

The OECD Guidelines for Multinational Enterprises

A Key Corporate Responsibility Instrument

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investment framework?**

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Introduction

The OECD Guidelines for Multinational Enterprises are one of the world's foremost corporate responsibility instruments and are becoming an important international benchmark for corporate responsibility. They contain voluntary principles and standards for responsible business conduct in such areas as human rights, disclosure of information, anti-corruption, taxation, labour relations, environment, and consumer protection. They aim to promote the positive contributions multinational enterprises can make to economic, environmental and social progress.

The Guidelines express the shared values of the 37 countries that have adhered to them. These are the 30 OECD members and 7 non-member countries (Argentina, Brazil, Chile, Estonia, Israel, Lithuania, and Slovenia. Latvia's adherence is being completed and an application by Singapore is being considered.)

The adhering countries are the source of most of the world's foreign direct investment and are home to most major multinational enterprises. Although many business codes of conduct are now publicly available, the Guidelines are the only multilaterally endorsed and comprehensive code that governments are committed to promoting. ■

How do the Guidelines fit into the international investment framework?

The Guidelines are part of a broader, balanced instrument of rights and commitments – the OECD Declaration on International Investment and Multinational Enterprises. The Declaration promotes a comprehensive, interlinked and balanced approach for governments’ treatment of foreign direct investment and for enterprises’ activities in adhering countries. The OECD instruments on international investment and multinational enterprises are one of the main means by which the OECD helps adhering countries to work towards a liberal regime for foreign direct investment, while at the same time ensuring that multinational enterprises operate in harmony with the countries where they are located.

The *Guidelines for Multinational Enterprises*, a multilaterally endorsed non-binding code of corporate conduct addressed to multinational enterprises, are one of four main instruments making up the Declaration on International Investment and Multinational Enterprises. The other three are:

- the *National Treatment* Instrument, where countries commit themselves to treating foreign-controlled enterprises operating in their territories no less favourably than domestic enterprises in like situations;
- an instrument on *Conflicting Requirements* which calls on adhering countries to avoid or minimise conflicting requirements imposed on multinational enterprises by governments of different countries; and
- an instrument on *International Investment Incentives and Disincentives* which provides for efforts among adhering countries to improve co-operation on measures affecting international direct investment. ■

To whom do the Guidelines apply?

The Guidelines’ recommendations are also addressed to all the entities within the multinational enterprise – parent companies and/or local entities. Although the Guidelines acknowledge that small- and medium sized enterprises may not have the same capacities as larger enterprises, governments adhering to the Guidelines nevertheless also encourage them to

observe the Guidelines’ recommendations to the fullest possible extent.

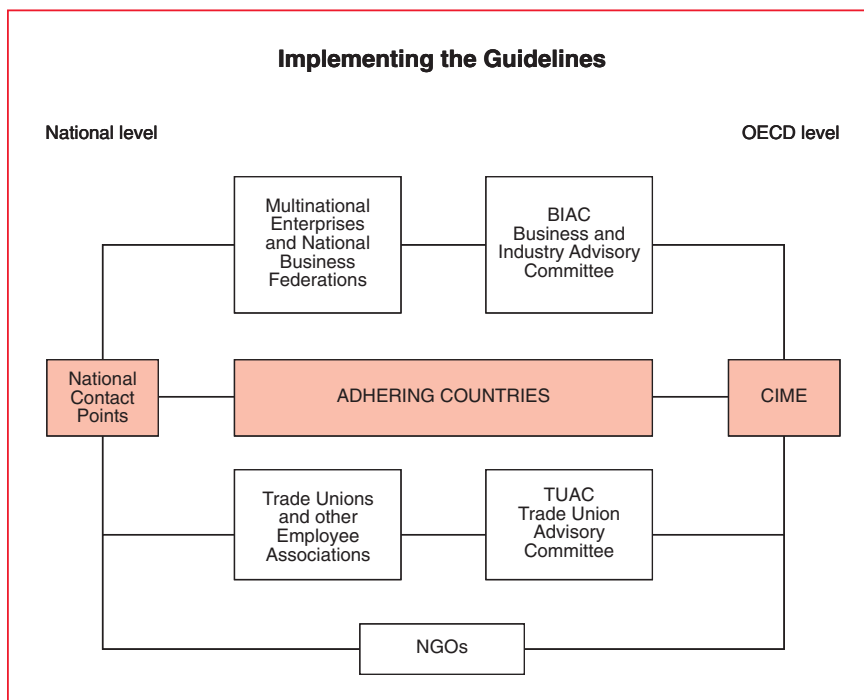
The Guidelines are not aimed at introducing differences of treatment between multinational and domestic enterprises and are intended to reflect good practice for all. Accordingly, multinational and domestic enterprises are subject to the same expectations in respect of their conduct wherever the Guidelines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

