



OECD Responsible Business Conduct Policy Reviews

COSTA RICA



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Foreword

Over recent years, the expectations that businesses should produce and supply goods and services responsibly have increased. Nowadays, it is widely recognised that companies should contribute to sustainable development and observe principles and standards of Responsible Business Conduct (RBC). These growing expectations have been accompanied by an increased acknowledgement that governments have an essential part to play in creating an enabling policy and regulatory environment to drive, support and promote responsible business practices.

This OECD RBC Policy Review of Costa Rica was requested by the Ministry of Economy, Industry and Commerce of Costa Rica. It takes stock of relevant laws, regulations, and policies in Costa Rica in areas covered by the OECD Guidelines for Multinational Enterprises, as well as in other relevant policy areas. On this basis, it formulates policy recommendations to support Costa Rica not only regulating and enforcing in support of RBC, but also leveraging and incentivising responsible business practices. These recommendations are key to consolidate an enabling policy and regulatory environment for RBC in Costa Rica. Such an environment, in turn, can support Costa Rica's economic growth, which is largely based on the country's openness to trade and investment and linked to its efforts to make progress towards sustainable development and to protect the environment. The Review also includes an analysis of the situation of the Costa Rican National Contact Point for RBC and outlines actions to strengthen it, in particular with respect to its case-handling function and as an agent of policy coherence. Additionally, the Review, and its elaboration process, constitute key elements for the implementation and/or update of the National Policy on Social Responsibility for 2017-2030, and should Costa Rica decide to develop a National Action Plan on RBC or Business and Human Rights.

This Review was prepared by the OECD Centre for Responsible Business Conduct under the supervision of Froukje Boele, Head of Public Policy and Regional Programmes, and the overall guidance of Allan Jorgensen, Head of the OECD Centre for Responsible Business Conduct. The team that drafted the Review was led by Marie Bouchard (principal author) and comprised of Lena Diesing, Mónica Garay, and Sebastian Weber. It received the help of Carolina López Rocha, as well as of Juan Arias, Fiorenza Herrera Diaz and Valeria Patiño. Inputs were received from Sophia Gnych, Maria Xernou and Frédéric Wehrlé. Germán Zarama contributed significantly to the elaboration process of the Review. Inmaculada Valencia also played a key role in the preparation of the Review and provided invaluable support for the finalization of the publication. Roxana Glavanov provided communications support.

In addition, the draft of the Review was discussed and shared for comments with different parts of the OECD Secretariat, including: the Anti-Corruption Division, the Corporate Governance and Corporate Finance Division and the Investment Division of the Directorate for Financial and Enterprise Affairs; the Environmental Performance and Information Division of the Environment Directorate; the Export Credit Division and the Trade Policy Division of the Trade and Agriculture Directorate; as well as the Infrastructure and Public Procurement Division and the Public Sector Integrity Division of the Public Governance Directorate. The Review was also presented and submitted for comments to the OECD Working Party on Responsible Business Conduct in December 2022.

More than twenty Ministries and government entities, as well as local stakeholders, participated in the elaboration process of the Review and contributed significantly to its development. In particular, the Ministry of Economy, Industry and Commerce, as well as the National Contact Point for RBC, located in the Ministry of Foreign Trade, provided key support throughout the process. The International Labour Organization and the Office of the United Nations High Commissioner for Human Rights also submitted valuable comments on the draft Review.

The RBC Policy Review of Costa Rica was produced with the financial assistance of the European Union in the context of the Project “Responsible Business Conduct in Latin America and the Caribbean”. The views expressed herein can in no way be taken to reflect the official opinion of the European Union.

The information contained in the Review is current as of November 2022.

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Acronyms and abbreviations

2030 Agenda	2030 Agenda for Sustainable Development
ACI Guidelines	OECD Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises
ACP	Public Procurement Authority (<i>Autoridad de Contratación Pública</i>)
AED	Business Alliance for Development (<i>Alianza Empresarial para el Desarrollo</i>)
ALIARSE	Foundation for Sustainability and Equality (<i>Fundación para la Sostenibilidad y la Equidad</i>)
AyA	Costa Rican Institute of Aqueducts and Sewers (<i>Instituto Costarricense de Acueductos y Alcantarillados</i>)
Banco Popular	Financial Conglomerate Popular Bank (<i>Conglomerado Financiero Banco Popular y de Desarrollo Comunal</i>)
BCR	Bank of Costa Rica (<i>Banco de Costa Rica</i>)
BIT	Bilateral Investment Treaties
BNCR	Costa Rican National Bank (<i>Banco Nacional de Costa Rica</i>)
BPA	Good Agricultural Practices Label (<i>Buenas Prácticas Agrícolas</i>)
CAFTA-DR	Dominican Republic - Central America - United States Free Trade Agreement
CANAPEP	National Chamber of Pineapple Producers and Exporters (<i>Cámara Nacional de Productores y Exportadores de Piña</i>)
CARS	Advisory Council on Social Responsibility (<i>Consejo Asesor de Responsabilidad Social</i>)
CAS	Advisory Council on Sustainability (<i>Consejo Asesor de Sostenibilidad</i>)
CCC	Costa Rican Construction Chamber (<i>Cámara Costarricense de la Construcción</i>)
CCNRS	National Consultative Council on Social Responsibility (<i>Consejo Consultivo Nacional de Responsabilidad Social</i>)
CCSS	Costa Rican Social Security Institution (<i>Caja Costarricense de Seguro Social</i>)
CEACR	ILO Committee of Experts on the Application of Conventions and Recommendations
CGR	Comptroller General of the Republic (<i>Contraloría General de la República</i>)
CICR	Costa Rica's Chamber of Industries (<i>Cámara de Industrias de Costa Rica</i>)
CIIDDH	Commission for the Monitoring and Implementation of International Human Rights Obligations (<i>Comisión Interinstitucional para el seguimiento e implementación de las obligaciones internacionales de Derechos Humanos</i>)
CINDE	Costa Rica's Investment Promotion Agency (<i>Coalición Costarricense de Iniciativas de Desarrollo</i>)
CIRS	Interinstitutional Commission on Social Responsibility (<i>Comisión Interinstitucional de Responsabilidad Social</i>)
CO₂	Carbon Dioxide
COMEX	Ministry of Foreign Trade (<i>Ministerio de Comercio Exterior</i>)
CONAGEBIO	National Biodiversity Management Commission (<i>Comisión Nacional para la Gestión de la Biodiversidad</i>)
CONAMAJ	National Commission for the Improvement of the Administration of Justice (<i>Comisión Nacional para el Mejoramiento de la Administración de la Justicia</i>)
Crime Prevention Corporate Model	Corporate Model of Organisation, Crime Prevention, Management and Control (<i>Modelo de organización, prevención de delitos, gestión y control</i>)
Corporate Liability Law	Law No. 9699 on the Liability of Legal Persons for Domestic Bribery, Transnational Bribery and Other Crimes (<i>Ley Nro. 9699 sobre la responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos</i>)

COVID-19	Coronavirus-19
CPI	Stakeholder Advisory Body (<i>Consejo de Partes Interesadas</i>)
CRUSA	Costa Rica United States Foundation for Cooperation
CSO	Civil Society Organization
CSR	Corporate Social Responsibility
CST	Superior Labour Council (<i>Consejo Superior del Trabajo</i>)
CST	Certification for Sustainable Tourism (<i>Certificado de Sostenibilidad Turística</i>)
DAL	Labour Affairs Directorate of the Ministry of Labour and Social Security (<i>Dirección de Asuntos Laborales del Ministerio de Trabajo y Seguridad Social</i>)
DCC	Climate Change Directorate of the Ministry of Environment and Energy (<i>Dirección de Cambio Climático del Ministerio de Ambiente y Energía</i>)
DCP	Directorate of Public Procurement of the Ministry of Finance (<i>Dirección de Contratación Pública del Ministerio de Hacienda</i>)
DGABCA	General Directorate of Asset Management and Public Procurement of the Ministry of Finance (<i>Dirección General de Administración de Bienes y Contratación Administrativa del Ministerio de Hacienda</i>)
DHR	Ombudsman's Office (<i>Defensoría de los Habitantes de la República</i>)
DigDir	Norwegian Digitalisation Agency
DIGECA	Department of Environmental Quality Management of the Ministry of Environment and Energy (<i>Dirección de Gestión de Calidad Ambiental del Ministerio de Ambiente y Energía</i>)
DNI	National Labour Inspection Directorate of the Ministry of Labour and Social Security (<i>Dirección Nacional de Inspección del Ministerio de Trabajo y Seguridad Social</i>)
ECA	Export Credit Agency
EFTA	European Free Trade Association
EIA	Environmental Impact Assessments (<i>Evaluación del Impacto Ambiental</i>)
EITI	Extractives Industries Transparency Initiative
ENIPC	National Strategy for Integrity and the Prevention of Corruption 2021-2030 (<i>Estrategia Nacional de Integridad y Prevención de la Corrupción 2021-2030</i>)
EPCSC	Permanent Body for Consultation with Civil Society (<i>Entidad Permanente de Consulta con la Sociedad Civil</i>)
Escazú Agreement	Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean
ESG	Environmental, Social, and Governance
EU	European Union
FAO	Food and Agriculture Organization
FAPTA	Deputy Prosecutor for Probity, Transparency and Anti-Corruption (<i>Fiscalía Adjunta de Probidad, Transparencia y Anticorrupción</i>)
FDI	Foreign Direct Investment
FONAFIFO	National Forestry Financing Fund (<i>Fondo Nacional de Financiamiento Forestal</i>)
FPIC	Free, Prior and Informed Consent
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GHG	Greenhouse Gas
Global Compact	United Nations Global Compact
Grupo ICE	Costa Rican Electricity Institute (<i>Instituto Costarricense de Electricidad</i>)
GVC	Global Value Chains
IACHR	Inter-American Commission on Human Rights
ICAFE	Coffee Institute of Costa Rica (<i>Instituto del Café de Costa Rica</i>)
ICC Costa Rica	Costa Rican Office of the International Chamber of Commerce

ICG	Costa Rican Institute of Corporate Governance (<i>Instituto de Gobierno Corporativo de Costa Rica</i>)
ICODER	Costa Rican Institute of Sports and Recreation (<i>Instituto Costarricense del Deporte y la Recreación</i>)
ICT	Costa Rican Tourism Institute (<i>Instituto Costarricense de Turismo</i>)
IDB	Inter-American Development Bank
ILO	International Labour Organization
ILO 1998 Declaration	ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up
ILO Convention No. 169	ILO Convention No. 169 on Indigenous and Tribal Peoples Convention
ILO MNE Declaration	ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy
IMAS	Social Welfare Institute (<i>Instituto Mixto de Ayuda Social</i>)
INAMU	National Institute of Women (<i>Instituto Nacional de las Mujeres</i>)
INS	National Institute of Insurance (<i>Instituto Nacional de Seguros</i>)
INTECO	Institute of Technical Standards (<i>Instituto de Normas Técnicas</i>)
IPA	Investment Promotion Agency
ISO	International Organization for Standardization
ITC	International Trade Centre
ITCI	Territorial Instances for Indigenous Consultation (<i>Instancias Territoriales de Consulta Indígena</i>)
LAC	Latin America and the Caribbean
Law against Corruption and Illicit Enrichment	Law No. 8442 against Corruption and Illicit Enrichment in the Public Service (<i>Ley Nro. 8442 contra la Corrupción y el Enriquecimiento Ilícito en la Función Pública</i>)
LNA	National Water Laboratory (<i>Laboratorio Nacional de Aguas</i>)
LVA	Environmental Viability Licence (<i>Licencia de Viabilidad Ambiental</i>)
MAG	Ministry of Agriculture and Livestock (<i>Ministerio de Agricultura y Ganadería</i>)
MECS	Evaluation Matrix for Sustainable Public Procurement (<i>Matriz Evaluación de Compras Sustentables</i>)
MEIC	Ministry of Economy, Industry and Commerce (<i>Ministerio de Economía, Industria y Comercio</i>)
MEP	Ministry of Public Education (<i>Ministerio de Educación Pública</i>)
MESICIC	Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption
MGCPI	General Mechanism for Consultation with Indigenous Peoples (<i>Mecanismo General de Consulta a Pueblos Indígenas</i>)
MIDEPLAN	Ministry of National Planning and Economic Policy (<i>Ministerio de Planificación Nacional y Política Económica</i>)
MINAE	Ministry of Environment and Energy (<i>Ministerio de Ambiente y Energía</i>)
MINSA	Ministry of Health (<i>Ministerio de Salud</i>)
MJP	Ministry of Justice and Peace (<i>Ministerio de Justicia y Paz</i>)
MOPT	Ministry of Public Works and Transportation (<i>Ministerio de Obras Públicas y Transporte</i>)
MP	Office of the Public Prosecutor (<i>Ministerio Público</i>)
MRREE	Ministry of Foreign Affairs and Worship (<i>Ministerio de Relaciones Exteriores y Culto</i>)
MTSS	Ministry of Labour and Social Security (<i>Ministerio de Trabajo y Seguridad</i>)
NAMA	National Appropriate Mitigation Actions (<i>Acciones de Mitigación Nacionalmente Apropriadas</i>)
NAP	National Action Plan on RBC or Business and Human Rights
NCP	National Contact Point
NDC	Nationally Determined Contribution
OECD	Organisation for Economic Co-operation and Development
OECD Due Diligence Guidance	OECD Due Diligence Guidance for Responsible Business Conduct OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector OECD-FAO Guidance for Responsible Agricultural Supply Chains OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector

OECD Due Diligence Guidance for RBC	OECD Due Diligence Guidance for Responsible Business Conduct
OECD MNE Guidelines	OECD Guidelines for Multinational Enterprises
OECD Sector-Specific Due Diligence Guidance	OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector OECD-FAO Guidance for Responsible Agricultural Supply Chains OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector
OECD Working Group on Bribery	OECD Working Group on Bribery in International Business Transactions
OFN	National Forestry Office (<i>Oficina Nacional Forestal</i>)
OHCHR	United Nations Office of the High Commissioner for Human Rights
OIJ	Judicial Investigation Body (<i>Organismo de Investigación Judicial</i>)
PBAE	Ecologic Blue Flag Programme (<i>Programa Bandera Azul Ecológica</i>)
PEP	Office of the Attorney General for Public Ethics (<i>Procuraduría de la Ética Pública</i>)
PFI	OECD Policy Framework for Investment
PGAI	Institutional Environmental Management Programme (<i>Programa de Gestión Ambiental Institucional</i>)
PGR	Attorney General's Office (<i>Procuraduría General de la República</i>)
PIEG	National Policy for Effective Equality between Women and Men for 2018-2030 (<i>Política Nacional para la Igualdad Efectiva entre Mujeres y Hombres 2018-2030</i>)
PLAN-TRI	National Plan for the Recovery of the Indigenous Territories of Costa Rica for 2016-2022 (<i>Plan Nacional para la Recuperación de Territorios Indígenas de Costa Rica 2016-2022</i>)
PMI	Comprehensive Migration Policy for 2013-2023 (<i>Política Migratoria Integral 2013-2023</i>)
PNACC	National Plan for Climate Change Adaptation for 2022-2026 (<i>Plan Nacional de Adaptación al Cambio Climático 2022-2026</i>)
PNCPS	National Policy on Sustainable Public Procurement (<i>Política Nacional de Compras Públicas Sustentables</i>)
PNDIP	National Development and Public Investment Plan for 2019-2022 (<i>Plan Nacional de Desarrollo y de Inversión Pública 2019-2022</i>)
PNPCS	National Policy for Sustainable Production and Consumption for 2018-2030 (<i>Política Nacional de Producción y Consumo Sostenible 2018-2030</i>)
PNRS	National Policy on Social Responsibility for 2017-2030 (<i>Política Nacional de Responsabilidad Social 2017-2030</i>)
PONADIS	National Policy on Disability for 2011-2021 (<i>Política Nacional de Discapacidad 2011-2021</i>)
PPCN 2.0	Country Programme for Carbon Neutrality 2.0 (<i>Programa País de Carbono Neutralidad 2.0</i>)
Presidential Advisory Unit	Presidential Advisory Unit for Management and Co-ordination of State Shareholdings and Management of Autonomous Institutions (<i>Unidad Asesora para la Dirección y Coordinación de la Propiedad Accionaria del Estado y la Gestión de las Instituciones Autónomas</i>)
PRETOMA	<i>Asociación Programa Restauración de Tortugas Marinas</i>
PROCOMER	Costa Rican Trade Promotion Agency (<i>Promotora de Comercio Exterior</i>)
PSA	Payment against Environmental Services (<i>Pago por Servicios Ambientales</i>)
RBC	Responsible Business Conduct
RBC-LAC Project	"Promoting Responsible Business Conduct in Latin America and the Caribbean" Project
RECOPE	Costa Rica's Petroleum Refiner (<i>Refinadora Costarricense de Petróleo</i>)
RLCA	Regulation to the Law on Administrative Contracting (<i>Reglamento a la Ley de Contratación Administrativa</i>)
RIT	Inter-institutional Transparency Network (<i>Red Interinstitucional de Transparencia</i>)
RPL	Labour Procedure Reform (<i>Reforma Procesal Laboral</i>)
RST	Responsible Sourcing Tool of the US State Department
SARAS	Management System for Socio-Environmental Risks (<i>Sistema de Administración de Riesgos Ambientales y Sociales</i>)

SDG	Sustainable Development Goals
SEM	Submission on Enforcement Matters under the CAFTA-DR
SETENA	National Environmental Technical Secretariat (<i>Secretaría Técnica Nacional Ambiental</i>)
SGAS	Environmental, Social and Governance Management System (<i>Sistema de Gestión Ambiental, Social y de Gobernanza</i>)
SICOP	Centralized Electronic Public Procurement System (<i>Sistema Integrado de Compras Públicas</i>)
SIGIG	Management System for Gender Equality in the Workplace (<i>Sistema de Gestión para la Igualdad de Género en el Ámbito Laboral</i>)
SIMORE	Human Rights Recommendations Monitoring System (<i>Sistema de Monitoreo de Recomendaciones en Derechos Humanos</i>)
SINAC	National System of Conservation Areas (<i>Sistema Nacional de Áreas de Conservación</i>)
SITADA	Integrated System to Process and Solve Environmental Complaints (<i>Sistema Integrado de Trámite y Atención de Denuncias Ambientales</i>)
SMEs	Small and Medium-sized Enterprises
SOE	State-Owned Enterprises
SOE Guidelines	OECD Guidelines on Corporate Governance of SOEs
TAA	Environmental Administrative Tribunal (<i>Tribunal Ambiental Administrativo</i>)
TSD	Trade and Sustainable Development
TSD Board	Board of Trade and Sustainable Development created by the Trade and Sustainable Development Chapter of the 2012 Association Agreement between Central America and the European Union
UCCAEP	Costa Rican Union of Private Business Sector Chambers and Associations (<i>Unión Costarricense de Cámaras y Asociaciones del Sector Empresarial Privado</i>)
UN	United Nations
UNCAC	United Nations Convention Against Corruption
UNCTAD	United Nations Conference on Trade and Development
UNGP	UN Guiding Principles on Business and Human Rights
UNWG	UN Working Group on Business and Human Rights
UPR	Universal Periodic Review
U.S.	United States
USD	United States Dollar
UTCI	Technical Unit for Indigenous Consultation (<i>Unidad Técnica de Consulta Indígena</i>)
WEF	World Economic Forum

Executive summary

Costa Rica is an upper middle-income country that has experienced steady economic growth in the past three decades. Building on its openness to trade and investment, Costa Rica has managed to consolidate a strong economy, well integrated in global value chains (GVCs) and attractive for foreign direct investment (FDI). This economic development is linked to the country's efforts to make progress towards sustainable development and to protect the environment, which it has used as a comparative advantage in global markets.

Sustainable development and Responsible Business Conduct (RBC) are closely intertwined. RBC is the expectation that companies contribute positively to sustainable development, while at the same time identifying, preventing, and mitigating the actual or potential adverse impacts that their activities, supply chains or business relationships may cause, or to which they may contribute, on people, the planet or society.

Costa Rica's pioneering commitment towards sustainability and the protection of the environment has brought about favourable conditions for the promotion of RBC in the country. Costa Rica adhered to the OECD Guidelines for Multinational Enterprises (the OECD MNE Guidelines) back in 2013, prior to becoming an OECD Member in 2021. Costa Rica has therefore a National Contact Point for RBC (NCP) since almost a decade, which has been one of the most active NCPs promoting OECD RBC instruments with companies operating in or from Costa Rica. At the same time, the National Policy on Social Responsibility 2017-2030 (*Política Nacional de Responsabilidad Social*, PNRS) provides a promising overarching policy framework for RBC. This Policy aims to promote companies' responsibility for their adverse impacts on human rights, the environment, and society at large. It requires businesses to respect human rights and fight against corruption, encourages investments with environmental and social criteria, and promotes decent work.

As a result of these favourable conditions for the promotion of RBC, around 70% of large companies that operate in Costa Rica reported in 2020 having already adopted written policies and/or management systems in one of the areas covered by the OECD MNE Guidelines, as well as reporting on RBC. However, challenges to promote further uptake of RBC remains. The prevalence of small and medium-sized enterprises (SMEs) in the economy and high rates of informal employment represent an impediment to the broad adoption of responsible business practices in Costa Rica. In addition, the implementation of the PNRS, and the related initiatives, is lagging behind. Consequently, there is limited awareness across government, and among businesses and other stakeholders, about the PNRS, and generally also a lack of knowledge about RBC and risk-based due diligence. This situation is further compounded by the fact that, although Costa Rica has developed robust legal and policy frameworks in the areas covered by the OECD MNE Guidelines, there are still some gaps in these frameworks and a continued need to ensure their effective implementation and enforcement.

For instance, Costa Rica has built a strong legal framework to protect human rights and is party to the core international instruments in the field. However, there have been concerns over the last years regarding the respect of indigenous peoples' rights, as conflicts have escalated in relation to alleged violations of land rights and insufficient protection of the right to free, prior and informed consent. Likewise, the situation of

human rights and environmental defenders, who have reportedly suffered from increased violence and threats in recent years, has given rise to concerns in the absence of specific mechanisms or policies to protect their rights.

As regards labour rights, Costa Rica has recently taken action to solidify its legal framework. The Labour Procedure Reform of 2017 modernised the country's labour legislation and reinforced workers' legal security and access to justice. It also resulted in the adoption of a series of policies and initiatives seeking to increase the participation of women in the job market and promote gender equality in the workplace. Nevertheless, Costa Rica still needs to take action to fully guarantee labour rights, in part due to high levels of informality and flaws in the protection of migrant workers, who are exposed to risks of adverse impacts on their labour rights.

Costa Rica has also shown a remarkably strong commitment to the protection of the environment over the past decades, becoming the first country to reverse deforestation and committing to achieve full carbon neutrality by 2050. Its environmental legal framework is vast and in line with international instruments. Nonetheless, compliance with environmental laws remains an issue at times and implementation and enforcement need to be further reinforced. It therefore appears necessary that Costa Rica takes further measures to require businesses to address the adverse impacts of their operations and supply chains on the environment, in particular in agriculture, a sector of significant importance.

Likewise, the country has made significant efforts over recent years to fight corruption. It has ratified key international instruments in the field and corporate criminal liability for corruption-related crimes was recently established at the national level. Despite these efforts, some aspects of the country's legal and institutional framework could be improved to prevent corruption and promote business integrity more efficiently. For example, there is a need to resolve the current lack of inter-institutional coordination, further raise awareness among the private sector about the importance of adopting measures to prevent corruption, and build businesses' capacity to do so.

In addition to making progress towards the consolidation of an enabling environment for RBC in these areas, there is an opportunity for Costa Rica to reinforce the use of other policy areas to leverage RBC and incentivise responsible business practices. This means setting the example on RBC in its role as an economic actor or in its commercial activities, but also further mainstreaming RBC into policy areas that have a bearing on business conduct.

Through public procurement, Costa Rica can encourage the adoption of responsible business practices, not only by its direct suppliers, but also in their supply chains. The country has already taken significant steps with the National Policy on Sustainable Public Procurement, which requires contracting authorities to take into account considerations of relevance for RBC in their procurement processes. The entry into force of the public procurement legal and regulatory framework's recent reform will further reinforce the integration of these considerations in public procurement. Nonetheless, additional measures are needed to ensure that RBC and risk-based due diligence are implemented along the public procurement cycle in Costa Rica, as public buyers are not fully aware of these considerations and of the importance of applying them.

Costa Rica can also incentivise businesses to adopt responsible business practices by ensuring that State-Owned Enterprises (SOEs) observe the highest RBC principles and standards. The main Costa Rican SOEs have already put in place policies seeking to make progress towards sustainable development and to prevent and avoid adverse environmental impacts. In addition, the Government recently integrated expectations highlighting the importance that SOEs observe RBC principles and standards in their operations and conduct due diligence in the "notes of expectations" that define the goals and priorities of all Costa Rican SOEs. Notwithstanding these encouraging developments, currently, there is no structured and comprehensive approach to RBC shared among SOEs in Costa Rica and most SOE policies relating to RBC do not integrate risk-based due diligence.

Trade and investment policies represent another avenue to promote and incentivise RBC. This is particularly relevant for Costa Rica, considering its integration in GVCs, the importance of FDI for the economy, and its extensive network of trade and investment agreements. To date, Costa Rica's trade and investment policies have focused mainly on the promotion of sustainability, which does not include the prevention and mitigation of business-related adverse impacts through risk-based due diligence. Building on these efforts, Costa Rica could develop an overarching strategy to encourage the adoption by Costa Rican exporters and foreign investors of responsible business practices in all the areas covered by the OECD MNE Guidelines through its policies to promote trade and investment, as well as its trade and investment agreements.

To date, Costa Rica's efforts to align its policies, laws and regulations with its objective to achieve sustainable development have laid the foundation for the creation of an enabling policy and regulatory environment for RBC. Consolidating this enabling environment in the years to come will be key for Costa Rica to keep relying on its strategy to openness to trade and investment for economic development and growth. Globally, companies and investors are increasingly dedicating attention to RBC matters and basing their business and investment decisions on considerations related thereto. Likewise, several countries, including Costa Rica's main trade and investment partners, are developing and adopting legislation that require companies to observe RBC principles and standards in their operations and supply chains. In light of this, it is important that, beyond being perceived as a country committed to sustainable development, Costa Rica also builds its reputation as a safe country to trade with, supply from, or invest in, with limited risks of business-related adverse impacts. In addition to responding to the growing demands for the adoption of responsible business practices in GVCs, the consolidation of an enabling environment for RBC would also contribute to strengthen the Costa Rican economy by reinforcing the resilience of local companies to external shocks. Leveraging RBC and incentivising Costa Rican companies to observe RBC principles and standards would help them be better prepared in case of future crisis and disruption in GVCs, thereby enhancing their resilience and long-term value creation.

Building on its commitment to sustainable development, Costa Rica has started to take action to consolidate an enabling environment for RBC. The fact that it requested to undergo an OECD RBC Policy Review in June 2020, even before becoming an OECD Member in May 2021, is a manifestation of the country's willingness to make progress in this regard. The Government's engagement throughout the review process, and the active support brought by the Ministry of Economy, Industry and Commerce and the NCP in the development of the RBC Policy Review, are a further demonstration of Costa Rica's commitment to the RBC agenda. The RBC Policy Review aims to support Costa Rica in its endeavour to consolidate an enabling environment for RBC through concrete policy recommendations in several areas covered by the OECD MNE Guidelines, as well as in other policy areas through which the Government can leverage and incentivise RBC. The Review also includes recommendations aimed at reinforcing the Costa Rican NCP so that it can play a key role in the consolidation of this enabling environment for RBC by promoting policy coherence across government. All these recommendations and, more broadly, the analysis contained in the Review, are relevant for the implementation or the update of the PNRS or in case Costa Rica decides to move forward with the development of a National Action Plan on RBC or Business and Human Rights.

Introduction and overview

Over the last decade, there has been a growing expectation for businesses to produce and supply goods and services responsibly. The concept of ‘Responsible Business Conduct’ (RBC) – which entails that businesses contribute to sustainable development whilst preventing and mitigating the adverse impacts that their activities, supply chains, and/or business relationships may cause or contribute to on people, planet and society – has gained increased attention. In addition, since 2015, businesses are expected to play a role in the implementation of the 2030 Agenda for Sustainable Development (the 2030 Agenda) and to contribute to solve sustainable development challenges, while respecting labour rights and environmental and health standards.¹ RBC and the 2030 Agenda are closely intertwined.² Not only does RBC relate to several of the Sustainable Development Goals (SDGs) defined in the 2030 Agenda, it is also envisaged as one of the means of implementation, RBC being one of the most important business contributions to the SDGs.³

There is thus nowadays a wide recognition that businesses – regardless of their size, sector, operational context, ownership, and structure – should contribute to sustainable development and observe internationally recognised RBC principles and standards, such as the OECD Guidelines for Multinational Enterprises (the OECD MNE Guidelines). The OECD MNE Guidelines are the most comprehensive set of recommendations addressed by governments to businesses on a wide array of areas of potential business responsibility, such as the respect for human rights, the promotion of labour rights, the protection of the environment, or the fight against corruption. They notably encourage companies to conduct due diligence to identify and address the risks of adverse impacts that may be associated to their operations, supply chains and business relationships.

Additionally, responsible business is increasingly recognised as being good business, which leads to value creation. This has been further demonstrated in the context of the crisis triggered by the Coronavirus (COVID-19) pandemic. Businesses observing RBC principles and standards and implementing due diligence have generally been better equipped to face the disruptions and challenges brought about by the crisis and to recover due to enhanced resilience and a focus on long-term value.

The growing expectation that businesses act responsibly has been accompanied by an increased acknowledgement of the role governments play in promoting and enabling RBC. Governments that have adhered to the OECD MNE Guidelines have the legal obligation to establish a National Contact Point for RBC (NCP) to promote and disseminate their recommendations and act as a non-judicial grievance mechanism in cases of alleged non-observance by businesses of such recommendations. However, beyond the establishment of NCPs, all governments – including those that have not adhered to the OECD MNE Guidelines – have an essential part to play in creating an enabling policy and regulatory environment to drive, support and promote responsible business practices. In practice, such an environment can be constructed through a combination of policies that can be grouped into two main policy orientations, i.e.:

- *Regulating and enforcing in support of RBC*, which entails that governments maintain, implement, and effectively enforce an appropriate legal and regulatory framework in the areas covered by the OECD MNE Guidelines, including with respect to, among others, human rights, labour rights, the environment, and anti-corruption; and

- *Leveraging and incentivising RBC*, which implies that governments resort to other relevant policy areas to facilitate and encourage RBC, either by leading by example in their role as economic actors and/or commercial activities, or through economic policies that can shape business conduct.

Developing an enabling policy and regulatory environment for RBC is becoming increasingly important to thrive in the global economy and ensure economic, social, and environmental progress. Such an environment is key for a country to be perceived as a reliable and safe place to source from, trade with, and/or invest in. This is all the more true in a world in which the COVID-19 crisis has severely disrupted international trade and investment and global value chains (GVCs), and where major trade and investment players are paying more and more attention to RBC issues.

Several OECD legal instruments acknowledge the role that governments play vis-à-vis RBC. In particular, the Chapter on “Policies for enabling RBC” (Chapter 7) of the OECD Policy Framework for Investment (PFI)⁴ recognises that governments have a role in providing an enabling environment for RBC and sets forth recommendations in this regard.⁵ Additionally, various other OECD instruments and guidance documents on RBC and RBC-related areas contain policy guidance on government policies and policy coherence to promote and enable RBC.

The OECD is thus uniquely positioned to support governments in their paths towards the development of enabling policy and regulatory environments for RBC through coherent policies. It is in this context that the OECD Centre for Responsible Business Conduct takes part in the Project “Promoting Responsible Business Conduct in Latin America and the Caribbean” (RBC-LAC Project), together with the International Labour Organization (ILO) and the United Nations (UN) Office of the High Commissioner for Human Rights (OHCHR). This Project, designed and funded by the European Union (EU), seeks to promote smart, sustainable, and inclusive growth in the region by supporting responsible business practices in line with the international RBC instruments of the three implementing organisations.⁶ The activities of the OECD under the Project are structured around three mutually reinforcing pillars, respectively aimed at: (i) reinforcing government policies for RBC, (ii) helping businesses to conduct due diligence in priority sectors, and (iii) facilitating access to remedy through the strengthening of NCPs.

The present RBC Policy Review comes within the scope of the first pillar on government policies for RBC. It aims to bring support to the Government of Costa Rica in building an enabling policy and regulatory environment for RBC through coherent policies. The ultimate goal is that such an environment contributes to enhance the country’s economic, social, and environmental outcomes, by consolidating its integration in the global economy through strengthened trade and investment relationships.

For this purpose, the Review takes stock of relevant policies existing in Costa Rica in selected areas covered by the OECD MNE Guidelines, as well as in other relevant policy areas through which the Government can exemplify RBC and shape business conduct. On this basis, it formulates concrete and actionable policy recommendations to help Costa Rica regulate and enforce in support of RBC in areas covered by the OECD MNE Guidelines and leverage and incentivise RBC through other relevant policy areas that have a bearing on business conduct. It also includes an analysis of the situation of the Costa Rican NCP and formulates recommendations to ensure that the NCP can fulfil its mandate, but also play a key role in the design and implementation of RBC-related policies and act as a promoter of policy coherence for RBC across government.

The analysis and recommendations presented in the present RBC Policy Review can serve to inform and support the implementation and/or update of Costa Rica’s National Policy on Social Responsibility for 2017-2030 (*Política Nacional de Responsabilidad Social 2017-2030*, PNRS). They could also constitute key inputs for the development of a National Action Plan on RBC or Business and Human Rights, should the Government decide to take steps in this direction. As such, the Review is also relevant for, and can be used as a resource document by, stakeholders wishing to better understand how Costa Rica could consolidate an enabling policy and regulatory environment for RBC and the different actions that could be taken towards this objective.

The Review was prepared by the OECD Secretariat in response to a formal request formulated by Costa Rica's Ministry of Economy, Industry and Commerce (*Ministerio de Economía, Industria y Comercio*, MEIC) in June 2020. It was elaborated in cooperation with the Government of Costa Rica through a process that involved, among others, the following steps: the exchange of information on relevant laws, regulations, policies, and initiatives existing in Costa Rica via an RBC Policy Questionnaire completed by several government entities; detailed desk-based research; as well as a three-week fact-finding mission organised in May and June 2021 virtually due to the COVID-19 pandemic. During the fact-finding mission, the OECD Secretariat met with representatives of multiple government entities, business associations, trade unions, civil society organisations (CSOs) and indigenous peoples (see Annex A for a detailed list of the participants in the meetings). A consultation meeting was also held with representatives of EU and OECD countries in Costa Rica to inform them about the review process and obtain their inputs.⁷ The draft of the Review was subsequently submitted to several entities across Costa Rica's Government, which provided feedback and inputs on its different sections.⁸ It was also shared with stakeholders. The draft was finally submitted for comments to the OECD Working Party on Responsible Business Conduct through written procedure in December 2022/January 2023.

This RBC Policy Review is structured as follows. After a brief explanation of the concept of RBC and an overview of the main OECD instruments and tools in the field (**Section 1**), it describes the main opportunities and challenges for RBC in Costa Rica in terms of socio-economic context, general legal and policy framework, RBC awareness, and institutional setting (**Section 2**). The Review then analyses the laws, regulations, policies, and initiatives existing in Costa Rica in selected areas of the OECD MNE Guidelines (**Section 3**), as well in other relevant policy areas through which the Government can leverage and incentivise RBC, and formulates recommendations to develop and strengthen these different elements (**Section 4**). Finally, it examines the situation of the Costa Rican NCP and explores the role it could play to promote policy coherence for RBC across government (**Section 5**). The Review concludes by an overall assessment of Costa Rica's government policies pertaining to RBC and summarises the recommendations addressed to the Costa Rican Government to consolidate an enabling policy and regulatory environment for RBC in the country (**Section 6**).

1 What is Responsible Business Conduct?

RBC has a two-fold objective. On the one hand, it entails that all enterprises – regardless of their legal status, size, ownership structure or sector – make a positive contribution to economic, environmental, and social progress in the countries in which they operate with a view to achieving sustainable development. On the other, it implies that enterprises avoid and address adverse impacts on people, the planet and society caused by their activities and/or prevent and mitigate adverse impacts directly linked to their operations, products, or services through supply chains and/or business relationships. As these impacts cover a range of substantive areas, the scope of RBC is broad and crosscutting. Risk-based due diligence is central to identifying, preventing, and mitigating actual and potential adverse impacts, and is thus a key element of RBC (OECD, 2015^[1]).

RBC is increasingly relevant for the global agenda. It is a powerful tool to deal with the downsides of globalisation and foster the positive contribution of businesses to economic and sustainability outcomes. It can help attract responsible investment, facilitate insertion in GVCs, minimise risks for businesses, and ensure the respect of stakeholder rights. It can also contribute to making progress towards sustainable development by maximising the private sector's contribution to the SDGs and mobilising the resources necessary for financing the implementation of the 2030 Agenda (OECD, 2016^[2]).

Box 1.1. Responsible Business Conduct, Corporate Social Responsibility, and Business and Human Rights: Lost in translation?

Many businesses, governments and stakeholders are familiar with the term Corporate Social Responsibility (CSR), which has historically been used to describe business interactions with society.

Over the last years, CSR has increasingly been used alongside Responsible Business Conduct (RBC) and Business and Human Rights, with some using the terms interchangeably (e.g. the European Union). How do these concepts relate to each other?

They all reflect the expectation that businesses should consider the impact of their operations, supply chains, and business relationships on people, the planet, and society as part of their core business considerations and not as an add-on. This includes the need to avoid and address negative environmental and social impacts.

A key characteristic of CSR, RBC, and Business and Human Rights is that they refer to corporate conduct beyond simply complying with domestic law and call on business to contribute positively to sustainable development while managing risks and impacts that may result from their activities. These concepts should not be understood to be equivalent to philanthropy.

Source: (ILO/OECD/UNOHCHR, n.d.^[3]).

1.1. OECD instruments and tools on RBC

The OECD has developed an important number of instruments and tools aimed at fostering the adoption and implementation of RBC practices by businesses but also of RBC policies by governments.

1.1.1. The OECD MNE Guidelines and the NCPs

The main instrument aimed at promoting the adoption of RBC practices by businesses are the OECD MNE Guidelines. The OECD MNE Guidelines are recommendations from governments to businesses on how to act responsibly⁹ that cover all areas of potential business responsibility, including human rights, employment and industrial relations, environment, information disclosure, bribery and corruption, consumer interests, science and technology, competition, and taxation. The OECD MNE Guidelines were adopted in 1976 and last updated in 2011 to include a Chapter on human rights aligned with the UN Guiding Principles on Business and Human Rights (UNGPs), following the example of the Chapter on Employment and Industrial Relations, which is aligned with ILO's labour standards.

To date, 51 countries (of which 38 OECD members and 13 additional economies) – including Chile, Colombia, Costa Rica, and Mexico, as well as Argentina, Brazil, Peru and Uruguay¹⁰ – have adhered to the OECD MNE Guidelines, thereby committing to implement them and encourage their use.

Adherents to the OECD MNE Guidelines have the legal obligation to set up a NCP to further their implementation. NCPs have two main functions. On the one hand, they promote the OECD MNE Guidelines and handle enquiries to make them known among relevant stakeholders and across government entities. On the other hand, they serve as a grievance mechanism to resolve “specific instances”, that is cases relating to the non-observance of the recommendations contained in the OECD MNE Guidelines.

Up to now, the 51 existing NCPs have dealt with more than 600 specific instances arising in over 100 countries, thereby playing a critical role in ensuring that the OECD MNE Guidelines are implemented globally.

1.1.2. The Due Diligence Guidance

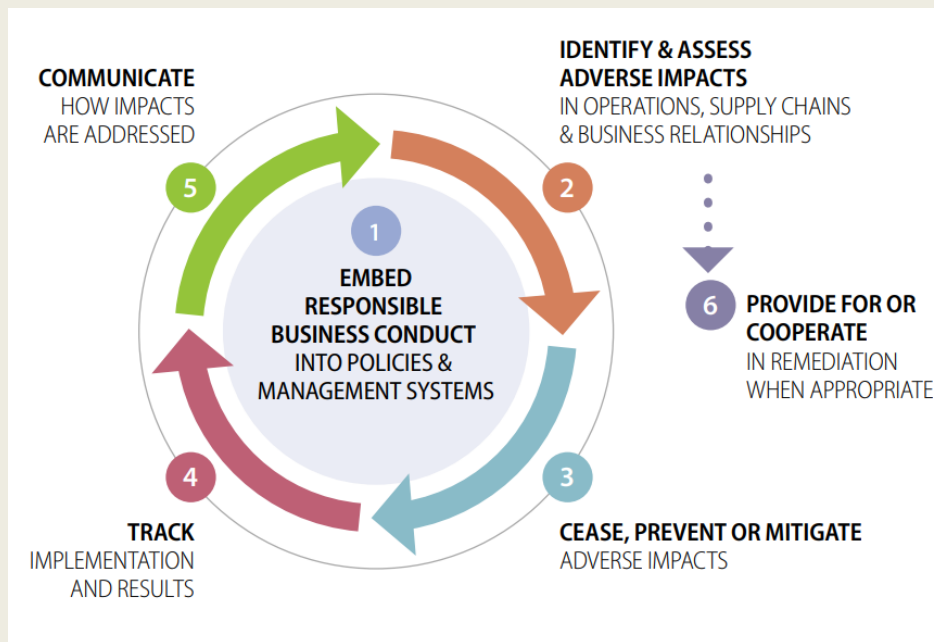
The OECD MNE Guidelines embed the expectation that enterprises carry out due diligence to identify, prevent, and mitigate real and potential adverse impacts on people, the planet, and society, and to account for how those impacts are addressed. Based on this expectation, the OECD has developed a range of instruments providing guidance on due diligence, with the aim of helping companies operating in different sectors understand and address RBC risks.

In 2018, the OECD issued a general Due Diligence Guidance for RBC (the OECD Due Diligence Guidance for RBC) to promote a common understanding among governments and stakeholders of due diligence for RBC. The Guidance defines a six-step process for due diligence (see Box 1.2), which is relevant for all types of enterprises operating in all countries and sectors of the economy (OECD, 2018^[4]). As such, it also serves to implement the due diligence recommendations contained in the UNGPs and the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (the ILO MNE Declaration).

Box 1.2. The due diligence process and supporting measures

Taking into account the fact that due diligence should be commensurate with risk and appropriate to a specific enterprise's circumstances and context, the OECD Due Diligence Guidance for Responsible Business Conduct (RBC) establishes a six-step process to conduct due diligence that can be used by any enterprise irrespective of the location or sector of its operations.

This process consists in embedding RBC into the enterprise's policies and management systems (step 1); undertaking due diligence by identifying actual or potential adverse impacts on RBC issues (step 2); ceasing, preventing, or mitigating such impacts (step 3); tracking implementation and results (step 4); communicating how impacts are addressed (step 5); and enabling remediation when appropriate (step 6).



Source: (OECD, 2018^[5]).

In addition to the general OECD Due Diligence Guidance for RBC, the OECD has developed sector-specific due diligence guidance for the minerals, extractives, agriculture, and garment and footwear sectors (OECD Sector-specific Due Diligence Guidance). This Guidance helps enterprises identify and address risks to people, the planet, and society that can be associated with business operations, products, or services in these specific sectors (see Box 1.3).

Box 1.3. OECD Sector-Specific Due Diligence Guidance

The OECD has developed Due Diligence Guidance for four specific sectors, all of which have been embedded into OECD Council Recommendations:

- OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas
- OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector

- OECD-FAO Guidance for Responsible Agricultural Supply Chains
- OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector

These OECD Council Recommendations recommend that adhering governments and their NCPs actively promote the use and observance of the Guidance by enterprises operating in and from their territories, but also take measures to support the adoption of risk-based due diligence frameworks for responsible supply chains, and ensure the widest possible dissemination of the Guidance (including among relevant government entities), and their use as resources by stakeholders.

As part of its work on RBC in the financial sector, the OECD has also developed papers on RBC for Institutional Investors; Due Diligence for Responsible Corporate Lending and Securities Underwriting; and RBC Due Diligence for Project and Asset Finance Transactions.

Sources: (OECD, 2019^[6]; OECD, 2018^[7]; OECD, 2017^[8]; OECD, 2017^[9]; OECD, 2016^[10]; OECD/FAO, 2016^[11]; OECD, 2022^[12]).

1.1.3. The Policy Framework for Investment

Besides fostering the adoption and implementation of RBC practices by businesses, the OECD also encourages the adoption and implementation of enabling policy and regulatory environments for RBC by governments through the PFI.¹¹ The PFI is designed to help governments maximise the development impact of investment and contains a chapter dedicated to policies for enabling RBC (Chapter 7) (OECD, 2015^[13]). This Chapter has become a reference for designing and implementing strong RBC policy frameworks and coordinating government efforts on RBC (See Box 1.4).

Box 1.4. Extracts from Chapter 7 of the PFI – Policies for enabling RBC

Governments can enable RBC in several ways:

- Regulating – establishing and enforcing an adequate legal framework that protects the public interest and underpins RBC, and monitoring business performance and compliance with regulatory frameworks;
- Facilitating – clearly communicating expectations on what constitutes RBC, providing guidance with respect to specific practices and enabling enterprises to meet those expectations;
- Co-operating – working with stakeholders in the business community, worker organisations, civil society, general public, across internal government structures, as well as other governments to create synergies and establish coherence with regard to RBC;
- Promoting – demonstrating support for best practices in RBC;
- Exemplifying – acting responsibly in the context of the government's role as an economic actor.

Source: (OECD, 2015^[11]).

1.2. Alignment with other international instruments

The OECD instruments and tools on RBC are aligned and complement the other international instruments on responsible business practices developed by the ILO and the UN, i.e. the ILO MNE Declaration and the UNGPs. Jointly, the OECD MNE Guidelines, the ILO MNE Declaration, and the UNGPs set the global expectations for RBC and have become a key reference for responsible business (ILO/OECD/UNOHCHR, n.d.^[3]).

The three instruments outline how enterprises can act responsibly. They all establish in this regard that any enterprise (regardless of its size, sector, operational context, ownership, and structure) should make a positive contribution to the economic, environmental, and social progress of the countries in which it operates, while avoiding and addressing adverse impacts on human and labour rights, the environment, and society. This not only covers the impacts that the enterprise may cause or contribute to through its own activities but also those impacts directly linked to its operations, products, or services through its supply chains and/or business relationships. According to these instruments, enterprises should undertake due diligence to identify, prevent, and mitigate adverse impacts and account for how those impacts are addressed. In addition, where enterprises identify that they have caused or contributed to adverse impacts, they are expected by the three instruments to provide access to remedy through legitimate processes (ILO/OECD/UNOHCHR, n.d.^[3]).

The OECD, the ILO, and the UN each bring their own value-added to the implementation of the principles and standards contained in the OECD MNE Guidelines, the ILO MNE Declaration, and the UNGPs based on their mandate and expertise: the OECD with its broad approach to RBC and the links to economic policies, the ILO with its tripartite structure and authority on international labour standards, and the UNOHCHR and the UN Working Group on Business and Human Rights (UNWG) with their expertise on Business and Human Rights and UN human rights mandates (ILO/OECD/UNOHCHR, n.d.^[3]).

2 Context: opportunities and challenges for Responsible Business Conduct in Costa Rica

The way in which RBC can be promoted and enabled largely depends on a country's specific context. The socio-economic background, the existing policies pertaining to RBC, the degree of awareness of businesses and other stakeholders on RBC, or the situation of the NCP, can all constitute opportunities and/or challenges for the adoption and implementation of responsible business practices. Analysing them is fundamental to better understand the drivers and hindrances that a national context may present for the construction of an enabling environment for RBC.

2.1. Socio-economic background of relevance for RBC

RBC is closely intertwined with the economy and society. The position of a country in the world economy, its main economic sectors and business fabric, its openness to trade and investment and integration in GVCs, but also its employment characteristics and informality rate, its level of inequalities and poverty, and other structural vulnerabilities, are all underlying factors that can underpin RBC or undermine it. Therefore, understanding the salient features of Costa Rica's socio-economic context is key to assess the opportunities and challenges to promote and enable responsible business practices in the country, as well as to comprehend the importance of doing it through adequate government policies.

Costa Rica is an upper middle-income country, with a population of 5.2 million people (World Bank, 2022^[14]; IMF, n.d.^[15]). In the last 30 years, the country has shown steady economic growth and tripled its Gross Domestic Product (GDP) per capita. Nowadays, Costa Rica has a strong economy, resting on services and exports. Services and exports account respectively for about 67% and 36% of Costa Rica's GDP. Industry represents around 20% and agriculture 5% of its GDP (World Bank, n.d.^[16]; World Bank, 2022^[14]). Openness to trade and investment has played a key role in supporting the economic development of Costa Rica (OECD, 2020^[17]).

Costa Rica's economy is well integrated in GVCs, with strong links to North America. In recent years, the country has been successful in upgrading its value chain participation in high-tech manufacturing, such as electronics and medical devices (UNCTAD, 2019^[18]). Costa Rica's main export products are manufactured products, mainly medical and other types of instruments, which represented 32% of the country's total export value in 2019. These products are manufactured by highly productive large companies benefitting from their location in free trade zones established as part of Costa Rica's export promotion and investment attraction strategy (OECD, 2020^[17]).¹² Agricultural products, in particular banana and pineapple, are also among Costa Rica's top exports, accounting for 9% and 8% of total export value respectively in 2019. The principal export destination for Costa Rican export products is the United States, representing 38% of exports in 2019, followed by the Netherlands (6%), Belgium (5%), Guatemala (5%) and Panama (5%) (OECD, n.d.^[19]).¹³ To support its strategy of trade openness, Costa Rica has concluded several Free Trade

Agreements (FTAs) with 51 trade partners, including the European Union, the United States, and several LAC countries (see Section 4.2.2) (Government of Costa Rica, 2022, p. 11^[20]). These FTAs cover 94% of the country's total exports and 85% of its imports (CINDE, 2019^[21]; Government of Costa Rica, 2022^[20]).

In addition to being well-inserted in GVCs, Costa Rica has positioned itself as an attractive destination for Foreign Direct Investment (FDI). Inward FDI stock in Costa Rica has steadily increased over the last 30 years (OECD, 2020^[22]). In 2019 and 2020, FDI flows respectively accounted for 4.2% and 3.4% of GDP, which is a higher share than the average of OECD and LAC countries (World Bank, 2022^[14]). Manufacturing and services have been the most important destination sectors for FDI flows to Costa Rica over the last years (ECLAC, 2021^[23]). In 2021, the largest investor in Costa Rica was the United States, followed by Spain, Mexico, the Netherlands, Colombia, Switzerland, Panama, the United Kingdom, and Canada (Government of Costa Rica, 2022^[24]).

Costa Rica's economic development in the last decades has been coupled with socio-economic progress. The country has one of the lowest poverty rates, as well as ones of the highest life expectancy and literacy rates, in LAC (World Bank, 2021^[25]). In addition, Costa Rica has made steady progress in human development. In 2020, it ranked 58 out of 191 countries in the UN Human Development Index, which measures three basic dimensions of human development (a long and healthy life, access to knowledge and a decent standard of living), placing it in the category of countries with a very high human development and above the average of LAC countries (UNDP, n.d.^[26]).

Nevertheless, Costa Rica still faces some economic challenges, mostly linked to informality and the prevalence of small and medium-sized enterprises (SMEs) in its economy. Informal employment is high in Costa Rica and has risen from 36% in 2010 to 45% in 2019 before the COVID-19 pandemic hit. Accessing the formal labour market is particularly challenging for women, migrants, people with disabilities, indigenous peoples, and low-skilled workers (OECD, 2020^[17]). Informality mainly exists in the service sector, which represents 47% of informal work, followed by the retail (19%), agriculture (17%), as well as industry and construction sectors (17%) (ITUC, 2018^[27]). The high levels of informal employment in Costa Rica result in a lack of guarantee of labour rights, as well as poor access to social protection for workers, and they also hamper effective tax collection (OECD, 2020^[17]). In addition, SMEs represent a large part of the economy in Costa Rica, with 97.4% of all enterprises in the country being SMEs. Among Costa Rican SMEs, 80.8% are micro enterprises, 12.4% small firms, and 4.10% medium-sized enterprises. The main activity sectors of non-agricultural SMEs are the services (43%) and commerce (41%) sectors. SMEs in Costa Rica are performing poorly in terms of formal employment. On average, they contribute to 34.12% of formal employment (whereas large companies contribute to 65.88% of said employment). Between 2015 and 2019, the growth in employment rate within SMEs was just 5% (as compared to 13% in large companies) (Government of Costa Rica, 2021^[28]). In addition, SMEs are participating significantly less in GVCs and international trade than larger companies. Costa Rican SMEs contribute to less than 30% of the country's total trade value and to only 10% of trade value in long GVCs, which is below OECD average (OECD, 2021^[29]).

These challenges have had repercussions on some socio-economic issues. While Costa Rica has made social progress by increasing social spending and introducing universal health care and pensions, inequalities persist. Income inequality (as measured by the Gini co-efficient) in Costa Rica is higher than in most advanced economies. Participation and opportunities for women in the labour market are also low in comparison to peer economies, which results in higher gender inequality (OECD, 2020^[17]). Unemployment is another important issue (OECD, 2020^[17]). In the last years, the unemployment rate jumped from 12% in 2019 to 20% in 2020 and stood at 14% in 2021 (IMF, n.d.^[15]). The outbreak of the COVID-19 pandemic compounded these issues. Although Costa Rica responded swiftly to mitigate the consequences of the pandemic, the country has been significantly hit, with the crisis generating a financing gap and exacerbating existing socio-economic challenges (see Box 2.1).

Box 2.1. The socio-economic impact of the COVID-19 pandemic in Costa Rica

The Coronavirus (COVID-19) pandemic triggered a large economic contraction in Costa Rica. Due to the crisis, real Gross Domestic Product (GDP) fell from a 2.3% growth rate in 2019 into a recession: in 2020, Costa Rica's GDP decreased by 4.1%, largely due to the mitigating measures and the resulting losses in investment, consumption, and tourism. It then recovered to 7.8% in 2021 and grew by 3.8% in 2022. As a result of the crisis, the government's financial deficit also augmented from 6.7% of GDP in 2019 to 8.1% in 2020 and the debt to GDP ratio exceeded 67% in 2020. In addition, Foreign Direct Investment inflows to Costa Rica dropped by 21.7% in 2020, resulting in the lowest foreign investment number during the last decade in the country.

Businesses, in particular small and medium-sized enterprises (SMEs), have suffered from income reduction or have had to close. In 2021, 30,000 micro-firms, primarily in the informal sector, were forced to stop their activities in Costa Rica due to the consequences of the COVID-19 pandemic.

The COVID-19 crisis has also increased inequalities in the country and affected workers disproportionately. The unemployment rate increased from 12% to 20% (to almost 30% among women) in 2020 and 26% of households were pushed into poverty. Informal and low skilled workers, as well as women and vulnerable communities, such as migrants, have been particularly affected by job and income losses.⁵

Sources: (IMF, 2021^[30]); (IMF, n.d.^[15]); (ECLAC, 2021^[31]); (UNCTAD, 2021^[32]); (OECD, 2021^[29]); (PAHO, n.d.^[33]); (INEC, 2021^[34]).

2.2. International instruments and government policies and institutions supporting RBC

Costa Rica has ratified a number of key instruments – international and regional – in areas covered by the OECD MNE Guidelines, such as human and labour rights, environmental protection, and anti-corruption (see Table 2.1).

Table 2.1. Costa Rica's adherence and ratification of key international instruments

Instrument	Ratification or Adherence
Core UN Conventions on Human Rights	8/9
UN Convention against Corruption	Yes
Fundamental ILO Conventions	8/10
Paris Agreement	Yes
Convention on Biological Diversity	Yes
Escazú Agreement	No
Extractives Industries Transparency Initiative (EITI) Member	No
Voluntary Principles on Security and Human Rights	No

Sources: (UNOHCHR, n.d.^[35]) (United Nations, n.d.^[36]); (United Nations, n.d.^[37]); (United Nations, n.d.^[38]) (ILO, n.d.^[39]) (CBD, n.d.^[40]) (EITI, n.d.^[41]) (Voluntary Principles on Security and Human Rights, n.d.^[42]).

In addition, Costa Rica became the OECD's 38th member in May 2021. That said, the country's engagement with the OECD and the OECD RBC instruments began years earlier. Costa Rica adhered to the OECD Declaration on International Investment and Multinational Enterprises in 2013, thereby becoming an Adherent to the OECD MNE Guidelines.¹⁴ Previously, Costa Rica had adhered to the OECD Council Recommendation on the OECD Due Diligence Guidance for Responsible Supply Chains of

Minerals from Conflict-Affected and High-Risk Areas in 2011.¹⁵ Subsequently, Costa Rica adhered to the OECD Council Recommendations on the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector in 2017¹⁶ and the OECD Due Diligence Guidance for Responsible Business Conduct in 2018.¹⁷ In addition, Costa Rica adhered as well to the OECD Council Recommendations on the OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector¹⁸ and the OECD-FAO Guidance for Responsible Agricultural Supply Chains.¹⁹

At the national level, government policies relevant for RBC have predominantly focused on sustainable development and making progress towards the achievement of the SDGs, as well as on promoting corporate social responsibility (CSR) (Government of Costa Rica, 2017^[43]). In 2015, Costa Rica hosted the official launch of the SDGs and one year later it became the first country to sign a National Pact for Advancing the SDGs (*Pacto Nacional por los Objetivos de Desarrollo Sostenible*) (United Nations, 2020^[44]).²⁰

The National Development and Public Investment Plan 2019-2022 (*Plan Nacional de Desarrollo y de Inversión Pública*, PNDIP) is an overarching strategy that has a bearing on RBC. It aims at generating inclusive economic growth, in harmony with the environment, creating decent jobs and reducing poverty and inequality (Government of Costa Rica, 2019^[45]). The PNDIP establishes five national goals: (i) economic growth; (ii) decrease of unemployment; (iii) reduction of multidimensional poverty; (iv) decarbonisation of the economy; and (v) decrease of the Gini index. It was prepared with a sustainable development perspective and includes 138 indicators linked to the SDGs (Government of Costa Rica, 2019^[45]).

The overarching policy of direct relevance to RBC in Costa Rica is the PNRS, which defines social responsibility as companies' responsibility for their impacts on society, the environment, consumers, human rights, and third business parties (Government of Costa Rica, 2018^[46]). The PNRS outlines the vision and framework for social responsibility promotion in the country based on the international instruments that are supported by Costa Rica. These include the OECD MNE Guidelines, the UNGPs, the ILO MNE Declaration, as well as the principles and guidelines set by the 2030 Agenda, the Reports of the Intergovernmental Panel on Climate Change, the International Organization for Standardization (ISO) 26000 Standard on Social Responsibility, and the Earth Charter (Government of Costa Rica, 2017^[47]).

The purpose of the PNRS is to promote social responsibility among companies and public and private organisations. It requires businesses to respect human rights, fight against corruption, eradicate fraud and bribery, encourages investments with environmental and social criteria, and promotes decent, formal, and safe work through seven thematic axes:

- i. promotion of social responsibility;
- ii. transparency and good governance;
- iii. social participation and fight against poverty;
- iv. employment;
- v. environmental protection and climate change mitigation and adaptation;
- vi. integral management of the value chain including consumers and suppliers; and
- vii. social responsibility in the country's foreign relations (Government of Costa Rica, 2017^[47]).

In 2018, the MEIC launched the Plan to Incentivise Social Responsibility (*Plan de Incentivos para la Responsabilidad Social*) with a view to encouraging public and private companies to implement the PNRS. This Plan recognises that Costa Rica does not have specific policies that incentivise socially responsible practices in the value chain and stresses the necessity to take actions in six areas to encourage companies to include such practices in their operations. These actions are as follows: (i) create a national system to recognise social responsibility; (ii) develop a collaborative platform of socially responsible suppliers, focusing on SMEs; (iii) strengthen the training programmes on sustainable procurement; (iv) launch a

virtual platform on sustainable management; (v) establish tax incentives that promote social responsibility; and (vi) create a governmental structure that will overlook the implementation of the Plan (Government of Costa Rica, 2018^[46]).

Likewise, the 2018 National Guidance on Social Responsibility Reporting (*Guía Nacional de Informes y Reportes de Responsabilidad Social*) is also part of the initial efforts to implement the PNRS. It includes a benchmark of reporting practices implemented by companies operating in Costa Rica. The Guidance finds that the publication of social responsibility reports in Costa Rica is nascent, as only multinational enterprises or publicly listed companies disclose non-financial information (Government of Costa Rica, 2018^[48]). It also contains guidelines on non-financial topics on which companies are encouraged to report and guidance on the data that should be included when reporting on social responsibility (Government of Costa Rica, 2018^[48]).

Three institutions in Costa Rica are in charge of implementing the PNRS and, more broadly, of promoting responsible business practices:

i. The Interinstitutional Commission on Social Responsibility (*Comisión Interinstitucional de Responsabilidad Social, CIRS*)

The CIRS was formed in 2017 to oversee the design of the PNRS. It is comprised of officials from several government entities: the Presidency of the Republic; the MEIC; the Ministry of National Planning and Economic Policy (*Ministerio de Planificación Nacional y Política Económica, MIDEPLAN*); the Ministry of Foreign Trade (*Ministerio de Comercio Exterior, COMEX*); the Ministry of Public Education (*Ministerio de Educación Pública, MEP*); and the Social Welfare Institute (*Instituto Mixto de Ayuda Social, IMAS*) (Government of Costa Rica, 2017^[47]). However, according to information gathered during the preparation of the present Review, the MEIC and the COMEX are the only two government entities actively involved in the implementation of the PNRS and their capacity to act in this regard has been limited in recent years due to staff turnover.

ii. the Advisory Council on Social Responsibility (*Consejo Asesor de Responsabilidad Social, CARS*) / Advisory Council on Sustainability (*Consejo Asesor de Sostenibilidad, CAS*)

The CARS is the highest body in charge of overseeing the implementation of the PNRS and supervising it. For this purpose, it has been tasked with designing a monitoring mechanism and producing key performance indicators. It is also responsible for updating the axes of the PNRS and consulting with stakeholders on the necessity to revise the policy's objectives according to the needs of the society and the market in Costa Rica (Government of Costa Rica, 2017^[47]). As of 2020, the CARS was integrated by representatives of six entities: (i) the Business Alliance for Development (*Alianza Empresarial para el Desarrollo, AED*); (ii) the National Consultative Council on Social Responsibility (*Consejo Consultivo Nacional de Responsabilidad Social, CCNRS*); (iii) the Financial Conglomerate Popular Bank (*Conglomerado Financiero Banco Popular y de Desarrollo Comunal, Banco Popular*); (iv) the Costa Rican Institute of Sports and Recreation (*Instituto Costarricense del Deporte y la Recreación, ICODER*); (v) the bank BAC Credomatic; and (vi) the Latin University (*Universidad Latina*) (Government of Costa Rica, 2018^[49]). Nevertheless, according to information gathered during the preparation of the Review, at the time of writing, the CARS had not been operating actively for some time, as there had been several changes among the staff leading its activities and the appointment of its members had not been renewed, among other reasons. In fact, in 2022, Costa Rica issue a Decree reforming the rules on the implementation and follow-up of the PNRS (*Gobernanza para la implementación y seguimiento de la política nacional de responsabilidad social de Costa Rica*), with a view to accelerating the appointment of the members of the CARS and also modifying its composition. Going forward, the members of the CARS will be appointed by the MEIC, and it will be comprised of representatives of: (i) the MEIC; (ii) the AED; (iii) the CCNRS; (iv) the academia; (v) a company leader in the field of social responsibility; and (vi) a public entity leader in the field of social responsibility. Additionally, the name of the CARS is changed to Advisory Council on Sustainability (*Consejo Asesor de Sostenibilidad, CAS*) and its functions are slightly modified. The CAS is

still in charge of the implementation and follow-up on the PNRS, but the Decree specifies that the PNRS must have an action plan (Government of Costa Rica, 2022^[50]).²¹

iii. the National Consultative Council on Social Responsibility (Consejo Consultivo Nacional de Responsabilidad Social, CCNRS)

The CCNRS was created in 2008 to promote CSR and declared of public interest in 2010 (Government of Costa Rica, 2010^[51]). It is a multi-sectoral platform with over 70 members from the public and private sectors, civil society, and international development agencies (National Consultative Council on Social Responsibility, n.d.^[52]). The CCNRS has five main functions: (i) establishing a forum to debate on social responsibility issues; (ii) fostering a common vision of social responsibility at the local and regional levels; (iii) identifying concrete actions to advance corporate social responsibility and proposing these actions to the Government, private companies, and trade unions; (iv) reporting on initiatives that impact the actions of public institutions and private organisations on social responsibility; and (v) promoting the design and implementation of standards and methodologies to advance corporate responsibility reporting (Government of Costa Rica, 2010^[51]). It participated actively in the creation of the PNRS by providing guidance and expert opinions on the challenges and areas of opportunity to advance social responsibility in Costa Rica.

Despite this institutional framework and the initial efforts made to promote the implementation of the PNRS, information gathered during the preparation of the present Review suggests that the PNRS and the related initiatives have not been properly implemented. According to public officials, as well as to representatives of the civil society, business associations and trade unions, the entities tasked with the implementation of the PNRS have not taken action in this regard over recent years. In general, there is limited awareness amongst the Government and stakeholders about the PNRS, the Plan to Incentivise Social Responsibility, and the National Guidance on Social Responsibility Reporting. This is reportedly due to political changes and to a lack of staff continuity from one administration to another.²² According to information provided by the Government during the preparation of the Review, at the time of writing, the new administration had started taking measures to strengthen the structure for the implementation and follow-up of the PNRS through the CARS / CAS, as the entity in charge of implementation and liaison with the private sector and civil society. The issuance of the Decree reforming the rules on the implementation and follow-up of the PNRS mentioned above is one of these measures. It was also reportedly assessing the possibility to eventually take steps towards the development of a National Action Plan on RBC or Business and Human Rights (NAP).

The lack of implementation of the PNRS may also be one of the factors explaining why, in spite of its policy and institutional framework, global indices suggest that Costa Rica can improve its performance in areas related to RBC, especially with regard to the promotion of labour rights of vulnerable groups (see Section 3.2) and the fight against corruption (see Section 3.4) (see Table 2.2).

Table 2.2. Ranking in global indices

Indicator	Country Ranking	Number of countries
World Economic Forum Global Competitiveness Index (2019)	62	141
World Bank Doing Business (2020)	74	190
International Trade Union Confederation Global Rights Index (2022)	Rating 2 out of 5	148
Yale Environmental Performance (2022)	68	180
Reporters without Borders World Press Freedom (2022)	8	180
Global Slavery Index (2018)	159	167
World Economic Forum Global Gender Gap Index (2022)	12	146
Transparency International Corruption Perception Index (2021)	39	180
World Justice Project Rule of Law Index (2022)	29	140

Sources: (WEF, 2019^[53]; WEF, 2022^[54]) (World Bank, 2020^[55]) (ITUC, 2022^[56]) (Yale Center for Environmental Law & Policy, 2022^[57]) (Reporters Without Borders, n.d.^[58]) (Walk Free Foundation, 2018^[59]) (World Justice Project, 2022^[60]) (Transparency International, 2021^[61]).

2.3. Stakeholders' awareness of RBC

Costa Rica has a long-standing tradition of promoting sustainable development, especially among the business community and through civil society (UNEP, 2019^[62]). However, information gathered during the preparation of the present Review suggests that awareness of RBC and risk-based due diligence, as understood in the OECD RBC instruments, is limited not only among businesses (including State-Owned Enterprises (SOEs)), but also among trade unions, civil society, and indigenous peoples.

According to the responses to the OECD 2020 Business Survey on RBC in LAC (see Annex B for the Survey's methodology and sample), most of the large companies that operate in Costa Rica and that responded to the Survey – but a very limited number of SMEs – have already adopted written policies and reporting on RBC. Nevertheless, only a few of them are aware of the NCP system and implement enhanced risk-based due diligence. In general, they reported needing training to address the human rights, social, and environmental risks that may exist in their supply chains. Their responses also indicated that, although the COVID-19 pandemic had created considerable challenges for their operations, having RBC practices in place helped them to be more resilient during the crisis (see Box 2.2).

Box 2.2. Findings from the OECD 2020 Business Survey on RBC in Latin America and the Caribbean

The OECD 2020 Business Survey on Responsible Business Conduct (RBC) in Latin America and the Caribbean (LAC) collected data on the RBC practices of 42 respondent companies operating in Costa Rica (respondents). The respondents answered different questions on their RBC policies, risk-based due diligence processes, the Coronavirus (COVID-19) crisis' impact on their operations, and their future needs in terms of RBC-related training.

Highlights of the Survey's findings include the following:

- The majority of respondents (67%) have adopted a written policy on one of the following RBC issues: human rights, labour rights, environment, anti-corruption, consumer interests, and disclosure.**¹ A higher share of large companies (76%) tend to have written policies than small and medium-sized enterprises (SMEs) (36%). Most of these policies focus on disclosure (77% of respondents have a written policy on this issue), followed by anti-corruption, as well as employment and labour rights (73%), the environment (70%), and human rights (57%).

- **The majority of respondents (60%) have put in place reporting on RBC issues.**² A significantly higher percentage of large companies (74%) carries out such reporting compared to SMEs (14%).
- **About 40% of respondents have general knowledge of the National Contact Point (NCP) system.** However, only 3% to 7% of respondents report using resources provided by the NCPs, attending events organised by the NCP, or having been involved in a specific instance. Engagement with the NCP was rated 3.7/10 by respondents (with 10 being the highest appreciation and 1 the lowest).³
- **Less than 35% of respondents carry out risk assessments on suppliers and business partners and 43% adopt an enhanced due diligence process when risks are identified.**⁴ However, only around 5% of respondents conduct risks assessments beyond tier 1 or on products, commodities, or services in their supply chain.
- **For the large majority of respondents (60%), the COVID-19 crisis triggered human rights challenges.**⁵ However, almost all of them (83%) report that having responsible business practices in place (such as due diligence processes) has helped navigate the crisis, mostly with respect to the mitigation of legal, operational and market risks (84%).
- **About 45% of respondents indicate needing training on RBC and the OECD RBC instruments.**⁶ Around 40% report being interested in capacity-building on the OECD Due Diligence Guidance, as well as on labour and environmental impact assessments. 35% indicate a need for improved assistance from the NCP.

Notes:

1. Based on 30 responses.

2. Based on 30 responses.

3. Based on 23 responses.

4. Based on 21 responses.

5. Based on 20 responses.

6. Based on 20 responses.

Sources: (OECD, 2021^[63]).

