



Annual Report on the OECD Guidelines for Multinational Enterprises 2013

RESPONSIBLE BUSINESS CONDUCT IN ACTION



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Foreword

To many people, international investment by multinational enterprises is what globalisation is all about. Promoting appropriate business conduct by these companies is a real challenge however since their operations often straddle dozens of countries and hundreds of cultural, legal and regulatory environments.

The OECD Guidelines for Multinational Enterprises aim to help businesses, labour unions and NGOs meet this challenge by providing a global framework for responsible business conduct covering all areas of business ethics, including tax, competition, disclosure, anti-corruption, labour and human rights, and environment. While observance of the Guidelines by enterprises is voluntary and not legally enforceable, adhering governments must establish a National Contact Point to promote their observance and to making them influential among companies operating in or from their territories.

This Annual Report, the thirteenth in a series, describes the activities undertaken to promote the observance of the Guidelines during the implementation cycle of June 2012-June 2013. This includes the launch of the Global Forum on Responsible Business Conduct, the establishment of a dedicated Working Party on Responsible Business Conduct, and the elaboration of a robust multi-stakeholder proactive agenda to promote the effective observance of the principles and standards contained in the Guidelines.

The Annual Report has been approved by the NCPs and the Investment Committee. The material for this publication was prepared by Marie-France Houde, Head of the OECD Guidelines for Multinational Enterprises, Alberta Fumo, Policy Analyst, Tihana Bule, Policy Analyst, Mari-Lou Dupont, Legal Assistant, Tara Dhawan, Trainee, Tyler Gillard, Legal Expert, and Shivani Kannabhiran, Policy Analyst, in the Investment Division headed by Wesley Scholz of the Directorate for Financial and Enterprise Affairs.

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Acronyms and abbreviations

3T	Tin, Tantalum, and Tungsten
AMDI	Agence Marocaine de Développement des Investissements
BIAC	Business and Industry Advisory Committee to the OECD
CSO	Civil Society Organisation
CSR	Corporate social responsibility
DRC	Democratic Republic of the Congo
ECA	Export credit agencies
E&S	Environmental and social
ESCAP	United Nations Economic and Social Commission for Asia and the Pacific
ETUC	European Trade Union Confederation
EU	European Union
FI	Financial Institution
FMCS	Federal Mediation and Conciliation Service – (U.S.)
FPIC	Free, prior and informed consent
FTA	Free trade agreements
GIEK	Norwegian Guarantee Institute for Export Credits
GRI	Global Reporting Initiative
ICC	International Coordinating Committee of National Human Rights Institutions
ICGLR	International Conference on the Great Lakes Region
ICT	Information, communication and technology
IHRB	Institute for Human Rights and Business
IIRC	International Integrated Reporting Council
ILO	International Labour Organization
IMF	International Monetary Fund
ISO	International Organisation for Standardization
ITUC	International Trade Union Confederation
IUF	International Union of Foodworkers
MENA	Middle East and North Africa
MNE	Multinational Enterprise
MSG	Multi-stakeholder Steering Group
MOU	Memorandum of Understanding

NCP	National Contact Point
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
PAC	Partnership Africa Canada
PRI	Principles for Responsible Investment
RBC	Responsible Business Conduct
RENGO	Japanese Trade Union Confederation
RMG	Ready-made garment
SFA	Sustainable Finance Advisory
SMEs	Small and medium-sized enterprises
TUAC	Trade Union Advisory Committee to the OECD
UN	United Nations
UK	United Kingdom
UNCTAD	United Nations Conference on Trade and Development
UNEP	United Nations Environmental Programme
US	United States
WPRBC	Working Party on Responsible Business Conduct

Executive summary

The present report reviews the activities undertaken to promote the observance of the *OECD Guidelines for Multinational Enterprises* (the *Guidelines*) during the implementation cycle of June 2012-June 2013. After the May 2011 Update of the *Guidelines* and the subsequent 6 month period during which the National Contact Points (NCPs) integrated the revised provisions, the past year was the first full-fledged implementation year of the updated *Guidelines*.

It has been a time of high visibility, continuing support and uptake for the updated *Guidelines*. The increased mobilisation of the 44 adhering governments, stakeholders and partner organisations produced concrete deliverables on a number of fronts including:

- Costa Rica became the 45th country to adhere to the *Guidelines* on 30 September 2013 and Jordan was also officially invited to adhere in 2013. Jordan's adherence would bring to four the number of adhering countries in the strategic Middle East and North Africa (MENA) region.
- Enhanced inclusiveness in the structures and procedures of NCPs along with their increased capacity to provide mediation or conciliation services.
- A record high of activity in the specific instance facility. NCPs dealt with several new specific instances, more than half arising in non-adhering countries. They also contributed to new positive mediated outcomes that improve responsible business conduct (RBC) around the globe.
- Establishment under the OECD Investment Committee of a dedicated Working Party on Responsible Business Conduct (WPRBC) and designation of a Chair in March 2013 to enhance the effectiveness of the *Guidelines* and actively engage with non-adhering countries on matters covered by the *Guidelines*.
- Elaboration of a robust multi-stakeholder proactive agenda to promote the effective observance of the *Guidelines*. Progress was made in the project on the financial sector, with a research report and recommendations of the multi-stakeholder advisory group. The work on stakeholder engagement in the extractive sector progressed as well, working towards a guidance tool for enterprises. The project on responsible sourcing in the agricultural sector also made a good start. The work on conflict minerals, an OECD flagship multi-stakeholder process, also made significant further steps;

- A collective response to the Rana Plaza tragedy in Bangladesh. The NCPs issued a special statement on 25 June 2013 (reproduced in Annex 1.A1), inviting the WPRBC to urgently do further work on the textiles and garments sectors, to improve the situation on the ground. Support for further work in this area was also expressed on the occasion of the first OECD Global Forum on Responsible Business Conduct. Subsequently, the WPRBC decided to explore with the International Labour Organization (ILO), business, trade unions and other stakeholders ideas for an OECD-ILO project on responsible business conduct in the textiles industry; and to report back to the Working Party delegates on the outcome of these consultations; also, delegations were invited to keep the Chair informed of relevant developments at the national level.
- Successful launch of the OECD Global Forum on Responsible Business Conduct (the Global Forum) on 26-27 June 2013 as a strategic tool to strengthen international dialogue on RBC and promote the effective implementation of the *Guidelines*. The inaugural Global Forum brought together over 500 participants, representing government, business, trade union, civil society and international organisations.
- A new visual identity for the *Guidelines* and new communication tools.
- Signature of a Memorandum of Understanding (MOU) with the International Coordinating Committee of National Human Rights Institutions (ICC) in Amman on 7 November 2012.
- Significant outreach activities such as the working dinner on RBC in Davos, January 2013 and the High Level OECD-United Nations Economic and Social Commission for Asia and the Pacific Conference (UN ESCAP) in Kuala Lumpur at the 2012 Asia-Pacific Business Forum. The Chair of the WPRBC and the OECD Secretariat presented an outreach plan in October 2013.

While these positive developments undoubtedly contributed in raising the international profile of the updated *Guidelines*, the unprecedented recognition this OECD flagship instrument continued to enjoy was also closely associated with high expectations about the contribution to the implementation of the UN Guiding Principles for Business and Human Rights. The *Guidelines* occupy a central role in the current landscape of RBC tools: they are endowed with a unique implementation mechanism and include a human rights chapter that is drawn from the UN Guiding Principles.

This recognition has had two important consequences:

1. It has enhanced the need for the OECD to work more closely with the UN Working Group on Business and Human Rights, the ILO, and with other leading international instruments, to ensure a coherent interpretation, and mutually supportive implementation of the *Guidelines* and the UN “Protect, Respect and Remedy Framework”.

2. It has raised the bar on the performance of NCPs as a key non-judicial grievance mechanism under the third pillar of the UN Framework. The challenge has been compounded by the growing complexity of specific instances, the rise of complaints linked to human rights, risk-based due diligence – throughout supply chains and other business relationships – and stakeholder engagement, and the larger concentration of complaints in non-adhering countries. These considerations will no doubt continue to shape activities of the WPRBC and NCPs for years to come.

Adhering governments agreed that the next implementation cycle of the *Guidelines* should prioritise work on how to better communicate expectations related to the *Guidelines*; enhance NCPs' functional equivalence; implement the proactive agenda; and intensify outreach to non-adhering countries.

About the Guidelines

The *Guidelines* are far-reaching recommendations addressed by governments to multinational enterprises operating in or from adhering countries. They provide voluntary principles and standards for responsible business conduct in areas such as human rights, employment and industrial relations, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation.

The *Guidelines* were first adopted in 1976 as part of the OECD Declaration on International Investment and Multinational Enterprises. They have been reviewed 5 times since then to ensure that they remain a leading tool to promote responsible business conduct in the changing landscape of the global economy. The most recent update took place in 2011.

Adhering governments

All 34 OECD countries and 11 non-OECD countries, namely Argentina, Brazil, Colombia, Costa Rica, Egypt, Latvia, Lithuania, Morocco, Peru, Romania, and Tunisia, adhere to the *Guidelines*.

Stakeholders

There are three accredited stakeholders to the OECD on the *Guidelines*, namely the Business and Industry Advisory Committee (BIAC), the Trade Union Advisory Committee (TUAC) and OECD Watch, an international network of more than 80 civil society organisations.

Partner organisations

The OECD has *inter alia* developed working relationships with the International Labour Organization, the International Organisation for Standardization, the World Bank, the UN Working Group on Business and Human Rights, the UN Global Compact, UN Finance Initiative, the Global Reporting Initiative, and the International Coordinating Committee of Human Rights Institutions.

Achievements and looking forward

Innovations in NCPs institutional arrangements

Overall, a quarter of NCPs reported changes in their governance structures and procedures to make them more inclusive, accountable and transparent. Denmark created an independent body with five members from different stakeholder backgrounds and a new mediation and complaint mechanism with an allocated budget of over 400 000 EUR per year. In Brazil, the election of a representative by each of the 11 governmental institutions that compose the NCP was made legally binding, to increase the sense of ownership and awareness about the *Guidelines* within the government. Switzerland set up a multi-stakeholder advisory board composed of 14 representatives from various stakeholder groups, and new internal procedures for handling specific instances. Australia established an Oversight Committee that includes government agencies. The Chilean NCP is now assisted by an advisory group of government experts and a civil society oversight committee composed of different stakeholders and RBC experts. The new procedures of the French NCP entered into force and Spain is well advanced in reforming its NCP. Finally, Tunisia created the 44th NCP on the *Guidelines*, which comprises representatives from government, trade union and business.

Communication and promotion of the Guidelines

NCPs have also continued to prioritise communication and promotion by developing promotional plans and new materials on the updated *Guidelines*, organising or participating in awareness raising events and engaging with government agencies and leading RBC initiatives to promote policy coherence. The *Guidelines* are now available in 25 languages, including this year: Arabic,¹ Chinese, Danish, Estonian, Latvian, and Russian. A commonly agreed Spanish version of the *Guidelines* was prepared with the support of the OECD Secretariat.

It is estimated that the *Guidelines* were promoted in over 160 events, an increasing number of them in co-operation with other NCPs and stakeholders.

Several workshops and peer learning meetings were held in Latin America at the initiative of local NCPs (Brazil, Chile and Colombia), and with the support of more experienced NCPs (Netherlands, Norway, UK). The EU sponsored a regional conference in Santiago, Chile. Norway hosted the 2013 Nordic Roundtable on RBC; Canada, with the UN Working Group on Business and Human Rights, the first workshop on global experiences on non-judicial grievance mechanisms; and the London-based Institute for Human Rights and Business, the second workshop on the role of NCPs with regard to the extractive sectors. The OECD Secretariat chaired the annual MENA meeting on RBC and actively engaged in capacity building for MENA NCPs.

In addition, an increased number of NCPs (Argentina, Austria, Denmark, Norway, Italy, Poland) conducted surveys to assess knowledge and use of the *Guidelines* by their enterprises and stakeholders. In Argentina the NCP is developing a compliance assessment tool, in co-operation with a local NGO. NCP Norway has also initiated work on a self-assessment tool and a due diligence guidance, in co-operation with a research institute and a CSR consultant.

Accredited stakeholders reported their contribution to raising awareness and promoting the *Guidelines*. They have disseminated the *Guidelines* among their constituencies, organised special events and training sessions, as well as provided advice for the use of the specific instance facility. They have played a particular valuable role in non-adhering countries.

Specific instances: An increasingly challenging task for NCPs

The revision of the *Guidelines* has resulted in a record high activity under the specific instance facility. Some 36 new complaints were brought to NCPs (as compared to 28 during the last reporting period), and the number of concluded specific instances almost doubled (from 24 to 40). For the first time, NGOs submitted twice as many cases (14) than trade unions (7) as compared to half and half in the past; requests by individuals also grew (from 4 to 7). Overall, 14 NCPs were involved in the handling of these cases, often in co-operation with each other.

A majority of the new complaints related to human rights, due diligence, supply chains and stakeholder engagement. There was as well a greater diversity in the business sectors and countries covered, adding to the complexity of the cases considered. The financial and manufacturing sectors witnessed the highest number of specific instances even if the concentration in the extractive sectors remained significant. There was also a 20% increase in the number of cases occurring in non-adhering countries (namely Bahrain,

Bangladesh, Cambodia, El Salvador, India, Indonesia, Lao People's Democratic Republic, Nicaragua, Philippines, Russia, South Africa, Thailand and United Arab Emirates).

In 30% of the concluded specific instances, NCPs provided assistance to the parties in the form of facilitated dialogue or mediation. In three of those cases, the parties reached an agreement (2) or agreed on a timetable for negotiations (1). In 5 specific instances, the parties reached an agreement (4), or agreed to restart negotiations (1) through parallel proceedings or other processes. Regardless of the outcomes, several NCPs made recommendations to further the observance of the *Guidelines*.

Proactive agenda

The proactive agenda was conceived in the 2011 Update of the *Guidelines* as a complement to the specific instance procedure. In co-operation with NCPs, the WPRBC encourages multi-stakeholder dialogue on emerging issues to more clearly identify areas in which enterprises can make a positive contribution to economic, environmental and social progress, as well as activities and relationships of enterprises which pose common risks and could result in serious adverse impacts. Outcomes of the proactive agenda seek to identify emerging challenges and then leverage an inclusive multi-stakeholder process that would develop broadly-supported solutions.

In December 2012, the WPRBC approved the “Principles for the proactive agenda”² to effectively utilise a multi-stakeholder process, while ensuring that all projects under the proactive agenda operate within a common framework. In addition to the first, flagship proactive agenda project on due diligence and conflict minerals, by June 2013 three additional projects are progressing well: on stakeholder engagement in the extractive sector, on due diligence in the financial sector and on RBC along agricultural supply chains.

Outreach and supporting activities

The OECD Secretary-General Angel Gurría and Deputy Secretary-General Richard Boucher and OECD officials continued to promote the *Guidelines* at high level events in OECD and non-OECD countries. In particular, the Secretary-General and the Chair of the WPRBC spoke at a working dinner on “Business and Society” organised in Davos in January 2013. Deputy-Secretary General Boucher spoke at a high-level OECD-ESCAP conference part of the 2012 Asia-Pacific Business Forum. An MOU with the ICC to promote human rights was signed in Amman in November 2012. A panel was organised on the

first two years of the updated *Guidelines* at the 2013 World Bank/IMF Civil Society Forum held in Washington in April 2013.

Other supporting activities include the establishment of the new WPRBC and the first edition of the new Global Forum on RBC, the launch of a dedicated website on the *Guidelines* at the 2013 OECD Ministerial Meeting, the creation of an official database on specific instances, the development of an interactive reporting framework, and a brochure providing clear and synthetic basic information on the *Guidelines*.

Priorities for the next implementation cycle

The priorities for the next implementation cycle were discussed at the 14th meeting of NCPs held on 24 and 25 June 2013 and at the meeting of the WPRBC on 28 June 2013. While good progress was acknowledged, the general sense prevailed that a lot of hard work still lies ahead.

NCPs agreed to concentrate their efforts during 2013-14 on two core activities, namely *a)* better communicating the expectations of the *Guidelines* to their enterprises and stakeholders and *b)* peer learning and capacity building. They also considered it particularly important to try to meet more than once per year, as provided by the 2011 OECD Council Decision.

Further work was also agreed by WPRBC delegates *c)* on the proactive agenda projects and *d)* outreach, particularly to China, India, South Africa and Southeast Asia, to be conducted in close collaboration with the OECD.

a) Better communicating expectations on the Guidelines

The persistent lack of knowledge about the *Guidelines* and the role of NCPs, particularly among small and medium-sized enterprises (SMEs), continue to call for renewed efforts to better communicate to business and other stakeholders on the expectations on the *Guidelines*. It was felt that NCPs need to spend more time to demonstrate the benefits of acting responsibly, and explain the value added of their services, such as mediation or conciliation.

NCPs also underlined the key role of communication in preventing problems resulting from insufficient knowledge of the *Guidelines*. As foreseen by the proactive agenda, better informed investors are in a better position to make a positive contribution to economic, social and environmental progress and mitigate risks of adverse impacts resulting from their operations and business relationships. This is especially important in high risk geographies, sectors or activities. NCPs commended Australia, Germany and Italy for proactively engaging with SMEs and Italy for organising an event on Myanmar

in October 2013 for the benefit of Italian investors in this country. The statement³ released on 25 June 2013 on the Rana Plaza tragedy also encourages NCPs to pay particular attention to consultations at the national level on the challenges of the textiles and garment industries.

b) Enhancing functional equivalence

The past year was generally viewed as particularly challenging for the functioning of the NCP specific instance facility. The number of complaints has not only continued to rise but also covered a greater diversity of business sectors, investment contexts, countries and issues. For example, one major case concerned three NCPs, enterprises and NGOs originating from four different countries and different degrees of responsibility. In addition, NCPs have been confronted with the challenge of interpreting the new provisions of the *Guidelines* on human rights, due diligence, supply chains and stakeholder engagement which have become a common denominator in an increased number of cases.

The reviewed period saw as well the emergence of new issues on the interpretation of the Procedural Guidance. They concern, in particular, the criteria for initial assessments, NCP co-operation, the role of NCPs as mediators and problem solvers, and the balance between transparency and confidentiality. Unless there is clearer understanding about these issues, it would remain difficult for NCPs to produce comparable outcomes under comparable situations, as required by the principle of functional equivalence. Lack of functional equivalence has also been raised as a source of major concern by stakeholders.

Addressing these challenges will, in fact, call for more focused peer learning and capacity building activities than those undertaken in the past, as well as a greater involvement by the OECD Secretariat and the WPRBC. These activities could take the form of horizontal thematic reviews, based on discussion papers to be prepared by the Secretariat and the NCPs as appropriate. Their purpose should be to collect examples of good practices, as well as to identify the areas that might require further clarification by the Investment Committee. The OECD Secretariat was accordingly invited to organise, in the upcoming period, horizontal peer reviews on the subjects of NCP co-operation and initial assessments of specific instances, which were the issues raised by NCPs at their 14th NCP meeting.

The Norwegian NCP⁴ has signed up for a voluntary peer review in the second half of 2013 with the dual objectives of a) strengthening Norway's performance; and b) improving the NCP system as a whole, by sharing lessons learned, good practices and challenges with the NCP community and stakeholders. NCPs also welcomed the composition of the review team (Canada as Chair, Colombia and the Netherlands as co-Chairs; Belgium and

the United Kingdom as additional members, Hungary and Mexico as observers) and the participation of the Secretariat. The review team's visit to Oslo took place on 21-23 October 2013.

Austria tentatively plans to hold a "Guidelines Week" in Vienna in 2014 which could feature a second OECD Workshop on Problem Solving and Mediation, a possible regular meeting of NCPs and a special meeting with the Austrian business community on the findings of the OECD study on RBC challenges in Kazakhstan that has been commissioned to the OECD.

c) Proactive agenda

Delegates of the WPRBC agreed on the terms of reference for the multi-stakeholder advisory group on RBC along agricultural supply chains and noted the preparation of the 2014 Council Report on the *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High Risk Areas* (the *Due Diligence Guidance*).

The WPRBC also welcomed further work with regard to the following proactive agenda projects:

- Stakeholder engagement and due diligence in the extractive sector: delegates noted the tentative plan of the Advisory Group to consider a substantive draft of a user's guide in early December, and the desire to deliver an advanced version of the user's guide at the 2014 Global Forum in order to enhance its visibility and intake by practitioners.
- Due diligence in the financial sector: delegates tasked the OECD Secretariat to prepare three papers on a) the coverage of business relationships; b) how the *Guidelines* apply to Sovereign Wealth Funds; and c) a follow-up work plan on the recommendations of the Advisory Group; agreed with the continuation of the Advisory Group and on engaging with the UN Working Group on Business and Human Rights in this work.

Following the NCPs' statement on the Rana Plaza tragedy and related discussions held both at the Global Forum and among WPRBC delegates, the OECD is also exploring possible co-operation with ILO in the garment sector.

The G8 have called for consideration of expanding work on responsible sourcing of minerals from weak governance zones and conflict-affected areas to possibly include diamonds and other precious stones. Some delegations are considering whether to recommend work related to responsible investment in Myanmar. These are questions which will likely receive greater consideration for possible additional work under the proactive agenda.

d) Intensifying outreach

The WPRBC considers outreach to be a top priority for the next implementation cycle. NCPs will need to make use of any available

opportunity – embassies, foreign chambers of commerce, foreign officials, events, RBC networks – to proactively promote the *Guidelines* in emerging economies and other developing countries. This is essential for the level playing field between enterprises but also for the future functioning of the specific instances facility. Now that the number of complaints from non-adhering countries is increasing, NCPs need a counterpart of some sort in the countries in which the complaints arise. More efforts are definitively needed in this area.

Two *Guidelines* events will be organised in 2013, as part of the prestigious Third Asia-Pacific Trade and Investment Week and the 2013 Asia-Pacific Business Forum and an MOU with ESCAP will be signed on that occasion. The OECD will chair this year's OECD- ILO-UNCTAD Interagency Roundtable, which is scheduled to take place in Geneva on 14 November 2013. Finally, the UN Office of the High Commissioner for Human Rights is interested in possibly concluding an MOU with the OECD to enhance co-operation in the field of business and human rights, which could be signed at the Second United Nations Forum on Business and Human Rights on 2-4 December 2013, and the progress made, at the technical level, on a draft MOU with the Indian Institute of Corporate Affairs.

The WPRBC requested the Chair and the OECD Secretariat develop a full-fledged outreach strategy, prioritising, in particular, China, India, South Africa and South East Asia. The outline of this strategy was presented at the October 2013 meeting of the WPRBC.

Notes

1. The Arabic version was prepared by the Morocco NCP and the OECD is coordinating the release of a commonly agreed version by all Arabic speaking NCPs.
2. See Chapter 2, Annex 2.A1 – Principles for the proactive agenda.
3. See Annex 1.A1 – Statement on the Rana Plaza tragedy.
4. Belgium, Chile, Denmark, Morocco, Poland and Switzerland have also indicated their interest to host a peer review of their National Contact Point in 2014. Canada, Czech Republic, France, Germany, and United States are available to undertake this exercise beyond 2014.

Chapter 1

The activities of National Contact Points

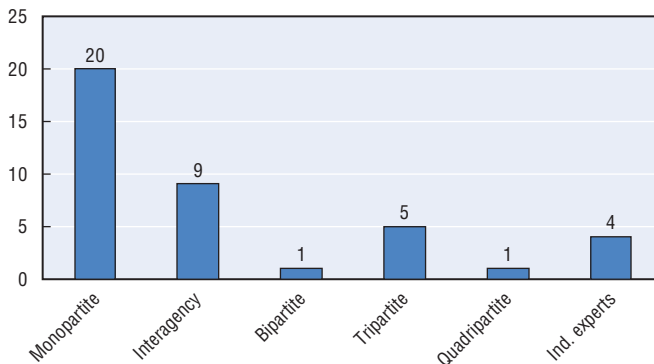
The main role of the NCPs of governments adhering to the Guidelines is to further their effectiveness by undertaking promotional activities, handling enquiries, and contributing to the resolution of issues that arise from the alleged non-observance of the Guidelines in specific instances. This chapter reviews NCP activities as well as other implementation activities undertaken by adhering governments over the June 2012-June 2013 reporting period.

NCP organisation: Increased involvement of government officials, experts and stakeholders

Structure, innovations and reforms ahead

As in 2012, National Contact Points¹ are mainly located within the governmental departments in charge of economic and financial issues, or of foreign affairs.² And the monopartite structure remains the most popular option (see Figure 1.1):

Figure 1.1. NCP Structure



Source: Author's calculations.

- Monopartite:** The NCP is composed of one or more representatives of one Ministry.
Argentina, Australia, Austria, Chile, Colombia, Czech Republic, Estonia, Greece, Hungary, Iceland, Israel, Italy, Mexico, New Zealand, Peru, Poland, Slovak Republic, Spain, Turkey, United States.
- Interagency:** The NCP is composed of one or more representatives of two or more Ministries.
Brazil, Canada, Germany, Japan, Morocco, Portugal, Slovenia, Switzerland, United Kingdom.
- Bipartite:** The NCP is composed of one or more representatives of Ministry/ Ministries and of representative/s of business association/s or trade union/s.
Egypt.

- **Tripartite:** the NCP is composed of one or more representatives of Ministry/ Ministries, business association/s and trade union/s.

Belgium, France, Latvia, Sweden, Tunisia.

- **Quadripartite:** The NCP is composed of one or more representatives of Ministry/ Ministries, business association/s, trade union/s and non-governmental organisation/s.

Finland.

- **Independent Expert Body:** The NCP includes independent experts.

Denmark, Korea, Netherlands, Norway.

At the same time, compared to 2012, there has been an increase in the number of NCPs which opt to include either more governmental departments, as in the case of Morocco – which moved from a mono-partite to an interagency structure – or independent experts, as in the Danish and the Korean cases, which previously had respectively a tripartite and an interagency structure. Over a third of NCPs (especially those with a monopartite structure) are assisted by an advisory body composed of government and/or civil society representatives.

In the MENA region, the Egyptian NCP resumed its activities and the Tunisian NCP has prepared its first report on the implementation of the *Guidelines*.

Several NCPs engaged in improving their organisation structure and working arrangements. The United States NCP has entered into a co-operative agreement with the State Department and the Federal Mediation and Conciliation Service (FMCS), an independent US federal agency. The FMCS will make its mediators available to support of the NCP mediation efforts in specific instances. The NCPs of Brazil and Switzerland have completed a review of their structures, a process started in 2011; Brazil and France NCPs have published a revision of their internal procedures in July 2012.

Fifteen NCPs dispose of an allocated budget, and 21 of a dedicated staff. Belgium's NCP is expected to benefit from one additional staff working half time, and Switzerland of one additional staff.

Looking ahead, Belgium is considering the creation of a multi-stakeholder advisory body; the Czech NCP is considering the adoption of a quadripartite structure and the bipartite Egypt NCP may change to a quadripartite structure, with the inclusion of business associations and NGOs. In Portugal, the elaboration of an integrated strategy for CSR policies under the EU Action Agenda 2011-14 may also lead to changes in the Portuguese NCP. The transformation of Spain's NCP structure from a monopartite to an interagency structure is well under way: this new NCP will also be supported by an advisory body composed of business, trade unions and NGOs representatives. The United Kingdom will conduct a review of the NCP

Steering Board in late 2013 or early 2014. Finally, the European Union¹ is exploring ways to expand the intra-Commission work related to CSR and NCP.

Focus: New and reformed NCPs

Box 1.1. The reform of the Danish NCP: Mediation and Complaints-Handling Institution for RBC

In June 2012 the Danish Parliament passed a law (ACT No. 546) reforming the NCP. The provisions entered into force on 1 November 2012.

Structure and composition of the NCP: The Danish NCP structure was modified, from a tripartite body to a mix of tripartite structure and independent expert body without ministerial representation. The NCP consists of a chairman – Mr Mads Øvlisen, former head of the Danish Council for CSR and former CEO of Novo Nordisk – and representatives from the Confederation of Danish Industries, the Danish Confederation of Trade Unions, the Danish 92 Group (NGO’s) and an expert member with knowledge on human rights. The Secretariat comprises three people and is located in the Danish Business Authority. The new NCP has an allocated budget of DKK 3 million a year.

Handling of specific instances: With reference to cases of non-observance of the *Guidelines*, the NCP mandate includes acting and investigating by own initiative, not only when a specific instance is submitted to the NCP. Also, the law lists in detail all possible entities involved in a possible violation of the *Guidelines*, including:

- Danish private or public company, or the company business associates.
- Danish government or regional authorities, or the authorities business associates.
- Danish private or public organisations, or the organisations’ business partners.

