



The Voice of OECD Business

BIAC Guide to the OECD Guidelines for Multinational Enterprises

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Introduction

The OECD Guidelines for Multinational Enterprises (Guidelines) contain non-binding recommendations for responsible business conduct across a wide range of corporate activities. The Guidelines are consistent with applicable national laws and are not legally enforceable. Their objective is to promote the positive contributions that multinational enterprises make to economic, environmental and social development. While the Guidelines are addressed to multinational enterprises, they are also relevant for domestic companies of any size operating anywhere in the world. The Business and Industry Advisory Committee to the OECD (BIAC) and its member organizations from the OECD countries regard the Guidelines as a cornerstone of corporate responsibility (CR). We encourage all multinational enterprises to use the Guidelines as a reference point for their corporate responsibility strategies and initiatives.

Whose Guidelines are they?

The Guidelines were developed by the Paris based intergovernmental Organization for Economic Cooperation and Development (OECD). Established in 1961, the OECD has as members 30 countries¹ that are committed to democracy and the market economy. The OECD's main objective is to enhance the quality of economic policy making and through this help to achieve the highest sustainable economic growth in its member countries as well as more than 100 non-member economies with which the Organisation shares experiences and exchanges views.

All 30 OECD member countries as well as eleven non-OECD countries² adhere to the Guidelines. This involves the governments' commitment to promote through National Contact Points the use of the Guidelines by multinational enterprises operating in their countries and to help to resolve any questions and issues that may arise from the implementation of the Guidelines in practice. Since their first adoption in 1976, the Guidelines have been revised several times to reflect the changing realities of the global business environment. The most recent revision was completed in 2000.

¹ Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States.

² Argentina, Brazil, Chile, Egypt, Estonia, Israel, Latvia, Lithuania, Peru, Romania and Slovenia

Part of a broader package

The Guidelines are part of the OECD Declaration on International Investment and Multinational Enterprises (Declaration) which represents a broader, balanced package of instruments, rights and commitments. The Declaration aims at promoting foreign investment. In particular, it calls on the adhering governments not to treat foreign investors differently than domestic companies. Further, it urges governments not to impose requirements on multinational enterprises that would conflict with requirements imposed by another adhering country. The Guidelines have been included in the Declaration to promote good corporate behaviour which helps to maximise the benefits from foreign investment for economically, environmentally and socially sustainable development.

Who are the Guidelines addressed to?

The Guidelines are addressed to multinational enterprises (MNEs), including the parent company as well as its local subsidiaries. They apply in the context of investment in or from any countries that adhere to the Guidelines. Domestic companies in adhering countries are also expected to apply the recommendations embedded in the Guidelines as far as these recommendations are applicable to them. While it is acknowledged that small- and medium-sized enterprises (SMEs) may not have the same capacity to address all the issues covered in the Guidelines as thoroughly as larger companies, the adhering governments encourage SMEs to follow the Guidelines' recommendations to the fullest extent possible. There is nothing to stop a company from using the GL to inform its approach to doing business in non-OECD or non-adherent countries.

General orientation but no concrete how-to-do guide

The Guidelines offer general orientation regarding governmental expectations concerning the results of foreign investors' approaches towards CR. However, they are not intended to be a practical how-to-do guide which would provide concrete assistance or methodologies concerning the development and implementation of company internal processes and management. Nor do the Guidelines specifically address particular CR challenges that individual sectors may face.

Why are the Guidelines useful for business?

Companies are engaging in voluntary CR initiatives for a variety of reasons. These may include the following: set a positive example; anticipate new regulatory developments; help improve reputation and customer satisfaction; attract new investors; increase staff integrity, motivation and productivity; induce better supply chain management; reduce risks and cost associated with doing business.

The Guidelines are an important cornerstone of corporate responsibility (CR). The following features make them a useful reference tool for companies which seek to respond to societal concerns:

Broad support: The Guidelines were drafted and revised in close consultation with business, labour unions and NGOs. They have been endorsed by 41 governments from

countries from all continents and different stages of development. This strong backing gives the Guidelines a high credibility and hence practical relevance for companies.

Clarity: The OECD and the governments that have adhered to the Guidelines strive to protect the integrity of the recommendations by providing clarity about their content and the scope of application. In addition to the information services provided by the NCPs, the OECD Investment Committee which comprises the responsible government representatives from all adhering countries oversees the functioning of the Guidelines and provides, when necessary, clarification concerning the scope and application of the Guidelines.

