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Working Party on the OECD Guidelines for Multinational Enterprises

BIAC COMMENTS TO 10 JANUARY 2000 DRAFT TEXT
FOR REVISED OECD GUIDELINES FOR MULTINATIONAL
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PARIS

BIAC COMMENTS TO 10 JANUARY 2000 DRAFT TEXT
FOR REVISED
OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

**THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES
DRAFT TEXT AND COMMENTARY
10 JANUARY, ~~1999~~ 2000**

PREFACE

I. CONCEPTS AND PRINCIPLES

II. GENERAL POLICIES

III. DISCLOSURE

IV. EMPLOYMENT AND INDUSTRIAL RELATIONS9

V. ENVIRONMENT

VI. COMBATING BRIBERY

VII. CONSUMER INTERESTS

VIII. SCIENCE AND TECHNOLOGY

IX. COMPETITION

X. TAXATION

COMMENTARY

Commentary on General Policies

Commentary on Disclosure

Commentary to Employment and Industrial Relations

Commentary on the Environment

Commentary on Combating Bribery

Commentary on Consumer Interests

Commentary on Science and Technology

Commentary on Competition

Commentary on Taxation

PREFACE

The *OECD Guidelines for Multinational Enterprises* (the *Guidelines*) are recommendations addressed by governments to multinational enterprises. They provide voluntary principles for responsible business conduct consistent with applicable laws. The *Guidelines* and the other instruments of the Declaration on International Investment and Multinational Enterprises (the *Declaration*) aim to ensure that the operations of these enterprises are in harmony with government policies and the need for business competitiveness, to strengthen the basis of mutual confidence between enterprises and the societies in which they operate and to help improve the foreign investment climate.

2. International business has experienced far-reaching structural change and the *Guidelines* themselves have evolved to reflect these changes. With the rise of service and knowledge-intensive industries, service and technology enterprises have entered the international marketplace. Large enterprises still account for a major share of international investment, and there is a trend toward largescale international mergers. At the same time, foreign investment by small- and medium-sized enterprises has also increased and these enterprises now play an increasingly significant role on the international scene. Multinational enterprises, like their domestic counterparts, have evolved to encompass a broader range of business arrangements and organisational forms. In some cases, increasingly, strategic alliances and closer relations with suppliers and contractors tend to blur the boundaries of the enterprise.

3. The rapid evolution in the structure of multinational enterprises is also reflected in their operations in the developing world, where foreign direct investment has grown rapidly. In developing countries, multinational enterprises continue to diversify ~~have diversified~~ beyond primary production and extractive industries into manufacturing, assembly, domestic market development and services.

4. The activities of multinational enterprises, through international trade and investment, have strengthened and deepened the ties that join OECD economies to each other and to the other parts ~~rest~~ **of the world**. These **activities bring substantial** benefits to home and host countries. These benefits accrue when multinational enterprises supply the products and services that consumers want to buy at competitive prices and when they provide fair returns to suppliers of capital. Their trade and investment activities contribute to the efficient use of capital, technology and human and natural resources. They facilitate the transfer of technology among the regions of the world and the development of technologies that reflect local conditions. Through both formal training and on-the-job learning enterprises also promote the development of human capital in host countries.

5. Multinational enterprises can and do fulfil an important role in promoting sustainable development through their investment activities by engaging in mutually reinforcing actions in the areas of economic growth, job creation, environment protection and social welfare throughout the world and particularly in the countries in which they operate. The ability of multinationals to promote sustainable development is greatly enhanced when trade and investment are conducted in a context of open, competitive and appropriately regulated markets. More generally, multinational enterprises often generate efficiencies and help to foster a pro-competitive business environment.

