

HOLDING MULTINATIONALS TO ACCOUNT

USING OECD GUIDELINES TO
PROTECT WORKERS' INTERESTS



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International Federation of Chemical,
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www.icem.org

International Federation of Journalists (IFJ)
Tel: 00 322 235 2200
www.ifj.org

International Metalworkers’ Federation (IMF)
Tel: 00 4122 308 5050
www.imfmetal.org

www.imfmetal.org/ifa (for information
on international framework agreements)

International Textile, Garment and Leather
Workers’ Federation (ITGLWF)
Tel: 00 322 512 2606
www.itglwf.org

International Transport Workers’
Federation (ITF)
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International Union of Food, Agricultural,
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Allied Workers’ Associations (IUF)
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www.iuf.org

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*The Public Services International Research
Unit (PSIRU) researches privatisation and
restructuring of public services around the
world, focussing on water, energy, waste
management, and healthcare. It produces
reports on privatisation and restructuring,
and maintains an extensive database, which
generates updates on developments and the
multinational companies involved.*

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ABOUT THIS BOOKLET

This booklet has been produced by the TUC and Global Union Federations to highlight how trade unions in the UK can use the *OECD Guidelines for Multinational Enterprises* to help promote and protect workers’ rights both at home and abroad. By working together, trade union organisations can ensure that workers get the most benefit from the Guidelines.

Global Union Federations

An individual union will usually belong to a national union centre (e.g. the TUC) in its country. The national centre will then affiliate to a world body such as the International Confederation of Free Trade Unions (ICFTU). The same individual union will also usually affiliate to the Global Union Federation(s) relevant to the union’s members. The Global Union Federations are therefore the international representatives of unions organising in specific industry sectors or occupational groups. They work closely together with the ICFTU and the Trade Union Advisory Committee to the OECD (TUAC) in the Global Unions Family.

WHY THE GUIDELINES ARE IMPORTANT

The *OECD Guidelines for Multinational Enterprises* are recommendations for good corporate behaviour made by the governments of the 30 industrialised countries of the Organisation for Economic Co-operation and Development, and 7 others, to the multinational companies that operate in and from their territories.

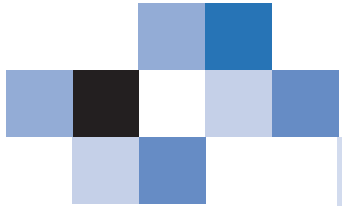


They are one of a number of tools which now exist internationally which can be used to influence the behaviour of multinationals. The current list of countries that have committed themselves to backing the Guidelines (also known as ‘adhering’ countries) is provided below*. This list is continually growing as more countries are in the process of signing up. The UK government has stated that the Guidelines *"represent firm government expectations of business conduct"* and that it is *"committed to promoting the use of the Guidelines and their effective and consistent implementation in all adhering countries"* (UK Contact Point Information Booklet).

Although the Guidelines are not binding in the way laws are, adhering governments are expected to promote them and to put in place a mechanism to implement them. This includes handling enquiries and helping to resolve complaints that may arise under the Guidelines. There is also an OECD Committee consisting of government representatives that acts as a referral body and backstop should things go wrong at the national level (See section entitled ‘Beyond the UK Procedure’).

The application of the Guidelines does not depend on the endorsement of companies. They are intended to apply to companies based in adhering countries, regardless of where they do business, including in countries whose governments do not adhere to them. However, this may make their implementation more complex due to potential difficulties in information gathering.

The value of the Guidelines lies in the fact that they embody the expectations of governments, and it is governments that are responsible for their implementation. If governments live up to their commitments, the Guidelines can be an effective tool for promoting good corporate behaviour. If they do not, or if they try to undermine the Guidelines, their credibility and that of the OECD will be called into question. Strategic use of the Guidelines by trade unions and other groups can help ensure that governments meet their responsibilities, and strengthen an instrument that is intended to further workers’ rights. We therefore encourage affiliated unions to consider how they can put them into practice.



It should be pointed out however that the Guidelines complement, but do not replace, binding national regulation. Trade unions, based on experience with non-binding measures in the past, continue to seek binding controls on corporate behaviour at national, regional and international levels.

