

DOING BUSINESS IN THE RUSSIAN FEDERATION: THE HUMAN RIGHTS APPROACH

AMNESTY INTERNATIONAL

[BACK COVER TEXT]

Companies from around the world are exploring business opportunities in the Russian Federation. Amnesty International spells out their responsibilities on human rights issues, pointing to the problems they may face and the influence they can exert by promoting good practice.

Amnesty International calls upon companies doing business in the Russian Federation — as elsewhere — to ensure that their activities are consistent with international human rights standards. This means that companies must respect the human rights of their employees and the people in the communities where they operate. Companies should also make respect for human rights an integral component of their business dealings with other companies, suppliers and government officials.

Companies should ensure that their own policies and practices, including recruitment and employment policies, are free of discrimination on grounds such as gender or ethnic or racial origin. They should not use forced labour or exploitative child labour. Companies should scrutinize the human rights records of security firms and should not employ those with a record of human rights abuses. Above all, companies should take steps to avoid any complicity in human rights violations.

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[FOOTER TEXT (slogan)]

Справедливость для всех — Права человека в Российской Федерации

justice for everybody — human rights in the russian federation

[END TEXT]

Doing Business in the Russian Federation

The human rights approach

AMNESTY INTERNATIONAL

Amnesty International calls on all organizations within society, including companies and business operations in general, to respect and promote human rights. Amnesty International takes no position on whether or not companies should do business in, or with, the Russian Federation.

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Amnesty International is a worldwide voluntary activist movement working for human rights. It is independent of any government, political persuasion or religious creed. It does not support or oppose any government or political system, nor does it support or oppose the views of those whose rights it seeks to protect. It is concerned solely with the impartial protection of human rights.

Amnesty International's vision is of a world in which every person enjoys all the human rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

Amnesty International undertakes research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination. In this context it:

- seeks the release of prisoners of conscience: these are people detained for their political, religious or other conscientiously held beliefs or because of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status – who have not used or advocated violence;
- works for fair and prompt trials for all political prisoners;
- opposes without reservation the death penalty, torture and other cruel, inhuman or degrading treatment or punishment;
- campaigns for an end to political killings and “disappearances”;
- calls on governments to refrain from unlawful killings in armed conflict;
- calls on armed political groups to end abuses such as the detention of prisoners of conscience, hostage-taking, torture and unlawful killings;
- opposes abuses by non-state actors where the state has failed to fulfil its obligations to provide effective protection;
- campaigns for perpetrators of human rights abuses to be brought to justice;
- seeks to assist asylum-seekers who are at risk of being returned to a country where they might suffer serious abuses of their human rights;
- opposes certain grave abuses of economic, social and cultural rights.

Amnesty International also seeks to:

- cooperate with other non-governmental organizations, the United Nations and regional intergovernmental organizations;
- ensure control of international military, security and police relations, to prevent human rights abuses;
- organize human rights education and awareness raising programs.

Amnesty International is a democratic, self-governing movement with more than a million members and supporters in over 140 countries and territories. It is funded largely by its worldwide membership and public donations.

Doing Business in the Russian Federation

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Doing business in the Russian Federation: the human rights approach

Companies from around the world are interested in doing business in the Russian Federation. Amnesty International believes not only that such companies should ensure that they are not involved in human rights abuses, but also that they can play an important role in promoting respect for human rights.

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Amnesty International asks companies to include human rights in their framework when they assess the risks of operating in the Russian Federation, and to consider the impact of their activities on human rights.

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Businesses are drawn to the Russian Federation for many reasons, including the country's abundant reserves of oil and gas, and Siberia's enormous mineral wealth. The workforce is highly educated, and, compared with many of its international counterparts, relatively low-paid. The decline in the value of the ruble means that Russian products and services are comparatively inexpensive. The Russian Federation under President Vladimir Putin is seen as an ally of the West, and after some turbulent years, political stability and economic growth have been restored.

After the emergence of the Russian Federation from the collapsing Soviet Union (USSR) in 1991, a new form of government elected by popular vote emerged. The economy was opened up to the free market, and a new Constitution and many legal reforms were introduced. However, economic liberalization was not accompanied by the creation of effective regulatory mechanisms. Some people made great gains, while many faced increased hardship and insecurity. In the political sphere there has been a marked increase in freedom of expression and movement. There has also been a growth in nationalist and separatist movements. On the human rights front, some of the gross violations for so long associated with the former Soviet Union have been eradicated, but widespread abuses by Russian law enforcement officials and security forces persist, often in a climate of impunity.

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Amnesty International takes no position on doing business in, or with, the Russian Federation. Amnesty International neither supports businesses operating there, nor calls for their withdrawal. The decision to invest or trade in the Russian Federation is that of the business alone.

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Despite the Russian Federation's economic potential and political reforms, it remains a difficult place to do business.¹ For an economy of its size, foreign direct investment is low.² Companies have routinely complained about failures on the part of central and local government to respect the rule of law, lack of transparency in decision-making and policy formulation, the unsafe business climate, the influence of organized crime and pervasive corruption.

Businesses from around the world often choose to ignore the human rights records of the countries where they operate. One of the arguments used is that business interests and requirements are unrelated to human rights. That is simply not the case. The Russian Federation's record on human rights has a direct impact on business interests, and companies can influence the human rights climate by their own policies and practices.

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Amnesty International is not singling out the Russian Federation. The tools of good corporate conduct are universal, and apply to every country. Amnesty International has in the past produced material for businesses operating in China and Saudi Arabia.³ This booklet aims to increase awareness among business executives of some of the human rights issues in the Russian Federation and what their companies can do to promote human rights.

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Harsh realities

“The only real business (in Russia) is politics, and it will always be thus.”⁴

Mikhail Khodorkovsky, Chairman of Yukos Oil, one of the biggest Russian companies

The Russian Federation faces numerous economic and social problems. The rapid restructuring of the economy has led to widening disparities of income, and more than 80 million people live in poverty in the Russian Federation, out of a total population of approximately 144 million. The gap between rich and poor regions is also widening. For example, the average Muscovite earns 17 times more than residents of Ingushetia. In 1997, Moscow contributed 46 per cent of the country's tax revenues. There are growing numbers of deaths from HIV/AIDS and alcohol abuse,⁵ exacerbated by rising poverty and the decline in social health provision. The population is falling sharply.⁶ Russian planners are also worried about a brain drain, as engineers and scientists emigrate to the USA, Israel and parts of Europe.

Human rights violations in the Russian Federation are widespread, and the victims – particularly some of the most vulnerable in society such as women, children and members of ethnic minorities – have little chance of seeing the perpetrators brought to justice. People held in police custody are frequently tortured or ill-treated. Conditions in the country's disease-ridden and overcrowded pre-trial detention centres are generally appalling. Freedom of expression and association have been under threat and there have been politically motivated prosecutions. Conscientious objectors to military service face forcible conscription and imprisonment. Ethnically motivated discrimination and violence are major concerns. During the conflict in the Chechen Republic (Chechnya), Russian federal forces have reportedly killed, tortured and raped civilians without fear of punishment. Chechen forces have also committed abuses.

Businesses in the Russian Federation are not insulated from the human rights environment. Some companies have had members of staff arrested and detained in appalling conditions. Some have had employees conscripted into the armed forces. Employees and their families are subject to the same daily indignities as the rest of the population.

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Amnesty International calls upon companies doing business in the Russian Federation – as elsewhere – to ensure that their activities are consistent with international human rights standards. This means that companies must respect the human rights of their employees, their dependants and the people of the communities in which they operate. Companies should also make respect for human rights an integral component of their business dealings with other companies, partners, associates, subsidiaries, suppliers and government officials.

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Corruption and crime are rife. In such a climate, many companies, both domestic and international, have suffered financially. Widespread corruption and lawlessness have led to companies having their assets seized or being victims of fraud. Some companies have found that firms which owe them money have disappeared without trace.

Lack of respect for the rule of law hits companies as well as individuals. Many businesses need free access to information in order to compete effectively, and such freedom is restricted. Some companies feel they have little choice but to trade with firms involved in human rights abuses, to adopt corrupt practices such as paying bribes or to employ security firms whose methods fall below acceptable standards.

What needs to be done

Businesses as well as people have to have confidence that the institutions and practices of the state will protect their fundamental interests. Some international companies have argued that the Russian business environment can be made safe by a clear code of corporate governance, increased salaries for public officials, a transparent tax code, a new bankruptcy law and reduced discretion for government officials. But will this be

enough?

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Companies should not use forced labour or exploitative child labour. They should ensure that their own policies and practices, including recruitment and employment policies, are free of discrimination on grounds such as gender or ethnic or racial origin.

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Amnesty International believes that companies' problems are closely intertwined with the way the Russian Federation functions as a society, and that unless fundamental changes are made to enhance respect for human rights and the rule of law, the business environment will not significantly improve. Human rights standards, which aim to protect the individual from unfair treatment and abuse from states, should be the basis of the rule of law.

