

Annual Report on the OECD Guidelines for Multinational Enterprises 2007

**CORPORATE RESPONSIBILITY
IN THE FINANCIAL SECTOR**



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IN THE FINANCIAL SECTOR

2007 Edition



ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

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LA RESPONSABILITÉ DES ENTREPRISES DANS LE SECTEUR FINANCIER
2007

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Foreword

To many people, international investment by multinational enterprises is what globalisation is all about. Promoting appropriate business conduct by these companies is a growing challenge since their operations often straddle dozens of countries and hundreds of cultural, legal and regulatory environments. The OECD Guidelines for Multinational Enterprises aim to help businesses, labour unions and NGOs meet this challenge by providing a global framework for responsible business conduct. While observance of the Guidelines is voluntary for businesses, adhering governments are committed to promoting them and to making them influential among companies operating in or from their territories.

This Annual Report on the OECD Guidelines for Multinational Enterprises, the seventh in a series, describes what governments have done to live up to this commitment over the period June 2006-June 2007. It also contains the results of the 2007 OECD Roundtable on Corporate Responsibility which focused on the OECD Guidelines for Multinational Enterprises and the financial sector.

The Annual Report is published under the joint responsibility of the National Contact Points (NCPs) – government offices who are responsible for encouraging observance of the Guidelines – and the OECD Investment Committee.

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PART I

Meeting of National Contact Points – an Overview of Guidelines Implementation

Summary Report of the Chair of the Meeting on the Activities of NCPs

I. Overview

Every year, the National Contact Points (NCPs) of the OECD Guidelines for Multinational Enterprises (“the Guidelines”) meet to review their experiences in performing and promoting the implementation of the Guidelines. They also engage in consultations with the Business Industry Advisory Committee (BIAC), the Trade Union Advisory Committee (TUAC), and with non-governmental organisations (NGO), notably OECD Watch, to seek their inputs on how to further enhance the effectiveness of the Guidelines. Additionally, a back-to-back roundtable with practitioners is organised to assist NCPs to better understand emerging issues and policy developments relevant to the Guidelines. This year’s event took place on 18-20 June 2007. The Corporate Responsibility Roundtable was devoted to the financial sector and the role of the Guidelines.¹

The present report reviews NCP activities as well as other implementation activities undertaken by adhering governments over the June 2006 – June 2007 period. It is based on individual NCP reports and on other information received during the reporting period. The report is divided into five additional sections: Section II – Institutional Arrangements; Section III – Information and Promotion; Section IV – Specific Instances; Section V – the OECD Risk Awareness Tool for Multinational Enterprises; and Section VI – Considerations for Future Actions.

Overall, this year’s NCP reports show considerable activity with regards to the Guidelines that has led to a continuous increase in their visibility and use. Several adherents have strengthened their institutional arrangements by adopting important modifications to the organisation and functions of their NCPs or by amending their specific instances procedures to make them more user-friendly and accountable. Particular attention has been given to continuing to position the Guidelines in the mainstream of corporate responsibility initiatives while encouraging a more intense co-ordination between the work on the Guidelines and other instruments. Promotional efforts have continued to expand and diversify with the goal of making the Guidelines more accessible and attuned to targeted audiences. A number of adherent governments have taken steps to promote the use of the OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones.

The NCPs’ reports also show a significant increase in the number of specific instances raised (26 more than in last year’s report) for a total of 156 requests since the June 2000 Review. Of these, 134 specific instances

(38 more than last year) have been considered by the NCPs. Several NCPs report increased efforts to better co-ordinate and consult on individual cases, notably those involving multiple requests to different NCPs on similar cases. Also, several NCPs reported being more pro-active in their search for amicable solutions to disputes by increasing their mediation and conciliation efforts. This not only suggests a continued support for the specific instances facility but also greater familiarity with the procedures and a desire to make them work in practice.

In addition, the profile of the Guidelines has been enhanced at the highest political level. At their Summit in Heiligendamm, Germany, on 6-7 June 2007, the G8 leaders specifically committed themselves to promote actively internationally agreed corporate social responsibility standards such as the OECD Guidelines for Multinational Enterprises, high environmental standards, and better governance through the National Contact Points. They also called for private corporations and business organisations to adhere to the principles in the OECD Guidelines. In addition, they encouraged the emerging economies as well as developing countries to associate themselves with the values and standards contained in the OECD Guidelines and invited major emerging economies to a High Level Dialogue on corporate social responsibility issues using the OECD as a platform. The special features of the OECD Guidelines as one of the most comprehensive corporate responsibility instruments endowed with an implementation mechanism were also highlighted by the work of the Special Representative of the United Nations Secretary-General on Human Rights and Trans-national Corporations and Other Business.

Finally, the OECD Investment Committee has developed new avenues for promoting wider awareness and use of the Guidelines. In March 2007, the Organisation adopted the “OECD Principles for Private Sector Participation in Infrastructure” which cover the promotion of responsible business conduct based on the Guidelines. The Guidelines have also been given high visibility in the Committee in the context of the ongoing co-operation projects with China and the Russia Federation. Moreover, Egypt has been invited to become the 40th adherent to the Declaration on International Investment and Multinational Enterprises and to establish a National Contact Point.² Additional requests for adherence to the Declaration by other non-OECD countries are under active consideration.

While welcoming the process made during the June 2006 – June 2007 period, NCPs agreed that more should be done to further the effectiveness of the Guidelines. With this goal in mind, they considered that the 2007-2008 implementation cycle should focus on improving the value of the specific instances facility to interested parties (including business), the supporting role of the Guidelines in the financial sector and the promotion of the Guidelines in non-adhering countries.

II. Reinforcement of the institutional arrangements

The current NCP structures consist of:

- 20 NCP single government departments;³
- 7 NCP multiple government departments;⁴
- 1 bipartite NCP (involving government and business);⁵
- 9 tripartite NCPs (involving governments, business, and trade unions);⁶ and
- 2 quadripartite NCPs (involving governments, business, trade unions and NGOs).⁷

Compared with 2000, the first year of operation of the NCPs under the reviewed Guidelines, the number of NCPs with tri- or quadri-partite organisation has increased. In addition, NCPs enhance the inclusiveness of their activities through other means. A number of countries use advisory committees or permanent consultative bodies whose members include non-government partners. Others convene regular meetings with business, trade unions and civil society. Still others consult with NGOs or other partners on an informal basis or in reference to specific issues.

The main developments over the reporting period can be summarized as follows.

Innovations in NCP structures and procedures

Argentina is developing a new institutional structure for its NCP consisting of a) a Steering Board; b) an Advisory Council; and c) a Multi-stakeholder Assembly. The Steering Board, which will decide on specific instances, will have a tripartite body composed of business, labour and civil society representatives. Guidelines on the functioning of the Steering Board will be issued soon. The Advisory Council, which will comprise other areas of government as well as the Steering Board members, will play a consultative role on issues relating to the application and promotion of the Guidelines. The Multi-Stakeholders Assembly will be open to all parties interested in the promotion of the Guidelines.

Brazil. After completion of a public consultation process, an internal resolution concerning NCP procedures (Resolution NCP No. 01/2007) has been adopted. Its main objective is to confer transparency, predictability and improved organisation to the activities of the Brazilian NCP and to better offer guidance and relevant information to potential users of the Guidelines. A “Model for Filing Complaints” has been developed in this context. In addition, the new Resolution requires the Brazilian NCP to formally present its position when a complaint is filed and to issue a final statement describing the attained results in each case. Brazil is also discussing the creation of an Advisory Committee to the Brazilian NCP to advise the NCP on strategies, measures, and activities to effectively promote the implementation of the

Guidelines. In the meantime, a decision has been taken to systematically invite the Brazilian Labour Union CUT to future NCP meetings with civil society representatives.

Canada has created a new entry in the Canadian NCP website to increase transparency regarding the submissions received and the implementation of specific instances.

Chile reports that on the occasion of a regional seminar organised by Chile in April 2007 on the Guidelines, the four NCPs from Latin America (Argentina, Brazil, Chile and Mexico) agreed to establish a permanent co-ordination framework on their activities.

Following the completion of its in-depth review of the role and functioning of its NCP, the *Netherlands* will put in place a new NCP structure in June 2007. This structure will consist of an independent council – the NCP Council – composed of a chairman and three members appointed by the Minister for Foreign Trade after consultations with the Ministry of Foreign Affairs, the Ministry of Housing, Spatial Planning and Environment, and the Ministry of Social Affairs and Employment. Although the four members of the Dutch NCP Council will not formally represent different groups of stakeholders, the Minister for Foreign Trade will ensure a balanced composition of the NCP Council. It is also envisaged that if the NCP Council, after dealing with a specific case, produces a statement, this statement will be presented to the Minister for Foreign Trade, who will either merely endorse it or, if he so wishes, add his comments before the statement is made public. The Ministry of Economic Affairs will be in charge of the secretarial back-up to the NCP Council and will provide internal coordination with other ministries and necessary information and advice when requested. The Ministry of Economic Affairs will also act as the liaison between the OECD Investment Committee and the Dutch NCP Council.

In the *United Kingdom*, as a result of an extensive consultation process, a Steering Board, chaired by a senior official of the Department of Trade and Industry, has been established to oversee the work of the NCP. The Steering Board includes external members drawn from outside Government, selected for their experience in business, employee relations and issues of concern to NGOs. The final external member was put forward by the All Parliamentary Group on the Great Lakes Region and Genocide Prevention due to this group's key role in the recent improvements to the UK NCP. Other Government Departments and agencies with an interest in the OECD Guidelines are also represented (Attorney General's Office, Department for Environment, Food and Rural Affairs, Department for Constitutional Affairs, Department for International Development, Department for Work and Pensions, Export Credit Guarantee Department, Foreign Office, UK Trade and Investment and the Scottish Executive). The Board met for the first time on 22 May 2007. In

addition, the UK NCP has been transformed into a multi-department unit, consisting of officials from the Department of Trade and Industry (DTI), Foreign and Commonwealth Office (FCO) and Department for International Development (DFID), with DTI acting as Secretariat for the NCP.

In addition, as part of continuous efforts to improve the functioning of NCPs, the *Lithuanian* NCP has been transferred from the Company Law division of the Company Law and Privatisation department to the Investment Policy division of the Investment and Innovation department of the Ministry of Economy and a new NCP chair has been appointed. The co-ordination role of the *Norwegian* NCP has been transferred to the Section for Economic, Commercial and CSR Affairs in the Ministry of Foreign Affairs. Following an internal national reorganisation in *Portugal*, the contacts of the Portuguese NCP have changed.

Building synergies between the Guidelines and other global corporate responsibility instruments

A number of NCPs report increased co-ordination within governments between the activities relating to the Guidelines and other corporate responsibility instruments such as the UN Global Compact. As already reported in the 2006 NCP Annual Report, the German NCP was contacted by the German network of the Global Compact and asked whether it could provide mediation for possible cases of non-observance with the Global Compact principles. The German NCP welcomed this request and suggested a two-step procedure to which the Global Compact representatives agreed: first, the Global Compact tries to solve possible problems within its reporting system; second, if the results are not satisfactory, the problem could be presented to the German NCP as a “specific instance”, which would offer its mediation according to the OECD Guidelines and following the standards of the “OECD Procedural Guidance”. The stakeholders of the UN Global Compact Germany have approved and formalised this possibility of cooperation.

Sweden also reports that the Swedish NCP and the Swedish Partnership have a very close relationship with the UN Global Compact and its local networks. The Partnership has close contacts with the Nordic Global Compact Network and the Swedish NCP Chair participates in Annual Compact Network meetings.

III. More intensive and effective information and promotion activities

The June 2000 Decision of the OECD Council calls on NCPs to undertake promotional activities. The reporting period witnessed an intensification of, and more impact-orientated, information and promotional activities. The present section summarizes the activities described in the individual NCP reports.

III.a. Selected promotional activities

Developments and innovations in promotion include:

- *Argentina* – a major multi-stakeholder event was organized by the Argentine NCP to raise awareness of the Guidelines.
- *Australia* reports that the Australian NCP provides information on the Guidelines to all approvals for foreign business proposals.
- *Brazil* – *re-engineering the Brazilian NCP website*. A new independent website “Corporate Social Responsibility – OECD Guidelines for Multinational Enterprises” has been created to better promote and promulgate the Guidelines, explain the function of the NCP and respond to enquiries. The Brazilian NCP was also engaged in several promotional activities, notably with multinational enterprises and Brazilian labour unions and conducted interviews with specialised magazines. In addition, a mailing list now communicates Guidelines developments to interested stakeholders.
- *Canada* – *promoting responsible conduct in the extractive industries*. Over the June–November 2006 period, Canada sponsored four multi-stakeholder “Roundtables on CSR and the Canadian Extractive Sector in Developing Countries” to better identify and manage the social and environmental risks of the Canadian global extractive sector. This provided a unique opportunity to make the Guidelines and the Canadian NCP better known to concerned parties. The Advisory Group on these Roundtables, which issued its report on 29 March 2007,⁸ recommends the development of a “Canadian CSR Framework” pulling together all the standards that Canadian extractive sector companies are expected to meet, and the creation of a compliance mechanism facilitating dispute resolution. A government response is under preparation. The Canadian NCP has also been providing support and advice on the OECD Guidelines to the Canadian Government Working Group on the Democratic Republic of Congo in its development of a strategy on CSR in the mining sector. In March 2007, the Canadian Embassies in Ecuador, Peru and Guatemala organised CSR seminars which attracted, amongst others, NGOs, local political authorities and representatives of Canadian companies, especially in the mining sector.
- *Chile* – *promoting the Guidelines at the sub-national level*. The Chilean NCP organised a seminar on the Guidelines at the Austral University in Valdivia to make the Guidelines better known on a regional level.
- *Finland* – The Finnish NCP promoted the OECD Guidelines, the Policy Framework on Investment and the OECD Risk Awareness Tool at four high-level CSR events organised or hosted by the Finnish government: the Finnish EU Presidency conference “Corporate Social Responsibility Policies Promoting Innovation and Competitiveness”, Brussels, 22 November 2006;

the “OtaEco 2006 Environment and Corporate Social Responsibility Congress”, Espoo, 7-8 November, 2006; the OECD Watch Regional Roundtable “Toward a Model European National Contact Point”, Helsinki, 27 April 2007; and the Finland/OECD Workshop on “Labour-Related Immigration and the Environment for Foreign Direct Investment in Finland”, Helsinki, 5 March 2007.

- *Greece – promoting visibility.* An informational leaflet has been prepared and widely circulated to the public by the Ministry of Economy and Finance. A meeting with other government agencies, business and trade unions was organised to discuss a more active promotion of the Guidelines. The Greek NCP has also associated its activities with that of the Hellenic Network for Corporate Social Responsibility, partners of CSR Europe and the Hellenic Organisation for Standardisation.
- *Israel – continuous promotion.* A new internet site was created in May 2007 with a direct link to the Israeli NCP.
- *Italy – measuring the impact of CSR.* The Italian NCP has sponsored two surveys on the impact of CSR policies on small and medium-sized enterprises (SMEs), – namely “Possible Impact of the Corporate Social Responsibility on Economic Dynamics of the Italian SMEs” and “The Impact of Environmental Choices on the Performance of Italian SMEs” – showing a positive correlation between the norms promoted by the Guidelines and the economic and financial performance of enterprises. The Italian NCP has also encouraged the use of the Guidelines at several events such as the “Third Annual Forum on Business Ethics and Corporate Responsibility in a Global Economy”, July 2006; “CSR between the Public Sphere and the Entrepreneurial World”, September 2006; and “Supply Chain, Human Rights and Advantages for Italian Responsible Enterprises”, October 2006.
- *Japan – making the Guidelines work.* The Japanese NCP organised a meeting with the Japanese Trade Union Confederation (RENGO). Web links to the Guidelines have been created in the Ministry of Economy, Trade and Industry, the Ministry of Health, Labour and Welfare and the Japanese External Trade Organization (JETRO).
- *Netherlands – SMEs and consumer interests.* The Dutch NCP has worked with MVO Nederland, the Dutch semi-governmental knowledge centre on CSR, on assisting SMEs in implementing the Guidelines. In September 2006, Netherlands also hosted a conference in Rotterdam on CSR, Trade, and the Consumers where the consumer interests chapter of the Guidelines was discussed. It also made a presentation on the Guidelines at the 12th International Anti-Corruption Conference held in Guatemala City in November 2006.

- *Norway – The Oslo Agenda for Change.* The OECD Guidelines were highlighted as a practical tool to advance CSR at the Oslo Conference on Good Governance and Social and Environmental Responsibility in March 2007.
- *Poland – regional promotion.* A conference was organised in February 2007 by the Polish NCP in co-operation with Świętokrzyska Regional Development Agency in Kielce to promote the Guidelines in various regions of Poland.
- *Portugal – combating corruption.* The Portuguese NCP reports that the fight against corruption was the main focus of its promotional activities over the past year.
- *Romania – promoting visibility.* The Romanian NCP improved the NCP website and made a presentation at an MBA executive program.
- *Spain –* The OECD Guidelines have been translated into the Catalan and Galician languages. The Spanish NCP participated in conferences and seminars on the Guidelines organised by the Madrid Chamber of Commerce and the Finance and Development Company (COFIDES).
- *Sweden –* The Swedish Trade Union Confederation has received government funds to publicise the Guidelines in developing countries. This has also been one of the priority areas for the ambassador and head of the Swedish Partnership for Global Responsibility which engaged in various promotional activities in China, Vietnam and Ghana. The role of the financial sector in the CSR field was also actively discussed between financial institutions and the Swedish NCP.
- *Switzerland – special focus on the financial sector.* A seminar was organised with the participation of the Swiss NCP to inform financial institutions on the Guidelines and assess their role for the financial services industry. The same topic was discussed at a meeting of the NCP's consultative group of stakeholders. In another promotional activity, the Swiss government provided support to the organisation by the Swiss Trade Union of a seminar in Belgrade in April 2007 to promote the Guidelines in South East Europe and to translate the Guidelines into the Serb language.
- *United Kingdom – assisting stakeholders.* At the end of May 2007, the Secretary of State for International Development and the Minister for Trade, Investment and Foreign Affairs wrote jointly to key stakeholders including business, trade unions and NGOs to promote the OECD Guidelines. The UK NCP has also been particularly keen to engage with individual companies seeking input on their CSR strategies.
- *European Union –* The Guidelines have been referred to notably in the European Parliament Resolution of 13 March 2007 on Corporate Social Responsibility: a new partnership (2006/2133(INI)) that addresses, among other issues, Europe's contribution to global CSR. The resolution focuses on

the role of National Contact Points and on the Parliament's recommendation for a broad definition of investment that encompasses supply chain issues.

- *European Commission – active support of the Guidelines.* Through attendance at CSR events and seminars, the Commission has promoted the Guidelines as a key international instrument on CSR. In particular, the presentation made at the Decent Work conference in Brussels in December 2006 and the Public Hearing on Corporate Responsibility organised by the European Parliament Human Rights Committee in January 2007 referred to the importance of the Guidelines. Discussion and promotion also take place internally among the various directorates that follow CSR issues and with member states, notably during the High Level Group of CSR Representatives on 7 May 2007.

Other promotional activities undertaken by NCPs during the reporting period include:

- Outreach to companies via contacts or presentations to individual companies or business associations (Australia, Canada, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Japan, Korea, Latvia, New Zealand, Portugal, Slovak Republic, Switzerland, United Kingdom, United States). The Estonian Chamber of Commerce and Industry has used the Guidelines as a benchmarking tool to study the CSR practices of Estonian companies.
- Consultations and organisation of meetings with national partners (Argentina, Brazil, Canada, France, Greece, Italy, Latvia, Sweden, Switzerland, United Kingdom, United States).
- Newsletters, articles in the press or other promotion through the media (Argentina, Brazil, Korea, Romania). The Italian, Slovak and Korean NCPs have launched email newsletter services.
- Participation in conferences organised by non-governmental actors (Argentina, Australia, Belgium, Canada, France, Greece, Italy, Japan, Korea, Poland, Portugal, Spain, Switzerland, Turkey, United Kingdom). Several NCPs (Argentina, Australia, Austria, Belgium, Canada, Estonia, Greece, Finland, Latvia, Netherlands, Norway, Poland, Portugal, Slovak Republic, Spain, Sweden, United Kingdom) participated in one or several of the multi-stakeholder conferences on the OECD Guidelines organised during the reporting period by OECD Watch in Bratislava, Brussels, Helsinki, and Madrid on the theme "Toward a Model European National Contact Point".
- Development of promotional material and mailings (Israel, Italy, Japan, Netherlands, Portugal, Poland, Romania). Website development (Canada, Greece, Hungary, Israel, Italy, Japan, Romania). A special article on the Guidelines was published in the Romanian Economic and Business Review. In addition, Argentina published a book on the Guidelines.

III.b. Promotional activities within governments

- Promotion through presentations to government departments or agencies or by high-level officials (Argentina, Brazil, Canada, Chile, Greece, Lithuania, New Zealand, Switzerland, Turkey).
- Promotion with and training of embassy and consular staff (Australia, Canada, France, Germany, Ireland, Italy, New Zealand, Romania, Spain, Switzerland, United Kingdom, United States). In 2006, the Canadian Department of Foreign Affairs and International Trade (DFAIT) provided information on the Guidelines during a presentation on CSR to the “Industry Sector Young Professionals Network” in Industry Canada. In May 2007, the Trade Commissioner Service developed a pilot course on CSR, including a session on the OECD Guidelines.
- Trade and Investment Promotion missions or activities (Canada, France, Italy, Netherlands, Sweden).
- Promotion through overseas development agencies (Canada, Ireland, Netherlands, Sweden).
- Answering questions from Parliaments, Ombudsmen or other government bodies (Belgium, Canada, Germany, Japan, United Kingdom).

III.c. Investment promotion, export credit and investment guarantee agencies

Adhering governments have continued to explore ways of ensuring that their support for the Guidelines finds appropriate expression in credit and investment promotion or guarantee programmes. Table 1 summarises the links that have been established between the Guidelines and such programmes. [Twenty-nine] NCPs report that such links exist. Over the years, this number has been increasing. During the reporting period, the Belgian Export Credit Agency has extended the reference to the OECD Guidelines to all its export credit guarantees.

III.d. OECD Investment Committee work

During the reporting period, the OECD Investment Committee was particularly active in developing new avenues for promoting a greater awareness and use of the Guidelines and encouraging peer learning on implementation issues.

In March 2007, the OECD Council adopted the “OECD Principles for Private Sector Participation in Infrastructure” to help both developed and developing countries implement infrastructure projects to boost economic growth and improve the lives of their citizens. Five main areas are covered, including the promotion of responsible business conduct on the part of private investors through the implementation of the principles and standards of the OECD Guidelines for Multinational Enterprises.⁹

Table I.1. **The OECD Guidelines and export credit, overseas investment guarantee and inward investment promotion programmes**

Australia	Export credit and investment promotion	Australia's Export Finance and Insurance Corporation (EFIC) promotes corporate social responsibility principles on its website, including the OECD Guidelines. The Guidelines are hosted on the Australian NCP's website. Links to the Australian NCP's website are provided on the Foreign Investment Review Board and the Invest Australia websites.
Austria	Export credits	Oesterreichische Kontrollbank AG, acting as the Austrian export credit agency on behalf of the Austrian Federal Ministry of Finance, is actively promoting corporate responsibility principles and standards. On its website, extensive information on CSR issues, including the current text of the Guidelines, is available.
Belgium	Export credit and investment guarantees	The Belgian Export Credit Agency already mentions the OECD Guidelines in its investment guarantees. The decision has been taken to extend this mention to all export credit guarantees.
Canada	Export Credits	The Export Development Canada (EDC) promotes corporate responsibility principles and standards, including the recommendations of the Guidelines. EDC has linked its website with that of Canada's NCP. Guidelines brochures are distributed. Dialogue on CSR with key stakeholders is maintained.
Chile	Investment promotion	The Foreign Investment Committee is the agency which promotes Chile as an attractive destination for foreign investment and international business. The Guidelines are part of the information provided by the Committee to investors.
Czech Republic	Investment promotion	There is a special agency called "Czech Invest" operating in the Czech Republic which provides information on the Czech business environment to foreign investors. It has prepared an information package (which includes the Guidelines) that is passed to all foreign investors considering investing within the territory of the Czech Republic. The Czech NCP (at the Ministry of Finance) cooperates closely with Czech Invest.
Denmark	Export credits	When applying for export credits, the Danish Eksport Kredit Fonden inform exporters about the OECD Guidelines and encourage exporters to act in accordance with the OECD Guidelines.
Estonia	Investment promotion	The Estonian Investment Agency has published a description of the Guidelines and added a link to the Estonian NCP website.
Finland	Export promotion	This programme, adopted in July 2001, introduces "environmental and other principles" for "export credit guarantees". It calls the "attention of guarantee applicants" to the Guidelines.
France	Export credits and investment guarantees	Companies applying for export credits or for investment guarantees are systematically informed about the Guidelines. This information takes the form of a letter from the organisation in charge of managing such programmes (COFACE) as well as a letter for companies to sign acknowledging that they are aware of the Guidelines (" <i>avoir pris connaissance des Principes directeurs</i> ").
Germany	Investment guarantees	A reference to the Guidelines is included in the application form for investment guarantees by the Federal Government. The reference also provides a link to information of the Guidelines, in particular the Internet address for the German translation of the Guidelines.
Greece	Investment promotion	The Guidelines are available electronically on the website of the Ministry of Economy and Finance and the Greek Investment Promotion Agency (ELKE).

Table I.1. **The OECD Guidelines and export credit, overseas investment guarantee and inward investment promotion programmes (cont.)**

Israel	Investment Promotion Centre	The site of Israel's Investment Promotion Centre has a direct connection to the Israeli NCP web site where the OECD Guidelines are available electronically.
Italy	Export credits	The Italian NCP is in regular contact with SACE (the Italian association in charge of insuring export credit) and contributes to its activities. The NCP attended the meeting on "Environment and Credit Export: News Roles and Voluntary Tools" which took place on 3-4 April 2007.
Japan	Trade-investment promotion	The Guidelines (basic texts and Japanese translation) are available on the websites of the MOFA, METI, and MHLW Japan. Japan established a website with the intention of further strengthening a network between Asia and Africa to facilitate the exchange of trade and investment. The Tokyo International Conference on African Development (TICAD) website and the ASEAN-Japan Centre website are linked to the texts of the Guidelines.
Korea	Trade-investment promotion	The Korean Trade Investment Promotion Agency (KOTRA) and the Korean foreign exchange banks provide information on the Guidelines to multinational enterprises with inward and outward investments.
Latvia	Investment promotion	Information on the Latvian NCP and the Guidelines is available electronically on the website of Latvian Investment and Development Agency.
Lithuania	Investment promotion	There is a special agency called "Lithuanian Development Agency" operating in the Republic of Lithuania which provides information on the Lithuanian business environment to foreign investors. It has prepared an information package that is passed to all foreign investors considering investing within the territory of Lithuania. The Lithuanian Development Agency provides fast and efficient support for starting a business in Lithuania by providing detailed information on the local market, servicing investors through the investment decision process, organizing site and company visits, and identifying local suppliers and sourcing. The Lithuanian NCP (at the Ministry of Economy) cooperates closely with the "Lithuanian Development Agency".
Netherlands	Export credits and investment guarantees	Applicants for these programmes or facilities receive copies of the Guidelines. In order to qualify, companies must state that they are aware of the Guidelines and that they will endeavour to comply with them to the best of their ability.
Poland	Investment promotion	The Polish NCP is located in the investment promotion agency (PAIIZ).
Romania	Romanian Agency for Foreign Investments (ARIS)	The Romanian NCP is located within the Romanian Agency for Foreign Investments (ARIS). The Romanian NCP's webpage was developed starting from the Romanian Agency for Foreign Investment central site. The Guidelines and the relevant decisions of the OECD Council have been translated in the Romanian language.
Slovenia	Investment promotion, export credits and investment guarantees	Both organisations have added links to the NCP web site. Export credits and investment guarantees (SID) call the Guidelines to the attention of outward investors.
Slovak Republic	Investment promotion	NCP is established at the Ministry of Economy of the Slovak Republic. The Guidelines are promoted in several languages at Ministry's webpage. The Ministry of Economy is funding an agency for investment and trade development (SARIO) that promotes both business environment and investment opportunities. The investors entering the Slovak republic who had been awarded with governmental incentives are to commit themselves to keep the Guidelines (part of the awarding decision).

Table I.1. **The OECD Guidelines and export credit, overseas investment guarantee and inward investment promotion programmes (cont.)**

Spain	Investment guarantees	The CESCE (Export Credit Agency) that manages investment guarantees, COFIDES (Corporation for Development Finance) and ICO (the Official Credit Institute) provide Guidelines brochures to applicants for support and investment guarantees.
Sweden	Export credits	The Swedish Export Credits Guarantee Board provides all its customers with information on the rules on environment, the rules on bribery, the OECD Guidelines for MNE's and the Swedish Partnership for Global Responsibility.
Switzerland	Export credits and investment guarantees	Switzerland's Export Credit Agency (SERV) and Investment Risk Guarantee Agency (IRG) both promote corporate responsibility principles. On their websites, they provide information regarding the Guidelines and their implementation mechanism.
Turkey	Investment promotion	The Turkish NCP is located within the General Directorate of Foreign Investment (Treasury) which is the authorised body for inward investment promotion. The investment promotion website provides information on the Guidelines.
United Kingdom	Export credit	Links connect the Export Credits Guarantee Department's website with that of the UK National Contact Point. In addition, ECGD refers to the Guidelines in its publicly available Case Impact Analysis Process document Links connect the Export Credit Guarantee Department's website with that of the UK National Contact Point. In addition, ECGD refers to the Guidelines in its publicly available Case Impact Analysis Process document.
United States	Export and import credits and investment guarantees	The Export-Import Bank and the Department of Commerce co-operate with the NCP on the provision of information on the Guidelines to applicants for their programmes in support of US business activities abroad.

In March 2007, the Investment Committee agreed on the organisation of a high-level dialogue in 2008 on globalisation and responsible business conduct in employment and industrial relations. This project will be carried out with the Employment, Labour and Social Affairs Committee, in consultation with other relevant OECD bodies and in co-operation with non-members, the International Labour Organisation (ILO), and other international organisations. It will seek to support private initiatives in OECD and non-OECD economies to enhance the positive business contributions in this area within the framework provided by the OECD Guidelines. The main outcomes of this dialogue will be conveyed in due course to OECD Ministers.

A new OECD study entitled "Off-shoring and Employment – Trends and Impacts" (OECD, 2007) includes recommendations to business firms to observe labour standards and discuss with employees their off-shoring plans in accordance with the OECD Guidelines for Multinational Enterprises.

The Guidelines have also been given a high profile in outreach work. The Committee has approved continuation of a co-operative project with China on "Chinese and OECD Government Approaches to Encouraging Responsible Business Conduct". BIAC and TUAC published a joint statement strongly

supporting the project in December 2006. Co-operation with Russia has a strong component on the Guidelines; a third of the OECD seminar on “Recent Developments in Russia’s Investment Environment and Policy” hosted by Finland in May 2007 in Helsinki was devoted to this subject. The High-Level Policy Dialogue on the OECD’s Policy Framework for Investment organised by Australia in Melbourne in April 2007, as host to APEC 2007, discussed the role of the Guidelines in promoting responsible business conduct.

In addition, the OECD Investment Committee and its Working Party continued to provide a privileged forum for exchanging experiences on the implementation of the Guidelines, notably with regard to the areas identified for future action in the 2006 Annual Report on the Guidelines.¹⁰ The discussion of new cases involving financial institutions within the Working Party prompted the Committee’s decision to devote this year’s corporate responsibility roundtable to a fact-finding discussion with financial practitioners on the corporate responsibility dimension of their activities and the supporting role that the Guidelines can provide.

III.e. Other promotion by the OECD

In a keynote address to the G8 Labour Ministers in Dresden, Germany on 7-8 May 2007, the OECD Secretary-General noted that while governments have a primary responsibility in this area, enterprises have a role to play in shaping the social dimension of globalisation and commented on the various ways in which the OECD Guidelines for Multinational Enterprises can contribute to the management of globalisation. A flyer on the Guidelines was circulated to Ministers and other parties present.¹¹

“Investment and Responsibility – The Social Dimension of Globalisation” was also one of the central themes of the G8 Summit Declaration in Heiligendamm on 7 June 2007. In this regard, the G8 leaders committed themselves *inter alia* “to promote actively internationally agreed corporate social responsibility standards and labour standards such as the OECD Guidelines for Multinational Enterprises and the ILO Tripartite Declaration, high environmental standards and better governance through the OECD Guidelines’ National Contact Points.” They also called on “private corporations and business organisations to adhere to the principles in the OECD Guidelines for Multinational Enterprises.” They encouraged “the emerging economies as well as developing countries to associate themselves with the values and standards contained in these guidelines” and stated their intention to “invite major economies to a High-Level Dialogue on corporate social responsibility issues using the OECD as a platform”. They also “asked the OECD, in cooperation with the Global Compact and the ILO, to compile the most relevant CSR standards in order to give more visibility and more clarity to the various standards and principles.”

Officers of the Investment Committee and its Secretariat accepted invitations to promote the Guidelines at several international meetings over the period. Selected promotional events attended and activities undertaken include:

- The Chair of the Investment Committee promoted the Guidelines at the workshop on Informing Consumers about CSR in Production and International Trade organised by the Netherlands in Rotterdam in September 2006. He also contributed with a written statement at the 12th International Anti-Corruption Conference held in Guatemala City in November 2006.¹²
- The UN Secretary General's Special Representative on Human Rights and Trans-national Corporations met the Chair of the Investment Committee and the Secretariat in Paris in April 2007 to discuss the unique implementation procedures of the Guidelines. The interim report by the Special Representative released in February 2007 also highlights the important contribution of the OECD Guidelines in the area of human rights and its widespread use as a referential tool by Fortune Global 500 firms.¹³ In addition, the Secretariat presented the OECD Guidelines and the Investment Committee's work on investments in weak governance zones to a stakeholder consultation event organised by the Office of the UN High Commission on Human Rights in November 2006, actively participated in a follow-up consultation on Human Rights and the Financial Sector in Geneva in February 2007, and submitted a briefing note to participants in the Workshop on Accountability and Dispute Resolution organised by Harvard University's Kennedy School of Government in March 2007.¹⁴
- The Secretariat reported on the work of the Guidelines at the meeting organised by TUAC in Paris on 12 February 2007 entitled "Building the Right Regulatory Environment for Corporate Disclosure of Non-Financial Information: The Role of the OECD".
- The Secretariat represented the Guidelines and other OECD instruments at the 4th meeting of the ISO Working Group on Social Responsibility in early 2007 held in Sydney.
- The Secretariat made a presentation on "Corporate Responsibility and the OECD MNE Guidelines" at the 4th Annual Encounter of Ex-A-Tec Europa in Paris in October 2006.
- The Secretariat provided input to the recently published CSR Guide commissioned by Canada to the International Institute for Sustainable Development (IISD).
- Since March 2006, the OECD Investment Newsletter, published three times a year, has kept the larger investment policy community and other stakeholders informed about ongoing Investment Committee work on the Guidelines.

In addition, the Secretariat answered numerous queries about the Guidelines from the media, universities and other interested parties and continued to improve the OECD website dedicated to the Guidelines.

IV. Active use of the “specific instance” facility

IV.a. Number of specific instances filed and considered

One hundred fifty-six requests to consider specific instances have been filed with NCPs since the June 2000 review. Individual NCP reports indicate that the following breakdown: Argentina (2), Austria (4), Australia (2), Belgium (10), Brazil (13), Canada (7), Chile (6), Czech Republic (5), Denmark (3), Finland (4), France (12), Germany (10), Ireland (1), Italy (2), Hungary (1), Japan (5), Korea (3), Mexico (2), Netherlands (15), Norway (3), Poland (2), Portugal (1), Romania (1), Spain (2), Sweden (3), Switzerland (2), Turkey (1), United Kingdom (16), and United States (20).

Annex 3 shows in turn that 134 specific instances have been actively taken up and considered to date by NCPs, as compared to a total 96 instances reported as of last year.¹⁵ Eighty-four of these have been concluded. Most specific instances deal with Chapter IV (Employment and Industrial Relations). However, reinforcing a development identified in last year’s report, some of the newer requests to consider specific instances address a broader range of issues. For example, one instance reported this year by the United Kingdom deals with human rights covered in Chapter II (General Policies) while another reported by Italy refers to competition conditions covered by Chapter IX (Competition). At the present time, the only Guidelines chapter that has not been referenced in the context of a specific instance is Chapter VIII (Science and Technology).

IV.b. Selected specific instances described in NCP reports

Argentina – In November 2006, the Argentine NCP received a request from the Argentine Millers’ Labour Union (Unión Obrera Molinera Argentina) regarding an alleged non-observance of the OECD Guidelines (Guidelines Chapter II: General Principles, Chapter III: Disclosure, and Chapter IV: Employment and Industrial Relations) by CARGILL S.A., a multinational operating in the food sector. The NCP has asked the parties to negotiate in good faith to resolve their differences. The results will be transmitted to the Argentine NCP in due course.

Belgium – In July 2006, the Belgian NCP received a request from an international labour union regarding an alleged non-observance of Chapter IV (Employment and Industrial Relations) of the Guidelines by the subsidiary of a Belgian multinational enterprise operating in Montenegro. The Belgian NCP brought both parties together to initiate negotiations. Recently the international labour union withdrew its request after an agreement of principles between both parties was reached.

Finland – In Fall 2006, the Finnish NCP issued two final statements concerning two requests from the Argentine Centre for Human Rights and Environment (CEDHA) regarding the construction of a paper mill factory in Uruguay by Botnia S.A.Metsä-Bonia Oy (reproduced in Annex 4 of this document):

- The first was raised in April 2006 concerning an alleged non-observance by Botnia of Chapter II (General Policies), Chapter III (Disclosure), Chapter V (Environment) and Chapter VI (Bribery). The Finnish NCP offered its good offices to help the parties resolve the issue without success. However, after reviewing the evidence provided, it reached the conclusion in December 2006 that Botnia had not violated the Guidelines in the pulp mill project in Uruguay and issued a statement on the specific instance (CEDHA did not agree with this decision and asked the Investment Committee to reflect upon the Finnish NCP statement).
- The second case was brought against Finnvera Oyj, the Finnish export credit/investment guarantee agency. The NCP concluded in November 2006 that the request for specific instance did not merit further examination because Finnvera Oyj cannot, in its view, be considered as a multinational enterprise and the OECD Guidelines cannot be considered to refer to a state's export guarantee activities (it notes that Finnvera Oyj's are regulated under special Finnish legislation and that special arrangements exist within the OECD, such as environmental principles approved for export credit agencies). The Finnish NCP cited the "investment nexus" statement made by the Investment Committee in 2003 (see Section VI of the 2003 Annual Report on the OECD Guidelines) in its statement explaining why it did not accept the case.

Hungary – On 14 May 2007, the Hungarian NCP issued a statement on Mr. Imre Horgosi vs Visteon Hungary Ltd case (reproduced in Annex 4 of this report). In 20 April 2006, the Hungarian NCP received a request from a Hungarian environmental lawyer, concerning an alleged non-observance of paragraph 4b) of Chapter IV (Employment and Industrial Relations) of the Guidelines by the foreign-owned car part manufacturer Visteon Hungary Ltd. This request related to a skin irritation suffered by a former worker of this company in March 2002. The Hungarian NCP considered that the request did not qualify as a specific instance, as no irregularity in the operation of the company was found. However, the Hungarian NCP invited the company to reduce health risks by making further improvements in the quality of protective products available and employee training.

Netherlands – In July and again in December 2006, the US NCP requested that the Dutch NCP engage in dialogue with the Dutch parent company of a US-based company. The US NCP was dealing with an instance concerning trade union rights brought by a US trade union. The US NCP wanted to inform itself about the parent company's view of the situation. In March 2007, the Dutch NCP met with the Dutch parent company and sent a report of this meeting to the

US NCP. In April 2007, the case was closed after the US company and the local union came to an agreement. The Dutch NCP is currently exploring the possibilities for a mediated solution regarding another instance concerning an alleged violation of trade union rights by a Dutch clothing company operating in India. It has offered its assistance to the NCPs which have taken the lead in three other instances submitted to it during the reporting period.

United States – The US NCP issued a final statement regarding a specific instance involving Saint-Gobain Abrasives, owned by Company Saint-Gobain, a French company (reproduced in Annex 4 of this document). In June 2003, the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America International Union (UAW), the International Federation of Chemical, Energy, Mine and General Workers Unions (ICEM), and the American Federation of Labour-Congress of Industrial Organisations (AFL-CIO) requested the US NCP's assistance in addressing their concerns over the collective bargaining rights of the workers at a Saint-Gobain Abrasives facility in Worcester, Massachusetts. The US NCP subsequently offered its good offices and encouraged the parties to consider reengaging in a mediation process they had pursued previously. The union responded favourably. However, the company reiterated its intention to pursue the issues exclusively through processes available under US labour law. The US NCP continued to monitor the matter. In an election requested under US law by employees at the facility, a majority of the employees voted to terminate the union's status as their representative. Following the union's acknowledgment of that result, the US NCP issued a final report concluding its involvement.

V. Making use of the OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones

Several delegations report that the OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones¹⁶ adopted in June 2006 has been or soon will be integrated into the promotion activities on the Guidelines and the NCP websites (Belgium, Canada, Finland, Germany, Italy, Korea, Lithuania, Sweden, Switzerland, United Kingdom, United States, EC). Sweden reports that the Swedish Minister for Trade strongly emphasised the importance of this tool in the Swedish Parliament. Belgium intends to use the tool to promote alliances among developing countries, international donors, and the private sector with a particular focus on the role of business in shaping governance climates in weak governance zones. Belgium also made the OECD Risk Awareness Tool a subject of one of the sessions of the OECD-World Bank Conference it organised in Brussels on 15-16 March 2007. In addition, the Risk Awareness Tool is being referred to in the United States Overseas Private Investment Corporation's Anti-Corruption Policies and Strategies Handbook (September 2006).

BIAC, TUAC and OECD Watch have also expressed broad support for OECD work on the promotion and implementation of the Risk Awareness Tool. BIAC and TUAC have issued a joint submission encouraging the Investment Committee to develop a web portal which would provide businesses with a comprehensive “one-stop-shop” for different types of relevant information for investors in weak governance zones. Smaller businesses, in particular, would stand to benefit from such a service. Individual companies have also underlined the potential usefulness of this tool and indicated an interest in being involved in its implementation. Anvil Mining Limited is reported to have conducted the first external audit based upon the OECD Risk Awareness Tool.

In addition, a number of international organisations have expressed interest in the ongoing work on the Tool, including the ILO, the United Nations Global Compact Office (especially with respect to work on business in zones of conflict and business responses to ethical dilemmas in relation to corruption, the 10th Principle), and the World Bank (especially with respect to the International Finance Corporation’s (IFC) Human Rights Impact Assessment Tool).

More recently in Heiligendamm, the G8 committed themselves to promote, along with other relevant tools and best practices, the OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones in the context of the work on “Responsibility for Raw Materials: Transparency and Sustainable Growth”.

The Secretariat has taken advantage of various opportunities to promote the use of the Risk Awareness Tool in different forums, such as making a presentation at the Global Forum on Fighting Corruption and Safeguarding Integrity held in Johannesburg in April 2007 and submitting a briefing note to the Workshop on Accountability and Dispute Resolution recently organised at the Kennedy School of Government at Harvard University (11-12 April 2007) in support of the work in this area by the Special Representative of the United Nations Secretary-General on Business and Human Rights 2006.¹⁷ Efforts have also been aimed at having cross-references to the OECD Risk Awareness Tool included in other relevant instruments and initiatives, such as the ISO 26000 Guidance on Social Responsibility process. In Brussels, in January 2007 the Secretariat also presented the OECD Risk Awareness Tool on Multinational Enterprises in Weak Governance Zones to a “contact group” of officials of countries whose companies have extensive investments in the solid mineral sector.

A work plan was developed in March 2007 with the Investment Committee to create a dedicated Portal to the Risk Awareness Tool. It is also envisaged to use the OECD Risk Awareness Tool in the context of the NEPAD-OECD Africa Investment Initiative, as a number of the countries that might be described as weak governance zones are concentrated in Africa.

VI. Considerations for future action

During the June 2006 – June 2007 period, the information and promotional activities on the Guidelines have become more proactive. New vehicles for increasing the awareness of the Guidelines, such as improved websites or booklets, have been developed. NCP involvement in Guidelines-related events and consultations with stakeholders has been on the rise. Increased attention has been given (notably in Germany and Sweden) to closer coordination between the work on the Guidelines with that of other corporate responsibility tools. Bilateral contacts, attendance at meetings with non-governmental stakeholders, and discussions at the OECD Investment Committee and its Working Party also contributed to peer learning and capacity-building with regards to the implementation of the Guidelines. The reporting period also saw important innovations in the organisation and functions of a number of NCPs (notably of the Netherlands and the United Kingdom) and in making the specific instances procedures more user-friendly and accountable (such as in Brazil). The consistent rise in the number of specific instances accepted by NCPs for mediation and conciliation affirms the continued attractiveness of the Guidelines as a tool for resolving investment disputes.

The progress made during the reporting period corresponds to several of the objectives decided at the 2006 NCP Annual Meeting.¹⁸ However, the general sense still prevailed that more could be done. This view also prevailed during the consultations with BIAC, TUAC, and OECD Watch held on 19 June 2007. While reiterating their support for the Guidelines, these stakeholders identified a number of areas for possible improvement. In addition, NCPs considered that the G8 Summit in Heiligendamm has somewhat “raised the bar” of what could further be accomplished to more fully take advantage of the Guidelines’ potential. Taking this into account and being mindful of the fact that the Investment Committee may undertake additional work in response to the G8 Declaration, the following avenues for future action were identified for the 2007-2008 implementation cycle.

- *Increasing the performance of the specific instance facility.* It was recalled that good communication and adequate co-operation among NCPs involved in specific instances is an essential condition for a specific instance to be effectively conducted. This is particularly true in the context of specific instances involving NCPs in the same case in third countries or where the home country NCP has a legitimate interest in the work of the host country NCP. It was viewed that the leading NCP should maintain good communication channels with other concerned NCPs and inform them, or respond to enquiries from them, of relevant developments in a timely fashion. NCPs also shared the view that every effort should be made to conclude a specific instance within a reasonable period of time and that results should be communicated to concerned parties. In addition, NCPs will continue to exchange views and learn from each other’s

practices on handling specific instances notably concerning MNEs operations in non-adhering countries and on issues relating to parallel legal proceedings. During the consultations, BIAC, TUAC and OECD Watch all agreed that timeliness and predictability of the process are key factors to its success. NCPs also noted with interest the innovations in the NCP structures and procedures recently introduced by the Netherlands and the United Kingdom and the work by OECD Watch on a “Model European NCP”. The NCPs invited the Working Party of the Investment Committee to set aside time in the coming year for a more in-depth discussion of these subjects.

- *The supporting role of the Guidelines in the financial sector.* The 2007 Corporate Responsibility Roundtable led to a fruitful discussion with practitioners on the supporting role of the Guidelines in this sector. In closing the Roundtable, the Swedish NCP noted that the Guidelines apply to multinational financial institutions and that there are various ways in which the OECD Guidelines can assist the financial sector’s initiatives to promote corporate responsibility, including: communicating to the financial sector the recommendations by 40 governments¹⁹ adhering to the Guidelines on principles and standards for responsible business conduct; advising and assisting financial institutions in the resolution of issues arising from their operations; offering clarity in the articulation between the Guidelines and the corporate responsibility instruments developed by the financial sector; and associating emerging market economies with efforts to promote financial institutions’ responsible business conduct. At the same time, NCPs identified a number of issues for further discussion by the Working Party and in particular, the need to take into account the diversity of various categories of financial institutions and the criteria to assess the degree of influence that financial institutions may have over the companies with which they engage.
- *The increased importance of reaching out to non-adherent governments.* The continued rise of emerging economies calls for increased promotional efforts in favour of a wider application of the principles and standards of the Guidelines in these countries. A “stronger case” could be made of the benefits that these actors can derive from promoting corporate responsibility. It is in the interest of their populations that their enterprises operate responsibly at home. It is also in the interest of these countries that their enterprises “play by the rules” when operating abroad. NCPs particularly welcome the work underway in the Investment Committee with China and the fact that there have been several new country applications for adherence to the Declaration. After being informed about recent incidents affecting the security of civil society representatives in non-adherent countries in the context of specific instances raised under the Guidelines, NCPs also invited adherent governments to remain vigilant about the protection of the civil rights of interested parties to the Guidelines operating in these countries.

Notes

1. The programme of the 2007 Roundtable can be found at www.oecd.org/daf/investment/guidelines.
2. Egypt's adherence to the Declaration became effective on 11 July 2007.
3. Argentina, Australia, Brazil, Czech Republic, Germany, Greece, Luxembourg, Ireland, Israel, Italy, Mexico, New Zealand, Poland, Portugal, Slovak Republic, Slovenia, Spain, Switzerland, Turkey and United States.
4. Canada, Hungary, Japan, Iceland, Korea, Netherlands, and United Kingdom.
5. Labour is represented through the Ministry of Labour, Family and Equal Chances and on a consultative basis through the Trade Union depending upon the situation debated.
6. Belgium, Denmark, Estonia, France, Latvia, Lithuania, Luxembourg, Norway and Sweden. Several of these also have multiple governmental department NCPs.
7. Chile and Finland.
8. Canada's report on "Roundtables on CSR and the Canadian Extractive Sector in Developing Countries" can be accessed at www.CSRExtractiveSectorRountables.ca.
9. The full text of the OECD Principles for Private Sector Participation in Infrastructure and additional information are available on the OECD website at www.oecd.org/daf/investment/instruments.
10. For further details refer to page 31 and 32 of the 2006 Annual Report of the OECD Guidelines for Multinational Enterprises which can be accessed at www.oecd.org/daf/investment/instruments.
11. This informational flyer on the OECD Guidelines for MNEs can be accessed at www.oecd.org/daf/investment/guidelines.
12. This briefing note can accessed at www.oecd.org/daf/investment/guidelines.
13. Report by the Special Representative of the Secretary-General on Human Rights and Transnational Corporations and Other Business Enterprises, Implementation of General Assembly Resolution 60/251 of 15 March 2006 Entitled "Human Rights Council", A/HRC/4/35, 19 February 2007.
14. This briefing note can be accessed at www.oecd.org/daf/investment/guidelines.
15. The number of specific instances actively taken up by NCPs is the number of specific instances listed in Annex 3, adjusted for specific instances that are listed more than once on the Annex table because more than one NCP was involved and more than one reported on the specific instance in the Annex table.
16. The OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones can be accessed at www.oecd.org/dataoecd/26/21/36885821.pdf.
17. These presentation materials can be accessed at www.oecd.org/daf/investment/guidelines.
18. The full text of the OECD Principles for Private Sector Participation in Infrastructure and additional information are available on the OECD website at www.oecd.org/daf/investment/instruments.
19. On 11 July 2007, Egypt became the 10th non-OECD country to adhere to the Guidelines.

