Labour/Management Programme

THE IMPLEMENTATION OF THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES AND THE FUNCTIONING OF NATIONAL CONTACT POINTS

Report on a meeting of trade union experts held under the Labour/Management Programme

Paris, 17 June 2002

Contact: Jeremy Maddison, BIAC/TUAC Relations, Public Affairs Division
(Tel: 33.1.45.24.90.99, Fax: 33.1.44.30.63.46, Email: jeremy.maddison@oecd.org)
Formal relations between the OECD and representatives of trade unions and of business and industry in Member countries are conducted through two organisations officially recognised by the OECD Council. These are the Trade Union Advisory Committee to the OECD (TUAC) and the Business and Industry Advisory Committee to the OECD (BIAC). In addition to various forms of policy discussion throughout the year, arrangements provide for meetings at the technical level, which do not engage the responsibility of the organisations. Such meetings are held either in the form of ad hoc discussions with the Secretariat, or under the Labour/Management Programme for which a series of meetings devoted to specific themes is established at the beginning of each year.

After meetings held under the Programme, a rapporteur draws up a report of the discussion on his own responsibility, for distribution to the social partners and to the relevant OECD Committees. The opinions expressed in such reports are those of the rapporteur, except where they are specifically attributed to individual participants, and do not necessarily reflect the views of other participants or of the OECD.
TABLE OF CONTENTS

FOREWORD ................................................................................................................................. 4

AGENDA ................................................................................................................................... 5

DISCUSSION PAPER .................................................................................................................. 6
  I. INTRODUCTION .................................................................................................................. 6
  II. PROFILE OF THE GUIDELINES ...................................................................................... 6
  III. RELATIONS TO OTHER CORPORATE SOCIAL ACCOUNTABILITY INITIATIVES ....... 7
  IV. SUCCESS TO DATE OF EFFORTS TO WORK THROUGH THE NATIONAL CONTACT POINTS ................................................................................................................................. 8
  V. APPLICABILITY TO NON-ADHERING COUNTRIES ....................................................... 10
  VI. STRENGTHENING THE EFFECTIVENESS OF THE GUIDELINES AND THE NATIONAL CONTACT POINTS ................................................................................................. 10
  VII. REFERENCES ................................................................................................................ 11

FINAL REPORT ON THE MEETING .......................................................................................... 13
  1. INTRODUCTION ............................................................................................................. 13
  2. PROGRESS TO DATE ..................................................................................................... 13
  3. STRATEGIES TO STRENGTHEN IMPLEMENTATION OF THE GUIDELINES ............... 14
  4. POSSIBLE FUTURES FOR THE GUIDELINES AND NATIONAL CONTACT POINTS ..... 16
  5. MOVING FORWARD ...................................................................................................... 17

ANNEX -- LIST OF PARTICIPANTS .......................................................................................... 18
FOREWORD

Under the OECD Labour/Management Programme for 2002, a meeting of trade union experts on "The Implementation of the OECD Guidelines for Multinational Enterprises and the Functioning of National Contact Points" was held in Paris on 17 June 2002. The meeting was prepared in collaboration with the Trade Union Advisory Committee to the OECD (TUAC).

Below, you will find the Agenda of this meeting, along with the Discussion Paper and the overall report of the discussions of the meeting of experts, which were both prepared by Dara O’Rourke, designated as General Rapporteur for this activity.

THE OPINIONS EXPRESSED AND ARGUMENTS EMPLOYED IN THIS REPORT ARE THE RESPONSIBILITY OF THE AUTHOR AND DO NOT NECESSARILY REPRESENT THOSE OF THE OECD
AGENDA

1. Promotion and implementation of the Guidelines

The Chair of the Committee on International Investment and Multinational Enterprises (CIME) will take stock of recent developments.

2. Lessons learned from cases raised in NCPs

- French Contact Point
- Trade Union speaker
- NGO speaker
- Business speaker

3. Strengthening the effectiveness of NCPs

The Chair of the Committee on International Investment and Multinational Enterprises (CIME) will discuss emerging best practices to ensure effective NCPs.

TUAC proposals to strengthen the effectiveness of the NCPs.

4. New adherents

The OECD Secretariat will report on its outreach activities in relation to the Guidelines.

The government of a new adherent country will provide the perspective of a new adherent in terms of advantages and difficulties in implementing the Guidelines. The government representative will also describe what the NCP has done to promote and implement the Guidelines.

5. Linkages

The Vice-Chair of the Committee on International Investment and Multinational Enterprises (CIME) will discuss linkages and the Guidelines as a benchmark for public and private initiatives.

6. Summary of the results of the meeting by the Rapporteur

Concluding remarks.
DISCUSSION PAPER

by
Dara O’Rourke, Ph.D.
Massachusetts Institute of Technology
(United States)

I. INTRODUCTION

The Labour/Management Programme of the OECD will be convening a meeting of trade union and other experts on “The Implementation of the OECD Guidelines for Multinational Enterprises and the Functioning of the National Contact Points (NCPs)” on 17 June 2002. This “issues paper” lays out a range of topics for discussion at this meeting focusing in particular on means to evaluate progress to date on the implementation of the Guidelines and the effectiveness of the NCPs.