6. The activities of multinational enterprises, while bringing the benefits of ~~as an element of~~ the globalisation process, may also give rise to concerns. These enterprises operate in ~~often face~~ a variety of

legal, social **and regulatory settings** for their activities, a situation that can bring about perceptions reinforce public concerns that they may be ~~able to take~~ illegitimate ~~undue~~ advantage of differences in standards and policies. Globalisation has given rise to anxiety regarding its impact on jobs,

wages, the environment, taxation and national sovereignty, among other issues. There is sometimes a perception that the operations of multinational enterprises -- whose size may be large in relation to host country economies -- generate abuses of concentrations of economic or political power or conflicts with national policy objectives and expectations. These perceptions may be accentuated by the organisational complexity of some of these enterprises, which may make it difficult to follow their activities.

7. Many enterprises have responded to these concerns by developing internal programmes, guidelines and standards that underpin their commitment to good corporate citizenship, good practices, and good business and employee conduct. ~~of corporate responsibility, which often include putting in place codes of conduct and associated management systems.~~ Some of them have called upon consulting, auditing and certification services, contributing to the accumulation of expertise in these areas. Others embrace self regulation. ~~There has also been a~~ These efforts have also promoted social dialogue with firm constituents and stakeholders on what constitutes good business conduct. The *Guidelines* clarify the shared expectations for business conduct of the governments adhering to them and provide a point of reference for enterprises. Thus, the *Guidelines* both complement and reinforce private efforts to define ~~and implement~~ responsible business conduct.

8. Governments are co-operating with each other and with trade unions, NGOs and international organizations other actors to strengthen the international legal and policy framework in which business is conducted. The post-war period has seen the development of this framework, starting with the adoption in 1948 of the Universal Declaration of Human Rights. Recent instruments include the ILO Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development and Agenda 21 and the Copenhagen Declaration for Social Development.

9. The OECD has also been contributing to the international policy framework. Recent developments include the adoption of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and of the OECD Principles of Corporate Governance, the OECD Guidelines for Consumer Protection in the Context of Electronic Commerce' and ongoing work on the OECD Guidelines on Transfer Pricing for Multinational Enterprises and Tax Administrations.

10. The common aim of the governments adhering to the Declaration ~~Guidelines~~ *is* to **encourage the positive** contributions that multinational enterprises can make to economic, **environmental and social progress and** to minimise the difficulties to which their various operations may give rise. **In working towards this goal**, governments find themselves in partnership with the many businesses, **trade unions and other** nongovernmental organisations that are working in their own ways toward the same end. **Governments** can help by providing effective domestic policy frameworks that include stable macroeconomic policy, non-discriminatory treatment of firms, in appropriate regulation and prudential supervision, an impartial system of courts and law enforcement and efficient and honest public administration. Governments can also help by maintaining and promoting appropriate standards and policies in support of sustainable development and by engaging in ongoing reforms to ensure that public sector activity is efficient and effective. Governments adhering to the *Guidelines* are committed to continual improvement of both domestic and international policies with a view to improving the welfare and living standards of all people.

Adopted on 8 December 1999.

I. CONCEPTS AND PRINCIPLES

1. The *Guidelines* are recommendations to multinational enterprises jointly addressed by governments adhering to the Declaration (adhering governments) to multinational enterprises. They provide principles of good practice consistent with applicable laws. Observance of the *Guidelines* by enterprises is voluntary and not legally enforceable.

[2. Since the operations of multinational enterprises extend throughout the world, including countries that do not adhere to the ~~Guidelines~~ Declaration, international co-operation in this field should extend to all countries. Governments adhering to the Declaration ~~Guidelines~~ encourage the enterprises operating on their territories to observe the *Guidelines* wherever they operate, while taking into account the particular circumstances of each host country.]

3. A precise definition of multinational enterprises is not required for the purposes of the *Guidelines*. These usually comprise companies or other entities established in more than one country and so linked that they may co-ordinate their operations in various ways. While one or more of these entities may be able to exercise a significant influence over the activities of others, their degree of autonomy within the enterprise may vary widely from one multinational enterprise to another. Ownership may be private, public, state or mixed. The *Guidelines* are addressed to all the entities within the multinational enterprise (parent companies and/or local entities). According to the actual distribution of responsibilities among them, the different entities are expected to co-operate and to assist one another to facilitate observance of the *Guidelines*.