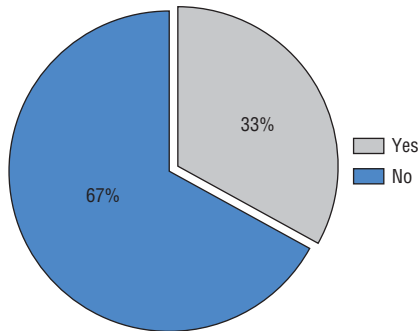
- *Egypt:* Egypt reports having reactivated its NCP, which is located in the Ministry of Investment. It also reported that the NCP is assisted by an advisory body composed of government agencies or experts on the different topics covered by the *Guidelines*: the ministries of Foreign Affairs, Trade and Industry; State for Administrative Development; Finance; Labour; State for Environmental Affairs; Egyptian Trade Union; and Egyptian National Competitiveness Council. The latter is an independent policy advisory body set up by several Egyptian businessmen, academia, and partner organisations and focuses primarily on the issue of competitiveness, the subjects of inclusive and balanced growth, social justice and equal opportunities.

- **Korea:** Korea's NCP has been transferred from the Ministry of Trade, Industry and Energy – Foreign Investment Subcommittee to a civil organisation – the Korean Commercial Arbitration Board (KCAB) – which is independent from the government. The members of the Korean NCP will be chosen following recommendation of specialised government departments and relevant institutions. The KCAB acts as the executive office of the NCP. The Ministry of Trade, Industry and Energy covers the operational expenses.
- **Morocco:** In March 2013 the NCP expanded into an interagency structure chaired and serviced by the *Agence Marocaine de Développement des Investissements*. It is composed of representatives of departments and public institutions that have specific competencies in relation to the *Guidelines*, namely: *Ministère des Affaires Étrangères et de la Coopération*; *ministère de l'Économie et des Finances*; *Ministère de l'Enseignement Supérieur, de la Recherche Scientifique et de la Formation des Cadres*; *Ministère de l'Énergie, des Mines, de l'Eau et de l'Environnement*; *Ministère de l'Emploi et de la Formation Professionnelle*; *Ministère de l'Industrie, du Commerce et des Nouvelles Technologies*; *Ministère chargé des Affaires Générales et de la Gouvernance*; *Conseil National des Droits de l'Homme*; *Instance Centrale de Prévention de la Corruption* and *Conseil de la Concurrence*.
- **Tunisia:** In conformity with the obligation under the OECD Declaration on International Investment and Multinational Enterprises, signed in June 2012, Tunisia established a National Contact Point for the *Guidelines*. The NCP has a tripartite structure comprised of representatives from government, trade union (*Union Générale Tunisienne du Travail*) and business (*Union Tunisienne de l'Industrie, du Commerce et de l'Artisanat*).

Advisory bodies: The new multi-stakeholder board in Switzerland

A third of reporting NCPs have established an advisory body – Australia, Austria, Chile, Czech Republic, Colombia, Egypt, Germany, Israel, Italy, New Zealand, Switzerland (see Box 1.2), United Kingdom and the United States. The advisory bodies of Australia, Colombia and the United Kingdom perform both advisory and oversight functions. About half of the NCPs with a monopartite structure have created advisory bodies in order to include the views of stakeholders in their activities.

More specifically, the Czech NCP, based in the Ministry of Industry and Trade works in co-operation with other government agencies, as well as business, social and non-governmental organisations interested in the field of responsible business conduct. The German NCP, based in the Ministry of Economics and Technology, holds regular meetings with the Ministerial Group on the *Guidelines* and the Working Party on the *Guidelines*. The latter includes representatives of ministries, business organisations, trade unions and NGOs and convenes once a year to discuss current issues related to the *Guidelines*,

Figure 1.2. **Does the NCP have an advisory body?**

Source: Author's calculations.

methods to improve their dissemination and the NCP's working methods. In New Zealand, the NCP maintains an advisory Liaison Group comprised of representatives from organisations with an interest in the *Guidelines*, including business, trade unions and government officials.

In Chile, the monopartite NCP recently invited various government agencies to be part of its Advisory Body. It is currently processing official answers to this request. Once in place, the Advisory Body will have access to the expert opinion of several government areas, with the stated mandate of facilitating NCP analysis, understanding and resolutions of specific instances. It has also established a separate oversight multi-stakeholder body.

Oversight bodies: Australian and Chilean innovations

Bodies with oversight responsibilities are reported mainly by monopartite NCPs (Chile, Hungary, Israel and Spain), the German interagency NCP and the Egyptian bipartite NCP.³ Structures and functions vary widely however: from an *ad hoc* body with stakeholders in the Chilean and Israeli cases, to a designated government body, as in the cases of the Hungarian OECD National Council and the Spanish Ministry of Economy and Competitiveness.

In November 2012, the Australian NCP established an oversight committee, which is chaired by the NCP and includes representatives from relevant Commonwealth Government agencies and may call upon external experts as appropriate. The Committee has a dual role in providing advice in addition to providing oversight to the complaints process.

The new Civil Society Committee of the Chilean NCP held its first official meeting on 24 April 2013. The Committee is composed of non-governmental organisations, university experts in responsible business conduct, trade

Box 1.2. **Switzerland multi-stakeholder advisory board**

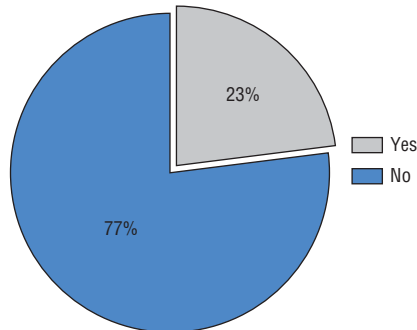
Following the update of the *Guidelines* in May 2011, Switzerland conducted an evaluation of its NCP. On 1 May 2013, the Swiss Federal Council adopted a decree modifying the structure and functioning of the Swiss NCP and establishing a multi-stakeholder advisory board. The decree entered into force on 1 June 2013 and currently provides the legal basis for the activities of the NCP.

The establishment of a multi-stakeholder advisory board is designed to enable the Swiss NCP to build upon and consult the expertise of other governmental offices and external stakeholders in the performance of its duties.

Composition: The multi-stakeholder advisory board is composed of 14 representatives from different stakeholder groups, namely employer associations, trade unions, business associations, NGOs and academia. Each group has 2 representatives. The Federal Department of Foreign Affairs FDFA (political direction, development agency) and the Federal Department of Economic Affairs, Education and Research EAER (labour direction, international trade direction) can also nominate two representatives each. The Board is co-chaired by State Secretary Marie-Gabrielle Ineichen-Fleisch, Director of the State Secretariat of Economic Affairs, and Professor Christine Kaufmann, Chair for Constitutional and Administrative Law and for European and International Law of the University of Zurich.

Functions: The advisory board advises the NCP on its strategic orientation as well as on the implementation of the *Guidelines* and the procedural *Guidelines* of the NCP according to the core criteria of visibility, accessibility, transparency and accountability. The board is also mandated to advise the Swiss NCP on specific procedural issues, such as co-operation with other NCPs and with stakeholders. In addition, the board will be consulted on various issues such as modifications of the published procedural *Guidelines* of the NCP, changes of the mandate of the internal working groups of the federal administration that handle specific instances, the selection of external mediators, the annual report of the Swiss NCP, and promotional activities. The board will be informed about the handling of specific instances (state of the proceedings, appointment of an internal working group of the federal administration for specific instances) but it will not be directly involved in the procedures.

The Swiss Federal Council has confirmed the role of the NCP to solve specific instances according to the provisions of the *Guidelines*. Specific instances will be handled by internal working groups of the federal administration created for this purpose.

Figure 1.3. **Does the NCP have an oversight body?**

Source: Author's calculations.

unions and business associations. Regular meetings will be scheduled with the purpose of exchanging information about the work of the NCP, handling enquiries and enhance the knowledge of *Guidelines*.

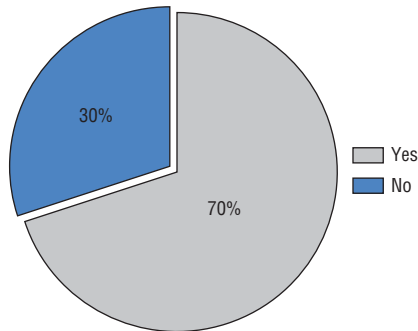
Reporting within governments

Two thirds of the reporting NCPs report their activities to their own governments. For example, the Argentina NCP produces regular reports and the US NCP informs monthly the Office of the Assistant Secretary of State for Economic and Business Affairs. Information on NCP activities is also included in reports prepared in the ministry or department where the NCP is located (Australia, Belgium, Brazil, Canada, Colombia, Greece, Finland, Italy, Korea, Mexico, Peru, Poland, Portugal, Slovak Republic, Sweden, Switzerland, Tunisia, United Kingdom). The Dutch NCP transmits its annual report, as well as the findings of its final statements, to the Ministry of Foreign Trade and Co-operation. The New Zealand NCP is required to report on specific instances to the Minister of Commerce.

In Germany, the NCP does not bear any obligation for a regular reporting. At the same time, as an integrated part of the government, it is accountable to parliament, hence subject to the control of the Bundestag (Federal Lower House of Parliament). Within this framework, individual members or parliamentary groups have the right to ask oral and written questions with regard to the NCP activities. The German NCP has answered several questions, especially during the update process of the *Guidelines*. The Norwegian NCP reports administratively to the Norwegian Ministry Foreign Affairs and since 2013, minutes from these meetings are made available online.

NCPs also report regularly to their advisory or oversight bodies (the Austrian NCP Steering committee, the Egyptian NCP Advisory Body, the US

Figure 1.4. Does the NCP report with the government?



Source: Author's calculations.

NCP Interagency Working Group), to ad hoc bodies (the Danish CSR Council, the Hungarian OECD National Council, the Latvian OECD Consultative Board), or to parliaments (Australia, Belgium, Colombia, Italy, Netherlands, Switzerland). Some NCPs reports to parliament voluntarily (Norway) or upon request (Korea, Switzerland).

Additionally, the following NCPs make their annual reports to the OECD available online: Australia, Austria, Belgium, Brazil, Canada, Colombia, Denmark, Estonia, France, Germany, Hungary, Italy, Israel, Latvia, Morocco, Netherlands, New Zealand, Norway, Portugal, Slovenia, Switzerland, United Kingdom and United States.

Information and promotion activities: New tools and increased co-operative efforts

NCPs have continued to prioritise communication and promotion of the updated *Guidelines* to further their effective implementation. Many NCPs have stepped up their efforts to develop new promotional tools, produce and distribute widely new materials on the *Guidelines*, organised or participated in raising awareness events, and engage with government agencies and leading RBC initiatives to promote policy coherence on responsible business conduct. Bilateral consultations and several regional events, notably in Latin America, have helped build NCP capacity.

Also, the communication on CSR adopted by the European Commission in October 2011 “A renewed EU strategy 2011-14 for Corporate Social Responsibility” encourages large companies to take into account the *Guidelines* when developing their policies on CSR, and announces the intention of the Commission to monitor the commitments to respect international CSR principles and guidelines, made by European enterprises with more than 1 000 employees.

Box 1.3. The first year of Colombia's NCP

The official launch of Colombia's NCP took place on 13 June 2012. Since then, the NCP worked extensively to make the *Guidelines* known and available by all different means, as well as raise awareness on the implementation procedures:

The NCP has dedicated web pages – where the *Guidelines* and the annual report can be accessed – which received 1 215 visits between June 2012 and June 2013. In 2012, the NCP reviewed and adapted the Spanish translation of the *Guidelines* and distributed 1 000 printed copies. The NCP also developed a brochure on the *Guidelines* in Spanish.

The NCP has a comprehensive promotional plan, which includes working in close collaboration with government agencies, including Proexport – the investment promotion agency – and embassies. It also supported the efforts of the government to draft a set of guidelines to attract sustainable investment, which resulted in an action plan on this subject. From June 2012 to June 2013, the NCP organised or participated in 20 regional and international events. Concerning the *Due Diligence Guidance*, Colombia leads a pilot project for the implementation of the Gold Supplement in the country.

The NCP developed a strong working relationship with several OECD partners and leading RBC instruments, including the UN Global Compact, the National Institution for the Protection and Promotion of Human Rights, the GRI, ISO26000 and the Group of Friends of Paragraph 47.

NCPs that have a promotional plan are: Argentina, Austria, Belgium, Brazil, Canada, Chile, Colombia (see Box 1.3), Denmark, Egypt, Finland, France, Germany, Iceland, Italy, Japan, Korea, Latvia, Morocco (see Box 1.4), Mexico, Netherlands, Norway, New Zealand, Poland, Portugal, Spain, Switzerland, United Kingdom and United States.

NCPs that have produced or are producing new brochure, leaflet, pamphlet and other promotional media are: Australia, Austria, Belgium, Brazil, Chile, Colombia, Denmark, France, Germany, Hungary, Italy, Israel, Japan, Latvia, Morocco, Mexico, Netherlands, New Zealand, Norway, Portugal, Slovenia, Spain, Switzerland, Tunisia, United Kingdom and United States.

NCPs that have conducted or collaborated on surveys are: Argentina, Austria, Canada, Denmark, France, Italy, Poland and Norway.

NCPs that have responded to inquiries from stakeholders, academia, peer NCPs are: Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, Colombia, Denmark, Finland, France, Germany, Hungary, Italy, Israel, Japan, Morocco, Mexico, Netherlands, Norway, New Zealand, Peru, Poland, Portugal, Spain, Sweden, Switzerland, United Kingdom and United States.

NCPs that, together with appropriate state entities, informed prospective investors about the *Guidelines* and their implementation are: Australia, Austria, Belgium, Canada, Chile, Colombia, Finland, France, Germany, Italy, Japan, Korea, Latvia, Morocco, Netherlands, Norway, Peru, Poland, Portugal, Slovenia, Spain, Sweden, Switzerland, Tunisia, United Kingdom and United States.

NCPs that have collaborated with embassies are: Australia, Austria, Canada, Chile, Colombia, Czech Republic, Denmark, France, Germany, Italy, Japan, Korea, Latvia, Netherlands, Norway, Portugal, Slovenia, Spain, Sweden, Switzerland, United Kingdom and United States.

The Guidelines translated in 25 languages

The OECD translated the *Guidelines* into Chinese and Russian and coordinated the preparation of a commonly agreed version of the *Guidelines* by all Spanish NCPs. Arabic,⁴ Danish, Estonian, Latvian versions of the *Guidelines* were also released in 2013 by NCPs. Iceland is currently working on the Icelandic version of the *Guidelines*.

The *Guidelines* are available in print and online, in 25 languages: Arabic, Chinese, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hebrew, Hungarian, Italian, Japanese, Korean, Latvian, Norwegian, Polish, Portuguese, Russian, Slovak, Slovene, Spanish and Swedish.

Promotional plans and new tools – selected examples

- Australia's NCP has developed a brochure and a standard presentation which is given to external bodies to promote awareness of the *Guidelines*. The NCP's website receives approximately 300 unique visitors per month.
- Austria's NCP is developing a brochure in co-operation with respACT, Austria's leading platform for CSR and Sustainable Development. The NCP distributed numerous copies of the German version of the *Guidelines* to companies, universities and other stakeholders.
- Prior to the 2011 Egyptian revolution, Egypt's NCP had an ambitious plan for promoting the *Guidelines* that involved contacting business community, different chambers of commerce and labour organisations to inform them about the *Guidelines* and the NCP's activities. Those activities were interrupted in 2011 and the NCP is now planning to resume its activities by disseminating the updated *Guidelines*.

- In 2012, the *Hellenic NCP* published a new informational brochure on the 2011 *Guidelines*, in Greek. In addition to an introduction to the *Guidelines* (and links to the online full text of them), it provides information concerning the Hellenic NCP and the procedures for handling specific instances.
- *Latvia's NCP* has elaborated a plan to raise awareness and promote the *Guidelines*. The 2013-14 implementation plan focuses on the elaboration of a leaflet in Latvian and English for wide distribution. The NCP has also translated the updated *Guidelines* in Latvian.
- *Morocco's NCP* publishes information on the *Guidelines* in a quarterly newsletter that is circulated to more than 2 800 national and multinational enterprises. The *Agence Marocaine de Développement des Investissements* also has elaborated a standard presentation on the *Guidelines*.
- *United States' NCP* created and distributed printed fact sheets summarising the *Guidelines* and the role and activities of the NCP, to the general public. The *Guidelines* and the role of the NCP were also noted in the report "US Government's Approach on Business and Human Rights" released in May 2013.

Box 1.4. Morocco's NCP action plan for 2013: Focus on promotion

The NCP adopted an action plan which includes a specific section on promotional efforts. In particular, the Morocco's NCP will engage in:

- Improving the NCP's website through the following:
 - ❖ Arabic and English translation of the webpage.
 - ❖ Dissemination of reports sent by Morocco's NCP to the OECD.
 - ❖ Dissemination of annual reports published by the OECD.
 - ❖ Dissemination of the Procedural Guidance.
 - ❖ Integration of a NCP's agenda.
- Developing a brochure in Arabic and English which will include an explanatory summary of the *Guidelines*.
- Organising a seminar for ministries businesses, trade unions and NGOs.
- Signing co-operative and partnership agreements with relevant public and private institutions.
- Organising meetings with relevant departments to discuss specific issues.
- Organising a training session for economic advisors of Moroccan embassies on the *Guidelines* and the role of Morocco's NCP.

Selected events organised by NCPs and national stakeholders⁵

NCPs organised, hosted or participated in over 160 events, a significantly higher number in comparison to the last implementation period. Conferences, workshops, roundtables or other events aimed to create a dialogue on the *Guidelines* and raise awareness of the NCP's role and procedures. Many events were directly organised by national business associations, trades unions, NGOs or other stakeholders, which confirms the interest from the public on these issues:

- Brazil's NCP has regularly promoted the *Guidelines* at events organised by different stakeholders including the Forum of the Employers Confederations – Executive Branch, the National Confederation of Financial Institutions and the National Labour Relations Board.
- Officials of the eight departments and agencies that comprise Canada's NCP identified and coordinated their participation in a variety of promotional activities and outreach initiatives in various fora where the *Guidelines* and the NCP's role have been discussed or referenced to. These fora included the second annual multi-stakeholder information session hosted by the NCP in November 2012, workshop sessions and information provided at the annual Prospectors and Developers Association of Canada International Convention in Toronto in March 2013, 49 regional and country initiatives and various speaking engagements in international and domestic fora.
- The launching of the new Denmark's NCP took place on 1 November 2012 at the Ministry of Business and Growth. The NCP later held a series of events to explain further its structure and implementation procedures to different stakeholders such as the Confederation of Danish Industries, the Danish Federation of SMEs, the Danish Confederation of Trade Unions, 92-Group NGOs and Danish Auditors.
- In the aftermath of the Bangladesh factory Rana Plaza collapse on 24 April 2013, France's Minister for Foreign Trade Nicole Bricq wrote to the French NCP to review a number of issues relating to this drama. The Minister also met with the French NCP and stakeholders on 23 May 2013, to identify effective ways to raise the environmental and social performance of investors in Bangladesh. In addition, in her closing remarks at the inaugural Global Forum on 26-27 June 2013 Minister Bricq reiterated the urgency for concrete action to ensure similar tragedies never happen again.
- Israel's NCP hosted a conference with the Manufacturers Association on the OECD requirements concerning corporate responsibility and foreign bribery. The conference focused on trends in the global arena and implications for businesses.

- Korea's NCP participated in a regional CSR Forum organised in April 2013 by the Korean Chamber of Commerce and Industry to raise awareness of the *Guidelines*, which was an opportunity for the NCP to introduce past CSR cases to corporations that were planning to invest in Asia and Africa.
- Netherlands's NCP organised thematic events in The Hague that brought together various stakeholders (businesses, NGOs, etc.) to discuss and share experiences on different topics related to the *Guidelines*. Specific sessions focused on freedom of association and transparency.
- In March 2013, Slovenia's NCP participated in the 8th International Conference of the Institute for Development of Social Responsibility devoted to social responsibility in the fields of education and communication.
- In May 2013, Tunisia's NCP presented the *Guidelines* at a seminar organised by the trade union *Union Générale des Travailleurs de Tunisie*.

Raising awareness through the embassies – selected examples

- France's RBC Ambassador, also member of the French NCP promoted the *Guidelines* at various conferences in Asia and Africa (China, Singapore, Senegal, Ivory Coast and Lebanon). In July 2012, the Ambassador took part in a commercial mission to Myanmar with 35 French companies and presented the *Guidelines* to the leader of the opposition, the Burmese Chamber of Commerce, and different NGOs. In March 2013, the French Minister for Development Pascal Canfin recommended to the Myanmar government to consider the establishment of an "NCP-like" body to relate with NCPs of adhering country investors in Myanmar.
- Norway's NCP co-operates with the Norwegian Ministry of Foreign Affairs to provide Norwegian embassies with information about the *Guidelines* and the NCPs.
- Japan's NCP sent information on the updated *Guidelines* to 233 overseas' establishments such as the Japanese embassies and consulate-generals. The NCP also closely collaborated with those establishments for contacting parties and collecting information in relation to specific instances.
- Sweden's NCP provided a toolkit to Swedish embassies in order to promote CSR in emerging markets and other-non adhering countries.
- United Kingdom sent training material on the *Guidelines* to all British embassy staff as part of the United Kingdom's NCP awareness raising programme. In 2012-13 the United Kingdom's NCP worked very closely to support the launch the Colombia's NCP via the UK embassy staff in Bogota.

Surveys and data collection

An increasing number of NCPs have started conducting surveys and collecting data documenting enterprises' awareness and use of the *Guidelines*:

- Argentina's NCP is working with "Fundación El Otro" on an assessment tool to monitor the enterprises' compliance with the *Guidelines*.
- In Denmark, in January 2013 the NCP had a survey conducted on the general knowledge of the *Guidelines* and the NCP. The survey showed that of 417 interviewed companies, 23% had knowledge of the *Guidelines* and 16% of the NCP.
- Italy's NCP developed a project to promote the *Guidelines* in the jewellery sector and carried out a survey among enterprises in this field. Italy's NCP further discussed RBC challenges at different events, focusing in particular on traceability issues in the jewellery industry.
- Norway's NCP conducted an annual survey among 600 companies on awareness of the *Guidelines* and the NCP complaint mechanism. The data showed that the proportion of Norwegian business leaders in companies with international operations that is familiar with the *Guidelines* has increased from one in ten in 2011 to six in ten in 2012. In 2012, the NCP also conducted a survey amongst company union representatives that are board members of Norwegian companies, and another survey amongst Civil Society Organisations (CSOs) and trade unions. A follow-up meeting was organised in October 2012 on the results. The feedback showed that many interested parties want further guidance on the use of the *Guidelines*. Among CSOs and trade unions, four in five are familiar with the *Guidelines*, but few enter into dialogues with companies regarding the *Guidelines*.
- Poland's NCP conducted the campaign "I implement the OECD *Guidelines*" which included a survey that measured the extent to which featured companies are complying with their obligations under the *Guidelines*.

In the context of free trade agreements (FTA) between the EU and its trading partners, the European Commission seeks to establish regular exchanges of information and co-operation on CSR and accountability, in particular with regard to the effective implementation and follow-up of internationally recognised CSR principles and guidelines, including the *Guidelines*. The recent EU FTAs with Korea, Central America and Peru and Colombia contain provisions to this end.

Focus: Co-operation at national and international level

At national level, the vast majority of NCPs⁶ coordinated with other government activities related to RBC, in particular:

- *Brazil's* NCP is actively engaged in the activities of the Government Forum for Social Responsibility. The NCP was frequently invited to meetings and discussions related to CSR within the government.
- As part of *Canada's* overall CSR Strategy for the Extractive Sector, Canada's NCP coordinates with other elements of the strategy, particularly the Office of the CSR Counsellor for the Extractive Sector.
- Since 2012, *Chile's* NCP has been working with other government agencies in the creation of a public policy on CSR issues. This initiative has been developed under the leadership of the Ministry of Economy. A proposal was presented to the President of Chile in January 2013, which resulted in the creation of an Advisory Body on Social Responsibility to the Minister of Economy, of which the NCP is a member.
- In *Estonia*, the NCP led the process for the development of a national CSR plan.
- *Hungary's* NCP was involved in the elaboration of the Hungarian CSR Action Plan for 2013-14.
- Within the framework of the EU Strategy on CSR, *Portugal's* NCP is working on an integrated national strategy that will include reference to the *Guidelines*. Portugal's NCP intends to co-operate closely with government entities and relevant stakeholders in the implementation of this strategy.
- The *Swiss* NCP invited a consultative group, which included several representatives of social partners, employer organisations, multinational enterprises, NGOs as well as several government agencies, for a meeting on 27 June 2012. This meeting was an opportunity to promote the *Guidelines* and present the ongoing work of the OECD and the NCPs with regard to the proactive agenda.

Several NCPs⁷ also engaged at international level, with OECD partner organisations and/or other RBC instruments. In particular:

- *Brazil's* NCP was invited to speak at the at a side-event organised by the UN Human Rights Council core group on Business and Human Rights that focused on access to remedy through non-judicial grievance mechanisms. The event was part of the 23rd Regular Session of the UN Human Rights Council in May 2013.
- *German's* NCP relates to the ILO, UN Global Compact, the National Institution for the Protection and Promotion of Human Rights, ISO26000 and other, within the German governmental action plan on CSR. The instruments are seen as mutually reinforcing each other. The Federal Government emphasizes the

important of the *Guidelines*, the ILO Tripartite Declaration and the UN Global Compact whenever suitable, for example in the context of the G8/G20.

- New-Zealand's NCP provided information on the *Guidelines* for the New Zealand delegation's presentation to the Committee on the United Nations Convention on the Elimination of Racial Discrimination in February 2013.
- United States' NCP acted as a moderator in a panel comprised of representatives from BIAC, TUAC, OECD Watch and OECD Secretariat that focused on the first year of implementing the updated *Guidelines*. The event was part of the World Bank/IMF Civil Society Forum that took place in April 2013.

In the reporting period, a significant number of NCPs reported having organised or participated in awareness-raising events with peer NCPs. This is particularly true for Latin America.

- Throughout the reporting cycle, Canada and Colombia's NCPs collaborated on the establishment, structure, and sharing of best practices relevant to the latter's new offices and participated in outreach and promotion of their newly established offices inaugurated in June 2012. In May 2013, a dialogue on the Dutch and Colombian experiences regarding best practices and CSR was conducted in Bogota.
- At the request of the United States' NCP, Canada's and Norway's NCPs offered lessons learned and best practices on mediation and voluntary dispute resolution to the US NCP Stakeholder Advisory Board in January 2013.
- In April 2013, NCPs and the OECD Secretariat were invited by Canada's NCP to participate in an international experts workshop on non-judicial access to remedy, co-sponsored by the UN Working Group on Business and Human Rights, and Canada's CSR Counsellor for the Extractive Sector, in Toronto (see Box 1.5).
- In March 2013, the Institute for Human Rights and Business (IHRB) held with the UK Department for Business, Innovation and Skills a second workshop⁸ on the role of NCPs with regard to the Extractive Sector. The event was attended by the NCPs of Austria, Belgium, Canada, Denmark, Netherlands, Norway, Sweden, Switzerland and the UK as well as by various stakeholders such as TUAC, OECD Watch, Amnesty International and ITUC.
- An international workshop focusing on RBC took place in Brazil on 28 January 2013. This workshop was a joint initiative by Brazil, Norway and United Kingdom NCPs, with the collaboration of the Netherlands' NCP. In December 2012, Brazil and Netherlands' NCPs jointly organised and participated in different events in Brazil to promote the *Guidelines* and discuss the role of NCPs (see Box 1.6).
- Chile and Norway's NCPs, supported by the Norwegian Ministry of Foreign Affairs and the Norwegian embassy in Santiago de Chile, jointly held a

**Box 1.5. International Expert Workshop “Business Impacts and Non-Judicial Access to Remedy: Emerging Global Experience”
Toronto, 29-30 April 2013**

The UN Guiding Principles on Business and Human Rights provide a global authoritative standard* for States and business to take preventative actions to avoid negative business impacts on people. Impacts, however, may occur and when they do, affected persons have the right to remedy. The UN Guiding Principles promote greater access to remedy: non-judicial grievance mechanisms – like NCPs – complement and can, at times, supplement judicial mechanisms.