How are the Guidelines implemented?

The National Contact Point (NCP) – often a government office¹ – is responsible for encouraging observance of the Guidelines and for ensuring that the Guidelines are well known and understood by the national business community and by other interested parties. The NCP promotes the Guidelines; handles enquiries about them; assists in solving problems that may arise; gathers information on national experiences with the Guidelines; and reports annually to the OECD Committee on International Investment and Multinational Enterprises (CIME). The Guidelines procedures provide for something called “specific instances,” a facility that allows interested parties to call a company’s alleged non-observance of the Guidelines’ recommendations to the attention of an NCP.

The CIME is the OECD body responsible for overseeing the functioning of the Guidelines, and it is expected to take steps to enhance their effectiveness. It can also issue clarifications on the application of the Guidelines in specific circumstances. As the Guidelines are addressed to enterprises, business and labour input is especially important. The CIME regularly consults with the OECD’s business and labour advisory committees – the Business and Industry Advisory Committee (BIAC) and the Trade Union Advisory Committee (TUAC) – and NGOs on matters relating to the Guidelines and other issues concerning international investment and multinational enterprises. ■

1. There are four types of NCP structure presently in use: single government office, multi-departmental government office, tripartite body, and quadripartite body. A number of NCPs involve NGOs and other stakeholders in their work, for example, through their structure, or via an advisory committee.



Box 1. The Guidelines in practice

Examples of recent cases raised under the Guidelines

Resettlement in the Zambian copper belt: The Canadian NCP was asked by NGOs to consider the impending removal of local people from a Canadian mining company’s lands and encouraged the company to cooperate with Canadian and Zambian NGOs in reconsidering the company’s resettlement plans. The NGO involved in the case has reported that it resulted in the company agreeing to delay resettlement to allow time for better evaluation of associated social disruptions and for the Zambian government, with help from the World Bank, to provide alternatives.

Child labour in India: The Netherlands NCP looked into NGO allegations of child labour in a leading sporting goods company’s outsourcing operations in India. The NCP found that, even though the issues brought to the NCP’s attention probably still exist in the Indian sporting goods industry at large, the company encourages its suppliers to operate in a socially responsible manner.

Human Rights in Myanmar: Following enquiries by labour unions on companies’ operations in Myanmar, the French NCP issued recommendations of eight practices that companies can use to contribute to the fight against forced labour. It also noted that such practices should not be a substitute for the enforcement of the government measures necessary to suppress forced labour.

More information can be found in the Annual Reports on the Guidelines and on the websites of the NCPs.

What are the results to date?

There is growing evidence that the Guidelines are becoming an important international benchmark for corporate responsibility. A study of 49 extractive industry companies shows that they cite the Guidelines as often as they cite other major corporate responsibility initiatives, such as the UN Global Compact. The Guidelines have been translated into at least 23 languages. And the number of web pages with discussion of the Guidelines has increased from 2,666 in June 2001 to almost 20,000 today.

The Guidelines have also figured in high-level political declarations — the 2002 OECD ministerial meeting called for the Guidelines to be used to promote integrity and transparency in the international economy, and the G8's 2002 Africa Action Plan noted the importance of effective follow-up on the Guidelines, and cited their role in the fight against corruption. The statement from G8 finance ministers in May 2003 also expressed support for the Guidelines.