ANNEX I.A1

Structure of the National Contact Points

	Composition of the NCP	Governmental location of the NCP	Other ministries and/or agencies involved*	Comments and notes
Argentina	Single department	National Direction of International Economic Negotiations (DINEI) Ministry of Foreign Affairs, International Trade and Worship		The NCP coordinates with other government departments, business labour and civil society, as appropriate.
Australia	Single department	Foreign Investment and Trade Policy Division of the Ministry of Treasury	Foreign Investment Review Board	The Australian NCP liaises with other government departments as necessary and holds community consultations with business, trade unions and other NGO representatives.
Austria	Single department	Export and Investment Policy Division, Federal Ministry of Economics and Labour	Other divisions of the Federal Ministry of Economics and Labour The Federal Chancellery and other Federal Ministries concerned	An Advisory Committee composed of representatives from other Federal government departments, social partners and interested NGOs supports the NCP. The Committee has its own rules of procedure, met three times over the review period and discussed all Guidelines-related business.
Belgium	Tripartite with representatives of business and labour organisations as well as with representatives of the federal government and regional governments	Federal Public Service of Economy, PMEs, Middle Classes and Energy	Federal Public Service of Environment Federal Public Service of Labour Federal Public Service of Foreign Affairs Federal Public Service of Finance Federal Public Service of Justice Region of Brussels Flemish Region Walloon Region	
Brazil	Single department	Ministry of Finance	Ministry of Foreign Affairs Ministry of Planning, Budget and Management Ministry of Labour and Employment Ministry of Justice Ministry of Environment Ministry of Science and Technology Ministry of Development, Industry and Trade Brazilian Central Bank	Representatives from other government offices can be asked to participate as well as Trade Unions, like CUT and “Força Sindical”; NGOs that deal with Ethics, like ETHOS; Industry and Trade Confederations; and other institutions like SOBEET (Brazilian Society for Transnational Enterprises and Globalisation Studies).

	Composition of the NCP	Governmental location of the NCP	Other ministries and/or agencies involved*	Comments and notes
Canada	Interdepartmental Committee	Foreign Affairs and International Trade Canada	Industry Canada Human Resources and Social Development Canada Environment Canada Natural Resources Canada Department of Finance Canadian International Development Agency	Other departments and agencies participate on an “as required” basis, <i>e.g.</i> , Export Development Canada. Key interlocutors in the business and labour communities include the Canadian Chamber of Commerce, the Canadian Labour Congress and the Confédération des syndicats nationaux.
Chile	Quadripartite	Ministry of Foreign Affairs, Directorate of International Economic Relations	Ministry of Economics Ministry of Labour General Secretariat of the Presidency	The NCP consults regularly with business, trade unions and other NGO representatives.
Czech Republic	Single Department	Ministry of Finance	Ministry of Labour and Social Affairs Ministry of Industry and Trade Ministry of Interior Ministry of Justice Ministry of Foreign Affairs Ministry of the Environment Czech National Bank Office for the Protection of Economic Competition Czech Statistical Office Securities Commission CzechInvest	The NCP works in co-operation with the social partners. The NCP continues in co-operation with the NGOs, especially with the Czech OECD Watch member.
Denmark	Tripartite with several ministries	Ministry of Employment	Ministry of the Environment Ministry of Economic and Business Affairs	
Estonia	Tripartite with several ministries	Ministry of Economic Affairs	Ministry of Social Affairs Ministry of Environment Estonian Investment Agency Estonian Export Agency Ministry of Foreign Affairs	

	Composition of the NCP	Governmental location of the NCP	Other ministries and/or agencies involved*	Comments and notes
Finland	Quadri-partite with several ministries and civil society partners	Advisory Committee on International Investment and Multinational Enterprises (MONIKA), Ministry of Trade and Industry	Ministry of Trade and Industry Ministry of Foreign Affairs Ministry of Finance Ministry of Social Affairs and Health Ministry of Labour Ministry of Environment	<p>The Advisory Committee on International Investment and Multinational Enterprises of Finland (MONIKA), which operates under the auspices of the Ministry of Trade and Industry as a wide-scoped forum of public and private representatives for issues related to investments, acts as the Finnish NCP.</p> <p>The MONIKA Committee, which has been established by Government Decree 335/2001, takes care of the promotion of the Guidelines as important principles of Corporate Social Responsibility and serves as an advisory forum in other issues related to the Investment Committee. The Ministry of Trade and Industry is responsible for the handling of inquiries and the implementation in Specific Instances.</p> <p>Committee members come from various ministries, business and labour organisations and NGOs. Social partners are represented in the NCP by the Confederation of Finnish Industries EKs, the Finnish Section of the International Chamber of Commerce (ICC) and the Central Organization of Finnish Trade Unions (SAK). The NGOs are represented by FinnWatch, the Finnish Association for Nature Conservation and Kuluttajat-Konsumerterna ('The Consumers'), a Finnish consumers' organisation. The committee has met several times over the review period.</p>
France	Tripartite with several ministries	Treasury Department, Ministry of Economy and Finance	Ministry of Labour Ministry of Environment Ministry of Foreign Affairs	An Employers' Federation and six Trade Union Federations are part of the NCP.
Germany	Single Department	Federal Ministry of Economics and Technology	Ministry of Foreign Affairs Ministry of Justice Ministry of Finance Ministry of Economic Co-operation Ministry of Environment	The NCP works in close co-operation with the social partners. A 'Working Party on the OECD Guidelines' composed of representatives from those Federal ministries mentioned in the previous column, business organisations, employee organisations and selected NGOs meets regularly to discuss all Guidelines-related issues.

	Composition of the NCP	Governmental location of the NCP	Other ministries and/or agencies involved*	Comments and notes
Greece	Single Department	Unit for International Investments Directorate for International Economic Development and Co-operation General Directorate for International Economic Policy, Ministry of Economy and Finance		Recently the General Directorate For International Economic Policy of the Ministry of Economy and Finance was restructured. In the current organisational structure, the Unit for International Investments part of the Directorate for International Economic Developments and Co-operation has been designated as the NCP.
Hungary	Interdepartmental Office	Ministry of Economy and Transport	Ministry of Economy and Transport Ministry of Finance	
Iceland	Interdepartmental Office	Ministries of Industry and Commerce		
Ireland	Single Department	Bilateral Trade Promotion Unit, Department of Enterprise, Trade and Employment		
Israel	Single department	Ministry of Trade, Industry and Labour	Ministry of Foreign Affairs Ministry of Finance Ministry of Environment Ministry of Justice	An Advisory Committee has been composed of representatives from those ministries mentioned in the previous column, and business and employee organisations.
Italy	Single Department	General Directorate for Productive Development and Competitiveness, Ministry of Economic Development	Ministry of Foreign Affairs Ministry of Environment Ministry of Economy and Finance Ministry of Justice Ministry of Welfare Ministry of Agriculture and Forest Policy Ministry of Health	The NCP works in close collaboration with representatives of social organisations and its Advisory Committee also includes members of the most important trade unions and business associations.
Japan	Interministerial body composed of three ministries	Ministry of Foreign Affairs Ministry of Health, Labour and Welfare Ministry of Economy, Trade and Industry		The Japanese NCP was reorganised in 2002 as an interministerial body composed of three ministries.
Korea	Interdepartmental office, with regional governments and several ministries	Foreign Investment Subcommittee (Ministry of Commerce, Industry and Energy)	Ministry of Finance and Economy Ministry of Foreign Affairs and Trade Ministry of Environment Ministry of Labour, etc	

	Composition of the NCP	Governmental location of the NCP	Other ministries and/or agencies involved*	Comments and notes
Latvia	The OECD Consultative Board – Interministerial body including representatives of business and labour organisations	Economic Relations Department, Ministry of Foreign Affairs	Ministry of Economics Ministry of Environment Ministry of Finance Ministry of Welfare Latvian Investment and Development Agency Corruption Prevention and Combating Bureau Employer's Confederation of Latvia Free Trade Union Confederation	
Lithuania	Tripartite with representatives of business and labour organisations as well as with representatives of government	Ministry of Economy	Trade Union "Solidarumas" Confederation of Trade Unions Labour Federation Confederation of Business Employers Confederation of Industrialists	The NCP works in close co-operation with the Tripartite Council – a national body, including representatives of government agencies as well as employee and business organisations.
Luxembourg	Tripartite	Ministry of Economics	Ministry of Economics General Inspector of Finances STATEC Ministry of Finance Employment Administration Ministry of Labour and Employment 3 Employers' federations 2 Trade union federations	
Mexico	Single Department	Ministry of Economy		The NCP works in close co-operation with other concerned departments.
Netherlands	Interdepartmental Office	Ministry of Economic Affairs	All departments, especially: Ministry of Social Affairs and Employment Ministry of Housing, Spatial Planning and Environment Ministry of Foreign Affairs	Regular consultations with all stakeholders.
New Zealand	Single Department	Ministry of Economic Development	All departments, particularly the Ministry of Foreign Affairs and Trade, Department of Labour, Ministry for the Environment and Treasury	A Liaison Group comprising representatives of other government departments, social partners and NGOs, supports the NCP. The NCP also liaises with other government departments and agencies as necessary.

	Composition of the NCP	Governmental location of the NCP	Other ministries and/or agencies involved*	Comments and notes
Norway	Tripartite, with several ministries	Section for Economic, Commercial and CSR Affairs Ministry of Foreign Affairs	Ministry of Foreign Affairs Ministry of Trade and Commerce Norwegian Confederation of Trade Unions Confederation of Norwegian Enterprise	
Poland	Single Department	Polish Information and Foreign Investment Agency (PAIIZ)		The Polish Information and Foreign Investment Agency (PAIIZ) is supervised by the Ministry of the Economy.
Portugal	Single Department	ICEP Portugal Ministry of Economy and Innovation		
Romania	Bipartite	<i>Coordination</i> – Ministry for Small and Medium-sized Enterprises, Trade, Tourism and Liberal Professions and Ministry of Foreign Affairs. <i>Executive function</i> – Business Environment Unit and Romanian Agency for Foreign Investment. <i>Technical secretariat</i> Ministry of Foreign Affairs and Romanian Agency for Foreign Investment	Ministry of Foreign Affairs Ministry of Economy and Finance Ministry of Justice Ministry of Education and Research and Youth Ministry of Labour, the Family and Equal Opportunities Ministry of Transport Ministry of Development, Public Works and Housing Ministry of Environment and Sustainable Development Ministry for Small and Medium-sized Enterprises, Trade, Tourism, and Liberal Professions Romanian Agency for Foreign Investment Business Environment Unit Institute for Economic Research Alliance of Romanian Employers' Association Confederation Chamber of Commerce and Industry of Romania	Depending on the issue under debate within the Romanian National Contact Point, the consultation process is extended to other representatives from governmental and nongovernmental institutions, patronages and civil society.

	Composition of the NCP	Governmental location of the NCP	Other ministries and/or agencies involved*	Comments and notes
Slovak Republic	Single Department	Ministry of Economy	Slovak Investment and Trade Development Agency (SARIO)	The NCP is a single department in the Ministry of Economy, under the Division of Strategy, Department of Strategic Investments. A new re organisation is to be made as the single department is not considered to be an effective structure. It is expected to involve ministries other than the NCP.
Slovenia	Single Department	Foreign Economic Relations Division, Ministry of the Economy	Other ministries and other parts of the Ministry of the Economy Slovenia Trade and Investment Promotion Agency Slovenia Export Credit Agency	The Advisory Committee has considered if a single department structure is the best solution. No decision has been made, yet.
Spain	Single Department	General Secretariat for External Trade, Ministry of Industry, Tourism and Trade	Ministry of Environment Ministry of Justice Ministry of Health and Consumption Ministry of Labour and Social Affairs	The NCP liaises with representatives of social partners and NGOs.
Sweden	Tripartite, with several ministries	Department for International Trade and Policy, Ministry for Foreign Affairs	Ministry of Industry and Trade Ministry of Environment and Sustainability	The Ministry for Foreign Affairs, Department for International Trade Policy, chairs the NCP and has the ultimate responsibility for its work and its decisions.
Switzerland	Single Department	International Investment and Multinational Enterprises Unit, State Secretariat for Economic Affairs		The Swiss NCP liaises with other government departments as necessary. Ad-hoc committees are set up to deal with specific instances procedures. The NCP has frequent contacts with business organisations, employee organisations and interested NGOs. A consultative group composed of stakeholders meets in principle once a year and is provided with essential information as required.
Turkey	Single Department	General Directorate of Foreign Investment, Undersecretariat of Treasury		Depending on the issue under debate, the consultation and fact finding processes are extended to other governmental offices.

	Composition of the NCP	Governmental location of the NCP	Other ministries and/or agencies involved*	Comments and notes
United Kingdom	Tripartite	Department of Trade and Industry Foreign and Commonwealth Office Department for International Development	Attorney General's Office Department for Environment, Food and Rural Affairs, Department for Constitutional Affairs, Department for Work and Pensions Export Credit Guarantee Department	A cross-Group Steering Board oversees work of the NCP. The Board includes external members drawn from outside Government, selected for their experience in business, employee relations and issues of concern to NGO's. Other Government Departments and agencies with an interest in the OECD Guidelines are also represented. On a day to day level, the NCP liaises with other government departments as necessary and has regular informal contacts with business, trade union and NGO representatives.
United States	Single Department	Office of Investment Affairs, Bureau of Economic and Business Affairs, United States Department of State		The US NCP queries other agencies as needed and, when necessary, an interagency committee chaired by the Office of Investment Affairs meets to discuss Guidelines issues. Business, labour and civil society organisations are consulted regulatory via the Advisory Council on International Economic Policy or individually on an <i>ad hoc</i> basis.

* The information provided here is based on the ministries and/or government agencies explicitly mentioned in the NCP reports.

ANNEX I.A2

Specific Instances Considered by National Contact Points to Date

This table provides an archive of specific instances that have been or are being considered by NCPs. The table seeks to improve the quality of information disclosed by NCPs while protecting NCPs' flexibility – called for in the June 2000 Council Decision – in determining how they implement the Guidelines. Discrepancies between the number of specific instances described in this table and the number listed in Section IV.a could arise for at least two reasons. First, there may be double counting – that is, the same specific instance may be handled by more than one NCP. In such situations, the NCP with main responsibility for handling the specific instance would generally note its co-operation with other NCPs in the column “NCP concerned”. Second, the NCP might consider that it is not in the interests of effective implementation of the Guidelines to publish information about the case (note that recommendation 4.b. states that “The NCP will... make publicly available the results of these procedures unless preserving confidentiality would be in the best interests of effective implementation of the Guidelines”). The texts in this table are submitted by the NCPs. Company, NGO and trade union names are mentioned when the NCP has mentioned these names in its public statements or in its submissions to the Secretariat.

Specific instances considered by National Contact Points to date

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
Argentina	Argentine subsidiary of a multinational enterprise involving employment relations	Dec. 2004	Argentina	II. General Policies IV. Employment and Industrial Relations	Ongoing	n.a	The Argentine subsidiary of the multinational banking corporation subject to last year's claim has been sold to a new owner. No pending issues exist with the new owner. Requests contained in the original presentation have been partially met. Nevertheless some areas of disagreement persist between the original parties of the specific instance reported last year. The final settlement is still pending.
Australia (The Australian NCP assumed carriage following an agreement with the UK NCP in June 2005)	GSL (Australia) Pty Ltd – an Australian incorporated wholly-owned subsidiary of a UK controlled multinational – Global Solutions Limited	June 2005	Australia	II. General Policies VII. Consumer Interests	Concluded	Yes	The examination was successfully concluded in 8 months from the date that the specific instance was raised. All parties were satisfied with the outcome with a list of 34 agreed outcomes produced. The statement issued is available on the website at www.ausncp.gov.au .
Australia	Australia and New Zealand Banking Group Ltd (ANZ)	August 2006	Papua New Guinea	II. General Policies V. Environment	Concluded	Yes	The NCP concluded that there was no specific instance to answer and issued an official statement which is available on the website at www.ausncp.gov.au .
Austria	Mining activities	Nov. 2004	RD Congo	Various	Concluded	Yes	No consensus reached.
Austria	Textile industry	Mar. 2006	Sri Lanka	IV. Employment	Ongoing	–	–
Belgium	Marks and Spencer's announcement of closure of its stores in Belgium	May 2001	Belgium	IV. Employment and Industrial Relations	Concluded	Yes	The Belgian NCP issued a press release on 23 December 2001.
Belgium	Speciality Metals Company SA	Sept. 2003	RD Congo	Not specified in the UN report	Concluded	Yes	The Belgian NCP issued a press release in 2004.

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
Belgium	Forrest Group	Sept. 2003	RD Congo	Not specified in the UN report	Concluded	Yes	The case was handled in together with the NGO complaint.
Belgium	Forrest Group	Nov. 2004	RD Congo	II. General Policies III. Disclosure IV. Employment V. Environment IX. Competition	Concluded	Yes	Press release in 2005.
Belgium	Tractebel-Suez	April 2004	Laos	II. General Policies III. Disclosure V. Environment	Concluded	Yes	Press release in 2005.
Belgium	KBC/DEXIA/ING	Mai 2004	Azerbaijan, Georgia and Turkey	I Concepts and Principles II. General Policies III. Disclosure V. Environment	Concluded		UK NCP.
Belgium	Cogecom	Nov. 2004	RD Congo	I Concepts and Principles II. General Policies IV. Employment	Ongoing	n.a.	Under consideration. There is a parallel legal proceeding.
Belgium	Belgolaise	Nov. 2004	RD Congo	II. General Policies	Ongoing	n.a.	Under consideration. There is a parallel legal proceeding.
Belgium	Nami Gems	Nov. 2004	RD Congo	I Concepts and Principles II. General Policies X. Taxation	Ongoing	Yes	Press release in 2006.
Belgium	GP Garments	June 2005	Sri Lanka	III. Disclosure IV. Employment	Concluded		Press release in preparation.
Belgium	InBev	July 2006	Montenegro	I Concepts and Principles IV. Employment	Concluded		Press release in preparation.
Brazil	Workers representation in labour unions	26 Sept. 2002	Brazil	Chapter IV, article 1	ongoing	No	
Brazil	Dismissal of workers	Nov. 2003	Brazil	Chapter IV, article 6	ongoing	No	

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
Brazil	Construction of a dam that affected the environment and dislodged local populations	2004	Brazil	Article V	ongoing	No	
Brazil	Environment and workers' health issues	8 May 2006	Brazil	Chapter V, articles 1 and 3	ongoing	No	
Brazil	Dismissal of workers	26 Sept. 2006	Brazil	Chapter IV, article 6	Concluded	Yes	
Canada, Switzerland	The impending removal of local farmers from the land of a Zambian copper mining company owned jointly by one Canadian and one Swiss company	July 2001	Zambia	II. General Policies V. Environment	Concluded	No	With the Canadian NCP acting as a communications facilitator, a resolution was reached after the company met with groups from the affected communities. The Canadian NCP sent a final communication to the Canadian company [www.ncp-pcn.gc.ca/annual_2002-en.asp]. The Swiss company was kept informed of developments.
Canada	Follow-up to allegations made in UN Experts Report on DRC	December 2002	Democratic Republic of Congo	Not specified in UN Report	Concluded	n.a.	The NCP accepted the conclusions of the UN Panel's final report and has made enquiries with the one Canadian company identified for follow-up.
Canada	Complaint from a Canadian labour organisation about Canadian business activity in a non-adhering country	Nov. 2002	Myanmar	Employment and Industrial Relations; Environment	Concluded	Yes	The NCP was unsuccessful in its attempts to bring the parties together for a dialogue.
Canada	Complaint from a coalition of NGOs concerning Canadian business activity in a non-adhering country	May 2005	Ecuador	I. Concepts and Principles II. General Policies III. Disclosure V. Environment	Concluded	Yes	Following extensive consultation and arrangements for setting up the dialogue, the NGOs withdrew their complaint in January 2005 in disagreement over the set terms of reference for the meeting.

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
Chile	Marine Harvest, Chile, a subsidiary of the multinational enterprise NUTRECO was accused of not observing certain environmental and labour recommendations. The NGOs Ecoceanos of Chile and Friends of the Earth of the Netherlands asked the Chilean NCP to take up the specific instance	Oct. 2002	Chile	IV. Employment and Industrial Relations; V. Environment	Concluded August 2004	Yes	The case had an important impact on the country and above all on the regions where the units of the enterprise are established. The case concluded with a dialogue process in which the parties to the instance and other actors participated. The parties accepted the procedure adopted by the NCP as well as most of the recommendations contained in the report of the NCP. The OECD Environmental Policy Report on Chile cites this specific instance in a positive way.
Chile	La Centrale Unitaire de Travailleurs du Chili (CUTCH) dans le cas de Unilever	June 2005	Chile	IV. Employment and Industrial Relations; V. Environment	Concluded November 2005	Yes	The parties accepted the procedure and conclusions of the NCP. See website for final report.
Chile	ISS Facility Services SA	April 2007	Denmark	IV. Employment and Industrial Relations	Ongoing	No	Currently being considered.
Chile	Banque du travail du Pérou	April 2007	Peru	IV. Employment and Industrial Relations	Ongoing	No	Currently being considered.
Chile	Entreprise Zaldivar, subsidiary of the Canadian firm Barrick Gold	2007	Canada	IV. Employment and Industrial Relations	Ongoing	No	Currently being considered.
Czech Republic	The right to trade union representation in the Czech subsidiary of a German-owned multinational enterprise	2001	Czech Republic	IV. Employment and Industrial Relations	Concluded	No	The parties reached agreement soon after entering into the negotiations.

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
Czech Republic	The labour management practices of the Czech subsidiary of a German-owned multinational enterprise	2001	Czech Republic	IV. Employment and Industrial Relations	Concluded	No	Four meetings organised by the NCP took place. At the fourth meeting it was declared that a constructive social dialogue had been launched in the company and there was no more conflict between the parties.
Czech Republic	A Swiss-owned multinational enterprise's labour management practices	April 2003	Czech Republic	IV. Employment and Industrial Relations	Concluded	No	The parties reached an agreement during the second meeting in February 2004.
Czech Republic	The right to trade union representation in the Czech subsidiary of a multinational enterprise	Jan. 2004	Czech Republic	IV. Employment and Industrial Relations	Closed	n.a.	An agreement between employees and the retail chain store has been reached and union contract signed.
Czech Republic	The right to trade union representation in the Czech subsidiary of a multinational enterprise	Feb. 2004	Czech Republic	IV. Employment and Industrial Relations	Closed	Yes	The Czech NCP closed the specific instance at the trade union's (submitter's) request, August 2004.
Denmark	Trade union representation in Danish owned enterprise in Malaysia	Feb. 2002	Malaysia	IV. Employment and Industrial Relations	Concluded	n.a.	
Denmark	Trade union representation in plantations in Latin America	April 2003	Ecuador and Belize	IV. Employment and Industrial Relations	Concluded	n.a.	Connection of entity to Denmark could not be established.
Denmark	Several questions in relation to logging and trading of wood by a Danish enterprise in Cameroon, Liberia and Burma	Mar. 2006	Cameroon, Liberia and Burma	Several chapters (e.g. II, IV, V and IX)	Ongoing	Not relevant at this stage	Specific instance initially assessed, specific instance raised by NGO (Nepenthes).

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
Finland	Finnvera plc/Botnia SA paper mill project in Uruguay	Nov. 2006	Uruguay	II. General Policies III. Disclosure V. Environment VI. Bribery	Concluded	Yes	Finland's NCP concluded on 8 Nov. 2006 that the request for a specific instance did not merit further examination. The nature of Finnvera Oy's special financing role and the company's position as a provider of state export guarantees (ECA) was considered.
Finland	Botnia SA paper mill project in Uruguay/Botnia SA/Metsa-Botnia Oy	Dec. 2006	Uruguay	II. General Policies III. Disclosure V. Environment VI. Bribery	Concluded	Yes	Finland's NCP considered on 21 Dec. 2006 that Botnia SA/Metsa-Botnia Oy had not violated the OECD Guidelines in the pulp mill project in Uruguay.
France	Forced Labour in Myanmar and ways to address this issue for French multinational enterprises investing in this country	Jan. 2001	Myanmar	IV. Employment and Industrial Relations	Concluded	Yes	Adoption of recommendations for enterprises operating in Myanmar. The French NCP issued a press release in March 2002, see www.minefi.gouv.fr/directions_services/dgtpe/pcn/compcn280302.htm .
France	Closing of Aspocomp, a subsidiary of OYJ (Finland) in a way that did not observe the Guidelines recommendations relating to informing employees about the company's situation	April 2002	France	III.4 Disclosure	Concluded	Yes	A press release was published in October 2003, see www.minefi.gouv.fr/directions_services/dgtpe/pcn/compcn131103.htm .
France	Marks and Spencer's announcement of closure of its stores in France	April 2001	France	IV. Employment and Industrial Relations	Concluded	Yes	The French NCP issued a press release on 13 December 2001 www.minefi.gouv.fr/directions_services/dgtpe/pcn/compcn131201.htm .

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
France	Accusation of non-observance of Guidelines recommendations on the environment, informing employees and social relations	Feb. 2003	France	V. Environment plus chapeau; III. Information and disclosure; IV. Employment and Industrial Relations	Ongoing	n.a.	Currently being considered; there is a parallel legal proceeding.
France	Dacia – conflict in a subsidiary of Group Renault on salary increases and about disclosure of economic and financial information needed for negotiating process	Feb. 2003	Romania	IV. Employment and Industrial Relations	Concluded	No	A solution was found between the parties and the collective labour agreement was finalised on 12 March 2003.
France	Accusation of non-observance of the Guidelines in the areas of environment, “contractual” and respect of human rights by a consortium in which three French companies participate in a project involving the construction and operation of an oil pipeline	Oct. 2003	Turkey, Azerbaijan and Georgia	II. General Policies	Ongoing	n.a.	In consultation with parties.
France	DRC/SDV Transami – Report by the expert Panel of the United Nations. Violation of the Guidelines by this transport company in the Congo, named in the third report as not having responded to the Panel’s requests for information	Oct. 2003	Democratic Republic of Congo	Not specified in information supplied by Panel	Concluded	No	

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
France	EDF – Alleged non-observance of the Guidelines in the areas of environment and respect of human rights by the NTPC (in which EDF is leader) in a hydroelectric project in Nam-Theun River, Laos	Nov. 2004	Laos	II. General policies V. Environment IX. Competition	Concluded	Yes	The French NCP issued a press release on 31 March 2005 www.minefi.gouv.fr/directions_services/dgtpe/pcn/compcn010405.htm .
France	Alleged non-observance of the Guidelines in the context of negotiations on employment conditions in which threats of transfer of some or all of the business unit had been made	Feb. 2005	France	IV. Employment and Industrial Relations	Ongoing		
Germany	Labour conditions in a manufacturing supplier of Adidas	Sept. 2002	Indonesia	II. General Policies IV. Employment and Industrial Relations	Concluded	Yes	The German NCP has closed the specific instance and issued a statement on 24 May 2004 www.bmwi.de/BMWi/Navigation/aussenwirtschaft,did=178196.html .
Germany	Employment and industrial relations in the branch of a German multinational enterprise	June 2003	Philippines	IV. Employment and Industrial Relations	Concluded	Yes	The German NCP has closed the specific instance and issued a statement on 29 June 2007 www.bmwi.de/BMWi/Navigation/aussenwirtschaft,did=178196.html .
Germany	Child labour in supply chain	Oct. 2004	India	II. General Policies IV. Employment and Industrial Relations	Concluded	Yes	The German NCP has closed the specific instance and issued a statement on 30 August 2007 www.bmwi.de/BMWi/Navigation/aussenwirtschaft,did=178196.html .

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
Hungary	Personal injury occurred in the plant of Visteon Hungary Ltd. Charge injury arising from negligence	June 2006	Hungary	IV Employment and Industrial Relations	Concluded	Yes	A joint statement was signed by the MoET and Visteon Hungary Ltd on 20 February 2007 but only released on 14 May 2007 when attempts to agree a trilateral statement were not successful.
Israel	UN Expert Panel Report – DRC	2003	Democratic Republic of Congo	Not specified in Report	Concluded	No	Following an enquiry by the NCP the accused company stopped illegitimate sourcing from DRC.
Italy-UK	Accusation of non-observance of Guidelines recommendations on human and labour rights, environment	2003	Turkey, Azerbaijan Georgia	I. Concepts and Principles II. General Policies III. Disclosure V. Environment	Ongoing	n.a.	In consultation with parties.
Italy	Accusation of non-observance of Guidelines recommendations on human and labour rights	2005	China	IV Employment and Industrial Relations	Concluded	No	Negative initial assessment.
Italy	Accusation of non-observance of Guidelines recommendations on labour rights and competition	2007	Italy	IV Employment and Industrial Relations IX. Competition	Ongoing	n.a.	In preliminary phase.
Italy	Accusation of non-observance of Guidelines recommendations on human rights, environment and contribution to host country's progress	2007	India	II. General Policies V. Environment	Ongoing	n.a.	In preliminary phase.
Japan	Industrial relations of an Indonesian subsidiary of a Japanese company	Feb 2003	Indonesia	IV. Employment and Industrial Relations	Concluded	No	Being the labour dispute ceased in compliance with the decision of High Court in Indonesia, the NCPs do not see any necessity to take further action.

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
Japan	Industrial relations of a Malaysian subsidiary of a Japanese company	March 2003	Malaysia	IV. Employment and Industrial Relations	Ongoing	n.a.	There is a parallel legal proceeding.
Japan	Industrial relations of a Philippines subsidiary of a Japanese company	March 2004	Philippines	II. General Policies IV. Employment and Industrial Relations	Ongoing	n.a.	In consultation with parties concerned. There is a parallel legal proceeding.
Japan	Industrial relations of an Indonesian subsidiary of a Japanese company	May 2005	Indonesia	II. General Policies IV. Employment and Industrial Relations	Ongoing	n.a.	There is a parallel legal proceeding.
Japan	Industrial relations of a Japanese subsidiary of a Swiss-owned multinational company	May 2006	Japan	II. General Policies III. Disclosure IV. Employment and Industrial Relations	Ongoing	n.a.	In consultation with parties concerned. There is a parallel legal proceeding.
Korea (consulting with US NCP)	Korean company's business relations in Guatemala's Textile and Garment Sector	2002	Guatemala	IV. Employment and Industrial Relations	Concluded	No	A resolution was reached after the management and trade union made a collective agreement on July 2003.
Korea (consulting with Switzerland)	A Swiss-owned multinational enterprises' labour relations	2003	Korea	IV. Employment and Industrial Relations	Concluded	No	This was concluded by common consent between the interested parties in November 2003. The Swiss NCP issued an intermediate press statement: www.seco.admin.ch/news/00197/index.html?lang=en .
Korea	Korean company's business relations in Malaysia's wire rope manufacturing sector	2003	Malaysia	IV. Employment and Industrial Relations	Concluded	n.a.	Korea's NCP is engaged in Guidelines promotion and Specific Instances implementation in accordance with the a rule for Korea's NCP, which was established in May 2001.

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
Mexico (consulting with the German NCP)	Closing of a plant	2002	Mexico	IV. Employment and Industrial relations	Concluded	n.a.	The conflict was settled on 17 Jan. 2005: The at that time closed Mexican subsidiary was taken over by a joint venture between the Mexican <i>Llanti Systems</i> and a cooperative of former workers and was re-named “Corporación de Occidente”. The workers have received a total of 50% in shares of the tyre factory and <i>Llanti Systems</i> bought for estimated USD 40 Mio. The other half of the factory. The German MNE will support it as technical adviser for the production. At first there are 600 jobs; this figure shall be increased after one year to up to 1 000 jobs.
Netherlands	Adidas’ outsourcing of footballs in India	July 2001	India	II. General Policies IV. Employment and Industrial Relations	Concluded	Yes	A resolution was negotiated and a joint statement was issued by the NCP, Adidas and the India Committee of the Netherlands on 12 December 2002 www.oecd.org/dataoecd/33/43/2489243.pdf .
Netherlands	Dutch trading company selling footballs from India	July 2001	India	II. General Policies IV. Employment and Industrial Relations	Concluded	No investment nexus	After the explanation of the CIME on investment nexus it was decided that the issue did not merit further examination under the NCP.
Netherlands	IHC CALAND’s activities in Myanmar to contribute to abolition of forced labour and address human rights issues	July 2001	Myanmar	IV Employment and Industrial Relations	Concluded	Yes	After several tripartite meetings parties agreed on common activities and a joint statement. Parties visited the ambassador of Myanmar in London. Statement can be found in English on www.oesorichtlijnen.nl .

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
Netherlands	Closure of an affiliate of a Finnish company in the Netherlands	December 2001	Netherlands	IV. Employment and Industrial Relations	Concluded	No	Labour unions withdraw their instance after successful negotiations of a social plan.
Netherlands	Labour unions requested the attention of the NCP due to a link of government aid to Dutch labour unions to help labour unions in Guatemala	March 2002	Guatemala/Korea	IV. Employment and Industrial Relations	Concluded	Not by Dutch NCP	The specific instance was about a Korean company, the Korean NCP was already dealing with the instance. The Dutch NCP concluded by deciding that it did not merit further examination under the Dutch NCP.
Netherlands	Labour unions requested the attention of the NCP on a closure of a French affiliate in the USA	July 2002	United States	IV. Employment and Industrial Relations	Concluded	Not by Dutch NCP	The link that the labour unions made was the fact that another affiliate of this French company in the Netherlands could use the supply chain paragraph to address labour issues. The Dutch NCP concluded by deciding that the specific instance was not of concern of the Dutch NCP and did not merit further examination.
Netherlands	Treatment of employees of an affiliate of an American company in the process of the financial closure of a company	Aug. 2002	Netherlands	IV. Employment and Industrial Relations	Concluded	Yes	As the Dutch affiliate went bankrupt and the management went elsewhere neither a tripartite meeting nor a joint statement could be realised. The NCP decided to draw a conclusion, based on the information gathered from bilateral consultations and courts' rulings (www.oesorichtlijnen.nl).
Netherlands (consulting with Chile)	On the effects of fish farming	Aug. 2002	Chile	V. Environment	Concluded	Not by Dutch NCP	The specific instance was dealt with by the Chilean NCP. The Dutch NCP acted merely as a mediator between the Dutch NGO and the Chilean NCP.

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
Netherlands	Chemie Pharmacie Holland BV and activities in the DRC	July 2003	Democratic Republic of Congo	II.10. Supply chain IV. Employment and Industrial Relations	Concluded	Yes	Despite the lack of an investment nexus, the NCP decided to publicise a statement on lessons learned. (www.oesorichtlijnen.nl).
Netherlands	Closure of an affiliate of an American company in the Netherlands	Sept. 2003	Netherlands	IV. Employment and Industrial Relations	Concluded	No	Labour unions withdraw their instance after successful negotiations of a social plan.
Netherlands	Through supply chain provision address an employment issue between an American company and its trade union	Aug. 2004- April 2005	United States	IV. Employment and Industrial Relations	Concluded	Not by Dutch NCP	The link that the labour unions made was that a Dutch company, though its American affiliate, could use the supply chain recommendation to address labour issues. The Dutch NCP discussed the matter with the Dutch company involved. Shortly thereafter the underlying issue between the American company and its trade union was solved.
Netherlands	Travel agencies organising tours to Myanmar	2003-2004	Netherlands	IV. Employment and Industrial Relations	Concluded	Yes	Although not investment nexus, NCP decided to make a statement about discouraging policy on travel to Myanmar, see www.oesorichtlijnen.nl (in Dutch).
Netherlands	Treatment of the employees of an Irish company in the Netherlands	Oct. 2004	Netherlands	IV. Employment and Industrial Relations	Concluded	No	The NCP decided that the specific instance, raised by a Dutch labour union, did not merit further examination, because of the absence of a subsidiary of a multinational company from another OECD country in the Netherlands.
Netherlands	Introduction of a 40 hrs working week in an affiliate in the Netherlands of an American company	Oct. 2004	Netherlands	IV. Employment and Industrial Relations	Concluded	No	Legal proceedings took care of labour union's concerns.

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
Netherlands	Treatment of employees and trade unions in a subsidiary of a Dutch company in Chile	July 2005	Chile	IV. Employment and Industrial Relations	Concluded	Not by Dutch NCP	Labour Union requested the Dutch NCP to inquire after the follow up of a Interim report of the ILO Committee on Freedom of Association on the complaint against the Government of Chile.
Netherlands	Storage facility in Brasil of a Dutch multinational and its American partner: alleged improper seeking of exceptions to local legislation and endangering the health of employees and the surrounding community	July 2006	USA	II. General Policies V. Employment and Industrial Relations	Pending	n.a.	The Dutch NCP has referred the notifying NGO to the NCP in BRasil and has offered its assistance in the handling of the instance.
Netherlands	Storage facilities in the Philippines of a Dutch multinational: alleged improper influencing of local decision making processes and of violating environmental and safety regulations.	May 2006	Philippines	II. General Policies III. Disclosure V. Employment and industrial Relations VI. Combating Bribery	Pending	No	Local legal proceedings caused an on-hold status for the NCP proceedings. Continuation is expected to take place in September.
Netherlands	Request by NCP of the USA to contact Dutch parent company of an American company, with regard to an instance concerning trade union rights	July 2006	USA	IV. Employment and Industrial Relations	Closed	n.a.	Report of the meeting between Dutch NCP and the Dutch company was sent to the NCP of the USA. In April 2007 an agreement was reached between parties.
Netherlands	Maltreatment of employees and <i>de facto</i> denial of union rights at a main garment supplier in India of a Dutch clothing company	October 2006	India	II. General Policies IV. Employment and Industrial Relations	Pending	No	The case was found admissible and the NCP is now looking for an effective remedy in the ongoing process of mediation between the two parties.

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
Netherlands	Abuse of local corporate law by a subsidiary of a Dutch/British multinational, in order to dismiss employees without compensation.	October 2006	India	IV. Employment and Industrial Relations	Pending before UK NCP	n.a.	Case was brought to both the Dutch and UK NCP. The instance was decided admissible for the UK NCP. Facilitating role by the Dutch NCP.
Netherlands	Denial of union rights by an alleged Turkish garments supplier of a Dutch clothing company	December 2006	Turkey	IV. Employment and Industrial Relations	Pending before Turkish NCP	n.a.	No proven territorial link with the Netherlands. Case being dealt with by Turkish NCP, although awaiting local legal proceedings.
Norway	Contractual obligations of a Norwegian maritime insurance company following personal injury and death cases	2002	Philippines, Indonesia	IV. Employment and Industrial Relations	Concluded	n.a.	An initial assessment by the NCP concluded that the company had not violated the Guidelines and that the issue did not merit further examination.
Norway	Human rights in relation to provision of maintenance services to a detention facility in Guantanamo Bay	2005	United States	II.2 Human Rights	Concluded	Yes	The NCP noted that provision of goods or services in such situations requires particular vigilance and urged the company to undertake a thorough assessment of the ethical issues raised by its contractual relationships.
Poland	Violation of workers' rights in a subsidiary of a multinational enterprise	2004	Poland	IV. Employment and Industrial Relations	Ongoing	n.a.	In contact with representatives of parties involved.
Poland	Violation of workers' rights in a subsidiary of a multinational enterprise	2002	Poland	IV. Employment and Industrial Relations	Resumed	n.a.	In contact with representatives of parties involved.
Poland	Violation of women and workers' rights in a subsidiary of a multinational enterprise	2006	Poland	IV. Employment and Industrial Relations	Ongoing	n.a.	In contact with representatives of parties involved.

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
Portugal	Closing of a factory	2004	Portugal	IV. Employment and Industrial Relations	Concluded	No	After an initial assessment by the NCP, no grounds to invoke violation of the Guidelines were found so the process was closed in 2 months with the agreement of all parties involved.
Spain	Labour management practices in a Spanish owned company.	May 2004	Venezuela	IV. Employment and Industrial Relations	Concluded		
Spain	Conflict in a Spanish owned company on different salary levels.	Dec. 2004	Peru	IV. Employment and Industrial Relations	Concluded		
Sweden	Two Swedish companies' (Sandvik and Atlas Copco) business relations in Ghana's gold mining sector	May 2003	Ghana	IV. Employment and Industrial Relations V. Environment	Concluded	Yes	The Swedish NCP issued a statement in June 2003 www.oecd.org/dataoecd/16/34/15595948.pdf .
Switzerland (consulting with Canada)	Impending removal of local farmers from the land of a Zambian copper mining company owned jointly by one Canadian and one Swiss company	2001	Zambia	II. General Policies V. Environment	Concluded	No	The specific instance was dealt with by the Canadian NCP (see information there). The Swiss company was kept informed of developments.
Switzerland (consulting with Korea)	Swiss multinational Nestlé's labour relations in a Korean subsidiary	2003	Korea	IV. Employment and Industrial Relations	Concluded	No	The specific instance was dealt with by the Korean NCP (see information there). The Swiss NCP acted as a mediator between trade unions, the enterprise and the Korean NCP. The Swiss NCP issued an intermediate press statement: www.seco.admin.ch/news/00197/index.html?lang=en .

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
Switzerland	Swiss multinational's labour relations in a Swiss subsidiary	2004	Switzerland	IV. Employment and Industrial Relations	Concluded	No	In the absence of an international investment context, the Swiss NCP requested a clarification from the Investment Committee. Based on that clarification (see 2005 Annual Meeting of the NCPs, Report by the Chair, p. 16 and 66), the Swiss NCP did not follow up on the request under the specific instances procedure. However, it offered its good services outside that context, and the issue was solved between the company and the trade union.
Switzerland (consulting with Austria and Germany)	Logistical support to mining operations in a conflict region	2005	Democratic Republic of Congo	Several chapters, including: II. General Policies III. Disclosure IV. Employment	Concluded	No	The Swiss NCP concluded that the issues raised were not in any relevant way related to a Swiss-based enterprise.
United Kingdom	Activities of Avient Ltd alleged in a UN Expert Panel report	2003	Democratic Republic of Congo	This was not specified in the UN Panel report	Concluded	Yes	The UK NCP issued a statement in September 2004: www.csr.gov.uk .
United Kingdom	Activities of Oryx Minerals alleged in a UN Expert Panel Report	2003	Democratic Republic of Congo	This was not specified in the Panel Report	Concluded	Yes	
United Kingdom	Activities of DAS Air alleged in a UN Expert Panel Report	2003	Democratic Republic of Congo	This was not specified in the UN Panel Report	Ongoing	N/A	In contact with parties.

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
United Kingdom	BTC; activities of consortium led by British Petroleum	2003	Azerbaijan, Georgia, Turkey	II.5. Exemption from Regulation, III.1. disclosure, V.1. environmental management, V.2a. information on environmental health/safety V.2b. community consultation, V.4. postponement of environmental protection measures	Ongoing	n.a.	In contact with parties.
United Kingdom	Activities of National Grid/ Transco/	2004	Democratic Republic of Congo	Various	Concluded	Yes	The UK NCP issued a statement in July 2005: www.csr.gov.uk .
United Kingdom	Activities Anglo American	2005	Zambia	Various	Ongoing	n.a.	Draft final statement with both parties
United Kingdom (in contact with US NCP)	Freedom of association and collective bargaining	2006	United States	IV. Employment and Industrial Relations	Ongoing	n.a.	In contact with both parties.
United Kingdom	Freedom of association and collective bargaining	2006	Bangladesh	IV. Employment and Industrial Relations	Ongoing	n.a.	In contact with both parties.
United Kingdom	Process in closing down plant – Collective bargaining – Access to information and meaningful consultation	2006	UK	IV. Employment and Industrial Relations	Ongoing	n.a.	In contact with parties.
United Kingdom	Freedom of association and collective bargaining	2006	UK	IV. Employment and Industrial Relations	Not accepted	n.a.	Not taken as specific instance as parties recommenced negotiations during initial assessment, resulting in acceptable outcome for both parties. Therefore proving unnecessary for NCP to take case further.

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
United Kingdom	Contribution to economic, social and environmental progress with a view to achieving sustainable development Freedom of association and collective bargaining	2006	Mozambique Malawi Israel Uganda DRC Nepal Greece USA	II. General policies IV. Employment and Industrial Relations	On going	n.a.	In contact with parties Undergoing initial assessment
United Kingdom	Obeying domestic law is the first obligation of business Transfer of factory avoiding redundancy obligations Freedom of association and collective bargaining	2006	India	I. Concepts and principles IV. Employment and Industrial Relations	On going	n.a.	In contact with parties. Undergoing initial assessment
United Kingdom	Payment of taxes to armed group engaged in armed conflict with national Government Profiting from minerals sourced from mines which use forced labour and child labour	2007	Democratic Republic of Congo	II. General policies IV. Employment and Industrial Relations VI. Combating bribery	On going	n.a.	In contact with parties Undergoing initial assessment
United States, consulting with French NCP	Employee representation	June 2000	United States	IV. Employment and Industrial Relations	Concluded	No	Parties reached agreement
United States	Employee representation	February 2001	United States	IV. Employment and Industrial Relations	Concluded	No	Parties reached agreement

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
United States	Investigate the conduct of an international ship registry	November 2001	Liberia	II. General Policies III. Information and Disclosure VI. Combating Bribery	Concluded	No	US NCP concluded in its preliminary assessment that the conduct in question was being effectively addressed through other appropriate means, including a United Nations Security Resolution.
United States, consulting with French NCP	Employment and industrial relations, freedom of association and collective bargaining	July 2002	United States	IV. Employment and Industrial Relations	Concluded	No	Parties reached agreement.
United States, multiple NCPs	Business in conflict zones, natural resource exploitation	October 2002	Democratic Republic of Congo	Numerous	Concluded	No	UN Panel Report concluded that all outstanding issues with the US-based firms cited in the initial report were resolved. US NCP concluded its facilitation of communications between the UN Panel and the US companies.
United States, consulting with German NCP	Employee relations in global manufacturing operations	November 2002	Global, focus on Vietnam and Indonesia	IV. Employment and Industrial Relations	Concluded	No	USNCP concluded that the issues raised were being adequately addressed through other means.
United States consulting with French NCP	Employment and industrial relations, collective bargaining	June 2003	United States	IV. Employment and Industrial Relations	Concluded	Yes	Parties reached agreement.
United States, consulting with German NCP	Employment and industrial relations, collective bargaining representation	June 2003	United States	IV. Employment and Industrial Relations	Ongoing	n.a.	Ongoing.
United States, consulting with Mexican NCP	Employment and industrial relations, collective bargaining, freedom of association	July 2004	Mexico	IV. Employment and Industrial Relations	Ongoing	n.a.	Ongoing.

Specific instances considered by National Contact Points to date (cont.)

NCP concerned	Issue dealt with	Date of notification	Host country	Guidelines chapter	Status	Final statement	Comments
United States, consulting with Dutch NCP	Employment and industrial relations	August 2004	United States	II. General Policies IV. Employment and Industrial Relations VII. Consumer Interests	Concluded	No	Parties reached agreement.
United States	Business in conflict zones, natural resource exploitation	August 2004	Democratic Republic of Congo	Numerous	Concluded	No	USNCP concluded that the UN Panel of Experts report had resolved all outstanding issues with respect to US companies involved.
United States	Employment and industrial relations	August 2004	United States	IV. Employment and Industrial Relations	Ongoing	n.a.	Ongoing.
United States	Employment and industrial relations	September 2004	United States	IV. Employment and Industrial Relations	Ongoing	n.a.	Ongoing.
United States	Employment and industrial relations	March 2005	United States	IV. Employment and Industrial Relations	Concluded	No	Parties reached agreement.
United States	Employment and industrial relations	May 2005	United States	IV. Employment and Industrial Relations	Ongoing	n.a.	Ongoing.
United States	Employment and industrial relations	March 2006	United States	IV. Employment and Industrial Relations	Concluded	No	Parties reached agreement.
United States, consulting with Polish NCP	Employment and industrial relations, sexual harassment	May 2006	Poland	IV. Employment and Industrial Relations	Ongoing	n.a.	Ongoing.
United States	Employment and industrial relations	June 2005	United States	IV. Employment and Industrial Relations	Concluded	No	Parties reached agreement.
United States, consulting with German NCP	Employment and industrial relations	August 2006	United States	IV. Employment and Industrial Relations	Ongoing	No	Ongoing.
United States, consulting with Austrian NCP	Employment and industrial relations	November 2006	United States	IV. Employment and Industrial Relations	Ongoing	No	Ongoing.

n.a.: not applicable.

ANNEX I.A3

Statements released by NCPs, June 2006-June 2007

This Appendix reproduces the statements issued by the National Contact Points during the reporting period concerning specific instances, in accordance with the Procedural Guidance on the implementation of the Guidelines in specific instances, which provides that “if the parties involved do not reach agreement on the issues raised in the specific instance, the NCP will issue a statement and make recommendations as appropriate on the implementation of the Guidelines” and also that “after consultation with the parties involved, make publicly available the results of the specific instance procedures unless preserving confidentiality would be in the best interests of effective implementation of the Guidelines.”

- Public statement by the Australian National Contact Point on the ANZ Banking Group (ANZ) Specific Instance.
- Public statement by the Finnish National Contact Point on the Botnia S.A./ Metsä-Botnia Oy Specific Instance.
- Public statement by Finnish National Contact Point on the Finnvera Oyj Specific Instance.
- Public statement by the Hungarian National Contact Point on Mr. Imre Horgosi vs Visteon Hungary Specific Instance.
- Public statement by the US National Contact Point on the Saint-Gobain Specific Instance.

Statement by the Australian NCP**Statement by the Australian National Contact Point:
ANZ Specific Instance**

13 October 2006

Background

1. On 28 August 2006, the Australian National Contact Point for the OECD's Guidelines for Multinational Enterprises received a request to consider a "specific instance" from a consortium of five non-government organisations ("the complainants") alleging that the ANZ Banking Group (ANZ), through its financial links with the Malaysian-owned forestry company Rimbunan Hijau (RH) operating in Papua New Guinea, had breached various provisions of the OECD's Guidelines for Multinational Enterprises.¹
2. Specifically, it is alleged that the ANZ is not complying with the following provisions of the Guidelines:
 - Article II, Section 1: "Enterprises should contribute to economic, social and environmental progress with a view to achieving sustainable development";
 - Article II, Section 2: "Enterprises should respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments";
 - Article II, Section 10: "Enterprises should encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the Guidelines"; and
 - Article V, Section 1: "Enterprises should establish and maintain a system of environmental management appropriate to the enterprise".
3. Through the specific instance mechanism of the Guidelines, the complainants sought the following outcomes and commitments:
 - ANZ adopt meaningful forestry and human rights policies that set basic standards for its clients across all its business operations, in accordance with international best practice for financial institutions;
 - ANZ immediately disengage from the socially and environmentally destructive forestry operations in PNG;
 - ANZ explore and actively foster community-based forestry operations conducted on a sustainable basis in PNG; and

- ANZ advocate for positive solutions to forestry and human rights issues in Australia and in PNG.
4. The complainants also noted that the specific instance mechanism was being invoked because they were dissatisfied with the lack of progress in direct discussions with the ANZ. The complainants hoped that the specific instance process would facilitate better dialogue with the ANZ and secure commitments in accordance with the Guidelines.

ANCP's processes

5. In accordance with the ANCP's published procedures for handling specific instances, the ANCP commenced an initial assessment as to whether the issues raised warranted further consideration as a specific instance under the Guidelines. The ANCP's fact finding included meeting separately with representatives of the complainants and the ANZ on 6 September in Melbourne. On 14 September the complainants lodged a supplementary submission and on 21 September the ANZ lodged its submission. Both submissions sought to amplify and clarify issues discussed in the meetings.² Both parties consented for their submissions to be shared with the other party.
6. On 29 September 2006, the ANCP conveyed to both parties his assessment that it would not be appropriate to accept the complainants' request to consider a specific instance.