Not only do companies benefit from a stable society based on respect for human rights, but companies have an important responsibility on human rights issues. The Universal Declaration of Human Rights calls upon every individual and every "organ of society", which in Amnesty International's view includes companies and business operations, to protect and promote human rights. Companies should protect the interests, health and safety and other human rights of employees and their dependants, of business partners, associates and sub-contractors, and of the communities in which they operate.

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Companies should scrutinize the human rights records of firms which provide security for their plant, equipment and people, and not employ firms with a record of human rights abuses.

Above all, companies should take steps to avoid any complicity in human rights violations.

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International companies can have a powerful influence by playing an active role in ensuring the rights of the people they employ and their dependants. By respecting and advocating human rights, companies can help to build a better and safer society in the Russian Federation. Safer for its people, and safer for business.

Company conduct and human rights

standards

International human rights standards are universal. They apply to all human beings, everywhere. They set out the human rights that companies should respect and should take into account in their operations all over the world, including the Russian Federation. Human rights standards and principles to guide good practice can be found in treaties, in principles and statements adopted by the international community and in voluntary codes. Some of the most important are:

- The Universal Declaration of Human Rights.⁷ This universally recognized set of principles is the cornerstone of the UN human rights system. It identifies human rights – civil, cultural, economic, political and social – which are vital to everyone’s well-being. It establishes that human rights are an international responsibility and that all human rights are universal and indivisible.
- The International Covenant on Civil and Political Rights.⁸ This treaty expands upon the civil and political rights recognized in the Universal Declaration of Human Rights. States which are party to this treaty are legally bound to respect the rights set out in the treaty and to ensure them to all individuals in their territory or subject to their jurisdiction, without discrimination. The Russian Federation has ratified this treaty.
- The International Covenant on Economic, Social and Cultural Rights.⁹ This treaty expands upon the economic, social and cultural rights recognized in the Universal Declaration of Human Rights. States which are party to this treaty are legally bound to undertake steps individually and cooperatively, to the maximum of available resources, with the view to progressively achieving the full realization of the rights in the treaty, without discrimination. The Russian Federation has ratified this treaty.
- The Declaration on Fundamental Principles and Rights at Work of the International Labour Organisation (ILO) – the UN agency which promotes labour rights. This reaffirms the commitment of all members of the ILO, including the government, trade unions and employer organizations of the Russian Federation, to four core principles. These core principles are: freedom of association and the right to organize (as set out in ILO Conventions 87 and 98); the abolition of forced labour (Conventions 29 and 105); equal opportunities and treatment in the workplace (Conventions 100 and 111) and the elimination of child labour (Conventions 138 and 182). All member countries of the ILO are under an obligation to respect the fundamental principles enumerated in the Declaration.
- The eight Fundamental Conventions of the International Labour Organisation.¹⁰ These legally binding international treaties (Conventions 29, 87, 98, 100, 105, 111, 138 and 182 — see above) form a framework to protect workers and provide a decent environment for both employees and employers. The Russian Federation has ratified all of the Fundamental Conventions except Convention 182 relating to the worst forms of child labour.
- The UN draft norms on Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights.¹¹ These draft norms, which are being developed at the UN Sub-Commission for Protection and Promotion of Human Rights in Geneva, are based on international treaties and standards and will apply to all companies.
- The UN Global Compact.¹² This is an initiative of the UN Secretary-General. Companies voluntarily sign up to its nine principles, which cover human rights, labour standards and the environment. On human rights, businesses are asked to support and respect the protection of international human rights within their sphere of influence, and to make sure their own corporations are not complicit in human rights abuses.
- The Global Reporting Initiative.¹³ This is a voluntary initiative to assist companies to report the social, environmental and labour impact of their activities in a standardized form, in consultation with stakeholders.

- The Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.¹⁴ This legally binding treaty aims to eliminate corruption in international trade and investment. The Russian Federation has not ratified this treaty (see Appendix 2).
- The OECD Guidelines for Multinational Enterprises.¹⁵ These guidelines cover environmental, social, human rights and labour issues.
- Voluntary Principles on Security and Human Rights.¹⁶ This initiative was launched by the US and United Kingdom (UK) governments and now also involves the Netherlands and Norway. Companies in the oil and mining sector have voluntarily come together to agree a set of principles governing the use of security forces in the area of their operations.
- The Kimberley Process for Conflict Diamonds.¹⁷ This international negotiation process includes companies and non-governmental organizations, as well as diamond mining, processing and trading countries, with a view to eliminating the trade in diamonds from conflict zones.
- UN Code of Conduct for Law Enforcement Officials.¹⁸ This Code of Conduct was adopted by the UN General Assembly in 1979. It sets out standards for the conduct of people exercising police powers, particularly powers of arrest and detention. The standards aim to ensure that law enforcement personnel respect and protect human rights. Although this UN code does not technically have the legal force of a treaty, it has the persuasive force of having been negotiated by governments and adopted by the UN.
- UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.¹⁹ This set of principles sets out the strictly limited circumstances under which security personnel may use force and firearms in the performance of their duties and seeks to restrict the use of force to the minimum necessary.
- Amnesty International's Human Rights Principles for Companies.²⁰ Amnesty International has developed a set of human rights principles, based on international standards, to assist companies in developing their role in situations of human rights violations or the potential for such violations. See Appendix 1.

Do human rights standards apply to companies?

Some international standards are treaties which are signed and ratified by governments.²¹ States are then legally bound by the treaties. Certain companies have claimed that since states, not companies, are party to the treaties, the contents of the treaties do not apply to them. This is not true. Governments that ratify human rights treaties are expected to take measures to ensure respect for the rights in the treaties. One of the ways in which governments implement international treaties is through their domestic laws. Companies are governed by these laws, and therefore indirectly by the provisions of human rights treaties that governments have ratified.

Further, when a state contracts a company to carry out a state function, then the state is bound to ensure that the company acts in a manner consistent with the state's obligations under international law.

As well as legally binding treaties, there are other, non-treaty standards which do not have the force of law but set out minimum standards of good practice to which all companies should adhere.

All companies have a direct responsibility to respect human rights in their own operations. Their employees and other people with whom they work are entitled to rights such as freedom from discrimination, the right to life and security, freedom from slavery, freedom of association, including the right to form trade unions, and fair working conditions. Particular care needs to be taken by companies to ensure that their security arrangements do not lead to human rights abuses.

Companies using prison labour need to take all precautions to protect the human rights of the prisoners. Prison labour is an important source of financial support for many prisoners, but can be open to abuse. Formally, Russian prisoners are entitled to be paid appropriately for their work. Article 105 of the Criminal Execution Code states that prisoners are entitled to wages in accordance with legislation. The level of wages cannot be less than the minimum wage but prisoners' salaries are subject to deductions for contributions to pension funds, child support, board and "various services rendered". At the Vladimir Garment Factory, women who fill the specified quota earned 500 rubles a month in 1999 and 2000 (in the region of US\$20), of

which they could retain about a fifth. Prisoners in other factories earn a lot less.

Amnesty International believes that the business community also has a wider responsibility to use its influence to promote respect for human rights.

A good place for a company to start is by drawing up a code of conduct which explicitly recognizes international human rights standards, and then developing operational and management policies to apply the code at all levels, including subsidiaries, partners, sub-contractors, and associates. Companies should also monitor their progress by regular dialogue with non-governmental organizations (NGOs). They should consult local communities and should make public an independently verified assessment of their adherence to the code of conduct.

The Russian economy today

The Russian Federation's macroeconomic indicators have been improving. Helped by rising commodity prices and the 1998 ruble devaluation that made domestic goods more competitive, foreign exchange reserves have risen, and the ruble has subsequently strengthened. A major tax change in 2001 cut personal income tax from a progressive rate of up to 30 per cent to a flat rate of 13 per cent to boost tax collection and stimulate consumer spending. Economic growth has been relatively strong over the past two years and while inflation in 2002 was still running at between 15 and 20 per cent, it was considerably lower than the 84 per cent inflation rate of 1998. The overall debt burden is predicted to fall from 130 per cent of Gross Domestic Product (GDP) to 40 per cent of GDP by 2004.²²

In 2002 the Russian Federation was able to claim a balanced budget, a rising trade surplus, improving foreign reserves, and a growing economy. However, in European terms, it still had a low level of prosperity.²³

The European Union (EU) and the USA declared the Russian Federation to be a market economy in June 2002. This should ease the Russian Federation's entry to the World Trade Organization, to which it applied in 1995, but membership would require difficult economic decisions, many of which could harm the most vulnerable members of society. For example, the government would have to agree to treat foreign and domestic firms equally and privatize some state-owned companies, including public services, which could

reduce access to vital services for the poor.

Investors return

In the past year or two, foreign investment has been on the increase²⁴ and Russian money that had flown abroad has also begun to return.²⁵

Examples of new investments include:

- Ford Motor Company of the USA has launched the first fully foreign-owned automobile plant outside St. Petersburg.
- General Motors of the USA has entered into a US\$300 million investment with Russia's AvtoVAZ.
- Metso Oyj of Finland, the world's biggest manufacturer of mineral processing machinery, will supply diamond processing equipment to Siberia.
- US aircraft maker Boeing says Russian engineers are participating in its project to produce the sonic cruiser airplane, which will fly higher and faster than current passenger aircraft.
- Motorola of the USA has built a software facility in St. Petersburg.
- Intel of the USA has set up research laboratories in Sarov, Nizhny Novgorod, and plans expansion in St. Petersburg and Novosibirsk.