Basic, comprehensive and consistent: The Guidelines reflect basic principles which companies of all sizes, sectors and nationalities are well advised to apply in their own global operations. The Guidelines are also comprehensive in the sense that they cover all basic topics that are relevant in a CR context. Furthermore, the recommendations are consistent with principles and recommendations reflected in other inter-governmental instruments such as the 1998 ILO Declaration on Fundamental Principles and Rights at Work. This approach of the Guidelines makes them a useful starting point for the identification and formulation of company specific CR principles and codes of conducts.

Stability: Any changes of the Guidelines require the consent by all governments that have adhered to the OECD Investment Declaration as well as the consultation by business and other relevant stakeholder groups. As a consequence, the Guidelines are a relatively stable set of recommendations. Most revisions since 1976 led to rather limited changes with the exception of the most recent one that was completed in 2000. The relative stability of the Guidelines provides confidence to companies that government expectations will not change frequently or in an arbitrary way. The countries that adhered to the OECD Investment Declaration will likely decide in the course of 2009 whether to start the next update of the Guidelines in 2010.

Government assistance when questions and specific issues arise: The Guidelines draw on the structure of National Contact Points (NCPs): These are government offices in all adhering countries which are tasked with the promotion of the Guidelines.³ The NCPs help raising awareness about the Guidelines. They gather information on the experiences with the implementation of the Guidelines and handle inquiries about the content of the recommendations to ensure that the Guidelines are well understood by the business community and stakeholders.

Furthermore, NCPs are expected to offer a forum for discussion between parties concerned (for example a company on the one hand and NGOs or labour unions on the other) when any interested group brings alleged non-observance of the Guidelines recommendations to the NCP's attention. Experience has shown that the NCPs can be instrumental in establishing a constructive dialogue and through this contribute to resolving issues. There have also been cases where NCPs found allegations against companies unsubstantiated.

³ The Dutch NCP is an exception. In the Netherland, the NCP consists of independent experts which are chosen because of their status with various stakeholder groups. The government finances and advises the NCP but does not supervise it.

Thus, the Guidelines and the NCP procedures can be instrumental in helping to separate between relevant criticism and false allegations.

How are the Guidelines implemented?

The Guidelines are implemented by companies in their daily operations. Companies use the Guidelines as a source for guidance and inspiration for the development and implementation of their corporate responsibility strategies and actions including the development of company internal codes of conduct.

When putting the Guidelines into company practice, firms often benefit from advice and cooperation with other companies, business organisations, labour unions and other stakeholders including NGOs. The International Chamber of Commerce (ICC), for example, suggests the following steps that companies should consider in developing their own approach towards CR: confirm CEO/board commitment to give priority to responsible business conduct; state company purpose and agree on values; identify key stakeholders; define business principles and policies; benchmark against selected external principles, codes and standards; set up internal monitoring; use language that everyone can understand; and set pragmatic and realistic objectives.⁴

As mentioned above NCPs promote the Guidelines implementation within the framework of so-called specific instance procedures by assisting in resolving issues and questions that may arise concerning the implementation by individual companies. Labour unions and NGOs have used the NCPs' good offices and the specific instance procedures as a grievance mechanism. For NCPs it is a priority to mediate between the parties concerned with the objective of reaching amicable solutions. Between 2000 and end of 2008, NCPs have received some 182 requests from labour unions and NGOs to become active in this field. In 136 of these cases, the responsible NCP decided to initiate a specific instance procedures based on an initial assessment of the relevance of the issues raised. About 86 of these procedures have been concluded. They mostly dealt with recommendations listed in Chapter IV (Employment and Industrial Relations) of the Guidelines.

The specific instance procedures are conducted by NCPs in accordance with the procedural guidance provided by the Guidelines text (pages 36-37). For companies that are invited to participate in specific instance procedures these procedures represent an opportunity to show that they are ready to be held to engage openly with their stakeholders.. Furthermore, companies may benefit from mediation offered by NCPs. Through participation in NCP-led mediation processes companies can avoid potential escalation of conflicts with stakeholder groups. For any NCP mediation effort to be successful all parties involved must engage with a constructive attitude in the process.

⁴ The details of the ICC guidance can be found on the ICC web site: <http://www.iccwbo.org/corporate-responsibility/id14454/index.html>

Stakeholder Engagement

The OECD works with the wider business community, labour representatives and non-governmental organizations to promote a constructive dialogue on the issues related to the Guidelines. BIAC as well as the Trade Union Advisory Body to the OECD (TUAC) were involved in the development of the Guidelines. Both OECD advisory bodies as well as NGOs were also actively engaged in the Guidelines revisions. The OECD Investment Committee and the National Contact Points regularly invite BIAC, TUAC and NGOs to consultations including on issues related to the work and functioning of the National Contact Points. Annual roundtables are held to discuss between government representatives from OECD and developing countries, business, labor, NGOs and academics useful approaches to promote corporate responsibility and the application of the Guidelines.