**Austria, Belgium, Canada, Denmark, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, UK, USA, Japan, Finland, Australia, New Zealand, Mexico, Czech Republic, Hungary, Poland, Korea, Slovak Republic and seven non-member countries: Argentina, Brazil, Chile, Estonia, Israel, Lithuania, Slovenia*

For more information on the OECD, see www.oecd.org

Brief History of the OECD Guidelines

The Guidelines are not new. They were first adopted in 1976 following public concern that multinational enterprises were becoming too powerful. Of particular concern was the way multinationals from the rich OECD states were behaving. For example, US-based corporations were involved in bringing about the Chilean coup d’état which toppled a democratically elected government. However, in the mid-1980s through most of the 1990s, governments preferred to focus on measures to attract and compete for investment rather than improving corporate behaviour, and the Guidelines fell into disuse. In the late 1990s, following greater public outcry over corporate misconduct and the collapse of negotiations for a Multilateral Agreement on Investment (MAI) at the OECD, the Organisation launched a review of the Guidelines, in a bid to renew some of its lost credibility. Trade unions, through the Trade Union Advisory Committee to the OECD (TUAC), were involved in discussions on the revised Guidelines. Although not all our demands were met, the revised instrument embodies significant progress, particularly the new implementation mechanism.

ISSUES COVERED BY THE GUIDELINES

The Guidelines consist of a preface, a section on concepts and principles and a section on general policies. These are followed by more specific sections relating to the disclosure of company information, employment and industrial relations, the environment, combating bribery, consumer interests, science and technology, competition and taxation.

Clearly the section of greatest interest to trade unions is the section on employment and industrial relations. Amongst other things, this section requires enterprises to adopt a positive attitude towards the right of employees to be represented by trade unions and to engage in constructive negotiations with a view to reaching agreements on employment conditions. Enterprises should also contribute to the effective abolition of child labour, the elimination of all forms of forced or compulsory labour and not engage in discriminatory practices. Other issues covered include the provision of information to employee representatives; the promotion of consultation and co-operation between employers and employees and their representatives; and health and safety.

The full text of the Guidelines has been reproduced at the back of this booklet. They can also be accessed at: <http://www.oecd.org/EN/document/0,,EN-document-93-3-no-6-18925-93,00.html>

THE UK NATIONAL CONTACT POINT

Like all adhering countries, the UK is required to establish a National Contact Point (NCP). In the UK, the NCP is a government body based in the Department of Trade and Industry. The structure of the NCP varies from country to country with some adopting tri-partite bodies comprising government, business and trade union representatives. The TUC argued for a tri-partite NCP in the UK but this was rejected by the government. Nevertheless, the TUC has worked closely with the NCP since the adoption of the revised Guidelines in 2000 and is consulted on a variety of issues.

The NCP's role is two-fold. The first is to promote awareness of the Guidelines. This involves making the Guidelines available to the public; drawing them to the attention of companies investing in the UK and British companies investing abroad; co-operating with business, trade unions and non-governmental organisation and the public; and responding to enquiries. Its second role is to ensure the effective implementation and development of the Guidelines. In this regard, the NCP is required to contribute to the resolution of issues arising from the Guidelines; to report annually to the OECD on what it has done in relation to the Guidelines; and to discuss issues with other NCPs to help ensure their consistent application in adhering countries.

The UK National Contact Point Information Booklet is available from the Department of Trade and Industry, and at: <http://www.dti.gov.uk/worldtrade/ukncp.htm>

USING THE GUIDELINES

The Guidelines can be used as a tool both to promote responsible corporate behaviour and to address bad behaviour by multinational companies.

A minimum standard for corporate behaviour

There is no shortage of codes of conduct covering the operations of business. If anything, there has been a proliferation of voluntary instruments in recent years. Many companies now have their own codes. With very few exceptions, these are drawn up unilaterally, without consulting trade unions or involving them in the development process. They do not have effective monitoring and independent verification procedures, which are key factors in determining the value, if any, of unilateral codes of conduct. Non-governmental organisations such as charities and pressure groups have also been developing codes of conduct, sometimes in association with companies. There have been some genuine attempts by companies to establish ethical standards for themselves and some have also worked towards extending these standards to their subcontractors and suppliers. But too often, such instruments are largely public relations exercises, which bring little practical

benefit to workers. The OECD Guidelines could be used as a minimum standard for such codes and to create a favourable environment for social dialogue with companies.

Tackling bad corporate behaviour

If a company behaves in a way which violates the Guidelines, a trade union or other party can raise a case with the NCP to try to address that behaviour, or the NCP can act on its own initiative. Trade unions are not limited to bringing cases relating to labour rights issues and can use any part of the Guidelines.

Trade union co-operation

A trade union can raise a case with the NCP if it believes a particular company is behaving in a way which violates the Guidelines. However, before doing so, it is advisable to try to resolve the issue directly with the company, through negotiations, and if appropriate, with the help of the relevant Global Union Federation. If this is not possible, and the union considers action under the Guidelines, it is advised to contact the TUC and the relevant Global Union Federation to discuss the matter. This is because co-ordinated action will get better results. Also, for the Guidelines to work for the benefit of trade unions, it is important that cases are well-prepared.

