



**ANNUAL OECD ROUNDTABLE ON CORPORATE RESPONSIBILITY -
The OECD Guidelines and Developing Countries: Building Trust**

**Multilateral Influences on the OECD Guidelines
for Multinational Enterprises**

This paper was prepared by Kathryn Gordon and Clelia Mitidieri of the OECD Investment Division as background in support of the discussion at the Roundtable on Corporate Responsibility on 14 June 2005. It will form part of the forthcoming publication "Annual Report on the OECD Guidelines for Multinational Enterprises: 2005 Edition".

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MULTILATERAL INFLUENCES ON THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

I. Introduction

The OECD Guidelines for Multinational Enterprises (the “Guidelines”) are one of many inter-governmental instruments that seek to promote economic, social and environmental progress. The OECD Guidelines do this by establishing concepts and principles for responsible business conduct that help “to ensure that the operation of [multinational enterprises] is 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 enterprises¹.” While the Guidelines recommendations are voluntary for companies, adhering governments are committed to promoting them among multinational enterprises that operate in or from their territories. This inter-governmental feature and the Guidelines’ unique follow up mechanism for promoting appropriate behaviour in a wide range of areas (human rights, labour, environment, anti-corruption, consumer protection, etc.) are what distinguish the Guidelines from many other international corporate responsibility instruments².

The Investment Committee has stated on a number of occasions that the Guidelines draw on an existing framework of international instruments. For example, an April 2003 statement by the OECD Investment Committee on the scope of the Guidelines states that: “... the Guidelines are a major corporate responsibility instrument that draws on and reinforces an established body of principles dealing with responsible business conduct. These principles reflect common values that underlie a variety of international declarations, recommendations and conventions as well as the laws and regulations of governments adhering to the Guidelines³.”

This document explores in greater detail the issue of the links between the Guidelines and the broader multilateral framework that is relevant to international business⁴. It is designed to support discussions at the OECD Roundtable on Corporate Responsibility, which is held every year in conjunction with the Annual Meeting of the National Contact Points (NCPs). NCPs are offices located in each of the 39 governments adhering to the Guidelines. The NCPs are responsible for promotion and implementation of the Guidelines in the national context. The purpose of the Corporate Responsibility Roundtables is to enhance understanding and implementation of the OECD Guidelines for Multinational Enterprises. It is hoped that the 2005 Roundtable will help to identify broad axes for future development of cooperation between the Guidelines institutions and non-adhering countries and for the Committee's outreach in the area of

¹ First paragraph of the Preface to the OECD Guidelines for Multinational Enterprises.

² See the Roundtable Summary in the 2001 Annual Report on the OECD Guidelines for Multinational Enterprises for a discussion of how the Guidelines fit into the broader field of global CR instruments.

³ See Chapter VI of the 2003 Annual Report on the OECD Guidelines for Multinational Enterprises.

⁴ Several other global initiatives – Global Reporting Initiative, several business association codes of conduct (e.g. International Chamber of Commerce), UN Global Compact -- are relevant to the Guidelines. They are not considered here because they are not expressions of multilateral dialogue among sovereign nations. This paper assumes that adherence by sovereign nations to multilateral instruments can be taken as sign of commitment by to the concepts and principles established in those instruments.

corporate responsibility. The summary will help to inform Investment Committee and NCP presentations of the Guidelines in a non-member context.

This paper provides background information of relevant to the first session of the Roundtable, which address the following question: do the Guidelines express concepts and principles that are relevant for all companies or for companies from high income countries? Broadly described, the paper's findings note that: 1) non-adhering countries are very likely to subscribe formally to the same multilateral instruments that have influenced the Guidelines, indicating that the Guidelines may promote (within the context of OECD work on investment) concepts and principles that are much more widely subscribed to; 2) non-adhering countries have also undertaken their own initiatives that seek to make the concepts and principles expressed in multilateral instruments meaningful in more specific contexts (e.g. regional human rights and anti-corruption initiatives); 3) the degree to which the Guidelines draw on broader (non-OECD) instruments depends on the chapter and the recommendation under consideration.

