



DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS

**OECD Guidelines for Multinational Enterprises:
2002 Annual Meeting of the National Contact Points**

REPORT BY THE CHAIR

**Meeting held on
18 June 2002**

This document reproduces the Report by the Chair of the Annual Meeting of the National Contact Points which was held on 18 June 2002. It will form part of the forthcoming publication "OECD Guidelines for Multinational Enterprises -- Annual Report 2002".

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OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES: 2002 ANNUAL MEETING OF THE NATIONAL CONTACT POINTS

(Report by the Chair)

I. Background

The 2002 annual meeting of the National Contact Points (NCPs) of the OECD Guidelines for Multinational Enterprises (“the Guidelines”) provided an opportunity for NCPs to share their experiences during the second year of implementation since the June 2000 Review¹. It also gave the NCPs an opportunity to discuss ways that they can work -- with each other and in partnership with business, trade unions, and NGOs -- to consolidate and enhance the Guidelines’ contribution to promoting appropriate standards of international business conduct.

This meeting was held on 18 June 2002. Consultations with the Business Industry Advisory Council (BIAC), the Trade Union Advisory Council (TUAC) and non-governmental organisations² were also held. The 2002 Roundtable on Corporate Responsibility provided a forum for the business, trade union and NGO communities to express their views on how the Guidelines might contribute to improved responsible management of supply chains.

The present report reviews NCP activity based on the discussions that took place at these meetings, on individual reports submitted by NCPs and on information they provided in the course of the review period. It also draws on information provided by BIAC, TUAC and NGOs. As of late June 2002, 34 NCPs (as well as the European Commission) had sent reports to the Secretariat³.

The report is organised under five headings. The first three deal with institutional arrangements, information and promotion, and implementation in specific instances. The fourth section describes how the Guidelines institutions have followed up on three issues raised at the June 2001 consultations. These are: 1. multinational enterprise activity in Myanmar; 2. linkages between the Guidelines and other national policies; and 3. the balance of promotion between the Guidelines and other instruments in the OECD

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1. The annual meetings of the NCPs responds to the requirement in the OECD Council Decision of June 2000 stating that: “The National Contact Points shall meet annually to share experiences and report to the Committee on International Investment and Multinational Enterprises (CIME).”
 2. NGOs were represented by ANPED -- the Northern Alliance for Sustainability -- and by Rights and Accountability in Development (RAID).
 3. NCP reports from the following countries were received in time for inclusion in this report: Argentina, Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Lithuania, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. Brazil submitted a report in July 2000 according to which the Brazilian NCP is being implemented. The European Commission, which does not have an NCP, also submitted a report on its activities. This report also draws on discussions of NCP activities in relation to Myanmar that took place at the December 2001 meeting of the Committee on International Investment and Multinational Enterprises.

Declaration on International Investment and Multinational Enterprises. The fifth section -- "Summary and considerations for future action" -- provides a broad review of the second year of implementation activity under the revised Guidelines and proposes a few specific issues for consideration by the Guidelines institutions.

Two main themes emerge from this report. The first is that, relative to the situation described in last year's report, the visibility and "user recognition" of the Guidelines appear to have been significantly enhanced. Many actors -- ranging from G8 Ministers to local labour leaders -- have referred to or used the Guidelines as a tool to promote appropriate business conduct. This heightened visibility reflects the efforts of many supporters of the Guidelines acting on many fronts. The second theme is the need for further action and continued effort. The Guidelines are now quite well known by business, unions and civil society in some countries, but they are hardly known at all in others. Promotion, in any case, is an ongoing challenge. Furthermore, many basic strategic questions -- the most fundamental of which concerns whether and how the Guidelines are influencing business behaviour -- have yet to be answered.

II. Institutional arrangements

The NCP reports show that the institutional arrangements under which NCPs operate were largely stable over the June 2001-June 2002 period. A wide range of structures of NCPs is in evidence (see Annex 1). These structures may be summarised as follows (for the 34 countries for which information is available):

- 19 single government department NCPs;
- 6 NCPs consisting of multiple government departments;
- 7 tripartite NCPs;
- 2 quadripartite NCPs.

In addition to these formal structures, the NCP reports noted other means of organising their consultations and promoting the inclusiveness of their activities. For example, a number of countries (e.g. Austria, Greece) reported the use of advisory committees or permanent bodies, whose members are interested non-government partners or the convening of regular meetings with business, trade unions and civil society (e.g. Australia). Other NCPs mention consultations with NGOs or other partners on an informal basis (e.g. Japan) or in reference to specific issues where they are deemed to have particular expertise (e.g. United Kingdom, Netherlands).

III. Information and promotion

Nearly all NCPs continued to make significant efforts to promote the Guidelines and to heighten awareness of them among national actors. Furthermore, as was the case last year, promotional activity extended beyond NCPs. The role of trade unions, businesses, charitable foundations and NGOs in promoting the Guidelines is noteworthy.

In keeping with their global character, the Guidelines are now available in at least 21 languages⁴ and more if translations of TUAC's Users' Guide is taken account.

4. Czech, Danish, Dutch, English, Estonian, Finnish, German, French, German, Hungarian, Greek, Norwegian, Japanese, Lithuanian, Polish, Portuguese, Slovak, Spanish, Swedish, Turkish and the official languages of Belgium and Switzerland.

a) *Promotional activities by NCPs*

Seminars and conferences. Most NCPs report that they participated in or organised conferences involving the Guidelines. Particularly noteworthy was the two-day conference in Santiago sponsored by the Chilean NCP and attended by three other NCPs (France, Mexico and Sweden). A Guidelines seminar in Poland -- arranged by the Friedrich Ebert Foundation in co-operation with TUAC -- was attended by the Polish and Swedish NCPs and by many government, trade union and NGO representatives. NCPs also participated in conferences organised by trade unions that took place in Estonia, Hungary and Lithuania. The Finnish NCP presented the Guidelines at the Estonian event. The Slovak Republic notes that its NCP presented the Guidelines to seminars attended by leading multinational companies operating in the Slovak Republic.

Informing social partners, NGOs, universities and the press. Several NCPs have attempted to raise the profile of the Guidelines outside capital cities. The Italian NCP has organised conferences in Turin, Cagliari and Naples. The Australian NCP held two meetings in different cities with business, trade unions, NGOs and academics for the purpose of discussing Guidelines-related issues. The Spanish and Turkish NCPs have informed the social partners and NGOs about the Guidelines via a mailing campaign. Several NCPs mentioned doing mass mailings of promotional material -- for example, the Austrian NCP sent out 13,000 summaries of the Guidelines to exporting and importing companies. The Finnish NCP mailed material to 1000 Finnish export companies. The Polish NCP held a press conference on the Guidelines. The US Department of Commerce is in the trial stages of an outreach programme to communicate the OECD investment instruments to graduate international business schools and programmes by offering guest lectures on the content and application of the Guidelines. Several NCPs (e.g. the Slovak Republic) reported publishing articles on the Guidelines in their country's business press.

Promotional material and web sites. Nearly all NCPs report that the Guidelines are featured in some way on government websites. Often these are dedicated sites and they involve significant cross-links with other relevant sites (e.g. environment or labour ministries, investment promotion agencies). A number of NCPs noted preparation of new promotional material during the review period (e.g. Austria, Canada, Denmark, Mexico, Netherlands, Norway, and Portugal).

b) *Promotional activities in the business community*

BIAC officially expressed their support for the Guidelines in a letter dated 20 December 2001 (Annex 3). The letter states "BIAC is fully supportive of an effective implementation of the Guidelines. As elaborated in our Consultation with the Committee on December 4, 2001, our member organisations have engaged in a wide range of promotional and educational activities to communicate the substance and utility of the Guidelines, through brochures, websites, outreach to related institutions, conferences, seminars and workshops. Individually and in co-operation with government, these will continue and new vehicles will be found."