The TUC and the Global Union Federations have accumulated a certain amount of knowledge on how to use the Guidelines and can provide assistance and support to unions wishing to take advantage of them. We can also call on the expertise of the Trade Union Advisory Committee to the OECD (to which the TUC is affiliated) should this be necessary. In addition, the TUC will alert its sister organisation in the home country of the company and seek its support to help resolve the matter amicably.

Bringing cases: a company operating in the UK

If a company is violating the Guidelines in the course of its operations in this country, the UK NCP is responsible for dealing with the matter.

1 Who can submit a case?

A case can be submitted to the NCP directly by a trade union or by a Global Union Federation or the TUC. In any event, it is desirable for all three parties to be in contact and to support the case.

2 What information is required?

The NCP requires the following basic information to follow up a case: the identity of the organisation submitting the case and the nature of its interest in the matter; the name of the company in question; where the alleged behaviour is taking place; which part of the Guidelines is considered to have been violated; a description of the behaviour of the company and any supporting evidence; and what can be revealed to that company e.g. the identity of the party bringing the case, documentary evidence etc.

3 What will the NCP do with the information?

Once this information has been submitted to the NCP, a decision will be taken as to whether the issue merits further consideration. If it is decided that it does merit further consideration, the NCP will contact the organisation raising the issue (the originator) and seek to help resolve the situation. If it is decided that the issue does not merit further consideration, the NCP will contact the originator explaining why this is the case. For this reason, the case must be thoroughly prepared. Accurate background information that substantiates the allegations should be submitted to minimise the possibility of a case being turned down.

4 What can unions do if the NCP decides not to pursue the case?

If the trade union bringing the case disagrees with the view of the NCP, it should contact the TUC, which will contact the TUAC Secretariat to see if the issue could be raised with the OECD Committee responsible for the Guidelines (see 'Beyond the UK procedure' below).

5 What happens if the NCP decides to proceed with the case?

If the NCP decides to proceed, it should help the parties to resolve the case. In doing so, it can seek advice from relevant authorities, trade unions, business, non-governmental organisations and experts; consult other NCPs; seek the guidance of the OECD Committee responsible for the Guidelines; and offer conciliation or mediation to assist in dealing with the issue.

6 What happens if the parties cannot agree on how to resolve the matter?

If the parties are unable to agree on how to solve the problem, the NCP can be asked to issue a public statement. The NCP should make recommendations to the parties on how the Guidelines apply to the situation. NCPs may therefore inform a company that its activities are in breach of the Guidelines. A recommendation can also be requested if the company refuses to participate in discussions.

While the Guidelines are not legally binding, the fact that the NCP's conclusions should be in the public domain can have an impact on the behaviour of the company, particularly if coupled with effective media work by unions. This is because the NCP's statement expresses the government's view on the behaviour of that particular company.



Successful resolution of a dispute: The Siemens and Bosch cases in the Czech Republic

In 2001, the Czech national centre, CMKOS, raised cases with the Czech NCP against the subsidiaries of two German companies, Siemens and Bosch, operating in their country. The Bosch subsidiary had, amongst other things, threatened to move, and to fire workers if they formed a trade union. The Siemens subsidiary had refused to negotiate with the trade union. The Czech NCP convened a number of meetings between the trade unions and representatives of the companies' management. Both cases were settled amicably after the companies agreed to negotiate and to engage in social dialogue with the trade unions.

Bringing cases: a British company operating overseas

Unions can also use the Guidelines to address bad behaviour by British companies operating in non-adhering countries (mostly developing countries). Such actions are usually initiated to support trade unionists in these countries. They should be pursued in collaboration with the relevant Global Union Federation, often better placed to ascertain the situation on the ground and to provide information to support the case. The TUC can also provide support and assistance in preparing such cases.

If a British company violates the guidelines in another adhering country, the NCP in that country would have primary responsibility for dealing with that case. However, the TUC and British unions should support the action of local trade union organisations.



Trade union co-operation: case involving a non-adhering country – Choi & Shin in Guatemala

The Korean company Choi & Shin owns two subsidiaries in Guatemala which produces clothes for an American clothing retailer. These two plants have been conducting an aggressive anti-union campaign which includes harassment and threats against the workers. In 2002, the Global Union Federation for textile workers, ITGLWF, in co-operation with TUAC and the two Korean national centres the FKTU and KCTU raised a case with the Korean NCP. The matter was also raised with the US NCP. The case is ongoing.

Trade union co-operation: case involving an adhering country – Marks & Spencer in France

In 2001, the French national centres, CFDT and Force Ouvrière (later joined by UNSA) brought a complaint against Marks & Spencer (M&S) under the OECD Guidelines over the company's failure to consult with unions over the decision to close its French stores. This case was supported by the TUC which raised the matter with the UK NCP. Further pressure was put on the company through a joint UNI-TUC organised demonstration in London. The French NCP convened a number of meetings with trade unions and management representatives. It also consulted the UK NCP and met with the Belgian NCP (a case had also been brought by trade unions there). The French NCP found that M&S had not properly consulted with the trade unions in France about the closure. However, M&S had found a buyer for their stores with the result that most of the jobs were secure.