As a result, the vast majority of initiatives led by the private sector to enhance responsible business practices in Costa Rica to date have been developed on the basis of the concept of sustainable development and/or CSR. For example, the award “Social Responsibility in Action” granted by the Costa Rican American Chamber of Commerce gives recognition to companies that have adopted a responsible and integral business management model and that contribute to the achievement of the SDGs (American Chamber of Commerce in Costa Rica, 2020^[64]). Another example is the Foundation for Sustainability and Equality (*Fundación para la Sostenibilidad y la Equidad*, ALIARSE). It focuses on generating synergies between public institutions and private companies to attain sustainable development, social justice, and environmental protection through the creation of public-private partnerships (ALIARSE, 2020^[65]). In addition, the 34 Costa Rican companies that have adhered to the United Nations Global Compact (Global Compact) regularly participate in workshops and trainings on SDG-related policies, organised by several business associations, such as the AED, the Costa Rican Union of Private Business Sector Chambers and Associations (*Unión Costarricense de Cámaras y Asociaciones del Sector Empresarial Privado*, UCCAEP), the Chamber of Industries (*Cámara de Industria de Costa Rica*, CICR), the Construction Chamber (*Cámara Costarricense de la Construcción*, CCC), and the National Chamber of Pineapple Producers and Exporters (*Cámara Nacional de Productores y Exportadores*, CANAPEP), in collaboration with the MIDEPLAN (United Nations, 2020^[44]). These workshops and trainings seek to incentivize the Costa Rican members of the Global Compact to develop and adopt strategies on various RBC issues such as human rights, labour standards, environmental protection, and anti-corruption. They also help

disseminating knowledge about the ISO 26000 standard and the Global Reporting Initiative as relevant standards and guides (EU-LAC Foundation/Red Forum Empresa, 2015^[66]).

Over recent years, the AED, which is a local chapter of the World Business Council for Sustainable Development and the Central American Integration for CSR, IntegraRSE, has played a key role to promote responsible business practices in Costa Rica among its more than 140 members. Since its creation in 1997, the AED has sought to reduce the adverse impacts, and maximise the positive impacts to the society, the environment, and the economy, of its members. For this purpose, it has helped multinational and local companies in Costa Rica produce and publish social responsibility reports, paying special attention to the principles set by the Global Reporting initiative (AED, 2020^[67]). It has also organised workshops aimed at promoting the adoption of RBC practices among insurance companies (AED, 2021^[68]). In 2020, AED reported that 89% of its members identify the impact of their operations, but only 50% of them take those impacts into consideration in their organisational strategy (AED, 2020^[69]).

Civil society in Costa Rica has overall been less active to promote RBC. Information gathered during the preparation of the present Review suggests that civil society organisations (CSOs) have little knowledge of RBC and are not really organised and engaged on this topic. To address this situation, the Government of Costa Rica, which has recognised the important role that civil society can play to promote responsible business practices, has sought to include representatives of civil society, the academia, and experts in the field of social responsibility in the CARS / CAS to contribute towards the implementation of the PNRS (Government of Costa Rica, 2018^[70]). However, the mandate of the CARS / CAS members, which was initially established for two years, ended in April 2020, and the process for the designation of new members was disrupted as a consequence of the COVID-19 pandemic. This process was recently modified by the Decree reforming the rules on the implementation and follow-up of the PNRS mentioned above (see Section 2.2).

The COVID-19 pandemic has created several challenges for the promotion of RBC in Costa Rica. In the framework of the preparation of the present Review, CSOs and trade unions have reported the existence of business-related adverse impacts on human and labour rights triggered by the COVID-19 crisis, affecting migrants and female workers in particular. Business associations have also expressed concerns about the capacity of their members to maintain RBC-related policies and actions in the wake of the crisis. This is particularly the case of the tourism sector in Costa Rica, which has traditionally been committed to advance responsible business practices, but has been severely affected by the consequences of the COVID-19 pandemic. The lack of a uniformed understanding of RBC and the absence of dialogue with key government agencies – such as the NCP – were also signalled as challenges for the promotion of RBC in the aftermath of the COVID-19 crisis.

2.4. Costa Rica's National Contact Point for RBC

Since its creation in September 2013, the Costa Rican NCP has been part of the Investment Directorate of COMEX. Between September and December of 2017, Costa Rica held public consultations within the government and with stakeholders to restructure the NCP. In March 2018, Costa Rica concluded an analysis of the different institutional arrangements used by other countries in structuring their NCP and took the decision to modify the structure of the NCP to match best practices among the NCP network. Thus, Costa Rica transformed its NCP by approving Executive Decree No. 40970-COMEX-MEIC, which establishes the NCP's legal mandate, structure, and functions (Government of Costa Rica, 2018^[71]). This institutional revision clarified the NCP's structure and prompted a change in the way the NCP engages with government entities and stakeholders.

In terms of institutional arrangements, the NCP is not set up as a distinct administrative unit, but its role is exercised by officials of the Investment Directorate, who have expertise in complaint handling and promotion of RBC (OECD, 2020^[72]). The NCP is composed of the Director of the Investment Division, two

advisers from COMEX acting as the Technical Secretariat of the NCP, as well as Institutional Focal Points (*Puntos Focales Institucionales*) from the MEIC, the Ministry of Labour and Social Security (*Ministerio de Trabajo y Seguridad Social*, MTSS), the Ministry of Environment and Energy (*Ministerio de Ambiente y Energía*, MEE), and the Ministry of Justice and Peace (*Ministerio de Justicia y Paz*, MJP) (Government of Costa Rica, 2018^[71]). Costa Rica's NCP is also supported by a stakeholder advisory body (*Consejo de partes interesadas*, CPI), including trade unions, CSOs, and members of the academia (Government of Costa Rica, 2018^[71]). The advisory stakeholder body helps in the implementation of the OECD MNE Guidelines and monitors the NCP's work and the fulfilment of its mandate (Government of Costa Rica, 2018^[71]).

In accordance with the OECD MNE Guidelines, the Costa Rican NCP's mandate is twofold: promote the OECD MNE Guidelines and the related OECD Due Diligence Guidance, and handle cases (referred to as "specific instances") as a non-judicial grievance mechanism. The OECD Council Decision on the OECD MNE Guidelines requires Adherent governments to provide their NCPs with sufficient human and financial resources to deliver on their mandate. Since 2018, the NCP has been operating with two part-time staff spending about 40% of their time on NCP matters, as well as a Director and Institutional Focal Points from relevant ministries dedicating some of their time to NCP aspects (Government of Costa Rica, n.d.^[73]). Regarding budget, Costa Rica's NCP has dedicated financial resources. However, these resources may be insufficient in case one or several specific instances are submitted in the future (Government of Costa Rica, n.d.^[73]).

The OECD Procedural Guidance on NCPs also requires governments to provide NCPs with a structure that allows them to operate impartially, to handle the issues covered by the OECD MNE Guidelines, as well as to maintain relations with, and gain and retain the confidence of stakeholders. The fact that the NCP is located within COMEX and not established as a separate unit, and is staffed with officials that only work part-time on NCP matters, may raise impartiality and conflict of interest issues, as underlined in the Guide for NCPs on Building and Maintaining Impartiality (OECD, 2022, pp. 8-13^[74]). With respect to stakeholders' relationship, between 2018 and 2020, the Costa Rican NCP has undertaken significant actions to engage with diverse stakeholders, including business associations, individual companies, CSOs and trade unions, through promotional and awareness-raising activities (OECD, 2020^[72]). Nevertheless, stakeholders' trust depends largely on the functioning of the stakeholder advisory body, which has not met regularly over recent years. More efforts hence need to be done to engage more actively with civil society and trade unions (OECD, 2020^[72]).

With respect to the promotion of the OECD MNE Guidelines and the related OECD Due Diligence Guidance, the Costa Rican NCP has a well-designed and comprehensive website (Government of Costa Rica, n.d.^[75]). In recent years, the NCP carried out substantive promotional work. It is one of the seven NCPs that accounted for almost 50% of all promotional events organised by the NCP network throughout the world (OECD, 2019^[76]). For example, in 2021, the NCP organised nine promotional activities, the second highest number in the NCP Network (Government of Costa Rica, n.d.^[77]). These events were targeted towards business and government representatives, and CSOs. Themes of promotion varied including general events on the NCP, the OECD MNE Guidelines, and the OECD Due Diligence Guidance, as well as events held on creating coherence between RBC policies and the National Decarbonisation Plan and initiatives regarding gender equality. In 2021, the NCP also participated in 17 events organised by other organisations, making it one of five NCPs to account for 60% of event participation within the Network in 2022 (Government of Costa Rica, n.d.^[77]). In addition, since 2017, the NCP publishes on its website annual promotional work plans, which include information on forthcoming promotional activity and measurable goals set by the NCP (Government of Costa Rica, n.d.^[75]). Notwithstanding this, several CSOs, trade unions, and business associations have reported not being aware of the NCP's existence and having had practically no engagement with it.

As regards its case-handling function, the NCP has detailed and solid rules of procedure in place and specific instances may be submitted electronically via a pre-established form. To ensure the NCP is ready

to handle cases, the NCP staff and the Institutional Focal Points are in the process of receiving trainings on how to handle specific instances, with a focus on mediation (Government of Costa Rica, n.d.^[73]). However, since its establishment in 2013, the NCP has not received any specific instance. This is most likely linked partly to the fact that there are several remedy mechanisms available in Costa Rica and that the NCP is not the most well-known of these mechanisms.

The Government of Costa Rica does recognise the challenges above, many of which relate to the lack of sufficient activity of the stakeholder advisory body, a limited outreach to key sectors, the perception of partiality, and the insufficient promotion of the case-handling function. To address these issues, the NCP, together with the OECD, has set up a roadmap of capacity-building activities to be conducted by early 2023 and which relate to institutional arrangements, promotional activities, and the handling of specific instances. In addition, according to information provided by the NCP during the preparation of the present Review, in the framework of the RBC-LAC Project, the NCP has taken action to further engage and create strategic partnerships with other government entities, such as the MEIC, the Costa Rican Trade Promotion Agency (*Promotora de Comercio Exterior*, PROCOMER) and some Costa Rican SOEs, as well as with business associations, like the AED. This is a welcome development. The accession of Costa Rica to the OECD in 2021 has contributed to a positive perception of the NCP amongst businesses and other stakeholders. The NCP can use this momentum to promote its case-handling function with the Government, businesses, CSOs and trade unions, highlighting its extra-territorial reach, impartial procedures, and solution-oriented approach.

3 **Regulating and enforcing in support of Responsible Business Conduct in Costa Rica**

Governments can promote and enable RBC by embedding in their domestic legal and regulatory frameworks the laws, regulations, and policies necessary to govern business conduct and prevent the occurrence of RBC issues in the areas covered by the OECD MNE Guidelines. To build an enabling environment for businesses to act responsibly, it is also key that governments deploy the resources and capacities required to implement such laws, regulations, and policies. Costa Rica can take additional steps in this direction by strengthening its regulatory and enforcement actions in several areas of the OECD MNE Guidelines, namely human rights, labour rights, environment, and anti-corruption.

3.1. Human rights

The actions of business can have an impact on virtually the entire spectrum of internationally recognised human rights. Enterprises can affect the human rights of their employees, their customers, workers in their supply chain or communities around their business operations. Chapter IV of the OECD MNE Guidelines on “Human Rights” draws on, and is aligned with, the UNGPs.²³ It acknowledges that, while States have the primary duty to protect such rights, businesses are expected to respect human rights independently of the State’s ability or willingness to fulfil its international human rights obligations. Failure either to enforce relevant domestic laws or to implement international human rights obligations, or the fact that the State may act contrary to those laws and obligations, does not diminish the responsibility of businesses to respect human rights.

Concretely, Chapter IV requires companies to avoid causing, or contributing to, adverse human rights impacts in their own activities, and to seek to prevent or mitigate impacts to which they are directly linked through their supply chains and business relationships. This means that companies should have a policy commitment to respect human rights, carry out due diligence (notably by reference to the relevant OECD Due Diligence Guidance), and provide or cooperate with legitimate remediation processes where adverse human rights impacts have occurred.

3.1.1. Legal, policy and institutional framework

Legal and policy framework

At the international level, Costa Rica is party to all nine-core human rights instruments and the related optional protocols²⁴ (UNOHCHR, n.d.^[78]). The country has also ratified the main human rights instruments of the Inter-American Human Rights System²⁵ and it recognises the competency of its main organs (Government of Costa Rica, 2019^[79]).

At the national level, Title IV of the Constitution protects and guarantees individual rights. Additionally, Titles V to VIII cover, among others, social rights, religious rights, cultural and educational rights, and political rights (Government of Costa Rica, 1949^[80]). Article 48 of the Constitution specifies that the protection granted to human rights includes the rights recognised by the Constitution as well as fundamental rights established in international human rights instruments.²⁶ In this regard, the Constitutional Chamber of the Supreme Court (*Sala Constitucional de la Corte Suprema*) held that international human rights treaties in force in Costa Rica not only have similar status to the Constitution, but also that, insofar as they grant greater rights or guarantees, they take precedence over the Constitution.²⁷

Beyond the Constitution, Costa Rica has developed a robust legal framework to protect human rights, with several laws covering different human rights aspects, such as the 1990 Law for the Promotion of Social Equality of Women (*Ley de Promoción de Igualdad Social de la Mujer*),²⁸ the 1996 Law on Equal Opportunities for People with Disabilities (*Ley de Igualdad de Oportunidades para las Personas con Discapacidad*),²⁹ the 2010 General Law on Migration and Foreigners (*Ley General de Migración y Extranjería*),³⁰ the 2018 Law on Access to Justice for Indigenous Peoples (*Ley de Acceso a la Justicia de los Pueblos Indígenas*),³¹ or the 2019 Law Protecting the Right to the Costa Rican Nationality of Cross-border Indigenous People and Guaranteeing the Integration of Cross-border Indigenous People (*Ley de Protección del Derecho a la Nacionalidad Costarricense de la Persona Indígena Transfronteriza y Garantía de Integración de la Persona Indígena Transfronteriza*).³² However, to date, Costa Rica has not adopted any RBC-related legislation, such as a law on due diligence or corporate reporting of human and environmental impacts, and at the time of writing no such legislation was in preparation.

As regards the policy framework on human rights, Costa Rica has not adopted an overarching national human rights policy. Instead, it has developed national policies to deal with specific human rights issues, such as:

- the National Policy for Effective Equality between Women and Men (*Política Nacional para la Igualdad Efectiva entre Mujeres y Hombres 2018-2030*, PIEG);
- the National Policy for Childhood and Adolescence (*Política Nacional para la Niñez y la Adolescencia 2009-2021*);
- the National Policy for Building a Society Free from Racism, Racial Discrimination, and Xenophobia (*Política Nacional para una Sociedad libre de Racismo, Discriminación Racial y Xenofobia 2014-2025*);
- the Comprehensive Migration Policy (*Política Migratoria Integral 2013-2023*, PMI);
- the National Policy on Disability (*Política Nacional de Discapacidad 2011-2021*, PONADIS);
- the National Plan for the Recovery of the Indigenous Territories of Costa Rica (*Plan Nacional para la Recuperación de Territorios Indígenas de Costa Rica 2016-2022*, PLAN-TRI); and
- the General Mechanism for Consultation with Indigenous Peoples (*Mecanismo General de Consulta a Pueblos Indígenas*, MGCPI) (Government of Costa Rica, 2019^[81]).

Costa Rica does not have either a national policy focusing on RBC or business and human rights. As mentioned above, Costa Rica developed a National Policy on Social Responsibility for 2017-2030, the PNRS, which covers some human rights aspects, including the respect by companies of human rights, but does not focus solely on this issue (see Section 2.2). Guideline 7.2.3 of the PNRS seeks to advance the promotion and protection of human rights by private companies and suggests that a NAP be developed on the basis of the UNGPs and other relevant international initiatives.³³ It also aims to promote a consensus between the public and private sectors and CSOs to identify the biggest human rights challenges, as well as solutions to deal with these challenges. An additional objective of the Guideline is to promote the disclosure of information about human rights risks, preventive measures, and risk management results on the basis of internationally recognised standards. However, the PNRS remains largely unknown among Government, businesses, and other stakeholders and, at the time of writing, no means seemed dedicated

to its implementation. These findings are confirmed by one of the recommendations included in the 2019 report of the United Nations Working Group on the third cycle of Universal Periodic Review (UPR)³⁴ of Costa Rica,³⁵ which recommends that the country develops a NAP and that was accepted by Costa Rica (UN Human Rights Council, 2019_[82]).³⁶ Likewise, in his recent report on his visit to Costa Rica, the United Nations Special Rapporteur on the Rights of Indigenous Peoples recommended that Costa Rica elaborate a NAP aligned with the UNGPs, in consultation with stakeholders, including indigenous peoples (UN Human Rights Council, 2022_[83]).³⁷

Costa Rica should take measures to implement the PNRS and evaluate the need to update it to integrate an RBC approach aligned with recent international and national developments. On the basis of this evaluation, Costa Rica could consider developing a National Action Plan on RBC or Business and Human Rights, with the support of the NCP and through a transparent multi-stakeholder consultative process ensuring the balanced participation of all relevant government entities, as well as CSOs, trade unions, indigenous peoples, and businesses. Such a National Action Plan should be aligned with the OECD RBC instruments, and promote the role of the NCP as an adequate grievance mechanism for business-related human rights violations and a key actor for the Plan's implementation.

Institutional framework

In order to be effective, a legal and policy framework requires an adequate institutional framework that ensures its implementation through *inter alia* adequate monitoring mechanisms. Additionally, as part of their duty to protect human rights against abuses by businesses, governments must take appropriate steps to ensure that when such abuses occur, victims have access to effective remedy. The judicial system and non-judicial grievance mechanisms are particularly important in this regard.

Monitoring mechanisms

In an effort to comply with its international human rights obligations, Costa Rica created a Commission for the Monitoring and Implementation of International Human Rights Obligations (*Comisión Interinstitucional para el seguimiento e implementación de las obligaciones internacionales de Derechos Humanos*, CIIDDHH). The CIIDDHH is a permanent body attached to the Ministry of Foreign Affairs and Worship (*Ministerio de Relaciones Exteriores y Culto*, MRREE) comprised of representatives of the different government entities with competencies related to human rights issues. Among other things, it is responsible for coordinating the design and implementation of policies, plans, and measures aimed at implementing international human rights commitments at the national level and reinforcing efforts to promote and protect such rights (Government of Costa Rica, n.d._[84]; Government of Costa Rica, 2011_[85]).

The CIIDDHH has a Permanent Body for Consultation with Civil Society (*Entidad Permanente de Consulta con la Sociedad Civil*, EPCSC) (Government of Costa Rica, 2011_[85]). This body provides CSOs a forum for dialogue with the Government on human rights issues. It also enables them to access the Recommendations Monitoring System (*Sistema de Monitoreo de Recomendaciones en Derechos Humanos*, SIMORE) (Community of Democracies, 2018_[86]). The SIMORE is an inter-institutional platform aimed at facilitating the follow-up of international human rights recommendations that allows the public to have access to updated information on the actions carried out by Costa Rica for their monitoring and implementation (Government of Costa Rica, 2020_[87]). While the EPCSC was created to follow-up on the recommendations of the UPR, it currently assists the Government in monitoring the implementation of several human rights treaties and obligations (Government of Costa Rica, 2018_[88]).

Judicial remedy mechanisms

Title XI of the Constitution describes the organs and establishes the functions of the judicial power in Costa Rica.³⁸ The judicial power is constituted by: the Supreme Court, collegiate courts, and tribunals. The rules

that govern the judiciary are set forth in the Organic Law of the Judicial Power (*Ley Orgánica del Poder Judicial*). The collegiate courts are tribunals that are organised on the basis of their area of specialisation, their geographic location, and the amounts at stake in the disputes they deal with (OECD, 2021, p. 59^[89]).

The Constitutional Chamber of the Supreme Court is responsible for guaranteeing the fundamental rights enshrined in the Constitution and in the international human rights instruments to which Costa Rica is party (Government of Costa Rica, n.d.^[90]). In particular, the Constitution establishes two constitutional control mechanisms aimed at protecting human rights: the “writ of hábeas corpus”, which seeks to guarantee liberty and personal integrity; and the “writ of amparo”, which seeks to protect the other human rights consecrated in the Constitution (Government of Costa Rica, 1949^[80]).³⁹ A noteworthy aspect of the “writ of amparo” is that it allows to present a claim in relation to the actions or omissions of legal persons.⁴⁰

In order to improve access to justice, Costa Rica developed several policies and initiatives, with particular attention to the situation of vulnerable groups (OECD, 2021, p. 74^[89]). For instance, over the last years, Costa Rica issued several specific judicial protocols to facilitate access to justice for vulnerable groups and expedite the resolution of cases involving indigenous peoples (2009),⁴¹ migrants and refugees (2010),⁴² afro-descendants (2015),⁴³ and children (2015)⁴⁴ (Asociación Civil por la Igualdad y la Justicia, 2020^[91]). The National Commission for the Improvement of the Administration of Justice⁴⁵ (*Comisión Nacional para el Mejoramiento de la Administración de la Justicia*, CONAMAJ) is responsible for ensuring that these protocols are implemented by the different institutions that participate in the administration of justice (Government of Costa Rica, 2017^[92]).

Costa Rica’s judiciary has traditionally been recognised as being independent and impartial (OECD, 2021, p. 47^[89]). The country ranks significantly high in the World Justice Project Rule of Law Index. In 2020, it obtained an overall score of 0.68 and ranked 25th out of 128 countries (World Justice Project, 2020^[93]). In the same year, Costa Rica ranked 38th (with a score of 0.62) and 31st (with a score of 0.57) for the quality of civil and criminal justice respectively (World Justice Project, 2020^[93]). The country also ranked 15th in the fundamental rights sub-index (with a score of 0.79), which assesses the country’s protection of the rights recognised in the UN Universal Declaration of Human Rights and their effective guarantee by the Government. Overall, the Rule of Law Index positions Costa Rica in the highest rank compared to other countries in the LAC region or with similar income level (World Justice Project, 2020^[93]).

Notwithstanding the above, several recommendations addressed to Costa Rica in the framework of the third cycle of the UPR in 2019 pertained to access to justice and the need to strengthen and expand access to justice for vulnerable groups, such as indigenous peoples, women, migrants, people with disabilities and afro-descendants.⁴⁶ Beyond the UPR, reports from international organisations and CSOs also signal that access to justice is challenging for vulnerable groups located in rural and marginal areas of the country (IIDH, 2014^[94]; UNDP, 2017^[95]; OAS, 2021^[96]). Moreover, data shows that women, young people, and persons with low levels of education do not fully trust the Supreme Court of Justice and that the overall perception of the Supreme Court has deteriorated over time. Between 2004 and 2018, trust in the Court decreased from 61.9 to 52.9 points, on a 100 points scale (Government of Costa Rica, 2020^[97]).

Costa Rica should enhance the availability of judicial remedy mechanisms for business-related human rights violations and, in particular, improve the access to such remedies for vulnerable groups, such as indigenous peoples, afro-descendants, women, children, migrants, and people with disabilities.

State-based non-judicial grievance mechanisms

In Costa Rica, the mechanisms available in the judiciary are the main avenue to seek remedy in cases of business-related adverse impacts on human rights. That said, Costa Rica has also established state-based non-judicial grievance mechanisms.

One of these state-based non-judicial grievance mechanisms is the Ombudsman's Office (*Defensoría de los Habitantes de la República*, DHR), which can act as a non-judicial grievance mechanism for cases of alleged violations of human rights by public entities, as well as public and private companies that provide public services (Defensoría de los Habitantes, 2022^[98]). The DHR is responsible for ensuring that Costa Rica's obligations under national and international human rights instruments are being complied with and for assessing the protection of human rights in the country through analysis and reports.⁴⁷ In addition, it can develop initiatives to promote human rights and is in charge of communicating with government entities to protect inalienable rights.⁴⁸ Even if its activities do not focus on RBC or on the business and human rights agenda, in practice, the DHR often addresses human rights issues that relate to business activities, especially in the agriculture and infrastructure sectors (Defensoría de los Habitantes, 2021^[99]). For example, the DHR has issued recommendations urging public institutions to adopt and implement regulations and policies for public entities and private companies on gender equality and inclusion of migrants, indigenous peoples, or people with disabilities in the labour market. It has also assessed compliance with safety and health standards by private companies, particularly in pineapple plantations (Defensoría de los Habitantes, 2019^[100]; Defensoría de los Habitantes, 2021^[99]). Recently, during the COVID-19 pandemic, the DHR opened an *ex officio* investigation as a consequence of the high level of infections among employees working in the agriculture sector and packaging industry in Costa Rica's northern region (Defensoría de los Habitantes, 2021^[99]).

In addition, Costa Rica, as an adherent to the OECD MNE Guidelines, established an NCP for RBC.⁴⁹ NCPs are non-judicial grievance mechanisms that provide mediation and conciliation services to help resolving cases of alleged non-observance of the OECD MNE Guidelines, in particular in relation to human rights issues (OECD, 2020^[72]). In fact, the chapter on human rights of the OECD MNE Guidelines is the chapter that has been most referred to in specific instances since 2011 (OECD, 2021, pp. 23-24^[101]). However, as mentioned above, to date, the Costa Rican NCP has not yet served as a non-judicial grievance mechanism for business-related impacts on human rights, as it has not received any specific instances, despite having strong rules of procedure and trained staff (see Section 2.4).

Building on its efforts to promote the OECD MNE Guidelines, Costa Rica should reinforce the role of the NCP as a non-judicial grievance mechanism for business-related human rights impacts. Costa Rica should notably seek to increase awareness and knowledge of its existence and mandate to help resolve cases of alleged non-observance of the human rights chapter of the OECD MNE Guidelines across the Government and among the general public, CSOs, trade unions, business associations, and individual companies. It could also promote cooperation between the NCP and the DHR in relation to the handling of cases that involve allegations of business-related adverse impacts on human rights.

3.1.2. Specific business-related human rights impacts on particular groups in Costa Rica

Indigenous peoples

Recent reports from the United Nations and the Inter-American Commission of Human Rights, as well as from CSOs, have raised concerns regarding the adverse impacts that business operations in Costa Rica may cause or contribute to cause on the rights of indigenous peoples. Costa Rica has a small indigenous population compared with other countries in the LAC region. Only 2.4% of the total population is considered indigenous and 7% of the national territory (3,344 km²) is categorised as indigenous (Government of Costa Rica, 2011^[102]). Nevertheless, recent years have seen growing concerns for the respect of indigenous peoples' rights on their lands, territories, and natural resources, as well as of their right to free, prior, and informed consent (FPIC).

Costa Rica is a party to ILO Convention No. 169 on Indigenous and Tribal Peoples Convention (ILO Convention No. 169) as well as a signatory to the UN Declaration on the Rights of Indigenous Peoples and the American Declaration on the Rights of Indigenous Peoples. In addition, Costa Rica has adopted various laws and policies to deal with several aspects of indigenous peoples' rights. The main one is the 1977 Indigenous Law (*Ley Indígena*), which, among other things, establishes the legal status of indigenous peoples and their land rights.⁵⁰ In particular, this Law establishes 24 indigenous territories to be managed by the eight different indigenous peoples present in the country⁵¹ and declare that non-indigenous persons shall not be entitled to rent, lease, buy or acquire land or farms comprised within these territories.⁵² Moreover, the Indigenous Law provides that non-indigenous persons owning or possessing lands within indigenous territories prior to 1977 shall be relocated or compensated (Government of Costa Rica, 1977_[103]).

However, reports indicate that, in practice, many of these territories have remained occupied by non-indigenous persons and companies, in particular for agricultural production (Deutsche Welle, 2021_[104]; Defensoría de los Habitantes, 2022, pp. 137-139_[105]). For instance, according to a report by the Inter-American Commission on Human Rights (IACHR) after its visit to Costa Rica in 2019, in Salitre and Térraba only 40% and 12% respectively of the lands recognised as indigenous are in possession of indigenous persons (OAS, 2019_[106]). Similarly, in his report on his visit to Costa Rica in 2021, the United Nations Special Rapporteur on the Rights of Indigenous Peoples (Special Rapporteur) indicates that “52.3 per cent of the Bribri people’s Kéköldi territory; 53.1 per cent of the Brunca people’s Boruca territory; 58.7 per cent of the Maleku people’s Guatuso territory; 56.4 per cent of the Teribe people’s Terraba territory; and 88.4 per cent of the Huetar people’s Zapatón territory” are in possession of non-indigenous persons (UN Human Rights Council, 2022_[83]). This is due to the fact that, as signalled by the DHR and the Special Rapporteur in 2022, despite efforts made by the Government, in particular with the National Plan for the Recovery of Indigenous Territories (*Plan Nacional de Recuperación de Territorios Indígenas de Costa Rica*), the relocation and compensation of non-indigenous owners foreseen under the Indigenous Law have not occurred (RINDHCA, 2020_[107]; Defensoría de los Habitantes, 2022, pp. 137-139_[105]; UN Human Rights Council, 2022_[83]).

This state of affairs has resulted in tensions and conflicts over land rights, with indigenous peoples, in particular Bribri and Teribe peoples, being exposed to threats, harassment and violence from non-indigenous persons (Defensoría de los Habitantes, 2022, pp. 137-139_[105]). This led the IACHR to grant precautionary measures in favour of these peoples in 2015 and to monitor the implementation of these measures since then (IACHR, 2015_[108]) (OAS, 2019_[106]). Notwithstanding, the conflicts have escalated over recent years and several indigenous leaders that had denounced threats have been attacked and even killed (United Nations, 2020_[109]; IWGIA, 2020_[110]). After his visit to Costa Rica in December 2021, the Special Rapporteur expressed his concern over the situation and the lack of implementation of the Indigenous Law (UNOHCHR, 2021_[111]).

Another major concern in relation to indigenous peoples' rights is the respect of their right to FPIC through adequate consultation processes. Although Costa Rica became a party to ILO Convention No. 169 in 1993, during several decades no legislation, policy, or guidance was adopted to provide guidance on how to conduct consultation with indigenous peoples to guarantee their FPIC. As a result, there was a lack of knowledge among Government entities and businesses about the right of indigenous peoples to FPIC with respect to projects that could affect their territories and the need to carry out proper consultation in this regard. The case of the El Diquís hydroelectric infrastructure project is illustrative of this situation (see Box 3.1).

Box 3.1. Lack of consultation in the El Diquís hydroelectric project

The El Diquís project was a mega hydropower project that the Costa Rican Electricity Institute (*Instituto Costarricense de Electricidad*, Grupo ICE), a State-owned enterprise, intended to develop in the Puntarenas province of Costa Rica to significantly increase electricity production in the country. It implied building a hydroelectric dam and plant on the Rio Grande de Térraba, on an area in which several indigenous territories recognised by the State are located.

Due to its potential adverse impacts on the rights of indigenous peoples and the environment, the project gave rise to various complaints before the Costa Rican courts, as well as at the international level, including before the Inter-American Commission on Human Rights. One of these complaints was filed on behalf of the Teribe people before the Constitutional Chamber of the Supreme Court of Justice in 2008. The Teribe people claimed, among other things, that the project had been initiated without prior consultation and without their effective participation and that it would have significant adverse impacts on their rights, as it would prevent them from using and enjoying their lands, would affect several sacred sites, and would imply the displacement of part of its members. In its decision rendered in September 2011, the Supreme Court held that Costa Rica had violated the Teribe people's rights by not consulting them and ordered Grupo ICE to launch and complete a consultation process within six months of the publication of its decision.

A few months before that, the United Nations Special Rapporteur on the rights of indigenous peoples, in his report on the situation of the indigenous peoples affected by the El Diquís hydroelectric project, had condemned the fact that the project had been launched without a prior consultation process. He recommended that consultation with the indigenous peoples that may have been affected by the project be undertaken with a view to obtaining their free, prior and informed consent before the project is approved and construction works begin. In addition, he laid down specific guidelines on how the consultation process should be carried out to fully respect the rights of the indigenous peoples at stake.

However, following the decision of the Supreme Court of Justice and the issuance of the report by the Special Rapporteur, the El Diquís project remained stalled for several years and, in 2018, Grupo ICE finally announced that it was suspended indefinitely.

In his 2022 report on his visit to Costa Rica, the Special Rapporteur indicates in relation to this project that “the cancellation of the Costa Rican Electrical Institute’s El Diquís hydroelectric project, for administrative reasons, represented a first step by State-owned enterprises towards showing leadership as regards respect for indigenous peoples’ human rights.”¹ He, however, noted that “further progress needs to be made in implementing the Guiding Principles on Business and Human Rights [...] to ensure that the State protects human rights and that companies, including State-owned companies, respect those rights, along with human rights due diligence processes and the right of access to effective redress mechanisms for human rights abuses relating to business activity”.²

Notes:

1. UN Human Rights Council, Report of the Special Rapporteur on the Rights of Indigenous Peoples on his visit to Costa Rica, para. 18, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/406/15/PDF/G2240615.pdf?OpenElement>.

2. *Ibid.*

Sources: (IACHR, 2020^[112]; UN Human Rights Council, 2022^[83]; UN Human Rights Council, 2011^[113]; La Nación Costa Rica, 2018^[114]).

To address the lack of a framework on consultation and FPIC, in 2018, Costa Rica established a General Mechanism for Consultation with Indigenous Peoples (*Mecanismo General de Consulta a Pueblos Indígenas*, MGCP), in consultation with most indigenous peoples present in the country (Government of Costa Rica, 2018^[115]). This Mechanism reaffirms the State's obligation to carry out consultation whenever a measure or project is likely to affect indigenous peoples' collective rights and aims to provide guidance

in this regard for consultation processes related to projects and initiatives presented by the Executive power or the private sector (Government of Costa Rica, 2018^[115]). To make the MGCPI operational, the Government created a Technical Unit for Indigenous Consultation (*Unidad Técnica de Consulta Indígena*, UTCI) within the MJP in charge of handling the technical and financial aspects of the consultations processes. As of March 2021, the UTCI had coordinated the establishment of eight Territorial Instances for Indigenous Consultation (*Instancias Territoriales de Consulta Indígena*, ITCI). The ITCIs are collegiate entities aimed to act as interlocutors and establish dialogue between indigenous peoples and the Government in each of the 24 indigenous territories. The ITCIs' main function is to obtain the FPIC from indigenous peoples when projects are likely to have an impact on their collective rights (Government of Costa Rica, 2021^[116]).

The MGCPI and the creation of the UTCI are welcome developments. They were first used for the consultation process on the draft policy for indigenous peoples under elaboration at the time of writing (*Política Nacional de los Pueblos Indígenas*) (EIPais.cr, 2021^[117]; Government of Costa Rica, 2020^[118]). However, the MGCPI's scope is reduced: it does not apply to consultations led by the legislative or judiciary powers, which still have to define their own consultation processes, even if, in certain instances, they have used some elements of the MGCPI (Defensoría de los Habitantes, 2022, p. 137^[105]). In addition, CSOs have reported that the technical and financial resources allocated to the UTCI are insufficient (IWGIA, 2021^[119]). In the same line, in his 2022 report, the Special Rapporteur highlighted the need to grant additional resources to the UTCI so that it can benefit from additional and better trained staff and enhance his capacity to manage all consultation requests (UN Human Rights Council, 2022^[83]).

Costa Rica should continue adopting and enhancing policies and initiatives to protect indigenous peoples' rights from adverse impacts linked to business activities, such as the General Mechanism for Consultation with Indigenous Peoples. In particular, Costa Rica should seek to ensure clarity for indigenous peoples and businesses on how consultation processes should be carried out and to guarantee the respect of the right to FPIC in the context of business activities.

Human rights and environmental defenders

International organisations and CSOs have reported that another salient human rights issue linked to business operations in Costa Rica is the threats, intimidations, violence, and murders of which human rights and environmental defenders have been the victims of in recent years, as the country has not adopted a specific mechanism or policy to protect them (United Nations, 2020^[109]; World Justice Project, 2020^[93]; UNOHCHR, 2020^[120]).

Since 2012, CSOs have documented attacks against human rights and environmental defenders in the country (Forest Peoples Programme, 2013^[121]). In 2015, as mentioned above, the IACHR acknowledged the dangerous situation in which indigenous leaders found themselves and requested Costa Rica to adopt precautionary measures to protect the Teribe (Bröran) and Bribri indigenous peoples, which included discussing these measures with the affected communities and monitoring and reporting on their effectiveness (IACHR, 2015^[108]). Even though measures were taken by the Government, an indigenous leader was murdered in 2019 and, following a country visit in 2019, the IACHR urged Costa Rica to implement these measures in order to address the risks faced by the Teribe and Bribri peoples and protect their rights (OAS, 2019^[106]). This same year, several recommendations included in the report of the United Nations Working Group on the third cycle of Costa Rica's UPR recommended that Costa Rica adopt and implement effective measures to ensure the protection of human rights and environmental defenders, including indigenous defenders, and to prevent, investigate and punish threats, intimidation, and violence against them (UN Human Rights Council, 2019^[82]).⁵³ The UPR report also recommended that Costa Rica develop policies to create a safe and respectful environment for human rights defenders' work (UN Human Rights Council, 2019^[82]).⁵⁴ Despite this, in 2020, another indigenous human rights defender was killed and an indigenous leader, who defends the rights to freedom, autonomy and land, received death threats

(Friends of the Earth International, 2020_[122]; Business & Human Rights Resource Centre, 2020_[123]). This led the United Nations Special Rapporteur on the Situation of Human Rights Defenders to express concern regarding the situation of indigenous human rights defenders in Costa Rica, explaining that impunity and lack of accountability were hindering the measures taken by the Government to effectively protect indigenous peoples (UNOHCHR, 2020_[120]). In his 2022 report, the United Nations Special Rapporteur on the Rights of Indigenous Peoples raised similar concerns and formulated several recommendations in relation to the protection of indigenous human rights defenders, including that Costa Rica ratifies the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) (UN Human Rights Council, 2022_[83]).⁵⁵

Costa Rica played a leading role in the elaboration of this Agreement, yet at the time of writing, its ratification remained pending ((n.a.), 2018_[124]). The Agreement was adopted in the country in March 2018 and bears the name of the place in which it was adopted in Escazú, San José. Costa Rica was also among the first group of countries to sign the Agreement in October 2018 (United Nations, n.d._[38]; (n.a.), 2018_[124]). Notwithstanding, the process of ratification of the Agreement by Costa Rica, launched in February 2019, has been delayed on several occasions, among other things, due to opposition from the private sector (UCCAEP, n.d._[125]; CNAA, 2021_[126]; CNB et al., 2022_[127]). These delays prompted several United Nations Working Groups, including the UNWGBHR, and various Special Rapporteurs on human rights issues to jointly urge Costa Rica to proceed to the ratification of the Agreement as a priority matter (United Nations, 2019_[128]).

The Escazú Agreement seeks to protect human rights defenders in environmental matters. It is the first international treaty that includes *inter alia* binding provisions on the topic ((n.a.), 2018_[124]). It is based on the three pillars of protection of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, which is explicitly recognised and referenced in the OECD MNE Guidelines. As such, it provides a basis to raise companies' awareness of the necessity of protecting human rights and environmental defenders and involving them in due diligence processes to prevent, identify, and address adverse impacts related to business activities.

To further enhance the protection of human rights and environmental defenders who report on instances of business-related adverse impacts, Costa Rica could consider the possibility of taking steps towards the ratification of the Escazú Agreement. In addition, Costa Rica should ensure that human rights and environmental defenders who have suffered from adverse impacts on their rights related to business activities have access to remedy.

Policy recommendations

1. **Take measures to implement the PNRS and evaluate the need to update it to integrate an RBC approach aligned with recent international and national developments.**
2. **On the basis of the evaluation of the PNRS, consider developing a National Action Plan on RBC or Business and Human Rights with the support of the NCP through a transparent multi-stakeholder consultative process ensuring the balanced participation of all relevant government entities as well as CSOs, trade unions, indigenous peoples, and businesses.**
3. **Enhance the availability of judicial remedy mechanisms for business-related human rights violations and, in particular, improve access to such remedies for vulnerable groups.**
4. **Reinforce the role of the NCP as a non-judicial grievance mechanism for business-related human rights impacts, notably by increasing awareness and knowledge of its existence**

and mandate across government, stakeholders and the general public, and by promoting cooperation between the NCP and the DHR.

5. **Continue adopting and enhancing policies and initiatives to protect indigenous peoples' rights from business-related adverse impacts, in particular with a view to ensuring clarity for indigenous peoples and businesses on how consultation processes should be carried out and to guarantee the respect of the right to FPIC in the context of business-related activities.**
6. **Consider the possibility of taking steps towards the ratification of the Escazú Agreement to further enhance the protection of human rights and environmental defenders who report on instances of business-related adverse impacts.**
7. **Ensure that human rights and environmental defenders who have suffered from adverse impacts on their rights related to business activities have access to remedy.**

3.2. Labour Rights

The OECD MNE Guidelines aim to promote the observance by enterprises of the international labour standards developed by the ILO, notably the fundamental principles and rights at work, as recognised in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (ILO 1998 Declaration). Chapter V on “Employment and Industrial Relations” of the OECD MNE Guidelines notably relates to the provision of adequate information to workers on company operations, ensuring consultation and cooperation between employers and workers, as well as providing the best possible conditions of work, including adequate wages and occupational safety and health at work. Businesses are also expected to conduct due diligence on their operations and throughout their supply chains to identify, prevent and mitigate actual or potential adverse impacts on labour rights.

3.2.1. Legal and institutional framework

Legal framework

Costa Rica is a party to several international instruments on labour rights. It has ratified eight out of the ten ILO Fundamental Conventions, as well as the four ILO Governance Conventions and 40 out of the 176 ILO Technical Conventions (see Box 3.2).

Box 3.2. ILO Fundamental and Governance Conventions ratified by Costa Rica

ILO Fundamental Conventions¹

- Forced Labour Convention, 1930 (No. 29)
- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Equal Remuneration Convention, 1951 (No. 100)
- Abolition of Forced Labour Convention, 1957 (No. 105)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Minimum Age Convention, 1973 (No. 138)

- Worst Forms of Child Labour Convention, 1999 (No. 182)

ILO Governance Conventions

- Labour Inspection Convention, 1947 (No. 81)
- Employment Policy Convention, 1964 (No. 122)
- Labour Inspection (Agriculture) Convention, 1969 (No. 129)
- Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)

Note:

1. The ILO Fundamental Conventions not ratified by Costa Rica are the Occupational Safety and Health Convention, 1981 (No. 155) and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).

Sources: (ILO, n.d.^[129]; ILO, n.d.^[39]).

At the national level, Title V of the Constitution recognises several labour rights. Citizens can freely choose an employment,⁵⁶ have the right to earn a minimum wage,⁵⁷ and to work a standard working time with set maximum hours.⁵⁸ The Constitution also guarantees the right to non-discrimination in the workplace⁵⁹ and to occupational safety and health,⁶⁰ and it provides special protection for women and children in the workplace.⁶¹ Workers enjoy constitutionally guaranteed freedom of association and collective bargaining rights, as well as the right to strike.⁶² In addition, the Constitution provides for social security⁶³ and establishes the jurisdiction of labour courts for labour related matters.⁶⁴

Beyond the Constitution, Costa Rica's legal and regulatory framework on labour rights and employment relations consists of the Labour Code (*Código de Trabajo*), which was recently revised by the Labour Procedure Reform (*Reforma Procesal Laboral*, RPL),⁶⁵ as well as of a law prohibiting discrimination at work⁶⁶ and a number of laws protecting vulnerable groups (Government of Costa Rica, 2021^[130]).⁶⁷ In the context of the COVID-19 crisis, a special labour law has also been enacted to regulate teleworking (*Ley para regular el Teletrabajo*) (Government of Costa Rica, 2019^[131]).

The RPL came into force in July 2017 and triggered the most important modification made to the Costa Rican Labour Code since its enactment in 1943. The main purpose of the reform was to modernise the labour legislation in the country, so that workers could enjoy enhanced legal security and access to prompt justice in labour matters (Government of Costa Rica, n.d.^[132]). The RPL introduced new procedural and substantive rights and obligations for workers and employers (American Bar Association, 2019^[133]). The most important changes of relevance to RBC are as follows:

- *Enhanced protection against discrimination.* The RPL increases the protection against all forms of discrimination in the workplace.⁶⁸ Additionally, pursuant to the RPL, employees who perform work in the same conditions must enjoy the same rights regarding working hours and payment.⁶⁹
- *Extension of the right to strike in private companies.* The RPL reforms the right to strike in private companies, allowing unions and organised group of workers to use this right for social and economic reasons but also in relation to the interpretation of a law or regulation.⁷⁰
- *Creation of special proceedings for vulnerable workers.* The RPL provides special protection to vulnerable workers (pregnant women, minors, union leaders or workers who have suffered sexual harassment or discrimination)⁷¹ by creating expedited proceedings before labour courts and offering them free legal counselling.⁷²
- *Reorganisation of labour courts to ensure effective and expeditious labour proceedings.* The RPL reorganises the court system for individual and collective labour and social security matters as follows: (i) labour courts; (ii) courts of conciliation and arbitration; (iii) courts of appeal; and (iv) Supreme Court.⁷³ In addition, the RPL aims to streamline and accelerate labour proceedings by shortening deadlines and introducing orality.⁷⁴

- *Promotion of alternative dispute resolution mechanisms.* The RPL recognises that conciliation and arbitration can be used to solve labour disputes.⁷⁵ The parties can agree to conduct their arbitration through the Ministry of Labour or a duly authorised Arbitration Centre.⁷⁶

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) welcomed the RPL, signalling notably the positive effects of the reduction in length of labour proceedings, the reorganisation and specialisation of labour courts, and the provision of legal assistance free of charge (ILO, 2017^[134]). However, the CEACR also highlighted remaining challenges, such as the need to allow unions to freely elect their representatives or to establish a specific and short procedure for the registration of trade unions (ILO, 2021^[135]).

Institutional framework

The MTSS is the government entity in charge of designing, promoting, and implementing labour and social security policies in Costa Rica (Government of Costa Rica, 2022^[136]). Its overarching mission is to advance decent work, inclusion, and social justice, through collaboration with trade unions and businesses.⁷⁷ The MTSS has two thematic vice ministries: the Labour Vice-Ministry and the Social Vice-Ministry (Government of Costa Rica, 2022^[136]). Within the Labour Vice-Ministry, two directorates are in charge of guaranteeing labour rights: the Labour Affairs Directorate (*Dirección de Asuntos Laborales*, DAL) and the National Labour Inspection Directorate (*Dirección Nacional de Inspección*, DNI) (Government of Costa Rica, 2022^[136]).

The DAL is tasked with implementing laws and regulations regarding labour relations between employers and workers (Government of Costa Rica, 2022^[136]). As part of its portfolio, the DAL provides advice to employers and workers on their rights and obligations. Between May 2019 and April 2020, the DAL carried out 280,844 free consultations with employers and workers regarding their rights and obligations (Government of Costa Rica, 2021^[137]). The DAL is also in charge of facilitating the resolution of collective bargaining disputes, providing accompaniment during strikes, homologating collective labour agreements, and leading conciliation proceedings.⁷⁸ In 2019, the DAL accompanied four strikes, two of which were in the agriculture sector, one in the retail industry, and one in the public sector. In addition, the MTSS reported that, in 2020, it scheduled conciliation hearings in 16,027 disputes between individual workers and their employers, leading to an agreement in 4,950 cases (Government of Costa Rica, 2021^[138]).

The DNI is responsible for ensuring decent work for all workers in Costa Rica on the basis of international and national standards.⁷⁹ The DNI has 174 employees, including 110 inspectors across the country. These inspectors carry out inspections regarding the following labour aspects: (i) compliance with collective agreements or awards; (ii) working conditions of pregnant women; (iii) working conditions of adolescents; (iv) workplace or sexual harassment; (v) labour discrimination; and (vi) overall compliance with labour rights (Government of Costa Rica, 2013^[139]). Between March 2019 and February 2020, the DNI inspected 18% of the workplaces in Costa Rica through 13,385 visits (Government of Costa Rica, 2021^[137]). During these inspections, the DNI noticed a high number of infractions, in particular in the agriculture and construction sectors, but also a high rate of measures taken by companies to respond to these infractions, as 70% of the employers took measures once required to do so by the DNI (Government of Costa Rica, 2021^[137]).⁸⁰ In 2020, the number of inspections carried out by the DNI dropped significantly due to the COVID-19 pandemic (Government of Costa Rica, 2021^[137]). In addition to the travel restrictions and the social distancing measures that made site visits difficult, the COVID-19 crisis also reoriented the activities of the DNI. In order to address the consequences of the crisis and introduce flexibility in the labour market, the Government approved two special procedures allowing companies to reduce the working hours of their employees and suspend temporarily working contracts, and the DNI was made responsible for overseeing these procedures (Government of Costa Rica, 2021^[137]) (Government of Costa Rica, 2022^[140]). As a result, the DNI's resources were diverted from executing *in situ* inspections for monitoring business compliance with labour laws to handling these specific procedures. Beyond these challenges linked to the COVID-19

pandemic, the DNI also faces operating challenges due to major budget cuts. This budget reduction has an impact on the human and economic resources available to the DNI, which, in turn, affects its capacity to carry out inspections (Government of Costa Rica, 2021^[137]).

The MTSS collaborates with trade unions and businesses on labour matters through the Superior Labour Council (*Consejo Superior del Trabajo*, CST). The CST is a tripartite institution comprised of three government representatives (the Presidency, the MTSS and the MEIC), three representatives of employers' organisations, and three representatives of workers' organisations (Government of Costa Rica, 2021^[137]). Its objective is to contribute to the development of the country, while consolidating a democratic system of labour relations based on decent work and permanent social dialogue.⁸¹ In this logic, the CST recently approved an initiative supported by the ILO to promote decent work in Costa Rica in partnership with the private sector, which is implemented by the DNI (see Box 3.3).

Box 3.3. Costa Rica's Decent Work Programme 2019-2023

The members of the Superior Labour Council (*Consejo Superior del Trabajo*, CST), representing the Government, employers' organisations, and workers' organisations, recently reached an agreement on Costa Rica's Decent Work Programme (DWP) for 2019-2023. This programme, which was launched in January 2019, sets the framework for the technical assistance provided by the International Labour Organization (ILO) to Costa Rica for advancing Sustainable Development Goal (SDG) 8 on decent work and economic growth.

The DWP establishes four priorities to improve working conditions in Costa Rica:

- i. *Protecting and respecting international labour standards, as well as labour laws and regulations.* The DWP's objective is to promote compliance with, and the adequate implementation of, international labour standards, as well as national labour legislation and regulation. It seeks to advance fair labour practices, decent work, formalisation, and professional training. It also aims at eliminating barriers that prevent the integration of certain vulnerable groups into the labour market.
- ii. *Increasing employment opportunities.* The DWP seeks to offer better opportunities to social groups who are systematically affected by unemployment due to their vulnerable condition and to improve working conditions in informal companies or for informal workers.
- iii. *Expanding and strengthening workers' social protection.* The DWP aims to promote the adoption of strategies that guarantee access to social security and that strengthen security in the work environment and prevent work-related diseases and injuries.
- iv. *Enhancing tripartite dialogue to advance programmes that support labour and social development.* The DWP seeks to generate synergies between employers' and workers' organisations for the formulation and implementation of policies, programmes, and strategies that support labour and social development.

Since its launch, the National Labour Inspection Directorate (*Dirección Nacional de Inspección*, DNI) has been in charge of implementing the DWP. For this purpose, it took several measures aimed at *inter alia*: ensuring fair remuneration and access to insurance, eradicating child labour, and protecting the labour rights of women, migrants, and people with disabilities.

However, a 2020 report financed by the Costa Rican Union of Chambers and Associations of the Private Business Sector (*Unión Costarricense de Cámaras y Asociaciones del Sector Empresarial Privado*, UCCAEP) revealed that, although several companies recognise the importance of decent work, only a few have adopted specific action plans within their business strategy to advance SDG 8.

Sources: (ILO, 2019^[141]; Government of Costa Rica, 2021^[137]; Viquez et al., 2020^[142]).

Costa Rica should ensure that the DNI has sufficient resources and capacity to monitor businesses' compliance with labour laws and regulations, particularly in sectors where infractions numbers are high, in order to prevent and mitigate adverse impacts on labour rights, as well as to promote decent work among businesses through awareness-raising and training activities, including on risk-based due diligence. The NCP should provide support in this regard, while also raising its profile as a non-judicial grievance mechanism for labour rights issues.

3.2.2. Specific business-related labour rights impacts in Costa Rica

Women

Costa Rica is a party to the main international instruments on gender equality. Notably, it ratified the United Nations Convention on the Elimination of all forms of Discrimination against Women in 1986 and its optional protocol in 2001 (United Nations, n.d.^[143]; United Nations, n.d.^[144]). As mentioned above, it is also a party to the Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) of the ILO (see Section 3.2.1). At the national level, the Law for the Promotion of the Woman's Social Equality (*Ley de promoción de la igualdad social de la mujer*) and the Law for the Protection of Wage Equality Between Men and Women (*Ley para la protección de la igualdad salarial entre hombres y mujeres*) seek to promote gender equality and provide that women shall have the right to earn the same wages as men for similar work (Government of Costa Rica, 1990^[145]; Government of Costa Rica, 2019^[146]). The right to wage equality is also recognised in the Constitution and in the Labour Code (Government of Costa Rica, 1943^[147]; Government of Costa Rica, 1949^[80]).⁸²

In addition, the 2017 RPL aimed, among other goals, at reducing gender gaps. It prompted the adoption of a series of policies and initiatives seeking to increase the participation of women and promote gender equality. Among these policies and initiatives, stand out the National Policy for Effective Equality between Women and Men for 2018-2030 (*Política Nacional Para la Igualdad Efectiva entre Mujeres y Hombres 2018-2030*, PIEG) and its action plan, as well as the Gender Parity Initiative (*Iniciativa de Paridad de Género Costa Rica*), launched in 2020 in partnership with the World Economic Forum (WEF), the Inter-American Development Bank (IDB) and the French Development Agency (Araya, n.d.^[148]; Gender Parity Initiative for Costa Rica, n.d.^[149]; Government of Costa Rica, 2022^[150]).

The National Institute of Women (*Instituto Nacional de las Mujeres*, INAMU) is the government entity responsible for developing, coordinating, and implementing policies aimed at protecting women's rights, including in the context of business activities (Government of Costa Rica, 2022^[151]). To fulfil its mandate, the INAMU implements different programmes aimed to mainstream gender equality into corporate policies and practices. For example, the INAMU collaborated with the private sector and UNDP in 2020 to develop the Gender Equality Seal (*Sello de Igualdad de Género*), which it then integrated as part of the PIEG (Government of Costa Rica, 2022^[150]; Government of Costa Rica/UNDP, 2022^[152]). The Seal is meant to be granted to companies that incorporate a Management System for Gender Equality in the Workplace (*Sistema de Gestión para la Igualdad de Género en el Ámbito Laboral*, SIGIG). It aims to encourage businesses to take action to reduce gender gaps in terms of access to, and permanence in, the labour market (Gender Parity Initiative for Costa Rica, n.d.^[153]). For that purpose, the INAMU provides technical assistance to companies through didactic tools available online, as well as through annual training (Government of Costa Rica/UNDP, 2022^[152]). However, at the time of writing, only a few companies in Costa Rica were participating in the "Gender Equality Seal" programme, mainly because the process for obtaining the Seal is lengthy and complex, as it requires a profound change in the organisational culture and management models of companies, and no incentives are granted to companies for obtaining it (Defensoría de los Habitantes, 2020^[154]). The Recognitions of Good Labour Practices for Gender Equality (*Reconocimientos a Buenas Prácticas Laborales para la Igualdad de Género*) is another programme developed by the INAMU with a view to advancing gender equality (Government of Costa Rica, 2022^[155]). These recognitions are granted annually to companies that have put in place specific good labour practices

to promote gender equality. Nevertheless, according to information provided by the Government during the preparation of the Review, only 79 companies have been granted one of these distinctions to date. Reports from the Gender Parity Initiative for Costa Rica acknowledge in this regard that the implementation of gender equality measures in the private sector is, for the time being, still nascent and mainly limited to the participation of a few companies in the two above-mentioned programmes (Gender Parity Initiative for Costa Rica, n.d., p. 28_[153]; Gender Parity Initiative for Costa Rica, n.d., p. 11_[156]).

This state of affairs, along with other factors, may explain why Costa Rica still faces several challenges to effectively guarantee gender equality in the labour context. The labour market in Costa Rica is characterised by a low participation rate of women (OECD, 2020, p. 53_[17]). In the 2022 edition of the WEF's Global Gender Gap Index, Costa Rica ranked 106th out of 146 countries, with a score of 0.668, for labour-force participation rate (WEF, 2022, p. 142_[54]). Costa Rican women are also prone to higher unemployment than men. According to data from the Government, in 2018, the unemployment rate for men was of 7.4% whereas that of women reached 9.7% (Gender Parity Initiative for Costa Rica, n.d., p. 9_[153]). Moreover, female workers in Costa Rica tend to work in sectors with lower productivity and more subject to risks of economic vulnerability. According to ILO data, 87% of women who work in Costa Rica do so in the services sector, compared to 59% of men. This entails, among other things, that women have been more impacted by the consequences of the COVID-19 pandemic, as the services sector has been one of the sectors most affected by the crisis and also because they have less access to social protection services (ILO, n.d._[157]). In addition, women generally earn less than men in Costa Rica. In 2022, Costa Rica ranked 85th out of 146 countries (with a score of 0.622) for wage equality for similar work in the Global Gender Gap Index (WEF, 2022, p. 142_[54]). It has been estimated in this respect that, on average, in 2018, women received a salary 11% lower than men (Gender Parity Initiative for Costa Rica, n.d., p. 11_[153]).

Costa Rica should continue taking measures to address the challenges faced by women in the labour market and advance gender equality in the workplace. In particular, Costa Rica should further raise awareness about and promote existing initiatives with the private sector, such as the Gender Equality Seal. For this purpose, Costa Rica should ensure that relevant government entities, like the INAMU, have sufficient human and financial resources to support business' participation in these initiatives, including through the granting of incentives.

Migrant workers

In recent years, Costa Rica's political stability and economic development has attracted numerous migrants from neighbouring countries (OECD, 2020, pp. 82-83_[158]; OECD, 2018, p. 42_[159]). Although the migrant population in Costa Rica is diverse, an important share of migrants are low-skilled workers coming from Nicaragua and other Latin-American countries in search for work opportunities in the agriculture, construction, and services sectors, which often face risks of adverse impacts on their labour rights (Government of Costa Rica, 2017, pp. 19-27_[160]; OECD, 2018, pp. 28, 43-47, 71-72_[159]).

Costa Rica has not signed some of the international instruments pertaining to the protection of migrant workers' labour rights (OECD, 2018, p. 56_[159]). This is notably the case of the ILO Convention Concerning Migration for Employment, 1949 (No. 97) and of the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ILO, n.d._[161]; United Nations, n.d._[162]). In fact, several recommendations included in the 2019 report of the United Nations Working Group on the third cycle of Costa Rica's UPR recommended that Costa Rica ratify the latter (UN Human Rights Council, 2019_[82]).⁸³ At the national level, Costa Rica's legal framework contains elements aimed at protecting migrant workers' labour rights. For instance, the General Migration and Immigration Law (*Ley General de Migración y Extranjería*) provides that, when giving work to a foreigner with regular immigration status, employers must comply with all the obligations foreseen in the Law, as well as in the labour legal framework (Government of Costa Rica, 2009_[163]).⁸⁴ Migrant workers therefore, in principle, have the same rights than Costa Rican citizens in terms of working conditions and labour protection (OECD, 2018,

p. 56^[159]). Costa Rica has developed specific initiatives to enhance such protection. One of the axis of the National Integration Plan for 2018-2022 (*Plan Nacional de Integración de Costa Rica*) aims to promote the integration in the labour market of migrant workers under equal conditions than Costa Rican citizens with a view to guarantee the respect of their labour rights (Government of Costa Rica, 2017, pp. 88-90^[160]). Likewise, among the principles that govern the Comprehensive Migration Policy for 2013-2023 (*Política Migratoria Integral para Costa Rica*) features the principle of respect of migrant workers' labour rights, which is also one of the objectives of the Policy, together with the promotion of better working conditions (Government of Costa Rica, 2013, pp. 51-52, 58^[164]). To implement this objective, the Policy foresees various strategies aimed *inter alia* at promoting CSR practices focused on the integration of migrant workers, the prevention of labour risks in business activities involving migrant workers, as well as alliances with the private sector to advance the labour integration of refugees in the framework of businesses' CSR programmes (Government of Costa Rica, 2013, p. 58^[164]).

Notwithstanding this, migrant workers in Costa Rica still tend to face risks of adverse impacts on their labour rights. According to the National Integration Plan, they often suffer from wage discrimination due to their migrant status and are offered lower wages than Costa Rican nationals, including wages lower than the legal minimum wage for those of them that do not have a legal residence status in Costa Rica (Government of Costa Rica, 2017, p. 28^[160]; OECD, 2018, p. 70^[159]). In most cases, they do not have a work insurance and do not benefit from the social security system (Government of Costa Rica, 2017, p. 28^[160]; OECD, 2018, p. 72^[159]). In addition, they generally have difficult working conditions that do not comply with Costa Rica's labour legal framework (Government of Costa Rica, 2017, p. 28^[160]). This situation is compounded in the case of indigenous peoples who migrate to Costa Rica on a temporary basis to work in agricultural production, and in particular, harvest coffee (Government of Costa Rica, 2017, p. 59^[160]; OECD, 2018, p. 47^[159]). The United Nations Special Rapporteur on the Rights of Indigenous Peoples, in his 2022 report following his visit to Costa Rica, noted in this regard that "undocumented indigenous migrants [...] suffer even more from unemployment and insufficient pay and protection for their rights" (UN Human Rights Council, 2022, p. 14^[83]).

Building on the objective and strategies contained in the Comprehensive Migration Policy to protect migrant workers' labour rights, Costa Rica should promote the adoption of responsible business practices aligned with the OECD RBC instruments by companies operating with migrant workforce, or with migrant workforce in their supply chains, notably in the agriculture and construction sectors. In particular, Costa Rica should encourage such companies to carry out risk-based due diligence to identify, prevent, and mitigate real and potential adverse impacts on the labour rights of migrant workers.

Policy recommendations

8. **Ensure that the DNI has sufficient resources and capacity to monitor compliance with labour laws and regulations, as well as to promote decent work among businesses through awareness-raising and training activities, including on risk-based due diligence, with support from the NCP, which should raise its profile as a non-judicial grievance mechanism for labour rights issues.**
9. **Continue taking measures to address the challenges faced by women in the labour market and advance gender equality in the workplace, by further promoting existing initiatives with the private sector, and ensuring that relevant government entities have sufficient human and financial resources to support business' participation in these initiatives, including through the granting of incentives.**
10. **Promote the adoption of responsible business practices aligned with the OECD RBC instruments by companies operating with migrant workforce, or with migrant workforce**

in their supply chains, notably in the agriculture and construction sectors, encouraging them to carry out risk-based due diligence to identify, prevent and mitigate real and potential adverse impacts on the labour rights of migrant workers.

3.3. Environment

Chapter VI of the OECD MNE Guidelines on the “Environment” calls on enterprises to take action to protect the environment, public health, and safety, and generally to conduct activities in a manner contributing to the wider goal of sustainable development. This entails sound environmental management to control both direct and indirect environmental impacts (including impacts on public health and safety); establishing and maintaining appropriate environmental management systems; and improving environmental performance. It also entails proactive action to avoid environmental damage; working to improve the level of environmental performance in all parts of companies’ operations, even where this may not be formally required; setting measurable objectives; environmental training and education of employees; and disclosure and awareness-raising with stakeholders. Other parts of the OECD MNE Guidelines (e.g. the chapters on disclosure and on consumer interests) are also relevant to environmental impacts, including greenhouse gas (GHG) emissions. For example, the OECD MNE Guidelines refer to expectations to set targets consistent with international commitments; disclosure of social and environmental risks; reporting with a particular focus on GHG emissions; providing access to information; and informing consumers of the environmental and social impact of their decisions.

3.3.1. Business and the environment in Costa Rica: background

Costa Rica is one of the world’s 20 megadiverse countries with abundant natural resources, including over 120,000 living species in nine different ecosystems that represent 6.5% of global diversity (Government of Costa Rica, 2016^[165]; Government of Costa Rica, 2019, p. 2^[166]). In 2019, the annual economic value of Costa Rica’s natural capital was estimated at United States Dollar (USD) 14,500 million or 23% of the country’s GDP (BIOFIN, n.d.^[167]). The three ecosystems that contribute to the highest value of natural capital are forests, mangroves, and coral reefs (UNDP, 2021^[168]). Costa Rica has successfully restored its forest cover from 56% in 2000 to 59.4% in 2020 through a combination of protected areas, ecosystem services programmes, and ecotourism (World Bank, n.d.^[169]). This achievement is considered a notable example of how to reverse deforestation while advancing productive and sustainable activities (IDB, 2020^[170]).

Costa Rica’s environmental performance has been analysed by the OECD in the context of the OECD Environment at a Glance Indicators (OECD, 2022^[171]). In terms of biological resources and biodiversity, Costa Rica is one of the most forest-rich countries, holding the 6th position in 2020 for forest area (OECD, 2022^[172]; OECD, 2022^[173]). In addition, in 2021, the country held the 12th position for terrestrial protected areas (OECD, 2022^[174]). Nevertheless, Costa Rica faces some challenges with respect to air quality, as the emission of major air pollutants substantially increased in the country between 2000 and 2017 (Yale Center for Environmental Law & Policy, 2020^[175]; OECD, 2022^[176]).⁸⁵ The accelerated increase of emissions resulting from the combustion of diesel used for freight road transport of products negatively impacts air quality in Costa Rica, with high population exposure to fine particulates (Government of Costa Rica, 2018^[49]; OECD, 2022^[177]). With respect to climate change, Costa Rica also shows a growing trend in GHG emissions derived from the transport, heavy industries, agriculture, and waste management sectors (IDB, 2020^[170]; OECD, 2022^[178]). However, compared to other OECD members in the LAC region, Costa Rica has successfully mitigated GHG emissions from energy generation and land-use change thanks to its extensive use of renewable sources for electricity generation and the actions taken to restore high levels of forest cover (IEA, 2022^[179]). Costa Rica has thus made progress in preventing and mitigating

environmental impacts in some sectors, but still faces challenges to address the direct and indirect adverse impacts of business activities on the environment in others.

3.3.2. Legal, institutional and policy framework

Legal framework

Costa Rica has developed an important set of environmental legislation, after having carried out a number of reforms in the field over the last 30 years (World Bank, 2015^[180]). Overall, the country's legal framework for environmental protection is vast.

As of June 2021, Costa Rica has signed and ratified over 51 international instruments related to environmental protection,⁸⁶ including the Rotterdam Convention on the Prior Informed Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, the Stockholm Convention on Persistent Organic Pollutants, the Kyoto Protocol, the United Nations Framework Convention on Climate Change, and the Paris Agreement (Government of Costa Rica, n.d.^[181]). To implement its commitments under these international instruments, Costa Rica has taken different types of action, for instance developing ambitious programmes to encourage reforestation and strengthening its national system of protected areas (FAO, 2015^[182]).

Beyond international environmental agreements, Costa Rica's legal framework for environmental protection is rooted in the Constitution. Article 50 of the Constitution establishes the right to a healthy and ecologically balanced environment.⁸⁷ On the basis of this provision, the Constitutional Chamber of the Supreme Court has developed a rich corpus of decisions on environmental matters. This corpus lays down several key environmental principles, such as the principle of the rational use of natural resources or the principles of prevention and precaution, and defines the scope of the right to a healthy and ecologically balanced environment, for instance by including the obligation to carry out Environmental Impact Assessments (*Evaluación del Impacto Ambiental*, EIA) as part of this right (Fernández, J., et al., 2016, pp. 39-62^[183]). In addition, as a result of a specific reform on this point, since 2020, the Constitution also explicitly recognises the right to safe drinking water as a basic and inalienable human right (Government of Costa Rica, 2020^[184]; Government of Costa Rica, 1949^[80]).⁸⁸

Costa Rica's overarching environmental law is the Organic Law of the Environment (*Ley Orgánica del Ambiente*). It aims at achieving a healthy and ecologically balanced environment⁸⁹ and includes, among its principles, the promotion by the State of an environmentally sustainable economic development.⁹⁰ One of the objectives of this Law is to prevent and minimise adverse environmental impacts and to regulate, among others, private activities pertaining to the environment.⁹¹ In this respect, it contains a chapter dedicated to environmental impacts that requires companies with activities, works or projects that may pose environmental risks to carry out *ex ante* EIAs (see Box 3.4).⁹² The Organic Law of the Environment also contains provisions regarding public participation in environmental matters.⁹³ Moreover, it establishes the sanctions in cases of adverse impacts on the environment or violations to the environmental legislation (Government of Costa Rica, 1995^[185]).⁹⁴

Box 3.4. Environmental Impact Assessments in Costa Rica

Environmental Impact Assessments (EIAs) are to be carried out before the start of any activities, works, or projects that entails risks of adverse impacts on the environment.

The EIA process begins with a preliminary environmental assessment. In this context, activities classified as having potentially moderate-low or low impacts on the environment only have to submit a simplified application. By contrast, activities classified as having a potentially high or moderate-high environmental impact undergo a formal scoring process. This scoring process is meant to reflect the

potential impact of the activity on the environment and determines the type of documents to be submitted for the EIA. This can be an environmental commitment affidavit, an environmental management plan, or a full environmental impact study including an analysis of alternatives.

EIA procedures are opened to the public and all documents prepared in the framework of an EIA are made publicly available. Any person can request to be considered as a party to the procedure and provide comments on the documentation submitted for the EIA. In addition, if it is deemed that the activities, works or projects subject to the EIA process may generate tensions with local communities or indigenous peoples, the company must engage with them in an interactive participatory process.

Following the EIA, and depending on its results, an “Environmental Viability Licence” (*Licencia de Viabilidad Ambiental*, LVA) is issued. The LVA sets out the conditions in which the activities, works, or projects are to be carried out. After the issuance of the LVA, follow-up monitoring and audits are undertaken to ensure that the conditions established in the LVA are being complied with.

Sources: (Government of Costa Rica, 1995^[185]; Government of Costa Rica, 2004^[186]; OECD, 2020^[187]).

Costa Rica’s environmental legal framework also includes a number of specific laws. For instance, the 1973 General Health Law (*Ley General de Salud*) contains provisions regarding the protection of the environment and the activities that are restricted for that purpose, including industrial activities (Government of Costa Rica, 1973^[188]). The 1992 Wildlife Conservation Law (*Ley de Conservación de la Vida Silvestre*) governs wildlife protection and establishes that the infringements to its provisions with respect to flora and fauna are to be considered crimes or contraventions, depending on the case (Government of Costa Rica, 1992^[189]). The 1996 Forestry Law (*Ley Forestal*) seeks to protect forests and contains provisions regarding the production, exploitation and use of Costa Rica’s forest resources. (Government of Costa Rica, 1996^[190]). It notably created the National Forestry Financing Fund (*Fondo Nacional de Financiamiento Forestal*, FONAFIFO), which contributed substantially to Costa Rica’s success in reforestation.⁹⁵ Finally, the 1998 Biodiversity Law (*Ley de Biodiversidad*) aims at protecting biodiversity and promoting the sustainable use of natural resources. One of its objectives is to integrate biodiversity protection and sustainable use in the development of socio-cultural, environmental, but also economic, policies. It also seeks to regulate the access to natural resources and enable the fair and equitable distribution of the benefits derived from the exploitation of said resources, with special attention to indigenous peoples (Government of Costa Rica, 1998^[191]).⁹⁶

Overall, Costa Rica’s environmental legal framework has been deemed to require companies operating in its territory to implement comprehensive environmental management, managing water, waste, toxic substances and GHG emissions, carrying out EIAs, and reducing energy consumption, among other requirements (AED/Konrad Adenauer Stiftung/United Way, n.d.^[192]). Moreover, the legal framework for the energy sector allows establishing fiscal incentives aimed at encouraging energy consumers, including companies, to acquire equipment producing small-scale renewable energy (such as photovoltaic solar panels, solar water heaters and mini wind and hydroelectric generators), as well as high-efficiency motors and electric vehicles (Government of Costa Rica, 1994^[193]).⁹⁷

Costa Rica’s environmental legal framework was reviewed as part of the country’s accession to the OECD. The Accession Review found that said framework was robust and largely in line with the requirements set by OECD instruments in the environmental field (OECD, 2020^[187]). The country’s environmental legal framework will be further analysed in its OECD Environmental Performance Review, which will be published in 2023 and will look in more detail at the implementation and enforcement of environmental laws in Costa Rica (OECD, 2023 (forthcoming)^[194]).