4. The *Guidelines* are not aimed at introducing differences of treatment between multinational and domestic enterprises; they reflect good practice for all. Accordingly, multinational and domestic enterprises are subject to the same expectations in respect of their conduct wherever the *Guidelines* are relevant to both.

5. Governments wish to encourage the widest possible observance of the *Guidelines*. While it is acknowledged that small- and medium-sized enterprises may not have the same administrative capacities as larger enterprises, governments adhering to the *Guidelines* nevertheless encourage them also to observe the *Guidelines* recommendations to the fullest extent possible.

6. Governments adhering to the *Guidelines* should not use them for protectionist purposes nor use them in a way that calls into question the comparative advantage of any country **where multinational** enterprises invest.

~~7. Governments have the right to prescribe the conditions under which multinational enterprises operate within their jurisdictions, subject to international law. The entities of a multinational enterprise located in various countries are subject to the laws applicable in these countries. When multinational enterprises are subject to conflicting requirements by Member countries, the governments concerned will co-operate in good faith with a view to resolving problems that may arise.~~

8. Governments adhering to the Declaration ~~Guidelines~~ set them forth these Guidelines with the understanding that they will fulfil their responsibilities to treat enterprises fairly equitably and in a non-discriminatory way and in accordance with international law and with their contractual obligations. The use of appropriate international dispute settlement mechanisms, including

arbitration, is encouraged as a means of facilitating the resolution of legal problems arising between enterprises and host country governments.

8. Governments adhering to the Declaration ~~*Guidelines will*~~ promote these *Guidelines* ~~them~~ and encourage positive response by enterprises ~~their observance~~. They will establish National Contact Points that promote the *Guidelines* and act as a forum for discussion of all matters relating to the *Guidelines*. The adhering Governments will also participate in appropriate review and consultation procedures to address issues concerning interpretation of the *Guidelines* in a changing world.

II. GENERAL POLICIES

Enterprises should take fully into account established policies in the countries in which they operate, consider the views of other stakeholders, and co-operate with governmental authorities in the development and implementation of policies and laws that affect them. In this regard, enterprises should:

1.3: Encourage local capacity building through close co-operation with local business interests, as well as developing the enterprise's activities and exploiting competitive advantage in domestic and foreign markets, consistent with the need for specialisation and sound commercial practice ;

2.4: Encourage human capital formation, in particular by creating employment opportunities and facilitating training opportunities for employees;

3.6: Support and uphold good corporate governance principles, and develop good corporate practices in consultation with relevant authorities;

4.5: Refrain from seeking or accepting unjustified exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labour, or taxation ; fiscal or other issues;

5.9: Encourage business partners, to the extent practicable in particular suppliers and sub-contractors, to practice good corporate citizenship and lead by example; apply principles of corporate conduct compatible with the *OECD Guidelines for Multinational Enterprises*, where appropriate;

6.1: Support the concept of sustainable development as a framework to simultaneously advance economic, as well as social and environmental progress with a view to achieving sustainable development;

7.2: Respect the human rights of their employees in the workplace, as well as encourage the respect of human rights by their example; business partners and in the societies in which they operate; [Alternative proposal: Respect the human rights commitments of governments in whose territories they operate, especially with regard to employees, business partners and society in general.]

8.7: Develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate;

9.8: Promote employee awareness of, and compliance with, company policies through appropriate dissemination of these policies, including through training programmes. Employees who make valid reports on practices that contravene the law, the *Guidelines* or the **enterprise's policies, to management**; or (in the absence of timely remedial action or in the face of reasonable risk of negative employment action); the competent public authorities, should not be subject to discriminatory or disciplinary action for such reporting.