The OECD Guidelines were first developed in 1976, but revised in 2000 (OECD 2001c). While there has been extensive experience with the original Guidelines, the revised Guidelines have significantly broadened their scope, reinforced their global applicability and strengthened the implementation procedures. In particular, the role of the NCPs has been clarified and raised in prominence. At the same time, a wide range of initiatives are being developed around the world on multinational corporate social responsibility and accountability. Corporate codes of conduct and new monitoring, verification, and certification efforts are growing rapidly. Trade Unions are experimenting with Framework Agreements. NGOs are advancing independent monitoring and verification systems for Multinational Enterprise (MNE) activities. It is thus critical to seriously assess recent experiences with implementation, and issues for strengthening the Guidelines.

The key question now is whether the revised Guidelines are being implemented effectively through the NCPs, and ultimately whether corporate behaviour is changing. It is thus critical to evaluate general awareness levels of the Guidelines among MNEs and governments, how the Guidelines are being implemented in different countries and cases, and the effectiveness of the NCPs (particularly their responses to complaints around “specific instances”). It is also important at this juncture to discuss the challenges facing new adherents, and the problems of implementing the Guidelines in non-adhering countries. Finally, in light of recent changes in global economic trends and corporate social responsibility responses, it is essential to discuss means to continuously improve the Guidelines.

II. PROFILE OF THE GUIDELINES

As has been detailed elsewhere, the OECD Guidelines were significantly revised in 2000 (TUAC 2001b, Oldenziel 2000). The Guidelines remain the only comprehensive, multilaterally endorsed code of conduct for MNEs. The Guidelines establish a range of non-binding standards and principles for corporate practice including recommendations for advancing corporate social accountability through:
• Respecting the human rights of those affected by their activities;
• Implementing “core labour rights,” including freedom of association, collective bargaining, non-discrimination in the workplace, no child labour, and no forced labour;
• Disclosing environmental information and employing the “precautionary principle” for environmental impacts;
• Applying the Guidelines down the MNE’s supply chain;
• Advancing information disclosure; and,
• Eliminating corruption.

The key question now is whether these revised Guidelines are being implemented effectively. This implementation can be evaluated along a number of dimensions:

• Are the Guidelines acknowledged and referenced by MNEs, trade unions, NGOs, and national governments?
• Are the principles embodied in the Guidelines spreading to other international organisations or multi-stakeholder initiatives?
• Do the full range of stakeholders accept the Guidelines as the standard for good corporate practice?
• Are MNEs incorporating the Guidelines into their internal codes of conduct?
• Are MNEs implementing the Guidelines down their supply chains?
• Are the Guidelines detailed enough to provide specific operational guidance for MNEs?
• Are the Guidelines helping to build general public awareness about corporate social accountability?
• Are governments and NCPs developing effective mechanisms to promote compliance with the Guidelines?
• Are the NCPs effective in the resolution of specific instances of non-conformance?
• Are the Guidelines complementary to other corporate social accountability initiatives and international standards?

III. RELATIONS TO OTHER CORPORATE SOCIAL ACCOUNTABILITY INITIATIVES

There has been a recent profusion of corporate codes, monitoring systems, verification procedures, and certification processes (OECD 2001b). While the OECD Guidelines pre-date most of these initiatives, the Guidelines are currently less well known than many of these newer initiatives. The OECD can thus not afford to ignore these programs and the Guidelines aim to “complement and reinforce” the efforts of other initiatives. It is therefore important to explore how the implementation procedures of the Guidelines can work in concert with them.

The Guidelines do not directly refer to other international standards such as the ILO conventions or UN declarations (although these standards are discussed in “commentaries” and the preface to the Guidelines). And the Guidelines have not been explicitly deployed in co-ordination with other initiatives. Nonetheless, there are a range of standards and initiatives which are relevant to the functioning of the Guidelines, including:

International Standards and Declarations:

• ILO Conventions and “Core Standards”;
• ILO Declaration on Fundamental Principles and Rights at Work;
UN Universal Declaration on Human Rights;
• The Rio Declaration on Sustainable Development; and,
• The Aarhus Convention on Access to Information and Public Participation.

Multi-stakeholder Initiatives:

• UN Global Compact;
• Global Reporting Initiative;
• Ethical Trading Initiative;
• Fair Labour Association;
• Social Accountability International (SA8000 Standard);
• Workers Rights Consortium;
• Fair Wear Foundation;
• Worldwide Responsible Apparel Production;
• Clean Clothes Campaign Pilot Projects;
• Global Sullivan Principles.

Trade Union Initiatives:

• International Trade Secretariat Framework Agreements.