National governments, private sector actors (business associations, NGOs, etc) and international organisations have all made important contributions to the set of instruments relevant for international organisations. However, this paper looks at those instruments issued by international and regional multilateral institutions – that is, it looks at the part of the framework that has emerged from formal multilateral dialogue among governments. This is because it seeks to explore the degree to which non-adhering countries formally adhere to instruments whose content is closely related to that of the Guidelines and to look at what non-adhering countries are doing to advance related concepts and principles. (The other background paper prepared for this roundtable -- *Corporate Responsibility Practices of Emerging Market Companies – A Fact-Finding Study* -- looks at private initiatives undertaken by businesses based in non-adhering countries.)

The paper seeks to provide background information on the following issues:

- What multilateral instruments have influenced or supported the Guidelines (that is, they establish concepts and principles that echo and support the Guidelines' recommendations)?
- To what extent do countries that do not adhere to the Guidelines adhere to and promote the same multilateral instruments that the Guidelines draw on?
- Are there inter-governmental initiatives undertaken by non-adhering countries that advance the same goals as the Guidelines?

II. The multilateral influences of the guidelines -- Whose values do they express?

This section provides background information on the first two questions posed above. What multilateral instruments are relevant to the recommendations made in the Guidelines and to what extent can it be said that non-adhering countries adhere to these instruments?

II.a. Statistical indicator – formal rates of adherence

During the 2000 Review of the Guidelines, negotiators tried to make the revised instrument as self-contained as possible – this meant that they kept external references to a minimum. Thus, the Guidelines incorporate a broad range of influences that may not be specifically acknowledged in the text and commentaries. Nevertheless, 15 inter-governmental instruments are mentioned in the Guidelines texts or in

Commentary⁵. All 15 instruments are linked to the UN system and its specialised agencies. These include, for example, the Universal Declaration of Human Rights, various ILO instruments, the Rio Declaration and the UN Guidelines on Consumer Policy. Many of the instruments cited in the Guidelines are addressed, in the first instance, to governments. However, they all establish concepts and principles that are relevant for the conduct of business.

The fifteen instruments are described in Annex 1. Fourteen of these instruments are associated with multilateral processes in which many countries participate⁶. Through these processes, countries -- adhering or non-adhering -- may formally associate themselves with the fourteen instruments. By participating in these processes, these countries help to build and reinforce the multilateral framework that, among other things, has influenced the recommendations in the Guidelines.

This section takes the set of multilateral instruments that is explicitly cited in the Guidelines as its starting point and then documents the extent to which non-adhering countries formally adhere to these instruments. In particular average rates of formal adherence to these instruments are calculated for a set of 20 countries that does not adhere to the Guidelines⁷. These calculations provide a rough statistical indication of the degree to which the multilateral sources of the Guidelines can be said to express globally held values – that is, values that are held in common by adhering and non-adhering countries alike. The twenty countries were chosen to cover all major regions and to include both large and small countries. Together, these countries cover 53 per cent of the world’s population. The sample also includes countries with which the Investment Committee has conducted outreach or analytical work (e.g. China, India, Russia and South Africa).

For each country, formal adherence to the multilateral instruments mentioned in the Guidelines was determined based on information provided on the websites of the relevant UN Secretariats. The average “rate” of adherence was then calculated. The average rate for the non-adhering countries was 13.5 formal adherences to the instruments mentioned in the Guidelines. This is roughly equivalent to saying that, on average, one out of every two countries in the sample does not adhere to one of the 14 instruments mentioned in the Guidelines. Thus, this indicator suggests that non-adhering countries have a relatively high rate of adherence to the multilateral instruments mentioned in the Guidelines.

It should be noted that formal acceptance does not necessarily indicate *de facto* observance of these standards. For example, three of the non-adhering countries that formally adhere to all external standards mentioned in the Guidelines have also appeared on lists of “fragile” states.

II.b. Multilateral influences – chapter by chapter

This section looks at the sources of the Guidelines recommendations on a chapter-by-chapter basis. It notes that: 1) non-OECD multilateral instruments are important influences for many Guidelines recommendations; 2) some Guidelines recommendations do not appear to be associated with non-OECD

⁵ In addition, a number of private initiatives are cited, such as the ISO standards on environmental management and the International Chamber of Commerce’s *Report on Extortion and Bribery in Business Transactions*.

⁶ The fifteenth instrument is the Aarhus *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters*. This Convention is regional in scope and is only open to members of the UN Economic Commission for Europe.