The Swedish NCP report notes that a major accounting firm and a business journal organised a seminar in Stockholm about the Guidelines and the UN Global Compact. Ireland reports that the Irish Business and Employers Confederation invited the NCP to advise on the elaboration of a code on corporate governance for its members.

c) *Promotional activities among trade unions*

A TUAC *User's Guide* on the Guidelines was published in English and has been distributed to both TUAC and ICFTU affiliates and posted on the TUAC website. It has been translated into Czech, French, Spanish, Portuguese, Italian, Korean, Hungarian, Russian, Estonian and Latvian. It will shortly be available in

German, Georgian, Lithuanian and Romanian. TUAC views the translations as having been useful in raising the awareness of the Guidelines and has used them in seminars, workshops and to explain how “specific instances” should be raised.

TUAC has participated in a number of promotional events that aim to help trade unions use the Guidelines in order to resolve specific issues and facilitate a social dialogue with multinational enterprises. These have taken place in Europe, North America, South America and Asia. TUAC helped to organise and participated in two seminars in Estonia and Lithuania. Altogether, the seminars had about 80 participants from trade unions, business organisations and governments in Estonia, Latvia and Lithuania. TUAC has also briefed a number of Global Union Federations on the Guidelines.

d) *Promotional activities by NGOs, charitable foundations and academics*

The Fredrick Ebert Foundation sponsored a Guidelines event in Santiago de Chile (different than the one, described above, that was organised by the Chilean NCP). The event provided an opportunity to introduce the Guidelines to the trade union community in Latin America. It was also attended by the Chilean NCP and by TUAC. Germanwatch, an NGO, organised a session as part of the NGO Forum Programme in connection with its event “World Food Summit -- Five Years Later” in Rome. This event explored the role of multinational enterprises in promoting food security and food safety.

Numerous academics have been attending Guidelines events (for example, the Chilean NCPs Guidelines conference, the promotional meeting for the ILO Declaration on Multinational Enterprises and the Labour Management Programme seminar on the Guidelines). A French group specialising in employment relations and based at the University of Paris⁵ sponsored a colloquium on the Guidelines. The University of Nyenrode has developed a programme on corporate responsibility and the OECD Guidelines. The Netherlands NCP supports corporate responsibility in education programmes and has participated in workshops in Nyenrode.

e) *Promotional activities within governments.*

Numerous promotional activities within governments are described in the NCP reports. Turkey sent an informational letter to government agencies describing the Guidelines and asking for comments on them. Other activities include:

- *Promotion within embassy and consular networks.* Embassies have been informed about the Guidelines (Estonia, Japan, Netherlands, Spain). The United Kingdom includes presentations about them in training of commercial officers for embassies. Japan organises meetings with Japanese business communities/societies in non-OECD member countries -- mainly in Asia -- in order to provide information on the Guidelines. The Netherlands NCP states that ambassadors were informed about the Guidelines (especially their anti-corruption recommendations) at their annual meeting. Canada provides information sessions on the Guidelines to its overseas trade officials and they are also part of the human rights training for government officials preparing for overseas postings. The informational booklet of the US NCP is incorporated into the programmes of the Economic and Commercial Training Division of the National Foreign Affairs Training Centre, where diplomatic, economic and commercial officers receive advanced economic training for overseas assignments.

5 . Association Française de l'étude des Relations Professionnelles (AFERP).

- *Participation in tripartite bodies.* The Czech NCP participates in “the Council of Economic and Social Agreement, the supreme tripartite body operating under the auspices of the Governments. Through this contact the NCP ensures that the Guidelines feature in the Czech Republic’s overall policy on corporate and social responsibility.”

f) *Promotional activities by the OECD Secretariat*

The Secretariat organised or participated in a number of promotional events and activities. A special session on the Guidelines was held as part of Forum 2002 in conjunction with the OECD ministerial meeting. A press conference was also held during the Ministerial in which the Guidelines were highlighted. The Guidelines were also included in the documentation prepared for the Ministerial (Annex 4) under the heading “Ensuring Integrity and Transparency in the International Economy”.

The Guidelines were on the programmes of the inaugural Global Forum for International Investment (GFII) (hosted in Mexico City by the Mexican government) and of the second GFII on mining. In addition the Secretariat participated in a variety of meetings sponsored by NCPs, businesses or business associations, NGOs or trade unions in such countries as Chile, Czech Republic, France, Germany, Italy, Sweden, United Kingdom and Switzerland. They were also presented in a paper and in remarks given at the first meeting of the OECD’s Global Forum on Sustainable Development.

The Secretariat presented the Guidelines at meetings held by other international organisations. It presented the Guidelines at a side event held in conjunction with the preparatory committee meetings for the Monterrey Financing for Development Summit and at the post-Monterrey OECD press seminar held in Paris. It also participated in the ILO Tripartite Forum on promoting the ILO Tripartite Declaration of Principles concerning multinational enterprises and social policy. The Secretariat commented on the Commission’s Green Paper on Corporate Social Responsibility and participated in two of the follow-up meetings.

A Deputy Secretary-General contributed an interview to an event sponsored by the Ministry of Agriculture of the Netherlands. The event promoted corporate responsibility in the agri-food industry. The Guidelines also figured in the launch of the OECD report *Working Together towards Sustainable Development: The OECD Experience*.

The Labour Management Programme meeting on the Guidelines was prepared jointly by TUAC and the Secretariat.

g) *International agreements, investment promotion, and export credit and promotion agencies*

- *European Commission.* The Association Agreement between the EU and Chile, concluded during the second EU-Latin American and Caribbean Summit held in Madrid in May 2002, refers to the Guidelines. A joint declaration will indicate that: “The Community and its Member States and Chile jointly remind their multinational enterprises of their recommendation to observe the Guidelines for Multinational Enterprises wherever they operate.”
- *Finland.* The Finnish NCP report states: “...the Act on the State’s Export Credit Guarantees came into effect in July 2001. In the implementation of this act, Finnvera plc, the national Export Credit Agency, has introduced a set of environmental and other principles covering

also the Guidelines. Finnvera wishes to call the OECD Guidelines to the attention of guarantee applicants.”

- *Greece.* Greece has prepared information on the Guidelines for distribution on “the occasion of Joint Intergovernmental Meetings with non-adhering countries where Greek business operates.”
- *Sweden.* Sweden has discussed the issue of a possible link to the Guidelines in the Energy Charter Treaty Supplementary Treaty (an investment agreement).
- *Canada.* Canada’s Trade Commissioner now makes Guidelines brochure available to companies that participate on trade and investment promotion missions abroad. The missions normally include government Ministers and many companies interested in doing business abroad.
- *United States.* The Export-Import Bank, the Overseas Private Investment Corporation (OPIC) 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.

h) High-level promotion

OECD Ministerial. The Ministers meeting at the OECD in May 2002 considered how to ensure integrity and transparency in the international economy. In this context, their communiqué called for governments "to continue to promote implementation of the OECD Guidelines for Multinational Enterprises, which provide recommendations for responsible corporate behaviour, including in such areas as transparency and anti-corruption”.

G8 Ministerial Meetings. The conclusions (July 18-19, 2001) of G8 Foreign Ministers note, under the heading “Corporate Citizenship and Conflict Prevention”, a potential role for Guidelines in this area. The conclusions recognise that the “private sector through good citizenship can play an important and positive role in conflict prevention and post conflict reconstruction.”

Netherlands. The Netherlands NCP report notes that Ministers of Foreign Trade referred to the Guidelines in several speeches.

Sweden: In March 2002, three Cabinet Ministers at the Swedish Ministry for Foreign Affairs sent a letter (Annex 5) to Swedish companies, which calls for a *Swedish Partnership for Global Responsibility*. This letter states that “the Government’s basic expectations of Swedish companies’ action in the global market, particularly in developing countries, are expressed in the OECD Guidelines and the UN’s Global Compact.” It also asks companies to express public support for the Guidelines (e.g. through reporting, employee training, integration into business objectives) and proposes that companies report once a year on measures they have taken or lessons they have learned relating to the OECD Guidelines and the UN Global Compact. An event promoting this initiative was attended by the Swedish Prime Minister and by six Ministers (Foreign Affairs; Trade; Development Co-operation; Industry and the Environment).