Within this framework, the UN Working Group and the Government of Canada, with the collaboration of the Office of the Extractive Sector Corporate Social Responsibility Counsellor of Canada, organised an international workshop that brought together different practitioner networks and strands of work on non-judicial remedy, to help gain a better collective awareness and understanding of the wider system of remedy, identify issues that need further inquiry and guidance in order to achieve the implementation of the Guiding Principles, as well as contribute to address common misperceptions about non-judicial grievance mechanisms.

The meeting was co-chaired by the UN Working Group expert, Ms Alexandra Guáqueta, and Ms Marketa Evans, Extractive Sector Corporate Social Responsibility Counsellor Canada.

* The new human rights chapter is drawn from the UN Guiding Principles.

seminar on November 2012, with the participation of Peru’s NCP, to discuss opportunities and challenges for Chilean investors on topics that relate to the *Guidelines* with 130 participants from the private sector, trade unions, NGOs, academia and government agencies. The seminar was also an opportunity to present Chile and Norway’s joint NCP statement on the Cermaq case.

- In November 2012, Chile, Peru, Mexico, Colombia’s NCPs and Costa Rica participated in a workshop on the particular and common challenges encountered by Latin American NCPs. Norway’s NCP was also attending and presented its institutional evolution and own challenges.
- Norway’s NCP worked to strengthen regional collaboration by organising a Nordic Roundtable in Oslo in November 2012, with support from the Nordic Council of Ministers.
- The United States’ NCP participated in a June 2012 capacity-building consultation meeting involving NCPs from the Middle East North Africa region.

Box 1.6. International Workshop “The OECD Guidelines for responsible business conduct: Building Multilateral Co-operation with the OECD NCP Brazil”, Brasilia, 28 January 2013

As part of the effort to promoting the *Guidelines*, the NCPs in Brazil, Norway and the UK worked together to organise the ‘International Workshop on the *Guidelines* for Responsible Business Conduct: building multilateral co-operation with the NCP Brazil’. Broadly, the discussions aimed at both increasing the understanding of the participants about the *Guidelines* and the work of the NCPs, and offering an opportunity for sharing international experiences resulting from the adoption of the *Guidelines*.

The workshop also intended to make participants aware of the CSR practices of the Brazilian business community, highlighting the specific characteristics that must be taken into account in the implementation of the *Guidelines*. In this sense, the NCP Brazil recognised the need for extensive work in increasing awareness about the *Guidelines* principles over several business sectors, some of which are largely unacquainted with them.

In this context, the seminar had the ambition to develop a long-term and productive co-operative network between the NCP Brazil and the different areas of CSR in the country. Ideally, such co-operation would become a channel for multilateral communication, involving different levels of the Brazilian government, civil society, academia and private sector. Bringing together representatives of all these sectors – who may act as multipliers in their environment – is of great value to the dissemination and implementation of the *Guidelines*.

- In September 2012, several NCPs participated in a 3-day workshop on mediation organised by the Austrian NCP, in Salzburg (see Box 1.7).
- Switzerland’s NCP closely co-operated with other NCPs on different specific instances and the proactive agenda, namely Canada and Finland’s NCP. The Switzerland’s NCP also maintained co-operation and regular exchange with the German-speaking NCPs (Austria and Germany). Along with Netherlands’ NCP, Switzerland’s NCP was invited by Austria’s NCP to describe its structure and to share its experience in handling specific instances.
- On 4 October 2012, the Directorate-General for Trade of the European Commission and the Delegation of the European Union in Chile organised a workshop where 90 representatives from European and Latin American governments, civil society, EU institutions and the OECD discussed the role of CSR in trade and investment relations between Europe and Latin America. The workshop, which is one of several meetings and conferences organised in preparation for the EU-Latin America Summit in Santiago in

**Box 1.7. Workshop for National Contact Points
“Mediation and informal problem solving”, Salzburg,
23-25 September 2012**

The 2011 Update of the *Guidelines* has significantly reinforced the problem solving function exercised by NCPs and raised additional demands on the NCPs’ capacity to provide mediation as well as other informal problem solving services.

The first workshop on mediation and informal problem solving for NCPs was held in Salzburg and 23 to 25 September 2012. The event, co-hosted by the Austrian Federal Ministry of Economy, Family and Youth and the OECD, was moderated by Professor Larry Susskind of the MIT Harvard Public Disputes Program and Mil Niepold, senior mediator at the CBI. The project was assisted by Mr. Frans Evers, Chairman of the Dutch National Contact Point and was attended by 16 NCPs, from Chile, Israel, Italy, Canada, Columbia, Morocco, Mexico, Netherlands, Norway, United Kingdom, United States, Sweden, Slovenia, Czech Republic, Switzerland and Austria.

Among others, the workshop focused on issues related to transparency and confidentiality (including terms of reference relating to the mediation process); on costs and selection procedures to appoint an external mediator; on balancing differences between civil society and enterprises expectations; and on strategies for implementing NCP findings and decisions;

Participants benefited not only from expertise on problem solving instruments but in particular from sharing their experiences related to specific instances as well as exchanging ideas on improving the implementation of the *Guidelines*.*

* In light of the request by several NCPs to strengthen their mediation skills in case hiring an external mediator proves to be impossible, the planning of a second Workshop, involving stakeholders as well as *Guidelines*-experienced mediators, has already started.

January 2013, addressed multiple aspects of CSR and focused in particular on the role of the *Guidelines*.

Investment promotion, export credit and investment guarantee agencies

As shown in Annex 1.A4, adhering governments have continued to explore ways of ensuring that their support for the *Guidelines* finds appropriate expression in credit and investment promotion or guarantee programmes.

Paragraph 37 of the commentary to the updated *Guidelines* provides that “Statements and reports on the results of the proceedings made publicly available by the NCPs could be relevant to the administration of government programmes and policies. In order to foster policy coherence, NCPs are

encouraged to inform these government agencies of their statements and reports when they are known, by the NCP to be relevant to a specific agency's policies and programmes. ...”.

On 28 June 2012, the OECD adopted the Revised OECD Recommendation on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence (the “Common Approaches”) one year after the 2011 Update of the *Guidelines*. The revised Common Approaches “provide that members should promote awareness of the *OECD Guidelines for Multinational Enterprises* among appropriate parties involved in applications for officially supported export credits as a tool for responsible business conduct in a global context” [Paragraph 4 (iii)]. Furthermore, when undertaking an environmental and social review of projects, members “should, where appropriate, consider any statements or reports made publicly available by their National Contact Points (NCPs) at the conclusion of a specific instance procedure under the *OECD Guidelines for Multinational Enterprises*” [Paragraph 15, second bullet].

At European level, as part of the negotiations of EU Free Trade Agreements, the Commission pursues the inclusion of references to internationally recognised CSR guidelines and principles, which include the *Guidelines*.

In addition to the information in Annex 1.A4, this year's NCP reports include the following information on national government export credit programs:

- Canada's NCP Chair and the Committee routinely liaise with Export Development Canada, the export credit agency of Canada, regarding policies and other matters with respect to RBC. Canada's Trade Commissioner Service, along with its broader network of embassies, high commissions and other offices, both domestic and international, provide support and services to Canadian companies' international business operations. These activities include training, outreach, and response to stakeholders' queries regarding the *Guidelines*, and the NCP's role in encouraging their promotion and effective implementation.
- In its white paper on CSR in a global economy, the Norwegian Government stated that it will “work to increase knowledge and guidance about the *Guidelines*, among other things through the NCP and relevant public instruments”. In this respect, the Norway's NCP maintains close contact with the Norwegian Guarantee Institute for Export Credits (GIEK). For example, the NCP has considered standards and practices that are used by GIEK when conducting environmental and human rights due diligence in the projects it supports.

- United States' NCP has collaborated with the US Export-Import Bank on providing information on the *Guidelines* to applicants for the Bank's financing programs in support of US business activities abroad, and will continue this process.

Specific instances: Concluded and new

More NCPs developed procedures to handle specific instances

The majority of the NCPs have now aligned their procedures for the handling specific instances to the 2011 Procedural Guidance on the *Guidelines*. Brazil, Denmark, Mexico, Morocco and Portugal have developed or revised their procedures over the past year. Brazil, Chile and Morocco have published online, in their national languages, their respective procedures.

Overview of specific instances in the reporting period

Forty specific instances were concluded in this reporting period: 20 that were pending as of June 2012 (10 after initial assessment and 10 after "assistance to parties") and 20 that were received during the reporting period (see below). Overall, 26 statements were made publicly available.⁹

Of the 36 new specific instances that were submitted to NCPs:

- 11 are under "initial assessment";
- 5 are in the "assistance to parties" phase;
- 20 have been concluded (18 after the initial assessment phase, 2 after "assistance to parties").

Between June 2012 and June 2013, some NCPs saw an important increase in the number of specific instances as compared to the 2011-12 implementation period:

- Denmark had 4 specific instances in 2012-13, 0 in 2011-12;
- Germany had 5 specific instances in 2012-13, 1 in 2011-12;
- Mexico had 3 specific instances in 2012-13, 0 in 2011-12;
- Sweden had 3 specific instances in 2012-13, 0 in 2011-12;
- Spain had 2 specific instances¹⁰ in 2012-13, 0 in 2011-12.

In addition, the Dutch NCP has offered its assistance in advance of receiving a formal request (referred as "pre-mediation"). The Dutch NCP reports having received several of such requests, one of which was made by a group of stakeholders on the matter of labelling of place of origin on products. The first dialogue between the parties involved in this request was conducted by the Dutch NCP in September 2012 to the satisfaction of all parties concerned.

Outcomes of concluded specific instances

The 40 specific instances concluded during the last implementation period mainly concerned the mining and quarrying, manufacturing and financial sectors, with issues predominately relating to human rights, labour and environment. Eight specific instances also involved stakeholder engagements issues.

Half of the concluded specific instances concerned non-adhering countries: Benin, Cambodia, Cameroon, Democratic Republic of Congo, Dominican Republic, India, Indonesia, Laos, Mozambique, Niger, Paraguay, Russia, South Africa, United Arab Emirates, Uzbekistan and Zambia.

The reasons most frequently invoked by NCPs to conclude a specific instance after the initial assessment were:

- The specific instance is not material or/and substantiated.
- The NCP is not able to find a breach of the *Guidelines* based on the information provided.
- One party is not interested in mediation. In some cases, it is the complainants that were not interested in mediation, which could mean that the specific instance process was not well-understood by those complainants.
- Parallel proceedings or other processes such as consultation process are taking place on the same issues.

In 30% of the specific instances, NCPs provided assistance to parties in the form of a dialogue or mediation. In three of those cases, the parties reached an agreement (2) or agreed on a timetable for negotiations (1).

In five specific instances, the parties reached an agreement (4) or agreed to restart negotiations (1) through parallel proceedings or other processes.

When NCPs provided assistance to parties, the reasons most frequently invoked for not having a successful outcome to mediation/dialogue were:

- The parties could not agree on how to resolve the issues.
- The parties reached an agreement through parallel proceedings or other processes.
- One party requested that parallel legal proceedings be withdrawn as a condition to participate in mediation.

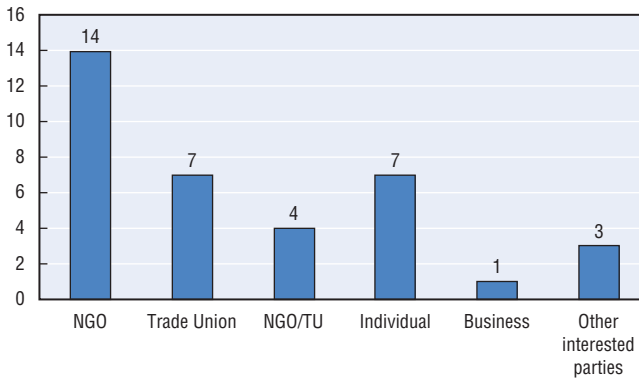
Regardless of the outcome of the specific instance, many NCPs made recommendations based on the *Guidelines* regarding *inter alia* disclosure and transparency, stakeholder engagement, due diligence in the supply chain, human rights and environmental issues.

New specific instances

Sources

Regarding the source of the request to consider an alleged non-observance of the *Guidelines*, the majority of the 36 new specific instances originated from NGOs, followed by trade unions and individuals. Four specific instances were jointly raised by NGOs and trade unions. Other interested parties and business were also among sources with 3 and 1 requests respectively.

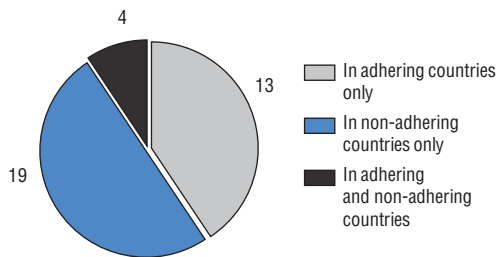
Figure 1.5. **Source of new specific instances**



Source: Author's calculations.

Host countries

Figure 1.6. **Location of new specific instances**



Source: Author's calculations.

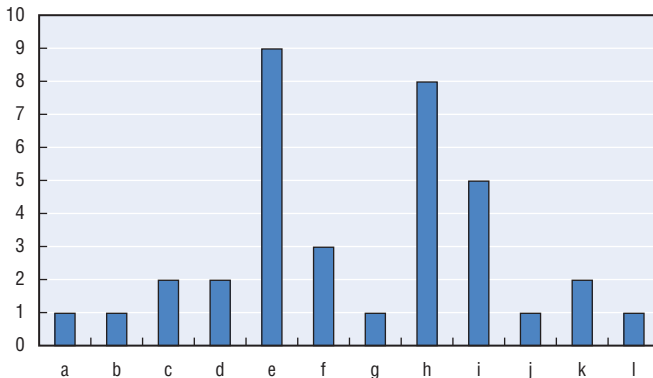
The reporting period witnessed a significant increase (over 20%) in the number of specific instances arising in non-adhering countries. Thirteen alleged non-observances of the *Guidelines* originated from adhering countries (Brazil, Colombia, Denmark, Egypt, Korea, Mexico, Netherlands, Norway, Sweden, Tunisia, Turkey) as compared to 19 in non-adhering countries (Bahrain, Bangladesh, Cambodia, El Salvador, India, Indonesia, Lao People's

Democratic Republic, Nicaragua, Philippines, Russia, South Africa, Thailand and United Arab Emirates). Four specific instances related to both adhering and non-adhering countries. One specific instance concerned MNE operations in several countries, namely Colombia, Norway, Turkey, US, Guatemala, Hong Kong, Indonesia and Malawi. The other three specific instances concerned MNEs based in adhering countries for the alleged misconduct of their subsidiaries in Thailand (2 specific instances) and India (one specific instance).

Industry sectors

Twelve industry sectors were concerned by new specific instances raised in the 2012-13 period, with a strong concentration on the Financial and insurance, and Manufacturing sectors, followed by the Mining and quarrying, and Human health and social work activities sectors. There were two specific instances in the Electricity, gas, steam and air conditioning supply sector and two in the Construction and professional, scientific and technical activities sector.

Figure 1.7. **Industry sectors concerned by new specific instances**



a	Accommodation and food services	g	Information and communication
b	Agriculture, forestry and fishing	h	Manufacturing
c	Construction	i	Mining and quarrying
d	Electricity, gas, steam and air conditioning supply	j	Other service activities
e	Financial and insurance activities	k	Professional, scientific and technical activities
f	Human health and social work activities	l	Transportation and storage

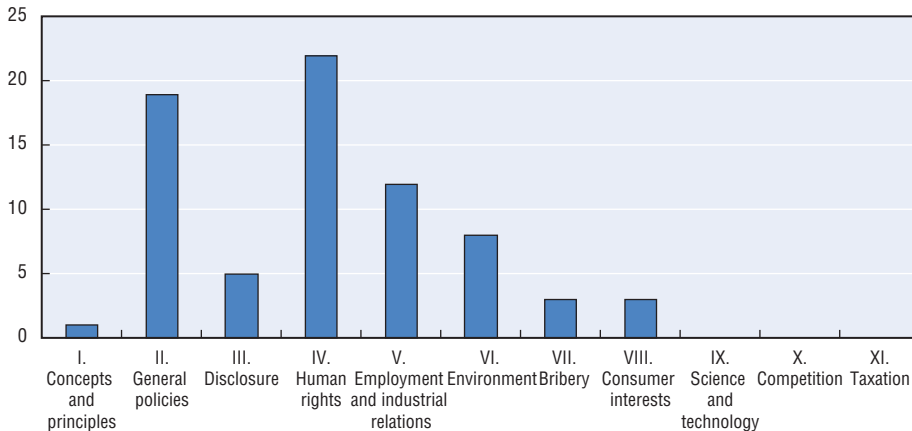
Source: Author's calculations.

This breakdown represents a noticeable change as compared to the industrial distribution of the last implementation period which showed a concentration on the Mining and quarrying sector, followed by Manufacturing and the Financial and insurance sectors.

Chapters of the Guidelines

Of the newly raised specific instances, the most frequently cited chapters were Human rights, General policies, Employment and industrial relations and Environment. The chapter on Human rights was cited in 22 of the 36 new specific instances, which is an important increase since the 2011-12 reporting period when this chapter was cited in eight of the 28 new specific instances.

Figure 1.8. **Guidelines chapters – citations in new specific instances**



Source: Author's calculations.

In all but one specific instance citing the Environment chapter, complainants also alleged the non-observance of the Human rights chapter. In most of the specific instances citing the Employment and industrial relations chapter, a breach of the Human rights chapter was also alleged.

Among the new specific instances as well as those concluded in the last implementation period, many complainants raised issues regarding stakeholder engagement, in particular with indigenous peoples. Many specific instances also raised issues and questions regarding due diligence in the financial sector and the responsibility of minority shareholders.

Co-operation among NCPs

Overall, 14 NCPs were involved in the handling of specific instances considered during the last implementation period. A number of NCPs also closely co-operated towards the resolution of the issues. In particular:

- France, Belgium and Luxembourg's NCPs collaborated in a specific instance that was handled by France's NCP. A final statement was issued in June 2013 as a result of this constructive co-operation. France's NCP was also consulted by its counterparts in Canada, Egypt, Morocco and the United Kingdom and the United States in the context of other specific instances.

- Norway's NCP actively co-operated with Sweden's NCP in the initial assessment phase of a specific instance regarding stakeholder engagement with Indigenous Peoples in Sweden. Norway's NCP also coordinated and exchanged information with Netherlands and Korea's NCPs on a case involving financial human rights due diligence. Morocco's NCP provided information to a specific instance handled by Norway's NCP.
- Netherlands' NCP assisted Luxembourg's NCP in dealing with a specific instance, and coordinated with the UK NCP in a specific instance. It also coordinated with Norway and Korea's NCPs, as well as with the Chair of the WPRBC and the Dutch embassy in Seoul, for a specific instance concerning a Korean company, and a Dutch and a Norwegian investment fund.
- In May 2012, Canada and Mexico's NCPs both received a request for review regarding the same specific instance in Mexico. The NCPs determined that Mexico's NCP was best placed to lead the review of the request. Canada's NCP assisted Mexico's NCP during its consideration of the case.
- Italy's NCP co-operated with the US NCP on the handling of a specific instance submitted to both NCPs

Notes

1. The European Commission is not formally a National Contact Point, however, it is committed to the success of the Guidelines and reports annually to the OECD on its activities related to the Guidelines.
2. See Annex 1.A2 for further details concerning NCP structures.
3. As reported in the previous section, the same bodies have an advisory and oversight functions in the case of the monopartite Australian and Colombian NCPs and the interagency British NCP.
4. The Arabic version was prepared by the Morocco NCP and the OECD is coordinating the release of a commonly agreed version by all Arabic speaking NCPs.
5. See Annex 1.A3 to this chapter for the comprehensive list.
6. Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, Colombia, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Korea, Latvia, Netherlands, New Zealand, Norway, Poland, Portugal, Slovenia, Spain, Sweden, Switzerland, Tunisia, the United Kingdom and the United States.
7. Australia, Austria, Belgium, Brazil, Canada, Chile, Colombia, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Hungary, Italy, Japan, Korea, Latvia, Mexico, Netherlands, Norway, Peru, Poland, Portugal, Spain, Sweden, Switzerland, the United Kingdom and the United States.
8. The first workshop in 2012 was co-organised by IHRB and Norway's NCP.
9. See Annex 1.A5 of this chapter for summaries of available concluded specific instances.
10. The NCP received 16 requests by individuals, on the same issues, versus a national company in 15 cases and an MNE in 1 case. As indicated in the Spain's NCP Report, they are here considered as 2 specific instances.

ANNEX 1.A1

Statement on the Rana Plaza tragedy

25 June 2013 – the National Contact Points are deeply saddened by the tragedy at Rana Plaza in Bangladesh. Our hearts go out to all of those affected. Like Secretary-General of the OECD Gurría has expressed: “This event is a dramatic wakeup call for the international textile industry, governments, and other stakeholders to address the risks before they result in tragedies such as this.”

The National Contact Points welcome robust and credible initiatives, such as the Accord on Fire and Building Safety in Bangladesh, which try to improve the situation on the ground. Abandoning production in Bangladesh could make the situation of the workers worse. The *OECD Guidelines for Multinational Enterprises* point out that in these circumstances, the responsible course is to work with stakeholders to guarantee the safety of workers, improve their working conditions and ensure respect for human rights.

The *OECD Guidelines for Multinational Enterprises* are a comprehensive set of recommendations on responsible business conduct that 45 OECD and non-OECD adhering governments expect enterprises to observe in their global operations. The *OECD Guidelines for Multinational Enterprises* ask enterprises to respect human and labour rights and be responsible for identifying and addressing risks of adverse impacts associated with their own activities or in their supply chains and other business relationships. The *OECD Guidelines for Multinational Enterprises* are supported by National Contact Points in each adhering country. Most of the enterprises sourcing textiles and garments from Bangladesh originate from adhering countries to the *OECD Guidelines for Multinational Enterprises*.

National Contact Points welcome that responsible business conduct in the textiles and garments supply chains will be addressed, as a matter of priority, in the high level discussions at the Global Forum on Responsible Business Conduct on 26-27 June 2013 and at the meeting of Working Party on Responsible Business Conduct on 28 June 2013.

The National Contact Points welcome the call to collective action by several Ministers and Secretary-General Gurría.

The National Contact Points will meet their responsibilities under the *OECD Guidelines for Multinational Enterprises* with respect to enterprises in the textiles and garments sector. Where appropriate, they will undertake stakeholder consultations at the national level and support and participate in work undertaken in the context of the multi-stakeholder Proactive Agenda by OECD. In coordination with other government agencies, they will, where appropriate, support implementation of robust and credible initiatives agreed to by stakeholders and enterprises, that are consistent with the *OECD Guidelines for Multinationals Enterprises* and the relevant ILO standards, such as the Accord on Fire and Building Safety.

The National Contact Points strongly encourage the Investment Committee and the Working Party on Responsible Business Conduct to work urgently with companies, trade unions and other relevant civil society groups to develop a collective response within the framework of its Pro Active Agenda. Particular attention should be given to the principles of adding value and avoiding duplication with other initiatives. NCP's encourage enterprises, trade unions, and other civil society groups to co-operate with the Working Party in this field.

A collective response could take the form of a joint effort by the OECD, that could include the ILO and the UN Working Group on Human Rights and Business/ UN OHCHR, to host a Forum for all interested stakeholders to inform one another of the specific initiatives in which they are involved regarding due diligence in the textile and garments sector in Bangladesh with the objective of fostering coordination and collaboration among all stakeholders in meeting their respective responsibilities. It could include sharing views on the relevance of their experiences in relation to Bangladesh to the textiles sector more broadly. It could also include consideration of strategies and practices for application of risk based due diligence in supply chains in the sector. The NCP's also note the importance of donor community involvement and the contribution it can make in assisting Bangladesh and other textile and garments producing countries in meeting their responsibilities with respect to these sectors.

As noted in the statement of the Secretary-General of OECD, the *OECD Guidelines for Multinational Enterprises*, using risk-based due diligence, multi-stakeholder engagement and targeted development assistance, have been instrumental in meeting challenges in other sectors such as trade in minerals and may be able to make an important contribution alongside initiatives already underway in the textiles industry.

ANNEX 1.A2

*NCP structures and advisory/oversight bodies*Table A2.1. **NCP structures in 2012 and 2013 and governmental location**

NCP	2012	2013	Governmental location in 2013
Argentina	Monopartite	Monopartite	Ministry of Foreign Affairs
Australia	Monopartite	Monopartite	Commonwealth Treasury
Austria	Monopartite	Monopartite	Ministry of Economy, Family and Youth
Belgium	Tripartite	Tripartite	Federal Public Service Economy
Brazil	Interagency	Interagency	Ministry of Finance
Canada	Interagency	Interagency	Ministry of Foreign Affairs
Chile	Monopartite	Monopartite	Ministry of Foreign Affairs
Colombia	Monopartite	Monopartite	Ministry of Trade Industry Tourism
Czech Rep.	Monopartite	Monopartite	Ministry of Trade Industry
Denmark	Indi Experts	Indi Experts	Ministry of Business and Growth
Egypt		Bipartite	Ministry of Investment
Estonia	Monopartite	Monopartite	Ministry of Economic Affairs and Communication
Finland	Quadripartite	Quadripartite	Ministry of Economy and Employment
France	Tripartite	Tripartite	Ministry of Economy and Finance
Germany	<i>Monopartite</i> ¹	Interagency	Federal Ministry of Economics and Technology
Greece	Monopartite	Monopartite	Ministry for Development and Competitiveness
Hungary	Monopartite	Monopartite	Ministry of National Economy
Iceland		Monopartite	Ministry of Industry and Innovation
Ireland			
Israel	Monopartite	Monopartite	Ministry of Economy
Italy	Monopartite	Monopartite	Ministry of Economic Development
Japan	Interagency	Interagency	Ministry of Foreign Affairs
Korea	Interagency	Indi Experts	Korean Commercial Arbitration Board
Latvia	<i>Quadripartite</i> ²	Tripartite	Ministry of Foreign Affairs

Table A2.1. **NCP structures in 2012 and 2013 and governmental location**
(cont.)

NCP	2012	2013	Governmental location in 2013
Lithuania			
Luxembourg			
Mexico	Monopartite	Monopartite	Ministry of Economy
Morocco	Monopartite	Interagency	Agence des Investissements
Netherlands	Indi Experts	Indi Experts	Ministry of Foreign Affairs
New Zealand	Monopartite	Monopartite	Ministry of Business Innovation and Employment
Norway	Indi Experts	Indi Experts	Ministry of Foreign Affairs
Peru	Monopartite	Monopartite	Private Investment Promotion Agency
Poland	Monopartite	Monopartite	Information and Foreign Investment Agency
Portugal	Interagency	Interagency	Ministry of Economy and Ministry of Foreign Affairs
Romania	Bipartite		
Slovak Rep.	Monopartite	Monopartite	Slovak Investment and Trade Development Agency
Slovenia	Interagency	Interagency	Ministry of Economic Development and Technology
Spain	Monopartite	Monopartite	State Secretary of Commerce
Sweden	Tripartite	Tripartite	Ministry of Foreign Affairs
Switzerland	Interagency	Interagency	State Secretariat of Economic Affairs
Tunisia		Tripartite	Ministry of Development and International Cooperation
Turkey		Monopartite	Ministry of Economy
United Kingdom	Interagency	Monopartite	Department for Business Innovation and Skills
United States	Monopartite	Monopartite	Department of State

1. The German NCP was already an interagency in 2012.
2. The Latvian NCP was already a tripartite NCP in 2012.

Table A2.2. **NCP structures in 2013, governmental location and advisory/oversight bodies**

NCP	2013	Governmental location	Advisory Body	Oversight Body
Argentina	Monopartite	Ministry of Foreign Affairs		
Australia	Monopartite	Commonwealth Treasury	Government	
Austria	Monopartite	Ministry of Economy, Family and Youth	Government Business Trade Unions NGO Expert in dispute resolutions	
Belgium	Tripartite	Federal Public Service Economy		
Brazil	Interagency	Ministry of Finance		
Canada	Interagency	Ministry of Foreign Affairs		
Chile	Monopartite	Ministry of Foreign Affairs	Government	Business Trade Unions NGO Expert in CSR
Colombia	Monopartite	Ministry of Trade Industry Tourism	Business Trade Unions NGO Expert in CSR	
Czech Rep.	Monopartite	Ministry of Trade Industry	Government Business Trade Unions NGO	
Denmark	Ind. experts	Ministry of Business and Growth		
Egypt	Bipartite	Ministry of Investment	Government Business Trade Unions	Government
Estonia	Monopartite	Ministry of Economic Affairs and Communication		
Finland	Quadripartite	Ministry of Economy and Employment		
France	Tripartite	Ministry of Economy and Finance		
Germany	Interagency	Federal Ministry of Economics and Technology	Government Business Trade Unions NGO	Government
Greece	Monopartite	Ministry for Development and Competitiveness		
Hungary	Monopartite	Ministry of National Economy		Government
Iceland	Monopartite	Ministry of Industry and Innovation		
Ireland				
Israel	Monopartite	Ministry of Economy	Government	Business Trade Unions NGO

Table A2.2. **NCP structures in 2013, governmental location and advisory/oversight bodies** (cont.)