⁷ The twenty non-adhering countries are: Bangladesh, China, Colombia, Democratic Republic of Congo, Egypt, India, Indonesia, Ivory Coast, Jordan, Malaysia, Morocco, Nigeria, Russia, Singapore, Syria, South Africa, Thailand, Ukraine, United Arab Emirates and Venezuela.

multilateral instruments; and 3) OECD instruments are the main multilateral sources for some chapters (e.g. in the area of tax and disclosure).

Table 1 provides a more detailed look at the multilateral texts that are cited in the Guidelines related to the content of the Guidelines' chapters. Broadly described, there appear to be three types of links between the Guidelines chapters and multilateral instruments:

Chapters that are closely linked to non-OECD multilateral instruments

Some of the Guidelines chapters – especially the Employment and Industrial Relations and Environment chapters – contain recommendations that are closely linked to non-OECD multilateral instruments (basically from the UN and its specialised agencies such as the ILO). However, none of the chapters are wholly derived from non-OECD multilateral instruments. Table 1, for example, shows that 7 out of the 8 recommendations in the Environment Chapter are supported by analogous texts in other UN instruments (though sometimes the texts are not strictly identical). The exception is Recommendation 8, which asks companies to “contribute to the development of environmentally meaningful and economically efficient public policy...”. While this reflects language used in several private environmental codes⁸, this recommendation does not appear in multilateral environmental instruments.

Chapters that were linked mainly to OECD instruments at the time of the 2000 Review, but which are now also covered by external instruments

Progress is an important theme of Investment Committee work on corporate responsibility⁹. The international framework that underpins at least part of the Guidelines shows evidence of progress – the multilateral elements of this framework have been developing over a period of several decades. In at least one case (Chapter 6 on Combating Bribery), the international framework appears to have “caught up” with the Guidelines recommendations. The United Nations Convention against Corruption – opened for signature in late 2003 -- is considered to be a major milestone in the development of the international anti-corruption framework, which complements the provisions of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Chapter 6 of the Guidelines cite only OECD anti-corruption instruments (plus a report by the International Chamber of Commerce, a business association). However, since the 2000 Review of the Guidelines, the United Nations Convention against Corruption (UNCAC) has come into existence (as well as a number of other instruments, including the African Union Convention on Preventing and Combating Corruption). The UNCAC provides a very broad blueprint for anti-corruption systems including concepts and principles that are relevant for the public sector, for private business and for other actors in national anti-corruption systems. This blueprint appears to cover substantially all of the recommendations of Guidelines Chapter 6.

⁸ See Table 5 (Environmental content of codes) of the OECD publication, *Corporate Responsibility: Private Initiatives and Public Goals*.

⁹ See for example, Executive Summary and Chapter 1 of *Corporate Responsibility: Private Initiatives and Public Goals*; also see summary of 2001 Roundtable discussion published in the *2001 Annual Report on the OECD Guidelines for Multinational Enterprises*.

Table 1. Multilateral Sources of the Guidelines' Chapters

(instruments explicitly cited in the Guidelines)

OECD Guidelines for Multinational Enterprises	Established International Framework mentioned in the OECD Guidelines
Preface	1948 Universal Declaration of Human Rights; 1995 Copenhagen Declaration for Social Development; 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; 1999 OECD Principles of Corporate Governance; 1999 OECD Guidelines for Consumer Protection in the Context of Electronic Commerce; 1995 OECD Transfer Pricing Guidelines for MNEs and Tax Administrations
I. Concepts and Principles	
II. General Policies	1948 Universal Declaration of Human Rights and 1999 OECD Principles of Corporate Governance (1999 version)
III. Disclosure	1999 OECD Principles of Corporate Governance
IV. Employment and Industrial Relations	1977 ILO Tripartite Declaration of Principles concerning MNEs and Social Policy and 1998 ILO Declaration of Fundamental Principles and Rights at Work; ILO Conventions: n.29 of 1930 concerning Forced and Compulsory Labour and n. 105 of 1957 on the Abolition of Forced Labour; n.111 of 1958 concerning Discrimination with respect to Employment and Occupation; n.182 of 1999 concerning the Prohibition and Immediate Action for the Elimination of Worst Forms of Child Labour; n.138 of 1973 concerning Minimum Age for Admission to Employment; ILO Recommendations: n. 94 of 1952 concerning Consultation and Cooperation between Employers and Workers at level of Undertaking and n. 146 of 1973 concerning Minimum Age for Admission to Employment
V. Environment	1992 Rio Declaration on Environment and Development and Agenda 21; 1998 Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.
VI. Combating Bribery	1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997 OECD Revised Recommendation on Combating Bribery in International Business Transactions, 1996 OECD Recommendation on the Tax Deductibility of Bribes to Foreign Public Officials.
VII. Consumer Interests	1999 Revised UN Guidelines for Consumer Protection; 1999 OECD Guidelines for Consumer Protection in the Context of Electronic Commerce; 1980 OECD Guidelines Governing the Protection of Privacy and Trans-border Flows of Personal Data
VIII. Science and Technology	No OECD or external references.
IX. Competition	1998 Recommendation of the OECD Council Concerning Effective Action Against Hard Core Cartels, C (98)35/Final; 1995 Recommendation of the Council Concerning Co-operation Between Member Countries on Anticompetitive Practices Affecting International Trade, C(95)130/Final; <i>Making International Markets More Efficient Through Positive Comity in Competition Law Enforcement</i> . Report of the OECD Committee on Competition Law and Policy.
X. Taxation	1995 OECD Transfer Pricing Guidelines for MNEs and Tax Administrations; Recommendation of the OECD Council on the Determination of Transfer Pricing between Associated Enterprises.