Reinforcing the Russian Federation's integration into the global economy, Russian companies have begun investing overseas. Last year, Yukos Oil bought 22 per cent of the Anglo-Norwegian engineering group, Kvaerner, for US\$30 million, and agreed to buy two of its units for \$100 million. Lukoil spent \$71 million last year buying 1,300 Getty gas stations in the USA.

Russian oil: the driving force

The Russian Federation holds the eighth largest oil reserves in the world, as well the world's largest natural gas reserves and the second-largest coal reserves.²⁶ It is the world's largest exporter of natural gas, one of the biggest oil exporters, and the third largest energy consumer.

As energy accounts for two-fifths of Russian exports and more than 10 per cent of the country's real Gross Domestic Product,²⁷ the Russian economy is extremely sensitive to global energy price fluctuations. The oil price surge of 1999-2000 buoyed economic growth in the Russian Federation, while the subsequent decline in price damaged the economy. The growth up to 2000 helped the country to repay some of its foreign debt.

After the 11 September 2001 attacks in the USA, oil prices fell sharply and the Organization of the Petroleum Exporting Countries (OPEC)²⁸ cut production to shore up prices. Despite a pledge to OPEC that the Russian Federation would rein in production, oil production increased in the early months of 2002. This was at least in part to assist the USA and its allies in dealing with recessionary and inflationary pressures after the 11 September attacks.²⁹ Such cooperation is expensive: every US\$1 drop in the price of crude oil leads to a fall of \$2 billion in Russian export revenues and \$1 billion in federal revenues.³⁰

The Russian Federation's proven oil reserves stand at 48.6 billion barrels, but its equipment is ageing and its reserves are being depleted faster than new oil fields are being found. Analysts believe that more foreign investment is needed and argue that the government should implement a transparent corporate tax code and a production-sharing agreement regime.³¹

Privately-owned Russian companies like Yukos and Lukoil are in discussion with potential partners. In a joint project with the US firm Conoco, Lukoil is building a fleet of ice-breaking tankers to move oil through the Arctic waters from the vast reserves in northwestern Timan Pechora. Yukos is planning to build a pipeline through the Balkan region to the Adriatic Sea port of Omisalj in Croatia.³²

Oil companies involved in the Russian Federation include Agip, BP, British Gas, ChevronTexaco, Statoil, Conoco, ExxonMobil, Neste Oy, Norsk Hydro, Marathon, McDermott, Mitsubishi, Mitsui, Royal Dutch/Shell, and TotalFinaElf. According to investment companies in Moscow, oil accounts for some 50 per cent of the projected US\$22 billion of industrial investment expected in 2002.³³

One area of intense oil exploration is immediately to the south of the Russian Federation. In 1993, the

US oil company then known as Chevron (now ChevronTexaco), bought the Tengiz field in Kazakhstan. Within eight years, after investing US\$4 billion in the project, a ChevronTexaco-led consortium has opened a 980-mile pipeline from Tengiz to Novorossisk in Krasnodar Territory, southern Russia, on the Black Sea. BP has a vast project in the Caspian region and ExxonMobil has stakes in Tengiz and in Azerbaijan.

Current pipeline construction plans include the Baltic Pipeline System and a pipeline to China. The Blue Stream pipeline to Turkey will supply Turkey with natural gas. The Russian Federation and Ukraine have resolved a dispute which will allow the construction of a Ukraine bypass pipeline, and a Yamal-Europe pipeline is planned, via Belarus. Russia's largest gas company, Gazprom,³⁴ is a partner with Shell and ExxonMobil in China's US\$20 billion west-east pipeline project.

These pipelines are of enormous strategic value. The Caspian Sea, which holds an estimated 110 billion barrels of oil, is landlocked, bordered by the Russian Federation, Iran, Azerbaijan, Turkmenistan and Kazakhstan. Its vast oil output can be loaded onto tankers only if it is first piped to the Black Sea, the Mediterranean, or the Persian Gulf.

The USA is supporting the construction of a 1,090 mile pipeline to carry one million barrels of oil daily from Baku in Azerbaijan through Georgia to the Mediterranean port of Ceyhan in Turkey. The pipeline would bypass Iran completely, but would run close to the border between Azerbaijan and Armenia. Geographical and technical challenges apart, industry experts³⁵ acknowledge that this pipeline would run through contested territory in a region with widespread human rights abuses. In mid-2001, Iranian gunboats and a fighter jet chased a BP research vessel out of part of the Caspian Sea disputed by Iran and Azerbaijan. BP has since reportedly stopped exploring the area.

Russian interest in the Caspian region is strategic and economic. Observers have argued that the Russian Federation wants to maintain influence over its "near abroad". The Russian Federation has agreed to build an US\$800 million nuclear reactor in Iran and recently signed a US\$40 billion, five-year trade deal with Iraq.

The vast Russian oil and mineral resources should be of enormous benefit to the local population. However, experience in Africa, Asia and other parts of the world shows clearly that extractive industries often end up in dispute with indigenous communities. Moreover, when companies explore for oil in areas of conflict, some have become targets of armed opposition groups. When they have engaged private or state security firms to protect their people and assets, they have sometimes been implicated in human rights abuses.

The business climate

The Russian Federation has suffered a major economic decline since the collapse of the USSR in 1991. In the last decade, it has lost nearly half of its gross national product and some 60 per cent of its industrial production. There has been a huge flight of capital, with estimates ranging from US\$150 billion³⁶ to US\$350 billion.³⁷

Russian efforts to establish a market economy after 1989 were hampered by disputes between the legislature and the executive, and by the lack of transparency and of rules to govern the economy. Sudden removal of price controls led to hyperinflation, which decimated the savings of millions of people. The country's productive assets fell into the hands of speculators, rather than entrepreneurs, and ordinary citizens lost their savings once again when they invested in unregulated financial schemes. The financial sector collapsed. Businessmen seized control of the pillars of the economy³⁸ in dubious loans-for-shares schemes,³⁹ buying state assets at prices far below their true value.⁴⁰

In 1998, despite a US\$22.6 billion package from the IMF to protect the ruble, interest rates for Russia's

treasury bills, known as GKO, shot up to 130 per cent. The Russian Federation then defaulted on its domestic debt and international financial obligations. A 90-day moratorium was announced on foreign debt payments, and GKO payments were suspended. The ruble — and the banking system — collapsed, and many firms went into bankruptcy. Crime increased, both in the streets and in the business world, leading to the emergence of private security forces, sometimes controlled by former officials of the KGB, the secret service of the former Soviet Union.

Since 1998 a certain degree of political and economic stability has been achieved although the economy remains highly dependent on the export of commodities, such as oil, natural gas, metals, and timber, and is therefore vulnerable to changes in world prices. The economy has grown and the government is implementing structural reforms, including developing a code of corporate governance and a new bankruptcy law to make the business environment more predictable.

Widespread distrust

Despite signs of increased confidence in the Russian economy, foreign direct investment in the Russian Federation remains relatively low. In 2000, foreign direct investment in the USA was US\$316 billion, in China it was US\$39 billion, whereas in the Russian Federation it stood at US\$2.7 billion. According to the World Bank's Foreign Investment Advisory Service: *"There is too much uncertainty, as interpretation and enforcement of laws – from registering a new company, to acquiring land, to paying taxes – change rapidly and depend on which government official is doing the interpreting or enforcing. There is too much corruption – from high-level officials who demand 'partnership' in companies that look like they will be profitable ventures – to the lowest level customs or excise official."*

Companies operating in the Russian Federation often face unannounced visits by inspectors from a variety of government departments, like health, fire, labour, or tax. Frequently, these have been sent by rival businesses to keep their competitors busy with bureaucratic procedures. Some companies evade taxes by colluding with tax inspectors, depriving the state of revenue which could be used to enhance economic, social and cultural rights.

Some Russian companies have misled investors. Some delay producing their accounts, others do not produce any accounts. Some issue new shares at a substantial discount to benefit officials connected with the company's management. Some divert profits to shell companies listed in tax havens, which undermines the rights of minority shareholders. International accounting firms have audited the accounts of some of these companies, and one international investor is suing a large accounting firm for tolerating such abuse.

Distrust of the state remains high. A 1999 poll by the All-Russian Center for the Study of Public Opinion (VTsIOM) surveyed key areas of a government's interface with the people: timely payment of wages, salaries and pensions; social protection for the unemployed, homeless and needy; fighting organized crime; and maintaining law and order. It showed that Russians distrusted their government by a margin of almost nine to one.⁴¹ In the same poll, 74 per cent singled out corruption in the courts and judicial system as the key problem in dealing with the judiciary; 84 per cent cited police corruption as the main problem in working with the police; and 68 per cent considered corruption in the federal government as the main problem affecting relations with the government.

Many Russian institutions thrive on ambiguity, according to business executives. The boundary between federal and regional authority remains blurred, as is the boundary between official functions and private activities, despite reforms instituted by the Putin government.