BIAC and many of its member associations have appointed experts who act as focal points for the Guidelines. Through events, web-links, publications and co-operation with agencies and other stakeholders, we have been raising awareness about the Guidelines and promoted their application in the business practice. BIAC members have also advised companies which have been invited by National Contact Points to discuss issues related to the companies' use of the Guidelines. .

Recommendations embedded in the Guidelines

The Guidelines text starts with a preface and an overview of the underlying concepts and principles on which they are based (Chapter I: Concepts and Principles). This is followed by nine chapters with recommendations addressed to companies across ten areas of corporate activity. The subsequent section then provides guidance for National Contact Points concerning the procedures to be followed when questions and issues arise concerning the application of the Guidelines in specific instances. The final section of the text provides detailed commentaries with information about the meaning of the specific Guidelines recommendations.

Examples of recommendations addressed to companies in the chapters II-X include the following:

Chapter II: General Policies

The Guidelines contain a number of general policies that companies should consider in their operations, with the primary that companies should follow established policy in the countries where they operate. Other general policies include:

- Contribute to economic, social and environmental progress;
- Respect human rights;
- Support local communities through employment opportunities and training;
- Use principles of good corporate governance; and
- Apply effective self-regulation and internal management systems.

Chapter III: Information Disclosure

The Guidelines recommend that companies disclose relevant information about their structure, activities and financial performance on a regular basis and following generally accepted accounting principles. Companies are also encouraged to communicate additional information that could include their social and environmental performance, as well as:

- Company mission statement and policies on social, ethical and environmental issues;
- Internal or external codes of conduct that the company follows; and
- Information on management systems used to implement these codes.

Chapter IV: Employment and Industrial Relations

The labor chapter of the Guidelines includes the key elements of the ILO Declaration on Fundamental Principles and Rights at Work (1998):

- Freedom of association and the effective recognition of the right to collective bargaining
- The elimination of all forms of forced or compulsory labor;
- The effective abolition of child labor; and
- The elimination of discrimination in respect of employment and occupation.

The Guidelines also include recommendations on a number of other labor issues, including:

- Follow the prevailing standards of employment used by similar companies in the country;
- Take adequate steps to protect occupational health and safety of employees;
- Promote the development of local personnel; and
- Provide reasonable notice of any changes in the operations that would significantly affect employment levels.

Chapter V: Environment

The Guidelines recommend that companies should take account of the need to protect the environment and public health and safety, following the environmental laws, regulations and administrative practices of the countries where they have operations. The Guidelines also recommend that companies should:

- Establish an environmental management system and promote continuous improvement of environmental performance;
- Provide information on the environmental and health impacts of their operations, and consult regularly with local communities; and
- Consider environmental impacts in planning and decision-making, and use risk management tools to minimize risks, including from accidents.

Chapter VI: Combating Bribery

The Guidelines recommend that companies should avoid all forms of bribery and corruption and should not offer or seek bribes in the course of their operations. Companies are also

called to reject demands for bribes from other companies or government officials. Additional recommendations include:

- Make public commitments against bribery and corruption;
- Establish and monitor company policies against bribery and corruption;
- Refrain from using sub-contracts as a means to hide payments of bribes;
- Ensure that payments to agents are only for legitimate services; and
- Avoid any illegal donations to political candidates.

Chapter VII: Consumer Interests

The Guidelines recommend that companies use fair business, marketing and advertising practices, and take reasonable steps to ensure the quality and safety of their products. Other recommended actions include:

- Ensure that products meet applicable legal standards;
- Provide necessary information about the use of their products;
- Provide a means for customers to submit complaints; and
- Protect consumer privacy.

Chapter VIII: Science and Technology

The Guidelines encourage companies to follow the science and technology policies of the countries where they operate, and encourage them to contribute to the development of the local science capability. The Guidelines also suggest that companies should:

- Consider licensing intellectual property and grant licenses on reasonable terms;
- Establish research and development centers in a variety of locations; and
- Develop relationships with local universities and research institutions.

Chapter IX: Competition

The Guidelines call on companies to conduct their activities in accordance with applicable competition laws and recommend that companies refrain from any anti-competitive behavior, including price fixing, rigged bids, illegal quotas, or divided markets. The Guidelines also suggest that companies cooperate with competition authorities.

Chapter X: Taxation

The Guidelines call on companies to ensure that they comply with the letter and spirit of applicable tax laws and to make full and timely payment of their tax liabilities.

Where to find more information

For further information about the Guidelines please see the OECD website:

http://www.oecd.org/topic/0,3373,en_2649_34889_1_1_1_1_34529562,00.html.