Business for the Rule of Law

CONSULTATION WORKSHOP REPORT

LOCATION:
Spain, Madrid

DATE:
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HOST/FACILITATOR:
Global Compact Network Spain, Cuatrecasas, Gonçalves and Pereira Avogados, and Fernando Pumbo Foundation
Part I: Executive Summary

1. UN Global Compact and Business for the Rule of Law Overview
   - “Business logic that allows economic outcomes and ensuring the states where we operate”
   - “The concept of rule of law makes us think about the game’s rules.”
   - “Safety for investing, help to expand to other jurisdictions, access to new human and financial resources and to develop economically and socially”

2. Business Support for the Rule of Law in Practice
   - “This initiative is trying to give a structure to sustainability techniques”
   - “Joining experiences under one umbrella”
   - “Actually the game’s rules are not clear”

3. Business Case for Supporting the Rule of Law
   - "One of the issues is that when we talk about rule of law, increase to the number of laws always comes to mind and might not always be so, however these can be reduced, be more efficient and friendlier to society"
   - "The UN is looking at the way companies can influence governments to achieve a more effective public institution”.
   - "Business contribution to strengthen the rule of law"
Part II: Workshop Report

1. UN Global Compact and Business for the Rule of Law Overview

The facilitator provided an overview of the Business for the Rule of Law initiative, explaining that it is a transversal program to Global Compact, because without a strong rule of law, it would not be possible for companies work on the ten principles, and the framework will contain good practices as a support for states, business and civil society.

The first question was to determine the benefits to businesses of the rule of law and how it links with the private sector, highlighting the terms of certainty, security, cooperation and stability.

Concluding that the principal objective of the initiative relates not only to law enforcement, but also to having clear rules for business growth, enabling and promoting access to new markets, human resources, natural resources, etc., therefore the rule of law has a direct positive impact on the company.

2. Business Support for the Rule of Law in Practice

Facilitator will explain the “support” dimension in the context of business for the rule of law.

- One of the principal questions discussed was that the initiative needs to go from the hand of governments, because in some countries, the governments are not progressing in that area, and this is where the role of the company is important.

- The purpose of this guide is to provide guidance on actions business can take to support the rule of law and encourage business support for the rule of law and strengthen partnerships with various actors at the global and local level.

- The participants discussed an example of mining in Africa where an entire industry has agreed not to accept bribes from the government.

From the local perspective it was concluded that companies should apply the rule of law they have in Spain in their countries of operation, in order to promote a strong rule of law and a level playing field.

3. Business Case for Supporting the Rule of Law

a. What does the rule of law mean in this country?
To reach a conclusion on this question, the facilitator invited each participant to comment on the meaning of rule of law. The following comments were made:

- The initiative provides an opportunity to enter into a process of continuous improvement in fundamental rights, where companies are an engine for progress in the governments.
- The role of Global Compact is key to this initiative, because it makes the private sector appears as a new actor in strengthening the rule of law.
- This program will make it possible to identify what companies can do if they are operating in countries where there is no legal certainty, etc. and what companies can do to influence these public institutions.

After taking into account the different points of view and perspective of the participants, they concluded that rule of law is the "Business contribution to strengthen the rule of law"

b. **How does business benefit when there is a strong rule of law? Alternatively, what challenges exist for business when the rule of law is weak?**

For the development of this section, the facilitator asked each participant one word to define the benefits of a strong rule of law, which were:

- Security
- Level playing field
- Transparency
- Stability, security and fair play
- Competition and transparency
- Equity
- Growth
- Credibility
- Certainty
- Confidence
- Responsibility
- Business
- Social and Economic Growth
- Development of trust

4. **Business Action and Business Examples in Support of the Rule of Law**

a. **Explore the meaning of the business action and how it relates to business.**

The facilitator in this part of the workshop presented the business actions proposed from Global Compact, and the participants commented on how these business actions are related to the companies.

There was mention of the example of a company in the water sector that provides training to judges.
Also, they talked about the support for the implementation of the Business for the Rule of Law by the Global Compact being critical to the success of this initiative.

At the local level it was mentioned that one of the important points to be solved is that there is no comparative grievance among regions.

Furthermore, these actions will strengthen transparency in the processes of public procurement, tendering, equal opportunities and in promoting of developing countries.

b. Explore how the business action can be implemented by business by sharing an actual or hypothetical example.