10. Abstain from any illegal/improper involvement in local political activities.

III. DISCLOSURE

1. ~~It is important that timely and accurate disclosure is made on all material matters regarding the corporation including~~1. Enterprises should ensure that timely, regular, reliable and relevant information is disclosed regarding their activities, structure, activities, financial situation and performance.

2. ~~3.~~ Enterprises should disclose:

a) ~~B~~basic information showing their structure, name and location of the parent enterprise, its main affiliates, its percentage ownership, direct and indirect in these affiliates, including shareholdings between them.

b) ~~4.~~ Enterprises should also disclose ~~m~~Material information on:

a) ~~T~~the financial and operating results of the company.

c) ~~b)~~ Material information on cCompany objectives.

e) ~~Major share ownership and voting rights.~~

d) ~~e)~~ Material foreseeable risk factors.

e) ~~f)~~ Material issues regarding employees and other stakeholders.

~~3.~~ This information should be disclosed for the enterprise as a whole and, where appropriate, along business lines or geographic areas. Disclosure policies of enterprises should be tailored to the nature, size and location of the enterprise, and to the audience, with due regard taken of costs, privacy concerns, business confidentiality and other competitive concerns. Enterprises should apply high quality standards (where they exist) for disclosure of information. ~~Accounting and audit.~~ Enterprises are also encouraged to apply high quality standards for non-financial information including environmental and social reporting where they exist. The standards or policies under which both financial and nonfinancial information are compiled and published should be ~~reported~~ indicated.

4. ~~5.~~ Enterprises are encouraged to communicate ~~disclose~~ additional information that could include:

a) Value statements or statements of business conduct intended for public disclosure. These statements could include information on the social, ethical and environmental policies, standards, codes and other management disciplines of the enterprise, ~~and other codes of conduct to which the company subscribes, including date of adoption, and the countries and entities to which they apply.~~

b) Information on systems for managing risks and complying with laws, and on statements or codes of business conduct.

c) Information on relationships with employees and other stakeholders.

d) Governance structures and policies.

e) Members of the board and key executives, and their remuneration policy.

IV. EMPLOYMENT AND INDUSTRIAL RELATIONS

Taking into account differences in national legal requirements, the diverse and innovative means of organising work, and that the ILO is the primary multilateral organisation with respect to employment conditions, Enterprises should, within the framework of applicable law, and regulations both taking into account the relevant ILO standards and prevailing labour relations and employment practices:

I ~~c)~~^{a)} Respect the right of their employees to choose to be represented by trade unions and other bona fide

representatives of employees, and engage in constructive negotiations, either individually or through employers' associations, with such representatives with a view to reaching agreements on employment conditions;

~~a) b) Contribute to the effective abolition of child labour and, in particular, n~~ Not use in their workplace, and in particular refrain in business dealings from benefiting from in their workplace, engage in the worst forms of child labour, in their operations;

c) Contribute to the elimination of all forms of forced or compulsory labour in their workplace, and in particular, not engage in the use of such labour in their operations.

d) Not discriminate against their employees with respect to employment or occupation on such grounds as race, colour, sex, religion, political opinion, national extraction or social origin, unless selectivity concerning employee characteristics furthers established governmental policies ~~which specifically promote greater equality of employment opportunity or relates to the inherent requirements of a job.~~

2.e) Promote consultation and co-operation between employers and employees on matters of mutual concern.

~~3.f)~~ Provide information to employee representatives where this accords with local law and practice which enables them to obtain a true and fair view of the performance of the entity or, where appropriate, the enterprise as a whole.

4. a) Observe standards of employment and industrial relations not less favourable than those observed by comparable employers in the host country;

b) Take ~~appropriate~~^{adequate} steps to ~~provide~~^{ensure} occupational health and safety in their operations.

5. In their operations, to the greatest extent practicable, employ local personnel and provide training with a view to improving skill levels, in co-operation with employee representatives and, where appropriate, relevant governmental authorities.