More work is needed to evaluate how the OECD Guidelines relate to these other initiatives (OECD 2001a). Specifically, the content, requirements, and implementation mechanisms of the Guidelines should be compared to these initiatives. Research is also needed to evaluate the mechanisms that have proven effective in other initiatives, particularly the mechanisms that have actually motivated MNEs to change practices. There is significant potential to learn from the “best practices” of other systems of codes and monitoring. For example, verification procedures appear critical to the functioning (and credibility) of many multi-stakeholder systems. Can the OECD Guidelines learn from these systems to develop their own monitoring and verification procedures?

There is also a need for discussion on means for better co-ordination among these initiatives: working to ensure that different initiatives do not confuse MNEs or provide a means to avoid more effective standards, and that they work together to raise the bar, not lower or confuse it. In the long-term, there should also be discussion about making these systems inter-comparable, or even inter-operable.

IV. SUCCESS TO DATE OF EFFORTS TO WORK THROUGH THE NATIONAL CONTACT POINTS

The National Contact Points (NCPs) represent the key implementation mechanism for the Guidelines, and also set apart the Guidelines from other initiatives in their processes of government commitment to advancing corporate accountability. So while the Guidelines are voluntary, the NCPs provide the support of national governments and a country level complaint system to advance implementation.

There is wide variation in the structure and functioning of the NCPs (OECD 2001c). There are single department and multi-department NCPs. Several are tripartite (including business, trade unions, and government), and two are quadripartite (Finland and Chile). Trade Unions, NGOs, and business organisations are beginning to evaluate the implementation of the guidelines and the functioning of the NCPs, particularly in regards to their performance on specific instances (TUAC 2001a).
TUAC has noted positive developments in a number of NCPs (which previously had been largely inactive), and continued weaknesses in other NCPs, particularly in non-OECD countries that have adhered to the Guidelines. As TUAC notes, “much remains to be done” as “too many NCPs are still dormant and/or fail to consult trade unions and other interested parties” (TUAC 2001a).

NGOs have also highlighted the past ineffectiveness of certain NCPs in responding to problems in specific instances (Oldenziel 2000, Feeney 2000). They also note that too few NCPs involve NGOs or trade unions in their activities. And only a few NCPs have begun to link the Guidelines to more influential government policies (such as export promotion privileges or other government incentives).

The OECD Guidelines assert that the NCPs should be: visible, accessible, transparent, and accountable. These are good principles to use for evaluation:

**Visibility:**

- Is the NCP promoting awareness of the Guidelines through publications, seminars, internet information, targeted information to investors, or information to MNEs applying for export credits, etc.?
- Is this information dissemination effective in raising the awareness and recognition of the Guidelines and NCPs? Can this awareness be measured?
- What can the NCPs do to pro-actively build the visibility and recognition of the Guidelines among MNEs? How do NCPs move beyond passive information presentation (such as web pages) to active, targeted awareness raising?

**Accessibility:**

- Is the NCP widely known and open to accepting complaints, enquiries, etc.?
- Does the NCP foster new dialogues between stakeholders?
- Does the NCP “forum for discussion” include all key stakeholders and lead to new solutions to existing problems?

**Transparency:**

- Is the NCP response process publicly transparent?
- Are the determinations of the NCP publicly transparent?
- Are the annual reports of the NCPs available for public review and comment?

**Accountability:**

- Are there processes for public input or review of NCP annual reports?
- Can the NCPs be compared and “benchmarked” to evaluate individual performance and best practice?
- Can the NCPs be held accountable to their commitments to implement the Guidelines?

Clearly there is a need to evaluate the advantages and accomplishments of different structures and strategies of NCPs, and to advance learning processes on the functioning of the NCPs. Towards these ends TUAC has issued a “note” on “Good National Contact Points” (TUAC 2001a). This form of analysis could be significantly expanded and deepened.
It is also critical to evaluate whether the NCPs are effective in responding to specific instances of non-conformance to the Guidelines. Different NCPs have developed procedures for responding to specific instances. It will be important to make these processes transparent and to review the effectiveness of different NCP strategies.

Much can be learned from country’s experiences in responding to complaints in adherent countries (such as Marks and Spencer in France), new adherent countries (such as Estonia), and non-adhering countries (such as Korean companies operating in Guatemala and French companies in Burma).

Of particular importance are the effectiveness of different complaints procedures and the complimentarity of NCP responses to other corporate accountability strategies (e.g., how the Guidelines might support broader efforts to change MNE practices in a particular country). Evaluations should look at how an NCP responded? What actions the NCP took? Did these actions change the behaviour of the MNE? Did the NCP report publicly on the outcome of the case? Did the NCP co-ordinate with other stakeholders working to influence the MNE?