NCP	2013	Governmental location	Advisory body	Oversight body
Italy	Monopartite	Ministry of Economic Development	Government Business Trade Unions	
Japan	Interagency	Ministry of Foreign Affairs		
Korea	Indi Experts	Korean Commercial Arbitration Board		
Latvia	Tripartite	Ministry of Foreign Affairs		
Lithuania				
Luxembourg				
Mexico	Monopartite	Ministry of Economy		
Morocco	Interagency	Agence des Investissements		
Netherlands	Indi Experts	Ministry of Foreign Affairs		
New Zealand	Monopartite	Ministry of Business Innovation and Employment	Government Business Trade Unions	
Norway	Indi Experts	Ministry of Foreign Affairs		
Peru	Monopartite	Private Investment Promotion Agency		
Poland	Monopartite	Information and Foreign Investment Agency		
Portugal	Interagency	Ministry of Economy and Ministry of Foreign Affairs		
Romania				
Slovak Rep.	Monopartite	Slovak Investment and Trade Development Agency		
Slovenia	Interagency	Ministry of Economic Development and Technology		
Spain	Monopartite	State Secretary of Commerce		Government
Sweden	Tripartite	Ministry of Foreign Affairs		
Switzerland	Interagency	State Secretariat of Economic Affairs	Government Business Trade Unions NGO Expert in CSR	
Tunisia	Tripartite	Ministry of Development and International Cooperation		
Turkey	Monopartite	Ministry of Economy		
United Kingdom	Interagency	Department for Business Innovation and Skills	Government Business Trade Unions NGO	
United States	Monopartite	Department of State	Business Trade Unions NGO Expert in CSR	

ANNEX 1.A3

Promotional activities

Promotional activities organised by NCPs

Belgium

- The *Guidelines for Multinational Enterprises* and its NCP, Brussels, 27 June 2012.

Brazil

- International Workshop on Responsible Business Conduct in Brazil, Secretariat for Human Rights, Brasilia (Brazil), 28 January 2013.
- CSR in Brazil and in the Netherlands: the role of the NCPs for the *OECD Guidelines for Multinational Enterprises*, Ministry of Finance, Brasilia (Brazil), 6 December 2012.
- Brazil-Netherlands Workshop on Corporate Social Responsibility, Superior Labour Court, Brasilia (Brazil), 5 December 2012.

Canada

- Multi-stakeholder Information Session on the revised 2011 *Guidelines* and the Role of Canada's NCP, Ottawa (Canada), 19 November 2012.

Chile

- Challenges for Chilean investors. The effects of the *OECD Guidelines for Multinational Enterprises*. A practical approach, Santiago (Chile), 16 November 2012.
- Workshop: "The *OECD Guidelines for Multinational Enterprises*. Structures, challenges and difficulties of Latin American National Contact Points (NCPs)," Santiago (Chile), 15 November 2012.

Colombia

- Exchanging Best Practices in CSR: The Dutch and Colombian Experience, Bogota (Colombia), 16 May 2013.
- Regional Event on the *OECD Guidelines for Multinational Enterprises*, Bogota (Colombia), 11 December 2012.
- Seminar on the *Guidelines* and the Mining Sector, Bogota (Colombia), 21 November 2012.
- Introducing the *Guidelines* to the Colombian Mining Business Associations, Bogota (Colombia), 26 October 2012.
- The Colombian National Mining Agency and the *OECD Guidelines for Multinational Enterprises*, Bogota (Colombia), 17 October 2012.
- The *Guidelines* and the Mining Sector: the Role of Public Servants in Promoting the *Guidelines*, Bogota (Colombia), 16 October 2012
- Regional Event on the *OECD Guidelines for Multinational Enterprises*, Cali (Colombia), 6 September 2012.
- Regional Event on the *OECD Guidelines for Multinational Enterprises*, Medellin (Colombia), 5 September 2012.
- Regional Forum on Trade in Services – Barranquilla, Barranquilla (Colombia), 26 June 2012.
- Launching of the Colombian NCP, Bogota (Colombia), 13 June 2012.

Denmark

- FSR – Danish Auditors (trade organisation of auditing, accounting, tax and corporate finance), Copenhagen (Denmark), 5 March 2013.
- 92-Group (NGOs), Copenhagen (Denmark), 15 February 2013.
- The Danish Confederation of Trade Unions, Copenhagen (Denmark), 8 February 2013.
- The Danish Federation of SMEs, Copenhagen (Denmark), 8 March 2013.
- Confederation of Danish Industries, Copenhagen (Denmark), 19 February 2013.
- EU High Level Group on CSR, Bruxelles (Belgium), 28 November 2012.
- Launch of the Danish NCP, Ministry of Business and Growth, 1 November 2012.

European Union

- Relevant CSR departments of the European Commission hosted events and various activities with their respective constituencies. For instance, the Commission co-hosted in 2012 a CSR event in Santiago de Chile featuring the *Guidelines*, working along with industry, business associations and investment promotion agencies.

France

- Réunion annuelle d'information du PCN français, Ministère de l'Économie et des Finances Paris, (France), 15 May 2013.

Israel

- Seminar on the *OECD Guidelines for Multinational Enterprises*, Sustainability Forum, Shikun and Binui company, Petah-Tikva (Israel), 31 October 2012.
- Corporate Responsibility and Combating Foreign Bribery OECD requirements, trends in the global arena, and implications on business, Tel-Aviv (Israel), 6 June 2012.

Italy

- *OECD Guidelines: Implications for the territory and for the local development policies*, Lamezia Terme (Calabria, Italy), 9 May 2013.
- Presentation of the National Action Plan on CSR 2012-14, Rome (Italy), 16 April 2013.
- Mediterranean Exhibition of the Shared Social Responsibility, Naples (Campania, Italy), 5 April 2013.
- The corporate social responsibility – Focus and debate on regional initiatives in Puglia, Modugno (Puglia, Italy), 25 January 2013.
- *OECD Guidelines: Implications for the territory and for the local development policies*, Naples (Campania, Italy), 6 December 2012.
- *OECD Guidelines: Implications for the territory and for the local development policies*, Pescara (Abruzzo, Italy), 9 November 2012.
- *OECD Guidelines: Implications for the territory and for the local development policies*, Campobasso (Molise, Italy), 21 September 2012.

Korea

- International Forum for New CSR Strategy, Korea, 27 November 2012.

Latvia

- Campaign “Against shadow economy – for business competitiveness”, Latvia, 2012-13.
- Latvia towards the OECD – Business Perspective. *OECD Guidelines for Multinational Enterprises*, Riga (Latvia), 7 December 2012.
- Seminar “Anti – corruption practice in Business to Business relations/supply chains”, Riga (Latvia), 2012.

Netherlands

- Stakeholder meeting: “The Guidelines and Freedom of Association”, The Hague (Netherlands), 29 November 2012.
- “Transparency and the Guidelines: instruments for reporting”, The Hague (Netherlands), 18 June 2013.

Norway

- International workshop on the OECD Guidelines for Multinational Enterprises, Brasilia (Brazil), 28 January 2013.
- The Guidelines: Challenges for Chilean Investors, Santiago (Chile), 16 November 2012.
- Meeting with NGOs and trade unions, Oslo (Norway), 24 October 2012.

Poland

- Seminar on the achievements to date and plans of Polish section of the BIAC, Warsaw (Poland), 25 March 2013.

Switzerland

- Meeting of the consultative group of the Swiss NCP, Bern (Switzerland), 27 June 2012.

United Kingdom

- Extractives Sector – Responsible Business Conduct Conference, London (UK), March 2013.
- The Guidelines and UK NCP Structure and Cases, London (UK), February 2013.
- UK NCP Structure and Procedures presentation to the US Stakeholder Advisory Board, Washington, DC (USA), February 2013.
- The Guidelines and UK NCP Structure and Cases workshop, Washington, DC (USA), February 2013.
- Corporate Social Responsibility Conference, Brasilia (Brazil), January 2013.
- Responsible Business Conduct Workshop – Indian and the Guidelines, New Delhi (India), December 2012.

United States

- Promoting Labour and Human Rights through Investment, Department of State, Washington, DC (USA), May 2013.
- Enforceable Codes of Conduct, Federal Trade Commission, Washington, DC (USA), November 2012.

Promotional activities organised by national stakeholders with NCP participation

Argentina

- Taller sobre derechos humanos y empresas, Buenos Aires (Argentina), 14 March 2013.

Australia

- Extractive Industries Transparent Index Global Conference 2013, Sydney (Australia), May 2013.
- Sustainable Mining Symposium, Melbourne Business School – Melbourne University, (Australia), May 2013.
- Myanmar Round Table – Corporate Social Responsibility, University of Melbourne, (Australia), April 2013.
- APEC Corporate Social Responsibility Dialogue, Surabaya (Indonesia), April 2013.
- APEC – Investment Experts Group, Surabaya (Indonesia), April 2013.
- Mining and International Aid Conference, National Portrait Gallery, Canberra (Australia), December 2013.
- Australian National University, Canberra (Australia), November 2012.
- University of Sydney (Human rights discussion and seminar), Sydney (Australia), September 2012.
- University of Melbourne (forum on corporate social responsibility standards), Melbourne (Australia), August 2012.

Austria

- The *Guidelines* and their relevance for Austrian companies, Salzburg (Austria), 25 April 2013.
- Sustainable Business in Emerging Markets, Vienna (Austria), 21 March 2013.
- 1st Meeting of the Austrian Global Compact Network 2013, Vienna (Austria), 20 February 2013.
- Aussenwirtschaftsbeirat- Foreign Trade Committee, Vienna (Austria), 20 December 2012.
- Not my business? Business and Responsibility, Vienna (Austria), 27 November 2012.
- Extrajudicial Complaint Mechanisms for Resolving Conflicts of Interest between Business Actors and Those Affected by their Operations, Vienna (Austria), 17 October 2012.

- 2nd Meeting of the Austrian Global Compact Network 2012, Vienna (Austria), 16 October 2012.
- 7th Austrian CSR-Day, Vienna (Austria), 18 September 2012.

Belgium

- Different small events organised in the context of the broader CSR picture.

Brazil

- Best practices and approaches in implementing the UN Guiding Principles on Business and Human Rights by business enterprises – preventing harm and ensuring remedies, Geneva (Switzerland), 29 May 2013.
- Working Group on Integrity and against Corruption, São Paulo (Brazil), 30 January 2013.
- Meeting of the National Labour Relations Board, Ministry of Labour and Employment, 24 January 2013.
- Meeting of the Governmental Forum for Social Responsibility, National Trade Confederation, Brasília (Brazil), 27 September 2012.
- Meeting of the Forum of the Employers Confederations – Executive Branch, National Confederation of Financial Institutions, Brasília (Brazil), 3 December 2012.
- Workshop on CSR in the EU and Latin America: the role of OECD *Guidelines for MNEs*, Santiago (Chile), 4 October 2012.
- Promoting Responsible Corporate Conduct: The OECD *Guidelines for Multinational Enterprises*, Rio de Janeiro (Brazil), 16 June 2012.
- Ethos Institute Intl. Conference – Business and the New Economy: what changes with Rio+20, São Paulo (Brazil), 11 June 2012.

Canada

- International Experts Workshop on Access to Non-judicial Remedies, Toronto (Canada), 29-30 April 2013.
- International Human Rights and Business Workshop on NCP's Role in the Extractive Sector, London (UK), 22 March 2013.
- Prospectors and Developers Association of Canada Trade Show and Convention, Toronto (Canada), 3 March 2013.
- Inauguration of the Office of the Colombian NCP, Bogota (Colombia), 9 June 2012.
- Tripartite Roundtable on Labour Issues, Ottawa (Canada).

Chile

- Pasantía Internacional en Responsabilidad Social, Santiago (Chile), 9 January 2013.
- EU – Latin America works on Corporate Social Responsibility, Santiago (Chile), 4 October 2012.

Colombia

- Panel Discussion on Human Rights, Businesses and Intellectual Property, Bogota (Colombia), 20 May 2013.
- The *Guidelines* and the Mining and Hydrocarbon Sectors, Bogota (Colombia), 23 April 2013.
- ANDI's Committee on Sustainability and the *Guidelines*, Bogota (Colombia), 19 April 2013.
- CSR, the OECD and the *Guidelines*, Bogota (Colombia), 13 April 2013.
- Presenting the *Guidelines* before CECODES' Board of Directors, Bogota (Colombia), 16 November 2012.
- The *Guidelines* in the Context of Colombia's Commercial Relations with the EU, Bogota (Colombia), 13 November 2012.
- 7th ANDI CSR Conference and 2nd Interamerican CSR Conference, Cali (Colombia), 11 October 2012.
- CSR in the EU and Latin America: the role of *OECD Guidelines for Multinational Enterprises*, Santiago (Chile), 4 October 2012.
- Global Compact Annual Congress, Bogota (Colombia), 4 September 2012.
- Event about the OECD hosted by ANDI, Bogota (Colombia), 25 June 2012.

Denmark

- CSR Awards, Sønderborg (Denmark), 13-14 November 2012.
- Other events such as Danish Federation of Small and Medium-Sized Enterprises, Danish Chamber of Commerce and 92 Group (NGOs).

European Union

- The EU participated in numerous meetings with business community and stakeholders, CSR related meetings at the European Parliament and a Multi-Stakeholder Forum (preparations). Relevant CSR departments of the European Commission hosted events and various activities with their respective constituencies.

France

- *Exigences sociales et environnementales dans le commerce international*, Ministère de l'Économie et des Finances, 23 May 2013.
- *Les Principes directeurs de l'OCDE à l'intention des entreprises multinationales et les PCN*, Ministère de l'Économie et des Finances, 8 April 2013.
- *Les Principes directeurs révisés de l'OCDE et les PCN*, MEDEF, 20 February 2013.
- *Assises Nationales de la Solidarité Internationale et du Développement*, Ministère des Affaires étrangères, 18 January 2013.
- *Les Principes directeurs de l'OCDE à l'intention des entreprises multinationales et les PCN*, Ministère de l'Économie et des Finances, 16 January 2013.

Germany

- Conference organised by the German Employers' Association (BDA) on the *OECD Guidelines*, Berlin, 22 November 2012.

Greece

- *Harnessing Trade for Growth in the Mediterranean*, Geneva, 30 May 2013.
- *European CSR Award Scheme*, Athens, 24 April 2013.
- *European CSR Award Scheme*, Hellenic Federation of Enterprises, Athens, 3 December 2012.
- *Working with the EBRD: Consultant Opportunities with the European Bank for Reconstruction*, Bank of Greece, Athens, 28 September 2012.
- *International Conference "Social Responsibility in the Public Sector"*, Athens, 11 September 2012.
- *Annual Corporate Social Responsibility Conference*, Athens, 7 June 2012.

Hungary

- *Top 200 Conference of Figyelő*, Budapest (Hungary), 11 October 2012.

Israel

- *OECD Guidelines for Multinational Enterprises and the Israeli NCP*, The Center for Ethics, Mishkenot Sheananim, Jerusalem (Israel), 13 November 2012.

Italy

- *Methodologies and practices to promote social responsibility in small en medium enterprises international benchmarking study*, Bologna (Emilia-Romagna, Italy), 27 May 2013.

- Responsible Jewellery Council's Annual General Meeting, Milan (Lombardy, Italy), 23 May 2013.
- The Dimension of Labour in Corporate Social Responsibility, ILO office, Rome (Italy) 22 May 2013.
- LabGov, the Laboratory for the Governance of the Common Good, Rome, LUISS University, 10 May 2013.
- Rules and Responsibilities: together for social cohesion, Milan (Lombardy, Italy), 25 April 2013.
- 1st Forum on Consumer Responsibility, (Rome, Italy), 15 March 2013.
- Social Responsibility and traceability in the field of Jewellery, Chamber of Commerce of Milan (Lombardy, Italy), 15 October 2012.
- Presentation of the "Charter of CSR" by Osservatorio Socialis, Chamber of Deputies, Rome (Italy), October 2012.
- The *Guidelines* and the chapter on taxation, Rome (Italy), 26 September 2012.
- Social responsibility in the gold sector. Ethics and sustainability of the supply chain, Chamber of Commerce of Arezzo (Tuscany, Italy), 12 July 2012.
- Enterprise and Sustainable Innovation: We accept the challenge!, Treviso (Veneto, Italy), 2 July 2012.
- CSR Multi-stakeholder Forum, Venice (Veneto, Italy), 8 June 2012.

Japan

- Asia-Pacific Business Forum 2012 (OECD-ESCAP Conference on International Corporate Responsibility Instruments), Kuala Lumpur (Malaysia), 16 October 2012.

Korea

- Regional CSR Forum, Korea Chamber of Commerce and Industry, 2 April 2013.

Latvia

- Annual special program "Sustainability Index", Riga (Latvia), 24 May to closing event.
- Seminars for the Multinational Enterprises, Riga (Latvia), 12 December 2012 to 15 March 2013.
- "Business Integrity in the Baltic countries – Time for Action", Riga Business School (Latvia), 14 February 2013.
- "The role of Corporations in the Fight against Corruption" organised by the American Chamber of Commerce, Riga (Latvia), 29 November 2012.

Mexico

- Challenges in Mexico: Commitment to communities and safety: Towards responsible mining, Mexico Mining Summit 2013, 23 May 2013.
- Social Responsibility: A key factor for business development, American Chamber of Commerce (Mexico), 20 March 2013.
- Commission of Corporate Social Responsibility, International Chamber of Commerce (Mexico), 28 February 2013.
- Commission of International Affairs, Mexican Employers Association (COPARMEX) (Mexico), 21 February 2013.
- Challenges for Chilean investors: The *OECD Guidelines for Multinational Enterprises*, SOFOFA (Chile), 16 November 2012.
- New Perspectives: Corporate Social Responsibility in Mexico and Sweden, Nordic Chamber of Commerce (Mexico), 6 September 2012.

Netherlands

- “Groen is de rode draad”, Den Haag (Netherlands), 20 June 2013.
- ISO26000 annual conference “Sustainable stakeholder engagement”, Maarsse (Netherlands), 16 April 2013.
- NJCM seminar: Human Rights as a business risk, Amsterdam (Netherlands), 14 April 2013.

Norway

- The *Guidelines* and Export Credit, Oslo (Norway), 14 May 2013.
- Academic lunch about the *Guidelines* for Faculty of Law employees, Oslo (Norway), 4 April 2013.
- NCPs and the Extractive Sector, London (UK), 22 March 2013.
- Roundtable on Norway’s implementation of the UN Guiding Principles, Oslo (Norway), 21 March 2013.
- Investing the Rights Way, London (UK), 15 March 2013.
- Investing the Rights Way, New York (US), 8 March 2013.
- The *Guidelines* and the NCPs, Video conference Oslo-Copenhagen, 5 March 2013.
- The UN Guiding Principles and the *Guidelines*, Oslo (Norway), 26 February 2013.
- Supply Chain Responsibility, Oslo (Norway), 6 February 2013.
- EU Expert Consultations on Sector-Specific Guidance on UN Guiding Principles, Brussels (Belgium), 28 March 2013 to 31 March 2013.

- Implementation of the UN Guiding Principles, Warsaw (Poland), 25 January 2013.
- Indigenous Peoples, Environment and Business – Case: Tar Sand, Oslo (Norway), 13 December 2012.
- Resolving Company-Community Conflicts: Practical Approaches and Multi-Stakeholder Perspective, Hague (Netherlands), 6 December 2013.
- UN Forum on Business and Human Rights, Geneva (Switzerland), 4 December 2012.
- Oslo Conference on Corporate Social Responsibility, Oslo (Norway), 13 November 2012.
- Human Rights and Business – Utopia?, Oslo (Norway), 6 November 2012.
- Roundtable on Corporate Liability for Violation of Human Rights, 29 October 2012.
- The *Guidelines* and transparency/access to information, Zurich (Switzerland), October 2012.
- CSR – A driver of innovation and competitiveness in the Nordic Region, Trondheim (Norway), 11 October 2012.
- Extractive Industries and Indigenous Peoples, Tromsø (Norway), October 2012.
- Course for diplomat trainees, Oslo (Norway), 28 September 2012.
- *Guidelines* and indigenous peoples, Karasjok (Norway), 27 September 2012.
- Meeting with UN Working Group on Business and Human Rights member Alexandra Guáqueta, Oslo (Norway), 11 September 2012.
- YS' (trade union) Corporate Responsibility Conference, Oslo (Norway), 11 September 2012.
- Speed-dating with Ambassadors and Business Representatives, Oslo (Norway), 20 August 2012.
- EU Conference on National Human Rights Institutions, Berlin (Germany), 6 August 2012 to September 2012.
- Singapore University Summer Institute on Business and Human Rights, Singapore, 16-17 July 2012.

Peru

- Workshop: “The OECD *Guidelines for Multinational Enterprises*. Structures, challenges and difficulties of Latin American National Contact Points (NCPs)”, Santiago (Chile), 15 November 2012.
- Workshop Corporate Social Responsibility in the EU and Latin America: The role of the *Guidelines*, Santiago (Chile), 4 October 2012.

Slovenia

- 8th IRDO International Conference: Current Challenges 2013; Education and Communication for more Social Responsibilities, Maribor (Slovenia), 7 March 2013.

Switzerland

- RespACT/UNGC Network Austria, “CSR-standards in practice”, presentation of the NCP work, Salzburg (Austria), 25 April 2013.
- Lausanne Business School, Presentation on the *Guidelines*, Lausanne (Switzerland), 12 April 2013.
- Association of Bernese Economists, Presentation on the *Guidelines*, Bern (Switzerland), 25 March 2013.
- CSR Thursday Lunch, Geneva (Switzerland), 7 February 2013.
- UN Global Compact Network Switzerland, Zurich (Switzerland), 26 September 2012.
- Employers association Basel, Presentation on the update of the *Guidelines*, Basel (Switzerland), 30 August 2012.

Tunisia

- Seminar organised by *Union Générale des Travailleurs de Tunisie* regarding international instruments (ILO and OECD), (Tunisia), 23 May 2013.

United Kingdom

- African Forum on Responsible Business, Tunis (Tunisia), November 2012.
- OECD/UN Conference, Kuala Lumpur (Malaysia), October 2012.
- EU/Latin American Conference on Responsible Business Conduct and Complaint Mechanisms (Chile), October 2012.
- Mediation Training for NCPs, Salzburg (Austria), September 2012.

United States

- Turning Ideas Into Action: RBC and the First Year of Implementing the Updated *Guidelines*, World Bank/IMF Civil Society Forum, April 2013.
- Business Impacts and Non-judicial Access to Remedy: Emerging Global Experience, Toronto (Canada), April 2013.
- Best practice in stakeholder engagement, implementation and reputational risk and opportunity, New Orleans (Louisiana), November 2012.

Promotional activities by BIAC, TUAG, OECD Watch

BIAC Submission – August 2013

The following list provides selected examples of BIAC's recent activities to raise awareness of the updated *Guidelines*. Please note that this list is non-exhaustive and does not take stock of all activities by BIAC and its member organisations.

The second BIAC survey on member companies' experiences in NCP specific instance procedures, including recommendations for notifying parties, was presented to the OECD on 25 June 2013 and distributed to BIAC members.

- BIAC was actively involved in commenting on the draft of the OECD brochure on “The OECD *Guidelines for Multinational Enterprises – Responsible Business Conduct Matters*”. The brochure was subsequently widely distributed to BIAC members.
- The Chair of the BIAC Investment Committee made an introduction on “The 2011 OECD *Guidelines for Multinational Enterprises: what business needs to know*” at the workshop on responsible business conduct organised by the Brazilian Secretariat de Direitos Humanos on 28 January 2013, and had separate meetings with the Brazilian NCP.
- The BIAC/BDA/VNO-NCW brochure “The 2011 OECD *Guidelines for multinational enterprises: an introduction for business*” was translated by the Brazilian NCP into Portuguese and is now available in four languages on the BIAC website.

BIAC member organisations

BDA, Germany

- “CSR Germany” (www.csrgermany.de), the CSR Internet portal of Germany's four leading business organisations, published information on the OECD MNE *Guidelines*.
- On 22 November 2012, the German Employers' Associations and the OECD Berlin Centre organised an international conference on the *Guidelines* in Berlin titled “The OECD *Guidelines for Multinational Enterprises – A Benchmark for Responsible Business Conduct in a Global Economy*”, in which representatives from German business, the German NCP, the OECD, the IOE and BIAC, Trade Unions and NGOs as well as guests from emerging economies discussed the *Guidelines*. 3 Panels were held on “The OECD *Guidelines in Business Practice*”, “Mediation Process of the National Contact Points – Experiences and Expectations” and “The OECD *Guidelines as a Basis for Global Governance*”.

- BDA and the Confederation of Netherlands Industry and Employers (VNO-NCW) published and disseminated the joint brochure on “The 2011 OECD *Guidelines for Multinational Enterprises – An introduction for business*”. BDA informed its members of recent developments on the *Guidelines* via circulars and in workshops.

DI, Denmark

- The Confederation of Danish Industry (DI) updated the free online Global Compact Self Assessment tool in April 2013 in order to align the tool with the UN Guiding Principles on Business and Human Rights and the OECD *MNE Guidelines*. The Global Compact Self Assessment Tool is a free online tool where companies can test their performance on all ten UN Global Compact principles and assess how well these issues are managed. The tool provides indicators to track and demonstrate progress, which are based on international standards and best practices and designed for use by all company sizes and sectors in all countries.

Keidanren, Japan

- At its General Assembly on 13 July 2012, BIAC Japan of Keidanren highlighted the updated *Guidelines* and discussed the function of the OECD as a forum for rule-making.
- On 30 July 2012, BIAC Japan of Keidanren hosted a meeting on the OECD *Due Diligence Guidance*, in which an official of the Japanese government presented its activities in this area to Keidanren members. A legal expert of the OECD explained the guidance.
- In September 2012, BIAC Japan of Keidanren issued its bulletin, including the reports on the above-mentioned meetings and distributed it to its members.

MAI, Israel

- MAI’s Business Forum on Corporate Responsibility, Business Ethics and Anticorruption has continued its periodical meetings featuring leading guest speakers from all sectors. The Forum provides a platform for consultation and distribution of materials among business representatives, with considerable focus on the *Guidelines*. In the fall 2013, the Forum will assemble for its 10th meeting since its foundation.
- In February 2013, MAI co-hosted with the Israeli CSR at the Ministry of Economy a seminar that highlighted the importance of adopting a comprehensive policy on minerals from conflict-affected and high-risk areas, featuring the OECD’s latest publication on this matter.

MEDEF, France

- MEDEF has actively participated in the activities of the French tripartite NCP as statutory member. It participated in the proceeding of 3 specific instances (monthly meetings). MEDEF intervened at the first annual information

meeting of the French NCP to French stakeholders (more than 100 participants). It was successively auditioned by the French Committee for Human Rights and by the French Economic and Social Council. MEDEF is currently fully involved in the French investigations on the Rana Plaza accident as requested by the French Trade Minister (2 days a month).

- MEDEF continued its promotional activities concerning the *Guidelines* to its members (sectoral federations, territorial organisations) through several informal workshops. In January 2013, it organised and hosted a conference on the *Guidelines* where more than 100 representatives of sectoral federations and SMEs had a direct interaction with the French NCP Secretariat. MEDEF wrote and disseminated an e-brochure explaining the functioning of the French NCP and the specific instances.
- MEDEF informed its members of the developments regarding the *Guidelines* and the Investment Committee via circulars.

SP, Czech Republic

- The Confederation of Industry of the Czech Republic is contributing to discussions of the Czech NCP, which is taking the lead for the organisation of a conference to exchange best practices, the development of a new website, and the preparation of a booklet on the *Guidelines*.

VNO-NCW, The Netherlands

- VNO-NCW actively participated in a process initiated by the Dutch Social Economic Council to develop concrete guidance on due diligence for companies.
- VNO-NCW took part in regular stakeholder meetings with the Dutch NCP.
- VNO-NCW was a member of the steering group on the development of an Internet tool for SMEs to assess risks in their international supply chains.

