, reliable, affordable power supply for millions of persons around the world, as this is a significant stumbling block to economic and social progress. Likewise, this issue is closely related to natural resource protection, especially in developing countries, which often have inadequate regulatory frameworks or problems with non-compliance of the applicable environmental law.

According to the report on “Building an Inclusive Green Economy for All,” the transition towards a green economy could free millions from poverty and transform the living conditions of the 1.3 million persons who earn only 1.25 dollars a day. But for this to happen, the report states the need for support from public policies and private sector investments.

Access to Energy for All

The WBCSD states that businesses have shown they are important providers of solutions to expand energy access, primarily in the key areas of innovative business models, promoting propitious policy frameworks and financing mechanisms. Accordingly, this entity emphasizes their

contributions to achieving universal power access.

Business model innovation shows how companies broaden energy access by providing more affordable, reliable products and services. There are very good possibilities of achieving scale and replicating those new business models with additional policy and financial support.

Inter-sector alliances and approaches are essential to the success of these areas of opportunity. Public-private alliances (PPAs) will be especially important drivers of progress towards universal energy access.

Green Economies as Drivers of Economic and Social Development

Corporations play an essential role in ecosystem conservation, so much so that a tool has been developed called the “Corporate Ecosystem Valuation” (CEV), which makes it possible to quantify the company impacts on ecosystems and their dependency on them. This makes decision making regarding ecosystems more convincing and practical, thereby enhancing sustainable development strategies and final outcomes.⁷⁰

The ecosystems of many countries contain large, undisclosed treasures that will never be discovered unless they are preserved. The growth in cases where the green economy is applied (particularly in developing countries) has the potential to create jobs to promote economic growth, environmental sustainability and social inclusion. But for this purpose, targeted investments and government reforms are also needed to overcome the current barriers that keep many poor communities from taking advantage of a green economy.

The “Building an Inclusive Green Economy for All, 2011” report cites many examples of developing countries that are successfully implementing a green economy. This is the case of Ethiopia, which is developing six wind energy projects and one geothermal energy project. This will increase the country’s capacity by more than 1,000 megawatts.

Information and Communication Technologies

Information and Communication Technologies (ITCs) offer a broad

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WBCSD (2011), “Guide to Corporate Ecosystem Valuation”

range of benefits for low-income communities, local businesses and large enterprises alike. Some of the potential benefits that were identified are quick, easy access to information, promoting interaction and dialogic or two-way communication, enhanced profitability and reduced transaction costs, automation and standardization, greater data visibility and transparency. Despite the above, one essential hurdle to enjoying these benefits is the lack of power utilities in many areas of Central America.⁷¹

The most recent data of the Consejo de Electrificación de América Central (CEAC) show that the average electrification rate in Central America is around 86 percent, so an estimated 6+ million persons are still deprived of this important resource, without which access to the ITCs is merely a dream.

The entire region should make an even greater effort to supply electricity to all Central Americans (especially in rural areas and the most impoverished segments), taking advantage of local renewable resources such as the potential for small hydroelectric plants, and using solar and wind energy as alternative sources.⁷²

This type of development will make it possible to extend the use of ITCs to population segments that would otherwise be left behind. It represents an opportunity to achieve a significant reduction in the technological gap.

In the Central American Region

As an result of the opinion poll on social responsibility conducted, this study found that some of the main trends include:

- Energy efficiency will continue to be deemed important, but will depend on oil prices. Since oil availabilities are forecasted to grow, oil prices are likely to rise. Therefore, efficiency levels in Central America are sure to depend on subsidies or international cooperation.
- The countries of Central America will continue progressing in poverty reduction, some faster than others. As the millennium

⁷¹ WBCSD (2012), “Information and Communication Technology: An enabler for inclusive business solutions”.

⁷² <http://www.estrategiaynegocios.net/2012/09/24/los-beneficios-de-las-tics-y-la-energia-renovable/> (2012), “Los Beneficios de las TICs y la energía renovable.”

goals move forward, energy demand will grow: the less poverty there is, the more demand there will be.

- Power coverage will depend on innovative models for solar energy and small hydroelectric plants
- Opportunities for large energy generation companies lie in preparing for more demanding CSR scenarios. They should have a thorough understanding of their communities and very well structured strategic plans, as well as well-trained people and new tools.
- Corporate social investment amounts will not only have to increase, but also be more inclusive and innovative, aiming to generate production opportunities in order to achieve sustainability.
- States need to build their capacity for negotiation and mediation among companies and communities.
- NGOs should be more accountable and able to form alliances with corporations to speed development.

9. Challenges and Opportunities

Although global economic recovery since 2009 has been unequal and economic prospects remain unpredictable, global energy demand has grown since 2010, pushing CO2 emissions even higher. To make things worse, subsidies incentivizing fossil fuel use have risen to US\$ 400 billion as reflected in soaring expenditures for gasoline imports, which have reached almost record figures.

To date, the Central American region depends primarily on oil imports, large hydroelectric plants and traditional biomass to meet its energy needs. Furthermore, the region shows population growth rates of nearly 2%, considerably greater than the world average of 1.2%⁷³, and a drop in the population below the poverty line. These figures forecast a clear increase in energy demand.

The above scenario has been accompanied by news of large amounts of oil being discovered in North America. This has led to speculations that oil prices will drop in the near future, making it possible for Central American governments to continue depending largely on funds from international cooperation to implement sustainable energy projects.

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World Health Organization (2012),
“World Health Statistics.”

Due to growing energy demands, the region is expected to continue increasing its energy investments. However, legal insecurity could delay this process and impact the focus on renewables.

Technological innovation is making it possible to take greater advantage of natural resources to produce energy, and the region is already implementing various types of solutions such as small-size hydroelectric plants, wind turbines and innovative solar energy models, among others.

However, in order to take best advantage of the natural resources available in Central American countries, governments, private enterprises, international cooperation, and other stakeholders need to work closely with rural communities.

Renewable energy is threatened by social conflict. Corporate social investments in this industry will not only grow but be more inclusive and innovative, aimed towards generating production opportunities to be sustainable. States will need to have greater negotiation capacity and NGOs should be more accountable and capable of forming alliances.

In the Central American Region

As a result of the opinion poll on social responsibility in the energy industry, this study found that the major challenges and opportunities include:

- Social conflicts will tend to rise and community relations will become more complex over the next five years. Nicaragua will have the least conflicts, but with an upward trend. Guatemala and Honduras will have similar challenges to those already seen in both countries, but they will spread to other regions and segments.
- Energy investments will continue to grow, but unless legal security improves they will be slower and less centered on renewables.
- Renewable energy is threatened by social conflicts, being located primarily in rural areas where there is greater biodiversity (especially hydro) and therefore more poverty.

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