Confidentiality

The Guidelines recognise that each NCP should strive for maximum transparency over its operations but there will be times when confidentiality is important. The NCP should protect sensitive business information and other information, such as the identity of those involved. This can be useful for trade unions, particularly in non-OECD countries where trade unionists are often in physical danger.

Although the submission of a case can be done in a public manner, while the proceedings are underway, the facts and arguments of the case raised in the NCP will remain confidential. However, the parties can comment publicly on how the case is progressing. If the parties cannot resolve the problem that has been raised, they are free to comment publicly on the case, although they cannot disclose information and views provided by the other party during the proceedings unless the other party agrees to disclosure. The NCP should make public the outcome of the case unless there is a good reason not to do so. Trade unions will clearly need to make their own judgements on the issue of confidentiality based on the circumstances of each case.

The role of publicity

In some of the cases that have arisen, trade unions and companies have managed to reach an amicable solution with the help of an NCP. Nevertheless, in most cases, the role of publicity is crucial. Companies will want to avoid bad publicity and even more so, public censure by a government, even if they are not legally bound by the process. Unions should therefore consider a media strategy when using the Guidelines and give thought to how to publicise cases.

Beyond the UK procedure

The OECD Committee on International Investment and Multinational Enterprises (CIME) is the OECD body that is responsible for the Guidelines. It meets regularly and holds regular consultations with the Trade Union Advisory Committee to the OECD, the Business and Industry Advisory Committee to the OECD (BIAC) and interested non-governmental organisations on Guidelines questions and other international investment issues. Trade unions should see the CIME as a backstop when things go wrong at the national level or as a forum to discuss issues that warrant a government reaction beyond the individual NCPs. The CIME will be able to clarify the meaning of the Guidelines when TUAC, BIAC or any adhering country government questions the NCP's interpretation of them in a specific case. If the CIME's findings differ from those of an NCP, it could be used to press the government to take remedial action or re-open the case as well as put pressure on the company to observe the Guidelines.

More information on the role of the UK National Contact Point and the procedure for bringing cases is available at <http://www.dti.gov.uk/worldtrade/ukncp.htm> There is also a User's Guide on the Guidelines for trade unions published by TUAC. This is available at: <http://www.tuac.org/publicat/guidelines-EN.pdf>

OTHER COMPLEMENTARY INSTRUMENTS AND MEASURES

The OECD Guidelines is just one of a number of instruments and measures relating to corporate behaviour which are being used by trade union organisations to promote workers rights alongside regulation. Other instruments include the ILO Tripartite Declaration on Multinational Enterprises and Social Policy, the UN Global Compact, the use of workers' capital, and European Works Councils. The latter is based on a binding directive at European level and provides a means for workers' representatives from a company's plants throughout Europe to be informed and consulted on a variety of issues by management.

One very important instrument is the 'framework agreement' signed by Global Union Federations and multinational companies. As the global-level representatives of workers in a particular company or industry, the Global Union Federations have the mandate to negotiate agreements with multinational companies. Such agreements establish frameworks of principles. They are not detailed collective bargaining agreements and are not intended to compete with agreements at the national level. Framework agreements are intended to help create the space for workers to organise and bargain at the local level. These agreements cover trade union and other workers' rights. In some cases, they cover other issues as well, including those concerned with suppliers. They establish a relationship with a company that makes it possible to resolve problems, often before conflicts become serious.

Further information on framework agreements is available from the websites of the Global Union Federations. (See inside front cover)

THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES¹

Preface

1 The OECD Guidelines for Multinational Enterprises (the Guidelines) are recommendations addressed by governments to multinational enterprises. They provide voluntary principles and standards for responsible business conduct consistent with applicable laws. The Guidelines aim to ensure that the operations of these enterprises are in harmony with government policies, to strengthen the basis of mutual confidence between enterprises and the societies in which they operate, to help improve the foreign investment climate and to enhance the contribution to sustainable development made by multinational enterprises. The Guidelines are part of the OECD Declaration on International Investment and Multinational Enterprises the other elements of which relate to national treatment, conflicting requirements on enterprises, and international investment incentives and disincentives.

2 International business has experienced far-reaching structural change and the Guidelines themselves have evolved to reflect these changes. With the rise of service and knowledge-intensive industries, service and technology enterprises have entered the international marketplace. Large enterprises still account for a major share of international investment, and there is a trend toward large-scale international mergers. At the same time, foreign investment by small- and medium-sized enterprises has also increased and these enterprises now play a significant role on the international scene. Multinational enterprises, like their domestic counterparts, have evolved to encompass a broader range of business arrangements and organisational forms. Strategic alliances and closer relations with suppliers and contractors tend to blur the boundaries of the enterprise.