V. APPLICABILITY TO NON-ADHERING COUNTRIES

Perhaps the biggest challenge for the OECD Guidelines is how they can be applied to influence operations in countries that are not OECD members or adherents. The Guidelines do apply to MNEs operating in non-adhering countries. These are critical sites of production for MNEs, and in the long-term, these are the facilities that the Guidelines have to influence if they are to be globally effective. However, operations in non-adhering countries are likely to be the most difficult to influence.

If the Guidelines cannot be applied effectively to these countries and cases, then MNEs may simply relocate operations or out-source to these countries and avoid the intent of the Guidelines. Advancing transparency and fuller public disclosure of supply chain operations may be one key step the OECD can take in advancing the Guidelines down the webs of MNE operations and into non-adhering countries.

Strengthening the role of host country NCPs may also strengthen the implementation of the Guidelines. This will facilitate processes through which host country stakeholders can raise instances, and will in turn enhance host country government awareness of internationally accepted standards of socially responsible practice.

VI. STRENGTHENING THE EFFECTIVENESS OF THE GUIDELINES AND THE NATIONAL CONTACT POINTS

With growing public concern about the operations of MNEs around the world, and the recent proliferation of codes of conduct and corporate responsibility initiatives, key stakeholders are demanding fuller processes of participation and greater public accountability in standards and implementation mechanisms. At the same time, changes in global business practices have led to new sourcing strategies significantly extending supply chains. These trends are creating immense challenges for both regulators and firms themselves. There is thus significant demand for international standards which can be applied across countries and down global supply chains.

The OECD Guidelines offer an important mechanism to respond to these demands. The Guidelines operate at both the global and national levels, and can be applied down supply chains. The National Contact Points provide government support and pressure to motivate the implementation of the Guidelines. And multiple stakeholders can use the Guidelines and the NCPs to raise awareness about the specific activities of MNEs.
However, the Guidelines and NCPs face a number of challenges. First is the challenge of raising the profile and public recognition of the Guidelines. In some regards, the Guidelines are being eclipsed by other initiatives and standards. Greater out-reach is needed to increase public awareness. It may make sense to actually measure the “brand” recognition of the Guidelines through surveys and polls to learn which countries are most effectively raising awareness of the Guidelines.

Second is the challenge of creating processes that effectively respond to specific instances. Annual reporting of NCP activities and responses to complaints will be critical to efforts to benchmark and learn from NCP efforts. Peer learning will be facilitated by comparing the specific activities and overall performance of NCPs, with the explicit goal of identifying both the “best practices” of NCPs (highlighting how governments can play a positive role in advancing corporate social accountability) and identifying ineffective NCPs or inadequate responses to specific instances.

Third is the challenge of creating incentives for implementation of the Guidelines. A number of NCPs are experimenting with using export credits and other government incentives to create positive motivations for implementation of the Guidelines. Public transparency on poor performance can also motivate MNE changes. Transparency mechanisms can help to identify both leaders and laggards in Guideline implementation (Sabel, O’Rourke, Fung 2000). By publicly comparing MNEs and NCPs it may be possible to benchmark both best and worst practices, effective complaint procedures, and processes for stakeholder involvement.

Fourth is the challenge of creating effective systems of monitoring to ensure that the implementation of the Guidelines is credible and effective. As many NGOs have argued, there is a need for detailed public systems for monitoring and verification to motivate real change in problem areas of MNE activities.

And fifth is the challenge of connecting and co-ordinating the Guidelines with other public and private initiatives in corporate social accountability. Much can be gained from evaluating how the Guidelines can be complementary to these other initiatives. The OECD could facilitate discussions among these initiatives to discuss co-ordination, for instance, in the areas of advancing new transparency and accountability mechanisms, or in responding to specific instances.

VII. REFERENCES


PAC/AFF/LMP(2002)10

FINAL REPORT ON THE MEETING

by

Dara O’Rourke, Ph.D.
Massachusetts Institute of Technology
(USA)

1. INTRODUCTION

The Labour/Management Programme of the OECD convened a meeting of trade union and other experts on “The Implementation of the OECD Guidelines for Multinational Enterprises and the Functioning of the National Contact Points (NCPs)” on 17th June 2002. The purpose of the meeting was to discuss progress to date on the implementation of the guidelines, lessons from the experiences of existing NCPs, and possible means to strengthen the Guidelines and the NCPs. The meeting involved presentations from NCP representatives, trade unions, and NGOs with direct experience in the functioning of NCPs. Discussion centred around how the Guidelines are being implemented in different countries and cases, and the effectiveness of the NCPs in responding to complaints around “specific instances.” Participants also discussed challenges facing new adherents, and the problems of implementing the Guidelines in non-adhering countries. Finally, participants advanced a number of ideas for strengthening the Guidelines and the NCPs.