In view of high crime levels and widespread distrust of the police, many businesses have taken on the functions of protecting their operations themselves or have hired private security firms. The risk of human rights abuses is great. Many of these security firms are unaware of international principles governing acceptable behaviour;⁴² some are criminal organizations, such as those associated with what the Russian media call the *Mafiya*.⁴³ Recent disputes over ownership have seen minority shareholders turning up for a meeting with heavily armed security guards, and reports of an armed stand-off at a pulp and paper mill between a private army and armed guards and workers.⁴⁴

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Amnesty International recognizes that in some countries and in some situations, companies need to deploy security forces to protect their employees and physical assets. Amnesty International urges companies to

ensure that their methods (and those of companies they contract) are consistent with respect for human rights.
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Unwritten rules

“The imperfection of our laws is compensated for by their non-observance.”

“Laws in Russia are like lamp-posts. You can always get around them.”

Two Russian sayings

The existing legal framework that governs business conduct in the Russian Federation allows for unwritten, arbitrary and frequently changing rules. *“The incoherence of formal rules forces almost all Russians, willingly or unwillingly, to violate them. The economy operates in such a way that there is always something to be caught for: anybody can be framed and found guilty of some violation. Since offences are so pervasive, punishment is selective and depends on informal, extra-legal criteria. These unwritten rules come into being to compensate for the defects in the law, and also form the basis for selective inducements. All this, in turn, feeds back into the non-transparency of the Russian rules of the game.”*⁴⁵ Disputes are often settled informally, by bribes, using personal connections or force, not by going to the courts.⁴⁶

One result of arbitrariness in the legal system is that in order to fulfil the most routine business tasks, companies have to secure *krysha* (protection). Linking criminal and legal economies, the protection can come in the form of physical security, protecting property, debt collection, customs assistance, business and legal advice, and banking privileges. Companies need fixers and private security services skilled at navigating complex financial and legal spheres. These service providers combine professional expertise in formal codes, such as laws governing taxation, licences, accounting, banking and insolvency, with informal services, which include debt collection and intelligence-gathering through surveillance. Strong-arm techniques are often used. Some of the private security companies are run by former officials of the KGB, who have access to information that could compromise business rivals.

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Amnesty International calls upon companies to scrutinize the records of security providers to make sure that they have not committed human rights abuses in the past. Companies should sign contracts with security providers to ensure that roles and responsibilities are clearly defined and that their methods, policies and practices respect human rights. Companies should insist that the private security firm’s employees are well versed in the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and that they follow the UN Code of Conduct for Law Enforcement Officials. Companies and their security providers must not abuse human rights, in particular by using disproportionate force.

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The Ministry of Internal Affairs (MVD) estimated in 1996 that there were 8,000 criminal gangs operating in the former Soviet Union. It asserted that 40 per cent of private businesses, 60 per cent of state-owned businesses and over half the country’s banks were controlled by organized crime.

Businesses have told Amnesty International that many companies are forced to pay protection money to organized criminal gangs in order to function, and often have no choice but to rely on favours from particular officials, rather than the rule of law. Such acts foster corruption and, with few institutional or legal restrictions on such activity, many officials behave as if they have limitless scope for *kormlenie*, a slang term for “the abuse of public office for private gain”.

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Companies in the extractive sector should uphold the Voluntary Principles on Security and Human Rights.

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Companies also have to pay attention to their role in the local community. Russian companies provide many benefits to their employees, including housing, education and healthcare, and these benefits constitute some 35 per cent of labour costs. Some companies provide facilities to the local community, such as sewerage, hospital buildings or infrastructure. Foreign companies that take over Russian businesses must bear this in mind.

Corruption: a human rights issue

“Corruption is the dry rot undermining aid. It destroys development, it frightens away genuine foreign investors, it perverts societies. Corruption also impacts on corporate performance. It adds to shareholder risk,” according to a senior executive with one oil company.⁴⁷ Another major oil company states: *“Bribery and corruption lead to a society where economic and political decisions become twisted. They slow social progress, hamper economic development, and drive up prices for products and services. A corrupt society is an unequal and unfair society.”*⁴⁸

Corruption occurs at many different levels. At the national and international level, the decisions and policies of senior officials are sometimes influenced by bribes and inducements. At the local level, the poor are sometimes unable to gain access to public goods and services because these are allocated to people who can afford to pay a bribe. At the intermediate level is the grey area of practices that may or may not be corrupt, such as facilitation payments, industry commissions, incentives, rewards and other benefits.

Amnesty International calls on both governments and companies to act in a manner consistent with international standards of human rights. Some corrupt practices lead directly to abuses of human rights and the effects of corruption are usually harmful to the human rights situation in a country.

One of the cornerstones of the rule of law is equal treatment before the law. Corrupt acts encourage arbitrariness. They are designed to ensure that one party – whether an individual, a business organization or an official – gains at the expense of another. Corruption encourages arbitrariness and denies access to some by privileging access for others. It undermines the equal provision of core public services such as education, health, law enforcement and justice.

Corruption also corrodes accountability. Officials – in the private or public sphere, in government or business – should be accountable to the people who have entrusted specific roles to them – as bureaucrats, as executives, as enforcers of the rule of law. Corruption undermines the accountability mechanism and leads to odious political, social and economic choices.

Amnesty International believes that any society where corruption is widespread is likely to suffer from arbitrary and unfair decisions which undermine the rule of law and adversely affect the human rights situation. Companies have an important role to play in any country in countering corruption and the Russian Federation is no exception. Companies can take steps to avoid corrupt practices by devising and implementing policies consistent with the growing international consensus against corruption.

There is also increasing international agreement that good governance is not possible in a context of pervasive corruption. As the Office of the UN High Commissioner for Human Rights puts it: *“Governance is the process whereby public institutions conduct public affairs, manage public resources and guarantee the realization of human rights. Good governance accomplishes this in a manner essentially free of abuse and corruption, and with due regard for the rule of law.”*⁴⁹

The UN Development Programme has concluded that because of corruption, the poor receive a lower level of social services and bear a higher tax burden.⁵⁰ Corruption delays development,⁵¹ which in turn delays the progressive realization of enjoyment of economic, social and cultural rights.⁵² By favouring one group over another, corruption perpetuates discrimination. Maintaining a corrupt administration requires restrictions on freedom of expression (particularly of whistle-blowers), and coercive use of state power, which violate the civil and political rights of citizens. Corruption therefore contributes to human rights

violations on all fronts.

In a resolution adopted in 1997, the UN General Assembly expressed concern at the “seriousness of problems posed by corruption, which may endanger the stability and security of societies, undermine the values of democracy and morality and jeopardize social, economic and political development.”⁵³

Corruption and international human rights law

Tolerating or perpetuating corruption by officials leads directly and indirectly to breaches of international human rights obligations, such as those imposed by key international human rights treaties which the Russian Federation has ratified. These include the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child.

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Companies must remember that states which are party to the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights (as the Russian Federation is), are under an obligation to respect, protect, promote and fulfil the rights contained in the Covenants. States should refrain from interfering with the enjoyment of the human rights set out in the Covenants and are required to prevent abuses of these rights by third parties. States are under an obligation to take appropriate legislative, administrative, judicial, economic and other measures necessary towards the full realization of these rights. States parties are accountable both to the international community and to their own people for their compliance with the obligations under the Covenants.

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When officials make a decision based on their own personal enrichment, they fail to do everything in their power to promote the human rights of their citizens. For example, states which have ratified the International Covenant on Economic, Social and Cultural Rights are bound to take steps to protect the right to employment (Article 6). If they are corruptly persuaded to choose an unduly capital-intensive project by bribery, they are failing in their duties under the treaty.⁵⁴ If corruption leads to an essential service such as health care or education being privatized in a way that benefits companies but denies access to the poor, the state has similarly breached its obligations under the treaty. The same is true when corruption leads to wastage and risks to the public, such as the purchase of sub-standard materials for construction projects.

Two sets of principles have been drawn up by distinguished experts in international law on the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR) – the Limburg Principles⁵⁵ and the Maastricht Guidelines.⁵⁶ These explain governments’ obligations under the ICESCR and provide examples of what constitutes violations of the ICESCR. They note that a failure by a state to comply with an obligation in the ICESCR is a violation under international law of that treaty, and that states are just as responsible for violations of economic, social and cultural rights as they are for violations of civil and political rights.

Companies pass on the cost of corruption to the consumers, with the result that, ultimately, the cost of corruption is borne by the whole society. “*The maximum available resources are not utilized as effectively as possible towards the realization of economic, social and cultural rights when a substantial portion of the national resources are diverted into the private bank account of a head of state, or when development aid is mismanaged, misused or misappropriated.*”⁵⁷

Instances of corruption seen around the world which lead directly to infringement of civil and political rights protected by the International Covenant on Civil and Political Rights include: the forcible eviction of indigenous people from their land; illicit dumping of toxic waste in an inhabited area; bribery of judges influencing court verdicts; closure of independent newspapers by corrupt officials; and election rigging.