Institutional framework

In line with its legal framework, Costa Rica has adopted a vast institutional framework for environmental protection. The Ministry of Environment and Energy (*Ministerio de Ambiente y Energía*, MINAE) is the main

government entity in charge of environmental matters in Costa Rica. It relies on several institutions, which it supervises, to implement Costa Rica's environmental legal framework:

- **the National Environmental Technical Secretariat (*Secretaría Técnica Nacional Ambiental, SETENA*)**, which is in charge of managing the process for environmental impact evaluation. As such, the SETENA is responsible for evaluating EIAs, approving their results, and issuing “Environmental Viability Licence” (*Licencia de Viabilidad Ambiental, LVA*). It also has the authority to order the suspension of activities, works, or projects in cases of infringements to the environmental legislation and to recommend that actions be taken to minimise environmental impacts. Moreover, the SETENA's functions include handling and investigating complaints submitted to it in relation to environmental harm, among others.⁹⁸
- **the National Biodiversity Management Commission (*Comisión Nacional para la Gestión de la Biodiversidad, CONAGEBIO*)**, which, among other responsibilities, is in charge of formulating policies regarding the protection and the environmentally sustainable use of biodiversity, as well as access to biodiversity elements.⁹⁹
- **the National System of Conservation Areas (*Sistema Nacional de Áreas de Conservación, SINAC*)** that has competencies regarding forestry, wildlife, and protected areas matters, with the objective to formulate policies orientated towards achieving sustainability in the management of natural resources.¹⁰⁰
- **the National Forestry Office (*Oficina Nacional Forestal, OFN*)**, which is in charge *inter alia* of developing policies, strategies, and programmes for the adequate development and protection of forestry resources and to promote investment in the forestry sector.¹⁰¹
- **the National Forestry Financing Fund (*Fondo Nacional de Financiamiento Forestal, FONAFIFO*)**, whose main objective is to finance, by issuing credits or providing other mechanisms to promote forest management, the processes of afforestation and reforestation led by small and medium-sized producers in the country.¹⁰²
- **The Environmental Comptroller (*Contraloría Ambiental*)**, which is responsible for monitoring the implementation of the objectives of the Organic Law of the Environment, preventing, and controlling environmental pollution, as well as reporting any violation of the Organic Law of the Environment, and investigating environmental complaints.¹⁰³
- **the Environmental Administrative Tribunal (*Tribunal Ambiental Administrativo, TAA*)** that is in charge of receiving and managing complaints for violations of the environmental legislation.¹⁰⁴

Three other ministries share main environmental responsibilities with the MINAE: the Ministry of Health (*Ministerio de Salud, MINS*A); the Ministry of Agriculture and Livestock (*Ministerio de Agricultura y Ganadería, MAG*); and the Ministry of Public Works and Transportation (*Ministerio de Obras Públicas y Transporte, MOPT*) (OECD, 2020, p. 8_[187]).

In light of these shared environmental responsibilities, numerous interinstitutional and inter-sectorial commissions and committees have been created to coordinate governmental action on specific environmental matters. These include, for instance, the Commission on Sustainable Production and Consumption (*Comisión de Producción y Consumo Sostenible*), the Technical Inter-ministerial Committee on Climate Change (*Comité Interministerial de Cambio Climático*), or the Technical Commission on the Circular Economy (*Comisión Técnica sobre Economía Circular*), among others. The upcoming OECD Environmental Performance Review of Costa Rica will further analyse the country's institutional framework for environmental protection and look in more detail at the activities of the various commissions and committees involved in horizontal coordination (OECD, 2023 (forthcoming))_[194].

Relevant policies focusing on business-related environmental impacts

Costa Rica's solid legal and institutional environmental framework is complemented by specific policies aimed at promoting sustainable production processes and good environmental practices among businesses, with a view to protect the environment from business-related adverse impacts. The National Policy for Sustainable Production and Consumption for 2018-2030 (*Política Nacional de Producción y Consumo Sostenible 2018-2030*, PNPCS), launched by the MINAE in 2018, is an example of such policies, as one of its guiding principles is to prevent and reduce adverse impacts on the environment of production processes (Government of Costa Rica, 2018, p. 51_[195]).

The diagnosis carried out in the context of the elaboration of the PNPCS identified several challenges to promote sustainable production processes in Costa Rica. These challenges consist in: the lack of monitoring of the implementation of environmental legislation, which gives rise to “greenwashing” practices and unfair competition; the absence of incentives encouraging companies to invest in and adopt sustainable production processes; and the need to develop and strengthen certification schemes to distinguish sustainable products made in Costa Rica; among others (Government of Costa Rica, 2017, pp. 43-44_[196]).

To address these challenges, the PNPCS seeks to incorporate sustainability criteria in several sectors of Costa Rica's economy (tourism, agriculture, production, construction, and public procurement) through various objectives and guidelines (Government of Costa Rica, 2018, p. 6_[195]). Several of these objectives and guidelines share the goal of promoting sustainability practices among businesses, in collaboration with the private sector, in order to prevent and address adverse environmental impacts. Among the actions foreseen to achieve this goal feature the development and strengthening of certification and labelling initiatives, such as the National Environmental and Energy Efficiency Labelling Programme (*Programa Nacional de Etiquetado Ambiental y de Eficiencia Energética*) or the Certification for Sustainable Tourism (*Certificado de Sostenibilidad Turística*, CST) (see Box 3.5) (Government of Costa Rica, 2018, pp. 53-58_[195]).

Box 3.5. The promotion of good environmental practices by businesses in Costa Rica through labelling and certification schemes

The National Environmental and Energy Efficiency Labelling Programme

The National Policy for Sustainable Production and Consumption for 2018-2030 (*Política Nacional de Producción y Consumo Sostenible 2018-2030*, PNPCS) foresees, as one of the strategic actions to be implemented with a view to promoting sustainable production, the development and implementation of a national programme for environmental and energy labelling, in collaboration with the private sector.

To put in practice this aspect of the PNPCS, in 2019, the Ministry of Environment and Energy (*Ministerio de Ambiente y Energía*, MINAE), through the Department of Environmental Quality Management (*Dirección de Gestión de Calidad Ambiental*, DIGECA),¹⁰⁵ created the National Environmental and Energy Efficiency Labelling Programme (*Programa Nacional de Etiquetado Ambiental y de Eficiencia Energética*). This voluntary Programme is intended to distinguish companies whose products and services have limited adverse environmental impacts by verifying their compliance with a set of general environmental criteria and requirements.

In order to participate in the Programme and obtain the right to use the environmental or energy labels, a company must first prove that it abides by its tax and social obligations. In addition, it must establish that its products and services comply with Costa Rica's environmental or energy legal frameworks, as well as with specific technical norms elaborated by the Institute of Technical Standards (*Instituto de Normas Técnicas*, INTECO) with a view to reducing adverse environmental impacts. It must also

demonstrate that its products and services have a superior performance from an environmental and energy standpoint, and that they seek not to use hazardous substances.

The Certification for Sustainable Tourism

The Certification for Sustainable Tourism (*Certificación para la Sostenibilidad Turística*, CST) is a voluntary certification process launched by the Costa Rican Tourism Institute (*Instituto Costarricense de Turismo*, ICT) in 1995, which contributed to positioning Costa Rica as a pioneer of ecological tourism. It is aligned with the Sustainable Development Goals (SDGs) and promotes the sustainable use of natural resources and an active participation of local communities in tourism activities. It also seeks to mitigate “greenwashing” practices by companies in different branches of the tourism sector (travel agencies, hotels, transport, lodging, tour operators, thematic parks, car rental, etc.) through a reliable certification. The certification process is government-funded and free for businesses.

To obtain the CST, companies must first complete an online self-assessment. This initial assessment has four sections:

- i. *business management*, which evaluates the company’s compliance with relevant regulations, the way in which it deals with issues such as workers’ safety and development, and how it handles its infrastructure and equipment.
- ii. *social, economic and cultural impacts*, which evaluates the company’s socio-economic impacts, the way in which it supports local communities’ development and the protection of their cultural heritage, and how it promotes gender equality, as well as its internal processes with respect to waste management and the use of technology to save energy and water.
- iii. *environmental management*, which evaluates the company’s water, wastewater, and waste management, the way in which it uses clean energy and seeks energy efficiency, as well as how it seeks to contribute to biodiversity protection and climate change mitigation and adaptation, and pollution reduction.
- iv. *specific*, which evaluates the specific aspects of each company, depending on the characteristics of its activities.

After the self-assessment, a two-step evaluation is performed by independent auditors to determine the level of sustainability of the company. Once the auditors have performed the evaluation, a Technical Review Committee (*Comisión Técnica de Verificación del CST*) – comprised of representatives from the Government, chambers of tourism, academic entities, and environmental organisations – approve or deny the granting of the CST.

The certification has two levels (a basic and an elite level) and is valid for a period of two years. During these two years, the companies that have been granted the CST have to comply with the obligations of the CST programme and implement the sustainability practices to which they have agreed to in the context of their evaluation. If they do not do so, the CST can be suspended or revoked.

Since its launch, the CST has been periodically updated to improve the certification process. Thus, following a public consultation with a wide range of stakeholders, in 2018, the ICT launched “CST 2.0” in order to digitalise and streamline the certification process, adapt it for SMEs and different types of tourism activities, and also incorporate criteria related to the SDGs. In 2020, 395 companies operating in the tourism sector in Costa Rica had been granted the CST.

To encourage companies to participate in the certification process of the CST, Costa Rica has developed a series of incentives and benefits, such as access to information on environmental good practices, promotional material and marketing support, as well as discounts for participation in tourism

fairs. In addition, companies that have been granted the CST are invited by the ICT to participate in events on the CST and have priority access to press trips and training on RBC issues.

Sources: (Government of Costa Rica, 2018_[195]) (Government of Costa Rica, 2019_[197]) (Government of Costa Rica, 2019_[198]) (Government of Costa Rica, 2018_[199]; Government of Costa Rica, n.d._[200]; Government of Costa Rica, 2018_[201]) (Switchmed, n.d._[202]).

The National Environmental and Energy Efficiency Labelling Programme and the CST are particularly interesting initiatives developed by Costa Rica. Through labelling and certification schemes linked to incentives and benefits for participating companies, they both seek to minimise the adverse impacts that companies may cause or contribute to cause on the environment. However, to date, none of the two initiatives make reference to RBC principles and standards. They do not include either criteria or requirements related to the conduct of due diligence by participating companies, which would be key to encourage and help them to prevent, identify, and address adverse environmental impacts through a well-defined process.

Costa Rica should monitor the implementation and uptake of all policies and initiatives aimed at promoting more responsible business practices in relation to the environment, including of government-backed environmental labelling and certification schemes, and consider strengthening them by including references to RBC principles and standards contained in the OECD RBC instruments. Future updates and initiatives could consider integrating the most recent international RBC expectations on the environment, including the conduct of environmental due diligence across supply chains, and draw on the NCP's expertise in this regard.

3.3.3. Access to environmental justice

In Costa Rica, according to Article 50 of the Constitution, every person has legal standing to denounce any acts that may violate the right to a healthy and ecologically balanced environment and to claim compensation for the damage caused.¹⁰⁶

Environmental complaints in Costa Rica can notably be processed through the Integrated System to Process and Solve Environmental Complaints (*Sistema Integrado de Trámite y Atención de Denuncias Ambientales*, SITADA) managed by the Environmental Controller. The SITADA allows individuals and CSOs to report any acts of public or private legal persons that have an adverse impact on the environment (Government of Costa Rica, n.d._[203]). Its goal is to function as an interinstitutional information management system that supports the handling, monitoring, and treatment of environmental complaints (Government of Costa Rica, n.d._[203]). In 2020, the SITADA, received 5,722 complaints, almost half of which concerned forests, followed by complaints related to biodiversity loss, water pollution, and mining exploitation (Government of Costa Rica, 2021_[204]). 59.6% of these complaints were closed, 24.5% were brought before the judiciary, and 1.8% before the TAA (Government of Costa Rica, 2020_[205]; Government of Costa Rica, n.d._[206]).

The TAA is a specialised body of the MINAE that has jurisdiction to hear administrative cases arising from alleged violations of environmental laws committed by public or private persons, including companies (Government of Costa Rica, 1995_[185]; Government of Costa Rica, 2007_[207]).¹⁰⁷ The TAA can order precautionary measures and a wide range of administrative sanctions, including the temporary or permanent cancellation of permits and licences, or the closure of premises and companies, that triggered the complaint, as well as compensation for damages, among others.¹⁰⁸ Thus, the TAA not only makes a decision on the liability of public or private legal persons, it also conducts an economic assessment of the environmental damage, and rule on the type and degree of mitigation and remediation measures that shall be taken.¹⁰⁹

Beyond the judiciary and the TAA, access to remedy for business-related environmental impacts can also be sought through non-judicial grievance mechanisms. As mentioned above, the DHR is one of the state-based non-judicial grievance mechanisms in Costa Rica (see Section 3.1.1). In addition to human rights

issues, the DHR can also deal with situations involving environmental matters. It can investigate actions and omissions by public entities, as well as public and private companies providing public services, that contravene environmental laws, and issue recommendations with a view to effectively protecting environmental rights (Defensoría de los Habitantes, 2022^[98]; Defensoría de los Habitantes, n.d.^[208]). For example, in 2020, the DHR issued a recommendation to ban the use, export, and import of glyphosate, as it was considered harmful for human health and the environment (Defensoría de los Habitantes, 2020, pp. 47-49^[154]).

The Costa Rican NCP can also serve as non-judicial grievance mechanism for environmental matters. The chapter on the environment of the OECD MNE Guidelines is one of the chapters most often referenced in specific instances (OECD, 2021, pp. 23-24^[101]). Recent developments in other countries have shown how NCPs can provide an effective non-judicial grievance mechanism and mediation platform for cases of alleged non-observance of the OECD MNE Guidelines in the context of environmental issues (OECD, 2021^[209]). For instance, the Brazilian NCP has received 10 (out of 39) cases related or partly related to the environment chapter of the OECD MNE Guidelines, one of which led to an agreement within the NCP process and one outside of the NCP process (OECD, 2022, p. 67^[210]). In Costa Rica, however, this has not yet occurred, since, as mentioned above, the NCP has not received any specific instance to date (see Section 2.4).

In contrast with this framework aimed at providing access to environmental justice, Costa Rica has still not ratified the Escazú Agreement, despite being one of the countries that led its negotiations (see Section 3.1.2). Ratification would go in line with the significant efforts made by Costa Rica over the last decades to have an advanced legal and institutional framework to protect the environment and guarantee access to environmental justice. Building on these pioneering efforts, it could be an important opportunity for Costa Rica to further strengthen avenues for access to environmental information and public participation processes, as well as access to environmental justice through the judicial system.

Costa Rica should raise the profile of the NCP as a non-judicial grievance mechanism for environmental issues, by seeking to enhance understanding across Government and among stakeholders about the role it can play in providing support for the resolution of cases of alleged non-observance of the environment chapter of the OECD MNE Guidelines. In addition, to further strengthen public participation, as well as access to information and justice, in environmental matters, Costa Rica could consider the possibility of taking steps towards the ratification of the Escazú Agreement.

3.3.4. Sector-specific environmental risks and impacts related to business in Costa Rica: agriculture

The agriculture sector in Costa Rica builds on the country's rich natural environment, including forests and biodiversity, and plays a crucial role in Costa Rica's socio-economic development. Like in some other LAC countries, the sector is export-oriented, building on the cultivation of high-value tropical commodities, in particular pineapple, for which Costa Rica is the largest global producer, as well as bananas and coffee. While the sector contributes to global food security and nutrition, it also guarantees the livelihoods of 12% of the country's population working in agriculture, similar as in other countries in the region. However, productivity levels in the sector in Costa Rica are twice as high as in other Central American economies (FAO, 2021^[211]).

Despite its positive contribution to the Costa Rican economy, the agriculture sector in Costa Rica faces key environmental challenges and risks of adverse impacts such as deforestation, soil degradation and water pollution, caused by different factors including climate change, the intensive use of agrochemicals, mono-cropping, and land use change (FAO, 2021^[211]). In this regard, the UN Special Rapporteur on the Rights of Indigenous Peoples noted in his 2022 report on his visit to Costa Rica that "he received worrying reports about the environmental and social damage associated with monocultures and agrochemicals [...],

including the contamination of soil and water by companies.” On this basis, he recommended that Costa Rica “take appropriate measures, in line with the Guiding Principles on Business and Human Rights, to prevent and provide redress for the environmental damage and human rights abuses associated with monocultures, including pollution of soil and water, paying particular attention to the buffer zones of protected areas” (UN Human Rights Council, 2022, p. 20^[83]).

To address the environmental challenges linked to the agriculture sector, Costa Rica has made key commitments and undertaken policy reforms over the past decades to transform towards a more sustainable agri-food system and protect the environment (OECD, 2022^[212]). These efforts have been recognised widely, for instance as Costa Rica became the first tropical country to stop and reverse deforestation (FAO, 2021^[211]). Moreover, the Government and the private sector have developed several specific initiatives to address the adverse impacts of the agricultural sector on the environment. Among these sectoral initiatives is the Good Agricultural Practices Label (*Buenas Prácticas Agrícolas*, BPA) led by the MAG. The BPA is a voluntary certification programme aimed at incentivising the adoption of good environmental practices by companies operating in the agriculture sector and thereby reducing their adverse impacts on the environment (see Box 3.6). Similarly, the Agricultural Extension Programme (*Programa de Extensión Agropecuaria*), led also by the MAG, seeks to promote the adoption of good practices for soil conservation, water resources management and environmental protection by agricultural producers. It has reportedly led to the development of almost 4,000 models of sustainable production in the country’s main agricultural activities (such as coffee and citrus production, beekeeping and dual-purpose beef cattle farming) through various initiatives, including training and capacity-building for producers (Government of Costa Rica, 2021, p. 29^[213]).

Box 3.6. The Good Agricultural Practices Label

Traditionally, in Costa Rica, most farmers have used agrochemicals and synthetic fertilizers to prevent and control diseases, insect pests and weeds, and to improve crop yields. As a result, residues from uncontrolled agrochemical and fertilizer uses have contributed to contaminate ground and surface waters, soil, and the atmosphere, and have had detrimental effects on the health of humans, wildlife, fish and other aquatic species, as well as on the environment more generally.

However, over recent years, many agricultural producers have changed their productive processes to comply with the requirements of the Good Agricultural Practices Label (*Buenas Prácticas Agrícolas*, BPA). In doing so, they have been able to protect water supplies and reduce environmental pollution by correctly using agrochemicals and fertilizers.

The BPA Label is a voluntary certification programme that distinguishes agriculture producers which implement measures to reduce adverse environmental impacts in their productive processes. It has an integrative approach and considers the interdependence that exists among the diverse dimensions of agriculture, such as food safety and health, workers’ well-being, and protection of the environment. Hence, it not only verifies that fruits and vegetables are produced, packed, handled, and stored in accordance with the state of the art in the industry, but it also evaluates other elements, such as the use of agrochemicals or pesticides, the conduct of ex-ante and ex-post environmental assessments, and labour conditions in the productive processes.

Source: (Government of Costa Rica, n.d.^[214]).

In addition, industry organisations have developed practical guidance to foster sustainable agriculture. For instance, the National Chamber of Pineapple Producers and Exporters has developed a Technical Manual for the Sustainable Production of Pineapple (*Manual Técnico para la Producción Sostenible de la Piña*), which includes recommendations for monitoring and controlling levels of agrochemical residues in water (CANAPEP, 2018^[215]). Likewise, in the coffee sector, the Coffee Institute of Costa Rica (*Instituto del Café*

de Costa Rica, ICAFE), a non-state public institution driven by producers, processors, roasters, and exporters developed a new gender policy (*Política de Género*) in 2022, which includes an explicit focus on responsible business practices to identify, prevent, and mitigate the actual and potential impacts of production activities (ICAFE, 2022^[216]). Sustainability and innovation practices are taken forward as well by coffee cooperatives, which make up 37% of the national production in Costa Rica. For example, the cooperative Coopetarrazú collaborates with research institutes to find organic alternatives to the use of agrochemicals (FAO, 2021^[211]).

Costa Rica could strengthen efforts aimed at encouraging businesses operating in the agriculture sector to identify, prevent, and mitigate environmental adverse impacts by carrying out risk-based due diligence in line with the OECD-FAO Guidance for Responsible Agricultural Supply Chains. This could be done by incentivising businesses to do so through existing and/or new government sector-specific initiatives.

3.3.5. Focus: challenges and opportunities in addressing climate change in Costa Rica

Costa Rica is a country vulnerable to the impacts of climate change since, according to World Bank data, 80.1% of its GDP and 77.9% of its population are in areas at high risk of natural disasters, such as floods, landslides, cyclones, storms, and sea level rise (World Bank, n.d.^[217]). In this context, Costa Rica pledged to become 100% carbon neutral by 2050 (Government of Costa Rica, 2018, p. 3^[49]). The country also updated its Nationally Determined Contribution (NDC) under the Paris Agreement to a maximum of 106.53 million tons of CO₂ equivalent of cumulative GHG emissions in the 2021-2030 period and to 9.11 million tons of CO₂ equivalent in 2030 (Government of Costa Rica, n.d., pp. 8-9^[218]). In addition, after making exemplary efforts to introduce renewable energy in most of its power grid,¹¹⁰ Costa Rica recently suspended oil exploration and exploitation projects on its territory until 2050 (Government of Costa Rica, 2019^[219]). The country also takes part in the consortium that created the Global Blue Carbon Coalition, an initiative launched in 2022 to promote investment in coastal carbon sinks (OECD et al., 2022, p. 314^[220]).

To make progress towards decarbonisation with the support of the private sector, Costa Rica adopted a National Decarbonisation Plan for 2018–2050 (*Plan Nacional de Descarbonización 2018-2050*), the implementation of which is coordinated by the Climate Change Directorate (*Dirección de Cambio Climático*, DCC) of the MINAE. As part of the Plan, the DCC manages the Country Programme for Carbon Neutrality 2.0 (*Programa País de Carbono Neutralidad 2.0*, PPCN 2.0). The PPCN 2.0 seeks to involve the private sector, among other actors, in the country's decarbonisation efforts. For this purpose, it creates a voluntary certification mechanism that helps companies to track, reduce, and compensate their direct and indirect GHG emissions, while obtaining a certification for doing so (Government of Costa Rica, 2021^[221]). The certification contains five different levels, aimed at distinguishing the extent of the actions taken by companies to decarbonise their activities (Government of Costa Rica, 2021^[221]). According to information provided by the Government during the preparation of the Review, at the time of writing, there were more than 200 companies from different sectors (as well as other types of actors) involved in the PPCN 2.0. Among these, 120 companies had been certified “Carbon Neutral” by Costa Rica's Institute of Technical Standards (*Instituto de Normas Técnicas*, INTECO), the entity in charge of assessing compliance with the requirements of the programme in terms of reporting, measurement, reduction, and offset of GHG emissions (Government of Costa Rica, n.d.^[222]).

In addition, Costa Rica developed a National Policy for Climate Change Adaptation for the period 2018-2030 (*Política Nacional de Adaptación al Cambio Climático*), which is accompanied by a National Plan for Climate Change Adaptation Plan for 2022-2026 (*Plan Nacional de Adaptación al Cambio Climático 2022-2026*, PNACC) (Government of Costa Rica, 2018^[223]; Government of Costa Rica, 2022^[224]). These policy instruments contain, among other things, a series of objectives and guidelines aimed at providing guidance to companies regarding the adaptation of their activities to climate change. Thus, the fifth axis of the PNACC, titled “eco-competitive and adapted productive systems”, seeks to promote the transformation of

the productive sectors of the economy in order to ensure business continuity in the context of climate change (Government of Costa Rica, 2022, p. 56^[224]). One of the goals of this axis is to promote the adoption by businesses of risk management systems and the implementation of good environmental practices to adapt to climate change (Government of Costa Rica, 2022, pp. 70-72^[224]).

Beyond these overarching plans, Costa Rica has also developed specific initiatives to encourage businesses to take action to mitigate and adapt to climate change. A key initiative in this regard is the Ecologic Blue Flag Programme (*Programa Bandera Azul Ecológica*, PBAE). The “climate change” category of the PBAE is one of the avenues through which Costa Rica encourages companies to include climate change mitigation and adaptation measures in their broader risk management processes (see Box 3.7).

Box 3.7. The Ecological Blue Flag Programme

The Ecological Blue Flag Programme (*Programa Bandera Azul Ecológica*, PBAE) was launched in 1995 by the National Water Laboratory (*Laboratorio Nacional de Aguas*, LNA) of the Costa Rican Institute of Aqueducts and Sewers (*Instituto Costarricense de Acueductos y Alcantarillados*, AyA). At the beginning, the objective of the PBAE was to organise civil society in coastal areas in order to protect the sea and the beaches through the granting of certification to beaches that met certain ecological criteria. However, with the passing of time, the scope of the PBAE was progressively extended, with the creation of additional categories, to protect the environment more broadly, enhance public health, and promote quality of life in the country.

The “climate change” category of the PBAE was created in 2008 to promote actions to fight climate change, including amongst the private sector. More precisely, the goal of this category is to encourage industrial sectors and public and private entities to minimise the risks triggered by the effects of climate change in the different sectors of the country, while maximising competitiveness. The parameters of evaluation to receive the Ecological Blue Flag certification in the “climate change” category include: (i) reduction in the use of fossil fuels; (ii) reduction in the use of electric energy; (iii) reforestation and reduction in the use of paper; (iv) waste and wastewater management; (v) elimination of aerosols; (vi) savings in the use of drinking water; and (vii) environmental education.

In 2019, around 400 organisations from the private sector were granted the Ecological Blue Flag certification for their actions aimed at reducing their use of electric energy and water and enhancing their waste management.

To support businesses in obtaining the Ecological Blue Flag Certification in the “climate change” category, the Business Alliance for Development (*Alianza Empresarial para el Desarrollo*, AED) developed the Business Ecoefficiency Training Space (*Espacio de Capacitación y Articulación de Ecoeficiencia Empresarial*). This training programme, which is comprised of several activities and tools, seeks to help participating companies to manage and mitigate their environmental impacts. Between 2012 and 2018, nearly 160 Costa Rican companies participated in the programme, which reportedly helped them to achieve significant reductions in their use of water and paper, as well as in their greenhouse gas emissions due to a decrease in fossil fuels and electricity use. The programme has now expanded to El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

Sources: (Government of Costa Rica, 2011^[225]; Government of Costa Rica, 2008^[226]; AED, n.d.^[227]; United Nations, 2020^[44]; OECD et al., 2022^[220]).

Costa Rica has also designed sector-specific policies with respect to climate change, in particular for the agriculture sector, which is responsible for 20.5% of the country’s total GHG emissions (OEC, n.d.^[19]). For instance, the National Decarbonisation Plan contains guidelines for the implementation of roadmaps aimed at mitigating GHG emissions in agricultural production (Government of Costa Rica, 2018^[49]). These roadmaps, which correspond to National Appropriate Mitigation Actions (*Acciones de Mitigación*

Nacionalmente Apropriadas, NAMAs), have been developed in collaboration with the private sector and international partners for the production of coffee, livestock, sugar, rice, and musaceae. They establish goals and specific actions to be taken to adopt sustainable practices, reduce and report on GHG emissions, but also measure and improve water use, energy efficiency, etc. (Government of Costa Rica, 2018^[49]). According to information provided by the Government during the preparation of the Review, the NAMA for coffee production, which was the first to be launched in 2014,¹¹¹ has been particularly successful in terms of promoting good agricultural practices, including reduced GHG emissions, improved use of water resources, lower use of fertilisers and pesticides, sun-drying practices and reduction of energy consumption (GIZ, 2020^[228]). Similarly, since 2015, Costa Rica has been implementing the National Strategy of Low-Carbon Livestock Farming (*Estrategia Nacional de Ganadería Baja en Carbono*) and the corresponding NAMA for the livestock sector, with the goal to reduce the GHG emissions produced by cattle farming (Government of Costa Rica, n.d.^[229]).

All the efforts made by Costa Rica to decarbonise its economy, and to promote the adoption by businesses of measures to mitigate and adapt to climate change, are commendable. That said, these different initiatives do not seem to be integrated into an overarching RBC approach nor to promote the conduct by businesses of risk-based due diligence to identify, prevent, and mitigate the impacts that their operations, supply chains, or business relationships may cause or contribute to cause on climate change. Risk-based due diligence can be instrumental in addressing GHG emissions. By adopting an RBC approach, that integrates due diligence processes regarding impacts on climate change, businesses can better apprehend and address their scope 1, 2, and 3 emissions¹¹², including those that occur in their supply chains.

Costa Rica should continue encouraging and supporting businesses in mitigating, and adapting to, climate change through relevant initiatives, including awareness-raising and capacity-building activities and certification schemes, among others. Going a step further, and to enhance existing initiatives, Costa Rica could consider the possibility of incentivising businesses to associate their actions to mitigate and adapt to climate change to an overarching RBC approach. This should include the conduct of risk-based due diligence based on the OECD RBC instruments in order to identify, prevent, and mitigate efficiently the adverse impacts that their activities can cause or contribute to cause on climate, while ensuring that their actions to reduce GHG emissions are undertaken with accountability and responsibility.

Policy recommendations

11. **Monitor implementation and uptake of all policies and initiatives aimed at promoting more responsible businesses practices in relation to the environment and enhance them by including references to RBC principles and standards contained in the OECD RBC instruments. Future updates and initiatives could consider integrating the most recent international RBC expectations on the environment, including the conduct of environmental due diligence across supply chains, and draw on the NCP's expertise in this regard.**
12. **Raise the profile of the NCP as a non-judicial grievance mechanism for environmental issues, by seeking to enhance understanding across Government and among stakeholders about the role it can play in providing support for the resolution of cases of alleged non-observance of the environment chapter of the OECD MNE Guidelines.**
13. **Consider the possibility of taking steps towards the ratification of the Escazú Agreement to further strengthen public participation, as well as access to information and justice, in environmental matters.**

14. **Strengthen efforts aimed at encouraging businesses operating in the agriculture sector to identify, prevent, and mitigate environmental adverse impacts by carrying out risk-based due diligence in line with the OECD-FAO Guidance for Responsible Agricultural Supply Chains through existing and/or new government sector-specific initiatives.**
15. **Continue encouraging and supporting businesses in mitigating and adapting to climate change through relevant initiatives. Consider the possibility of incentivising them to associate their actions in this regard to an overarching RBC approach including the conduct of risk-based due diligence based on the OECD RBC instruments in order to identify, prevent, and mitigate efficiently their adverse impacts on climate, while ensuring that their actions to reduce GHG emissions are undertaken with accountability and responsibility.**

3.4. Anti-corruption and integrity

The fight against corruption and the promotion of integrity is a key concern for governments and businesses alike, as corruption can not only erode democratic institutions and undermine trust in the public sector, but also affect the business environment and discourage investment. The OECD MNE Guidelines emphasise that, alongside government's efforts, the private sector has a key role to play in preventing and combating corruption. According to Chapter VII on "Combating Bribery, Bribe Solicitation and Extortion", companies should not, directly, or indirectly, offer, promise, give, or demand a bribe or other undue advantage to obtain or retain business or other improper advantage, and should also resist the solicitation of bribes and extortion. For this purpose, Chapter VII of the OECD MNE Guidelines calls on companies to develop and adopt adequate internal controls, ethics, and compliance programmes, or measures for preventing and detecting bribery through a risk-based approach. In this regard, the OECD Due Diligence Guidance for RBC provides practical guidance that can help businesses prevent and address corruption risks that may be associated with their operations, supply chains, and other business relationships.

3.4.1. *Corruption in Costa Rica: despite efforts to address the phenomenon, challenges remain*

Costa Rica has made significant efforts over recent years to adopt policies aimed at fighting corruption with good results, as suggested by the country's ranking in some international indices on corruption. For instance, in the 2022 edition of the TRACE Bribery Risk Matrix Report, which measures business bribery risks worldwide, Costa Rica obtained a total risk score of 33, which corresponds to a relatively low level of business bribery risks, and ranked 36th out of 194 countries (TRACE International, 2022^[230]). Likewise, in 2022, Costa Rica ranked 29th out of 140 countries for absence of corruption in the Rule of Law Index of the World Justice Project, with a score of 0.63 points, above the regional average (World Justice Project, 2022^[231]).

However, some challenges remain, as reflected by Costa Rica's ranking in other international corruption-related indices. For example, over the last years, the country's performance in Transparency International's Corruption Perception Index has been fluctuating (Transparency International, 2020^[232]). Costa Rica obtained its best score in 2017, with a ranking of 38th (out of 180 countries), but this score decreased in the following years, before improving recently (Transparency International, 2021^[61]). In 2018, the country ranked 48th, before ranking 44th in 2019, 42nd in 2020, and 39th in 2021 (Transparency International, 2018^[233]; Transparency International, 2019^[234]; Transparency International, 2020^[232]; Transparency International, 2021^[61]) (see Table 3.1). Citizen-based surveys also reflect these challenges. 82% of the persons interviewed for Transparency International's 2019 Global Corruption Barometer consider government corruption to be an important issue in Costa Rica and 49% that the level of corruption has

been increasing in the country over the last year (Transparency International, 2019, pp. 10, 40^[235]). This is aligned with the findings of the 2020 National Survey for the Prevention of Corruption, pursuant to which 85.7% of citizens in Costa Rica believe that corruption affects their daily life (Government of Costa Rica, 2020^[236]). According to the analysis carried out in the context of the Capacity to Combat Corruption Index for 2021, these challenges would emanate mostly from Costa Rica's regulatory gaps and complex judicial proceedings (Americas Society, Council of the Americas and Control Risks, 2021, p. 12^[237]).

Table 3.1. Costa Rica's ranking in international corruption-related indices

Index	Rank	Past Ranking
TRACE International's Bribery Risk Matrix	36 th out of 194 (2022)	30 th out of 194 (2021)
World Justice Project's Rule of Law Index	29 th out of 140 (2022)	31 st out of 139 (2021)
Transparency International's Corruption Perceptions Index	39 th out of 180 (2021)	42 nd out of 180 (2020)

Sources: (TRACE International, 2022^[230]) (World Justice Project, 2022^[60]) (Transparency International, 2021^[61]).

3.4.2. General legal, policy and institutional framework for combating corruption in Costa Rica

Legal and policy framework

In order to combat corruption, Costa has ratified several international instruments, which have driven the development of the country's legal and policy framework in the anti-corruption field as it stands today (see Box 3.8).

Box 3.8. Key international instruments against corruption and bribery ratified by Costa Rica

Costa Rica first assumed international commitments on anti-corruption by ratifying the Inter-American Convention Against Corruption in 1997 and becoming a member of the Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption (MESICIC) in 2001. The country then ratified the United Nations Convention Against Corruption (UNCAC) in March 2007, entering the associated peer review process. A decade later, in May 2017, Costa Rica became the 43rd party to the OECD Anti-Bribery Convention, which deals with "active bribery" of foreign public officials, that is the offense of offering, promising, or giving a bribe to a foreign public official in international business transactions.

As a party to the OECD Anti-Bribery Convention, Costa Rica participates in the peer-review process undertaken by the OECD Working Group on Bribery in International Business Transactions (the OECD Working Group on Bribery). The objective of this process is to assess and formulate recommendations regarding the implementation of the Convention and the related OECD anti-bribery instruments by a given country. It is carried out in different phases. Phase 1 is aimed at evaluating the adequacy of a country's legal framework to fight foreign bribery and implement the Convention and Phase 2 is aimed at assessing whether a country is applying this legislation in practice. Costa Rica's peer review process started in June 2017 and its Phase 1 and Phase 2 evaluations were completed in June 2017 and March 2020, respectively. In its Phase 1 Evaluation Report, the OECD Working Group on Bribery found Costa Rica's legislation generally in line with the standards of the Convention but identified several flaws and various issues for follow-up, in particular the need to establish liability of legal persons.

In the Phase 2 Evaluation Report, the Working Group commended Costa Rica's efforts to implement the Convention and, in particular, the enactment in 2019 of Law No. 9699 on the Liability of Legal

Persons for Domestic Bribery, Transnational Bribery and Other Crimes (*Ley Nro. 9699 sobre la Responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos*, the Corporate Liability Law). Several recommendations, nevertheless, highlighted the need to further strengthen the capacity of the Costa Rican legal framework to handle foreign bribery effectively. The report also recommended that Costa Rica adopt additional measures to encourage companies to design and implement compliance programmes aimed at preventing foreign bribery. In March 2021, the executive power introduced a bill aimed at reforming several laws in the field of anticorruption to address the recommendations of the OECD Working Group on Bribery (*Reforma de leyes en materia de anticorrupción, para atender recomendaciones del Grupo de Trabajo sobre el soborno en las transacciones comerciales internacionales de la OCDE*, Bill No. 22.428). This Bill would amend numerous provisions of Costa Rica's anti-corruption legal framework (among others, the Criminal Code, the Corporate Liability Law and Law No. 8442 against Corruption and Illicit Enrichment in the Public Service (*Ley Nro. 8442 contra la Corrupción y el Enriquecimiento Ilícito en la Función Pública*)). However, at the time of writing, it was uncertain whether Bill No. 22.248 would be adopted.

As part of Costa Rica's Phase 2 Two-year Follow-up Report from March 2022, the OECD Working Group on Bribery welcomed several steps taken by Costa Rica towards implementing the recommendations of the Phase 2 report. Investigations of foreign bribery cases have been conducted and various efforts made to raise awareness on the need to fight foreign bribery, especially by the Ministry of Justice and Peace (*Ministerio de Justicia y Paz*). In addition, new governmental guidance on compliance programmes was considered helpful, notwithstanding issues with some of its provisions. However, the Working Group expressed concerns regarding the fact that the implementation of 27 (out of 54) of the Phase 2 recommendations hinged solely on Bill No. 22.428. In addition, the Working Group noted that there had been little development in areas such as legislation on whistle-blower protection, other than the designation of a task force.

In the framework of its accession to the OECD, Costa Rica also adhered to various OECD Council Recommendations relevant for the fight against corruption, such as the Recommendations on: (i) guidelines for managing conflict of interest in the public service (2016); (ii) principles for transparency and integrity in lobbying (2016); (iii) principles for public governance of public-private partnerships (2016); (iv) public procurement (2016); (v) public integrity (2016); (vi) bribery and officially supported export credits (2019); and (vii) the governance of infrastructure (2020).

Sources: (OAS, 1996^[238]; OECD, 2017^[239]; OECD, 2018^[240]; OECD, n.d.^[241]; OECD, 2017^[242]; OECD, 2020^[243]; OECD, 2022^[244]; United Nations, n.d.^[245]; OECD, 2020, pp. 13, 26^[246]) (OECD, n.d.^[247]) (Government of Costa Rica, 2021^[248]).

The main elements of Costa Rica's legal framework for fighting corruption and promoting integrity are, among others:

- the Criminal Code¹¹³;
- Law No. 8442 against Corruption and Illicit Enrichment in the Public Service (*Ley Nro. 8442 contra la Corrupción y el Enriquecimiento Ilícito en la Función Pública*, the Law against Corruption and Illicit Enrichment), which aims at preventing, detecting, and punishing corruption in the exercise of public functions (Government of Costa Rica, 2004^[249]);¹¹⁴ and
- Law No. 9699 on the Liability of Legal Persons for Domestic Bribery, Transnational Bribery and Other Crimes (*Ley Nro. 9699 sobre la Responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos*, the Corporate Liability Law), which regulates the criminal liability of legal persons (i.e., private companies and SOEs) for the crimes established in the Criminal Code and in the Law against Corruption and Illicit Enrichment (Government of Costa Rica, 2019^[250]).¹¹⁵

Costa Rica's Corporate Liability Law was enacted in 2019 in the framework of the peer-review process carried out by the OECD Working Group on Bribery in International Business Transactions (the OECD

Working Group on Bribery). The intention was to implement the OECD Anti-Bribery Convention and address some of the gaps flagged in Costa Rica's Phase 1 evaluation (OECD, 2017^[242]; OECD, 2020, pp. 9, 13^[246]; OECD, 2020, p. 110^[251]). The Corporate Liability Law, in addition to regulating corporate criminal liability for corruption-related acts, sets the procedure for investigating and establishing the said liability and determining the corresponding sanctions (Government of Costa Rica, 2019^[250]).¹¹⁶ It also promotes the adoption by businesses of preventive measures to address corruption (see Section 0).¹¹⁷

Beyond the Corporate Liability Law, in 2019, Costa Rica also initiated a process to develop a national strategy to combat corruption led by the Office of the Attorney General for Public Ethics (*Procuraduría de la Ética Pública*, PEP) in coordination with a multi-stakeholder working group (Government of Costa Rica, n.d.^[252]).¹¹⁸ As a result of this process, in August 2021, the Government published the National Strategy for Integrity and the Prevention of Corruption 2021-2030 (*Estrategia Nacional de Integridad y Prevención de la Corrupción 2021-2030*, ENIPC) (Government of Costa Rica, 2021, p. 7^[253]). The ENIPC builds upon Costa Rica's international commitments on anti-corruption and seeks to coordinate the actions taken by the different government entities that have competencies on anti-corruption, integrity and ethics matters, with a focus on prevention (Government of Costa Rica, 2021, pp. 8, 13, 17^[253]). The ENIPC was conceived as a first step towards the elaboration of a national integrity system and a national anti-corruption policy. It is structured around five priority axes, including one on the management of public-private corruption risks (Government of Costa Rica, 2021, p. 9^[253]). This specific axis foresees a series of actions, including the promotion of integrity programmes in the private sector (see Section 0) (Government of Costa Rica, 2021, pp. 69-70^[253]). The elaboration of the ENIPC is a welcome development as it aims to address past coordination issues faced in the fight against corruption in Costa Rica. It also seeks to lay the foundations for legal reforms in the field, as well as for the creation of a national integrity system and the design of an overarching anti-corruption policy (Government of Costa Rica, 2021, pp. 32-37^[253]). The OECD Integrity Review of Costa Rica provides concrete recommendations on how on how to translate the ENIPC into a policy in the coming years (OECD, 2022, pp. 11, 43-64^[254]).

Institutional framework

Costa Rica has made progress towards developing an institutional framework to fight corruption and promote integrity in recent years. Several government entities play a role in the prevention, detection, and sanction of corruption and in encouraging greater integrity, with a focus on the detection and sanction functions (see Table 3.2) (Government of Costa Rica, 2021, p. 17^[253]).

Table 3.2. Main government entities involved in the fight against corruption and the promotion of integrity

Government entity	Department	Mandate and main functions
Ministry of Justice and Peace (<i>Ministerio de Justicia y Paz</i>)		The Ministry of Justice and Peace (<i>Ministerio de Justicia y Paz</i> , MJP) is in charge of coordinating all the plans and programmes related, directly or indirectly, to crime prevention, including corruption. In addition, it is responsible for representing Costa Rica before the OECD Working Group on Bribery and monitoring the implementation of its recommendations.
	Attorney General's Office (<i>Procuraduría General de la República</i>) and its Public Ethics Department (<i>Procuraduría de la Ética Pública</i>)	The Public Ethics Department (<i>Procuraduría de la Ética Pública</i> , PEP) is a division of the Attorney General's Office (<i>Procuraduría General de la República</i> , PGR) in the MJP, and the main entity in charge of preventing and prosecuting corruption involving public entities in Costa Rica. It is responsible for taking administrative measures to prevent, detect, and eradicate corruption, and to promote ethics and transparency within the public service. It receives and deals with administrative complaints for alleged corruption acts or lack of ethics and transparency and can also initiate action before the courts against public officials and private persons for corruption-related acts. ¹¹⁹

Government entity	Department	Mandate and main functions
Office of the Public Prosecutor (<i>Ministerio Público</i>)	Deputy Prosecutor for Probity, Transparency and Anti-Corruption (<i>Fiscalía Adjunta de Probidad, Transparencia y Anticorrupción</i>)	The Deputy Prosecutor for Probity, Transparency and Anti-Corruption (<i>Fiscalía Adjunta de Probidad, Transparencia y Anticorrupción</i> , FAPTA) is a specialised division within the Office of the Public Prosecutor (<i>Ministerio Público</i> , MP) in charge of investigating and prosecuting corruption and integrity related offences. Following an update to its prosecution policy, FAPTA can investigate public and private corruption, but also cases of transnational bribery. In addition to its investigative and prosecution powers, FAPTA promotes the participation of businesses and citizens in reporting acts of corruption by public officials.
Supreme Court	Anti-Corruption Unit of the Judicial Investigation Body (<i>Organismo de Investigación Judicial</i>)	The Anti-Corruption Unit of the Judicial Investigation Body (<i>Organismo de Investigación Judicial</i> , OIJ) is the judicial police established under the Supreme Court to guarantee the impartiality of criminal investigations. It can receive and investigate complaints, and it also supports the Attorney General's Office and FAPTA in conducting investigations on foreign bribery cases. For example, in 2019, FAPTA and the OIJ carried out an investigation into alleged bribery schemes involving government officials and construction companies in Costa Rica.
Comptroller General of the Republic (<i>Contraloría General de la República</i>)		The CGR, which is in charge of carrying out audits of public budgets and verifying public officials' asset declarations, plays an important role in preventing and detecting corruption. ¹²⁰ Its relevant functions include <i>inter alia</i> auditing internal systems of control and conducting examinations to detect potentially wrongful acts. ¹²¹ In addition, it has developed a series of tools to prevent corruption and promote transparency in the public sector, such as national surveys on corruption prevention and perception of transparency in the public sector ¹²² , as well as an institutional management index. ¹²³
Ombudsman's Office (<i>Defensoría de los Habitantes de la República</i>)		The Ombudsman's Office (<i>Defensoría de los Habitantes</i> , DHR) plays a relevant role in combating corruption through different kinds of anti-corruption activities, including training and capacity-building. It is, in particular, in charge of managing the Inter-institutional Transparency Network (<i>Red Interinstitucional de Transparencia</i> , RIT) and evaluating the level of transparency in the public sector. The RIT aims to facilitate access to information related to the administration of public resources. Through the RIT, government institutions make available online information of public interest, including budgets, investments, bidding processes, contracts, operational plans, work reports, and audits. The efforts led by the DHR, through the RIT, seeks to guarantee the right to access to public information and promote citizen participation in the prevention of corruption.

Sources: (Government of Costa Rica, 2021^[255]; Government of Costa Rica, n.d.^[256]; Government of Costa Rica, 2002^[257]; Government of Costa Rica, 2010^[258]; Government of Costa Rica, 2020^[97]; Government of Costa Rica, 2021^[259]; Government of Costa Rica, 1994^[260]; Government of Costa Rica, n.d.^[261]) (OECD, 2022, pp. 18-21^[254]; OECD, 2021, p. 127^[89]; OECD, 2020^[246]).

In 2019, the DHR initiated an investigation on the country's legal and institutional framework to combat corruption. The investigation concluded that Costa Rica's institutional framework lacks a central authority to lead anti-corruption efforts (Defensoría de los Habitantes, 2020, pp. 72-73^[154]). The results of this investigation were used as inputs by the working Group in charge of elaborating the ENIPC. In fact, the ENIPC acknowledges that there is no institution in charge of coordinating the different government entities with competences in the anti-corruption and integrity fields at the national level (Government of Costa Rica, 2021, p. 7^[253]). The 2022 Annual Report of the DHR again signals that Costa Rica still does not have an entity in charge of coordinating anti-corruption efforts (Defensoría de los Habitantes, 2022, p. 131^[105]). The OECD Integrity Review of Costa Rica also notes that, for the time being, the country does not have a formal coordination mechanism and provides concrete recommendations on how to improve the governance of the integrity system to achieve a more co-ordinated approach (OECD, 2022, pp. 11, 13-40^[254]). This lack of inter-institutional coordination represents a challenge for the fight against corruption and the promotion of integrity among businesses in the country.

Building on the diagnosis made in the ENIPC, Costa Rica should seek to strengthen the coordination among the different government entities with competences on anti-corruption, in particular with a view to reinforcing the prevention of corruption acts and promoting business integrity. For this purpose, Costa Rica should ensure that any future coordinating government entity or mechanism promotes engagement with businesses, including SMEs, and encourages their participation in the design of measures aimed at involving the private sector in the combat against corruption.

3.4.3. Specific policies and initiatives to promote businesses' involvement in the fight against corruption in Costa Rica

As noted above, the OECD MNE Guidelines acknowledge that businesses play an important role in the combat against corruption. To promote the involvement of companies in this fight, Costa Rica has recently reinforced its corporate liability regime and also taken measures aimed at incentivising businesses to adopt measures to prevent and detect corruption.

Costa Rica's corporate criminal liability regime

The Corporate Liability Law, enacted in 2019 as a consequence of the evaluation process undertaken by the OECD Working Group on Bribery, introduces into Costa Rican law corporate criminal liability for corruption-related crimes, while abrogating the previous administrative regime for corporate liability that had been in place since 2008 (Government of Costa Rica, 2019^[250]; OECD, 2020, pp. 57-59^[246]). Additional changes may stem from the 2021 Bill aimed at reforming several laws in the field of anticorruption to address the recommendations of the Working Group (*Reforma de leyes en materia de anticorrupción, para atender recomendaciones del Grupo de Trabajo sobre el soborno en las transacciones comerciales internacionales de la OCDE*, Bill No. 22.428) (Government of Costa Rica, 2021^[248]) (see Section 3.4.2). However, at the time of writing, it was uncertain whether this Bill would be adopted.

The current regime from 2019 applies to crimes committed after 11 June 2019 by private legal persons, State and non-State public companies, as well as autonomous institutions (Government of Costa Rica, 2019^[250]; OECD, 2020, pp. 57-59^[246]).¹²⁴ They can be held criminally liable for corruption-related crimes defined in the Criminal Code and in the Law against Corruption and Illicit Enrichment, including domestic and foreign bribery, in three different scenarios:

- when such crimes are perpetrated by senior company managers, that is in their name or on their behalf, and for their direct or indirect benefit, by their legal representatives, or by those, who acting individually or as members of one of their bodies, are authorised to make decisions in their name, or have general powers of organisation or control (Government of Costa Rica, 2019^[250]; OECD, 2020, pp. 59-60^[246]);¹²⁵
- in the case where the crimes are committed by lower level staff, i.e. in the exercise of their activities and on their behalf, and for their direct or indirect benefit, by those who, being subject to the authority of managers, have been able to commit the wrongful acts by gravely breaching the duties of supervision, monitoring and control of their activities (Government of Costa Rica, 2019^[250]; OECD, 2020, pp. 59-60^[246]);¹²⁶ and
- in the event that intermediaries are responsible for the crimes, namely crimes perpetrated in their name or on their behalf, and for their direct or indirect benefit, through intermediaries that are not related to them, but have been contracted or instructed by their legal representatives, or by those, who acting individually or as members of one of their bodies, are authorised to make decisions in their names, and have been able to gravely breach the duties of supervision, monitoring, and control of their activity (Government of Costa Rica, 2019^[250]; OECD, 2020, pp. 59-60^[246]).¹²⁷

The Corporate Liability Law foresees several types of penalties applicable to companies for corruption-related crimes, depending on the circumstances of the case and if the crime relates or not to public procurement:

- the imposition of fines, which can range from 1000 to 10,000 base salaries (i.e., approximately USD 77,000 to 7.7 million) (except for SMEs);
- the loss or suspension of government benefits or subsidies during three to ten years;
- the inability to obtain grants or public aid to participate in public tenders, bids, or any other activity related to the State during three to ten years;
- the inability to obtain tax or social security benefits or incentives during three to ten years;
- the total or partial cancellation of the permits, concessions, or contracts, obtained as a result of the crime; and
- the dissolution of the legal person (except for SOEs or autonomous institutions) (Government of Costa Rica, 2019^[250]; OECD, 2020, p. 71^[246]).¹²⁸

When determining the penalty, several criteria must be considered, such as, among others:

- the number and rank of the employees involved in the crime;
- whether the crime was directly committed by the owners or managers of the company;
- the nature, size and economic capacity of the company;
- the seriousness of the crime at the national or international level and of its social consequences;
- the amounts of money involved; and
- the existence and the effective implementation by the company of a corporate model of organisation, crime prevention, management, and control (*Modelo de organización, prevención de delitos, gestión y control*, Crime Prevention Corporate Model) (see Box 3.9) (Government of Costa Rica, 2019^[250]).¹²⁹

Costa Rica's initiatives encouraging businesses to prevent and detect corruption

Measures for preventing corruption: internal controls, ethics, and compliance programmes

With the 2019 Corporate Liability Law, Costa Rica also sought to incentivise businesses to take measures aimed at preventing the occurrence of corrupt acts. The law puts the MEIC and the MJP in charge of promoting the adoption of transparency and ethics programmes, as well as internal anti-corruption and control mechanisms, by companies. This includes promoting the adoption by businesses of Crimes Prevention Corporate Models (Government of Costa Rica, 2019^[250]).¹³⁰

Crime Prevention Corporate Models are similar to compliance programmes. They aim to prevent, detect, and address corruption-related acts in companies (Government of Costa Rica, 2019^[250]).¹³¹ They are voluntary for private companies, but SOEs are obliged to introduce a minimum of measures considered under the Crime Prevention Corporate Model. The Corporate Liability Law provides that Prevention Corporate Models shall be developed taking into consideration the company's size, type of activities, complexity and economic capacity, as well as the corruption risks it faces. However, they must include at least eleven elements defined in the law, which include topics like risk analysis, audits, trainings, etc.¹³² SMEs are subject to less requirements,¹³³ which gave rise to concerns by the OECD Working Group on Bribery (Government of Costa Rica, 2019^[250]; OECD, 2020, pp. 62-63^[246]).

A specific regulation (the Regulation on Crime Prevention Corporate Models) further regulates the Models, with the goal to promote them and provide guidance for their implementation by businesses (Government of Costa Rica, 2020^[262]).¹³⁴ This Regulation was reportedly drafted based on the OECD Good Practice Guidance on Internal Controls, Ethics and Compliance contained in Annex II of the OECD Anti-Bribery

Convention, and submitted to the OECD Working Group on Bribery prior to its publication. The Regulation was also subject to intergovernmental and public consultation and benefited from the inputs of several government entities, business associations and law firms. According to the Regulation, before developing a Crime Prevention Corporate Model, companies must assess the risks that can lead to their involvement in corruption-related crimes. The Regulation gives specific guidelines to carry out such risk assessment and address the identified risks, depending on their significance (Government of Costa Rica, 2020^[262]).¹³⁵ It specifies in this regard that the Model shall include a due diligence process for business partners that have been identified in the risk assessment as entailing a medium or high risk level (see Box 3.9) (Government of Costa Rica, 2020^[262]).¹³⁶

Box 3.9. Costa Rica's Corporate Model of Organisation, Crime Prevention, Management, and Control

The corporate model of organisation, crime prevention, management, and control (the Crime Prevention Corporate Model) established by the Corporate Liability Law aims to help companies prevent corruption. It can be developed and adopted by private companies, as well as by State-owned enterprises (SOEs), for which it is mandatory.¹ It applies to large companies and small and medium-sized enterprises (SMEs), but with specific rules for the latter.²

This Model must, at a minimum, include elements to meet the following requirements (except SMEs, which can adopt a simplified model):

- i. Identify the company's activities or processes that trigger or increase corruption risks.
- ii. Establish protocols, codes of ethics, rules and procedures that allow the company's staff to execute its tasks in a manner that prevents the commission of corruption-related crimes.
- iii. Establish protocols or procedures for decision-making and implementation.
- iv. Establish procedures for administrating and auditing financial resources to prevent their use in the commission of crimes.
- v. Create rules and procedures to prevent unlawful actions in bidding processes, the performance of administrative contracts, or in any other interaction with the public sector.
- vi. Determine the extent to which the code of ethics or conduct, or the policies and procedures to prevent crimes, apply to third parties or business partners.
- vii. Adopt adequate management models of financial resources to prevent the commission of corruption-related crimes.
- viii. Provide regular training on the Crime Prevention Corporate Model to managers, employees, third parties and business partners.
- ix. Schedule periodic risk analysis and verification of the Crime Prevention Corporate Model, and its eventual modification when necessary.
- x. Establish a disciplinary system that adequately sanctions non-compliance with the measures foreseen by the Crime Prevention Corporate Model.
- xi. Conduct an external accounting audit and report any finding of apparent unlawful acts.³

The Regulation of the Crime Prevention Corporate Model provides further guidance on how companies should proceed to develop a Crime Prevention Corporate Model.⁴ It provides that they must assess the risks of being involved in corruption-related crimes and gives a detailed list of risks to be considered,

as well as of the process to be followed for that purpose and, in particular, for identifying risks, prioritising them and determining the relevant responses thereto.⁵

More specifically, the Regulation provides that the Crime Prevention Corporate Model shall include a due diligence process for business partners that have been identified as presenting medium or high risk levels in the context of the risk assessment.⁶ This due diligence process must take into account, as a minimum, a series of situations, which includes *inter alia*: the necessity or legitimacy of the services to be provided by the business partner; investigations or accusations of bribery; criminal convictions; financial difficulties; involvement in relevant civil lawsuits; suspension of the activities, licenses or permits of the entity for more than a year; absence of information on the entity; etc.⁷

The Regulation also provides that the information generated on the basis of the risk assessment should be properly documented and kept up to date.⁸ It also signals that the adoption of the Crime Prevention Corporate Model should be accompanied by efforts to develop a culture of ethics within the company, with the support of senior management, which must show a real commitment to the anti-corruption measures included in the Model.⁹ In addition, the Regulation specifies that the development of a crime prevention policy by companies should take into consideration their specific characteristics, including sector of activities, size, complexity, etc.¹⁰ Finally, the Regulation includes provisions regarding whistleblowing pursuant to which internal reporting channels shall be included in the Crime Prevention Corporate Model, which shall also foresee measures to ensure the protection of whistleblowers.¹¹

All obligations, prohibitions, and sanctions derived from the Crime Prevention Corporate Model must be communicated to the company's manager, staff, third parties or business partners and be reflected in an internal regulation, which shall be expressly incorporated in their employment or service provision contracts.¹² The company must also provide training and capacity-building on this internal regulation, as well as on the reporting channels.¹³ Moreover, the companies that adopt a Crime Prevention Corporate Model must appoint a person in charge of supervising its functioning and verifying that it is being complied with.¹⁴

Notes:

1. Government of Costa Rica (2019), Ley sobre la responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos, Title II "Optional Model of Organisation, Crime Prevention, Management and Control", Article 9, "State and non-State public companies and autonomous institutions", http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=88954&nValor3=116544&strTipM=TC.
2. *Ibid.*, Article 10 "Small and medium enterprises".
3. *Ibid.*, Article 8 "Organisation model, crime prevention, management and control".
4. Government of Costa Rica (2020), Reglamento al Título II de la Ley sobre la responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos denominado "Modelo facultativo de organización, prevención de delitos, gestión y control", Chapter II "Organisation Model, Crime Prevention, Management and Control of Legal Entities", http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=92268&nValor3=122111&strTipM=TC.
5. *Ibid.*, Articles 5 "Elaboration of the model" and 6 "Evaluation of the risks in the Model".
6. *Ibid.*, Article 7 "Due diligence".
7. *Ibid.*, Article 7 "Due diligence".
8. *Ibid.*, Article 8 "Documentation and update".
9. *Ibid.*, Article 9 "Culture of ethics within legal persons".
10. *Ibid.*, Article 10 "Policy for preventing crimes in the Model".
11. *Ibid.*, Articles 13 "Management of reporting" and 14 "Whistleblowers' protection".

12. Government of Costa Rica (2019), Ley sobre la responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos, Title II “Optional Model of Organisation, Crime Prevention, Management and Control”, Article 8 “Model of organisation, crime prevention, management and control”.

13. Government of Costa Rica (2020), Reglamento al Título II de la Ley sobre la responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos, denominado “Modelo facultativo de organización, prevención de delitos, gestión y control”, Article 15 “Dissemination and capacity-building”.

14. Government of Costa Rica (2019), Ley sobre la responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos, Title II “Optional Model of Organisation, Crime Prevention, Management and Control”, Article 7 “Person in charge of the corporate model”; Government of Costa Rica (2020), Reglamento al título II de la Ley sobre la responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos, Articles 11 “Person in charge of the Model” and 12 “Functions of the person in charge of the Model”.

Sources: (Government of Costa Rica, 2019^[250]; Government of Costa Rica, 2020^[262]).

Companies that adopt an adequate Crime Prevention Corporate Model may benefit from a penalty reduction in case they are found liable of corruption-related crimes. The Corporate Liability Law foresees that a company’s sentence can be reduced by up to 40% if the company had adopted and implemented an adequate Crime Prevention Corporate Model and depending on the circumstances of the case. The OECD Working Group on Bribery highlighted the need to carefully monitor this aspect of the Law, as case-law and practice will be important to determine its impact (Government of Costa Rica, 2019^[250]; OECD, 2020, pp. 72-74^[246]).¹³⁷

Prior to 2019, only few Costa Rican companies were aware of corruption risks and had adopted measures to prevent and address these risks, such as anti-corruption compliance programmes or internal control mechanisms (OECD, 2020, pp. 14, 21, 26^[246]). Since then, some efforts have been made to raise awareness among the private sector of corruption issues and encourage businesses to adopt anti-corruption measures (see Box 3.10). The promotion of integrity programmes in the private sector is part of the actions foreseen under the ENIPC’s fourth priority axis regarding management of public-private corruption risks (Government of Costa Rica, 2021, pp. 69-71^[253]). The MJP and the Office of the Attorney General have reported having taken steps in this regard, including the organisation, with the private sector, civil society and the academia, of several awareness-raising and information campaigns, as well as conferences, and workshops (Government of Costa Rica, n.d.^[263]; OAS, 2021, pp. 22-23^[264]). In addition, the MJP is reportedly working with the INTECO on the elaboration of a technical standard aimed at supporting companies, and in particular SMEs, in the adoption of Crime Prevention Corporate Models (OECD, 2022, pp. 17-20^[244]).

Box 3.10. Private sector measures to prevent and address corruption in Costa Rica

The enactment of the Corporate Liability Law has served to start promoting the adoption of measures by the private sector to prevent corruption in Costa Rica.

For instance, in recent years, the Costa Rican Office of the International Chamber of Commerce (ICC Costa Rica) has been organising events and workshops on corruption issues, with a view to raise businesses’ awareness about the phenomenon and the need take measures to combat it. Likewise, Costa Rica’s Bar Association (*Colegio de Abogados y Abogadas*) has organized events and trainings in the field and, in particular, on the design and implementation of compliance programmes.

In the same vein, at the beginning of 2021, the Business Alliance for Development (*Alianza Empresarial para el Desarrollo*, AED) and the Costa Rican Union of Chambers and Associations of the Business Sector (*Unión Costarricense de Cámaras y Asociaciones del Sector Empresarial Privado*, UCCAEP) concluded an Integrity Commitment (*Compromiso de Integridad*) to combat corruption in public procurement. The goal of this agreement is to promote and encourage their respective members to implement high compliance standards and ethical values when participating in public procurement

processes. More generally, the AED has developed a series of initiatives, including awareness-raising and capacity-building activities, trainings, and technical assistance, to help affiliated businesses enhance their corporate governance practices and reduce corruption risks.

Sources: (OECD, 2022^[244]; AED, 2021^[265]; AED, 2022^[266]).

The enactment of the Corporate Liability Law and of the Regulation on Crime Prevention Corporate Models is a welcome development, as they both seek to further involve companies in the fight against corruption in Costa Rica. Nevertheless, as they were only adopted recently, their effectiveness in combating corruption has not been demonstrated yet. Their potential to encourage businesses operating in or from the country to adopt preventive measures against corruption will depend on several factors. To start with, it will largely depend on the promotion of the Crime Prevention Corporate Model among the private sector. It will then also depend on the measures taken to ensure that the adoption of such Model by companies is followed by implementation and actually leads to concrete results in practice.

Costa Rica should reinforce the measures taken to raise awareness about the Crime Prevention Corporate Models among the private sector and build businesses' capacity to adopt and effectively implement such Models, with the support of the NCP.

Ensuring that the Crime Prevention Corporate Model is well known and that companies have a good understanding of its implications and components is fundamental for its adoption and implementation. As a first step, Costa Rica could contemplate deploying actions to communicate about the Model and train businesses about the requirements of the Corporate Liability Law, the Regulation on Crime Prevention Corporate Models, and how companies can concretely put in practice the Model. In this regard, the MEIC and the MJP could collaborate with COMEX and, more precisely, with the NCP to design and implement a training programme for businesses. As the expert institution for RBC and due diligence, the NCP could provide useful guidance to businesses wishing to adopt and implement a Crime Prevention Corporate Model on how to carry out due diligence to identify, prevent, and mitigate corruption risks on the basis of the OECD Due Diligence Guidance for RBC. Business associations, especially those that have already supported their members in the adoption and implementation of Crime Prevention Corporate Models, as well as CSOs with relevant experience, could also be involved in the elaboration and roll-out of this training programme.

To enhance uptake of the Crime Prevention Corporate Model, Costa Rica could also consider associating the adoption and implementation of the Model to positive incentives for businesses. Such incentives could take different forms and pertain to several policy areas. In a general manner, companies that adopt and implement such Model adequately could – upon verification of their compliance with the requirements of the Corporate Liability Law and the Regulation on Crime Prevention Corporate Models and their effective implementation of the Model – be granted a label certifying that they have adopted preventive measures to address corruption. This label could then be used in a public procurement context to identify potential suppliers or contractors with recognised integrity practices. Incentives linked to the Crime Prevention Corporate Models could also be foreseen in the field of trade and export promotion. Exporting companies having adopted and implemented such Models could, for instance, benefit from advantages when requesting export support.

It is worth highlighting that taking steps towards the implementation of the above recommendation would directly contribute to implement several actions of the fourth priority axis of the ENIPC regarding management of public-private corruption risks and, more precisely, of strategy No. 4.4 on integrity programmes in the public and private sector. This strategy indeed foresees several related actions, such as the development of a communication and capacity-building campaign on integrity programmes, the creation of an instance in charge of registering such programmes and assessing and accompanying companies in their implementation, and the design of incentives in the field of public procurement to promote these programmes (Government of Costa Rica, 2021, pp. 70-71^[253]).

Measures for detecting corruption: private sector whistleblowing

With the Regulation on Crime Prevention Corporate Models, Costa Rica also seeks to encourage businesses to adopt measures to detect corruption through private sector whistleblowing. According to the Regulation, the Models should include internal reporting channels allowing to report suspicions, attempts or acts that may constitute corruption-related crimes within companies, as well as measures to protect whistleblowers from retaliation (Government of Costa Rica, 2020^[262]) (see Box 3.11).¹³⁸

Box 3.11. Private-sector whistleblowing in the Crime Prevention Corporate Models

The Regulation on Crime Prevention Corporate Models foresees the inclusion of internal reporting channels in the Model. It provides that the internal reporting channels, as well as the process put in place to manage them, should inspire trust and guarantee the protection of whistleblowers from retaliation.¹ These reporting channels shall be easily accessible, safe and visible and must guarantee the confidentiality of the whistleblowers and of the content of the complaints. It also indicates that, upon reception of a complaint, the company must evaluate the risks of retaliation against the whistleblower based on a set of criteria to mitigate such risks.²

With respect to the protection of whistleblowers, the Regulation provides that the Crime Prevention Corporate Models shall include mechanisms to guarantee that whistleblowers within the company receive adequate protection and support while their complaint is handled to diminish the risks of retaliation.³ It specifies in this regard that a whistleblower shall not be discriminated, sanctioned, suspended, downgraded, dismissed, reallocated or removed from his/her functions as a result of the complaint and that the company must define the disciplinary measures applicable in case of attempts to identify a whistleblower or the person responsible for retaliation.⁴

Notes:

1. Government of Costa Rica (2020), Reglamento al Título II de la Ley sobre la Responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos denominado “Modelo facultativo de organización, prevención de delitos, gestión y control”, Chapter II “Organisation Model, Crime Prevention, Management and Control of Legal Entities”, Article 13 “Management of reporting”, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=92268&nValor3=122111&strTipM=TC.

2. *Ibid.*, Article 13 “Management of reporting”.

3. *Ibid.*, Article 14 “Whistleblowers”.

4. *Ibid.*, Article 14 “Whistleblowers”.

Sources: (Government of Costa Rica, 2020^[262]).

However, as the adoption of Crime Prevention Corporate Models is optional, companies are not obliged to put in place internal reporting channels with whistleblower protection mechanisms. This means that corporate employees who report misconduct will benefit from protection only in cases in which companies have adopted and adequately implemented Crime Prevention Corporate Models. In addition, the protection only applies to *internal* reporting within companies.

Thus, while the Regulation on Crime Prevention Corporate Models constitutes an important step towards whistleblower protection, challenges remain. Costa Rica does not appear to have adopted a consolidated legislation protecting whistleblowers that report corruption acts in both the private and public sectors. Different provisions of the Costa Rican legal framework aim to protect victims, witnesses, and other persons in the context of criminal lawsuits and whistleblowers in the framework of administrative investigations. An example is the Law on the protection of victims, witnesses and other persons intervening in criminal proceedings (*Ley de protección a víctimas, testigos y demás sujetos intervinientes en el proceso penal, reformas y adición al Código Procesal Penal y al Código Penal*), which aims at protecting

their life, physical integrity, freedom, and security (Government of Costa Rica, 2009^[267]).¹³⁹ Another example is article 8 of the Law against Corruption and Illicit Enrichment, which provides that the identity of whistleblowers that report in good faith suspected corruption before administrative authorities should be kept confidential. In addition, these persons can benefit from protection by the administrative police (Government of Costa Rica, 2004^[249]).¹⁴⁰ Nevertheless, these provisions, which are scattered across different legislations, only apply in specific contexts, such as criminal proceedings or administrative investigations. This means that whistleblowers remain without protection from the moment they report misconduct until these proceedings begin. In addition, these provisions do not cover the public and the private sectors extensively and do not provide comprehensive protection against all types of retaliation, such as for instance reprisals in the workplace (OECD, 2020, pp. 16-17^[246]). On this last point, a bill partially reforming the Law Against Corruption and Illicit Enrichment (*Proyecto de Ley Nro. 18.348 de reforma parcial y adición a la Ley contra la corrupción y el enriquecimiento ilícito en la función pública*) seeks to introduce mechanisms to protect whistleblowers and witnesses that report suspected corruption-related acts in the public sector from retaliation at work (Government of Costa Rica, 2004^[268]). However, at the time of writing, this draft law has not been approved despite being discussed for several years.