2. PROGRESS TO DATE

A number of participants pointed out that important progress has been made in the last two years since the Guidelines were revised. Extensive work by different parties has led to more NCPs being created (such as in Chile, Estonia, Lithuania, and Slovenia), more NCPs reporting, more NCPs becoming active, and new adherent countries beginning to establish NCPs. More than 20 cases have been raised with NCPs, which is a considerable increase in comparison to the situation before the review. Several participants also asserted that the Guidelines are gradually becoming better known. More multinational enterprises (MNEs) are citing the Guidelines. More web sites refer to the Guidelines. And more unions and NGOs are using the Guidelines. Participants have also clearly learned an immense amount about strategies to implement the Guidelines over the last two years.

Two successful cases of NCP functioning were discussed during the day: the French and Czech Republic NCPs.

The French NCP has responded to a number of cases of specific instances (including the cases of Marks and Spencer in France, Total/Unocal in Myanmar, and Bata in France). Different actors from the French NCP presented their views on the procedures followed and outcomes of these cases. The cases were initially quite adversarial. The NCP was viewed by business representatives as a “tribunal,” and as such they brought their lawyers to the table to defend themselves. The French NCP is working to move beyond this dynamic. Participants disagreed on what exactly can be learned from the three French cases. One
lesson seemed clear though, that the NCPs need to contact, co-ordinate, and dialogue with each other. These cases show that there is need for further discussion among the different stakeholders and NCPs about policies for responding to specific instances that involve conflicting national laws.

The Czech trade union confederation CMKOS reported on successful efforts to resolve specific instances regarding two companies and their subsidiaries operating in the Czech Republic: Siemens and Bosch. The cases were resolved within a year, and were ultimately successful after extensive work. The NCP was able to bring different actors to the table to negotiate a solution to the problems raised. In the proceedings of these cases the NCP became a key forum for solving problems. Another outcome was a higher awareness of the Guidelines among the stakeholders in the Czech Republic, with ramifications for changes in Czech national legislation.

These cases highlight the current pattern of functioning of NCPs. Since the revision of the Guidelines in 2000, trade unions have raised cases with NCPs, usually on specific instances, but also on more general issues (such as MNEs investing in Myanmar). The NCPs subsequently set up procedures for investigating and responding to the complaints. Businesses respond (albeit defensively) and begin to discuss the concerns at issue. Through processes of investigation and dialogue it is possible to resolve issues. However, there were examples of the opposite, where NCPs had not made any serious efforts to deal with the cases raised. The United States NCP was criticised in particular for not handling cases effectively.

3. STRATEGIES TO STRENGTHEN IMPLEMENTATION OF THE GUIDELINES

While important progress has been achieved in the last two years, a number of participants also noted the limitations of current NCP functioning, and potential strategies to strengthen the Guidelines.

Increasing Awareness of the Guidelines. Most companies, NGOs, and trade union members still do not know about the Guidelines or procedures for submitting complaints to NCPs. Very few NGOs are actively using the Guidelines. Many firms are surprised to hear allegations that they are violating the Guidelines. There is thus a need to find new mechanisms to raise awareness about the Guidelines. Participants recommended learning from UN efforts to educate the public about the Global Compact. Both the OECD and individual governments could do more to disseminate information on the Guidelines. One suggestion was for OECD member governments to send letters to MNEs based in their countries introducing them to the Guidelines. Embassies and trade departments could also include information on the Guidelines in information packets. It may also make sense for the OECD to better co-ordinate with other corporate accountability initiatives, as the Guidelines are currently viewed in competition with these programmes.

Strengthening the Guidelines. Several participants argued for the need to further revise and strengthen the Guidelines. A number of “loopholes” remain in the Guidelines which participants felt allow room for abuse. Strategies for systematic monitoring and verification of Guideline compliance may also be necessary in the future. Efforts to strengthen the Guidelines should be supported by increased resources for the OECD Secretariat.

Improving Accessibility to the NCPs. Some stakeholders still feel that they do not have good access to NCP decision-makers, and that some NCPs are not responsive to their concerns. The majority of NCPs are single government offices. In general there is a need for increased openness and dialogue among interested stakeholders (particularly local trade unions and NGOs) and NCP administrators. Several participants mentioned the benefits of a tripartite structure for NCPs in which government, business, and trade unions, are all represented in the NCP, or a quadripartite structure including NGOs. Regardless of the
formal structure of NCPs, in most cases social partners and/or representatives of civil society need to be included fully in decision-making processes around specific instances. It may also make sense in the future to develop and experiment with new mechanisms for NGOs and unions to participate in and monitor NCP processes and to evaluate outcomes.

Improving Co-ordination between the NCPs. In cases where specific instances cross national boundaries – which is often the case for MNEs – it is necessary to improve co-ordination across NCPs. Several cases were discussed in which national laws conflicted. NCPs thus need to not only evaluate national rules and regulations, but also to understand legal requirements in other countries where an MNE is operating. In particular, it is critical that NCPs openly discuss differences of opinion on approaches to resolving disputes and conflicting interpretation of specific instances. These discussions could be facilitated by the Committee on International Investment and Multinational Enterprises (CIME), supporting learning and harmonisation across countries. In general, NCPs should meet more often jointly and share information more effectively on cases of mutual concern.

