



ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

DIRECTION DES AFFAIRES JURIDIQUES
DIRECTORATE FOR LEGAL AFFAIRSDirecteur des affaires juridiques
Director of Legal Affairs

4 October 2006

Dear Professor Ruggie,

I would like first of all to congratulate you on your appointment as UN Secretary General's Special Representative for Business and Human Rights and hope that your work is progressing well.

The OECD Investment Division read with great interest the paper "Human Rights Policies and Management Practices of Fortune 500 Firms: Results of a Survey" but called my attention to some text on page 9 of the paper.

This text states (in reference to the questionnaire used in the survey of practices) that "The UN Global Compact and the OECD Guidelines are not 'international instruments' in the legal sense, but for simplicity's sake the term was used generically in the question."

In fact, the OECD Guidelines are an "international instrument" adopted at a high political level.

The OECD Guidelines are an integral part of the Declaration on International Investment and Multinational enterprises adopted by the relevant ministers of all OECD countries. They adopted the Declaration in 1976 and subsequent amendments, most recently in 2000 on the occasion of the Annual OECD Ministerial Meeting. The Declaration is not a legally binding instrument but is in no doubt an international instrument as it has been agreed at a high political level (ministers) by all OECD countries. In this respect, the Declaration has the same status as the ILO Declaration mentioned in your paper.

.../...

Professor Ruggie
Weil Director and
Kirkpatrick Professor of International Affairs
Harvard University
79 John F. Kennedy Street
Cambridge, Massachusetts, 02138
USA



Because it is a legal (while not binding) instrument the Declaration forms part of the OECD "acquis" towards which any country wishing to become OECD Member has to position itself. Moreover, the Declaration and the Guidelines are open to adherence to non-OECD governments.

In addition, new implementation procedures of the Guidelines were adopted by OECD Council in a June 2000 Council Decision. An OECD Decision is an OECD act adopted by the OECD Council, in accordance with article 5.a of the OECD Convention. Decisions are legally binding and constitute a simplified form of international agreements or treaties -- they are the source of legal rights and obligations for the Members. They imply the strongest legal and political commitment by the OECD membership.

The OECD and the adhering governments attach great significance to the official multilateral status of the Guidelines because it took two years of negotiations and multi-stakeholder dialogue to achieve the results of the 2000 review. I am sure that, through your experiences at the United Nations, you must realize that creating international consensus on sensitive issues such as those covered in the Guidelines is an achievement that is not to be taken lightly.

We thank you for the opportunity to comment and to clarify the legal status of the Guidelines. We have the intention to post the present letter on the web and, at the same time, we would be most grateful if the paper currently posted on the web could be modified accordingly. We wish you the best of luck in your upcoming work as Special Representative and will be following developments with great interest.

Sincerely yours,

Nicola Bonucci