Thus, as emphasised by the OECD Working Group on Bribery in its Phase 2 Evaluation Report of Costa Rica and in its Phase 2 Two-year Follow-up Report, there is currently no consolidated legal framework in Costa Rica providing broad protection to whistleblowers in the public and private sectors and, in particular, to corporate employees that report suspected corruption acts within companies (OECD, 2020, pp. 16-17^[246]; OECD, 2022, pp. 1, 6^[244]).

Costa Rica should consider the possibility of taking measures to adjust its legal and regulatory framework in order to provide comprehensive protection from all types of retaliation to corporate employees that report, in good faith and on reasonable grounds, suspected acts of corruption perpetrated by other employees, companies, and/or their suppliers or subcontractors.

One of the recommendations of Chapter VII of the OECD MNE Guidelines is that businesses take appropriate actions to detect corruption-related acts.¹⁴¹ The promotion of private sector whistleblowing through internal reporting mechanisms available to corporate employees, such as the ones included in Crime Prevention Corporate Models, are key to ensure the detection of corruption arising in companies. Nevertheless, in order to be effective, these internal mechanisms must be coupled with external channels to report to the competent authorities and, above all, with legal guarantees that corporate employees who decide to report suspected corruption acts will be granted comprehensive protection against retaliation. Such guarantees must be enshrined in a framework applicable at all times, and not be dependent on the implementation of a Crime Prevention Corporate Model. This is fundamental to encourage potential whistleblowers to report suspected violations. Without such a framework, there exists uncertainty about how effective legal protection can be ensured through mere optional company whistleblower mechanisms. This uncertainty deters reporting, as corporate employees have no legal guarantee that they will be protected against reprisals. This is the reason why most OECD countries have adopted comprehensive protection frameworks to facilitate external reporting to the authorities and protect whistleblowers from retaliation both in the public and private sectors.

It should be noted that developing and implementing a framework guaranteeing the protection of private sector whistleblowers would directly contribute to the implementation of the third priority axis of the ENIPC regarding promotion of citizen participation and control and, more precisely, of strategy No. 3.2 pertaining to effective complaints and whistleblower protection (Government of Costa Rica, 2021, pp. 52-57^[253]). The general goal of this strategy is to ensure the protection of the persons who report in good faith suspected acts of corruption or violations of the duty of probity and transparency in the exercise of public functions (Government of Costa Rica, 2021, p. 57^[253]). To this effect, the strategy foresees, under action No. 3.2.6, the development of new legislation, aligned with OECD standards, that will provide clear and comprehensive protection against retaliation to whistleblowers in the public and private sectors as soon as they report suspected corruption acts (Government of Costa Rica, 2021, pp. 53, 57^[253]).

Policy recommendations

16. **Seek to strengthen coordination among the different government entities with competences on anti-corruption to reinforce corruption prevention and business integrity, and ensure that any future coordinating government entity or mechanism promotes engagement with businesses and encourages their participation in the design of measures aimed at involving the private sector in the combat against corruption.**
17. **Reinforce the measures taken to raise awareness about the Crime Prevention Corporate Models among the private sector and build businesses' capacity to adopt and implement effectively such Models, with the support of the NCP.**
18. **Consider the possibility of adjusting the legal and regulatory framework to provide comprehensive protection from all types of retaliation to corporate employees that report, in good faith and on reasonable grounds, suspected acts of corruption perpetrated by other employees, companies, and/or their suppliers or subcontractors.**

4 Leveraging and incentivising Responsible Business Conduct in Costa Rica

In addition to regulating and enforcing in support of RBC, governments can promote and enable RBC through the integration of RBC considerations in policy areas that have a bearing on the conduct of businesses. To build an enabling environment for businesses to act responsibly, it is fundamental that governments promote policy coherence and ensure alignment of policies relevant to RBC (OECD, 2015^[1]). Costa Rica can take steps in this direction by further integrating RBC considerations into the Government's operations as an economic actor or in its economic activities, as well as in its economic policies that contribute to shape business conduct.

4.1. Exemplifying RBC in the Government's operations as an economic actor

To promote and enable responsible business practices, it is key that governments lead by example and follow RBC principles and standards in their role as economic actors or in their commercial activities (OECD, 2015^[1]). By doing so, they can encourage RBC and enhance the legitimacy of RBC-related policies. Costa Rica could lead by example by further integrating RBC considerations in its activities as procurer of goods, services, and works, and as owner of enterprises.

4.1.1. Incorporating considerations related to RBC in Costa Rica's public procurement

Public procurement is a strategic instrument and lever for achieving policy goals. These goals can include stimulating innovation, promoting green public procurement and the circular economy, ensuring equal access to public procurement contracts for SMEs, or promoting RBC (OECD, 2020^[269]).

"Value for money" is a fundamental principle underpinning public procurement. In the context of public procurement, value for money means the "most advantageous combination of cost, quality and sustainability to meet defined requirements" (MAPS, n.d.^[270]). The economic argument has been at the forefront of governments' considerations given budget pressures and citizens demanding accountability for public spending. However, "value" increasingly includes broader objectives, including environmental and social objectives (OECD, 2020^[269]).

In recent years, there has been growing awareness of the potential risks of human and labour rights abuses in global supply chains, especially risks related to child labour, forced labour or modern slavery and human trafficking. This has resulted in growing calls for governments and business to take greater responsibility for their purchasing decisions and actions (OECD, 2020^[269]).

The PFI highlights that governments can promote RBC by including public procurement criteria related to RBC (OECD, 2015^[1]). The 2015 OECD Recommendation of the Council on Public Procurement provides

guiding principles for countries on how to strike the right balance for public procurement systems that support both achieving economic goals and furthering environmental and social objectives (OECD, 2015_[271]). The Recommendation identifies the steps to be taken whenever such objectives are pursued (see Box 4.1).

Box 4.1. OECD Recommendation on Public Procurement: the principle of balance

The Council

V. RECOMMENDS that Adherents recognise that any use of the public procurement system to pursue secondary policy objectives should be balanced against the primary procurement objective.

To this end, Adherents should:

- i. Evaluate the use of public procurement as one method of pursuing secondary policy objectives in accordance with clear national priorities, balancing the potential benefits against the need to achieve value for money. Both the capacity of the procurement workforce to support secondary policy objectives and the burden associated with monitoring progress in promoting such objectives should be considered.
- ii. Develop an appropriate strategy for the integration of secondary policy objectives in public procurement systems. For secondary policy objectives that will be supported by public procurement, appropriate planning, baseline analysis, risk assessment and target outcomes should be established as the basis for the development of action plans or guidelines for implementation.
- iii. Employ appropriate impact assessment methodology to measure the effectiveness of procurement in achieving secondary policy objectives. The results of any use of the public procurement system to support secondary policy objectives should be measured according to appropriate milestones to provide policy makers with necessary information regarding the benefits and costs of such use. Effectiveness should be measured both at the level of individual procurements, and against policy objective target outcomes. Additionally, the aggregate effect of pursuing secondary policy objectives on the public procurement system should be periodically assessed to address potential objective overload.

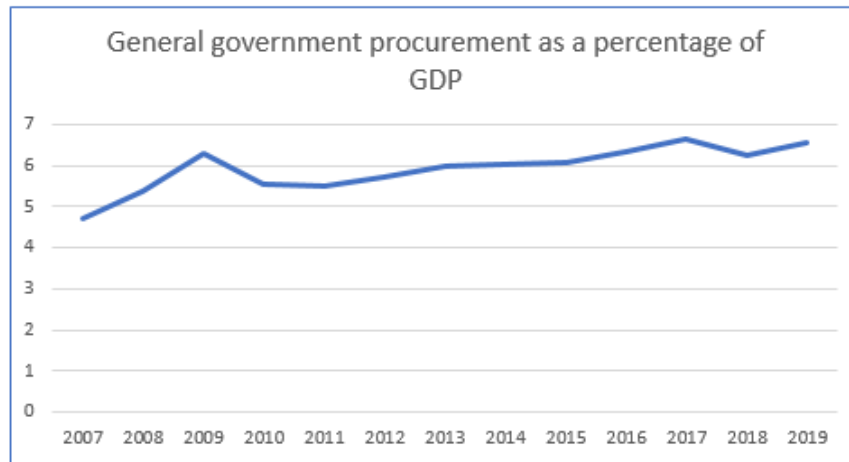
Source: (OECD, 2015_[271]).

Size of public procurement in Costa Rica

Public procurement data for the entire public administration in Costa Rica will only be available in a consolidated form from December 2022. Estimates in recent years, that do not cover all public procurement institutions, range from 4% to 12.5% of GDP for 2018. According to OECD public accounts statistics, in 2019, public procurement accounted for 15% of general government expenditure and 6.5% of GDP in Costa Rica. In OECD countries, countries spent on average 31% of their government expenditure through public procurement and public procurement accounts for 13% of GDP (OECD, 2021_[272]).

As a share of GDP, the volume of public procurement in Costa is estimated to have slightly increased over the last ten years (see Figure 4.1).

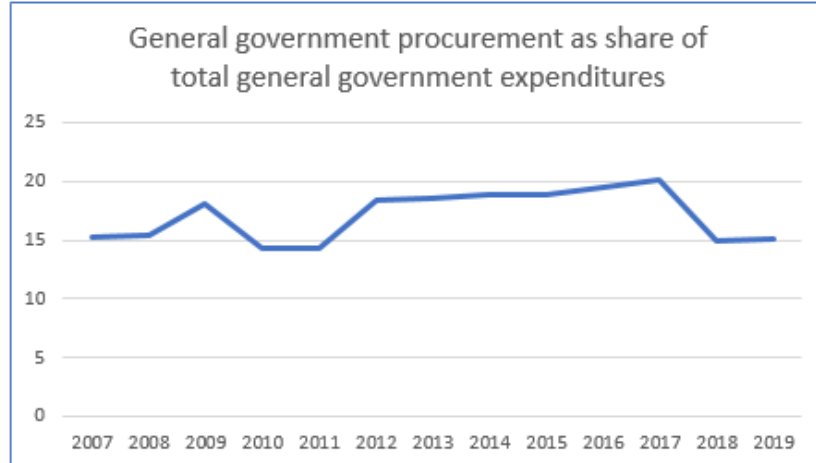
Figure 4.1. General government procurement in Costa Rica, as a percentage of GDP



Source: (OECD, 2021^[272]).

Considered as a share of government expenditure, Costa Rica's estimated public procurement volume fluctuated slightly between about 15% and 20% (see Figure 4.2).

Figure 4.2. General government procurement in Costa Rica, as share of total general government expenditures



Source: (OECD, 2021^[272]).

This buying power provides governments with a strong lever for promoting more responsible production and consumption of goods and services. This, in turn, enables more sustainable growth, ensures value for money, and helps governments meet commitments from the 2030 Agenda (OECD, 2020^[269]).

Frameworks on RBC in public procurement in Costa Rica

Costa Rica's efforts on RBC and public procurement are guided by a set of frameworks with varying remit. The National Policy to Produce and Consume Sustainably 2018-2030 (*Política Nacional de Producción y Consumo Sostenibles 2018-2030*) is the most general. One of the seven axes of this Policy focuses on

Sustainable Public Procurement and sets out basic principles of sustainable public procurement in the country (see Box 4.2).

Box 4.2. Sustainable Public Procurement in Costa Rica: basic definitions

Costa Rica's National Policy to Produce and Consume Sustainably 2018-2030 (*Política Nacional de Producción y Consumo Sostenibles 2018-2030*) defines Sustainable Public Procurement as “the process by which organisations satisfy their needs for goods, services and works obtaining the best value for the money spent” in terms of generating benefits not only for the organisation but also for society and the economy, while minimising impacts to the environment. In this type of purchase, goods or services are evaluated under a “triple impact approach”, i.e. public buyers comprehensively consider social, environmental, and economic criteria:

- Economic considerations relate to monetary value, price, and quality.
- Environmental considerations relate to the effects and impacts that the product or service generate on the environment, throughout the whole life cycle of the project.
- Social considerations relate to effects of the product or service on poverty eradication, fair distribution of resources, adequate labour conditions, non-discrimination by gender or race and protection of human rights.

From an environmental perspective, making sustainable public procurement purchases means that an institution is acquiring products or services with energy efficiency criteria; trying to encourage saving raw materials like water, and that the purchase contemplates waste management, seeking to mitigate negative impacts on the environment.

Sources: (Government of Costa Rica, n.d.^[273]; Government of Costa Rica, n.d.^[274]).

At the time of writing, Costa Rica's public procurement legislative framework in force was centred on the Law on Administrative Contracting (*Ley de Contratación Administrativa*), in place since 1996 with corresponding regulation approved in 2006 (Government of Costa Rica, 1995^[275]). The analysis contained in the present Review is based on the Law on Administrative Contracting. However, a comprehensive reform of the public procurement legal and regulatory framework had been ongoing in Costa Rica. The new Public Procurement Law (*Ley General de Contratación Pública*) was signed in May 2021 and will enter into force in December 2022 (Government of Costa Rica, 2021^[276]). It introduces for the first-time sustainability aspects including RBC. Draft regulation, which was under discussion at the time of writing, emphasised RBC in public procurement. The new Public Procurement Law also includes a dedicated article about professionalisation of public buyers, establishing the mandate for the development of a professionalisation strategy for public buyers and companies (see Box 4.3).

Box 4.3. Public procurement legal reform in Costa Rica

As part of its accession to the OECD, Costa Rica began reforming its public procurement legal and regulatory framework to align it with international good practices and OECD instruments, namely the 2015 OECD Recommendation on Public Procurement. The OECD supported Costa Rica with analysis and capacity-building.

On 27 May 2021, Costa Rica's President signed the reform into effect. With its publication in the National Gazette on 31 May 2021, the new Public Procurement Law was set to enter into force on 1 December 2022 (18 months after publication.) In the meantime, Costa Rica's Government prepared supporting regulation. The comprehensive reform is based on the principles of transparency, procedural

simplification, and cost-saving. According to estimates, Costa Rica could save 1.5% of its GDP when procuring works, goods, and services.

The new Public Procurement Law introduces structural changes of the public procurement system. It introduces a single public procurement regime, which must be carried out through a unified digital system covering all stages of the public procurement cycle. The Law simplifies the management of public procurement by reducing the available procedures to three: (i) major tender, (ii) minor tender, and (iii) reduced tender.

Additional reforms include:

- The creation of the Public Procurement Authority (*Autoridad de Contratación Pública*, ACP), which will act as a central public procurement authority and its implementing agency, the Directorate of Public Procurement (*Dirección de Contratación Pública*, DCP) within the Ministry of Finance (*Ministerio de Hacienda*). Both will be in charge of key areas of the public procurement system such as strategic procurement and the professionalisation agenda.
- Promotion of strategic public procurement. The new Public Procurement Law includes a specific chapter on strategic public procurement, establishing environmental and social sustainability as general principles of the public procurement system (Article 8).
- Mandates to develop policies on the professionalisation of the public procurement workforce, to be implemented by the DCP. It also mentions the development of a certification framework.
- The DCP will be in charge of managing risks in public procurement and adopting control measures to mitigate those risks.

Sources: (Government of Costa Rica, n.d.^[277]; Government of Costa Rica, 2019^[278]; Elmundo.cr, 2021^[279]; OECD, 2020^[280]).

In Costa Rica, several institutions are in charge of the public procurement system: the General Directorate of Asset Management and Public Procurement (*Dirección General de Administración de Bienes y Contratación Administrativa*, DGABCA) in the Ministry of Finance (*Ministerio de Hacienda*), as well as the Comptroller General of the Republic (*Contraloría General de la República*, CGR) (OECD, 2020^[280]). The new Public Procurement Law will consolidate the institutional framework for public procurement (see Box 4.3)

While Costa Rica's new Public Procurement Law will solidify strategic public procurement, with the inclusion of considerations relating to RBC, the country has already made advances to integrate RBC in public procurement. A central piece in this context is the 2015 National Policy on Sustainable Public Procurement and Creation of the National Steering Committee of Sustainable Procurement (*Política Nacional de Compras Públicas Sustentables y Creación del Comité Directivo Nacional de Compras Sustentables*, PNCPS) (Government of Costa Rica, 2015^[281])

The PNCPS mandates that contracting authorities have to consider in their procurement processes human rights, labour rights, the eradication of child labour, gender mainstreaming and people with disabilities in line with national policies and laws. It is worth noting that this policy mentions that these considerations should cascade down through the supply chain, from importing activities to waste disposal of the products and can be applicable to any stage of the life cycle of goods, services or public works, which means that they can be required throughout the supply chain (OECD, 2020^[280]). Following the research period for the elaboration of the present Review, an updated Guide on Sustainable Public Procurement (*Guía de Compras Públicas Sustentables*) was published in 2022 (see the following sub-section).

Following the categorisation in the 2020 OECD Report "Integrating Responsible Business Conduct in Public Procurement", the PNCPS speaks to a range of RBC objectives, including considerations related to the environment, human and labour rights, persons with disabilities, minority considerations, gender considerations, and integrity (OECD, 2020^[269]). Additional regulatory and strategic frameworks have a bearing on public procurement with regards to these individual objectives (see Table 4.1).

Table 4.1. Frameworks to pursue specific RBC objectives in Costa Rica's public procurement

Objective	Framework
Environment	Technical standards for sustainable government procurement
Labour rights	Guidelines on social criteria in government procurement processes Childhood and Adolescence Code Executive Decree 29220-MTSS: Regulation on the hiring and the occupational health conditions of adolescents
People with disabilities	National Policy on Disability 2011-2021 Law No. 7 600 on Equal Opportunities for People with Disabilities Law No. 8 661: Convention on the Rights of People with Disabilities Law No. 8 662 on Inclusion and Labour Protection of People with Disabilities in the Public Sector Law No. 7 092 on Income Tax Guidelines on social criteria in government procurement processes
Minority considerations	Guidelines on social criteria in government procurement processes
Gender considerations	Guidelines on social criteria in government procurement processes
Integrity	Law No. 8 422 against Corruption and Illicit Enrichment in Public Service

Source: (OECD, 2020^[269]).

Aside from these overarching frameworks, several laws establish concrete requirements that public buyers have to observe as part of the tender process.

The Law on Integral Waste Management (*Ley para la Gestión Integral de Residuos*) requires government purchases to favour materials that are recycled, biodegradable, and produced with environmentally friendly technologies. Contracting authorities must give an additional score of 20% in the qualification for any bidders who, under equal conditions, demonstrate that their products comply with waste management requirements (Government of Costa Rica, 2010^[282]).

According to Law on Labour Risks (*Ley sobre Riesgos del Trabajo*), contracting entities cannot award contracts to suppliers that have not presented valid insurance against occupational hazards (Government of Costa Rica, 1982^[283]). The Law on the Constitution of the Costa Rican Social Security Fund (*Ley Constitutiva de la Caja Costarricense de Seguro Social*) states that bidders must be up to date with the payment of their social contributions with the Costa Rican Social Security Fund in order to participate in any public procurement process (Government of Costa Rica, 1943^[284]).

The Law on Administrative Contracting establishes that all public works contracted by the Government must be preceded by an EIA that identifies the effects of the public works (Government of Costa Rica, 1995^[275]).¹⁴² Additionally, it requires restoring the ecosystem if the public works cause damage. The accompanying regulation (*Reglamento a la Ley de Contratación Administrativa, RLCA*) establishes that all government officials must ensure contracts of public works have a minimum environmental impact.¹⁴³ The RLCA also mandates government officials to evaluate social considerations when signing a procurement contract (Government of Costa Rica, 2006^[285]).¹⁴⁴

The Government of Costa Rica signed a Memorandum of Understanding with the Government of the United States to create an Observatory of Public Procurement (*Observatorio de Compras Públicas*), which is operated by the Ministry of Finance and CSOs. Since 2020, the Observatory helps ensuring that procurement contracts comply with the principles of transparency, sustainability and disclosure (Government of Costa Rica, n.d.^[286]).

While Costa Rica has a well-developed legal and regulatory framework to include RBC in public procurement, public buyers and potential bidders have to follow a breadth of rules that are dispersed over several laws, hindering implementation. It has been reported that they face challenges in integrating the activities of individual government entities towards a consistent, nation-wide strategy that also includes all RBC considerations with a view to the entire public supply chain. This is particularly important as it is seen

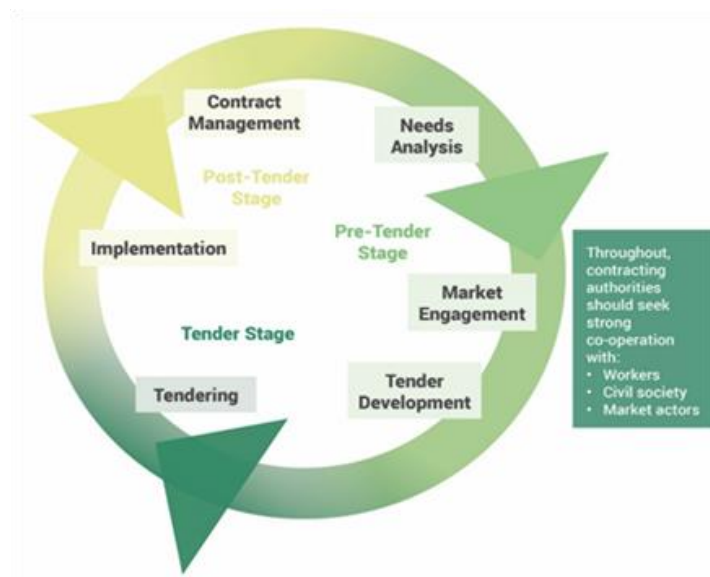
as a critical piece in communicating RBC expectations to potential suppliers. The adoption of the new public procurement legislation and accompanying regulation will be a step towards greater consolidation of rules to integrate RBC considerations in public procurement.

Costa Rica could consider strengthening the strategic framework on public procurement towards a more targeted, consistent, and comprehensive approach on RBC and due diligence to communicate RBC expectations to public buyers and potential bidders. This could entail including a specific strategy on RBC and due diligence as part of the strategic public procurement approach enshrined in the new public procurement law. Costa Rica should ensure a continued, strong, cross-governmental approach involving the NCP in the development of this RBC strategy.

Implementing RBC along the public procurement cycle

To ensure a consistent application of RBC objectives in public procurement, all phases of the public procurement cycle should be covered. Commonly, the public procurement cycle has three main phases: (i) the pre-tender stage, (ii) the tender stage, and (iii) the post-tender stage. The pre-tender stage serves to prepare the tender, i.e. assess needs and determine available offers in the market. The tender stage is the competition, i.e. the publication of the tender notice with the requirements and the acceptance and evaluation of bids and award. During the post-tender phase, the contract is implemented and followed by the contracting authority, taking note for future procurements (see Figure 4.3).

Figure 4.3. The Public Procurement Cycle



Source: (OECD, 2020^[269]).

Public buyers in Costa Rica can draw on a range of supporting documents when integrating RBC into public procurement. The government has prepared a range of guidance and documents, and offers related training. Public buyers have to include some mandatory criteria related to technical specifications for frequently purchased products, such as vehicles or refrigerators, and can use model criteria for public works.

To support public buyers in the implementation of the RBC objectives as foreseen by the strategic and legal framework, the Ministry of Finance has set out best practices and recommendations about sustainability and public procurement. A central piece of the guidance is the Ministry of Finance's technical

guidance on the application of sustainability criteria from 2015 (titled “Technical Norm for the Application of Sustainability Criteria in Public Procurement and Guide for the Implementation of Article 19 of Law 8839” (*Norma técnica para la aplicación de criterios sustentables en las compras públicas y guía para la implementación de los artículos 19 de la Ley 8839*)). Its objective is to establish criteria to evaluate the sustainability of government-purchased products. It specifies that sustainability criteria should be considered throughout the whole value chain of the goods, tracing the raw materials, the transformation process, packing, transportation, and final disposal (Government of Costa Rica, 2015_[287]). The PNCPS created a model for social criteria that grant additional percentage points to bidders in the tender evaluation. Contracting authorities are not obliged to use these criteria under legislation current at the time of review. Additional guidance is planned to harmonise and expand these criteria. More recently, the National Steering Committee on Sustainable Procurement (*Comité Directivo Nacional de Compras Sustentables*) created a Guide for Sustainable Public Procurement (*Guía de Compras Públicas Sustentables*). The Guide, published in 2022, was a collaboration of several Ministries in the National Steering Committee on Sustainable Procurement. It contains background information on sustainable public procurement, information on Costa Rica’s national context for sustainable public procurement, as well as good practices along the public procurement cycle (Government of Costa Rica, 2022_[288]).

To operationalise the principles of green public procurement, the Ministry of Finance created a Manual for the Implementation of Green Procurement (*Manual Para la Implementación de Compras Verdes*), which requires government institutions to integrate selection criteria based on environmental management, corporate social responsibility and sustainability to purchases goods and services (Government of Costa Rica, 2008_[289]).

The MINAE also created the National Environmental and Energy Efficiency Labelling Programme (*Programa Nacional de Etiquetado Ambiental y de Eficiencia Energética*) (see Box 3.5). This certification scheme responds in part to the policies on sustainable public procurement, with the aim of supporting public buyers in implementing goals related to greener products (Government of Costa Rica, 2019_[198]). There is also a training programme on environmental aspects for public buyers.

Towards the implementation of social RBC considerations, the MTSS prepared the Social Criteria Guide in Public Procurement Processes in Costa Rica (*Guía de criterios sociales en los procesos de contratación pública en Costa Rica*). This guide includes examples of clauses to be used in tender documentation. It also explains specific obligations of bidders related to social security, labour security, and labour conditions:

- i. **Social security:** suppliers must ensure that their employees are covered by the social security system of the Costa Rican Social Security Institution (*Caja Costarricense de Seguro Social, CCSS*).
- ii. **Labour security insurance:** suppliers must provide their workers with labour insurance.
- iii. **Labour conditions:** suppliers have to guarantee (i) health and safety measures at the workplace, (ii) minimum wage, (iii) maximum legal working hours, (iv) no child labour (under 15 years old), (v) no discrimination (ethnicity, age, gender, religion, people with disabilities, people with AIDS); (vi) training opportunities, and (vii) nonemployment of illegal migrants (Government of Costa Rica, 2014_[290]).

The above-mentioned guidance related to different aspects of RBC does not cover all phases of the public procurement process. In addition, autonomous public institutions¹⁴⁵ or municipalities are not required to use these guidance and model documents. Previous OECD analysis revealed that public buyers tend to be unaware of existing guidance (OECD, 2020_[280]). In particular, 43% of responding contracting authorities reported being unaware of the guidance on social criteria (OECD, 2020_[280]).

During the bidding and execution stage of the contract, if a contractor becomes delinquent with the CCSS and the contracting authority has pending payments in its favour, the contractor must withhold its payment

and transfer said resources directly to the fund of the Social Security (Government of Costa Rica, 1943^[284]; Government of Costa Rica, 1974^[291]).¹⁴⁶ The obligation to make the payment of the CCSS includes third-party subcontractors, who must comply with this obligation, making the contractor jointly and severally liable. This point is noteworthy, as this requirement develops the responsibility of subcontractors and their compliance obligations regarding RBC expectations in value chains.

Since 2013, Costa Rica has a centralized electronic public procurement system (*Sistema Integrado de Compras Públicas*, SICOP), which is the sole means for procurement and communication between stakeholders. Public procurement legislation stipulates that all procurement procedures must be executed digitally through this portal, which is free for the general public to use. All documents and information related to the procedures must be uploaded to the portal.¹⁴⁷ The Government offers training on these digital tools, including regarding the use of the evaluation tool Evaluation Matrix for Sustainable Public Procurement (*Matriz Evaluación de Compras Sustentables*, MECS). In 2018, for example, 143 public officials were trained in the use of MECS (OECD, 2020^[269]).

In late 2021, about 96% of public entities were using SICOP. This represents an increase over recent years since the use of SICOP became mandatory in 2016. While this is near full coverage, Costa Rica's Government could investigate what hinders the remaining public entities from using SICOP. In addition, the information available on SICOP concerns only the pre-tendering and the tendering phase. Information on contract management is not available, as the tool does not cover the whole procurement cycle (Government of Costa Rica, 2021^[292]).

Costa Rica is encouraged to work towards better disseminating existing guidance and tools on RBC considerations for public buyers, such as through central availability and training. In addition, available guidance could be expanded to cover all stages of the public procurement cycle.

While efforts have rendered public procurement more responsible, implementation could be stronger. According to OECD analysis from 2020, 56% of surveyed contracting authorities implement RBC considerations in their social dimension (OECD, 2020^[280]). This reflects a weaker implementation than for considerations regarding SMEs (68%) or green public procurement (65%). (OECD, 2020^[280]) More specifically, challenges in the implementation of RBC considerations and due diligence in public procurement relate to capacity, engagement of external stakeholders, businesses and civil society, including trade unions, and due diligence considerations along the public procurement cycle.

According to information provided by the Government during the preparation of the Review, public buyers struggle to identify offers that meet RBC considerations. Lacking capacity is a key element in this context, both on the side of the public buyer and on the side of the private sector in responding to public tenders. It is a particular concern in the agricultural sector, for example in the production of wood. Previous analysis by the OECD confirms that Costa Rica's public procurement system could benefit from capacity-building measures (OECD, 2020^[280]).

As highlighted above, guidance available to public buyers does not cover the entire public procurement cycle, which impacts the implementation of RBC considerations. According to the 2020 OECD Report "Towards a new vision for Costa Rica's Public Procurement System", the contract management phase is particularly weak among the phases of the procurement cycle (OECD, 2020^[280]). In addition, authors were unable to identify any implementation of risk-based due diligence or risk management systems. This is in line with the limited uptake of the e-procurement system.

Pursuant to information provided by the Government during the preparation of the Review, part of the communication with companies could be used to explain benefits and rentability for companies in adopting a more responsible business conduct. Similarly, greater uptake of RBC considerations and due diligence approaches would benefit from engaging those that might be impacted by potential harm. This finding is confirmed by previous OECD analysis, which found that stakeholders had been involved in the public

procurement legal reform but are not frequently involved in public procurement procedures (OECD, 2020^[280]).

Costa Rica could enhance measures to increase the implementation of RBC considerations in public procurement, in particular working towards including risk-based due diligence as a tool to promote RBC in public procurement. This should include capacity-building and guidance or tools to be developed in cooperation with the NCP.

Risk-based due diligence could cover a comprehensive set of RBC objectives, building on the OECD Due Diligence Guidance. Costa Rica's NCP could support public procurement policy makers and practitioners in navigating this specific aspect. Two examples of how uptake of RBC in public procurement can be increased with a focus on implementing support (as opposed to a focus on legal frameworks) can be found in the approaches of Norway and the United States. Both countries developed tools that public buyers can use voluntarily, as needed, to support the public procurement decision making (see Box 4.4)

Box 4.4. National tools to assess RBC risks in public procurement

The Norwegian High Risk List

In Norway, contracting authorities are obliged by the Norwegian Procurement Act to implement appropriate measures to promote respect for human rights where there is a risk of a negative impact. The Norwegian Digitalisation Agency (DigDir) provides all contracting authorities with information on high risk products such as information and communication technologies, textiles, medical consumables, and coffee. This High Risk List extends to identifying risks throughout the full supply chain from raw material extraction to component production until finishing assembling.

The U.S. Responsible Sourcing Tool (RST)

The U.S. State Department has a risk assessment tool for contracting authorities and companies to identify, prevent, and address any risks of human trafficking in supply chains. The Responsible Sourcing Tool (RST) assesses country- and sector-based risks of human trafficking. The tool covers a number of categories, such as information and communication technologies, textiles and apparel, construction, and healthcare. It also includes sample vendor agreements and self-assessments for follow-ups.

Sources: (Norwegian Digitalisation Agency, 2022^[293]) (Government of the United States, 2020^[294]) (OECD, 2020^[269]).

Policy recommendations

19. **Through a cross-governmental approach, consider strengthening the strategic framework on public procurement enshrined in the new public procurement law towards a more targeted, consistent and comprehensive strategy on RBC and due diligence to communicate RBC expectations to public buyers and potential bidders in a clear and consistent way.**
20. **Improve dissemination of existing guidance and tools on RBC considerations for public buyers and extend the scope of such guidance and tools to cover all stages of the public procurement cycle.**

21. Enhance measures to increase the implementation of RBC considerations in public procurement, in particular working towards including risk-based due diligence as a tool to promote RBC in public procurement.

4.1.2. Incorporating RBC considerations in the functioning of Costa Rica's State-Owned Enterprises

The observance of RBC principles and standards by SOEs as a lever for RBC

SOEs can play an important role in the economy (OECD, 2017^[295]). In many countries, they are responsible for the provision of essential public services, having a direct impact on citizens' lives (OECD, 2015^[296]). In addition, SOEs increasingly engage in trade and investment (OECD, 2016^[297]) and have become important actors in GVCs outside their territories (OECD, 2015^[296]). For instance, in 2020, 132 of the world's largest 500 enterprises were state-owned or effectively state-controlled (OECD, 2021, p. 148^[298]).

In Costa Rica, SOEs are active in key sectors of the economy such as energy and finance, the country having the largest share of State-owned banks in the LAC region (OECD, 2020, pp. 39-40^[251]). Costa Rica has 31 SOEs, most of which are subsidiaries of four main SOE groups, namely: (i) the Bank of Costa Rica (*Banco de Costa Rica*, BCR); (ii) the Costa Rican National Bank (*Banco Nacional de Costa Rica*, BNCR), which was the main revenue source for the Government in 2018; (iii) the National Institute of Insurance (*Instituto Nacional de Seguros*, INS); and (iv) the Costa Rican Electricity Institute (*Instituto Costarricense de Electricidad*, Grupo ICE) (Government of Costa Rica, 2021^[299]). These four main SOE groups, together with Costa Rica's Petroleum Refiner (*Refinadora Costarricense de Petróleo*, RECOPE), had revenues exceeding 1 % of GDP in 2018 (OECD, 2020^[251]). The SOE sector also plays an important role in terms of employment in Costa Rica, accounting for 1.9% of total employment (OECD, 2020^[251]).

Given SOEs' economic importance and their capacity to impact economic and social development (OECD, 2015^[296]), ensuring that they operate in accordance with good governance practices and RBC principles and standards is fundamental to ensure their positive contribution to the economy and reduce their actual or potential adverse impacts on people, the planet, and society (OECD, 2015^[296]). This is all the more important as SOEs often operate in sectors where risks may be prevalent (OECD, 2019^[300]).

The energy and financial sectors, in which Costa Rica's largest SOEs operate, are subject to human rights, environmental or corruption risks, and some recent cases have highlighted their exposure to such risks. For instance, in the *El Diquís* case, a hydro-electrical project of Grupo ICE to be developed in an area including indigenous territories was cancelled by Costa Rica's Supreme Court due to lack of consultation with indigenous communities (Supreme Court of Justice of Costa Rica, 2016^[301]) (see Section 3.1.2). BCR, for its part, is one of the public banks that lent money related to the "Cementazo", a case involving allegations of corruption and influence trafficking in relation to a credit for the importation of cement from China, which received widespread public attention (OECD, 2020, pp. 12, 110-111^[251]).

Nevertheless, the main Costa Rican SOE groups appear to be committed to contributing to sustainable development and to preventing and avoiding adverse environmental impacts, including climate change. It is, for instance, notable that Grupo ICE relies mainly on renewable energy sources to produce electricity: in 2021, 99.98% of the electricity it produced came from the use of water, steam, wind and sun, and only 0.2% from hydrocarbon (Grupo ICE, 2021, pp. 49-50^[302]). In addition, Grupo ICE – as well as RECOPE, BCR, BNCR and the INS – participate in national initiatives aimed at reducing business-related environmental impacts, such as the Institutional Environmental Management Programme (*Programa de Gestión Ambiental Institucional*, PGAI) and the PBAE (see Section 3.3). Several of their installations have received distinctions in this context, in particular with respect to the actions taken to mitigate climate change

(Grupo ICE, 2021, pp. 49, 70-71^[302]; RECOPE, n.d., pp. 12-13^[303]; Banco de Costa Rica, n.d., pp. 96-97^[304]; Banco Nacional de Costa Rica, 2020, pp. 36, 81^[305]; Grupo INS, n.d., pp. 11, 62^[306]).¹⁴⁸

Various OECD instruments acknowledge the importance of SOEs adopting and implementing RBC principles and standards to contribute to sustainable development and identify, prevent, and address adverse impacts. The OECD MNE Guidelines apply to all enterprises, regardless of their ownership and legal status,¹⁴⁹ and the PFI recognises that governments should ensure that the practices of their SOEs exemplify RBC (OECD, 2015, p. 77^[1]). In the same vein, the OECD Guidelines on Corporate Governance of SOEs (the SOE Guidelines) include a chapter dedicated to “Stakeholder relations and responsible business”.¹⁵⁰ This chapter recommends, among others, that SOEs observe high standards of RBC. To this effect, governments should disclose their expectations regarding RBC and SOEs in a clear and transparent manner and establish mechanisms for their implementation (OECD, 2015, pp. 23, 60^[296]). The SOE Guidelines also recommend that SOEs observe high standards of transparency and disclose relevant financial and non-financial information (OECD, 2015, pp. 26, 64^[1]).¹⁵¹ Additionally, the OECD Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises (the ACI Guidelines) provide specific guidance with respect to the fight against corruption and the promotion of integrity in SOEs (OECD, 2019, p. 10^[300]). They recommend, *inter alia*, that governments apply high standards of conduct in order to set an example in SOEs and to exhibit integrity to the public. They also call on governments to require that SOEs, in turn, act in accordance with high standards of performance and integrity (OECD, 2019, pp. 17, 20^[300]).¹⁵²

Promoting the integration of an RBC approach in the operations of Costa Rica’s main SOEs as a means to encourage RBC

Through their policies, governments have the possibility to promote the observance by SOEs of RBC principles and standards and the integration in their operations of a coherent and coordinated RBC approach so that they lead by example with respect to RBC. Nevertheless, this possibility is largely dependent upon the national context and, in particular, the specificities of the domestic legal framework and the corresponding characteristics of the ownership model and governance for SOEs.

In Costa Rica, the legal framework applicable to SOEs is very diverse (OECD, 2020, p. 75^[251]). SOEs have several legal forms, the most common being public limited companies (*sociedades anónimas*) and autonomous institutions (*instituciones autónomas*) (OECD, 2020, pp. 26, 45^[251]). Although autonomous institutions are regulated in the Constitution, most SOEs are governed by individual sectoral laws with different rights and obligations, as well as varying governance and management practices (Government of Costa Rica, 2019, pp. 23-25^[307]; OECD, 2020, pp. 45, 75^[251]).

Moreover, Costa Rica’s system of SOE ownership, supervision, and control is not fully centralised, with various entities responsible for information gathering and policy implementation (OECD, 2020, p. 77^[251]; OECD, 2021, p. 15^[308]). The main institution in charge of SOE oversight is the Council of Ministers (*Consejo de Gobierno*) (OECD, 2020, pp. 44-47^[251]).¹⁵³ A Steering Committee (*Comité de Seguimiento de las Empresas Propiedad del Estado*) – comprised of the Ministry of the Presidency (*Ministerio de la Presidencia*), the MIDEPLAN and the Ministry of Finance (*Ministerio de Hacienda*) – also assumes some monitoring functions (OECD, 2022, p. 12^[309]). In practice, the Council of Ministers and Steering Committee’s oversight is managed and supported by the Presidential Advisory Unit for Management and Co-ordination of State Shareholdings and Management of Autonomous Institutions (*Unidad Asesora para la Dirección y Coordinación de la Propiedad Accionaria del Estado y la Gestión de las Instituciones Autónomas*, the Presidential Advisory Unit), established during Costa Rica’s accession process to the OECD (Government of Costa Rica, 2017^[310]; OECD, 2020, pp. 46-47, 77^[251]). This Unit has, among others, the following responsibilities: (i) elaborating an ownership policy; (ii) developing regular reporting systems; (iii) assessing performance reviews, audits and studies carried out on SOEs; (iv) providing advice in relation to SOEs’ general mandates and objectives; (v) ensuring coordination of disclosure requirements; (vi) making recommendations regarding employment remuneration policies; (vii) identifying and assessing

the relevance of incorporating good governance practices; and (viii) elaborating and promoting capacity-building activities for the management of SOEs (Government of Costa Rica, 2017^[310]; OECD, 2020, p. 77^[251]).¹⁵⁴ In addition, the CGR supervises SOEs from a financial, legal, and performance standpoint (OECD, 2020, p. 45^[251]; Government of Costa Rica, 1949^[80]).¹⁵⁵ For this purpose, it carries out audits, mainly focused on budgetary and compliance risks, and publishes reports on SOEs' fiscal, financial, and management practices (OECD, 2020, pp. 48-49^[251]).

Although the establishment of the Presidential Advisory Unit has considerably strengthened the Government's capacity to coordinate the implementation of government-wide policies for SOEs, the fragmented and heterogeneous nature of the SOE legal framework in Costa Rica and the autonomy of its SOEs raise challenges for the development and integration of a coherent RBC approach in the operations of the country's SOEs. As highlighted by the OECD Review of Corporate Governance in Costa Rica, elaborating and implementing uniform policies and practices across all Costa Rican SOEs is challenging, as it implies time-consuming and complex processes to modify and adjust a series of different laws (OECD, 2020, pp. 45, 75^[251]).

Developing and integrating a coherent RBC approach in the operations of Costa Rica's main SOEs

In the absence of a common legal framework applicable to all SOEs in Costa Rica, identifying provisions that would encourage SOEs to adopt an RBC approach is not easy, as they are scattered through various laws and regulations. An overview of these laws and regulations, however, reveals that they tend not to integrate such provisions. Only some overarching policies, adopted recently as a result of the OECD accession review process, include a few elements relevant to RBC.

This is, for instance, the case in relation to disclosure of the 2018 General Policy on Transparency and Disclosure of Financial and Non-financial Information for State-owned Enterprises and their Subsidiaries and Autonomous Institutions contained in Directive No. 102 MP (*Directriz No. 102-MP – Política general sobre transparencia y divulgación de información financiera y no financiera para Empresas Propiedad del Estado, sus subsidiarias e instituciones autónomas*) (Government of Costa Rica, 2018^[311]). This policy requires SOEs to disclose several pieces of information in their annual reports, including material risks (which cover risks related to the sector or geographic area in which the company operates, as well as environmental risks), and information on whether the company has adopted policies relating to ethics, environmental protection, and/or sustainability (Government of Costa Rica, 2018^[311]).¹⁵⁶ It has proven to be particularly relevant to increase transparency regarding SOEs over the last years as the information disclosed has notably served to inform the aggregate annual reports on the SOE sector prepared and made publicly available by the Presidential Advisory Unit since 2019 (OECD, 2022, pp. 12-14^[309]; OECD, 2020, p. 70^[251]).

The 2019 Memorandum of Understanding on the Relations between the State and State-owned Enterprises (*Protocolo de Entendimiento de las Relaciones entre el Estado y las Empresas Propiedad del Estado*), which functions as the Government's ownership policy, also contains elements of relevance for RBC in a broader manner. In line with the chapter of the SOE Guidelines dedicated to "Stakeholder relations and responsible business", it indicates that the Presidency and the Executive Power should disclose their expectations with respect to the high standards that SOEs should observe in terms of sustainability, corporate responsibility, and corporate governance, and should establish mechanisms for their implementation (Government of Costa Rica, 2019^[307]).¹⁵⁷ In this regard, the Memorandum specifies that SOEs, should, among others: (i) adopt, implement, supervise, and disseminate their internal control methods, ethics codes, and compliance programmes, including those promoting integrity and anticorruption, which should be based on the ACI Guidelines; (ii) ensure compliance with the anti-corruption and integrity legislation, as well as observance of the ACI Guidelines; (iii) acknowledge and respect stakeholders' rights; and (iv) inform about their relationships with stakeholders, especially workers, creditors and affected communities, where relevant and possible (Government of Costa Rica, 2019^[307]).¹⁵⁸

In addition, the Memorandum explains that the Executive Power will issue on a yearly basis a “note of expectations” for each SOE that will define the results to be achieved by the SOE, which should be aligned *inter alia* with the SDGs (Government of Costa Rica, 2019^[307]).¹⁵⁹

At the time of writing, “note of expectations”, defining the goals, priorities, and indicators of importance for the Government, had been issued for all Costa Rican SOEs (Government of Costa Rica, n.d., pp. 133-137^[312]; OECD, 2022, p. 12^[309]). These notes cover a broad range of expectations, from strategic direction and social outcomes, to proper risk management systems and transparency (OECD, 2022, p. 11^[309]). A particularly interesting feature of the “notes of expectations” (including those of Grupo ICE, RECOPE, and the INS) is that, within the broad range of expectations they cover, some expectations pertain to RBC and highlight the importance that SOEs observe RBC principles and standards in their operations and conduct due diligence (see Box 4.5).

Box 4.5. The integration of RBC in the “notes of expectations” of Costa Rica’s SOEs

As part of its efforts to implement the recommendations formulated in the context of the OECD corporate governance accession review, Costa Rica has started developing “notes of expectations” issued on a yearly basis by the Executive Power, with the involvement of the Steering Committee and the Presidential Advisory Unit, and addressed to State-Owned Enterprises (SOEs) to set the expectations that the Government intends them to meet. In the context of the engagement with the Costa Rican Government in the framework of the RBC-LAC Project, and thanks to the support of the National Contact Point (NCP), RBC is one of the expectations that has been included in the “notes of expectations”. Through these notes, SOEs are encouraged to carry out risk-based due diligence to identify, prevent, and mitigate the adverse impacts that their activities may cause or contribute to cause on human rights.

The example of the Costa Rican Electricity Institute (*Instituto Costarricense de Electricidad*, Grupo ICE)’s “note of expectations” for 2022, which includes an express reference to the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights is particularly noteworthy. It states as follows:

“As a core element of responsible business conduct, state-owned enterprises should conduct due diligence to identify, mitigate, prevent and remedy actual and potential adverse human rights impacts, as set out in the UN Guiding Principles on Business and Human Rights, the Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises and the United Nations Conference on Trade and Development (UNCTAD). This expectation should be an integral part of decision-making and risk management systems, including those directly related to the operations, products, or services of companies through their business relationships and supply chains. Due diligence is a continuous process of incremental improvements, whereby state-owned enterprises are expected to take reasonable steps and good faith measures to conduct due diligence, and to report in a timely manner on the steps and processes they are taking to do so to the Council of Ministers at the close of the 2022 period in the 2022 IRC progress.”

Source: (OECD, 2022^[309]).

Beyond these overarching policies adopted recently as a result of the OECD accession review process, Costa Rica’s main SOE groups have also adopted individually different types of instruments, policies and initiatives of relevance for RBC. Although most of them do not include references to due diligence processes, they deal with, and seek to address, several RBC issues in areas covered by the OECD MNE Guidelines, as further detailed in the following subsections.

Instituto Costarricense de Electricidad (Grupo ICE)

Grupo ICE has developed a social and environmental management strategy, which seeks to align with, and contribute to, the achievement of the SDGs, and is based on the ISO 26000 Guidance on Social

Responsibility (Grupo ICE, 2021, pp. 1-2^[302]). In addition to this strategy, it also adopted more specific instruments and policies in certain areas of the OECD MNE Guidelines (see Table 4.2). For instance, regarding labour and human rights, Grupo ICE issued a Declaration of Discrimination-Free Space (*Declaratoria espacio libre de discriminación*) in which it commits to respect and promote human rights and to be a workplace free from discrimination (Grupo ICE, 2016^[313]). It also published a Corporate Policy on Human Rights (*Política Corporativa de Derechos Humanos del Grupo ICE*), which lists the principles that its staff should respect in relation to gender equality, non-discrimination, and diversity (Grupo ICE, 2019, pp. 4, 12-13^[314]). Additionally, Grupo ICE reports having undertaken capacity-building for local communities, including indigenous peoples, and engaging with such communities to handle the risks associated to its operations (Grupo ICE, 2021, pp. 63-64^[302]). In relation to anti-corruption and integrity, it adopted a Declaration of Ethical Principles (*Declaración de Principios Éticos del ICE, CNFL y RACSA*) and an Institutional Ethics Code (*Código de Ética Institucional*) (Grupo ICE, 2021, p. 68^[302]). Grupo ICE has also taken several actions to protect the environment and biodiversity. In particular, through a partnership with FONAFIFO, it is implementing the programme Payment against Environmental Services (*Pago por Servicios Ambientales, PSA*) to preserve and increase the forest cover in its areas of influence (Grupo ICE, 2021, p. 53^[302]). It also reportedly seeks to influence the conduct of its suppliers, by assessing some of them in relation to environmental criteria and through a green procurement programme (Grupo ICE, 2021, pp. 63, 68^[302]). In the same line, Grupo ICE grants a Green Award (*Galardón Verde*) to companies that operate and produce exclusively with clean energy, the objective being to attract companies to invest in the country by highlighting the competitive advantage of operating in Costa Rica in terms of renewable energy use (Sistema de Integración Centroamericana, 2018^[315]).

Table 4.2. Main RBC-related instruments and policies adopted by Grupo ICE

Title	Date	Areas of the OECD MNE Guidelines covered	Main characteristics	Reference to due diligence
Grupo ICE's Corporate Human Rights Policy	2019	<ul style="list-style-type: none"> Human rights Labour rights 	<ul style="list-style-type: none"> Contains Grupo ICE's commitment to respect and promote human rights in its internal operations in accordance with internationally recognised standards, and sets the principles aimed at ensuring respect for human rights, gender equality, non-discrimination and diversity in its operations. 	No
Grupo ICE's Declaration of Discrimination-Free Space	2016	<ul style="list-style-type: none"> Human rights Labour rights 	<ul style="list-style-type: none"> Reflects Grupo ICE's commitment to respect and promote human rights, as well as to strive to eliminate any form of discrimination, through dissemination of good practices and awareness-raising activities. 	No
Statement of Ethical Principles of ICE, CNL and RACSA	2005	<ul style="list-style-type: none"> Anti-corruption and integrity 	<ul style="list-style-type: none"> Contains Grupo ICE's values and commitments that guide its internal and external management systems, based on the principles of ethics, engagement, and excellency. 	No

Sources: (Grupo ICE, 2019^[314]; Grupo ICE, 2016^[313]; Grupo ICE, 2005^[316]).

Refinadora Costarricense de Petroleo (RECOPE)

RECOPE recently adopted a Corporate Social Responsibility Policy (*Política de Responsabilidad Social Empresarial*), in which it commits to contribute to sustainable development and to incorporate risk prevention, the respect for human and labour rights, and the protection of the environment in its activities (RECOPE, 2021, p. 1^[317]). Similarly, in its Ethics Management Policy (*Política de Gestión Ética*), RECOPE declares that its conduct shall be governed by the principles of equality, dignity, accountability, as well as social and environmental responsibility (RECOPE, 2021, p. 2^[318]). RECOPE's values and the corresponding behaviour expected from its staff are further detailed in its Code of Ethics and Conduct (*Código de Ética y Conducta*) (RECOPE, 2021^[319]). Beyond these general instruments, RECOPE also developed policies on more specific RBC issues (see Table 4.3). For example, its Equality and Non-Discrimination Policy (*Política de Igualdad y No Discriminación*), Gender Equality Policy (*Política de*

Igualdad de Género), and Policy for a Work Environment Free of Racism and Racial Discrimination (*Política para un Ambiente Laboral Libre de Racismo y de Discriminación Racial*) promote non-discrimination and equality (RECOPE, 2017^[320]; RECOPE, 2019^[321]; RECOPE, 2020^[322]). Its Health, Environment, and Safety Policy (*Política de Salud, Ambiente Seguridad*) enshrines the commitment to identify, eliminate or control the health, security or environmental risks of its operations (RECOPE, 2013^[323]). This commitment is also further reaffirmed in its Environmental Framework Policy (*Política Ambiental Marco*), in which RECOPE indicates *inter alia* that it aims to take measures to prevent, mitigate, and compensate its activities' environmental impacts (RECOPE, 2022^[324]).

Table 4.3. Main RBC-related instruments and policies adopted by RECOPE

Title	Date	Areas of the OECD MNE Guidelines covered	Main characteristics	Reference to due diligence
RECOPE's Policy for the Inclusion and Protection of Disabled Persons at Work	2022	<ul style="list-style-type: none"> Human rights Labour rights 	<ul style="list-style-type: none"> Establishes the guidelines that RECOPE must follow to guarantee that the legal framework regarding equal treatment of disabled persons at work is being complied with and reflects RECOPE's commitment to promote the inclusion of disabled persons at work through a series of actions. 	No
RECOPE's Environmental Framework Policy	2022	<ul style="list-style-type: none"> Environment 	<ul style="list-style-type: none"> Reflects RECOPE's commitment to integrate environmental concerns in all its operations, taking adequate measures to prevent, reduce, mitigate, and compensate the environmental impacts that result from its activities, as well as to enhance its sustainable procurement practices. 	Yes (but no specific mention of the concept of "due diligence")
RECOPE's Corporate Social Responsibility Policy	2021	<ul style="list-style-type: none"> Human rights Labour rights Environment Anti-corruption and integrity 	<ul style="list-style-type: none"> Contains RECOPE's framework of actions guiding its operations regarding the environment, client and supplier relations and with the community. 	No
RECOPE's Code of Ethics and Conduct	2021	<ul style="list-style-type: none"> Human rights Labour rights Environment Anti-corruption and integrity Disclosure 	<ul style="list-style-type: none"> Lays down RECOPE's values (integrity, responsibility, respect, service, and commitment to protect the environment) and contains guidelines on the corresponding conduct expected from its staff. 	No
RECOPE's Ethics Management Policy	2021	<ul style="list-style-type: none"> Human rights Labour rights Environment 	<ul style="list-style-type: none"> Reflects RECOPE's commitment to act according to principles of equality, acknowledgement of human dignity, search for the common good, accountability, as well as social and environmental responsibility. 	No
RECOPE's Policy for a Work Environment Free of Racism and Racial Discrimination	2020	<ul style="list-style-type: none"> Labour rights 	<ul style="list-style-type: none"> Establishes a zero-tolerance policy for any act or person that creates or generates a racist, discriminatory, or unequal treatment in relation to a person or a group of persons that belongs to a minority due to racial or ethnic origin. 	No
RECOPE's Gender Equality Policy	2019	<ul style="list-style-type: none"> Labour rights 	<ul style="list-style-type: none"> Contains RECOPE's commitment to promote gender equality in the workplace. 	No
RECOPE's Equality and Non-Discrimination Policy	2017	<ul style="list-style-type: none"> Labour rights 	<ul style="list-style-type: none"> Declares RECOPE a space free of discrimination in which equal opportunities are promoted and indicates that discrimination, mistreatment, violence, and unequal treatment will be punished by disciplinary proceedings. 	No
RECOPE's Corporate Policy to Prevent, Cease and Avoid Sexual Harassment	2015	<ul style="list-style-type: none"> Human rights Labour rights 	<ul style="list-style-type: none"> Indicates that RECOPE's staff, and any person having any relation with the company, must have a proper behaviour to prevent, cease, and avoid sexual harassment, which will be punished. 	No

Title	Date	Areas of the OECD MNE Guidelines covered	Main characteristics	Reference to due diligence
RECOPE's Health, Environment and Safety Policy	2013	<ul style="list-style-type: none"> Human rights Labour rights Environment 	<ul style="list-style-type: none"> Establishes RECOPE's commitment, in the framework of its corporate social responsibility, to protect the health and security of its employees, contractors, and clients, as well as that of the local communities, and the environment, through a series of actions. In particular, it commits to identify, eliminate or control the health, security or environmental risks of its operations, projects and activities. 	Yes (but under a risk analysis approach with no specific mention of the concept of "due diligence")

Sources: (RECOPE, 2022^[325]; RECOPE, 2022^[324]; RECOPE, 2021^[319]; RECOPE, 2021^[318]; RECOPE, 2020^[322]; RECOPE, 2019^[321]; RECOPE, 2017^[320]; RECOPE, 2015^[326]; RECOPE, 2013^[323]; RECOPE, 2021^[317]).

Banco de Costa Rica (BCR)

In addition to a Code of Corporate Ethics (*Código de Ética Corporativo*) and a few specific instruments on RBC-related issues (see Table 4.4), BCR developed Corporate Social Responsibility Policies (*Políticas sobre Responsabilidad Social Corporativa en el Conglomerado Banco de Costa Rica*) (Banco de Costa Rica, 2010^[327]).¹⁶⁰ These policies establish BCR's commitment to provide a workplace free from discrimination and harassment, to respect and protect human rights in its clients' projects, and to develop its activities while protecting the environment, with a special focus on the socio-environmental risks of financing operations (Banco de Costa Rica, 2010, pp. 7-9^[327]). On this point, BCR commits to request information from its clients on the risks that their projects entail and on how adverse impacts can be mitigated. It also underlines that it may refuse to be associated to a project in case a client does not accept to evaluate or mitigate environmental risks (Banco de Costa Rica, 2010, p. 10^[327]). In the same vein, the Policies indicate that actors that have developed management systems that take into consideration socio-environmental risks will benefit from specific conditions for the grant of credit and that BCR will seek to encourage the adoption of such systems among its clients that have not yet adopted them (Banco de Costa Rica, 2010, p. 10^[327]). The Policies also state that BCR will seek that its suppliers adopt socially responsible practices, in particular with respect to human and labour rights and the protection of the environment (Banco de Costa Rica, 2010, p. 11^[327]). More recently, BCR developed an Environmental, Social and Governance Management System (*Sistema de Gestión Ambiental, Social y de Gobernanza*, SGAS) to take into consideration environmental and social criteria in the reports on its credit operations (Banco de Costa Rica, 2022, p. 26^[328]). In terms of RBC-related initiatives, BCR has adhered to the UN Global Compact in 2011 and has had, since then, the status of "active participant", publishing regularly Communications on Progress (Banco de Costa Rica, 2022, p. 27^[328]; UN Global Compact, n.d.^[329]).

Table 4.4. Main RBC-related instruments and policies adopted by BCR

Title	Date	Areas of the OECD MNE Guidelines covered	Main characteristics	Reference to due diligence
BCR's Policy Declaring Equality, Equity and Inclusiveness	2020	<ul style="list-style-type: none"> Human rights Labour rights 	<ul style="list-style-type: none"> Promotes gender equality and prohibits any type of discrimination. 	No
BCR's Code of Corporate Ethics	2011	<ul style="list-style-type: none"> Anti-corruption and integrity 	<ul style="list-style-type: none"> Contains the values, principles and guidelines with which members of the board, employees, auditors, and suppliers of BCR must comply, including on anti-corruption and integrity. 	No

Title	Date	Areas of the OECD MNE Guidelines covered	Main characteristics	Reference to due diligence
BCR's Corporate Social Responsibility Policies	2010	<ul style="list-style-type: none"> Human rights Labour rights Anti-corruption and integrity Environment 	<ul style="list-style-type: none"> Reflects BCR's commitment to integrate corporate social responsibility principles in its business strategy, including the respect of human and labour rights, the prevention of corruption, and the protection of the environment in its financing operations, through the assessment of socio-environmental risks. 	Yes (but under a risk analysis approach with no specific mention of the concept of "due diligence")
BCR's Regulation against Sexual Harassment	2010	<ul style="list-style-type: none"> Human rights Labour rights 	<ul style="list-style-type: none"> Prevents, prohibits, and punishes sexual harassment in the workplace in order to protect the rights of BCR's staff, of its suppliers' staff, as well as those of students undertaking internships at BCR. 	No

Sources: (Banco de Costa Rica, 2011^[330]; Banco de Costa Rica, 2010^[331]; Banco de Costa Rica, 2010^[327]).

Banco Nacional de Costa Rica (BNCR)

Between 2011 and 2016, BNRS developed a social responsibility model that was substituted in 2017 by a Sustainability Policy (*Política de Sostenibilidad*), which is at the basis of an overarching Sustainability Strategy (*Estrategia de Sostenibilidad*) (Banco Nacional de Costa Rica, 2017^[332]; Banco Nacional de Costa Rica, 2020, p. 92^[305]) (see Table 4.5). This Strategy, which is based on a stakeholder mapping, reflects BNCR's commitments with respect to economic, social, and environmental development (Banco Nacional de Costa Rica, 2020, p. 102^[305]). It notably commits to encourage its suppliers to adopt sustainable practices, to promote development through sustainable credits and social investment, to invest in climate change mitigation and adaptation, as well as to enhance the quality of life of the communities in which it operates (Banco Nacional de Costa Rica, 2020, p. 102^[305]). For this purpose, BNCR developed a "Responsible Suppliers" programme that aims to help its strategic suppliers adopt good environmental and social practices, and has included socio-environmental criteria in its public procurement practices (Banco Nacional de Costa Rica, 2020, p. 245^[305]). Additionally, it recently approved a Management System for Socio-Environmental Risks (*Sistema de Administración de Riesgos Ambientales y Sociales*, SARAS). This System, which is still in a pilot phase, aims to measure the risk exposure of its clients as part of the process to grant credits (Banco Nacional de Costa Rica, 2020, p. 136^[305]). Similarly, in 2020, BNCR started developing a framework to manage climate risks based on best international practices (Banco Nacional de Costa Rica, 2020, p. 137^[305]). On more specific RBC issues, BNCR has taken a series of actions to promote gender equality and women's rights. It is notably the first Costa Rican bank to have signed the UN Women Empowerment Principles (Banco Nacional de Costa Rica, 2020, pp. 224-232^[305]). It also foresees to adopt a policy on human rights, which would gather the initiatives in the field that it has already put in place (Banco Nacional de Costa Rica, 2020, p. 127^[305]). BNCR's recent engagement on RBC is reflected by the fact that it adhered to the UN Global Compact in 2020 (UN Global Compact, n.d.^[333]).

Table 4.5. Main RBC-related instruments and policies adopted by BNCR

Title	Date	Areas of the OECD MNE Guidelines covered	Main characteristics	Reference to due diligence
BNCR's Policy on Human Rights	Upcoming	<ul style="list-style-type: none"> Human rights 	<ul style="list-style-type: none"> N/A 	N/A
BNCR's Sustainability Policy and Strategy	2017	<ul style="list-style-type: none"> Human rights Environment 	<ul style="list-style-type: none"> Defines a series of ten commitments under three main components (economic, social, and environmental) to ensure that BNCR contributes to sustainable development, and identify and mitigate its 	Yes (but under a risk analysis approach with no specific mention of the concept of "due diligence")

Title	Date	Areas of the OECD MNE Guidelines covered	Main characteristics	Reference to due diligence
			socio-environmental impacts, including climate risks.	
BNCR's Code of Conduct	2012	<ul style="list-style-type: none"> • Human rights • Labour rights • Anti-corruption and integrity • Environment 	<ul style="list-style-type: none"> • Sets BNCR's values and principles (including the respect for human dignity and human rights, as well as equality and non-discrimination), as well as guidelines regarding the conduct expected from BNCR's staff in light of such values (in particular a zero-tolerance policy regarding harassment, the fight against corruption, and the adoption of good environmental practices), and reflects its commitment to environmental sustainability. 	Yes (but to financial due diligence)

Sources: (Banco Nacional de Costa Rica, n.d.^[334]; Banco Nacional de Costa Rica, 2009^[335]).

Instituto Nacional de Seguros (INS)

Based on its Social Responsibility Policy developed in 2011, the INS adopted in 2015 a Sustainability Policy (*Política de Sostenibilidad del Grupo INS*), which includes a reference to, among others, the OECD MNE Guidelines, the UNGPs, and the ILO MNE Declaration, as well as the UN Global Compact (Grupo INS, 2019, p. 1^[336]; Grupo INS, n.d., p. 40^[337]).¹⁶¹ This Policy seeks to minimise the adverse impacts of its operations, to incorporate sustainability and social responsibility principles in its decision-making processes, to promote the adoption of sustainability and social responsibility principles in its supply chains, and to develop mechanism to resolve disputes with stakeholders (Grupo INS, 2019, pp. 1, 5-7^[336]). It also refers to the adoption of a due diligence approach, which is defined as an exhaustive and proactive process to identify the real and potential adverse impacts of an organisation's activities in order to avoid and mitigate them (Grupo INS, 2019, p. 2^[336]). The Sustainability Policy guides the INS's investment strategy, its investments having to be aligned with the Policy and a share of them to comply with environmental, social, and governance (ESG) criteria (Grupo INS, n.d., p. 54^[337]). Several specific instruments complement this overarching policy (see Table 4.6). Through the Human Rights Policy (*Política sobre Derechos Humanos en el Grupo INS*), the INS commits to respect and promote human rights in line with internationally recognised RBC instruments, including the OECD MNE Guidelines that are expressly mentioned (Grupo INS, n.d., pp. 2, 21-23^[338]). A noteworthy aspect of this Policy is that it requires the INS to carry out human rights due diligence to prevent and mitigate adverse impacts associated with its operations and, when they occur, to provide remedy (Grupo INS, n.d., pp. 3-5^[338]). However, it does not contain further information on the due diligence process and how it should be conducted. The INS' Responsible Supplier Code (*Código de Proveedor Responsable del Grupo INS*), for its part, seeks to incentivise the INS' suppliers to adopt sustainability practices and minimise their operations' adverse impacts through a series of commitments on human and labour rights, the protection of the environment, and the fight against corruption (Grupo INS, n.d., p. 1^[339]). In addition, the INS reports having adopted sustainable procurement practices, by including ESG criteria in its tender requirements (Grupo INS, n.d., p. 80^[337]).

Table 4.6. Main RBC-related instruments and policies adopted by the INS

Title	Date	Areas of the OECD MNE Guidelines covered	Main characteristics	Reference to due diligence
INS' Gender Policy	Upcoming	<ul style="list-style-type: none"> Human rights 	<ul style="list-style-type: none"> N/A 	N/A
INS' Corporate Code of Ethics	2021	<ul style="list-style-type: none"> Human rights Disclosure Anti-corruption and integrity Competition 	<ul style="list-style-type: none"> Contains the values, ethical principles, and norms of conduct that must guide the behaviour of INS's staff in its internal and external relationships, including with clients, suppliers and competitors, as well as with local communities. 	No
INS' Responsible Supplier Code	2019	<ul style="list-style-type: none"> Human rights Labour rights Environment Anti-corruption and integrity 	<ul style="list-style-type: none"> Sets the commitments that all suppliers must undertake to do business with the INS with the objective to promote their adoption of sustainability practices and the prevention and mitigation of the adverse impacts that their operations may cause on human and labour rights, the environment, as well as corruption risks. 	Yes (but under a risk analysis approach with no specific mention of the concept of "due diligence")
INS' Human Rights Policy	2017	<ul style="list-style-type: none"> Human rights Labour rights 	<ul style="list-style-type: none"> Sets guidelines to ensure the respect of human rights through several commitments, including the conduct of human rights due diligence, the organisation of awareness-raising activities and trainings, the prohibition of work and sexual harassment, the promotion of equality with a specific focus on disabled workers, etc. 	Yes
INS' Sustainability Policy	2015	<ul style="list-style-type: none"> Human rights Labour rights Anti-corruption and integrity Environment 	<ul style="list-style-type: none"> Sets guidelines for the inclusion of sustainability and social responsibility practices in INS' management systems with the goal to minimise its operations' adverse impacts through due diligence and to promote the observance of social responsibility principles in its supply chain. 	Yes

Sources: (Grupo INS, n.d.^[340]; Grupo INS, n.d.^[338]; Grupo INS, 2019^[336]; Grupo INS, n.d.^[339]).

This overview of the RBC-related instruments, policies and initiatives developed by Costa Rica's main SOE groups to date reveals that, through the lens of sustainability, they have taken measures to deal with RBC matters in several areas of the OECD MNE Guidelines. Their policies and management systems tend to incorporate RBC considerations and several of them seek to identify, prevent, and mitigate the adverse impacts that their operations may cause or contribute to cause, with a specific attention to environmental impacts. However, there is no common and coordinated RBC approach focused on due diligence shared across Costa Rica's main SOE groups. The INS, for instance, has integrated due diligence as a key component of its Sustainability and Human Rights Policies, with an understanding of due diligence relatively aligned with the OECD RBC instruments. By contrast, the instruments and policies adopted by Grupo ICE, RECOPE, BCR, and BNCR do not refer to the concept of due diligence. Thus, even if the majority of Costa Rica's main SOE groups declare that they seek to address adverse impacts, they do not share a common methodology in that regard and do not seem to have developed clearly defined processes to do so continuously and in relation to the various areas covered by the OECD MNE Guidelines.

Building on the integration of RBC in the "notes of expectations" addressed to its SOEs, Costa Rica could contemplate developing a general plan to encourage the adoption of a shared, structured, and comprehensive RBC approach across its main SOE groups so that they can lead by example on RBC. Such a plan – the development of which could be supported by the NCP –

should be based on the OECD MNE Guidelines and include as a central component the conduct of risk-based due diligence in accordance with the OECD Due Diligence Guidance for RBC.

To promote the observance of high standards of RBC by their SOEs, governments should disclose their expectations in this regard in a clear and transparent manner. The inclusion of RBC as part of the expectations contained in the “notes of expectations” addressed by the Costa Rican Government to its SOEs to date is a welcome development in this regard. The notes are useful tools that serve to communicate with clarity the Government’s expectations with respect to the adoption of an RBC approach by its SOEs. By referring to the internationally recognised RBC instruments, and in particular to the OECD MNE Guidelines and the OECD Due Diligence Guidance for RBC, they pinpoint the principles and standards Costa Rican SOEs should observe and provide valuable guidance on how they should design and put in place their RBC approaches. In particular, by laying emphasis on the conduct of due diligence, the “notes of expectations” encourage Costa Rican SOEs to develop the required processes to identify, prevent, and mitigate real and/or potential adverse impacts. This is all the more so as the notes require SOEs to report on the actions taken to carry out due diligence to the Council of Ministers annually.

However, as the “notes of expectations” are to be issued on a yearly basis and for each SOE individually, there is a risk that the actions taken to meet the RBC expectations laid down therein may be discontinued over time and lead to varying practices among SOEs. This is even more likely in light of the fragmented and heterogeneous nature of the SOE legal framework in Costa Rica. To address this situation, Costa Rica could consider reviewing its existing SOE ownership policy, enshrined in the 2019 Memorandum of Understanding on the Relations between the State and State-owned Enterprises, with a view to integrating a more detailed RBC approach within its overall framework for management and coordination of ownership objectives for SOEs. Norway’s state ownership policy provides an interesting example in this regard (see Box 4.6).

Box 4.6. The Norwegian state ownership policy

RBC is at the centre of the recent Norwegian state ownership policy, which communicates clear expectations in this regard. In addition to being sustainable and contributing to long-term value creation, state-owned enterprises (SOEs) are expected to: (i) lead by example on RBC; (ii) work to protect human and labour rights, reduce their climate and environmental footprint and prevent economic crime, including corruption and money laundering; (iii) adopt a justified tax policy that is publicly available; (iv) conduct due diligence for RBC based on recognised methods; and (v) be transparent about material areas, goals, and measures relating to their work on RBC.¹

This entails that Norwegian SOEs identify and manage the risks their operations and supply chains pose to society, people, and the environment and follow internationally recognised RBC principles and standards, such as the OECD Guidelines for Multinational Enterprises (OECD MNE Guidelines) and the UN Guiding Principles on Business and Human Rights (UNGPs). SOEs’ work on RBC must be supported by their boards and incorporated in their goals, strategy, and guidelines.² It also implies that SOEs conduct due diligence to identify, manage, report, and assess risks and have systems in place for remedying any adverse impact.³ To this effect, SOEs are referred to the OECD Due Diligence Guidance for RBC and the different steps of the due diligence process detailed therein.⁴

Finally, to lead by example on RBC, SOEs must be transparent and provide information to customers and stakeholders on how they manage material risks and what is their basis for future value creation.⁵

Notes:

1. Government of Norway (2019), 2019-2020 Report to the Storting – The State’s direct ownership of companies – Sustainable value creation, pp. 63, 88.

