OECD Guidelines for Multinational Enterprises

RECOMMENDATIONS FOR RESPONSIBLE BUSINESS CONDUCT IN A GLOBAL CONTEXT

Cyril Liance – Belgium NCP
OVERVIEW

Part 1: What are the OECD Guidelines?
Part 2: National Contact Point Belgium
Part 3: Practical handling of a “Specific Instance”
Part 4: Cooperation between NCPs & Results
Part 5: Filing a complaint
Part 1 : What are the OECD Guidelines?

- The most comprehensive international standard on responsible business conduct;

- Ethical code for enterprises (MNE’s and others) wherever they operate endorsed by business, trade unions and civil society;

- Legally non-binding, BUT OECD and signatory governments required to ensure they are implemented and observed;

- OECD Investment Committee has the oversight responsibility for the OECD Guidelines and assist NCPs with carrying out their activities;

- Open to non-OECD members.
- 49 adhering countries / from all over of the world / accounting for 80% of foreign direct investment

- 37 OECD Members
  Australia, Austria, Belgium, Canada, Chile, Colombia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States.

- 12 non OECD Members
  Argentina, Brazil, Costa Rica, Egypt, Jordan, Morocco, Peru, Romania, Tunisia, Ukraine, Kazakhstan and Uruguay
## MAJOR UPDATES

<table>
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<tr>
<th>Year</th>
<th>Description</th>
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<tr>
<td>1976</td>
<td>First Adoption&lt;br&gt;24 countries</td>
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<tr>
<td>1979</td>
<td>Implementation at national and international level with local dedicated staff&lt;br&gt;Raising awareness</td>
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<tr>
<td>1984</td>
<td>NCPs mechanism widespread</td>
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<tr>
<td>1991</td>
<td>Additional chapter on environmental protection</td>
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<tr>
<td>2000</td>
<td>Worldwide applicable&lt;br&gt;Protection of consumers and anti-bribery chapters consolidated&lt;br&gt;NGO can file complaints</td>
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| 2011 | Chapter on Human Rights<br>Supply-Chain Responsibility<br>Risk-based Due Diligence to be carried out<br>44 countries<br>OECD watch is a new stakeholder

OECD Guidelines for Multinational Enterprises

www.oecd-guidelines.fgov.be
CURRENT CONTENT

- Part 1: 11 Chapters
  - Concept and Principles
  - General Policies
  - Disclosure
  - Human Rights
  - Employment and Industrial Relations
  - Environment
  - Combating Bribery, Bribe Solicitation and Extortion
  - Consumer Interests
  - Science and Technology
  - Competition
  - Taxation

- Part 2: Implementation Procedures
Other Guidelines on CSR

- **ILO Tripartite Declaration**
  Created in 1977, code of conduct applicable by both governments and enterprises

- **United Nations Global Compact**
  Created in 2000, 10 principles within 4 chapters, companies must do annual report
  Belgium Network since 2010, about 70 companies, membership fee

- **ISO26000 & Global Reporting Initiative**
  Created in 2010, based on 7 principles, tool to support CSR implementation, GRI
  supports standardisation in reporting

- **UN Guiding Principles**
  The UN Guiding Principles on Business and Human Rights are a set of guidelines for
  States and companies to prevent, address and remedy human rights abuses committed
  in business operations.
The SDGs and the OECD Guidelines

- Concepts, principles, general policies
- Disclosure
- Human Rights
- Employment and Industrial Relations
- Environment
- Bribery, extortion
- Consumer interests
- Science and technology
- Competition
- Taxation

www.oecd-guidelines.fgov.be
OECD Guidelines are the only guidelines which include clear requirements for the establishment of a concrete complaints handling mechanism (NCPs)

Its applicability concerns all sectors, all companies (including SMEs), all entities within a company wherever they operate + suppliers + sub-contractors
OECD Due diligence tools
The OECD Guidelines in the global governance universe
Part 2 : National Contact Point Belgium

- Tripartite composition

Chairmanship and secretariat are provided by the Belgian Federal Public Service Economy.
Network of experts

- Created in 2014 with work and support from all NCP members;
- 15 experts in various fields related to the OECD Guidelines;
- Opinion and advice to NCP on their own initiatives or at the request of the NCP, not binding;
- Support and assist the mediation process with their knowledge;
- Take part to NCP’s events.
Two roles of the NCP

1. Promote awareness and encourage implementation of the Guidelines to business, Trade Unions and civil society, also the general public, and the international community.

2. Impartial dispute resolution by conciliation and mediation. Offer a “Specific Instance” mediation process to be used when a party raises allegations against an MNE’s operations, focusing on finding a resolution between the parties through mediated dialogue.
Part 3: Practical handling of a “Specific Instance” (case) by the Belgian National Contact Point

KEY PRINCIPLES:

- CONFIDENTIALITY;
- IMPARTIALITY;
- SERENITY;
- TRANSPARENCY.
A specific instance is submitted by adversely-impacted stakeholders or civil society organizations (trade unions, NGO or individual(s), etc.), from Belgium or elsewhere.

Specifying that a Belgian enterprise abroad or any enterprise located in Belgium has breached specific chapter(s) of the OECD GL (must be detailed).