The 37 adhering governments and the European Commission have been active in promoting the Guidelines. Promotion has included not only conferences and mailings to business, but also concrete measures in the trade and investment area. At least ten governments refer to the Guidelines as a benchmark for companies applying to their investment guarantee, export credit and investment promotion programmes. The Association Agreement between the EU and Chile, concluded in May 2002, states that the EU and Chile jointly remind multinational enterprises of their recommendation to observe the Guidelines for Multinational Enterprises wherever they operate.

More than 30 specific instances concerning company practices in OECD and non-OECD countries have been raised since a review of the Guidelines in 2000. These cases are in areas that go to the heart of the current debate on globalisation, including the social implications of resettlement plans associated with natural resource development, child labour and human rights issues (see Box1).

A recent UN expert panel report referred to the Guidelines in examining the conduct of companies in the

exploitation of natural resources in the Democratic Republic of Congo. The UN and the Guidelines institutions are co-operating to address the matter effectively in accordance with the spirit and established procedures of the Guidelines.

In association with the annual meetings of the NCPs, Roundtables are held to engage in a dialogue on major corporate responsibility issues (e.g. responsible supply chain management). In addition, the summaries of these discussions are published in the Annual Reports on the Guidelines and provide a public record of the views of governments, business, trade unions and NGOs on these issues. The Roundtable to be held in June 2003 will focus on companies' contribution to the fight against corruption and on synergies between the Guidelines and the OECD Anti-Bribery Convention. ■

What more can be done?

While their overall visibility has grown, more needs to be done to raise public awareness and demonstrate that the Guidelines can make a vital difference in the way companies conduct business. The NCPs are focusing, in particular, on improving the transparency and effectiveness of the Guidelines procedures.

All parties to the Guidelines process – business, trade unions, NGOs and governments themselves – recognise the need to clarify the respective roles of governments and companies. Work has already been done on helping multinational enterprises in observing the recommendations of the Guidelines in situations of violent conflict and widespread human rights abuses. OECD work on corruption and transparency would provide an opportunity to use the Guidelines to help define what it is reasonable to expect of companies operating in weak public governance zones.

The Guidelines are one of several global corporate responsibility initiatives. The OECD is exploring with other international organisations – in particular with the United Nations institutions, the World Bank and the Global Reporting Initiative – how synergies among these initiatives and organisations may be enhanced. ■

Main Recommendations of the OECD Guidelines for Multinational Enterprises

The Preface situates the Guidelines in a globalising world. The common aim of the governments adhering to the 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.

I. Concepts and Principles: sets out the principles that underlie the Guidelines, such as their voluntary character, their application world-wide and the fact that they reflect good practice for all enterprises.

II. General Policies: contains the first specific recommendations, including provisions on human rights, sustainable development, supply chain responsibility, and local capacity building, and more generally calls on enterprises to take full account of established policies in the countries in which they operate.

III. Disclosure: recommends disclosure on all material matters regarding the enterprise, such as its performance and ownership, and encourages communication in areas where reporting standards are still emerging, such as social, environmental and risk reporting.

IV. Employment and Industrial Relations: addresses major aspects of corporate behaviour in this area, including child and forced labour, non-discrimination and the right to bona fide employee representation and constructive negotiations.

V. Environment: encourages enterprises to raise their performance in protecting the environment, including performance with respect to health and safety impacts. Features of this chapter include recommendations concerning environmental management systems and the desirability of precaution where there are threats of serious damage to the environment.

VI. Combating Bribery: covers both public and private bribery, and addresses passive and active corruption.

VII. Consumer Interests: recommends that enterprises, when dealing with consumers, act in accordance with fair business, marketing and advertising practices, respect consumer privacy, and take all reasonable steps to ensure the safety and quality of goods or services provided.

VIII. Science and Technology: aims to promote the diffusion by multinational enterprises of the fruits of research and development activities among the countries where they operate, thereby contributing to the innovative capacities of host countries.