United Kingdom. Press sources quote UK Prime Minister Tony Blair as supporting the use of the Guidelines as a way of promoting responsible behaviour by companies in conflict zones in Africa⁶.

6 . “Blair Calls for Clampdown on Companies that Exploit Africa” *Financial Times* February 7, 2002.

IV. Implementation in specific instances

The OECD Council Decision instructs the NCPs to “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...”. The NCP reports for the June 2000-June 2001 period noted 8 specific instances had been raised with NCPs. The reports for the 2001-2002 period point to a significant increase in the number of “specific instances” being considered by National Contact Points.

a) *Specific instances: number and nature*

The NCPs that reported some activity in relation to specific instances during the June 2001-June 2002 period are: Austria (1 instance); Belgium (1); Canada (1); Czech Republic (2); Denmark (1); Finland (1); France (3); Korea (1); Netherlands (3); Norway (1); Poland (2); Switzerland (1), United Kingdom (2) and the United States (2). Some of these instances involve more than one NCP. Several NCP reports mention being contacted by other NCPs in relation to specific instances (Finland, United Kingdom).

Some of the NCP reports provide details on the nature of the specific instances:

- *Geographical scope:* The Czech and Polish NCPs report specific instances in relation to inward investment. The other specific instances concern outward bound investment toward another adhering country (Belgium, Finland) or outward bound investment, service provision or supply chain activities involving non-adhering countries (Austria, Denmark, Netherlands, United States).
- *Subjects:* Not all NCPs provide information on the issues underlying the specific instances. The Canadian and Swiss NCPs considered a specific instance involving resettlement and relations with local communities in the Zambian copper belt. The available information suggests that most of the other specific instances concern Chapter IV (Employment and Industrial Relations). Belgium’s specific instances involved information disclosure to employees during the closure of a facility. The Korean NCP considered a case dealing with alleged interference of employees’ right to be represented by a trade union in a textile production site in Guatemala. The Netherlands describes specific instances relating to: 1. Child labour and fair wages in the supply chain; 2. Human rights concerning forced or compulsory labour; 3. Prior notice and employee information in relation to the closure of a facility. The NCP of the Czech Republic has considered issues relating to right to trade union representation and the employers’ responsibilities in relation to trade union activities. The Danish NCP has been asked to consider the situation of Malaysian workers in a Danish-owned company. Poland reports on specific instances involving Chapter IV (points 1a, 2a, 2b, 2c, 4a) and a new instance involving Chapters II (General Policies), III (Disclosure), IV (Employment and Industrial Relations) and IX (Competition). The US NCP reported enquiries and meetings concerning Chapter IV, Employment and Industrial Relations. One of the enquiries under Chapter IV also raised questions of the applicability of the Guidelines in a trade and supply chain context. The US NCP received an enquiry in relation to concerns about three chapters of the OECD Guidelines: General Policies, Disclosure and Combating Bribery.
- *Organisations raising specific instances.* According to TUAC’s report on the Guidelines, national trade unions and Global Union Federations have raised some fifteen “specific

instances” during the review period. TUAC has been involved in some of these. NGOs have also raised a number of cases (e.g. with the Canadian and Swiss NCPs).

b) *Outcomes and effectiveness of specific instances*

Some of the NCP reports shed light on how specific instances were resolved and some offered assessments of whether or not their consideration of these instances changed business conduct. In this connection, the following issues emerge from NCPs discussions of their specific instances:

- *Specific instances and national arrangements (law, administrative procedures).* At the conclusion of one of its specific instances, the Belgian NCP issued a public statement indicating that the firm in question had not been shown to have not observed the Guidelines. It further noted that, in this case, the security laws of another OECD country make observing the Guidelines recommendations more difficult inasmuch as they assign higher priority to the information rights of securities holders. The US report states that the “relationship between these inquiries and other legal and administrative processes has been a significant element of US NCP experience this past year”.
- *Co-operation among NCPs.* Several of the reports mention that some specific instances involved more than one NCP. NCP discussions suggest that there may have been co-ordination problems in specific instances involving more than one NCP (e.g. in one case, NCPs from two adhering countries appear to have not reached the same conclusion about very similar behaviours by two subsidiaries of a retail company).
- *Constructive dialogue.* The Czech NCP report states, in relation to one of its specific instances, that: [t]his case was discussed at four meetings of the NCP where tensions were considerably alleviated and the parties gradually reached a consensus. At the fourth NCP meeting, it was declared that a constructive social dialogue had been launched in the company and there was no more conflict between the parties.”
- *High quality discussion among stakeholders.* The report of Netherlands NCP notes the “good atmosphere” during discussions of specific instances and notes that “information is exchanged, positions are explained. The fact that the NCP convenes the meetings stimulates the willingness of parties to talk with each other”.
- *The use of specific instances as a bargaining tool.* The Netherlands report also cites a case where a specific instance under the Guidelines “was successfully used as a negotiation instrument by trade unions in their discussions with the management... As part of the negotiation the case [(specific instance)] was withdrawn.”
- *French NCP recommendations to companies on the issue of forced labour in Myanmar.* The French NCP issued recommendations for companies operating in Myanmar (Annex 6). These urge measures such as promoting legislation against forced labour, contributing to development projects, training and verification by local managers of the behaviour of sub-contractors.
- *Intensive consultations on a Korean company’s labour management practices in Guatemala.* The Korean NCP played the role of “agent, co-ordinator and mediator” in a labour dispute involving a Korean textile company and its Guatemalan workers. These involved a range of activities including an arbitration meeting in Seoul among several ministries and the Korean

company as well as a trip to Guatemala. In the course of its consideration of this matter, the Korean NCP found that there had indeed been problems in the company's observance of two of the recommendations in the labour chapter of the Guidelines (Chapter IV). The report states the following: "During this process (of discussion with workers and the Korean company), it was acknowledged that there were a few misunderstandings between management and labour. Both sides agreed on issues that should be improved and action that should be punished and are carrying out such measures. But conflicts still exist... ." The report describes several concrete responses by the company (e.g. publication and distribution of a booklet on Guatemalan labour law in cartoon form so that "even illiterate workers were able to understand their rights and carry out their obligations"). Other NCPs were also contacted in connection with this specific instance and those NCPs were in contact with the Korean NCP.

- *Co-operation and resolution in Zambia.* The Canadian NCP -- in co-operation with the Swiss NCP -- had a specific instance in which the "central underlying issue was the impending removal of poor local farmers from company-owned land." The Canadian NCP report states the following about the conclusion of this case: "To address this issue, the Canadian NCP facilitated a flow of communications between the company's headquarters in Canada and the Canadian office of the NGO... Both Canadian parties in turn communicated with their operations in Zambia where face-to-face meetings took place. While there was a variance in the facts and opinions reported on each side, a resolution was reached after the company met with groups from the affected communities and worked out an approach whereby the farmers could continue to use the land, at least for the short term." The Canadian NCP sums up its experience as follows: "Canada's one experience with a Guidelines case resulted in a positive outcome. The approach adopted by the NCP ... drew significantly from the Procedural Guidance annex of the Guidelines Decision... and offered a non-judgemental process for confronting a complex social problem related to a foreign investment activity. Essentially, the process facilitated dialogue and the dialogue led to resolution."

c) *Procedures for dealing with specific instances*

The Czech NCP adopted rules of procedure during the review period. In terms of the provision of information to other actors, the Czech NCP has favoured highly transparent approach. This includes the issuance of a "Notification of Submission Received" to all parties concerned. This confirms acceptance of the submission, identifies the parties involved and specifies what further information needs to be provided. It also sends it to the Press Office for further evaluation of its possible disclosure to the media. The NCP also issues a statement on the results of its consideration of the specific instances. This could include recommendations, announcements of the settlement of disputes or a statement that an instance is not worth further consideration.

