Private sector in development: a trade union perspective

Africa Trade Union Development Network (ATUDN)
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Private sector in development: some introductory notions

- **Private sector**: **Organisations that engage in <u>profit-seeking activities</u>** and have a majority private ownership (i.e. not owned or operated by a government).
- This term includes financial institutions and intermediaries, multinational companies, micro, small and medium-sized enterprises, co-operatives, individual entrepreneurs, and farmers who operate in the formal and informal sectors. It excludes actors with a non-profit focus, such as private foundations and civil society organisations.
- **Private sector engagement**: An activity that aims to **engage the private sector for development results**, which involve the active participation of the private sector.
- The definition is deliberately broad in order to capture all modalities for engaging the private sector in development co-operation from informal collaborations to more formalised partnerships. Given that the term applies to how development co-operation occurs, private sector engagement can occur in any sector or area (e.g. health, education, private sector development, renewable energy, governance, etc.). Through private sector engagement, the private sector and other participants can benefit from each other's assets, connections, creativity or expertise to achieve mutually beneficial outcomes.

Blended finance

- DAC members define blended finance as "**the strategic use of official funds including concessional tools to mobilise additional capital flows (public and/or private) to emerging and frontier markets**". Blended finance has three characteristics:
  - leverage, the use of development or philanthropic funds to attract capital into deals (i.e. concessional finance);
  - impact, investments that drive social, environmental and economic progress;
  - and returns, in line with market expectations based on real and perceived risks.
- For the EU, **blending** is an instrument for achieving EU external policy objectives, complementary to other aid modalities and pursuing the relevant regional, national and overarching policy priorities. Blending means the **combination of EU grants with loans or equity from public and private financiers**. The idea behind blending is that the EU grant element can be used in a strategic way to attract additional financing for important investments in EU partner countries.
- For TUDCN, blending is **ODA which is used in combination with other forms of finance to catalyse private flows for development**. In general, catalysing or leveraging private flows for development often involves public finance in addition to aid. For example, an aid grant can be blended with a loan extended by a DFI to finance a private-sector project.

Blended finance

TUDCN-RSCD

Table 1 — How aid can be used to leverage private finance

Mechanism/Instrument	Description – use of aid
Interest rate subsidies (blended loans/ concessional loans)	A grant is used to cover part of the interest payments. The project promoter thus receives a subsidised loan at below market interest rate.
Technical assistance for project design	A technical assistance grant is provided to a company to strengthen its design and increase the chances of accessing finance. It can also be used after finance has been granted in order to increase the chances of success. It is often combined with other forms of finance.
Loan guarantees	A grant is used to cover the losses of the lender in case of default so that it agrees to finance the project or to do so on better conditions.
Structured finance – first loss piece	Donors offer finance with a lower repayment priority than the debt issued by other financiers. In case of default, donors would absorb the losses first. Mezzanine loans are a form of structured finance.
Equity investment	A grant is used as a direct capital contribution to a company or investment fund, usually in order to send a signal to other investors or cover for first-losses and attract additional capital.

Public-Private Partnerships (PPPs)

- PPPs are contractual **arrangements between the state and the private sector that entail a risk sharing between the two**. In this contractual agreement, the private sector provides infrastructure assets and services, that traditionally have been provided by government, such as hospitals, schools, prisons, roads, bridges, tunnels, railways, and water and sanitation plants. The partnership arrangement delineates partners' roles and responsibilities, risk sharing, and distribution of financial and nonfinancial benefits.
- The term PPPs is currently being used to refer to anything from informal and short-term collaborations between non-governmental organisations, the private sector and/or government agencies; to more complex and long-term contractual arrangements in which the private sector participates in the supply of assets and services traditionally provided by the government.
- **PPPs are at odds with traditional procurement schemes, and are seen by trade unions and CSOs as a backdoor for privatisation of essential public services. Evidence shows that PPPs make public service provision more expensive, therefore undermining the inclusive development goal.**

Development Finance Institutions (DFIs)