Table 2. The Environment Chapter of the Guidelines – Parallel Texts from Other Multilateral Instruments

Recommendation from Environment Chapter	Multilateral sources (including instruments developed after the 2000 Review)
1. Environmental management systems	Johannesburg Plan of Implementation; Agenda 21; Aarhus Convention.
2. Information, Communication, Consultations.	Rio Declaration (Principle 10 and 19); Agenda 21. Convention on Biological Diversity (article 14.c); Aarhus Convention.
3. Environmental Assessment and Decision-Making.	Rio Declaration (Principle 17) Convention of Biological Diversity (Article 14); Framework Convention on Climate Change (Article 4f); 1991 Espoo Convention on Environmental Impact Assessment in a Trans-boundary Context.
4. Precautionary approach.	Rio Declaration (Principle 15); Framework Convention on Climate Change (Article 3.3).
5. Contingency plans; accident and emergency planning.	Rio Declaration (Principle 18); Convention of Biological Diversity (Article 14.d). Agenda 21 (various chapters).
6. Continual improvement.	Rio Declaration (possibly Principle 8, but no explicit reference to continual improvement). Agenda 21 (Chapters 30 and 36).
7. Training and education for employees.	1972 Stockholm Declaration (Principle 19); Agenda 21 (Chapter 30); Convention of Biological Diversity (article 13); Framework Convention on Climate Change (article 6).
8. Contribution to the public policy process in relation to the environment.	No non-OECD multilateral source found.

As of mid-May 2005, the UNCAC had been signed by 120 countries (including 84 non-adhering countries) and have been ratified by 20 States from non-adhering countries (out of a total of 22¹⁰). Thus, while the UNCAC has not yet entered into force, multilateral support for the material in Chapter 6 of the Guidelines has been very much strengthened since the 2000 Review.

Chapters that are based largely on OECD instruments

Table 1 suggests that several Guidelines Chapters are based largely on OECD instruments or on influences that are not explicitly identified in the texts and commentaries. Thus, their recommendations do not have obvious counterparts in multilateral instruments that non-adhering countries would normally adhere to and it there are no *a priori* grounds for believing that non-adhering countries subscribe to the concepts and principles set forth in these chapters.

¹⁰ As of mid- May 2005, the parties to the Convention consist of Algeria, Belarus, Benin, Croatia, Djibouti, Egypt, El Salvador, Hungary, Jordan, Kenya, Madagascar, Mauritius, Mexico, Namibia, Nigeria, Peru, Romania, Sierra Leone, South Africa, Sri Lanka, Turkmenistan and Uganda.

Chapter 10 – on Taxation – is probably the most prominent example of a chapter that is based only on OECD multilateral instruments. The commentary to Chapter 10 mentions the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Authorities and the Recommendation of the OECD Council on the Determination of Transfer Pricing between Associated Enterprises. These focus on the application of the arms length principle to evaluate the transfer pricing practices of associated enterprises. The MNE Guidelines recommendations in Chapter 10 encourage international business to follow the guidance in the OECD Transfer Pricing Guidelines in order to ensure that their transfer prices reflect the arm’s length principle.