The participants presented several examples or current situations that are related to each business action.

- **Business Action No. 1** - Mentioning as an example pro bono service law firms to train officials on respect of the rule of law.

- **Business Action No. 2** - They commented on the importance of including respect for the rule of law in MBA courses.

- **Business Action No. 3** - Training plans in legal issues taking into account the local environment were cited as examples of business actions.

- **Business Action No. 4** - The examples cited were: communication rights, financial education from the basics that can be complete reports, etc. to the most advanced like responsible investment among others.

- **Business Action No. 5** - A situation mentioned was one in which some food companies buying crops and harvests found that the farmers did not have any legal support, so the food companies helped to formalize the title, accompanied in this process and now when the company goes from there, the farmer has a title to support it.

- **Business Action No. 6** - This business action can mention all models of Corporate Compliance, consultative channels and good practice.

c. Are these the correct business actions to include in the Framework?

Participants mentioned by consensus that it is notable that there is a detailed analysis of these business actions, which are adequate, extensive, and well selected.

Different improvements were suggested:

Add to Business Action No. 6 the reporting of cases where noncompliance.
The Business Action 5 at the item C was considered to have to be included in Business Action 4 because it is more related to access to justice.

Also, highlighted the positive issue that people understand that it is the law that defends their rights and in this case the Business Action 4 at the item B is an instrument.

d. **Are there business actions that are missing from the Framework that should be included?**

In this section, the participant commented that it is important to highlight that in Business Action 3 the term “effective”

In the Business Action 3, they suggested to add “Encourage the creation of agencies with authority to enable reporting and acting”.

The participants missed a Business Action which specified that the respect for the rule of law and the production process should not be removed from the hands of the citizen and the state.

5. **Call to Action (to Business and by Business) to Support the Rule of Law**

a. **What are some concrete steps business can take to respect and support the rule of law?**

Actually, the businesses already have mechanisms that strengthen the rule of law and have realized that being sustainable is good for the company, including on certifications like ISO9000 quality and sustainability indicators and results in individuals, customers and society.

Social marketing, with values and with a specific cause, can be a very important tool to promote the benefits of a strong rule of law.

It is essential to define the examples which have impact on this kind of initiative, engage in concrete business actions that can help the rule of law and internalize within the company.

We must take into account that the company should not be separated from its business to support the rule of law and contribute to the sector knowledge.
Concrete steps to put into action are identification (the return received by the company), measurement and indicators.

b. **What actions can other actors, including Government, academia and civil society take to improve legal institutions, access to justice, equality before the law, capacity building and other such action?**

The actions that can implement other actors and sectors of civil society were mentioned:

- Specific nonprofit collaborations
- Breaking the collaboration barriers between business and these NGOs
- Increase the number of spaces for dialogue.
- Create another way of working clear (voluntary agreements, etc.)
- Promote the right to fair competition

6. **Mobilizing Business to Support the Rule of Law**

   a. **What obstacles, if any, does your organization experience that prevents it from supporting the rule of law in this country or in any other country it has an interest in, such as investments, operations, business relationships?**

   The obstacles exposed, were:
   - Lack of an agreement between all competitors
   - Unequal competition, for example: paying for licenses
   - Misinformation and lack of existence of an information channel registered and regulated
   - Obstacle culture
   - Internal corporate income
   - Lack of capacity to identify the return

   b. **How can the UN Global Compact, and other actors, support business to take action in support of the rule of law (e.g. information sharing via webinars on specific rule of law topics, in-person events, leveraging online resources, strategic partnerships)?**

   Participants commented that Global Compact together with other actors can help achieve the aim of this initiative - these suggestions were mention:
The existence of a certification to validate this type of action, giving a parameter to the institutions that obtained.

The Business for the Rule of Law Initiative is a great way to stand out as a good practice as Global Compact supports the rule of law and the development of a guide containing good practices, success criteria and return (reputation, profit, etc.)

Also as a support action that can develop Global Compact, they mentioned the case of a company that has an experts network of sustainable development that identifies the good practice of the month, establishing the return has been received and communicating it so it can be replicated.

Encourage businesses to share best practices companies, collaborative economy and develop sectoral projects.

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