6. In considering changes in their operations which would have major effects upon the livelihood of their employees, in particular in the case of the closure of an entity involving collective lay-offs or dismissals, provide reasonable notice of such changes to representatives of their employees, and, where appropriate, to the relevant governmental authorities, and co-operate with the employee representatives and appropriate governmental authorities so as to mitigate to the maximum extent practicable adverse effects. ~~In light of the specific circumstances of each case, it would be appropriate if management were able to give such notice prior to the final decision~~ being taken.

7. In the context of bona fide negotiations with representatives of employees on conditions of employment, or while employees are exercising a right to organise, not threaten to transfer the whole or part of an operating unit from the country concerned nor transfer employees from the enterprises' component entities in other countries in order to influence unfairly those negotiations or to hinder the exercise of a right to organise.

8. a) Enable authorised representatives of their employees to negotiate on collective bargaining or labour-management relations ~~issues or to consult on matters of mutual concern~~ with representatives of management who are authorised to take decisions on ~~these matters~~ under negotiation.

b)~~2.a)~~ Provide facilities to employee representatives as may be necessary to assist in the development of effective collective agreements;

c)~~2.b)~~ Provide information to employee representatives which is needed for meaningful negotiations on conditions of employment.

V. ENVIRONMENT

Enterprises should, within the framework of laws, regulations and administrative practices in the countries in which they operate, ~~and in accordance with relevant international principles, objectives and standards,~~ take due account of the need to protect the environment and human health, ~~to promote health and safety objectives,~~ and generally to conduct their activities in a manner consistent with local conditions and the wider goal of sustainable development. In particular, as appropriate to the size of the company, enterprises are encouraged ~~to~~ should:

1. Establish and maintain a system of environmental management appropriate to the enterprise, including:

- collection and evaluation of adequate and timely information regarding the environmental and, ~~health, and safety~~ impacts of their activities;
- establishment of measurable objectives and, where appropriate, targets for improved environmental performance, including periodically reviewing the continuing relevance of these objectives; and
- regular monitoring and verification of progress toward environmental and, ~~health, and safety~~ objectives or targets.

2. Taking into account concerns about cost, business confidentiality, and the need to protect intellectual property rights:

- provide the public with adequate and timely information on the potential environment, health and safety impacts of the activities of the enterprise, which could include reporting on progress in improving environmental performance; and
- provide opportunities for adequate and timely communication and consultation with the communities directly affected by the environmental, health and safety policies of the enterprise.

3. Assess, and address in decision-making, the foreseeable environmental, and health, ~~and safety-related~~ risks ~~impacts associated with activities of the enterprise and its activities, including facility siting and termination decisions, impacts on natural resources, energy use, outputs and facilities associated with production processes, and the generation, transport, and management of waste, over their full life-cycle. ~~Where these proposed activities may have significant environmental, health, or safety impacts, and where they are subject to a decision of a competent authority,~~ In some contexts, according to local law, and subject to Competent Authority, enterprises may be expected to prepare an appropriate Environmental Impact Statement.~~

4. When a preliminary risk assessment clearly indicates unacceptable effects on human health or the environment, consult with the appropriate authorities in order to determine whether ~~not use~~ the lack of full scientific certainty ~~is~~ a reason to delay the introduction of cost-effective measures intended to prevent such effects, within the context of adequate regulation.

5. Maintain adequate contingency plans for preventing, mitigating, and controlling serious environmental and health damage from accidents or other unanticipated events ~~their operations.~~

6. Continually seek to improve corporate environmental performance, including, by encouraging, where appropriate, such activities as:

- adoption of technologies and operating procedures in all parts of the enterprise that reflect standards concerning environmental performance in the best performing part of the enterprise;
- development and provision of products or services that have no undue environmental impacts; are safe in their intended use; are efficient in their consumption of energy and natural resources; can be reused, recycled, or ~~at least~~ disposed of safely;
- promoting ~~higher levels of~~ awareness among customers of the environmental implications of using the products and services of the enterprise; and
- research on ways of improving the environmental performance of the enterprise over the longer term.