It has been argued that corruption can in itself be seen as a breach of fundamental human rights because of the effect it has on the individual’s relationship with the state: “*Using the discourse of human rights enables the effects that corruption has on the ordinary person, especially in his/her contact with the State, to*

*be recognized. Too often, the sufferings of people as a result of corrupt practices are hidden behind vague euphemistic statements of development and poverty levels that fail to draw national or international attention and stimulate the necessary action.*⁵⁸

Corruption in the Russian Federation

Corruption in the Russian Federation in the post-1991 period reportedly penetrated to the highest levels of government, when some of the people who took over parts of the economy became government officials, issuing themselves licences, privileges and quotas.⁵⁹

In Chechnya, vast sums have been diverted from restoration projects. The newspaper *Segodnya* published several reports which showed that between 1994 and 1996, while the federal government was committing more and more resources for the rebuilding of Chechnya (at the same time as pursuing the war), there was no activity on the ground to indicate any restoration or rehabilitation.⁶⁰ The Audit Chamber, a Russian, independent state auditor, found US\$1 billion missing from money that was earmarked for administration and reconstruction in Chechnya.

Corruption is widespread throughout the Russian Federation. The Audit Chamber found recently that in 1997 one-sixth of the country's budget was misspent, a loss of nearly \$10 billion. It uncovered instances of corruption involving some of Russia's biggest companies and government departments. These include gold sales without authorization, illegal retention of commissions, illegal auction of state assets,⁶¹ and financial irregularities. While some people became fabulously wealthy, large sections of society faced rapid impoverishment.

Anti-corruption initiatives

There is a strong business argument for companies to lobby for a more effective legal infrastructure to combat corrupt practices in the Russian Federation. In one case, when Euro-Asia Investment Holdings tried to collect \$6 million it was owed after a court ruled in its favour, the Russian company which owed the money simply disappeared. An employee of the US company received a death threat when she pressed to collect the debt.

Companies encouraging governments to tackle corruption must bear in mind international human rights standards. In some states, so-called anti-corruption campaigns have been used to target dissidents, excuse repression, and commit further human rights violations.

Companies can remind officials of the growing body of international policies and tools against corruption and the need to act with due regard for human rights.

Some countries have legislation prohibiting bribery abroad.⁶² Some US companies operating in the Russian Federation, stung by incidents including death threats and private security forces seizing their plants, have lobbied their government to raise the lack of rule of law and corruption with their Russian Federation counterparts.

Regional initiatives have been launched by the Council of Europe and the Organization of American States. The Russian Federation signed the Criminal Law Convention on Corruption of the Council of Europe in January 1999.

International efforts include the Global Program Against Corruption being coordinated by the UN Office for Drug Control and Crime Prevention. In 1996, the UN General Assembly adopted a Declaration against Corruption and Bribery in International Commercial Transactions.⁶³ It adopted an International Code of Conduct for Public Officials in 1996,⁶⁴ which recognized the seriousness of the problems posed by corruption and the importance of international cooperation in action against corruption. In 1997 and 1998, the UN General Assembly adopted resolutions calling for international action against corruption.^{65, 66} Such resolutions are important in signifying broad political agreement in the international community.

Within the Russian Federation, companies can seek the support of local anti-corruption coalitions, which include "Businessmen for the Rule of Law", shareholder rights activists, policy activists, and the Audit Chamber. The World Economic Forum has launched an initiative on corporate governance in the Russian Federation.⁶⁷

While the Russian Federation is not a member of the OECD, most of the foreign companies investing there are from OECD countries. The OECD has a Convention on Combating Bribery of Foreign Public

Officials in International Business Transactions (December 1997).⁶⁸

Companies can also use industry-led initiatives to combat corruption. These include: the Mining and Minerals Sustainable Development network, run by the UK-based International Institute for Environment and Development; the Wolfsberg Principles, which apply to banks and address money-laundering; the Anti-Corruption Task Force of the Oil and Gas Association; and the integrity standards of the International Federation of Consulting Engineers (FIDIC), which apply to engineering firms and aim to reduce corruption in aid-funded public procurement from the private sector. The website of the Berlin-based non-governmental organization Transparency International⁶⁹ offers resources for companies to help them operate in difficult economies without succumbing to corruption.

Human rights violations in the Russian Federation

Amnesty International's worldwide membership launched a campaign in November 2002 to promote respect for human rights in the Russian Federation, focusing on specific and serious violations of international human rights and humanitarian law by Russian law enforcement and security forces.¹⁹⁷⁰

Across the Russian Federation, torture and ill-treatment by law enforcement officials appears to be virtually routine. The victims include children and women. Most of those in pre-trial detention are held in conditions which amount to cruel, inhuman or degrading treatment. The Russian Federation's prison population is estimated at around 850,000.¹⁹⁷¹ Its imprisonment rate is among the highest in the world.

In the context of the conflict in Chechnya, there have been widespread and credible reports of attacks against civilians, rape and other forms of torture, "disappearances" and extrajudicial executions by Russian forces. Chechen forces are also reported to have committed abuses.

The campaign highlights the lack of accountability for the perpetrators of these abuses – Amnesty International believes this is a major factor contributing to their persistence. It also emphasizes the obstacles faced by victims – particularly women, children and members of ethnic or national minorities – in obtaining redress, and the measures required to enable them to see justice done.

The campaign seeks to highlight the discrepancy between the human rights protection which those living in the Russian Federation have in international and national law, and the reality of widespread human rights abuses committed in a climate of impunity. Amnesty International members around the world will be urging the government to live up to its obligations to protect and promote human rights so that there is justice for everybody. For further information see the campaign report – *The Russian Federation: Denial of justice* (AI Index: EUR 46/027/2002).

Companies wishing to do business in the Russian Federation in a responsible manner need to be aware of many pressing human rights issues.

Human rights violated in the criminal justice system

- Anyone imprisoned in the Russian Federation faces overcrowded jails and appalling conditions. Some 100 prisoners may be packed into cells less than 100 metres square, where the prisoners sleep in shifts. Mental illness is widespread and diseases spread quickly. In May 2002 the Deputy Justice Minister reportedly stated that more than half of all prisoners in the Russian Federation were ill, including 92,000 with tuberculosis, 33,600 who were registered with HIV/AIDS, and 30,000 with syphilis.⁷²
- Children are imprisoned in large numbers, mostly picked up by the police for petty crimes. Children are routinely held for months or even years in pre-trial detention and sentenced to long terms of imprisonment for relatively minor offences. In mid-2001 there were more than 17,000 children serving prison sentences in 64 special colonies for juveniles, according to the Justice Ministry. Many more are held in pre-trial detention facilities, crammed into dirty, badly ventilated and vermin-infested cells.
- Police have tortured and ill-treated detainees in their custody in order to extract confessions, virtually as a matter of routine. People are at greatest risk of torture and ill-treatment in police custody during the hours immediately after arrest, before they are charged. Methods of torture commonly reported include beatings, electric shocks, rape, the use of gas masks to induce near-suffocation, and tying detainees in painful positions. The victims come from all walks of life, but members of ethnic minorities and the poor are most at risk.
- Officers of the armed forces continue to permit, encourage and often participate in “*dedovshchina*”, the violent and cruel hazing of young recruits which, at best, involves forcing recruits to perform menial tasks, often outside official duties, and, at worst, leads to beatings, torture, murder and suicide.
- There is a persistent pattern of impunity for torture and other ill-treatment benefiting both civil and military officials.

Discrimination and ethnically motivated violence

- Discrimination against women in the Russian Federation is reflected in the prevalence of domestic violence and reinforced by the authorities’ failure to take steps to prevent it. The authorities have stated that 14,000 women die every year at the hands of their husbands or other relatives. Yet men who beat or rape their wives or commit other acts of domestic violence are highly unlikely to face prosecution. The law does not recognize domestic violence as a distinct crime, and does not even allow officials to give perpetrators a warning through an administrative sentence or a fine. Nearly 50 versions of a national law to address domestic violence have failed to make any progress in parliament.
- Discrimination against people belonging to certain ethnic groups or nationalities is widespread. Such groups include Chechens, other Russian citizens, migrant workers from territories of the former Soviet Union and refugees from further afield. There is a consensus of concern that discriminatory practices are linked with the registration system and its enforcement, particularly in Moscow. In 1991 the “*propiska*” system, under which people had to register their place of residence and were not allowed to move or change it without official permission, was abolished. However, variants of this system are still being enforced by some local governments.⁷³²⁰
- Discriminatory practices in relation to the issuing of passports and residence registration stamps expose people throughout the Russian Federation, and in particular those easily identifiable as non-Slavs, to the threat of arbitrary detention, extortion and bribery, and deprive them of a whole range of civil and political rights. In March 2002 the governor of Krasnodar Territory in the south of Russia announced his intention to initiate a campaign of mass expulsion of “illegal migrants”. These include several thousand former citizens of the Soviet Union who have been prevented by local discriminatory policies from asserting their right to Russian citizenship and local residency.
- Ethnically motivated violence is a serious problem, particularly in cities. Victims include students and refugees from Africa, Jewish people, and people from the north and south Caucasus (including ethnic Chechens), South, Southeast and Central Asia, the Middle East and Latin America. Many racist attacks are not reported to the police. This applies to refugees and members of ethnic and national minorities who have a justified fear that any approach to the police will lead to harassment and extortion because their identity papers are not accepted as valid by the police or who have been denied registration or passports because of institutionalized discrimination. The police are often reluctant to classify such

attacks as racially motivated; highly placed police officials have frequently and publicly described racist attackers as mere drunken “hooligans”.