ANCP's determination

7. In seeking to determine whether this case is admissible as a specific instance under the Guidelines, the ANCP sought to establish whether there was an investment nexus between ANZ and RH.
8. The ANZ submitted that it has no capacity to direct or control RH operational decisions. The ANZ is not a member of any RH Board, management committee or other decision-making body of RH and it holds no investment in RH. The ANZ also noted that it was a provider of banking and financial services to an entity that was operating legitimately under PNG law.
9. The ANCP considered the complainants' view that the performance-related bank guarantee given to the PNG Forestry Authority constituted an ANZ investment in RH because of its contingent nature.³ The ANCP notes that a business investment typically involves an element of residual risk bearing by the investor which appears to be absent in the bank guarantee. Moreover, the ANCP notes ANZ's advice that its financial services, including the bank guarantee, are provided on a fee-for-service basis to RH. These facts have led the ANCP to conclude that it would be

difficult to characterise ANZ's financial links with RH as an investment as intended by the Guidelines.⁴

10. The ANCP also carefully considered the complainants' view that the ANZ's engagement with RH to promote more responsible business practices of itself reflected ANZ's acceptance that it was part of RH's "supply chain". The ANCP notes that the matter of whether a supply chain exists, let alone whether it is sufficiently strong to support a specific instance is unclear in relation to financial sector participants. The usual notion of a supply chain is of a collection of entities that successively transform a good or a service until it reaches final consumers. Contrastingly, financial services or indeed other services (e.g. consultancy services or human resources) are supply inputs to a firm's productive capacity. The ANCP notes that the OECD Investment Committee intends to study these issues in 2007.
11. Nevertheless, the ANCP drew on existing guidance from the OECD Investment Committee that indicates that the supply chain (and business partners) issue rests on "the practical ability of enterprises to influence the conduct of their business partners with whom they have an investment like relationship".⁵
12. In this regard, the opposing submissions are noteworthy. The ANZ indicates that its capacity to influence RH is limited as it does not participate in any decision making processes of RH. It also points to the competitive nature of financial service provision. The complainants, on the other hand, question ANZ's lack of ability to influence RH pointing to the ANZ's reputation and established market position as potential levers that could be used to effect a change in RH's practices. The complainants also note that ANZ might consider emulating Citigroup's 2005 announcement that "RH would be required to comply with Citigroup's environmental policy to continue to qualify for financing from the bank".
13. On the facts tendered by both parties, the ANCP is unable to ascertain the degree to which ANZ has the capacity to influence RH's logging decisions in PNG. That being the case, the ANCP nevertheless notes that the issues raised by the supply chain (and business partners) become significant only when there is an established investment or investment-like relationship.

Summary and next steps

14. In spite of the ANCP's inability to accept this case as a specific instance, the ANCP notes that the complainants and the ANZ are both striving to improve responsible business practices. The ANZ is committed to promoting responsible business practices by its clients, including RH. Moreover, the ANZ intends to make a public commitment to the OECD Guidelines for Multinational Enterprises. The complainants are also

striving to assist global entities like the ANZ to achieve their stated goals of promoting responsible business conduct.

15. It would seem appropriate that both parties have much to gain from resuming their dialogue on these matters even if that dialogue were to occur outside the umbrella of the specific instance process. The ANCP acknowledges that there would need to be a renewed commitment from both sides to take the dialogue to a higher, more productive plane.
16. Although not formally part of the ANCP's mandate, the ANCP stands ready to inaugurate such a dialogue should both parties request it.

Gerry Antioch
Australian National Contact Point
for the OECD Guidelines for Multinational Enterprises
13 October 2006

Statement by the Finnish NCP

Finland's NCP statement on the Specific Instance submitted by CEDHA, an Argentinian NGO, regarding Botnia S.A/Metsä-Botnia Oy's pulp mill project in Uruguay

21 December 2006

1. Background**1.1. Specific Instance and the decision on its examination**

On 18 April 2006, the Center for Human Rights and Environment (CEDHA), an Argentinian non-governmental organisation, submitted to Finland's National Contact Point applying the OECD Guidelines for Multinational Enterprises a Specific Instance regarding the possible non-compliance of an enterprise called Botnia S.A/Metsä-Botnia Oy with the Guidelines for Multinational Enterprises when building a pulp mill in Uruguay.

On 19 June 2006, Finland's National Contact Point (the Ministry of Trade and Industry) decided to deal with the Specific Instance submitted by the CEDHA. In the decision it was considered that even though the building project is implemented in Uruguay, Finland's National Contact Point has the authority to deal with the Specific Instance, due to the fact that Uruguay does not have a corresponding National Contact Point, and because Botnia S.A/Metsä-Botnia Oy can be regarded as having a connection to Finland, e.g. through ownership. Furthermore, it was considered that an Argentinian non-governmental organisation has the authority to submit the Specific Instance, since it was considered that the effects of the pulp mill also extend across the Argentine border. On the other hand, on 8 November 2006, Finland's National Contact Point decided to dismiss the corresponding Specific Instance regarding Finnvera Oyj, which was submitted by the CEDHA.

1.2. Procedure in Finland's National Contact Point

The Specific Instance has been dealt with on many occasions by the Advisory Committee on International Investment and Multinational Enterprises of Finland (MONIKA), which operates under the auspices of the Ministry of Trade and Industry, and which has an advisory role in dealing with corresponding Specific Instances. In co-operation with the Ministry of Trade

and Industry, this Advisory Committee also organised a hearing on 30 August 2006, which included representatives from both the CEDHA and Botnia S.A./Metsä-Botnia Oy. An English memorandum of the hearing was submitted to different parties. In connection with the hearing, the CEDHA distributed a memorandum dated 27 August 2006 to provide additional viewpoints in support of the Specific Instance. Accordingly, Botnia S.A./Metsä-Botnia Oy set forth its views in the hearing and provided, in the form of a letter dated 15 September 2006, the Advisory Committee with its written responses to the arguments made in the Specific Instance by the CEDHA. The hearing was also attended by representatives from Sweden's and Norway's National Contact Points, due to their involvement in the pending Specific Instance regarding Nordea Bank, submitted by the CEDHA.

During the procedure, Finland's National Contact Point has been in contact with the authorities of Uruguay. Among others, the representatives from the Ministry of Trade and Industry have met with Uruguay's Deputy Foreign Minister Belela Herrera in Helsinki on 28 September 2006. Furthermore, a representative from the ministry has met with representatives from Argentina's National Contact Point and Spain's National Contact Point in Paris.

On 22 September 2006, after hearing the MONIKA Advisory Committee, Finland's National Contact Point came to the conclusion that the hearing organised on 30 August 2006 proved that the parties involved do not reach agreement on the issues raised, in spite of the fact that the National Contact Point has aimed to offer good offices to help the parties involved resolve the issues, in accordance with the Procedural Guidance related the OECD Guidelines for Multinational Enterprises. This is why Finland's National Contact Point decided to start preparing a statement on the Specific Instance submitted by the CEDHA.

1.3. Other forums

On 4 May 2006, the Argentine Government submitted to the Hague International Court of Justice a Specific Instance regarding Uruguay's possible non-compliance with the Uruguay River Treaty when it authorised Botnia S.A./Metsä-Botnia Oy to build a pulp mill. In July 2006, the International Court of Justice found, contrary to the request of the Argentine Government, that Uruguay does not need to halt construction work pending a final decision by the Court. It will take probably two-three years for the Hague court to grant the final decision.

As member institutions of the World Bank Group, IFC and MIGA have considered their involvement in the financing of Botnia S.A.'s pulp mill. IFC commissioned an independent Canadian consult to prepare a study on the environmental impacts of the pulp mill. The results of this IFC consult study, dated 12 October 2006, are favourable to Botnia S.A. According to this study, the

pulp mill project is environmentally sound and meets the other World Bank Group guidelines as well. On 21 November 2006, IFC and MIGA decided to provide the project with a \$170 million loan and guarantees worth up to \$350 million.

2. Issues addressed in the Specific Instance submitted by the CEDHA

What follows is an account of the issues relating to the possible non-compliance with the OECD Guidelines, as addressed in the Specific Instance submitted by the CEDHA. According to the CEDHA, Botnia has violated the guidelines especially with respect to Chapter II “General Policies”, Chapter III “Disclosure”, Chapter V “Environment” and Chapter VI “Bribery”. Together with other relevant viewpoints, Botnia’s comments submitted to the National Contact Point on 15 September 2006 have been taken into account when dealing with these issues.

II. General policies

The starting point of the general policies is the principle that multinational enterprises should take fully into account established policies in the country of investment and consider the views of other stakeholders. Thus, with regard to Botnia’s pulp mill project, the corresponding general policies are to be assessed primarily in terms of their realisation in Uruguay, which is the host country in this case.

What follows is an account of the arguments relating to general policies as set forth by the CEDHA, primarily from Argentina’s viewpoint:

II.1. Enterprises should contribute to economic, social and environmental progress with a view to achieving sustainable development.

In this context the CEDHA particularly refers to the Uruguay River Treaty between Argentina and Uruguay. With regard to Botnia’s pulp mill project, however, it must be considered that it is the Uruguayan Government and not Botnia S.A that has the primary responsibility to comply with the obligations of the Uruguay River Treaty. Botnia S.A has been granted all the needed permits for the project by the Uruguayan Government, and it is committed to comply with all the related obligations. The enterprise must be able to trust that the Uruguayan Government has taken into account all its international contractual obligations in permit proceedings. This is also proved by the fact that it is the Uruguayan Government that is the defendant in the case brought in the Hague International Court of Justice, instead of Botnia S.A.

II.2. Enterprises should respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments.

The CEDHA considers that Botnia's pulp mill project violates the human rights of the Argentinians living close to the mill by harming their quality of life, environment and livelihood. In this context it must be also noted that aspects related to human rights are to be discussed primarily from the viewpoint of the State of Uruguay. With regard to its own operations, Botnia is committed to respecting human rights in all of its operations, in accordance with the international obligations and contracts of the host states. Botnia S.A has not appeared to violate human rights as specified in the OECD Guidelines, neither in Uruguay nor in Argentina.

II.5. Enterprises should refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labour, taxation, financial incentives, or other issues.

In the Specific Instance submitted by the CEDHA it is considered that Botnia's pulp mill project will cause serious economic, social and environmental damage to Uruguay whilst providing few permanent jobs and no tax income for the State of Uruguay. In this context the CEDHA refers *e.g.* to the negotiated 25-year tax-free zone. However, the exemption from income tax granted to Botnia is in accordance with Uruguayan legislation. This legislation on free trade zones originally came into effect as early as in 1923, and it has been applied to a number of different projects. Furthermore, it must be considered that the value of other types of tax income and benefits to Uruguay related to the pulp mill investment are many times higher than the value of exemption.

In accordance with the principles of free movement of capital, an enterprise has the right to invest in a country attracting investments with tax incentives, and also otherwise providing strong government support to the investment in question. Possible unhealthy competition caused by taxation and state support can be tackled by means of mutual arrangements between countries and international agreements. Neither can differences in wage levels serve as an obstacle to investing. According to various studies, international investments have usually raised the local wage level. The Botnia construction site currently employs 4 000 workers, 90 percent of whom are local Uruguayans. The positive impact of the mill project on Uruguay's gross domestic product has been estimated to be about 2 percent. Finland's National Contact Point regards the positive economic effects of the mill project on Uruguay as significant.

III. Disclosure

III.1. Enterprises should ensure that timely, regular, reliable and relevant information is disclosed regarding their activities, structure, financial situation and performance.

The CEDHA considers that Botnia S.A has failed to provide sufficient information especially for communities and persons subject to the possible harmful effects of the mill project on the Argentine side of the border. Botnia S.A, on the other hand, states that since October of 2003, it has been implementing open and proactive communication policies reaching Argentina as well. Botnia S.A has provided the National Contact Point with a list of its communication projects. Botnia S.A has also organised several public hearings in Fray Bentos, to which various parties from Argentina have been invited as well.

When assessing the operations of Botnia S.A, local circumstances and their changes need to be taken into account. On the basis of the information available, it seems that the public has been informed of the project on an extensive and regular basis. Of course, it is always possible to increase and improve communication to ensure the best possible result. The development of the dispute into a conflict between two states has made communication more difficult. Certain measures taken on the Argentine side of border, such as the blockade of the bridge over the boundary river, have in many cases prevented Argentinians from participating in the informative meetings organised on the Uruguayan side and also prevented unbiased coverage in the Argentine media.

V. Environment

In the Specific Instance the CEDHA considers that Botnia's project has significantly violated the environmental recommendations of Chapter V of the OECD Guidelines. With regard to environmental aspects, the 12 items listed in the Specific Instance by the CEDHA refer to Botnia's alleged failures to comply with the recommendations. The National Contact Point has asked for a statement on environmental impacts of the project from the Finnish Ministry of the Environment (9 November 2006). According to this statement, several environmental impact assessments on the project indicate that it is based on the use of the best technology available (IPPC-BAT2001) in accordance with the European Directive on Integrated Pollution Prevention and Control (Directive 96/61/EC). The pulp mill project also meets the requirements of USEPA (United States Environmental Protection Agency).

The project has involved several extensive environmental impact assessments that have not revealed anything significant to criticise Botnia S.A for. It must be considered that Botnia S.A has been operating in

accordance with the principles of sound environmental management as well as the OECD Guidelines with regard to environmental viewpoints. This is also proved by the fact that IFC and MIGA have decided to provide financing for the project. On the other hand, in projects like this openness and, success in project communication, in utilisation of impact assessments and in co-operation with interest groups in the target area during the project, are also significant. Furthermore, it is worth mentioning that Finnish environmental authorities have provided Uruguayan environmental authorities with education in the supervision and control of pulp mills.

VI. Bribery

In its Specific Instance the CEDHA has also suggested that a person connected to Botnia S.A has been involved in the bribery of local parties in relation to issues concerning the enterprise. Correspondingly, it has been argued that a Uruguayan official is about to be charged in Argentina with illicit handling of project permits. However, the CEDHA has failed to provide any evidence on the alleged bribery, and there are no ongoing official proceedings related to either of the cases. On the basis of the information available, the bribery claims made by the CEDHA have not been proved to be true.

3. Statement of Finland's National Contact Point

The Specific Instance submitted by the CEDHA refers extensively to the principles and recommendations of the OECD Guidelines, concluding that Botnia S.A has violated a number of principles and recommendations. To support this, the Specific Instance contains references to several complaints drafted by the CEDHA, the legal process in the Hague International Court of Justice and the World Bank's requests for additional assessments. Finland's National Contact Point considers that the evidence presented does not prove that Botnia S.A has failed to comply with the OECD Guidelines. The OECD Guidelines do not aim to create obstacles for international investments but to ensure that the operations of multinational enterprises are in harmony with government policies, to strengthen the basis of mutual confidence between enterprises and the societies in which they operate, to help improve the foreign investment climate and to enhance the contribution to sustainable development made by multinational enterprises.

Enterprises have to be especially careful when involved in investment projects subject to risks related to politics and international law. However, it is always the task of the host country of the investment, in this case that of Uruguay, to pay attention to political viewpoints. With regard to Botnia's pulp mill project, the Uruguayan Government has by no means questioned the

investment. On the contrary, it has supported the implementation of the investment and seen the economic and other benefits.

Due to its big size, the pulp mill project is bound to have a variety of effects on the surrounding society. The project is committed to strict international criteria in environmental impact management. Accordingly, the harmful social effects of the project are minimal, whereas its economic benefits are extensive. Even though most of the benefits in this case are reaped on the Uruguayan side of the border, a significant part of the benefits might be realised in Argentina as well, if Argentinian persons and companies had access to the benefits created by the pulp mill project.

Botnia S.A/Metsä-Botnia Oy is committed to enhancing sustainable development in all of its business operations, improving its operations on a continuous basis, and doing business in a responsible manner. Botnia S.A has also stated that it adheres to the principles of the UN Global Compact. Even though the principles followed by Botnia S.A on social responsibility are more general in nature than the OECD Guidelines, they are equally comprehensive in scope. This, for its part, ensures that Botnia S.A will use acceptable methods and adhere to internationally acceptable practices also in the future work on the project.

On the basis of the received evidence, Finland's National Contact Point considers that Botnia S.A/Metsä-Botnia Oy has not been proved to violate the OECD Guidelines in the pulp mill project in Uruguay. Thus, the Specific Instance submitted to Finland's National Contact Point by the CEDHA on 18 April 2006 requires no further action in Finland.

Statement by the Finnish NCP**Orion paper mill factory project
(Uruguay; Botnia SA) and Finnvera Oyj**

12 October 2006

The Center for Human Rights and Environment (CEDHA) made on 8 June 2006 a request for specific instance to the Finnish national Contact Point, as defined by the OECD Guidelines for Multinational Enterprises, concerning the financial activities of Finnvera Oyj in relation to the Botnia SA paper mill project in Uruguay. With respect to the request, the Finnish National Contact Point is the Finnish Ministry of Trade and Industry. The request of CEDHA was dealt with by the MONIKA Advisory Committee of International Investment and Multinational Enterprises, which is attached to the Ministry.

According to the OECD Guidelines for Multinational Enterprises, the Finnish National Contact Point must first decide whether the request for specific instance will merit a further examination, before issuing a statement on it. The nature of Finnvera Oyj's special financing and the company's position as a provider of state export guarantees must be considered when dealing with the matter. The following issues should be taken into account, in particular:

- Finnvera Oyj cannot be considered a multinational enterprise, as defined by the Guidelines, when contemplating the special nature of Finnvera Oyj as a provider of state's export guarantees
- The OECD Guidelines cannot be considered to refer to state's export guarantee activities, which are regulated nationally by special legislation and for which special arrangements exist within the OECD (such as environmental principles approved for export credit agencies). – First and foremost, the Guidelines concern investment activities and enterprises that have made investments (primary investors), in this case Botnia SA. Commentary 10, Chapter 2 (general principles) of the Guidelines (supply chain) advises multinational enterprises to encourage their business partners and subcontractors to comply with principles that are in harmony with the Guidelines, and which cannot be applied directly to an export credit agency.

- The OECD Committee of Investment and Multinational Enterprises' (CIME) commentary on the Investment Nexus made in April 2003 does not entail that the Guidelines should be applied to Finnvera Oyj's special financing activities.
- With respect to the investment viewpoint taken by the Guidelines, applying them to the activities of Finnvera Oyj could not, ever otherwise, be considered appropriate.

Based on the reasons mentioned above, and having had the case considered by the MONIKA Advisory Committee, the Finnish Ministry of Trade and Industry has concluded that the request for specific instance issued by CEDHA on 8 June 2006 does not merit further examination by the Finnish National Contact Point.

Statement by the Hungarian NCP**Hungarian NCP Statement on Mr. Imre Horgosi
vs. Visteon Hungary Ltd case**

20 February 2007

On April 20, 2006 dr. Csaba Kiss lawyer, environmental attorney submitted a request to the OECD HNCP on behalf of his client, Mr. Imre Horgosi who was a former worker of Visteon Hungary Ltd.

In the letter sent to the HNCP the lawyer stated that ... “in the limited company the employees’ rights, neither health and safety, environmental regulations (related to hazardous materials) nor labour rules do not prevail”. According to the lawyer’s views the Visteon Hungary Ltd Company infringed Article 4. b) of Chapter IV (Employment and Industrial Relations) of the Guidelines, i.e. “the enterprise should take adequate steps to ensure occupational health and safety in their operations.”

In accordance with his request in March 2002 his client had to carry out cleaning and washing faulty parts related to compressor manufacturing technology using organic solvent during testing the production line but this operation was not a part of the official technological procedure. Since the protective gloves which were applied in the first phase did not resist the effect of the organic solvent the workers’ hands suffered mild skin irritation which was treated by adequate crème. The worker was treated by medical specialist, but injury did not entitle to sick pay.

The HNCP asked two sides to prove their statements and to cooperate in order to learn the entire case. On the basis of submitted documents the HNCP found that statement of the lawyer is not true, namely “in the limited company the employees’ rights, neither health and safety, environmental regulations (related to hazardous materials) nor labour rules do not prevail”.

However the HNCP stated that though the middle level company leaders took into consideration one part of regulations during testing the production line but they did not apply them by the most careful and prudent way as they could do in order to keep all of the regulations in force and to cut and to screen the risks stemming from the unofficial operation beyond the technological procedure and to prevent development of dangerous situation. But after the first signalisation of deficiency the company terminated them within a short

time (two weeks) and the official examinations and supervisions carried out by the Hungarian organs in succession could not find any irregularity in operation.

Selection of the chemical protective gloves needs reasonable experience and special knowledge. The middle level company leaders worked on the basis of insufficient knowledge and information what they had at that time. Material Safety Data Sheet of the organic solvent (Solutin C6) did not contain the type of gloves has to be applied. Therefore during the operation they applied three pairs of gloves in succession which were known by them and the gloves were previously used against organic solvent detecting damaging despite that the second pair of gloves was qualified as improved protective and the third pair of gloves should have resisted to caustic effect of solvent throughout 30 minutes at least.

The target of leaders on the spot was not to carry out “experiments on human beings” but the fulfilment of duty by use of protective equipments that they qualified as adequate and they applied in other operations successfully. On the basis of the proofs the examination could not reveal wilful endangering.

Responsibility of leaders comes up in respect with the fact that after the cognition of first gloves’ damages and signalisation given by the workers they did not stop the unofficial operation beyond the technological procedure and they did not look for the adequate type of protective equipment, i.e. they should have used the appropriate mean. They could have checked the permeability of material of gloves without direct human participation (it was not necessary to put hands of human being into the gloves) by so-called quick test in harmony with the Guide for selection of chemical protective gloves which is a general recommendation known in EU and harmonised by competent Hungarian authorities in Hungary and after a consultation with the representative of glove manufacturer firm.

During the operational time the worker did not suffer such an injury which could justify drop-out of working time and pay sick. Worker was not enforced to do similar activity during all time spent in company.

Worker suffered mild injury which was through no fault of his (own). Worker did not claim damages from the company though the company drew his attention to this. According to the Hungarian rules in force labour claims become outdated over three year period, i.e. the case had lapsed.

Considering all facts and acts HNCP declares the case legally closed and draws all sides’ attention to the needs that the probable risks in the case of applying technologies or aid material not known in full circle and deeply and all factors having harmful effect on environment and health have to be taken into consideration in the most prudent way and the interested sides have to take measures with respect to them and with special regard to the content of 25/2000. (IX.30.) EüM-SZCsM joint ministerial decree. The leaders on the spot

are not only responsible for keeping the rules but they have to meet the ethical obligations which are not binding and which are not written in laws, *e.g.* which are in the Chapter IV and V (and the paragraphs 27, 34, 35 and 40 of the Commentary) of the Guidelines for Multinational Enterprises or which were formulated in Ethics and Integrity Policy of Visteon mother company (US).

HNCP proposes that Visteon Hungary Ltd should work up the consequences of the case and on the basis of experiences obtained should form safety regulation applied within the company workshops with special regard to the selection, application and maintenance of protective equipments used against hazardous chemical materials. Company leaders should devote great care to teaching knowledge related to hazardous materials in order to eliminate all risks endangering life and health.

20 February 2007
Budapest

Ministry of Economy and Transport
1055 Budapest,
Honvéd u.13-15.

Visteon Hungary Ltd.
8000 Székesfehérvár,
Aszalvölgyi út 9-11.

Statement by the United States NCP**The United States National Contact Point's
Final Statement on the Saint Gobain-United
Autoworkers Specific Instance***5 January 2007*

On June 5, 2003, the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America International Union (UAW), the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM), and the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) jointly submitted a letter to the US NCP raising issues regarding the activities at a Saint Gobain Abrasives facility in Worcester, Massachusetts, under the Employment and Industrial Relations chapter of the OECD Guidelines for Multinational Enterprises regarding the right of workers to bargain collectively. Saint Gobain Abrasives is a subsidiary of Compagnie Saint-Gobain, a French company.

The unions sought the USNCP's assistance in addressing their concerns that Saint-Gobain's actions were interfering with their ability to represent and bargain on behalf of the employees at the Worcester facility, that Saint-Gobain management was not bargaining in good faith, and that the company was failing to ensure occupational health and safety.

The dispute between Saint-Gobain and the union which formerly represented the employees at the Worcester facility has been the subject of complaints filed at various times by the union, management, and employees who did not support the union, before the US National Labor Relations Board (NLRB). The NLRB adjudicates labor disputes under US labor law in the same areas addressed in the Industrial Relations Chapter of the OECD Guidelines.

The USNCP has met with the parties concerned, exchanged letters, and had numerous phone contacts throughout its preliminary assessment. After weighing the issues carefully and consulting the NLRB and the Federal Mediation and Conciliation Service (FMCS), the USNCP on April 14, 2005 offered its good offices and encouraged the parties to consider the possibility of reengaging the FMCS mediation process that they had pursued previously. The union responded favorably to this suggestion. However, the company reiterated the view, which it has maintained throughout the USNCP's involvement, that it preferred to pursue the issues exclusively through the NLRB under US labor law,

and further explained that process afforded the equivalent of mediation, noting the parties mediation before the Associated Chief Administrative Law Judge for the NLRB. The USNCP took no immediate action, but indicated to both parties that it would continue monitoring developments in the dispute while considering the preparation of a final report.

Pursuant to a decertification petition filed by certain Saint-Gobain employees, an election was held on January 27 and 28, 2005 to determine whether the union should be decertified as the employees' collective bargaining representative. In that election, bargaining unit employees voted by a margin of 350 to 309 to terminate the union's status as their collective bargaining representative. The union filed objections to the election with the NLRB and evidentiary hearings were held with an NLRB administrative law judge. On March 24, 2006, the administrative law judge issued a decision in which he certified the results of the election and ruled that, under applicable United States labor law, the union is no longer the exclusive bargaining representative of employees at Saint-Gobain's Worcester facility. The union issued a statement on April 28, 2006, acknowledging that its efforts to win majority support for union representation had not been successful, that it no longer represented Saint-Gobain workers, and that it had decided to close its Worcester office. As a result of these developments, the USNCP decided to discontinue its monitoring of the dispute and to prepare this final report concluding its involvement in the matter.

Notes

1. The complainants were the Australian-based Australian Conservation Foundation and the Human Rights Council of Australia and the PNG-based Centre for Environmental Law and Community Rights; the PNG Eco-Forestry Forum; and the Environmental Law Centre.
2. The complainants' original and supplementary submissions and the ANZ's submission are posted along with this statement on the ANCP's website (www.ausancp.gov.au).
3. The ANZ guarantee is made on behalf of RH and promises to make good liabilities that may be incurred by RH under the terms of its lease with the PNG Forestry Authority. The Authority can call upon the guarantee if RH were to fail to pay royalties, undertake reforestation, if applicable or act in any way outside the terms of its lease.
4. A succinct statement on the scope of the Guidelines, including application of the investment nexus test in a specific instance process is provided in the clarification issued by the OECD Investment Committee in the 2003 Annual Report on the OECD Guidelines for Multinational Enterprises.
5. Third bullet point in the 2003 clarification issued by the OECD Investment Committee in the 2003 Annual Report on the OECD Guidelines for Multinational Enterprises.

ANNEX I.A4

Consultations – Contributions by Business, Trade Unions and Non-governmental Organisations

Note by the Secretariat: The following texts are published in their original form. The views expressed are those of the authors, and do not necessarily reflect those of the Organisation or of its member countries.

BIAC Statement on the Promotion of the OECD Guidelines for Multinational Enterprises¹

Introduction

BIAC regards the OECD Guidelines for Multinational Enterprises as one of the leading sources of voluntary guidance for companies as they pursue good corporate responsibility practices. When promoting the Guidelines BIAC tries to put them into the broader context of corporate responsibility and the wide range of existing guidelines, recommendations, and voluntary commitments that have been developed to promote CR. BIAC encourages companies to use the variety of the existing instruments and to choose those tools which best allow them to develop and implement their corporate responsibility initiatives. An important additional part of the Guidelines promotion is BIAC members' co-operation with NCPs. In some countries, BIAC members are part of the NCP while in other countries they co-operate closely with NCPs regarding the promotion of the Guidelines. Moreover, BIAC members are also assist companies that are confronted with specific instances. They inform companies about the procedural aspects related to the NCP handling of specific instances and also give advice. Through this activity, BIAC members contribute to the *bona fide* resolution of issues that are arising related to the implementation of the Guidelines.

Recent activities

BIAC input to the work of the UN Special Representative on Human Rights

BIAC is engaged in bringing the Guidelines to the attention of other international fora and organisations. To this effect, BIAC participated in international business consultation with John Ruggie, the Special Representative of the United Nations Secretary General, on business and human rights in which we informed Mr. Ruggie about business views regarding the OECD Guidelines and the Risk Awareness Tool as well as BIAC's cooperation with the OECD in promoting these OECD products. Together with the International Employers' Organization (IOE) and the International Chamber of Commerce (ICC) BIAC developed an international business position on "Business and human rights: The role of Business in Weak Governance Zones." This joint paper responded to Mr. Ruggie's invitation to international business to identify effective ways for companies to deal with human rights dilemma situations encountered in weak governance zones. Drawing on the experiences of IOE, ICC and BIAC members, it reflects the position of representative global business in its very broadest sense. It also represents a further elaboration of how business can respond to human rights

issues, building on the considerable efforts already made by companies in promoting respect for human rights in their operations around the world. The paper served as the business input to Mr. Ruggie's report on business and human rights which Mr. Ruggie submitted to the UN Human Rights Council.

OECD Risk Awareness Tool for Investors in Weak Governance Zones

In the past two years, BIAC has very actively contributed to the OECD's work on the "Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones" (RAT). In February 2007, BIAC arranged an informal meeting between the OECD Secretariat and a number of BIAC members to discuss possible next steps regarding the development of a web-portal aimed at providing more practical help to companies invested in weak governance zones. The main outcomes of this meeting are reflected in the OECD's paper on "Promoting the Use of the Risk Awareness Tool". We are pleased that is OECD has indicated in general terms how it wants to move forward with this project and that the Secretariat's proposal reflects suggestions made by BIAC. In particular we find it important that the future web-portal provides thematic information across all chapters of the RAT and concrete country-specific information. BIAC would like to confirm its readiness to contribute to the development of an OECD web-portal.

Support for OECD Work on China and CR

In December 2006, BIAC and TUAC jointly encouraged the OECD to promote its MNE Guidelines with Chinese authorities as well as domestic and foreign companies and to assist them to understand how to make best use of the Guidelines. We are very pleased that the OECD has developed a programme for co-operation with Chinese authorities on this issue. In April, BIAC arranged a meeting between OECD staff and a number of China based business representatives. The purpose of the meeting, which was hosted by BASF in Beijing, was to discuss the planned OECD work on CR and China and, more specifically, the opportunities for business involvement in the multi-stakeholder forum on "Chinese and OECD Government Approaches to Encouraging Responsible Business Conduct" which is planned to take place in December. BIAC will continue to support the OECD outreach to China on Corporate Responsibility and we will be pleased to provide the OECD business contribution to the planned OECD-China multi-stakeholder event in Beijing at the end of this year.

Business support for OECD Guidelines at G8 Labour Ministerial

At the G8 Labour Ministerial on May 6 in Dresden, Germany, BIAC and the IOE jointly expressed business support for the OECD MNE Guidelines. In our joint submission,² we highlighted that the MNE Guidelines are an important cornerstone of CR. BIAC and IOE stressed that as part of the OECD Declaration

on International Investment, the Guidelines' value for multinational companies stems from the fact that they are part of a comprehensive set of recommendations drafted in partnership with business, labour unions and endorsed by governments. This strong backing, together with the framework of National Contact Points (NCP) that supports a tripartite dialogue to address issues related to implementation of the Guidelines gives the Guidelines a high credibility and hence also practical relevance for companies.

Contribution of BIAC members to NCP reforms

Many BIAC members co-operate closely with National Contact Points and are actively involved in discussions about how to further improve the effectiveness of NCP structures and activities. For example, in the UK, the Co-Chairman of BIAC's Investment Committee is the business representative on a newly formed Steering Board which will advise the UK NCP on the process surrounding the OECD Guidelines and specific instances. While not an appeals mechanism for decisions of the NCP, its aim is to help streamline the operations of the Guidelines procedures and to make them more effective. In due course, BIAC will be pleased to share emerging ideas from its experience in the UK.

Challenges ahead

Since the Guidelines were revised in 2000 the importance of corporate responsibility has grown still further for OECD companies. Today, the vast and overwhelming majority of larger companies devote a significant amount of time, effort, money, and due diligence to voluntary activities that aim to respond to societal expectations that go above and beyond law.

At BIAC we feel that one of the future priorities for promoting of the CR principles and values expressed in the Guidelines must be to increasingly help smaller and medium sized companies with more limited resources available to enhance their corporate responsibility profile. In addition, the OECD, the business community and stakeholders need to find ways to promote CR in companies from non-OECD countries that invest in other developing and emerging countries. Promoting responsible business practices among Chinese and other investors from developing and emerging countries' would significantly contribute to enhance the benefits from FDI to societies in non-OECD countries. The OECD also needs to continue its efforts to have a dialogue with non-member countries on how to create a better enabling environment for CR activities by companies.

As to the activities undertaken by NCPs, BIAC members are generally satisfied with the work of NCPs as regards the promotion of the MNE Guidelines. In particular, NCPs have in a number of specific instances

significantly contributed to resolving issues with companies. It appears that in some countries the credibility of the MNE Guidelines could be further enhanced through improved timeliness and predictability of the specific instance procedures.

BIAC notes that the handling specific instances that are subject of parallel proceedings continues to be a challenge for NCPs and all parties involved in the specific instances procedures. We believe that NCPs should not try to address problems that other national institutions have been specifically designed to address. NCPs also should not encourage forum shopping by interested parties. Thus, before accepting any request of an interested party to initiate a specific instance procedure that is subject to parallel proceedings, NCPs need to consider very carefully whether a specific instance procedure genuinely offers add value compared to the parallel proceedings already under way. BIAC appreciates and supports that the OECD in its summary of the discussions on specific instances and parallel proceedings produced last year, suggested that NCPs need flexibility in the handling of specific instances based on the merits of each individual case. However, we would also see potential benefit in discussing further whether it is possible to provide some clearer guidance for NCP.

Notes

1. This paper reproduces oral statements made by the BIAC delegation at the consultation.
2. Business Statement to the Meeting of G8 Ministers of Labour and Employment “Shaping the Social Dimension of Globalisation”, 6 May 2007.

TUAC Submission

Introduction

Since the 2000 revision of the OECD Guidelines for Multinational Enterprises, all adhering governments have established National Contact Points (NCPs). Nevertheless, a number of these are still not functioning effectively. This paper aims to analyse the performance of NCPs and, in particular, their treatment of cases. It will also compare their organisational structures in order to draw lessons about what works best. It should be noted that even among tripartite NCPs there are significant differences in structure.

Treatment of Cases

Trade unions have raised more than 80 cases with NCPs since 2001. NGOs have submitted an additional 50-60 cases. This paper, however, is based on information from trade union sources made available to TUAC and presented in the TUAC list of cases dated June 2007 (attached). It should be noted that the list is not exhaustive. There are some trade union cases which have not been reported to TUAC and thus do not figure in the list. For example, it appears trade unions submitted a case to the Portuguese NCP in 2004, but TUAC is not familiar with the facts of the case. Trade unions are also believed to have raised issues with the Spanish and Austrian NCPs.

As of May 2007 almost half (18) of the NCPs had not been formally called upon by trade unions to resolve a case. Those were: Australia, Austria, Estonia, Finland, Greece, Hungary, Iceland, Ireland, Israel, Latvia, Lithuania, Luxemburg, New Zealand, Portugal, the Slovak Republic, Slovenia, Spain and Sweden.¹ In addition, several NCPs remain inexperienced as they have dealt with few issues.

The US NCP has received the highest number of cases (14)² followed by the Dutch (9), French (7), Korean (7), UK (7), Japanese (5), Brazilian (5), Czech (4), Canadian (3), Mexican (3) and Polish (3) NCPs. This paper focuses on the NCPs in the US, Netherlands, France, Korea, UK and Japan as they together have received almost two thirds of the cases raised by trade unions. The Brazilian NCP has not been included as TUAC does not have enough information of the cases raised. The NCP appears to have been rather passive, but recent structural changes as suggested in the report of the NCP may lead to improvements.

Performance of Selected NCPs

The US NCP

The US NCP is a single department located in the Office of Investment Affairs in the State Department. Of the 14 cases that have been submitted by

trade unions, about a third are ongoing. In the opinion of TUAC's affiliates and partner organisations involved, the NCP has not contributed positively to the resolution of a single case. Nevertheless, six cases have been resolved through direct negotiations between the trade unions and the companies concerned, sometimes with the assistance of NCPs in the countries where the companies were headquartered (such as the French NCP) and with the support of trade union organisations in other countries. Together with other trade union representatives, TUAC met for example with both the local and French management in the case of Imerys.

The first case to be raised after the revision of the Guidelines was with the US NCP in February 2001 concerning the anti-union behaviour of Trico Marine Services. The NCP showed its unwillingness to deal with the issue by referring to proceedings under the National Labour Relations Board (NLRB). At that time, parallel legal proceedings had not yet appeared on the agenda of the OECD Investment Committee. Since then, the NCP has frequently cited parallel proceedings as a reason for not treating cases that have also been reported to the NLRB (which is the majority of the cases). A case regarding the Liberian International Ship and Corporate Registry submitted in 2001 was claimed to be "effectively addressed through other appropriate means". Trade unions have expressed concern over the NCP's lack of will to act as a facilitator in resolving labour related Guidelines cases in the US. Notwithstanding these problems, TUAC welcomes the statement on the Saint-Gobain case published on the NCP website in May 2007 and encourages the NCP to continue to issue public statements on the cases raised with the NCP.

The Dutch NCP

The Dutch NCP is currently going through a restructuring process. It is therefore premature to assess whether this will also lead to improvements in its effectiveness in dealing with cases. It is however promising that the NCP will now have two full-time employees as many NCPs appear to be understaffed. An NCP council is to be established, of which the members are to be appointed by the Minister of Foreign Trade. They are supposed to be selected on the basis of their knowledge and experience and do not represent stakeholder groups.

The NCP has had the main responsibility for handling nine cases submitted by trade unions.³ Only one is currently ongoing. Two of the nine cases were not accepted because of the lack of an "investment nexus". In both cases, however, it took the NCP 17 months to conclude the absence of an investment nexus. The Ryanair case was also turned down because it did not have a formal subsidiary in the Netherlands although it had staff located there. As to a case regarding the US based company Smead's activities in the Netherlands, the NCP argued that "legal proceedings took care of labour union's concern". It suggested

that the use of the Guidelines should be limited to address problems that went beyond national legislation. Yet there is no support for this interpretation of the Guidelines. On the contrary, the Guidelines are supplementary to national law and thus do not create conflicting requirements. NCPs should “act as a forum for discussion of all matters relating to the Guidelines” (whether or not they are covered in national legislation).

It is the view of the Dutch trade union confederation the FNV that the NCP has not dealt with issues in an efficient and timely manner. The FNV has at several occasions repeatedly written to the NCP to request information of the stages of the procedures without receiving any replies. The first case raised by trade unions with the NCP (IHC Caland) went on for three years. This was in part due to the inefficiency of the NCP that organised meetings only with considerable delays.

The French NCP

Because of the tripartite nature of the French NCP, trade unions have the possibility to ensure that the NCP is reasonably active and deals with cases in a serious way. The NCP is composed of the trade union centres CFDT, CGT, FO, CFE-CGC, CFTC and UNSA, the employer organisation MEDEF, the Ministry of Economy and Finance, Ministry of Labour, Ministry of Environment and Ministry of Foreign Affairs. As in the case of many NCPs, however, it has changed staff quite a few times and appears to keep a lower profile than before. Meetings are now held less frequently.

Trade unions have raised seven cases with the NCP, of which three are pending: Metaleurop, Technip-Coflexip and Seves. The case of Metaleurop was submitted already in the beginning of 2003, but appears not to have been progressed because of parallel legal proceedings.

The NCP has made public statements, also posted on their website, regarding three cases: the closure of Marks and Spencer, recommendations to French companies operating in Burma and the closure of Aspocomp. As to the fourth case, the closure of a Bata plant, it did not result in a statement. The NCP claimed that the Canadian NCP was un-cooperative and did not provide the information requested. However, the case has not been resolved and this would have warranted a statement.

The NCP has been relatively responsive in trying to resolve cases involving French parent companies and their foreign subsidiaries although the responsibility has mainly been other NCPs, notably the case concerning the anti-union policy of the US subsidiary (Brylane) of Pinault-Printemps-Redoute (PPR). The US NCP did not take measures to resolve the case, but the French NCP did set up meetings with the French management, and French unions were very active in trying to reach a solution.

The Korean NCP

In spite of requests by the Korean trade union confederations FKTU and KCTU, the Korean NCP does not involve trade unions in its work. It is an inter-departmental office only focusing on foreign direct investment situated within the Ministry of Commerce, Industry and Energy. It should be noted that the official name of the Korean NCP is “the Foreign Investment Working Committee”. It appears to have no expertise or specialists in dealing with international labor standards and corporate social responsibility issues.

The NCP has received seven submissions from trade unions concerning violations of the Guidelines. Yet, the NCP has not resolved one single case. Neither has it issued any public statements.

Trade unions have repeatedly criticised the NCP for not meeting with the trade union party raising the case. In the Nestlé case, for example, the unions managed to reach a settlement with the company with the support of the Swiss NCP. But the Korean NCP did not meet with the KCTU until the case was already resolved and only then because of union insistence.

As to the case about ChoiShin’s operations in Guatemala, the NCP even claimed that it had held an arbitration meeting notwithstanding that the trade unions had not been invited. The case was resolved first when the Guatemalan government threatened to revoke the company’s export license.

Only one case is still ongoing (Lafarge). Since the case was raised in October 2006, the NCP has neither visited the disputed workplace nor met the relevant workers. Without any investigation and consultation with the trade union, it unilaterally announced that the case had little relevance to the Guidelines. The NCP asserts, at the same time, that it cannot take any measures because of parallel proceedings.

The UK NCP

Following consultations with various stakeholders in 2006, the UK government decided to change the structure of the NCP. The NCP itself is now made up of officials based in the Department for Trade and Industry, The Department for International Development and the Foreign and Commonwealth Office, rather than simply a DTI official as was previously the case. At the beginning of 2007, the government set up a Steering Board with representatives of various government departments and agencies to oversee the work of the NCP. The government has also appointed four members from business, labour and NGOs. The Steering Board held its first meeting on 22 May 2007. It should be pointed out that it is not supposed to deal with cases, but rather “ensure proper procedures are followed in cases considered by the NCP, offer advice on such procedures and deal with other issues referred to it by the NCP”. This raises the question as to whether, in

practice, these changes will lead to any improvements in the treatment of cases. A panel of “experts” is also being established which the NCP will be able to call on for support with individual cases.

Prior to the changes, trade unions had submitted seven cases to the NCP. Three appear to have been resolved while the others are ongoing. The NCP has been very slow in reacting to the cases which are now pending despite commitments to improve timeliness. For instance, only in June 2007 did the NCP accept a case concerning an Indian subsidiary of Unilever that was filed in October 2006. Parallel proceedings were mentioned as a possible reason for not dealing with the issue. The NCP also has to make up its mind concerning a case against Group 4 Securicor, raised in December 2006. Furthermore, the NCP declined to go to Geneva to meet with some of the workers that could testify to the company’s violations of the Guidelines.

In addition, the closure of the Peugeot Citroën plant in Ryton was raised in July 2006 and while the plant has been closed, the case is still pending with the NCP.

This taken together illustrates that the NCP is not dealing with cases in an efficient and timely manner. The question is whether the revamped NCP will actually lead to a better performance. Moreover, as in the case of many NCPs, the staff responsible appear to be continually changed.

The Japanese NCP

The Japanese NCP is an inter-ministerial body composed of representatives of the Ministry of Foreign Affairs, Ministry of Health, Labour and Welfare and Ministry of Economy, Trade and Industry. The Japanese trade union confederation Rengo has requested that the NCP be turned into a tripartite body, but the government has not agreed to this.

Only one of the five cases raised with the NCP has been finalised (Honda) although it did not lead to a positive outcome for the workers involved. Besides, the NCP did not publish a public statement. The ongoing cases were submitted as early as 2003, 2004 and 2005. At least three of them are subject to parallel legal proceedings. The NCP refuses to take any action before the parallel proceedings have come to an end. In TUAC’s view, fear of disturbing Japan’s employer organisations appears to render the NCP non-functional.

NCP structures

Of the 39 NCPs, only nine are considered tripartite (with representatives of government, business and labour). They are located in Belgium, Denmark, Estonia, France, Latvia, Lithuania, Luxemburg, Norway and Sweden. In addition, the NCPs in Chile and Finland are quadripartite (also including NGOs).

Twenty-one NCPs are single government departments. Some of these involve the social partners and/or NGOs in an advisory capacity. This is the case in the Czech Republic, Switzerland and the UK among others. In Germany, the NCP has set up a working party on the Guidelines with representatives of business, trade unions and NGOs.

The worst example is the Romanian NCP, which is bipartite including representatives of employers' organisations, but not trade union organisations. TUAC is concerned that this structure prevents the NCP from being objective. The only case brought to the NCP by trade unions was also dismissed on incomprehensible grounds. The OECD Investment Committee needs to make clear to new adherents that the social partners should be treated equally.

In TUAC's assessment, the least effective NCPs are those that involve neither the Labour Ministry nor the social partners in their work. This is particularly alarming when issues concerning labour and trade union rights arise. The poor performance of some NCPs handling such cases can partially be explained by the lack of knowledge of these matters. The Polish NCP, for example, is a single department located within the Foreign Investment Agency. This has most likely contributed to the much criticised handling of the case regarding a PepsiCo plant in Poland. Trade unions have reported that the NCP did not understand the issues at stake. Such criticism has been made also in other cases. NCPs should always include the Labour Ministry when dealing with cases concerning employment and industrial relations. Changes in staff may also have contributed to the poor treatment of the PepsiCo case.

Some NCPs have a high staff turnover, which can cause serious problems when there are ongoing cases and due to a lack of "institutional memory" when treating new cases. New staff should get proper training and there should also be overlapping so that a replacement will work together with the person it is supposed to replace.

Tripartite NCPs have generally been more effective than others, especially in comparison to NCPs which consist of a single government department which do not involve the social partners or the NGOs. The NCPs in Belgium and Sweden were established in 1976, and have thanks to their tripartite structure been operational since then. Another important factor is the involvement of relevant government departments (labour, environment, finance etc) regardless of where the NCP is situated. A particular feature of the Swedish NCP is that it also consults the social partners on issues and papers being discussed in the OECD Investment Committee that go beyond the Guidelines.

There are, however, significant differences among the tri- and quadripartite NCPs. While some NCPs consider the role of the social partners as consultative, others are more inclined to come to an understanding in the sense that one of the parties could even hold a veto over a conclusion on a

case. To avoid this situation, the Finnish NCP has appointed a quadripartite advisory committee which operates under the auspices of the Ministry of Trade and Industry and acts as the NCP though the government has ultimate responsibility.

In Sweden, this problem has been resolved by letting the chair of the NCP, which is always a government representative, have the final say. If the parties cannot reach an agreement, the chair will make the final decision. The NCP strives to reach a consensus, but will not let one of the parties prevent the NCP from taking action.

NCPs that are tri- or quadripartite are normally more active and transparent. Since trade unions are involved directly, questions of accountability are not raised. Moreover, trade unions in non-adhering countries can benefit from the tripartite structure by getting access more easily and support from trade union colleagues when raising cases outside the adhering country. Another advantage is the direct involvement of business. The Guidelines apply to them and their responsible involvement should facilitate the promotion and implementation of the Guidelines. This taken together should lead to better functioning NCPs and a more effective treatment of cases. However, if the social partners would be weak or for whatever reason would not feel it appropriate to use the Guidelines, they might not contribute to an active NCP. There are also non tripartite/quadripartite NCPs which have handled cases effectively such as the Czech NCP.

As to whether an NCP should be tri- or quadripartite, trade unions and NGOs share the same objective in making NCPs work properly and deal effectively with cases. NGOs can therefore strengthen the trade union position and *vice versa*. On the other hand, trade unions and NGOs will not automatically agree on all the issues discussed in the NCP as unions have direct membership in companies concerned.

Conclusions

This paper has focused, in what is intended to be a constructively critical way, on the performance of the six NCPs that have received the highest number of cases (US, Netherlands, France, Korea, UK and Japan) – in total, almost two thirds of the cases raised by trade unions.

The NCPs with few or no cases reflect other “extremes”. In some NCPs, the lack of visibility makes it unlikely that unions will raise cases, in others they may be effectively resolving issues before cases arise.

The NCPs in three countries – the US, Korea and Japan – account for about one third of the cases submitted by trade unions. Yet to date they have not contributed to resolving a single case to the satisfaction of the trade union organisation(s) raising the case.

There is also concern about the performance of the Dutch and UK NCPs. The governments have responded to the criticism by restructuring the NCPs. But it is too early to assess the effects of these changes.

A number of key NCPs have used parallel proceedings as a reason for not dealing with cases. Particularly the US and Japanese NCPs regularly put such cases aside. The US NCP is reluctant to handle cases which are reported to the National Labour Relations Board, while the Japanese NCP claims that it cannot interfere with legal systems in other countries. The French NCP, however, has treated several cases despite parallel proceedings, eg Marks and Spencer.

TUAC has repeatedly argued that a case or a specific instance primarily concerns the provision of the Guidelines that has been violated and not laws and regulations. Thus, the NCP does not need to, and should not, interfere with legal systems. This does not prevent the NCP from taking account of how an issue is being treated in another proceeding.

The investment nexus has particularly been invoked by the Dutch NCP. Its narrow definition of “investment” has excessively limited the number of cases it has responded to. It took the NCP almost one and a half year to decide that two cases were not admissible because of the lack of an investment nexus. Such outcomes are harmful to the credibility of the Guidelines. Instead of trying to resolve the issues that arise because of the operations of multinational enterprises, some NCPs spend their time contemplating whether the issue fulfills the criteria of being investigated despite the fact that the NCP procedure is a forum for discussion and not a legal procedure.

To ensure that NCPs are functioning effectively, they need to engage the social partners, NGOs and national parliaments. This is the best way to achieve transparency and to hold NCPs accountable. Consequently, tri- or quadripartite NCP do in general operate better than other NCPs. This does not mean that all tri- and quadripartite NCPs are effective. In fact, four out of the nine tripartite NCPs have not handled a single case, which makes it difficult to assess their effectiveness.

Ultimately, whether NCPs are operating in accordance with the terms set out in the Procedural Guidance is a question of political will. Trade unions will, nevertheless, continue to seek to hold governments accountable to their commitments made in the 2000 Review. We will be issuing a guidance note to our affiliates to advocate appropriate reforms at the national level.