The French NCP has submitted a note on procedural questions that have arisen in the course of its consideration of specific instances. This note raises the following questions: What needs to be done to avoid two NCPs issuing two diverging communiqués concerning two very similar cases? Should NCPs issue a communiqué saying that the company under consideration in the specific instance is, in its view, observing the Guidelines? Should an NCP drop a specific instance when the future of the companies in question has been settled through other channels (legal in particular)?

V. Follow-up on issues raised at the June 2001 consultations with NCPs⁷

The Chair's summary from last year highlights three issues raised by BIAC, TUAC or NGOs during last year's consultations:

- *Myanmar*. The question of human rights violations in Myanmar was raised by TUAC and at the NCP meeting and consultations. TUAC tabled a letter noting the June 2000 adoption by the International Labour Conference of a "Resolution on Burma" under article 33 of the ILO Constitution⁸. TUAC's letter asked the CIME to discuss how "the Guidelines could be used to contribute to the elimination of forced labour in Burma." The CIME's response to this letter notes that "the Procedural Guidance accords primary responsibility to individual national contact points in addressing such enquiries....". The NCP's follow up on this issue is described below.
- *Linkages*. BIAC, in letters dated 29 May 2001 and 12 September 2001 expressed concern about policies linking the Guidelines to national government instruments. It felt that this was undermining the voluntary nature of the Guidelines. This issue was discussed under the heading of "policy coherence" in the Summary report of the Chair to the CIME.
- *Balance of promotion*. BIAC also expressed concern about the balance of efforts to promote the Guidelines in comparison with the efforts expended in promoting other elements of the Declaration.

This section reports on follow-up on those issues.

a) *NCP consideration of multinational enterprise activity in Myanmar*

The NCPs and their oversight committee, the OECD Committee on International Investment and Multinational Enterprises (CIME), have taken up the question of multinational enterprise activity in Myanmar:

- *Specific instances in relation to Myanmar*. In response to a case raised by unions under the Guidelines, the French NCP undertook consultations with several companies with operations in Myanmar. Following these consultations the NCP issued a set of recommendations to companies with activities in Myanmar (Annex 6). These urge companies operating in Myanmar "to do everything possible in order to avoid direct or indirect recourse to forced labour in the normal course of their operations, in their relations with sub-contractors or through future investments, particularly in zones with a strong military presence and in activities controlled by the military." Two other NCPs have also noted specific instances in relation to Myanmar. They are still considering these instances.
- *Other NCP initiatives*. A number of the NCP reports describe other activities in relation to Myanmar. The Austrian NCP informed its investment guarantee agency about the risks of investing in this country, though Austrian investments in Myanmar are small or non-existent. Other NCPs (Hungary, Finland, Canada, United Kingdom, and France) contacted companies

7. See "Summary Report of the Chair of the Meeting on the Activities of National Contact Points" *OECD Guidelines for Multinational Enterprises Annual Report 2001* (2001).

8. This country is referred to as Burma in these communications. The authorities of the country have changed its name to Myanmar, which is the official United Nations designation and the one used by the OECD.

known to have economic relations with the country. In their contacts, they recalled the importance their governments' attach to the Guidelines and underscored the need to take them into account, especially when operating in Myanmar. Other NCPs mention contacts with business federations on this issue (Japan, United States). Following up on TUAC recommendations, the Polish NCP published on its website "a recommendation not to undertake or continue business contacts with Burma [country designation used in NCP report]."

- *NCPs draw on research support from the CIME in their consideration of this issue.* The CIME asked the Secretariat to prepare a background note that looks at the generic corporate responsibility issues raised by multinational enterprise activity in Myanmar, while avoiding overlaps with the International Labour Organisation's enquiries into the question of forced labour in Myanmar. This note is entitled "Multinational Enterprises in Situations of Violent Conflict and Widespread Human Rights Abuses" and focuses mainly on extractive industries. Its principal theme is that corporate responsibility challenges are particularly acute for companies operating in countries such as Myanmar because the business environment there is characterised by so little "government responsibility". The paper invites companies to contribute in two areas: 1. Improving management in the immediate vicinity of their operations (especially of security forces and resettlement operations); 2. Participating in the search for long-term solutions to these countries' problems by helping them move toward healthier public governance (in particular by becoming more transparent in their financial relations with troubled host countries). Annex 7 presents the executive summary of this paper.
- *The CIME provides a forum for conferring with the International Labour Office (ILO) and among adhering countries.* The CIME also considered a report on the ILO's enquiry into the observance by the Government of Myanmar of the Force Labour Convention by an ILO official. ILO documents summarising the findings were made available to NCPs. The CIME also provided for a review of and sharing of information on NCP activities in promoting business contributions to improving the situation in Myanmar.

b) Policy coherence and linkages

As noted above, adhering governments have continued to explore ways of ensuring that their support for the Guidelines finds expression in other aspects of national policy. This issue has been referred to as "policy coherence" and it arises in those policy areas where government programmes have a direct bearing on corporate activity. Recent focus has been on incentives or guarantees to business for the purpose of promoting or facilitating foreign trade and investment, especially export credits and investment guarantees.

Responding to a series of letters from BIAC expressing its concern about links between the Guidelines and export credit or investment guarantee programmes, the CIME chair reiterated the importance attached by adhering governments to "maintaining the voluntary character of the Guidelines, in fact and in effect" in a letter dated December 5, 2001 (Annex 2). The NCP reports suggest that several governments have established or maintained such links, while taking care not to undermine the Guidelines' voluntary character.

Many adhering governments seek to call attention to the Guidelines by referring to them in various ways in the context of export credit or investment promotion/guarantee programmes. In some cases, the National

Contact Point is located in the agency responsible for one or more of these programmes⁹. Table 1 summarises the relationships that have been established between the Guidelines and export credit and investment guarantee or promotion programmes. These range from having companies sign acknowledgements to hyperlinks between web sites.

c) Balance of promotion -- the Guidelines versus other instruments in the OECD Declaration

During the consultations held in conjunction with the June 2001 meeting of the National Contact Points, BIAC expressed concern about how the different elements of the OECD Declaration on International Investment and Multinational Enterprises are being promoted by the CIME. The business community noted that the OECD Declaration is a single, balanced package and suggested that promotion, therefore, should also be balanced.

9. For example, as noted in its report, the Polish NCP is located in the “PAIZ, a reputed institution which has close relations with foreign investors and which can strongly influence the improvement of the reception of foreign direct investment in Poland by the general public.”

**Table 1. Linkages -- The OECD Guidelines and
Export Credit, Overseas Investment Guarantee and Inward Investment Promotion Programmes**

Country	Programme	Description of link
Canada	Export Credits	The Export Development Corporation (EDC) promotes corporate responsibility principles and standards, including the recommendations of the Guidelines. EDC has linked its website with that of Canada's NCP. It also included the Guidelines in its across-Canada tour to promote business ethics.
Estonia	Investment promotion	The Estonian Investment Agency has published a description of the Guidelines and added a link to the Estonian NCP website.
Greece	Investment promotion	The Guidelines are available electronically on the site of ELKE, the Greek investment promotion agency.
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> ").
Korea	Trade-investment promotion	The KOTRA (Korean Trade Investment Promotion Agency) and the Korean foreign exchange banks provide information on the Guidelines to multinational enterprises with inward and outward investments.
Netherlands	Export credits and investment guarantees	Applicants for these programmes or facilities receive the 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 the Guidelines to the best of their ability.
United Kingdom	Investment guarantees	Links connect Guidelines website and investment guarantee website.
United States	Export and import credits and investment guarantees	The Export-Import Bank, the Overseas Private Investment Corporation (OPIC) 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.

Business representatives noted the significant expenditure of resources on the Guidelines and suggested that other elements of the Declaration -- national treatment, conflicting requirements and international investment incentives and disincentives -- could benefit from similar promotional efforts. At the same time, numerous participants (including BIAC) noted and welcomed the presence in the meeting rooms of six governments that have been invited to adhere to the Declaration.