- Legal provisions for asylum-seekers are inadequate. Many asylum-seekers are subjected to *refoulement* (forcible return) to countries where they are at risk of grave human rights violations before their claims for asylum have been fully considered.

Restrictions on freedom of expression

- Restrictions on freedom of expression include the imprisonment of prisoners of conscience, such as environmental campaigner Grigory Pasko, imprisoned for four years for revealing the Russian navy’s illegal dumping of nuclear waste, and the politically motivated persecution of an independent journalist, Olga Kitova, who was convicted in December 2001 on charges of slander and insulting or threatening an official after she alleged official corruption. In another well-known case, Alexandr Nikitin, a retired naval officer, was charged with espionage and revealing state secrets for his writings on the risks of radioactive pollution from Russia’s Northern Fleet. He was charged in 1996, and finally acquitted only in 2000.
- Independent news outlets have been taken over or forced to close down. In April 2001, the partially state-owned gas giant, Gazprom, forcibly took over the Media-Most group. Media-Most ran the independent television station, *NTV*, renowned for critical reporting of government actions (including the armed conflict in Chechnya); the national daily newspaper, *Sevodnia*; the weekly news magazine, *Itoги*; and the radio station, *Ekho Moskvу*. Following the takeover, Gazprom promptly fired the editorial staff of *Itoги* and closed down *Sevodnia* altogether. It replaced the board and executive director of *NTV*, prompting large numbers of staff to leave. The subsequent closure of TV-6, owned by Boris Berezovsky, a high-profile opponent of President Putin, was widely viewed as being politically motivated and linked with the closure of *NTV*.

The conflict in Chechnya

- The conflict in Chechnya has been characterized by widespread and credible reports that Russian forces have been responsible for violations of international human rights and humanitarian law. These have included “disappearances”, extrajudicial executions and torture, including rape, particularly during “special operations” or “sweeps”, and the creation of illegal temporary detention centres, including “filtration camps”.
- Russian forces have arbitrarily detained, tortured or killed thousands of civilians. Most people who are detained by Russian forces are picked up during identity checks on civilian convoys travelling from Chechnya to Ingushetia or during military raids (so-called *zachistki* or “clean-up” raids) on populated areas. These raids are accompanied by widespread abuses against the civilian population. Civilians, including women and children, have reportedly been abducted, subjected to rape and other forms of torture, and killed.
- Detainees have been held in facilities that sometimes amount to little more than pits in the ground. They are denied access to relatives, lawyers and the outside world. Survivors have said that torture is routine and systematic. They have reported the rape of male and female detainees, beatings with hammers and clubs, electro-shock torture and exposure to tear gas.
- Some 300,000 people, the majority of them women and children, have fled their homes to escape the fighting. As at mid-2002, approximately 160,000 remained in temporary accommodation and in camps for internally displaced people, the majority in neighbouring Ingushetia, where they faced severe overcrowding and harsh conditions. On 29 May 2002 the President of Ingushetia and the pro-Moscow head of the Chechen administration signed an agreement affirming that “all Chechen refugees should be brought back home from Ingushetia before the end of September.” This could force internally displaced Chechens to return to Chechnya, where their lives would be in danger, and where international humanitarian and human rights organizations have only limited access.
- Chechen forces are also reported to have committed abuses. According to reports, Chechen fighters who have been operating in and around populated areas have failed to take measures to protect civilians.

They are also said to have targeted civilian members of the pro-Moscow administration in attacks that have resulted in dozens of fatalities and serious injuries, and to have kidnapped civilians and held them hostage. Chechen forces also claim to have executed captured members of the Russian armed forces.

What companies can do

Companies operating in the Russian Federation should be aware of the human rights environment in the country, to ensure that they are in no way involved in abuses, either directly or indirectly by providing services, goods or finances. Companies should do whatever they can to protect the human rights of their own staff and their dependants.

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Amnesty International calls upon companies doing business in the Russian Federation to bear in mind Amnesty International's Human Rights Principles for Companies and to apply them to their specific cases and industries.

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There are other things companies can do, within their sphere of influence. Corruption, lack of transparency and the absence of the rule of law affect businesses. They also have an adverse effect on human rights. Companies doing business in the Russian Federation have the right to insist that international standards are followed within the sphere of business practice.

Write your own code of conduct

Companies operating in the Russian Federation should prepare their own code of conduct which explicitly recognizes the importance of respecting human rights. In doing this, they should bear in mind the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Fundamental Conventions of the International

Labour Organisation.

This will allow companies to evaluate the impact of their operations and policies within a human rights framework. It will remind companies of international agreements and treaties signed by their governments, as well as what is expected of companies. The code of conduct should be translated into operating policies at all levels of the company. It should be made applicable to subsidiaries, partners, associate companies and suppliers.

Avoid corrupt practices

Companies should take all steps to avoid being involved in corruption. Not only does the maintenance of a corrupt apparatus lead to violations of civil and political rights, but corruption diverts resources from legitimate ends to illegitimate ends, and as such, prevents a state from fulfilling its obligations to realize economic, social and cultural rights.

If your company is headquartered in an OECD member state which has ratified the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, this treaty provides your company with a protective shield to avoid being complicit in corrupt acts.

If your company is from an OECD state, the OECD Guidelines for Multinational Enterprises provide an additional framework to assist your company to operate in a socially responsible manner.

Ensure respect for human rights

Security for your employees and assets is a legitimate concern for your company. In order to deploy security personnel in a manner consistent with human rights, Amnesty International calls upon you to make a thorough assessment of the past record of any company which you are considering using to provide security services.

All security personnel – whether public officials or employees of private firms – should be aware of and abide by the standards in the UN Code of Conduct for Law Enforcement Officials and UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

If your company is in the extractive sector, you should also bear in mind the Voluntary Principles on Security and Human Rights.

You should also make sure that you do not provide any facilities, including military, logistic, or financial, that might enable a state or private security firm to commit human rights violations.

Amnesty International urges companies using prison labour to take all precautions to protect the human rights of the prisoners. Companies using prison labour should ensure that it is not forced labour, and that the rights of the prisoners are not violated.

Do not feed the trade in conflict diamonds

If your company is in the business of diamonds, you need to familiarize yourself with issues connected to the trade in conflict diamonds. The Kimberley Process for Conflict Diamonds⁷⁴ is an international negotiation process involving companies, NGOs and diamond mining, processing, and trading countries, with a view to eliminating the trade in diamonds from conflict zones. It is particularly important in the Russian Federation. During 1999 and 2000, human rights abuses in Sierra Leone committed by the armed opposition group, the Revolutionary United Front (RUF), increased significantly. The RUF was financing its activities by selling Sierra Leonean diamonds in the international markets through Liberia, which showed an unexpected surge in its diamond exports. Amid mounting concern over the situation, the international community imposed sanctions on diamond exports from Sierra Leone, but exports from Liberia continued. At that time, industry officials claimed that the diamonds being exported from Liberia were Russian, not Sierra Leonean. This confused state of affairs was possible because of the lack of export monitoring in the Russian Federation.⁷⁵ Diamond purchasers wishing to acquire Russian rough diamonds must therefore make sure that the diamonds are of Russian origin, so that conflict diamonds do not enter the international trade disguised as Russian diamonds.

Make information public

Amnesty International urges companies to report their human rights performance on a periodic basis in a verifiable manner. Amnesty International encourages companies to follow the procedures laid down in the Global Reporting Initiative,⁷⁶ a voluntary framework of benchmarks by which companies can assess and report their performance.

UN Global Compact: a useful tool

The UN Global Compact⁷⁷ initiative has nine principles, of which two deal with human rights, four with labour standards, and three with environment. The two human rights principles are simple enough: a company must not commit any human rights abuses, and a company should promote respect for human rights. Companies that have signed up to the UN Global Compact can insist on respecting these principles each time they face a problem that may challenge their commitment to human rights, labour or environmental standards.

Some Russian companies have begun to participate in the Global Compact. Yukos Oil, the Russian Federation's second-largest oil company, has joined the Global Compact and has agreed to undertake and design projects to promote peace, digital access and healthcare in the Russian Federation and surrounding countries, in partnership with a UN Office for Project Services.

Use your influence to promote human rights

International companies that collaborate with Russian counter-parts can promote human rights through their own practices.

For example, a company can insist on equal treatment for all, regardless of gender or ethnic origin. Many international companies operating in South Africa during the later years of the apartheid era followed the Sullivan Principles, which provided for no race-based distinctions in the workplace.

As the Russian Federation integrates into the global economy, it must play by global rules. This means adherence to the rule of law and effective prohibition of arbitrariness and corruption. The Russian Federation needs justice for everybody and human rights for all.