This paper has identified a number of obstacles that need to be tackled in order to increase the effectiveness of NCPs:

- lack of competence in handling issues concerning labour and trade union rights;
- lack of involvement of the social partners;

- reluctance to meet with trade unions and workers subject to violations of the Guidelines;
- slowness in responding to the party raising the case;
- rapid staff turnover;
- absence of public statements; and
- systematic use of “parallel proceedings” or the “investment nexus” as a reason for not treating cases.

Notes

1. The Swedish trade union confederations LO and SACO, however, made an enquiry to their NCP concerning a Swedish company that was named in the UN Report on the DRC. It turned out that the company was registered in Bermuda and it was later taken off the UN list.
2. Not counting a request by the AFL-CIO in May 2001 to discuss US companies involved in activities in Burma.
3. Chemie Pharmacie Holland BV has not been included as a formal case although the FNV requested the NCP to look into the allegations against the said company after having been identified by the UN Panel of Experts as one of the companies in breach of the Guidelines in the Democratic Republic of Congo.

OECD Watch 2006/07 Review of National Contact Points and the Implementation of the OECD Guidelines

Introduction

The last year has seen growing consensus among NGOs, and policymakers that OECD governments need to greatly improve the policies and procedures of their National Contact Points (NCPs). Several calls to the OECD and national governments to adopt better procedures for implementing the OECD Guidelines have been made.

In February 2007, the *Special Representative of the Secretary General of the UN, John Ruggie*, pointed out in his report that “some NCPs have also become more transparent about the details of complaints and conclusions, permitting greater social tracking of corporate conduct, although the NCPs’ overall performance remains highly uneven.” His Special Advisor, Gerald Pachoud, remarked at the OECD Watch conference in Brussels that the “OECD Guidelines and the NCP architecture is currently the only existing international instrument for corporate accountability... therefore it is even more important to ensure effective functioning of the OECD Guidelines”.

In March 2007, the *European Parliament* called on the European Commission and Member States to “[I]mprove the functioning of [NCPs] in particular in dealing with specific instances raised concerning alleged violations throughout operations and supply chains of European companies worldwide”. Furthermore, the resolution calls “for the development of a model for European NCPs with best practice on their institutional set-up, visibility, accessibility for all stakeholders and handling of complaints”.

Recently and most prominently, the *G8 summit* referred to the OECD Guidelines, stating, “We commit ourselves to promote actively internationally agreed CSR and labour standards (such as the OECD Guidelines for Multinational Enterprises and the ILO Tripartite Declaration), high environmental standards and better governance through the OECD Guidelines National Contact Points”.

These statements confirm the growing consensus that the current governance of NCPs and their institutional structures are, in many instances, a significant barrier to the Guidelines reaching their full potential.

In some countries, structural changes have already been implemented to improve the functioning of NCPs, notably the Netherlands and the UK. This is a welcome development. To assist NCPs and the Investment Committee to achieve improved functioning of the NCPs, OECD Watch is developing a “Model NCP”.

OECD Watch's 2006/07 review of the functioning of NCPs used the draft Model NCP as a reference against which OECD Watch evaluated the functioning of the NCP in their country. Analysis suggests that the functioning of NCPs remains inconsistent and is still a long way from what is proposed in the Model NCP and recently recommended by international leaders. Considerable efforts are required to meet the expectations of civil society organisations.

This review is based on NGO evaluations of the following NCPs: Australia, Argentina, Brazil, Belgium, Canada, Denmark, Finland, Germany, the Netherlands, Norway, Spain, Sweden and the United Kingdom. In addition, input was provided by a number of OECD Watch members from non-OECD countries.

Structure, information and promotion

Current structure and structural changes

The structure of many NCPs was criticised by OECD Watch members. There is a significant gap between existing structures and that proposed in the Model NCP. For example, most NCPs have no supervisory board and many are still only situated within one ministry.

A number of NCPs have undergone structural changes over the past year. The UK, Dutch, Canadian and Argentinean examples are welcomed by NGOs, but recent changes in Norway and Australia have received criticism from NGOs in these countries.

In Norway, the NCP was transferred from the Human Rights Department to the Protocol Department. Although Norwegian NGOs have not yet tested the new NCP structure, concerns were raised about the shift of responsibility to the same department that is responsible for promoting Norwegian business. This presents a potential conflict of interest.

In Australia, whilst a structural change has not occurred, frequent changes in NCP personnel (four NCPs since 2000) is perceived as frustrating for community groups and trade unions. Further, it significantly reduces the potential for consistent functioning of the NCP and systematic improvement and skill acquisition by the NCP. It suggests the Australian Government's commitment to the Guidelines is difficult to uphold in the current structure.

A further concern is the reduction in regular community consultation and meetings with stakeholder working groups on the OECD Guidelines. In the case of Australia no consultation was held for the period of this review. Previously consultations were held three times a year.

It has become apparent that NCPs are often praised for their "good performance" outside of their country, but that these views are not always shared by NGOs who have monitored their performance from within their

own country. For example, in Sweden it is common practice for all government representatives to publish their identity on their websites, yet the Swedish NCP is not visible or easily accessed.

The recent restructuring of the UK NCP has resulted in an NCP comprised of three civil servants from different ministries: Trade and Industry, International Development and the Foreign Office. All have one representative, with the Trade and Industry representative taking the lead role. According to UK NGO RAID, this has resulted in more openness to NGO participation.

The newly-restructured Dutch NCP consists of experts with a long-standing reputation among stakeholders. The chair is the former director of the Society for the Preservation of Nature Reserves in the Netherlands; other members include a former vice-president of ABN-Amro, the former chair of the Dutch trade union FNV and a professor of Biology and Society. According to Frank Heemskerk, Dutch Minister for Economic Affairs, “these appointments are intended to guarantee the independence of the NCP”. The members of the NCP have been appointed for a period of three years.

In Argentina, the NCP has announced plans to appoint a multistakeholder board. This will include representatives from government, business, trade unions and NGOs. This board will advise the NCP and will act as an expert panel in specific instance discussion and decision making. OECD Watch welcomes these initiatives and encourages similar developments in the office of other NCPs .

Finally, a proposal for a new structure in Canada have been put forward by the “Advisory Group of the National Round Table Process on CSR and the Mining Sector in Developing Countries”. The Advisory Group’s report supports an ombudsman office with inquiry capability and public accountability. This is seen as a useful mechanism to regain trust and support from Canadian civil society. This has been eroded in the past and many groups have lost confidence in the NCP procedure.

Parliaments working towards better implementation of Guidelines

In recent years, reforms in a number of countries have been initiated through parliamentary support or pressure. The UK NCP identifies Parliament as a “key actor” in the implementation of the OECD Guidelines. Recently, parliaments in Australia and Germany have taken up the issue of the OECD Guidelines as well. In Australia, a substantial parliamentary inquiry was conducted on CSR. Whilst many of the recommendations did not meet NGO expectations, the strong endorsement of the OECD Guidelines and recommendations to better promote the Guidelines were welcomed. The European Parliament has recently called on national governments to actively improve the functioning of NCPs. There is growing consensus that

parliaments in all OECD and adhering countries must take an active role in monitoring the functioning of their NCP and work towards improving the structure and governance of the NCP.

Information and promotion of the OECD Guidelines

With regard to information sharing among NCPs, two reviews were satisfactory. In Sweden, the national government organises open seminars and workshops informing the broader public about the OECD Guidelines and CSR in general. In the UK, the promotional work of the NCP has greatly improved, and the NCP is actively trying to provide information on the Guidelines. A number of references to the OECD Guidelines and the UK NCP have been made by British government ministers.

In Australia, the Brotherhood of St. Laurence has advised that no promotional activity appears to have been undertaken since May 2006. In Norway, the NGO ForUM indicates that there is a severe lack of transparency at the Norwegian NCP. The reviews from Nepenthes in Denmark and Germanwatch in Germany indicate that very limited information is made public about the activities of the Danish and German NCPs. The German NCP did update its website over the course of last year and published a report on their work, but the provision of information is still very limited, especially when it comes to information on specific instances. At the OECD Watch Roundtable in Brussels in June 2007, the Dutch NCP announced their intention to improve the link between the OECD Guidelines and export credits. The Dutch government's current requirement that companies acknowledge the Guidelines and endeavour to comply to the best of their ability is seen as weak and lacking active compliance monitoring.

Handling of cases

Since the June 2006 review, NGOs have filed eleven new complaints, several of them noteworthy. The case against 57 German companies involved in the Oil for Food scandal by Transparency International is perhaps the largest single case to date. Another interesting development was the first "South-South" complaint. This involved several trade unions and civil society groups from raising a complaint with the Chilean NCP regarding the activities of a Chilean bank for alleged labour and human rights abuses in Peru. A complaint has also been filed against a German car producer in the first test of the relevance of the OECD Guidelines will be tested with regard to climate change.

The review confirms that many previously-cited concerns regarding the effective handling of complaints still exist. Respondents expressed particular concern with regard to the investment nexus, functional differences and inactive NCPs, rejecting cases, inequitable treatment of parties, narrow interpretation of the confidentiality requirement and lack of resources.

The “investment nexus”

Since the introduction of the term “investment nexus” by the OECD Investment Committee in 2003, NCPs have used the term numerous times to dismiss cases. The Special Advisor to John Ruggie, Gerald Pachoud, stated at the June 2007 OECD Watch Roundtable in Brussels that the investment nexus definition needed to be resolved as it was currently being used by NCPs to reject specific instances and was therefore preventing the Guidelines from reaching their full potential.

This was recently evident in Australia where a case filed by the Australian Conservation Foundation (ACF) against a major Australian bank for allegedly financing unsustainable logging operations in Papua New Guinea was rejected. There was significant evidence of major human rights abuses, environmental damage and illegal conduct by one of the bank’s clients. Despite the evidence, the Australian NCP rejected the case on the ground that there was not sufficient proof of an investment nexus between the bank and the logging company and the financial arrangements did not trigger the supply chain provisions of the Guidelines.

By comparison, the Swedish NCP has demonstrated a far more open approach to the issue and accepted a complaint against a Nordic Bank for its financing of a pulp-mill in Uruguay. The Swedish NCP also contributed a well-received paper to the general debate about the role of the Guidelines and the financial sector. The Swedish paper includes discussion about criteria for assessing the responsibility in the supply chain using the concept of “sphere of influence” as an argument. This was a major contribution to the 2007 OECD Investment Committee Roundtable on CSR. Another good example of a broad interpretation of the investment nexus is the Dutch NCP’s acceptance of a case against a Dutch jeans brand involving labour rights violations at the company’s Indian supplier.

Functional differences

In addition to the functional difference between the Australian and Swedish NCPs with regard to the investment nexus, the German NCP’s behaviour in this review period reinforces OECD Watch’s argument that the principle of NCP “functional equivalence” does not seem to be working. In the case of Transparency International against Ratiopharm for alleged bribery of doctors and pharmacists in Canada, Belgium, Spain and Estonia, the German NCP argued that it should be taken up by the NCPs of the countries in which these bribes took place. However, instead of liaising with and forwarding the complaint to the appropriate NCPs as other NCPs have done in similar situations in the past, the German NCP was unwilling to redirect TI’s complaint to the respective NCPs or to examine the violations in Germany.

Unequal treatment

A basic requirement for mediation is that both parties receive equal treatment; however, this is often not the case with NCPs. According to RAID, the UK NCP has a poor track record in this regard. Although there has not been enough time to evaluate how the UK NCP's new structure will affect the handling of cases, there is a sense that these changes could have negative consequences for pending cases. The NCP procedure in the BTC-pipeline case was criticised in OECD Watch's April 2007 newsletter, which reported that the UK NCP has been too heavily reliant on a BP document that was not disclosed to the complainants. The BTC and Anglo American cases may cause embarrassment for the NCP, and a statement may be issued simply to conclude the matter. This would further confirm the concerns of some NGOs that raising a complaint is not worth the investment of time and resources.

The Dutch NCP is also dealing with a number of pending complaints raised by NGOs and trade unions. In the case against jeans producer G-Star, the complainants, Clean Clothes Campaign and the India Committee of the Netherlands, are frustrated at the way the case is proceeding. The complainants have made several suggestions as to how the process could be furthered, but the NCP has not responded to these suggestions. The complainants believe that the NCP has been coerced by the company into playing a weaker role in the procedure. The perceived lack of transparency regarding the procedure and the inequitable treatment of the parties is unsatisfactory.

Narrow interpretation of the confidentiality requirement

A disturbing development is the request from some NCPs that complainants suspend any advocacy work during the complaint procedure. It must be recognised that NGOs have a public role and should be regarded as essential "watchdog" organisations that form part of the checks and balances needed to ensure the benefits of globalisation are evenly maximised. OECD Watch and NGOs involved in specific instances have a common understanding of the procedure's confidentiality principle. NGOs believe that public statements on information and/or documentation brought forth by the parties during proceedings would infringe the Guidelines' confidentiality principle unless the other party agrees the information can be disclosed. However, it is inappropriate and without basis that demands are made of NGOs to withdraw information from the public domain that existed prior to the complaint being lodged. Similarly, expectations that NGOs suspend advocacy work related to the company's practices are also considered unreasonable. NGOs would not expect an enterprise to cease trading or conducting their business activities while the specific instance is being

resolved. Any attempt to use the NCP procedure to restrict NGOs' actions would seriously undermine the trust of civil society organisations in the OECD Guidelines

OECD Watch interprets the Guidelines as allowing disclosure of information and publicity during the initial assessment phase of a case and use of the media to announce that a case has been lodged.. OECD Watch is very clear that once the complaint is accepted as a specific instance then the above-mentioned confidentiality rule comes into effect. To date, NGOs have never violated this principle. For further information on the OECD Watch position on the confidentiality requirement see OECD Watch's 2006 briefing paper "The Confidentiality Principle, Transparency, and the Specific Instance Procedure", available at www.oecdwatch.org.

Inactive NCPs

The concerns highlighted above apply to those NCPs that are endeavouring to uphold their responsibilities. However, some NCPs are completely inactive. Even those NCP who have never had to deal with a specific instance can actively promote the Guidelines. It has become evident that NCPs are frequently inactive or function poorly not only due to a lack of political will, but also a lack of resources. Governments must provide the necessary resources for NCPs to fulfil their job and conduct work in a constructive way. The Dutch NCP is leading by example and now has a budget of €900 000 over three years.

Critical issues from non-OECD countries

Threats to NGOs

OECD Watch is extremely concerned about recent serious threats to NGOs directly involved in a specific instance in Ecuador, the Democratic Republic of Congo and India. These threats range from verbal death threats to police harassment and various legal actions aimed at silencing the NGOs and making their work impossible. In India, in an attempt to silence NGOs seeking to address labour rights violations at a garment factory, the garment producer requested a restraining order against the NGOs, including OECD Watch members. Under the restraining order, the Indian NGOs are not allowed to communicate about the issue outside of India and have therefore been unable to raise the issue at the NCP or seek international solidarity.

In an effort to support the Indian NGOs and trade unions and to address the responsibility of buyer companies, the Clean Clothes Campaign and the India Committee of the Netherlands filed a complaint against jeans brand G-Star at the Dutch NCP. The CCC and ICN have since received legal threats from the Indian producer and have been summoned to appear in an Indian court for alleged "cyber crime, acts of racist and xenophobic nature and criminal defamation".

Legal proceedings to restrict the freedom of speech of NGOs involved in OECD Guidelines procedures is seriously harming the effectiveness of the instrument and the willingness of NGOs to engage in the process. If the OECD Guidelines are to reach their full potential in the resolution of conflict between business and the communities in which they operate, they must not be associated with attempts to silence NGOs and keep them from addressing societal concerns.

Usefulness in changing corporate behaviour

In order for the Guidelines to be effective in encouraging responsible business conduct, NCPs must have an authoritative voice so that their decisions are respected by business. In Spain, the Observatorio de la RSC expressed concerns about pressure from commercial sectors and enterprises on the Ministry of Industry to keep the NCP at a low profile. The Observatorio also points out that only two companies from the IBEX 35 have mentioned the OECD Guidelines in their annual or sustainability report. They suggest, “Either the companies do not consider the Guidelines important enough to mention or they do not want to commit to them”. One solution put forward by the Observatorio is to use adherence to the OECD Guidelines as a criterion for export and foreign investment credits. OECD Watch supports this.

In Australia, the Brotherhood of St. Laurence (BSL) reports that the OECD Guidelines are gaining recognition among the business community, although the absolute level is still very low. According to BSL, “There are examples of enterprises using the Guidelines as a risk assessment tool and identifying aspects of their business that may be in breach of the Guidelines. This is yet to be made public by the company, but it is being considered. Further, the CEO of Global Solutions Limited (Australia) indicated that the application of the Guidelines through the specific instance process would have a long-term impact on the corporate culture of GSL with regard to their human rights responsibilities. Using the specific instance mechanism appears to be the most effective way to focus both enterprises and the Australian NCP on their responsibilities with regard to the Guidelines”.

In the Netherlands, the NCP commissioned a survey among Dutch companies regarding their knowledge and use of the OECD Guidelines. The clear result was most companies had not even heard of the OECD Guidelines.

The Danish NGO Nepenthes reports that the OECD Guidelines do not seem to be very successful in changing the behaviour of MNEs in that country. For example, the timber company Dalhoff, Larssen and Hornemann (DLH) voted down a proposal to conduct business in accordance with the OECD Guidelines. Instead, a proposal put forward by the DLH board merely stating that the enterprise “aims at” conducting business in accordance with the

Guidelines was passed after the board announced that the enterprise believes the current practice to be in accordance with the Guidelines. A specific instance was raised against DLH in March 2006, and the case is pending at the Danish NCP.

OECD Watch activities in the reporting period

OECD Watch has been actively promoting the use of the OECD Guidelines by NGOs and other stakeholders including Socially Responsible Investors (SRI) as one of the key intergovernmental instruments to hold corporations to account and assess their sustainability performance. OECD Watch remains concerned that the current functioning of the OECD Guidelines and many NCPs is adversely affecting the reputation of the instrument in the international discourse on corporate social responsibility. OECD Watch is committed to addressing the malfunctioning of the instrument and developing constructive solutions to fill the gaps in corporate accountability at the global level.

In addition to taking part in Investment Committee consultations and coordinating submissions reflecting NGO perspectives, OECD Watch has initiated a number of activities to advise NGOs about the OECD Guidelines and the work of the IC.

Recent publications include:

- Quarterly Case Update with up-to-date information about the latest developments in specific instance procedures filed by NGOs;
- OECD Watch Newsletter sent to over 500 recipients;
- OECD Watch Guide to the Guidelines to assist NGOs in using the OECD Guidelines specific instance procedures entitled "Guide to the OECD Guidelines for Multinational Enterprises' Complaint Procedure: Lessons from Past NGO Complaints," published in June 2006.

Training and capacity building

OECD Watch has carried out several training workshops in the following countries to inform NGOs of the policies and work of the OECD in general and to train NGOs and trade unions in using the OECD Guidelines specific instance procedure in particular:

- Argentina, 2006.
- Ghana, July 2006, which included a field trip to communities impacted by gold mining.
- Nairobi, January 2007, in conjunction with the World Social Forum.
- An interregional seminar will be organised in India in October 2007.

Additional promotional activities have included interregional roundtables in Spain, Finland, Slovakia and Belgium. Further, OECD Watch members have been active in their own countries promoting the Guidelines among senior government officials and policy advisors, the business sector and civil society.

OECD Watch's project to promote the OECD Guidelines in the SRI community

OECD Watch believes there is a key role for financial market actors in improving corporate behaviour. Therefore, the development of criteria and indicators to identify socially responsible enterprises is essential. The OECD Guidelines offer a set of shared principles to increase convergence of screening methodologies, criteria and indicators among socially responsible investors. Furthermore, information with regard to alleged non-compliance with the OECD Guidelines, such as is documented by OECD Watch through its monitoring of NGO cases filed, could be very valuable for investors that need to assess a company's social and environmental performance.

OECD Watch has partnered with the European Social Investment Forum (Eurosif), a European-wide group whose mission is to address sustainability through financial markets. Eurosif's members include pension funds, financial service providers, academic institutions, research associations and NGOs. The project aims to promote the use of the OECD Guidelines among responsible investors and extra-financial ranking and rating agencies. OECD Watch is developing a number of tools and fact sheets on how the SRI community can use the OECD Guidelines and how specific chapters and paragraphs in the Guidelines (such as human rights and supply chain responsibility) can be interpreted in socially responsible screening. The first in a series of four fact sheets was published in June 2007. OECD Watch has also organised a dialogue session with SRI agencies and investment funds to discuss how best to use the OECD Guidelines in ethical investment decisions, including the information documented by OECD Watch on cases filed against MNEs by NGOs in its case database.

The Model NCP

OECD Watch has responded proactively to concerns raised in the 2005 "Five Years On" report regarding the functioning of NCPs. Given the emphasis of European governments on corporate social responsibility, OECD Watch, with support from the European Commission, initiated the Model NCP (MNCP) survey in order to obtain the views of NGOs, trade unions, business groups and, not least, of the NCPs themselves. The overall aim was to discover whether there is a consensus about best practice and what changes or improvements are regarded as necessary or desirable to improve the functioning of NCPs. OECD

Watch and the participants in the survey believe that the exercise should be extended to NCPs based outside of the European Union.

To help the debate on the MNCP, OECD Watch drew up its “model”, which was then widely distributed along with a questionnaire. Given the focus on Europe, in March, April and May 2007, OECD Watch organized roundtables in Madrid, Helsinki and Bratislava that were well attended by NCPs and NGOs from Southern and Eastern Europe and the Nordic and Baltic States. The MNCP was also discussed at OECD Watch’s Multi-Stakeholder Roundtable that took place in Brussels on 15 June 2007. Speakers at the Roundtable included Manfred Schekulin, Chair of the Investment Committee; Stephane Ouaki, Deputy Head of Cabinet of European Commissioner for Employment, Social Affairs and Equal Opportunities; Richard Howitt, Member of European Parliament; Gareth Llewellyn, National Grid; Veronica Nilsson, TUAC; and Gerald Pachoud, Special Advisor to Professor John Ruggie, the UN Secretary General’s Special Representative on Business and Human Rights. NCPs from Argentina, Australia, Canada, the Netherlands, Spain and the UK also participated.

In its Model NCP, OECD Watch is proposing changes regarding NCP structure and procedures, especially when it comes to the handling of complaints. OECD Watch also provides proposals for improved implementation of the OECD Guidelines.

Regardless of the structure adopted, for the instrument to work, NCPs have to be informed, authoritative and command the confidence of all parties. As a long-term goal, OECD Watch would like to see the evolution of the NCP into an quasi-legal expert panel along the lines of an employment tribunal. Though funded and possibly directly appointed by the government, NCPs should have sufficient autonomy to reach decisions and make recommendations based on the merits of a complaint. NCPs should be chaired by a senior judge.

Currently, there is overwhelming support from NGOs and TUAC, as well as many NCPs, for the idea of an inter-ministerial NCP headed by a senior, suitably qualified civil servant. But this is not enough; without proper training and clear and equitable procedures, the ill-prepared and ill-equipped NCP is little more than a half-hearted and amateurish gesture by governments toward the growing problems of globalisation and corporate misconduct.

Conclusions and recommendations

1. Harmonise NCP procedures in an upward manner

OECD Watch calls on NCPs and the OECD Investment Committee to consider OECD Watch’s Model NCP and assess how components of the model could be used to ensure a minimum level of acceptable common procedures and expectations among all NCPs. Proposals to improve the

functioning of NCPs should be discussed with stakeholders and therefore be put on the IC's agenda for consultations.

2. Take forward the recent calls from intergovernmental bodies

In order for the OECD Guidelines to be a meaningful tool in the international debate on corporate responsibility, the Investment Committee and NCPs should consider very carefully the recent statements made at the international level, such as that of the European Parliament's resolution and John Ruggie's interim report. In particular, OECD Watch calls on the OECD and NCPs to take forward the recommendations made at the G8 summit with regard to providing better governance through the NCPs.

3. Address NCP inconsistencies in the Investment Committee's work agenda

OECD Watch's survey for the Model NCP identified areas of work that the IC could undertake to address unequal and ineffective functioning of NCPs, such as:

- obtaining more information from tripartite and quadripartite NCPs about the role and responsibilities of external members, particularly in dealing with specific instances.
- obtaining more precise information about the legal status of NCPs, how decisions on specific instances are arrived at and by whom, for example, by clarifying whether decisions on final statements are ministerial decisions or acts.
- obtaining information about staffing levels and funds available to NCPs to engage in fact-finding in relation to specific instances. Resources are a major constraint faced by most NCPs, the problem being most acute in Southern and Eastern Europe and the Baltic region.

4. Evaluate the role of the Investment Committee as oversight body

Currently, the OECD Investment Committee has the responsibility for overseeing the way in which NCPs function and implement the Guidelines. But in reality, the Committee has not been able to fulfil this role effectively, mainly because of national sensitivities about economic interests and any suggestion that companies are being scrutinised by third parties. A study should be made to evaluate the role of the Investment Committee and its procedures in order to see how the IC might be made more effective in its role as an oversight body.

PART II

OECD Roundtable on Corporate Responsibility – The OECD Guidelines for Multinational Enterprises and the Financial Sector

Acknowledgements

The National Contact Points and the OECD Investment Committee wish to thank all of those who actively contributed to the OECD Roundtable on Corporate Responsibility held in Paris on 18 June 2007 in conjunction with the seventh annual meeting of the National Contact Points, and more particularly.

Ambassador Elisabeth DAHLIN, Head of Swedish Partnership of Global Responsibility, Swedish Ministry for Foreign Affairs who chaired the Roundtable.

and the following invited speakers and respondents from government, business, labour, international organisations and non-governmental organisations:

Dr. Jan ATTESLANDER, SwissHoldings, Federation of Industrial and Service Groups Switzerland and Co-Chair of BIAC Committee on International Investment and Multinational Enterprises.

Mr. David BARNDEN, Coordinator of Human Rights Programme, Bank Track.

Mr. Fouad BENSEDDIK, Directeur Recherche et Relations internationales, VIGEO Group.

Mr. Matt CHRISTENSEN, Executive Director, EUROSIF.

Mr. Paul CLEMENTS-HUNT, Head of Secretariat, UNEP Finance Initiative.

Ms. Amy DAVIDSEN, Head of Environment Affairs, JPMorgan Chase.

Mr. John EVANS, Secretary General of TUAC.

Ms. Teresa FOGELBERG, Senior Director, Business Engagement and Stakeholder Relations, Global Reporting Initiative.

Mr. Stephen HINE, Head of International Relations, Ethical Investment Research Services (EIRIS) Ltd, United Kingdom.

Mr. Leo JOHNSON, Co-Founder, Sustainable Finance.

Mr. Lennart KILLANDER-LARSSON, Chair, Swedish National Contact Point.

Ms. Valborg LIE, Senior Advisor, Asset Management Department, Norwegian Pension Fund, Ministry of Finance.

Ms. Serena LILLYWHITE, Manager, Ethical Business, Brotherhood of St Laurence and OECD Watch.

Mr. Herman MULDER, Senior Advisor to UN Global Compact and WBCSD, former Senior Executive Vice President, ABN AMRO.

Mr. David PITT-WATSON, Chair, Hermes Equity Ownership Services.

Dr. Rory SULLIVAN, Head of Responsible Investment, Insight Investment.

Dr. Raj THAMOTHERAM, Director, Responsible Investment, AXA Investment Managers Ltd.

Mr. Nicholas VANTREESE, ORSE, Club Finance.

Mr. Paul WATCHMAN, Le Boeuf, Lamb, Green and MacRae LLP.

Summary of the Roundtable Discussion

The Preface of the OECD Guidelines for Multinational Enterprises states that the Guidelines aim to ensure that the operations of these enterprises are in harmony with government policies, to strengthen the basis of mutual confidence between enterprises and the societies in which they operate, to help confidence between enterprises and the societies in which they operate, to help improve the foreign investment climate and to enhance the contribution to sustainable development made by multinational enterprises. In order to achieve these goals, the 40 governments adhering to the Guidelines have committed themselves to participating in the Guidelines' unique implementation procedures.

Every year the OECD holds a Roundtable on Corporate Responsibility in conjunction with the annual meeting of the National Contact Points (NCP). The purpose of this annual meeting is to assist NCPs in performing their role of promoting and implementing the OECD Guidelines for Multinational Enterprises while taking into account emerging issues and relevant policy developments.

This year's annual OECD Roundtable on Corporate Responsibility was devoted to the OECD Guidelines for Multinational Enterprises and the Financial Sector. Its objectives were: 1) learning from practitioners about current trends in corporate responsibility practices and instruments in the financial sector and the challenges ahead, and 2) exchanging views with financial actors on the various ways in which the OECD Guidelines can best support their efforts to promote corporate responsibility.

The Roundtable was divided into four sessions each introduced by a lead speaker and followed by a panel of respondents drawn from the financial sector, government, international organisation, business, labour and civil society circles.¹ The following summary of the discussions is based on the four sessions' main themes. The Roundtable was held under the Chatham House Rule² and this summary conforms to that Rule.

1. Taking Stock of Corporate Responsibility Practices in the Financial Sector

The profile of corporate responsibility in the financial sector has significantly evolved in the last 25 years. According to the study commissioned by the OECD to EIRIS,³ after being primarily confined to the niche area of ethical funds for a number of years, corporate responsibility issues are increasingly being integrated into the mainstream activities of financial institutions. This is reflected in the significant rise in codes of conduct, management systems and

reporting by individual financial institutions on environment, social and governance issues, as well as the emergence of corporate responsibility instruments by specific segments of the industry.

This development can be largely attributed to public pressure and increased recognition of the business case for corporate responsibility. Increased awareness by the public that the financial sector can make a difference in promoting corporate responsibility through its direct and indirect investments (estimated at US\$140 trillion or three times world GDP) has led to a demand that financial institutions act more responsibly. Financial institutions themselves have also come to realise that their sustainability over the long run is increasingly linked to the environmental and social sustainability of their activities and that failure to act can put their long-term profitability at risk. The business case for corporate responsibility has become particularly compelling in light of environmental degradation and global warming – as reflected in the recent blossoming of “green products” – and increased allegations of human right violations and non-observance of basic labour rights. Positive externalities of responsible business conduct can include a stronger relationship with suppliers and customers, more efficient use of resources, better relations with local communities and a greater power to attract, motivate, and retain staff. Reputational risks have also increased as a result of corporate scandals or human rights violations. These reasons can explain the more recent involvement of large financial institutions, such as pension funds or large banks, in extra-financial issues.

The corporate responsibility picture varies by categories of financial institutions, issues and regions. As suggested by the EIRIS study and confirmed by Roundtable participants, various segments of the financial sector have different exposure to corporate responsibility risks and practice corporate responsibility in different ways. Life insurance companies stand out as having developed more advanced corporate responsibility policies and covered a wider range of corporate responsibility issues than other types of financial institutions. Ethics and environment issues (in certain regions) also appear to have been addressed more extensively than human rights. Geographically, European-OECD financial institutions have been more active than those from all other regions except in regards to the performance of North American financial institutions in the area of codes of ethics. Financial institutions in OECD-Asia-Pacific have been particularly active recently in developing green products, which suggests opportunities for “leapfrogging” in the corporate responsibility field. These regional differences may be attributed to cultural and regulatory factors. In North America, the widespread litigation culture and strict regulatory requirements may not have particularly encouraged voluntary initiatives on the part of individual institutions. Europe, in contrast, has a long tradition of corporate responsibility involvement, and European civil society has historically been more vocal regarding such issues.

Investment banks, private equity consortiums and institutional investors have the greatest ability to influence corporate responsibility. Due to the nature of their interactions with their business partners, investment banks, private equity consortiums, superannuation and pension funds, and asset managers have the greatest ability to promote responsible business conduct. They are often the primary financiers of investment capital and involved in large-scale infrastructure projects that can have a direct impact on such issues as labour, human rights, and environment. Their clients are also demanding that they do more in this area. Although corporate responsibility instruments and practices have not yet fully entered the growing market of private equity and hedge funds, it was recognised that these financial institutions have a strong potential to influence as well. The fact that pension funds and other actors have started to invest in these markets could lead them to a greater corporate responsibility engagement. Others participants expressed concern however that private equity and hedge funds still represent too much of gap in the corporate responsibility field.

There is ample room for further involvement by the financial sector. According to the EIRIS study, 50 per cent of all financial institutions do not have corporate responsibility policies and only 30 per cent engage in serious corporate responsibility reporting. This may be a reflection of the complexity of corporate responsibility issues and a need for more time to address them. At the same time, concerns associated with globalisation are likely to continue. Overall, Roundtable participants felt that the integration of corporate responsibility issues into the mainstream activities of financial institutions will remain an ongoing and evolving process.

2. Financial Sector Instruments for Responsible Business Conduct

Financial institutions have not waited for governments to act. Leading financial institutions have produced a number of corporate responsibility standards and principles for the industry, including the Equator Principles for major projects financed by banks and the UN Principles for Responsible Investment (UN PRI) for the investment activities of institutional investors. Such initiatives provide distinct frameworks for the incorporation of responsible business conduct into investment strategies and in doing so, facilitate the promotion of corporate responsibility practices geared to the specificities of the financial sector. In addition, these initiatives attest to financial institutions' recognition of their ability to influence the parameters and frameworks in which companies operate. This recognition has been accompanied by an emphasis on understanding both the direct and indirect impact that companies can have on corporate responsibility issues and a realisation that financial institutions generally have a greater indirect impact. A representative from the investor community distinguished financial sector corporate responsibility instruments

as “process standards” for ensuring that certain issues are taken into account, rather than as mechanisms for achieving specific corporate responsibility goals. The implication of this characterisation is that positive outcomes will not automatically ensue from the implementation of corporate responsibility instruments, although the likelihood of such outcomes may be increased.

The Equator Principles are a financial industry benchmark for determining, assessing and managing social and environmental risks in project financing. They apply to all new project financings globally with total project capital costs of US\$10 million or more across all industry sectors. In adopting the Equator Principles, a bank undertakes to provide loans only to those projects whose sponsors can demonstrate their ability and willingness to comply with comprehensive processes aimed at ensuring that projects are developed in a socially responsible manner and according to sound environmental management practices. Financial institutions subscribing to the Principles represent 80 to 85 per cent of the project finance market. In recent years, a greater number of banks in developing countries have begun adhering to them. Most recently, the possibility of banks applying the Equator Principles to non-project financing is beginning to emerge. This suggests that there may be a trend for the Equator Principles to apply across a broader range of financial services. It was noted that two crucial issues facing Equator Principles financial institutions are accountability and transparency, particularly providing more information in the public domain. Additional challenges cited include: ensuring that banks have the internal expertise to appropriately apply the Equator Principles, that problems are being properly assessed and that the Equator Principles are adopted by more financial institutions from emerging economies. The possibility was also raised that there may be a need for more rigorous interpretation.

The UN PRI aims to incorporate environmental, social and governance issues into mainstream investment decision-making and ownership policies. This instrument was developed by institutional investors for the financial sector and is backed by 200 major investment organisations from 25 countries, representing US\$10 trillion.⁴ Signatories include asset owners, investment managers, and professional service partners. The PRI has achieved significant growth from its launch in April 2006 with 20 original signatories representing US\$2 trillion in assets under management. The significant increase in support for the PRI was described as a signal to the investment chain that a large concentration of capital takes environmental, social and governance issues very seriously. However, it was cautioned that there is a need for the UN PRI to quickly demonstrate its ability to affect change if it is to gain further credibility and momentum. Representatives from the investor community described the strength of the PRI as its ability to complement other important corporate responsibility initiatives such as the OECD Guidelines for Multinational Enterprises and the UN Global Compact, and offer flexibility in how the

Principles are adopted and create a platform for future alliances and initiatives. For example, it was noted that with further encouragement by governments institutional investors' support for the UN PRI could extend to explicit support for the OECD Guidelines, demonstrated by their own observance of the Guidelines and their promotion of the Guidelines to clients and stakeholders. The Guidelines provide a unique tool to measure how investee's companies may be at risk if they do not appropriately observe the standards of the Guidelines.

The Norwegian Government Pension Fund was given as an example of how financial institutions draw on corporate responsibility instruments. The Norwegian Government Pension Fund – Global is one of the largest single-owned funds in the world (close to US\$50 billion in assets). The owners of the fund are the Norwegian people and future generations of the Norwegian people. In 2004, The Norwegian Ministry of Finance introduced ethical guidelines to ensure long-term returns for the owners and to influence the companies in which it invests by encouraging them to respect the environment and fundamental human and social rights. These managing principles are built on an international structure that includes the OECD Guidelines for Multinational Enterprises, the UN Global Compact and more recently, the UN PRI. Fund managers use these guidelines as a point of reference in dialogue with other investors and portfolio companies, as a reporting tool and as an aid in identifying issues in their own use of ownership rights. The fund's objectives moving forward include strengthening shareholder rights, protecting children's rights and protecting the environment.

The experience of a private bank was also presented at the Roundtable. The bank is a leading global financial services firm with assets of US\$1.4 trillion, operating in more than 50 countries. It first established a code of conduct in 1999 and in 2004 opened an office of environmental affairs. Although it is not engaged in project finance, it has adopted the Equator Principles and uses them as the basis of its policy, applying them where use of proceeds is designated for loans, bond underwriting, equity underwriting, and financial advisory. Its corporate responsibility policy covers environmental and social risk, climate change, the bank's own internal footprint and strategic partnerships. To aid clients in reducing their own greenhouse gas emissions, the firm has launched various green products such as green mortgages and invests in green affordable housing and plans to continue expand such initiatives. It has also set specific targets to reduce its own greenhouse gas emissions, launched energy efficiency projects, invested in green energy sources and established employee awareness initiatives. The bank said it is committed to a forward-looking approach to its operations and recognised that more time is needed to understand the effectiveness of its current strategies before committing its resources to additional corporate responsibility areas.

One representative from the NGO community presented examples of private financial actors alleged to have failed to meet the standards promoted by the OECD Guidelines and those of the financial corporate responsibility instruments they had publicly subscribed to. The examples given concern investments in the mining and oil and gas sectors, the pulp industry and weak governance zones causing significant environmental damage or human rights violations. This participant highlighted the importance of scrutinising individual business activity supported by the financial sector.

Improvements can be made in monitoring and implementation. The financial sector needs effective tools to measure compliance with existing corporate responsibility financial instruments. While evaluation products are available in the markets, more resources should be devoted to the development of more sophisticated performance indicators and their continuous monitoring over time. A number of issues seem to warrant further discussion. One key question is that of what entities should control and bear the cost of monitoring processes, especially in light of the fact that corporate responsibility initiatives are largely voluntary. Other participants referred to the appropriate use of the term “violation” and types of “sanctions” which could be invoked, such as reputational or legal. Others suggested that further clarification by financial sector practitioners of the nature of their fiduciary duty may also facilitate improvements in implementation processes. It was agreed that members of civil society, including NGOs, will continue to have a valuable role to play in the monitoring process.

Support from government is seen as crucial to the success of financial sector instruments for corporate responsibility. There was consensus that there is still a need for governments to create an environment conducive to the promotion of corporate responsibility issues. A representative from the investor community noted that investors are not going to lead on these issues until they see stronger support from government for responsible business conduct initiatives. The political will of host countries to actively promote and effectively implement responsible business conduct can impact the success of financial sector corporate responsibility instruments. This is of particular relevance in emerging countries and weak governance areas so that financial service institutions are able to comply with their own standards. The OECD has also recognised this point with the establishment of tools such as the OECD Risk Awareness Tool for Weak Governance Zones.

3. The Supporting Role of the OECD Guidelines

The OECD Guidelines have unique characteristics. The OECD Guidelines are one of the most comprehensive corporate responsibility instruments in existence today and furthermore are endowed with a unique implementation

mechanism. The Guidelines' international legitimacy is derived from the fact that they are backed by governments and have the wide support of business, labour and other stakeholders. The Guidelines bring an overarching and structured framework to corporate responsibility work. The value of their "federating" role has increased as a result of the proliferation of corporate responsibility codes and instruments. As one representative from the financial community noted, the Guidelines are "an enormous diplomatic achievement."

The Guidelines apply to the financial sector. The most important players in the financial sector are active in the international arena and therefore qualify as multinational enterprises on the basis of the premises of the Guidelines. All ten major policy areas covered by the Guidelines have relevance for the operations of the financial sector notably environment, human rights and labour relations and bribery. In addition, it was noted that the Guidelines call upon financial institutions to encourage where practicable their business partners to apply principles of corporate conduct compatible with the Guidelines. Several speakers indicated that due to their economic power and the breadth of their activities, financial institutions, particularly larger ones, have a wide sphere of influence. Given this, they are well positioned to promote the Guidelines in the broader context of their investment-like relationships or the so-called investment nexus. At the same time, the degree of influence that a given financial institution may have can vary significantly from partner to partner, issue to issue and operation to operation. Flexibility is therefore required in considering the application of the Guidelines; however, this flexibility should not be seen as a limiting factor but rather as an opportunity. Moreover, even those financial institutions that do not meet the criteria for multinational enterprises under the Guidelines can utilise the principles and standards embodied in the Guidelines in support of their corporate responsibility work.

The financial community can take advantage of the Guidelines in various ways. The Guidelines' substantive standards for responsible business conduct can be used or referred to in company decision-making processes and corporate responsibility tools. For example, the Guidelines provide clear guidance on how financial institutions could collect and disseminate information about their corporate responsibility work, a highly relevant area for financial institutions. They also provide guidance on other relevant issues such as employment and industrial relations, environment, corruption, taxation, competition and consumer protection. While financial practitioners are at a certain organisational distance from the enterprises with which they engage, the Guidelines can still provide support to their corporate responsibility work specifically in regards to their supply chain management relationships and interactions with business partners. They can also support joint corporate responsibility work with their partners in existing consortia or other arrangements with financial investors.

The Guidelines have yet to live up to their potential. With the opportunities come the challenges. Several representatives of the financial sector said that the Guidelines are not sufficiently known, understood or utilised by the financial community. Special efforts should be deployed by NCPs to explain and promote the Guidelines to financial institutions, especially those financial institutions that have the greatest ability to influence responsible business conduct. Unabated and consistent government support for the Guidelines is crucial as investors rely on governments to provide the normative or ethical frameworks within which they operate. Closer attention should be given to human rights and the precautionary and polluter pays principles. A representative from the institutional investor community noted that there is a need to explain the Guidelines' operational and evaluation potential. The articulation of the sphere of influence and boundaries of responsibility of financial actors also requires further consideration. The recent initiative by OECD Watch and the European Social Investment Forum (EUROSIF) to develop a series of fact sheets to help investors and social responsible investment agencies better understand the scope of the Guidelines was noted with interest. This will help PRI signatories make more effective use of the Guidelines as an instrument for measuring risks and opportunities as regards corporate responsibility policies and practices.

The good functioning of the “specific instances” facility is key. While the recognition of the value of this unique mechanism was widely shared, several participants felt that there is room for improvement. Representatives from the institutional investor community argued that the industry needs a reliable mechanism to assess the corporate responsibility performance of companies in which they hold shares in a fiduciary capacity. Over the past few years there have been enormous strides in encouraging these fiduciary owners to demand of the companies they own, higher standards of management and ethical behaviour. This also has placed them in the position of “arbiter” of the business conduct of these companies. It was said that it would be very useful to the industry if the special instance facility becomes more instrumental in helping investors determine whether the companies they own are adequately managed so that they can intervene accordingly. Companies themselves should welcome this as are they are also confronted with frivolous claims. Further thought should thus be given on how the specific instance facility could be transformed into an arbitration or adjudication system capable of resolving investment disputes and discouraging frivolous claims. The next few years provide a unique window of opportunity for the NCPs to act. Other participants however felt that the value of the specific instance facility was precisely its non-adversarial mechanism for the resolution of disputes. Still other participants shared the view that the mediation and judiciary roles of the Guidelines' implementation facility could be used at different stages of the specific instance process and were not mutually exclusive.

One representative from civil society pointed to apparent inconsistencies in the handling of recent cases involving the financial sector and suggested possible criteria for determining the admissibility of cases in the future including: ownership or management of the asset; ability to influence ownership rights or investor duties; contributing to unethical acts or emissions through the provision of funds and/or services; facilitating, authorising, participating in, tolerating or knowingly ignoring adverse activities by others; length of the business relationship; systematic and repeated engagement in adverse activities; and, signatory to the Equator Principles. Other perceived shortcomings of the NCP process include limited resources, lack of independence from governments and frequent NCP turnover.

Extending acceptance of the OECD Guidelines' principles and standards to non-adhering emerging economies remains perhaps the most serious challenge. The recent emergence of new players from major non-OECD countries has raised the importance of the "level playing field" issue in the global financial arena. Several representatives from the financial community indicated that their continuous support for corporate responsibility may be affected by the lack of adherence of these new actors to corporate responsibility standards comparable to those applied by their counterparts in the developed world. The OECD can make a valuable contribution as it is in constant dialogue with these countries. Adherence to the OECD Declaration on International Investment and Multinational Enterprises, of which the Guidelines are an essential part, can also be in the self-interest of financial institutions from emerging markets that have started investing abroad. A "stronger case" can be made for the benefits that these actors and their home countries could derive from implementation of responsible business conduct practices. The ongoing project with China on governmental approaches to public policies promoting responsible business conduct was considered a good example of what the OECD should do in this regard.

4. Exploring Synergies between the OECD Guidelines and Financial Sector Instruments

The OECD Guidelines and the financial sector corporate responsibility instruments such as the Equator Principles and the UN Principles for Responsible Investment are complementary. Several participants agreed that the OECD Guidelines, the Equator Principles and the UN PRI share common values and have mutually reinforcing missions. The Guidelines contain substantive standards in several business areas that can be taken into account in the implementation of financial sector instruments, while the financial sector initiatives identify the reporting and other management policies that deserve the special attention of financial practitioners concerned with business ethics. The implementation processes are complementary as well. While

financial instruments focus on engagement and reporting, the Guidelines provide a unique facility for providing guidance and helping resolve issues that may arise in concrete situations. Together, these instruments constitute a major force for corporate responsibility. However, several Roundtable participants noted that for their combined potential to be realised, political will and a real commitment by all players to make them work is essential.

Increased cooperation and coordination between the Guidelines and financial sector instruments should be pursued. Mutual recognition of the complementarities between different instruments and the increased use of the Guidelines as a reference tool will help financial institutions develop more effective corporate responsibility policies. Several participants stressed that governments need to reiterate before financial institutions their strong support for the Guidelines and encourage them to make greater use of the Guidelines. The financial sector will also benefit from a clarification of the articulation between the Guidelines and financial sector corporate responsibility instruments. In addition, financial institutions can turn more often to the specific instances facility of the Guidelines for the resolution of issues arising from their operations, and further thought could be given on how this unique tool can be associated with the implementation processes of the financial sector's instruments. Several participants considered that increased cooperation between the financial sector and the National Contact Points on the supporting role of the OECD Guidelines will be consistent with the statement made by the G8 at their recent summit in Heiligendamm on investment and social responsibility.

Notes

1. See the agenda for the Roundtable in Annex II.A1.
2. Chatham House defines the Chatham House Rule as follows: *When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.* For more information please see www.riskythinking.com/glossary/chatham_house_rule.php.
3. This study can be accessed at www.oecd.org/daf/investment/guidelines.
4. UNEP Finance Initiative, The Working Capital Report, July 2007, page 1, www.unpri.org/twcr/WorkingCapital.pdf.

ANNEX II.A1

*Agenda for the 2007 OECD Roundtable
on Corporate Responsibility*

THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES AND THE FINANCIAL SECTOR

Monday, 18 June 2007; 10h00-18h00

Salle des Nations, Tour Europe

33, Place des Corolles

92049 Paris La Défense

Every year the OECD holds a Roundtable on Corporate Responsibility in conjunction with the annual meeting of the National Contact Points (NCP). The purpose of this annual encounter is to assist NCPs in performing their role of promoting and implementing the OECD Guidelines for Multinational Enterprises taking into account emerging issues and relevant policy developments.

The OECD Guidelines are detailed recommendations for business conduct which multinational enterprises¹ from the 39 adherent countries are invited to observe in ten major policy areas including human rights, supply chain management, labour relations, environment, anti-corruption, taxation and consumer welfare. The Guidelines also have a unique implementation mechanism – the “specific instances procedures” – where National Contact Points are committed to work together to reduce tensions and building trust between international business and host societies.

This year’s annual OECD Corporate Responsibility Roundtable will be devoted to a two-way dialogue between the financial community and the NCPs with the purpose of:

- a) learning from practitioners about current trends in corporate responsibility practices and instruments in the financial sector and the challenges ahead; and
- b) exchanging views with financial actors on the various ways in which the OECD Guidelines can best support their efforts to promote corporate responsibility.

Global financial assets are now estimated at around \$140 trillion, or three times world GDP. Global cross-border capital flows topped \$ 6 trillion in 2005, more than double their level in 2002. Eighty per cent of capital flows are between the US, UK and euro area.²

With the spectacular growth of international finance and impact on economic activity, financial institutions (FIs) have witnessed a growing interest in their role as actors and promoters of responsible business conduct. Financial institutions have also begun to pay greater attention to extra-financial issues into their lending, investing or advisory operations. A number of initiatives, led by large banks and institutional investors and asset managers, have emerged to address environment, social and governance risks in the financial sector in a holistic and coherent manner. For example, over 50 financial institutions

accounting for around 85 per cent of the world's cross-border project finance subscribe to the social and environmental guidelines of the Equator Principles.³ Some 170 institutional investors representing over \$8 trillion in assets have signed the United Nations Principles for Responsible Investment which commit signatory institutions to integrate environmental, social and governance issues into their investment policy-making and investment decisions across all asset classes and their entire portfolio.⁴

These new corporate responsibility tools share many of the same aspirational values and norms promoted by the OECD Guidelines – which applies to financial institutions as multinational enterprises. The Roundtable will take stock of these developments and discuss the synergies the OECD Guidelines for Multinational Enterprises and corporate responsibility initiatives in the financial sector.

The Roundtable is divided into five parts and end with closing remarks by the Chair. The discussions will be conducted under the Chatham House Rule⁵ and a summary of the proceedings consistent with this Rule will be published in the 2007 Annual Report on the OECD Guidelines for Multinational Enterprises. Participation is upon invitation only. For further information, contact Ms. Marie-France Houde [marie-france.houde@oecd.org, +33 1 45249126] or Mr. Sebastian Gerlach [sebastian.gerlach@oecd.org; +33 1 45248156]. Documentation and other conference details are available on the conference web page www.oecd.org/daf/investment/guidelines.

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- and

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AGENDA

OECD ROUNDTABLE ON CORPORATE RESPONSIBILITY 2007

09:45- 10:00 Registration and coffee

SESSION ONE – INTRODUCTION

10:00 – 10:15 **Welcome address:**
Ambassador Elisabeth Dahlin, Head of Swedish Partnership of Global Responsibility, Swedish Ministry for Foreign Affairs

SESSION TWO – TAKING STOCK OF CORPORATE RESPONSIBILITY PRACTICES IN THE FINANCIAL SECTOR

What are the main trends in corporate responsibility practices among various categories of financial institutions? What are the main explanatory factors? Under which circumstances does the promotion of corporate responsibility make business sense? What are the main corporate responsibility dilemmas, challenges and opportunities facing financial institutions as lenders, investors or financial advisors?