Enough information of what happened must be included.
An acknowledgment of receipt is sent to the submitter by the Secretariat within 10 working days.

The NCP Chairperson and the Secretariat do a first reading of the SI, they can request more information if needed.

They forward the SI to the NCP members.
- The SI file is handed, during a meeting in our offices, to the enterprise itself: mutual information + thorough NCP procedure explanation

- The Chair and the Secretariat hold a first meeting with the submitter filing the SI: mutual information + thorough NCP mediation procedure explanation
An initial assessment is made to evaluate if the SI is eligible or not according to the following criteria:
- Identity of the parties concerned and their interest in the matter;
- Responsibility of the Belgian NCP;
- Scope of the OECD Guidelines and materiality of the specific instance;
- Legal context and parallel proceedings;
- Contribution to the purpose and effectiveness of the OECD Guidelines.

The NCP itself takes the decision to go further, or not, with the SI processing;

A draft initial assessment is shared with the parties for factual comments and then published on the NCP website + OECD database.
If offer of good offices, a Conciliation and Mediation Committee (CMC) is set up: Chairperson + Secretariat + if appropriate, ad-hoc NCP members + if appropriate, ad-hoc experts (mediator)
At the first meeting, the CMC put the parties together after having explained to them the procedure. Terms of reference for the mediation are signed.

Series of meetings are organised with both parties together, or if appropriate, separately.

Between these meetings, NCP members have regular internal meetings to see how to proceed with the SI.
At the end of the mediation process the parties can agree or not agree on an outcome;

As per OECD GL a document has to be publicly published:
- “Report”: when the parties have reached agreement on the issues raised;
- “Statement”: when no agreement is reached or when a party is unwilling to participate in the procedures.

The report/statement is endorsed by the whole NCP;

The report or statement is sent to the parties, the OECD Investment Committee, and published on the OECD and NCP website.
- the ideal objective is to finalize a SI within 12 months from submission date;

- 17 Specific Instances over the past 10 years.

- Since 2016, the Belgian NCP do a follow up of its recommandations

- Belgium is ranked as the 7th NCP for having managed the highest number of cases since 2000
Part 4 : Cooperation between NCPs & results

- OECD Working Party on Responsible Business Conduct
  - meeting twice a year ;
  - exchange of views and information between NCPs representatives.

- Management of joined Specific Instances
  - ex: French SI « Socapalm » initially managed by French NCP then transferred to the Belgian NCP with support from Luxemburg NCP
- **NCPs Peer Reviews**
  - 2/3 per year;
  - Belgium Peer Review - November 2015.
  - Belgium was a reviewer for the French (2017) and Canadian (2018) NCPs

- **Other: buddying / mentoring, capacity building**
  - Dutch NCP Peer Learning meeting – 2018
  - Austrian NCP Peer Learning focus on mediation - 2019
Other stakeholders
Global impact of NCPs: 450+ cases in over 100 countries (2000-2018)
Main themes of cases from 2001-2011 and 2011-2018

Data retrieved from OECD online database of specific instances 22 March 2019
Key sectors related to cases

- Manufacturing
- Mining and quarrying
- Financial and insurance activities
- Other
- Information and communication
- Other service activities
- Construction
- Electricity, gas, steam and air conditioning supply
- Agriculture, forestry and fishing
- Professional, scientific and technical activities
- Transportation and storage
Submitters of cases 2000-2018

- NGO: 44%
- Trade Union: 29%
- Individuals: 22%
- Business: 2%
- Multi-stakeholder: 2%
- Other: 1%

Data retrieved from OECD online database of specific instances 22 March 2019
Percentage of Specific instances accepted annually 2001-2018
Outcomes in concluded specific instances 2011-2018

Concluded Cases that Resulted in Agreement

Concluded Cases Resulting in Company Policy Change
Contents of final statements for concluded cases in 2018

✓ Ten of the 11 final statements published for concluded cases included recommendations (91%).
  – Increase from 70% in 2017.

✓ Determinations of whether an enterprise observed or did not observe the Guidelines were included in 5 final statements (45% of all final statements published for concluded cases).

✓ Plans for follow up or monitoring of recommendations were included in final statements for 10 of the 13 concluded specific instances (77%).
  - Increase from 35% in 2017
Part 5 : Filing a complaint

■ Who ?

Any « interested party » :
- Trade Union ;
- NGO ;
- Consumer or consumer organisations ;
- Group of workers or individuals.

■ You should be able to show your interest in the matter.
Against whom and about what?

- Against a multinational company or companies from or operating in an OECD or adhering country;

- About an alleged breach defined in the Guidelines (11 chapters);

- Past, current and future violations are eligible.
Where to file a complaint

- In the country where the problems occurred (host country);
- In the country where the company has its headquarters (home country);
- Both.
What the request should contain:

- Your identity, including a contact person, name or organisation, address, telephone number, fax number and email;

- Short introduction to the case, including the company, the problem and the location of violation;

- **List of chapter(s) and paragraph(s) in the Guidelines** the complaint is breaching;

- Detailed information on the alleged breaches and developments to date;

- Description of previous attempts at resolution of the case directly with the company or other relevant actors and/or institutions,
Thank you!

Feel free to get in touch

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