BIAC Observer Organisations

ANDI, Colombia

- At the Annual Assembly held in 2012, ANDI formalised the adoption of the OECD principles for companies. Members declared among others to: Promote Corporate Social Responsibility programs, and the application of the *Guidelines* in their companies. Participate in national and international forums that discuss and promote the OECD *Guidelines* in order to endorse this vision among Colombian entrepreneurs. Follow up the different discussions on the OECD *Guidelines* around the globe. Adopt the conclusions and recommendations arising from BIAC and the Colombian NCP. Sponsor, as members of the Global Compact and the Regional Centre for Latin America and the Caribbean in Support of United Nations Global Compact, gatherings and meeting about the *Guidelines* and the Global Compact Principles. Participate in national and international scenarios with the objective to disseminate responsible actions being taken by the affiliated companies.

- 7th Corporate Social Responsibility Forum 2012: The Corporate Social Responsibility forum organised annually by ANDI included an intervention of the Colombian NCP and the presentation of the Director of the Centre of the OECD for Latin America and the Caribbean (Mexico). The main references used for this panel were the *MNE Guidelines* and principles of the UN Global Compact.
- OECD intervention in the Human Rights and Global Compact roundtable organised by ANDI in May 2013: The roundtable presented the challenges and opportunities for MNEs regarding the application of human rights. The Colombian NCP representatives presented the *OECD MNE Guidelines*.
- OECD intervention in the 5th National Committee for the Corporate Social Responsibility Issues, Barranquilla, Colombia, 18 June 2013: The event addressed as main subject the *Guidelines*, which were analysed particularly in relation to the Human Rights Chapter.

Member Companies

- BIAC member companies actively participated in meetings organised at the national level, such as those mentioned above, as well as OECD workshops and conferences. They have been actively involved in projects related to the *Guidelines*, such as the projects on stakeholder engagement in the extractive industry and on due diligence in the financial sector, including through participation in meetings, surveys and interviews. Individual companies are also in contact with their respective NCP. For example, Credit Suisse had a meeting with the Swiss NCP for a mutual update on issues of interest, including developments concerning the *Guidelines* and the new advisory council for the Swiss NCP and the work of the Thun Group of Banks.

TUAC Submission – September 2013

Events/training

International activities

- Regional training seminar: TUAC and the Friedrich Ebert Stiftung (FES) jointly organised a capacity-building seminar attended by trade unionists from Benin, Burkina Faso, Cameroon, Cote d'Ivoire, Gabon, Ghana, Guinea, Mali, Niger, Nigeria, Senegal and Togo, as well as representatives of the Global Union Federations; Benin, 22-23 October 2012.
- Committee on Workers' Capital: TUAC gave a presentation on the new responsibilities of pension funds, under the 2011 *Guidelines*, to use leverage to address adverse impacts of their investee companies at a conference of the Committee on Workers' Capital; Paris, 26 November 2012.

- IndustriALL and the International Union of Foodworkers (IUF): IndustriALL organised a training session on the *Guidelines*, which was conducted by TUAC, for representatives of IndustriALL and the IUF; Geneva, 11 January 2013.
- Council of Global Unions: TUAC gave a presentation on the Trade Union Guide to the OECD *Guidelines*, at a meeting of international trade union organisations; Geneva, 21 January 2013.
- UK NCP: TUAC gave a presentation at the UK NCP-supported workshop on “The Role of the NCPs in the Extractive Sector”, organised by the Institute for Business and Human Rights (IHBR); London, 22 March 2013.
- World Bank/IMF: The General Secretary of the International Trade Union Confederation (ITUC), Sharan Burrow, participated as a panellist in the OECD-organised session, “Turning Ideas Into Action: Responsible Business Conduct and Implementing the Updated OECD *Guidelines for Multinational Enterprises*”, together with panellists from the US NCP, the OECD Secretariat, BIAC and OECD Watch, at the World Bank/IMF Civil Society Forum of the 2013 IMF/WB Meetings; Washington, DC, 19 April 2013.
- European Trade Union Confederation (ETUC): TUAC gave a presentation on the OECD *Guidelines for Multinational Enterprises* at the ETUC Conference on “Corporate Social Responsibility”, which was attended by together EU trade unionist and representatives of the European Commission; Brussels, 14 May 2013.

Trade union activities by country

Belgium

- The Belgian trade unions *Confédération des Syndicats Chrétiens de Belgique* and the *Fédération Générale du Travail de Belgique* were involved in the organisation of a promotional event of the Belgian NCP, “The Guidelines for Multinational Enterprises and its NCP”; Brussels, 28 June 2012.

Germany

- The German Trade Union Confederation, organised a training event on the *Guidelines* for representatives of European Works Councils, which was also attended by representatives of the German NCP, the OECD Berlin Centre and TUAC; Berlin, 28 November 2012.

Negotiations with companies

- The International Union of Foodworkers (IUF): The IUF reports that it routinely uses the OECD *Guidelines*, together with the UN Guiding Principles on Business and Human Rights, in its discussions and negotiations with companies, in particular with regard to trade union rights, the rights of workers in precarious jobs and the disclosure of information.

Tools and resources

International activities

- Trade Union Guide to the *Guidelines*: In January 2013, TUAC published a Trade Union Guide to the *Guidelines* in English (5 000 copies printed, 4 500 of which have already been distributed, mainly, to trade union partners). The Trade Union Guide has been translated into Burmese, Czech (Parts 3 and 4), German, Italian, Japanese, Korean and Swedish and is currently being translated into French, Spanish and Polish www.tuacoecdmneguidelines.org/resources.asp.
- Committee of Workers' Capital (CWC): In May 2013, the CWC published an Investor Brief on the "OECD *Guidelines for Multinational Enterprises*", which first describes the "responsibility of institutional investors under the *Guidelines*" before explaining what a pension fund owning shares or bonds of a company should do to identify the risks of being linked to adverse impacts, www.workerscapital.org/images/uploads/CWC_OECD_Guidelines.pdf.
- International Union of Foodworkers (IUF): IUF wrote an article on precarious work, "Establishing rights in the disposable jobs regime", which included a section on 'Imposing a human rights framework on companies' that explains how trade unions can make use of the *Guidelines* (and the international human rights instruments covered by Chapter 4 of the *Guidelines*) to convert precarious jobs to permanent and build union membership. The article was published in the ILO's International Journal of Labour Research (2013, Volume 5, Issue 1) in English, French and Spanish: <http://cms.iuf.org/sites/cms.iuf.org/files/Establishing%20rights%20in%20the%20disposable%20jobs%20regime.pdf>.

TUAC Dedicated Website: Throughout the reporting period, TUAC has continued to maintain its Website providing a list and analysis of trade union cases (150) and profiles of National Contact Points. It has also developed new information sets, including tables that provide a comparison of NCP performance, and new features, such as displaying in red those cases that have not been closed within the one year indicative timeframe.

www.tuacoecdmneguidelines.org/NCPcomparisonAll.asp.

www.tuacoecdmneguidelines.org/cases.asp.

Trade union activities by country

Czech Republic

- The Czech-Moravian Confederation of Trade Unions, with financial support from the Friedrich Ebert Stiftung, translated Parts 3 and 4 of the TUAC Trade Union Guide to the *Guidelines* into Czech.

Germany

- The German Trade Union Confederation, together with its education and training partner the DGB Bildungswerk, created a handbook aimed at supporting German Works Councils to use the *Guidelines*.

Italy

- The three Italian trade union federations (CGIL, CISL and UIL) financially supported the translation, design and printing of the TUAC Trade Union Guide to the *Guidelines* into Italian.

Japan

- The Japanese Trade Union Confederation, RENGO, translated the TUAC Trade Union Guide to the *Guidelines* into Japanese, which is accessible on its Website (www.jtuc-rengo.or.jp/kokusai/takokusekikigyou/data/OECD_MNEs_Guidelines-TU_Guide_JP_0424.pdf). RENGO also published a brochure on RBC aimed at promoting the *Guidelines* among its affiliates and their counterpart companies. Of 5 000 printed copies, 4 000 have already been distributed to RENGO affiliates, Japanese NGOs and several companies.

Korea

- The Federation of Korean Trade Unions translated and printed the TUAC Trade Union Guide to the *Guidelines* in Korean.

Sweden

- LO-Sweden, with financial support from the Swedish Agency for Development Co-operation, translated the TUAC Trade Union Guide to the *Guidelines* into Swedish.

Myanmar

- The Federation of Trade Unions – Myanmar translated and printed the TUAC Trade Union Guide to the *Guidelines* in Burmese.

OECD Watch submission – August 2013

OECD Watch is an international network of more than 80 CSOs from across the world promoting corporate accountability and responsibility. Members of OECD Watch share a common goal to improve corporate accountability mechanisms in order to achieve sustainable development and enhance the social and environmental performance of corporations worldwide.

This submission outlines the activities that OECD Watch has undertaken between June 2012 and June 2013 to raise awareness about and build capacity on the *Guidelines* among CSOs. These activities were undertaken with the aim of improving the implementation of *Guidelines*.

Supporting and maintaining information on specific instances filed by NGOs

The website and case database of *Guidelines* complaints filed by NGOs remains an important means of communication and outreach for OECD Watch. In 2012 the website has been maintained and information about the updated *Guidelines* has been included. OECD Watch has published Quarterly Case Updates in June 2012 and December 2012 that provide up-to-date information about the latest developments in specific instances filed by NGOs. These publications have been distributed to approximately 750 persons per publication. Additionally more than 1000 visitors have downloaded the Quarterly Case Updates from the OECD Watch website.

The OECD Watch Secretariat and OECD Watch members have supported and advised NGOs on using the *Guidelines*' specific instance mechanism and promoting best practices among NCPs. OECD Watch members were instrumental in addressing several cases concerning responsible business conduct through the specific instance process in the past year.

A detailed summary of the contents and developments of all NGO cases filed, closed, concluded or withdrawn between June 2012 and June 2013 can be found in the OECD Watch case database on the OECD Watch website (www.oecdwatch.org/cases). In addition to cases that have been filed with NCPs, OECD Watch and members have supported many more organisations by helping to examine the possibility of filing a specific instance.

Production of informational and promotional materials about the OECD Guidelines

In June 2012 OECD Watch published a brochure introducing the content of the *Guidelines* and the associated specific instance mechanism. This brochure is primarily meant for CSOs, workers, communities and individuals affected by irresponsible business conduct. It briefly explains what the *OECD Guidelines* are, to which situations they apply and how these groups can use the *OECD Guidelines* to hold corporations to account for their actions. OECD Watch has engaged with NCPs and embassies to widely disseminate this publication. The brochure is available in English, French, Spanish and Korean. http://oecdwatch.org/publications-en/Publication_3816.

In June 2013 OECD Watch launched its new guide "Calling for Corporate Accountability: A Guide to the 2011 *OECD Guidelines for Multinational Enterprises*". This practical guide is designed to help individuals, communities, NGOs and trade unions that have been negatively affected by corporate behaviour to address the alleged misconduct through filing a *Guidelines* complaint. The guide provides an elaboration on the content of the *Guidelines* and the associated specific instance mechanism, as well as detailed guidance

how this mechanism can be used to address responsible business conduct. The guide is available in English, French and Spanish.

http://oecdwatch.org/publications-en/Publication_3962.

Additionally, over the past year, OECD Watch member Accountability Counsel prepared several adapted versions of its Accountability Resource Guide, which includes a section on the use of the *OECD Guidelines* and NCPs. The adapted were tailored to the specific needs of various CSOs and communities.

www.accountabilitycounsel.org/resources/arg/.

Presentations and expert contributions on the Guidelines

OECD Watch and members delivered several presentations, lectures and contributions as panellists on the *Guidelines*. The table below lists some of the contributions made by OECD Watch between June 2012 and June 2013.

Table 1.A3.1. OECD Watch contributions on the Guidelines

Details	Information	OECD Watch contribution
Event: Organisers: Location, date:	Business and human rights: implementing the Guiding Principles one year on Wilton Park Oxford, United Kingdom, 27-29 June 2012	Presentation by the OECD Watch Secretariat
Event: Organisers: Location, date:	Stakeholder Workshop on Investment and Corporate Social Responsibility European Commission Directorate-General for Trade Santiago de Chile, Chile, 4 October 2012	Presentation by OECD Watch members PLADES and CEDHA
Event: Organisers: Location, date:	Expert Conference on the Revised 2011 OECD <i>Guidelines</i> BDA Berlin, November 2012	Presentation by OECD watch member Transparency International, Germany
Event: Organisers: Location, date:	CSR Conference Oslo Norwegian ministry of Foreign Affairs Oslo, Norway, 14 November 2012	Presentation by the OECD Watch Secretariat
Event: Organisers: Location, date:	Enforceable Codes of Conduct: Protecting Consumers Across Border Federal Trade Commission Washington, DC, USA, 29 November 2012	Presentation by OECD Watch member EarthRights International
Event: Organisers: Location, date:	Update on the role of OECD National Contact Points with regard to the Extractive Sector Institute for Human Rights and Business London, United Kingdom, 22 March 2013	Presentation by the OECD Watch Secretariat
Event: Organisers: Location, date:	2013 World Bank/IMF Civil Society Policy Forum World Bank Washington, DC, USA, 19 April 2013	Presentation by the OECD Watch Secretariat

Organisation and support training and capacity building events

Workshop on the Guidelines for MNEs in Brazil – June 2012

As side-event to the Rio+20 conference held in Rio de Janeiro Coordination Committee member CEDHA, with the support of OECD Watch

member Friends of the Earth Europe, organised the workshop “Promoting Responsible Conduct: The *OECD Guidelines for Multinational Enterprises*”.

Capacity building seminar on non-judicial grievance mechanisms in Peru – July 2012

On 7 and 8 July 2012 FIDH organised an annual meeting for fifty members to train them on non-judicial grievance mechanisms. OECD Watch was invited to deliver a training session on the *Guidelines*.

Capacity building seminar on the *OECD Guidelines* in Chile – November 2012

To follow up on the *OECD Guidelines* complaint that Norwegian NGOs had filed against Cermaq in 2009 OECD Watch Coordination Committee member ForUM, together with Coordination Committee CEDHA and PLADES organised a seminar for 20 CSOs on the *Guidelines* in Chile in November 2012.

Workshop on the *OECD Guidelines* in Denmark – June 2013

To increase knowledge on the new Danish Mediation and Complaints-Handling Institution for Responsible Business Amnesty Denmark had organised a workshop for 30 representatives Danish NGOs in Copenhagen. OECD Watch and OECD Watch Coordination Committee member ForUM from Norway shared their expertise and experience on the *Guidelines* and filing complaints.

Capacity building seminar on Indigenous Peoples, Human Rights and Advocacy in Cambodia – June 2013

Within the training programme Indigenous Peoples, Human Rights Advocacy and Development that was organised by the Diplomacy Training Program in Phnom Penh, Cambodia from 10-19 June 2013 participants were trained on how to use the *Guidelines* in advocacy on the private sector. OECD Watch Coordination Committee member Oxfam Australia trained twenty-five Indigenous Advocates from the Asia-Pacific Region to understand the *Guidelines*’ provisions and associated complaint mechanism.

Promotional activities by the OECD

2013

- BSCI celebrates its 70 Year Anniversary: Ready for the next decade, Brussels, 26 June 2013.
- *Quel rôle pour la RSE en temps de crise ?*, 2^e Édition des Assises de la Responsabilité Sociale des Entreprises in Casablanca, 29 May 2013.
- Workshop UN WG Business and Human Rights and Canada CSR Counsellor, Access to Remedy, 29-30 April 2013.
- Panel on the *Guidelines* at the 2013 World Bank/IMF Civil Society Policy Forum on the first two years of implementation of the *Guidelines*, Washington, 19 April 2013.

- Presentation of the *Guidelines*, Meeting of the French General Council of Environment and Sustainable Development, Paris, 30 April 2013.
- Presentation of the *Guidelines* at the French Economic, Social, Environmental Council, Paris, 10 April 2013.
- Conference on Sustainable Business in the Arctic hosted by the Arctic Council, Stockholm, 18 April 2013.
- Annual meeting of the MENA Program on RBC, Paris, 17 March 2013.
- Launch of the new NCP in Morocco, Rabat, 4-5 March 2013.
- CSR Europe stakeholders consultation on benchmark tool for companies grievance mechanisms, Brussels, March 2013.
- Working Dinner on Business for Society Dinner Responsible Business Conduct and Roundtable on Making the Most of the *Guidelines* – Davos, 23 January 2013.

2012

- Latvia Towards the OECD – A Business Perspective on the *OECD Guidelines For Multinational Enterprises*, Riga, 7 December 2012.
- UN Forum on Business and Human Rights, Geneva, 4-5 December 2013.
- Annual Review Meeting of the EU High Level Group on CSR, Brussels, 28 November 2012.
- Signature of MoU between the OECD and the ICC during the 11th International Conference of the International Coordinating Committee of National Human Rights Institutions, Amman, 6 November 2012.
- 2012 UNCTAD ILO OECD Roundtable on CSR, 5 November 2012.
- BIAC Raw Materials Meeting, 18 October 2012.
- OECD-ESCAP Conference on “International Corporate Responsibility Instruments “Putting Convergence into Action”, Kuala Lumpur, 15-16 October 2012.
- Trade and the Worst Forms of Child Labour, EU DG Trade, Brussels, 3 October 2012.
- Seminar on Mediation, Salzburg, 23-24 September 2012.
- Remarks by OECD Secretary-General at the Conference organised by the Israeli Ministry of Industry, Trade and Labour and the Ministry of Justice, in collaboration with the Manufacturers Association of Israel: “Corporate Responsibility and Combating Foreign Bribery. OECD requirements, trends in the global arena and implications on business”, Tel Aviv, Israel, June 2012.

ANNEX 1.A4

The Guidelines and export credit, overseas investment guarantee and inward investment promotion programmes

Australia	Export credit and investment promotion	Australia's Export Finance and Insurance Corporation (EFIC) promotes corporate social responsibility principles (including the <i>OECD Guidelines</i>) on its website. Links to the Australian NCP's website are provided on the Foreign Investment Review Board and the Austrade websites.
Austria	Export credits	Oesterreichische Kontrollbank AG, acting as the Austrian export credit agency on behalf of the Austrian Federal Ministry of Finance, is actively promoting corporate responsibility principles and standards. On its website, extensive information on CSR issues, including the current text of the <i>Guidelines</i> , is available.
Belgium	Export credit and investment guarantees	The Belgian Export Credit Agency mentions the <i>OECD Guidelines</i> in its investment guarantees and all export credit guarantees.
Canada	Export Credits	The Export Development Canada (EDC) promotes corporate responsibility principles and standards, including the recommendations of the <i>Guidelines</i> . EDC has linked its website with that of Canada's NCP. Brochures on the <i>Guidelines</i> are distributed. Dialogue on CSR with key stakeholders is maintained. EDC also produces an annual GRI report.
Chile	Investment promotion	The Foreign Investment Committee is the agency that promotes Chile as an attractive destination for foreign investment and international business.
Czech Republic	Investment promotion	There is a special agency called "Czech Invest" operating in the Czech Republic that provides information on the Czech business environment to foreign investors. It has prepared an information package (which includes the <i>Guidelines</i>) that is passed to all foreign investors considering investing within the territory of the Czech Republic. The Czech NCP co-operates closely with Czech Invest.

Denmark	Export credits	When applying for export credits, the Danish Eksport Kredit Fonden informs exporters about the <i>Guidelines</i> and encourages compliance.
Egypt	Investment promotion	The General Authority for Investment and Free Zones (GAFI) is the Egyptian investment promotion agency. GAFI was formerly under the Ministry of Investment, but in March 2011 it moved under the direct supervision of the Cabinet. ENCP maintains close ties with GAFI, and both bodies distribute brochures on the <i>Guidelines</i> .
Estonia	Investment promotion	The Estonian Investment Agency has published a description of the <i>Guidelines</i> and added a link to the Estonian NCP website.
Finland	Export credit guarantees and investment insurance	Finland's Export Credit Agency, Finnvera, calls the attention of guarantee applicants to the <i>Guidelines</i> through its webpages and CSR report.
France	Export credits and investment guarantees	Firms applying for export credits or investment guarantees are systematically informed of the <i>Guidelines</i> through the insurance application form supplied by the body in charge of managing these programmes (COFACE), which applicants are asked to sign and in which they must declare, inter alia, that they have "read and understood the OECD <i>Guidelines</i> ".
Germany	Investment guarantees	Companies applying for investment guarantees are referred to the <i>Guidelines</i> directly on the application form. In the application process, they have to confirm awareness of this reference by signature. The reference also provides a link to further information on the <i>Guidelines</i> .
Greece	Investment promotion	The <i>Guidelines</i> are available on the website of the Ministry for Development, Competitiveness, Infrastructure, Transport & Networks (www.mindev.gov.gr/?p=6732). The "Invest in Greece Agency S.A.", the General Secretariat of Consumers Affairs, and the Export Credit Insurance Organisation (ECIO) have links to the Ministry.
Hungary	Investment promotion	Important OECD documents on bribery, anti-corruption, and export credits are available on the websites of EXIMBANK, MEHIB, and different ministries. Cross links support the quick search for relevant OECD documents.
Israel	"Invest in Israel" – Investment Promotion Center	The website of Israel's Investment Promotion Center has a direct link to the Israeli NCP website where the <i>OECD Guidelines</i> are available electronically. The NCP works in close co-operation with the Investment Promotion Center.
Italy	Export credits	The Italian NCP works with SACE (the Italian Agency for export credit). In its CSR strategy SACE engaged to promote the <i>Guidelines</i> among business operators and stakeholders. The Italian NCP is also involved with SIMEST (Company for Export Financial Support), INVITALIA (Inward Investments Agency), and ITALIA (Outward Investments Promotion Agency, formerly called ICE). These organisations have published the <i>Guidelines</i> on their websites and are disseminating them among enterprises asking for public financial support. Together with the <i>Guidelines</i> , the ECAs are promoting the Risk-Awareness Tool in Weak Governance Zones.

Japan	Trade-investment promotion	The <i>Guidelines</i> (basic text and Japanese translation) are available on the websites of the Ministry of Foreign Affairs (MOFA); Ministry of Health, Labour and Welfare (MHLW); and the Ministry of Economy, Trade and Industry (METI). While they do not directly refer to the <i>Guidelines</i> , several Japanese organisations, such as the Japan Bank for International Co-operation (JBIC), the Japan International Co-operation Agency (JICA), and Nippon Export and Investment Insurance (NEXI), refer to other related OECD instruments on their websites.
Korea	Trade-investment promotion	The <i>Guidelines</i> can be found on the MKE (Ministry of Knowledge Economy) website (www.mke.go.kr). MKE promotes trade and investment.
Latvia	Investment promotion	A summary of the <i>Guidelines</i> and the text are available on the website of the Ministry of Foreign Affairs of Latvia www.mfa.gov.lv/lv/Arpolitika/Ekonomiskas-attiecibas/Starpt-ekon-org/OECD/4258/ . The <i>Guidelines</i> are also available online at the: Employers' Confederation www.ddk.lv ; Sustainability Index www.ilgtspejasindeks.lv and Investment and Development Agency www.liaa.gov.lv/lv/eksportetajiem/eksporta_tirgi/noderiga_informacija/ .
Lithuania	Investment promotion	The "Invest Lithuania" Agency (www.businesslithuania.com) operates in the Republic of Lithuania and provides information on the Lithuanian business environment to foreign investors. It has prepared an information package that is passed to all foreign investors considering investing within the territory of Lithuania. The Lithuanian NCP (located at the Ministry of Economy) co-operates closely with the "Invest Lithuania" Agency. Investment Promotion Programme for the period of 2008-13 was adopted by the Government on 19 December 2007. The goal of the programme is to improve Lithuania's investment environment in general and to establish an efficient system for the promotion of direct investment, focusing on long term economic and social development. The entire text of the Investment Promotion Programme can be found on the webpage of the Ministry of Economy: www.ukmin.lt/en/investment/invest-promotion/index.php .
Mexico	Investment Promotion	The Mexican NCP is located within the Directorate General for Foreign Investment in the Ministry of Economy, which is responsible for Mexico's participation in the Investment Committee and in different international organisations, among other activities. The <i>Guidelines</i> can be found on the website. Mexico's investment promotion agency – PROMEXICO – works in close co-operation with this Department.
Netherlands	Export credits and investment guarantees	Applicants for Dutch business programmes or facilities receive copies of the <i>Guidelines</i> . In order to qualify, companies must state that they are aware of the <i>Guidelines</i> and that they will endeavour to comply with them to the best of their ability. Applicants for the PSI programme have to prepare a CSR policy plan based on the <i>OECD Guidelines</i> . (www.oesorichtlijnen.nl/aan-de-slag/maak-mvo-beleid/).

1. THE ACTIVITIES OF NATIONAL CONTACT POINTS

New Zealand	Export Credit promotion	New Zealand's Export Credit Office (ECO) mentions the <i>OECD MNE Guidelines</i> on its website. ECO also provides a link to both the <i>OECD Guidelines</i> and the New Zealand NCP's website. The New Zealand Overseas Investment Office website provides these links as well.
Norway	Guarantee Institute for Export Credits (GIEK) Export Credit Norway	GIEK has developed its own social responsibility policy which is posted on its website. For more information please see: www.giek.no/giek_en/default.asp?menu=610&page=277&cells=0 . Export Credit Norway promotes responsible business conduct in general and the <i>OECD Guidelines</i> in particular (in Norwegian only): http://eksportkredit.no/no/Om-Eksportkredit/SAMFUNNSANSVAR/ .
Peru	Investment Promotion	The Peruvian NCP is located in the Investment Promotion Agency- PROINVERSION, which provides foreign investors with guidance services and information relating to the Peruvian business environment including information on the <i>OECD Guidelines</i> and the NCP's activities.
Poland	Investment promotion	The Polish NCP is located in the investment promotion agency (PAIIZ). PAIIZ helps investors to enter the Polish market and to capitalize on business opportunities in Poland. It guides investors through all essential administrative and legal procedures a project involves; it also supports firms that are already active in Poland. PAIIZ provides rapid access to complex information relating to legal and business matters regarding investments, and it helps business find appropriate partners, suppliers, and locations.
Portugal	Exports and Investment Promotion	AICEP – Portugal Global is a Business Development Agency responsible for the promotion of exports, the internationalisation of Portuguese companies, especially SMEs, and in-bound foreign investment. The <i>Guidelines</i> are included in the information given to all companies.
Romania	Trade and Foreign Investment Promotion	The Romanian NCP is located within the Romanian Centre for Trade and Foreign Investment Promotion. The NCP's webpage was developed starting from the investment promotion central site. The <i>Guidelines</i> (basic texts) are available on the site of the Romanian Centre for Trade and Foreign Investment Promotion (www.romtradeinvest.ro). Other useful documents posted on the RNCP's webpage include the Policy Framework for Investment and the OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones.
Slovenia	Promotion and awareness of the <i>Guidelines</i>	The Slovenian NCP is established within the Ministry of Economy of the Republic of Slovenia. The promotion and use of the <i>Guidelines</i> are established in Slovenian policies. Foreign investors that apply for public tender must declare that the recipient of the co-financing will abide by the <i>OECD Guidelines for Multinational Enterprises</i> and the principles laid down in the Declaration on International Investments and Multinational Enterprises.

Slovak Republic	Investment promotion	The Slovak NCP is established at the Ministry of Economy of the Slovak Republic. The <i>Guidelines</i> are promoted in the Slovak language on the Ministry's webpage. The Ministry of Economy is funding and supervising an agency for investment and trade development (SARIO) that promotes both the business environment and investment opportunities. Investors investing in the country who have already been awarded governmental incentives must commit to comply with the <i>Guidelines</i> .
Spain	Export credits and investment guarantees	CESCE (the export credits body which manages investment guarantees) and COFIDES (a development funding corporation) provide all applicants for aid or investment guarantees with copies of the <i>Guidelines</i> (in both paper and electronic format).
Sweden	Export credits	The Swedish Export Credits Guarantee Board provides all customers with information on the rules on environment and bribery, the <i>Guidelines</i> , and the Swedish Partnership for Global Responsibility.
Switzerland	Export credits insurance	The Swiss Export Risk Insurance (SERV) promotes corporate responsibility principles. On its website, it provides information about the <i>Guidelines</i> and their implementation mechanism (www.serv-ch.com).
Turkey	FDI	The Turkish NCP is located within the General Directorate of Incentive Implementation and Foreign Investment (Ministry of Economy), the authorised body for investment policy-making. Translation of the updated <i>Guidelines</i> was sent to related institutions. The final version of the translation will be published on the website of the Ministry.
United Kingdom	Export credits and investment insurance	The Export Credits Guarantee Department's (ECGD) website contains links to the website of the UK National Contact Point.
United States	Export and import credits and investment guarantees	The Export-Import Bank of the United States provides information on the <i>Guidelines</i> to applicants for their programmes in support of US business activities abroad.