10:15 – 11:30 **Moderator:**
Mr. Herman Mulder, Senior Advisor to UN Global Compact and WBCSD, former Senior Executive Vice President, ABN AMRO

10:15 – 10:30 **Presentation:** *Overview of the corporate responsibility policies and practices of financial institution*
Mr. Stephen Hine, Head of International Relations, Ethical Investment research Institute (EIRIS)

10:30 – 11:00 **Respondents:**
Ms. Amy Davidsen, Head of Environment Affairs, JP Morgan: *a viewpoint from the banking community*
Mr. Matt Christensen, Executive Director, EUROSIF: *a viewpoint from institutional investors community*
Dr. Fouad Benseddik, Director, Vigeo Group: *a viewpoint from the rating community*

11:00 – 11:30 **Discussion**

SESSION THREE – FINANCIAL SECTOR INSTRUMENTS FOR RESPONSIBLE BUSINESS CONDUCT: A TOUR D’HORIZON

What are the main values and standards underlying existing financial sector instruments for responsible business conduct in the financial sector? To what extent their provisions converge, differ or complement each other? To what extent they are followed by the financial community? What mechanisms for monitoring and assessing implementation are in place?

11:30 – 13:00 **Moderator:**
Mr. Leo Johnson, Co-Founder, Sustainable Finance

11:30 – 11:45 **Presentation:** *Key features of financial sector’s corporate responsibility instruments*
Mr. Rory Sullivan, Head of Responsible Investment, Insight Investment

11:45 – 12:30 **Respondents:**
Mr. Paul Watchman, Le Boeuf, Lamb, Green and MacRae LLP: *The Equator Principles*
Ms. Valborg Lie, Senior Advisor, Asset Management Department, Norwegian Pension Fund, Ministry of Finance: *UN Principles for Responsible Investment*
Mr. Nicholas Vantreese, ORSE, Club Finance
Mr. David Barnden, Coordinator of Human Rights Programme, Bank Track

12:30 – 13:00 **Discussion**

13:00 – 15:00 Buffet lunch offered by the Swedish Delegation, Café des Nations, Tour Europe

AGENDA (cont.)**SESSION FOUR – THE SUPPORTING ROLE OF THE OECD GUIDELINES**

Are the OECD Guidelines a useful tool for governments to communicate corporate responsibility expectations to the financial sector? What are the provisions in the text of the Guidelines most potentially relevant for financial institutions? How can the OECD Guidelines assist financial institutions in promoting responsible behaviour in their relations with business partners? What is the potential value to financial institutions of the non-adversarial approach to dispute resolution embodied in the “specific instances” facility offered by the National Contact Points (NCP)?

15:00 – 16:30	Moderator: Mr. Raj Thamotheram, Director, Responsible Investment, AXA Investment
15:00 – 15:15	Presentation: <i>The contribution of the OECD Guidelines in the financial sector: opportunities and challenges</i> Mr. Lennart Killander-Larsson, Chair, Swedish National Contact Point
15:15 – 16:00	Respondents: Dr. Jan Atteslander, SwissHoldings, Federation of Industrial and Service Groups Switzerland and Co-Chair of BIAC Committee on International Investment and Multinational Enterprises Ms. Serena Lillywhite, Manager, Ethical Business, Brotherhood of Saint Laurence and OECD Watch Mr. David Pitt-Watson, Chair, Hermes Equity Ownership Services
16:00 – 16:30	Discussion

SESSION FIVE – EXPLORING SYNERGIES BETWEEN THE OECD GUIDELINES AND FINANCIAL SECTOR INSTRUMENTS

What are the main synergies between the OECD Guidelines and financial sector instruments? Would it be feasible and desirable to strengthen these synergies further? What avenues and initiatives could be envisaged for this purpose?

16:30 – 17:30	Moderator: Ms. Teresa Fogelberg, Senior Director, Business Engagement and Stakeholder Relations, Global Reporting Initiative
16:30 – 16:40	Presentation: <i>Articulating UN instruments and OECD Guidelines</i> Mr. Paul Clements-Hunt, Head of the Secretariat, UNEP Finance Initiative
16:40 – 17:10	Respondents: Mr. John Evans, Secretary General of TUAC: <i>Report on recent discussions on synergies among OECD instruments arranged under the OECD Labour Management Programme</i>
17:10 – 17:30	Discussion
17:30 – 17:45	Closing Remarks: Ambassador Elisabeth Dahlin, Head of Swedish Partnership of Global Responsibility, Swedish Ministry for Foreign Affairs

BACKGROUND DOCUMENTATION

- *Corporate Responsibility Practices of Financial Institutions in OECD and major Non-OECD Countries, EIRIS study for OECD (2007).*
- *Recent Trends and Regulatory Implications of Socially Responsible Funds, External consultant study for OECD (2007).*
- *Revised Council Recommendation on Common Approaches on Environment and Officially Supported Export Credits, OECD (2007).*

- OECD Recommendation on Bribery and Officially Supported Export Credits, OECD (2007).
- Sustainable Development, Business Ethics and the Financial Sector, OECD.
- The UN Principles for Responsible Investment and the OECD Guidelines for Multinational Enterprises: Complementarities and Distinctive Contributions.

Notes

1. The Preface of the OECD Guidelines for Multinational Enterprises states that the Guidelines “aim to ensure that the operations of these enterprises are in harmony with government policies, to strengthen the basis of mutual confidence between enterprises and the societies in which they operate, to help confidence between enterprises and the societies in which they operate, to help improve the foreign investment climate and to enhance the contribution to sustainable development made by multinational enterprises.”
2. McKinsey Global Institute, *Mapping the Global Capital Markets: Third Annual Report*, January 2007 [www.mckinsey.com/mgi/publications/third_annual_report/index.asp].
3. The Equator Principles can be viewed at www.equator-principles.com.
4. The United Nations Principles for Responsible Investment can be viewed at www.unpri.org.
5. Chatham House defines the Chatham House Rule as follows: *When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.* www.riskythinking.com/glossary/chatham_house_rule.php.
6. The Preface of the OECD Guidelines for Multinational Enterprises states that the Guidelines “aim to ensure that the operations of these enterprises are in harmony with government policies, to strengthen the basis of mutual confidence between enterprises and the societies in which they operate, to help confidence between enterprises and the societies in which they operate, to help improve the foreign investment climate and to enhance the contribution to sustainable development made by multinational enterprises.”
7. McKinsey Global Institute, *Mapping the Global Capital Markets: Third Annual Report*, January 2007 [www.mckinsey.com/mgi/publications/third_annual_report/index.asp].
8. The Equator Principles can be viewed at www.equator-principles.com.
9. The United Nations Principles for Responsible Investment can be viewed at www.unpri.org.
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ANNEX II.A2

Sustainable Development, Business Ethics and the Financial Sector*

Fiduciary responsibility: “An obligation to act in the best interests of another party. This type of obligation typically exists when one person places special trust and confidence in another person and that responsibility is accepted.”¹

This definition of fiduciary responsibility – with its use of the terms “obligation”, “trust” and “confidence” – underscores a fundamental and long-recognised truth: ethics is the bedrock of successful financial intermediation and, by implication, of successful financial systems and market economies. The ability of financial intermediaries to make credible commitments to a certain number of rules and standards of behaviour is the source of investors’ trust and confidence – ethics makes trust possible. For example, in retail financial services, customers’ belief that financial institutions are “ethical” (in the sense that they observe rules for behaviour that protect customers’ interests) makes them willing to entrust these institutions with responsibility for managing their assets. Thus, the ability to credibly commit to ethical behaviour has always been a core business requirement for financial institutions. Recent developments in financial markets attest to the dangers of undermining this ethical foundation and to the heavy costs that are incurred when financial systems do not function effectively. The United Nations Environment Programme’s Finance Initiative takes a broad look at the question of the relationship between ethics and financial intermediation – the

* This paper is an updated version of a contribution which United Nations Environment Programme (UNEP) invited the OECD to make in 2003 during the early phase of the development of the UN Principles for Responsible Investing. This contribution was published in “Values to Value: A Global Dialogue on Sustainable Finance”, UNEP (2004). This note was prepared by Kathryn Gordon, Senior Economist, OECD Investment Division. The views contained within do not necessarily represent those of the OECD or its member governments.

programme looks at what financial institutions can and should do to contribute to sustainable development of the societies in which they operate.

In its invitation to contribute to this publication, UNEP has asked the OECD to focus on the public sector's role in helping financial intermediaries make this credible commitment to ethics, broadly defined. The OECD – which helps its 30 member governments to make public policy more efficient and effective – has decades of experience in analysis of the legal, institutional and regulatory framework for the financial sector. Binding laws as well as public law enforcement and prudential supervision form the core of governments' efforts in financial oversight. However, this core is supplemented by the delegation of certain functions to other institutions. Typically some rule-setting and – enforcing functions are delegated to “self-regulatory organisations” (SROs) such as industry associations and stock exchanges. In addition, when reviewing the workings of the broader regulatory system, government regulators pay close attention to the internal risk management procedures of financial and other companies. These are integral parts of the broader framework in which the public and private sectors collaborate to make financial systems work effectively (though recent events have led both public and private actors to re-consider the way their actions fit together). In the future, governments' contributions to defining the financial sector's responsibilities in promoting sustainable development will no doubt reflect this traditional reliance on both law and official regulation alongside more flexible forms of public-private cooperation.

In thinking about the government's role *vis-à-vis* the sustainable development impacts of the financial sector, it might be useful to reflect on the following:

Focusing the financial sector on its core mission. Societies invest in legal frameworks and the other public goods used by their financial sectors so that these sectors serve an essential function. Financial intermediaries' core responsibility is to maximise shareholder value and, in so doing, to help allocate capital to high value investment projects and to manage and allocate risks. This core mission is inextricably bound to the idea of sustainable development through many complex linkages. The most obvious linkage is financial institutions' influence on economic, social and environmental performance via their capital allocation function – these institutions help sort through menus of investment projects that have different economic, environmental and social impacts.

Obeying the law – a non-trivial task. Of course, financial service providers have to do more than just maximise shareholder value – they must also obey the law. This can be significant challenge for global companies with thousands of employees dispersed across thousands of legal and regulatory environments. Thanks to progress made over the last twenty years or so,² it

is now common for companies to use management systems that make information available where it is needed, maintain records, establish responsibilities as well as checks and balances and create incentives for compliance. In a complex and fast-moving sector such as financial services, putting in place these compliance capabilities is a core responsibility for financial intermediaries, one that requires significant managerial expertise and commitment. In addition, financial intermediaries often have an interest in promoting good compliance practices in their business customer base. Through their wholesale lending activities and their relations with the companies represented in their investment portfolios, financial intermediaries play a key role in encouraging non-financial companies to develop these managerial capabilities. Governments can also encourage these developments – for example, by building them into broader regulatory and law enforcement strategies (e.g. the role played by the Eco Management and Audit Scheme in the European Union’s environmental strategy).

Recognising that environmental and social risks are also financial risks.

Environmental and social risks are financial risks and should be treated as such by companies, financial institutions and governments. Governments have a role in ensuring that these risks are recognised, evaluated and disclosed. A recent example of this is the United States’ Sarbanes-Oxley Act, which creates powerful incentives – rooted in securities market regulation – for disclosing any material risk to companies’ balance sheets. More generally, governments can help by making use of existing requirements for reporting material risks – these should include not just narrowly defined financial risks, but also broader risks to the bottom line arising from the environmental and social (e.g. human and labour rights) dimensions of companies’ operations.

Developing financial tools. Financial institutions have been good at developing and using financial tools for dealing with sophisticated valuation and risk management problems. They have also begun work on developing tools (valuation techniques, disclosure standards) relevant for environmental liabilities and risks. However, more needs to be done to refine and disseminate these tools. Financial institutions can bring their significant valuation and risk management expertise to bear on the problem of developing such tools – this is one of the financial sector’s major contributions to sustainable development. They can also use their close relations with non-financial companies to promote and disseminate the use of these tools.

Clarifying the business case for sustainable development. Through its investment analysis function, the financial sector can play an important role in clarifying the business case for sustainable development. At the present time, this business case is assumed to exist, but has not been well

documented. The investment process involves sorting through menus of potential projects and selecting those which deliver the highest risk-adjusted net present value. The business case for sustainable development is embedded in this broader investment and financial analysis problem. With better information and the right incentives, financial companies can shed light on this business case and can help to distinguish between sustainable development projects that can be undertaken unilaterally by the private sector (because they are good investments in their own right) and those where public inputs (*e.g.* regulation, subsidies, tax incentives) would be needed if the project is to be undertaken.

Risks of contagion. A company's tolerance of unethical behaviour in one area tends to spill over into other areas. Trying to prevent unethical behaviour in one area of business from spilling over into another area is not generally an option. Sooner or later, the fact that wrong-doing is seen as being a winning strategy in one part of the company will impact on practices in other parts of the company. Companies need to make a commitment to ethics across the board. Governments can help by passing the message that observance of a broad range of ethical standards is crucial for building effective ethical and legal compliance systems.

Using global corporate responsibility instruments. The OECD Guidelines for Multinational Enterprises and the United Nations Global Compact provide two complementary models for helping companies make this broad commitment to appropriate standards of conduct. The OECD Guidelines provide recommendations backed by 40 governments in such areas as labour management, environment, consumer protection and the fight against corruption.³ Through their distinctive follow-up mechanisms, the Guidelines provide a channel through which governments can encourage companies' commitment to ethical conduct and can support financial institutions' efforts to contribute to sustainable development.

Notes

1. This definition of fiduciary responsibility is an adaptation of various definitions obtained from online glossaries of business terms and legal dictionaries.
2. See *Corporate Responsibility: Private Initiatives and Public Goals* (OECD, 2001) for extensive documentation of corporate practices in the area of environmental management.
3. For more information about the OECD Guidelines for Multinational Enterprises, see www.oecd.org/daf/investment/guidelines/.

ANNEX II.A3

Corporate Responsibility Practices of Financial Institutions in OECD and Important Non-OECD Countries*

This paper aims at identifying how financial institutions policies and practices follow the principles and standards for responsible business conduct as promoted by the OECD Guidelines for Multinational Enterprises. For this purpose, a range of indicators have been selected for the assessment of financial institutions. The analysis has been based on a universe of research comprising 455 companies across a broad geographical spectrum. Likewise the set of corporations assessed fit into a variety of financial institution sectors.

The current analysis covers a range of topics relating to corporate responsibility of financial institutions such as human rights, employment, stakeholders, project finance and the provision of “environmentally-beneficial” products.

* This paper was commissioned from Ethical Investment Research Service (EIRIS) by the OECD as background information in support of the discussions at the OECD Roundtable on Corporate Responsibility on “The OECD Guidelines for Multinational Enterprises and the Financial Sector” which took place in Paris on 18 June 2007. The views contained within do not necessarily represent those of the OECD or its member governments. For further information or clarification on any of the issues covered by this paper please contact: Carlota Garcia Manas, Senior Researcher (Environment) – EIRIS, carlota.garcia manas@eiris.org, tel.: +44 207 840 5711. This paper includes the invaluable input of Mr Stephen Hine, EIRIS Head of International Relations and Ms Franziska Jahn, EIRIS Senior Researcher (Governance).

1. The data and the financial institutions

The data used for this paper is based on aggregations of EIRIS company level indicators and updated as of 5 February 2007. The data covers 455 financial institutions (FIs). The businesses are all publicly quoted companies listed on various global indexes. Amongst EIRIS's set of financial institutions, there are a few that are not researched regularly. They may have been requested in the past by a particular client or may form part of a research set for EIRIS' publications. As these institutions are not researched on a regular basis, they have been removed from the set used for this analysis. Furthermore, the majority of the financial institutions analysed in this paper are medium to large. However, at least 38 small institutions were identified, the majority of which are located in OECD-Europe. As most of them have less developed practices, this may have coloured the performance of that region.

The set of companies has the following distribution:

Regional distribution (see Box for a detailed list of countries included in each category):

- OECD-Europe: 184 FIs.
- OECD-Asia Pacific: 103 FIs.
- OECD-North America: 138 FIs.
- Non-OECD/Emerging Markets: 30 FIs.

Sectorial distribution:

- Banks: 198 FIs.
- General Financials: 138 FIs.
- Life Insurance: 37 FIs.
- Non-life Insurance: 82 FIs.

Regional distribution of financial institutions

- **OECD-Europe:** Austria, Belgium, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey and the United Kingdom.
- **OECD-Asia Pacific:** Australia, Japan, New Zealand and South Korea.
- **OECD-North America:** Canada, Mexico and United States of America.
- **Non-OECD/Emerging Markets:** Brazil, Hong Kong, India, Lebanon, Malaysia, Singapore, South Africa and Taiwan

General Financials include subsectors such as asset managers, consumer finance, speciality finance, investment services and mortgage finance.

The data comes from publicly available sources, primarily company annual reports, corporate social responsibility (CSR) reports and websites. Likewise for certain information direct communication from companies and a number of global websites were used.

With regard to the data attributes, EIRIS divides most of its areas of research into policy, systems and reporting. For some of the areas selected for this paper, a different approach has been followed such as providing an overall assessment (e.g. Human Rights), only management systems information (e.g. training) or alternative indicators (e.g. stakeholder engagement). The aim was to present the indicator that provides the more comprehensive amount of information across the board, as well as a clear analysis of the financial institutions' performance. A detailed methodology description is included in this paper.

2. Basic findings

In the majority of cases the data in this section has been presented in a regional and sectorial distribution. This aims to show the differences in behaviour for financial institutions across regions and sectors. The sector-specific segment at the end of this section shows results only on a regional basis as the indicators are, in the majority of cases, sector-specific. Each area has a brief introduction to the topic of concern, charts and an assessment of the conclusions drawn from these figures and the quantitative data behind them.

2.1. Codes of conduct

How corporations including FIs conduct their business and the behaviour of their employees is critical to what is often called an enterprise's "licence to operate". Corrupt or unethical dealings will likely damage a company's reputation and adversely affect the standing of its business partners, suppliers and customers. In the wake of a number of major global corporate scandals there has been growing public pressure and legislative initiatives for companies to be required to have a code of ethics. Furthermore, major initiatives since the 1980s have focussed on criminalising and clamping down on corporate corruption and bribery. Typical issues covered by EIRIS' code of ethics criteria are companies encouraging employees to be honest and fair and to report misconduct. The scope of ethical good practice is widening to include, for example, ethical competition or misuse of company resources. EIRIS' analysis of code of conduct is based on the assessment of a company's code of ethics and the systems to implement it. The grading ranges between no policy (or system) to "advanced" policy (or system). The methodology contains a detailed description of the elements on which EIRIS's research is based.

Figure 1. Code of conduct (region)

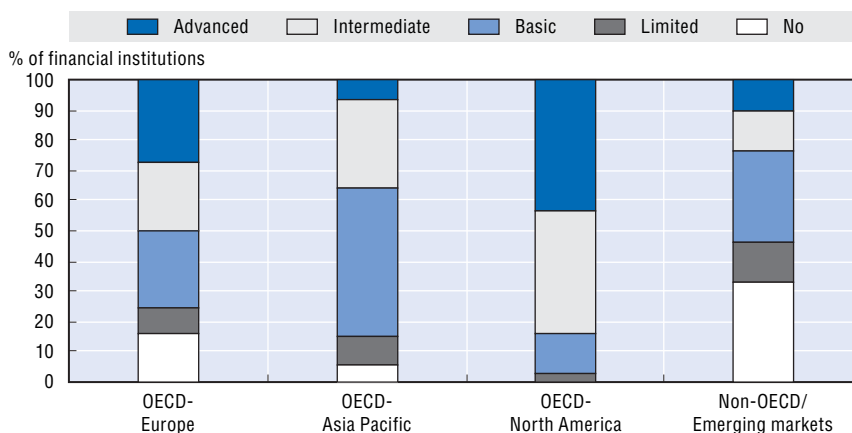
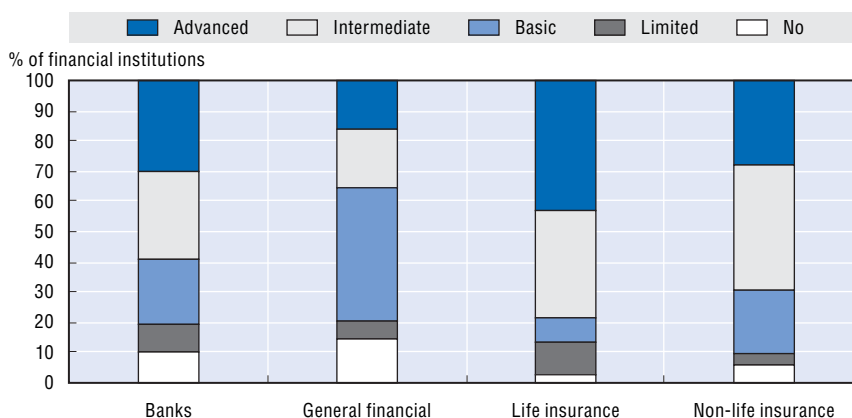


Figure 2. Code of conduct (sectorial)



Analysis of Figures 1 and 2 suggests the following conclusions:

- The majority of the financial institutions from all areas have a code of ethics, while all the financial institutions from the OECD-North America area have a code of ethics.
- Financial institutions from OECD-North America and OECD-Europe present the most “advanced” code of ethics; this is 43% and 28% of their financial institutions respectively.
- 67% of the financial institutions from the Non-OECD-Emerging markets have a code of ethics of “limited” or higher quality.
- Life insurance is the sector with the highest proportion of “advanced” code of ethics, at 43%.
- Over 15% of the financial institutions from all sectors have an “advanced” code of ethics.

Figure 3. Code of conduct systems (region)

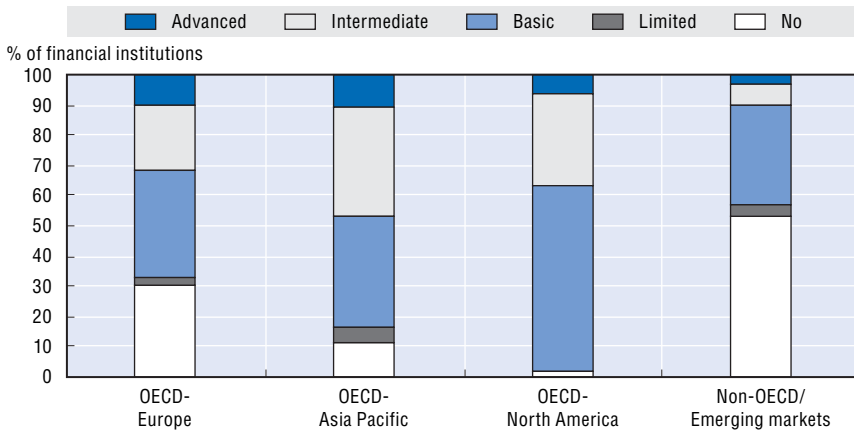
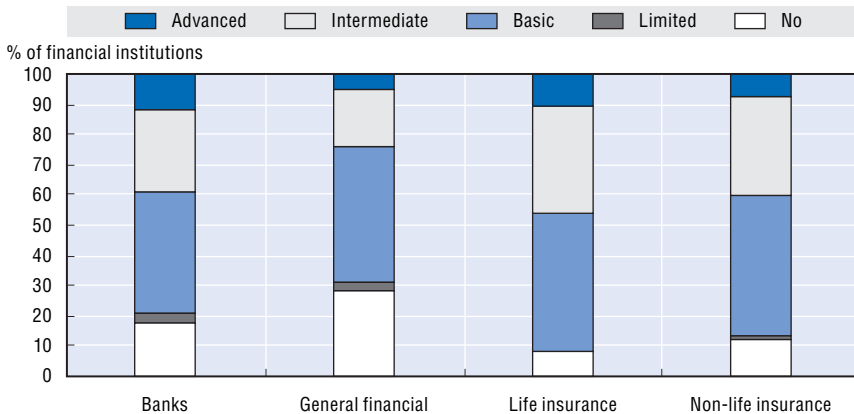


Figure 4. Code of conduct systems (sectorial)



With regard to systems of codes of ethics, the analysis of Figures 3 and 4 suggests the following conclusions:

- The majority of the financial institutions from all areas, except for Non-OECD/Emerging markets have such systems.
- The majority of the financial institutions from the Non-OECD/Emerging markets group do not have a code of ethics system, 53% of the financial institutions.
- Life insurance is the sector with the highest percentage of systems to implement a code of conduct, 92% of life insurers. Banks have the highest proportion of “advanced” systems at 12%.

As the OECD-North America and Life Insurers are highly regulated, financial institutions in that region and sector, respectively, have a higher incidence of policies and systems to achieve compliance. Likewise, cases such as the 2002 Wall Street settlement over conflict of interests may explain the higher incidence of code of ethics in the OECD-North America region.

2.2. Environment

Public concerns about the degradation of the environment are increasingly widespread. EIRIS researches three aspects by which companies have responded: producing environmental policies, implementing environmental management systems, and reporting on environmental issues relevant to the company. Additionally, EIRIS researches how the environmental performance of the financial institution develops over time. EIRIS classifies the financial sector as an industry with medium to low impact on environment, depending on the particular business activity. Although the main environmental concerns for financial institutions are linked to the indirect impact of the products and services they offer, for example through lending and investment activities, it is considered they have a duty to manage the direct impact (*e.g.* office-based) of their activities. Below we show a series of tables with information on the policies, systems, reporting and performance of financial institutions. The grading for the first three areas ranges from “inadequate” to “exceptional” while the assessment of performance runs from “no data” to “major improvement” (see methodology for a detailed description of the elements on which EIRIS’s research is based).

Figure 5. **Environment policy (region)**

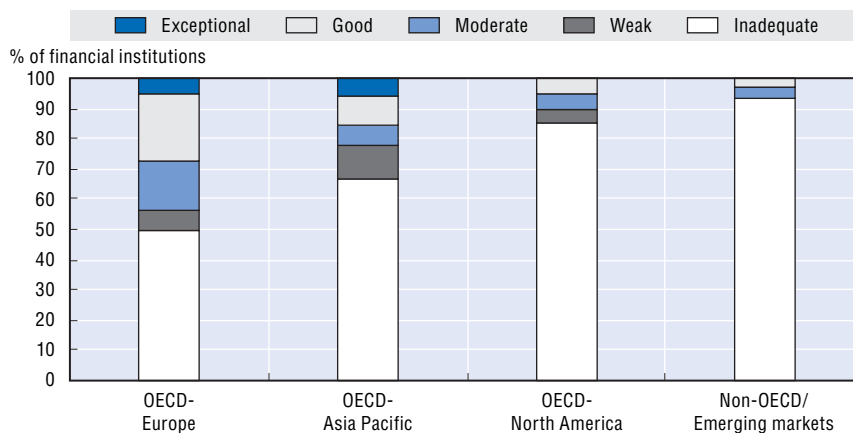
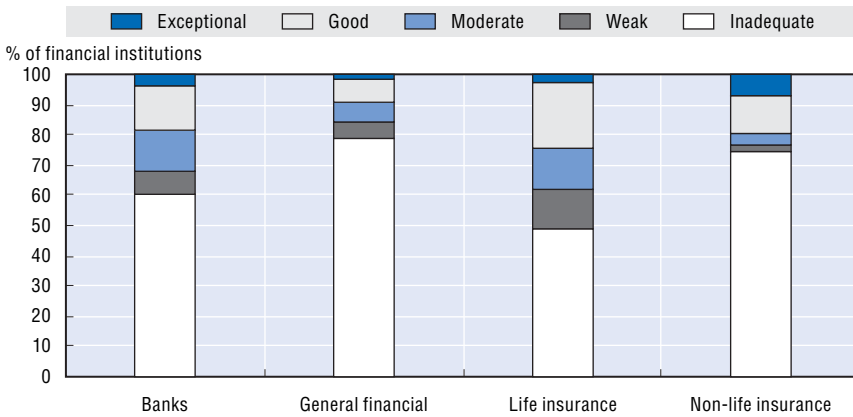


Figure 6. **Environment policy (sectorial)**



The analysis of Figures 5 and 6 suggests the following:

- Over 50% of the financial institutions in all regions had no environmental policy or their policy was of “inadequate” quality.
- Only financial institutions from OECD-Europe and OECD-Asia Pacific had policies of “exceptional” quality, this is 5% and 6% respectively. These financial institutions are considered amongst the leaders of the sector and all have developed strategic moves towards sustainability.
- OECD-Europe is the region with the highest proportion of policies of either “weak” or “above” quality.
- Over 60% of the financial institutions from all sectors, except for life insurance, have no policies or have policies of “inadequate” quality.

Figure 7. **Environment systems (region)**

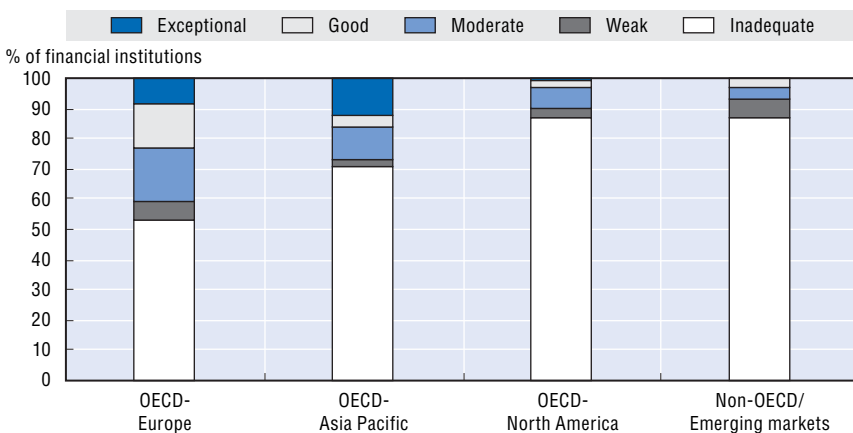
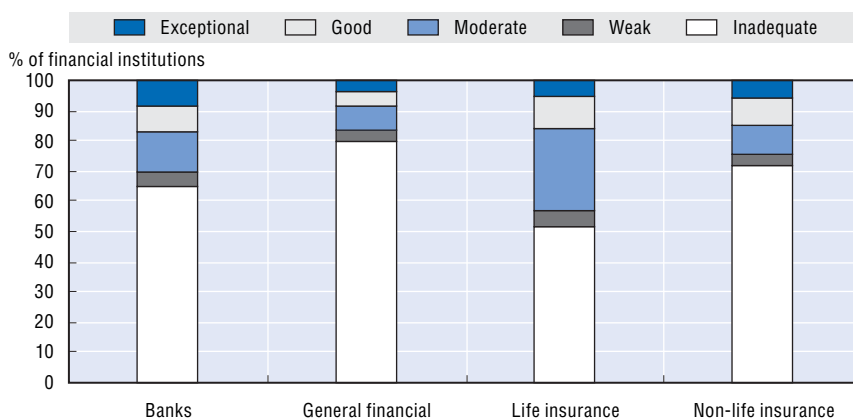


Figure 8. **Environment systems (sectorial)**



The analysis of Figures 7 and 8 suggests the following:

- Over 70% of the financial institutions in all regions, except for OECD-Europe, have no environmental management system or have systems of “inadequate” quality. This is the case for 53% of the financial institutions from OECD-Europe.
- Over 65% of the financial institutions from all sectors, except for life insurance, have no environmental management systems or have systems of “inadequate” quality. This is the case for 51% of life insurers.

Figure 9. **Environmental reporting (region)**

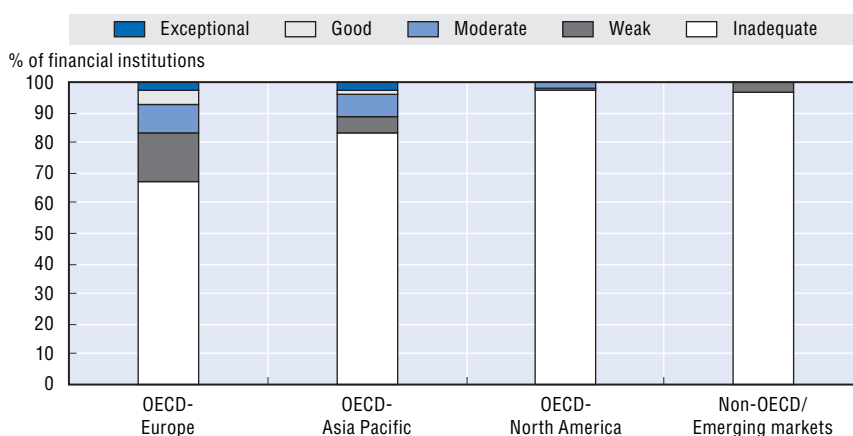
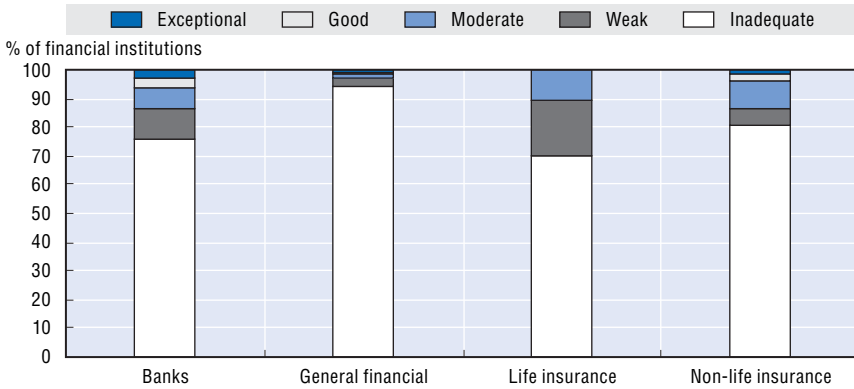


Figure 10. **Environmental reporting (sectorial)**



Figures 9 and 10 suggest the following conclusions:

- 97% of financial institutions from both Non-OECD/Emerging Markets and OECD-North America do not produce environmental reports or have environmental reports of “inadequate” quality.
- 33% of financial institutions in OECD-Europe and 17% in OECD-Asia Pacific publish some environmental report.
- Only financial institutions from OECD-Europe and OECD-Asia Pacific had reporting of “exceptional” quality, meaning that these reports have been externally verified.
- Over 70% of the financial institutions from all sectors do not publish environmental reports or publish environmental reports of “inadequate” quality. However, Life Insurance is the sector with the highest percentage of reports, although their overall quality is lower than those from Banks and Non-life Insurance.

Figure 11. **Environmental performance (region)**

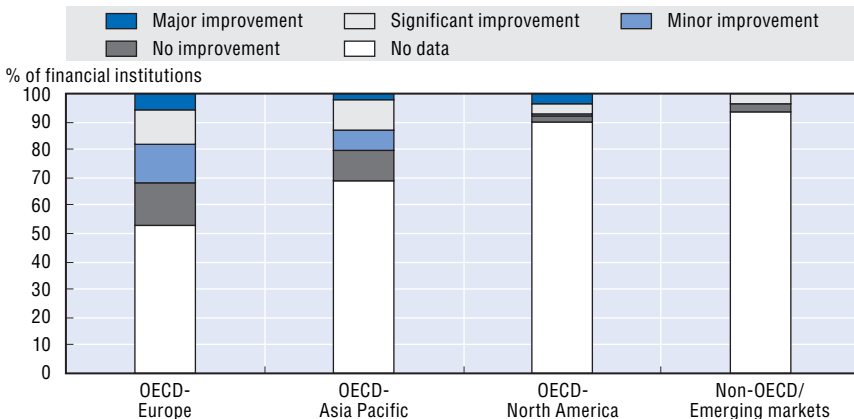
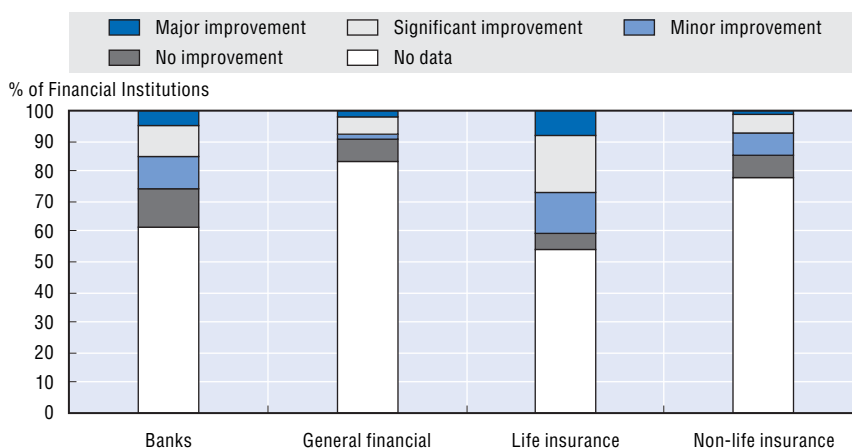


Figure 12. **Environmental performance (sectorial)**

EIRIS measures the environmental performance of financial institutions with regard to the direct impact of their operations. These are mainly related to the consumption of energy and water and the management of waste.

Figures 11 and 12 indicate that:

- Over 90% of the financial institutions in OECD-North America and Non-OECD/Emerging Markets publish no environmental performance data.
- Over 30% of financial institutions in the OECD-Europe group show some improvement in their environmental performance, while there is a 19% improvement in the case of OECD-Asia Pacific, 8% for OECD-North America and 3% for the Non-OECD/Emerging Markets group.
- The sector that presents the highest percentage of financial institutions showing some environmental performance improvement is Life Insurance. This is 41% of the life insurers. General Financials and Non-life Insurance have the highest proportion of financial institutions publishing no environmental performance data at 83% and 78% respectively.

In general, financial institutions allocate lower importance to environmental issues than other ethical ones, such as customer satisfaction or ethical conduct. This could be the reason why processes in this area are less developed. However, we may conclude that a high level of consumer activism in OECD-Europe encourages the more extensive development of environmental policies and practices in the financial sector. Furthermore, one of the consequences of the highly-developed environmental regulation system in OECD-North America is that financial institutions have less of an incentive to publicise information outside their regulatory requirements. This is one of the reasons why that region presents low levels of environmental information.

2.3. Human rights

The issue of the impact of financial institutions on human rights is a complex one. EIRIS assesses the interest of financial institutions in countries of human rights concern (Category A countries, which is a list of countries compiled by EIRIS using a variety of sources). The involvement of a financial institution refers to the scale of operations or size of its workforce in these countries. However, an FI's presence is defined by its activity in a country in the form of a company registered in that particular state. Operations such as bank branches are therefore not covered by EIRIS methodology, unless they belong to subsidiaries or associated financial institutions listed in the country of concern. We show below the involvement of financial institutions in Category A countries. Likewise, for those organisations with interests in such countries, we provide the overall assessment of their human rights policies and practices (see methodology for a detailed description of the elements on which EIRIS's research is based).

Figure 13. **Financial institutions involved in more than 1 Cat. A country (region)**

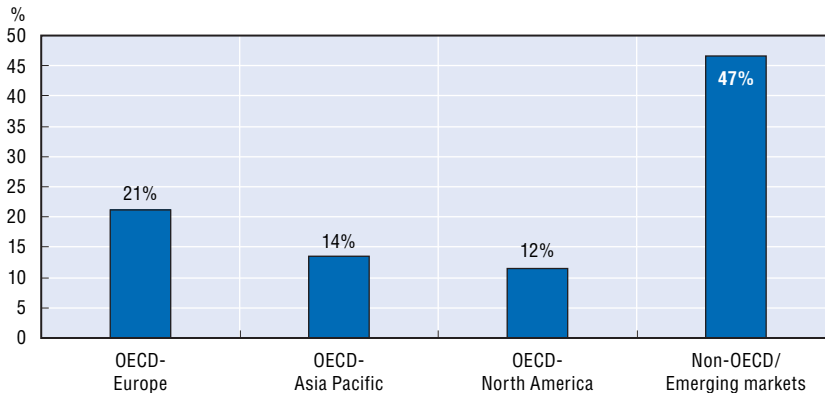
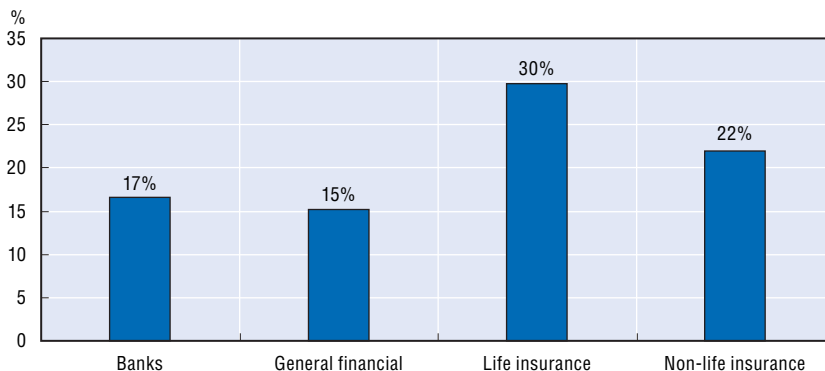


Figure 14. **Financial institutions involved in more than 1 Cat. A country (sectorial)**



Figures 13 and 14 show the percentage, within each group and sector respectively, of financial institutions involved in Category A countries.

Figure 13 shows that the region with a higher percentage of financial institutions involved in Category A countries is the Non-OECD/Emerging Markets; this is 14 of the 30 financial institutions analysed. We can speculate that this is due to the proximity of Non-OECD/Emerging Markets financial institutions to countries of concern. Likewise, the sector with highest involvement in Category A countries is Life Insurance with 11 out of 37 financial institutions studied.

Figure 15. **Human rights (region)**

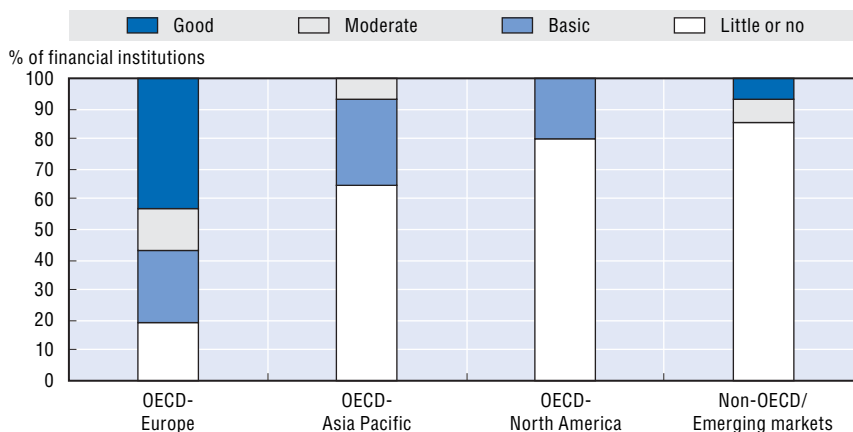
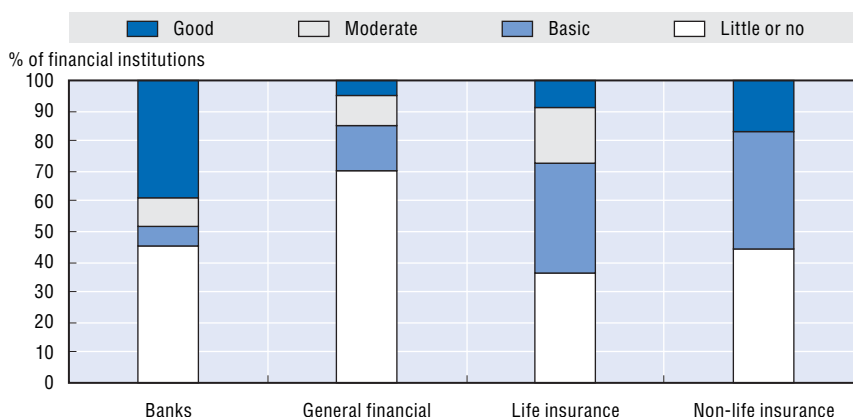


Figure 16. **Human rights (sectorial)**



The distribution of human rights policies and systems across regions and sectors shows one of the highest variance amongst the indicators used for this paper. The analysis above has been performed on the 80 financial institutions involved in Category A countries, for which EIRIS has data. EIRIS identified

83 companies with interest in Category A; however three of them were recent additions to the EIRIS universe of research and had no records for policies and systems.

Figures 15 and 16 suggest the following conclusions:

- OECD-Europe is the area with the highest proportion of policies and practices to address human rights issues; this is 81% of the financial institutions analysed.
- Only financial institutions from OECD-Europe and Non-OECD/Emerging Markets have human rights policies and practices of “good” quality. In the latter case, 1 out of 14 financial institutions involved in Category A countries had a “good” quality overall assessment, this company was based in Hong Kong. In the case of OECD-Europe, this was 16 out of the 37 financial institutions analysed.
- Life Insurance is the sector with the highest percentage of institutions’ overall assessment over “basic”, 63% against 55% for Banks.
- Banks produce the highest percentage of “good” human rights policies and practices, followed by Non-OECD/Emerging Markets. The percentage in both cases is 39 and 17% respectively.

One explanation for banks is that they have greater public exposure (and higher reputational risk) than asset managers or more specialist institutions. Additionally, they tend to operate in a greater number of countries and therefore tend to establish policies to cover for insufficient local regulations. Public exposure and NGO initiatives such as those by Amnesty International’s “Economic Globalisation” may have had an impact on the development of human rights policies and practices among financial institutions in OECD-Europe.

2.4. Employment and Industrial relations

A number of indicators are used to determine the extent to which CSR has permeated the employment and industrial relations practices of financial institutions. They include issues such as equal opportunities policies and systems, systems for job creation and job security, systems to provide training and systems for employee participation and the involvement of trade unions (see methodology for a detailed description of the elements on which EIRIS’s research is based).

Equal opportunities

Changes in social attitudes have increased recognition of the harm done by discrimination and have led to a growing awareness of other forms of discrimination in addition to gender (this being a particular issue in the financial sector with issues such as “glass ceiling” and inequality of pay) and race. Employers now more widely recognise all types of discrimination as being bad for business because it limits the skills pool from which they can

draw talent and may create a closed mindset towards developing new markets and opportunities. More and more financial institutions now see improving diversity as not just a way to avoid criticism or lawsuits, but also as a means towards building reputation and gaining competitive advantage.

Figure 17. **Equal opportunities policy (region)**

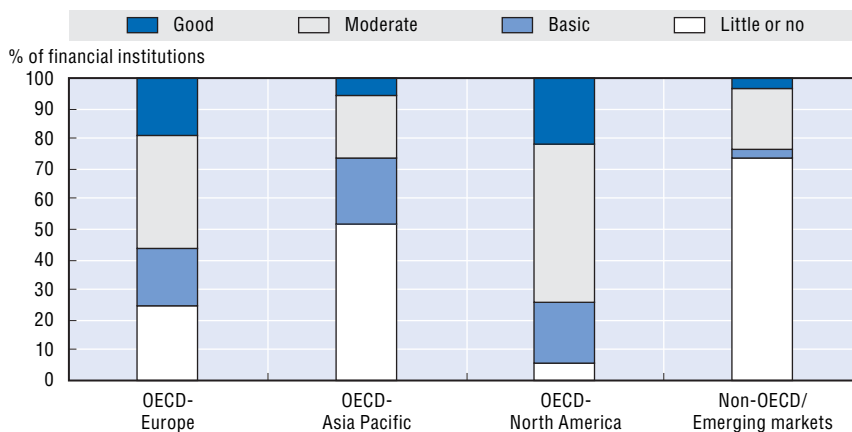
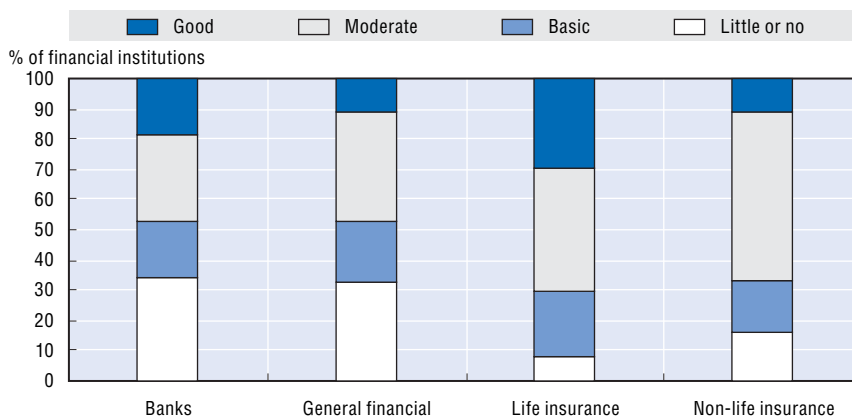


Figure 18. **Equal opportunities policy (sectorial)**



Figures 17 and 18 suggest the following conclusions:

- The financial institutions in the Non-OECD/Emerging Markets group have the fewest policies for equal opportunities; this is 73% of the financial institutions analysed. This is followed by the OECD-Asia Pacific, with 51% of the financial institutions.
- The OECD-North America group has the highest proportion of financial institutions with policies for equal opportunities in place; this is 94% of those financial institutions having policies over “basic”. Likewise, this group has the

highest proportion of “good” policies with 22% of the financial institutions analysed. This is followed by OECD-Europe with 19% of that group’s financial institutions.

- Life Insurance is the sector with the highest proportion of equal opportunities policies and of “good” quality policies. 92% of life insurers have polices equal to or above “basic” quality while 30% of these financial institutions have “good” policies.

Figure 19. **Equal opportunities systems (regional)**

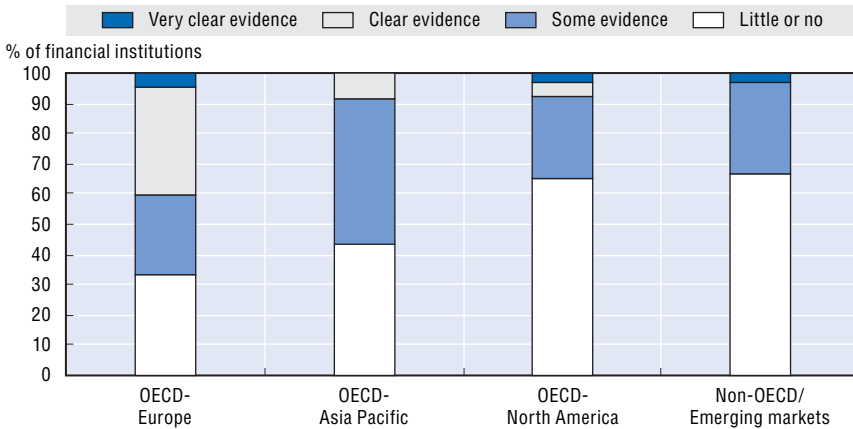
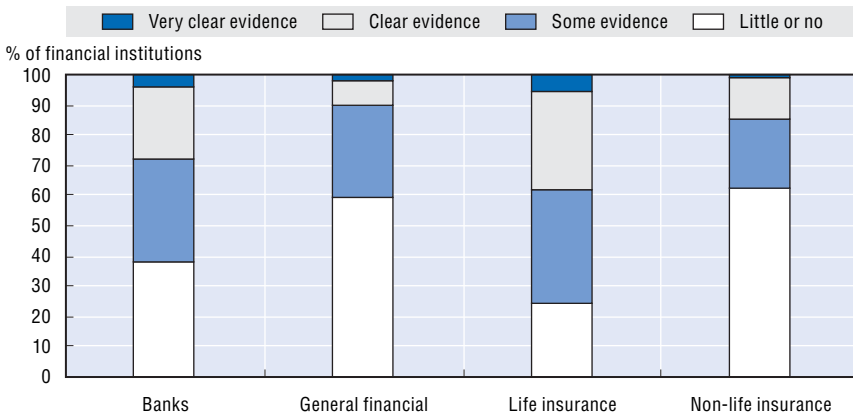


Figure 20. **Equal opportunities systems (sectorial)**



We can infer from Figures 19 and 20 that:

- OECD-Europe financial institutions have the highest proportion of equal opportunities systems with 66% of the financial institutions analysed. The systems for this group also score higher than the rest of the regions.