Appendix 1. Amnesty International's Human Rights Principles for Companies

- 1. Company policy on human rights.** All companies should adopt an explicit company policy on human rights which includes public support for the Universal Declaration of Human Rights. Companies should establish procedures to ensure that all operations are examined for their potential impact on human rights, and safeguards to ensure that company staff are never complicit in human rights abuses. The company policy should enable discussion with the authorities at local, provincial and national levels of specific cases of human rights violations and the need for safeguards to protect human rights. It should enable the establishment of programs for the effective human rights education and

training of all employees within the company and encourage collective action in business associations to promote respect for international human rights standards.

2. **Security.** All companies should ensure that any security arrangements protect human rights and are consistent with international standards for law enforcement. Any security personnel employed or contracted should be adequately trained. Procedures should be consistent with the United Nations (UN) Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials. They should include measures to prevent excessive force, as well as torture or cruel, inhuman or degrading treatment. Companies should develop clear rules for calling in or contracting with state security forces and for not hiring security personnel who have been responsible for serious human rights violations. Any complaint about security procedures or personnel should be promptly and independently investigated. Companies which supply military, security or police products or services should take stringent steps to prevent those products and services from being misused to commit human rights violations.
3. **Community engagement.** All companies should take reasonable steps to ensure that their operations do not have a negative impact on the enjoyment of human rights by the communities in which they operate. This should include a willingness to meet with community leaders and voluntary organizations to discuss the role of the company within the broader community. Companies should seek to support activities and organizations which promote human rights, for example by supporting education, training or citizenship programs which incorporate human rights issues and organizations which defend human rights.
4. **Freedom from discrimination.** All companies should ensure that their policies and practices prevent discrimination based on ethnic origin, sex, colour, language, national or social origin, economic status, religion, political or other conscientiously held beliefs, birth or other status. This should include recruitment, promotion, remuneration, working conditions, customer relations and the practices of contractors, suppliers and partners. It should include measures to deal with sexual or racial harassment, and to prohibit national, racial or religious hatred.
5. **Freedom from slavery.** All companies should ensure that their policies and practices prohibit the use of chattel slaves, forced labour, bonded child labourers or coerced prison labour. This should include ensuring that suppliers, partners or contractors do not use such labour.
6. **Health and safety.** All companies should ensure that their policies and practices provide for safe and healthy working conditions and products. The company should not engage in or support the use of corporal punishment, mental or physical coercion, or verbal abuse.
7. **Freedom of association and the right to collective bargaining.** All companies should ensure that all employees are able to exercise their rights to freedom of expression, peaceful assembly and association, as well as a fair means of collective bargaining without discrimination, including the right to form trade unions and to strike. Companies have a responsibility to ensure such rights for their employees even if such rights are not protected in a particular country's national law. Companies should take steps to ensure that suppliers, partners or contractors do not infringe such rights.
8. **Fair working conditions.** All companies should ensure just and favourable conditions of work, reasonable job security and fair and adequate remuneration and benefits. This should include provision for an adequate standard of living for employees and their families. Companies should take steps to ensure that suppliers, partners or contractors do not infringe such rights.
9. **Monitoring human rights.** All companies should establish mechanisms to monitor effectively all their operations' compliance with codes of conduct and international human rights standards. Such mechanisms must be credible and all reports must periodically be independently verifiable in a similar way to the auditing of accounts or the quality of products and services. Other stakeholders such as members of local communities in which the company operates and voluntary organizations should have an opportunity to contribute in order to ensure transparency and credibility.

Appendix 2. Ratification Status of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

Country	Ratification/ acceptance on	Entry into force	Implementing legislation
Argentina	8 February 2001	9 April 2001	10 November 1999
Australia	18 October 1999	17 December 1999	17 December 1999
Austria	20 May 1999	19 July 1999	1 October 1998
Belgium	27 July 1999	25 September 1999	3 April 1999
Brazil	24 August 2000	23 October 2000	11 June 2002
Bulgaria	22 December 1998	20 February 1999	29 January 1999
Canada	17 December 1998	15 February 1999	14 February 1999
Chile	18 April 2001	17 June 2001	October 2002
Czech Republic	21 January 2000	21 March 2000	9 June 1999
Denmark	5 September 2000	4 November 2000	1 May 2000
Finland	10 December 1998	15 February 1999	1 January 1999
France	31 July 2000	29 September 2000	29 September 2000
Germany	10 November 1998	15 February 1999	15 February 1999
Greece	5 February 1999	6 April 1999	1 December 1998
Hungary	4 December 1998	15 February 1999	1 March 1999
Iceland	17 August 1998	15 February 1999	30 December 1998
Ireland	–	–	26 November 2001
Italy	15 December 2000	13 February 2001	26 October 2000
Japan	13 October 1998	15 February 1999	15 February 1999
Republic of Korea	4 January 1999	5 March 1999	15 February 1999
Luxembourg	21 March 2001	20 May 2001	11 February 2001
Mexico	27 May 1999	26 July 1999	18 May 1999
Netherlands	12 January 2001	13 March 2001	1 February 2001

New Zealand	25 June 2001	24 August 2001	3 May 2001
Norway	18 December 1998	16 February 1999	1 January 1999
Poland	8 September 2000	7 November 2000	4 February 2001
Portugal	23 November 2000	22 January 2001	9 June 2001
Slovak Republic	24 September 1999	23 November 1999	1 November 1999
Slovenia	6 September 2001	5 November 2001	–
Spain	4 January 2000	4 March 2000	2 February 2000
Sweden	8 June 1999	7 August 1999	1 May 2000
Switzerland	31 May 2000	30 July 2000	1 May 2000
Turkey	26 July 2000	24 September 2000	–
United Kingdom	14 December 1998	15 February 1999	14 February 2002
USA	8 December 1998	15 February 1999	10 November 1998

ENDNOTES

1. According to the Berlin-based non-governmental organization Transparency International, the Russian Federation ranked 71st out of 102 countries surveyed in its Corruption Perception Index (CPI) 2002 (the countries with the least perceived levels of corruption being placed highest). The annual CPI sensitizes public opinion to the corruption issue, influences the policies of major aid agencies and is a factor in the foreign investment decisions of multinational corporations.

The International Institute for Management Development, working with the World Economic Forum, ranked the Russian Federation last in terms of overall competitiveness in its list of 47 developed and emerging market economies in 2000, and 45th out of 49 countries in 2001.

2. According to the World Bank, on a per capita basis, cumulative net foreign direct investment inflows to Russia from 1992 to 1999 were US\$71, compared to \$511 for Poland, \$1,493 for the Czech Republic, and \$1,581 for Hungary.

3. *China: Human rights are everybody's business* (AI Index: ASA 17/018/1996), Amnesty International, 1996; *Saudi Arabia: Open for Business* (AI Index: MDE 23/082/2000), Amnesty International 2000.

4. See "What Went Wrong: Asian flu or Russian Pneumonia?" by Andrei Piontkowsky at the Jamestown Foundation Conference on Russia, 1999. www.jamestown.org/paper-piontkowsky.rtf

5. See Aleksandr Nemtsov, "Alcohol and Mortality in Russia: the 1980s and 1990s" in *Demoskop Weekly*, No 19/20 (May 2001).

6. See *Genotsid rossiiskogo naroda*, Kommersant-daily, 13 May 1999. It reports that there were 1.7 million children born in the Russian Federation in 1991; by 1997, that number had dropped to 1.2 million. By contrast, there were 1.6 million deaths registered in 1991, while 2 million were recorded in 1997. Between 1990 and 1997, there was a 35 per cent decline in Russian consumption of meat; a 41 per cent drop in consumption of milk; and a 31 per cent decline in consumption of eggs, while the consumption of potatoes rose 19 per cent. The increase in tuberculosis per 100,000 population rose from 35.8 to 73.9; of syphilis, from 13.4 to 277.3; and of psychic disorders, from 274.3 to 348.2.

7. www.un.org/Overview/rights.html and www.unhchr.ch/intlinst

8. www.unhchr.ch/intlinst

9. www.unhchr.ch/intlinst

10. www.ilo.org/public/english/standards

11. Developed at the Sub-Commission on the Promotion and Protection of Human Rights UNDoc.,

E/CN.4/Sub.2/2002/13.

www.business-humanrights.org/Draft-UN-Human-Rights-Responsibilities-of-Business-Aug-2002.htm

12. 65.214.34.30/un/gc/unweb.nsf/

13. www.globalreporting.org

14. www.imf.org/external/np/gov/2001/eng/091801.htm. For ratifications, please see appendix 1, or www.oecd.org/pdf/M00017000/M00017037.pdf

15. www.oecd.org/daf/investment/guidelines/mnetext.htm

16. www.state.gov/g/drl/rls/2931.htm

17. www.kimberleyprocess.com

18. www.unhchr.ch/intlinst

19. www.unhchr.ch/intlinst

20. web.amnesty.org/ai.nsf/Index/ACT700011998?OpenDocument&of=THEMES\ECONOMIC+RELATIONS

21. States may also become party to such treaties through accession or succession.

22. Interviews with economists in London and New York.

23. For example, according to *The Economist*, to reach the level of prosperity of Portugal, one of the poorer members of the European Union, Russia would have to grow by 8 per cent a year for 15 years. Russian officials have named Portugal as a country whose standard of living they would like to reach in the near future. "Putin's Choice. A Survey of Russia", *The Economist*, 19 July 2001.