Over the review period, three of these countries adhered to the Declaration -- Lithuania, Estonia and Slovenia. The review effort that preceded their adherence absorbed significant CIME resources. Thus, over the June 2001-June 2002 review period, the business community's concern about balanced promotion was primarily addressed by expanding the number of countries adhering to the Declaration. In addition a project on "Policy Competition for FDI" that is of direct relevance to one of the Declarations instruments -- investment incentives and disincentives -- was pursued. Further issues regarding the promotion of the Declaration will be dealt with by the CIME and the Working Party in the course of discussions of ongoing and future work.

VI. Progress to date and considerations for future action

Last year's Roundtable -- which focused on the relationship between the Guidelines and other global instruments for corporate responsibility¹⁰ -- identified low "user recognition" as being a weakness of the Guidelines. Although much remains to be done, the activities listed above -- ranging from references at the OECD and G8 Ministerial Meetings to discussions among local partners -- seem to have succeeded in raising the Guidelines' visibility. The Netherlands NCP report notes that, in that country, "the Guidelines are part of a lively debate on Corporate Social Responsibility". If this is also the case in other countries, then this already represents a measure of success.

Companies and trade unions appear to have taken notice as well. BIAC officially supported the Guidelines, as have many of its member business federations. The Secretariat's survey of public statements made by 59 extractive industry companies in late 2001 shows that the number of references to the Guidelines was comparable to those of major "voluntary" corporate responsibility instruments such as the UN Global Compact. TUAC stated at the consultations that the Guidelines had "exceeded the expectations" of the trade union community.

The Guidelines' presence on the web has also increased. Identical searches conducted in June 2001 and June 2002 indicate that the number of pages mentioning the Guidelines has more than doubled¹¹. There is also evidence of heightened interest among web users as well. For example, the Australian and United Kingdom NCP reports note that their Guidelines websites are receiving about 1000 and 800 visits per month, respectively.

Thus, the higher visibility of the Guidelines would appear to provide grounds for satisfaction for the people and organisations that have supported them. However, as one NCP report points out, there can never be enough promotion. Furthermore, while this increased visibility is apparent in some national contexts, it is not present in all. The Polish NCP report notes that, in Poland, "[a]wareness of the Guidelines by individual companies is not very high." Thus, the task ahead of the NCPs and their partners in the Guidelines process remains a challenging one.

10. See *OECD Guidelines for Multinational Enterprises: Annual Report 2001 Global Instruments for Corporate Responsibility*. 2001.

11. There were 4,340 web pages on the Guidelines in early June 2002.

Several issues emerged during the meetings that would appear to merit further consideration:

- *Functional equivalence and transparency of NCP activity.* The related issues of functional equivalence and transparency came up during the NCP meetings, the consultations and the Roundtable. Many actors are concerned that the “objective of functional equivalence” in the performance of NCPs has not yet been achieved and that their activities are not yet transparent enough. Trade unions called for benchmarking of NCP performance and practices and for a “register” of specific instances to be kept on the web. Several NCPs questioned the feasibility of such an exercise. TUAC also called for a central “register” of specific instances to be kept, but at least one NCP noted that the information contained in such a register would not satisfy many observers and would lead to calls for further information. Participants in the meetings agreed that the issues of functional equivalence and transparency need to be explored further.
- *NCP procedures.* Some NCPs are developing procedures for their activities and a few have published such procedures. The NCP discussions suggest that there are differences in how NCPs approach their responsibilities. For example, NCPs differ in how they handle confidentiality and transparency in relation to specific instances. Practices differ in relation to disclosure of information while the instance is being considered and after it has been concluded. There appears to be a need for exchange of information on NCP practices and procedures.
- *Scope of relevance of the Guidelines.* The Guidelines have sometimes been used to discuss business activities other than investment-- for example, trade and service provision. Several individual NCPs (Netherlands, the United States) describe specific instances involving only trade relationships. The NCP from Norway has a specific instance involving a Norwegian protection and indemnities (P&I) club and contractual payments to Philippine and Indonesian seafarers in person injury and death cases. This question -- the definition of the activities to which the Guidelines are thought to apply -- was discussed at the annual meetings, the consultations and the Roundtable. One delegate suggested that the historical development of the Guidelines (as part of an international investment agreement, the OECD Declaration) could be relevant to interpretations of the scope of the recommendations and procedures. The business community stated its view that the Guidelines pertain only to investment activities, while trade unions and NGOs favoured a broader view of their relevance. This is an issue that will require further reflection.
- *Relationship between specific instances and other legal or administrative processes.* Several reports (e.g. Belgium, France, the United States) state that specific instances and enquiries were considered in parallel with other legal or administrative processes at the national level. The Polish report states that some actors “have extremely high expectations toward the NCP. They treat the NCP as part of a system of justice, dealing with the Labour Code and that is certainly not true. Such a state of affairs leads to misinterpretation of the role of the NCP and causes misunderstanding and disappointment...”.
- *Specific instances address core issues but are they making a difference?* The specific instances described in the NCPs’ annual reports address some of the issues that lie at the heart of the public debate about globalisation -- human rights, protection of local communities, MNE activity in Myanmar. At least two NCPs -- Canada and the Czech Republic -- state that their specific instances helped alleviate tensions and contributed to the resolution of problems. The Korean specific instance has involved extensive discussion of the labour management practices of a Korean company in Guatemala and these practices appear to have improved as a result. But NCPs are still learning about how to handle specific instances and many questions

remain unanswered. Has NCP involvement made a real difference in the behaviour of the companies concerned (or of other actors)? When specific instances concerned business activity in non-adhering countries, were there problems in obtaining information or access to the people concerned by the instance?

Annex 1

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	Ministry of Foreign Affairs, International Trade and Worship		
Australia	Single department	Foreign Investment Review Board	- Ministry of Treasury	
Austria	Single department	Export and Investment Policy Division, Federal Ministry of Economic Affairs and Labour	- Other division of the Federal Ministry of Economic Affairs 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.	Ministry of Economic Affairs	- Ministry of Environment - Ministry of Labour - Ministry of Foreign Affairs - Ministry of Finance - Ministry of Justice - Region of Brussels - Flemish Region - Walloon Region	

* This table is based on information provided by the National Contact Points in their 2001 and 2002 annual reports.

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

	COMPOSITION OF THE NCP	GOVERNMENTAL LOCATION OF THE NCP	OTHER MINISTRIES AND/OR AGENCIES INVOLVED**	COMMENTS AND NOTES
Canada	Interdepartmental Committee		<ul style="list-style-type: none"> - Department of Foreign Affairs and International Trade - Industry Canada - Human Resources Development Canada - Environment Canada - Natural Resources Canada - Department of Finance - Canadian International Development Agency 	
Chile	Quadripartite	Ministry of Foreign Affairs, Directorate of International Economic Relations	<ul style="list-style-type: none"> - Ministry of Economics - Ministry of Labour - General Secretariat of the Presidency 	
Czech Republic	Single Department	Ministry of Finance	<ul style="list-style-type: none"> - 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 information provided here is based on the ministries and/or government agencies explicitly mentioned in the NCP reports.