- Over 65% of financial institutions from OECD-North America and Non-OECD/ Emerging Markets do not have systems to manage equal opportunities.
- Life Insurance is the group with the highest proportion of equal opportunities systems, with 76% of life insurers having at least some evidence of these systems. This is followed by Banks with 62% of the financial institutions in this group.

We conclude from these observations that the US litigation and highly regulated environment (*e.g.* employment equality legislation), as well as high awareness of these issues among investors and society, generally encourage financial institutions in the OECD-North America to develop policies to cover equal opportunities. However, as the regulatory requirements do not entail the development and/or disclosure of corporate responsibility standards beyond policy objectives or principles, the systems to implement these policies are often underdeveloped.

With regard to the Life Insurance sector, the nature of this activity and the fact that people are the ultimate beneficiary may explain why it has the most widespread development for equal opportunities.

Job creation

By encouraging job security and making efforts during restructuring to help employees who have to be laid off to find new employment or by providing them with capital to start new businesses, financial institutions can make a significant contribution to their employees even during difficult periods.

Figure 21. **Job creation systems (region)**

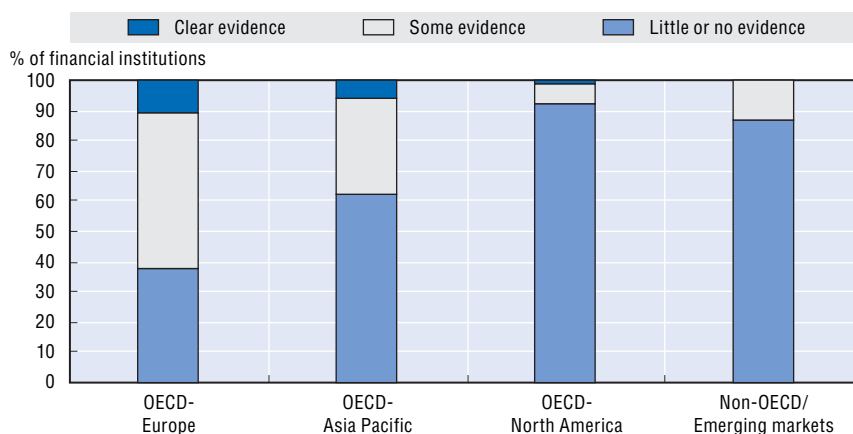
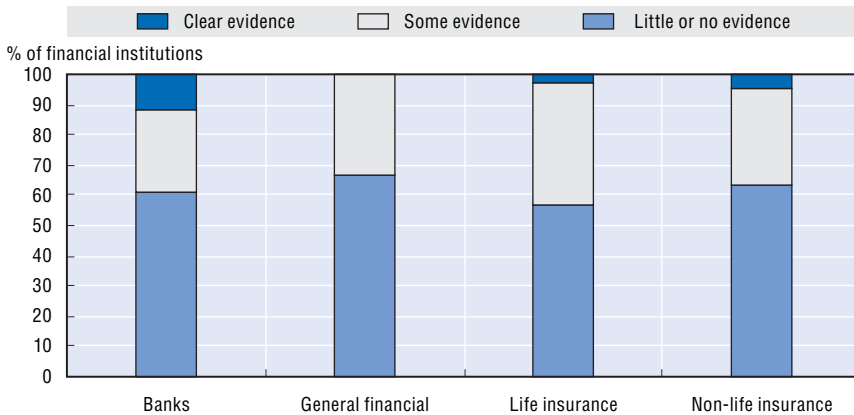


Figure 22. **Job creation systems (sectorial)**

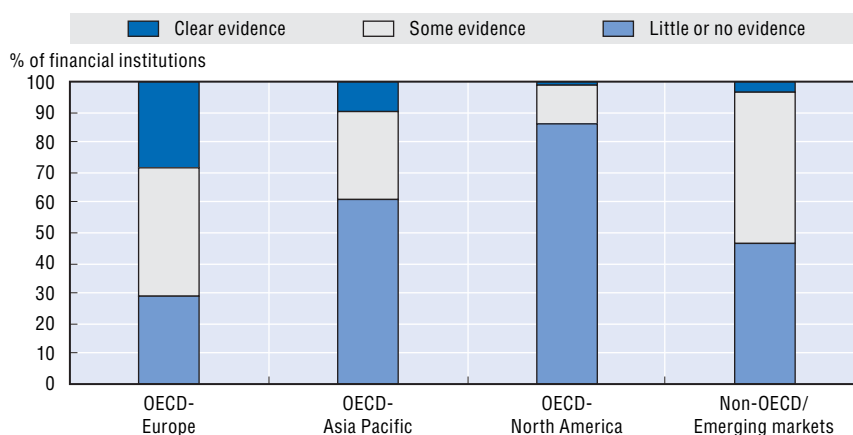
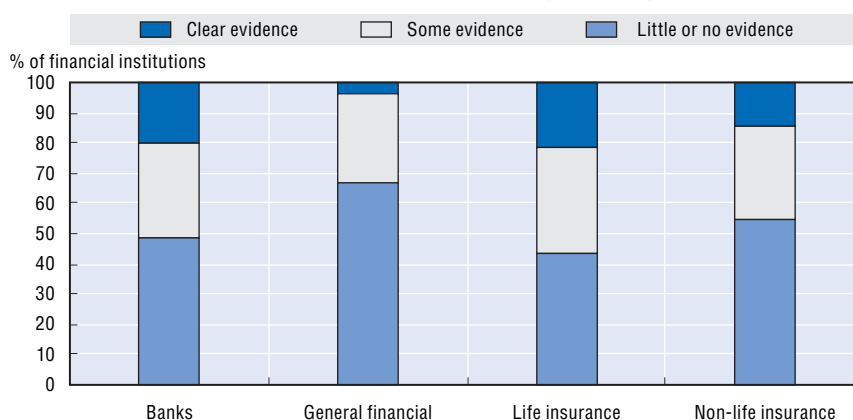
Figures 21 and 22 show the following trends:

- OECD-North America is the group with the highest proportion of financial institutions with “little or no evidence” of systems to address job creation, with 92% of the financial institutions analysed. This is followed by Non-OECD/Emerging Markets with 87% of its financial institutions and OECD-Asia Pacific with 62%.
- OECD-Europe has the highest proportion of financial institutions with at least some evidence of job creation systems, with 63% of the financial institutions analysed having “some” or “clear” evidences of these systems.
- The Banking sector has the highest proportion of clear evidence of a job creation system, with 12% of its financial institutions. However, Life insurance is the sector with the highest proportion of at least some evidence of these systems, with 43% of its financial institutions as compared to 39% of Banks and 37% of Non-life Insurance.

The difference in approach to job creation between OECD-Europe and OECD-North America may be linked to cultural differences and concepts of social cohesion and free market.

Training

Financial institutions that provide good training and development opportunities for their workforce may have a competitive edge over rivals; not only is productivity increased as a result of improved training, but the business may become more successful at both retaining and attracting high quality workers.

Figure 23. **Training systems (region)**Figure 24. **Training systems (sectorial)**

Figures 23 and 24 suggest that:

- OECD-North America is the region with the highest proportion of financial institutions with “little or no evidence” of systems to promote staff training, with 86% of the financial institutions analysed.
- OECD-Europe is the group with the highest proportion of financial institutions with at least some evidence of systems to promote training, with 71% of the financial institutions at least having some evidence of such systems.
- The General Financials sector has the lowest proportion of financial institutions with at least some evidence of training systems, as 67% of these financial institutions have “little or no evidence” of this kind of system.

- Life Insurance is the group with the highest proportion of training systems, with 57% of its financial institutions. This is followed by Banks with 52% and Non-life Insurance with 45%.

Employee participation

Trade unions and collective bargaining can provide workers with a valuable safeguard against exploitation and victimisation. It is not always necessary for trade unions to be recognised by a company in order for them to provide good or above average working conditions. However, a correlation is often observed between increased unionisation and overall improvements in the wages and working conditions of the workforce as a whole. More tellingly, decreases in unionisation have often preceded redundancies and reductions in overall working conditions.

Figure 25. **Employee relations systems (region)**

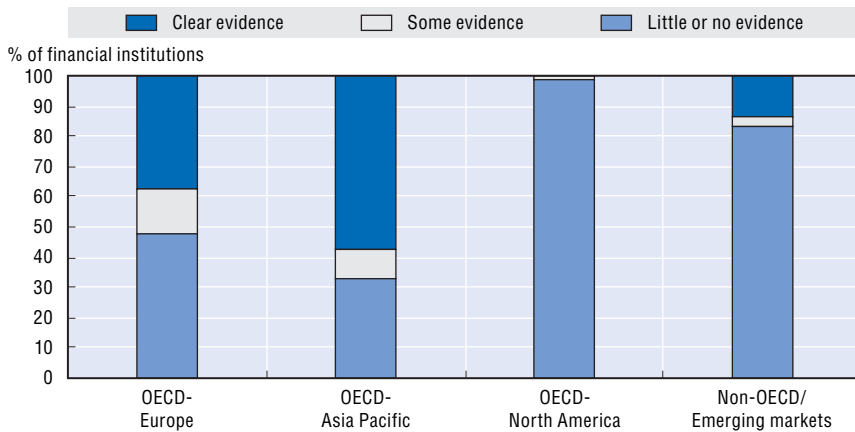
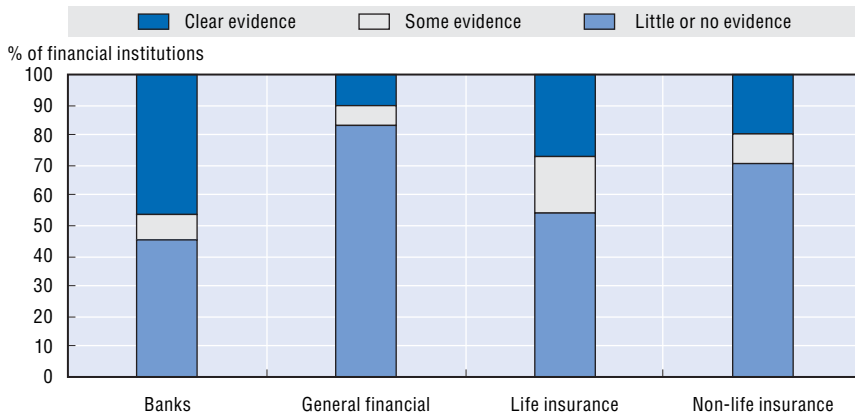


Figure 26. **Employee relations systems (sectorial)**



Figures 25 and 26 show the following results:

- OECD-North America is the group with the highest proportion of financial institutions with “little or no evidence” of employee participation or union representation; 99% of the financial institutions in this region have no employee relations systems, while only 1% has “some evidence” of such systems.
- The OECD-Asia Pacific area has the highest proportion of financial institutions with at least some evidence of employee relation systems and of financial institutions with “clear evidence” of these systems. The majority of financial institutions are from Japan, with 56 Japanese financial institutions amongst the 69 financial institutions with at least “some evidence” of employee participations systems.
- The sector with the highest proportion of employee relations systems and union representation is Banks, with 55% of its financial institutions having at least some evidences of such practices.
- General Financials show the lowest percentage of employee participation with 83% of those financial institutions having “little or no evidence” of systems to address this issue.

A historic presence of unions in Europe may explain the high percentage of employee relations practices in the OECD-Europe region. The high percentage of unions in Japan may be explained by the existence of federations of unions formed by institutions engaged in the same industry. It is possible the union model in Japan differs significantly from that of other OECD countries.

2.5. Customers and supplier relations

Given the increasing importance attached to corporate reputation issues, it is vital that financial institutions do all they can to actively engage with their stakeholders to improve the quality of their products and services. Such engagement can include systems, such as surveys, to monitor customer and supplier satisfaction rates. In particular, EIRIS analyses the existence of quality systems such as ISO9000 and the allocation of responsibility for this area at senior levels within the financial institution. Furthermore, monitoring of relationships and evidences of improved relations constitute elements considered for advanced practices (see methodology for a detailed description of the elements on which EIRIS’s research is based).

For this area we present information below on the policies and systems that financial institutions have in place to engage with their customers and suppliers.

Figure 27. **Customer/supplier policy (region)**

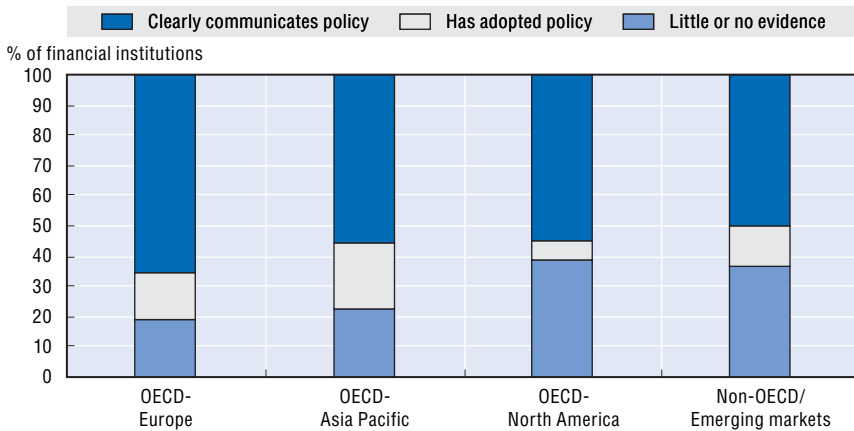
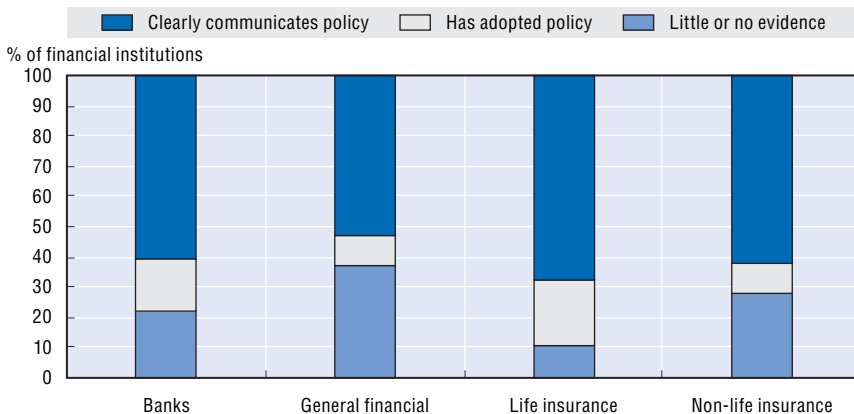
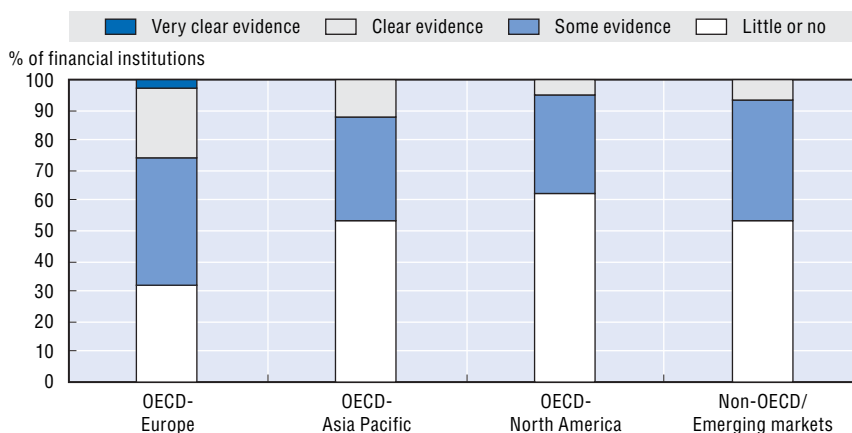
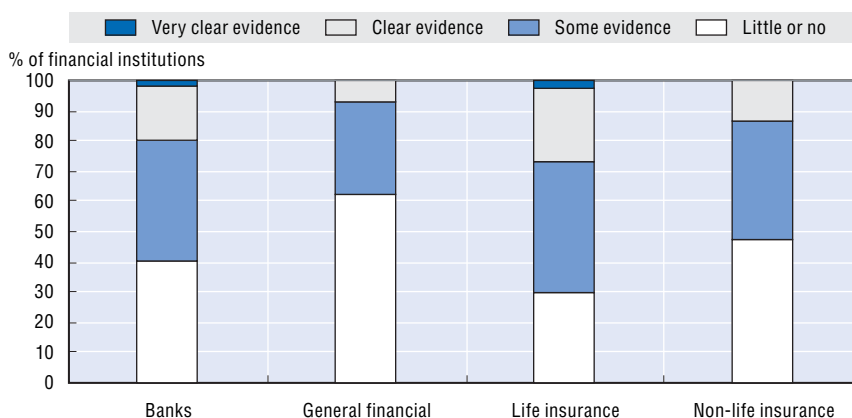


Figure 28. **Customer/supplier policy (sectorial)**



Figures 27 and 28 suggest the following conclusions:

- A great proportion of financial institutions across all regions have at least adopted some policy to manage their relations with customers and suppliers. The region with the lowest proportion of customer and supplier practice is Non-OECD/Emerging Markets with 63% of its financial institutions.
- Likewise, a great proportion of financial institutions across all sectors have at least adopted some policy to manage their customer and supplier relations. The sector with the lowest proportion of such practices is Life Insurance with 70% of its financial institutions.

Figure 29. **Customer/supplier systems (region)**Figure 30. **Customer/supplier systems (sectorial)**

Figures 29 and 30 indicate:

- The area with the highest proportion of systems to manage customers and suppliers is OECD-Europe with 68% of its financial institutions having some kind of system in place and 3% with “very clear evidence” of such systems.
- Banks and Life Insurance are the only two sectors with “very clear evidence” of systems to manage customers and suppliers, with 2 and 3% of their financial institutions respectively. Additionally, Life insurance is the sector with the highest percentage of financial institutions having some kind of system in place, with 70% of life insurers having at least some evidence of these systems.

Financial institutions across the board tend to set up policies to address their relationship with customers and suppliers. This may be linked to the

pressure exercised by consumers, watchdogs, media and the desire for investment recognition. However, the presence of systems to monitor such relationships is less frequent.

2.6. Stakeholders

Given the increasing importance attached to corporate reputation issues, it is often seen to be vital that financial institutions do all they can to actively engage with their stakeholders to improve the quality of their products and services. This can include elements such as the carrying out of surveys with customers and employees, as well as the extent of a company's quality control systems and the extent of its procedures for responding to stakeholders. Ideally reports arising out of these processes should be independently verified.

In order to measure the impact of financial institutions' practices on their stakeholders we selected two indicators, namely stakeholder engagement and stakeholder reporting.

Figures 31 and 32 suggest the following conclusions:

- Financial institutions from OECD-Europe have the highest percentage of stakeholder engagement with 67% of those financial institutions having at least a "basic" level of stakeholder engagement. This group also presents the highest proportion of "good" strategies to engage with stakeholders; this is 12% of the financial institutions in this group. The Non-OECD/Emerging Markets group shows very similar behaviour to OECD-Asia Pacific.
- OECD-North America is the group with the lowest stakeholder engagement, with 64% of the financial institutions analysed having "little or no evidence" of stakeholder engagement.
- Life Insurance is the sector with the highest proportion of stakeholder engagement and of "good" level of stakeholder engagement at 73% and 16% respectively.
- General Financials have the lowest incidence of stakeholder engagement with 64% of these financial institutions having "little or no evidence" of this kind of practices.

The reason why stakeholder engagement and reporting is more frequent amongst life insurers may be due to the more sensitive nature of their activities. In addition, the higher proportion of these activities in OECD-Europe may be linked to stakeholders' activism and the presence of NGO campaigns in some of its countries. As stakeholder engagement includes activities involving customers, suppliers, employees and members of the community, the more developed policies and practices in these areas have a reflection on the final assessment for stakeholders' engagement. Furthermore, the low levels of reporting beyond regulatory requirements found in the United States

Figure 31. Stakeholder engagement (region)

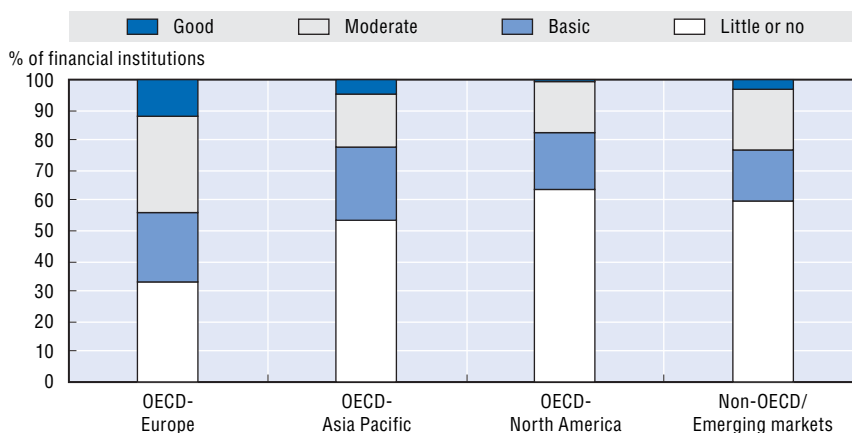
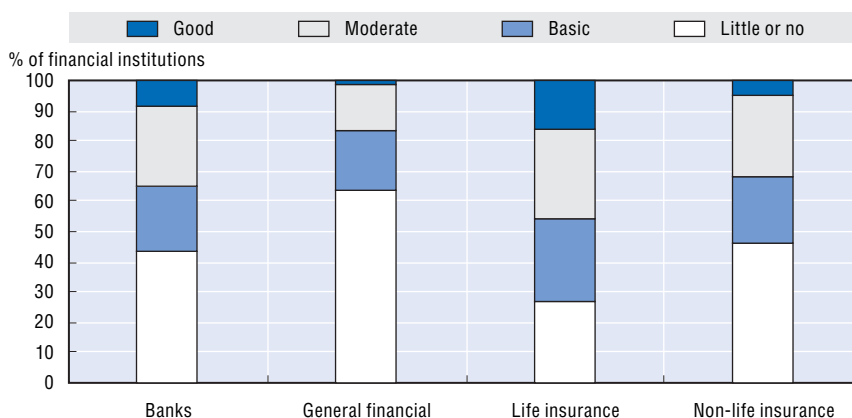


Figure 32. Stakeholder engagement (sectorial)



as well as low levels of companies in general engaged in CSR issues, particularly financial institutions, may have an impact on the relatively lower development of stakeholder engagement in OECD-North America.

Figures 33 and 34 may suggest that:

- The region where stakeholder reporting is more frequently present is OECD-Europe. In addition, this is the region where reports show the best quality. 66% of the financial institutions from OECD-Europe have some kind of stakeholder reporting, while 14% have a “good” level of stakeholder reporting.
- OECD-North America is the area with the highest number of financial institutions reporting no stakeholder issues. 82% of the financial institutions analysed in this region have “little or no evidence” of stakeholder reporting.

Figure 33. Stakeholder reporting (region)

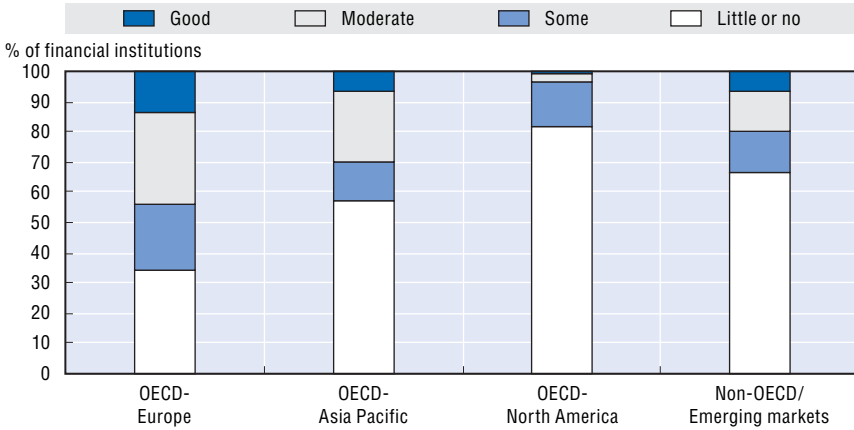
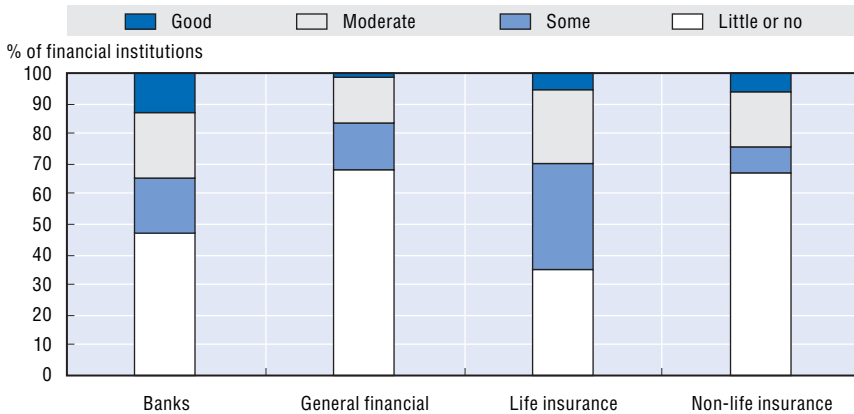


Figure 34. Stakeholder reporting (sectorial)



- Life insurers have the highest proportion of stakeholder reports at 65% of those financial institutions. However, the sector with the highest proportion of “good” stakeholder reports is the Banking sector, with 13% of Banks showing a “good” level of stakeholder reporting.

2.7. Sector-specific data

EIRIS has analysed a variety of sector-specific issues with the aim of showing a comparison across the various regions examined. The indicators in this section are mainly linked to business lines. For example, we review the regional distribution of adopters of Equator Principles and other processes for project finance and the bank members of the Wolfsberg group. We show volumes of SRI (social responsible investment), engagement policies and reporting, voting rights strategies and reporting, and the signatories to the UN-PRI (Principles for

Responsible Investment) which is primarily adhered to by investors, asset owners and asset managers. We also highlight those institutions which include a clear environmental component into credit risk assessment and the existence of green products for the majority of business lines.

SRI (Social Responsible Investment)

EIRIS established a threshold for volumes of SRI funds of GBP 1 billion or 1% of AUM (assets under management).

Figure 35. **General Financials volume of GBP 1 billion or 1% of assets under management (region)**

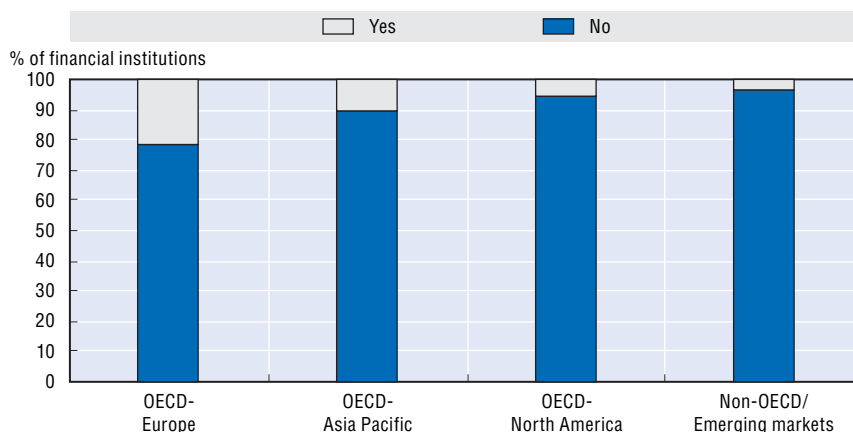


Figure 35 indicates that the region which has the highest volume of SRI amongst the financial institutions analysed, is OECD-Europe at 21%. This is followed by OECD-Asia Pacific with 11%, OECD-North America with 6% and Non-OECD/Emerging Markets with 3%. Due to the diversification of the sector it is difficult to categorise the activities with highest involvement in SRI. It would seem logical to expect asset managers to be the sub-sector offering the highest proportion of SRI. However, our sample indicated that 29 of the 59 financial institutions crossing the SRI threshold specified above are banks, followed by 14 General Financials.

Engagement policy and reporting

Some investors use engagement as their favoured ethical investment technique. Engagement is the interaction with investee companies to communicate the investor's environmental expectations with the aim of influencing their environmental conduct. EIRIS analysed the institutions that have an engagement policy with an environmental component and which reported on the outcomes of their engagements.

Figure 36. **Investor engagement (region)**

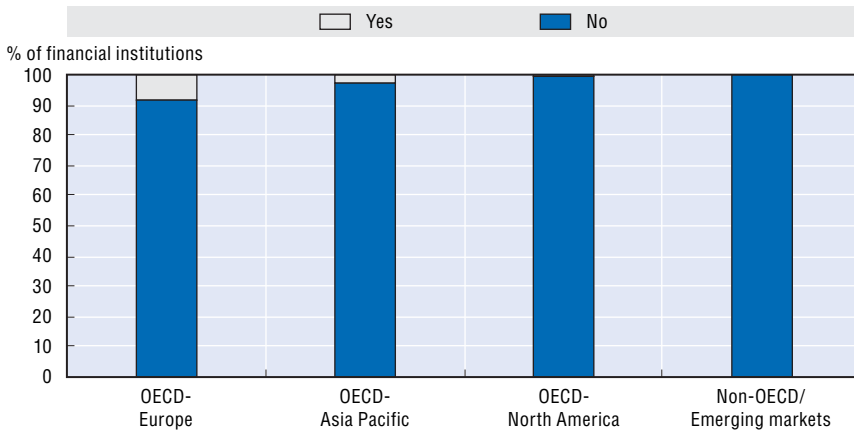


Figure 36 shows that OECD-Europe is the region with the highest number of engagement policies, at 9% of the financial institutions analysed. The majority of financial institutions offering engagement are in the General Financials sector followed by Banks.

Exercise of voting rights

EIRIS measures the investors that have policies to vote their shares in a particular way so as to deliver a decision that will have some environmental benefit and then report on this process and outcome. For example, a financial institution may establish it votes for or against or on a case-by-case basis on a variety of environmental issues, such as the publication of an environmental report or a certain direction of environmental performance.

Figure 37. **Share-voting for environment (region)**

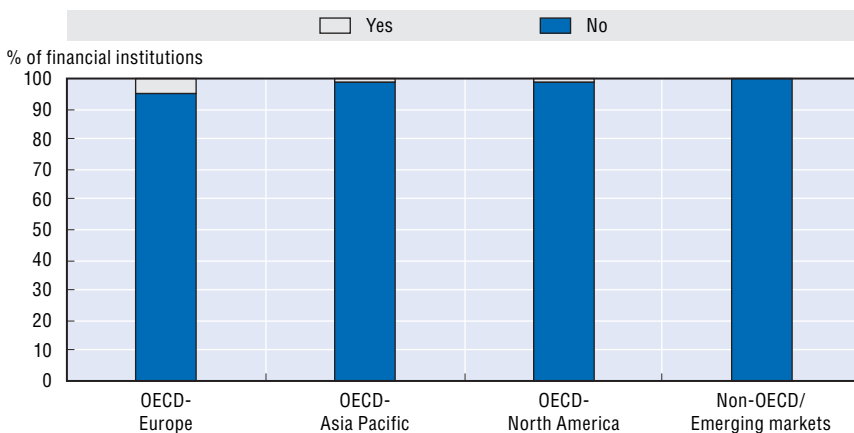


Figure 37 indicates that in the OECD-Europe area 5% of the institutions researched include environmental conditions when they exercise their voting rights. The percentages for the other areas were less than 1%.

Environmental credit risk management

The indicator below focuses on the inclusion of environmental concerns in credit risk assessment beyond reputational or financial risk.

Figure 38. **Environment credit risk assessment (region)**

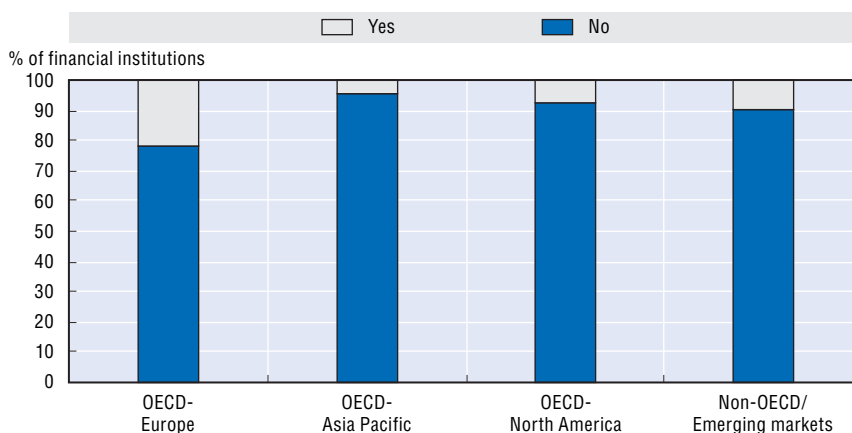


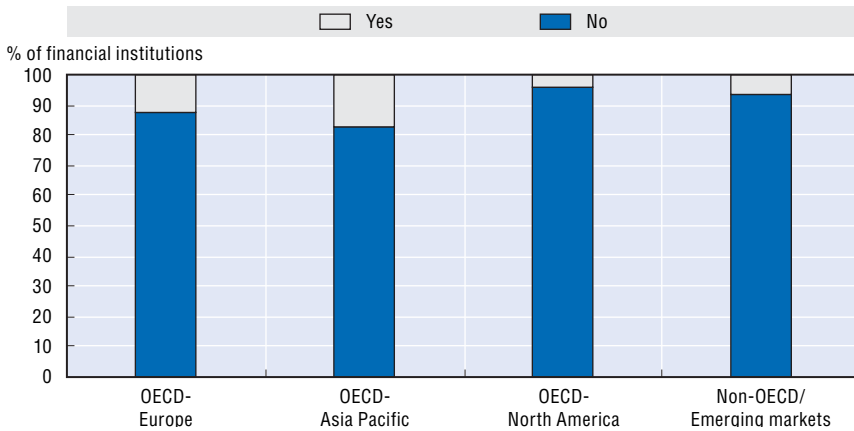
Figure 38 indicates that the practice of incorporating environmental issues in credit risk assessment is more common than the other issues analysed in this section. OECD-Europe is the area with the largest number of financial institutions incorporating environmental concerns in their credit risk assessment strategies with 22% of its financial institutions doing so. The area with the lowest number of financial institutions incorporating this practice is OECD-Asia Pacific with a mere 5%. Furthermore, the majority of financial institutions including environmental credit risk assessment are Banks followed by General Financials.

“Green” products

This indicator (Figure 39) covers a wide range of products. Several sector-specific examples include “pay-as-you-drive” car insurance and “green” loans for products that could benefit the environment (e.g. development of solar energy projects), amongst others.

In this case the area with the highest number of “green” products is OECD-Asia Pacific with 17% of its financial institutions offering such products. This is followed by OECD-Europe with 13%.

Figure 39. “Green” products (region)

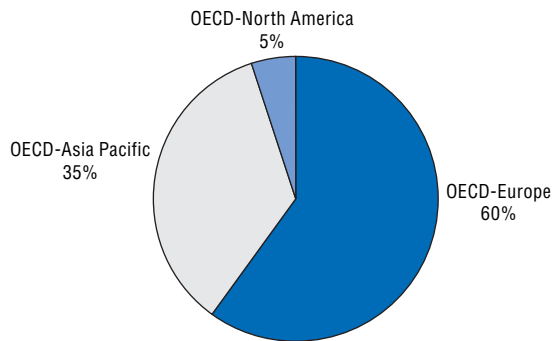


PRI (Principles for Responsible Investment)

The Principles for Responsible Investment is a joint initiative of UNEP-Finance Initiative and the UN Global Compact. Its aim is to incorporate ESG (environmental, social and governance) issues into investment strategies.

EIRIS cross-referred its universe of research with the list of signatories to the PRI. 20 out of the 455 financial institutions researched by EIRIS are signatories. In Figure 40 we show how these 20 organisations are spread worldwide.

Figure 40. UN Principles for Responsible Investment signatories (region)



None of the financial institutions analysed by EIRIS in the Non-OECD/ Emerging Market areas are signatories to this initiative. The majority of signatories were from the OECD-Europe area, followed by OECD-Asia Pacific.

Wolfsberg principles

The Wolfsberg Group is an association of twelve global banks which aims to develop financial services industry standards and products for anti-money laundering and counter terrorist finance (The Wolfsberg Principles).

The group came together in 2000, at the Château Wolfsberg in Switzerland, along with Transparency International (an NGO addressing corruption) and a representative from Basel University, to work on drafting anti-money laundering guidelines for private banking.

EIRIS cross-referred the bank members of this group with its universe of research. All the members, except for Bank of Tokyo-Mitsubishi UFJ (which is owned by Mitsubishi UFJ Financial Group and therefore not researched by EIRIS) are included in the graph below. EIRIS did not give membership credit to Mitsubishi UFJ Financial Group as it is not clear how extended the practice would be within the group.

Figure 41. **Wolfsberg Group members (region)**

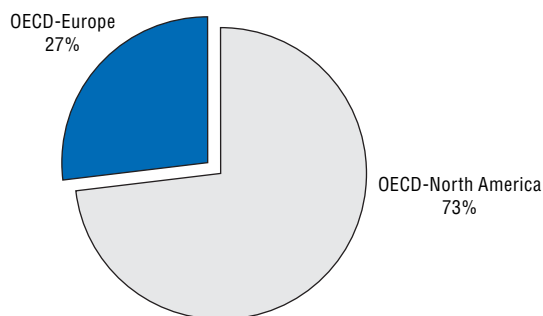


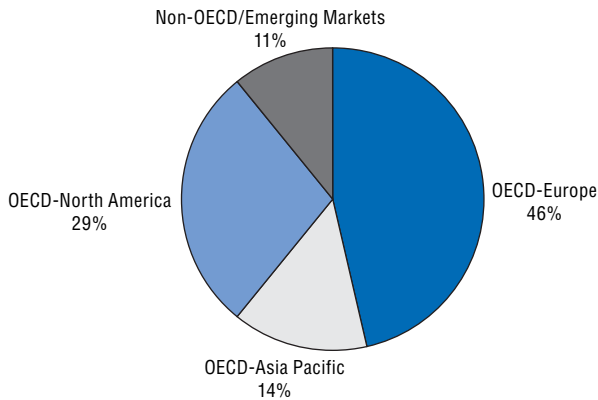
Figure 41 indicates that none of the members of the Wolfsberg Group come from Non-OECD/Emerging Markets or OECD-Asia Pacific (with the exception mentioned above).

Equator Principles

The Equator Principles are a set of voluntary environmental and social guidelines for ethical project finance. These principles commit banks and other signatories to refuse to finance projects that fail to meet these guidelines. The principles were conceived in 2002 as an initiative of the International Finance Corporation and launched in 2003. Since then, dozens of major banks have adopted the Principles, accounting for more than three quarters of all project loan market volume, causing them to become the *de facto* standard for all banks and investors on how to deal with potential social and environmental effects of projects to be financed. In July 2006, the

principles were revised to increase the scope and quality of the existing standards. EIRIS cross-referred the list of institutions that have adopted the Equator Principles with its universe of research. Twenty-eight of the financial institutions that EIRIS analysed are adopters of the principles. Figure 42 shows the regional distribution of these institutions.

Figure 42. **Equator Principles adopters (region)**



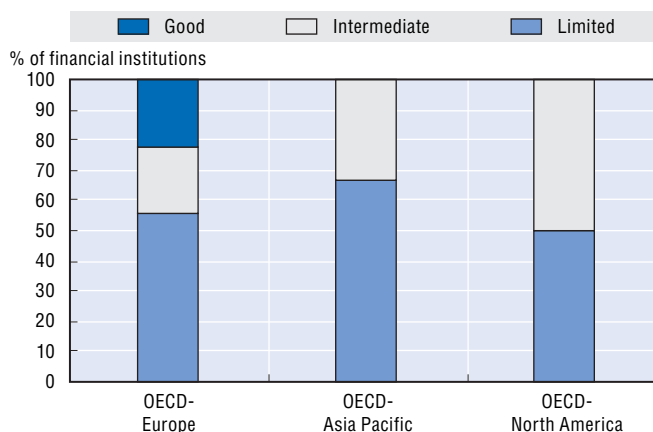
Project Finance

This research indicator is only relevant for the financial sector (including banks and insurance services), although it must be noted that not all banks and insurance services will operate in the area of project finance. The indicator shows the performance of financial institutions in addressing the risk and impact associated with project finance.

EIRIS assessment focuses on five main areas, namely strategy and responsibility, risk assessment, compliance and monitoring, reporting and dialogue and performance and innovation. The 5-tier assessment scale incorporates a scoring range from “no evidence” to “advanced” (see methodology for a detailed description of the elements that make up the scoring).

This is a new area of research for EIRIS and therefore although EIRIS has identified over 40 financial institutions with enough influence and exposure to project finance, at the time of publication only 14 have been researched. None of them belong to Non-OECD/Emerging Markets. EIRIS expects the remaining financial institutions to be researched over the course of 2007.

As Figure 43 indicates, OECD-Europe is the area with the highest number of good systems to manage the ethical risk of project finance. OECD-Asia Pacific is the area with the highest percentage of limited project finance systems.

Figure 43. **Project finance systems (region)**

3. Summary of findings and future outlook

The analysis of various social and environmental areas shows a number of differences across regions and sectors. We have also tried to establish trends within each area analysed in this paper.

The fact that policies and practices have been consistently developed across most financial institutions for some of these areas may lead us to conclude that those are seen by the financial institutions as of the greatest interest or materiality. We found that the areas of code of conduct, customers and suppliers and equal opportunities were of particular interest to financial institutions. The areas of environmental concern, on the other hand, seemed underdeveloped. This could be explained by the fact that these organisations consider their environmental impact to be less than those of other industries. EIRIS classifies the financial sector as medium to low impact, depending on the particular business activity. The greatest impact that this sector has on the environment is through the products and services it provides. In this regard, we also analysed the practices that financial institutions have in place to address their indirect environmental impact. The conclusion for this area is that, in general, the OECD-Europe region is the most advanced on products and services beneficial to the environment. The exception is “green products”, for which the OECD-Asia Pacific resulted as the most prominent provider. Likewise, from the financial institutions analysed regarding project finance, the region that had the highest number of systems in place was OECD-North America; however, the quality of the systems was higher in the OECD-Europe region.

In general, this paper shows that Life Insurance is the sector with the most developed ethical practices. This sector has the highest incidence of policies and systems developed for 15 out of 16 areas of research analysed. In

addition, the region where ethical practices are more frequently developed is OECD-Europe, with the highest number of policies and systems in 12 out of 16 areas.

The future for financial institutions will bring a higher unification of sustainability initiatives. This will benefit from synergies and consistency in the application of different policies. For example, we could expect to see the Equator Principles to be used for raising sustainability standards across all new institutional finance, not just project finance.

We may see the expansion of some of the initiatives analysed here to other ethical areas, such as the evolution of the Equator Principles towards human right areas. Furthermore, the increasing involvement of financial institutions in countries of concern, such as their recent interest in banks in China, could drive more of them to follow established ethical guidelines.

Likewise, we could expect the work of organisations and initiatives such as UNEP-FI and OECD to serve as a catalyst for the inclusion of further environmental concerns in the ethical practices of financial institutions.

Methodology

1. Code of Ethics

The assessment of code of ethics is based on the following combination of relevant elements:

Elements	No code	Limited	Basic	Intermediate	Advanced
General Existence of code of ethics	No code and no claim to have a code	Company says it has adopted a code of ethics but no details available beyond this	Existence of code and at least one specific element	Existence of code and 4-5 specific elements	Existence plus at least 6 specific elements
Specific elements of code <ul style="list-style-type: none"> ● Obeying laws and regulations ● Prohibits giving and receiving bribes ● Restricts giving and receiving gifts ● Prohibits facilitation payments ● Prohibits donations to political parties ● Conflicts of interest ● At least one “other” 					
“Other” – having at least one from the following will count: “ethical competition”, anti-competitive practices, use of company resources, external activities of employees, cultural sensitivity, innovative or sector-specific elements.		Include – a code which only applies to senior managers or directors Include – a statement of general commitment to principles such as honesty, integrity, fairness or similar	Exclude – a code which only applies to senior managers or directors cannot go above limited		Analyst must have seen a copy (either provided or published by the company). Simply ticking boxes on survey will only achieve intermediate.

The assessment of systems for implementing the code of ethics is as follows:

Elements	No systems	Limited	Basic	Intermediate	Advanced
<ul style="list-style-type: none"> ● Provides employee training ● Compliance monitoring ● Provides “whistle blowing” procedures ● Reporting – includes details of breaches and enforcements ● Undertakes a regular review of code 	Score of 0	Only employee training referred to without additional details	Score of 1-4 unless it is employee training only	Score of 5-7	Score of 8-10

Scores for each element are awarded as follows:

1 = Basic reference with no detail, or supporting evidence.

2 = Reference made with details. Might include descriptions that provide verification or substance, explanations of procedures, actions taken, review of process or outcome etc. which demonstrate that the system has impact and is more than a token acknowledgement.

2. Environmental Areas

EIRIS assigns five assessment grades to environmental policies, management systems and reports. The grades are as follows:

- inadequate;
- weak;
- moderate;
- good;
- exceptional.

2.1. Environmental policy

The assessment is based on a combination of the following elements:

Essential	Desirable
Reference to all key issues*	Globally applicable corporate standards
Responsibility for policy*	Commitment to stakeholder involvement
Commitment to use of targets*	Addressing product or service impact
Commitment to monitoring/audit	Strategic moves towards sustainability
Commitment to public reporting	

Those indicators marked with an * have different levels within them.

Additionally, financial institutions which are signatories to the UNEP-FI (UNEP Financial institutions initiative) are automatically given an assessment of “weak”.

Assessment levels.

Assessment levels are constructed from the indicators above as follows:

Inadequate

Lower than “weak”.

Weak

The company meets one of the following:

Three essential indicators.

Two essential indicators and one desirable indicator.

Four essential indicators (two at a lower level).

Moderate

The company meets one of the following:

Four or five essential indicators.

Three essential indicators plus one desirable indicator.

Three essential indicators (one at a higher level).

Good

The company meets one of the following:

Five essential indicators and one desirable indicator.

Four essential indicators and two desirable indicators.

Four essential indicators (one at a higher level) and one desirable indicator.

Exceptional

The company meets the following:

Five essential indicators, three desirable indicators (including “moves to environmental sustainability”).

2.2. Environmental management systems

The assessment for this area is based on a combination of the following elements.

Key indicators
Environmental policy
Identification of significant impacts
Setting of objectives and targets in all key areas
Documented structure and procedures
Audit programme
Internal reporting and management review
Other Indicators
Commitment only
Other initiatives, which relate to a specific industry, issue, or system element

Assessment levels

The following matrix is used to assess environmental management systems according to the number of the above indicators which have been implemented and the percentage of the company which the system covers.

System Quality	Less than 33% coverage	33 to 66% coverage	Over 66% coverage
Three indicators	<i>Inadequate</i>	<i>Weak</i>	<i>Weak</i>
Four indicators	<i>Weak</i>	<i>Moderate</i>	<i>Moderate</i>
Five indicators	<i>Weak</i>	<i>Moderate</i>	<i>Moderate</i>
Five indicators, with objectives and targets in all key areas	<i>Weak</i>	<i>Moderate</i>	<i>Good</i>
Six indicators, with quantitative objectives and targets	<i>Moderate</i>	<i>Good</i>	<i>Exceptional</i>
ISO14001 certified	<i>Moderate</i>	<i>Good</i>	<i>Exceptional</i>
EMAS registered	<i>Moderate</i>	<i>Good</i>	<i>Exceptional</i>
Commitment only	<i>Weak</i>	<i>Weak</i>	<i>Weak</i>
Other initiatives	<i>Inadequate</i>	<i>Weak</i>	<i>Weak</i>

2.3. Environmental reporting

The assessment is based on a combination of the following elements.

Essential	Desirable
Environmental policy text	Outline of environmental management system
Description of main impacts	Non-compliance, prosecutions, fines or accidents
Provides quantitative data (including year-on-year data)	Financial dimensions
Performance against targets	Independent verification
	Stakeholder dialogue
	Coverage of sustainability issues

Assessment levels

Assessment levels are constructed from the indicators above as follows:

Inadequate

Lower than “weak”.

Weak

The company meets three of the four essential indicators.

Moderate

The company meets one of the following:

All four essential indicators.

Three essential indicators and two desirable indicators.

Good

The company meets all four essential indicators and is independently verified.

Exceptional

The company meets all four essential indicators, is independently verified, and meets three desirable indicators.

Environmental performance:

The assessment for this area is based on the assessments for three individual areas, namely climate change, water use and waste management.

Average score	Final grade
> 2	Major improvement
> 1	Significant improvement
> 0	Minor improvement
< 0 or baseline year	No improvement
No data	No data

3. Human rights

EIRIS human rights research covers financial institutions with operations in countries with oppressive regimes. EIRIS category A countries list is drawn up annually by EIRIS using a variety of sources, including the Freedom House “Freedom in the World” Annual Survey, Human Rights Watch Annual Reports, and Amnesty International Annual Reports. Category A countries are as follows: Afghanistan, Algeria, Angola, Brunei, Burma, Cameroon, China, Colombia, Democratic Republic of Congo, Egypt, Iran, Iraq, Ivory Coast, Kazakhstan, Lebanon, Libya, North Korea, Oman, Pakistan, Rwanda, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, Vietnam, Zimbabwe.

The EIRIS definition of country presence is based on ownership of at least a 20% stake in a company incorporated in the country.

3.1. Overall Human Rights Assessment

A company’s assessment for managing human rights issues includes the following categories:

- policy and responsibility;
- management systems;
- reporting and dialogue.

There are four overall gradings, as detailed in the following table.

Overall gradings	Minimum score requirements
The company has an <i>advanced</i> system for addressing human rights issues	“Intermediate” human rights policy sub-score AND Two “advanced” indicators scores OR Three “intermediate” indicator scores OR One “advanced” indicator score, one “intermediate” indicator score and one “basic” indicator score
The company has an <i>intermediate</i> assessment – a basic human rights policy and some systems for addressing human rights issues	“Basic” human rights policy sub-score AND Two “intermediate” indicator scores OR One “intermediate” indicator score and two “basic” indicator scores
The company has a <i>basic</i> overall policy/system on human rights issues	“Basic” human rights policy sub-score OR “Basic” employment policy sub-score
The company has provided <i>little or no evidence</i> of overall policy/systems on human rights issues	n.a.

4. Employment and Industrial Relations

4.1. Equal opportunities

In order to calculate the grading, EIRIS uses the following elements:

Policy

Little or no evidence of policy on equal opportunities and diversity issues

No express or implied indication of a policy to avoid discrimination on at least the grounds of sex and race.