IX. Competition: emphasises the importance of an open and competitive business climate.

X. Taxation: calls on enterprises to respect both the letter and spirit of tax laws, and to co-operate with tax authorities.

Points to remember

The Guidelines are:

- The only multilaterally endorsed code of conduct for multinational enterprises;
- A set of principles or recommendations covering a broad range of issues in business ethics, including human rights, information disclosure, employment and industrial relations, environment, anti-corruption, consumer protection, science and technology, competition and taxation;
- Non-binding for enterprises. Nonetheless, governments have committed themselves to promoting their observance and effective implementation;
- Not aimed at introducing differences in treatment between multinational enterprises and domestic enterprises, but reflect good practice for all;
- Designed to prevent misunderstandings and build an atmosphere of confidence and predictability between business, labour, governments and society as a whole;
- Endorsed by OECD governments, as well as several non-member countries;
- Supported by both business and labour organisations, as well as several non-governmental organisations;
- Reinforced by a facility - called specific instances - that allows interested parties to bring a company's alleged non-observance of the Guidelines' recommendations to the attention of a National Contact Point. ■

For further information

More information about the text and implementation procedures of the OECD Guidelines for Multinational Enterprises can be obtained from:

The OECD Guidelines website at www.oecd.org/daf/investment/guidelines/

From the OECD Secretariat by **e-mail:** daf.contact@oecd.org

or by **post:**

OECD
DAFFE/CMIS (Guidelines)
2, rue André Pascal
75775 Paris Cedex 16
France

You may also contact the National Contact Points of the adhering countries (contact details are available on the OECD Guidelines website) for additional information on the Guidelines.

Further reading

The full text of the Guidelines can be viewed online at www.oecd.org/daf/investment/guidelines.

Corporate Responsibility: Private Initiatives and Public Goals, OECD 2001. ISBN 9264186697, €35.00, 112p

OECD Guidelines for Multinational Enterprises: Global Instruments for Corporate Responsibility, Annual Report 2001. ISBN 926419682X, €38.00, 144p

OECD Guidelines for Multinational Enterprises: Focus on Responsible Supply Chain Management, Annual Report 2002. ISBN 9264198954, €21.00, 152p

Foreign Direct Investment for Development: Maximising Benefits, Minimising Costs, OECD 2002. ISBN 9264199276, €50.00, 232p

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Where to contact us?

FRANCE

OECD Headquarters
2, rue André-Pascal
75775 PARIS Cedex 16
Tel.: 33 (0) 1 45 24 81 81
Fax: 33 (0) 1 45 24 19 50
E-mail: sales@oecd.org
Internet: www.oecd.org

GERMANY

OECD BERLIN Centre
Albrechtstrasse 9/10
D-10117 BERLIN
Tel.: (49-30) 2888353
Fax: (49-30) 28883545
E-mail:
berlin.contact@oecd.org
Internet:
www.oecd.org/deutschland

JAPAN

OECD TOKYO Centre
Nippon Press Center Bldg
2-2-1 Uchisaiwaicho,
Chiyoda-ku
TOKYO 100-0011
Tel.: (81-3) 5532 0021
Fax: (81-3) 5532 0036/0035
E-mail: center@oecdtokyo.org
Internet: www.oecdtokyo.org

MEXICO

OECD MEXICO Centre
Av. Presidente Mazaryk 526
Colonia: Polanco
C.P. 11560
MEXICO, D.F.
Tel.: (00.52.55) 5281 3810
Fax: (00.52.55) 5280 0480
E-mail:
mexico.contact@oecd.org
Internet: www.rtn.net.mx/ocde

UNITED STATES

OECD WASHINGTON Center
2001 L Street N.W.,
Suite 650
WASHINGTON D.C. 20036-4922
Tel.: (1-202) 785 6323
Fax: (1-202) 785 0350
E-mail:
washington.contact@oecd.org
Internet: www.oecdwash.org
Toll free: (1-800) 456 6323

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