	COMPOSITION OF THE NCP	GOVERNMENTAL LOCATION OF THE NCP	OTHER MINISTRIES AND/OR AGENCIES INVOLVED**	COMMENTS AND NOTES
Denmark	Tripartite with several ministries	Ministry of Employment	<ul style="list-style-type: none"> - Danish Agency for Trade and Industry - Environmental Protection Agency - Ministry of Economic and Business Affairs - Ministry of Foreign Affairs 	
Estonia	Tripartite with several ministries	Ministry of Economic Affairs	<ul style="list-style-type: none"> - Ministry of Social Affairs - Ministry of Environment - Estonian Investment Agency - Estonian Export Agency 	
Finland	Quadri-partite with several ministries	Advisory Committee on International Investment and Multinational Enterprises, Ministry of Trade and Industry	<ul style="list-style-type: none"> - Ministry of Trade and Industry - Ministry of Foreign Affairs - Ministry of Justice - Ministry of Finance - Ministry of Social Affairs and Health - Ministry of Labour - Ministry of Environment 	
France	Tripartite with several ministries	Treasury Department, Ministry of Economy and Finance	<ul style="list-style-type: none"> - Ministry of Labour - Ministry of Environment - Ministry of Foreign Affairs 	
Germany	Single Department	Federal Ministry of Economics	<ul style="list-style-type: none"> - Ministry of Foreign Affairs - Ministry of Justice - Ministry of Finance - Ministry of Economic Co-operation - Ministry of Labour - Ministry of Environment 	The NCP works in close co-operation with the social partners.
Greece	Single Department	Directorate for International Organisations and Policies, Ministry of National Economy		

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

	COMPOSITION OF THE NCP	GOVERNMENTAL LOCATION OF THE NCP	OTHER MINISTRIES AND/OR AGENCIES INVOLVED**	COMMENTS AND NOTES
Hungary	Interdepartmental Office	Ministry of Economic Affairs	- Ministry of Economic Affairs - Ministry of Finance - Ministry of Foreign Affairs	
Iceland	Interdepartmental Office	Ministries of Industry and Commerce		
Ireland	Single Department	Enterprise Policy Unit, Department of Enterprise, Trade and Employment		
Italy	Single Department	Direction Générale, Ministry of Production Activities		
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 has recently been reorganised as an inter-ministerial body composed of the three ministries listed in the second and third columns of this table.
Korea	Interdepartmental Office, with regional governments and several ministries	Executive Committee on Foreign Direct Investment	- Ministry of Foreign Affairs - Ministry of Finance and Economy - Korean Trade-Investment Promotion Agency	
Lithuania	Single Department	Ministry of Economics		
Luxembourg	Tripartite	Ministry of Economics	- Ministry of Finance - General Inspector of Finances - Ministry of Labour - Employment Administration - Ministry of Finance - STATEC - 3 Employers' federations - 2 Trade union federations	

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

	COMPOSITION OF THE NCP	GOVERNMENTAL LOCATION OF THE NCP	OTHER MINISTRIES AND/OR AGENCIES INVOLVED**	COMMENTS AND NOTES
Mexico	Single Department	Ministry of Economy		
Netherlands	Interdepartmental Office	Ministry of Economic Affairs	All departments, especially: - Ministry of Social Affairs - Ministry of Environment - Ministry of Foreign Affairs	Regular consultations with all stakeholders.
New Zealand	Single Department	Trade Negotiations Division, Ministry of Foreign Affairs and Trade		Consultations are currently being held within government and with the non-government sector on whether it is appropriate for the location or structure of the NCP to be changed.
Norway	Tripartite, with several ministries	Department for Trade Policy, Environment and Resources, Ministry of Foreign Affairs	- Ministry of Foreign Affairs - Ministry of Industry and Trade	
Poland	Single Department	Polish Agency for Foreign Investment		
Portugal	Single Department	ICEP Portugal (the Portuguese Investment Promotion Agency)		
Slovak Republic	Single Department	Ministry of Economics		The NCP belongs as a single department to the Slovak Agency for Development of Investment and Trade established as a contributory organisation of the Ministry of Economy.
Spain	Single Department	General Secretary for International Trade, Ministry of Economy		

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

	COMPOSITION OF THE NCP	GOVERNMENTAL LOCATION OF THE NCP	OTHER MINISTRIES AND/OR AGENCIES INVOLVED**	COMMENTS AND NOTES
Sweden	Tripartite, with several ministries	Department for International Trade and Policy, Ministry for Foreign Affairs	<ul style="list-style-type: none"> - Ministry of Industry, Employment and Communications - Ministry of Environment - Ministry of Justice - National Board of Trade 	
Switzerland	Single Department	International Investment and Multinational Enterprises Sector, Federal Department of Economy		Co-operation with business, trade unions and NGOs is institutionalised through a liaison group that meets regularly.
Turkey	Single Department	General Directorate of Foreign Investment, Undersecretariat of Treasury		
United Kingdom	Single Department	International Investment and Competition Policy Unit, Department of Trade and Industry	<ul style="list-style-type: none"> - Foreign and Commonwealth Office - Department for International development 	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 of the 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 ad hoc basis.

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

Annex 2

Letter from the Chair of CIME to BIAC

Dr. Enrico Massimo Carle
Chair of the BIAC Committee on International
Investment and Multinational Enterprises
Past President and Adviser for Internationalization
ANIMA & International Coordinator, Confindustria

Paris, 5 December 2001

Dear Dr. Carle,

I am writing to you in response to your predecessor's letter of 29 May 2001 and the statement of 12 September 2001 by BIAC.

The representatives of the governments adhering to the Declaration discussed the issues they raised in the Committee for International Investment and Multilateral Enterprises (CIME) in September and December 2001.

Delegates were unanimous in confirming the importance of maintaining the voluntary character of the Guidelines in fact and in effect, and reiterated their governments' attachment to this principle. They also acknowledged the right of governments to structure programmes such as investment subsidies and guarantees or export credit insurance in order to reflect their own national circumstances, legal traditions and international commitments. They noted that the Procedural Guidance to the Council Decision of June 2000 affords them flexibility in meeting their commitment to promote the Guidelines. However, they agreed that the broad multilateral and multi-stakeholder process by which the Guidelines have been developed should guide governments in fulfilling their commitment to the Decision.

Recognising the importance of the business community's support and co-operation to the effectiveness of the Guidelines, delegates agreed on the need for additional efforts to cultivate that support and co-operation. They believe that BIAC and its affiliates' contribution to the promotion of the Guidelines are the most effective means to encourage voluntary observance of the Guidelines by the broadest spectrum of individual multinational enterprises. Accordingly delegates reiterated their invitation to BIAC and its affiliates to express their support for the Guidelines. They consider it desirable that BIAC and its affiliates join CIME and individual NCPs in an effort to develop an effective positive agenda for promoting the Guidelines to individual firms. In this context they appreciate the suggestions for activities by governments in the letter of 22 November from Mr. Worth and they would welcome ideas on the role BIAC and its affiliates can play in assisting to advance the positive agenda. They also pledged to work within their individual governments to promote recognition of the importance of such co-operation, and its acceptance as the most effective means to achieve broad support among multinational enterprises for the Guidelines.

I believe the results of the Committee's discussions outlined above represent an important opportunity to advance our common objectives. I would be most interested in BIAC's thoughts and reactions.

Sincerely yours,

Marinus Sikkel
Chair of the Committee on International Investment
and Multinational Enterprises

cc. CIME Delegates

Annex 3

Letter from BIAC to the Chair of the CIME

Paris, 20 December 2001

Dear Mr. Sikkel,

We are in receipt of your letter to Dr. Carle of December 5, 2001 and much appreciate the careful deliberation and unanimity of the Committee.

The relationship of BIAC and the OECD is shaped and impelled by consensus and dialogue. Indeed, the OECD Declaration on International Investment and Multinational Enterprises and the OECD Guidelines themselves are a dialogue. Faced with an adversarial potential, investors and democratic, representative governments chose the path of mutual interest and agreed to recommendations on what each might contribute to a better environment for investment.

Therefore, we were gratified by the Committee Members' restatement of their commitment to the fundamental character of the Guidelines as voluntary and the Decision made by Ministers in June of 2000 that articulates both substance and process.

As expressed in the Ministerial statement of then BIAC Chairman, Jaakko Ihamuotila, the value and relevance of the Guidelines lie in their implementation. By their very nature, recommendations cannot be "enforced" or employed as instruments of coercion. We appreciate the role of the Committee in managing the interpretations and expectations associated with the Guidelines to keep them within the scope and spirit of the Decision taken by Ministers.

The only method of ensuring the positive impact of the Guidelines is to encourage the willing participation of the companies that will make use of them.