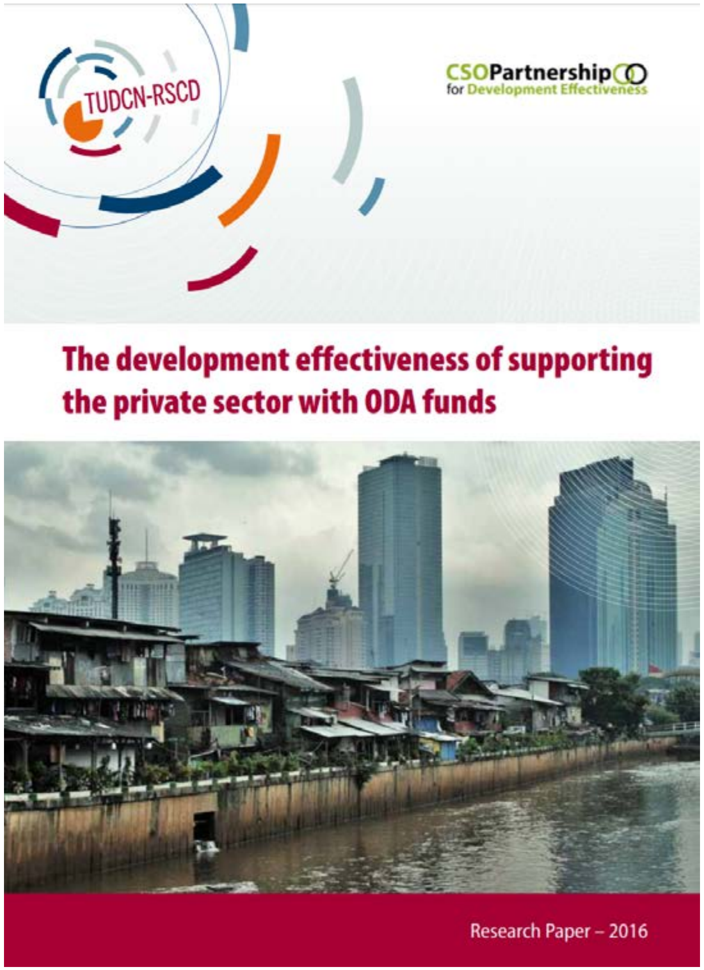
- Unlike other forms of aid flows traditionally managed by aid agencies, leveraging or blending instruments generally involve **more specialised financial institutions**. The natural choice of donors has been to rely on development finance institutions (DFIs) to manage aid funds and blend them with other public and private finance.

- National and international DFIs are specialised development banks or subsidiaries set up to support private sector development in developing countries. They are **usually majority-owned by national governments** and source their capital from national or international development funds or benefit from government guarantees. This ensures their creditworthiness, which enables them to raise large amounts of money on international capital markets and provide financing on very competitive terms.

- Different reporting practices make it very difficult to estimate the exact amount of aid being channelled through DFIs for blending purposes. Donor countries' development policies also suggest that **collaboration between DFIs and aid agencies is expected to increase in the future**.

DFIs – fit for purpose?

- **DFIs were not built to manage and deliver aid flows**, there are important concerns about their ability to deliver results and achieve positive development outcomes.
- **DFIs are ill-equipped to manage aid flows in line with existing best practices**. DFIs rarely show a good level of performance in any of these areas: Mandate & Eligibility; Participation of social partners; Standard on worker's rights and OFC; Monitoring; Transparency; Complaint mechanisms.
- DFIs do not have adequate systems in place to **guarantee the ownership of development projects** by developing countries' governments and stakeholders.
- Current practices and systems used by the DFIs **cannot generally guarantee a minimum level of accountability** when using aid funds or other public resources



Existing business accountability mechanisms

- ILO Declaration of Principles concerning Multinational Enterprises and Social Policy
- OECD Guidelines for Multinational Enterprises
- United Nations Global Compact
- United Nations Guiding Principles on Business and Human Rights
- Transnational Company Agreements (TCAs)-Global Agreements