3 The rapid evolution in the structure of multinational enterprises is also reflected in their operations in the developing world, where foreign direct investment has grown rapidly. In developing countries, multinational enterprises have diversified beyond primary production and extractive industries into manufacturing, assembly, domestic market development and services.

4 The activities of multinational enterprises, through international trade and investment, have strengthened and deepened the ties that join OECD economies to each other and to the rest of the world. These activities bring substantial benefits to home and host countries. These benefits accrue when multinational enterprises supply the products and services that consumers want to buy at competitive prices and when they provide fair returns to suppliers of capital.

¹The Guidelines together with the OECD Council Decision, the Procedural Guidance and the Commentaries are available at the OECD website: www.oecd.org/da/i/investment/guidelines/index.htm



Their trade and investment activities contribute to the efficient use of capital, technology and human and natural resources. They facilitate the transfer of technology among the regions of the world and the development of technologies that reflect local conditions. Through both formal training and on-the-job learning enterprises also promote the development of human capital in host countries.

5 The nature, scope and speed of economic changes have presented new strategic challenges for enterprises and their stakeholders. Multinational enterprises have the opportunity to implement best practice policies for sustainable development that seek to ensure coherence between social, economic and environmental objectives. The ability of multinational enterprises to promote sustainable development is greatly enhanced when trade and investment are conducted in a context of open, competitive and appropriately regulated markets.

6 Many multinational enterprises have demonstrated that respect for high standards of business conduct can enhance growth. Today's competitive forces are intense and multinational enterprises face a variety of legal, social and regulatory settings. In this context, some enterprises may be tempted to neglect appropriate standards and principles of conduct in an attempt to gain undue competitive advantage. Such practices by the few may call into question the reputation of the many and may give rise to public concerns.

7 Many enterprises have responded to these public concerns by developing internal programmes, guidance and management systems that underpin their commitment to good corporate citizenship, good practices and good business and employee conduct. Some of them have called upon consulting, auditing and certification services, contributing to the accumulation of expertise in these areas. These efforts have also promoted social dialogue on what constitutes good business conduct. The Guidelines clarify the shared expectations for business conduct of the governments adhering to them and provide a point of reference for enterprises. Thus, the Guidelines both complement and reinforce private efforts to define and implement responsible business conduct.

8 Governments are co-operating with each other and with other actors to strengthen the international legal and policy framework in which business is conducted. The post-war period has seen the development of this framework, starting with the adoption in 1948 of the Universal Declaration of Human Rights. Recent instruments include the ILO Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development and Agenda 21 and the Copenhagen Declaration for Social Development.

9 The OECD has also been contributing to the international policy framework. Recent developments include the adoption of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and of the OECD Principles of Corporate Governance, the OECD Guidelines for Consumer Protection in the Context of Electronic Commerce, and ongoing work on the OECD Guidelines on Transfer Pricing for Multinational Enterprises and Tax Administrations.

10 The common aim of the governments adhering to the Guidelines is to encourage the positive contributions that multinational enterprises can make to economic, environmental and social progress and to minimise the difficulties to which their various operations may give rise. In working towards this goal, governments find themselves in partnership with the many businesses, trade unions and other non-governmental organisations that are working in their own ways toward the same end. Governments can help by providing effective domestic policy frameworks that include stable macroeconomic policy, non-discriminatory treatment of firms, appropriate regulation and prudential supervision, an impartial system of courts and law enforcement and efficient and honest public administration. Governments can also help by maintaining and promoting appropriate standards and policies in support of sustainable development and by engaging in ongoing reforms to ensure that public sector activity is efficient and effective. Governments adhering to the Guidelines are committed to continual improvement of both domestic and international policies with a view to improving the welfare and living standards of all people.

I Concepts and Principles

1 The Guidelines are recommendations jointly addressed by governments to multinational enterprises. They provide principles and standards of good practice consistent with applicable laws. Observance of the Guidelines by enterprises is voluntary and not legally enforceable.

2 Since the operations of multinational enterprises extend throughout the world, international co-operation in this field should extend to all countries. Governments adhering to the Guidelines encourage the enterprises operating on their territories to observe the Guidelines wherever they operate, while taking into account the particular circumstances of each host country.

3 A precise definition of multinational enterprises is not required for the purposes of the Guidelines. These usually comprise companies or other entities established in more than one country and so linked that they may co-ordinate their operations in various ways. While one or more of these entities may be able to exercise a significant influence over the activities of others, their degree of autonomy within the enterprise may vary widely from one multinational enterprise to another. Ownership may be private, state or mixed. The Guidelines are addressed to all the entities within the multinational enterprise (parent companies and/or local entities). According to the actual distribution of responsibilities among them, the different entities are expected to co-operate and to assist one another to facilitate observance of the Guidelines.