2. *Ibid.*, p. 88.

3. *Ibid.*, p. 90.

4. *Ibid.*, p. 91.

5. *Ibid.*, p. 90.

Sources: (OECD, 2020^[341]; Government of Norway, 2019^[342]).

Costa Rica could also develop a general multi-year plan on RBC that would concern all its SOEs and encompass several actions. Such a plan would ensure that the adoption of an RBC approach by its SOEs is carried out in the long run and in a uniform and coordinated way across all SOEs. This is important given that putting in place RBC practices and, in particular, developing and conducting efficient due diligence processes, may require time. This is also key to create coherence between the measures taken by different SOEs to observe RBC principles and standards and reinforce the example they give on RBC. The general plan aimed at promoting the adoption of a shared, structured, and comprehensive RBC approach across Costa Rican SOEs could include various actions that could be implemented successively. The existence of the Presidential Advisory Unit would facilitate the elaboration and implementation of this plan, provided it is endowed with sufficient human resources.

To start with, the plan could foresee including, within the Presidential Advisory Unit's responsibilities, the task of promoting the observance of RBC principles and standards by Costa Rican SOEs, with a specific focus on due diligence, and ensuring that the Unit has the required capacity to assume this additional responsibility. One of the first actions that the Presidential Advisory Unit could take to make progress in this regard could be to ensure that all the "notes of expectations" addressed to SOEs in the coming years keep making reference to RBC and the conduct of due diligence as Grupo ICE's "note of expectations" for 2022. Then, in collaboration with the NCP, the Presidential Advisory Unit could elaborate complementary materials to the "note of expectations" for all SOEs on how to concretely put in place due diligence processes. These materials could be based on the OECD RBC instruments and, in particular, on the OECD Due Diligence Guidance for RBC, which details clearly the different steps to conduct due diligence in practice. As a further step, based on the reports of actions to conduct due diligence that SOEs have been required to submit to the Council of Ministers as per the "notes of expectations", the Presidential Advisory Unit could promote exchange of information and peer-learning among SOEs on the adoption of an RBC approach and the conduct of due diligence. This could prove particularly relevant as some SOEs, such as the INS, have already included references to due diligence in their policies and may have started to put in place due diligence processes, whereas other SOEs have not yet done so.

In a second stage, the plan could envisage that the Presidential Advisory Unit, as part of its responsibilities, assess the relevance of developing an overarching strategy to promote the adoption of a shared, structured, and comprehensive RBC approach across Costa Rican SOEs. This strategy could build on the progress made thanks to the inclusion of RBC in the "notes of expectations" and to the activities undertaken by individual SOEs to meet these expectations, with the objective to amplify and rationalise them. The advantage of designing and adopting such a strategy would be to promote uniform RBC policies and practices across all Costa Rican SOEs. The strategy could notably serve to clarify that an RBC approach, as defined in the OECD MNE Guidelines, is a comprehensive approach that encompasses all the areas of potential business responsibility, including human rights, employment and industrial relations, environment, information disclosure, bribery and corruption, consumer interests, science and technology, competition, and taxation (see Section 1.1.1). It could also provide guidance on the conduct of due diligence in specific sectors relevant for Costa Rican SOEs based on the OECD Sector-Specific Due Diligence Guidance and, in particular, the three guides specific to the financial sector on RBC for institutional investors, Due Diligence for Corporate Lending and Securities Underwriting, and RBC Due Diligence for Project and Asset Finance Transactions. Additionally, the strategy could contemplate including as one of the items to be reported on by SOEs as part of their regular reporting the actions taken to adopt and implement an RBC approach and conduct due diligence. The CGR could play a role within this strategy, in particular to further its implementation. For instance, its audit functions could be expanded

to cover the integration of RBC in SOEs' policies and management systems. This could notably entail assessing whether SOEs have adopted an RBC approach in line with the strategy and if they have taken measures to carry out due diligence as per the OECD Due Diligence Guidance for RBC, as well as publishing information on their RBC practices.

Finally, to enhance the adoption of RBC practices, the plan could seek to include RBC-related considerations in the employment remuneration policies of the boards of directors and the management of Costa Rican SOEs. This could be done, for instance, through remuneration incentives linked to the development and implementation of such practices. The Presidential Advisory Unit, which has the mandate to do so, could formulate recommendations in this regard (Government of Costa Rica, 2017^[310]).¹⁶²

The development and implementation of a general plan aimed at promoting the adoption of a shared, structured, and comprehensive RBC approach focused on due diligence across Costa Rican SOEs, with the elements described above, would further their contribution to sustainable development, an objective they all have in common. It would also help Grupo ICE, RECOPE, BCR, BNCR and the INS take the relevant measures to operationalise their respective commitments to manage socio-environmental risks through clear, detailed, and efficient due diligence processes. This is particularly key for the INS, which has clearly committed to conduct due diligence not only with respect to human rights impacts, but more generally to identify, avoid and mitigate the adverse impacts of its activities. In addition, sharing such a comprehensive RBC approach would enhance the contribution of Costa Rican SOEs to climate change mitigation, and reinforce the example they give and Costa Rica's pioneering position in this regard.

It is worth highlighting that the development of this general plan would also contribute to the implementation of the PNRS, which deals with both private and public companies (Government of Costa Rica, 2017, p. 24^[47]). Several policy axes of the PNRS indeed refer indistinctly to public and private companies, as is the case of line of action No. 7.2.3, whose goal is to promote and protect human rights in the management of public and private organisations (Government of Costa Rica, 2017, p. 28^[47]).

Building the capacity of the officials of the Presidential Advisory Unit and of Costa Rica's main SOEs to adopt an RBC approach focused on the conduct of due diligence

To be effective, a strategy to promote the adoption by Costa Rican SOEs of an RBC approach focused on due diligence should be accompanied by capacity-building and training for SOE officials, including boards of directors and senior management, as well as for the officials of the entities responsible for supervising SOEs, on RBC and the role they play to promote the adoption of responsible business practices by SOEs. OECD surveys illustrate the importance of this. For example, in a survey of SOEs in Latin American and OECD countries, 64% of Latin American SOEs considered that a "lack of awareness among employees of the need for, or priority placed on, integrity" was an obstacle to integrity (OECD, 2017, p. 17^[343]). Another OECD survey on Anti-Corruption and Integrity in SOEs in LAC found that not all SOEs have developed training programmes or organised workshops for board members and senior management on anti-corruption and integrity issues (OECD, 2021, p. 13^[344]).

In Costa Rica, a non-profit association, the Costa Rican Institute of Corporate Governance (*Instituto de Gobierno Corporativo de Costa Rica*, ICG), has been providing corporate governance trainings to SOEs, under the supervision of, and in collaboration with, the Presidential Advisory Unit (OECD, 2020, pp. 34, 106^[251]; OECD, 2021, p. 13^[344]). These trainings, however, do not encompass RBC-related issues, such as anti-corruption or integrity (OECD, 2021, p. 13^[344]). As to the main Costa Rican SOE groups, they have developed, at their level, some trainings on certain areas of the OECD MNE Guidelines. For instance, Grupo ICE provides trainings for its staff on anti-corruption matters (Grupo ICE, 2021, p. 68^[302]). In addition, building on the acknowledgment contained in its Human Rights Policy that training on human rights is fundamental to promote a corporate culture of gender equality and non-discrimination, it has also developed trainings on human rights (Grupo ICE, 2019, p. 13^[314]; Grupo ICE, 2021, pp. 55-56^[302]). Similarly, RECOPE reports having put in place trainings on gender equality and non-discrimination, as well

as on environmental matters (RECOPE, n.d., pp. 43-44, 49-50^[303]). BCR, for its part, has a Corporate University, called SAGO, which offers trainings to its staff on a wide array of topics, including ethics or work and sexual harassment prevention (Banco de Costa Rica, n.d., pp. 45, 72-74^[304]). As to BNCR, its institutional capacity-building programme includes trainings on human rights issues, such as diversity and non-discrimination, as well as on environmental matters (Banco Nacional de Costa Rica, 2020, pp. 126, 189, 210-211^[305]). Likewise, in the framework of its Institutional Programme of Ethics, Values and Conduct, the INS has developed trainings for its officials on ethics issues, as well as on human rights matters (Grupo INS, n.d., pp. 30, 85^[337]). In addition, it regularly organises awareness-raising activities regarding environmental issues and the importance of climate change mitigation and adaptation for its staff (Grupo INS, n.d., pp. 46, 61-62^[337]). Nevertheless, none of Costa Rica's main SOE groups seem to have developed training and capacity-building activities on the concept of RBC and the different elements of an RBC approach, or on the conduct of due diligence.

In collaboration with the NCP, Costa Rica could organise and deliver training and capacity-building for the officials of the Presidential Advisory Unit and of its SOEs on RBC and risk-based due diligence, based on the OECD RBC instruments, in order to raise their knowledge and capacity to implement RBC principles and standards, including efficient due diligence.

To conceive and implement these training and capacity-building programmes aimed at enhancing SOE officials' understanding that RBC is an essential element in achieving sustainable development, Costa Rica could build on its recent efforts to develop trainings for SOEs on corporate governance practice with the ICG. As the entity responsible for elaborating and implementing capacity-building activities for the management of SOEs, the Presidential Advisory Unit could play a key role in this regard (Government of Costa Rica, 2017^[310]; OECD, 2020, p. 77^[251]).¹⁶³ In fact, it could be envisaged that the officials of the Presidential Advisory Unit first receive a dedicated training from the Costa Rican NCP and then collaborate with the latter to design and implement broader training and capacity-building programmes for SOEs on RBC and due diligence. Based on its expert knowledge in the field, the NCP could contribute significantly to build the capacity of SOEs' board of directors, senior management, and officials to integrate RBC in SOEs' policies and management systems and observe RBC principles and standards in practice. In particular, the NCP's in-depth knowledge of the OECD RBC instruments, and notably of the Due Diligence Guidance for RBC and of the OECD Sector-Specific Due Diligence Guidance, could prove particularly useful. It could serve to conceive training modules on risk-based due diligence and on how to prevent, avoid, and mitigate adverse impacts in practice through effective due diligence processes, as opposed to other risk management systems. These modules, which should be detailed and practice-oriented, could also integrate the sharing of experience from private companies with effective due diligence processes that operate in similar sectors than that of Costa Rican SOEs, as well as from the INS.

Policy recommendations

22. **Building on the integration of RBC in the “notes of expectations”, develop a general plan to encourage the adoption by the main Costa Rican SOEs groups of a shared, structured, and comprehensive RBC approach based on the OECD MNE Guidelines, with a focus on the conduct of due diligence in accordance with the OECD Due Diligence Guidance for RBC.**
23. **Organise and deliver training and capacity-building for the officials of the Presidential Advisory Unit for Management and Co-ordination of State Shareholdings and Management of Autonomous Institutions, as well as of Costa Rican SOEs, on RBC and risk-based due diligence, based on the OECD RBC instruments, in order to raise their knowledge and capacity to implement RBC principles and standards, including efficient due diligence.**

4.2. Including RBC considerations in Costa Rica's economic policies that shape business conduct

Beyond leading by example when acting as economic actors, governments can promote and enable responsible business practices by integrating considerations of relevance to RBC in their economic policies that contribute to shape business conduct. By doing so, governments communicate their RBC expectations to businesses and pinpoint the RBC principles and standards they should observe. Through these policies, governments can also create incentives for businesses to abide by such principles and standards, thereby encouraging them to adopt responsible business practices. Costa Rica could further resort to some of its economic policies to leverage and incentivise RBC by reinforcing the integration of considerations relevant for RBC in its trade and investment promotion and facilitation policies, as well as in its trade and investment agreements.

4.2.1. Integrating RBC in Costa Rica's trade and investment promotion and facilitation policies

Trade and investment policies are a key component of an enabling policy and regulatory environment for RBC. More specifically, the inclusion of considerations that promote and enable RBC by governments in trade and investment promotion and facilitation policies can contribute to incentivise responsible business practices, both from domestic companies wishing to export abroad, as well as from investors seeking to invest in the country.

Reinforcing the inclusion of RBC in Costa Rica's trade promotion policies

Governments can promote trade and exports in many different ways. They can provide financial support to national exporters competing in international markets through Export Credit Agencies (ECAs). They can also support trade and exports with non-financial support, for example by organising trade missions, which allow representatives of domestic firms wishing to export to travel overseas with government officials to promote their businesses, organising capacity-building activities, or providing access to relevant information and networks through embassies to enhance export opportunities (OECD, 2018, p. 55^[41]). These different types of support that governments bring to exporters can constitute avenues to promote access to information on RBC and incentivise businesses to abide by RBC principles and standards (OECD, 2018, p. 56^[41]).

In Costa Rica, COMEX is the lead government entity in charge of designing, formulating, and adopting all policies related to foreign trade (and investments), with the objective of promoting the country's integration into the global economy while generating economic growth and development (Government of Costa Rica, 1949^[80]). PROCOMER is the body responsible for implementing trade promotion policies (Government of Costa Rica, 1949, p. 3^[80]).

Costa Rica does not have an export credit agency or import-export bank providing financial support to exporters. Nevertheless, PROCOMER has participated in initiatives aimed at financially assisting exporters or potential exporters in increasing their attractiveness in international markets. One example is the Green Growth Programme (*Crecimiento Verde*), launched in 2018 with the Costa Rica United States Foundation for Cooperation (CRUSA) and the Inter-American Bank Development (IDB) (PROCOMER, n.d.^[345]). The purpose of this programme is to financially support selected SMEs – exporters or potential exporters – that are in the process of a green productive transformation. Green transformation could mean, for example, that the SME is obtaining environmental certifications, introducing innovations that seek energy efficiency, transitioning to renewable energy, reducing its emissions or water use, or developing integrated waste management strategies (PROCOMER, n.d.^[345]). To date, more than 250 companies have benefited from this programme, out of which 46% are led by women and 42% are established in rural areas of the country (PROCOMER, n.d.^[345]). In 2020, PROCOMER won the “Best Initiative for Inclusive and Sustainable Trade”

distinction awarded by the International Trade Centre (ITC) for the Green Growth Programme (PROCOMER, 2020^[346]). The only prerequisite for SMEs to participate in the programme is to have the necessary permits for the development of a project with a positive environmental impact (PROCOMER, n.d.^[345]). It does not include any other requirements pertaining to RBC, nor is it used as a means to raise exporters' awareness of RBC principles and standards.

Costa Rica developed several initiatives to provide non-financial support to domestic exporters. In fact, one of the key objectives of the country's foreign trade policy established by COMEX is to obtain the best access conditions for Costa Rican exports in foreign markets and increase the value-added that Costa Rica's companies create (Government of Costa Rica, n.d., p. 11^[347]). PROCOMER accompanies exporters through the different phases of their export projects. It facilitates their access to international fairs, organises trade missions, and has developed various tools to assist them. For instance, it has published several market studies on trends and business opportunities, as well as an export guide on how PROCOMER can assist exporters in the different stages of their operations (PROCOMER, n.d.^[348]). PROCOMER also organises trainings for exporters to improve their skills to internationalise their products or services. Recently, PROCOMER organised a training on how to obtain a Carbon Neutral certification (PROCOMER, n.d.^[349]). In addition, PROCOMER, together with Costa Rica's Investment Promotion Agency (IPA) (the *Coalición Costarricense de Iniciativas de Desarrollo*, CINDE), the Costa Rican Tourism Institute (*Instituto Costarricense de Turismo*, ICT), COMEX, and the MRREE, has developed and launched the country brand "Essential Costa Rica" aimed at promoting Costa Rica's tourism, investments, and exports (Essential Costa Rica, n.d.^[350]) (see Box 4.7). Although "Essential Costa Rica" is only accessible to companies that comply with some requirements that relate to certain areas covered by the OECD MNE Guidelines, most of the initiatives developed by Costa Rica to promote exports through non-financial support to date are not directly linked to RBC. They do not seek to promote RBC principles and standards among exporters and encourage them to adopt responsible business practices in the different areas covered by the OECD MNE Guidelines. Rather, they generally focus only on the promotion of sustainability, which does not include the prevention and mitigation of business-related adverse impacts on people, the planet, and society through risk-based due diligence. This is striking when considering that objective No. 7.7.3 of the PNRS is to promote "the social responsibility of Costa Rican companies and products abroad" through trade promotion activities.¹⁶⁴

Box 4.7. The country brand "Essential Costa Rica"

In 2008, Costa Rica launched a study on its perception abroad and determined that it differentiated itself as a "green country". On this basis, Costa Rica developed the country brand: "Essential Costa Rica". Since 2013, companies and products following a specific licensing protocol can use the country brand. An Inter-institutional Committee handles the licensing. This committee includes the Costa Rican Trade Promotion Agency (*Promotora de Comercio Exterior*, PROCOMER), the Costa Rican Tourism Institute (*Instituto Costarricense de Turismo*, ICT), the Ministry of Foreign Trade (*Ministerio de Comercio Exterior*, COMEX), and the Ministry of Foreign Affairs (*Ministerio de Relaciones Exteriores y Culto*).

Any organisations associated with trade (and investment) promotion, exporting SMEs, or potential exporters can apply to use "Essential Costa Rica" either at the corporate level or for a specific product. This entails applying the five values of the country brand to be represented internationally, i.e., "Excellence", "Sustainability", "Social Progress", "Innovation", and "Costa Rican Rooting". PROCOMER uses an evaluation protocol to determine whether applicants comply with these values. The "Sustainability" criterion has three sub-components (environmental, social and economic) with a specific evaluation process for each of them. For example, evaluation criteria associated with the environmental sub-component include assessing whether the companies apply measures to ensure energy efficiency, to reduce emissions and water use, as well as to manage waste. Under the social component,

PROCOMER evaluates if the candidates engage actively and respectfully with local communities, either directly or through associations, to improve public interest. For the economic component of the evaluation, PROCOMER examines if the applicants' commercial and financial management is viable. To evaluate the "Social Progress" value, the Committee assesses if the candidates guarantee their employees' health and safety and provide them with trainings and opportunities, notably regarding gender equality. Each applicant must hire an evaluator accredited under the norm ISO-17024, who will provide a first assessment of whether the applicant complies with the minimum requirements established by PROCOMER. Based on the evaluator's report, PROCOMER decides to award the "Essential Costa Rica" license.

In addition to the brand exposure provided on the "Essential Costa Rica" website, a licensed company can access preferential treatment and additional non-financial support for its export activities. Benefits include trainings on marketing and how to internationalise a company, as well as discounts on PROCOMER's services (e.g. trade missions or international fairs). The license has a 60-month validity period with a follow-up evaluation after 30 months. It may be revoked if the company provides false information to obtain the license or if it fails to comply with the requirements that allowed it to obtain the license.

Sources: (Essential Costa Rica, n.d.^[350]; Essential Costa Rica, n.d.^[351]; Essential Costa Rica, n.d.^[352]) (Government of Costa Rica, n.d.^[353]; Government of Costa Rica, n.d.^[353]).

Building on its efforts to make Costa Rican exporters more attractive in international markets with a focus on sustainability, Costa Rica could consider also resorting to its trade promotion activities to promote RBC. The non-financial support provided to exporters by PROCOMER could serve to raise their awareness about RBC principles and standards and the importance of adopting responsible business practices to compete in international markets, as foreseen in the PNRS. These different services could also be used as a means to incentivise exporters to observe RBC principles and standards by linking the access to such services to requirements pertaining to the adoption of responsible business practices. The Costa Rican NCP could play a key role in this regard.

To date, Costa Rica has mostly focused its trade promotion efforts on sustainability, notably with the "Essential Costa Rica" initiative. However, the country could consider going beyond sustainability by promoting all aspects of RBC in its export promotion activities, which includes the prevention and mitigation of business-related adverse impacts on people, the planet and society through the conduct of risk-based due diligence. This would be in line with objective 7.7.3 set in the PNRS to promote social responsibility through trade promotion. The non-financial support provided by PROCOMER to Costa Rican companies wishing to export could be a way to further promote RBC. As a first step, PROCOMER could include information on RBC principles and standards on its website, notably in the Exporter's Guide. This information could focus on the OECD MNE Guidelines and the related Due Diligence Guidance. PROCOMER could stress that the observance of these principles and standards can improve an exporter's positioning in international markets. PROCOMER could also develop, in coordination with the NCP, a specific training programme for exporters focused on RBC and due diligence.

Moreover, Costa Rica could follow the example of other OECD members by using its trade promotion activities to incentivise the observance of the OECD MNE Guidelines by exporters. For instance, in Germany, the registration form to participate in high-level trade missions refers expressly to the OECD MNE Guidelines and reaffirms the Federal Government's expectation that German companies acting abroad observe RBC principles and standards (OECD, 2018, p. 19^[354]). The Netherlands goes a step further, by including the observance of the OECD MNE Guidelines as a requirement to have access to the non-financial support granted by its trade promotion agency, such as trade missions (Government of the Netherlands, 2020^[355]). Based on these examples, PROCOMER could reserve the access to trade missions to companies that justify the observance of RBC principles and standards. The licensing process

of “Essential Costa Rica” could also be used to promote the OECD MNE Guidelines. For instance, the evaluation protocol could add the observance of the recommendations contained in the OECD MNE Guidelines and the conduct of due diligence as a pre-requisite for obtaining the license.

Finally, the coordination between PROCOMER and the Costa Rican NCP could also be developed to further promote RBC through trade promotion activities. This is all the more so since the NCP is hosted in COMEX, which is the entity in charge of the design and formulation of trade promotion policies and that one of the two officials that is in charge of the NCP in COMEX also works on trade promotion matters. As a result, there should be a constant dialogue and interaction between the NCP and PROCOMER to disseminate the OECD MNE Guidelines and the related Due Diligence Guidance among exporters and potential exporters. Any information provided by the NCP could be taken into consideration in the selection process of the companies that benefit from PROCOMER’s support. In particular, should the NCP deal with specific instances in the future, the outcomes of these instances could be taken into consideration when providing support to exporters, as done by other OECD members. In 2021, 16 Adherents to the OECD MNE Guidelines reported having communicated about NCP specific instances to officials responsible for trade missions.

Strengthening the integration of RBC in Costa Rica’s investment promotion and facilitation policies

Governments can attract investment through promotion and facilitation policies. While investment promotion consists in marketing a country or a region as an investment destination, investment facilitation entails making it easier for investors to establish, operate, or expand their investments (OECD, 2018, p. 3_[356]). Investment can be promoted by building a positive image of the host country and directing foreign investors to profitable investment opportunities (OECD, 2015, p. 39_[1]).¹⁶⁵ In turn, investment can be facilitated through a transparent, predictable, and efficient regulatory and administrative framework for investment and by reducing the number of obstacles faced by investors that decide to invest in the country (OECD, 2015, p. 39_[1]; OECD, 2018, p. 3_[356]).¹⁶⁶ These different services offered to investors can be used as tools to encourage the adoption of responsible business practices and thereby promote responsible investments (OECD, 2015, p. 18_[1]).

The PFI recognises in this regard that RBC is central to a good investment climate and that considerations of relevance to RBC should play a part in investment policies (OECD, 2015, pp. 18, 75_[1]). It specifies that “[a]n investment climate that does not include respect for certain rules of [RBC], including relating to accepted international labour and environmental standards, risks being shunned by international investors and by foreign customers” (OECD, 2015, p. 18_[1]).

As mentioned above, COMEX is Costa Rica’s policy maker for both trade and investment. The design, formulation, and adoption of investment policies includes attracting foreign investments. This has been a priority in Costa Rica’s economic policies and a key piece of Costa Rica’s development strategy over the past decades (CINDE, 2019, p. 6_[357]; OECD, 2020_[72]). The role of the IPA is filled by a private and non-profit organisation – CINDE – based on an association agreement with COMEX (CINDE, 2022_[358]). CINDE develops and carries out investment promotion and facilitation activities. From 2017 to 2021, it has been ranked as “the world’s top institution in attracting FDI” by the ITC for five consecutive years (CINDE, 2022_[358]).

CINDE offers a wide-range of services to investors throughout the different investment phases, from pre-establishment to post-establishment. For instance, in the pre-establishment phase, CINDE provides investment advisory services by promoting investment opportunities in the country and facilitating the communication between potential investors and government authorities. It also establishes contact with potential suppliers (CINDE, 2021_[359]). In addition, it elaborated a Foreign Investor’s Guide to provide prospective investors with essential information needed to invest in Costa Rica (CINDE, 2021_[360]). During the establishment phase, CINDE assists investors with obtaining the necessary permits or with their

communication strategy. The focus of CINDE's investment promotion and facilitation initiatives to date seem to have been on promoting sustainable investments that contribute to the social and economic development of Costa Rica. The efforts deployed in this regard are considerable, in particular with the "3Ps" strategy based on the three strategic pillars "People, Planet, and Prosperity" (*Personas, Planeta y Prosperidad*) (see Box 4.8) (CINDE, n.d.^[361]).

Box 4.8. CINDE's efforts to promote sustainable development

Over the years, the *Coalición Costarricense de Iniciativas de Desarrollo* (CINDE) has made significant efforts to promote sustainable development through its investment promotion and facilitation activities. It is committed to contribute to certain sustainable development goals (SDGs), in particular SDG 4 (Quality Education), SDG 5 (Gender Equality), SDG 8 (Decent Work and Economic Growth), and SDG 9 (Industry, Innovation and Infrastructure).¹ For instance, in relation to SDG 8 on Decent Work and Economic Growth, CINDE reports a 15% average annual growth of foreign direct investment for companies located outside the Greater Metropolitan Area (GMA) since 2016 thanks to its initiatives, which has contributed to an increase of formal employment in rural areas of the country.² As to SDG 5 on gender equality, CINDE reports that, in 2020, 49% of the new jobs created by companies that received its support were held by women and that the percentage of female employment in these companies is also higher than the national average.³

CINDE's strategic vision for 2019-2022

CINDE's Strategic Vision for 2019-2022 focuses on propelling Costa Rica on the global stage as a market for sustainable production.⁴ It aims to build on Costa Rica's decades-long commitment to protect the environment as a strategy to strengthen the country's positioning as a prime destination for environmentally sustainable projects, thereby boosting its socioeconomic development.

Thus, CINDE's primary role is to promote foreign direct investment in the country as a driver of sustainable development.⁵ It has defined six action pillars to achieve this goal by 2030:

- Promote talent development, innovation, research and development to take advantage of the opportunities offered by the knowledge economy;
- Strengthen the investment climate and influence policy making, notably by improving the regulatory framework to attract investments;
- Encourage capacity-building outside the GMA in order to attract investment opportunities;
- Reinforce CINDE's collaboration with PROCOMER to expand Costa Rica's participation in global value chains;
- Further develop and strengthen strategic partnerships in order to put in place the Strategic Vision;
- Maintain CINDE's position as a top Investment Promotion Agency (IPA) in the world.

Notes:

1. CINDE, Impact Report 2020, p. 8, 2021, <https://www.cinde.org/en/resources/impact-report-2020>.

2. *Ibid.*, p. 16.

3. *Ibid.*, p. 22.

4. CINDE, CINDE Strategic Vision 2019-2022, 2019, <https://www.cinde.org/en/resources/strategic-vision-2019-2022>.

5. *Ibid.*, p. 35, 2019.

Sources: (CINDE, 2019^[357]; CINDE, 2021^[362]).

However, the services currently provided by CINDE do not seem to be used to their full potential to raise awareness amongst potential and established investors about the concept of RBC, the full spectrum of expectations it entails as per the internationally recognised instruments in the field, and the importance of carrying risk-based due diligence to prevent and mitigate adverse impacts related to investment projects. For instance, the Foreign Investor's Guide contains a section on Costa Rican labour laws and social security, as well as environmental regulations, but it does not make reference to RBC and the related principles and standards, nor does it contain practical recommendations regarding the conduct of due diligence (CINDE, 2021, pp. 17-24, 41-43^[360]). This state of affairs contrasts with the objectives set in the PNRS in relation to investment promotion. According to objective No. 7.7.2 of this policy, a social responsibility dimension is to be included in the actions aimed at promoting foreign investment in Costa Rica. For this purpose, the policy foresees that, during visits or missions of foreign investors, their awareness be raised about the country's guidelines on social responsibility, with a specific focus on the respect of workers' rights by investors and the adequate management of social impacts.¹⁶⁷

Capitalising on the initiatives developed to position itself as a key destination for sustainable investments, Costa Rica could consider taking additional steps to build its reputation as a reliable and safe place for responsible investments meeting RBC expectations. In the same logic, Costa Rica could use its investment promotion and facilitation policies to promote RBC as an integral part of sustainable development and encourage investors to follow the recommendations contained in the OECD RBC instruments in order to enhance their contribution to sustainable development.

As part of its engagement with foreign investors, Costa Rica could raise their awareness of RBC and incentivise them to observe RBC principles and standards throughout the investment lifecycle. With the assistance of the NCP, the different services provided in this context could be mobilised to promote due diligence, as described in the OECD Due Diligence Guidance for RBC, to ensure that investors and their investments contribute to sustainable development, whilst at the same time also preventing and addressing real and potential adverse impacts related to their activities.

Since they design investment policies and supervise investment promotion activities, COMEX and CINDE can take additional steps so that Costa Rica's investment promotion and facilitation policies are used as a means to attract and retain high quality and responsible investors. This is key to reduce the risks of adverse impacts linked to investments. IPAs often coordinate many of the services offered to foreign investors and, as a result, are able to link such services to the observance of RBC principles and standards more easily. They can be given the mandate to attract sustainable and responsible investments and, to that effect, they can integrate considerations that promote and enable RBC in the range of services, tools, and mechanisms provided to foreign investors in the different investment phases (OECD, 2018, p. 5^[356]; OECD, 2018, p. 102^[363]; Volpe Martincus et al., 2019, p. 81^[364]). IPAs can also prioritise sectors and types of investments based on RBC considerations (Volpe Martincus et al., 2019, p. 77^[364]). In addition, they can contribute to enhancing dialogue on investment between the public and private sectors, as well as with stakeholders, including local communities (OECD, 2018, pp. 89, 94-95^[363]). They can notably contribute to prevent disputes linked to investments, as they often include, as part of their aftercare services, dispute resolution mechanisms, such as structured trouble-shooting with individual investors, conflicts mitigation or ombudsman intervention, applicable to disputes between investors and authorities, but also between investors and local communities (OECD, 2018, p. 45^[363]). Likewise, the aftercare services provided by IPAs can also be an opportunity to incentivise established foreign investors to observe RBC principles and standards (OECD, 2018, p. 56^[363]).

The integration of considerations relevant for RBC could thus be reinforced at every level of the investment lifecycle in which CINDE offers its support to investors. It could, for instance, promote the observance of RBC principles and standards in its existing investment advisory services or through its Foreign Investor's Guide. In addition to providing details on the laws and regulations that are of interest to foreign investors, this Guide could set out the Government's expectations that they also observe the OECD MNE Guidelines

and encourage them to carry out due diligence in accordance with the OECD Due Diligence Guidance for RBC and the OECD Sector-Specific Due Diligence Guidance.

Costa Rica could also consider granting CINDE a specific mandate to attract and prioritise responsible investments throughout the different investment stages (OECD, 2018, p. 5^[356]; OECD, 2018, p. 102^[363]; Volpe Martincus et al., 2019, p. 81^[364]). At the pre-establishment phase, CINDE could develop a selection process prior to supporting an investor and/or an investment project, which could include RBC considerations. On this basis, CINDE could exclude from its services those investors that have been identified as having an irresponsible business conduct, as done by the IPAs of certain OECD member countries (OECD, 2018, pp. 65-66^[363]). CINDE could also provide information on all the current RBC-related legislation in Costa Rica, as well as on the OECD MNE Guidelines, to promote their observance by investors. Likewise, at the post-establishment phase, CINDE could have recourse to its aftercare activities to incentivise established investors to follow an RBC approach. For example, it could concentrate these activities, and the services aimed at retaining investments and/or encouraging their expansion, on foreign investors that commit to observe the OECD MNE Guidelines and conduct due diligence on the basis of the related OECD Due Diligence Guidance. In this regard, it could consider following the example of other IPAs that not only focus their aftercare services but also condition them to the observance of the OECD MNE Guidelines. For instance, as part of its general conditions for participation in trade and investment activities, the Swedish IPA requires as a minimum that participants undertake to always follow Swedish laws, the laws of the country of investment, and where national legislation does not reach international standards, strive to observe the OECD MNE Guidelines (Business Sweden, n.d.^[365]). In addition, CINDE could also contemplate taking action when being notified that established investors are not complying with RBC principles and standards, as done by the IPAs of several OECD countries (OECD, 2018, p. 82^[363]; Volpe Martincus et al., 2019, p. 108^[364]). It could notably deny support to the foreign investor in question and/or consider starting legal action (OECD, 2018, p. 82^[363]).

The cooperation between CINDE and the Costa Rican NCP is essential to support these different actions. Building on the existing partnership between CINDE and COMEX, which houses the NCP and is in charge of designing and formulating investment promotion and facilitation policies, a direct and constant channel of communication could be established between CINDE and the NCP. The NCP could provide support to CINDE regarding the integration of considerations of relevance to RBC in its investment promotion and facilitation initiatives. This is all the more so since the NCP has different Institutional Focal Points in various ministries on areas related to the OECD MNE Guidelines, such as labour and environment. As recommended by the OECD MNE Guidelines, it could notably provide relevant information and, in particular, should there be specific instances handled by the NCP in the future, communicate their outcomes to CINDE, so that the latter can then take this information into consideration when selecting the investors or investment projects that may benefit from its services or support (OECD, 2011^[366]).¹⁶⁸

It is worth noting that, by doing so, Costa Rica would be contributing to achieving objective No. 7.7.2 of the PNRS that foresees that CINDE promotes social responsibility among investors and potential investors.

Policy recommendations

24. **Resort to trade promotion activities to promote RBC, in particular by raising exporters' awareness about the importance of adopting responsible business practices to compete in international markets and incentivising them to observe RBC principles and standards through the non-financial support and the services provided by PROCOMER.**
25. **Use investment promotion and facilitation policies to promote RBC as an integral part of sustainable development, by encouraging investors to follow the recommendations**

contained in the OECD RBC instruments and thereby enhance their contribution to sustainable development.

4.2.2. Integrating RBC in Costa Rica's trade and investment agreements

Trade agreements and investment treaties are another part of trade and investment policies that are key to building an enabling environment for RBC and incentivise businesses to adopt responsible business practices. These economic instruments increasingly include considerations of relevance to RBC through different kinds of provisions. The first kind are provisions that deal, directly or indirectly, with areas covered by the OECD MNE Guidelines, such as the respect for human rights, the promotion of labour standards, the protection of the environment, or the fight against corruption and which reflect the signatories' commitments in relation thereto (hereinafter called sustainability provisions). The second kind are clauses through which the signatories commit to encourage businesses to observe internationally recognised RBC principles and standards (hereinafter called RBC clauses). These provisions and clauses can have various effects that contribute to enabling and promoting RBC.¹⁶⁹

First, sustainability provisions have the potential to support and reinforce governments' policies and legal frameworks in areas covered by the OECD MNE Guidelines by buttressing the adoption and enforcement of domestic laws and regulations in the human rights, labour, environmental, or anti-corruption fields (Gaukrodger, 2021, pp. 10, 84, 86-94_[367]). In this way, they contribute to the development and implementation of legal and regulatory frameworks that enables RBC. This is notably the case of provisions through which the signatories commit to incorporating and disseminating in their domestic legal frameworks internationally recognised principles and standards in these fields and/or to enforce related domestic laws and regulations. This is also the case of the provisions that seek to preserve the signatories' right to regulate in areas covered by the OECD MNE Guidelines and which protect their policy space by allowing them to adopt new laws, regulations, and policies aimed at pursuing public interest objectives without legal risks (Gaukrodger, 2021, pp. 84, 96-100_[367]). Provisions that prohibit the signatories from lowering or weakening their laws and regulations in these same areas to attract investment also help prevent backsliding in these areas.

Second, RBC clauses can directly promote the observance of RBC principles and standards and the adoption of responsible business practices by 'speaking to business' (Gaukrodger, 2021, pp. 84, 102-108_[367]). These clauses contribute to communicating and clarifying the governments' expectations that businesses adopt responsible business practices. They also often highlight the specific internationally recognised RBC principles and standards that the latter should observe in general, but also sometimes in relation to due diligence.

Finally, sustainability provisions can facilitate access to remedy for victims of business-related adverse impacts. By promoting regulatory cooperation and/or intergovernmental consultations on matters arising in areas covered by the OECD MNE Guidelines, they can lead to resolve RBC issues and contribute to remedy such impacts. Likewise, the possibility that governments may have under some investment treaties to bring actions against investors, when the conditions to bring such counterclaims under the applicable rules are met, constitute another avenue through which remedies can possibly be obtained in case of harm linked to investors' operations.

Costa Rica has already taken steps to integrate considerations relevant to RBC in its trade and investment agreements. In fact, one of the objectives of the PNRS is to link social responsibility to trade agreements. According to Objective No. 7.7.1 of this policy, the trade agreements signed by Costa Rica should aim to include social, environmental, and good governance aspects.¹⁷⁰ In addition, the NCP of Costa Rica – which is located in COMEX, the entity in charge of negotiating trade and investment agreements – adopted a strategy of promoting coherence in RBC-related policy making (OECD, 2020, pp. 89-90_[72]). The NCP officials are consulted by the negotiating teams and can submit inputs and suggestions with respect to any

draft agreement in order to promote coherence with the relevant aspects of the OECD MNE Guidelines. Moreover, the NCP may assist with the implementation of sustainability provisions and RBC clauses in trade and investment agreements, in particular by providing relevant information in the context of dispute settlement. As more and more trade and investment partners are paying increased attention to RBC issues, further integrating considerations of relevance to RBC in Costa Rica's network of trade and investment agreements is key to support the country's strategy that consists in relying on trade openness and attraction of FDI to move up in GVCs while promoting sustainable development and preserving natural resources (OECD, n.d.^[368]).

RBC in Costa Rica's trade agreements

As of October 2021, Costa Rica had signed 16 FTAs (Government of Costa Rica, 2021^[369]).¹⁷¹ In line with global trends, sustainability provisions and RBC clauses have progressively been included in these trade agreements, although they vary in terms of scope, drafting, and binding nature (Gaukrodger, 2020^[370]).

Before 2004, the FTAs signed by Costa Rica dealt with specific trade matters but did not cover all trade disciplines. As a result, aside from reaffirming the signatories' commitment to promote sustainable development,¹⁷² as well as improving labour conditions and protecting the environment,¹⁷³ through preamble aspirational declarations, they include very little sustainability provisions. The only sustainability provision that can be found in these trade agreements is a direct or indirect reference to Article XX of the General Agreement on Tariffs and Trade (GATT),¹⁷⁴ which allows the signatories to take measures aimed at protecting human, animal, or plant life or health and/or relating to the conservation of exhaustible natural resources. This type of provisions is noteworthy because it contributes to protect the signatories' right to regulate in the public interest and can reinforce their domestic legal frameworks in some of the areas covered by the OECD MNE Guidelines. By reaffirming that new laws, regulations, and measures can be adopted in these areas without contravening other provisions of the trade agreements, they contribute to protect their policy space.

The FTA concluded by the Dominican Republic, Central America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua), and the United States in 2004 (2004 CAFTA-DR) is the first agreement in Costa Rica's trade agreements network to integrate considerations of relevance to RBC through different types of sustainability provisions. Most of the multilateral trade agreements concluded by Costa Rica after the 2004 CAFTA-DR also include detailed sustainability provisions pertaining to several areas covered by the OECD MNE Guidelines that can contribute to promoting and enabling RBC. However, the vast majority of the bilateral FTAs signed by Costa Rica post-2004 still include very little sustainability provisions, aside from an exception provision¹⁷⁵ and integrity provisions in their public procurement chapters. According to these chapters, the signatories commit to declare ineligible to participate in public tenders suppliers involved in illegal or fraudulent activities.¹⁷⁶ As to RBC clauses, the 2013 Costa Rica-European Free Trade Association (EFTA) FTA is the only agreement in Costa Rica's trade agreements network to include such a clause (see Table 4.7).

Table 4.7. Inclusion of sustainability provisions and RBC clauses in Costa Rica's trade agreements

Parties to the trade agreement	Date of signature	Status	Inclusion of sustainability provisions (Yes/No) and areas of the OECD MNE Guidelines covered by the provisions	Inclusion of RBC clause (Yes/No)	Reference to international instruments pertaining to areas covered by the OECD MNE Guidelines (Yes/No)	Sustainability provisions or RBC clause subject to dispute settlement (Yes/No)
Central America - United Kingdom	18/07/2019	In force	Yes: full detailed chapter dedicated to trade and sustainable development	No	Yes: ILO Conventions; United Nations Declaration on the	No

Parties to the trade agreement	Date of signature	Status	Inclusion of sustainability provisions (Yes/No) and areas of the OECD MNE Guidelines covered by the provisions	Inclusion of RBC clause (Yes/No)	Reference to international instruments pertaining to areas covered by the OECD MNE Guidelines (Yes/No)	Sustainability provisions or RBC clause subject to dispute settlement (Yes/No)
			(TSD Chapter) dealing with labour and the environment		Rights of Indigenous Peoples; UN Rio Declaration	
Central America - Korea	21/02/2018	In force	Yes: full chapters on environment and labour	No	Yes: ILO Conventions	No
Central America - EFTA	24/06/2013	In force	Yes: full detailed TSD Chapter dealing with labour and environment	Yes	Yes: OECD MNE Guidelines; ILO Conventions; UN Rio Declaration	No
Costa Rica - Colombia	22/05/2013	In force	No, except for an exception provision	No	No	N/A
Central America - European Union	29/06/2012	In force	Yes: full detailed TSD Chapter dealing with labour and the environment	No	Yes: ILO Conventions; United Nations Declaration on the Rights of Indigenous Peoples; UN Rio Declaration	No
Central America - Mexico	22/11/2011	In force	Yes: two provisions relating to anti-corruption and an exception provision	No	No	No
Costa Rica - Peru	22/05/2011	In force	Yes: two provisions relating to anti-corruption and an exception provision	No	No	N/A
Costa Rica - China	08/04/2010	In force	No, except for an exception provision	No	No	N/A
Costa Rica - Singapore	06/04/2010	In force	Yes: two provisions related to labour standards and an exception provision	No	Yes: ILO Conventions	No
Central America - Panama	07/08/2007	In force	No, except for an exception provision	No	No	N/A
CAFTA-Dominican Republic	05/08/2004	In force	Yes: full detailed chapters dedicated to labour, environment, and transparency	No	Yes: ILO Conventions	No
Costa Rica - CARICOM	09/03/2004	In force	No, except for an exception provision	No	No	N/A
Costa Rica - Canada	23/04/2001	In force	No, except for an exception provision	No	No	N/A
Central America - Chile	18/10/1999	In force	No, except for an exception provision	No	No	N/A
Central America – Dominican Republic	16/04/1998	In force	No, except for an exception provision	No	No	N/A
Tratado General de Integración Económica Centroamericana	13/12/1960	In force	No	No	No	N/A

The 2004 CAFTA-DR

From its preamble, the 2004 CAFTA-DR, which entered into force in 2009, includes some aspirational declarations of relevance for RBC. In these declarations, the signatories for instance commit to fight against bribery and corruption; protect, enhance, and enforce workers' rights; implement the FTA in a manner consistent with environmental protection; and promote sustainable development.¹⁷⁷ However, the CAFTA-DR is particularly noteworthy because it includes various sustainability provisions that can contribute to reinforcing the CAFTA partners' policies and legislations in some of the areas covered by the OECD MNE Guidelines and hence contribute to the development and implementation of policy and legal frameworks that promote and enable RBC.

The labour and environment chapters of the CAFTA-DR contain most of these provisions. Under these chapters, the signatories reaffirm their international obligations in these fields.¹⁷⁸ They also commit *inter alia* to ensure that their labour and environmental legislations provide for high labour standards¹⁷⁹ and levels of environmental protection,¹⁸⁰ while recognising their right to adopt or modify these legislations. These provisions have contributed to promote the adoption and enforcement of domestic laws and policies relevant for RBC, in particular with respect to labour matters. Through the programme Comply and Win (*Cumple y Gana*), between 2006 and 2009, the United States provided financial assistance to its CAFTA partners to strengthen the work of their labour ministries and inspectorates and promote better practices to protect labour rights in alignment with the provisions of the CAFTA-DR (WOLA, 2009, p. 5_[371]). In Costa Rica, this led, among others, to the issuance by the Ministry of Labour of a Protocol aimed at ensuring the reinstatement of illegally dismissed workers (*Protocolo sobre la verificación del efectivo cumplimiento de las órdenes judiciales de reinstalación de trabajadores por acción judicial interpuesta por la Dirección Nacional de Inspección del Trabajo*) and to a government-led campaign on minimum wages (Government of Costa Rica, 2011_[372]; Gindling, T., et al., 2013, pp. 5-13_[373]).

In addition, the labour chapter establishes a cooperative consultations mechanism to ensure the enforcement of its provisions, which can have a reinforcing effect on the signatories' domestic frameworks in the field. In accordance with this mechanism, a signatory may request consultations with another signatory in relation to any issue pertaining to a failure to enforce the labour provisions of the CAFTA-DR.¹⁸¹ Should the consulting signatories fail to resolve the matter through high-level consultations, one of them may request to convene the Labour Affairs Council – comprised of cabinet-level or equivalent representatives of the signatories – which shall endeavour to resolve the matter.¹⁸² The Minister of Labour and Social Security is the representative of Costa Rica in the Labour Affairs Council and Costa Rica created a contact point within the MTSS to support the work of the Council and deal with submissions from individuals pertaining to the provisions of the labour chapter (Government of Costa Rica, 2008_[374]). To date, there has only been one matter presented under this mechanism by the United States against Costa Rica. It related to Costa Rica's alleged interference in the internal affairs of a trade union, which led to the dissolution of a local union board. However, the matter was later withdrawn following a decision by the Costa Rican Constitutional Court reinstating the board (ILO, 2013, p. 55_[375]).

The 2004 CAFTA-DR also includes in its chapter on transparency a specific section on anti-corruption, with provisions that can have a similar effect for this area of the OECD MNE Guidelines. Under this section, the signatories notably commit to adopt the necessary legislative or other measures to establish as criminal offenses corruption and bribery acts in matters affecting international trade and investment.¹⁸³

Lastly, the labour and environment chapters of the 2004 CAFTA-DR can also contribute to facilitate access to remedy in cases of business-related adverse impacts. They both include provisions aimed at improving access to remedy in the signatories' respective jurisdictions by ensuring access to fair, open, and equitable administrative, judicial or quasi-judicial proceedings for labour and environmental matters.¹⁸⁴ Moreover, the 2004 CAFTA-DR is noteworthy in that it creates a new and specific avenue to access remedy by allowing individuals and CSOs to file public communications or submissions in relation to the enforcement of its environment chapter (See Box 4.9).

Box 4.9. RBC-related complaints under Costa Rica's trade agreements

The environmental chapter of the 2004 Dominican Republic – Central America – United States Free Trade Agreement (CAFTA-DR) contains a specific mechanism that can contribute to facilitate access to remedy for victims of business-related adverse impacts.

In accordance with article 17.7 of the CAFTA-DR, any person of a signatory (civil society organisation or individual) may file a submission about an alleged failure by a signatory to effectively enforce its environmental laws before the Secretariat for Environmental Matters (*Secretaría de Asuntos Ambientales*), which was created by the signatories for this purpose. Upon receipt of a submission on enforcement matters (SEM), the Secretariat determines whether the issue should be addressed in a factual record aimed at providing an objective presentation of the matter, as provided by article 17.8.¹ Based on this factual record, the Environmental Affairs Council, established under the CAFTA-DR, provides recommendations, including recommendations related to the further development of mechanisms to monitor the enforcement of environmental laws. These recommendations are then reviewed and commented by the signatories in the Environmental Cooperation Commission established under the Dominican Republic – Central America – United States – Environmental Cooperation Agreement. These proceedings can thus lead to high-level intergovernmental consultations cooperation, which can in turn contribute to resolving RBC-related matters.

To date, there has only been one case handled by the Secretariat for Environmental Matters of the CAFTA-DR regarding Costa Rica. The case related to alleged anomalies in the use of turtle excluder devices by several shrimp trawlers in violation of domestic regulations designed to protect sea turtles in Costa Rica. The submitter, the *Asociación Programa Restauración de Tortugas Marinas* (PRETOMA), also claimed that there had been irregularities in the issuance of fishing licenses. After reviewing the submission and the response by Costa Rica, the Secretariat for Environmental Matters found that national proceedings were pending, which precluded it from further analysing the matter. As a result, no factual record was prepared in this case.

Note:

1. 2004 CAFTA-DR, Chapter 17 (Environment), Articles 17.7 and 17.8.

Sources: (Secretariat for Environmental Matters, 2011^[376]) ((n.a.), 2004^[377]).

The trade part of the 2012 Central America – EU Association Agreement

The trade part (Part IV) of the Association Agreement concluded in 2012 between Central America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama) and the European Union is noteworthy because it is the first in Costa Rica's network of trade agreements to include a specific title (Title VIII) on trade and sustainable development (TSD Chapter) with various sustainability provisions. These provisions can have different effects contributing to promoting and enabling RBC.

For instance, the provisions of the TSD Chapter pertaining to labour and environmental matters can reinforce the signatories' policies and legislations in these two areas covered by the OECD MNE Guidelines and hence contribute to the development and implementation by the signatories of policy and legal frameworks that promote and enable RBC. Through these provisions, the signatories commit to ensure high and effective levels of labour and environmental protection, while recognising their right to regulate in these fields.¹⁸⁵ They also undertake to uphold such levels of protection, and not reduce them to encourage trade (and investment).¹⁸⁶ With respect to labour rights, the signatories commit to effectively implement the internationally recognised core labour standards and the fundamental ILO Conventions that they have ratified.¹⁸⁷ In relation to the environment, the signatories undertake to effectively implement the multilateral environmental agreements to which they are parties.¹⁸⁸ The TSD Chapter also includes specific

provisions in accordance to which the signatories commit to preserve and sustainably use fish resources¹⁸⁹ and promote the sustainable management of forest resources.¹⁹⁰

Although the TSD Chapter is excluded from the general dispute settlement mechanism of the trade part of the 2012 Central America – EU Association Agreement,¹⁹¹ the institutional and monitoring mechanisms established for its implementation strengthen its potential reinforcing effect on the signatories' policies and legislations in areas covered by the OECD MNE Guidelines. In addition to appointing contact points for this purpose, the TSD Chapter creates a Board of Trade and Sustainable Development (TSD Board), comprised of high-level authorities of each signatory.¹⁹² This Board meets once a year to oversee the implementation of the TSD Chapter. Its decisions and recommendations are adopted by mutual agreement and may be made public. In recent years, the TSD Board has served as a forum through which the signatories have cooperated on RBC issues, thereby contributing to advance government policies that promote and enable RBC (see Box 4.10).

Box 4.10. The Board of Trade and Sustainable Development: a forum to cooperate on and advance government policies that promote and enable RBC

The Board of Trade and Sustainable Development (TSD Board) was created to oversee the implementation of the Title on Trade and Sustainable Development (TSD Chapter) included in the trade part (Part IV) of the Central America – EU Association Agreement. The TSD Board has proven to be a valuable tool to advance government policies that promote and enable RBC. Over the years, the TSD Board has served as a forum through which the signatories have cooperated with the objective of implementing the TSD Chapter and building the capacity of Central American exporters to meet European Union (EU) market access requirements, which in turn has contributed to reinforce policies and legislations in several areas covered by the OECD Guidelines for Multinational Enterprises (OECD MNE Guidelines).

For instance, the TSD Board has organised several workshops on issues relevant for the implementation of the TSD Chapter, such as environment, labour, or Corporate Social Responsibility (CSR). These workshops have helped raise awareness among the signatories that adopting and implementing adequate policy and legal frameworks is crucial to incentivise exporters to meet environmental and social requirements to access the EU market. In addition, during the meetings of the TSD Board, the signatories have had to report on progress in implementing the environmental and labour aspects of the TSD Chapter. They have also had to respond to concerns from other signatories on these aspects. This exchange has been key to enhance cooperation on RBC issues and promote the development and implementation of related government policies, as illustrated by the following examples:

- Costa Rica mentioned the positive effect that the TSD Board's workshops had on the work and coordination of the various actors involved in the discussion and development of its National Policy on Social Responsibility (*Política Nacional de Responsabilidad Social*) (2018).¹
- The TSD Board agreed to adopt a cooperation agenda to further promote trade and sustainable development and cooperate on various RBC-related topics, including responsible and sustainable supply chains, decent work, gender equality, and climate change (2018).²
- The signatories reiterated their commitment to further strengthen their cooperation on the CSR/RBC and decent work agenda (2019).³
- A representative of the European Commission's Directorate-General for Trade presented an overview of the Commission's legislative initiatives incorporating RBC aspects, including the proposal to improve the EU regulatory framework on corporate governance, which would include mandatory supply chain due diligence. Following this presentation, the signatories

agreed to keep exchanging information on the development of this proposal as its adoption would have an impact on global supply chains and hence for Central American exporters (2021).⁴

Notes:

1. Report to the Civil Society Forum of the Fourth Meeting of the Board of Trade and Sustainable Development, 13 June 2018, p. 8, https://trade.ec.europa.eu/doclib/docs/2018/july/tradoc_157150.pdf.

2. *Ibid.*, pp. 8-9.

3. Minutes of the Fifth Meeting of the Board of Trade and Sustainable Development, June 2019, p. 9, https://trade.ec.europa.eu/doclib/docs/2019/july/tradoc_158201.%20201906%20TSD%20joint%20minutes%20EN.pdf.

4. Minutes of the Sixth Meeting of the Board of Trade and Sustainable Development, June 2021, p. 8, https://trade.ec.europa.eu/doclib/docs/2021/july/tradoc_159692.pdf

Sources: ((n.a.), 2018_[378]; (n.a.), 2019_[379]; (n.a.), 2021_[380]).

Another mechanism with a potentially reinforcing effect on the signatories' domestic frameworks in areas covered by the OECD MNE Guidelines, and which can also contribute to facilitate access to remedy in RBC-related matters, are the intergovernmental consultations that may be requested by a signatory to resolve any issue arising out of the implementation of the TSD Chapter by another signatory.¹⁹³ Should an issue not be resolved through these intergovernmental consultations, it can be referred to the TSD Board, which is responsible for assisting the signatories in reaching a mutually satisfying solution. In this context, an expert panel may be appointed to determine whether a signatory has not complied with its obligations under the TSD Chapter.¹⁹⁴ In that case, the signatories involved in the matter exchange written submissions. These written submissions form the basis of the expert panel's reports and recommendations,¹⁹⁵ the implementation of which is monitored by the TSD Board.¹⁹⁶ These intergovernmental consultations and the intervention of the TSD Board can thus contribute to resolve RBC-related issues.

In addition, as part of the institutional and monitoring mechanisms of the TSD Chapter, each signatory must convene an advisory group on trade and sustainable development, which have the potential to further bolster the TSD Chapter's reinforcing effect on domestic policies and legislations. These advisory groups are comprised of public authorities and stakeholders including, among others, employers' and workers' organisations, business associations, and CSOs, and they can express views and make recommendations on trade-related aspects of sustainable development.¹⁹⁷ They also advise the signatories on how to better achieve the objectives of the TSD Chapter. Additionally, once a year, the advisory groups organise a Civil Society Dialogue Forum that issues recommendations for the TSD Board.¹⁹⁸ During the Forum held in 2020, the advisory groups recommended that the signatories develop awareness-raising and capacity-building projects to support socio-economic actors and public authorities in monitoring, implementing, and enforcing the environmental and social provisions of the TSD Chapter (Central American and European Union Advisory Groups of the Association Agreement between the European Union and Central America, 2020_[381]).¹⁹⁹ They also recommended to boost awareness-raising activities about human rights due diligence, with the aim of supporting economic actors in the implementation of the UNGPs, as well as to promote national plans and policies that put in practice the UNGPs and ensure the implementation of ILO Fundamental Conventions (Central American and European Union Advisory Groups of the Association Agreement between the European Union and Central America, 2020_[381]).²⁰⁰

The 2013 Central America – EFTA FTA

The FTA concluded in 2013 between the Central American States (Costa Rica and Panama) and the EFTA States (the 2013 Central America – EFTA FTA) includes various elements of relevance for RBC. In its preamble, the signatories reaffirm their commitment to sustainable development, highlighting the importance of policy coherence in environmental and labour matters, and of the fight against corruption. They also acknowledge the importance of good corporate governance and CSR, and affirm their aim to

“encourage enterprises to observe internationally recognised guidelines and principles in this respect, established by organisations such as the OECD and the UN”.²⁰¹ More importantly, the FTA includes a chapter on Trade and Sustainable Development (TSD Chapter), which can have several effects contributing to promoting and enabling RBC.

To start with, the sustainability provisions of the TSD Chapter can contribute to reinforcing the signatories’ policies and legislations in areas covered by the OECD MNE Guidelines. Through these provisions, the signatories reaffirm their right to regulate in environmental and labour issues,²⁰² commit to uphold their levels of protection in this regard,²⁰³ and undertake to uphold their international obligations under multilateral labour²⁰⁴ or environmental²⁰⁵ agreements. They also undertake to facilitate and promote trade (and investment) in a way that contributes to sustainable development and to cooperate on several trade and sustainable development issues, such as reducing GHG emissions linked to deforestation and the degradation of natural forests.²⁰⁶ Although the TSD Chapter is excluded from the general dispute resolution mechanism established by the FTA,²⁰⁷ it provides the possibility for the signatories to hold consultations in case of concerns of non-compliance with its provisions.²⁰⁸ This intergovernmental consultation mechanism contributes to bolster the reinforcing effect of the sustainability provisions on the signatories’ domestic frameworks by incentivising the signatories to comply with them.

The TSD chapter can also directly encourage the observance of RBC principles and standards by businesses, as the Central America-EFTA FTA is the first trade agreement signed by Costa Rica to contain an RBC clause. Through this clause the signatories commit to encourage CSR and cooperation between enterprises that are beneficial to the environment and contribute to sustainable development.²⁰⁹ However, the clause does not specify what constitutes CSR and does not refer to any specific RBC principles and standards, such as the OECD MNE Guidelines.

The 2018 Central America – Korea FTA

The latest trade agreement concluded in 2018 by Costa Rica – together with El Salvador, Honduras, Nicaragua and Panama – with South Korea (the 2018 Central America – Korea FTA) contains various sustainability provisions that can promote and enable RBC, but does not include an RBC clause.

In addition to recognising the importance of promoting sustainable development in its preamble,²¹⁰ the FTA contains specific chapters on labour and the environment. Through their provisions, the signatories reaffirm their right to regulate in the labour and environmental fields,²¹¹ and commit to uphold high levels of protection in these areas.²¹² Moreover, these chapters each establish a committee, in charge of *inter alia* overseeing their implementation.²¹³ These committees meet when needed to discuss matters of common interest and serve as fora for dialogue on labour and environmental issues.²¹⁴ These two chapters thus have the potential to reinforce the signatories’ policies and legislations in two areas covered by the OECD MNE Guidelines and hence contribute to the development and implementation of policy and legal frameworks that promote and enable RBC.

The labour and environment chapters can also facilitate access to remedy in cases of business-related adverse impacts as they both include provisions regarding procedural guarantees for labour and environmental matters, which can contribute to make it easier to obtain remedy in the signatories’ respective domestic jurisdictions.²¹⁵ For instance, they provide that the signatories shall ensure that persons with a recognised interest under their laws have appropriate access to tribunals for the enforcement of labour or environmental laws.²¹⁶

*RBC in Costa Rica’s investment chapters of trade agreements and bilateral investment treaties*²¹⁷

Costa Rica has entered into 16 bilateral investment treaties (BITs) and 12 FTAs that include specific investment chapters.²¹⁸ Consistent with global trends, the inclusion of sustainability provisions and RBC

clauses in Costa Rica's investment treaties has varied over time, as well as in terms of nature, scope, and binding character (Gordon, K., et al., 2014, pp. 10-19^[382]; Gaukrodger, 2021, pp. 85-94^[367]). It is only after the signature of the 2004 CAFTA-DR, which includes various sustainability provisions in its investment chapter, that Costa Rica's network of investment treaties witnessed an increase of this type of provisions. Before that, with the exception of a specific provision contained in the investment chapter of the 1998 Central America-Dominican Republic FTA²¹⁹ and in the 1998 BIT with Canada,²²⁰ none of the 23 investment treaties signed by the country included sustainability provisions nor RBC clauses. As a result, overall, Costa Rica's network of investment treaties falls rather short in comparison to that of other countries in terms of inclusion of sustainability provisions and RBC clauses. Although various of its investment treaties concluded after 2004 include sustainability provisions, only two have an RBC clause (see Table 4.8).

Table 4.8. Inclusion of sustainability provisions and RBC clauses in Costa Rica's investment treaties concluded after 2004

Investment treaty	Date of signature	Status	Inclusion of sustainability provisions (Yes/No) and areas of the OECD MNE Guidelines covered by the provisions	Inclusion of an RBC clause (Yes/No)	Reference to international RBC instruments pertaining to areas covered by the OECD MNE Guidelines (Yes/No)	Sustainability provisions or RBC clause subject to dispute settlement (Yes/No)
Central America - Korea FTA (Investment Chapter)	21/02/2018	In force	Yes: one exception to the prohibition to impose performance requirements and one provision related to the environment	No	No	No
Costa Rica - United Arab Emirates BIT	03/10/2017	Signed (not in force)	Yes: provisions related to labour and the environment	Yes	No	No
Central America - EFTA FTA (Investment Chapter)	24/06/2013	In force	No	No	No	No
Costa Rica - Colombia FTA (Investment Chapter)	22/05/2013	In force	Yes: one exception to the prohibition to impose performance requirements and provisions related to labour and the environment	Yes	No	Not RBC clause
Central America - Mexico FTA (Investment Chapter)	22/11/2011	In force	Yes: one exception to the prohibition to impose performance requirements and provisions related to the environment	No	No	No
Costa Rica - Peru FTA (Investment Chapter)	22/05/2011	In force	Yes: one exception to the prohibition to impose performance requirements and provisions related to the environment	No	No	No
Costa Rica - China FTA (Investment Chapter)	08/04/2010	In force	No	No	No	N/A

Investment treaty	Date of signature	Status	Inclusion of sustainability provisions (Yes/No) and areas of the OECD MNE Guidelines covered by the provisions	Inclusion of an RBC clause (Yes/No)	Reference to international RBC instruments pertaining to areas covered by the OECD MNE Guidelines (Yes/No)	Sustainability provisions or RBC clause subject to dispute settlement (Yes/No)
Costa Rica - Singapore FTA (Investment Chapter)	06/04/2010	In force	Yes: one exception to the prohibition to impose performance requirements	No	No	No
Costa Rica – Qatar BIT	25/02/2010	In force	No	No	No	N/A
Costa Rica – China BIT	24/10/2007	In force	No	No	No	N/A
Central America - Panama FTA (Investment Chapter)	07/08/2007	In force	Yes: one exception to the prohibition to impose performance requirements and provisions related to the environment	No	No	No
CAFTA-DR (Investment Chapter)	05/08/2004	In force	Yes: one exception to the prohibition to impose performance requirements and provisions related to the environment	No	No	Yes

Most of the sustainability provisions integrated into Costa Rica’s investment treaties have the same potential effect of relevance for RBC, i.e. to reinforce the signatories’ policies and domestic legal frameworks in some of the areas covered by the OECD MNE Guidelines by preserving their policy space to adopt new laws, regulations, and policies in these areas without legal risks. In fact, the first sustainability provisions included in Costa Rica’s network of investment treaties – in the investment chapter of the 1998 Central America-Dominican Republic FTA and in the 1998 BIT with Canada – are provisions of this type. They provide that nothing should prevent the signatories from adopting or enforcing measures, otherwise consistent with the treaty, aimed at ensuring that investment activities are undertaken in accordance with environmental laws or concerns.²²¹ This type of sustainability provision was subsequently included in eight other investment treaties concluded by Costa Rica, and notably in the investment chapter of the 2004 CAFTA-DR.²²² It is this provision that allowed Costa Rica to prevail against the claims brought by investors in the *David R. Aven and others v. Costa Rica* investment arbitration. In this case, Costa Rica relied on the sustainability provisions of the 2004 CAFTA-DR to justify the shutdown of an investment project that had failed to comply with the country’s environmental regulations (see Box 4.11).

Box 4.11. RBC-related issues under Costa Rica’s investment treaties: the *David R. Aven and others v. Costa Rica* case

Government measures to protect the environment have been the object of various investment arbitration cases. Criticism ensued, arguing that investment treaties contribute to limit the host States’ right to regulate and take action in relation to environmental matters.¹ Against this backdrop, the case *David R. Aven and others v. Costa Rica* illustrates how sustainability provisions in investment treaties can be used by governments to justify measures taken to protect the environment against claims of breach of investor protection standards.

The dispute arose out of an investment made by U.S. nationals on the Costa Rican pacific coast to develop a tourism project, Las Olas. In March 2009, local residents filed a complaint before the municipality alleging that there were wetlands on the Las Olas project site.² Following inspections by the municipality confirmed the existence of wetlands on the site. This led to several judicial and administrative actions, including the shutdown of the site and criminal proceedings against claimant for having breached Costa Rican environmental laws.

In this context, the investors launched arbitration proceedings against Costa Rica based on the 2004 CAFTA-DR, arguing that the country had breached its obligations to protect their investment under the FTA. In response, Costa Rica alleged that the investors' claims lacked merit given that, pursuant to the provisions of the 2004 CAFTA-DR, the investment protection granted to investors was subordinated to the protection of the environment. In particular, Costa Rica argued that the investors had failed to conduct the necessary environmental studies to identify the presence of wetlands and forests on the project site and to propose measures to protect the variety of species from the negative impacts of the development.³ In addition, Costa Rica submitted a counterclaim on the basis that the claimant undertook works that adversely impacted the site of the project, causing harm to the environment.⁴

In its decision regarding the investors' claims, the tribunal relied on article 10.11 of the CAFTA-DR, which foresees that nothing in the investment chapter can prevent a signatory from adopting, maintaining, or enforcing any measure, otherwise consistent with it, that the signatory considers appropriate to ensure that investment activity in its territory is undertaken in a manner sensitive to environmental concerns. The tribunal found that the measures taken by Costa Rica to protect the environment were consistent with international law and were neither arbitrary nor in breach of its obligations under the CAFTA-DR.⁵

To rule on Costa Rica's counterclaim, the tribunal analysed the provisions on environmental protection included in the investment chapter of the 2004 CAFTA-DR. The tribunal found that they implicitly imposed obligations on the investors to protect the environment.⁶ As a result, it upheld its jurisdiction over Costa Rica's counterclaim, considering that these types of claims could be brought against investors for breach of their environmental protection obligations under the 2004 CAFTA-DR.⁷ Nonetheless, the tribunal found that Costa Rica had not sufficiently proven that the works undertaken by the investors had caused harm to the environment.⁸

Notes:

1. See, for instance, Beharry C. and Kuritzky M. (2015), "Going Green: Managing the Environment Through International Investment Arbitration", *American University International Law Review*, Vol. 30, Issue No. 3., <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1847&context=auilr>.

2. David R. Aven and Others v. Republic of Costa Rica, ICSID Case No. UNCT/15/3, Award, 18 September 2018 (*David R. Aven Award*), <https://www.italaw.com/cases/2959>, para. 122.

3. *David R. Aven Award*, para. 525.

4. *David R. Aven Award*, para. 689.

5. *David R. Aven Award*, para. 688.

6. *David R. Aven Award*, para. 731-735.

7. *David R. Aven Award*, para. 742.

8. *David R. Aven Award*, para. 745-749.

Sources: (Beharry and Kuritzky, 2015^[383]; (n.a.), 2018^[384]).

The award rendered in the *David R. Aven and others v. Costa Rica* investment arbitration is an example of how sustainability provisions can contribute to buttress the adoption and enforcement of laws, regulations, policies or measures in areas covered by the OECD MNE Guidelines by protecting the signatories' policy space. The arbitral tribunal recognised Costa Rica's right to apply and enforce its environmental protection framework without being held in breach of the provisions of the investment

chapter of the 2004 CAFTA-DR. In particular, the sustainability provisions of the 2004 CAFTA-DR allowed Costa Rica to take action without incurring legal risks to prevent further harm to be caused to the environment by an investor that did not undertake a proper due diligence process to identify the adverse environmental impacts that its development project would cause.

The investment chapter of the 2004 CAFTA-DR and the investment treaties concluded afterwards by Costa Rica also include other types of sustainability provisions. However, all of these provisions have the same potential effect of reinforcing the signatories' policies and domestic legal frameworks in areas covered by the OECD MNEs Guidelines by preserving their policy space. For instance, one of these is a provision that specifies that, despite the general prohibition to impose performance requirements on investments,²²³ nothing should prevent the signatories from adopting or maintaining measures necessary to protect human, animal, or plant life or health or for the conservation of exhaustible natural resources. This provision is included in seven of Costa Rica's investment treaties.²²⁴

Another type of provisions is a provision prohibiting the signatories from relaxing or weakening their environmental and/or health and safety standards to attract and/or retain investment. This prohibition is subject to governmental consultations.²²⁵ This means that, if a signatory considers that another signatory has relaxed or weakened its environmental legislation, it can request that consultations be held on the matter. This can act as a deterrent and prevent the relaxing or weakening of legislation in areas covered by the OECD MNE Guidelines.

A third type of provisions is a provision generally inserted in the treaties through interpretative annexes aimed at clarifying the provisions pertaining to expropriation. It specifies that non-discriminatory regulatory measures adopted by the State to safeguard public interest objectives, such as the protection of the environment, shall not be considered an expropriation.²²⁶ The inclusion of this type of provision in the investment treaties concluded by Costa Rica in the last decade was likely motivated by the various investment arbitration cases at the time and the legal uncertainty resulting from them. In these cases, arbitral tribunals applied their own varying tests to determine whether regulatory measures amounted to an expropriation requiring compensation (OECD, 2004_[385]). With this clarification, the signatories specify how the investment treaties should be interpreted, which prevents arbitral tribunals from considering non-discriminatory measures taken to safeguard public interest objectives as being tantamount to expropriation. This allows taking such measures without legal risks, which contributes to preserve the government's right to regulate in the public interest in areas covered by the OECD MNE Guidelines. This provision features in four of Costa Rica's investment treaties.

Another type of sustainability provisions included in four of Costa Rica's investment treaties has a different kind of effect of relevance for RBC.²²⁷ It foresees that arbitral tribunals can resort to experts in relation to environmental and/or health and safety matters in investment arbitration cases, thereby contributing to create procedural safeguards for matters that can potentially involve RBC-related issues.