24. In a memorable phrase, *The Economist* (ibid) wrote: "Investment bankers, who once said they would rather eat nuclear waste than lend to Russia, are now trying to sell Russian shares and bonds to forgetful speculators."

25. Some of the recent inflows are from Cyprus, the tax haven Russian businesses prefer.

26. Industry estimates; Cambridge Energy Research Associates.

27. Source: US Department of Energy.

28. OPEC was formed in 1960 to support oil prices. It controls 61 per cent of the world's export market. A cut in oil production in early 1999 saw prices triple to US\$35 a barrel. To assuage fears of inflation, OPEC increased its production and tried to implement a price-band mechanism.

29. The oil price has fluctuated from US\$34 a barrel in mid-2001 to \$16 a barrel recently. OPEC would like the price within a band of \$22-28 a barrel.

30. *Business Week*, November 2001.

31. US Department of Energy; Cambridge Energy Research Associates; interviews with leading oil companies.

32. *US News and World Report*, 11 February 2002, p. 48.

33. *Business Week*, ibid.

34. Gazprom produces nearly 94 per cent of Russia's natural gas, operates the country's 90,000-mile gas pipeline grid and 43 compressor stations, and holds nearly a third of the world's natural gas reserves, with a workforce of 38,000 people. Gazprom is Russia's largest earner of foreign currency, and it pays a quarter of the federal government's tax revenues.

35. Interviews with industry officials.

36. Estimate by Troika Dialog, a Moscow brokerage.

37. Estimate by Russia's Ministry of Internal Affairs.

38. See David E. Hoffman, *The Oligarchs: Wealth and Power in the New Russia*, Public Affairs, New York, 2002.

39. See Matt Bivens and Jonas Bernstein in *The Russia You Never Met*, in *Demokratizatsiya*, Vol. 6 No. 4, Fall, 1998. They show how once a state-owned enterprise had taken a loan from a bank, when the government failed to pay back the loan (a common occurrence), the bank could take over the company.

Thus, in 1995, Oneximbank won control of 38 per cent of Norilsk Nickel, the giant nonferrous metals producer (which at the time was earning an estimated US\$2 billion a year from exports), in exchange for a \$170 million loan to the government. In August 1997, it paid another \$250 million to retain the stake. After its repayment of the loan was deducted, the government had received a mere \$80 million for a major share in the plant that produces 90 per cent of Russia's nickel, 90 per cent of its cobalt and all of its platinum.

Similarly, Bank Menatep won 78 per cent of Yukos, Russia's second largest oil company, with a bid of \$309.1 million, \$9 million above the minimum bid, giving it control of two per cent of the world's known oil reserves. Bank Menatep organized the auction and rejected a bid from a consortium consisting of Alfa Bank, Inkombank and Rossiyskiy Kredit on procedural grounds.

40. See Svetlana Glinkina, *The Criminal Components of the Russian Economy*, working paper, Berichte des

- Bundesinstituts der Wissenschaftlichen und Internationalen Studien, Koln institut fur Ost Europa, No. 29, 197.
- 41.** From Opinion Analysis: USIA, M-27-99, 11 February 1999. The polling was conducted by the All-Russian Center for the Study of Public Opinion (VTsIOM).
- 42.** See, for example, the UN Code of Conduct for Law Enforcement Officials, and UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 43.** See *The Russian Mafia: Private Protection in a New Market Economy*, by Federico Varese, Oxford University Press, 2001.
- 44.** See Sabrina Tavernise in “Handful of Corporate Raiders Transform Russia’s Economy”, *The New York Times*, 13 August 2002.
- 45.** Alena V. Lednava, author of *Russia’s Economy of Favors*, Cambridge University Press, 1998. See *How Russia Really Works*, by Alena Lednava, available from the Center for European Reform, April 2001. www.cer.org.uk.
- 46.** Peter Solomon argues in *The Limits of Legal Order in Post-Soviet Russia* (Post-Soviet Affairs, No. 2, 1995, p. 89): “The legacy left by Soviet power to its successor states did not include legal order.... A hierarchy of legal rules, open to scrutiny and enforceable, did not exist.... Courts were dependent upon the good graces of politicians.”
- 47.** Richard Newton, Group Vice-President, BP, quoted in *The Governance of Bribery and Corruption: A Survey of Current Practice* by Friends Ivory and Sime, a London-based investment firm (February 2002).
- 48.** Statement attributed to Shell Oil Co., quoted in Friends Ivory and Sime, *ibid.*
- 49.** www.unhchr.ch/development/governance-01.htm
- 50.** See *Fighting Corruption to Improve Good Governance*, UNDP, New York, 1999.
- 51.** See, for example, P. Mauro’s paper, *Corruption and the Composition of Government Expenditure*, in the *Journal of Public Economics*, 69: 263-279, which shows a negative correlation between corruption and government expenditure on education.
- 52.** See, for example, Nihal Jayawickrama in *Corruption – A Violation of Human Rights?* at www.transparency.org. Paper presented at the Sofia Conference in June, 1998. He writes, *inter alia*: “The concept of progressive realization [of economic, social and cultural rights], while being sufficiently flexible to reflect the realities of the real world and the difficulties involved for any country in ensuring the full realization of all the rights in the shortest possible time, nevertheless imposes a clear obligation to move as expeditiously and effectively as possible towards that goal, utilizing the maximum resources available to that country. Corruption runs counter to both obligations.”
- 53.** Res. 51/59, 28 January 1997.
- 54.** See Jayawickrama, *ibid.*
- 55.** Limburg Principles on the Implementation of the ICESCR, 1986.
- 56.** Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, 1997.
- 57.** Jayawickrama, *ibid.*
- 58.** See *Human Rights and Corruption*, a research paper produced by the Center for Democratic Institutions. Author: Zoe Pearson, Faculty of Law, Australian National University. The project is supervised by Hilary Charlesworth, director at the Center for Public and International Law, ANU.
- 59.** Piontkowsky, *ibid.* He cites an interview given to the *Financial Times* by Boris Berezovsky, who said: “We hired Anatoly Chubais [Russian official who launched privatization]. We invested huge amounts of money in the election campaign. We secured Yeltsin’s election victory. Now we have the right to assume posts in the government and enjoy the fruits of our victory.”
- 60.** See many issues of *Segodnya* throughout 1995. For example, in September 1995, the leader of the Agrarian Party of Russia, Mikhail Lapshin, held a press conference in Moscow after returning from a visit to the North Caucasus region. He reported that, while Russian builders had reported “the restoration of 7,000 homes destroyed in Chechnya during the course of military actions,” he had not seen “a single such [restored] house” during his visit.” (*Segodnya*, 13 September 1995).
- 61.** See, for example, *Sale of the Century: The Inside Story of the Second Russian Revolution*, Chrystia Freeland, Little, Brown and Co., (2000). Also, *The Oligarchs: Wealth and Power in the New Russia*, David E. Hoffman, Public Affairs, 2002.
- 62.** Foreign Corrupt Practices Act (1977) of the USA, for example.
- 63.** Res. 51/191, 16 December 1996.
- 64.** Res. 51/59, 12 December 1996.
- 65.** Res.52/87, 12 December 1997.
- 66.** Res. 53/176, 15 December 1998.
- 67.** www.weforum.org
- 68.** See Appendix 2 for a list of countries that have ratified the Convention.

69. www.transparency.org.

70. *The Russian Federation: Denial of justice* (AI Index: EUR 46/027/2002), Amnesty International, 2002.

71. Information from the Moscow office of the non-governmental Penal Reform International.

72. *AFP*, 4 May 2002.

73. The Parliamentary Assembly of the Council of Europe noted that “the Russian federal authorities have achieved notable progress in abolishing the remains of the old *propiska* (internal registration) system”. However, the Assembly regretted “that restrictive registration requirements continue to be enforced, often in a discriminatory manner, against ethnic minorities. Therefore, the Assembly reiterates its call made in Recommendation 1544 (2001), in which it urged member states concerned ‘to undertake a thorough review of national laws and policies with a view to eliminating any provisions which might impede the right to freedom of movement and choice of place of residence within internal borders’”, Resolution 1277 (2002), para 8, xii; text adopted by the Parliamentary Assembly on 23 April 2002 (11th sitting).

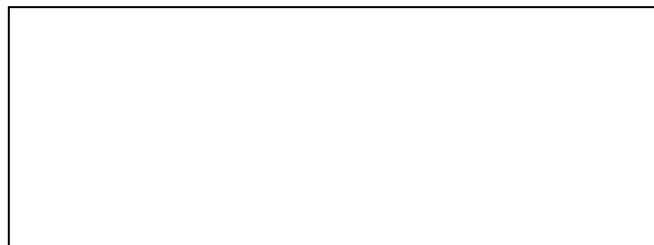
74. www.kimberleyprocess.com

75. Based on extensive interviews and interaction between Amnesty International and other NGOs and the international diamond industry (1999-2002).

76. www.globalreporting.org

77. An initiative of the UN Secretary-General, Kofi Annan, involving some 400 companies from around the world, which aspire to adhere to international standards governing human rights, labour and the environment.

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