These recommendations reflect a multilateral process that mainly involves OECD members involved in the discussions of the Committee on Fiscal Affairs. However, Argentina, China, Russia and South Africa are observers on the Committee on Fiscal Affairs. The Committee also engages in bilateral dialogue with non-OECD countries on transfer pricing policy issues. Thus, while these recommendations reflect, for the most part, dialogue among OECD countries, other countries, to varying degrees can influence and participate in the discussions.

III. Regional multilateral initiatives involving non-adhering countries

Recently, in an official response to a request for clarification on the application of the Guidelines, the Investment Committee stated that it “recognises that many different actors – other agencies within adhering and non-adhering governments, other international and regional organisations as well as non-public actors such as business associations, trade unions and NGOs – are working in their own ways to uphold the values and principles from which the Guidelines are derived and which they reinforce. They are seeking to level the playing field by making these meaningful in the day-to-day operations of a broad cross-section of companies. The implementation procedures of Guidelines are just one among many such processes and NCPs should seek to complement other processes.”

This section provides background documentation relevant to the third question posed in the introduction to this paper: Are there inter-governmental initiatives in the non-adhering world that advance the same goals as the Guidelines? This documentation supports the point made by the Investment Committee in its clarification. It shows that non-adhering countries are also, in their own ways, seeking to “uphold the values and principles from which the Guidelines are derived”.

The section focuses on two sets of multilateral regional initiatives in the areas of human rights and corruption that have official inter-governmental monitoring mechanisms. Other examples from national policies adopted by non-adhering countries and in the private sector could also have been cited. (The other paper prepared for the Roundtable, documents initiatives by non-adhering businesses and business associations).

Box 1 briefly describes the regional human rights systems put in place by the Organisation of American States¹¹, the Council of Europe¹², the African Union and the League of Arab States. These

¹¹ Twenty one countries that do not adhere to the Guidelines that adhere to the OAS Convention on Human Rights: Barbados, Bolivia, Colombia, Costa Rica, Dominica, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Suriname, Trinidad and Tobago, Uruguay, Venezuela. Some OAS members have not ratified the Convention -- for example, Canada and US (the US has signed it).

¹² Eighteen countries that do not adhere to the Guidelines are members of the Council of Europe. They are: Albania, Andorra, Armenia, Azerbaijan, Bosnia & Herzegovina, Bulgaria, Croatia, Cyprus, Georgia, Liechtenstein, Malta, Moldova, Monaco, Russia, San Marino, Serbia and Montenegro, Macedonia and Ukraine.

involve charters, declarations, conventions and associated dialogue and monitoring processes – they represent regional efforts to construe the meaning of human rights principles and to reinforce their application in the regional context. The following points are noteworthy:

- The regional human rights instruments have many points in common with broader international principles, but they also exhibit distinctive features that would seem to reflect special regional interests or concerns. For example, the OAS Declaration deals with duties as well as rights of individuals. The African Union Charter covers the rights of “peoples” (that is, not just rights of individuals) and also deals with both duties and rights. The Arab Charter on Human Rights explicitly invokes a religious basis for human rights principles.
- The regional dialogue and monitoring processes are still evolving and are at different states of maturity. The OAS and the COE systems are very long-standing processes (the American Declaration on the Rights and Duties of Man was agreed to in 1948 and the COE Convention was adopted in 1950). The other two systems are of more recent origin.

Regional multilateral initiatives in the anti-corruption field also attest to the rapid evolution of the international anti-corruption framework that was highlighted earlier in relation to the UN Convention against Corruption. Box 2 describes regional, multilateral anti-corruption initiatives undertaken by the African Union, the Council of Europe, the Organisation of American States¹³ and the Southern African Development Community. As with human rights, the regional anti-corruption initiatives reflect global principles (e.g. criminalisation of bribery of public officials), but also exhibit distinctive regional approaches to the issues they deal with and in the degree of development and nature of their follow-up mechanisms. For example, the African Union Convention contains language on a broader range of issues (e.g. respect for human rights and for democratic institutions, and condemnation of impunity) that reinforce the effectiveness of anti-corruption law enforcement.

¹³ Twenty eight countries that do not adhere to the Guidelines adhere to the Inter-American Convention against corruption: Antigua & Barbuda, Bahamas, Barbados (signed only), Belize, Bolivia, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Paraguay, Peru, St. Kitts & Nevis, St. Lucia, St Vincent & Grenadines, Suriname, Trinidad and Tobago, Uruguay and Venezuela.