Increasing Transparency. Participants complained of a lack of transparency on current cases, and a lack of clarity on NCP procedures and case resolutions. There was a clear demand from participants for increased reporting that goes beyond NCP annual reports. Information is needed on processes within the NCPs and the on-going status of cases. Towards these ends, several participants recommended the creation of a centralised on-line database or clearinghouse on the status of specific instances. This “registry of cases” would provide real-time information on cases of concern to stakeholders around the world, including information on the status of the NCP process to investigate and resolve the complaint, and the final outcome. Even before this on-line registry is created, participants felt the NCP annual reports could be improved and made more clear. A number of participants also argued for greater transparency on the companies involved in specific instances, that is, “naming names” of companies. Others recommended increased transparency on the functioning of the NCPs, including possibly an annual report by the Secretariat on the functioning of the NCPs and comparing specific NCP actions and responsiveness to complaints. This increased transparency would help to increase the awareness and the credibility of the Guidelines, and connect NCP processes to other civil society efforts to improve conditions in MNEs.

Improving Learning Processes. Different NCPs are employing different procedures, structures, and responses to specific instances. It is still too early to determine “best practices” on resolving specific instances. However, now is a critical time to strengthen and formalise learning processes. Much could be gained from more effectively exchanging experiences among NCPs on issues analysed, procedures followed, and outcomes. Both “success stories” and unsuccessful cases can provide rich information for future cases. The CIME could play an invaluable role in pooling learning from NCPs and redistributing this to other NCPs as issues arise. TUAC and BIAC can also play a role in this learning by institutionalising mechanisms to evaluate and track different NCP efforts. And ultimately, the best learning may come through peer exchange and peer pressure among NCPs to meet best practices. One simple strategy along these lines would be to publish a newsletter on the Guidelines and NCP activities.

There is a clear need to evaluate the advantages and accomplishments and limitations of different structures and strategies of NCPs, and to advance learning processes on the current functioning of the NCPs. Towards these ends TUAC has issued an analysis of the functioning of National Contact Points. This form of analysis could be significantly expanded and deepened through systematic research and comparison of the performance of NCPs.

Improving the Timeliness of NCP Responses. Many trade union and NGO representatives expressed frustration with the slow pace of NCP responses to specific instances. TUAC noted that in some cases a full year had passed with no response from an NCP. Efforts should be made to reduce delays in responding to complaints. Multinational business simply moves too fast, and the problems at issue are too
important, to wait for multi-year processes to resolve problems. One possible strategy would be to set timelines or even deadlines for NCP responses. Or returning to the transparency strategy, it might be effective to publicly report on the status of complaints and NCP actions and the time it takes different NCPs to respond.

**Developing New Strategies for Implementing the Guidelines in Non-adherent Countries.** One of the most significant challenges for the Guidelines is how they can be implemented in non-adhering countries. MNE operations in non-adhering countries are likely to be the most difficult to influence. Myanmar stands out as one example where world-wide condemnation has proven effective in applying pressure on the government. In this case, the Guidelines have played a complimentary role to other pressures from the ILO, UN, and individual governments. However, there are many other non-adhering countries that have not seen the Guidelines applied (such as a recent case in Guatemala where the trade union organisation raising the case has yet to receive responses from the responsible NCPs). As several participants noted, the Guidelines are binding for OECD governments, so it is their responsibility to create mechanisms to implement the standards wherever their MNEs operate. Non-member countries should also participate in the process by filing complaints. It may make sense to connect and co-ordinate the Guidelines with other initiatives and strategies to influence MNEs in these countries. There are a wide range of labour and environmental strategies being advanced to extend corporate responsibility and accountability into these countries.

**Expanding Incentives for Improved Corporate Responsibility.** Another major question raised during the day revolved around strategies to link the Guidelines to other systems of incentives to motivate improved corporate responsibility. Participants discussed the merits and challenges of linking government subsidies and supports – such as export credits, political risk insurance, and other investment supports – to compliance with the Guidelines. Using positive incentives can be effective in raising awareness and compliance with the Guidelines. It may also make sense to apply government pressures on non-complying MNEs and unresponsive NCPs to motivate improvements.

### 4. POSSIBLE FUTURES FOR THE GUIDELINES AND NATIONAL CONTACT POINTS

Participants did not come to a general consensus on the current functioning of the NCPs or where they might be heading. From the different perspectives presented, it is possible to imagine two widely divergent futures for the Guidelines and the NCPs.

On the one hand, the Guidelines may be headed down a path towards ineffectiveness and irrelevance. This would involve:

- Continued low levels of awareness of the Guidelines;
- NCPs unresponsive to trade unions and NGOs;
- Opaque processes within NCPs;
- Governments negotiating deals with MNEs and then only reporting “successful” outcomes;
- MNEs searching for lowest common standards among NCPs and countries;
- The Guidelines competing with other initiatives; and,
- The Guidelines becoming essentially “one of a thousand wilting flowers” on corporate codes of conduct.