7. Provide adequate education and training to employees in **environmental health and** safety matters, as well as, where appropriate, other environmental management areas such as including the handling of hazardous materials and the prevention of environmental accidents, as well as more general environmental management areas, such as Environmental Impact Assessment procedures, public relations, and environmental technologies.

8. Contribute to the development of environmentally meaningful and economically efficient public policy, for example, by means of partnerships or initiatives that will enhance environmental awareness and protection.

VI. COMBATING BRIBERY

Enterprises should not, in order to obtain or retain business, directly or indirectly, offer, promise, give, or demand a bribe or other improper advantage, nor should they be solicited or expected to render a bribe or other improper advantage. In particular, enterprises should:

1. Not offer to pay to public officials or to the employees of business partners any directly or indirectly a bribe or give improper advantage portion of a contract payment to an individual account, nor channel. They should not use subcontracts, purchase orders or consulting agreements as means of channelling payments to public officials, to employees of their business partners, or to their relatives or business associates by means of subcontracts, purchase orders or consulting agreements.

3.2. Take measures reasonably within their power to ensure that any payment made to an Ensure that remuneration of agents is no more than an appropriate remuneration for appropriate and for legitimate services rendered by such agent only. Where relevant, enterprises should maintain a record of the name and terms of employment of all agents who are retained by them in connection with transactions with public bodies or state enterprises. This record should be available for inspection by auditors and, upon specific request, by appropriate, duly authorised government authorities under conditions of confidentiality. a list of agents employed in connection with transactions with public bodies and state owned enterprises should be kept and made available to competent authorities.

5.3. Enhance the transparency of their activities in the fight against bribery and extortion. Measures could include making public commitments against bribery and extortion and disclosing the management systems the company has adopted in order to honour these commitments. The enterprise should also foster openness and dialogue with the public so as to promote its awareness of and co-operation with the fight against bribery and extortion.

[4. Promote employee awareness of and compliance with company policies against bribery and extortion through appropriate dissemination of these policies and through training programmes and disciplinary procedures.]

2.5. Adopt management control systems that discourage bribery and corrupt practices, and adopt financial and tax accounting and auditing practices that prevent the establishment of "off the books" or secret accounts or the falsification of creation of documents which do not properly and fairly record the transactions to which they relate.

6. Not make illegal contributions to candidates for public office or to political parties or to other political organisations. Contributions to candidates for public office or to political parties or to other political organisations should fully comply with public disclosure requirements and should be reported to senior management.

VII CONSUMER INTERESTS

When dealing with consumers, enterprises should act in the context of the nature and circumstances of use of the goods or services in question, in accordance with fair business, marketing and advertising practices and should take all reasonable steps to ensure the safety and quality of the goods or services they provide. In particular, they should:

1. Ensure that the goods or services they provide meet all required standards for consumer health and safety, and include all required health warnings and product safety and information labels;

1.2. In sales to consumers and as appropriate to the goods or services and the transaction, provide accurate, meaningful and relevant and clear information regarding their content, safe use, maintenance, storage, and disposal sufficient to enable consumers to make informed decisions;

2.3. Provide transparent and effective procedures to address consumer complaints; and provide for the fair and timely resolution of consumer disputes without undue costburden, or burden;

3.4. Not make representations or omissions, nor engage in any other practices that are deceptive, misleading, fraudulent, or mislead as to the benefits derived from use of a productunfair; and

4.5. Respect consumer privacy and provide protection for personal data;:-

[5.6. Co-operate fully and in a transparent manner with public health authorities in the prevention or removal of serious threats to public health deriving from the consumption or use of their products.] [see proposal to Environment para. 6]

VIII. SCIENCE AND TECHNOLOGY

Enterprises should:

1. Endeavour to ensure that their activities ~~are compatible with~~ fit satisfactorily into the science and technology (S&T) policies and plans of the countries in which they operate and as appropriate contribute to the development of national innovative capacity.
2. Adopt, to the fullest extent practicable in the course of their business activities, practices that permit the rapid transfer and diffusion of technologies and know-how to their sub-entities as required for their business , with due regard to the protection of intellectual property rights.
3. When appropriate, perform science and technology development work in host countries to address local market needs, as well as employ host country personnel in an S&T capacity and encourage their training, taking into account commercial needs.
4. When granting licenses for the use of intellectual property rights or when otherwise transferring technology, do so on reasonable and competitive terms and conditions ~~and in a manner that contributes to the long term development prospects of the host country.~~
5. Where relevant to commercial objectives, develop ~~to the fullest extent possible~~ ties with local universities, public research institutions, and participate in co-operative research projects with local industry or industry associations.

IX. COMPETITION'

Enterprises should:

- I Not enter into or carry out anti-competitive agreements among competitors to fix prices, make rigged bids (collusive tendering), establish output restrictions or quotas, or share or divide markets by allocating customers, suppliers, territories or lines of commerce;
2. Conduct all of their activities in a manner consistent with the competition laws and policies of the jurisdictions in which they operate; ~~and of the jurisdictions whose economies would be likely to be harmed by anticompetitive activity on their part;~~
3. ~~Co-operate with the competition authorities of such jurisdictions by, among other things and subject to applicable law and appropriate safeguards, (a) providing as prompt and complete responses as practicable to requests for information, and (b) enabling all authorities reviewing an activity to exchange and discuss all relevant information; and~~
4. Take steps to ensure that their employees understand the importance of compliance with all applicable competition laws and policies.

BIAC Proposal:

Enterprises should comply with the competition laws and regulations applicable to their operations in any jurisdiction, including, in particular:

1. applicable laws and regulations prohibiting anti-competitive agreements among competitors to fix prices, make rigged bids (collusive tendering), establish output restrictions or quotas, or share or divide markets by allocating customers, suppliers, territories or lines of commerce; and
2. applicable laws and regulations requiring cooperation with the competition authority of such jurisdiction in providing relevant information necessary for the analysis of competition matters related to such operations, subject to appropriate safeguards regarding the protection of confidential information and rights of the defense.
3. Enterprises should take steps to make their employees aware of the importance of compliance with all applicable competition laws and regulations.

2 One delegation expressed a reservation with respect to this revised text, raising a number of specific concerns but expressing a willingness to work with the Secretariat and other Member countries to reach a satisfactory resolution of its concerns.

X. TAXATION

OECD Proposal of 10 January:

~~It is important that enterprises contribute to the public finances of host countries by paying taxes. In particular, e~~Enterprises should:

~~1. Exert every effort to comply with both the letter and spirit of the tax laws and regulations in all countries in which the operate, including such measures as providing to the relevant authorities the information necessary for the correct determination of taxes to be assessed in connection with their operations, and conforming transfer pricing practices to the arms-length principle.~~

~~1. Provide to the taxation authorities of the countries in which they operate, in accordance with the safeguards and relevant procedures of the applicable - laws of these countries, complete, timely and accurate information necessary for the enforcement of those laws and the correct determination of the taxes to be assessed in connection with their operations (including relevant information concerning their operations in other countries) and make timely payments of their tax liabilities.~~

~~2. Refrain from making use of the facilities available to them, such as transfer pricing which does not conform to the arm's length principle, for modifying in ways contrary to applicable laws, the tax base on which members of the group are assessed.~~

New proposed text by OECD (2 February), marked to show BIAC proposals (9 February):

It is important that enterprises contribute to the public finances of host countries by timely payment of their tax liabilities ~~paying taxes~~. In particular, enterprises should:

comply with the tax laws and regulations in all countries in which they operate and should exert every effort to act in accordance with both the letter and spirit of those laws and regulations. This would include such measures as providing to the relevant authorities the information necessary for the correct determination of taxes to be assessed in connection with their operations, and conforming transfer pricing practices to the arms' length principle, and making timely payment of their tax liabilities.'