Beyond sustainability provisions, RBC clauses have also been introduced in Costa Rica's network of investment treaties, but only in two of its most recent treaties, signed with Colombia and the United Arab Emirates (see Table 4.8).²²⁸ However, the wording of these clauses is not very detailed. It only reaffirms the signatories' commitment to encourage businesses to incorporate in their internal policies internationally recognised RBC principles and standards, without referring to the OECD MNE Guidelines or any other international instrument on RBC.

Reinforcing the inclusion of sustainability provisions and RBC clauses in Costa Rica's network of trade and investment agreements as a lever to promote and enable RBC

Sustainability provisions featured rather early in Costa Rica's network of trade and investment agreements with the 2004 CAFTA-DR. However, overall, the inclusion of this type of provisions, as well as of RBC clauses, in this network is not as developed as that of other countries, such as the member states of the

European Union, Canada, Chile or Brazil. It appears that the inclusion of sustainability provisions and RBC clauses has fluctuated in time depending on the type of agreements concluded and on the signatories. The multilateral comprehensive trade agreements and the investment chapters contained in these agreements concluded by Costa Rica since 2004 all contain detailed sustainability provisions. However, this is not the case for most of the bilateral trade agreements and BITs concluded anytime. Exceptions are the 2013 Costa Rica-Colombia FTA and the 2017 Costa Rica-United Arab Emirates BIT that contain RBC clauses in addition to sustainability provisions.

This situation may stem from different factors. The inclusion of sustainability provisions and RBC clauses may depend on the type of agreement concluded, as well as on the negotiating position of the other signatory or signatories. It may also be linked to the fact that Costa Rica's network of trade and investment agreements is mostly comprised of agreements concluded prior to 2014, which do not reflect recent trends, in particular with respect to the inclusion of RBC clauses, that Costa Rica could consider following in the future. The Government has reported having taken measures to seek to take into account considerations of relevance to RBC when negotiating and implementing trade and investment agreements. As previously mentioned, the Costa Rican NCP, hosted by COMEX, the entity also in charge of negotiating trade and investment agreements, developed a strategy to promote coherence in RBC-related policy making (OECD, 2020, pp. 89-90^[72]). A channel of communication has been established for NCP officials to be consulted by the negotiating teams, notably in order to seek to enhance coherence of treaty language with considerations of relevance to RBC.

Costa Rica could consider further including considerations of relevance to RBC as part of its strategy aimed at enhancing sustainable development through openness to high-quality trade and investment. This could be done by elaborating and adopting a policy aimed at ensuring the systematic inclusion of sustainability provisions and RBC clauses in its new or renegotiated trade and investment agreements. This policy could be designed and implemented with the assistance of the NCP to ensure alignment with the OECD RBC instruments.

The inclusion of considerations of relevance to RBC in trade and investment agreements is a key part of the construction of an enabling environment for RBC, as sustainability provisions and RBC clauses can have different effects in relation thereto. First, reinforcing their inclusion in Costa Rica's network of trade and investment agreements can contribute to strengthen the country's policies and legal framework in areas covered by the OECD MNE Guidelines. It can also help leveraging RBC and incentivising responsible business practices by clarifying the Government's expectations vis-à-vis RBC and signalling to Costa Rican businesses, as well as to businesses trading with or investing in Costa Rica, the RBC principles and standards they should adopt and implement. In addition, it can facilitate access to remedy for victims of business-related adverse impacts, either by promoting the adoption of procedural safeguards for RBC-related matters or by creating new avenues to access remedy. More generally, sustainability provisions and RBC clauses can serve as a lever to draw public officials', businesses' and other stakeholders' attention to the importance of the adoption of responsible business practices in trade and investment to compete in international markets and raise their awareness about internationally recognised RBC principles and standards.

Building on objective No. 7.7.1 of the PNRS that seeks to link social responsibility with trade agreements, Costa Rica could develop a specific policy regarding the negotiation of trade and investment agreements aiming to consistently include sustainability provisions and RBC clauses in such agreements. COMEX could then go a step further and develop its own model sustainability provisions and RBC clauses to be used during the negotiations of these agreements. This would ensure that considerations that promote and enable RBC are systematically discussed during the negotiations of future trade and investment agreements. This policy could also include advocating for the incorporation of express references to the OECD RBC instruments, in particular the OECD MNE Guidelines and the related OECD Due Diligence Guidance, when negotiating with other Adherents to the Declaration on International Investment and Multinational Enterprises.

The NCP can play a fundamental role to support the development and implementation of this policy. In particular, taking advantage of the channels of communications already established with the teams in COMEX in charge of negotiating and implementing trade and investment agreements, the NCP could seek to take part in the elaboration of the model sustainability provisions and RBC clauses. The NCP could also act as a repository of information on the sustainability provisions and RBC clauses inserted in Costa Rica's trade and investment agreements and be officially in charge of providing advice in relation to their implementation, especially in the context of trade disputes or investment arbitration cases. It could moreover act as one of, or be involved in, the mechanisms created to oversee the implementation of these provisions, such as the TSD Board of EU-Central America Association Agreement. The NCP could also raise awareness of, and provide training and capacity-building to, public officials (and, in particular, trade and investment negotiators), as well as to businesses and civil society on the importance of promoting and adopting responsible business practices in trade and investment.

During the development of this policy for the systematic inclusion of sustainability provisions and RBC clauses in its trade and investment agreements, Costa Rica should seek the involvement and input of a wide range of stakeholders, since engagement and consultation are key for successful and efficient trade and investment policy making (OECD, 2017^[386]).

Policy recommendation

- 26. Further include considerations that contribute to promote and enable RBC in trade and investment agreements by elaborating and adopting, with the assistance of the NCP, a policy aimed at ensuring the systematic inclusion of sustainability provisions and RBC clauses aligned with the OECD RBC instruments in new or renegotiated agreements.**

5 The role of Costa Rica's NCP to promote policy coherence for Responsible Business Conduct

Regulating business conduct in the areas covered by the OECD MNE Guidelines and ensuring compliance with the laws, regulations and policies enacted in these areas is key to build an enabling environment for RBC (see Section 3). Enacting laws, regulations, and policies that facilitate or incentivise business compliance with the OECD MNE Guidelines through the integration of RBC principles and standards in policy areas that have a bearing on businesses such as public procurement, SOEs, and trade and investment policies, is also fundamental in this regard (see Section 4). To support Costa Rica in the consolidation of an enabling environment for responsible business practices, the present RBC Policy Review formulates a number of policy recommendations in both areas. Many of these recommendations are addressed to the NCP directly or will require its active involvement or support to be implemented. This is in line with the role of NCPs as agents of policy coherence and as promoters of RBC across government.

Based on their dual mandate to promote the OECD MNE Guidelines and act as a non-judicial grievance mechanism, NCPs can play an active role in promoting RBC across government agencies and seeking policy coherence. As part of their promotional activities and expertise on the OECD MNE Guidelines and the related Due Diligence Guidance, NCPs are uniquely placed to advise on RBC-related policies within government. Many NCPs already actively engage on this by participating in inter-departmental committees dealing with sustainability issues, or business responsibility, through engaging bilaterally with other relevant agencies (for instance, in the environment, labour, trade, or investment fields) and providing input into RBC-related policy processes to ensure alignment with the recommendations of the OECD MNE Guidelines, and by participating in multilateral processes to ensure RBC issues feature in international commitments.²²⁹ NCPs can also promote policy coherence on RBC within government through their remedy role, by informing other government entities of the findings from their statements when relevant to these agencies' policies and programmes, as encouraged by the OECD MNE Guidelines.²³⁰

NCPs are also becoming increasingly involved in contributing to policy coherence across government through NAPs. By providing an overarching policy framework for RBC, NAPs may strengthen coordination and coherence within the government among all relevant policies relating to RBC (including procurement, export credits, and investment, among others). To date, all 24 NAPs adopted by Adherents reference the NCP in some role or function and many recognise NCPs as a key mechanism in promoting access to remedy. Beyond this, many NCPs have taken part in the respective design and development of NAPs.²³¹

Accordingly, the present RBC Policy Review highlights a number of areas and concrete actions where Costa Rica's NCP could play a role to promote policy coherence and coordinate on RBC across government. In this regard, the NCP's inter-ministerial decision-making body and the participation in said body of Institutional Focal Points from the MEIC, the MTSS, the MINAE, and the MJP represent an opportunity for the NCP to act as an agent of policy coherence in an efficient manner. This section summarises the recommendations from Sections 3 and 4 that are relevant for the NCP to provide a

complete overview of the actions that can be undertaken by the NCP. Where available, they are illustrated by specific good practice examples from NCPs in other countries.

Human rights

- Costa Rica should take measures to implement the PNRS and evaluate the need to update it to integrate an RBC approach aligned with recent international and national developments. On the basis of this evaluation, Costa Rica could consider developing a National Action Plan on RBC or Business and Human Rights, with the support of the NCP and through a transparent multi-stakeholder consultative process, ensuring the balanced participation of all relevant government entities as well as CSOs, trade unions, indigenous peoples, and businesses. Such a National Action Plan should be aligned with the OECD RBC instruments, and promote the role of the NCP as an adequate grievance mechanism for business-related human rights violations and a key actor for the Plan's implementation.**

NCPs are frequently involved in the development of NAPs, and regularly referenced in NAPs, in various capacities. For example, in December 2020, the Brazilian NCP was given a mandate to develop a National Action Plan to promote RBC (*Plano de Ação em Conduta Empresarial Responsável*, PACER) (OECD, 2022, pp. 40, 41^[210]). The resolution approving the mandate to elaborate the PACER establishes a strong link between the Plan and the OECD MNE Guidelines and indicates that the Plan is meant to support Brazil's accession to the OECD (Government of Brazil, 2020^[387]). The PACER was published in December 2022. It provides an overview of existing policies that relate to RBC in Brazil in various policy areas covered by the OECD MNE Guidelines (such as, human rights, employment and labour relations, the environment, anticorruption, consumer interests, and competition), as well as in other policy areas through which the Brazilian Government promotes RBC (such as trade and investment and sustainable finance). The overall objective of the PACER is to promote policy coherence among these different policies and suggest new policies based on the expectations and recommendations contained in the OECD RBC instruments (OECD, 2022, pp. 40, 41^[210]; Government of Brazil, 2022^[388]).

- Building on its efforts to promote the OECD MNE Guidelines, Costa Rica should reinforce the role of the NCP as a non-judicial grievance mechanism for business-related human rights impacts. Costa Rica should notably seek to increase awareness and knowledge of its existence and mandate to help resolve cases of alleged non-observance of the human rights chapter of the OECD MNE Guidelines across the Government and among the general public, CSOs, trade unions, business associations, and individual companies. It could also promote cooperation between the NCP and the DHR in relation to the handling of cases that involve allegations of business-related adverse impacts on human rights.**

Since 2011, the human rights chapter has been the chapter of the OECD MNE Guidelines most referenced in specific instances. In 2020, 72% of all specific instances submitted made reference to this chapter (OECD, 2021, pp. 23-24^[101]). This shows the important role NCPs play in their capacity as non-judicial grievance mechanisms for business-related human rights impacts. Even in an environment where several other remedy mechanisms exist as in Costa Rica, the NCP is a key remedy platform for human rights issues, especially for vulnerable groups. Specific instances can indeed be submitted with few formalities, at a relatively low cost, and without the need for legal support (OECD, 2021, p. 9^[101]). As a result, in the last 20 years, a broad range of submitters, from CSOs, to indigenous communities, and individuals, have used the NCP mechanism in relation to human rights issues (OECD, 2021, p. 9^[101]).

Labour rights

- Costa Rica should ensure that the DNI has sufficient resources and capacity to monitor businesses' compliance with labour laws and regulations, particularly in sectors where infractions numbers are high, in order to prevent and mitigate adverse impacts on labour**

rights, as well as to promote decent work among businesses through awareness-raising and training activities, including on risk-based due diligence. The NCP should provide support in this regard, while also raising its profile as a non-judicial grievance mechanism for labour rights issues.

The chapter on employment and industrial relations of the OECD MNE Guidelines has also given rise to a large number of specific instances since 2011, with 31% of all specific instances filed in 2020 concerning allegations of labour rights violations (OECD, 2021, pp. 23-24^[101]). In addition, many cases involving labour rights are also filed under the human rights chapter of the OECD MNE Guidelines. This illustrates that NCPs have a crucial role to play in supporting efforts to safeguard and enforce labour rights. To build their capacity in the field, NCPs from many countries follow dedicated trainings, such as those regularly organised by the ILO.

Moreover, as part of their promotional mandate, various NCPs seek to increase awareness across government of how RBC practices can support labour laws and regulations. In the UK, for instance, the NCP cooperates with other government entities in the framework of the 2015 United Kingdom Modern Slavery Act to enhance transparency in supply chains regarding modern slavery (Government of the United Kingdom, n.d.^[389]).²³² Other NCPs target their promotional activities to sectors prone to causing adverse impacts on labour rights in their country. For example, the Moroccan NCP organised in 2020 a training on due diligence in the garment and footwear sector (Government of Morocco, 2020^[390]). The garment sector is of strategic importance to the Moroccan economy, as it represents 27% of jobs and 7% of the industrial added value. Moreover, the sector is highly dependent on exports to countries like France or Spain, where companies increasingly require suppliers to conduct due diligence.²³³ The training was delivered to professionals from the sector and allowed them to get a good understanding of the notion of due diligence within the framework of the OECD MNE Guidelines, as well as to reflect in small groups around real-life scenarios involving due diligence issues (Government of Morocco, 2020^[390]).

Environment

- ***Costa Rica should monitor implementation and uptake of all policies and initiatives aimed at promoting more responsible business practices in relation to the environment, including of government-backed environmental labelling and certification schemes, and consider strengthening them by including references to RBC principles and standards contained in the OECD RBC instruments. Future updates and initiatives could consider integrating the most recent international RBC expectations on the environment, including the conduct of environmental due diligence across supply chains, and draw on the NCP's expertise in this regard.***
- ***Costa Rica should raise the profile of the NCP as a non-judicial grievance mechanism for environmental issues, by seeking to enhance understanding across Government and among stakeholders about the role it can play in providing support for the resolution of cases of alleged non-observance of the environment chapter of the OECD MNE Guidelines. In addition, to further strengthen public participation, as well as access to information and justice, in environmental matters, Costa Rica could consider the possibility of taking steps towards the ratification of the Escazú Agreement.***

The environment chapter of the OECD MNE Guidelines, as well as the related OECD Due Diligence Guidance, seek to address business-related adverse impacts on the environment, including climate change. Based on this, NCPs routinely provide guidance to companies on how to conduct due diligence in respect of environmental impacts. For instance, the Norwegian NCP has developed a self-assessment tool – the “RBC Compass” – that allows companies to evaluate whether their RBC practices, including due diligence, are aligned with the OECD RBC instruments, with a specific focus on environment and climate risks (Government of Norway, n.d.^[391]).²³⁴ The increased salience of environmental and climate risks and

the need to conduct due diligence to address them has also been reflected in NCP case activity in the last few years (OECD, 2021, pp. 23-24^[101]). Several high profile environmental cases have been handled by NCPs recently, leading to significant changes in companies' management of environmental and climate risks, especially in the financial sector (see Box 5.1).

Box 5.1. Oxfam Novib, Greenpeace Netherlands, BankTrack and Friends of the Earth Netherlands (Milieudefensie), versus ING

The ING case is illustrative of how NCPs can deal with climate change matters and contribute to encourage financial actors to measure and address their indirect climate impacts. On 8 May 2017 Oxfam Novib, Greenpeace Netherlands, BankTrack, and Friends of the Earth Netherlands (Milieudefensie) submitted a specific instance to the Dutch NCP, alleging that ING had violated the OECD MNE Guidelines in relation to the environment and climate. They asked the NCP to examine ING's climate policy and to urge the bank to align its climate and other policies with the OECD MNE Guidelines.

The Dutch NCP accepted the case and oversaw a dialogue between the parties resulting in an agreement based on the NCP's recommendations. The NCP appreciated ING's commitment to steer its portfolio towards the Goals of the Paris Agreement and the parties agreed that the methodology employed by ING for measuring, target setting and steering the bank's climate impact was a positive development. They also agreed to jointly call on the Dutch Government to request the International Energy Agency to develop two 1.5 degrees scenarios, one with and one without the use of Carbon Capture and Storage (CCS).

Sources: (OECD, n.d.^[392]; Government of the Netherlands, 2019^[393]).

Anti-corruption

- ***Costa Rica should reinforce the measures taken to raise awareness about the Crime Prevention Corporate Models among the private sector and build businesses' capacity to adopt and effectively implement such Models, with the support of the NCP.***

Different NCPs have promoted anti-corruption and business integrity measures in various ways. As part of its 2019 promotional plan, the Chilean NCP specifically identified anti-corruption as an area of the OECD MNE Guidelines on which more promotional efforts were needed. In support of this objective, it actively sought to inform businesses and government entities of the recommendations of the OECD MNE Guidelines in this regard (Government of Chile, 2021^[394]). It notably joined the Chilean Anticorruption Alliance, which is a working group gathering representatives of government, stakeholders and academia to promote the implementation of the UN Convention against Corruption (Alianza Anticorrupción, n.d.^[395]).²³⁵ Likewise, other NCPs include the government entities responsible for anti-corruption in their structure. For example, the Argentinian Anti-Corruption Office is a member of the Argentinian NCP's advisory council.

Public procurement

- ***Costa Rica could consider strengthening the strategic framework on public procurement towards a more targeted, consistent, and comprehensive approach on RBC and due diligence, to communicate RBC expectations to public buyers and potential bidders. This could entail including a specific strategy on RBC and due diligence as part of the strategic public procurement approach enshrined in the new public procurement law. Costa Rica should ensure a continued, strong, cross-governmental approach involving the NCP in the development of this RBC strategy.***

- ***Costa Rica could enhance measures to increase the implementation of RBC considerations in public procurement, in particular working towards including risk-based due diligence as a tool to promote RBC in public procurement. This should include capacity-building and guidance or tools to be developed in cooperation with the NCP.***

NCPs can support the inclusion of RBC considerations in public procurement and contribute to public procurement policymakers' and practitioners' training and capacity-building on RBC, in particular, on the OECD MNE Guidelines and the related Due Diligence guidance. A recent report showed that over a third of OECD countries had consulted their NCP when developing public procurement frameworks linked to RBC objectives, showing that there are still opportunities to strengthen the links between NCPs and the public procurement community (OECD, 2020^[269]). As an example, in 2018, the French NCP organised a series of conferences aimed at raising awareness of the OECD RBC instruments among public procurement practitioners and businesses. It also works in close collaboration with the French public procurement agency, the *Direction des Achats de l'État*.

Another example is that of the Danish NCP, which not only supports the inclusion of RBC considerations in public procurement by training public procurement practitioners on the OECD MNE Guidelines, but also contributes to the development of guidance material on RBC issues that can be used by them as resource documents. Thus, in 2019, the Danish Institute for Human Rights published, on behalf of Denmark's NCP, a report on how municipalities and other procuring entities can ensure that human rights are respected in public procurement (Danish Institute for Human Rights, 2019^[396]; Danish Institute for Human Rights, 2020, p. 56^[397]). The objective of the report is to provide insights into the way in which public procurement practitioners can integrate human rights considerations in the different phases of the procurement cycle and build their knowledge in this respect (Danish Institute for Human Rights, 2019, p. 1^[396]).

Trade and investment

- ***Building on its efforts to make Costa Rican exporters more attractive in international markets with a focus on sustainability, Costa Rica could consider also resorting to its trade promotion activities to promote RBC. The non-financial support provided to exporters by PROCOMER could serve to raise their awareness about RBC principles and standards and the importance of adopting responsible business practices to compete in international markets, as foreseen in the PNRs. These different services could also be used as a means to incentivise exporters to observe RBC principles and standards by linking the access to such services to requirements pertaining to the adoption of responsible business practices. The Costa Rican NCP could play a key role in this regard.***
- ***Costa Rica could consider further including considerations of relevance to RBC as part of its strategy aimed at enhancing sustainable development through openness to high-quality trade and investment. This could be done by elaborating and adopting a policy aimed at ensuring the systematic inclusion of sustainability provisions and RBC clauses in its new or renegotiated trade and investment agreements. This policy could be designed and implemented with the assistance of the NCP to ensure alignment with the OECD RBC instruments.***

NCPs can help resorting to trade and investment policies to promote RBC through their collaboration with the government entities in charge of these policies. There are various examples among OECD MNE Guidelines Adherents of organic links between NCPs and these entities. The Austrian NCP regularly informs officials responsible for trade missions, the Austrian ECA, and the Austrian Development Bank about NCP activities and specific instances (Government of Austria, 2018^[398]). The Canadian NCP is entitled to recommend denial or withdrawal of trade advocacy support to companies that do not engage in good faith in the specific instance process (Government of Canada, 2022^[399]).²³⁶ In the same vein, Germany has adopted a procedure pursuant to which all German businesses that want to join trade

missions are required to sign a statement on RBC that refers to the OECD MNE Guidelines and the specific instances handled by the NCP (Council of Europe, 2018^[400]; OECD, 2019^[401]). The Swiss Export Risk Insurance, for its part, requires that relevant reports from the NCP be considered when performing a project review (Swiss Export Risk Insurance, 2017^[402]). In Australia, the NCP has included the Australian Trade and Investment Commission as a member of its governance and advisory board (Government of Australia, n.d.^[403]).

Conclusion

The examples above show the multiple manners in which the Costa Rican NCP could contribute to promote RBC across government agencies and policy coherence for RBC in the country. However, the possibility to act as an agent of policy coherence might be hindered by a few points that Costa Rica should seek to address if the NCP is to play fully this role.

- **Staff and resources:** the NCP is led by a director and operates with two part-time staff, spending about 40% of their time on NCP matters. Additional Institutional Focal Points from relevant ministries work intermittently on NCP aspects. Costa Rica's NCP has dedicated financial resources. The NCP's staff and the Government's focal points receive training on handling specific instances, with a focus on mediation. However, to date, the NCP has not handled any specific instance. Available staff and resources might be insufficient if the NCP receives specific instances.
- **Visibility:** Costa Rica's NCP is engaging with diverse stakeholders actively, including companies, business associations, CSOs, and trade unions through promotional and awareness-raising activities. Costa Rica's NCP is among the most active NCPs globally, organising a large number of promotional events yearly. The NCP has a good reputation with businesses, but more can be done to enhance its engagement with civil society and trade unions. Several CSOs, trade unions, and business associations have reported not being aware of the NCP's existence and having had practically no engagement with it. This could be linked to the fact that Costa Rica has several remedy mechanisms. It could also be due to the lack of sufficient activity of the stakeholder advisory body, which has not met regularly over recent years.
- **Location and structure:** Costa Rica's NCP is part of COMEX and supported by two bodies: (i) an inter-ministerial decision-making body comprised of Institutional Focal Points from other ministries, and (ii) a stakeholder advisory body including trade unions, CSOs, and members of the academia. The location of the NCP and its close interaction with other departments of COMEX have resulted in positive developments with respect to policy coherence for RBC. However, at the same time, this location and the fact that the NCP is not set up as a separate entity may lead to a perception of partiality and create conflicts of interest. In addition, the structure of the NCP has yet to prove itself in handling specific instances.

As part of Costa Rica's accession process to the OECD, the NCP underwent a review exercise involving an in-depth analysis and on site-visit that led to the formulation of several recommendations to further the exercise of its mandate (OECD, 2019^[404]). In addition, the NCP, together with the OECD, set up a roadmap of capacity-building activities to be carried out by early 2023 and aimed at enhancing its institutional arrangements, the conduct of promotional activities, and the handling of specific instances. The NCP can use this momentum to address the attention points mentioned above. This is key to consolidate its position within government as the entity in charge of promoting policy coherence for RBC and to ensure that it plays a key role in the consolidation of an enabling environment for RBC in Costa Rica.

Policy recommendations

27. **Ensure that the NCP's staff and resources are maintained at a level sufficient to fulfil its mandate, seeking to limit excessive turnover, and to guarantee knowledge and capacity transfer when turnover do occur.**
28. **Consider reviewing the NCP's location, structure, and staffing to ensure perception of impartiality from stakeholders and avoid potential conflicts of interest.**
29. **Increase the visibility of the NCP and its mandate across the government and among the general public, CSOs, trade unions, business associations, and individual companies, with a focus on its role as a non-judicial grievance mechanism, and address the lack of sufficient activity of the stakeholder advisory body.**
30. **Strengthen and expand the collaboration and coordination between the NCP and other government entities beyond the Institutional Focal Points and promote its role within the government as an agent of coherence for all policies relating to RBC.**

6 Moving towards an enabling environment for Responsible Business Conduct in Costa Rica

Trade and investment have been key drivers of Costa Rica's economic development over the last years. The country has been able to grow using sustainability and the protection of the environment as comparative advantages and promoting its image as a country committed to sustainable development. To keep building on this growth and development strategy linked to sustainability, taking measures to consolidate an enabling policy and regulatory environment for RBC is key.

RBC encompasses the expectation that businesses contribute positively to sustainable development, but also that they prevent and mitigate the adverse impacts that their activities, supply chains, and/or business relationships may cause or contribute to cause on people, planet, and society. Nowadays, there are increasing expectations, and growing legal obligations, that businesses observe RBC principles and standards and carry out due diligence to prevent these impacts. As a result, companies that operate globally increasingly decide to do business in countries that present lower risks of adverse impacts and/or with suppliers that abide by internationally recognised environmental and labour standards (OECD, 2016^[2]). Similarly, investors often base their investment decisions on countries' domestic legal frameworks and whether they incorporate internationally recognised RBC principles and standards (OECD, 2016^[2]). For this reason, it is key that, beyond being perceived as a country committed to sustainable development, Costa Rica also be considered as a safe country to trade with, supply from, or invest in, with limited risks of business-related adverse impacts. This is all the more important given that Costa Rica's main trading and investment partners, such as the US and the EU, are paying increased attention to RBC issues. The EU, for instance, recently introduced more detailed reporting requirements for companies on RBC issues (such as human and labour rights, or the protection of the environment) with the adoption of the Corporate Sustainability Reporting Directive, which applies to certain non-European companies (European Council, 2022^[405]; European Union, 2022^[406]). In addition, the EU is currently elaborating legislation requiring companies to carry out due diligence to respect human rights and the environment in global supply chains (European Commission, 2022^[407]).

The consolidation of an enabling environment for RBC can also benefit the Costa Rican economy by strengthening the resilience of local companies to external shocks. In the context of the Business Survey on RBC in Latin America and the Caribbean carried out by the OECD in 2020, 75% of respondent companies reported that having put in place RBC practices helped them navigate the effects of the COVID-19 pandemic (OECD, 2021^[63]). In general, companies that observe RBC principles and standards, and are able to map and understand supply chain vulnerabilities, were better prepared to face the consequences of the crisis brought by the pandemic (OECD, n.d.^[408]). These companies are also better equipped to face future crisis and disruptions in GVCs. Promoting and enabling RBC is therefore a way to help companies build resilience and long-term value and thereby to reinforce the economy.

In addition, taking measures to consolidate an enabling environment for RBC is consistent with, and would contribute to, various national goals adopted by Costa Rica. For instance, it would be aligned with and support the country's strategy and efforts regarding sustainable development and the achievement of the SDGs. As acknowledged by the 2030 Agenda, businesses have an important role to play in sustainable development, and in financing the SDGs and contributing to their implementation (OECD, n.d.^[409]). Nevertheless, it has become apparent in recent years that businesses' contribution to solving sustainable development challenges is not sufficient and that more needs to be done to integrate the SDGs in business models. The consolidation of an enabling environment for RBC can help mobilise and direct private resources in Costa Rica towards the achievement of the SDGs and support Costa Rican companies in operationalising them (OECD, n.d.^[409]). An enabling environment for RBC could also contribute to the country's decarbonisation objectives, as enshrined in the National Decarbonisation Plan. The observance of RBC principles and standards by businesses can be instrumental to address GHG emissions. By adopting an RBC approach that integrates due diligence for impacts on climate change, businesses can better apprehend and address their scope 1, 2, and 3 emissions and thus identify, prevent, and mitigate the impacts that their operations, supply chains, or business relationships may cause or contribute to cause on climate change. Lastly, the measures to be taken to consolidate an enabling environment for RBC in Costa Rica are in line with several of the actions foreseen under the PNRS and can contribute to the implementation of the Plan and the related initiatives, but also be relevant in the context of an update of the PNRS.

6.1. Seizing the opportunities and addressing the challenges to consolidate an enabling environment for RBC

Building on its efforts to make progress towards sustainable development and protect the environment, Costa Rica has taken significant action to promote and enable responsible business practices over the last decades. The country is party to the main international instruments of relevance to RBC in general. In addition, as an OECD Member, Costa Rica has adhered to the OECD MNE Guidelines and the related OECD Due Diligence Guidance. It has also put in place an advanced legal and policy framework with laws, regulations and policies in most areas covered by the OECD MNE Guidelines to regulate business conduct and prevent business-related adverse impacts. Moreover, Costa Rica has designed and adopted a series of policies aimed at involving the private sector in its efforts to make progress towards sustainable development and achieve the SDGs. In particular, the PNRS – which is based on the main international instruments on RBC, including the OECD MNE Guidelines – has been developed to promote companies' responsibility for their impacts on society, the environment, consumers, and human rights, among others. It requires businesses to respect human rights, fight against corruption, and eradicate fraud and bribery. It also encourages investments with environmental and social criteria and promotes decent work. Beyond this overarching policy, Costa Rica has also adopted specific policies relevant for RBC, notably to encourage businesses to prevent and address their adverse environmental impacts, especially in the agriculture sector. Consequently, and as shown by the results for Costa Rica of the OECD 2020 Business Survey on RBC in Latin America and the Caribbean, most large companies that operate in Costa Rica have already adopted written policies and/or management systems in the areas covered by the OECD MNE Guidelines, as well as reporting on RBC.

Nevertheless, efforts still need to be made to consolidate an enabling environment for RBC in Costa Rica. Although the PNRS has been developed, together with supporting initiatives, implementation efforts in recent years have stalled. Despite the existence of a dedicated institutional framework, it has been reported that the entities responsible for its implementation have taken insufficient measures. The result is that there is limited awareness across government and among businesses and other stakeholders about the PNRS, the Plan to Incentivise Social Responsibility, and the National Guidance on Social Responsibility Reporting. This is coupled with a lack of knowledge about RBC and risk-based due diligence generally, not only

among civil society, trade unions, and indigenous peoples, but also among businesses themselves and, in particular, SMEs. This constitutes an impediment to the broad adoption of responsible business practices in Costa Rica, as SMEs represent a large part of the business fabric and, overall, have limited capacity or resources to observe RBC principles and standards and to conduct due diligence. The prevalence of informality in the Costa Rican economy is another impediment to RBC given that companies in the informal sector are not bound by the legal framework and their operations tend to create more risks of adverse impacts, especially on their workers whose labour rights are not guaranteed. In addition to these structural impediments, the fact that there seems to be limited intra-governmental coordination and little knowledge among public officials on RBC is another difficulty for the consolidation of an enabling environment that drives, supports, and promotes responsible business practices in Costa Rica. Intra-governmental coordination and cooperation, as well as specific knowledge, is key to mainstream RBC in the policy areas covered by the OECD MNE Guidelines and in the other areas that can shape business conduct. However, except in COMEX and the MEIC, there seems to be a need to raise public officials' awareness about the existence and mandate of the NCP and to enhance their understanding of the concept of RBC and its pertinence for their policy areas.

6.2. Taking steps towards the consolidation of an enabling environment for RBC

Consolidating an enabling policy and regulatory environment for RBC requires aligning different policies so that they all contribute to promoting and enabling responsible business practices. It entails enhancing policy coherence between the different policy areas covered by the OECD MNE Guidelines, but also between other relevant policies through which the Government can leverage and incentivise RBC. This demands coordination and cooperation across multiple ministries and government agencies, in order to create synergies and mainstream RBC principles and standards in the various laws, regulations, policies, and initiatives that can shape business conduct.

An overarching government policy, such as an eventual updated version of the PNRS or a National Action Plan on RBC or Business and Human Rights, presents an excellent opportunity to align and promote coherence between the laws, regulations, policies and initiatives of the different ministries and government entities responsible for the various policy areas of relevance to RBC. This includes, among others, corporate governance, human rights, labour rights, environment, corruption, consumer interests, science and technology, competition, taxation, but also public procurement, SOEs, and trade and investment.

The consolidation of an enabling environment for RBC can only be achieved with meaningful involvement from businesses and other stakeholders through effective engagement, social dialogue, consultation, and cooperation. This is particularly important for any update of the PNRS or future NAP development process. Engaging with businesses, trade unions, CSOs, representatives of indigenous peoples, as well as with academia, is essential to gain a better understanding of the issues, gaps and needs and, on this basis, design and/or review policies to ensure that they respond to such issues, gaps and needs and have the necessary buy-in. The Government has an important convening role to play, and it should communicate and interact on an ongoing basis with stakeholders in order to take their views and concerns on RBC into consideration. Through this role, it can also promote and facilitate collective initiatives from the private sector, civil society and trade unions aimed at encouraging businesses to adopt responsible practices, and monitor the implementation of such practices.

Finally, the consolidation of an enabling environment for RBC also implies continuing to strengthen the Costa Rican NCP so that it can contribute to, and support, government action on RBC. If endowed with a strong mandate, adequate resources and capacity, NCPs have an important role to play in promoting policy coherence for RBC across government. As experts in the field with in-depth knowledge of the OECD MNE Guidelines and the related OECD Due Diligence Guidance, they can train and build public officials' capacity on the various aspects of RBC, the different OECD RBC instruments, and the importance of integrating

RBC considerations in their work areas. Most importantly, they can act as counsellor to the different ministries and government agencies seeking to mainstream RBC in their respective laws, regulations, policies, and initiatives, and provide advice on their design, revision, and/or implementation. As such, NCPs can serve as agents to advance policy coherence and guarantee alignment between the actions taken across government to promote and enable RBC.

6.3. Policy recommendations to consolidate an enabling environment for RBC

Beyond these general considerations, the consolidation of an enabling policy and regulatory environment to drive, support, and promote responsible business practices in Costa Rica can concretely be achieved through two main policy orientations:

- On the one hand, it is essential that the Government maintain, implement, and effectively enforce an appropriate legal and regulatory framework in the areas covered by the OECD MNE Guidelines, including with respect to, among others, human rights, labour rights, the environment, and anti-corruption.
- On the other, the Government can leverage RBC and incentivise the observance of RBC principles and standards by businesses, either by leading by example in its role as economic actor, or by including considerations relating to RBC in other relevant policy areas that can shape business conduct.

The present RBC Policy Review formulates a series of concrete and actionable recommendations aimed at providing support to the Government of Costa Rica in the progressive implementation of these two policy orientations. To achieve the consolidation of an enabling environment for RBC, it is also fundamental that Costa Rica continues reinforcing its NCP, which has an important role to play to promote policy coherence for RBC across government. This is the reason why various recommendations make reference to the support of the NCP to advance their implementation.

It is worth highlighting that taking action to follow the recommendations contained in the present RBC Policy Review would contribute to the implementation of various commitments undertaken by Costa Rica at the international and national levels. Various recommendations of this Review are in line with the undertakings related to RBC assumed by Costa Rica under certain trade agreements, such as the trade part of the Central America – EU Association Agreement or the Central America – Korea FTA. Other recommendations can support government action in the context of the implementation and/or update of the PNRS, and all constitute relevant inputs in case Costa Rica decides to develop a National Action Plan on RBC or Business and Human Rights.

Regulating and enforcing in support of RBC

Human rights

1. Take measures to implement the National Policy on Social Responsibility for 2017-2030 (*Política Nacional de Responsabilidad Social 2017-2030*, PNRS) and evaluate the need to update it to integrate and RBC approach aligned with recent international and national developments.
2. On the basis of the evaluation of the PNRS, consider developing a National Action Plan on RBC or Business and Human Rights with the support of the NCP through a transparent multi-stakeholder consultative process ensuring the balanced participation of all relevant government entities as well as CSOs, trade unions, indigenous peoples, and businesses.

3. Enhance the availability of judicial remedy mechanisms for business-related human rights violations and, in particular, improve access to such remedies for vulnerable groups.
4. Reinforce the role of the NCP as a non-judicial grievance mechanism for business-related human rights impacts, notably by increasing awareness and knowledge of its existence and mandate across government, stakeholders and the general public, and by promoting cooperation between the NCP and the Ombudsman's Office (*Defensoría de los Habitantes de la República*).
5. Continue adopting and enhancing policies and initiatives to protect indigenous peoples' rights from business-related adverse impacts, in particular with a view to ensuring clarity for indigenous peoples and businesses on how consultation processes should be carried out and to guaranteeing the respect of the right to free, prior, and informed consent in the context of business-related activities.
6. Consider the possibility of taking steps towards the ratification of the Escazú Agreement to further enhance the protection of human rights and environmental defenders who report on instances of business-related adverse impacts.
7. Ensure that human rights and environmental defenders who have suffered from adverse impacts on their rights related to business activities have access to remedy.

Labour rights

8. Ensure that the National Labour Inspection Directorate (*Dirección Nacional de Inspección, DNI*) has sufficient resources and capacity to monitor compliance with labour laws and regulations, as well as to promote decent work among businesses through awareness-raising and training activities, including on risk-based due diligence, with support from the NCP, which should raise its profile as a non-judicial grievance mechanism for labour rights issues.
9. Continue taking measures to address the challenges faced by women in the labour market and advance gender equality in the workplace, by further promoting existing initiatives with the private sector, and ensuring that relevant government entities have sufficient human and financial resources to support business' participation in these initiatives, including through the granting of incentives.
10. Promote the adoption of responsible business practices aligned with the OECD RBC instruments by companies operating with migrant workforce, or with migrant workforce in their supply chains, notably in the agriculture and construction sectors, encouraging them to carry out risk-based due diligence to identify, prevent, and mitigate real and potential adverse impacts on the labour rights of migrant workers.

Environment

11. Monitor implementation and uptake of all policies and initiatives aimed at promoting more responsible businesses practices in relation to the environment, and enhance them by including references to RBC principles and standards contained in the OECD RBC instruments. Future updates and initiatives could consider integrating the most recent international RBC expectations on the environment, including the conduct of environmental due diligence across supply chains, and draw on the NCP's expertise in this regard.
12. Raise the profile of the NCP as a non-judicial grievance mechanism for environmental issues, by seeking to enhance understanding across Government and among stakeholders about the role it can play in providing support for the resolution of cases of alleged non-observance of the environment chapter of the OECD MNE Guidelines.

13. Consider the possibility of taking steps towards the ratification of the Escazú Agreement to further strengthen public participation, as well as access to information and justice, in environmental matters.
14. Strengthen efforts aimed at encouraging businesses operating in the agriculture sector to identify, prevent, and mitigate environmental adverse impacts by carrying out risk-based due diligence in line with the OECD-FAO Guidance for Responsible Agricultural Supply Chains through existing and/or new government sector-specific initiatives.
15. Continue encouraging and supporting businesses in mitigating and adapting to climate change through relevant initiatives. Consider the possibility of incentivising them to associate their actions in this regard to an overarching RBC approach including the conduct of risk-based due diligence based on the OECD RBC instruments in order to identify, prevent, and mitigate efficiently their adverse impacts on climate, while ensuring that their actions to reduce GHG emissions are undertaken with accountability and responsibility.

Anti-corruption and integrity

16. Seek to strengthen coordination among the different government entities with competences on anti-corruption to reinforce corruption prevention and business integrity, and ensure that any future coordinating government entity or mechanism promotes engagement with businesses and encourages their participation in the design of measures aimed at involving the private sector in the combat against corruption.
17. Reinforce the measures taken to raise awareness about the Crime Prevention Corporate Models (*Modelos de organización, prevención de delitos, gestión y control*) among the private sector and build businesses' capacity to adopt and effectively implement such Models, with the support of the NCP.
18. Consider the possibility of adjusting the legal and regulatory framework to provide comprehensive protection from all types of retaliation to corporate employees that report, in good faith and on reasonable grounds, suspected acts of corruption perpetrated by other employees, companies, and/or their suppliers or subcontractors.

Leveraging and incentivising RBC

Public procurement

19. Through a cross-governmental approach, consider strengthening the strategic framework on public procurement enshrined in the new public procurement law towards a more targeted, consistent, and comprehensive strategy on RBC and due diligence in order to communicate RBC expectations to public buyers and potential bidders in a clear and consistent way.
20. Improve dissemination of existing guidance and tools on RBC considerations for public buyers and extend the scope of such guidance and tools to cover all stages of the public procurement cycle.
21. Enhance measures to increase the implementation of RBC considerations in public procurement, in particular working towards including risk-based due diligence as a tool to promote RBC in public procurement.

State-owned enterprises

22. Building on the integration of RBC in the “notes of expectations”, develop a general plan to encourage the adoption by the main Costa Rican SOEs groups of a shared, structured, and comprehensive RBC approach based on the OECD MNE Guidelines, with a focus on the conduct of due diligence in accordance with the OECD Due Diligence Guidance for RBC.
23. Organise and deliver training and capacity-building for the officials of the Presidential Advisory Unit for Management and Co-ordination of State Shareholdings and Management of Autonomous Institutions (*Unidad Asesora para la Dirección y Coordinación de la Propiedad Accionaria del Estado y la Gestión de las Instituciones Autónomas*), as well as of Costa Rican SOEs, on RBC and risk-based due diligence, based on the OECD RBC instruments, in order to raise their knowledge and capacity to implement RBC principles and standards, including efficient due diligence.

Trade and investment

24. Resort to trade promotion activities to promote RBC, in particular by raising exporters’ awareness about the importance of adopting responsible business practices to compete in international markets and incentivising them to observe RBC principles and standards through the non-financial support and the services provided by PROCOMER.
25. Use investment promotion and facilitation policies to promote RBC as an integral part of sustainable development, by encouraging investors to follow the recommendations contained in the OECD RBC instruments and thereby enhance their contribution to sustainable development.
26. Further include considerations that contribute to promote and enable RBC in trade and investment agreements by elaborating and adopting, with the assistance of the NCP, a policy aimed at ensuring the systematic inclusion of sustainability provisions and RBC clauses aligned with the OECD RBC instruments in new or renegotiated agreements.

Reinforcing the role of the National Contact Point for RBC

27. Ensure that the NCP’s staff and resources are maintained at a level sufficient to fulfil its mandate, seeking to limit excessive turnover, and to guarantee knowledge and capacity transfer when turnover do occur.
28. Consider reviewing the NCP’s location, structure, and staffing to ensure perception of impartiality from stakeholders and avoid potential conflicts of interest.
29. Increase the visibility of the NCP and its mandate across the government and among the general public, CSOs, trade unions, business associations, and individual companies, with a focus on its role as a non-judicial grievance mechanism, and address the lack of sufficient activity of the stakeholder advisory body.
30. Strengthen and expand the collaboration and coordination between the NCP and other government entities beyond the Institutional Focal Points and promote its role within the government as an agent of coherence for all policies relating to RBC.

Annex A. Virtual meetings with government entities, businesses and other stakeholders

During the virtual fact-finding mission for the preparation of the present RBC Policy Review, the OECD met with the representatives of the following government entities, businesses, and other stakeholders:

Government of Costa Rica
Comptroller General of the Republic (Contraloría General de la República – CGR)
Costa Rica's Ombudsman's Office (Defensoría de los Habitantes – DHR)
Costa Rica's Investment Promotion Agency (Coalición Costarricense de Iniciativas de Desarrollo – CINDE)
Costa Rica's Institute of Fishing and Aquaculture (Instituto Costarricense de Pesca y Agricultura – ICPA)
Costa Rica's Trade Promotion Agency (Promotora de Comercio Exterior de Costa Rica – PROCOMER)
Costa Rican Tourism Institute (Instituto Costarricense de Turismo – ICT)
Ministry of Agriculture and Livestock (Ministerio de Agricultura y Ganadería – MAG)
Ministry of Economy, Industry and Commerce (Ministerio de Economía, Industria y Comercio – MEIC)
Ministry of Environment and Energy (Ministerio de Medio Ambiente y Energía – MINAE)
Ministry of Finance (Ministerio de Hacienda)
Ministry of Foreign Affairs and Worship (Ministerio de Relaciones Exteriores y Culto – MRREE)
Ministry of Foreign Trade (Ministerio de Comercio Exterior – COMEX)
Ministry of Justice and Peace (Ministerio de Justicia y Paz – MJP)
Ministry of Labour and Social Security (Ministerio del Trabajo y Seguridad Social – MTSS)
Ministry of National Planning and Economic Policy (Ministerio de Planificación Nacional y Política Económica - MIDEPLAN)
Ministry of the Presidency (Ministerio de la Presidencia)
National Commission for Indigenous Affairs (Comisión Nacional de Asuntos Indígenas – CNAI)
National Contact Point for Responsible Business Conduct (Punto Nacional de Contacto para la Conducta Empresarial Responsable - PNC)
National Steering Committee for Sustainable Public Procurement (Comité Directivo Nacional de Compras Públicas Sustentables)
Vice-presidency of the Republic (Vicepresidencia de la República)
Business Associations and individual businesses
Association of Costa Rican Free Trade Zones (Asociación de Empresas de Zonas Francas de Costa Rica – AZOFRAS)
Business Alliance for Development (Alianza Empresarial para el Desarrollo – AED)
Costa Rican Union of Chambers and Associations of the Business Sector (Unión Costarricense de Cámaras y Asociaciones del Sector Empresarial – UCCAEP)
Costa Rican National Bank (Banco Nacional de Costa Rica)
DOLE RS
RS Sostenible
Trade Unions
National Association of Costa Rican Educators (Asociación Nacional de Educadores y Educadoras de Costa Rica – ANDE)
Rerum Novarum Workers Confederation (Confederación de Trabajadores Rerum Novarum – CTRN)
Union of School Canteen Workers (Sindicato de Trabajadoras de Comedores Escolares – SITRACOME)
Civil Society Organisations
LGBTI Sustainable Development Association (Asociación de Desarrollo Sostenible LGBTI)
Association of Cooperative Women for Development (Asociación de Mujeres Cooperativistas para el Desarrollo)
CoopeSoliDaRL
BoaPaz Foundation (Fundación BoaPaz)
San Miguel Initiative (Iniciativa San Miguel)
World Vision Costa Rica

Indigenous Peoples' Organisations

Association for the Integral Development of the Indigenous Territory of Guatuso (Asociación de Desarrollo Integral del Territorio Indígena de Guatuso)
Association for the Integral Development of the Indigenous Territory of Talamanca – Bribri (Asociación de Desarrollo Integral del Territorio Indígena de Talamanca – Bribri)
Association for the Integral Development of the Indigenous Territory of Terraba (Asociación de Desarrollo Integral del Territorio Indígena de Terraba)
Bribri Territory Women's Organisation (Organización de Mujeres Territorio Bribri)
National Indigenous Board of Costa Rica (Mesa Nacional Indígena de Costa Rica)

Annex B. Methodology and sample of the OECD 2020 Business Survey on Responsible Business Conduct in Latin America and the Caribbean

The OECD conducted the 2020 Business Survey on Responsible Business Conduct (RBC) in Latin America and the Caribbean (LAC) from November 2020 to January 2021 in the framework of the RBC-LAC Project.

The objective of the Survey was to obtain information on RBC practices and challenges of businesses operating in or from LAC countries, in particular from the nine countries covered by the RBC-LAC Project: Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Panama and Peru.

The Survey included 31 questions, divided into five sections: general information; RBC policies and communications; risk-based due diligence; impact of the COVID-19 crisis; and future needs. It was developed on the basis of previous surveys run by the OECD Centre for Responsible Business Conduct and in cooperation with the LAC NCPs. The Survey was disseminated online in English, Spanish and Portuguese.

In total, 501 companies responded to the Survey covering business practices in the nine countries and the four target sectors of the RBC-LAC Project (extractives/minerals, agriculture, garment, and financial sector). Responses were received from companies of different sizes, including large enterprises, medium-sized enterprises, small enterprises and micro-enterprises, and of different types, i.e. private enterprises, publicly listed and State-owned enterprises.

The Survey's findings provide a basis to support governments and businesses in the development and implementation of RBC policies and practices, which can contribute to greater resilience and sustainable development in LAC and beyond.

These findings, however, have limits in terms of representativeness, mostly due to the variation in the number of responses, the geographic distribution of the supply chain actors, and their share of national/regional production across different economic sectors. Moreover, the Survey's data is based on self-reporting, which is a factor to be taken into account when interpreting the findings.

References

- (n.a.) (2021), *Minutes of the Sixth Meeting of the Board of Trade and Sustainable Development of the Association Agreement between Central America and the European Union*, https://trade.ec.europa.eu/doclib/docs/2021/july/tradoc_159692.pdf. [3
8
0]
- (n.a.) (2019), *Central America-United Kingdom Association Agreement*, <https://www.comex.go.cr/tratados/reino-unido/>. [4
2
5]
- (n.a.) (2019), *Minutes of the Fifth Meeting of the Board of Trade and Sustainable Development of the Association Agreement between Central America and the European Union*, https://trade.ec.europa.eu/doclib/docs/2019/july/tradoc_158201.%20201906%20TSD%20joint%20minutes%20EN.pdf. [3
7
9]
- (n.a.) (2018), *Central America-Korea Free Trade Agreement*, <https://www.comex.go.cr/tratados/corea/>. [4
2
8]
- (n.a.) (2018), *David R. Aven and Others v. Republic of Costa Rica*, ICSID Case No. UNCT/15/3, Award, 18 September 2018, <https://www.italaw.com/cases/2959>. [3
8
4]
- (n.a.) (2018), *Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean*, https://repositorio.cepal.org/bitstream/handle/11362/43583/1/S1800428_en.pdf. [1
2
4]
- (n.a.) (2018), *Report to the Civil Society Forum of the Fourth Meeting of the Board of Trade and Sustainable Development*, https://trade.ec.europa.eu/doclib/docs/2018/july/tradoc_157150.pdf. [3
7
8]
- (n.a.) (2017), *Costa Rica-United Arab Emirates Bilateral Investment Treaty*, <https://www.comex.go.cr/media/5903/bit-con-emiratos-árabes-unidos.pdf>. [4
2
9]
- (n.a.) (2013), *Central America-EFTA Free Trade Agreement*, <https://www.comex.go.cr/tratados/aelc/texto-del-tratado-1/>. [4
4
3]
- (n.a.) (2013), *Costa Rica-Colombia Free Trade Agreement*, <https://www.comex.go.cr/tratados/colombia/texto-del-tratado-2/>. [4
2
6]
- (n.a.) (2012), *Central America-European Union Association Agreement*, <https://www.comex.go.cr/tratados/aacue/>. [4
2
7]
- (n.a.) (2011), *Central America-Mexico Free Trade Agreement*, <https://www.comex.go.cr/tratados/centroamerica-y-mexico/texto-del-tratado-ca-mexico/>. [4
2
4]
- (n.a.) (2011), *Costa Rica-Peru Free Trade Agreement*, <https://www.comex.go.cr/tratados/peru/texto-del-tratado-1/>. [4
2
3]

- (n.a.) (2010), *Costa Rica-China Free Trade Agreement*, [4
4
4]
<https://www.comex.go.cr/tratados/china/texto-del-tratado-1/>.
- (n.a.) (2010), *Costa Rica–Qatar Bilateral Investment Treaty*, [4
3
0]
<https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/4927/download>.
- (n.a.) (2010), *Costa Rica-Singapore Free Trade Agreement*, [4
2
2]
<https://www.comex.go.cr/tratados/singapur/texto-del-tratado-1/>.
- (n.a.) (2007), *Central America-Panama Free Trade Agreement*, [4
2
1]
<https://www.comex.go.cr/tratados/panama/texto-del-tratado-1/>.
- (n.a.) (2007), *Costa Rica–China Bilateral Investment Treaty*, [4
9
2]
<https://www.comex.go.cr/media/5157/china.pdf>.
- (n.a.) (2004), *Costa Rica-Caricom Free Trade Agreement*, [4
1
7]
<https://www.comex.go.cr/tratados/caricom/texto-del-tratado-1/>.
- (n.a.) (2004), *Dominican Republic-Central America-United States Free Trade Agreement*, [3
7
7]
<https://www.comex.go.cr/tratados/cafta-dr/>.
- (n.a.) (2002), *Costa Rica-Belgium-Luxembourg Economic Union Bilateral Investment Treaty*, [4
4
6]
<https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/346/download>.
- (n.a.) (2002), *Costa Rica-Bolivia Bilateral Investment Treaty*, [4
4
5]
<https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/450/download>.
- (n.a.) (2001), *Costa Rica-Canada Free Trade Agreement*, [4
1
8]
<https://www.comex.go.cr/tratados/canada/texto-del-tratado-1/>.
- (n.a.) (2001), *Costa Rica-Ecuador Bilateral Investment Treaty*, [4
4
7]
<https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/830/download>.
- (n.a.) (2001), *Costa Rica-Finland Bilateral Investment Treaty*, [4
4
8]
<https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/831/download>.
- (n.a.) (2000), *Costa Rica-Korea Bilateral Investment Treaty*, [4
4
9]
<https://www.comex.go.cr/media/5158/corea-ley-8217.pdf>.
- (n.a.) (2000), *Costa Rica-Switzerland Bilateral Investment Treaty*, [4
5
0]
<https://www.comex.go.cr/media/5171/suiza-ley-8218.pdf>.
- (n.a.) (1999), *Central America-Chile Free Trade Agreement*, [4
1
9]
<https://www.comex.go.cr/tratados/chile/texto-del-tratado-1/>.
- (n.a.) (1999), *Costa Rica-Netherlands Bilateral Investment Treaty*, [4
5
1]
<https://www.comex.go.cr/media/5168/reino-de-los-paises-bajos-ley-8081.pdf>.
- (n.a.) (1998), *Costa Rica-Canada Bilateral Investment Treaty*, [4
5
2]
<https://www.comex.go.cr/media/5154/canada-ley-7870.pdf>.

- (n.a.) (1998), *Costa Rica-Czech Republic Bilateral Investment Treaty*, <https://www.comex.go.cr/media/5170/republica-checa-ley-8076.pdf>. [4
9
3]
- (n.a.) (1998), *Costa Rica-Paraguay Bilateral Investment Treaty*, <https://www.comex.go.cr/media/5165/paraguay-ley-8069.pdf>. [4
5
3]
- (n.a.) (1997), *Costa Rica-Argentina Bilateral Investment Treaty*, <https://www.comex.go.cr/media/5152/argentina-ley-8068.pdf>. [4
5
5]
- (n.a.) (1997), *Costa Rica-Spain Bilateral Investment Treaty*, <https://www.comex.go.cr/media/5160/espana-ley-7869.pdf>. [4
5
4]
- (n.a.) (1997), *Costa Rica-Venezuela Bilateral Investment Treaty*, <https://www.comex.go.cr/media/5172/venezuela-ley-8067.pdf>. [4
9
4]
- (n.a.) (1996), *Costa Rica-Chile Bilateral Investment Treaty*, <https://www.comex.go.cr/media/5155/chile-ley-7748.pdf>. [4
9
5]
- (n.a.) (1994), *Costa Rica-Germany Bilateral Investment Treaty*, <https://www.comex.go.cr/media/5151/alemania-ley-7695.pdf>. [4
9
6]
- (n.a.) (1984), *Costa Rica-France Bilateral Investment Treaty*, <https://www.comex.go.cr/media/5162/francia-ley-7691.pdf>. [4
9
7]
- (n.a.) (1982), *Costa Rica-United Kingdom Bilateral Investment Treaty*, <https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/844/download>. [4
5
6]
- (n.a.) (1965), *Costa Rica-Switzerland Bilateral Investment Treaty*, <https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/3213/download>. [4
5
7]
- (n.a.) (1960), *Tratado General de Integración Económica Centroamericana*, https://www.comex.go.cr/media/4474/01_tratado-general-de-integracion-economica-centroamericana.pdf. [4
2
0]
- AED (2022), *Website: Gobernanza, Ética y Continuidad del Negocio*, <https://www.aedcr.com/oferta-de-valor/gobernanza-etica-y-continuidad-del-negocio>. [2
6
6]
- AED (2021), *Press release: AED y UCCAEP firmaron Compromiso de Integridad para combatir la corrupción en la contratación pública*, <https://www.aedcr.com/noticias/aed-y-uccaep-firmaron-compromiso-de-integridad-para-combatir-la-corrupcion-en-la>. [2
6
5]
- AED (2021), *Press release: Costa Rica y Panamá construyen una ruta común en seguros con miras al desarrollo sostenible*, <https://www.aedcr.com/noticias/costa-rica-y-panama-construyen-una-ruta-comun-en-seguros-con-miras-al-desarrollo#.Y5hv81InJk8>. [6
8]
- AED (2020), *Reporte de Sostenibilidad 2020*, https://www.aedcr.com/sites/default/files/docs/reporte2020_final_2.pdf. [6
9]
- AED (2020), *Reportes de sostenibilidad*, <https://www.aedcr.com/recursos/reportes-de-sostenibilidad>. [6
7]
- AED (n.d.), *Reporte Referenciado GRI*, <https://www.walmartcentroamerica.com/media-library/document/reporte-gri-de-la-alianza-empresarial-para-la>. [4
5
8]

- [sostenibilidad/ proxyDocument?id=0000016f-ee5f-d518-a56f-ffff34870000.](#)
- AED (n.d.), *Website: Eco Eficiencia Empresarial*, <https://www.aedcr.com/oferta-de-valor/eco-eficiencia-empresarial>. [2
2
7]
- AED/Konrad Adenauer Stiftung/United Way (n.d.), *Comparación de legislación ambiental centroamericana*, https://www.aedcr.com/sites/default/files/comparacionambiental_imprimible.pdf. [1
9
2]
- Alianza Anticorrupción (n.d.), *Website: ¿Quiénes somos?*, <https://www.alianzaanticorrupcion.cl/AnticorrupcionUNCAC/quienes-somos/>. [3
9
5]
- Alianza de Empresas Sin Pobreza Extrema (n.d.), *Website: ¿Quiénes somos?*, http://www.empresassinpobrezaextrema.com/Quienes_somos. [5
0
4]
- ALIARSE (2020), *Public-Private Partnerhips for Development*, <https://www.aliarse.org/en/en/appd-y-app#:~:text=Public%2DPrivate%20Partnerships%20for%20Development,will%20contribute%20o%20sustainable%20development>. [6
5]
- American Bar Association (2019), *Costa Rica - Labor Procedure Reform*, https://www.americanbar.org/groups/labor_law/publications/ilelc_newsletters/issue-june-2019/labor-procedure-reform/. [1
3
3]
- American Chamber of Commerce in Costa Rica (2020), *Responsabilidad Social en Acción 2020*, <https://www.amcham.cr/rse/>. [6
4]
- Americas Society, Council of the Americas and Control Risks (2021), *The Capacity to Combat Corruption (CCC) Index - Assessing Latin America's ability to detect, punish and prevent corruption*, https://americasquarterly.org/wp-content/uploads/2021/06/CCC_Report_2021.pdf. [2
3
7]
- Araya, J. (n.d.), *Principales cambios de la Reforma Procesal Laboral en Costa Rica*, <http://www.oj.gob.gt/files/congreso/internacionales/Pasado,%20presente%20y%20futuro%20Legislación%20Laboral%20en%20Costa%20Rica%20Magistrada%20Julia%20Varela%20Araya.pdf>. [1
4
8]
- Asociación Civil por la Igualdad y la Justicia (2020), *Acceso a la justicia en Latinoamérica*, https://biblioteca.cejamericas.org/bitstream/handle/2015/5673/Informe_accesoalajusticia.pdf?sequence=1&isAllowed=y. [9
1]
- Banco de Costa Rica (2022), *Memoria 2021*, https://www.bancobcr.com/wps/portal/bcr/bancobcr/acerca-del-bcr/transparencia/memoria_anual. [3
2
8]
- Banco de Costa Rica (2011), *Código de Ética Corporativo del Conglomerado Financiero BCR*, https://www.bancobcr.com/wps/wcm/connect/bcr/74b09ca5-b885-42b3-98d5-624ff71566a4/Codigo_Etica_CFBCR.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE.Z18_4024H1S0NGVK20QQVEVDPP1G52-74b09ca5-b885-42b3-98d5-624ff71566a4-nj0XOnz. [3
3
0]
- Banco de Costa Rica (2010), *Políticas sobre Responsabilidad Social Corporativa en el Conglomerado BCR*, https://www.bancobcr.com/wps/wcm/connect/bcr/13d1f2d8-d93e-4058-8302-4bd0376b4b84/POL-GOC-GCO-116-10.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE.Z18_4024H1S0NGVK20QQVEVDPP1G52-13d1f2d8-d93e-4058-8302-4bd0376b4b84-nj1j-yI. [3
2
7]

- Banco de Costa Rica (2010), *Reglamento contra el hostigamiento sexual en el conglomerado BCR*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=96387&nValor3=129060¶m2=1&strTipM=TC&Resultado=1&strSim=simp. [3
3
1]
- Banco de Costa Rica (2009), *Código de Gobierno Corporativo*, https://www.bancobcr.com/wps/wcm/connect/bcr/b617c7d0-e975-4075-9360-9ec41ae3bb1c/Codigo-de-Gobierno-Corporativo-B-117-09_v9.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE.Z18_4024H1S0NGVK20QQVEVDPP1G52-b617c7d0-e975-4075-9360-9ec41ae3bb1c-ntPV3Up. [4
5
9]
- Banco de Costa Rica (n.d.), *Reporte de Sostenibilidad Pacto Global 2020*, https://www.bancobcr.com/wps/wcm/connect/bcr/44bd0c90-6586-44e7-8f1a-65210430534f/BCR_Reporte_PACTO_GLOBAL_2020.pdf?MOD=AJPERES&CONVERT_TO=ul&CACHEID=ROOTWORKSPACE.Z18_4024H1S0NGVK20QQVEVDPP1G52-44bd0c90-6586-44e7-8f1a-65210430534f-nL1gvHT. [3
0
4]
- Banco Nacional de Costa Rica (2020), *Reporte de Sostenibilidad 2020: Hechos para la gente*, https://www.bncr.fi.cr/cache_49d6/content/1609240000073802.pdf. [3
0
5]
- Banco Nacional de Costa Rica (2017), *Política de Sostenibilidad*, https://www.bncr.fi.cr/cache_047a/content/Poli%CC%81tica%20de%20Sostenibilidad-1609240000078451.pdf. [3
3
2]
- Banco Nacional de Costa Rica (2009), *Código de Conducta del Conglomerado Banco Nacional de Costa Rica*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=67655. [3
3
5]
- Banco Nacional de Costa Rica (2003), *Código de Ética del Banco Nacional de Costa Rica*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRM&nValor1=1&nValor2=51229&strTipM=FN. [4
6
0]
- Banco Nacional de Costa Rica (n.d.), *Website: Estrategias de Sostenibilidad*, <https://www.bncr.fi.cr/estrategia-sostenibilidad>. [3
3
4]
- Beharry, C. and M. Kuritzky (2015), "Going Green: Managing the Environment through International Investment Arbitration", *American University International Law Review*, Vol. 30/3, <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1847&context=auilr>. [3
8
3]
- BIOFIN (n.d.), *Website: Costa Rica*, <https://www.biofin.org/costa-rica>. [1
6
7]
- Business & Human Rights Resource Centre (2020), *Press release: HRD Attack: Pablo Sibas Sibas*, <https://www.business-humanrights.org/en/latest-news/pablo-sibas-sibas/>. [1
2
3]
- Business Sweden (n.d.), *Website: General Conditions for Participation in Trade and Invest Activities*, <https://www.business-sweden.com/general-conditions-activities/>. [3
6
5]
- CANAPEP (2018), *Manual técnico para la producción sostenible de piña*, <https://canapep.com/download/manual-tecnico-para-la-produccion-sostenible-de-pina/>. [2
1
5]
- CBD (n.d.), *Website: List of Parties*, <https://www.cbd.int/information/parties.shtml>. [4
0]

- Central American and European Union Advisory Groups of the Association Agreement between the European Union and Central America (2020), *Joint Declaration of the Central American and European Union Advisory Groups established under the Trade and Sustainable Development Title of the Association Agreement between the European Union and Central America*, https://www.eesc.europa.eu/sites/default/files/files/eesc-2020-04854-00-02-tcd-tra-en.docx_0.pdf. [3
8
1]
- CINDE (2022), *Press release: Costa Rica rated as the World's Top Investment Promotion Agency by ITC - United Nations*, <https://www.cinde.org/en/essential-news/costa-rica-rated-as-the-worlds-top-investment-promotion-agency-by-itc-united-nations>. [3
5
8]
- CINDE (2021), *Costa Rica Foreign Investor's Guide*, <https://www.cinde.org/en/resources/foreign-investor-guide>. [3
6
0]
- CINDE (2021), *Impact Report 2020*, <https://www.cinde.org/en/resources/impact-report-2020>. [3
6
2]
- CINDE (2021), *Website: Our services*, https://www.cinde.org/en/about#our_services. [3
5
9]
- CINDE (2019), *CINDE Strategic Vision 2019-2022*, <https://www.cinde.org/en/resources/strategic-vision-2019-2022>. [3
5
7]
- CINDE (2019), *Trade Agreements and Preferential Access to Markets from Costa Rica*, <https://f.hubspotusercontent30.net/hubfs/5082883/Resources/CINDE%20-%20Trade%20Agreements%20Preferential%20Access%20Markets%20from%20Costa%20Rica%20EN.pdf>. [2
1]
- CINDE (n.d.), *Investment Incentives*, <https://www.cinde.org/en/ecosystems#investment-module>. [4
6
1]
- CINDE (n.d.), *Website: Why Costa Rica?*, <https://www.cinde.org/en/why>. [3
6
1]
- CNAA (2021), *Press release: Cámara Nacional de Agricultura y Agroindustria se opone rotundamente a la Ratificación del Acuerdo de Escazú*, <https://www.facebook.com/photo/?fbid=3265581470212215&set=a.432491813521209>. [1
2
6]
- CNB et al. (2022), *Carta a la Asamblea Legislativa de la República de Costa Rica expresando oposición al Acuerdo de Escazú*, <https://surcosdigital.com/wp-content/uploads/2022/02/Carta-oposicion-al-Acuerdo-de-Escazu-Camaras.pdf>. [1
2
7]
- Community of Democracies (2018), *Best practice in Community of Democracies' member states' engagement with, and protection of, civil society report*, <https://community-democracies.org/app/uploads/2018/11/COD-BEST-Practise-DIGITAL1.pdf>. [8
6]
- Council of Europe (2018), *Germany - Responsible Business Conduct in Trade Missions*, <https://www.coe.int/fr/web/human-rights-intergovernmental-cooperation/-/responsible-business-conduct-in-trade-missions>. [4
0
0]
- Danish Institute for Human Rights (2020), *Driving Change through Public Procurement - A Toolkit on Human Rights for Procurement Policy Makers and Practitioners*, https://www.humanrights.dk/sites/humanrights.dk/files/media/document/dihr_toolkit_public_procurement_2020_webaccessible.pdf. [3
9
7]

- Danish Institute for Human Rights (2019), *Menneskerettigheder og offentlige indkøb – En rapport med inspiration til offentlige indkøbere*, https://menneskeret.dk/sites/menneskeret.dk/files/user/offentligeindkoeb_08.pdf. [3
9
6]
- Defensoría de los Habitantes (2022), *Informe anual de labores 2021-2022*, <https://drive.google.com/file/d/18PFABAZbdnHZrvRRD4kST9zw-bPyK1S2/view>. [1
0
5]
- Defensoría de los Habitantes (2022), *Website: Marco Institucional*, http://www.dhr.go.cr/la_defensoria/marco_institucional.aspx. [9
8]
- Defensoría de los Habitantes (2021), *Informe anual de labores 2020-2021*, http://www.dhr.go.cr/transparencia/informes_institucionales/informes/labores/documentos/if_2020_2021.pdf. [9
9]
- Defensoría de los Habitantes (2020), *Informe anual de labores 2019-2020*, https://www.dhr.go.cr/transparencia/informes_institucionales/informe_anual_19_20.aspx. [1
5
4]
- Defensoría de los Habitantes (2019), *Informe anual de labores 2018-2019*, http://www.dhr.go.cr/transparencia/informes_institucionales/informes/labores/documentos/if2018_2019.pdf. [1
0
0]
- Defensoría de los Habitantes (n.d.), *Acuerdo Nro. 528-DH - Estatuto Autónomo de Organización de la Defensoría de los Habitantes de la República*, https://www.dhr.go.cr/la_defensoria/estatuto/Estatuto_Autonomo_de_Organizacion.pdf. [2
0
8]
- Defensoría de los Habitantes (n.d.), *Estadísticas 2019 - Datos relevantes*, http://www.dhr.go.cr/transparencia/presupuestos/datosabiertos/estadisticas_relevantes_2019.pdf. [4
8
3]
- Defensoría de los Habitantes; Universidad de Costa Rica (2021), *Índice de Transparencia del Sector Público Costarricense*, http://www.dhr.go.cr/Red_de_transparencia/indice_transparencia/resultados_itsp/2021/Informe_ITSP_2020_version_final.pdf. [4
9
8]
- Deutsche Welle (2021), *Press release: La larga recuperación de las tierras indígenas en Costa Rica*, <https://p.dw.com/p/3oJbU>. [1
0
4]
- Dolzer, R. (2006), *The Impact of International Investment Treaties on Domestic Administrative Law*, <https://www.iilj.org/wp-content/uploads/2016/08/Dolzer-The-Impact-of-International-Investment-Treaties-on-Domestic-Administrative-Law-2005.pdf>. [4
8
1]
- ECLAC (2021), *Economic Survey of Latin America and the Caribbean – Costa Rica*, https://repositorio.cepal.org/bitstream/handle/11362/47193/74/EI2021_CostaRica_en.pdf. [3
1]
- ECLAC (2021), *Foreign Direct Investment in Latin America and the Caribbean 2021*, <https://www.cepal.org/en/publications/47148-foreign-direct-investment-latin-america-and-caribbean-2021>. [2
3]
- EITI (n.d.), *Countries - Global implementation of the EITI Standard*, <https://eiti.org/countries>. [4
1]
- Elmundo.cr (2021), “Press release: Costa Rica a punto de hacer historia al prohibir la exploración de hidrocarburos”, <https://elmundo.cr/costa-rica/costa-rica-a-punto-de-hacer-historia-al-prohibir-la-exploracion-de-hidrocarburos/>. [5
1
6]