On the other hand, there is potential for the Guidelines and the NCPs to raise the bar on global corporate accountability through:

- Widespread awareness of the Guidelines;
NGOs, trade unions, and governments regularly submitting cases. Businesses being pro-active and responsive;
• Development of multi-stakeholder NCPs that are easily accessible to all stakeholders;
• Transparent processes for investigating specific instances with rapid responses from NCPs;
• Development of a web site to inform the public about specific instances, and to allow clear and easy means to compare MNEs and NCPs;
• NCPs sharing experiences on successful and failed cases. Development of a public database of best practices;
• CIME providing “pooling” and learning functions and potentially also some peer pressure to NCPs to improve their implementation;
• The Guidelines working in co-ordination with other mechanisms of corporate accountability and broader governance procedures; and,
• The Guidelines resulting in clear, measurable impacts and improved performance of MNEs.

5. MOVING FORWARD

The key question is how to move away from the danger of downward pressures on the Guidelines and NCPs, to the potential for supporting best practices. A number of themes emerged during the meeting to strengthen the Guidelines and NCPs. These include:

• Increased transparency for the functioning of the NCPs;
• New mechanisms of information sharing and learning among the NCPs and other stakeholders;
• New mechanisms of accountability for MNEs and NCPs in implementing the Guidelines;
• New systems for “benchmarking” MNEs and NCPs to learn from best practices and identify sub-par practices;
• New mechanisms for strengthening the credibility and functioning of the NCPs; and,
• New strategies to connect the Guidelines to other initiatives to advance governance over globalisation.
ANNEX -- LIST OF PARTICIPANTS

TRADE UNION EXPERTS

Mr. Ernst TÜCHLER
Economist
Austrian Federation of Trade Unions (ÖGB)
AUSTRIA

Mr. Donald DE MUELENAERE
Conseiller général
Centrale Générale des Syndicats Libéraux de Belgique (CGSLB)
Email: donald.de.muelenaere@aclvb.be
BELGIUM

Mr. Jean-Luc STRUYF
Conseiller - Service économique
Fédération Générale du Travail de Belgique (FGTB)
Email: jean-luc.struyf@fgtb.be
BELGIUM

Ms. Saskia PULLEMAN
International Department
Central Unica dos Trabalhadores (CUT)
Email: cutmulti@cut.org.br
BRAZIL

Mr. Marcel PEPIN
Coordonnateur
Comité interfédéral du secteur privé
Confédération des syndicats nationaux-CSN
Email: marcel.pepin@csn.qc.ca
CANADA

Mr. Vladimir MATOUSEK
Senior Advisor, Macroeconomic Department
Czech-Moravian Confederation of Trade Unions – (CMKOS)
Email: Matousek.Vladimir@cmkos.cz
CZECH REPUB.

Mr. Marc DELUZET
Secrétaire Confédéral
Confédération Française Démocratique du Travail (CFDT)
FRANCE

Ms. Frédérique DUPUY
Assistante confédérale
Force Ouvrière (Cgt-FO)
Email: fdupuy@force-ouvriere.fr
FRANCE
Mr. Andreas BOTSCH  
**Chairman of the meeting**  
Executive Secretary  
Head, Economics Department  
German Confederation of Trade Unions (DGB)  
Email: Andreas.botsch@bundesvorstand.dgb.de  

Mr. Karoly GYORGY  
Head, International Department  
National Confederation of Hungarian Trade Unions (MSZOSZ)  
Email: Kgyorgy@mszosz.hu  

Mr. Mitsuo TANAKA  
Director of International Division  
Japanese Trade Union Confederation - RENGO  
Email: tanaka@sv.rengo-net.or.jp  

Mr. Youngmo YOON  
International Secretary  
Korean Confederation of Trade Unions (KCTU)  
Email: Inter@kctu.org  

Ms. Grazina GRUZDIENE  
The Fund for Education Support  
Lithuanian Trade Union Unification –LPSS  
Email: Educlpss@takas.lt  

Mr. Paul LIDEHÄLL  
The Swedish Confederation of Professional Associations (SACO)  
Email: Paul.lidehall@cf.se  

Mr. Jan-Erik MOREAU  
Economist,  
Swedish Trade Union Confederation (LO-SW)  
Email: jem@lo.se  

Ms. Barbara SHAILOR  
Director, International Affairs  
American Federation of Labor and Congress of Industrial Organizations –AFL-CIO  
Email: bshailor@aflcio.org  

Ms. Hilda SANCHEZ  
International Confederation of Free Trade Unions (ICFTU- ORIT), Argentina Office  
Email: orsattisanchez@ciudad.com.ar  

Ms. Ching CHABO  
Director, International Confederation of Free Trade Unions (ICFTU- APRO), Singapore office  
Email: ching@icftu-apro.org  