ANNEX 1.A5

Summaries of specific instances concluded between June 2012-June 2013

The following summaries of specific instances concluded between June 2012-June 2013 are based on the public statements and information provided by NCPs.*

Australia

Statement by the Australian NCP regarding an Australian Multinational Mining Company

On 1 February 2013, the Australian NCP received a request to consider a specific instance complaint by a representative of a community organisation from the Eastern Cape region of South Africa (the complainant), alleging that an Australian mining company had breached the general policies, disclosure, human rights, employment and industrial relations, environment and combating bribery, bribe solicitation and extortion provisions of the *Guidelines*.

In undertaking the initial assessment, the NCP considered the information provided by the complainant and the company involved. The NCP also exchanged emails and discussed the matter by telephone with both parties.

After these deliberations, a statement was released 8 March 2013. The Australian NCP decided that at this time, it was not able to accept the matter as a specific instance complaint for the following reasons: 1) the complainant clearly stated that the local community is not interested in mediation, 2) the NCP was not able to verify the assertions made by the complainants based on the information provided, and 3) the application for mineral exploration rights

* Further information about these specific instances can be found in the specific instances database <http://mneguidelines.oecd.org/database/> and on the websites of individual NCPs.

is currently being considered by the relevant local authorities, and the local community is able to participate in the associated consultation process.

Belgium

Final statement by Belgium's NCP regarding a specific instance from various NGOs against *Compagnie Minière du Sud Katanga* and *Entreprise Générale Malta Forrest* operating in the Democratic Republic of Congo (DRC)

On 2 April 2012, the Belgian NCP received a request for review from the NGOs the International Federation for Human Rights (FIDH), the *Action contre l'Impunité pour les Droits de l'Homme* (ACIDH) and Rights and Accountability in Development (RAID) alleging that *Compagnie Minière du Sud Katanga* or *Entreprise Générale Malta Forrest*, subsidiary companies of the Forrest Group, had breached the general policies and human rights provisions of the *Guidelines* in the Democratic Republic of Congo. It was alleged that the mining operations at Luiswishi mine were responsible for the destruction of property in the villages of Kawama and Lukuni-gare which occurred when the police organised an operation to halt clandestine artisanal mining activities.

The NCP met three times with the parties. In its final statement released on 12 February 2013 concluding the specific instance, the NCP noted that all governmental efforts to remedy the situation and reimburse the loss of property had remained without result. The NCP had obtained agreement from the Rachel Forrest Foundation, Forrest Group's humanitarian association, to repair a well, the school and the pharmacy. However this offer was rejected by the inhabitants of the villages as inadequate.

In concluding the specific instance, the NCP called on the Forrest Group to realise the social measures proposed for the benefit of the local population.

Brazil

Statement by the Brazilian NCP on a specific instance raised by the National Confederation of Financial Sector Workers and Unified Workers' Central against ABN AMRO in Brazil

On 19 April 2007, the Brazilian NCP received a request for review by the National Confederation of Financial Sector Workers (CONTRAF) and Unified Workers' Central (CUT) alleging that ABN AMRO in Brazil had breached the employment and industrial relations provisions of the *Guidelines* by refusing to negotiate with the labour unions.

On 14 September 2012, the NCP decided to conclude this specific instance procedure based on a request made on 22 August 2012 by the Bankers Trade Union of Sao Paulo, Osasco and Region. According to the trade union, the legal

person “ABN AMRO” was extinguished on 1 November 2011 due to its incorporation by Banco Santander, which means that the claim can no longer be maintained.

Statement by the Brazilian NCP on a specific instance raised by the Unified Workers’ Central against C&A Modas Ltda. in Brazil

On 6 March 2007, the Brazilian NCP received a request for review by the trade union Unified Workers’ Central (CUT) alleging that C&A Modas Ltd in Brazil had breached the employment and industrial relations provisions of the *Guidelines* by refusing to negotiate with the trade union.

On October 2012, the NCP decided to conclude this specific instance procedures based on a request by CUT. According to the complainant, an agreement to restart direct negotiations between the parties has been concluded.

Statement by the Brazilian NCP on a specific instance raised by National Confederation of Financial Sector Workers and Unified Workers’ Central against Unibanco in Paraguay

On 7 March 2007, the Brazilian NCP received a request for review by National Confederation of Financial Sector Workers (CONTRAF) and Unified Workers’ Central (CUT) alleging that Unibanco in Paraguay had breached the employment and industrial relations provisions of the *Guidelines* by dismissing a labour union representative without cause.

On 22 August 2012, the Bankers Trade Union of Sao Paulo, Osasco and Region requested the closure of the specific instance, stating that the dispute has been resolved through direct negotiations between the parties. A final statement in English by the Brazilian NCP will be released soon.

Statement by the Brazilian NCP on a specific instance raised by Bankers Trade Union of Sao Paulo, Osasco and Region, Unified Workers’ Central, National Confederation of Financial Sector Workers and Bankers’ Federation of CUT Sao Paulo against Itaú Unibanco S.A. in Brazil

On 22 September 2009, the Brazilian NCP received a request for review by Bankers Trade Union of Sao Paulo, Osasco and Region, Unified Workers’ Central (CUT), National Confederation of Financial Sector Workers (CONTRAF) and Bankers’ Federation of CUT Sao Paulo (FETEC) alleging that Itaú Unibanco in Brazil had breached the employment and industrial relations provisions of the *Guidelines* by their improper interference in the trade unions’ activities during wage negotiations.

On 5 February 2013, a mediation meeting was held with the parties, in order to establish policies which aim to reduce turnover and reallocate

workers that have been dismissed. In the absence of an agreement between the parties on any of the issues, the specific instance was closed. On 25 April 2013, the NCP published the final version of the Final Statement in Portuguese after it has been reviewed by the parties. A final statement in English by the Brazilian NCP will be released soon.

Canada

Conclusion by the Canadian NCP on the specific instance from *Proyecto de Derechos Economicos Sociales y Culturales A.C. (ProDESC) et al. against Excellon Resources Inc. in Mexico (See entry by the Mexican NCP)*

On 29 May 2012, Canada received the request for review of Excellon Resources Ltd's operations in Durango, Mexico. A request for review was submitted concurrently to Mexico's NCP. In consultation, the Mexican and Canadian NCPs determined that Mexico was best placed to lead the review of the request. This decision was conveyed to the parties on 28 June 2012. Canada assisted Mexico's NCP as requested throughout their initial assessment. The Mexican NCP shared a copy of its findings with Canada's NCP on 5 December 2012.

Denmark

Statement by the Danish NCP regarding a specific instance from an individual against a medical practitioner

On 24 December 2012, a Danish person submitted a specific instance to the Danish NCP concerning a medical practitioner. The complaint did not include information on what the alleged infringement was or how the complaint related to an area covered by the *Guidelines* and it was not possible to have this clarified by the complainant. The case was concluded after the initial assessment.

Statement by the Danish NCP regarding a specific instance from an individual against a law firm

On 8 March 2013, a Danish person submitted a specific instance to the Danish NCP concerning a law firm, who he found liable in a dispute regarding enforcement proceedings and claim for damages. The complainant alleged a breach of the consumer interests provisions of the *Guidelines*. The case was rejected after the initial assessment as the case was found to be outside the scope of the *Guidelines*.

Statement by the Danish NCP regarding an individual complaining about being removed from a housing corporation's waiting list

On 8 March 2013, an individual submitted a specific instance to the Danish NCP about being removed from a housing corporation's waiting list, alleging a breach of the human rights provision of the *Guidelines*. After the NCP had been in contact with the complainant, it was evident that the complainant wanted the NCP to find a new apartment for her, and that the complainant was not interested in filing a complaint. The case was rejected after the initial assessment.

Statement by the Danish NCP regarding a specific instance from a self-employed individual against an NGO for submitting false information about the complainant on the NGO's website

On 1 April 2013, a self-employed individual submitted a specific instance to the Danish NCP about an NGO's behaviour, which the complainant found was defamatory to his person. The complainant alleged a breach of the human rights provisions of the *Guidelines*. The NCP found that on the basis of the available information, the statement was not of such a nature that there had been a violation of the *Guidelines*. The case was rejected after the initial assessment.

Finland

Statement by the Finnish NCP on a specific instance raised by 15 NGOs regarding the actions of Pöyry Oyj in Laos

On 11 June 2012, 15 NGOs submitted a specific instance to the Finnish NCP on the actions of the Finnish consultants Pöyry Oyj, and its Swiss auxiliary Pöyry Energy AG, with regard to the Xayaburi Dam in Laos. The complainants cited the non-observance of the general policies, disclosure, human rights and environment provisions of the *Guidelines*. More specifically, they alleged that Pöyry Oyj should have paid more attention to the negative effects of the Dam project when studying its environmental and human rights impacts.

The NCP found that even though the company should have addressed the ambiguities related to environmental issues and human rights more clearly in its report to the government of Laos, it did not violate the *Guidelines*. Pöyry operated within the confines of a limited assignment, which for example limited its possibilities of hearing stakeholders. However, the NCP recommends that in the future, companies should assess the risks of similar major projects more carefully and act more transparently.

France

Report by the French NCP on a specific instance raised by French, Cameroonian and German NGOs and associations regarding the SOCAPALM'S activities in Cameroon

On 3 December 2010, the Centre pour le Développement – Cameroun, Fondation Camerounaise d'Actions Rationalisées et Formation sur l'Environnement, SHERPA (France) and NGO MISEREOR (Germany) (“complainants”) submitted a request for review to the French, Belgian and Luxembourg NCPs, in relation to the SOCAPALM'S activities in Cameroon. The complaint refers to four companies, which the complainants alleged have business relationships with SOCAPALM: BOLLORE SA (France), Financière du Champ de Mars (Belgium), SOCFINAL, now SOCFIN, (Luxembourg) et INTERCULTURES, now SOCFINAF SA (Luxembourg). The NCPs agreed that France would take the lead regarding this specific instance since Bollore is headquartered in France and the nature of the other companies is essentially financial.

The complainants cited the non-observance of the general policies, disclosure, employment and industrial relations and environment provisions of the 2000 *Guidelines*. The complaints alleged that the four companies are SOCAPALM's business partners, meaning it should have use its leverage regarding adverse impacts. Bollore stated that it is a minority shareholder in SOCAPALM.

The French NCP found that SOCAPALM breached the general policies, employment and industrial relations and environment provisions of the *Guidelines*. The NCP also found that Bollore breached the general policies provisions by not using its leverage with its business partners. Bollore refused for a long time to engage in a dialogue with the other parties because of parallel legal proceedings and the French NCP welcomed Bollore's decision to accept mediation. The parties agreed to work together in order to develop an action plan that will be implemented by SOCAPALM. The agreement should be finalised by the end of August 2013 and will cover the following issues: communication with local communities, environment, access to public services, local development, situation of workers and subcontractors, transparency and compensation for local residents regarding land issues. The parties decided that the action plan would be monitored by an independent third-party committee. The report was released on 3 June 2013 and the French NCP intends to follow-up on its recommendations before the end of 2013.

Conclusion by the French NCP on a specific instance raised by the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) against the Accor Group with regard to its activities in Canada and Benin

On 8 November 2010, the IUF submitted a specific instance to the French NCP with regard to the Accor Group's activities in Canada and Benin. The complainant alleged the non-observance of the employment and industrial relations provision of the 2000 *Guidelines* version (Chapter 4), stating that the Accor Group denied the right of workers it employed in three hotels in Canada and one in Benin to establish or join trade unions.

The Canadian and French NCPs agreed that the French NCP will take the lead since the company is headquartered in France. The final statement was released 11 December 2012.

To address the situation in Canada, the French NCP consulted with the parties despite the strong tension between them. However, this dynamic led to the failure to engage in a constructive dialogue on the issue of union representation. The French NCP also highlighted a decision from the Ontario Labour Relations Board which found various labour law violations by the Accor Group. After consideration of the specific circumstances and consultation with the parties, the NCP found that the Accor Group in Canada ignored the rights of workers to be represented by unions, which is in direct conflict with the *Guidelines*. The French NCP urged the parties to engage in a constructive dialogue in order to resolve the issue.

To address the issues in Benin, the French NCP convened a dialogue with the parties which led to a proposed timetable for negotiations by the Accor Group in order to reach a settlement agreement. The NCP was pleased that the company acknowledged the need to set up a health committee and by its efforts to revive the social dialogue. Nonetheless, the French NCP concluded that the Accor Group did not comply with employment and industrial relations provisions of the *Guidelines* regarding employment and industrial relations.

Final statement from the French NCP regarding a specific instance raised by SHERPA and the European Centre for Constitutional and Human Rights against DEVCOT in respect of child labour in Uzbekistan

On 22 October 2010, SHERPA (France) and the European Centre for Constitutional and Human Rights (ECCHR, Germany) submitted a specific instance to the French NCP against Devcot for buying cotton that was allegedly produced through the systematic use of child labour in Uzbekistan. The alleged non-observance of the *Guidelines* by Devcot relates to the provisions on sustainable development and human rights (Chapters 2 and 4 of the 2000

Guidelines version). Similar complaints were made against other cotton merchants from Germany, Switzerland and the United Kingdom.

The French NCP provided its good offices through a long dialogue with the parties. The NCP held that the trade in goods produced from forced child labour constitutes a violation of the *Guidelines*, but acknowledged that Devcot has not purchased any Uzbek cotton in the last few years and does not intend to trade in Uzbekistan until child labour has ended.

In the final statement issued in September 2012, the NCP reminded Devcot of the importance of the *Guidelines*, and in particular the responsibilities within the cotton trade supply chain. The NCP also invited Devcot to carry out due diligence and implement the *Guidelines* recommendations vis-à-vis its business partners.

Final statement from the French NCP regarding a specific instance raised by multiple trade unions against Molex Automotive SARL

The French NCP received a specific instance on 28 February 2011 against Molex Automotive SARL, a French manufacturer of electronic components for various industries. The complainants, four different trade unions, alleged the non-observance of the employment and industrial relations provisions of the 2000 *Guidelines* version (Chapter 4), stating that Molex failed to inform and consult with employee representatives prior to the closure of its Villemur-sur-Tarn site.

The French NCP could not contact or meet with the company as it was undergoing judicial liquidation. Nevertheless, in the final statement released 20 September 2012, the NCP concluded that Molex has not fulfilled the information and co-operation obligation under the *Guidelines* for the following reasons: 1) the decision to close the site was already taken when the process of information and consultation was initiated; 2) the information provided could not lead to an appropriate job protection plan; and 3) the company did not co-operate to mitigate the negative impacts of the closure.

Final statement from the French NCP regarding a specific instance raised by Confédération Générale du Travail regarding Sodexo operations in the United States, Colombia, Morocco and Dominican Republic

On 4 August 2010, the Confédération Générale du Travail (CGT) submitted a specific instance to the French NCP regarding Sodexo operations in the United States and Colombia. On July 2011, the complaint was extended to operations in Morocco and Dominican Republic. The complainant alleged the non-observance of the employment and industrial relations provision of the *Guidelines* (Chapter 5) regarding freedom of association.

Subsequently, discussions were held with all parties. An agreement was reached between the US Service Employees International Union and the subsidiary of Sodexo Group in the United States which promotes and confirms free and informed choice in union matters. The NCP welcomed the conclusion of this agreement, which resolved the specific instance submitted. The final statement was released 20 September 2012.

Conclusion from the French NCP on a specific instance from UITA regarding société Roquette America operations in the United States (see entry by the US NCP)

The specific instance related to the disclosure Chapter of the *Guidelines*. It was decided that the US NCP would take the lead in this case, but the French NCP collaborated. An agreement was concluded in the United States.

Germany

Initial assessment and conclusion by the German NCP concerning an Indonesian citizen complaint against a German multinational enterprise

On 17 September 2012, an Indonesian citizen submitted a specific instance to the German NCP accusing a German multinational enterprise of operating in noncompliance with the human rights and employments and industrial relations provisions of the *Guidelines*. Until 2008, the claimant was working for a subsidiary of the German enterprise in Indonesia. Due to an internal reorganisation, the company where the claimant was employed was closed and subsequently, the company offered him employment in a new established subsidiary in Indonesia. As a result of these circumstances, the company wanted the claimant to sign a settlement agreement as well as a new employment agreement. However, in his complaint submitted to the German NCP, the claimant stated that specific clauses of these agreements violated the Universal Declaration of Human Rights, the ILO – Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Constitution of Indonesia and Indonesian labour law.

After comprehensively evaluating the complaint with several Federal Ministries, the NCP declared the complaint inadmissible to the mediation process on 7 December 2012. The NCP was of the opinion that the issues raised by the claimant did not merit further examination. Neither the settlement agreement nor the new employment agreement violated human rights or rules of non-discrimination. In addition, the NCP found no indication of a violation of chapter 5 (employment and industrial relations) of the *Guidelines*.

Italy

Final statement by the Italian NCP on a specific instance submitted by FIOM-CGIL against Eaton s.r.l.

On 24 February 2011, the Italian NCP received a specific instance by FIOM-CGIL, a trade union, against EATON s.r.l. for closing down the plant of Massa (town of Tuscany) and starting the lay-off procedure regarding 345 workers, allegedly in violation of the employment and industrial relations provisions of the *Guidelines*.

By virtue of an agreement reached by the parties in the course of court parallel proceedings, the complainant waived the specific instance. The NCP continued nevertheless to offer its good offices since some issues still remained between the parties

The Italian NCP issued its final statement on 14 March 2013, recommending that the parties work together in good faith in order to find the best solution in this complex case which affects many workers and the economy of an entire region. The NCP further recommended that Eaton s.r.l. involves workers in the future when a major organisational change is under consideration.

Japan – US

Follow-up by the Japanese NCP on a specific instance relating to mining exploration activities in Alaska

On 9 May 2011, the US and Japanese NCPs received a request for review from an NGO regarding mining exploration activities in the United States. The NCPs evaluated the specific instance filing and determined the *Guidelines* did not pertain because the US firm was a solely domestic enterprise and the nature of the business relationship between the Japanese and US firms did not meet the conditions for application of the *Guidelines*. The specific instance was submitted at a time when the US NCP's procedures called for final statements to be released only to the interested parties.

Korea

Initial assessment and conclusion by the Korean NCP on a specific instance raised by multiple NGOs with respect to the activities of Posco India in India

On 10 October 2012, Lok Shakti Abhiyan (India), Korean Trans National Corporation Watch (Korea), Fair Green Global Alliance (Netherlands and ForUM (Norway) filed a specific instance to the Korean NCP regarding the activities of Posco India in India, alleging that the general policies, human rights and environment provisions of the *Guidelines* were breached. More

specifically, the complainants alleged that Posco India did not undertake sufficient measures to protect the human rights of the residents affected by the steel mills project from violence perpetrated by the Indian authority, did not carry out human rights and environmental due diligence and did not take into account the voices of stakeholders in relation with the significant impacts of the project.

The Korean NCP concluded that the specific instance did not merit further consideration. The NCP considered the complaint to be related to the administrative activities of the provincial government of India rather than the business activities of Posco India. Therefore, the Indian Court, and not the NCP, is responsible for determining the legality and legitimacy of such activities.

Statement by the Korean NCP on a specific instance regarding fine chemicals in Korea

On 16 August 2012, Hwan-sup Shin, the head of the Korean Chemical and Textile Workers' Union (KCTWU) under the Korean Confederation of Trade Unions (KCTU), and Hyun-chul Park, the head of the Adeka Korea Chapter of the KCTWU, filed a complaint to the Korean NCP against Adeka Korea, alleging a breach of the human rights and employment and industrial relations provisions of the *Guidelines*.

Since collective bargaining and legal proceedings were under way at the time the specific instance was submitted, the Korean NCP found its intervention would be confusing and not help to resolve the case. The NCP therefore decided to conclude the specific instance.

Mexico

Initial assessment and conclusion by the Mexican NCP on a specific instance against a mining company operating in Mexico (see entry by the Canadian NCP)

On 29 May 2012, an NGO wrote to the Mexican NCP on behalf of various trade unions, a common land owner unit ("Ejido") and other interested parties raising a number of concerns with respect to the operations of a mining company in Mexico. The Canadian NCP received the same specific instance on 28 May 2012 and both NCPs agreed that the Mexican NCP will take the lead.

The complainants alleged that the disclosure, human rights, employment and industrial relations and environment provisions of the *Guidelines* were breached. More specifically, they alleged the following: 1) breach of a lease contract, 2) lack of disclosure of relevant information to shareholders, 3) human rights violations and anti-union practices, and 4) water and environmental pollution.

In undertaking its initial assessment, the Mexican NCP consulted with relevant authorities regarding the issues at stake and held meetings with the relevant parties to the case. The NCP decided not to offer its good offices, referring to the following: 1) various legal procedures were taking place, which was highly relevant for the development and eventual outcome of the dispute, 2) the issues brought before the NCP were in general material but insufficiently substantiated, 3) the mining company firmly rejected any possible mediation process, 4) due to their nature, most conflicts could not be resolved through mediation, but had to find a solution through the action of competent authorities, and 5) parallel negotiation efforts at high political levels were taking place, and the participation of the NCP was not deemed as feasible nor meaningful.

Statement by the Mexican NCP on a specific instance raised by a labour union against a metallurgist company operating in Mexico

On 17 October 2012, the Mexican and Finnish NCPs received a request for review by a trade union alleging that a metallurgist company operating in Mexico had breached the employment and industrial relations provisions of the *Guidelines* due to allegations of favouritism over a trade union controlled by the company. The complainant also alleged that workers were illegally fired. The request was submitted to both Finish and Mexican NCPs. According to the OECD Procedural Guidance, the parties decided that the Mexican NCP would take the lead in this case.

After meetings were held with the parties and consultations were conducted with relevant authorities, the Mexican NCP decided not to offer its good offices, referring to the following reasons: 1) Various legal procedures were taking place, which were highly relevant for the development and eventual outcome of the dispute; 2) the issues brought before the NCP were in general material but insufficiently substantiated; and 3) the issues could not be resolved through mediation but had to find a solution through the decision of the competent labour authorities. The final statement was released on 17 May 2013.

Netherlands

Initial assessment and conclusion by the Dutch NCP regarding a specific instance submitted by Stroitel/Sakhalin Environmental Watch against Royal Dutch Shell

On 31 July 2012, the Non-Commercial Gardening Association “Stroitel” and the Non-Governmental Organisation “Sakhalin Environment Watch” (SEW) submitted a specific instance to the UK and Dutch NCPs regarding the involvement of Netherlands-based Royal Dutch Shell (Shell) and a number of

UK-based financial institutions in the Sakhalin II Project (Russia). The UK and Dutch NCPs agreed to treat the complaints against each company separately.

The complainants cited the non-observance of the concept and principles, general policies, human rights and environment provisions of the 2011 updated *Guidelines*. More specifically, the complainants alleged that the enterprise operations threatened individuals' health, livelihood and cultural heritage, as well as led to the displacement of datcha community members without resettlement measures or just compensation.

Even though the complaint referred to events that took place from 2001 to 2012, the Dutch NCP assessed the case according to the 2011 updated *Guidelines* in order to consider whether a mediation-type process could further the implementation of the *Guidelines*. In its initial assessment released on 20 March 2013, the Dutch NCP concluded that this specific instance does not merit further examination since the issues raised are neither material nor substantiated.

Statement by the Dutch NCP regarding a specific instance against Shell

The notification contains an alleged breach of the human rights provisions of the *Guidelines* by Shell Plc. In their complaint received by the Dutch NCP on 27 March 2013, the notifying parties submit that Shell published personal and business data related to the complainants without a permit, resulting in the termination of a contract between the complainants and a third party.

The Dutch NCP has not taken the notification into consideration since the alleged issues relate to the activities of Shell Plc. in the United States and the US NCP is the right entity. The US NCP is responsible for the initial assessment and any further possible procedures under the *Guidelines*. The US NCP already responded to the complainants.

Statement from the Dutch NCP regarding communications by Royal Dutch Shell on the cause of oil spills in the Niger Delta

The complaint against Royal Dutch Shell regarding oil spills in the Niger Delta was received by the Dutch NCP on 25 January 2011. The UK NCP was also notified and it was decided that the Dutch NCP will take the lead in this case, with support and assistance from the UK NCP if required. Friends of the Earth and Amnesty International alleged that Shell breached the disclosure, environment and consumer interests provisions of the *Guidelines* with respect to its communication on oil spills in the Niger Delta. According to the complainants, the company provided misleading information and omitted relevant facts about the causes of oil spills. They claimed that Shell based its communications on biased and unverified information, thus failing to provide

reliable and relevant details to external stakeholders. In addition, incorrect and conflicting messages about the causes of oil spills further contributed to the low quality of non-financial information.

The process was conducted as a dialogue between the parties involved, and although helpful discussions took place during the meetings, parties have not reached an agreement. During those meetings, the issue of confidentially was discussed at length as Shell was asking a guarantee from the complainants that these cases would not be part of a campaign or appear in a public domain. Friends of the Earth and Amnesty International could not guarantee such thing since campaigning is at the heart of their actions. The NCP regrets that no solution for this dilemma could be found.

As a result, the specific instance is concluded. Nevertheless, the statement released in 21 March 2013 contains recommendations on due diligence in the supply chain and transparency, among other things.

Norway

Statement by the Norwegian NCP on a specific instance against the Norwegian Bank Investment Management (NBIM) of the Government Pension Fund Global regarding financial human rights due diligence

On 9 October 2012, the Norwegian, Dutch and Korean NCPs received a complaint from four non-governmental organisations (NGOs): Lok Shakti Abhiyan (India), KTNC Watch (South Korea), Fair Green and Global Alliance (Netherlands) and Forum for environment and development (Norway) (the “notifiers”) on 9 October 2012. The notification concerned alleged breaches of the *Guidelines* by South Korean Pohang Iron and Steel Enterprise (Posco) in its joint venture Posco India Private Limited. The notification was also directed at two of Posco’s investors; 1) the Dutch pension Fund ABP and its pension administrator APG; and 2) the Norwegian Bank Investment Management (NBIM) of the Government Pension Fund Global. In accordance with the OECD *Guidelines’* Procedural Guidance, the Dutch, Norwegian and Korean NCPs agreed to coordinate, but also to handle the notification against the enterprise registered in their respective country.

The notifiers claimed that NBIM has failed to take the appropriate steps to prevent or mitigate negative human rights and environmental impacts in connection with its investment in Posco. They alleged that the general policies, disclosure and human rights provisions of the *Guidelines* were breached.

The Norwegian NCP issued its final statement on 27 May 2013. The NCP noted that it did not assess the claims or carried out any fact finding concerning Posco’s operations in India since it was not necessary in the assessment of NBIMs compliance with the *Guidelines*. The assessment by the

Norwegian NCP was thus specifically limited to whether NBIM has acted in accordance with the *Guidelines*. As the complainants have raised issues with respect to the human rights Chapter of the *Guidelines*, the NCP examined two dimensions of the application of this Chapter to NBIM: 1) the extent to which NBIM has integrated the *Guidelines* provisions on human rights, including due diligence, into its policies and processes; and 2) the steps NBIM has taken or omitted in response to the allegations in this Specific instance, including issues related to Chapter III (Disclosure) of the *Guidelines*.

First of all, the Norwegian NCP did not share the view of NBIM that the *Guidelines* do not apply to the financial sector and minority shareholders. The Norwegian NCP consulted with the *Dutch* and *UK* NCPs and all three NCPs have come to the conclusion that the *Guidelines* apply to minority shareholders. The question is thus not whether the *Guidelines* apply to the financial sector and minority shareholding but how they apply.

The Norwegian NCP also concluded that NBIM violated the *Guidelines* by refusing to co-operate with the NCP and by not having any strategy on how to react if it becomes aware of human rights risks related to companies in which NBIM is investing, apart from child labour violations. NBIM rejected the Norwegian NCP offer of dialogue and refused to provide any information on whether they were engaging with Posco in any other forum. By refusing to co-operate with the NCP and to communicate its human rights due diligence strategy, especially regarding the current case, NBIM also breached Chapter III (Disclosure) of the *Guidelines*.