- Elmundo.cr (2021), *Press release: Diputados aprueban en primer debate nueva Ley General de Compras Públicas*, <https://www.elmundo.cr/costa-rica/diputados-aprueban-en-primer-debate-nueva-ley-general-de-compras-publicas/>. [2
7
9]
- EIPais.cr (2021), *Press release: Gobierno de Costa Rica construye Política Pública Indígena*, <https://www.elpais.cr/2021/03/10/gobierno-de-costa-rica-construye-politica-publica-indigena/>. [1
1
7]
- Essential Costa Rica (n.d.), *Equipo evaluador*, <https://www.esencialcostarica.com/wp-content/uploads/2020/06/equipo-evaluador.pdf>. [3
5
2]
- Essential Costa Rica (n.d.), *Website: I want to be Essential Costa Rica*, <https://www.esencialcostarica.com/eng/licensing/i-want-to-be-essential-costa-rica/>. [3
5
1]
- Essential Costa Rica (n.d.), *Website: Origen de Esencial Costa Rica*, <https://www.esencialcostarica.com/marca-pais/origen-esencial-costa-rica/>. [3
5
0]
- EU-LAC Foundation/Red Forum Empresa (2015), *Corporate Social Responsibility in the context of relations between the European Union and the Community of Latin American and Caribbean States*, https://eulacfoundation.org/en/system/files/EU_LAC_CSR_EN.pdf. [6
6]
- European Commission (2022), *Press release: Just and sustainable economy: Commission lays down rules for companies to respect human rights and environment in global value chains*, https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1145. [4
0
7]
- European Council (2022), *Press release: Council gives final green light to corporate sustainability reporting directive*, <https://www.consilium.europa.eu/en/press/press-releases/2022/11/28/council-gives-final-green-light-to-corporate-sustainability-reporting-directive/>. [4
0
5]
- European Union (2022), *Directive of the European Parliament and of the Council amending regulation (EU) No. 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting*, <https://data.consilium.europa.eu/doc/document/PE-35-2022-INIT/en/pdf>. [4
0
6]
- FAO (2021), *Costa Rica's journey towards sustainable food systems*, <https://doi.org/10.4060/cb5997en>. [2
1
1]
- FAO (2015), *Costa Rica case study - prepared for FAO as part of the State of the World's Forest 2016 (SOFO)*, <https://www.fao.org/3/c0180e/c0180e.pdf>. [1
8
2]
- Fernández, J., et al. (2016), *El derecho al ambiente en la Constitución política - Alcances y límites*, <https://biblioteca.corteidh.or.cr/engine/download/blob/cidh/168/2021/4/74758.pdf?app=cidh&clas=s=2&id=36130&field=168>. [1
8
3]
- Forest Peoples Programme (2020), *Press release: Costa Rica: International organisations call for an end to violence and impunity against indigenous human rights defenders*, <https://www.forestpeoples.org/en/costa-rica-international-organisations-call-for-protection-indigenous-defenders>. [5
0
5]
- Forest Peoples Programme (2013), *Press release: Líderes indígenas de Costa Rica presentan en Washington D.C., ante la Comisión Interamericana de Derechos Humanos, la situación de la ocupación ilegal de sus territorios*, <https://www.forestpeoples.org/index.php/en/node/4199>. [1
2
1]
- Friends of the Earth International (2020), *Press release: We denounce the murder of Jehry Rivera* [1
2]

- Rivera in Costa Rica, <https://www.foei.org/news/solidarity-denounce-murder-jehry-rivera-costa-rica>. 2]
- Gaukrodger, D. (2017), *Addressing the balance of interests in investment treaties: The limitation of fair and equitable treatment provisions to the minimum standard of treatment under customary international law*, OECD Working Papers on International Investment, No. 2017/03, OECD Publishing, Paris, <https://doi.org/10.1787/0a62034b-en>. [4
7
9]
- Gaukrodger, D. (2021), *Business responsibilities and investment treaties*, OECD Publishing, Paris, <https://doi.org/10.1787/4a6f4f17-en>. [3
6
7]
- Gaukrodger, D. (2020), *Business responsibilities and investment treaties - Consultation paper by the OECD Secretariat*, <https://www.oecd.org/daf/inv/investment-policy/Consultation-Paper-on-business-responsibilities-and-investment-treaties.pdf>. [3
7
0]
- Gender Parity Initiative for Costa Rica (n.d.), *Iniciativa público-privada para reducir brechas económicas de género en Costa Rica: resumen del diagnóstico y plan de acción*, https://www.presidencia.go.cr/bicentenario/wp-content/uploads/2020/09/BID_IPG-Costa-Rica_ResumenEjecutivo_V03.pdf. [1
5
3]
- Gender Parity Initiative for Costa Rica (n.d.), *IPG: una alianza para cerrar brechas de género en Costa Rica*, <https://ipgcr.org/wp-content/uploads/2022/04/PPT-IPG-y-avances-a-octubre-2021-comprimido.pdf>. [1
5
6]
- Gender Parity Initiative for Costa Rica (n.d.), *Website: Iniciativa de Paridad de Género Costa Rica*, <https://ipgcr.org/>. [1
4
9]
- Gindling, T., et al. (2013), *Las consecuencias del aumento en la observación del salario mínimo legal en Costa Rica : una evaluación del impacto de la campaña nacional de salarios mínimos*, https://iice.ucr.ac.cr/iice_libros/Salario_minimo_2.pdf. [3
7
3]
- GIZ (2020), *Promoting low-carbon coffee production and processing in Costa Rica*, https://namacafe.org/sites/default/files/resultados_nama_p_2015-2020_compressed.pdf. [2
2
8]
- GIZ (2019), *Costa Rica's Coffee NAMA - Towards a Low Carbon Coffee Sector*, https://www.giz.de/en/downloads/giz2019_en_Factsheet_NAMA%20Cafe.pdf. [4
1
6]
- Gordon, K., et al. (2014), *Investment Treaty Law, Sustainable Development and Responsible Business Conduct: A Fact Finding Survey*, OECD Publishing, Paris, <https://doi.org/10.1787/5jz0xvqx1zlt-en>. [3
8
2]
- Government of Australia (n.d.), *Website: Australian National Contact Point - Governance and Advisory Board*, <https://ausnccp.gov.au/about/governance-and-advisory-board>. [4
0
3]
- Government of Austria (2018), *National Contact Point 2018 Report to the OECD: Austria*, https://www.bmdw.gv.at/dam/jcr:edb2a79c-a2df-4737-980d-372bbcbf269/Jahresbericht_2018_Austrian_NCP%20to%20the%20OECD.pdf. [3
9
8]
- Government of Brazil (2022), *Plano de Ação em Conduta Empresarial Responsável*, <https://www.gov.br/produtividade-e-comercio-externo/pt-br/assuntos/camex/pcn/produtos/outros/pacer-8-12.pdf>. [3
8
8]
- Government of Brazil (2020), *Resolução CONINV No. 2 que aprova o mandato para a elaboração do Plano de Ação em Conduta Empresarial Responsável*, <https://www.in.gov.br/web/dou/-/> [3
8
7]

- [/resolucao-coninv-n-2-de-22-de-dezembro-de-2020-296044638.](#)
- Government of Brazil (2009), *3rd National Program of Human Rights*, http://www.dhnet.org.br/dados/pp/a_pdf/pndh3_programa_nacional_direitos_humanos_3.pdf. [4
8
4]
- Government of Canada (2022), *Canadian National Contact Point - Specific Instance Procedures*, <https://www.international.gc.ca/transparency-transparence/national-contact-point-contact-national/procedures.aspx?lang=eng#a9>. [3
9
9]
- Government of Chile (2021), *Informe de avance: Plan anual promocional del Punto Nacional de Contacto de Chile 2020-2021*, https://www.subrei.gob.cl/docs/default-source/institucional/informe-de-avance-pap-pnc-2020---2021-vf.pdf?sfvrsn=79aa67c_2. [3
9
4]
- Government of Costa Rica (2022), *2007-2021 Statistics on FDI*, <https://www.comex.go.cr/estad%C3%ADsticas-y-estudios/inversi%C3%B3n-extranjera-directa/>. [2
4]
- Government of Costa Rica (2022), *Buenas prácticas laborales para la igualdad de género*, <https://www.inamu.go.cr/web/inamu/buenas-practicas-laborales-para-la-igualdad-de-genero>. [1
5
5]
- Government of Costa Rica (2022), *Decreto Ejecutivo Nro. 43748 que reforma la gobernanza para la implementación y seguimiento de la Política Nacional de Responsabilidad Social de Costa Rica*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=98044&nValor3=133113¶m2=1&strTipM=TC&IResultado=1&strSim=simp. [5
0]
- Government of Costa Rica (2022), *Guía de compras públicas sostenibles 2022*, <https://minae.go.cr/images/CPSostenibles.pdf>. [2
8
8]
- Government of Costa Rica (2022), *Inamu - Preguntas frecuentes*, <https://www.inamu.go.cr/preguntas-frecuentes>. [1
5
1]
- Government of Costa Rica (2022), *Informe anual de labores del Ministerio de Comercio Exterior, mayo 2021–abril 2022*, <https://www.comex.go.cr/media/9379/informe-de-labores-2021-2022-asamblea-legislativa.pdf>. [2
0]
- Government of Costa Rica (2022), *Informe de evaluación física y financiera de la ejecución del presupuesto 2021*, http://www.mjp.go.cr/Documento/Catalogo_DOCU/59?area=. [4
3
2]
- Government of Costa Rica (2022), *Perfil de los jefes del Ministerio de Trabajo y Seguridad Social*, <https://www.mtss.go.cr/elministerio/jefes.html>. [1
3
6]
- Government of Costa Rica (2022), *Plan Nacional de Adaptación al Cambio Climático 2022-2026*, https://cambioclimatico.go.cr/wp-content/uploads/2022/04/NAP_Documento-2022-2026_VC.pdf. [2
2
4]
- Government of Costa Rica (2022), *Política Nacional para la Igualdad Efectiva entre Mujeres y Hombres (2018 - 2030)*, <https://www.inamu.go.cr/documents/10179/401246/INAMU+PIEG+2018-2030+NEW.pdf/f8333d70-df04-417e-bbe9-c48c412a3cfb>. [1
5
0]
- Government of Costa Rica (2022), *Reducción de la jornada laboral*, https://www.mtss.go.cr/elministerio/despacho/covid-19-mtss/reduccion_jornada_trabajo.html. [1
4
0]
- Government of Costa Rica (2022), *Website: Cultura Organizacional*, <https://www.ccss.sa.cr/cultura-> [4
8
5]

[organizacional.](#)

- Government of Costa Rica (2022), *Website: Estructura Organizacional*, <https://www.mtss.go.cr/elministerio/estructural/>. [4
3
4]
- Government of Costa Rica (2021), *Administración Alvarado Quesada 2018-2022 - Informe de Gestión 2019-2020*, https://www.mtss.go.cr/elministerio/despacho/memorias/informe_gestion_%202019-2020.pdf. [1
3
7]
- Government of Costa Rica (2021), *Anuario estadístico 2020 del Ministerio de Trabajo y Seguridad Social*, https://www.mtss.go.cr/elministerio/despacho/estadisticas/documentos-estadisticas/anuario_estadistico_mtss_2020.pdf. [1
3
8]
- Government of Costa Rica (2021), *Estado de situación PYME en Costa Rica 2021 - Serie 2015-2019*, <http://reventazon.meic.go.cr/informacion/estudios/2021/pyme/DIGEPYME-INF-038-2021.pdf>. [2
8]
- Government of Costa Rica (2021), *Estrategia Nacional de Integridad y Prevención de la Corrupción*, <https://drive.google.com/file/d/1q4ZoSuoZ4mxHcgApyHYTyE-PWCWhOdTP/view>. [2
5
3]
- Government of Costa Rica (2021), *Informe de evaluación anual 2020 del Ministerio de Justicia y Paz*, <http://www.mjp.go.cr/Documento/DescargaDIR/14560>. [4
9
9]
- Government of Costa Rica (2021), *Informe de gestión del sector agropecuario, pesquero y rural, mayo 2020-abril 2021*, http://www.sepsa.go.cr/docs/2021-008-Informe_Gestion_SectorAgro_2020-2021.pdf. [2
1
3]
- Government of Costa Rica (2021), *Ley General de Contratación Pública*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=94469&nValor3=125786¶m2=1&strTipM=TC&Resultado=3&strSim=simp. [2
7
6]
- Government of Costa Rica (2021), *Press release: Fiscalía anticorrupción investiga a presunto grupo que obtenía beneficios indebidos en procesos de contratación pública*, <https://ministeriopublico.poder-judicial.go.cr/index.php/medios-informativos/noticias-judiciales/2021/fiscalia-anticorrupcion-investiga-a-presunto-grupo-que-obtenia-beneficios-indebidos-en-procesos-de-contratacion-de-obra-publica>. [2
5
9]
- Government of Costa Rica (2021), *Press release: Más de 5 mil denuncias por delitos ambientales en 2020*, <https://www.presidencia.go.cr/comunicados/2021/01/mas-de-5-mil-denuncias-por-delitos-ambientales-en-2020/>. [2
0
4]
- Government of Costa Rica (2021), *Press release: Ministerio de Justicia y Paz en el Grupo de Trabajo sobre Soborno en las Transacciones Comerciales Internacionales de la OCDE*, <http://www.mjp.go.cr/Cohecho/Cohecho>. [2
5
5]
- Government of Costa Rica (2021), *Press release: Territorio indígena de Abrojo Montezuma cuenta con instancia para que su voz sea escuchada*, <http://www.mjp.go.cr/Comunicacion/Nota?nom=Territorio-indigena-de-Abrojo-Montezuma-cuenta-con-instancia-para-que-su-voz-sea-escuchada>. [1
1
6]
- Government of Costa Rica (2021), *Programa País Carbono Neutralidad de Costa Rica*, <https://cambioclimatico.go.cr/wp-content/uploads/2021/05/PPCN%20Folleto%20general.pdf? t=1618521827>. [2
2
1]

- Government of Costa Rica (2021), *Proyecto de ley “Reforma de leyes en materia de anticorrupción para atender recomendaciones del Grupo de Trabajo sobre el soborno en las transacciones comerciales internacionales de la Organización para la Cooperación y el Desarrollo Económicos”*,
http://www.asamblea.go.cr/Centro_de_informacion/Consultas_SIL/SitePages/ConsultaProyecto.s.aspx. [2
4
8]
- Government of Costa Rica (2021), *Reporte agregado sobre el conjunto de empresas estatales 2020*, <https://documentos.mideplan.go.cr/share/s/y9V6VliyR3SnaeUYTMFkhA>. [2
9
9]
- Government of Costa Rica (2021), *Uso del Sistema Integrado de Compras Públicas (SICOP) en la instituciones públicas*,
https://cgrfiles.cgr.go.cr/publico/docs_cgr/2021/SIGYD_D/SIGYD_D_2021019953.pdf. [2
9
2]
- Government of Costa Rica (2021), *Website: Estadísticas*, <https://salaconstitucional.poder-judicial.go.cr/index.php/estadisticasv1>. [4
8
6]
- Government of Costa Rica (2021), *Website: Marco Legal*,
<https://www.mtss.go.cr/elministerio/marco-legal/marco-legal.html>. [1
3
0]
- Government of Costa Rica (2021), *Website: Tratados*, <https://www.comex.go.cr/tratados/>. [3
6
9]
- Government of Costa Rica (2021), *Website: Visión y misión del Ministerio de Trabajo y Seguridad Social*, <https://www.mtss.go.cr/elministerio/>. [5
0
6]
- Government of Costa Rica (2020), *Press release: Costa Rica suma sexto año consecutivo con más de 98% de generación eléctrica renovable*,
<https://www.presidencia.go.cr/comunicados/2020/12/costa-rica-suma-sexto-ano-consecutivo-con-mas-de-98-de-generacion-electrica-renovable/>. [4
3
6]
- Government of Costa Rica (2020), *Encuesta Nacional de Prevención de la Corrupción 2020*,
<https://cgrfiles.cgr.go.cr/publico/docsweb/enpc-2020/>. [2
3
6]
- Government of Costa Rica (2020), *Expediente Nro. 21.245 - Aprobación del Acuerdo Regional sobre el acceso a la información, la participación pública y el acceso a la justicia en asuntos ambientales en América Latina y el Caribe - Informe unánime*,
http://www.asamblea.go.cr/gjcp/prov_actas/DICT%2021245.pdf. [4
8
7]
- Government of Costa Rica (2020), *Índice de Gestión Institucional*, <https://www.cgr.go.cr/03-documentos/publicaciones/igi.html>. [4
7
8]
- Government of Costa Rica (2020), *Ley Nro. 9849 que reconoce y garantiza el derecho humano de acceso al agua, reforma la Constitución Política*,
https://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=91812&nValor3=121262&strTipM=TC. [1
8
4]
- Government of Costa Rica (2020), *Press release: Inicia proceso de consulta para la elaboración de la Política Pública para Pueblos Indígenas*,
<https://www.presidencia.go.cr/comunicados/2020/08/inicia-proceso-de-consulta-para-la-elaboracion-de-la-politica-publica-para-pueblos-indigenas/>. [1
1
8]
- Government of Costa Rica (2020), *Press release: País lanza su Sistema de Monitoreo de Recomendaciones en Derechos Humanos, SIMORE PLUS Costa Rica*, [8
7]

- <https://www.rree.go.cr/?sec=servicios&cat=prensa&cont=593&id=5795>.
- Government of Costa Rica (2020), *Reglamento al Título II de la Ley Nro. 9699 - Responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos, denominado "Modelo facultativo de organización, prevención de delitos, gestión y control"*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=92268&nValor3=122111&strTipM=TC. [2
6
2]
- Government of Costa Rica (2020), *Sistema Integrado de Trámite y Atención de Denuncias Ambientales - Estadísticas 2020*, https://contraloriaambiental.go.cr/doc/_doc_1612801257.pdf. [2
0
5]
- Government of Costa Rica (2020), *Tercer Informe: Estado de la Justicia*, https://estadonacion.or.cr/wp-content/uploads/2020/06/PEN_Estado_Justicia-2020-Completo.pdf. [9
7]
- Government of Costa Rica (2019), *Ley Nro. 9677 para la protección de la igualdad salarial entre mujeres y hombres*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=88805&nValor3=116282&strTipM=TC. [1
4
6]
- Government of Costa Rica (2019), *Acuerdo-006-2019-MINAE - Programa Nacional de Etiquetado Ambiental y de Eficiencia Energética de Costa Rica y creación del Comité Técnico de Etiquetado Ambiental y Energético*, https://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=88738&nValor3=116147&strTipM=TC. [1
9
8]
- Government of Costa Rica (2019), *Circular administrativa 13-ADM*, <https://ministeriopublico.poder-judicial.go.cr/index.php/circulares-administrativas/category/76-ano-2019?download=1047:13-adm-2019>. [4
8
8]
- Government of Costa Rica (2019), *Informe nacional presentado con arreglo al párrafo 5 del anexo de la Resolución 16/21 del Consejo de Derechos Humanos - Costa Rica*, https://digitallibrary.un.org/record/3799075/files/A_HRC_WG-6_33_CRI_1-ES.pdf. [8
1]
- Government of Costa Rica (2019), *Ley Nro. 9699 sobre la responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=88954&nValor3=116544&strTipM=TC. [2
5
0]
- Government of Costa Rica (2019), *Ley General de Contratación Pública*, <http://proyectos.conare.ac.cr/asamblea/21546.htm>. [2
7
8]
- Government of Costa Rica (2019), *Ley Nro. 9710 Protección del desarrollo a la nacionalidad costarricense de la persona indígena transfronteriza y garantía de integración de la persona indígena transfronteriza*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=89811&nValor3=118002¶m2=1&strTipM=TC&Resultado=4&strSim=simp. [5
1
8]
- Government of Costa Rica (2019), *Ley Nro. 9738 para regular el teletrabajo*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=89753. [1
3
1]
- Government of Costa Rica (2019), *Plan Nacional de Desarrollo*, <https://www.mideplan.go.cr/plan-> [4]

- [nacional-desarrollo](#). 5]
- Government of Costa Rica (2019), *Press release: Canciller de Costa Rica llama a respetar y fortalecer la autonomía e independencia de la Comisión y de la Corte Interamericana de Derechos Humanos*, <https://www.rree.go.cr/?sec=servicios&cat=prensa&cont=593&id=4804>. [7
9]
- Government of Costa Rica (2019), *Press release: Oficializan el Programa Nacional de Etiquetado Ambiental y Energético*, <http://www.digeca.go.cr/noticias/oficializan-el-programa-nacional-de-etiquetado-ambiental-y-energetico>. [1
9
7]
- Government of Costa Rica (2019), *Protocolo de entendimiento de las relaciones entre el Estado y las empresas propiedad del Estado*, <https://documentos.mideplan.go.cr/share/s/pdA9jT8rSZKqMqWruw86jw>. [3
0
7]
- Government of Costa Rica (2019), *Reforma Nro. 41578-MINAE que declara moratoria nacional para la explotación petrolera*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=89204&nValor3=117001&strTipM=TC. [2
1
9]
- Government of Costa Rica (2019), *Resumen del sexto informe nacional al Convenio de Diversidad Biológica de Costa Rica*, <https://www.cbd.int/doc/nr/nr-06/cr-nr-06-p2-es.pdf>. [1
6
6]
- Government of Costa Rica (2018), *Decreto Nro. 40970-COMEX-MEIC - Establecimiento del Punto Nacional de Contacto para las Líneas Directrices sobre Conducta Empresarial Responsable*, <https://www.comex.go.cr/media/6362/decreto-ejecutivo-no-40970-comex-meic.pdf>. [7
1]
- Government of Costa Rica (2018), *Directriz Nro. 102-MP - Política general sobre transparencia y divulgación de información financiera y no financiera para empresas propiedad del Estado, sus subsidiarias e instituciones autónomas*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=86375&nValor3=112048&strTipM=TC. [3
1
1]
- Government of Costa Rica (2018), *Estándar del Certificado para la Sostenibilidad Turística*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=86355&nValor3=112013¶m2=1&strTipM=TC&lResultado=2&strSim=simp. [1
9
9]
- Government of Costa Rica (2018), *Guía Nacional de Informes y Reportes de Responsabilidad Social*, <https://docplayer.es/89363904-Guia-nacional-de-informes-y-reportes-de-responsabilidad-social.html>. [4
8]
- Government of Costa Rica (2018), *Invitación a la sociedad civil 2018 a integrar el Ente Permanente de Consulta de la Comisión Interinstitucional para el seguimiento e implementación de las obligaciones internacionales de Derechos Humanos*, <https://www.rree.go.cr/?sec=exterior&cat=ciiddhh>. [8
8]
- Government of Costa Rica (2018), *Ley Nro. 40932-MP-MJP - Mecanismo General de Consulta a Pueblos Indígenas*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=86267&nValor3=111809&strTipM=TC. [1
1
5]
- Government of Costa Rica (2018), *Ley Nro. 9593 Acceso a la justicia de los pueblos indígenas de Costa Rica*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1= [5
1
7]

- [NRTC&nValor1=1&nValor2=87319&nValor3=113704&strTipM=TC.](#)
- Government of Costa Rica (2018), *National Decarbonisation Plan 2018-2050*, [4
9]
<https://unfccc.int/sites/default/files/resource/NationalDecarbonizationPlan.pdf>.
- Government of Costa Rica (2018), *Plan de Incentivos para la Responsabilidad Social en Costa Rica*, [4
6]
<https://docplayer.es/82488194-Plan-de-incentivos-para-la-responsabilidad-social-en-costa-rica-en-apoyo-a-la-implementacion-de-la.html>.
- Government of Costa Rica (2018), *Política Nacional Nro. 41032-PLAN-MINAE-RE de producción y consumo sostenible 2018-2030*, [1
9
5]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=86392&nValor3=112071&strTipM=TC.
- Government of Costa Rica (2018), *Política Nacional Nro. 41091-MINAE de adaptación al cambio climático*, [2
2
3]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=86580.
- Government of Costa Rica (2018), *Press release: Consejo Asesor de Responsabilidad Social Refuerza Acciones*, [7
0]
<https://www.presidencia.go.cr/comunicados/2018/04/consejo-asesor-de-responsabilidad-social-refuerza-acciones/>.
- Government of Costa Rica (2018), *Reglamento Nro. 41415-MINAE-M CJ-MEIC-TUR del Programa de Sostenibilidad Turística*, [2
0
1]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=87739&nValor3=114437&strTipM=TC.
- Government of Costa Rica (2017), *Costa Rica: A Shared Vision of Sustainability - Voluntary National Review of the Sustainable Development Goals*, [4
3
7]
http://ods.cr/sites/default/files/documentos/informepaisods_costa_rica-ingles.pdf.
- Government of Costa Rica (2017), *Decreto Ejecutivo Nro. 40.696 MP que crea la Unidad asesora para la dirección y coordinación de la propiedad accionaria del Estado y de la gestión de las instituciones autónomas*, [3
1
0]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=85122&nValor3=109955&strTipM=TC.
- Government of Costa Rica (2017), *Diagnóstico Nacional de Consumo y Producción Sostenibles - Documento de Análisis*, [1
9
6]
http://www.digeca.go.cr/sites/default/files/documentos/diagnostico_sobre_produccion_y_consumo_sostenibles.pdf.
- Government of Costa Rica (2017), *Plan Nacional de Integración Costa Rica 2018-2022*, [1
6
0]
<https://www.migracion.go.cr/Documentos%20compartidos/DIDH/Plan%20Nacional%20de%20Integraci%C3%B3n%20Costa%20Rica%202018%20-%202022.pdf>.
- Government of Costa Rica (2017), *Política Nacional de Responsabilidad Social de Costa Rica 2017-2030*, [4
7]
https://www.responsabilidadsocial.cr/wp-content/uploads/2018/04/PN_ResponsaSocialCR181217.pdf.
- Government of Costa Rica (2017), *Press release: Gobierno presenta Política Nacional de Responsabilidad Social de Costa Rica*, [4
3]
<https://www.presidencia.go.cr/comunicados/2017/06/gobierno-presenta-politica-nacional-de->

- [responsabilidad-social-de-costa-rica/](#).
- Government of Costa Rica (2017), *Website: Sobre Conamaj*, [9
2]
<https://www.conamaj.go.cr/index.php/sobre>.
- Government of Costa Rica (2016), *Decreto Nro. 9343 - Reforma Procesal Laboral*, [5
1
3]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=80985&nValor3=103105¶m2=1&strTipM=TC&Resultado=5&strSim=simp.
- Government of Costa Rica (2016), *Estrategia Nacional de Biodiversidad 2016 – 2025*, [1
6
5]
https://www.enbcr.go.cr/sites/default/files/estrategia_nacional_biodiversidad_2017.pdf.
- Government of Costa Rica (2015), *Normativa técnica para la aplicación de criterios sustentables en las compras públicas y guía para su implementación - Ley Nro. 8839 de Gestión Integral de Residuos (Artículo 29 de la Ley y 44 de su Reglamento General)*, [2
8
7]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=79235&nValor3=100245&strTipM=TC.
- Government of Costa Rica (2015), *Política institucional para el acceso a la justicia de personas afrodescendientes del Poder Judicial y su Plan de Acción*, [4
7
4]
https://observatoriodegenero.poderjudicial.go.cr/images/Acciones/Documentos/politica-institucional_afro.pdf.
- Government of Costa Rica (2015), *Política Nacional de Compras Públicas Sustentables y creación del Comité Directivo Nacional de Compras Sustentables*, [2
8
1]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=80785&nValor3=102645&strTipM=TC#:~:text=Se%20promulga%20la%20Pol%C3%ADtica%20Nacional,en%20la%20planificaci%C3%B3n%20de%20cada.
- Government of Costa Rica (2015), *Protocolo de atención inmediata a personas menores de edad, víctimas y testigos en sede penal*, [5
0
7]
<https://casacionpenaljuvenil.poderjudicial.go.cr/index.php/2015-04-29-21-13-36/protocolo-de-atencion-inmediata-a-personas-menores-de-edad-victimas-y-testigos-en-sede-penal>.
- Government of Costa Rica (2014), *Guía de criterios sociales en los procesos de contratación pública en Costa Rica*, [2
9
0]
<https://osum.ucr.ac.cr/wp-content/uploads/2022/08/Guia-de-criterios-sociales-CEGESTI.pdf>.
- Government of Costa Rica (2013), *Decreto Nro. 38099-G - Política migratoria integral para Costa Rica*, [1
6
4]
<https://www.migracion.go.cr/Documentos%20compartidos/PoliticasyPolitica%20Migratoria%20y%20Decreto.pdf>.
- Government of Costa Rica (2013), *Manual de procedimientos legales de la inspección de trabajo*, [1
3
9]
http://www.mtss.go.cr/elministerio/estructura/direccion-nacional-inspeccion/manual_procedimientos_inspeccion.pdf.
- Government of Costa Rica (2011), *Decreto Ejecutivo Nro. 36481 - MINAET-S que regula el Programa Bandera Azul Ecológica (PBAE)*, [2
2
5]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=70055&nValor3=97102¶m2=1&strTipM=TC&Resultado=4&strSim=simp.
- Government of Costa Rica (2011), *Decreto Ejecutivo Nro. 36776-RE que crea la Comisión* [8]

- Interinstitucional para el Seguimiento e Implementación de las Obligaciones Internacionales de Derechos Humanos, el comité asesor y el ente permanente de consulta,* 5]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=71193&nValor3=86331&strTipM=TC.
- Government of Costa Rica (2011), *Protocolo sobre la verificación del efectivo cumplimiento de las órdenes judiciales de reinstalación de trabajadores por acción judicial interpuesta por la Dirección Nacional de Inspección del Trabajo,* [3
7
2]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=70197&nValor3=84634&strTipM=TC.
- Government of Costa Rica (2011), *Territorios Indígenas - principales indicadores demográficos y socioeconómicos,* [1
0
2]
<https://admin.inec.cr/sites/default/files/media/replaccenso2011-02.pdf> 6.pdf.
- Government of Costa Rica (2010), *Circular 03-PPP-2010 de la Fiscalía General de la República,* [2
5
8]
<https://ministeriopublico.poder-judicial.go.cr/index.php/circulares-administrativas/category/193-politicas-de-persecucion-penal>.
- Government of Costa Rica (2010), *Decreto Nro. 36344 - MEIC-MTSS-PLAN que declara de Interés Nacional la labor del Consejo Consultivo Nacional de Responsabilidad Social,* [5
1]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_articulo.aspx?nValor1=1&nValor2=69521&nValor3=83540&nValor5=2.
- Government of Costa Rica (2010), *Ley para la Gestión Integral de Residuos,* [2
8
2]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=68300&nValor3=127501¶m2=1&strTipM=TC&IResultado=4&rSim=simp.
- Government of Costa Rica (2010), *Política institucional para el acceso a la justicia por parte de la población migrante y refugiada,* [4
7
3]
<https://www.conamaj.go.cr/images/libros/pdf/032.pdf>.
- Government of Costa Rica (2009), *Circular Nro. 10-09 reglas prácticas para facilitar el acceso a la justicia de las Poblaciones Indígenas,* [5
2
1]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=64886&nValor3=79266&strTipM=TC.
- Government of Costa Rica (2009), *Ley Nro. 8720 de protección a víctimas, testigos y demás sujetos intervinientes en el proceso penal, reformas y adición al Código Procesal Penal y al Código Penal,* [2
6
7]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=65274#:-:text=El%20objeto%20de%20este%20t%C3%ADtulo,protecci%C3%B3n%20extraprocesales%20y%20su%20procedimiento.
- Government of Costa Rica (2009), *Ley Nro. 8764 General de Migración y Extranjería,* [1
6
3]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=66139&nValor3=126840¶m2=1&strTipM=TC&IResultado=9&rSim=simp.
- Government of Costa Rica (2008), *Decreto Ejecutivo Nro. 34548 que crea la categoría Nro. 6 del Programa Bandera Azul Ecológica denominada “Acciones para enfrentar el cambio climático”,* [2
2
6]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=63358&nValor3=72752¶m2=1&strTipM=TC&IResultado=7&str

[Sim=simp.](#)

- Government of Costa Rica (2008), *Decreto Ejecutivo Nro. 34757 - MTSS-COMEX sobre la implementación del Capítulo 16 laboral del Tratado de Libre Comercio República Dominicana-Centroamérica-Estados Unidos*, [3
7
4]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=64013&nValor3=73995&strTipM=TC.
- Government of Costa Rica (2008), *Manual para la implementación de Compras Verdes en el sector público de Costa Rica*, [2
8
9]
<https://minae.go.cr/images/Auditoria/Manual-para-la-implementacin-de-compras-verdes.pdf>.
- Government of Costa Rica (2007), *Reglamento Nro. 34136 de procedimiento del Tribunal Ambiental Administrativo*, [2
0
7]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=62353.
- Government of Costa Rica (2006), *Reglamento a la Ley de Contratación Pública*, [2
8
5]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=58314.
- Government of Costa Rica (2004), *Expediente Nro. 18.348 de reforma parcial y adición a la Ley contra la corrupción y el enriquecimiento ilícito en la función pública*, [2
6
8]
<http://proyectos.conare.ac.cr/asamblea/18348.pdf>.
- Government of Costa Rica (2004), *Ley Nro. 8442 contra la corrupción y el enriquecimiento ilícito en la función pública*, [2
4
9]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=53738.
- Government of Costa Rica (2004), *Reglamento General Nro. 31849 - MINAE-S-MOPT-MAG-MEIC sobre los procedimientos de evaluación de impacto ambiental*, [1
8
6]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=53029&nValor3=125611¶m2=3&strTipM=TC&Resultado=21&strSim=simp.
- Government of Costa Rica (2002), *Ley Nro. 8242 de creación de la Procuraduría de la Ética Pública*, [2
5
7]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=48361&nValor3=51513.
- Government of Costa Rica (1998), *Ley de Biodiversidad*, [1
9
1]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=39796&nValor3=129485¶m2=1&strTipM=TC&Resultado=6&strSim=simp.
- Government of Costa Rica (1998), *Ley Nro. 7739 de Código de la Niñez y la Adolescencia*, [4
3
9]
<http://extwprlegs1.fao.org/docs/pdf/cos191129.pdf>.
- Government of Costa Rica (1996), *Ley de igualdad de oportunidades para las personas con discapacidad*, [4
7
0]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=23261.

- Government of Costa Rica (1996), *Ley Forestal*, [1
9
0]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=41661&nValor3=131992¶m2=1&strTipM=TC&Resultado=10&strSim=simp.
- Government of Costa Rica (1995), *Ley de Contratación Administrativa*, [2
7
5]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=24284&nValor3=129096¶m2=1&strTipM=TC&Resultado=10&strSim=simp.
- Government of Costa Rica (1995), *Ley Orgánica Nro. 7554 del Ambiente*, [1
8
5]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=27738&nValor3=116998¶m2=1&strTipM=TC&Resultado=5&strSim=simp.
- Government of Costa Rica (1994), *Ley de regulación del uso racional de la energía*, [1
9
3]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=24436&nValor3=94042¶m2=1&strTipM=TC&Resultado=9&strSim=simp#ddown.
- Government of Costa Rica (1994), *Ley Orgánica Nro. 7428 de la Contraloría General de la República*, [2
6
0]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=21629.
- Government of Costa Rica (1992), *Ley de la Defensoría de los Habitantes de la República*, [4
4
1]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=11296&nValor3=114402¶m2=1&strTipM=TC&Resultado=3&strSim=simp.
- Government of Costa Rica (1992), *Ley Nro. 7317 de conservación de la vida silvestre*, [1
8
9]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=12648&nValor3=122136¶m2=1&strTipM=TC&Resultado=8&strSim=simp.
- Government of Costa Rica (1992), *Reglamento de la Ley de la Defensoría de los Habitantes de la República*, [5
1
5]
https://www.dhr.go.cr/la_defensoria/capitulos_reglamento/01%20titulo_primero.pdf.
- Government of Costa Rica (1990), *Ley Nro. 7142 de promoción de la igualdad social de la mujer*, [1
4
5]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=10806&nValor3=116291¶m2=1&strTipM=TC&Resultado=1&strSim=simp.
- Government of Costa Rica (1989), *Ley Nro. 7135 de la Jurisdicción Constitucional*, [4
7
2]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=38533&nValor3=127124¶m2=1&strTipM=TC&Resultado=4&strSim=simp.
- Government of Costa Rica (1982), *Ley Orgánica del Ministerio de Justicia y Paz*, [4
4
2]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=31552&nValor3=0&strTipM=TC.
- Government of Costa Rica (1982), *Reforma al Código de Trabajo (Ley sobre riesgos del trabajo)*, [2
8

- http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=190&nValor3=200¶m2=1&strTipM=TC&IResultado=1&strSim=simp. 3]
- Government of Costa Rica (1977), *Ley Indígena*, [1
0
3]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=38110&nValor3=0&strTipM=TC.
- Government of Costa Rica (1974), *Ley de Desarrollo Social y Asignaciones Familiares*, [2
9
1]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=2687.
- Government of Costa Rica (1973), *Ley General de Salud*, [1
8
8]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=6581&nValor3=130900&strTipM=TC.
- Government of Costa Rica (1970), *Código Penal*, [4
7
7]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=5027&nValor3=5321&strTipM=TC.
- Government of Costa Rica (1960), *Ley que prohíbe toda clase de discriminación en materia laboral*, [4
7
5]
http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm_texto_completo.aspx?param2=1&nValor1=1&nValor2=13488&IResultado=2&strSelect=sel.
- Government of Costa Rica (1955), *Ley Orgánica del Ministerio de Trabajo y Seguridad Social*, [4
7
6]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=566&nValor3=609¶m2=1&strTipM=TC&IResultado=3&strSim=simp.
- Government of Costa Rica (1949), *Constitución Política de la República de Costa Rica*, [8
0]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=871&nValor3=0&strTipM=TC.
- Government of Costa Rica (1943), *Código del Trabajo*, [1
4
7]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=8045&nValor3=130678&strTipM=TC.
- Government of Costa Rica (1943), *Ley Constitutiva de la Caja Costarricense de Seguro Social*, [2
8
4]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=2340&nValor3=127333¶m2=1&strTipM=TC&IResultado=2&strSim=simp.
- Government of Costa Rica (1937), *Ley Nro. 8 Orgánica del Poder Judicial*, [4
3
5]
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param2=NRTC&nValor1=1&nValor2=33635.
- Government of Costa Rica (n.d.), *Acciones institucionales del Ministerio de Justicia y Paz para la implementación de la Convención Interamericana contra la Corrupción*, [2
6
3]
http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_cr_anex16.pdf.
- Government of Costa Rica (n.d.), *Canales de Denuncia*, <https://sitiooj.poder-judicial.go.cr/index.php/apertura/participacion/codiseno-politicas/caja-de-herramientas-contrala-corrupcion/denunciar-actos-de-corrupcion>. [4
3
3]

Government of Costa Rica (n.d.), <i>Contribución Nacionalmente Determinada 2020</i> , https://unfccc.int/sites/default/files/NDC/2022-06/Contribucio%CC%81n%20Nacionalmente%20Determinada%20de%20Costa%20Rica%2020%20-%20Versio%CC%81n%20Completa.pdf .	[2 1 8]
Government of Costa Rica (n.d.), <i>DIGECA - Compras Públicas Sostenibles</i> , http://www.digeca.go.cr/areas/compras-publicas-sostenibles .	[2 7 3]
Government of Costa Rica (n.d.), <i>DIGECA - Preguntas y respuestas sobre las compras públicas sostenibles</i> , http://www.digeca.go.cr/preguntas-y-respuestas-sobre-las-compras-publicas-sostenibles .	[2 7 4]
Government of Costa Rica (n.d.), <i>Fiscalía Adjunta de Probidad, Transparencia y Anticorrupción - Boletín Anticorrupción Nro. 4</i> , https://ministeriopublico.poder-judicial.go.cr/index.php/boletines-jurisprudenciales/category/197-fiscalia-adjunta-de-probidad-transparencia-y-anticorrupcion?download=1757:boletin-informativo-4 .	[4 8 9]
Government of Costa Rica (n.d.), <i>Informe de Labores 2021 del Punto Nacional de Contacto para las Líneas directrices de la OCDE sobre conducta empresarial responsable</i> , https://www.comex.go.cr/media/9136/22-01-12_documento-interno_informe-labores-2021-vf.pdf .	[7 7]
Government of Costa Rica (n.d.), <i>Ley General Nro. 7735 de protección a la madre adolescente</i> , https://siteal.iiep.unesco.org/sites/default/files/sit_accion_files/6337.pdf .	[4 4 0]
Government of Costa Rica (n.d.), <i>Manual operativo del piloto nacional de NAMA ganadería</i> , http://www.mag.go.cr/bibliotecavirtual/L01-10878.pdf .	[2 2 9]
Government of Costa Rica (n.d.), <i>Política de Comercio Exterior e Inversión de Costa Rica</i> , https://www.comex.go.cr/media/7653/anexo-1-dm-pol-cei-pol%C3%ADtica-de-comercio-exterior-e-inversi%C3%B3n-de-costa-rica.pdf .	[3 4 7]
Government of Costa Rica (n.d.), <i>Preguntas frecuentes sobre la Red Interinstitucional de Transparencia</i> , http://www.dhr.go.cr/red_de_transparencia/preguntas_frecuentes_rit.aspx .	[2 6 1]
Government of Costa Rica (n.d.), <i>Press release: Hacienda pone a disposición de la ciudadanía Observatorio de Compra Pública</i> , https://www.presidencia.go.cr/comunicados/2021/09/hacienda-pone-a-disposicion-de-la-ciudadania-observatorio-de-compra-publica/ .	[2 8 6]
Government of Costa Rica (n.d.), <i>Reforma Procesal Laboral - Instructivo de Prensa</i> , https://www.mtss.go.cr/elministerio/despacho/rpl/INSTRUCTIVO%20PRENSA%20REFORMA%20PROCESAL%20LABORAL%202.pdf .	[1 3 2]
Government of Costa Rica (n.d.), <i>Reglamento a la Ley de Biodiversidad Nro. 34433</i> , http://www.mag.go.cr/legislacion/2008/de-34433.pdf .	[4 3 8]
Government of Costa Rica (n.d.), <i>Reglamento para el uso de la Marca País Costa Rica PRO-NOR-044</i> , https://www.esencialcostarica.com/wp-content/uploads/2020/06/PRO-NOR-044-Reglamento-para-el-uso-de-la-Marca-Pa%C3%ADs-Costa-Rica.pdf .	[3 5 3]
Government of Costa Rica (n.d.), <i>Reporte agregado sobre el conjunto de empresas propiedad del Estado 2021</i> , https://www.hacienda.go.cr/Documentos/MasDetalles/DocumentosVarios/Reporte%20Agregado/Reporte%20Agregado%202021%20F.pdf .	[3 1 2]

Government of Costa Rica (n.d.), <i>Sello de Igualdad de Género</i> , https://www.inamu.go.cr/sello-de-igualdad-de-genero#:~:text=%C2%BFQu%C3%A9%20es%20el%20Sello%20de%20empleo%20y%20de%20desarrollo%20nacional.	[4 3 1]
Government of Costa Rica (n.d.), <i>Tailored Capacity Building Roadmap: NCP of Costa Rica</i> , https://www.comex.go.cr/media/8111/roadmap_ncp_cr.pdf .	[7 3]
Government of Costa Rica (n.d.), <i>Video: “Diputados aprueban nueva norma en materia de contratación pública”</i> , https://www.youtube.com/watch?v=X_ecslPvdBU .	[2 7 7]
Government of Costa Rica (n.d.), <i>Website: Certificación para la Sostenibilidad Turística</i> , https://cst.turismo-sostenible.co.cr/ .	[2 0 0]
Government of Costa Rica (n.d.), <i>Website: Certificación TICO- BPA en Buenas Prácticas Agrícolas</i> , http://www.sfe.go.cr/SitePages/Residuosdeagroquimicos/Certificacion-Voluntaria-BPA.aspx .	[2 1 4]
Government of Costa Rica (n.d.), <i>Website: Comisión Interinstitucional de Derechos Humanos</i> , https://ocri.poder-judicial.go.cr/areas-de-trabajo/derecho-internacional/comision-interinstitucional-de-derechos-humanos .	[8 4]
Government of Costa Rica (n.d.), <i>Website: Funciones y competencias de la Sala Constitucional de la Corte Suprema de Justicia</i> , https://salaconstitucional.poder-judicial.go.cr/index.php/funciones-y-competencias .	[9 0]
Government of Costa Rica (n.d.), <i>Website: Instrumentos jurídicos</i> , https://www.rree.go.cr/?sec=exterior&cat=convenios&cont=578 .	[1 8 1]
Government of Costa Rica (n.d.), <i>Website: Procesos de contratación</i> , https://www.cgr.go.cr/01-cgr-transp/procesos-contrat.html .	[5 0 8]
Government of Costa Rica (n.d.), <i>Website: Procuraduría de la Ética Pública</i> , https://www.pgr.go.cr/servicios/procuraduria-de-la-etica-publica-pep/ .	[2 5 6]
Government of Costa Rica (n.d.), <i>Website: Programa País Carbono Neutralidad - ¿Quiénes forman parte?</i> , https://cambioclimatico.go.cr/programa-pais-carbono-neutralidad/quienes-forman-parte/ .	[2 2 2]
Government of Costa Rica (n.d.), <i>Website: Punto Nacional de Contacto Costa Rica</i> , https://www.comex.go.cr/punto-nacional-de-contacto .	[7 5]
Government of Costa Rica (n.d.), <i>Website: Sistema Integrado de Trámite y Atención de Denuncias Ambientales (SITADA)</i> , http://www.sitada.go.cr/denunciasPublico/ .	[2 0 3]
Government of Costa Rica (n.d.), <i>Website: SITADA - Tipo de ingreso con más denuncias registradas</i> , http://www.sitada.go.cr/denunciasPublico/graf_tipodelito.aspx .	[2 0 6]
Government of Costa Rica (n.d.), <i>Website: Proceso de cocreación de la Estrategia Nacional de Integridad y Prevención de la Corrupción 2021-2030</i> , http://www.enipc.co.cr/conozcanos/proceso-de-cocreacion/ .	[2 5 2]
Government of Costa Rica/UNDP (2022), <i>Fortalecimiento de las condiciones laborales en las organizaciones públicas y privadas mediante la inclusión de la igualdad de género</i> , https://www.undp.org/es/costa-rica/publicaciones/resultados-en-sello-de-igualdad-de-genero-2016-2019 .	[1 5 2]

- Government of Morocco (2020), *Website: Seminar on “The Due Diligence in the Garment and Footwear Sector”*, <https://pcnmaroc.ma/en/ncp-news/seminar-on-the-due-diligence-in-the-garment-and-footwear-sector-on-february-26th-2020/>. [3
9
0]
- Government of Morocco (n.d.), *Website: Secteurs - Textile*, <http://www.mcinet.gov.ma/en/content/textile>. [4
8
2]
- Government of Norway (2019), *2019-2020 Report to the Storting – The State’s direct ownership of companies – Sustainable value creation*, <https://www.regjeringen.no/contentassets/44ee372146f44a3eb70fc0872a5e395c/en-gb/pdfs/stm201920200008000engpdfs.pdf>. [3
4
2]
- Government of Norway (n.d.), *Website: RBC Compass - A useful tool*, <https://www.responsiblebusiness.no/news/the-rbc-compass-new-tool/>. [3
9
1]
- Government of the Netherlands (2020), *Corporate Social Responsibility*, <https://business.gov.nl/regulation/corporate-social-responsibility/>. [3
5
5]
- Government of the Netherlands (2019), *Final Statement - Oxfam Novib, Greenpeace Netherlands, BankTrack and Friends of the Earth Netherlands (Milieudefensie) versus ING*, <https://www.oecdguidelines.nl/binaries/oecd-guidelines/documenten/publication/2019/04/19/ncp-final-statement-4-ngos-vs-ing/20190419+NGOs+vs+ING+-+FS+%28WCAG%29.pdf>. [3
9
3]
- Government of the United Kingdom (n.d.), *Website: UK National Contact Point - About us*, <https://www.gov.uk/government/organisations/uk-national-contact-point/about>. [3
8
9]
- Government of the United States (2020), “The Responsible Sourcing Tool”, <https://www.responsiblesourcingtool.org/visualizerisk>. [2
9
4]
- Grupo ICE (2021), *Memoria Anual 2021*, <https://www.grupoice.com/wps/wcm/connect/19487b17-e008-4c6a-afe3-b5d8015bbbbee/Memoria+ICE+2021.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE-19487b17-e008-4c6a-afe3-b5d8015bbbbee-o2rGBW>. [3
0
2]
- Grupo ICE (2019), *Política Corporativa de Derechos Humanos del Grupo ICE*, https://www.grupoice.com/wps/wcm/connect/11bfa296-f3d5-4c5f-b83c-8f6b92248a66/Politica_Derechos_Humanos.pdf?MOD=AJPERES&CVID=mKZds.o. [3
1
4]
- Grupo ICE (2016), *Declaratoria Espacio Libre de Discriminación*, <https://www.grupoice.com/wps/wcm/connect/5d72844a-5f50-43f8-b3d7-af71703fc765/GrupoICE+Declaratoria+espacio+libre+de+discriminaci%C3%B3n.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE-5d72844a-5f50-43f8-b3d7-af71703fc765-nVETsoi>. [3
1
3]
- Grupo ICE (2005), *Declaración de Principios Éticos de ICE, CNL y RACSA*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=55407&nValor3=60715&strTipM=TC. [3
1
6]
- Grupo INS (2019), *Política de Sostenibilidad del Grupo INS*, <https://www.grupoins.com/media/8478/pol%C3%ADtica-sostenibilidad-del-grupo-ins.pdf>. [3
3
6]
- Grupo INS (n.d.), *Código de Ética Corporativo del Grupo INS*, <https://www.ins-cr.com/media/6194/codigo-de-etica-04-2021.pdf>. [3
4
0]
- Grupo INS (n.d.), *Código de Gobierno Corporativo*, <https://www.ins-> [5
1]

- [cr.com/media/2601/c%C3%B3digo-de-gobierno-corporativo-aprobado-211119.pdf](https://www.ins-cr.com/media/2601/c%C3%B3digo-de-gobierno-corporativo-aprobado-211119.pdf). 1]
- Grupo INS (n.d.), *Código de Proveedor Responsable del Grupo INS*, https://www.ins-cr.com/media/4203/c%C3%B3digo-proveedor-responsable-v2-12112020-yuliana-araya-rojas_21012021.pdf. [3
3
9]
- Grupo INS (n.d.), *Memoria Institucional 2020*, <https://www.grupoins.com/media/7529/memoria-grupo-ins-2020.pdf>. [3
0
6]
- Grupo INS (n.d.), *Política sobre Derechos Humanos en el Grupo INS*, <https://www.ins-cr.com/media/2569/pol%C3%A3ticas-sobre-los-derechos-humanos-en-el-grupoins.pdf>. [3
3
8]
- Grupo INS (n.d.), *Reporte de sostenibilidad 2021*, <https://www.grupoins.com/media/10239/reporte-de-sostenibilidad-2021.pdf>. [3
3
7]
- IACHR (2020), *Report No. 167/20 - Petition 448-12: Report on admissibility*, <http://www.oas.org/en/iachr/decisions/2020/crad448-12en.pdf>. [1
1
2]
- IACHR (2015), *Medida cautelar Nro. 321-12 Pueblo Indígena Teribe y Bribri de Salitre respecto de Costa Rica*, <https://www.oas.org/es/cidh/decisiones/pdf/2015/mc321-12-es.pdf>. [1
0
8]
- IACHR (n.d.), *Website: Basic Documents in the Inter-American System*, https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/mandate/basic_documents.asp. [5
0
9]
- ICAFE (2022), *Política de Género*, https://www.icafe.cr/icafe/politica_genero/. [2
1
6]
- IDB (2020), *Costos y beneficios de la descarbonización de la economía de Costa Rica*, <https://publications.iadb.org/publications/spanish/document/Costos-y-beneficios-de-la-descarbonizacion-de-la-economia-de-Costa-Rica-Evaluacion-del-Plan-Nacional-de-Descarbonizacion-bajo-incertidumbre-Resumen-ejecutivo.pdf>. [1
7
0]
- IEA (2022), "World energy statistics", *IEA World Energy Statistics and Balances* (database), <https://doi.org/10.1787/data-00510-en> (accessed on 14 December 2022). [1
7
9]
- IEA (2020), *Costa Rica*, <https://www.iea.org/countries/costa-rica>. [5
2
0]
- IIDH (2014), *Acceso a la justicia de los pueblos indígenas*, <https://www.iidh.ed.cr/IIDH/media/2014/acceso-a-la-justicia-completo-2006.pdf>. [9
4]
- ILO (2021), *C087 - Observation (CEACR) - Adopted: 2020, Published: 109th ILC session (2021)*, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P13100_LANG_CODE:4058138,en. [1
3
5]
- ILO (2021), *Direct Request (CEACR) - adopted 2020, published 109th ILC session (2021)*, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:4058134. [5
1
0]
- ILO (2019), *Press release: Acuerdo tripartito da inicio a Programa de Trabajo Decente 2019-2020 en Costa Rica*, https://www.ilo.org/sanjose/sala-de-prensa/WCMS_667260/lang-es/index.htm. [1
4
1]
- ILO (2017), *Observation (CEACR) - adopted 2016, published 106th ILC session (2017)*, https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO::P13100_COMMENT_ID,P13100_LANG_CODE:3301187,en:NO. [1
3
4]

- ILO (2013), *The Social Dimensions of Free Trade Agreements*, https://www.ilo.org/global/research/publications/WCMS_228965/lang--en/index.htm. [3
7
5]
- ILO (n.d.), *COVID-19 y el Mundo del Trabajo: Punto de partida, respuesta y desafíos en Costa Rica*, https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/---sro-san_jose/documents/publication/wcms_747046.pdf. [1
5
7]
- ILO (n.d.), *Ratifications of C097 - Migration for Employment Convention (Revised), 1949 (No. 97)*, https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312242. [1
6
1]
- ILO (n.d.), *Ratifications of ILO conventions: Ratifications for Costa Rica*, https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102599. [3
9]
- ILO (n.d.), *Website: Up-to-date Conventions and Protocols Not Ratified for Costa Rica*, https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:102599. [1
2
9]
- ILO/OECD/UNOHCHR (n.d.), *Responsible Business - Key messages from international instruments*, <https://mneguidelines.oecd.org/Brochure-responsible-business-key-messages-from-international-instruments.pdf>. [3
]
- IMF (2021), *Costa Rica IMF Country Report No. 2021/48*, <https://www.imf.org/en/Publications/CR/Issues/2021/03/01/Costa-Rica-2021-Article-IV-Consultation-and-Request-for-an-Extended-Arrangement-Under-the-50136>. [3
0]
- IMF (n.d.), *Website: Country Data - Costa Rica*, <https://www.imf.org/en/Countries/CRI#ataglance>. [1
5]
- INEC (2021), *ENAHO 2021. Resultados generales. Encuesta Nacional de Hogares*, <https://www.inec.cr/pobreza-y-desigualdad/pobreza-por-linea-de-ingreso>. [3
4]
- ITUC (2022), *ITUC Global Rights Index 2022*, https://files.mutualcdn.com/ituc/files/2022-ITUC-Rights-Index-Exec-Summ-EN_2022-08-10-062736.pdf. [5
6]
- ITUC (2018), *Costa Rica: Building a national strategy for the transition from the informal to the formal economy through social dialogue*, https://www.ituc-csi.org/IMG/pdf/sd_informality_costa_rica_en.pdf. [2
7]
- IWGIA (2021), *The Indigenous World 2021: Costa Rica*, <https://www.iwgia.org/en/costa-rica/4213-iw-2021-costa-rica.html>. [1
1
9]
- IWGIA (2020), *The Indigenous World 2020: Costa Rica*, <https://www.iwgia.org/en/costa-rica/3619-iw-2020-costa-rica.html>. [1
1
0]
- La Nación Costa Rica (2021), *Press release: Desempleo en Costa Rica cerró el 2020 en 20%*, <https://www.nacion.com/economia/empleo/desempleo-en-costa-rica-cerro-el-2020-en-20/TW4ASQJ5CRFLVJV5M6L3YHCDYY/story/>. [4
6
2]
- La Nación Costa Rica (2018), *Press release: ICE cancela megaproyecto hidroeléctrico El Diquís*, <https://www.nacion.com/el-pais/infraestructura/ice-cancela-megaproyecto-hidroelectrico-diquis/3CBYVBM3P5HIHHRC6EJBW3SORQ/story/>. [1
1
4]
- MAPS (n.d.), *Methodology for Assessing Procurement Systems*, [2
7]

http://www.mapsinitiative.org/methodology/ .	0]
National Consultative Council on Social Responsibility (n.d.), <i>Website: ¿Quiénes somos?</i> , https://www.responsabilidadesocial.cr/quienes-somos/ .	[5 2]
Norwegian Digitalisation Agency (2022), <i>The High Risk List</i> , https://anskaffelser.no/en/english/english/public-procurement-and-human-rights#anchorTOC The High Risk List 2 .	[2 9 3]
OAS (2021), <i>Informe final de Costa Rica bajo el mecanismo de seguimiento de la implementación de la Convención Interamericana contra la Corrupción</i> , http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_inf_cri_sp.pdf .	[2 6 4]
OAS (2021), <i>Informe regional sobre el estado de situación de las personas afrodescendientes y sobre el avance de implementación del Plan de Acción del Decenio de las y los Afrodescendientes en las Américas (2016 - 2025)</i> , http://scm.oas.org/pdfs/2021/CP43711SINFORME.pdf .	[9 6]
OAS (2019), <i>Press release: IACHR completes working visit to Costa Rica</i> , https://www.oas.org/en/iachr/media_center/PReleases/2019/138.asp .	[1 0 6]
OAS (1996), <i>Website: Inter-American Convention Against Corruption – Signatories and Ratifications</i> , http://www.oas.org/en/sla/dil/inter_american_treaties_B-58_against_Corruption_signatories.asp .	[2 3 8]
OECD (n.d.), <i>Costa Rica</i> , https://oec.world/en/profile/country/cri .	[1 9]
OECD (2022), <i>2021 Annual Report on the Activity of National Contact Points for Responsible Business Conduct</i> , https://mneguidelines.oecd.org/annual-report-on-the-activity-of-national-contact-points-for-responsible-business-conduct-2021.pdf .	[5 1 2]
OECD (2022), <i>Agricultural Policy Monitoring and Evaluation 2022: Reforming Agricultural Policies for Climate Change Mitigation</i> , OECD Publishing, Paris, https://doi.org/10.1787/7f4542bf-en .	[2 1 2]
OECD (2022), “Air and climate: Air emissions by source”, <i>OECD Environment Statistics</i> (database), https://doi.org/10.1787/data-00598-en (accessed on 14 December 2022).	[1 7 6]
OECD (2022), “Air and climate: Greenhouse gas emissions by source”, <i>OECD Environment Statistics</i> (database), https://doi.org/10.1787/data-00594-en (accessed on 14 December 2022).	[1 7 8]
OECD (2022), “Air quality and health: Exposure to PM2.5 fine particles - countries and regions”, <i>OECD Environment Statistics</i> (database), https://doi.org/10.1787/96171c76-en (accessed on 14 December 2022).	[1 7 7]
OECD (2022), “Biodiversity: Protected areas”, <i>OECD Environment Statistics</i> (database), https://doi.org/10.1787/5fa661ce-en (accessed on 14 December 2022).	[1 7 4]
OECD (2022), <i>Environment at a Glance Indicators</i> , OECD Publishing, Paris, https://doi.org/10.1787/ac4b8b89-en .	[1 7 1]
OECD (2022), <i>Guide for National Contact Points on Building and Maintaining Impartiality</i> , https://mneguidelines.oecd.org/guide-for-national-contact-points-on-building-and-maintaining-impartiality.pdf .	[7 4]
OECD (2022), “Land resources: Land cover in countries and regions”, <i>OECD Environment</i>	[1

Statistics (database), https://doi.org/10.1787/c9c5f666-en (accessed on 14 December 2022).	7 2]
OECD (2022), "Land resources: Land use", <i>OECD Environment Statistics</i> (database), https://doi.org/10.1787/8ecc9c9c-en (accessed on 14 December 2022).	[1 7 3]
OECD (2022), <i>Note by the OECD Secretariat on Costa Rica's Implementation of Corporate Governance Accession Review Recommendations</i> , https://one.oecd.org/document/DAF/CA/CG/ACS(2022)2/FINAL/en/pdf .	[3 0 9]
OECD (2022), <i>OECD Integrity Review of Costa Rica: Safeguarding Democratic Achievements</i> , OECD Public Governance Reviews, OECD Publishing, Paris, https://doi.org/10.1787/0031e3b3-en .	[2 5 4]
OECD (2022), <i>OECD Responsible Business Conduct Policy Reviews: Brazil</i> , OECD Publishing, Paris, https://mneguidelines.oecd.org/oecd-responsible-business-conduct-policy-reviews-brazil.pdf .	[2 1 0]
OECD (2022), <i>Phase 2 Two-year Follow-up Report on Implementing the OECD Anti-Bribery Convention in Costa Rica</i> , https://www.oecd.org/corruption/Costa-Rica-phase-2-follow-up-report-en.pdf .	[2 4 4]
OECD (2022), "Responsible business conduct due diligence for project and asset finance transactions", <i>OECD Business and Finance Policy Papers</i> , No. 14, OECD Publishing, Paris, https://doi.org/10.1787/952805e9-en .	[1 2]
OECD (2021), <i>Annual Report on the OECD Guidelines for Multinational Enterprises 2020: Update on National Contact Point Activity</i> , https://mneguidelines.oecd.org/2020-Annual-Report-MNE-Guidelines-EN.pdf .	[1 0 1]
OECD (2021), <i>Anti-Corruption and Integrity in State-Owned Enterprises in Latin America - A Survey of Ownership Entities in Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico, Panama and Peru</i> , https://www.oecd.org/corporate/ca/Survey-Integrity-Anti-Corruption-SOEs-Latin-America.pdf .	[3 4 4]
OECD (2021), <i>Government at a Glance 2021</i> , OECD Publishing, Paris, https://doi.org/10.1787/1c258f55-en .	[2 7 2]
OECD (2021), <i>OECD Business and Finance Outlook 2021: AI in Business and Finance</i> , OECD Publishing, Paris, https://doi.org/10.1787/26172577 .	[2 9 8]
OECD (2021), <i>OECD Business Survey Results on Responsible Business Conduct in Latin America and the Caribbean</i> , https://mneguidelines.oecd.org/oecd-business-survey-results-on-responsible-business-conduct-in-latin-america-and-the-caribbean.pdf .	[6 3]
OECD (2021), <i>OECD SME and Entrepreneurship Outlook 2021 - Costa Rica</i> , https://www.oecd.org/industry/smes/SME-Outlook-2021-Country-profiles.pdf .	[2 9]
OECD (2021), <i>Ownership and Governance of State-Owned Enterprises: A compendium of National Practices 2021</i> , https://www.oecd.org/corporate/Ownership-and-Governance-of-State-Owned-Enterprises-A-Compendium-of-National-Practices-2021.pdf .	[3 0 8]
OECD (2021), <i>Press release: OECD welcomes Costa Rica as its 38th Member</i> , https://www.oecd.org/newsroom/oecd-welcomes-costa-rica-as-its-38th-member.htm .	[4 6 3]

- OECD (2021), *Public Governance in Costa Rica*, <https://www.oecd.org/governance/costa-rica-public-governance-evaluation-accession-review.pdf>. [89]
- OECD (2021), *The Role of OECD Instruments on Responsible Business Conduct in Progressing Environmental Objectives*, <https://mneguidelines.oecd.org/The-role-of-OECD-instruments-on-responsible-business-conduct-in-progressing-environmental-objectives.pdf>. [209]
- OECD (2021), *Website: Database of specific instances*, <https://mneguidelines.oecd.org/database/>. [519]
- OECD (2020), *Corporate Governance in Costa Rica*, Corporate Governance, OECD Publishing, Paris, <https://doi.org/10.1787/b313ec37-en>. [251]
- OECD (2020), *Government at a Glance: Latin America and the Caribbean 2020*, OECD Publishing, Paris, <https://doi.org/10.1787/13130fbb-en>. [413]
- OECD (2020), *Integrating Responsible Business Conduct in Public Procurement*, OECD Publishing, Paris, <https://doi.org/10.1787/02682b01-en>. [269]
- OECD (2020), *National Contact Points for Responsible Business Conduct, Providing Access to Remedy – Twenty Years and the Road Ahead*, <http://mneguidelines.oecd.org/NCPs-for-RBC-providing-access-to-remedy-20-years-and-the-road-ahead.pdf>. [491]
- OECD (2020), *OECD Accession Review of Costa Rica in the Fields of Environment and Waste - Summary Report*, <https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=ENV/EPOC%282019%2918/FINAL&docLanguage=En>. [187]
- OECD (2020), *OECD Business and Finance Outlook 2020: Sustainable and Resilient Finance*, OECD Publishing, Paris, <https://doi.org/10.1787/eb61fd29-en>. [341]
- OECD (2020), *OECD Economic Surveys: Costa Rica 2020*, OECD Publishing, Paris, <https://doi.org/10.1787/2e0fea6c-en>. [17]
- OECD (2020), *OECD Review of International Investment Policies in Costa Rica*, <https://www.oecd.org/investment/OECD-Review-of-international-investment-in-Costa-Rica.pdf>. [72]
- OECD (2020), *Phase 2 Report on Implementing the OECD Anti-Bribery Convention in Costa Rica*, <https://www.oecd.org/corruption/anti-bribery/Costa%20Rica-Phase-2-Report-ENG.pdf>. [246]
- OECD (2020), *Press release: Costa Rica has improved its foreign bribery legislation but must strengthen enforcement and close legal loopholes*, <https://www.oecd.org/corruption/costa-rica-has-improved-its-foreign-bribery-legislation-but-must-strengthen-enforcement-and-close-legal-loopholes.htm>. [243]
- OECD (2020), *Responsible Business Conduct Country Fact Sheet - Costa Rica*, <https://mneguidelines.oecd.org/responsible-business-conduct-country-fact-sheet-costa-rica.pdf>. [22]
- OECD (2020), *SIGI 2020 Regional Report for Latin America and the Caribbean, Social Institutions and Gender Index*, OECD Publishing, Paris, <https://doi.org/10.1787/cb7d45d1-en>. [158]
- OECD (2020), *Towards a new vision for Costa Rica's Public Procurement System: Assessment of key challenges for the establishment of an action plan*, OECD Publishing, Paris, <https://www.oecd.org/governance/public-procurement/publications/Towards-a-new-vision-for-Costa-Rica's-public-procurement-system.pdf>. [280]

OECD (2019), <i>Action Plan to Strengthen National Contact Points for Responsible Business Conduct 2019-2021</i> , https://mneguidelines.oecd.org/Action-Plan-to-Strengthen-National-Contact-Points-for-Responsible-Business-Conduct-2019-2021.pdf .	[4 0 4]
OECD (2019), <i>Annual Report on the OECD Guidelines for Multinational Enterprises 2018</i> , http://mneguidelines.oecd.org/2018-Annual-Report-MNE-Guidelines-EN.pdf .	[4 0 1]
OECD (2019), <i>Due Diligence for Responsible Corporate Lending and Securities Underwriting: Key considerations for banks implementing the OECD Guidelines for Multinational Enterprises</i> , https://mneguidelines.oecd.org/Due-Diligence-for-Responsible-Corporate-Lending-and-Securities-Underwriting.pdf .	[6]
OECD (2019), <i>Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises</i> , http://www.oecd.org/corporate/Anti-Corruption-Integrity-Guidelines-for-SOEs.htm .	[3 0 0]
OECD (2019), <i>Progress Report on National Contact Points for Responsible Business Conduct</i> , https://www.oecd.org/mcm/documents/NCPs%20-%20CMIN(2019)7%20-%20EN.pdf .	[7 6]
OECD (2019), <i>Website: Specific instance - West Virginians for Sustainable Development & Rockwool International A/S</i> , http://mneguidelines.oecd.org/database/instances/dk0019.htm .	[5 1 4]
OECD (2018), <i>How Immigrants Contribute to Costa Rica's Economy</i> , OECD Publishing, Paris, https://doi.org/10.1787/9789264303850-en .	[1 5 9]
OECD (2018), <i>Investment Insights - Towards an International Framework for Investment Facilitation</i> , https://www.oecd.org/investment/Towards-an-international-framework-for-investment-facilitation.pdf .	[3 5 6]
OECD (2018), <i>Mapping of Investment Promotion Agencies in OECD Countries</i> , http://www.oecd.org/investment/Mapping-of-Investment-Promotion-Agencies-in-OECD-Countries.pdf .	[3 6 3]
OECD (2018), <i>OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions – Ratification Status as of May 2018</i> , http://www.oecd.org/daf/anti-bribery/WGBRatificationStatus.pdf .	[2 4 0]
OECD (2018), <i>OECD Due Diligence Guidance for Responsible Business Conduct</i> , http://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf .	[5]
OECD (2018), <i>OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector</i> , OECD Publishing, Paris, https://doi.org/10.1787/9789264290587-en .	[7]
OECD (2018), <i>OECD Economic Surveys: Costa Rica 2018</i> , OECD Publishing, Paris, https://doi.org/10.1787/eco_surveys-cri-2018-en .	[4 6 4]
OECD (2018), <i>OECD Guidelines for Multinational Enterprises - National Contact Point Peer Reviews: Germany</i> , https://mneguidelines.oecd.org/Germany-NCP-Peer-Review-2018.pdf .	[3 5 4]
OECD (2018), <i>Recommendation of the Council on the OECD Due Diligence Guidance for Responsible Business Conduct</i> , https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0443 .	[4]
OECD (2017), <i>Agricultural Policies in Costa Rica</i> , <i>OECD Food and Agricultural Reviews</i> , OECD	[3 8 6]

- Publishing, Paris, <https://doi.org/10.1787/9789264269125-en>.
- OECD (2017), *OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264252462-en>. [8]
- OECD (2017), *Phase 1 Report on Implementing the OECD Anti-Bribery Convention in Costa Rica*, <https://www.oecd.org/corruption/anti-bribery/Costa-Rica-Phase-1-Report-ENG.pdf>. [2 4 2]
- OECD (2017), *Press release: Costa Rica to join the OECD Anti-Bribery Convention*, <https://www.oecd.org/corruption/costa-rica-to-join-the-oecd-anti-bribery-convention.htm>. [2 3 9]
- OECD (2017), *Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises*, <https://mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf>. [9]
- OECD (2017), *Survey on Integrity and Anti-corruption in State-owned Enterprises in Latin American and OECD Countries*, <https://www.oecd.org/daf/ca/Survey-Integrity-Anti-Corruption-SOEs-Latin-America-OECD-countries.pdf>. [3 4 3]
- OECD (2017), *The Size and Sectoral Distribution of State-Owned Enterprises*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264280663-en>. [2 9 5]
- OECD (2016), *Committing to Effective Whistleblower Protection*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264252639-en>. [4 1 4]
- OECD (2016), *Development Co-operation Report 2016: The Sustainable Development Goals as Business Opportunities*, OECD Publishing, Paris, <https://doi.org/10.1787/dcr-2016-en>. [2]
- OECD (2016), *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264252479-en>. [1 0]
- OECD (2016), *State-Owned Enterprises as Global Competitors: A Challenge or an Opportunity?*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264262096-en>. [2 9 7]
- OECD (2015), *OECD Guidelines on Corporate Governance of State-Owned Enterprises, 2015 Edition*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264244160-en>. [2 9 6]
- OECD (2015), *Policy Framework for Investment, 2015 Edition*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264208667-en>. [1]
- OECD (2015), *Recommendation of the Council on Public Procurement*, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0411>. [2 7 1]
- OECD (2015), *Recommendation of the Council on the Policy Framework for Investment*, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0412>. [1 3]
- OECD (2013), *Press release: Costa Rica signs OECD agreement to boost investment*, <https://www.oecd.org/daf/inv/investment-policy/costa-rica-signs-oecd-agreement-to-boost-investment.htm>. [4 1 2]
- OECD (2011), *OECD Guidelines for Multinational Enterprises, 2011 Edition*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264115415-en>. [3 6 6]
- OECD (2004), “Indirect Expropriation” and the “Right to Regulate” in International Investment Law”, [3 8]