Basic policy on equal opportunities and diversity issues

A policy which expressly or implicitly refers to avoiding discrimination on the grounds of at least gender and ethnic origin.

Moderate policy on equal opportunities and diversity issues

A policy which expressly refers to avoiding discrimination on the grounds of gender, ethnic origin and disability AND at least one of age, religion and sexual orientation AND makes clear its policy is applied worldwide.

Good policy on equal opportunities and diversity issues

A policy which expressly refers to avoiding discrimination on the grounds of gender, ethnic origin and disability AND at least two of age, religion and sexual orientation AND makes clear its policy is applied worldwide AND it is a member or supporter of business focused groups supporting equal opportunities' development initiatives, in regard to at least two of the possible areas of discrimination.

Systems

Little or no evidence of systems to uphold equal opportunities/diversity

Unable to demonstrate any of the elements detailed in "what we measure".

Some evidence of systems to uphold equal opportunities/diversity

At least one of the elements (apart from senior responsibility) described above.

Clear evidence of systems to uphold equal opportunities/diversity

At least two of assigned responsibility to a senior person: monitors equal opportunities policy; able to provide supporting data AND at least two of: 10% of managers are women; percentage of ethnic minority managers is two fifths of ethnic minority workforce; provides at least three of the stated flexible working arrangements.

Very clear evidence of systems to uphold equal opportunities/diversity

All of: assigned responsibility to a senior person; monitors equal opportunities policy; able to provide supporting data AND more than 20% of its managers are women (or the percentage of women managers matches at least four fifths the figure for the percentage of women in its workforce as a

whole) AND percentage of ethnic minority manager is four fifths of ethnic minority workforce AND provides at least four of the stated flexible working arrangements.

4.2. Job Creation and Security

The assessment of this area includes the following grading:

- *Little or no evidence of systems and practices to advance job security or job creation*
Cannot demonstrate any of the following:
 - ❖ Assignment of responsibility for job security or job creation to a named senior person.
 - ❖ Makes a public commitment to avoid compulsory redundancies.
 - ❖ Maintains procedure for consultation on restructuring or redundancies
 - ❖ Provision of figures for the proportion of staff on temporary contracts (which must be less than 10%).
 - ❖ Has achieved positive (i.e. greater than 0%) organic job creation over the last three years.
- *Some evidence of systems and practices to advance job security or job creation*
Can demonstrate at least one of:
 - ❖ Makes a public commitment to avoid compulsory redundancies.
 - ❖ Provision of figures for the proportion of staff on temporary contracts (which must be less than 10%).
 - ❖ Has achieved positive (i.e. greater than 0%) organic job creation over the last three years.
- *Clear evidence of systems and practices to advance job security and job creation*
Can demonstrate at least 3 of the indicators detailed above.

4.3. Training

There are three indicators for this area:

- *Little or no evidence of systems to support employee training and development*
Company fails to ensure that at least 25% of staff have an annual review of training and development needs AND does not provide examples of at least two categories of significant quantitative supporting data, (such as the proportion of employee costs spent on training, amounts of time and money spent on training per employee) to illustrate its systems for employee training and development.
- *Some evidence of systems to support employee training and development*
Company ensures at least 25% of staff have an annual review of training and development needs OR provides examples of at least two categories of

significant quantitative supporting data to illustrate its systems for training and development.

- *Clear evidence of systems to support employee training and development*

Company ensures at least two-thirds of staff have an annual review of training and development needs AND provides examples of at least three categories of significant quantitative supporting data to illustrate its systems for training and development AND assigns responsibility for training and development to a named senior person.

4.4. Employee participation

The grading includes the following elements:

- *Little or no evidence of systems for managing employee relations*

They do not recognise trade unions for collective bargaining purposes OR have significant alternative consultative arrangements covering more than 25% of their staff.

- *Some evidence of systems for managing employee relations*

Recognises trade unions for collective bargaining purposes OR has alternative consultative arrangements covering more than 25% of staff.

- *Clear evidence of systems for managing employee relations*

Has assigned responsibility for systems and practices to maintain good employee relations to a named senior person and recognises unions for collective bargaining purposes covering more than 50% of staff.

5. Customers and suppliers

5.1. Policy

The following assessments are available for this area:

- *Little or no evidence of policy on customers and/or suppliers.*
- *Has adopted policy on customers and/or suppliers.*
- *Clearly communicates policy on either customer or supplier relations.*

Has a policy on either customer relations OR supplier relations, which is communicated widely/publicly to all stakeholders.

5.2. Systems

The grading for systems includes the following elements:

- *Little or no evidence of systems for maintaining good relations with customers and/or suppliers.*
- *Some evidence of systems for maintaining good relations with customers and/or suppliers.*

Must meet one of:

- ❖ Conducts monitoring of its relationships with customers and suppliers.
- ❖ Can provide evidence of improved relations with customers or suppliers.
- ❖ Makes assessments of the social impact of its products, developments and/or services.
- ❖ Meets formal quality systems for at least 1-20% of its operations.
- *Clear evidence of systems for maintaining good relations with customers and/or suppliers*

Must meet at least 3 of:

- ❖ Assignment of responsibility for customer and supplier systems to a named senior person.
 - ❖ Conducts monitoring of its relationships with customers and suppliers.
 - ❖ Can provide evidence of improved relations with customers or suppliers.
 - ❖ Makes assessments of the social impact of its products, developments and/or services.
 - ❖ Meets formal quality systems for at least 1-25% of its operations.
- OR that it meets formal quality systems for at least 50% of its operations.

- *Very clear evidence of systems for maintaining good relations with customers and/or suppliers*

Meets all the above.

OR at least 3 of the above + meets formal quality systems for at least 50% of its operations.

6. Stakeholders

6.1. Stakeholder Engagement

Four overall grades are available for this question:

- *Little or no engagement with stakeholders*

Company has either expressly stated it does not have a relevant policy OR has failed to disclose appropriate evidence.

- *Basic engagement with stakeholders*

Conducts surveys of one or more stakeholder groups OR has set up a committee or similar mechanism to monitor its relationships with customers or suppliers.

- *Moderate engagement with stakeholders*

Conducts social impact assessments of its products and services OR carries out audits of two or more stakeholder groups.

- *Good engagement with stakeholders*

Conducts regular (at least every 2 years) audits of its stakeholder engagement procedures AND has more than 25% of the business independently verified in this way.

6.2. Stakeholder Reporting

Four overall grades are available for this area. They all measure the reporting and availability of reports containing quantitative indicators of company performance on social issues.

- *Little or no quantitative disclosure on stakeholder relations*

They have not published a community involvement report OR have not disclosed a social report containing measurements of customer, supplier or stakeholder satisfaction and have disclosed less than two quantitative figures giving details of performance from the following headings:

Health and safety, Workforce composition, Training and employee development, Staff turnover.

- *Some quantitative disclosure on stakeholder relations*

EITHER

Clear publicly available Social reports, containing measurements of customer, supplier or stakeholder satisfaction;

OR

A Community involvement report giving a full breakdown and details of projects supported;

OR

2 or more quantitative figures giving details of performance from the following headings:

Health and safety, Workforce composition, Employee share ownership, Training and employee development, Staff turnover.

- *Moderate disclosure on stakeholder relations*

EITHER

Clear publicly available Social reports containing measurements of customer, supplier or stakeholder satisfaction;

OR

A Community involvement report giving a full breakdown and details of projects supported and 2 or more quantitative figures giving details of performance from the headings below: Health and safety, Workforce composition, Employee share ownership, Training and employee development, Staff turnover;

OR

3 or more quantitative figures giving details of performance from the following headings:

Health and safety, Workforce composition, Employee share ownership, Training and employee development, Staff turnover.

- *Good disclosure on stakeholder relations*

Must meet the moderate disclosure grade AND be either subject to social audit or have independent verification of a substantial part of the figures disclosed.

7. Sector-specific data (Project finance)

	No evidence	Limited	Intermediate	Good	Advanced
Requirements	No indicators	Any one indicator	Any four indicators from marked sections	All marked indicators	All marked indicators
Strategy and responsibility					
Global policy incl. SEE criteria		●	●	●	●
Public Equator Principles commitment				●	●
Policy commitment covering loan syndication					●
Commitment to EMP/EIA for all PF					●
Commitment to social MP/SIA for all PF					●
Env management plan/EIA for all PF deals considered category A (EP)			●	●	●
Social management plan/SIA for all PF deals considered category A (EP)				●	●
Env and social impact assessment (if appropriate) for category B projects				●	●
Risk assessment					
Client diagnostic tool to assess clients on their sustainability profiles for approval of PF deal (specific sector or all sectors)				Any one indicator	●
Env audits and site visits to evaluate env risk of project and (where relevant) social audits and site visits to evaluate social risk of project					●
Compliance and monitoring					
Training of relevant staff by consultants on env and social risks relating to PF or guidance notes outlining possible risks related to PF available			Any one indicator	Any two indicators	●
Attach conditions to agreement relating to SEE issues where necessary.					●
Monitor compliance with any SEE conditions attached to agreement					●

	No evidence	Limited	Intermediate	Good	Advanced
Requirements	No indicators	Any one indicator	Any four indicators from marked sections	All marked indicators	All marked indicators
Reporting and dialogue					
Engagement on proactive basis with stakeholders (throughout project)			Any two indicators (reporting and performance)		•
Detailed public response to NGO allegations concerning the financing of controversial projects					•
Public reporting on project finance				•	•
Quantitative public reporting on implementation of PF policies incl. KPIs				•	•
Qualitative reporting of challenges and compliance				•	•
Reporting on financial institutions/ projects denied credit for social or env reasons				•	•
Disclosure of person/committee responsible for approving PF deals				•	•
Performance and innovation					
PF policy applied beyond scope of EP commitment threshold					•
Policy leadership					•

ANNEX II.A4

*The UN Principles for Responsible Investment and the OECD Guidelines for Multinational Enterprises: Complementarities and Distinctive Contributions**

I. Introduction

With a coverage of US\$9 trillion in assets,¹ the UN Principles for Responsible Investment (“the PRI”) is one of the leading corporate responsibility instruments developed by the financial sector, while the OECD Guidelines for Multinational Enterprises (MNEs) is the most comprehensive voluntary corporate responsibility instrument addressed by governments to multinational enterprises – i.e. those operating from and in the 40 adherent countries to the OECD Declaration on International Investment and Multinational Enterprises.²

Despite their different scope and focus, both instruments share the common goal of enhancing the positive contribution of the private sector to economic, social and environment progress with a view to achieving sustainable development.

This document highlights the respective features of these two instruments by summarising their origins and objectives, scope and coverage, and implementation mechanisms. A preliminary note was tabled as factual background information for the 2007 Annual OECD Roundtable on Corporate Responsibility “The OECD Guidelines for Multinational Enterprises and the

* This paper was prepared by the OECD Secretariat with the Secretariat of the UNEP Finance Initiative as factual background information for the 2007 Annual OECD Roundtable on Corporate Responsibility “The OECD Guidelines for Multinational Enterprises and the Financial Sector” which was held in Paris on 18 June 2007. The views contained within do not necessarily represent those of the OECD or its member governments.

Financial Sector” held at the OECD on 18 June 2007. This paper contains a comparative table based on the texts of the two instruments.

II. The OECD Guidelines for Multinational Enterprises

Origin and objectives: The OECD Guidelines are recommendations by governments to multinational enterprises (MNEs) operating in and from the territories of the 40 countries that adhere to the Guidelines. Designed to contribute to a favourable investment climate, they aim to promote the positive contributions multinational enterprises can make to economic, environmental and social progress and to ensure that MNEs act in harmony with the policies of the countries in which they operate and with societal expectations.

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 Guidelines are the means through which the OECD Investment Committee seeks to integrate responsible business conduct values into its work on international investment so as to help it advance its mission of enhancing the contribution of investment to growth and sustainable development.

Scope: The Guidelines are a multilaterally endorsed and comprehensive code of conduct that enjoy the backing of governments whose territories are home to almost 85 per cent of foreign direct investment flows (in 2005) and to an estimated 96 out of the top-100 multinational enterprises. They also benefit from the support of business, labour, and NGO communities.³

The Guidelines establish voluntary principles and standards of responsible business conduct that are laid out in ten policy chapters covering such areas as human rights, disclosure of information, anti-corruption, taxation, labour relations, environment, competition and consumer protection.

Implementation: Responsibility for promoting the recommendations in the Guidelines lies primarily with the adhering governments as does the administration of the Guidelines’ unique follow-up mechanism. By adding the weight of adhering governments’ views to the general public debate on many issues in international business ethics, the Guidelines process has already succeeded in raising the legitimacy and profile of corporate attempts to address these issues.

The distinctive, government-backed implementation mechanisms of the OECD Guidelines include the operations of National Contact Points (NCPs). These are government offices located in each of the adhering governments.

They are responsible for encouraging observance of the Guidelines and for ensuring that the Guidelines are well known and understood by the national business community and other interested parties. NCPs carry out the following responsibilities: promoting the Guidelines, handling enquiries about them, assisting in solving problems that may arise, gathering information on national experiences with the Guidelines, and reporting annually to the OECD Investment Committee.

The fact that the Guidelines implementation processes are government-backed lends significant credibility to them. Their distinct implementation procedures provide a unique channel for exploring concrete issues of business ethics.

The OECD Guidelines provide a unique follow-up mechanism for raising “specific instances”. This facility allows interested parties to call a company’s alleged non-observance of the Guidelines’ recommendations to the attention of an NCP. Since the creation of the specific instance facility in 2000, it has been used one hundred ten times as a forum for discussing concrete problems of business ethics – those encountered by managers “on the ground”.

NCPs also actively engage in promotional activities to further the effectiveness of the OECD Guidelines. Recent developments include: publications, the creation of specialised websites, the use of embassy networks, the organisation of events with business, labour, and other stakeholders, and the use of references to the Guidelines in the context of export-credit, investment promotion and guarantee programmes, and development assistance programmes.

The National Contact Points meet every year in order to engage in a “peer review” of their activities, including their handling of specific instances. In this way, Guidelines implementation involves continual improvement, both by NCPs and by other users. A report on the implementation of the Guidelines is published annually.⁴

Responsibility for oversight of the functioning of the Guidelines falls to the OECD Investment Committee, which is expected to take steps to enhance the effectiveness of the Guidelines. It can also issue clarifications on the application of the Guidelines in specific circumstances.

III. The United Nations Principles for Responsible Investment

Origin and objectives: The UN Principles for Responsible Investment is a joint initiative of the UN Environment Programme Finance Initiative and the UN Global Compact with the aim of incorporating environmental, social and governance (ESG) issues into mainstream investment decision-making and ownership practices. The UN PRI is based on the premise that institutional investors and asset managers have a duty to act in the best long-term

interests of their clients and therefore, need to give appropriate consideration to how ESG issues can affect the performance of investment portfolios. By providing a framework for the integration of responsible business conduct into investment strategies, the PRI contributes to the promotion of ESG objectives within the financial sector.⁵

In early 2005 the United Nations Secretary-General invited a group of the world's largest institutional investors to join a process to develop the Principles. Individuals representing 20 institutional investors from 12 countries agreed to participate in the Investor Group. The Group accepted ownership of the Principles, and had the freedom to develop them as they saw fit. The Group was supported by a 70-person multi-stakeholder group of experts from the investment industry, intergovernmental and governmental organisations, civil society and academia. The Principles emerged as a result of these meetings.⁶

Scope: The Principles are accompanied by a set of 35 possible actions that institutional investors and asset managers can take to integrate ESG considerations into their investment activities. These actions relate to a variety of issues, including investment decision-making, active ownership, transparency, collaboration and the achievement of wider support for these practices from the whole financial services industry. The PRI's six core principles require institutional investors to:⁷

- Incorporate ESG issues into investment analysis and decision-making processes.
- Be active owners and incorporate ESG issues into ownership policies and practices.
- Seek appropriate disclosure on ESG issues by the entities in which they invest.
- Promote acceptance and implementation of the Principles within the investment industry.
- Work together to enhance their effectiveness in implementing the Principles.
- Report on their activities and progress towards implementing the Principles.

Derived from consensus among institutional investors, the UN PRI is specifically designed for institutional investors and the financial sector. It reflects the core values of the group of large investors whose investment horizon is generally long, and whose portfolios are often highly diversified. The PRI's 35 possible actions that investment entities can take to integrate ESG considerations into their investment activities renders it accessible for all types of institutional investors (asset owners, investment managers and professional service partners) regardless of size, location or level of experience with corporate citizenship.⁸

Implementation: Participation in the UN PRI is initiated by a leadership commitment from an organisation's CEO that is communicated to the United Nations. Investment actors also engage directly in the various engagement mechanisms that the Principles endorse at the global, regional and local level, such as identification of good practices and the promotion and acceptance of ESG standards within the investment industry. Since its launch in April 2006, the UN PRI has grown from its original 20 institutional signatories representing approximately US\$2 trillion to over 200 institutional signatories from 25 countries representing in excess of US\$9 trillion in assets under management.⁹

The UN PRI offers three different types of signatory: asset owner (organisations that represent end-asset owners who hold long-term retirement savings, insurance and other assets), investment manager (companies that serve an institutional and/or retail market and manage assets as a third-party provider), and professional service partner (organisations that offer products or services to asset owners and/or investment managers). Commitment is expected from the top-level leadership of an organisation across the entire business. Signatories self-select the category they fall into, but the Board of the UN PRI reserves the right to make category adjustments if appropriate. Asset owners are the principal category of signatory. While the categories are not designed to be overly prescriptive, the general rule is that an investor is considered an asset owner rather than an investment manager if it manages more of its own fund than the funds of third-party clients. Although professional service partners are not stewards or managers of assets in their own right, they do have considerable influence over how their clients address ESG issues. For this group, becoming a signatory is an acknowledgement of the relevance of ESG issues to investment management. It also represents a commitment to providing services that support the implementation of the Principles by clients, and to improving such services over time.¹⁰

In signing the Principles, investors publicly commit to adopt and implement them where consistent with their fiduciary responsibilities. Signatories to the UN PRI are required to report on implementation or provide an explanation if they do not comply with principles. Furthermore, signatories commit to evaluate the effectiveness and improve the content of the Principles over time in order to enhance their ability to meet obligations to beneficiaries and to better align investment activities with the broader interests of society. Signatories also commit to encourage other investors to adopt the Principles. As the Principles are voluntary, they represent a self-reporting system.¹¹

As signatories develop policies and procedures for integration, the PRI Secretariat is available to help investors implement them. The PRI's 35 possible actions can serve as a guideline for implementation of the

Principles. The specific action plans put forth for the implementation of each of the PRI's six principles are outlined in the text of the PRI (see comparative table).¹²

To promote collaboration, the UN PRI Secretariat has established the PRI Engagement Clearinghouse for shareholder engagement activities. This body provides signatories with the ability to collaborate efficiently and effectively on a range of company-specific and policy issues. This forum allows signatories to post requests for support relating to a variety of activities, including seeking co-sponsors for shareholder resolutions and instigating company dialogue on issues of concern. Additionally, the "PRI in Practice" implementation blog, a Signatory Intranet, has been created to serve as a central hub for implementation resources, and provides interviews with leading signatories on best practices and other key implementation advice and tools.¹³

There are no legal or regulatory sanctions associated with the Principles. Instead, they are designed to be voluntary and aspirational. There may be reputational risks associated with signing up and then failing to take any action. However, the commitments are, for most signatories, a work in progress and a direction to move in rather than a prescriptive checklist with which to comply.¹⁴

To promote basic engagement quality, the UN PRI asks participating companies to report on activities and progress toward implementation of the Principles. A PRI Reporting and Assessment Questionnaire assists signatories and the initiative as a whole in monitoring implementation progress, identifying and showcasing best practices, and focusing support activities where they are most needed.¹⁵

The UN PRI initiative is governed by a volunteer board of 12 representatives from asset owner signatory organisations and two representatives from the United Nations. A PRI Secretariat reports to the PRI board. As the initiative develops over time, the Board continues to consider how signatories can monitor and report on progress.¹⁶

IV. Concluding Remarks

The OECD Guidelines and the UN PRI are derived from common values and thus have mutually reinforcing missions. The OECD Guidelines are government-backed recommendations on responsible business conduct that promote the positive contributions that multinational enterprises can make to progress on environmental, social, and governance (ESG) issues. The Guidelines encourage enterprises, including various categories of institutional investors, to reflect responsible business considerations across the breadth of their activities. The UN PRI seeks to advance responsible corporate citizenship

in one single sector, the financial sector, by inspiring voluntary action by institutional investors in support of incorporation of ESG principles into investment strategies and decision-making.

Given these characteristics, the OECD Guidelines and the UN PRI can be used as complementary and mutually supportive tools for enterprises and institutional investors seeking to ensure responsible business conduct in their operations. In particular, signatories of the UN PRI can make use of the more-detailed, government-endorsed corporate responsibility standards of the Guidelines to carry out their commitment to the PRI. They can also seek the advice and assistance of the NCPs to help mediate and conciliate issues which may be raised by interested parties about their activities.

Notes

1. UN Principles for Responsible Investment, available at www.unpri.org.
2. These are the 30 OECD countries and 10 non-member countries (Argentina, Brazil, Chile, Egypt, Estonia, Israel, Latvia, Lithuania, Romania and Slovenia) that have adhered to them.
3. This includes the Business Advisory Council to the OECD (BIAC), the Trade Union Advisory Council to the OECD (TUAC) and OECD Watch.
4. OECD Guidelines for Multinational Enterprises: 2006 Annual Meeting of National Contact Points, available at www.oecd.org/dataoecd/23/33/37439881.pdf.
5. UN Principles for Responsible Investment, available at www.unpri.org.
6. *Ibid.*
7. *Ibid.*
8. UN Principles for Responsible Investment, available at www.unpri.org.
9. *Ibid.*
10. *Ibid.*
11. *Ibid.*
12. *Ibid.*
13. UN Principles for Responsible Investment, available at www.unpri.org.
14. *Ibid.*
15. *Ibid.*
16. *Ibid.*

Table A. **Comparison of the coverage of the UN Principles for Responsible Investment and the OECD Guidelines for Multinational Enterprises¹**

PRINCIPLES FOR RESPONSIBLE INVESTMENT	OECD GUIDELINES for MNEs
<p>Preamble: <i>As institutional investors, we have a duty to act in the best long-term interests of our beneficiaries. In this fiduciary role, we believe that environmental, social, and corporate governance (ESG) issues can affect the performance of investment portfolios (to varying degrees across companies, sectors, regions, asset classes and through time). We also recognise that applying these Principles may better align investors with broader objectives of society.</i></p>	<p>As seen in the following text of the OECD Guidelines, there is broad overlap between the objectives set forth in the Preface of the Guidelines and those outlined in the Preamble of the UN PRI:</p> <p><i>Preface:</i></p> <p>1. The Guidelines aim to ensure that the operations of these enterprises are in harmony with government policies, to strengthen the basis of mutual confidence between enterprises and the societies in which they operate, to help improve the foreign investment climate and to enhance the contribution to sustainable development made by multinational enterprises.</p> <p>...</p> <p>10. 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</p> <p>Additionally, the following General Policies of the Guidelines also demonstrate broad overlap with the objectives of the UN PRI set forth in its Preamble:</p> <p><i>Chapter II: General Policies</i> [Enterprises should]</p> <p>1. Contribute to economic, social and environmental progress with a view to achieving sustainable development.</p> <p>3. Encourage local capacity building through close co-operation with the local community, including business interests, as well as developing the enterprise's activities in domestic and foreign markets, consistent with the need for sound commercial practice.</p> <p>6. Support and uphold good corporate governance principles and develop and apply good corporate governance practices.</p> <p>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.</p> <p>10. Encourage, where practicable, business partners, including suppliers and subcontractors, to apply principles of corporate conduct compatible with the Guidelines.</p>

Table A. Comparison of the coverage of the UN Principles for Responsible Investment and the OECD Guidelines for Multinational Enterprises¹ (cont.)

PRINCIPLES FOR RESPONSIBLE INVESTMENT	OECD GUIDELINES for MNEs
<p>Principle 1: <i>We will incorporate ESG issues into investment analysis and decision-making processes.</i></p> <p>Possible actions:</p> <ul style="list-style-type: none"> • <i>Address ESG issues in investment policy statements</i> • <i>Support development of ESG-related tools, metrics, and analyses</i> • <i>Assess the capabilities of internal investment managers to incorporate ESG issues</i> • <i>Assess the capabilities of external investment managers to incorporate ESG issues</i> • <i>Ask investment service providers (such as financial analysts, consultants, brokers, research firms, or rating companies) to integrate ESG factors into evolving research and analysis</i> • <i>Encourage academic and other research on this theme</i> • <i>Advocate ESG training for investment professionals</i> 	<p>By encouraging “business partners, including suppliers and subcontractors, to apply principles of corporate conduct compatible with the Guidelines”,² multinational enterprises may integrate ESG issues into their investment decisions and relationships. As multinational enterprises, institutional investors’ adoption of the OECD Guidelines may aid them in incorporating ESG issues into “investment analysis and decision-making processes” (UN PRI Principle 1). In this regard, the content of Principle 1 and the following general policies of the OECD Guidelines highlight similar issues:</p> <p><i>Chapter II: General Policies (1, 6, 7, 10)</i></p> <p>8. <i>[Enterprises should] Promote employee awareness of, and compliance with, company policies through appropriate dissemination of these policies, including through training programmes.</i></p> <p>The following recommendation demonstrates potential for the OECD Guidelines to be used as a reference tool for more specific incorporation of ESG issues into general employee training practices:</p> <p><i>Chapter IV Employment and Industrial Relations:</i></p> <p>5. <i>[Enterprises should] 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.</i></p> <p>While there is no direct correlation between the Principles and the OECD Guidelines coverage of the theme of science and technology, the following recommendation may be broadly relevant to the Principles in terms of promotion of ESG-oriented research:</p> <p><i>Chapter VII: Science and Technology</i></p> <p>5. <i>[Enterprises should] Where relevant to commercial objectives, develop ties with local universities, public research institutions, and participate in co-operative research projects with local industry or industry associations.</i></p>

Table A. Comparison of the coverage of the UN Principles for Responsible Investment and the OECD Guidelines for Multinational Enterprises¹ (cont.)

PRINCIPLES FOR RESPONSIBLE INVESTMENT	OECD GUIDELINES for MNEs
<p>Principle 2: <i>We will be active owners and incorporate ESG issues into our ownership policies and practices.</i></p>	<p>As multinational enterprises, institutional investors can use the OECD Guidelines in their own operations. As “active owners”, they can use the Guidelines as a tool to influence the promotion of ESG issues in the companies in which they have an investment relationship.</p>
<p>Possible actions:</p>	<p>More specifically, as the OECD Guidelines call on multinational enterprises to incorporate “principles of corporate conduct compatible with the Guidelines”³ where possible into investment processes, enterprises may develop responsible investment relationships with business partners by engaging with them on ESG issues. In this regard, there appears to be a broad relevance between the content of the OECD investment nexus (Chapter II.10) and Principle 2’s call for institutional investors to “incorporate ESG issues into ownership policies and practices”.</p>
<ul style="list-style-type: none"> ● <i>Develop and disclose an active ownership policy consistent with the Principles</i> ● <i>Exercise voting rights or monitor compliance with voting policy (if outsourced)</i> ● <i>Develop engagement capability (either directly or through outsourcing)</i> ● <i>Participate in the development of policy, regulation, and standard setting (such as promoting and protecting shareholder rights)</i> ● <i>File shareholder resolutions consistent with long-term ESG considerations</i> ● <i>Engage with companies on ESG issues</i> ● <i>Participate in collaborative engagement initiatives</i> ● <i>Ask investment managers to undertake and report on ESG-related engagement</i> 	<p>There is potential for the following recommendations put forth by the Guidelines to be utilised in support of incorporation of “ESG issues into ownership policies and practices”, (UN PRI Principle 2) particularly in regards to regulation and standard setting:</p> <p><i>Chapter V: Environment</i> [Enterprises should] <i>... Take due account of the need to protect the environment, public health and safety, and generally to conduct their activities in a manner contributing to the wider goal of sustainable development.</i></p> <p><i>1b. Establish and maintain... measurable objectives and, where appropriate, targets for improved environmental performance, including periodically reviewing the continuing relevance of these objectives.</i></p> <p><i>1c. Establish and maintain... regular monitoring and verification of progress toward environmental, health, and safety objectives or targets.</i></p> <p><i>2b. Engage in adequate and timely communication and consultation with the communities directly affected by the environmental, health and safety policies of the enterprise and by their implementation.</i></p> <p><i>6a. Continually seek to improve corporate environmental performance, by encouraging... 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.</i></p>

Table A. Comparison of the coverage of the UN Principles for Responsible Investment and the OECD Guidelines for Multinational Enterprises¹ (cont.)

PRINCIPLES FOR RESPONSIBLE INVESTMENT	OECD GUIDELINES for MNEs
<p>Principle 3: <i>We will seek appropriate disclosure on ESG issues by the entities in which we invest.</i></p> <p>Possible actions:</p> <ul style="list-style-type: none"> ● <i>Ask for standardised reporting on ESG issues (using tools such as the Global Reporting Initiative)</i> ● <i>Ask for ESG issues to be integrated within annual financial reports</i> ● <i>Ask for information from companies regarding adoption of/adherence to relevant norms, standards, codes of conduct or international initiatives (such as the UN Global Compact)</i> ● <i>Support shareholder initiatives and resolutions promoting ESG disclosure</i> 	<p>The OECD Guidelines may be considered as a list of standards helpful for the reporting and disclosure of ESG issues by users of the UN PRI. In asking for appropriate disclosure on ESG issues by the entities in which they invest, there is potential for institutional investors to suggest that these entities utilise the OECD Guidelines as a reporting tool. When asking for information from companies regarding the adoption of relevant ESG codes of conduct, the shared values between the OECD Guidelines and the UN Global Compact make it possible for institutional investors to ask about adherence to the OECD Guidelines as well.⁴</p> <p>As multinational enterprises, institutional investors may promote appropriate disclosure behaviour by other entities on ESG issues by setting an example in their own disclosure practices, as demonstrated by the following recommendations:</p> <p><i>Chapter III: Disclosure</i> [Enterprises should]</p> <ol style="list-style-type: none"> 1. <i>Ensure that timely, regular, reliable and relevant information is disclosed regarding their activities, structure, financial situation and performance.</i> 2. <i>Apply high quality standards for disclosure, 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 non-financial information are compiled and published should be reported.</i> 4a. <i>Disclose material information on the financial and operating results of the company.</i> 5a. <i>Communicate additional information that could include value statements or statements of business conduct intended for public disclosure including information on the social, ethical and environmental policies of the enterprise and other codes of conduct to which the company subscribes.</i>
<p>Principle 4: <i>We will promote acceptance and implementation of the Principles within the investment industry.</i></p> <p>Possible actions:</p> <ul style="list-style-type: none"> ● <i>Include Principles-related requirements in requests for proposals (RFPs)</i> ● <i>Align investment mandates, monitoring procedures, performance indicators and incentive structures accordingly (for example, ensure investment management processes reflect long-term horizons when appropriate)</i> ● <i>Communicate ESG expectations to investment service providers</i> ● <i>Revisit relationships with service providers that fail to meet ESG expectations</i> ● <i>Support the development of tools for benchmarking ESG integration</i> ● <i>Support regulatory or policy developments that enable implementation of the Principles</i> 	<p>The OECD Guidelines may be helpful for institutional investors in implementing the Principles, particularly by providing more detailed standards regarding the benchmarking of ESG integration. Additionally, it may be considered that there is potential for the implementation mechanism of the OECD Guidelines to support the Principles.</p>

Table A. **Comparison of the coverage of the UN Principles for Responsible Investment and the OECD Guidelines for Multinational Enterprises¹ (cont.)**

PRINCIPLES FOR RESPONSIBLE INVESTMENT	OECD GUIDELINES for MNEs
<p>Principle 5: <i>We will work together to enhance our effectiveness in implementing the Principles.</i></p> <p>Possible actions:</p> <ul style="list-style-type: none"> ● <i>Support/participate in networks and information platforms to share tools, pool resources and make use of investor reporting as a source of learning</i> ● <i>Collectively address relevant emerging issues</i> ● <i>Develop or support appropriate collaborative initiatives</i> 	<p>As both the Principles and the OECD Guidelines are committed to advancing progress on ESG issues, there is potential for National Contact Points (NCPs) to be used as a vehicle for coordination between the two frameworks.</p> <p>The adoption of the OECD Guidelines Chapter II.7 recommendation to employ operating, regulatory, and management systems that “foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate” may be used as a tool to carry out the implementation of Principle 5’s commitment to “enhance effectiveness in implementing the Principles”.</p>
<p>Principle 6: <i>We will each report on our activities and progress towards implementing the Principles.</i></p> <p>Possible actions:</p> <ul style="list-style-type: none"> ● <i>Disclose how ESG issues are integrated within investment practices</i> ● <i>Disclose how ESG issues are integrated within investment practices</i> ● <i>Disclose active ownership activities (voting, engagement, and/or policy dialogue)</i> ● <i>Disclose what is required from service providers in relation to the Principles</i> ● <i>Communicate with beneficiaries about ESG issues and the Principles</i> ● <i>Report on progress and/or achievements relating to the Principles using a Comply or Explain’ approach⁵</i> ● <i>Seek to determine the impact of the Principles</i> ● <i>Make use of reporting to raise awareness among a broader group of stakeholders</i> 	<p>The OECD Guidelines chapter on disclosure provides a reporting framework that may be referenced in support of Principle 6’s suggested possible actions for institutional investors to report on their “activities and progress towards implementing the Principles” (UN PRI Principle 6).</p> <p><i>Chapter III: Disclosure (1, 2, 5a)</i> <i>[Enterprises should]</i> 5b. <i>Communicate information on systems for managing risks and complying with laws, and on statements or codes of business conduct.</i> 5c. <i>Communicate information on relationships with employees and other stakeholders.</i></p>

1. The table does not intend to provide an exact correspondence between the UN PRI and the OECD Guidelines for MNEs, but to reproduce texts in the respective instruments that cover similar issues.
2. OECD Guidelines for Multinational Enterprises, Chapter II.10, available at www.oecd.org/dataoecd/56/36/1922428.pdf and OECD, “Scope of the Guidelines and the Investment Nexus”, available at www.oecd.org/document/42/0,2340,en_2649_34889_37356074_1_1_1_1,00.html.
3. OECD Guidelines for Multinational Enterprises, Chapter II.10, available at www.oecd.org/dataoecd/56/36/1922428.pdf.
4. OECD, “The UN Global Compact and the OECD Guidelines for Multinational Enterprises: Complementarities and Distinctive Contributions”, available at www.oecd.org/dataoecd/23/2/34873731.pdf.
5. The Comply or Explain approach requires signatories to report on how they implement the Principles, or provide an explanation where they do not comply with them.

ANNEX II.A5

*The OECD Guidelines for Multinational Enterprises and the Equator Principles – Similarities, Differences and Synergies**

Adoption and Parties

The Equator Principles (EP) form two sets of principles. The first set of the EP (EP1), signed by ten equator banks (EB) in 2003, was conceived with the help of the International Finance Corporation (IFC) in 2002. The EP1 were based on the IFC's Environmental and Social Safeguard Policies and Guidelines. In large part, due to the IFC's review of these policies and their replacement with the new IFC Performance Standards, the EP1 were also revised. The updated set of the EP (EP2) has been open for adoption from July 2006 by the Equator Principles Financial Institutions (together with the EB, the EPFI). Currently, 51 EPFIs are signatories of the EP2.

The OECD Guidelines for Multinational Enterprises (the Guidelines) were adopted in 1976 and revised in 2000. The 2000 Review led to a substantial update of the Guidelines and the adoption of detailed implementing procedures. The Guidelines are part of a quartet of instruments falling collectively under the umbrella of the OECD Declaration on International Investment and Multinational Enterprises, a broad political commitment adopted by the OECD Governments in 1976 to facilitate direct investment among OECD members. The Guidelines have been described as “the only multilaterally endorsed and comprehensive code that governments are committed to promoting”. The Guidelines express the shared values of the

* This paper is the result of a broader presentation to the Annual OECD Roundtable on Corporate Responsibility (18 June 2007) entitled “The OECD Guidelines for Multinational Enterprises and the Financial Sector and the Equator Principles”. This paper is by Paul Q. Watchman, Partner, and Angela Delfino, Senior Associate, at the London Office of LeBoeuf, Lamb, Greene and MacRae, LLP and solely addresses the environmental and the social aspects of the OECD Guidelines.

governments of countries that are the source of most of the world's direct investment flows and home to most multinational enterprises. The Guidelines have been signed by the 30 OECD member countries and ten non-members – Argentina, Brazil, Chile, Egypt, Estonia, Israel, Latvia, Lithuania, Romania and Slovenia, collectively referred to as “adhering countries”.

Scope

The first difference between the EP and the Guidelines relates to the scope of these instruments.

The EP are applicable to project finance transactions and to projects only. Under the EP, the EPFI undertake not to provide loans to a project unless sponsors can demonstrate that the project will be constructed and operated in accordance with sound social and environmental management practices.

The Guidelines are recommendations addressed by Governments to multinational enterprises. The Guidelines, – covering areas such as disclosure, employment, environment, combatting bribery, consumer interests, science and technology, competition and taxation, – aim to ensure that the operations of multinational enterprises are in harmony with government policies. The scope of the Guidelines is broader than the EP, since they comprise the whole range of corporate behaviour and day to day operations.

Aim

Although the aims of the EP and the Guidelines are different, a parallel between both instruments can be established. The Guidelines aim to ensure not only that the operations of multinational enterprises are in harmony with government policies but also to strengthen the basis of mutual confidence between enterprises and the societies in which they operate as well as to help improve the climate for foreign investment climate and to enhance the contribution to sustainable development made by multinational enterprises. Although not expressly stated in the Equator Principles, the same considerations in fact apply to the project finance activities of banks and other financial institutions.

Moreover, as stated in the EP Preamble, the aim is that projects (and in the case of the Guidelines, businesses) are developed in a manner that is socially responsible and reflect sound environmental management practices.

Equally, both the EP and the Guidelines provide similar advantages for multinational enterprises and banks in terms of organisation and management, internal and external accountability, and harmonization of practices with competitors.

Finally, the two texts are landmarks in terms of business ethics and social responsibility.

Nature

In their legal nature, the EP and the Guidelines are similar instruments. Both the EP and the Guidelines are not a detailed set of enforceable legal norms but a general, voluntary framework of principles and standards.

A major difference distinguishes the EP and the Guidelines. The EP are of a purely private nature, endorsed by banks and other financial institutions, while the Guidelines are signed by States and comprise recommendations by governments to multinational enterprises operating in and from their territories of the 40 countries that adhere to the Guidelines.

Specific Provisions

Categorisation of projects

An important difference between the EP and the OECD Guidelines is the streamlining of the environmental and social assessment process for high-income OECD countries.

While the Guidelines apply equally to all businesses regardless of location, in the EP, in the case of high-income OECD countries, the baseline requirement for a Social and Environmental Assessment (SEA) differs from non-OECD or non-high-income OECD countries on the basis that the local laws in high-income OECD countries regarding environmental and social assessment are likely to be more exacting than in non-OECD countries or non-high-income OECD countries. The baseline standard for a non-OECD country or a non-high-income OECD country is the IFC Performance Standards plus any applicable industry IFC standards and guidelines. In the case of high-income OECD countries the baseline for the SEA is the local or national law on the grounds that in high-income OECD countries the laws relating to environmental protection and the safeguarding of social matters, such as human rights and property rights, tend to be more stringent and robust than the IFC Performance Standards and Guidelines.

The EP division between high- and low-income OECD countries and non-OECD countries, for example, represents a simplification of a complex situation. First, it does not show an appreciation of the very different OECD high-income country environmental, social and governance standards and their different enforcement regimes and practices. Second, the division also fails to recognise the importance of public international law in that not all high-income OECD countries have ratified key environmental and social protection treaties and protocols or do not properly enforce them. Third, insufficient guidance is given as to how to assess trans-boundary projects which may pass through high-income OECD countries, non high-income OECD countries and non-OECD countries.

Certainly, EPFIs' practice will clarify critics' apprehensions, but uniformity of practices across countries at different stages of development that characterises the approach followed by the Guidelines may be more adequate in a globalised world.

Social and environmental standards

As a result of the above categorisation, under the EP, a Social and Environmental Assessment (SEA) to be performed by EPFIs distinguishes between non-OECD, non-high-income, and high-income OECD countries. The SEA is based specifically and in accordance with Principle 3, and Exhibits III and IV of the EP, which follow the IFC Performance Standards and applicable Industry Specific Environmental, Health and Safety Guidelines.

In comparison with the EP, the environment chapter of the Guidelines is narrower since it provides only for an environmental impact assessment. However, the Guidelines still provide for the need to address in a decision-making process relating to a business, foreseeable environmental, health and safety-related impacts associated with the processes, goods and services of the enterprise.

In the EP, a similar obligation is the Action Plan (AP) which is required for some types of projects. The AP describes and prioritises actions needed to implement mitigation measures, corrective actions and monitoring measures necessary to manage social and environmental risks identified by the SEA. The AP does not need to closely follow the SEA, but draws on its conclusions.

In addition to the AP, borrowers are to build on and develop Social and Environmental Management Systems (SEMS) which address those identified impacts, risks and actions required to comply with host country social and environmental laws and regulations and the requirements of the applicable IFC Performance Standards and industry specific Environmental Health and Safety Guidelines.

The Guidelines are particularly comprehensive in respect to environmental management systems (EMS), which should include the collection and evaluation of information on the environmental, health and safety impacts of enterprises; the establishment of quantifiable objectives and targets for improved environmental performance; and the regular monitoring of progress in reaching environmental, health and safety objectives. Unlike the EP SEMS, the Guidelines EMS are not based on uniform standards nor benchmarked. However, there is a growing consensus that an EMS should normally encompass key elements the so called, "Plan-Do-Check-Improve". These are: the undertaking of an initial environmental review, definition of an environmental policy, development of an environmental action plan and definition of environmental responsibilities, development of internal

information and training courses, auditing of the EMS and performance of an environmental management review. Also, different models of EMS are generally followed: externally certified EMS, like ISO 14001; European Union's Eco-Management and Audit Scheme (EMAS); performance-based EMS and sector-specific EMS, *e.g.* for the chemical and the financial sectors.

Consultation

Another common feature between the EP and the Guidelines is consultation with affected communities. This is an extremely important provision. For example, under the EP, for certain projects, there is an obligation on the borrower or third-party expert to consult with "project affected communities" in a "structured and culturally appropriate manner".

This requirement stipulates that the consultation must be in a manner which is appropriate to the location of the project and the local communities. The objectives of the consultation are to ensure public participation and that project-affected communities have the opportunity to express their views on project risks, impacts and mitigation measures and that the sponsor may consider and respond to them.

The building or operation of a project may result in displacement of indigenous people or irrevocable, adverse environmental or social change. It is only appropriate, therefore, that affected communities have an opportunity to make their views known through effective consultation.

The need for consultation rests on disclosure to the public of the Assessment documentation, Action Plan, and non-technical summaries. Equally, these should be made available for a reasonable period of time in the relevant local language and again in a "culturally appropriate manner".

The emphasis on disclosure is even greater in the case of the Guidelines which dedicate an entire chapter to the matter. Following the case of the Guidelines, more specific guidance on disclosure should be provided in the EP.

EP grievance mechanism

In light of several high profile, demanding and complex ventures under the EP, there has been a call for sponsors and the EPFI to become more transparent and accountable to both the communities affected directly by such projects and to civil society generally. This criticism has resulted in the obligation for EPFIs to create grievance mechanisms for certain projects as part of their management mechanisms. According to the EP, the aim is to facilitate resolution of concerns and grievances on the project's social and environmental performance by affected individual or groups.

Independent review and reporting

For certain types of projects, the EPFI can require an independent review by a social or environmental expert not directly associated with the borrower. The scope of the review which the independent expert may be requested to carry out includes the Social and Environmental Assessment, Action Plan and consultation process documentation. The purpose of the review is to assist the EPFIs in their due diligence of the development and operation of the project and in respect of compliance with the EP.

The EP also requires the EPFI to provide periodic public reports at least annually. The report is to cover implementation of the EP processes and the experience of the EPFI, subject to the requirements of client confidentiality. At a minimum, it is stated that the report should address the number of transactions screened by the EPFI and the categorisation of each transaction and information on the implementation of the EP. In addition, the EPFI report may include a breakdown of transactions and categorisations by sector or region.

Independent review and reporting has not been provided for in the Guidelines, presumably on the account of National Contact Points' and the OECD Investment Committee's role in their applicability. The definition and monitoring of the Guidelines by these entities is therefore of extreme importance.

Synergies

What then is the relation to and what lessons can be learned from the analysis of the Equator Principles and the OECD Guidelines for Multinational Enterprises and from how these instruments have been implemented? Although, the EP and the Guidelines in respect of social and environmental issues address similar topics, these stem from different perspectives: in the case of the EP, project finance and in the case of the Guidelines, multinational enterprises businesses and their day to day operations. The EP and the Guidelines are therefore complementary instruments.

This conclusion, however, does not mean that they represent perfect coexisting instruments. Both, like all legal instruments, constantly require update and improvement.

Therefore, the EP and the Guidelines (as well as other international standards) would benefit immensely from a thorough comparison and harmonization. The harmonization of provisions and standards would promote compliance, a better connection between the financing and the development of projects and the operation of multinational enterprises and even the creation of common institutional mechanisms.

The EP and directly related stakeholders could also benefit from the inclusion of principles on bribery and corruption. The precautionary principle,

of extreme relevance in the case of projects, is also a missing reference within the EP. Another major provision of the Guidelines, not provided for in the EP, relates to capacity building and training.

Finally, a very important missing element in the EP is a robust enforcement mechanism. However, in this connection, EP subscribers may seek the advice of the Guidelines' mediation and conciliation facility in the resolution of issues arising from their operations. An enforcement mechanism would benefit both legal instruments and the accountability of the actors therein regulated and would enhance the robustness of the rules provided.

ANNEX II.A6

The OECD Guidelines for Multinational Enterprises and the Financial Sector: The Supporting Role of the OECD Guidelines*

Introduction

OECD Watch and the Brotherhood of St Laurence welcome the opportunity to participate in the OECD Annual Roundtable on Corporate Responsibility. This year's theme – the OECD Guidelines for Multinational Enterprises and the Financial Sector – is both timely and necessary. This response supports the preliminary observations raised by OECD Watch at the March 2007 Investment Committee Consultation.

The current global interest in socially responsible investment, more engaged capital markets, the development of mechanisms such as the Equator Principles, United Nations Principles for Responsible Investment, recognition by some financial institutions of their sphere of influence, and the expressed views of some NCPs clearly confirms the community expectation that the finance sector should be subject to the same corporate accountability framework and principles as other enterprises engaged in cross-border activity.

The significant influence that the finance sector, including, *inter alia*, investment funds (superannuation, insurance, private equity), capital, project and debt financing, play in the global economy is well documented. However, the contribution of the financial sector via funds and services is not always positive, accountable, transparent or in accordance with the principles of corporate social responsibility, domestic and international law. It is important to recognize the influence of the finance sector beyond their immediate activities, and to ensure adequate safeguards are in place to protect human

* This paper by Serena Lillywhite, Manager, Ethical Business, Brotherhood of St Laurence, Australia was presented at the Annual OECD Roundtable on Corporate Responsibility (18 June 2007).

rights, ensure equitable access to services, accommodate religious diversity, ensure sufficient credits to the rural sector and small enterprises, provide a stable and enabling macroeconomic environment and ensure fair and reasonable treatment of employees.

The responsibility of the finance sector to uphold the OECD Guidelines has come to the fore in recent specific instances. The handling of these cases by some National Contact Points has further revealed inconsistencies in both interpretation of the Guidelines and capacity and willingness to implement the complaint mechanism in complex cases involving the finance sector.

The March 2007 Investment Committee Consultation confirmed that all stakeholders recognised the need for informed, open and rigorous discussion of the challenges, opportunities and complexities of applying the Guidelines to the finance sector. It is clearly established that the OECD Guidelines were developed to encourage corporate responsibility and have broad application to both trade and investment. Any attempt to minimise their reach – to either sectors of industry or countries of operation – will significantly undermine their purpose and support, and be viewed as unnecessarily restrictive.

Given there is no sound reason to exclude the finance sector from consideration under the OECD Guidelines for Multinational Enterprises, comments in this response will focus on possible criteria for admissibility as a specific instance and questions posed in the Roundtable programme with regard to the supporting role of the guidelines.

This response makes the following key points:

- The applicability of the Guidelines to the finance sector is without contest
- In the absence of binding corporate responsibility regulation the challenge is to ensure OECD government and non-adhering country signatories to the OECD Guidelines demonstrate the required “political will” to effectively and consistently use the specific instance complaint mechanism
- Similarities between the application of the Guidelines to the investment chain and the supply chain clearly exist. There is a view that investment and financial services may have an even greater capacity to influence – via capital (and therefore greater responsibility) than manufacturing or resource – based industries¹ thus making the applicability of the Guidelines even clearer. However, it is also important to note the ability of “buyers” to influence the production process, price and delivery time of goods and as such, exert financial authority as a buyer
- Experience has shown that an incremental approach to corporate responsibility has the greatest “take-up” amongst enterprises. As such, it makes sense for governments to actively promote the Guidelines and encourage accountability, first and foremost, amongst those financial

institutions with the greatest ability to influence, i.e. the investment banks, private equity firms and superannuation and pension funds. These are the financial entities with the greatest ability to influence and the most extensive global reach; and

- The sphere of influence and boundaries of responsibility of the finance sector requires consideration but must not be used to limit the scope or intent of the Guidelines.

1. Applicability of the Guidelines

Are the OECD Guidelines for Multinational Enterprises a useful tool for governments to communicate corporate responsibility expectations to the financial sector?

Clearly the answer is yes. The OECD Guidelines are the best existing multilateral mechanism to promote corporate accountability and sustainable development. The Guidelines and their unique complaint mechanism were developed to have broad application to both trade and investment, and therefore have direct applicability to the finance sector.

The Guidelines provide a mechanism through which governments can urge companies to embrace ethical business practices, and opportunities for the finance sector to contribute to sustainable development.

Whilst the applicability of the Guidelines to the finance sector is not debated, their usefulness as a tool for Governments to promote corporate responsibility is dependent on host country “political will” and the willingness of National Contact Points (NCPs) to undertake active promotion, effective implementation and move towards functional equivalence in the handling of specific instances. Inconsistent interpretation and constant clarification of the Guidelines by governments, via the NCPs, is the most significant limiting factor in the effectiveness of the Guidelines, not the Guidelines themselves. This remains a critical challenge for the Investment Committee.

2. Guidelines provisions

What provisions in the text of the Guidelines are most potentially relevant for financial institutions?

The short answer is all of them, depending on the circumstances and activities of the enterprise. However, a critical issue for the finance sector is that of disclosure. Chapter three of the Guidelines, Disclosure, makes several references to “business activities”, “business lines or geographic areas”, “non-financial information including environmental and social reporting”, “material issues regarding employees and other stakeholders”, and “managing risk”. The Commentary goes further,

“[e]ncouraging a second set of disclosure or communication practices in areas where reporting is still emerging such as, for example, social, environmental, and risk reporting”.²

The intent is to clearly encourage disclosure of the effects of investment activity on society and the environment. The background paper developed by Oxford Business Knowledge makes reference to growing disclosure trends such as social, environmental and governance disclosure and the “comply or explain” approach required by signatories to the UN PRI.