Existing business accountability mechanisms

ILO Declaration of Principles concerning Multinational Enterprises and Social Policy		
Description	**Scope of application**	**Effectiveness and limitations**
• Based on ILO conventions and recommendations • It does not expect business organisations to define their social responsibilities unilaterally • It calls for MNEs to take "established policy objectives into account", as well as to be "in harmony with the development • policies" of the country concerned.	• Intended to apply to multinational enterprises • not intended to introduce or maintain inequalities of treatment between multinational enterprises and national enterprises	• Although ILO Conventions and recommendations address the responsibilities of governments and are intended to be applied by governments, many of the underlying principles of these conventions and recommendations can be applied by business enterprises as well. • Unlike the OECD Guidelines, the ILO MNE Declaration has not been revised to incorporate the important concepts in the UN Framework and Guiding Principles. And, unlike the Framework, it is silent on supply chain/business relationship issues

Existing business accountability mechanisms

OECD Guidelines for Multinational Enterprises		
Description	**Scope of application**	**Effectiveness and limitations**
• Not-binding recommendations, made by governments to MNEs • MNEs are expected to comply with internationally recognised standards, as well as to obey national law • Governments sign the Guidelines – not MNEs • **Revised in 2011 to incorporate <u>due diligence</u>, and TUs should be involved**	• MNEs that are headquartered in the 46 countries that have signed the Guidelines • Irrespective of ownership – state-owned, public or private – or sector – including pension funds and asset managers in the financial sector • They cover the full range of business relationships of MNEs: subsidiaries, suppliers, sub-contractors, franchises, licensees and other business partners. • They apply to all categories of workers: employees as well as agency, temporary and seasonal workers	• Complaints mechanism, is one of the few international mechanisms trade unions and NGOs can use to hold MNEs to account for their business conduct abroad. • Trade unions and NGOs can bring cases regardless of the country in which the violations took place, so long as there is a business relationship between the enterprise where the violations took place – ownership, supplier, franchisee, and investor – and an MNE from an adhering country. • "Soft law" instrument, that cannot be enforced through the courts (**except if there is a national law**)

Existing business accountability mechanisms

The United Nations Global Compact		
Description	**Scope of application**	**Effectiveness and limitations**
• Seeks to get businesses to internalise ten principles from three categories (human rights, labour standards and the environment) in their activities and strategies • Open to businesses but also to non-business organisations including civil society, trade unions, academics, cities and public sector organisations	• The UN Global Compact is global and has approximately 100 "local networks" which are organised along geographic (mainly national) lines. • It does not constitute an authoritative international instrument in the same way that the UN Guiding Principles, the ILO MNE Declaration and the OECD Guidelines are considered authoritative international instruments.	• Little global dialogue has resulted. The Global Compact is often treated as a compliance initiative and a "CSR light" code Concern over the behaviour of companies participating in the Global Compact led to the development of "integrity measures" which were supposed to lead to dialogue over specific complaints. • Much of the Global Compact's activity takes place in local networks that were launched without trade unions, often without representative employer organisations or relevant NGOs that should be involved.

Existing business accountability mechanisms

United Nations Guiding Principles on Business and Human Rights (UNGP)		
Description	**Scope of application**	**Effectiveness and limitations**
• 31 principles are based on the UN Framework for Business and Human Rights developed by Professor John Ruggie • The ideas of the framework can be incorporated into laws, treaties, regulations, "corporate social responsibility-CSR" activities and company policies • The UN Framework is based on three "pillars": (1) the State duty to protect against human rights abuses by third parties, including business; (2) the business responsibility to respect human rights; and (3) the need for more effective access to remedies by victims of human rights abuse.	• All states and to all business enterprises, both transnational and others, regardless of their size, sector, location, ownership and structure. • They apply to the entire spectrum of internationally recognised human rights, including economic, social and cultural rights.	• The OECD Guidelines as revised in 2011 incorporate many of the concepts of the UNGPs including due diligence, making them the most important international state-based non-judicial mechanism for business behaviour. The UNGPs have also influenced procedures adopted by IFIs. • The G-4 Sustainability Reporting Guidelines, the most important non-financial reporting framework, also reflect important ideas taken from the UNGP. • The UNGPs have had an impact on the concept of "CSR". • Absence of a specific enforcement mechanism • They are not legally binding obligations • The real implementation mechanisms lie outside the UN.