- 4** The Guidelines are not aimed at introducing differences of treatment between multinational and domestic enterprises; they reflect good practice for all. Accordingly, multinational and domestic enterprises are subject to the same expectations in respect of their conduct wherever the Guidelines are relevant to both.
- 5** Governments wish to encourage the widest possible observance of the Guidelines. While it is acknowledged that small- and medium-sized enterprises may not have the same capacities as larger enterprises, governments adhering to the Guidelines nevertheless encourage them to observe the Guidelines recommendations to the fullest extent possible.
- 6** Governments adhering to the Guidelines should not use them for protectionist purposes nor use them in a way that calls into question the comparative advantage of any country where multinational enterprises invest.
- 7** Governments have the right to prescribe the conditions under which multinational enterprises operate within their jurisdictions, subject to international law. The entities of a multinational enterprise located in various countries are subject to the laws applicable in these countries. When multinational enterprises are subject to conflicting requirements by adhering countries, the governments concerned will co-operate in good faith with a view to resolving problems that may arise.
- 8** Governments adhering to the Guidelines set them forth with the understanding that they will fulfil their responsibilities to treat enterprises equitably and in accordance with international law and with their contractual obligations.
- 9** The use of appropriate international dispute settlement mechanisms, including arbitration, is encouraged as a means of facilitating the resolution of legal problems arising between enterprises and host country governments.
- 10** Governments adhering to the Guidelines will promote them and encourage their use. They will establish National Contact Points that promote the Guidelines and act as a forum for discussion of all matters relating to the Guidelines. The adhering Governments will also participate in appropriate review and consultation procedures to address issues concerning interpretation of the Guidelines in a changing world.

II General Policies

Enterprises should take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders. In this regard, enterprises should:

- 1** Contribute to economic, social and environmental progress with a view to achieving sustainable development.

- 2** Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments.
- 3** Encourage local capacity building through close co-operation with the local community, including business interests, as well as developing the enterprise's activities in domestic and foreign markets, consistent with the need for sound commercial practice.
- 4** Encourage human capital formation, in particular by creating employment opportunities and facilitating training opportunities for employees.
- 5** Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labour, taxation, financial incentives, or other issues.
- 6** Support and uphold good corporate governance principles and develop and apply good corporate governance practices.
- 7** Develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate.
- 8** Promote employee awareness of, and compliance with, company policies through appropriate dissemination of these policies, including through training programmes.
- 9** Refrain from discriminatory or disciplinary action against employees who make bona fide reports to management or, as appropriate, to the competent public authorities, on practices that contravene the law, the Guidelines or the enterprise's policies.
- 10** Encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the Guidelines.
- 11** Abstain from any improper involvement in local political activities.

III Disclosure

- 1** Enterprises should ensure that timely, regular, reliable and relevant information is disclosed regarding their activities, structure, financial situation and performance. This information should be disclosed for the enterprise as a whole and, where appropriate, along business lines or geographic areas. Disclosure policies of enterprises should be tailored to the nature, size and location of the enterprise, with due regard taken of costs, business confidentiality and other competitive concerns.



- 2

Enterprises should apply high quality standards for disclosure, accounting, and audit. Enterprises are also encouraged to apply high quality standards for non-financial information including environmental and social reporting where they exist. The standards or policies under which both financial and non-financial information are compiled and published should be reported.
- 3

Enterprises should disclose basic information showing their name, location, and structure, the name, address and telephone number of the parent enterprise and its main affiliates, its percentage ownership, direct and indirect in these affiliates, including shareholdings between them.
- 4

Enterprises should also disclose material information on:

a) The financial and operating results of the company;

b) Company objectives;

c) Major share ownership and voting rights;

d) Members of the board and key executives, and their remuneration;

e) Material foreseeable risk factors;

f) Material issues regarding employees and other stakeholders;

g) Governance structures and policies.
- 5

Enterprises are encouraged to communicate additional information that could include:

a) Value statements or statements of business conduct intended for public disclosure including information on the social, ethical and environmental policies of the enterprise and other codes of conduct to which the company subscribes. In addition, the date of adoption, the countries and entities to which such statements apply and its performance in relation to these statements may be communicated;

b) Information on systems for managing risks and complying with laws, and on statements or codes of business conduct;

c) Information on relationships with employees and other stakeholders.