- OECD Working Papers on International Investment, No. 2004/4, OECD Publishing, Paris, <https://doi.org/10.1787/780155872321>. 5]
- OECD (n.d.), *Costa Rica Economic Snapshot*, <https://www.oecd.org/economy/costa-rica-economic-snapshot/>. [3
6
8]
- OECD (n.d.), *Country monitoring of the OECD Anti-Bribery Convention*, <https://www.oecd.org/daf/anti-bribery/countrymonitoringoftheoecdanti-briberyconvention.htm>. [2
4
1]
- OECD (n.d.), *Covid-19 and Responsible Business Conduct*, https://read.oecd-ilibrary.org/view/?ref=129_129619-6upr496iui&title=COVID-19-and-responsible-business-conduct. [4
0
8]
- OECD (2023 (forthcoming)), *OECD Environmental Performance Reviews: Costa Rica 2023*, OECD Publishing, Paris. [1
9
4]
- OECD (n.d.), *Responsible Business Conduct and the Sustainable Development Goals*, <https://mneguidelines.oecd.org/RBC-and-the-sustainable-development-goals.pdf>. [4
0
9]
- OECD (n.d.), *Website: OECD Legal Instruments – Adherences*, <https://legalinstruments.oecd.org/en/adherences>. [2
4
7]
- OECD (n.d.), *Website: Promoting Responsible Business Conduct in Latin America and the Caribbean*, <https://mneguidelines.oecd.org/rbclac.htm>. [4
6
9]
- OECD (n.d.), *Website: Specific instance - ING Bank and NGOs concerning climate policy*, <http://mneguidelines.oecd.org/database/instances/nl0029.htm>. [3
9
2]
- OECD/CAF (2019), *Latin America and the Caribbean 2019: Policies for Competitive SMEs in the Pacific Alliance and Participating South American countries*, SME Policy Index, OECD Publishing, Paris, <https://doi.org/10.1787/d9e1e5f0-en>. [4
1
5]
- OECD et al. (2022), *Latin American Economic Outlook 2022: Towards a Green and Just Transition*, OECD Publishing, Paris, <https://doi.org/10.1787/3d5554fc-en>. [2
2
0]
- OECD/FAO (2016), *OECD-FAO Guidance for Responsible Agricultural Supply Chains*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264251052-en>. [1
1]
- PAHO (n.d.), *The pandemic and social exclusion: the invisible stigma in Costa Rica*, <https://www.paho.org/en/stories/pandemic-and-social-exclusion-invisible-stigma-costa-rica>. [3
3]
- Pohl, J. (2018), *Societal benefits and costs of International Investment Agreements: A critical review of aspects and available empirical evidence*, OECD Working Papers on International Investment, No. 2018/01, OECD Publishing, <https://doi.org/10.1787/e5f85c3d-en>. [4
8
0]
- PROCOMER (2020), *Press release: Procomer wins international award for best inclusive and sustainable trade initiative in the world*, <https://www.procomer.com/news/exporter-new/procomer-wins-international-award/?lang=en>. [3
4
6]
- PROCOMER (n.d.), *Free Zone Regime Guide*, <https://www.procomer.com/wp-content/uploads/Guia-Zonas-Francas-Ing-dic-2021.pdf>. [4
6
5]
- PROCOMER (n.d.), *Website: Crecimiento Verde*, <https://www.procomer.com/exportador/programas/crecimiento-verde/>. [3
4
5]

- PROCOMER (n.d.), *Website: Exportador - Capacitaciones*, <https://www.procomer.com/exportador/capacitaciones/>. [3
4
9]
- PROCOMER (n.d.), *Website: Tools*, <https://www.procomer.com/exporter/tools/?lang=en>. [3
4
8]
- RECOPE (2022), *Política Ambiental Marco*, <https://www.recope.go.cr/wp-content/uploads/2022/03/PE-05-18-004-Pol%C3%ADtica-Ambiental-Marco-Aprobada-JD-09-03-2022.pdf>. [3
2
4]
- RECOPE (2022), *Política para la inclusión y protección laboral de las personas con discapacidad*, <https://www.recope.go.cr/wp-content/uploads/2022/05/PE-05-18-009-Pol%C3%ADtica-inclusi%C3%B3n-y-protecci%C3%B3n-laboral-de-personas-con-discapacidad-JD.pdf>. [3
2
5]
- RECOPE (2021), *Código de ética y conducta de RECOPE S.A.*, <https://www.recope.go.cr/wp-content/uploads/2021/07/C%C3%B3digo-de-%C3%89tica-y-conducta-de-Recope-1.pdf>. [3
1
9]
- RECOPE (2021), *Política de Gestión Ética*, <https://www.recope.go.cr/wp-content/uploads/2021/03/Pol%C3%ADtica-de-Gesti%C3%B3n-%C3%89tica.pdf>. [3
1
8]
- RECOPE (2021), *Política de Responsabilidad Social Empresarial*, <https://www.recope.go.cr/wp-content/uploads/2021/03/Pol%C3%ADtica-de-Responsabilidad-Social-Empresarial.pdf>. [3
1
7]
- RECOPE (2020), *Política para un ambiente laboral libre de racismo y discriminación racial*, <https://www.recope.go.cr/wp-content/uploads/2020/08/POL%C3%8DTICA-PARA-UN-AMBIENTE-LABORAL-LIBRE-DE-RACISMO-Y-DISCRIMINACI%C3%93N-RACIAL.pdf>. [3
2
2]
- RECOPE (2019), *Política de Igualdad de Género*, <https://www.recope.go.cr/wp-content/uploads/2019/03/Politica-Igualdad-de-G%C3%A9nero-Publicada.pdf>. [3
2
1]
- RECOPE (2017), *Política de Igualdad y No Discriminación en RECOPE*, <https://www.recope.go.cr/wp-content/uploads/2017/03/0023-17-Pol%C3%ADtica-de-Igualdad-y-No-Discriminaci%C3%B3n.pdf>. [3
2
0]
- RECOPE (2015), *Política empresarial para prevenir, desistir y evitar el hostigamiento sexual en la Refinadora Costarricense de Petróleos S.A.*, <https://www.recope.go.cr/wp-content/uploads/2016/04/018-14-Politica-contra-el-Hostigamiento-Sexual.pdf>. [3
2
6]
- RECOPE (2013), *Política de Salud, Ambiente y Seguridad*, <https://www.recope.go.cr/wp-content/uploads/2018/04/Pol%C3%ADticas-Salud-Ambiente-y-Seguridad.pdf>. [3
2
3]
- RECOPE (n.d.), *Memoria de Sostenibilidad Empresarial 2020*, <https://www.recope.go.cr/wp-content/uploads/2021/01/Memoria-de-Sostenibilidad-2020.pdf>. [3
0
3]
- Reporters Without Borders (n.d.), *World Press Freedom Index*, <https://rsf.org/en/index>. [5
8]
- RINDHCA (2020), *Press release: Defensoría exige al INDER acelerar plan de expropiación legal de tierras en favor de los Pueblos Indígenas*, <https://www.rindhca.org/en/actualidad/indh/costa-rica/defensoria-exige-al-inder-acelerar-plan-de-expropiacion-legal-de-tierras-en-favor-de-los-pueblos-indigenas>. [1
0
7]
- Secretariat for Environmental Matters (2011), *Sea Turtle Matter*, <http://www.saa-sem.org/en/caso/sea-turtle-det-ii-cr/>. [3
7
6]
- Sistema de Integración Centroamericana (2018), *Press release: Premian a empresas que operan* [3]

<i>en Costa Rica por uso de energía limpia,</i> https://www.sica.int/consulta/Noticia.aspx?Idn=115739&idm=1 .	1 5]
Supreme Court of Justice of Costa Rica (2016), <i>Decision No. 15711 - 2016 of the Constitutional Chamber,</i> https://nexuspj.poder-judicial.go.cr/document/sen-1-0007-875804 .	[3 0 1]
Supreme Court of Justice of Costa Rica (2011), <i>Decision No. 00435 of the Constitutional Chamber,</i> https://vlex.co.cr/vid/-499492414 .	[5 0 1]
Supreme Court of Justice of Costa Rica (1995), <i>Decision No. 2313-95 of the Constitutional Chamber,</i> https://nexuspj.poder-judicial.go.cr/document/sen-1-0007-81561 .	[5 0 2]
Supreme Court of Justice of Costa Rica (1993), <i>Decision No. 04423-1993 of the Constitutional Chamber,</i> https://nexuspj.poder-judicial.go.cr/document/sen-1-0007-93228 .	[5 0 0]
Swiss Export Risk Insurance (2017), <i>SERV Guidelines for Reviewing Environmental, Social and Human Rights Issues,</i> https://www.serv-ch.com/fileadmin/Files/PDF/online-schalter/nachhaltigkeit/Leitlinien_Umwelt_e.pdf .	[4 0 2]
Switchmed (n.d.), <i>Certification for Sustainable Tourism,</i> https://switchmed.eu/wp-content/uploads/2020/12/05-COSTA-RICA-Fact-Sheets.pdf .	[2 0 2]
TRACE International (2022), <i>Trace Bribery Risk Matrix - 2022 Results,</i> https://www.traceinternational.org/trace-matrix?#matrix-results .	[2 3 0]
Transparency International (2021), <i>2021 Corruption Perceptions Index,</i> https://www.transparency.org/en/cpi/2021/index/cr .	[6 1]
Transparency International (2020), <i>2020 Corruption Perceptions Index,</i> https://www.transparency.org/en/cpi/2020/index/ .	[2 3 2]
Transparency International (2019), <i>2019 Corruption Perceptions Index,</i> https://www.transparency.org/en/cpi/2019/index/ .	[2 3 4]
Transparency International (2019), <i>Global Corruption Barometer Latin America and the Caribbean 2019 - Citizens' views and experiences of corruption,</i> https://images.transparencycdn.org/images/2019_GCB_LatinAmerica_Caribbean_Full_Report_200409_091428.pdf .	[2 3 5]
Transparency International (2018), <i>2018 Corruption Perceptions Index,</i> https://www.transparency.org/en/cpi/2018/index/ .	[2 3 3]
UCCAEP (n.d.), <i>Press release: Acuerdo de Escazú va en contra de la seguridad jurídica de las empresas y la reactivación económica,</i> https://uccaep.org/inicio/index.php/comunicados-prensa/60-comunicados-de-prensa/660-acuerdo-de-escazu-va-en-contra-de-la-seguridad-juridica-de-las-empresas-y-la-reactivacion-economica.html .	[1 2 5]
UN Global Compact (n.d.), <i>Website: Company Information - Banco de Costa Rica,</i> https://www.unglobalcompact.org/what-is-gc/participants/13038-Banco-de-Costa-Rica .	[3 2 9]
UN Global Compact (n.d.), <i>Website: Company Information - Banco Nacional de Costa Rica,</i> https://www.unglobalcompact.org/what-is-gc/participants/138581-Banco-Nacional-de-Costa-Rica .	[3 3 3]
UN Human Rights Council (2022), <i>Report of the Special Rapporteur on the Rights of Indigenous</i>	[8 3]

- Peoples, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/406/15/PDF/G2240615.pdf?OpenElement>.
- UN Human Rights Council (2019), *Report of the Special Rapporteur on the Rights of Indigenous Peoples*, <https://undocs.org/A/HRC/42/37/Add.1>. [4
9
0]
- UN Human Rights Council (2019), *Report of the Working Group on the Universal Periodic Review - Costa Rica*, <https://undocs.org/A/HRC/42/12/Add.1>. [8
2]
- UN Human Rights Council (2014), *Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox: addendum*, <https://digitallibrary.un.org/record/768955>. [4
6
6]
- UN Human Rights Council (2011), *Report of the Special Rapporteur on the Rights of Indigenous Peoples on the situation of the indigenous peoples affected by the El Diquís hydroelectric project in Costa Rica*, https://www2.ohchr.org/english/bodies/hrcouncil/docs/18session/A.HRC.18.35.ADD.8_en.pdf. [1
1
3]
- UN Human Rights Council (n.d.), *Website: Basic Facts about the UPR*, <https://www.ohchr.org/en/hr-bodies/upr/basic-facts>. [4
7
1]
- UNCTAD (2021), *World Investment Report 2021*, <https://unctad.org/webflyer/world-investment-report-2021>. [3
2]
- UNCTAD (2019), *Diverse paths of upgrading in high-tech manufacturing: Costa Rica in the electronics and medical devices global value chains*, https://unctad.org/system/files/official-document/diaeia2019d1a1_en.pdf. [1
8]
- UNDP (2021), *Press release: Costa Rica podrá optar por más recursos para promover el desarrollo sostenible*, <https://www.undp.org/es/costa-rica/press-releases/costa-rica-podra-para-optar-por-mas-recursos-para-promover-el-desarrollo-sostenible>. [1
6
8]
- UNDP (2017), *Vision 2030: Poblaciones excluidas en Costa Rica - No dejar a nadie atrás*, <https://www.undp.org/sites/g/files/zskgke326/files/migration/latinamerica/40e14d73cc77bdb6161d7701de7e9a64597c5d5d27cb211aa4f726fde0f4b8ca.pdf>. [9
5]
- UNDP (n.d.), *Human Development Report - Costa Rica*, <https://hdr.undp.org/sites/default/files/Country-Profiles/CRI.pdf>. [2
6]
- UNEP (2019), *Costa Rica named 'UN Champion of the Earth' for pioneering role in fighting climate change*, <https://www.unep.org/news-and-stories/press-release/costa-rica-named-un-champion-earth-pioneering-role-fighting-climate>. [6
2]
- United Nations (2020), *Press release: Los líderes indígenas de Costa Rica sufren ataques que quedan impunes*, <https://news.un.org/es/story/2020/06/1475622>. [1
0
9]
- United Nations (2020), *Second Voluntary National Review, Sustainable Development Goals, Costa Rica 2020*, https://sustainabledevelopment.un.org/content/documents/26894second_voluntary_national_review_sdg_costa_rica.pdf. [4
4]
- United Nations (2019), *Carta de varios Grupos de Trabajo y Relatores Especiales de la ONU instando a Costa Rica a ratificar el Acuerdo de Escazú*, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=247>. [1
2
8]

35.

- United Nations (2016), *Concluding Observations on the fifth periodic report of Costa Rica before the Committee on Economic, Social and Cultural Rights*,
<https://www.refworld.org/docid/5881ed314.html>. [5
0
3]
- United Nations (2015), *Transforming our world: the 2030 Agenda for Sustainable Development*,
<https://sdgs.un.org/2030agenda>. [4
6
8]
- United Nations (n.d.), *UN Convention against corruption : Ratification status*,
<https://www.unodc.org/unodc/en/corruption/ratification-status.html>. [3
6]
- United Nations (n.d.), *United Nations Treaty Collection - Status of the Convention on the Elimination of all Forms of Discrimination against Women*,
https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&clang=en. [1
4
3]
- United Nations (n.d.), *United Nations Treaty Collection - Status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*,
https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-13&chapter=4&clang=en. [1
6
2]
- United Nations (n.d.), *United Nations Treaty Collection - Status of the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women*,
https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8-b&chapter=4&clang=en. [1
4
4]
- United Nations (n.d.), *United Nations Treaty Collection - Status of the Paris Agreement*,
https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-7-d&chapter=27&clang=en. [3
7]
- United Nations (n.d.), *United Nations Treaty Collection - Status of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean*,
https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-18&chapter=27&clang=en. [3
8]
- United Nations (n.d.), *United Nations Treaty Collection - Status of the United Nations Convention Against Corruption*,
https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-14&chapter=18. [2
4
5]
- UNOHCHR (2021), *End of mission statement by the United Nations Special Rapporteur on the rights of indigenous peoples, Francisco Calí Tzay at the conclusion of his visit to Costa Rica*,
<https://www.ohchr.org/en/statements/2021/12/end-mission-statement-united-nations-special-rapporteur-rights-indigenous>. [4
6
7]
- UNOHCHR (2021), *Press release: Costa Rica - Urgent reforms needed on indigenous peoples' rights, says UN expert*, <https://www.ohchr.org/en/press-releases/2021/12/costa-rica-urgent-reforms-needed-indigenous-peoples-rights-says-un-expert>. [1
1
1]
- UNOHCHR (2020), *Press Release: Costa Rica: Ongoing impunity prevents effective protection of indigenous defenders, says UN expert*,
<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25938&LangID=E>. [1
2
0]

- UNOHCHR (n.d.), *Website: Status of ratification - Interactive dashboard*, [3
5]
<https://indicators.ohchr.org/>.
- UNOHCHR (n.d.), *Website: UN Treaty Body Database*, [7
8]
https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/TBSearch.aspx.
- Viquez et al. (2020), *Objetivos de Desarrollo Sostenible: alineamiento y avance de empresas con presencia en Costa Rica*, [1
4
2]
<https://www.uccaep.or.cr/index.php/gan-documentos/file/110-gandesa.html?tmpl=component>.
- Volpe Martincus et al. (2019), *How to Solve the Investment Promotion Puzzle: A Mapping of Investment Promotion Agencies in Latin America and the Caribbean and OECD Countries*, Inter-American Development Bank, [3
6
4]
<https://doi.org/10.18235/0001767>.
- Voluntary Principles on Security and Human Rights (n.d.), *The Voluntary Principles for Governments - Members of the Government Pillar*, [4
2]
<https://www.voluntaryprinciples.org/for-governments/>.
- Walk Free Foundation (2018), *Global Slavery Index 2018*, [5
9]
<https://www.globalslaveryindex.org/2018/data/maps/#prevalence>.
- WEF (2022), *Global Gender Gap Index 2022*, [5
4]
https://www3.weforum.org/docs/WEF_GGGR_2022.pdf.
- WEF (2019), *Global Competitiveness Report 2019*, [5
3]
http://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf.
- WOLA (2009), *DR-CAFTA and Worker's Rights: Moving from Paper to Practice*, [3
7
1]
<https://www.wola.org/analysis/dr-cafta-and-workers-rights-moving-from-paper-to-practice/>.
- World Bank (2022), *Website: Country Profile - Costa Rica*, [1
4]
<https://data.worldbank.org/country/CR>.
- World Bank (2021), *Poverty & Equity Brief - Costa Rica*, [2
5]
https://databank.worldbank.org/data/download/poverty/987B9C90-CB9F-4D93-AE8C-750588BF00QA/AM2020/Global_POVEQ_CRI.pdf.
- World Bank (2020), *Doing Business 2020*, [5
5]
<https://openknowledge.worldbank.org/handle/10986/32436>.
- World Bank (2020), *Doing Business 2020 - Costa Rica*, [4
1
1]
<https://www.doingbusiness.org/content/dam/doingBusiness/country/c/costa-rica/CRI.pdf>.
- World Bank (2020), *Poverty & Equity Brief - Costa Rica*, [4
1
0]
https://databank.worldbank.org/data/download/poverty/33EF03BB-9722-4AE2-ABC7-AA2972D68AFE/Global_POVEQ_CRI.pdf.
- World Bank (2015), *Country Partnership Framework for the Republic of Costa Rica for the period FY16-FY20*, [1
8
0]
<https://documents1.worldbank.org/curated/en/363291468179335481/pdf/94686-CPS-P149582-R2015-0088-IFC-R2015-0118-MIGA-R2015-0027-Box391422B-OUO-9.pdf>.
- World Bank (n.d.), *Website: Climate Change Knowledge Portal - Country profile: Costa Rica*, [2
1
7]
<https://climateknowledgeportal.worldbank.org/country/costa-rica/vulnerability>.
- World Bank (n.d.), *Website: Data - Forest area (% of land area) - Costa Rica*, [1
6
9]
<https://data.worldbank.org/indicator/AG.LND.FRST.ZS?locations=CR>.

- World Bank (n.d.), *Website: Exports of goods and services (% of GDP) - Costa Rica*, <https://data.worldbank.org/indicator/NE.EXP.GNFS.ZS?locations=CR>. [1
6]
- World Justice Project (2022), *Rule of Law Index 2022*, <https://worldjusticeproject.org/rule-of-law-index/global/2022/>. [6
0]
- World Justice Project (2022), *Rule of Law Index 2022 - Costa Rica*, <https://worldjusticeproject.org/rule-of-law-index/country/2022/Costa%20Rica>. [2
3
1]
- World Justice Project (2020), *Rule of Law Index 2020 - Costa Rica*, <https://worldjusticeproject.org/rule-of-law-index/country/2020/Costa%20Rica/>. [9
3]
- Yale Center for Environmental Law & Policy (2022), *Environmental Performance Index 2022 - Ranking country performance on sustainability issues*, <https://epi.yale.edu/downloads/epi2022report06062022.pdf>. [5
7]
- Yale Center for Environmental Law & Policy (2020), *Website: Costa Rica Overview*, <https://epi.yale.edu/epi-results/2020/country/cr>. [1
7
5]

Notes

¹ United Nations (2015), Transforming our world: the 2030 Agenda for Sustainable Development, paras. 39, 60, 67, <https://sdgs.un.org/2030agenda>.

² See, for instance, Sustainable Development Goals (SDGs) No. 8 “Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all”, No. 12 “Ensure sustainable consumption and production patterns” or No. 16 “Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”. See United Nations (2015), Transforming our world: the 2030 Agenda for Sustainable Development, <https://sdgs.un.org/2030agenda>; OECD (n.d.), Responsible Business Conduct and the Sustainable Development Goals, <https://mneguidelines.oecd.org/RBC-and-the-sustainable-development-goals.pdf>.

³ United Nations (2015), Transforming our world: the 2030 Agenda for Sustainable Development, paras. 41, 67, <https://sdgs.un.org/2030agenda>.

⁴ The text of the OECD Policy Framework for Investment (PFI) is available in English and Spanish at: <http://www.oecd.org/investment/pfi.htm>.

⁵ OECD (2015), Policy Framework for Investment 2015 Edition, Chapter 7, <http://dx.doi.org/10.1787/9789264208667-en>.

⁶ More information on the RBC-LAC Project is available at: <https://mneguidelines.oecd.org/rbclac.htm>.

⁷ Delegations from the following European Union (EU) and OECD Members participated in the consultation meeting held virtually on 3 June 2021: Austria, Bulgaria, Canada, Chile, Czech Republic, Finland, Germany, Greece, Italy, Mexico, Portugal, Romania, Spain, Sweden, United States, The Netherlands, and Türkiye.

⁸ The following government entities reviewed the draft of Costa Rica’s RBC Policy Review and provided inputs: CINDE; Comptroller General of the Republic; Costa Rican Trade Promotion Agency (PROCOMER); Ministry of Agriculture and Livestock; Ministry of Environment and Energy; Ministry of Foreign Trade; Ministry of Economy, Industry and Commerce; Ministry of Finance; Ministry of Labour and Social Security; National Commission for Indigenous Affairs; National Contact Point for Responsible Business Conduct; National Institute of Women; Ombudsman’s Office.

⁹ The OECD Guidelines for Multinational Enterprises (the OECD MNE Guidelines) are part of the OECD Declaration on International Investment and Multinational Enterprises [OECD/LEGAL/144]. The text of the Declaration, including the OECD MNE Guidelines, is available at <http://mneguidelines.oecd.org/mneguidelines/>.

¹⁰ The 51 Adherents to the OECD MNE Guidelines are: Argentina, Australia, Austria, Belgium, Bulgaria, Brazil, Canada, Chile, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Korea, Latvia, Lithuania, Luxembourg, Mexico, Morocco, Netherlands, New Zealand, Norway, Peru,

Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tunisia, Türkiye, Ukraine, United Kingdom, the United States and Uruguay.

¹¹ In 2015, the PFI became the subject of an OECD Council Recommendation [[OECD/LEGAL/0412](https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0412)], which recommends that OECD Members and non-Members adhering to the Recommendation use, as appropriate, the PFI, in particular to facilitate coherence at all levels of government for better policy formulation and implementation. The text of the OECD Council Recommendation is available at: <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0412>.

¹² The free trade zones are zones in which foreign companies investing in Costa Rica are granted a set of benefits and incentives by the Government, such as income and import tax exemptions. See CINDE (2022), Website: investment incentives, <https://www.cinde.org/en/ecosystems#investment-module>; PROCOMER (2022), Free Zone Regime Guide, <https://www.procomer.com/wp-content/uploads/Guia-Zonas-Francas-Ing-dic-2021.pdf>.

¹³ With regard to imports, Costa Rica predominantly acquires manufactured goods, such as electric machines and chemical products, which accounted for 20% and 12% respectively of the country's imports in 2019, as well as refined petroleum. Imported products primarily originate from the United States (41%), followed by China (13%), Mexico (7%) and Guatemala (3%) See OEC (2022), Country profile – Costa Rica, <https://oec.world/en/profile/country/cr>.

¹⁴ The text of the OECD Declaration on International Investment and Multinational Enterprises is available at <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0307>.

¹⁵ The text of the OECD Council Recommendation on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas is available at <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0386>.

¹⁶ The text of the OECD Council Recommendation on the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector is available at <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0437>.

¹⁷ The text of the OECD Council Recommendation on the OECD Due Diligence Guidance for RBC is available at: <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0443>.

¹⁸ The text of the OECD Recommendation of the Council on the Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector is available at <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0427>.

¹⁹ The text of the OECD Council Recommendation on the OECD-FAO Guidance for Responsible Agricultural Supply Chains is available at <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0428#adherents>.

²⁰ The National Pact for Advancing the SDGs was endorsed by civil society organisations, local governments, private sector representatives, members of the judiciary and legislative assembly, and trade unions. The National Pact identified three priority SDGs for both public and private institutions in Costa Rica: (i) fight against poverty; (ii) sustainable production and consumption; and (iii) resilient infrastructure and sustainable communities. To foster the achievement of these three SDGs, companies have participated in programmes that advance the protection of human rights, such as the Alliance of Enterprises without Extreme Poverty, which aims at eradicating poverty and enhancing the living standards of their employees. See Government of Costa Rica (2017), Costa Rica: A shared Vision of Sustainability – Voluntary National Reviews of the Sustainable Development Goals, http://ods.cr/sites/default/files/documentos/informepaisods_costa_rica-ingles.pdf; Alliance of Enterprises without Extreme Poverty (2021), Website: ¿Quiénes somos?, http://www.empresassinpobrezaextrema.com/Quienes_somos.

²¹ Government of Costa Rica (2022), Decreto Ejecutivo Nro. 43748 que reforma la Gobernanza para la implementación y seguimiento de la política nacional de responsabilidad social de Costa Rica, Article 1,

http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=98044&nValor3=133113¶m2=1&strTipM=TC&IResultado=1&strSim=simp.

²² The National Policy on Social Responsibility 2017-2030 (*Política Nacional de Responsabilidad Social 2017-2030*, PNRS) was launched during the mandate of Mr. Luis Guillermo Solís Rivera who held office between 2014 and 2018.

²³ The United Nations Guiding Principles on Business and Human Rights (UNGPs) are a set of 31 principles for States and businesses to prevent, address and remedy business-related human rights abuses. They are built upon three pillars: (i) the State responsibility to protect human rights against violations by business; (ii) the responsibility of businesses to respect human rights; and (iii) access to remedy for violations of human rights by businesses. They were endorsed in 2011 by the United Nations Human Rights Council.

²⁴ For more information on Costa Rica's ratification status, consult the United Nations Treaty Database at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx.

²⁵ The human rights instruments of the Inter-American System include the different declarations, conventions, and protocols that define the mandate and functions of its two organs, the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights (Inter-American Court), which monitor compliance by the Member States of the Organization of American States (OAS) with their obligations in the human rights field. For more information on the Inter-American human rights instruments, consult IACHR's Database at: http://www.oas.org/en/iachr/mandate/basic_documents.asp.

²⁶ Government of Costa Rica (1949), Constitución, Article 48, https://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=871.

²⁷ See Supreme Court of Costa Rica (1995), Decision in case No. 2313-95, p. 6, <https://nexuspj.poder-judicial.go.cr/document/sen-1-0007-81561>.

²⁸ Government of Costa Rica (1990), Ley de Promoción de Igualdad Social de la Mujer, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=10806&strTipM=TC

²⁹ Government of Costa Rica (1996), Ley de Igualdad de Oportunidades para las Personas con Discapacidad, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=23261

³⁰ Government of Costa Rica (2010), Ley General de Migración y Extranjería, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=66139

³¹ Government of Costa Rica, (2018), Ley de Acceso a la Justicia de los Pueblos Indígenas, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=87319&nValor3=113704&strTipM=TC

³² Government of Costa Rica (2019), Ley de Protección del Derecho a la Nacionalidad Costarricense de la Persona Indígena Transfronteriza y Garantía de Integración de la Persona Indígena Transfronteriza, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=89811&nValor3=118002¶m2=1&strTipM=TC&IResultado=4&strSim=simp.

³³ Government of Costa Rica (2017), Política Nacional de Responsabilidad Social, Guideline 7.2.3 "Promover y proteger los derechos humanos en la gestión de las empresas y organizaciones públicas y privadas", https://www.meic.go.cr/meic/documentos/8qt7vsn4p/PN_ResponsaSocialCR181217.pdf.

³⁴ The Universal Periodic Review (UPR) is a "unique process which involves a review of the human rights records of all UN Member States. The UPR is a State-driven process, under the auspices of the Human Rights Council, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfil their human rights obligations". See UN

Human Rights Council (n.d.), Basic facts about the Universal Periodic Review, <https://www.ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx>.

³⁵ Following the evaluation of the 212 recommendations by the relevant government entities, the Government of Costa Rica decided to accept 194 recommendations, partially accept 3, take note of 12, and reject 3. See UN Human Rights Council (2019), Report of the Working Group on the Universal Periodic Review – Costa Rica – Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, para. 3, <https://undocs.org/A/HRC/42/12/Add.1>.

³⁶ The Delegation of Switzerland recommended to develop a National Action Plan on Business and Human Rights and Costa Rica accepted this recommendation. See UN Human Rights Council (2019), Report of the Working Group on the Universal Periodic Review (UPR) – Costa Rica, recommendation 111.42, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/206/04/PDF/G1920604.pdf?OpenElement>; UN Human Rights Council (2019), Report of the Working Group on the Universal Periodic Review – Costa Rica – Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, p. 4, <https://undocs.org/A/HRC/42/12/Add.1>.

³⁷ UN Human Rights Council, Report of the Special Rapporteur on the Rights of Indigenous Peoples on his visit to Costa Rica, p. 15, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/406/15/PDF/G2240615.pdf?OpenElement>.

³⁸ Government of Costa Rica (1949), Constitución, Articles 152-167, https://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=871.

³⁹ *Ibid.*, Article 48.

⁴⁰ Government of Costa Rica, Ley de la Jurisdicción Constitucional, Article 57, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=38533&nValor3=127124¶m2=1&strTipM=TC&Resultado=4&strSim=simp.

⁴¹ Government of Costa Rica (2009), Reglas prácticas para facilitar el acceso a la justicia de las Poblaciones Indígenas, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=64886&nValor3=79266&strTipM=TC.

⁴² Government of Costa Rica (2010), Política institucional para el acceso a la justicia por parte de la población migrante y refugiada, <https://www.conamaj.go.cr/images/libros/pdf/032.pdf>.

⁴³ Government of Costa Rica (2015), Política institucional para el acceso a la justicia de personas afrodescendientes del Poder Judicial y su Plan de Acción, https://observatoriodegenero.poder-judicial.go.cr/images/Acciones/Documentos/politica-institucional_afro.pdf.

⁴⁴ Government of Costa Rica (2015), Protocolo de Atención Inmediata a personas menores de edad, víctimas y testigos en sede penal, <https://casacionpenaljuvenil.poder-judicial.go.cr/index.php/2015-04-29-21-13-36/protocolo-de-atencion-inmediata-a-personas-menores-de-edad-victimas-y-testigos-en-sede-penal>.

⁴⁵ The National Commission for the Improvement of the Administration of Justice is composed of the Judiciary Branch, the Supreme Electoral Tribunal, the Ministry of Justice and Peace, the Office of the Attorney General, the Legislative Assembly, the Ombudsman's Office, the Comptroller General of the Republic, the Bar Association, and the faculty of law of the University of Costa Rica. See Government of Costa Rica (n.d.), Website: CONAMAJ: About us, <https://www.conamaj.go.cr/index.php/sobre>.

⁴⁶ See UN Human Rights Council (2019), Report of the Working Group on the Universal Periodic Review (UPR) – Costa Rica, recommendations 111.54, 111.59, 111.61, 111.138, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/206/04/PDF/G1920604.pdf?OpenElement>.

⁴⁷ Government of Costa Rica (1992), Reglamento de la Ley de la Defensoría de los Habitantes de la República, Articles 2, 6 and 7, https://www.dhr.go.cr/la_defensoria/capitulos_reglamento/01%20titulo_primero.pdf.

⁴⁸ As part of the Ombudsman's mission to promote human rights, it launched in collaboration with other institutions the Award to Recognize the Amelioration of Life Quality (*Premio Aportes al Mejoramiento de la Calidad de Vida*), which distinguishes individuals, private companies and organisations committed to advancing the living standards of their employees, the community, or the country at large. The award is granted *inter alia* to companies and entities that advance human rights, as well as social security rights, environmental protection and gender equality in their operations. However, for the time being, this Award is not well known by the business community and the Ombudsman is making efforts to further engage with the private sector in upcoming editions. See Government of Costa Rica (2020), Informe anual de labores 2019-2020 de la Defensoría de los Habitantes, https://www.dhr.go.cr/transparencia/informes_institucionales/informe_anual_19_20.aspx.

⁴⁹ See Government of Costa Rica (n.d.), Website: Punto Nacional de Contacto, <https://www.comex.go.cr/punto-nacional-de-contacto>.

⁵⁰ Other laws pertaining to indigenous peoples' rights include *inter alia* the 1973 Law establishing the National Commission on Indigenous Affairs (*Ley de creación de la Comisión Nacional de Asuntos Indígenas*), the 2000 Ethnic and Linguistic Diversity Law (*Ley de la diversidad étnica y lingüística*) or the 2018 Law on Access to Justice for the Indigenous Peoples of Costa Rica (*Ley de acceso a la justicia de los pueblos indígenas de Costa Rica*).

⁵¹ Costa Rica's eight indigenous peoples are the following: the Boruca or Brunca, the Bribri, the Bröran or Terraba, the Cabecar, the Chorotega, the Huetar, the Maleku or Guatuso and the Ngäbe. See UN Human Rights Council (2022), Report of the Special Rapporteur on the Rights of Indigenous Peoples on his visit to Costa Rica, para. 6, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/406/15/PDF/G2240615.pdf?OpenElement>.

⁵² Government of Costa Rica (1977), Ley Indígena, Articles 1-3, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=38110&nValor3=0&strTipM=TC#:~:text=La%20presente%20ley%20anula%20la,ser%20administrados%20por%20los%20ind%C3%ADgenas.

⁵³ UN Human Rights Council (2019), Report of the Working Group on the Universal Periodic Review – Costa Rica, paras. 111.58, 111.60, 111.61, 111.62, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/206/04/PDF/G1920604.pdf?OpenElement>.

⁵⁴ *Ibid.*, para. 111.59 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/206/04/PDF/G1920604.pdf?OpenElement>.

⁵⁵ UN Human Rights Council, Report of the Special Rapporteur on the Rights of Indigenous Peoples on his visit to Costa Rica, pp. 16-17, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/406/15/PDF/G2240615.pdf?OpenElement>.

⁵⁶ Government of Costa Rica (1949), Constitución Política, Article 56, https://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=871.

⁵⁷ *Ibid.*, Article 57.

⁵⁸ Government of Costa Rica (1949), Constitución Política, Article 58, https://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=871.

⁵⁹ *Ibid.*, Article 68.

⁶⁰ *Ibid.*, Article 66.

⁶¹ *Ibid.*, Article 71.

⁶² *Ibid.*, Articles 60-62.

⁶³ *Ibid.*, Article 73.

⁶⁴ *Ibid.*, Article 70.

⁶⁵ The Labour Code was published in the Official Gazette on 26 August 1943. The Labour Procedure Reform Act was published in 2016 and became effective on 25 July 2017.

⁶⁶ Discrimination at work is prohibited by the Law on the Prohibition of Discrimination at Work (*Ley que prohíbe toda clase de discriminación en material laboral*). See Government of Costa Rica (1960), *Ley que prohíbe toda clase de discriminación en material laboral*, http://www.pgrweb.go.cr/scij/busqueda/normativa/normas/nrm_texto_completo.aspx?param2=1&nValor1=1&nValor2=13488&IResultado=2&strSelect=sel.

⁶⁷ Minors under the age of 15 are prohibited to work as specified in the Code of Childhood and Adolescence (*Código de la Niñez y la Adolescencia*). Adolescent mothers have the right to paid work, as specified in the Law to Protect Teenage Mothers (*Ley General de Protección a la Madre Adolescente*). See Government of Costa Rica (1998), *Código de la Niñez y la Adolescencia*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=43077&nValor3=130543¶m2=2&strTipM=TC&IResultado=12&strSim=simp; Government of Costa Rica (1997), *Ley General de Protección a la Madre Adolescente*, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=42908&nValor3=45229¶m2=1&strTipM=TC&IResultado=5&strSim=simp.

⁶⁸ This includes protection against discrimination for several reasons: age, ethnicity, sex, religion, race, sexual orientation, civil status, political opinion, national extraction, social origin, affiliation, disability, union membership, economic situation and any other similar form of discrimination. See Government of Costa Rica (2016), *Reforma Procesal Laboral*, Article 404, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=80985&nValor3=103105¶m2=1&strTipM=TC&IResultado=5&strSim=simp.

⁶⁹ Government of Costa Rica (2016), *Reforma Procesal Laboral*, Article 405, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=80985&nValor3=103105¶m2=1&strTipM=TC&IResultado=5&strSim=simp.

⁷⁰ *Ibid.*, Article 371.

⁷¹ *Ibid.*, Article 540.

⁷² *Ibid.*, Article 525.

⁷³ *Ibid.*, Article 429.

⁷⁴ *Ibid.*, Article 512.

⁷⁵ *Ibid.*, Articles 614, 618, 635.

⁷⁶ *Ibid.*, Article 635.

⁷⁷ Government of Costa Rica (1963), *Ley Orgánica del Ministerio de Trabajo y Seguridad Social*, Articles 1 and 2, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=566.

⁷⁸ The DAL performs its duties through five departments: (i) technical coordination; (ii) evaluation and analysis; (iii) labour relations; (iv) social organisations; and (v) alternative dispute resolution.

⁷⁹ Government of Costa Rica (1955), *Ley Orgánica del Ministerio de Trabajo y Seguridad Social*, Article 88, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=566&nValor3=609¶m2=1&strTipM=TC&IResultado=3&strSim=simp.

⁸⁰ According to data provided by the DNI during the preparation of the present Review, in the agriculture sector, the main infractions were related to labour risks, followed by lack of enrolment in the social

security system and failure to respect the minimum salary. In the construction sector, the main infractions were the lack of enrolment in the social security system, followed by labour risks and failure to respect the minimum salary.

⁸¹ Government of Costa Rica (1955), Ley Orgánica del Ministerio de Trabajo y Seguridad Social, Articles 103-107, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=566&nValor3=609¶m2=1&strTipM=TC&IResultado=3&strSim=simp.

⁸² Government of Costa Rica (1949), Constitución política, Article 57, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC¶m2=1&nValor1=1&nValor2=871&nValor3=125322&strTipM=TC&IResultado=1&nValor4=23&strSelect=sel; Government of Costa Rica (1943), Código del Trabajo, Article 167, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=8045&nValor3=130678&strTipM=TC.

⁸³ UN Human Rights Council (2019), Report of the Working Group on the Universal Periodic Review – Costa Rica, paras. 111.3, 111.4, 111.5, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/206/04/PDF/G1920604.pdf?OpenElement>.

⁸⁴ Government of Costa Rica (2009), Ley General de Migración y Extranjería, Article 174, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=66139.

⁸⁵ Major air pollutants include sulphur oxide (SO_x), nitrogen oxide (NO_x), and non-methane volatile organic compounds (NMVOCs).

⁸⁶ These instruments cover various topics related to environmental protection, including biodiversity and nature protection, climate change, protection of the ozone layer, desertification, management of chemicals and waste, transboundary water and air pollution, industrial accidents, maritime and river protection, and environmental liability, among others.

⁸⁷ Government of Costa Rica (1949), Constitución, Article 50, https://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=871.

⁸⁸ *Ibid.*

⁸⁹ Government of Costa Rica (1995), Ley Orgánica del Ambiente, Article 1, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=27738&nValor3=116998¶m2=1&strTipM=TC&IResultado=5&strSim=simp.

⁹⁰ *Ibid.*, Article 2.

⁹¹ Government of Costa Rica (1995), Ley Orgánica del Ambiente, Article 4, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=27738&nValor3=116998¶m2=1&strTipM=TC&IResultado=5&strSim=simp.

⁹² *Ibid.*, Chapter IV, Article 17.

⁹³ *Ibid.*, Chapter II.

⁹⁴ *Ibid.*, Chapter XIX.

⁹⁵ Government of Costa Rica (1996), Ley Forestal, Article 46, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=41661&nValor3=131992¶m2=1&strTipM=TC&IResultado=10&strSim=simp.

- ⁹⁶ Government of Costa Rica (1998), Ley de Biodiversidad, Article 10, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=39796&nValor3=129485¶m2=1&strTipM=TC&IResultado=6&strSim=simp.
- ⁹⁷ Government of Costa Rica (1994), Ley de Regulación del Uso Racional de la Energía, Article 38, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=24436&nValor3=94042¶m2=1&strTipM=TC&IResultado=9&strSim=simp#ddown.
- ⁹⁸ Government of Costa Rica (1995), Ley Orgánica del Ambiente, Articles 83-84 and 17-20, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=27738&nValor3=116998¶m2=1&strTipM=TC&IResultado=5&strSim=simp.
- ⁹⁹ Government of Costa Rica (1998), Ley de Biodiversidad, Articles 14-21, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=39796&nValor3=129485¶m2=1&strTipM=TC&IResultado=6&strSim=simp.
- ¹⁰⁰ *Ibid.*, Articles 22-43.
- ¹⁰¹ Government of Costa Rica (1996), Ley Forestal, Article 10, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=41661&nValor3=131992¶m2=1&strTipM=TC&IResultado=10&strSim=simp.
- ¹⁰² *Ibid.*, Article 46.
- ¹⁰³ Government of Costa Rica (1995), Ley Orgánica del Ambiente, Article 102, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=27738&nValor3=116998¶m2=1&strTipM=TC&IResultado=5&strSim=simp.
- ¹⁰⁴ *Ibid.*, Article 111.
- ¹⁰⁵ The DIGECA works hand in hand with companies and the Institute of Technical Standards (*Instituto de Normas Técnicas de Costa Rica*, INTECO) to develop labels for sector-specific products, including coffee, refrigerators, cleaning products, concrete, etc.
- ¹⁰⁶ Government of Costa Rica (1949), Constitución, Article 50, https://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=871.
- ¹⁰⁷ Government of Costa Rica (1995), Ley Orgánica del Ambiente, Article 111, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=27738&nValor3=116998¶m2=1&strTipM=TC&IResultado=5&strSim=simp.
- ¹⁰⁸ Government of Costa Rica (1995), Ley Orgánica del Ambiente, Article 99, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=27738&nValor3=116998¶m2=1&strTipM=TC&IResultado=5&strSim=simp.
- ¹⁰⁹ *Ibid.*, Article 111.
- ¹¹⁰ 98% of electricity in the country is generated by RES power plants. See Government of Costa Rica (2020), Press release: Costa Rica suma sexto año consecutivo con más de 98% de generación eléctrica renovable, <https://www.presidencia.go.cr/comunicados/2020/12/costa-rica-suma-sexto-ano-consecutivo-con-mas-de-98-de-generacion-electrica-renovable/>.
- ¹¹¹ Between 2015 and 2020, the NAMA Café received technical and financial support from the NAMA Support Project “Low-Carbon Coffee Costa Rica” (NSP Café), implemented by the German Development Cooperation GIZ, and commissioned by the NAMA Facility, a joint fund between the governments of Germany, the United Kingdom, Denmark, and the European Commission. See GIZ (2020), Promoting

low-carbon coffee production and processing in Costa Rica,

https://namacafe.org/sites/default/files/resultados_nama_p_2015-2020_compressed.pdf.

¹¹² Scope 1 emissions are direct emissions that are owned or controlled by a company. Scope 2 emissions are indirect emissions that a company generates by the energy it purchases and uses. Scope 3 emissions are all indirect emissions (not included in scope 2) that are not generated by the company itself or its activities, but by its value chain, including both upstream and downstream emissions.

¹¹³ Government of Costa Rica (1970), Código Penal, Title XV “Crimes against the duties of the public function”, Section II “Corruption of government officials”, Articles 338 to 345, Section III “Extortion”, Article 346,
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=5027&nValor3=5321&strTipM=TC.

¹¹⁴ Government of Costa Rica (2004), Ley contra la Corrupción y el Enriquecimiento Ilícito en la Función Pública, Article 1,
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=53738.

¹¹⁵ Government of Costa Rica (2019), Ley sobre la responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos, Article 1,
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=88954&nValor3=116544&strTipM=TC.

¹¹⁶ *Ibid.*, Title III “Of Penalties” and IV “Procedural Aspects”.

¹¹⁷ *Ibid.*, Title II “Of the Optional Model of Organization, Prevention of Crimes, Management and Control”.

¹¹⁸ In October 2019, a multi-stakeholder working group was formed in order to design the National Strategy for Integrity and the Prevention of Corruption (*Estrategia Nacional de Integridad y Prevención de la Corrupción*, ENIPC). This working group is made up of representatives of several government entities, such as the Comptroller General of the Republic, Attorney General’s Office, the Public Prosecutor, and the Ombudsman’s Office, as well as of representatives of civil society, the private sector, and the academia. See Government of Costa Rica (n.d.), Website: Proceso de cocreación,
<http://www.enipc.co.cr/conozcanos/proceso-de-cocreacion/>.

¹¹⁹ In the case of private persons, the Public Ethics Department (Procuraduría de la Ética Pública, PEP) can initiate action before the courts only in cases in which they administer public goods or funds, receive benefits from subsidies or incentives with public funds, or participate, in any way, in the criminal offense committed by public officials. See Government of Costa Rica (2002), *Ley Nro. 8242 de creación de la procuraduría de la ética pública*, Article 1,
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=48361&nValor3=51513.

¹²⁰ Government of Costa Rica (1994), Ley Orgánica de la Contraloría General de la República, Chapter I, Article 11,
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=21629.

¹²¹ *Ibid.*, Chapter II, Articles 21 *et seq.*

¹²² Government of Costa Rica (2020), Encuesta Nacional de Prevención de la Corrupción,
<https://cgrfiles.cgr.go.cr/publico/docsweb/enpc-2020/resultados.html>.

¹²³ Government of Costa Rica (2020), Índice de Gestión Institucional, <https://www.cgr.go.cr/03-documentos/publicaciones/igi.html>.

¹²⁴ Government of Costa Rica (2019), Ley sobre la responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos, Article 2 (a) and (b) “Scope”,
http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=88954&nValor3=116544&strTipM=TC

¹²⁵ *Ibid.*, Article 4 (a) “Attribution of liability to legal persons”.

¹²⁶ *Ibid.*, Title I “General Disposition”, Article 4 (b) “Attribution of liability to legal persons”.

¹²⁷ *Ibid.*, Article 4 (c) “Attribution of liability to legal persons”.

¹²⁸ *Ibid.*, Article 11 “Types of penalties”.

¹²⁹ *Ibid.*, Article 13 “Criteria for the determination of sanctions”.

¹³⁰ *Ibid.*, Title II “Optional Model of Organisation, Crime Prevention, Management and Control”, Article 6, “Promotion of the Adoption of a Model of Organisation, Crime Prevention, Management and Control”.

¹³¹ *Ibid.*, Title II “Optional Model of Organisation, Crime Prevention, Management and Control”, Article 8 “Model of Organisation, Crime Prevention, Management and Control”.

¹³² *Ibid.*, Title II “Optional Model of Organisation, Crime Prevention, Management and Control”, Article 8 “Model of Organisation, Crime Prevention, Management and Control”.

¹³³ *Ibid.*, Title II “Optional Model of Organisation, Crime Prevention, Management and Control”, Article 10 “Small and medium legal persons”.

¹³⁴ Government of Costa Rica (2020), Reglamento al Título II de la Ley sobre la responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos denominado “Modelo facultativo de organización, prevención de delitos, gestión y control”, Article 1 “Purpose”, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=92268&nValor3=122111&strTipM=TC.

¹³⁵ *Ibid.*, Chapter II “Organisation Model, Crime Prevention, Management and Control of Legal Persons”, Article 6 “Of the Evaluation of risks in the Model”.

¹³⁶ *Ibid.*, Chapter II “Organisation Model, Crime Prevention, Management and Control of Legal Persons”, Article 7 “Of Due Diligence”.

¹³⁷ Government of Costa Rica (2019), Ley sobre la responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos, Title III “Penalties”, Article 12 “Mitigating circumstances of the criminal liability”, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=88954&nValor3=116544&strTipM=TC.

¹³⁸ Government of Costa Rica (2020), Reglamento al Título II de la Ley sobre la Responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos denominado “Modelo facultativo de organización, prevención de delitos, gestión y control”, Chapter II “Organisation Model, Crime Prevention, Management and Control of Legal Entities”, Articles 13 “Management of reporting” and 14 “Whistleblowers’ protection”, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=92268&nValor3=122111&strTipM=TC.

¹³⁹ Government of Costa Rica (2009), Ley de protección a víctimas, testigos y demás sujetos intervinientes en el proceso penal, reformas y adición al Código Procesal Penal y al Código Penal, Articles 2 “Principles” and 11 “Types of protection measures”, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=65274&nValor3=0&strTipM=TC.

¹⁴⁰ Government of Costa Rica (2004), Ley contra la Corrupción y el Enriquecimiento Ilícito en la Función Pública, Article 8 “Protection of the rights of the whistleblower that reports in good faith and confidentiality of the information that triggers the opening of the administrative proceedings”, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=53738.

¹⁴¹ OECD (2011), Guidelines for Multinational Enterprises, Chapter VII (Combating Bribery, Bribe Solicitation and Extortion), para. 2, <http://www.oecd.org/daf/inv/mne/48004323.pdf>.

¹⁴² Government of Costa Rica (1995), Ley de Contratación Administrativa, Article 59, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=24284&nValor3=129096¶m2=1&strTipM=TC&IResultado=10&strSim=simp.

¹⁴³ Government of Costa Rica, Reglamento a la Ley de Contratación Administrativa, Article 148, http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=58314.

¹⁴⁴ *Ibid.*, Articles 115-116.

¹⁴⁵ Such as the Costa Rican Social Security Institution (*Caja Costarricense de Seguro Social*) or the Costa Rican Electricity Institute (*Instituto Costarricense de Electricidad*).

¹⁴⁶ Government of Costa Rica (1943), Ley Constitutiva de la Caja Costarricense de Seguro Social, Article 74,

http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=2340&nValor3=127333¶m2=1&strTipM=TC&IResultado=2&strSim=simp;

Government of Costa Rica (1974), Ley de Desarrollo Social y Asignaciones Familiares, Article 22,

http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=2687.

¹⁴⁷ Government of Costa Rica (n.d.), Website: Procesos de contratación, <https://www.cgr.go.cr/01-cgr-transp/procesos-contrat.html>.

¹⁴⁸ In addition, it is worth noting that Costa Rica has adopted requirements to ensure diversity on the boards of its SOEs, requiring 50% of each gender on its SOE boards (with one position alternating between male and female when the board has an odd number of members). See OECD (2020), Corporate Governance in Costa Rica, Corporate Governance, OECD Publishing, Paris, p. 104, <https://doi.org/10.1787/b313ec37-en>.

¹⁴⁹ This is also the case of the UNGPs, which provide that “States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies such as export credit agencies and official investment insurance or guarantee agencies, including, where appropriate, by requiring human rights due diligence.” See UNGPs, Principle 4.

¹⁵⁰ It should be noted that this section does not assess Costa Rica’s implementation of the OECD Guidelines on Corporate Governance of SOEs (SOE Guidelines) or of the OECD Guidelines on Anti-Corruption and Integrity in SOEs (ACI Guidelines), but seeks to highlight the relevance of their recommendations with respect to achieving RBC objectives.

¹⁵¹ This includes information on any material foreseeable risks incurred in their operations, in particular financial and operational risks, but also human rights, labour, environment, corruption and tax-related risks, as well as the measures taken to manage such risks.

¹⁵² The ACI Guidelines recommend, to this effect, that governments ensure clarity in the legal and regulatory framework regarding the operation and accountability of SOEs and in their expectations for anti-corruption and integrity. They also recommend that governments encourage SOEs to develop a risk management system and integrity mechanisms – that is, internal controls and ethics and compliance measures – to prevent, detect and mitigate corruption-related risks. These integrity mechanisms should work to ensure that SOEs cannot seek or accept exemptions, not previously contemplated, related to human rights, environment, health, safety, labour, taxation and financial incentives. Moreover, they recommend that governments establish accountability and review mechanisms for SOEs and actively seek to improve public knowledge about SOEs. See OECD (2019), OECD Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises, pp. 20, 22, 24, 27, 29, <https://www.oecd.org/daf/ca/Guidelines-Anti-Corruption-Integrity-State-Owned-Enterprises.pdf>.

¹⁵³ Government of Costa Rica (1949), Constitución Política, Article 147, https://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=871; Government of Costa Rica, Ley General de la Administración Pública (1978), Article 22, paragraph 1), http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=13231&nValor3=90116.

¹⁵⁴ Government of Costa Rica (2017), Decreto Nro. 40696-MP “Creación de la Unidad Asesora para la Dirección y Coordinación de la Propiedad Accionaria del Estado y de la Gestión de las Instituciones Autónomas”, Article 5,

http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=85122&nValor3=109955&strTipM=TC.

¹⁵⁵ Government of Costa Rica (1949), Constitución Política, Articles 11 and 184,

https://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=871; Government of Costa Rica (1994), Ley orgánica de la Contraloría General de la República, Article 18,

http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param2=NRTC&nValor1=1&nValor2=21629&strTipM=TC.

¹⁵⁶ Government of Costa Rica (2018), Directriz No. 102-MP – Política general sobre transparencia y divulgación de información financiera y no financiera para empresas propiedad del estado, sus subsidiarias e instituciones autónomas, Chapter II “Transparency and Disclosure”, Article 8,

http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=86375&nValor3=112048&strTipM=TC.

¹⁵⁷ Government of Costa Rica (2019), Protocolo de Entendimiento de las Relaciones entre el Estado y las Empresas Propiedad del Estado, para. IV.3 “Guidelines for the State in the handling of SOEs”,

<https://www.mideplan.go.cr/node/1810>.

¹⁵⁸ *Ibid.*, para. VI.1 “Guidelines for the management of Costa Rican SOEs”.

¹⁵⁹ *Ibid.*, para. V.2 “Establishment of objectives and performance goals”.

¹⁶⁰ Although there had been reports about intents to fully privatise the Bank of Costa Rica (*Banco de Costa Rica*, BCR) in the future, it was deemed relevant to include it in the analysis as one of Costa Rica’s main SOE groups, given that, at the time of writing, this had not occurred.

¹⁶¹ Although there had been reports about intents to partially privatise the National Institute of Insurance (*Instituto Nacional de Seguros*, INS) in the future, it was deemed relevant to include it in the analysis as one of Costa Rica’s main SOE groups, given that, at the time of writing, this had not occurred.

¹⁶² Government of Costa Rica (2017), Decreto No. 40696-MP “Creación de la Unidad Asesora para la Dirección y Coordinación de la Propiedad Accionaria del Estado y de la Gestión de las Instituciones Autónomas”, Article 5,

http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=85122&nValor3=109955&strTipM=TC.

¹⁶³ *Ibid.*

¹⁶⁴ Government of Costa Rica (2017), Política Nacional de Responsabilidad Social 2017-2030, Objective No. 7.7.3, https://www.responsabilidadsocial.cr/wp-content/uploads/2018/04/PN_ResponsaSocialCR181217.pdf.

¹⁶⁵ Investment promotion can be achieved through image building, which aims at promoting the positive image of a country and branding it as a profitable investment destination, and investment generation, which consists in marketing techniques aimed at specific industries, activities and markets. See Novik A.; de Crombrughe A. (2018), Investment Insights – Towards an International Framework for Investment Facilitation, p. 3, <https://www.oecd.org/investment/Towards-an-international-framework-for-investment-facilitation.pdf>; Volpe Martincus, Ch.; Sztajerowska, M. (2019), How to solve the investment promotion puzzle: a mapping of investment, p. 56, <http://dx.doi.org/10.18235/0001767>.

¹⁶⁶ Investment facilitation activities include investor servicing, which aims at providing support to prospective investors in order to facilitate their establishment, but also aftercare, which consists in assisting established investors with post-establishment challenges so as to retain them and encourage their expansion. See OECD (2018), Investment Insights – Towards an International Framework for

Investment Facilitation, pp. 3-4, <https://www.oecd.org/investment/Towards-an-international-framework-for-investment-facilitation.pdf>.

¹⁶⁷ Government of Costa Rica (2017), Política Nacional de Responsabilidad Social 2017-2030, Objective 7.7.2, https://www.responsabilidadsocial.cr/wp-content/uploads/2018/04/PN_ResponsaSocialCR181217.pdf.

¹⁶⁸ OECD (2011), OECD Guidelines for Multinational Enterprises, Procedural Guidance, para. 37, OECD Publishing, <http://dx.doi.org/10.1787/9789264115415-en>.

¹⁶⁹ It should be noted that, as far as investment treaties are concerned, other kinds of provisions can also potentially have a bearing on RBC. This is, in particular, the case of provisions requiring that investments be made in accordance with domestic law in order to benefit from treaty coverage. General protections, such as provisions on granting “fair and equitable treatment” to covered foreign investors, can affect policy space to regulate business. However, as these provisions do not expressly refer to sustainability issues, such as respect for human rights, the promotion of labour standards, the protection of the environment, or the fight against corruption, or contain an express mention of RBC or CSR, they are not included in the present analysis. For a discussion of these provisions, see Gaukrodger, D. (2021), Business responsibilities and investment treaties, OECD Working Papers on International Investment, No. 2021/02, OECD Publishing, Paris, <https://doi.org/10.1787/4a6f4f17-en>; Gaukrodger, D. (2017), Addressing the balance of interests in investment treaties: The limitation of fair and equitable treatment provisions to the minimum standard of treatment under customary international law, OECD Working Papers on International Investment, 2017/03, <https://doi.org/10.1787/0a62034b-en>. See also Pohl, J. (2018), Societal benefits and costs of International Investment Agreements: A critical review of aspects and available empirical evidence, OECD Working Papers on International Investment, No. 2018/01, OECD Publishing, Paris, <https://doi.org/10.1787/e5f85c3d-en>; Dolzer, R. (2005), The Impact of International Investment Treaties on Domestic Administrative Law, New York University Journal of International Law and Policy 37, No. 4, pp. 953-971, <https://www.iilj.org/wp-content/uploads/2016/08/Dolzer-The-Impact-of-International-Investment-Treaties-on-Domestic-Administrative-Law-2005.pdf>.

¹⁷⁰ Government of Costa Rica (2017), Política Nacional de Responsabilidad Social 2017-2030, Objective 7.7.1, https://www.responsabilidadsocial.cr/wp-content/uploads/2018/04/PN_ResponsaSocialCR181217.pdf.

¹⁷¹ The expression “trade agreements” in the present Review covers bilateral and regional trade agreements of different types, including customs unions, economic partnerships agreements, and comprehensive trade agreements with investment chapters. However, for the purposes of the present analysis, the provisions of these investment chapters are analysed in the following subsection.

¹⁷² See, for instance, 2002 Canada-Costa Rica FTA, Preamble.

¹⁷³ See, for instance, 2004 Costa Rica-CARICOM FTA, Preamble.

¹⁷⁴ See 1998 Central America-Dominican Republic FTA, Chapter 17 (Exceptions), Article 17.1 (General Exceptions); 2002 Canada-Costa Rica FTA, Part 7 (Other Provisions), Chapter 14 (Exceptions), Article 14.1 (General Exceptions); 2004 Costa Rica-CARICOM FTA, Section 3 (Non-Tariff Measures), Article 3.9 (Import and Export Restrictions).

¹⁷⁵ See 2007 Central America-Panama FTA, Chapter 21 (Exceptions), Article 21.2 (General Exceptions); 2010 Costa Rica-Singapore FTA, Chapter 18 (Exceptions), Article 18.2 (General Exceptions); 2010 Costa Rica-China FTA, Chapter 15 (Exceptions), Article 15.9 (General Exceptions); 2011 Costa Rica-Peru FTA, Chapter 18 (Exceptions), Article 18.1 (General Exceptions); 2011 Central America-Mexico FTA, Chapter 20 (Exceptions), Article 20.2 (General Exceptions). Colombia FTA.

¹⁷⁶ See 2011 Costa Rica-Peru FTA, Chapter 10 (Public Procurement), Article 10.17 (Integrity in Public Procurement Practices); 2011 Central America-Mexico FTA, Chapter 10 (Public Procurement), Article 10.16 (Integrity in Public Procurement Practices).

¹⁷⁷ 2004 CAFTA-DR, Preamble.

¹⁷⁸ *Ibid.*, Chapter 16 (Labour), Article 16.1 (Statement of Shared Commitment).

- ¹⁷⁹ *Ibid.*, Chapter 16 (Labour), Article 16.1 (Statement of Shared Commitment).
- ¹⁸⁰ *Ibid.*, Chapter 17 (Environment), Article 17.1 (Levels of Protection).
- ¹⁸¹ *Ibid.*, Chapter 16 (Labour), Article 16.6 (Cooperative Labour Consultations).
- ¹⁸² *Ibid.*, Chapter 16 (Labour), Article 16.6.5 (Cooperative Labour Consultations).
- ¹⁸³ *Ibid.*, Chapter 18 (Transparency), Article 18.8 (Anti-Corruption Measures).
- ¹⁸⁴ *Ibid.*, Chapter 16 (Labour), Article 16.3.1 (Procedural Guarantees and Public Awareness); Chapter 17 (Environment), Article 17.3.1 (Procedural Matters).
- ¹⁸⁵ 2012 Central America-EU Association Agreement, Part IV (Trade), Title VIII (Trade and Sustainable Development), Article 285 (Right to regulate and Levels of Protection).
- ¹⁸⁶ *Ibid.*, Article 291 (Upholding Levels of Protection)
- ¹⁸⁷ *Ibid.*, Article 286 (Multilateral Labour Standards and Agreements).
- ¹⁸⁸ *Ibid.*, Article 287 (Multilateral Environmental Standards and Agreements).
- ¹⁸⁹ *Ibid.*, Article 290 (Trade in Fish Products).
- ¹⁹⁰ *Ibid.*, Article 289 (Trade in Forest Products).
- ¹⁹¹ *Ibid.*, Article 284 (Context and Objectives).
- ¹⁹² 2012 Central America-EU Association Agreement, Part IV (Trade), Title VIII (Trade and Sustainable Development), Article 294 (Institutional and Monitoring Mechanism).
- ¹⁹³ *Ibid.*, Article 296 (Governmental Consultations).
- ¹⁹⁴ *Ibid.*, Article 297 (Panel of Experts).
- ¹⁹⁵ *Ibid.*, Articles 300 (Initial Report) and 301 (Final Report).
- ¹⁹⁶ *Ibid.*, Article 301 (Final Report).
- ¹⁹⁷ *Ibid.*, Article 294.5 (Institutional and Monitoring Mechanism).
- ¹⁹⁸ *Ibid.*, Article 295 (Civil Society Dialogue Forum).
- ¹⁹⁹ Joint Declaration of the Central American and European Union Advisory Groups established under the Trade and Sustainable Development Title of the Association Agreement between the European Union and Central America, November 2020, https://www.eesc.europa.eu/sites/default/files/files/eesc-2020-04854-00-02-tcd-tra-en.docx_0.pdf.
- ²⁰⁰ *Ibid.*
- ²⁰¹ 2013 Central America-EFTA FTA, Preamble.
- ²⁰² *Ibid.*, Chapter 9 (Trade and Sustainable Development), Article 9.3 (Right to Regulate and Levels of Protection).
- ²⁰³ *Ibid.*, Chapter 9 (Trade and Sustainable Development), Article 9.4 (Upholding Levels of Protection).
- ²⁰⁴ *Ibid.*, Chapter 9 (Trade and Sustainable Development), Article 9.5 (International Labour Standards and Agreements).
- ²⁰⁵ *Ibid.*, Chapter 9 (Trade and Sustainable Development), Article 9.6 (Multilateral Environmental Agreements and Environmental Principles).
- ²⁰⁶ *Ibid.*, Chapter 9 (Trade and Sustainable Development), Article 9.8 (Trade in Forest-Based Products).
- ²⁰⁷ *Ibid.*, Chapter 9 (Trade and Sustainable Development), Article 9.10 (Implementation and Consultations).
- ²⁰⁸ *Ibid.*, Chapter 9 (Trade and Sustainable Development), Article 9.10 (Implementation and Consultations).

²⁰⁹ *Ibid.*, Chapter 9 (Trade and Sustainable Development), Article 9.7 (Promotion of Trade and Investment Favouring Sustainable Development).

²¹⁰ 2018 Central America-Korea FTA, Preamble.

²¹¹ *Ibid.*, Chapter 16 (Labour), Article 16.2 (General Principles and Commitments), Chapter 17 (Environment), Article 17.3 (General Principles).

²¹² *Ibid.*, Chapter 16 (Labour), Article 16.2 (General Principles and Commitments), Chapter 17 (Environment), Article 17.4 (Specific Commitments).

²¹³ *Ibid.*, Chapter 16 (Labour), Chapter 17 (Environment), Article X.

²¹⁴ *Ibid.*, Chapter 16 (Labour), Chapter 17 (Environment), Article X.

²¹⁵ *Ibid.*, Chapter 16 (Labour), Article 16.3 (Procedural Guarantees and Public Awareness), Chapter 17 (Environment), Article 17.6 (Procedural Guarantee).

²¹⁶ *Ibid.*, Chapter 16 (Labour), Article 16.3 (Procedural Guarantees and Public Awareness), Chapter 17 (Environment), Article 17.6 (Procedural Guarantee).

²¹⁷ The expression “investment treaties” in the present Review covers bilateral investment treaties (BITs) and the investment chapters contained in comprehensive trade agreements. For the purposes of the present analysis, the provisions contained in the other chapters of comprehensive trade agreements are analysed in the previous subsection.

²¹⁸ It should be noted that, out of these 16 BITs, only 15 are in force, as the BIT concluded with Korea was terminated and replaced by the investment chapter of the 2018 Central America-Korea FTA.

²¹⁹ 1998 Central America-Dominican Republic FTA (investment chapter), Article 9.15 (Measures related to the environment).

²²⁰ 1998 Costa Rica-Canada BIT, Annex 1, General and Specific Exceptions, Article III (General Exceptions and Exemptions).

²²¹ 1998 Central America-Dominican Republic FTA (investment chapter), Article 9.15 (Measures related to the environment); 1998 Costa Rica-Canada BIT, Annex 1, General and Specific Exceptions, Article III (General Exceptions and Exemptions).

²²² 2004 CAFTA-DR (investment chapter), Article 10.11; 2007 Central America-Panama FTA (investment chapter), Article 10.15; 2010 Costa Rica-Singapore FTA (investment chapter), Article 12.8.2; 2011 Costa Rica-Peru FTA (investment chapter), Article 12.8; 2011 Central America-Mexico FTA (investment chapter), Article 11.16; 2013 Costa Rica-Colombia FTA (investment chapter), Article 12.8.2; 2013 Central America-EFTA FTA (investment chapter), Article 5.6.1; 2018 Central America-Korea FTA (investment Chapter), Article 9.11.

²²³ Performance requirements are stipulations, imposed on investors, requiring them to adopt a given conduct or to achieve certain economic or non-economic goals in the country where they invest.

²²⁴ 2004 CAFTA-DR (investment chapter), Article 10.9; 2007 Central America-Panama FTA (investment chapter), Article 10.07; 2011 Central America-Mexico FTA (investment chapter), Article 11.7; 2010 Costa Rica-Singapore FTA (investment chapter), Article 11.8; 2011 Costa Rica-Peru FTA (investment chapter), Article 12.6; 2013 Costa Rica-Colombia FTA (investment chapter), Article 12.6; 2018 Costa Rica-Korea FTA (investment chapter), Article 9.9.

²²⁵ 2007 Central America-Panama FTA (investment chapter), Article 10.15; 2011 Costa Rica-Peru FTA (investment chapter), Article 12.8; 2011 Central America-Mexico FTA (investment chapter), Article 11.16.2; 2013 Costa Rica-Colombia FTA (investment chapter), Article 12.8.1.

²²⁶ 2011 Costa Rica-Peru FTA (investment chapter), Annex 12.10; 2011 Central America-Mexico FTA (investment chapter), Annex 11.11; 2013 Costa Rica-Colombia FTA (investment chapter), Annex 12.B; 2018 Central America-Korea FTA (investment chapter), Annex 9.B.

²²⁷ 2004 CAFTA-DR (investment chapter), Article 10.24; 2011 Costa Rica-Peru FTA (investment chapter), Article 12.25; 2011 Central America-Mexico FTA (investment chapter), Article 11.28; 2013 Costa Rica-Colombia FTA (investment chapter), Article 12.26.

²²⁸ 2013 Costa Rica-Colombia FTA (investment chapter), Article 12.9; 2017 Costa Rica-EUA BIT, Article 11.

²²⁹ OECD (2019), Action Plan to Strengthen National Contact Points for Responsible Business Conduct 2019 – 2021, Track four: promoting policy coherence; <http://mneguidelines.oecd.org/Action-Plan-to-Strengthen-National-Contact-Points-for-Responsible-Business-Conduct-2019-2021.pdf>

²³⁰ See OECD (2011), OECD Guidelines for Multinational Enterprises, Procedural Guidance, para. 37, OECD Publishing, <http://dx.doi.org/10.1787/9789264115415-en>.

²³¹ OECD (2020), National Contact Points for Responsible Business Conduct, Providing Access to Remedy – Twenty Years and the Road Ahead, p. 26, <http://mneguidelines.oecd.org/NCPs-for-RBC-providing-access-to-remedy-20-years-and-the-road-ahead.pdf>.

²³² See Government of the United Kingdom (n.d.), Website: UK National Contact Point – About us, <https://www.gov.uk/government/organisations/uk-national-contact-point/about>.

²³³ See Government of Morocco (n.d.), Website: secteur textile, <http://www.mcinet.gov.ma/en/content/textile>.

²³⁴ See Government of Norway (n.d.), Website: RBC Compass – A useful tool, <https://www.responsiblebusiness.no/news/the-rbc-compass-new-tool/>.

²³⁵ See Alianza Anticorrupción (n.d.), Website: Quienes somos, <https://www.alianzaanticorrupcion.cl/AnticorrupcionUNCAC/quienes-somos/>.

²³⁶ See Government of Canada (2022), Canadian National Contact Point – Specific Instance Procedures, Article 9.5, <https://www.international.gc.ca/transparence-transparence/national-contact-point-contact-national/procedures.aspx?lang=eng#a9>.

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