Spain

Specific instances regarding preferred stocks in Spain which involved financial institutions

From July to December 2012, the Spanish NCP received 16 requests for review regarding an alleged breach of the consumer interests provisions of the *Guidelines*. The specific instances alleged that multiple financial institutions did not provide all relevant information before the sale of complex financial products to their clients. The NCP closed all specific instances since the issues at stake were dealt with by national authorities.

Specific instance regarding preferred stocks in Spain which involved a multinational enterprise

In July 2012, the Spanish NCP received a request for review regarding an alleged breach of the consumer interests provisions of the *Guidelines* by a multinational enterprise. The specific instance refers to the sale of complex financial products and the possibility that all relevant information might not

have been provided to the clients before the sale. The NCP closed the specific instance since the issues at stake were dealt with by national authorities.

Switzerland

Final statement by the Swiss NCP regarding taxation policy by Mopani Copper Mines Plc., Glencore International AG and First Quantum Minerals Ltd. in Zambia

On 12 April 2011, the Swiss and Canadian NCPs received a request to consider a specific instance regarding the possible violation of Chapter 2 (general policies) and Chapter 10 (taxation) of the *Guidelines*. The complaint, raised by a coalition of five NGOs (Declaration of Berne, SHERPA, MiningWatch Canada, L'Entraide missionnaire and The Centre for Trade Policy and Development CTPD), involves the Zambian extractive enterprise Mopani Copper Mines Plc. ("Mopani") and its majority owner, the Swiss enterprise Glencore International AG ("Glencore"), as well as a minority owner, the Canadian enterprise First Quantum Minerals Ltd. ("First Quantum"). Both NCPs agreed that the Swiss NCP will take the lead regarding this specific instance.

Based on a leaked draft report, the NGOs claimed that Mopani is utilizing various techniques to transfer taxable revenues out of Zambia in order to avoid paying taxes in the country. This draft report has not been endorsed by its authors Grant Thornton and Econ Pöyry and a final version of the report has not yet been published. Glencore submitted a written statement to the NCP dated 2 June 2011 denying the allegations and emphasizing that the draft report was a preliminary and incomplete version, which was unofficially circulated in Zambia. Some fundamental and factual errors were also identified in the report on which the allegations in the submission to the NCP are based. Glencore furthermore pointed to the fact that Mopani is audited every year by Deloitte, a major international audit firm.

Upon receiving the specific instance, the Swiss NCP separately invited representatives of both parties involved for informal, bilateral meetings. The NCP also created an ad-hoc group with other departments of the Swiss federal administration concerned by the specific instance. On 5 October 2011, the Swiss NCP concluded its confidential initial assessment and informed parties concerned that it found the issues being raised to be relevant and to merit further examination. The NCP then offered its good offices to facilitate a dialogue between both parties with the aim of reaching a mutually acceptable outcome.

A framework (Terms of Reference) for a dialogue on the issues raised was prepared by the NCPs, who also suggested contracting a professional external mediator to help facilitate this dialogue. The parties met on 11 July 2012 in the

presence of the mediator and an NCP representative, and a mutual agreement was reached. Parties agreed to disclose the following points of their mutual agreement: 1) The parties reached a certain level of mutual understanding on the issues raised and clarification of issues raised; 2) The parties had a thorough exchange of information and open and very constructive discussions; 3) Both sides agreed to an exchange of information with the other parties, within the limits of applicable laws; 4) Both parties will explore ways how to engage in further dialogue; and 5) The parties discussed and agreed on certain further steps.

United Kingdom

Initial assessment and conclusion by the UK NCP on a specific instance from an individual in India against a UK company in respect of employment in the United Arab Emirates

On 1 February 2013, an individual wrote to the UK NCP raising concerns under the *Guidelines* relating to his employment in the United Arab Emirates' office of an insurance company headquartered in the United Kingdom. The complainant alleged that his treatment during his employment and on his redundancy was based on racial discrimination and breached his human rights. He referred to the human rights and employment and industrial relations provisions of the *Guidelines*.

The UK NCP concluded that while the complainant may reasonably have grievances about his treatment, the issues are not substantiated in respect of the company's responsibilities under the *Guidelines*.

Initial assessment and conclusion by the UK NCP regarding a specific instance from a civil society organisation against a UK Bank (C) with respect to a business relationship with a company in Russia

On 31 July 2012, a Russian civil society organisation wrote to the UK and the Dutch NCPs raising concerns related to the impacts on local property owners of an oil and gas production complex in Russia. The complaint named UK Bank C and two other UK banks, as well as a Netherlands based enterprise. The UK NCP and the Dutch NCP subsequently agreed to treat the complaints against each company separately.

The complainants alleged that these banks had business relationships with the Russian company operating the oil and gas complex (Company R), and that the banks had failed to comply with the responsibilities placed on them by the *Guidelines* to address impacts to which they were linked by a business relationship. The impacts resulted from actions of Company R that were allegedly inconsistent with many of the *Guidelines* standards, including responsibilities under Chapter II (general policies_ of the pre-2011 *Guidelines*

and responsibilities under the updated 2011 *Guidelines* (concepts and principles, general policies, disclosure, human rights and environment). More specifically, the complainants alleged that UK Bank C has a business relationship with Company R as one of a group of financial enterprises providing a Project Finance Facility for the construction and commissioning of the production complex. In this context, the complainants said that UK Bank C made a corporate loan to Company R in 2008 and this loan had not yet matured.

From August to October 2012 and as requested by the UK NCP, the complainants clarified their complaint and UK Bank C responded. Each party was offered a meeting with the UK NCP but only UK Bank C took up the offer.

The UK NCP decided to conclude the initial assessment and to reject the complaint against UK Bank C because the issue is not substantiated in respect of UK Bank C's obligations under the *Guidelines*. The UK NCP applied the 2011 *Guidelines* as the complaint referred to events that took place between 2002 and 2012. As the complaint has not been substantiated, no offer of mediation has been made. The statement was released by the UK NCP on 10 January 2013.

Initial assessment and conclusion by the UK NCP regarding a specific instance from a civil society organisation against a UK Bank (B) with respect to a business relationship with a company in Russia

On 31 July 2012, Sakhalin Environment Watch wrote to the UK NCP, raising concerns related to the impacts on local property owners (the Stroitel Association) of an oil and gas production complex in Russia. The complaint named Royal Bank of Scotland (RBS) and two other UK banks, as well as a Netherlands-based enterprise. The UK NCP and the Dutch NCP subsequently agreed to treat the complaints against each company separately.

The complainants alleged that these banks had business relationships with the Russian company operating the oil and gas complex (Company R), and that the banks had failed to comply with the responsibilities placed on them by the *Guidelines* to address impacts to which they were linked by a business relationship. The impacts resulted from actions of Company R that were also allegedly inconsistent with many of the *Guidelines* standards. More specifically, the complainants alleged that RBS had a business relationship with Company R through RBS's acquisition in autumn 2007 of a Netherlands-based bank. In 2007, prior to being purchased by RBS, the Netherlands-based bank arranged loans that the complainants alleged allowed a Russian multinational to acquire a controlling interest in Company R. The complainants alleged that this gave RBS a financial interest in Company R and direct influence over it.

From August to October 2012 and as requested by the UK NCP, the complainants clarified their complaint and RBS responded. Each party was offered a meeting with the UK NCP but the complainants did not take up the offer. The UK NCP spoke to representatives of RBS on 2 October 2012.

The UK NCP decided to conclude the initial assessment and to reject the complaint against RBS because the link with the bank's responsibilities under the *Guidelines* was not substantiated. The UK NCP applied the 2011 *Guidelines* since the complaint referred to events taking place between 2002 and 2012, but noted that no evidence is offered to establish a business relationship between RBS and Company R from September 2011 that would trigger the enhanced requirements of the updated 2011 *Guidelines*. As the complaint has not been substantiated, no offer of mediation has been made. The statement was released by the UK NCP on 21 December 2012.

Initial assessment and conclusion by the UK NCP regarding a specific instance from a civil society organisation against a UK Bank (A) with respect to a business relationship with a company in Russia

On 31 July 2012, a Russian civil society organisation wrote to the UK and the Dutch NCPs raising concerns related to the impacts on local property owners of an oil and gas production complex in Russia. The complaint named UK Bank A and two other UK banks, as well as a Netherlands-based enterprise. The UK NCP and the Dutch NCP subsequently agreed to treat the complaints against each company separately.

The complainants alleged that these banks had business relationships with the Russian company operating the oil and gas complex (Company R), and that the banks had failed to comply with the responsibilities placed on them by the *Guidelines* to address impacts to which they were linked by a business relationship. The impacts resulted from actions of Company R that were allegedly inconsistent with many of the *Guidelines* standards. More specifically, the complainants alleged that UK Bank A had a business relationship with Company R through loans made in 2007 and 2010. The 2007 loan was made by UK Bank A and other lenders to Company R's controlling shareholder, and supported that company's acquisition of its controlling interest.

From August to November 2012 and as requested by the UK NCP, the complainants clarified their complaint and UK Bank A responded. UK Bank A pointed out that the report cited by the complainants as evidence of the loan was based on inaccurate information and this report was subsequently corrected. Each party was offered a meeting with the UK NCP but neither took up the offer.

The UK NCP decided to conclude the initial assessment and to reject the complaint against UK Bank A because the link with UK Bank A's activities was not substantiated. The UK NCP applied the 2011 *Guidelines* since the complaint referred to events that took place between 2002 and 2012. As the complaint has not been substantiated, no offer of mediation has been made. The statement was released by the UK NCP on 21 December 2012.

Initial assessment and conclusion from the UK NCP regarding a complaint from an individual in India against a UK registered company

On 16 January 2012, Ms. Z's advocate wrote to the UK NCP on behalf of his client stating that she had worked on several cruise ships owned by X plc between November 1999 to August 2008. During that time it is alleged that she contracted diabetes and other health related conditions as a result of negligent medical treatment by X plc. X plc disputes these allegations.

The specific complaint raised by Ms. Z relates to X plc's operations under Chapter II (general policies) paragraphs 2, 6 and 7 and Chapter IV (human rights) in particular paragraphs 1(d) and 4(a), of the 2000 version of the *Guidelines*.

After X plc responded on 21 February 2012 and Ms. Z's advocate provided additional comments on 28 February 2012, the UK NCP sent a draft initial assessment to both parties on 15 May 2012 asking for factual comments. Further comments and submission were later made by Ms. Z's advocate. After new evidence was provided by the complainant, the assessment was finalised in August 2012.

The UK NCP has decided to reject the complaint on the grounds that the allegations made in the complaint have not been supported by sufficient evidence and therefore have not been substantiated. The UK NCP also notes that complaint under the *Guidelines* is not the proper forum for a personal injury claim. However, had there been sufficient supporting evidence to deem the allegations material and substantiated, the UK NCP agreed that it could have tried to facilitate a mediated solution to the complaint. The statement was released by the UK NCP on 30 August 2012.

Review by the UK NCP Steering Board of the NCP's procedure in the Initial Assessment of a complaint from an individual in India against a UK registered company

On 2 September 2012, Ms Z's advocate has made an application to the Review Committee regarding procedural errors in the NCP's decision-making. The issue raised is whether the NCP in making the initial assessment should have considered the opinions of expert bodies not submitted by the

complainant. The Review Committee does not consider the NCP bound to take account of information not submitted by a party and is furthermore of the opinion that the additional information not considered by the NCP would not have had any bearing on the decision made.

Final statement from the UK NCP regarding a complaint from *Justiça Ambiental et al. against BHP Billiton PLC (on Mozal SARL) in Mozambique*

The UK NCP received a request for review from *Justiça Ambiental (JA)*, on behalf of a coalition of institutions, against BHP Billiton PLC alleging that Mozal SARL (Mozal), a joint venture operating an aluminium smelter near Maputo (Mozambique), breached the general policies, disclosure and environment provisions of the *Guidelines*. BHPB owns a 47.1% stake in the joint venture. The concerns raised by JA relate more specifically to the establishment and maintenance of an appropriate environmental system, disclosure of adequate and timely information, consultation with local communities and respect of human rights. JA filed similar complaints with the Australian NCP and both NCPs agreed that the UK NCP will take the lead in the complaint process under the *Guidelines*.

On 2 February 2011, the UK NCP finalised the Initial Assessment on the complaint from JA and decided to accept for further consideration the alleged breach by BHPB of various provisions of the 2000 version of the *Guidelines*. The alleged breach of Chapter II (5) (general policies) of the *Guidelines* was not accepted for further consideration.

Between 2 February and 28 November 2011, the UK NCP suspended the complaint process in order to take into account the parties' decision to undergo conciliation/mediation outside of the UK NCP's process. On 28 November 2011, and after taking into account that the parties had not reached an agreement, the UK NCP offered conciliation/mediation to the parties. BHPB accepted the offer but JA declined it. Therefore, on 16 December 2011, the UK NCP informed the parties that it would undertake an examination of JA's allegations and prepare a Final Statement.

The UK NCP examined the allegations contained in the complaint from *Justiça Ambiental* and concluded that BHP Billiton PLC did not breach the general policies, disclosure and environment provisions of the 2000 version of the *Guidelines*, in respect of Mozal SARL's operations in Mozambique. However, the UK NCP encouraged both BHP Billiton PLC and Mozal SARL to build upon their existing procedures for engagement with local communities and be forthcoming in disclosing to interested parties (particularly the affected communities and their representatives) information on projects that may have

an impact on the environment and the health and safety of the communities. The statement was released by the UK NCP on 13 September 2012.

United States

Final statement by the US NCP on a specific instance raised by Community Legal Education Center of Cambodia (CLEC)/Earth Rights International (ERI) against American Refining Inc. (ASR) regarding human rights due diligence in supply chain relationship in Cambodia

On 13 October 2012, CLEC and ERI, a Cambodian and a US based NGOs, jointly filed a specific instance with the US NCP raising concerns over alleged human rights violations related to operations of the Koh Kong sugar plantation and refinery in Cambodia. More specifically, it was alleged that villagers were forcibly evicted with no public consultation, social or environmental impact assessment or settlement plan. The NGOs contended that American Sugar Refiners Inc. (ASR), by virtue of its supply chain relationship with the Koh Kong plantation, had an obligation to avoid contributing to conduct inconsistent with the *Guidelines* and had the opportunity and responsibility to use its leverage to mitigate such conduct by the operators of the plantation. The NGOs alleged that ASR's actions were inconsistent with the general policies and human rights provisions of the *Guidelines*.

CLEC and ERI stated that American Sugar Refiners Inc. (ASR), through UK-based T&L Sugars, Ltd. (T&L), purchased sugar produced at the Koh Kong plantation. The US NCP therefore informed the UK NCP of the specific instance and both NCPs agreed that the United States should take the lead because ASR and T&L shared a common U.S.-based corporate parent.

The US NCP found sufficient reasons to offer its good offices to facilitate a discussion between the two sides. All parties agreed to the NCP's proposal that the US FMCS lead any facilitated dialogue, including a pre-mediation consultation. However on March 2013, CLEC, on behalf of affected communities, filed a civil suit against T&L Sugars in the UK Commercial Court. ASR thus informed the NCP that it would not participate in the mediated dialogue unless CLEC withdrew its UK civil suit.

The US NCP closed the specific instance on 4 June 2013 when it became clear the parties could not reach an agreement to proceed, even though all parties came to the process in good faith. However, the NCP recommends that ASR evaluate the issues raised by the NGOs and consider how to address them, even if the conditions may not exist now to address them through the NCP process. In particular, the NCP recommends that ASR conduct a corporate human rights policy review process.

Initial assessment and conclusion by the US NCP regarding employment issues with a US MNE in Cameroon in electric utility sector

On 27 August 2011, a Cameroonian citizen submitted a specific instance to the UK NCP regarding concerns over alleged labour-related actions by AES SoneL, Cameroon's main electrical utility supplier. The complainant alleged that AES SoneL's actions were inconsistent with the principles in Chapter V (employment and industrial relations) of the *Guidelines*, and more specifically that he suffered salary discrimination based on his race. Later in the process, the complainant submitted additional information, stating that AES SoneL's actions were also inconsistent with the general policies and disclosure provisions of the *Guidelines*.

The UK and US NCPs consulted and agreed that the US NCP will take the lead on the specific instance because the AES Corporation, the parent company for AES SoneL, is a US-based MNE.

In its submission, the complainant stated that AES SoneL replaced a number of Cameroonian management staff with expatriate staff. Even though the new managers had less professional experiences, they were offered substantially higher salaries. In the opinion of the complainant, the difference in wages was based on racial discrimination. The complainant also pursued related complaints in separate and on-going parallel proceedings in Cameroon.

After consideration, the US NCP declined to offer its good offices to seek a mediated resolution between the parties and a statement was released on 13 September 2012. The NCP found that the complainant provided insufficient substantiation for a possible race-related discrimination. Differentiated wage scale policies for expatriate and local employees are common practice among multinational enterprises and are not in themselves inconsistent with the *Guidelines*. The existence of parallel proceedings was not a factor in the NCP's decision not to offer its good offices.

Initial assessment and conclusion by the US NCP on environmental issues with manufacturers from the Netherlands, the UK, and the USA.

On 23 August 2011, Individual A, a resident in Hungary, and Company X, a US-registered company ("the complainants"), submitted four specific instances to the US and UK NCPs raising concerns that four enterprises did not comply with US environmental laws. The complainants alleged that they suffered financial loss as a result of the enterprises' alleged non-conformance with environmental standards.

The UK and US NCPs consulted and agreed that the US NCP will take the lead on the specific instance because the concerns raised in the specific

instance occurred in the United States. The US NCP also consulted with the Hungarian NCP.

After several exchanges and examination of the documentation provided by the parties, it appeared to the US NCP that the principal motive for the complainants was to obtain a financial settlement, which is outside the scope of the NCP responsibilities. The complainants also showed serious breach of appropriate conduct, substantial lack of co-operation and misuse of confidential information obtained via the specific instance process, which undermined the establishment of an environment of trust necessary for facilitating a mediated resolution of the dispute. The US NCP thus decided that it will not further the effectiveness of the *Guidelines* to offer its good offices in relation to this specific instance and four statements were released on 28 August 2012.

Conclusion by the US NCP regarding water utility services in various locations in the United States

The trade union and the MNE reached agreement through a parallel proceeding under which the union would withdraw its specific instance filing. Separately, the civil society organisation decided not to continue the specific instance process but did not wish to withdraw its filing. Given the union and civil society organisation's positions, the NCP concluded the specific instance.

The filing parties submitted the specific instance at a time when the US NCP's procedures called for final statements to be released only to the interested parties.

Conclusion by the US NCP regarding telecommunications services in various locations in the United States

A trade union raised concerns about labour practices in relation to an MNE's operations in the United States. Following a pre-mediation meeting between the parties, which was facilitated by the US NCP, it was determined that the US NCP was no longer able to contribute to a positive resolution of the dispute, and the US NCP withdrew its good offices. The US NCP's statement has not yet been issued.

Chapter 2

Proactive agenda

The proactive agenda is a new prospective dimension added to the implementation of the Guidelines in the 2011 Update. It contributes to problem solving, as well as the avoidance of problems, in a broader context than the specific instance procedures. The proactive agenda complements the specific instance procedure by helping enterprises identify and respond to risks of adverse impacts associated with particular products, regions, sectors or industries. This chapter reviews the implementation of the proactive agenda over the June 2012-June 2013 reporting period.

About the proactive agenda

The proactive agenda was conceived in the 2011 update of the *Guidelines* as a complement to the specific instance procedure of NCPs. Whereas the specific instance procedure focuses on addressing issues which have arisen with specific enterprise behaviour after the fact, the proactive agenda is intended to be prospective in order to encourage responsible behaviour by enterprises in the context of the *Guidelines*, in particular through constructive collaboration with stakeholders. As a result, the proactive agenda is another important element for implementation of the *Guidelines*, and which could also help to effectively reduce the number of future specific instances.

In co-operation with NCPs, the WPRBC has sought to encourage multi-stakeholder dialogue on emerging issues to more clearly identify areas in which enterprises can make a positive contribution to economic, environmental and social progress, as well as activities and relationships of enterprises which pose common risks and could result in serious adverse impacts. Outcomes of the proactive agenda seek to identify emerging challenges and then leverage an inclusive multi-stakeholder process that would develop broadly-supported solutions to the complex challenges for implementing responsible business conduct, in particular as they relate to specific products, regions, sectors or industries.

In December 2012, the WPRBC approved the principles for the proactive agenda¹ to effectively utilise a multi-stakeholder process, while ensuring that all projects under the proactive agenda operate within a common framework. These Principles call for projects under the proactive agenda to be demand-driven and broadly supported. The projects should address issues where there may be risks of significant adverse impacts on matters covered by the *Guidelines*, and be sufficiently important and in need of attention to justify the time, energy and resources entailed in a broad and inclusive multi-stakeholder process. Proactive agenda projects should also add value in terms of contributing to the effective implementation by enterprises of the principles and standards contained in the *Guidelines*, and avoid duplication with other efforts relevant for it. Finally they should also have a reasonable expectation of success in reaching an outcome that will be supported by adherents to the OECD Declaration on International Investment and Multinational Enterprises as well as affected stakeholders.

In addition to the existing multi-stakeholder process for the *Due Diligence Guidance*, the Working Party has approved three other projects under the

proactive agenda, on due diligence in the financial sector, stakeholder engagement and due diligence in the extractive industry, and most recently on due diligence in agricultural supply chains.

Weak governance zones and conflict-affected and high-risk areas

Within the context of mining in areas of conflict, the promotional activities for the *Guidelines* primarily include the implementation of the *Due Diligence Guidance*. The multi-stakeholder, voluntary initiative which oversees the implementation activities of the Guidance has grown from strength to strength since its inception in 2010. A joint ICGLR-OECD-UN Group of Experts on the DRC Forum meets twice a year and includes participants from OECD, ICGLR and other partner countries, the private sector, international organisations and civil society. The Forum tracks progress on implementation of responsible business practices in the supply chains of minerals from areas of conflict, provides a space for collaborative solutions to solve due diligence challenges and encourages the broad uptake of the Guidance.

NCPs have played a larger role in promoting the Guidance and conflict-sensitive responsible business practices this past year. For example, two thirds of NCP reports received in 2013 affirmed that NCPs or other government agencies “promote the *OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones*”. About half of NCPs also promote the *Due Diligence Guidance* and do so by including a link to the *Due Diligence Guidance* or providing information on their national websites. The Japanese and Latvian NCPs have translated summaries of the *Due Diligence Guidance* into their national languages. Other NCPs have engaged with in-country networks and industry, actively promoted the *Due Diligence Guidance* to various audiences and have created relevant materials to promote the *Due Diligence Guidance* in their countries. Italy, for example, has created sector-specific due diligence guides for its jewellery sector, with substantial promotion of the Guidance therein. Canada, Colombia, Germany, Israel, Japan, the Netherlands and Switzerland, to name a few, are fully engaged in the multi-stakeholder implementation programme and actively support and participate in its activities.

As a result of this broad network of engaged participants, the *Due Diligence Guidance* has gained wide acceptance throughout the supply chains of tin, tantalum and tungsten (3T), with increased awareness and uptake in the complex supply chains of gold. The *Due Diligence Guidance* has become the leading international and industry standard for companies to meet the expectations of the international community and customers *vis-à-vis* minerals from conflict-affected and high-risk areas. Importantly, it appears that in areas of the Democratic Republic of the Congo (DRC) where due diligence is being carried out, there is a reduction in financial support from the

mineral trade towards conflict. The UN Group of Experts on the DRC reported in 2012 that as a result of the implementation of due diligence “the security situation at tin, tantalum and tungsten mine sites has improved and trade in tin, tantalum and tungsten has become a much less important source of financing for armed groups”.

Regional and national legal developments

In August 2012, the US Securities and Exchange Commission’s Final Rule on Section 1502 of the Dodd-Frank Act on Conflict Minerals recognised the *Due Diligence Guidance* as an international framework available to companies to perform due diligence for responsible mineral sourcing and thereby help them meet their reporting obligations under the Act. The EU is expected to put forward a possible initiative on responsible sourcing of minerals from conflict-affected and high-risk areas and continues to support efforts to improve transparency throughout the supply chains of minerals and ways to promote further uptake of the Guidance through enhanced industry engagement and outreach to non-OECD countries. The active engagement of 11 African countries of Central Africa, has resulted in the incorporation of OECD standards into host countries’ regional and national legal frameworks (e.g. DRC and Rwanda) and policies (e.g. ICGLR Regional Certification Mechanism), with positive implications for the creation of a level playing field and demonstrated ownership over the *Due Diligence Guidance* by partner countries. The UN Security Council in its 1952/2010 and 2021/2011 resolutions on the situation in the DRC also relied on the *Due Diligence Guidance*, thus laying down a common UN-OECD framework for responsible sourcing. On 25 April 2013 the UN Security Council also recognised the utility of the *Due Diligence Guidance* beyond the Great Lakes Region, in its Resolution 2101 (2013) on Côte d’Ivoire, which encouraged Ivorian Authorities to engage in the OECD-hosted implementation programme to implement due diligence in its gold sector to prevent gold from becoming a further source of conflict and insecurity.

Market uptake of the Due Diligence Guidance

Over the course of 2012-13 there has been increased market awareness of and uptake of the *Due Diligence Guidance* in their mineral supply chains. The OECD launched a 3T pilot implementation phase in November 2011 with the goal to assist implementing companies to learn from each other’s experiences and share best practices as well as tools, and methodologies for implementing the *Due Diligence Guidance*.

Over 110 companies participated in a voluntary basis in the 3T pilot implementation exercise and, participants reported on the steps taken to implement due diligence, the challenges faced, the tools used and lessons learnt during 3 reporting cycles over a 12 month period. As a result of the pilot

and the implementation efforts of those involved, awareness of the *Due Diligence Guidance* has improved considerably. For example, 75% of downstream company pilot participants reported that they intend to source minerals responsibly in accordance with the international standards contained in the Guidance. Additionally, 80% of the total number of upstream participants in the pilot had by the final report adopted a policy commitment setting forth due diligence principles, up from 15% in the first reporting cycle. Pilot participants noted that the implementation of due diligence implementation in the 3T sector has prompted the creation of market-driven initiatives and partnerships enabling responsible and conflict-sensitive mineral trade from both conflict and non-conflict areas in the Great Lakes Region. For example, in 600 mine sites in the DRC and Rwanda, the implementation of the *Due Diligence Guidance* through industry programs has enabled 45 000 artisanal miners – who in turn provide support for 225 000 dependents – to bring the 3T minerals they dig to the legitimate market. Participants reflected on lessons learnt during the 12-month pilot implementation programme and proposed activities for further follow-up, including a more robust outreach programme in non-OECD countries, and the development of broadly-supported risk mitigation strategies in the 3Ts.

The Gold Implementation Programme of Activities was launched at the May 2013 Forum meeting. Like the 3T pilot implementation exercise, the Gold Implementation Programme of Activities invites participation from the gold industry, implementing governments, donor countries, international organisations and civil society. In gold, the issue of artisanal and small-scale mining (ASM) requires innovative approaches to implementing the Guidance. To this end, the Forum is launching a “Responsible ASM Hub” as part of the Gold Implementation Programme of Activities. The ASM Hub will enable interested retailers, traders, refiners, local exporters and producers, large-scale miners, interested donors, civil society, OECD and partner countries to share experiences on innovative models to build secure and transparent conflict-free supply chains of gold from artisanal and small-scale gold mine sites.

The new multi-stakeholder steering group governance structure

At the Forum on due diligence implementation held on May 2012 it was agreed that, given the maturing of the process and the importance and sensitivity of implementation, it would be desirable for governments and stakeholders to take on a larger share of responsibility for the OECD-hosted process. The multi-stakeholder steering group (MSG), comprised of governments, industry and civil society was adopted by the Forum in November 2012 and endorsed by OECD bodies in February 2013. It was agreed that the Forum, comprised of all stakeholders who have committed to the *Due Diligence Guidance* and actively participate in its implementation, is the plenary multi-

stakeholder body charged with supporting the implementation programme by proposing implementation activities to OECD Bodies and assisting with follow-up. The MSG serves as the management committee of the Forum in collaboration with the OECD Secretariat. In May 2013, the Forum approved the composition of the MSG with representatives of stakeholders from producer, processing and consuming countries, 3T and Gold upstream and downstream supply chain participants, and international and local Great Lakes-based CSOs. In early June 2013, MSG members proposed the Government of Canada as the Chair of the MSG, along with three Vice Chairs from industry and civil society.

