



Business and Industry Advisory Committee to the OECD

Comité Consultatif Economique et Industriel Auprès de l'OCDE

BIAC Background Paper for the
OECD Roundtable on Corporate Responsibility
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BIAC appreciates the opportunity to participate in the OECD Roundtable on Corporate Responsibility focusing on the positive contribution of business to environment through the OECD Guidelines for Multinational Enterprises. We were pleased to see that some of the comments we made at the experts' meeting in March are reflected in the revised report, including the recognition that the report refrains from making prescriptive statements and proposing interpretations of the Guidelines. This should also be mentioned up front in the summary of the background report. However, we would like to underline again the following points.

Introduction

- BIAC has been an active participant in the revision of the Guidelines, including its environment chapter and continues to remain actively involved in follow-up activities in this area. This also includes raising the visibility of the Guidelines among our membership.
- The OECD MNE Guidelines are different from other international instruments: They encompass implementation procedures and their effective implementation has been endorsed by the OECD business community, represented by BIAC. For us, the Guidelines are a negotiated compromise that needs to remain applicable to various jurisdictions, various sectors, types of enterprises and different host countries.
- As mentioned in the background report, it is important that the report is not understood as interpreting the Guidelines, but that the examples mentioned are seen as one resource among many to give companies a sense of their options in pursuing better environmental policies and practices.
- BIAC welcomes the broad inventory of tools and examples of environmental management systems set out in the Background Report. The overview of business, government and NGO activities and partnerships paints a picture of diverse well-established and supported commitments to legal frameworks, implementation and compliance, and of partnerships and initiatives that reflect business engagement in finding and delivering solutions. However, as the report recognises, there is much more.
- The intended use and the target audience of the report need to be clear. We would suggest that one objective is to encourage companies that are aware of the OECD

MNE Guidelines to do more to internalize the environmental elements. Related to that, the other intention might be to persuade companies that are not yet aware of the MNE Guidelines to take them on board and to offer resources to assist them. Therefore, the report should be made as “user-friendly” as possible.

Current business practices towards the environment

- Companies, as investors in many host countries, have taken a pro-active stance towards the environment, recognising the value proposition that this implies and the potential for economic reward in efficiency. While compliance with the rules and regulations is self-evident, through their standards and technologies, many MNEs investing in non-member countries actually raise general environmental performance.
- In addition, as the agenda correctly recognises, multinational enterprises have, for a long time and in many cases, undertaken efforts to exceed compliance with laws – as well as to accommodate social expectations of enhancing environmental performance.
- In many cases, responsible systems and practices made good business sense, not only in terms of improving corporate image and limiting liability and risk, but also in terms of enhancing overall efficiency. More efficient production process and products through innovation and a reduction in resource use can be mutually reinforcing objectives.
- The OECD MNE Guidelines’ section on environment was a reflection of the current, widely accepted norms and practices, providing a flexible set of elements for good practices and systems. BIAC continues to believe that the Environment Chapter accommodates companies at all levels on “the learning curve,” while at the same time calling for continuous improvement.
- With regard to the issue of environmental management, we understand the Guidelines with regard to the environment NOT to set any absolute standard for performance, but rather to take into account the varying levels of advancement in implementing EMS’s and to encourage striving for improvements from various baselines. The broad range of sectors, contexts and size of companies require flexibility in EMS’s and practices.

Dealing with Environmental Risk

- This Section of the Report does not give due recognition of the opportunity costs of inaction and the dampening effects on other societal priorities and does not construe “precaution” along the full continuum of options. As the background report recognises, risk assessment, management and communication are inherent in many aspects of business, notably concerning environmental issues. Few, if any, activities can guarantee zero-risk to the environment or health, so precaution cannot justify a call for proof of zero risk or harm. Full scientific certainty is not always available.
- When full scientific certainty is not present, then decisions to act (or wait and see) should be based on a weight-of-evidence approach using well-recognized scientific data and analysis showing that serious or irreversible damage can be reasonably expected to the environment or health as a consequence of a particular action. Options considered should be targeted as precisely as possible at the specific issue of concern using existing and reasonably obtainable knowledge.

- Precaution should be seen as an essential ingredient of risk management in the area of environment and health, and one of several important considerations in adopting appropriate measures. It should be considered within a structured approach to risk management, comprising analysis, assessment, and the communication of risk. Potential risks should be managed without departing from the principles of sound science and in full recognition of the consequences of precautionary action.
- The responsibility remains with governments to ensure that precautionary risk-management measures that they take in circumstances of uncertainty involve scientifically substantiated threats to health or the environment, are least trade-restrictive and are taken only after full consideration of their negative impact on economic development and on further improvements in social and environmental well-being.

Corporate contributions to environmental policy

- The importance of business engagement in national and international environmental policy formation is well recognized, accepted in the United Nations and other IGOs, and to be encouraged to ensure both the most cost effective formulation and ownership in implementing those rules.
- Companies, as investors in many host countries, have taken a pro-active stance towards the environment. While compliance with the rules and regulations is self-evident, many MNEs investing in non-member countries actually raise general environmental performance levels through their standards, technologies and environmental management systems. MNEs are in many cases exceeding compliance with laws.
- Establishing a sound dialogue with those who have a stake in these issues will become increasingly important. Public/private partnerships are a practical means of delivering sustainable development outcomes. The business contribution is measured by partnerships that deliver solutions, not merely the value of the contribution in financial terms, but by specific results achieved. The importance of partnerships was clearly underlined by WSSD, at which numerous new partnerships were announced. Business is working together with its partners to contribute to turning these commitments into practical action.
- Dialogue and partnership can also help to increase awareness of the fact that a broad base of action is needed to involve all parts of society to work towards sustainable development. However, partnerships cannot be “regulated”. All business operations are ultimately local – with local markets, customers, employees, and communities.
- There is no one-size-fits all with regard to stakeholder involvement, which depends on the specific circumstances of the company and the context in which it is operating. Concerns about cost (creating a new consulting industry), business confidentiality and IPRs need to be considered.