Mr. Marinus W. SIKKEL
Chairman of the OECD CIME
Head of Investment Policy & International Organisations
Ministry of Economic Affairs
30 Beuzidenhoutseweg
P.O. Box 20101
2500 EC THE HAGUE

c.c. Mr. Manfred Schekulin
Chairman, Working Party on the OECD Declaration on
International Investment and Multinational Enterprises

Mr. Pierre Poret
Head of Division, OECD DAF/CMIS

As an institution, BIAC is fully supportive of an effective implementation of the Guidelines, consistent with their spirit and letter. As elaborated in our Consultation with the Committee on December 4, 2001,

our member organisations have engaged in a wide range of promotional and educational activities to communicate the substance and utility of the Guidelines, through brochures, websites, outreach to related institutions, conferences, seminars and workshops. Individually and in co-operation with government, these will continue and new vehicles will be found.

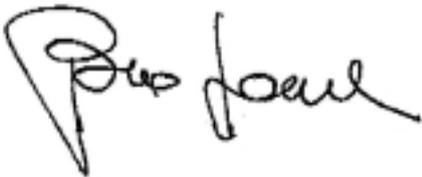
We should note that seeking to have an impact on the management systems of tens of thousands of companies is a goal we share with government, but it is an inestimable task. The objective of BIAC and our members is to introduce these recommendations from OECD governments, among the raft of codes, principles, compacts and guidance from other sources, as a comprehensive reference point and tool for better management and good corporate citizenship. We see no end to this effort, but we will do our best to see that they are widely known and their importance understood.

We look forward to continued dialogue and co-operation with the Committee in enhancing the role of investment in creating employment and wealth, raising the standard of living and fostering global sustainable growth.

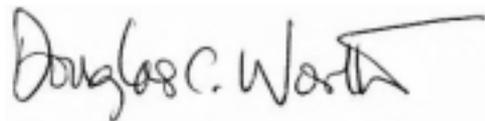
Sincerely,



Dr. Enrico Massimo Carle
Chairman, BIAC Committee on International
Investment and Multinational Enterprises



Dr. Bruno Lamborghini
Chairman, BIAC



Douglas C. Worth
Secretary General, BIAC

Annex 4

OECD Ministerial Brochure 2002 – Guidelines Article

Multinational enterprises and public integrity: The role of the OECD Guidelines

<p><i>Integrity and transparency of the global system-- responsible international business has a role to play.</i></p>	<p>Improved public governance is key to the transparency and integrity of the global system. Some zones have weak government accountability and fiscal controls and this often feeds into other problems such as civil strife, illicit trafficking or hosting of terrorist activities. Experience shows that MNEs operating in such zones can play positive roles in the move toward better public governance; for example, by refusing to compromise their own standards of corporate responsibility in their dealings with governments. However, there are limits to what responsible international business can achieve on its own. Home and host countries, international organisations and NGOs all have a role to play.</p>
<p><i>Weak public governance poses serious challenges for corporate responsibility.</i></p>	<p>Multinational enterprises (MNEs) sometimes invest in countries with weak governance. Weak host country regulatory frameworks can engender risks in such areas as competition, environment and product safety. Other risks stem from business activities in conflict zones. OECD studies show that, on average, the frequency of conflict in these zones has grown by a factor of 5 over the last four decades. In many countries, corruption is a daily problem for companies. At times, MNEs sign agreements not to disclose revenues they pay to governments that do not apply basic fiscal control principles. Business can send a clear message to Governments by not colluding with bad public governance; for example, by refusing to pay bribes or to sign non-transparent tax agreements.</p>
<p><i>Some MNEs are now actively engaged in the search to solutions.</i></p>	<p>International business is starting to assume a role in improving public governance. MNEs are often among the best informed outside actors in host countries and can act as role models for good governance. This is especially true in places where they contribute large portions of government revenues and in sectors where they are the major competitors. While business is placed in an unaccustomed role when dealing with issues where governments have primary responsibility, some leading companies have actively participated in the search for solutions.</p>
<p><i>However, acting with integrity in some areas can be a competitive handicap. Partnerships are needed.</i></p>	<p>Conducting business responsibly -- for example, by refraining from corrupt or anti-competitive practices and by being transparent in their dealings with governments -- can be a competitive handicap unless all competitors agree to abide by high standards of corporate responsibility. When engaging on such issues, it will be essential for business to work in partnership with each other -- for example through business associations --and with international organisations and host and home governments.</p>

<p><i>The OECD Guidelines can play a role in encouraging integrity and promoting partnership.</i></p>	<p>The OECD Guidelines for Multinational Enterprises -- a multi-laterally endorsed code of conduct -- have a role to play in this partnership. The Guidelines contain many recommendations on integrity issues -- taxation, the fight against corruption, competitive practices, transparency and disclosure. To date, a few “specific instances” dealing with these issues have been called to the attention of the National Contact Points, the institutions that promote the Guidelines in the national context. In addition, the Guidelines have been used as a platform for inter-governmental consideration of these issues.</p>
<p><i>The Guidelines are not a substitute for healthy domestic frameworks, but provide guidance for business in the absence of such frameworks.</i></p>	<p>In some host countries, the crucial, missing ingredients are the legal and regulatory inputs provided by democratically elected governments and the “softer” inputs produced by societies in which human, political and labour rights are respected. The Guidelines are not a substitute for host country law and regulation, but they do provide home government guidance for companies on how to act when host country institutions are not working well.</p>
<p><i>The Guidelines implementation process helps to define the role of business ...</i></p>	<p>Work with stakeholders – international business, trade unions and NGOs -- on the difficult task of defining appropriate roles is needed. Government roles--in host countries with the most serious governance problems are the dominant ones. Home country governments can help through diplomatic action and through their contributions to capacity building. The Guidelines could be used to explore the areas where the business sector can make a useful contribution.</p>
<p><i>... and to enlist the support of a larger number of companies in the search for solutions.</i></p>	<p>The Guidelines can also help to level the playing field among companies. By encouraging all MNEs -- especially through their business associations -- to act on these issues, adhering governments can alleviate the competitive distortions that would arise if some companies were to engage actively on these issues while others do not.</p>
<p><i>Other actors are also participating in this search. These include international organisations, other parts of the OECD, member and non-member governments and NGOs.</i></p>	<p>Among the actors working on these issues, the World Bank and the International Monetary Fund have been exploring ways to improve fiscal management of extractive industry revenues with host governments and companies. The OECD Development Assistance Committee’s Guidelines on Helping Prevent Violent Conflict” provide guidance for business on enhancing its contribution in situations of violent conflict. Major human rights and anti-corruption NGOs have also organised projects in these areas. Governments in both OECD and non-OECD countries have issued high-level calls for action, especially in relation to parts of Africa. Thus, although actually making the reforms is likely to prove difficult, this emerging consensus on the development benefits of effective governance is encouraging.</p>

Box -- The OECD Guidelines for Multinational Enterprises

The Guidelines for Multinational Enterprises are recommendations addressed by 36 (OECD and non-OECD) governments to multinational enterprises operating in and from their countries. They provide voluntary principles and standards for responsible business conduct in areas such as product safety, environment, labour management, supply chain responsibilities, disclosure of major risks and competition. The recommendations express the shared values of the nations that are the source of most of the world's direct investment flows and home to most multinational enterprises.

A key value added of the Guidelines resides in the unique follow-up procedures created by governments and business. Governments of the 36 adhering countries have established a system of National Contact Points to promote the observance of the Guidelines by multinational enterprises operating "in or from" their territories.

Evidence so far suggests that the Guidelines are making a difference. Many companies have publicly acknowledged that they use the Guidelines as a benchmark for good behaviour. The Guidelines are being used to help prevent misunderstandings and promote mutual confidence and predictability between the business community and home and host societies. About twenty specific instances where there are questions about whether or not a company has observed the Guidelines in a particular business situation, have been considered so far.

The Guidelines are part of a broader instrument -- the OECD Declaration on International Investment and Multinational Enterprises. The Declaration promotes a comprehensive and balanced approach for governments' fair treatment of foreign direct investment and for corporate responsibility.