IV **Employment and Industrial Relations**

Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices:

- 1

a) Respect the right of their employees to be represented by trade unions and other bona fide representatives of employees, and engage in constructive negotiations, either individually or through employers' associations, with such representatives with a view to reaching agreements on employment conditions;

- b) Contribute to the effective abolition of child labour;

c) Contribute to the elimination of all forms of forced or compulsory labour;

d) Not discriminate against their employees with respect to employment or occupation on such grounds as race, colour, sex, religion, political opinion, national extraction or social origin, unless selectivity concerning employee characteristics furthers established governmental policies which specifically promote greater equality of employment opportunity or relates to the inherent requirements of a job.
- 2

a) Provide facilities to employee representatives as may be necessary to assist in the development of effective collective agreements;

b) Provide information to employee representatives which is needed for meaningful negotiations on conditions of employment;

c) Promote consultation and co-operation between employers and employees and their representatives on matters of mutual concern.
- 3

Provide information to employees and their representatives which enables them to obtain a true and fair view of the performance of the entity or, where appropriate, the enterprise as a whole.
- 4

a) Observe standards of employment and industrial relations not less favourable than those observed by comparable employers in the host country;

b) Take adequate steps to ensure occupational health and safety in their operations.
- 5

In their operations, to the greatest extent practicable, employ local personnel and provide training with a view to improving skill levels, in co-operation with employee representatives and, where appropriate, relevant governmental authorities.
- 6

In considering changes in their operations which would have major effects upon the livelihood of their employees, in particular in the case of the closure of an entity involving collective lay-offs or dismissals, provide reasonable notice of such changes to representatives of their employees, and, where appropriate, to the relevant governmental authorities, and co-operate with the employee representatives and appropriate governmental authorities so as to mitigate to the maximum extent practicable adverse effects. In light of the specific circumstances of each case, it would be appropriate if management were able to give such notice prior to the final decision being taken. Other means may also be employed to provide meaningful co-operation to mitigate the effects of such decisions.



7 In the context of bona fide negotiations with representatives of employees on conditions of employment, or while employees are exercising a right to organise, not threaten to transfer the whole or part of an operating unit from the country concerned nor transfer employees from the enterprises' component entities in other countries in order to influence unfairly those negotiations or to hinder the exercise of a right to organise.

8 Enable authorised representatives of their employees to negotiate on collective bargaining or labour-management relations issues and allow the parties to consult on matters of mutual concern with representatives of management who are authorised to take decisions on these matters.

V Environment

Enterprises should, within the framework of laws, regulations and administrative practices in the countries in which they operate, and in consideration of relevant international agreements, principles, objectives, and standards, take due account of the need to protect the environment, public health and safety, and generally to conduct their activities in a manner contributing to the wider goal of sustainable development. In particular, enterprises should:

1 Establish and maintain a system of environmental management appropriate to the enterprise, including:

- a) Collection and evaluation of adequate and timely information regarding the environmental, health, and safety impacts of their activities;
- b) Establishment of measurable objectives and, where appropriate, targets for improved environmental performance, including periodically reviewing the continuing relevance of these objectives; and
- c) Regular monitoring and verification of progress toward environmental, health, and safety objectives or targets.

2 Taking into account concerns about cost, business confidentiality, and the protection of intellectual property rights:

- a) Provide the public and employees with adequate and timely information on the potential environment, health and safety impacts of the activities of the enterprise, which could include reporting on progress in improving environmental performance; and
- b) Engage in adequate and timely communication and consultation with the communities directly affected by the environmental, health and safety policies of the enterprise and by their implementation.

3 Assess, and address in decision-making, the foreseeable environmental, health, and safety-related impacts associated with the processes, goods and services of the enterprise over their full life cycle. Where these proposed activities may have significant environmental, health, or safety impacts, and where they are subject to a decision of a competent authority, prepare an appropriate environmental impact assessment.

4 Consistent with the scientific and technical understanding of the risks, where there are threats of serious damage to the environment, taking also into account human health and safety, not use the lack of full scientific certainty as a reason for postponing cost-effective measures to prevent or minimise such damage.

5 Maintain contingency plans for preventing, mitigating, and controlling serious environmental and health damage from their operations, including accidents and emergencies; and mechanisms for immediate reporting to the competent authorities.

6 Continually seek to improve corporate environmental performance, by encouraging, where appropriate, such activities as:

- a) Adoption of technologies and operating procedures in all parts of the enterprise that reflect standards concerning environmental performance in the best performing part of the enterprise;
- b) Development and provision of products or services that have no undue environmental impacts; are safe in their intended use; are efficient in their consumption of energy and natural resources; can be reused, recycled, or disposed of safely;
- c) Promoting higher levels of awareness among customers of the environmental implications of using the products and services of the enterprise; and
- d) Research on ways of improving the environmental performance of the enterprise over the longer term.

7 Provide adequate education and training to employees in environmental health and safety matters, including the handling of hazardous materials and the prevention of environmental accidents, as well as more general environmental management areas, such as environmental impact assessment procedures, public relations, and environmental technologies.

