

MULTINATIONAL ENTERPRISES AND PUBLIC INTEGRITY: THE ROLE OF THE OECD GUIDELINES¹

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 multinational enterprises (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.

Integrity and transparency of the global system – responsible international business has a role to play.

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 five 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.

Weak public governance poses serious challenges for corporate responsibility.

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.

Some MNEs are now actively engaged in the search for solutions.

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 businesses to work in partnership with each other – for example through business associations – and with international organisations and host and home governments.

However, acting with integrity in some areas can be a competitive handicap. Partnerships are needed.

The OECD Guidelines for Multinational Enterprises – a multilaterally 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 intergovernmental consideration of these issues.

The OECD Guidelines can play a role in encouraging integrity and promoting partnership.

¹ Reproduced from the key information brochure prepared for the OECD Ministerial Meeting, May 2002

The Guidelines are not a substitute for healthy domestic frameworks, but provide guidance for business in the absence of such frameworks.

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.

The Guidelines implementation process helps to define the role of business...

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.

... and to enlist the support of a larger number of companies in the search for solutions.

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.

Other actors are also participating in this search. These include international organisations, other parts of the OECD, member and non-member governments and NGOs.

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 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.

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.