“Recent work on socially responsible investment (SRI) has increasingly focused on the non-ethical aspects of SRI, and has instead incorporated corporate governance criteria. The new approach to SRI among institutional investors such as pension funds is motivated by mounting evidence that social, environmental and corporate governance (ESG) factors affect a firm’s long-run specific and non-diversifiable risks.”³

The UN PRI “comply or explain approach” requires signatories to report on how they implement the Principles, or provide an explanation where they do not comply. In Australia, two recent Government inquiries into CSR⁴ made specific recommendations on disclosure, particularly with regard to the disclosure of risk including an “if not, why not” reporting function on compliance with good business conduct.

“The [Australian Labour Party] Committee members recommend an amendment to the Corporations Act 2001 to require all public and private companies, operating in Australia and above a specified size threshold, to publicly disclose their top five sustainability risks and their strategies to manage such risks. This provision should be subject to an ‘if not, why not’ flexibility mechanism modelled on that contained in the Australian Stock Exchange Corporate Governance Council’s Principles of Good Corporate Governance.”⁵

The European Parliament’s recently adopted resolution (March, 2007) – *Corporate Social Responsibility: a new partnership* – “calls on the European Commission to develop mandatory reporting which will hold corporations legally accountable to respect the human and worker rights and the environment in their international supply chains”. Similarly, there is growing international recognition of the Global Reporting Initiative (GRI) as the leading frame of reference for social and environmental reporting. A study by the GRI in 2002 confirmed the relevance of many of the OECD Guidelines provisions to the GRI reporting framework. This suggests that although the Commentary of the Guidelines states that social and environmental reporting is still emerging, there is increasing harmonisation in this area, and a certain level of standardisation in reporting has emerged since the latest review in 2000.

Disclosure is clearly an important and emerging expectation with regards to corporate responsibility. On a cautionary note, whilst disclosure is an essential first step for enterprises to give consideration to the effect of their investment practices, and to harness a response, disclosure alone is not enough for an enterprise to claim they are upholding the principles of the OECD Guidelines. The real test comes in how an enterprise responds to an identified negative impact of their business activity, or more importantly, how they guard against such practices, investments and relationships in the first place. Companies need to disclose and define (for the public record) their good business conduct implementation plan and boundaries or parameters within which they are prepared to do business.

An additional disclosure consideration is that of market value. Whilst there is growing interest in ESG reporting, the market does not yet value this. This makes it difficult at times to argue the business case for CSR as it is not currently being reflected in the share price of listed companies. Greater market impact can be seen with exposure of breaches of internationally recognised laws and principles.⁶

3. Investment chain and business relations considerations – sphere of influence and complicity

How can the OECD Guidelines assist financial institutions in promoting responsible behaviour in their relations with business partners?

For the purposes of this discussion the finance sector can be generally defined as:

A multinational enterprise that contributes to, or participate in, international investments and financing, either directly or indirectly, through financial capital, services and expertise. It could apply *inter alia* to banks, investment funds, institutional investors (superannuation and pension), asset owners, asset managers, project financing, consolidated loans and debt financing and insurance. The business relationships could be constructed in a variety of ways including, joint ventures, public private partnerships, listed companies, private equity consortiums, corporate bonds and many others.

The Guidelines provide a clear set of principles that will assist the financial sector in implementing responsible business practices throughout their own entities and amongst entities and business relations they control or influence. The complexity lies in defining “control and influence” – the sphere of influence and boundaries of responsibility. The fundamental question is where in the sand is the appropriate place to draw a line of responsibility and assess who is most accountable? In this context, the OECD Investment Committee and NCPs are well placed to contribute to current discussion and

thinking. For example, the Global Reporting Initiative is giving consideration to “boundaries of responsibility” with regard to reporting, and John Ruggie’s work as Special Representative to the United Nations Secretary General includes the issues of “sphere of influence” and “complicity”. This clearly demonstrates the importance of these factors.

The presentation by Chair of the Swedish National Contact Point has provided a considered contribution to this year’s roundtable. OECD watch would like to acknowledge and thank him for that. He has discussed, to some extent, the concepts of sphere of influence and complicity. He correctly makes the connections between supply chain and investment chain responsibility and suggests the upholding of human rights principles and norms as possible criteria to exert influence.

In this context, how can the Guidelines assist financial institutions? In the first instance, the OECD Guidelines can be used as a risk awareness tool. The provisions themselves give guidance on the critical issues. However, it is important to recognise that all financial institutions have the primary goals of profitability, maximising share holder returns and fiduciary responsibility. Similarly, the very nature of certain financial institutions – such as private equity – with their typical 3-5 year horizon, may compromise sound corporate accountability practices which embody transparency and disclosure, human capital development and stakeholder engagement. Further, a “culture prevails whereby fund managers are convinced they can beat the market rather than grow the market”⁷ through sustainable economic growth that values safe and healthy communities and environmental protection. None-the-less, examples of the effective use of the Guidelines as a corporate accountability tool do exist and can be learnt from.

The Council on Ethics for the Norwegian Pension Fund effectively uses the OECD Guidelines for Multinational Enterprises (as well as the UN Global Compact and the OECD Principles of Corporate Governance) to assess if companies are involved in acts or omissions in conflict with ethical guidelines. The purpose is to:

- Exercise ownership rights in order to promote long-term financial returns and sustainable development
- Undertake negative screening of companies from the investment universe that either themselves or through their entities they control; and
- Exclude companies from the investment universe because of acts or omissions that constitute an unacceptable risk that the fund contributes to unethical acts or omissions such as violations of fundamental humanitarian principle, serious violations of human rights, gross corruption or severe environmental damage.⁸

There are also examples of enterprises that are actively using the OECD Guidelines against which to “scan” their business activities and relationships to identify aspects that are at risk of non-compliance with the Guidelines. A major Australian bank has recently undertaken such a process with the assistance of an independent consultant. This bank is currently giving consideration to public disclosure of identified risks. Interestingly, this is the same bank which the Australian Conservation Foundation attempted to use the specific instance mechanism against for their funding activities and relationship with a Malaysian logging company with a well documented history of human rights abuse and environmental degradation. This particular case highlighted, among other things, the NCP’s inability to ascertain the degree of influence the bank may have had over its client. The case, whilst not accepted as a specific instance, has focused the institution’s attention on the Guidelines as a risk assessment tool and is currently developing human rights policies.

The rapid increase and “mainstreaming” of private equity in the finance sector is significant with regards to the OECD Guidelines. These are private companies that by their very nature tend to obscure, with little or no accountability or transparency. Despite this, private equity managers need to be just as accountable as managers of listed financial institutions. Private equity now accounts for 1 trillion dollars globally and is unashamedly dedicated to the pursuit of profit. In 20 years time private equity may exceed public equity in terms of a “pool of capital”, making it significant in the finance sector.⁹ In this context asset ownership *versus* asset management is important. At a recent seminar in Melbourne on private equity and CSR, the point was made that “no one’s ever washed a rented car”.¹⁰

The complexity of the investment universe is such that the criteria of majority share ownership, alone, is inadequate in determining who has greatest responsibility and the boundaries of that responsibility. A more realistic assessment of the sphere of influence could include the following admissibility criteria, dependant on the nature of the business:

- Does the financial institution own or manage the asset?
- Does the financial institution have the ability to influence ownership rights or investor duties (*e.g.* via superannuation and pension funds)?
- Is the financial institution the principle or primary provider of capital or financial services?
- Does the financial institution have the ability to influence contractual arrangements (thereby “screening out” adverse activities or “screening in” partners and /or projects that uphold the Guidelines)?
- Is the financial institution providing capital funds, and/or financial services, that contribute to unethical acts or omissions (*e.g.* the Council on Ethics for the Norwegian Government pension Fund-Global)?

- Is the financial enterprise participating in, facilitating, authorising, tolerating or knowingly ignoring activities by others (a state, rebel group, another company or individual) that would make them complicit in unethical businesses practices and fundamental ethics norms?
- How long has the business relationship existed (it can be argued that the longer the duration of the business relationship or the earlier a financial institution commits to a proposed project, the greater their ability and responsibility is to exert influence on day-to-day operations and outcomes)?
- Does the enterprise being funded/assisted by the financial institution systematically and repeatedly engage in activities that compromise workers rights, ignore local communities concerns and damage the environment?
- Is the financial institution a signatory to the Equator Principles and thereby financing and exerting influence on major projects with a budget in excess of USD 10 million?

Whilst this suggest that exercising ownership rights and investment duties is critical, an over emphasis on majority ownership and identifying the principle or primary financiers has associated risks. For example, managers may seek to structure their activities in such a way (*e.g.* minimise their level of influence and business relationship structures) to avoid an “influencing relationship” and therefore accountability for operations and obligations under the OECD Guidelines. In addition, there are numerous circumstances where a financial institution may not have control, or even influence, but they still have the capacity to make a business or investment decision based on “what’s right” to uphold fundamental ethical norms. The Australian National Contact Point statement with regard to the aforementioned Australian Conservation Foundation (ACF)/ ANZ issue claimed that the ANZ Bank had limited influence and if they withdrew other less scrupulous financiers would step in. However, as the ACF points out:

“A violation of human rights, for example, cannot be justified (under the Guidelines or under any conventional theory of ethics) on the basis that others are doing the same, or would do the same if they had the chance. The Guidelines override such perverse pragmatism by specifying minimum levels of acceptable conduct, regardless of the competitive advantage”.¹¹

Clearly, all enterprises have the scope and capacity to make decisions on what activities they will undertake and who their business partners are. Just as assessments are made with regard to profit maximization and fiduciary responsibility, financial institutions must undertake an assessment of the impact of their business and network of relationships on the community, workers and the environment to uphold fundamental ethics norms

Attempts by NCPs to reject specific instances involving the finance sector based on, for example, a narrow interpretation of the “investment nexus” or other potentially limiting factors such as “residual risk bearing”, “fee for service” or

others, is detrimental to the effective implementation of the Guidelines. It may simply encourage parts of the financial sector to act with reckless disregard for the consequences of their decisions in the mistaken belief that they have no obligations under the OECD Guidelines. Clearly, NCPs should take the highest available and commonly accepted standards when assessing the responsibilities of financial institutions for the behaviour of the companies they finance.

So the question remains, who should be held most responsible in the finance sector for upholding the OECD Guidelines principles of business conduct and why? As previously stated the Guidelines apply to all enterprises engaged in cross border trade and investment and as such none are exempt. However, given the importance of “sphere of influence” and “complicity” in considering admissibility as a specific instance, it follows that NCPs would make a significant contribution to The OECD Guidelines for Multinational Enterprises if they were actively promoted (and investigated through the specific instance mechanism as required) to those financial institutions that have the ability to exert greatest influence, that is:

- investment banks;
- private equity consortiums;
- superannuation and pension funds.

These institutions have the greatest ability to influence. They are the “financial conductors” – they put together the deals, finance the deals, and profit from them. They are often the primary or principal providers of financial capital and services, even when structured through private equity consortiums. In addition, they have the greatest global reach and as such are most likely to be operating in emerging economies or conflict zones that may not have adequate regulatory frameworks. Their frequent participation in large scale infrastructure projects, often through public private partnerships, gives them scope and opportunity to influence political ends, economic outcomes and processes. Such projects have a direct impact on human rights, labour, the environment, and local communities and therefore, they have an overriding responsibility to use their influence to ensure acceptable standards of business conduct, and compliance with domestic and international law.

4. Effective use of the specific instance complaint mechanism

What is the potential value to financial institutions of the non-adversarial approach to dispute resolution embodied in the “specific instances” facility offered by NCP’s?

The “specific instance” complaint mechanism is a unique feature of the OECD Guidelines, and one that contributes to the current acceptance of the Guidelines as an important CSR tool. This mechanism can:

- provide a forum for engagement that can form the basis of ongoing dialogue;

- contribute to building trust among parties;
- improve transparency and accountability through final statements being in the public domain;
- provide a forum to hear the voice of those individuals or communities adversely affected by enterprise activity;
- improve understanding of the complexities of international business;
- provide an affordable process to raise concerns;
- contribute to global understanding of the positive and adverse impact that international investment and business activity can have;
- impact on enterprise reputation.

There are a small number of cases, such as the highly sensitive GSL (Australia) case, where the mechanism has been used effectively and a beneficial outcome was mediated with the assistance of the NCP. However, OECD Watch has been actively testing the Guidelines since the 2000 Review and this has revealed considerable inconsistencies. The OECD Watch 2005 publication, *Five Years on: a Review of the OECD Guidelines and National Contact Points* demonstrated that the complaint mechanism, and therefore the Guidelines, is only useful as a CSR tool when used consistently and effectively by the National Contact Points. This requires “political will” on the part of signatory governments and willingness by NCPs to actively and meaningfully apply the specific instance process. Consideration of “precedents” set by other NCPs would be beneficial.

Recent cases in the finance sector demonstrate the absence of functional equivalence among NCP’s and the impact this has on the specific instance process. For example, the Australian NCP decision to reject a case against a major Australian bank appears to be out-of-step with the interpretation by other NCP’s. For example, the Belgian NCP accepted a complaint against several banks that have provided finance for the Baku-Tbilisi-Ceyhan pipeline, and the Swedish NCP accepted a complaint involving a pulp mill in Uruguay. The latter case involved the Finish, Swedish and Norwegian NCPs. The Finnish NCP chose to reject the case, the Swedish NCP accepted it and the Norwegian is pending.

The Guidelines dispute resolution mechanism has the capacity to impact (both positively and negatively) on the reputation of an enterprise. Whilst this may take a long time to show up in the financial markets it can be powerful. As the Australian Conservation Foundation notes:

“The Guidelines, like many voluntary corporate standards, can have a powerful influence over time even if the immediate effect of any one company’s decision to improve standards is a short-term shift by some customers to a less ethical business partner”

“Over the medium-to-long term, the progressive extension of voluntary standards puts strong pressure on non-adhering businesses, both by restricting the pool of those willing to do business with them and by empowering communities with examples of commercially viable, responsible business conduct”.¹²

The Procedural guidance for NCPs and the Investment Committee contained in the Guidelines commentary lacks the necessary detail to ensure greater functional equivalence and effectiveness amongst NCPs. Clearly this is required if the full potential of the non-adversarial approach to dispute resolution embodied in the specific instance mechanism is to be realised.

OECD Watch has made a significant contribution to this with the development of the “Model European NCP”, funded by the European Commission and launched at the OECD Watch Roundtable in Brussels, June 15, 2007. In addition to the development of the Model NCP and three roundtable dialogues throughout Europe (well attended by NCPs and representatives of the OECD), the EU-funded project, in partnership with EUROSIF, also aims to promote the use of the OECD Guidelines among socially responsible investors. In this context, OECD Watch will develop four fact sheets that outline how investors and ethical ranking and rating agencies can effectively use the OECD Guidelines.

The first in this series, “*Making Use of the OECD Guidelines for Multinational Enterprises*” is available today. The following three will be produced in the coming four months. While the project specifically addresses the SRI agencies, these fact sheets will benefit the entire investment community. Our intention, of course, is that socially responsible investment becomes the norm, not the exception.

Notes

1. Bruno Lamborghini, Chairman, Olivetti Lexicon S.P.A.
2. OECD Guidelines for Multinational Enterprises: Text Commentary and Clarifications.
3. Oxford Business Knowledge, Recent Trends and Regulatory Implications in Socially Responsible Investment for Pension Funds, 2006.
4. The Corporations and Markets Advisory Committee (CAMAC) reference on Corporate Social Responsibility, 2006, and the Parliamentary Joint Committee on Corporations and Financial Services Inquiry into Corporate Responsibility, 2006.
5. Recommendation 10, Parliamentary Joint Committee on Corporations and Financial Services inquiry into Corporate Responsibility, Supplementary Report by labour members, 2006.
6. Conversation between Serena Lillywhite and a major Australian fund manager, 25 May 2007.
7. Charles Berger, Australian Conservation Foundation, presentation, Melbourne, May 2007.

8. Annual Report 2006, Council on Ethics for the Norwegian Government Pension Fund – Global, p.75.
9. ANZ Bank, ACCSR seminar, “The Effect of Private Equity Takeovers on CSR”, Melbourne, May 2007.
10. Phil Spathis, Australian Council of Superannuation Investors ,presentation, Melbourne, May 2007.
11. Supplementary submission of the complainants regarding investment nexus issues arising in ANZ specific instance under the OECD Guidelines, 14 September, 2006. P. 3.
12. Supplementary submission of the parties regarding investment nexus issues arising in ANZ specific instance under the OECD Guidelines, 14 September, 2006. P. 3.

ANNEX II.A7

*The OECD Guidelines for Multinational Enterprises and the Financial Sector: BIAC Submission**

Introduction

BIAC welcomes the opportunity to contribute the views of the OECD business community to the Annual Corporate Responsibility Roundtable. The OECD Guidelines for Multinational Enterprises (Guidelines) are a set of voluntary recommendations from governments to foreign investors which aim at encouraging corporate responsibility and through this enhancing the positive contribution of foreign investment to sustainable development. It is probably fair to say that when the Guidelines were developed and revised, the financial sector was not meant to be the main focus for the recommendations. Multinational companies from the manufacturing sector were arguably the key group for the governments that negotiated the Guidelines text. However, companies from the financial sector have increasingly become important foreign investors. Moreover, through the services it provides to other industries the sector plays a crucial role in making foreign investment possible. Hence, a discussion about the relationship between the Guidelines and the financial sector appears to be topical.

Concept of corporate responsibility

For OECD business, corporate responsibility (CR) is voluntary, reaches over and above applicable legal requirements and is business driven as opposed to government driven. The *raison d'être* for any company, be it from the financial or any other sector, is to provide goods and services to its customers efficiently and through this, yield adequate returns for its capital

* This paper by BIAC was submitted to the Annual OECD Roundtable on Corporate Responsibility (18 June 2007).

providers. While doing this, companies must comply with laws and regulations. When firms engage in additional CR activities they do this on a voluntary basis and because they believe it is good for their long-term competitiveness. Business has always recognised that it has an important role alongside other actors in contributing to the development of the communities in which it operates. In recent years, the debate on CR has expanded internationally, fuelled by both an increasing interest by business itself in CR as a business tool, and by the growing debate on the role of business in globalisation and sustainable development.

Financial sector and corporate responsibility

The financial sector is comprised of a number of diverse industries with different business models including retail banking, commercial and corporate banking, insurance/re-insurance, and wealth management. Services provided by financial sector actors include deposit-taking; loan and investment services; insurance and re-insurance; estate, trust and agency services; securities; and all forms of financial or market intermediation including the distribution of a wide range of financial products.

Financial service providers tend to be highly regulated and strive to achieve high standards through a range of methods from internal codes of conduct to external stakeholder dialogue. However, there is – as always – room to do even more and the trends appear to show that shareholders, customers and other stakeholders are driving the market in this direction.

The CR potential of the financial sector can be attributed to both its role as major investor and employer in many countries and to its function as intermediary that helps allocating capital to efficient uses and assists in the management of risks. In their role as financial intermediaries, financial sector companies may have various ways and means available to encourage companies from the non-financial sector to pursue CR objectives. Financial sector companies may for instance encourage CR activities of companies of which they are a shareholder, conduct screenings for social and environmental issues, develop management tools (*e.g.* for risk management, evaluation) and pursue certain types of investment strategies (*i.e.* ethical or socially responsible investment).

The increase in importance of funds that focus particularly on social and environmental aspects of investment as well as the dynamic development of company and sector specific codes of conduct, guidelines and principles show that CR as a business tool has gained importance in the financial sector.*

* According to the Financial Times, 1 246 private equity funds are targeting environmental projects and more than GBP 780 billion have been invested in socially responsible investments and funds (source: “Fund management: Ethics gain weight with clients and managers special report”, Financial Times, 7 June 2007).

Insurers and re-insurers for example were among the first who focused on climate change and the impact this phenomenon may have on their business models. Financial institutions have subscribed to the Equator Principles that require projects to develop stringent environmental and social conditions. Institutional investors have signed the United Nations Principles for Responsible Investment (PRI). The Enhanced Analytics Initiative (EAI), which comprises a group of asset owners and fund managers, puts the brokers' focus on incorporating non-financial issues into their research. The Voluntary Quality Standard (VQS) is an initiative of independent research houses aimed at setting standards for quality research. Rating agencies have incorporated social and environmental criteria in their evaluation of credit risks and institutional shareholders, such as pension and mutual funds, are also increasingly tying their decisions to corporate responsibility criteria. Major international banks have developed their own standards that go above legal and regulatory requirements.

All this activity clearly points to the financial sector's positive response to the challenges they face in doing business internationally.

How can the OECD MNE Guidelines be useful for the financial sector?

The financial sector is a highly regulated industry. In BIAC's view the most important question regarding the relation between the financial sector, its complex regulation and the Guidelines is whether and how the Guidelines can help financial service companies in responding to societal expectations that go above and beyond law as well as regulations.

BIAC considers that the Guidelines and the various CR initiatives in the financial sector are complementary to each other. The Guidelines are a comprehensive set of recommendations addressed to foreign investors that cover all basic elements of CR which are relevant to modern business and societies. As they were drafted in partnership with business, labour unions and NGOs and endorsed by 39 governments, the Guidelines have a particularly high credibility. Thus, the Guidelines are an important benchmark and an umbrella to be used for the development of sector-related and more specific CR tools and initiatives in individual industries including in the financial sector.

Moreover, the Guidelines draw on a structure of National Contact Points (NCPs) that foreign investors from financial sector companies may find useful. The NCPs task is it to promote the Guidelines, handle inquiries about their content and contribute to the *bona fide* resolution of issues that arise relating to implementation of the Guidelines in practical cases ("specific instances"). In particular, NCPs are expected to offer a forum for confidential discussion and to assist the business community, employee organisations and other parties concerned in dealing with issues raised by interested parties. About 110 specific

instances have been handled by NCPs since the Guidelines' revision in 2000. The experience gained from the specific instances indicates that the Guidelines and the NCPs have often served as effective instruments for resolving issues with companies. Financial sector providers may also seek advice from NCP about, for example, whether any projects they finance conform to the Guidelines.

The 2007 Roundtable is a useful opportunity to explore the interaction between the Guidelines and the initiatives that the sector already undertakes. We believe the complementarity that this will demonstrate could provide a positive contribution to the understanding of how then Guidelines and other tools interact to positive effect.

Is the financial sector covered by the OECD Guidelines for Multinational Enterprises?

BIAC notes that some have raised the question whether and to what extent the financial sector is “covered” by the scope of the Guidelines. The notion behind this question appears to be that guidance for NCPs was necessarily regarding NCP decisions about whether to embark on a specific instance procedure in cases where stakeholders raise questions related to the conduct of financial sector companies.

For BIAC the main question in this context is whether for the purpose of the individual specific instance the financial services company has to be seen as a multinational company (*i.e.* foreign investor) since the Guidelines are addressed to multinational companies only. A financial sector company that invests abroad in order to establish a majority owned subsidiary or branch will in any case be regarded as a multinational company and therefore, as far as the activities and operations related to these investments are concerned, the company will be expected to act in accordance with the OECD Guidelines.

In specific instances where the financial sector firm's investment represents only a minority share of a foreign company or where the financial sector company does not itself invest abroad but only indirectly supports the foreign investment of a client or business partner through the products and services that it provides, the question whether the financial sector firm has to be regarded as a multinational company that is expected to follow the Guidelines, may be more difficult to answer. BIAC is of the view that in any case, specific instance procedures should only be initiated by NCPs if the financial sector company has been involved in a substantial way in the cross-border investment at question. BIAC would suggest that NCPs need to consider the issue carefully and take a decision based on the details of the individual specific instance, the text of the Guidelines, previous OECD Investment Committee clarifications (*e.g.* on the “investment nexus”) and their own judgement.

Outreach to emerging markets countries

Questions about whether the financial sector sufficiently incorporates relevant corporate responsibility principles into its operations usually arise in relation to investment projects in emerging and developing countries. In this context it is important to note that financial sector companies from major emerging markets are becoming increasingly important players in the international financing of such projects. Moreover, some emerging countries have also developed local financial markets with competitive domestic service providers. Both the internationally oriented financial service providers from emerging countries as well as local firms do not always have the same notion of corporate responsibility considerations as the financial sector in OECD countries. This is even more relevant against the background of the often less stringent and comprehensive financial sector regulation in outside the OECD. Thus, in order to make sure that important corporate responsibility aspects, such as the principles embedded in the Guidelines, are sufficiently taken into account in investment projects in non-OECD countries, the OECD as well as the OECD based financial sector need to engage the financial sector in emerging countries in a constructive dialogue about the usefulness of the Guidelines and relevant sector specific CR tools.

Addressing CR issues in emerging countries is not only important in the financial sector but across a broad range of industries. While the OECD Guidelines for Multinational Enterprises were originally developed to address concerns about foreign investors in the OECD member countries, it must be recognized that today, globally integrated companies are the main source of leadership and action related to CR. Indeed, current problems with CR stem mainly from domestic actors in emerging economies rather than from global investors from the OECD area. OECD member governments thus need to consider how the Guidelines and the NCP process, which were developed to solve past problems, can be useful in addressing the current problems that result from domestic issues in emerging economies.

APPENDIX A

Background – The Role of the National Contact Points in the Implementation of the OECD Guidelines For Multinational Enterprises

The institutions that promote and implement the Guidelines are set forth in the OECD Council Decision, a binding declaration subscribed to by all adhering countries. The Council Decision requires each adhering government to set up a National Contact Point. These play a key role of any Guidelines institution in establishing the Guidelines as an effective and vital tool for international business (see Diagram below). The National Contact is responsible for promoting the Guidelines in its national context and contributing to a better understanding of the Guidelines among the national business community and other interested parties.

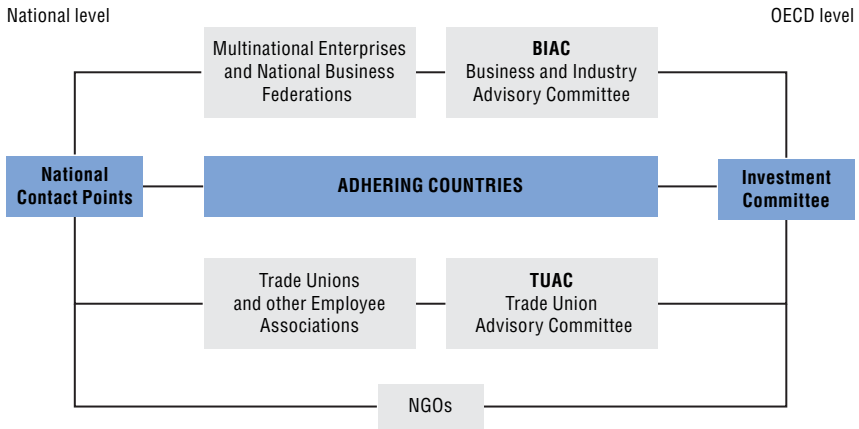
The National Contact Point:

- Responds to enquiries about the Guidelines.
- Assists interested parties in resolving issues that arise with respect to the application of the Guidelines in “individual instances” through the availability of its “good offices” and, if the parties agree, facilitating access to other consensual and non-adversarial means of resolving the issues between the parties. (Comment: more in keeping with the procedural guidance).
- Gathers information on national experiences with the Guidelines and reports annually to the Investment Committee.

Because of its central role, the National Contact Point’s effectiveness is a crucial factor in determining how influential the Guidelines are in each national context. While it is recognised that governments should be accorded flexibility in the way they organise National Contact Points, it is nevertheless expected that all National Contact Points should function in a visible, accessible, transparent and accountable manner. These four criteria should guide National Contact Points in carrying out their activities. The June 2000

review enhanced the accountability of National Contact Points by calling for annual reports of their activity, which are to serve as a basis for exchanges of view on the functioning of the National Contact Points among the adhering governments. The current publication summarises the reports by the individual National Contact Points and provides an overview of the discussions during the seventh annual meeting of the National Contact Points held in June 2007.

Institutions involved in implementing the Guidelines



APPENDIX B

Declaration on International Investment and Multinational Enterprises

27 June 2000

ADHERING GOVERNMENTS¹

CONSIDERING:

- That international investment is of major importance to the world economy, and has considerably contributed to the development of their countries;
- That multinational enterprises play an important role in this investment process;
- That international co-operation can improve the foreign investment climate, encourage the positive contribution which multinational enterprises can make to economic, social and environmental progress, and minimise and resolve difficulties which may arise from their operations;
- That the benefits of international co-operation are enhanced by addressing issues relating to international investment and multinational enterprises through a balanced framework of inter-related instruments;

DECLARE:

- Guidelines for Multinational Enterprises**
- I. That they jointly recommend to multinational enterprises operating in or from their territories the observance of the Guidelines, set forth in Annex 1 hereto,² having regard to the considerations and understandings that are set out in the Preface and are an integral part of them;

National Treatment

- II.1. That adhering governments should, consistent with their needs to maintain public order, to protect their essential security interests and to fulfil commitments relating to international peace and security, accord to enterprises operating in their territories and owned or controlled directly or indirectly by nationals of another adhering government (hereinafter referred to as “Foreign-Controlled Enterprises”) treatment under their laws, regulations and administrative practices, consistent with international law and no less favourable than that accorded in like situations to domestic enterprises (hereinafter referred to as “National Treatment”);
2. That adhering governments will consider applying “National Treatment” in respect of countries other than adhering governments;
3. That adhering governments will endeavour to ensure that their territorial subdivisions apply “National Treatment”;
4. That this Declaration does not deal with the right of adhering governments to regulate the entry of foreign investment or the conditions of establishment of foreign enterprises;

Conflicting Requirements

- III. That they will co-operate with a view to avoiding or minimising the imposition of conflicting requirements on multinational enterprises and that they will take into account the general considerations and practical approaches as set forth in Annex 2 hereto.³

International Investment Incentives and Disincentives

- IV.1. That they recognise the need to strengthen their co-operation in the field of international direct investment;
2. That they thus recognise the need to give due weight to the interests of adhering governments affected by specific laws, regulations and administrative practices in this field (hereinafter called “measures”) providing official incentives and disincentives to international direct investment;
3. That adhering governments will endeavour to make such measures as transparent as possible, so that their importance and purpose can be ascertained and that information on them can be readily available;

Consultation Procedures	V.	That they are prepared to consult one another on the above matters in conformity with the relevant Decisions of the Council;
Review	VI.	That they will review the above matters periodically with a view to improving the effectiveness of international economic co-operation among adhering governments on issues relating to international investment and multinational enterprises.

Notes

1. As at 27 June 2000 adhering governments are those of all OECD Members, as well as Argentina, Brazil, Chile and the Slovak Republic. The European Community has been invited to associate itself with the section on National Treatment on matters falling within its competence.
2. The text of the Guidelines for Multinational Enterprises is reproduced in Appendix C of this publication.
3. The text of General Considerations and Practical Approaches concerning Conflicting Requirements Imposed on Multinational Enterprises is available from the OECD Website www.oecd.org/daf/investment/.

APPENDIX C

The OECD Guidelines for Multinational Enterprises: Text and Implementation Procedures

Text

Preface

1. The *OECD Guidelines for Multinational Enterprises* (the *Guidelines*) are recommendations addressed by governments to multinational enterprises. They provide voluntary principles and standards for responsible business conduct consistent with applicable laws. The *Guidelines* aim to ensure that the operations of these enterprises are in harmony with government policies, to strengthen the basis of mutual confidence between enterprises and the societies in which they operate, to help improve the foreign investment climate and to enhance the contribution to sustainable development made by multinational enterprises. The *Guidelines* are part of the *OECD Declaration on International Investment and Multinational Enterprises* the other elements of which relate to national treatment, conflicting requirements on enterprises, and international investment incentives and disincentives.

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 large-scale international mergers. At the same time, foreign investment by small- and medium-sized enterprises has also increased and these enterprises now play a 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. 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 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 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. The nature, scope and speed of economic changes have presented new strategic challenges for enterprises and their stakeholders. Multinational enterprises have the opportunity to implement best practice policies for sustainable development that seek to ensure coherence between social, economic and environmental objectives. The ability of multinational enterprises to promote sustainable development is greatly enhanced when trade and investment are conducted in a context of open, competitive and appropriately regulated markets.

6. Many multinational enterprises have demonstrated that respect for high standards of business conduct can enhance growth. Today's competitive forces are intense and multinational enterprises face a variety of legal, social and regulatory settings. In this context, some enterprises may be tempted to neglect appropriate standards and principles of conduct in an attempt to gain undue competitive advantage. Such practices by the few may call into question the reputation of the many and may give rise to public concerns.

7. Many enterprises have responded to these public concerns by developing internal programmes, guidance and management systems that underpin their commitment to good corporate citizenship, good practices and good business and employee conduct. Some of them have called upon consulting, auditing and certification services, contributing to the accumulation of expertise in these areas. These efforts have also promoted social dialogue 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 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 *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 non-governmental 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, 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.

I. Concepts and principles

1. The *Guidelines* are recommendations jointly addressed by governments to multinational enterprises. They provide principles and standards 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, international co-operation in this field should extend to all countries.

Governments adhering to the *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, 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 capacities as larger enterprises, governments adhering to the *Guidelines* nevertheless encourage them 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 adhering countries, the governments concerned will co-operate in good faith with a view to resolving problems that may arise.

8. Governments adhering to the *Guidelines* set them forth with the understanding that they will fulfil their responsibilities to treat enterprises equitably and in accordance with international law and with their contractual obligations.

9. 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.

10. Governments adhering to the *Guidelines* will promote them and encourage their use. 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, and consider the views of other stakeholders. In this regard, enterprises should:

1. Contribute to economic, social and environmental progress with a view to achieving sustainable development.
2. Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments.
3. Encourage local capacity building through close co-operation with the local community, including business interests, as well as developing the enterprise's activities in domestic and foreign markets, consistent with the need for sound commercial practice.
4. Encourage human capital formation, in particular by creating employment opportunities and facilitating training opportunities for employees.
5. Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labour, taxation, financial incentives, or other issues.
6. Support and uphold good corporate governance principles and develop and apply good corporate governance practices.
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.
8. Promote employee awareness of, and compliance with, company policies through appropriate dissemination of these policies, including through training programmes.
9. Refrain from discriminatory or disciplinary action against employees who make *bona fide* reports to management or, as appropriate, to the competent public authorities, on practices that contravene the law, the *Guidelines* or the enterprise's policies.
10. Encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the *Guidelines*.
11. Abstain from any improper involvement in local political activities.

III. Disclosure

1. Enterprises should ensure that timely, regular, reliable and relevant information is disclosed regarding their activities, structure, financial situation and performance. 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, with due regard taken of costs, business confidentiality and other competitive concerns.
2. Enterprises should apply high quality standards for disclosure, 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 non-financial information are compiled and published should be reported.
3. Enterprises should disclose basic information showing their name, location, and structure, the name, address and telephone number of the parent enterprise and its main affiliates, its percentage ownership, direct and indirect in these affiliates, including shareholdings between them.
4. Enterprises should also disclose material information on:
 1. The financial and operating results of the company;
 2. Company objectives;
 3. Major share ownership and voting rights;
 4. Members of the board and key executives, and their remuneration;
 5. Material foreseeable risk factors;
 6. Material issues regarding employees and other stakeholders;
 7. Governance structures and policies.
5. Enterprises are encouraged to communicate additional information that could include:
 - a) Value statements or statements of business conduct intended for public disclosure including information on the social, ethical and environmental policies of the enterprise and other codes of conduct to which the company subscribes. In addition, the date of adoption, the countries and entities to which such statements apply and its performance in relation to these statements may be communicated;
 - 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.

IV. Employment and industrial relations

Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices:

1. a) Respect the right of their employees 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;
- b) Contribute to the effective abolition of child labour;
- c) Contribute to the elimination of all forms of forced or compulsory labour;
- 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. a) Provide facilities to employee representatives as may be necessary to assist in the development of effective collective agreements;
- b) Provide information to employee representatives which is needed for meaningful negotiations on conditions of employment;
- c) Promote consultation and co-operation between employers and employees and their representatives on matters of mutual concern.
3. Provide information to employees and their representatives 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 adequate steps to 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. Other means may also be employed to provide meaningful co-operation to mitigate the effects of such decisions.

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. Enable authorised representatives of their employees to negotiate on collective bargaining or labour-management relations issues and allow the parties to consult on matters of mutual concern with representatives of management who are authorised to take decisions on these matters.

V. Environment

Enterprises should, within the framework of laws, regulations and administrative practices in the countries in which they operate, and in consideration of relevant international agreements, principles, objectives, and standards, take due account of the need to protect the environment, public health and safety, and generally to conduct their activities in a manner contributing to the wider goal of sustainable development. In particular, enterprises should:

1. Establish and maintain a system of environmental management appropriate to the enterprise, including:
 - a) Collection and evaluation of adequate and timely information regarding the environmental, health, and safety impacts of their activities;
 - b) Establishment of measurable objectives and, where appropriate, targets for improved environmental performance, including periodically reviewing the continuing relevance of these objectives; and
 - c) Regular monitoring and verification of progress toward environmental, health, and safety objectives or targets.
2. Taking into account concerns about cost, business confidentiality, and the protection of intellectual property rights:
 - a) Provide the public and employees 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

- b) Engage in adequate and timely communication and consultation with the communities directly affected by the environmental, health and safety policies of the enterprise and by their implementation.
3. Assess, and address in decision-making, the foreseeable environmental, health, and safety-related impacts associated with the processes, goods and services of the enterprise 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, prepare an appropriate environmental impact assessment.
 4. Consistent with the scientific and technical understanding of the risks, where there are threats of serious damage to the environment, taking also into account human health and safety, not use the lack of full scientific certainty as a reason for postponing cost-effective measures to prevent or minimise such damage.
 5. Maintain contingency plans for preventing, mitigating, and controlling serious environmental and health damage from their operations, including accidents and emergencies; and mechanisms for immediate reporting to the competent authorities.
 6. Continually seek to improve corporate environmental performance, by encouraging, where appropriate, such activities as:
 - a) 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;
 - b) 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 disposed of safely;
 - c) Promoting higher levels of awareness among customers of the environmental implications of using the products and services of the enterprise; and
 - d) 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, 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, directly or indirectly, offer, promise, give, or demand a bribe or other undue advantage to obtain or retain business or other improper advantage. Nor should enterprises be solicited or expected to render a bribe or other undue advantage. In particular, enterprises should:

1. Not offer, nor give in to demands, to pay public officials or the employees of business partners any portion of a contract payment. They should not use subcontracts, purchase orders or consulting agreements as means of channelling payments to public officials, to employees of business partners or to their relatives or business associates.
2. Ensure that remuneration of agents is appropriate and for legitimate services only. Where relevant, 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.
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.
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 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 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 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 agreed or legally required standards for consumer health and safety, including health warnings and product safety and information labels.

2. As appropriate to the goods or services, provide accurate and clear information regarding their content, safe use, maintenance, storage, and disposal sufficient to enable consumers to make informed decisions.
3. Provide transparent and effective procedures that address consumer complaints and contribute to fair and timely resolution of consumer disputes without undue cost or burden.
4. Not make representations or omissions, nor engage in any other practices, that are deceptive, misleading, fraudulent, or unfair.
5. Respect consumer privacy and provide protection for personal data.
6. Co-operate fully and in a transparent manner with public authorities in the prevention or removal of serious threats to public health and safety deriving from the consumption or use of their products.

VIII. Science and technology

Enterprises should:

1. Endeavour to ensure that their activities are compatible with the science and technology (S&T) policies and plans of the countries in which they operate and as appropriate contribute to the development of local and national innovative capacity.
2. Adopt, where practicable in the course of their business activities, practices that permit the transfer and rapid diffusion of technologies and know-how, 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 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 ties with local universities, public research institutions, and participate in co-operative research projects with local industry or industry associations.

IX. Competition

Enterprises should, within the framework of applicable laws and regulations, conduct their activities in a competitive manner. In particular, enterprises should:

1. Refrain from entering into or carrying out anti-competitive agreements among competitors:
 - a) To fix prices;
 - b) To make rigged bids (collusive tenders);
 - c) To establish output restrictions or quotas; or
 - d) To share or divide markets by allocating customers, suppliers, territories or lines of commerce.
2. Conduct all of their activities in a manner consistent with all applicable competition laws, taking into account the applicability of the competition laws of jurisdictions whose economies would be likely to be harmed by anti-competitive 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, providing as prompt and complete responses as practicable to requests for information.
4. Promote employee awareness of the importance of compliance with all applicable competition laws and policies.

X. Taxation

It is important that enterprises contribute to the public finances of host countries by making timely payment of their tax liabilities. 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 arm's length principle.

Implementation Procedures

Decision of the OECD Council on the OECD Guidelines for Multinational Enterprises

June 2000

THE COUNCIL,

Having regard to the Convention on the Organisation for Economic Co-operation and Development of 14th December 1960;

Having regard to the OECD Declaration on International Investment and Multinational Enterprises (the "Declaration"), in which the Governments of adhering countries ("adhering countries") jointly recommend to multinational enterprises operating in or from their territories the observance of Guidelines for Multinational Enterprises (the "Guidelines");

Recognising that, since operations of multinational enterprises extend throughout the world, international co-operation on issues relating to the Declaration should extend to all countries;

Having regard to the Terms of Reference of the Investment Committee, in particular with respect to its responsibilities for the Declaration [C(84)171(Final), renewed in C/M(95)21];

Considering the Report on the First Review of the 1976 Declaration [C(79)102(Final)], the Report on the Second Review of the Declaration [C/MIN(84)5(Final)], the Report on the 1991 Review of the Declaration [DAFFE/IME(91)23], and the Report on the 2000 Review of the Guidelines [C(2000)96];

Having regard to the Second Revised Decision of the Council of June 1984 [C(84)90], amended June 1991 [C/MIN(91)7/ANN1];

Considering it desirable to enhance procedures by which consultations may take place on matters covered by these Guidelines and to promote the effectiveness of the Guidelines;

On the proposal of the Investment Committee:

DECIDES:

To repeal the Second Revised Decision of the Council of June 1984 [C(84)90], amended June 1991 [C/MIN(91)7/ANN1], and replace it with the following:

I. National Contact Points

1. Adhering countries shall set up National Contact Points for undertaking promotional activities, handling inquiries and for discussions with the parties concerned on all matters covered by the Guidelines so that they can contribute to the solution of problems which may arise in this connection, taking due account of the attached procedural guidance. The business community, employee organisations, and other interested parties shall be informed of the availability of such facilities.
2. National Contact Points in different countries shall co-operate if such need arises, on any matter related to the Guidelines relevant to their activities. As a general procedure, discussions at the national level should be initiated before contacts with other National Contact Points are undertaken.
3. National Contact Points shall meet annually to share experiences and report to the Investment Committee.

II. The Investment Committee

1. The Investment Committee (“the Committee”) shall periodically or at the request of an adhering country hold exchanges of views on matters covered by the Guidelines and the experience gained in their application.
2. The Committee shall periodically invite the Business and Industry Advisory Committee to the OECD (BIAC), and the Trade Union Advisory Committee to the OECD (TUAC) (the “advisory bodies”), as well as other non-governmental organisations to express their views on matters covered by the Guidelines. In addition, exchanges of views with the advisory bodies on these matters may be held at their request.
3. The Committee may decide to hold exchanges of views on matters covered by the Guidelines with representatives of non-adhering countries.
4. The Committee shall be responsible for clarification of the Guidelines. Clarification will be provided as required. If it so wishes, an individual enterprise will be given the opportunity to express its views either orally or in writing on issues concerning the Guidelines involving its interests. The Committee shall not reach conclusions on the conduct of individual enterprises.
5. The Committee shall hold exchanges of views on the activities of National Contact Points with a view to enhancing the effectiveness of the Guidelines.
6. In fulfilling its responsibilities for the effective functioning of the Guidelines, the Committee shall take due account of the attached procedural guidance.
7. The Committee shall periodically report to the Council on matters covered by the Guidelines. In its reports, the Committee shall take account of

reports by National Contact Points, the views expressed by the advisory bodies, and the views of other non-governmental organisations and non-adhering countries as appropriate.

III. Review of the Decision

This Decision shall be periodically reviewed. The Committee shall make proposals for this purpose.

Procedural Guidance

I. National Contact Points

The role of National Contact Points (NCP) is to further the effectiveness of the Guidelines. NCPs will operate in accordance with core criteria of visibility, accessibility, transparency and accountability to further the objective of functional equivalence.

A. Institutional arrangements

Consistent with the objective of functional equivalence, adhering countries have flexibility in organising their NCPs, seeking the active support of social partners, including the business community, employee organisations, and other interested parties, which includes non-governmental organisations.

Accordingly, the National Contact Point:

1. May be a senior government official or a government office headed by a senior official. Alternatively, the National Contact Point may be organised as a co-operative body, including representatives of other government agencies. Representatives of the business community, employee organisations and other interested parties may also be included.
2. Will develop and maintain relations with representatives of the business community, employee organisations and other interested parties that are able to contribute to the effective functioning of the Guidelines.

B. Information and promotion

National Contact Points will:

1. Make the Guidelines known and available by appropriate means, including through on-line information, and in national languages. Prospective investors (inward and outward) should be informed about the Guidelines, as appropriate.
2. Raise awareness of the Guidelines, including through co-operation, as appropriate, with the business community, employee organisations, other non-governmental organisations, and the interested public.

3. Respond to enquiries about the Guidelines from:
 - a) Other National Contact Points;
 - b) The business community, employee organisations, other non-governmental organisations and the public; and
 - c) Governments of non-adhering countries.

C. Implementation in specific instances

The NCP will contribute to the resolution of issues that arise relating to implementation of the Guidelines in specific instances. The NCP will offer a forum for discussion and assist the business community, employee organisations and other parties concerned to deal with the issues raised in an efficient and timely manner and in accordance with applicable law. In providing this assistance, the NCP will:

1. Make an initial assessment of whether the issues raised merit further examination and respond to the party or parties raising them.
2. Where the issues raised merit further examination, offer good offices to help the parties involved to resolve the issues. For this purpose, the NCP will consult with these parties and where relevant:
 - a) Seek advice from relevant authorities, and/or representatives of the business community, employee organisations, other non-governmental organisations, and relevant experts;
 - b) Consult the National Contact Point in the other country or countries concerned;
 - c) Seek the guidance of the CIME if it has doubt about the interpretation of the Guidelines in particular circumstances;
 - d) Offer, and with the agreement of the parties involved, facilitate access to consensual and non-adversarial means, such as conciliation or mediation, to assist in dealing with the issues.
3. If the parties involved do not reach agreement on the issues raised, issue a statement, and make recommendations as appropriate, on the implementation of the Guidelines.
4. a) In order to facilitate resolution of the issues raised, take appropriate steps to protect sensitive business and other information. While the procedures under paragraph 2 are underway, confidentiality of the proceedings will be maintained. At the conclusion of the procedures, if the parties involved have not agreed on a resolution of the issues raised, they are free to communicate about and discuss these issues. However, information and views provided during the proceedings by another party involved will remain confidential, unless that other party agrees to their disclosure.

- b) After consultation with the parties involved, make publicly available the results of these procedures unless preserving confidentiality would be in the best interests of effective implementation of the Guidelines.
5. If issues arise in non-adhering countries, take steps to develop an understanding of the issues involved, and follow these procedures where relevant and practicable.

D. Reporting

1. 1. Each National Contact Point will report annually to the Committee.
2. 2. Reports should contain information on the nature and results of the activities of the National Contact Point, including implementation activities in specific instances.

II. Investment Committee

1. The Committee will discharge its responsibilities in an efficient and timely manner.
2. The Committee will consider requests from NCPs for assistance in carrying out their activities, including in the event of doubt about the interpretation of the Guidelines in particular circumstances.
3. The Committee will:
 - a) Consider the reports of NCPs.
 - b) Consider a substantiated submission by an adhering country or an advisory body on whether an NCP is fulfilling its responsibilities with regard to its handling of specific instances.
 - c) Consider issuing a clarification where an adhering country or an advisory body makes a substantiated submission on whether an NCP has correctly interpreted the Guidelines in specific instances.
 - d) Make recommendations, as necessary, to improve the functioning of NCPs and the effective implementation of the Guidelines.
4. The Committee may seek and consider advice from experts on any matters covered by the Guidelines. For this purpose, the Committee will decide on suitable procedures.

APPENDIX D

Contact Details for National Contact Points

Allemagne-Germany

Bundesministerium für Wirtschaft und Technologie
- Auslandsinvestitionen VC3
Scharnhorststrasse 34-37
D-10115 Berlin

Tel.: (49-30) 2014 75 21
Fax: (49-30) 2014 5378
Email: buero-vc3@bmwi.bund.de
Web: www.bmwi.de/BMWi/Navigation/aussenwirtschaft,did=177082.html

Argentine-Argentina

Ambassador Enrique J. de la Torre
National Direction of International Economic Negotiations
(DINEI)
Ministry of Foreign Affairs, International Trade and Worship
Esmeralda 1212, 9th floor
Buenos Aires

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Fax: (54-11) 4819 7566
Email: dlt@mrecic.gov.ar
inm@mrecic.gov.ar
gnt@mrecic.gov.ar

Australie-Australia

The Executive member
Foreign Investment Review Board
c/- The Treasury
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Tel.: (61-2) 6263 3763
Fax: (61-2) 6263 2940
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Director
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Web: www.oecd-leitsaetze.at

Belgique-Belgium

Service Public Fédéral Economie
Potentiel Economique
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1210 Bruxelles

Tel.: (32-2) 277 72 82
Fax: (32-2) 277 53 06
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www.oeso-richtlijnen.fgov.be
www.oecd-guidelines.fgov.be

Brésil-Brazil

Mr. Pedro de Abreu e Lima Florêncio	Tel.:	(+5561) 3412 4013
Secretaria de Assuntos Internacionais	Fax:	(+5561) 3412 4057
Ministério da Fazenda	Email:	<i>pcn.ocde@fazenda.gov.br</i>
Setor da Autarquias Sul, Quadra 03, Bloco "O", Sala 1007	Web:	<i>www.fazenda.gov.br/multinacionaispcn</i>
70079 – 900 Brasília – Distrito Federal		

Canada

Canada's National Contact Point	Tel.:	(1-613) 996-3324
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* The European Commission is not formally a "National Contact Point". However, it is committed to the success of the Guidelines.

OECD PUBLICATIONS, 2, rue André-Pascal, 75775 PARIS CEDEX 16
PRINTED IN FRANCE
(20 2007 09 1 P) ISBN 978-92-64-03937-7 – No. 55867 2007

Annual Report on the OECD Guidelines for Multinational Enterprises 2007

CORPORATE RESPONSIBILITY IN THE FINANCIAL SECTOR

The Guidelines are recommendations to international business for conduct in such areas as labour, environment, consumer protection and the fight against corruption. The recommendations are made by the adhering governments and, although not binding, governments are committed to promoting their observance. This Annual Report provides an account of the actions the 39 adhering governments have taken over the 12 months to June 2007 to enhance the contribution of the Guidelines to the improved functioning of the global economy. In seven years, the Guidelines have consolidated their position as one of the world's principal corporate responsibility instruments.

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