8 Contribute to the development of environmentally meaningful and economically efficient public policy, for example, by means of partnerships or initiatives that will enhance environmental awareness and protection.

VI Combating Bribery

Enterprises should not, directly or indirectly, offer, promise, give, or demand a bribe or other undue advantage to obtain or retain business or other improper advantage. Nor should enterprises be solicited or expected to render a bribe or other undue advantage. In particular, enterprises should:

- 1** Not offer, nor give in to demands, to pay public officials or the employees of business partners any portion of a contract payment. They should not use subcontracts, purchase orders or consulting agreements as means of channelling payments to public officials, to employees of business partners or to their relatives or business associates.
- 2** Ensure that remuneration of agents is appropriate and for legitimate services only. Where relevant, a list of agents employed in connection with transactions with public bodies and state-owned enterprises should be kept and made available to competent authorities.
- 3** Enhance the transparency of their activities in the fight against bribery and extortion. Measures could include making public commitments against bribery and extortion and disclosing the management systems the company has adopted in order to honour these commitments. The enterprise should also foster openness and dialogue with the public so as to promote its awareness of and co-operation with the fight against bribery and extortion.
- 4** Promote employee awareness of and compliance with company policies against bribery and extortion through appropriate dissemination of these policies and through training programmes and disciplinary procedures.
- 5** Adopt management control systems that discourage bribery and corrupt practices, and adopt financial and tax accounting and auditing practices that prevent the establishment of "off the books" or secret accounts or the creation of documents which do not properly and fairly record the transactions to which they relate.
- 6** Not make illegal contributions to candidates for public office or to political parties or to other political organisations. Contributions should fully comply with public disclosure requirements and should be reported to senior management.

VII Consumer Interests

When dealing with consumers, enterprises should act in accordance with fair business, marketing and advertising practices and should take all reasonable steps to ensure the safety and quality of the goods or services they provide. In particular, they should:

- 1** Ensure that the goods or services they provide meet all agreed or legally required standards for consumer health and safety, including health warnings and product safety and information labels.
- 2** As appropriate to the goods or services, provide accurate and clear information regarding their content, safe use, maintenance, storage, and disposal sufficient to enable consumers to make informed decisions.
- 3** Provide transparent and effective procedures that address consumer complaints and contribute to fair and timely resolution of consumer disputes without undue cost or burden.
- 4** Not make representations or omissions, nor engage in any other practices, that are deceptive, misleading, fraudulent, or unfair.
- 5** Respect consumer privacy and provide protection for personal data.
- 6** Co-operate fully and in a transparent manner with public authorities in the prevention or removal of serious threats to public health and safety deriving from the consumption or use of their products.

VIII Science and Technology

Enterprises should:

- 1** Endeavour to ensure that their activities are compatible with the science and technology (S&T) policies and plans of the countries in which they operate and as appropriate contribute to the development of local and national innovative capacity.
- 2** Adopt, where practicable in the course of their business activities, practices that permit the transfer and rapid diffusion of technologies and know-how, with due regard to the protection of intellectual property rights.
- 3** When appropriate, perform science and technology development work in host countries to address local market needs, as well as employ host country personnel in an S&T capacity and encourage their training, taking into account commercial needs.

- 4 When granting licenses for the use of intellectual property rights or when otherwise transferring technology, do so on reasonable terms and conditions and in a manner that contributes to the long term development prospects of the host country.
- 5 Where relevant to commercial objectives, develop ties with local universities, public research institutions, and participate in co-operative research projects with local industry or industry associations.

IX Competition

Enterprises should, within the framework of applicable laws and regulations, conduct their activities in a competitive manner. In particular, enterprises should:

- 1 Refrain from entering into or carrying out anti-competitive agreements among competitors:
 - a) To fix prices;
 - b) To make rigged bids (collusive tenders);
 - c) To establish output restrictions or quotas; or
 - d) To share or divide markets by allocating customers, suppliers, territories or lines of commerce;
- 2 Conduct all of their activities in a manner consistent with all applicable competition laws, taking into account the applicability of the competition laws of jurisdictions whose economies would be likely to be harmed by anti-competitive activity on their part.
- 3 Co-operate with the competition authorities of such jurisdictions by, among other things and subject to applicable law and appropriate safeguards, providing as prompt and complete responses as practicable to requests for information.
- 4 Promote employee awareness of the importance of compliance with all applicable competition laws and policies.

X Taxation

It is important that enterprises contribute to the public finances of host countries by making timely payment of their tax liabilities. In particular, enterprises should comply with the tax laws and regulations in all countries in which they operate and should exert every effort to act in accordance with both the letter and spirit of those laws and regulations. This would include such measures as providing to the relevant authorities the information necessary for the correct determination of taxes to be assessed in connection with their operations and conforming transfer pricing practices to the arm's length principle.