Mr. Dwight JUSTICE  
Multinational Enterprises/Organising Recruitment Priority Group  
International Confederation of Free Trade Unions-ICFTU
TRADE UNION ADVISORY COMMITTEE TO THE OECD (TUAC)

Mr. Roy JONES Senior Policy Advisor  
Email: jones@tuac.org

Mr. Ronald SCHNEIDER Senior Policy Advisor  
Email: schneider@tuac.org

Ms. Veronica NILSSON Consultant  
Email: nilsson@tuac.org

BUSINESS AND INDUSTRY ADVISORY COMMITTEE TO THE OECD (BIAC)

Ms. Stéphanie HINDERKS Trainee

OTHER EXPERTS

Mr. Claudio ROJAS Co-ordinator for OECD-Chile Relations  
Ministry of Foreign Affairs  
Email: clrojas@direcon.cl

Ms. Maret VEINER Executive Officer, Foreign Trade Policy Division,  
Trade Department, Ministry of Economic Affairs  
Email: mveiner@mineco.ee

Mr. Wesley SCHOLZ Vice-Chair of the OECD Committee on  
International Investment and Multinational Enterprises (CIME)  
Director of the Office of Investment Affairs  
U.S. Department of State  
Email: ScholzWS@state.gov

Mr. Alexandre DRAZNIEKS Adjoint du Chef de Bureau  
Système Monétaire et Financier International  
Direction du Trésor  
Email: alexandre.draznieks@dt.finances.gouv.fr

Mr. Marc MAINDRAULT Directeur des Relations Commerciales et  
Financières Internationales  
Mouvement des Entreprises de France (MEDEF)  
Email: mmaindrault@medef.fr

Mr. Marinus W. SIKKEL Chair of the OECD Committee on International  
Investment and Multinational Enterprises (CIME)  
Head of Investment Policy and International Organisations, Ministry of Economic Affairs  
Email: m.w.sikkel@minez.nl

Ms. Patricia FEENEY Rights and Accountability in Development (RAID)  
Email: tricia.feeney@ntlworld.com
RAPPORTEUR

Mr. Dara O’ROURKE
Professor and Acting Head of the
Environmental Policy Group
Professeur-Assistant et Responsable par intérim de
l’Environmental Policy Group
Department of Urban Studies and Planning,
Massachusetts Institute of Technology (MIT)

OBSERVERS

Ms. Marion GRATT
Counsellor, Permanent Delegation to the OECD
Email: marion.gratt@bka.gv.at

Mr. Luc RIFFLET
Counsellor
Permanent Delegation to the OECD
Email: belocde@wanadoo.fr

Mr. Kyung-tae LEE
Permanent Representative to the OECD

Mr. Juuso MOISANDER
Trainee, Permanent Delegation to the OECD
Email: Juuso.Moisander@formin.fi

Mr. Václav BENES
Ministry of Finance

Mr. Martin KAPKO
Deputy Director, Department of Bus. Envir.
Ministry of Economy
Email: kapko@economy.gov.sk

Ms. Ann McCONNELL
Financial Economist
Office of Investment Affairs
Bureau of Economic and Business Affairs
U.S. Department of State
Email: McConnellAB@state.gov

Mr. Brian McFEETERS
Advisor for Investment Policy
Permanent Delegation to the OECD
Email: McFeetersBD@state.gov

TUAC GUEST

Ms. Serena LILLYWHITE
Manager, Ethical Business
Brotherhood of St Laurence
Australia
Email: slillywhite@bsl.org.au

JOURNALIST

Mr. Laurent CHEMINAUA
La Tribune
OECD SECRETARIAT

Directorate for Financial, Fiscal and Enterprise Affairs

Mr. Pierre PORET  Head of the Division of Capital Movements, International Investment and Services  Email: pierre.poret@oecd.org

Ms. Kathryn GORDON  Principal Administrator  International Investments, Multinational Enterprises and Non-Member Economies Division  Email: Kathryn.Gordon@oecd.org

Directorate for Education, Employment, Labour and Social Affairs

Mr. Marco MIRA D’ERCOLE  Principal Administrator, Social Policy Division  Email: marco.mira@oecd.org

Mr. Peter TERGEIST  Administrator, Division of Labour Market Analysis  Email: peter.tergeist@oecd.org

Public Affairs and Communications Directorate

Mr. John WEST  Head of the Public Affairs Division  Email: john.west@oecd.org

Mr. Will DAVIS  Principal Administrator, Public Affairs Division  Email: will.davis@oecd.org

Ms. Meggan DISSLY  Principal Administrator, Public Affairs Division  Email: meggan.dissly@oecd.org

Ms. Gráinne MOONEY  Programme Co-ordinator, Public Affairs Division  Email: grainne.mooney@oecd.org

Mr. Jeremy MADDISON  Assistant, Public Affairs Division  Email: jeremy.maddison@oecd.org