Box 1. Regional Human Rights Systems – selected initiatives

The Organization of American States and the American Human Rights System

The American Declaration of the Rights and Duties of Men (adopted by the Ninth International Conference of American States in April 1948) is the first international document listing universal human rights and proclaiming the need to protect them. The American Declaration pre-dates the Universal Declaration by several months and includes both rights and duties of individuals.

The American Convention of Human Rights of 22 November 1969 (in force 18 July 1978) focuses mainly on civil and political rights and offers more detailed definitions of such rights than the American Declaration does. It created the Inter-American Court of Human Rights. The Court and the Inter-American Commission on Human Rights (established by the OAS Charter) are the principal institutions for human rights protection in the American System. An additional Protocol to the American Convention on human rights in the area of economic, social and cultural rights was adopted in 1988 (in force 16 November 1999).

The Council of Europe and the European Human Rights System

The European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 (in force 3 September 1953) constitutes the concrete expression at European level of a collective guarantee for rights set out in the Universal Declaration of Human Rights. States parties are required to respect human rights, the rule of law and the principles of pluralist democracy. Acceptance of both the convention and the compulsory jurisdiction of the European Court of Human Rights established by the Convention has are requirements for being member of the organization.

The European Social Charter of 18 December 1961, (in force 26 February 1965; Revised in 1996; Revised Charter came into force in 1999) protects human rights and freedoms. The Charter establishes a supervisory mechanism through the European Committee of Social Rights guaranteeing the respect of its provisions by the States parties. It covers the following rights: housing, health, education, employment, legal and social protection, movement of persons and non-discrimination.

The African Union and the African Human Rights System

African Charter on Human and Peoples' Rights (adopted in June 1981; in force 21 October 1986) covers economic, social and cultural rights as well as civil and political rights. It stipulates rights of both individuals and peoples. The rights to peace, to a healthy environment, to development and to self-determination are also included. Furthermore, the Charter sets out individual duties to family, to society and to the State as well as to other legally recognized communities, including the international community. It established the African Commission of Human and Peoples' Rights.

The Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights (adopted in June 1998; in force 15 January 2004). The Protocol establishes the African Court on Human and Peoples' Rights.

The League of Arab States and the Arab Human Rights System

The Arab Charter on Human Rights of 15 September 1994 (not yet ratified, not in force- under revision- last draft adopted by the Arab Standing Committee for Human Rights in January 2004): the Charter was adopted by the Council of the League of Arab States and covers civil and political rights as well as economic, social and cultural rights. Follow up by States involves periodic submission of report to the Committee of Experts on Human Rights. The Arab Charter invokes a religious basis for human rights, referring to "the eternal principles of brotherhood and equality among all human beings which were firmly established by the Islamic Shari'a and the other divinely-revealed religions...".

Sources: See www.coe.int; www.oas.org; www.africa-union.org and www.arableagueonline.com.

Box 2. Regional anti-corruption conventions – selected multilateral processes

Organization of American States (OAS): Inter-American Convention against corruption, 1996

The Inter-American Convention against Corruption (IACC) is the first international convention against corruption ever adopted (from 6 March 1997). It has been ratified by 29 countries, and is broader in scope than the European and OECD instruments. The IACC provisions can be broadly classified into three groups: Preventive Measures; Criminal Offences; and Mutual Legal Assistance.

Council of Europe Criminal Law Convention on Corruption, 1999

The Convention is drafted as a binding legal instrument and applies to a broad range of occupations and circumstances. It contains provisions criminalizing a list of specific forms of corruption, and extending to both active and passive forms of corruption, and to both private and public sector cases. The Convention also deals with a range of transnational cases: bribery of foreign public officials and members of foreign public assemblies is expressly included, and offences established pursuant to the private-sector criminalization provisions would generally apply in transnational cases in any State Party where a sufficient portion of the offence to trigger domestic jurisdictional rules had taken place.

The Group of States against Corruption (GRECO) monitors the observance of the Guiding Principles in the Fight against Corruption (peer review monitoring mechanism) and, in the future, the implementation of the international legal instruments adopted in pursuit of the Programme of Action against Corruption, including the Civil Law convention (for those countries who will have ratified).