Open Letter from Swedish Ministers to Swedish Companies

2002-03-06

*Minister for Foreign Affairs
Minister for Trade
Minister for International Development
Cooperation, Asylum Policy and Migration*

Global Responsibility
Open letter to Swedish companies

To Swedish business executives and representatives of industry and commerce,

The debate on corporate social responsibility is becoming increasingly intense. It is gratifying to see that Sweden's corporate community has played an active role in the efforts to realise a sound environment and good working conditions. It benefits both Sweden and the world. It is our ambition that Sweden should influence international developments by taking action faster and more forcefully than other countries. This could also have a positive impact on Swedish exports.

The Swedish Government pursues proactive policies at the national and international levels for human rights and a better environment. But we need your help. Your co-operation would be of great value in our efforts to achieve a human side to globalisation. We trust that the benefits are mutual. Your commitment would help us continue to pursue consistently liberal trade policies. We also believe the project could help companies manage their problems in different parts of the world, for example, conflicts, corruption and violations of human rights. In addition, we think it could have export promotion effects at a time when trademarks with a positive ethical image are increasingly valuable.

Since 1979 the Government has carried on a continuous dialogue with the social partners concerning corporate social responsibility in accordance with the OECD guidelines for multinational companies. The Government has, irrespective of party complexion, promoted the OECD guidelines.

The Government's basic expectations of Swedish companies' action in the global market, particularly in developing countries, are expressed in the OECD guidelines and the UN's Global Compact. These are based on international agreements, for example in the ILO. The European Commission has produced a Green Paper on Corporate Social Responsibility, a launchpad for a discussion that aims at the formulation of proposals concerning how the Union can promote companies' acceptance of social responsibility at European and international levels.

The Swedish Government now invites the corporate community to take part in an initiative we call the *Swedish Partnership for Global Responsibility*. The main responsibility rests with the Ministry for Foreign Affairs but the initiative has been taken in close co-operation with primarily the Ministry of Industry, Employment and Communications and the Ministry of the Environment. The *Swedish Partnership for Global Responsibility* is a joint effort to encourage Swedish companies to become ambassadors for human rights, decent economic and social conditions and a sound environment.

It is proposed that co-operation in these matters between Sweden's corporate community and the Government would consist of the Government's: 1) making information about Swedish companies available on an Internet website, 2) exchange of best practices, 3) enabling others to share and be inspired by your company's commitment and work in the area, and 4) offering help and advice to companies that operate in difficult situations. The system should be flexible enough to also include small and medium-sized businesses. The *Swedish Partnership for Global Responsibility* can contribute to boosting the credibility of your company's commitment. By your cooperation you can contribute to a globalisation with a human face.

This could be realised if your company:

1) Publicly supports the OECD guidelines and the UN's Global Compact, for example by

- informing employees, shareholders, clients, suppliers, subcontractors and external interested parties that the company has adopted the OECD guidelines and the UN Global Compact.
- integrating the guidelines into in-house training,
- adding the guidelines to the company's objectives
- including the guidelines in the company's annual report and other official documents, for example following a model developed in the context of the UN supported project, Global Reporting Initiative.

2) Reports, once a year, concrete examples of measures taken or lessons learnt relating to the OECD guidelines and the UN Global Compact. These reports will be published on the Government's website and in Sweden's annual report to OECD. The intention is not that companies should need to submit a special report to the Ministry for Foreign Affairs. If a company already follows the OECD guidelines and the UN Global Compact and has a follow-up and report system, this can be used.

The Swedish Partnership for Global Responsibility also applies to companies that intend to, or have just started to implement a programme for social responsibility. The OECD guidelines and UN Global Compact could be a help in this work.

The Government looks forward to co-operating with you on this matter and would with this letter like to initiate a dialogue.

Anna Lindh

Leif Pagrotsky

Jan O. Karlsson

Contact, information, texts:	www.ud.se/ga.htm ga@foreign.ministry.se + 46 (0) 8-405 32 46
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Annex 6

**Recommendations by the French National Contact Point
to Companies on the Issue of Forced Labour in Burma (country name used in NCP report)**

*Thursday, 28 March 2002
(Translation from the original French)*

The OECD Guidelines for Multinational Enterprises states that "enterprises should.... contribute to the elimination of all forms of forced or compulsory labour." Chapter IV "Employment and Industrial Relations".

On this basis, several labour unions asked the French National Contact Point (NCP) to look into the question of forced labour in Burma. In conformity with the procedural guidance set forth under the OECD Guidelines, the NCP undertook consultations with several enterprises, with the following results.

The NCP is of the opinion that companies operating in Burma should do everything possible in order to avoid direct or indirect recourse to forced labour in the normal course of their operations, in their relations with sub-contractors or through future investments, particularly in zones with a strong military presence and in activities controlled by the army.

In this respect, the consultations undertaken by the NCP have brought to light the following practices that companies can use to contribute to the fight against forced labour:

- Undertaking co-operative action with international labour organisations at the relevant levels;
- External monitoring;
- Promoting legislation against forced labour;
- Contributing to development projects, especially in their areas of involvement;
- Verification by local managers of the behaviour of sub-contractors;
- Contributing to training operations.

Other company practices can also contribute:

- Development of a social dialogue with organisations representing employees at the local and international levels;
- Provision of regular information to Boards of Directors about initiatives taken to avoid recourse to forced labour.

Such practices obviously cannot substitute for the enforcement of the measures necessary for the suppression of forced labour by the Burmese government itself in conformity with the recommendations of the ILO, nor for actions by its member States.

**Multinational Enterprises in Situations of Violent Conflict
and Widespread Human Rights Abuses – Executive Summary**

OECD International Investment Working Papers 2002/1

<http://www.oecd.org/EN/documents/0,,EN-documents-90-3-no-10-no-90,00.html>

In response to enquiries about foreign investment in Myanmar, the Committee for International Investment and Multinational Enterprises (CIME) asked the Secretariat to prepare a paper, under the responsibility of the latter, that would provide background information to interested parties. This paper was not only to shed light on business activity in Myanmar, but also to consider the broader challenges of conducting business responsibly in countries characterised by civil strife and extensive human rights violations. The present paper responds to this request and focuses on issues that are of particular relevance to extractive industries. This sector's share of global investment is quite small, but its significance for particular host societies is large and the underlying issues for corporate responsibility affect the welfare of millions of people. While not ignoring the problems that have arisen in connection with multinational enterprise activity in troubled host countries, this paper also seeks to promote and highlight the positive roles that some companies have played in the search for solutions to these countries' very complex problems.

The paper draws on three sources of information: the economics and business literature; a Secretariat survey of public statements by a group of multinational enterprises; and studies and information produced by governments and international organisations. Based on these sources, it explores two issues that pose particular challenges for multinational enterprises operating in severely troubled societies.

The first issue concerns violence and human rights abuses in the immediate vicinity of company operations. Serious problems in this area have been documented, especially in extractive industries (in managing security and relations with local communities). The paper also notes that, working individually and through industry associations, some companies are trying to improve their practices in this area. A growing body of management practice and of conceptual guidelines is slowly emerging, though not all companies are involved in these efforts.

The second issue concerns the factors underpinning the dynamics of civil strife and human rights violations. A growing empirical literature supports the view that civil strife tends to be correlated with the level and structure of income and with the degree of development of political institutions. In particular, these findings identify strong primary resource orientation for the economy as being a significant factor contributing to the probability that a country will experience civil strife.

In economies heavily dependent on extractive industries, multinational enterprises operating in this sector typically provide large revenues to governments in the form of taxes, royalties and other payments. In countries with severe public governance and fiscal control problems, these payments can contribute to both the means for violence -- by providing funding for the organisational and material requirements of conflict -- and the motive -- by providing financial stakes for conflict. In addition, OECD-based companies have occasionally agreed to refrain from disclosing the amounts of money they pay to governments in these countries. The paper also discusses the positive role of some leading companies, working with international organisations, in trying to improve transparency and accountability in the budget processes in some countries.

It is recognised that the influence of multinational enterprises in troubled societies, while often significant, does have limits. The search for solutions will not be an easy one and it will be prudent for companies to act in partnership with one another, with host and home governments and with international organisations.