Existing business accountability mechanisms

Transnational Company Agreements (TCAs) / International Framework Agreements		
Description	**Scope of application**	**Effectiveness and limitations**
• Formal agreements between multinational enterprises and international trade union organisations formal agreements between multinational enterprises and international trade union organisations • They involve the recognition by a company of an international trade union organisation as a social partner. • Agreements promoted and signed by Global Union Federations have in their greater number the aim of encouraging transnational companies to respect fundamental labour and human rights or CSR standards.	• Early agreements were limited to the enterprise making the agreement. However, some of the more recent agreements have included the enterprise's business relationships/supply chain.	• TCAs are a form of social dialogue, and the existence of an agreement is an indicator that a company is making an effort to be socially responsible. Unlike codes of conduct, they are not supposed to mean that there are no problems. • The coverage is limited to the sector concerned by the agreement

Some key questions

1. Can increased participation of private sector lead to privatisation of ODA?
2. What counter-narratives can be used against the "SDGs funding gap"?
3. Is a private sector-friendly development cooperation the backdoor for deregulation?
4. Which private sector benefits the most: the local or the one from donor countries?
5. How can we promote decent work and social dialogue in these new schemes?
6. Are private sector instruments really efficient?

Issues at stake, challenges and policy trends within key institutions

OECD-DAC

→ ODA modernisation & private sector instruments reform
→ Total Official support for Sustainable Development (TOSSD)
→ Principles on blended finance

Arenas of action: Yearly Trade Union and OECD-DAC Forum, DAC high-level and senior-level meetings, national delegations to the DAC (minister of international development), national governments

Issues at stake, challenges and policy trends within key institutions

European Union / External Investment Plan (EIP)

→ Encourage investment in partner countries in Africa and the EU Neighbourhood region, promoting inclusive growth, job creation and sustainable development and so "tackle some of the root causes of irregular migration".

→ The Plan will encourage private investors to contribute to sustainable development in countries outside of Europe.

→ With a contribution of €4.1 billion from the European Commission, the External Investment Plan is expected to leverage more than €44 billion of investments by 2020. To enhance the firepower and the efficiency of the new Fund, the Commission wants EU Member States and other partners to contribute.

Arenas of action: European Commission, national governments, MEPs, national and European DFIs, European Investment Bank (EIB), EU Policy Forum on Development

Issues at stake, challenges and policy trends within key institutions

United Nations/ILO

→ Accountability of private sector in SDGs
→ Talks for a UN Treaty on Business and Human Rights
→ ILO: resolution on contribution of supply chains to decent work & SDGs / Discussion on effective development cooperation (2018 ILC)
→ Promotion of decent work (SDG 8) and social dialogue as drivers of sustainable development

Arenas of action: SDGs regional and global forums, UN Development Cooperation Forum, Financing for Development Follow-Up Forum, ILO ILC

Issues at stake, challenges and policy trends within key institutions

Development Effectiveness agenda (GPEDC)

→ Multi-stakeholder partnership to increase the effectiveness of aid, where trade unions, private sector, donors & recipients take part

→ Currently debating ways to better engage the private sector in development cooperation

Arenas of action: Global Partnership meetings, CSO Partnership for Development Effectiveness

Trade union asks

→ Claim same access and space to policy-making that private sector enjoys, in the spirit of social dialogue

→ Ensure that private sector is subjected to strict eligibility and reporting criteria to benefit from ODA

→ Evaluate projects against development effectiveness principles, and condition future ODA allocation to performance and compliance with business accountability mechanisms

→ Mandatory global frameworks for business accountability

Trade union tools

→ Awareness-raising among affiliates

→ Advocacy at national, regional and global level

→ Evidence-based research

→ Trade union criteria for private sector engagement, to be used by donors and DFIs, linking trade union priorities on responsible business conduct and on development cooperation (and SDGs)

- ENDS -