Council of Europe Civil Law Convention on Corruption, 1999

This is the first attempt to define common international rules for civil litigation in corruption cases. Where the *Criminal Law Convention* seeks to control corruption by ensuring that offences and punishments are in place, the *Civil Law Convention* requires States Parties to ensure that those affected by corruption can sue the perpetrators civilly, effectively drawing the victims of corruption into the Council's anti-corruption strategy. The Civil Law Convention is narrower than its criminal law counterpart in the scope of the forms of corruption to which it applies, extending only to bribery and similar acts. It came into force in November 2003.

SADC- The Southern African Development Community Protocol on Corruption, 2001

SADC-The Southern African Development Community Protocol on Corruption was adopted by all 14 SADC Heads of States and Governments at the Summit held in Malawi in August 2001. It represents the first anti-corruption treaty in Africa and was ratified by 8 of 14 SADC members States. It promotes the development of anti-corruption mechanisms at national level and the harmonization of anti-corruption legislations in Africa as well as the cooperation between States in the fight against corruption.

African Union Convention on Preventing and Combating Corruption and Related Offences, 2002

African heads of state adopted the African Union Convention on Preventing and Combating Corruption at the Second Ordinary Session of the Assembly of the African Union in July 2003. Its main objectives are to strengthen the laws on corruption by listing offences that should be punishable by domestic legislation; to outline measures to be undertaken to enable the detection and investigation of corruption offences; to indicate mechanisms for the confiscation and forfeiture of the proceeds of corruption and related offences; to organize mutual assistance in relation to corruption and related offences; and to encourage the education and promotion of public awareness on the evils of corruption.

Source: UN Global Compact, *Background Information on the Fight against Corruption*, November 2003 (except for update for entry into force of Council of Europe Civil Law Convention and the text on the South African Development Community Protocol on Corruption)

Note: The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions is not included in this box. Implementation and enforcement of this legally binding Convention, which is open to accession by non-OECD countries, is ensured through the comprehensive and thorough monitoring process to which the 36 governments Parties are committed.

Annex. Information Sources about Multilateral Instruments Cited in the Guidelines

The Universal Declaration of Human Rights

For more information, see: www.un.org; www.ohchr.org

The Copenhagen Declaration for Social Development

For more information, see: www.un.org/esa/socdev/wssd/agreements/

ILO Standards

a) The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (1977 Tripartite Declaration)

For more information, see: www.ilo.org/public/english/employment/multi/history.htm

b) The ILO Declaration of Fundamental Principles and Rights at Work (1998 Declaration)

For more information, see: www.ilo.org/dyn/declaris/DECLARATIONWEB.INDEXPAGE

c) ILO conventions and recommendations

- *Convention 29 of 1930 and 105 of 1957 on Elimination of all Forms of Forced or Compulsory Labour;*
- *Convention 111 of 1958 on Principle of non-discrimination with respect to Employment and Occupation;*
- *Recommendation 94 of 1952 concerning Consultation and Co-operation between Employers and Workers on the level of Undertaking;*
- *Convention 182 of 1999 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour;*
- *Convention 138 of 1973 and Recommendation 146 of 1973 concerning Minimum Age for Admission to Employment)*

For more information, see: www.ilo.org/public/english/standards/norm/whatare/index.htm

The Rio Declaration on Environment and Development and Agenda 21

For more information, see: www.un.org/esa/sustdev/documents/agenda21/index.htm

The UN Guidelines on Consumer Policy

For more information, see: <http://r0.unctad.org/en/subsites/cpolicy/english/guidelines.htm>

The UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus)

For more information, see: www.unece.org/env/pp/

References

OECD 2004, *Annual Report on the OECD Guidelines for Multinational Enterprises: Encouraging the Contribution of Business to the Environment*.

OECD 2003, *Annual Report on the OECD Guidelines for Multinational Enterprises: Enhancing the role of Business in the Fight against Corruption*.

OECD 2002, *Annual Report on OECD Guidelines for Multinational Enterprises: Focus on Responsible Supply Chain Management*.

OECD 2001, *Annual Report on OECD Guidelines for Multinational Enterprises: Global Instruments for Corporate Responsibility*.

OECD 2001, *No longer business as Usual: Fighting Bribery and Corruption*.

OECD 2001, *Corporate Responsibility: Private Initiatives and Public Goals*.

United Nations Global Compact 2003, *Background Information on the Fight Against Corruption*.