Next steps

Awareness-raising on due diligence and the *Due Diligence Guidance*, particularly in non-OECD countries, remain a critical first step in many parts of the 3Ts and gold supply chains. There are still many important private sector actors in the mineral supply chain, such as 3T and gold smelters based in Asia, who are not engaged in the process. A key step in 2013 will include translating the full *Due Diligence Guidance* into Mandarin. During the May 2013 Forum meeting, the Gem & Jewellery Export Promotion Council of India invited the OECD to participate and co-host a due diligence training workshop during the India International Jewellery Show in August 2013 in Mumbai.

The next twelve months will be focused on the Gold Implementation Programme of Activities as well as the follow-up activities in 3T implementation. The gold implementation activities which were officially launched in May 2013 include designing new materials for outreach (e.g. Simplified and sector-specific guides), coordinating outreach activities with planned external events in various regions of the world, organising peer-learning and due diligence training exercises for Forum members, developing case studies and launching an Artisanal and Small Scale Mining Hub to promote economic and development opportunities for artisanal miners in areas of conflict. As part of the follow-up for the 3T supply chain, participants will provide recommendations to the Forum on practical ways to manage commercial risk, existing and seized stocks as well as confidentiality and disclosure issues.

In addition, the MSG will continue to engage new participants in the Forum, and ensure that less represented stakeholders such as market exchanges, Chinese, African, Asian and other non-OECD industry are actively invited to participate in the process.

Stakeholder engagement in the extractive sector

Following the inclusion of a new provision on stakeholder engagement in the revised 2011 *Guidelines*, adherents discussed over the past year a proposal by Canada and Norway for a possible proactive agenda project which would

develop a user's guide for extractive companies and relevant stakeholders in conducting stakeholder engagement.

As a first step, a literature survey was commissioned by Canada to Partnership Africa Canada (PAC), in order to assess gaps in existing guidance on stakeholder engagement and due diligence. This survey, which was initially circulated at the June 2012 NCP meeting, also contained some preliminary ideas on the content of the proposed guide. The initial scoping efforts suggested the need for greater guidance on disclosure of stakeholder engagement, supply and value chain management and stakeholder engagement, indigenous peoples, and SMEs in the extractive sector throughout the project life-cycle, as well as clear expectations on what constitutes responsible stakeholder engagement from the vantage point of key non-industry stakeholders, such as local governments and communities, have also been identified as areas for further work.

In October and December 2012, the Working Party of the Investment Committee reviewed the findings of PAC's study and next steps for the project, and approved the establishment of a multi-stakeholder Advisory Group for the project, with voluntary contributions by Canada and Norway to support the work.

The inaugural Global Forum on RBC included an enlightening discussion on existing gaps in stakeholder engagement practices, based on a paper² prepared by SHIFT, an independent, non-profit center for business and human rights. The Advisory Group met subsequently on 28 June and provided further insight into the complex and wide range of challenges faced by extractive companies undertaking stakeholder engagement of affected populations. The Advisory Group offered its general support for the modules of the User Guide outlined in SHIFT's discussion paper, and agreed to try and produce a solid draft of the Guide in time for the 2014 Global Forum, which could be used to obtain wider input.

Due diligence in the financial sector

In October 2012, the Working Party of the Investment Committee (now WPRBC) agreed to establish a multi-stakeholder advisory group on due diligence in the financial sector chaired by the Netherlands. As a first step, the advisory group assisted with a mapping exercise in the existing environmental, social and human rights related due diligence measures utilised by financial institutions, particularly as they relate to the impacts of its clients and business partners. The research was commissioned by the Netherlands and undertaken by Sustainable Advisory Finance, whose project team surveyed over 50 FIs globally and interviewed more than 25 FIs.

As a result, a list of recommendations (see Table 2.1) was presented at the June 2013 meeting of the WPRBC. In light of the outcomes of the discussion, it was agreed to focus on recommendation 1, based on WPRBC delegates and NCPs shared understanding that further work will focus on "how" the *Guidelines* apply to the financial sector, not "if".

Table 2.1. **Recommendations from the Advisory Group of the financial sector project**

Recommendation	Brief description of recommendation
Scope and application (highest priority)	<p>The Advisory Group recommends the WPRBC to consider, in co-operation with the UN Working Group on Business and Human Rights and other relevant organisations as appropriate, seeking more clarity on how the following terminology relates to the practices of the financial sector:</p> <ul style="list-style-type: none"> ● Being directly linked to adverse impacts: what does it mean exactly? <p>FIs appear to distinguish between direct and indirect adverse impacts and, in some cases, between direct versus indirect links, whereas the <i>Guidelines</i> focus on the ways in which the enterprise can be linked to an (adverse) impact (by causing, contributing, or by not contributing but being directly linked through a business relationship). Is this a mere optical difference or also a conceptual one? When or under what circumstances can a financial institution be considered to be directly linked to an adverse impact via a third party? Does “directly linked” imply that an enterprise can also be “indirectly linked” (but nonetheless linked), and so, fall outside the remit of the <i>Guidelines</i> and the UNGPs for these particular provisions? Through the provision of particular financial services or of capital to a third party does an FI <i>contribute</i> to the adverse impacts of that third party? If so, under what circumstances?</p>
Tools for high risk areas	<p>The Advisory Group recommends the WPRBC to consider developing supporting tools for FIs or seeking co-operation with existing relevant tools, standards, guidelines and/or initiatives (“Tools”) on high-risk sectors/issues or regions (e.g. mining industry, child labour, conflict zones) to clarify the role of financial institutions in managing those risks. In this light, the Investment Committee could consider:</p> <ul style="list-style-type: none"> ● mapping existing Tools for high-risk areas that are most relevant for the financial sector; ● development of a matrix capturing hierarchy of due diligence practices and potential leverage implications as they relate to specific FI products and services; ● identifying gaps between the <i>Guidelines</i> and existing Tools; and ● identifying potential solutions to fill identified gaps that: <i>a)</i> build on existing Tools; and <i>b)</i> where existing tools do not suffice, development of new ones. The WPRBC could also consider who is best placed to deliver the tools (e.g. the OECD, other initiatives, a joint collaboration, etc.). <p>It is recommended that the mapping and/or development of tools for high-risk areas would occur after the scope and application have been clarified.</p>
Role of NCPs	<p>The Advisory Group recommends that the WPRBC and/or the National Contact Points (NCPs) acting together in their semi-annual NCP Meetings consider:</p> <ul style="list-style-type: none"> ● providing explanatory guidance on how NCPs should deal with specific instances raised concerning FIs, and the potential or desirable role in the NCP procedures of the actual business partner or client, that allegedly causes the adverse impact; ● identifying opportunities to promote the <i>Guidelines</i> to financial institutions; and ● developing a communication/dissemination strategy with the aim of promoting “functional equivalence”, which addresses commonality of application and approach. The strategy would include dissemination of specific instances dealt with by NCPs or known FI practices in order to enhance mutual understanding of the responsibility of FIs under the <i>Guidelines</i> for the benefit of fair and equal treatment of future cases by NCPs. <p>It is recommended that action relating to providing guidance to NCPs could be undertaken after the scope and application have been clarified.</p>
Process recommendation: Continued multi-stakeholder engagement	<p>In light of the substantial recommendations made above, the Advisory Group recommends the WPRBC to continue engagement with, and provide a discussion platform for, the finance community, BIAC, TUAC, NGOs, specific industry groups, interested adhering countries and their NCPs, and other interested (international) organisations. This could be done through existing co-operation between this Advisory Group and the UN Working Group on Business and Human Rights in order to keep momentum on the outcomes of this project and ensure coherence of international developments and initiatives.</p>

Responsible business conduct along agricultural supply chains

This work aims to promote the effective implementation of RBC in the agricultural sector by enabling a common understanding of due diligence for responsible agricultural supply chains that is consistent with existing principles and standards, and by proposing broadly-supported strategies to implement them. Through an inclusive, multi-stakeholder process, this project would seek to develop a practical guide for responsible agricultural supply chains that would help private companies, both domestic and foreign, identify and avoid infringing internationally recognised principles and standards for RBC when entering and operating in agricultural supply chains.

A scoping paper was presented to the Working Party of the Investment Committee (now WPRBC) on 22 March 2012, to the Working Party on Agricultural Policies and Markets on 30 May 2012 and to BIAC Committee on Food and Agriculture on 25 June 2012. Members expressed support for this work while highlighting the need to promote coherence with CFS work. A project proposal was then presented to the Working Party on Agricultural Policies and Markets on 19 March 2013 and to the WPRBC on 21 March 2013. The latter agreed to establish a multi-stakeholder advisory group to support this work and the terms of reference of this advisory group were approved by the Working Party on 28 June. The first meeting of the advisory group will be held on 16 October 2013.

Notes

1. See Annex 2.A1– Principles for the proactive agenda.
2. See http://mneguidelines.oecd.org/globalforumonresponsiblebusinessconduct/2013_WS2_1.pdf.

ANNEX 2.A1

Principles of the proactive agenda

Introduction

The Decision of the Council on the *OECD Guidelines for Multinational Enterprises* provides, “[t]he Committee shall, in co-operation with National Contact Points, pursue a proactive agenda that promotes the effective observance by enterprises of the principles and standards contained in the *Guidelines*. It shall, in particular, seek opportunities to collaborate with the advisory bodies, OECD Watch, other international partners and other stakeholders in order to encourage the positive contributions that multinational enterprises can make, in the context of the *Guidelines*, to economic, environmental and social progress with a view to achieving sustainable development, and to help them identify and respond to risks of adverse impacts associated with particular products, regions, sectors or industries.”¹

The following outlines broad principles for designing and implementing projects under the proactive agenda, consistent with the mandate set by Council and in accordance with Convention on the Organisation for Economic Co-operation and Development and Rules of Procedure of the Organisation. These principles are intended to recognise the importance of the multi-stakeholder process and provide flexibility in working methods of the Investment Committee, the WPRBC and other OECD Committees and subsidiary bodies which partner in the projects to effectively utilise a multi-stakeholder process, while ensuring that all projects under the proactive agenda operate within a common framework.

Characteristics and outputs of projects under the proactive agenda

The proactive agenda was conceived in the *Guidelines* as a complement to the specific instance procedure of NCPs. Whereas the specific instance procedure focuses on addressing issues which have arisen with specific enterprise behavior after the fact, the proactive agenda is intended to be prospective in order to encourage responsible behavior by enterprises in the

context of the *Guidelines*, in particular through constructive collaboration with stakeholders, and effectively reduce the number of future specific instances.

Projects supported under the proactive agenda should:

- be demand-driven;
- be broadly supported by NCPs and relevant stakeholders;
- address issues where there may be risks of significant adverse impacts on matters covered by the *Guidelines*, and be sufficiently important and in need of attention to justify the time, energy and resources entailed in a broad and inclusive multi-stakeholder process;
- add value in terms of contributing to the effective observance by enterprises of the principles and standards contained in the *Guidelines*;
- avoid duplication with other efforts relevant to the effective implementation of the *Guidelines*; and
- have a reasonable expectation of success in reaching an outcome that will be supported by adherents to the OECD Declaration on Investment and Multinational Enterprises as well as affected stakeholders.

In co-operation with NCPs, the WPRBC will seek to encourage multi-stakeholder dialogue to more clearly identify areas in which enterprises can make a positive contribution to economic, environmental and social progress, as well as activities and relationships of enterprises which pose common risks and could result in serious adverse impacts, in particular as they relate to specific products, regions, sectors or industries. Outcomes of the proactive agenda should seek to identify such issues and also develop strategies to address them to promote the effective observance by enterprises of the principles and standards contained in the *Guidelines*. Those strategies may include sharing individual experiences in managing those risks among stakeholders, promoting better understanding of risks and their potential consequences if unaddressed, mapping gaps in the existing tools, sharing best practices, and, where appropriate, clarifying the application of the *Guidelines* and/or developing additional guidance.

Approval of projects under the proactive agenda

The WPRBC should consider projects under the proactive agenda when they meet the characteristics defined above. This should be ascertained through consultations with adherents to the Declaration on International Investment and Multinational Enterprises, BIAC and TUAC and OECD Watch, as well as non-OECD countries, other international partners,² and stakeholders who would be affected by, or potentially benefit from, expected outputs.

Projects under the proactive agenda may be undertaken in partnership with other OECD Committees or subsidiary bodies, as appropriate, based on their responsibilities, expertise and interest.

Each project under the proactive agenda should be approved by the WPRBC based on a terms of reference. Where projects may have substantial resource implications, or may result in the development of substantial new guidance to enterprises, the Investment Committee may request that a recommendation on the project be submitted to the Committee for consideration and approval. If the project is intended to be undertaken in partnership with another OECD Committee or subsidiary body, it should be consulted in the preparation of the terms of reference, and the Investment Committee should also approve the project.

The terms of reference should describe the potential outputs of project, the time line for their completion, the process for engaging stakeholders in the project, in particular the anticipated composition of any multi-stakeholder advisory or consultative group, and the involvement of any other OECD committee or subsidiary body collaborating in the project.

The Investment Committee should be periodically updated on progress of the project and any recommended outputs of the project should be approved by the Investment Committee. The Investment Committee should also consider whether the outputs should be approved by any other Committee or subsidiary body which has partnered with the Working Party for the project, depending on the significance of the recommended outputs and the contribution made by the partnering Committee or subsidiary body. When appropriate, in view of their importance to the Organisation, outputs should be submitted for consideration by the Council.³

Management of projects under the proactive agenda

The WPRBC, under the guidance of the Investment Committee, will be responsible for overseeing projects under the proactive agenda. Where projects have a substantial relationship with the development agenda, and substantial interest in the project exists in the Development Assistance Committee, Advisory Group on Investment and Development may partner or advise on the project.

Multi-stakeholder advisory/consultative groups for projects under the proactive agenda

The WPRBC may create multi-stakeholder advisory/consultative groups to facilitate collaboration with advisory bodies (BIAC, TUAC), OECD Watch, international partners, business, and other affected stakeholders on specific projects, especially projects on responsible supply chain management under

the proactive agenda.⁴ The WPRBC should designate a Chair for, and approve the mandate and expected composition of, any multi-stakeholder advisory/consultative group created for these purposes. Such bodies should be created for a fixed term, which may be reviewed and extended as appropriate by the WPRBC.

Multi-stakeholder advisory/consultative groups are not subsidiary bodies of the OECD as defined by the Rules of Procedure of the Organisation.

Any adherent to the Declaration on International Investment and Multinational Enterprises which is deemed well qualified may serve as the chair of an advisory/consultative group constituted for a specific project under the proactive agenda. The Chair will be responsible for ensuring the advisory/consultative group operates consistent with these principles and the Rules of Procedure of the Organisation.

The composition and organisation specific multi-stakeholder advisory/consultative groups for individual projects should be based on the nature of the issues being addressed by the project, and be designed to provide an opportunity for substantial and balanced input into the project. They should be comprised of sufficient members to adequately represent relevant interests and afford credibility to their recommendations, while mindful of the need to operate efficiently. Governments adhering to the Declaration on International Investment and Multinational Enterprises that are interested in the project should be represented. Non-adherent governments with a particular interest in the project may also be invited to participate.⁵ The advisory bodies (BIAC and TUAC) and OECD Watch should be invited to participate and/or designate a representative from their affiliates. Other business organisations, enterprises, non-governmental organisations, experts and representatives from international partners and other stakeholders with a particular interest and expertise relevant to the project should also be considered.

Multi-stakeholder advisory/consultative groups should collaborate with a designated Chair of the project and with the secretariat to accomplish the tasks assigned to them by the Working Party. Such tasks may include:

- providing substantive input on project content, including views that may be useful in reaching consensus and drafting any outputs;
- assisting with the effective functioning of the project, as agreed by the Chair, which may include outreach to experts and other stakeholders in their constituencies, and providing input on the subjects and agendas for project consultations and other expert meetings; and
- offering input on the operating procedures for the effective functioning of the advisory/consultative groups.

Bearing in mind the limited resources available for proactive agenda projects, the Chair of any multi-stakeholder advisory/consultative groups and the OECD Secretariat should endeavour where possible to find a means to make key written materials on proactive agenda projects available in the languages of advisory/consultative groups members and other relevant stakeholders. This may include coordinating a common effort among individual or multiple stakeholders to translate key materials.

The OECD Secretariat and projects under the proactive agenda

The OECD Secretariat, under the guidance of the Chair of the WPRBC, and in collaboration with the Chair of the advisory/consultative group, is responsible for coordinating and administering the projects of the proactive agenda in a manner consistent with the Rules of Procedures of the Organisation.

NCPs co-operation in projects under the proactive agenda

The Commentary to Paragraph 8, Section II of the Decision of the Council on the *OECD Guidelines for Multinational Enterprises* provides that, “[i]n accordance with the Investment Committee’s proactive agenda, NCPs should maintain regular contact, including meetings, with social partners and other stakeholders in order to:

- a) consider new developments and emerging practices concerning responsible business conduct;
- b) support the positive contributions enterprises can make to economic, social and environmental progress;
- c) participate where appropriate in collaborative initiatives to identify and respond to risks of adverse impacts associated.”⁶

NCPs activities and experiences can make an important contribution to the proactive agenda. Given that one of their main responsibilities is to promote the *Guidelines*, they are often exposed to the challenges encountered by enterprises in observing the standards and principles contained in the *Guidelines*. They are also confronted with these challenges in the context of specific instances. NCPs may assist with the identification of issues that may be considered for proactive agenda projects, facilitate broader consultations on such projects, and assist with the implementation and promotion of any associated outputs.

When NCPs are not part of a government’s delegations to the WPRBC, they should endeavour to co-operate as appropriate with their government’s delegates regarding consideration of potential projects on the proactive agenda. As projects approved by the WPRBC under the proactive agenda move

forward, NCPs and their government's delegates to the WPRBC should continue to share relevant information, in particular, where the NCPs have specific experiences through implementation of the *Guidelines* in addressing issues under consideration in a project.

NCPs in collaborative initiatives with social partners and other stakeholders may identify risks and emerging practices which enterprises are using to respond to those risks. Such information may be shared through discussions with other NCPs individually or through regular meetings of NCPs. Where such experiences cause the NCP to believe that additional guidance to enterprises or further elaboration of the *Guidelines* might be needed, they should bring this to the attention of their government's delegates to the WPRBC.

Consultations with stakeholders and non-adhering countries on projects under the proactive agenda

Broader consultations with stakeholders and non-adhering countries will be an integral part of proactive agenda projects. These consultations should be transparent, participatory and inclusive and timely. They may be carried out at appropriate stages of the preparation of envisaged outputs under the chairmanship of the Chair of the project, including in the context of meetings of the Global Forum or other events organised by the Investment Committee. Opportunities for consultations on the Internet may also be provided.

Notes

1. See Paragraph 8 to Section II of the Amendment of the Decision of the Council on the *OECD Guidelines for Multinational Enterprises*.
2. "International partners" refers to international and multi-stakeholder organisations and their subsidiary bodies and expert groups, including those with which the Investment Committee has an MOU.
3. In accordance with Article 10 of the Convention on the Organisation for Economic Co-operation and Development, and Rules 21-26 of the Rules of Procedure.
4. In accordance with Rules 21-22 of the Rules of Procedure.
5. Consistent with paragraph 3 of the 2011 Amendment of the Decision of the Council on the *OECD Guidelines for Multinational Enterprises*, which provides, "[t]he Committee shall engage with non-adhering countries on matters covered by the *Guidelines* in order to promote responsible business conduct worldwide in accordance with the *Guidelines* and to create a level playing field. It shall also strive to co-operate with non-adhering countries that have a special interest in the *Guidelines* and in promoting their principles and standards."
6. Paragraph 18, Commentary to the Procedural Guidance. Implementation Procedures of the *OECD Guidelines for Multinational Enterprises*, 2011,

Chapter 3

OECD innovations and outreach

The OECD plays a key supporting role in the implementation of the Guidelines. With the Global Forum, launched in 2013, it provides a forum for government, business, trade union, civil society and international organisation representatives to discuss key RBC challenges. It also spearheads an active communications strategy for the promotion of the Guidelines and hosts a comprehensive database of specific instances brought to NCPs since 2001. This chapter reviews the OECD's work in this area during the June 2012-June 2013 reporting period.

Establishment of the Working Party on Responsible Business Conduct

On 28 February 2013, the Executive Committee of the OECD confirmed the decision of the Investment Committee to establish the WPRBC.¹ The tasks of this new working party are:

1. To assist in enhancing the effectiveness of the *Guidelines* and fostering the functional equivalence of NCPs.
2. To assist, in co-operation with the NCPs, in the implementation of the “proactive agenda”.
3. To engage, on behalf of the Investment Committee, with non-adhering countries on matters covered by the *Guidelines*, in particular with those non-adhering countries that have a special interest in promoting the principles and standards in the *Guidelines*, in conformity with the Resolution of the Council on Partnerships in OECD bodies.
4. To co-ordinate with and contribute to the activities on the Global Forum.
5. To periodically consult with BIAC, TUAC and OECD Watch and international partners on matters covered by the *Guidelines*; also consult with other OECD bodies, international organisations or experts as appropriate.
6. To undertake other tasks relating to the *Guidelines* and responsible business conduct as requested by the Investment Committee.

Roel Nieuwenkamp (Netherlands) and Maria Benedetta Francesconi (Italy) were designated as the first Chair and Vice-Chair of the new WPRBC. Brazil, France, Switzerland, United Kingdom and the United States were also invited to be members of the Bureau. The WPRBC met twice in the reviewed period, in March and June 2013.

Global Forum on Responsible Business Conduct

In May 2012, the OECD upgraded the Annual Corporate Responsibility Roundtable into a Global Forum. It is viewed as an important tool for expanding and deepening OECD’s dialogue with non-OECD economies on responsible business conduct and a strategic component of the implementation of the revised *Guidelines* a global context. The mission of the Global Forum is to:

1. promote wider application of the principles and standards of the *Guidelines* with a view to fostering a level playing field between enterprises from adhering countries and non-adhering countries;

2. engage the Key Partners and other interested non-OECD countries on matters covered by the *Guidelines* and their implementation and encouraging their co-operation in this regard; and
3. exploit or develop synergies between the *Guidelines* and non-adhering countries' own corporate responsibility principles and standards.

The designated participants are Brazil, China, India, Indonesia and South Africa; the Russian Federation and the adhering countries to the *Guidelines*.

The inaugural meeting of the Global Forum took place at the OECD on 26-27 June 2013. The Global Forum brought together over 80 speakers and 500 participants from around the world representing policy makers, businesses, trade unions, and civil society to provide insights and exchange experiences on today's core challenges and opportunities in responsible business conduct. The live webcast of the Global Forum was followed by 650 viewers.

It was the first major international event after the collapse of the Rana Plaza garment factory on 24 April 2013 – the largest industrial accident in history that claimed over 1200 lives. The Global Forum provided a timely opportunity to discuss how the international community can contribute to making sure a similar tragedy is never repeated. The Global Forum also focused on responsible business conduct in the financial, extractive and ICT sectors which have broad ramifications in the world economy. The Global Forum concluded on the importance of working together in embedding responsibility in all business environments, and particularly in those that need it the most.

The Global Forum was promoted on the OECD's social media platforms (Twitter, Facebook, Google+). Tweets relating to the Global Forum (hashtag #OECDrbc) were posted on the Forum website in real time via a Twitter timeline. A TweetReach report generated for the 8 days from 21 June to 28 June, showed that #OECDrbc was cited in 572 tweets.

New communications strategy

Forging a new visual identity for the *Guidelines* and supporting communication tools was the second most important achievement of the reporting period. The new identity consists of:

- A unique visual signature to be used by both the OECD and adhering governments in association with any *Guidelines*-related events and publications.
- A standalone website on the *Guidelines* with the separate URL mneguidelines.oecd.org was launched at the time of the May 2013 OECD Ministerial Council Meeting. This new website is designed to be a central point for information on all matters relating to the *Guidelines* and a means of accessing national websites relating to the *Guidelines*. It displays, for example, up-to-date

information on NCP institutional arrangements and specific instances, promotional activities sponsored by adhering governments and stakeholders, initiatives taken in support of the proactive agenda, recent events and published material on the *Guidelines*.

- A database on specific instances to allow users to extract up-to-date information on all specific instances handled by NCPs since the creation of this mechanism in 2001 (close to 350 instances). In accordance with the Procedural Guidance as revised in 2011, NCPs are expected to make the results of every specific instance publicly available. The database disseminates official information on specific instances and NCP co-operation, and provides access to aggregated data.
- An interactive pdf template for the Common Reporting Framework was launched this year. In accordance with the Procedural Guidance as revised in 2011, NCPs must report annually to the Investment Committee on the nature and results of their promotional activities around the *Guidelines*. This year an interactive pdf format was introduced which facilitates the compilation, and comparability and analysis of the data collected from NCPs. The reporting format for specific instances mirrors that of the structure of the specific instance database. Multiple choices and dropdown lists make the report easier to complete and minimal intervention is required by OECD staff to post the reports on Olis. This improvement has been made possible through a voluntary contribution provided by Norway.
- A brochure entitled “The OECD *Guidelines for Multinational Enterprises – Responsible Business Conduct Matters*”, available in print and online.² This “handbook” provides basic information about the *Guidelines* and their implementation. NCPs and stakeholders have been encouraged to use the brochure as a common reference for their activities on the *Guidelines*.

Outreach

Outreach was another important OECD deliverable on the *Guidelines* in the reporting period. It particularly led to the strengthening of OECD co-operation with the Asia-Pacific region.

OECD-ESCAP Conference of 15-16 October 2012

A high level conference was organised with the UN Economic Commission for Asia and the Pacific (ESCAP) on the occasion of the 2012 the Asia-Pacific Business Forum in Kuala Lumpur in mid-October 2012. This event attracted over 200 public and private actors from China, South East Asia,

adhering countries and partner organisations. The conference discussed: a) the new landscape of international corporate responsibility instruments; b) tools for integrating corporate responsibility instruments into company decision-making processes; and c) the contribution of social dialogue and non-adversarial mechanisms such as NCPs for the resolution of societal issues in Asia and the Pacific.

OECD Deputy-Secretary General Richard Boucher, ESCAP Director Dr Ravi Ratnayake, BIAC Secretary-General Tadahiro Asami and Malaysia Global Compact Network Director Tan Lin Lah delivered the opening addresses while ESCAP Business Advisory Council Chairperson Datuck Seri Mohameb Iqbal Rawther and Malaysia Ministry of International Trade and Industry Secretary-General Rebecca Fatima Sta Maria, presented the conclusions of the Conference.

A bilateral meeting was also organised between DSG Boucher and ESCAP Executive Secretary Nooleen Heyzer. Dr. Heyzer expressed her appreciation for the excellent co-operation between ESCAP and OECD in various areas. It was agreed that the two organisations should co-sponsor a special event on responsible business conduct as part of the ESCAP's Third Trade and Investment Week which will be held at ESCAP headquarters in Bangkok in the week of 18 November 2013 and to conclude an MOU on that occasion. These tentative plans have been re-confirmed on the occasion of Dr Heezer's participation at the inaugural meeting of the OECD Global Forum on RBC, on 26-27 June 2013.

Davos working dinner on “Business for Society”, 23 January 2013

On 23 January 2013, the OECD organised a working dinner on “Business Society in MENA and Eurasia: Towards a Framework for Action” that took place in Davos. Over 30 leaders from business, government, academia and non-profit organisations attended the event. In his opening remarks, the OECD Secretary-General Angel Gurría highlighted the most significant outcomes of the 2011 update of the *Guidelines* and their relevance for the region. He further insisted that a “proactive agenda” is a key success for implementing RBC, as well as committed champions and multi-stakeholder partnerships.

The event was organised around four roundtables: a) making the most of the *Guidelines*; b) monitoring and evaluation of RBC; c) getting the RBC infrastructure right; and d) achieving scale and impact from RBC initiatives. Participants shared good practices on these themes and each table provided a short summary of their discussion. The Secretary-General concluded by stressing the importance of using all possible vectors to promote RBC.

Panel discussion discussions at the 2013 World Bank/IMF Civil Society Policy Forum, 19 April 2013

On 19 April 2013, the OECD was invited to hold a panel on the first two years of implementation of the *Guidelines* at the 2013 World Bank/IMF Civil Society Policy Forum. This event, organised on the occasion of the IMF 2013 Spring Meeting, was attended by several government, business, trade and civil society representatives. The discussions were chaired by the US NCP and focussed on constructive solutions to the non-observance of the *Guidelines*, efforts to improve mediation capacities of National Contact Points, specific projects on responsible business conduct in the financial and extractive sectors, lessons learned and outreach activities. It was agreed that this *Guidelines* event should become a standard feature of the World Bank/IMF Civil Society Policy Forum.

Signature of the OECD-ICC Memorandum of Understanding

On 7 November 2012, in Amman, Jordan, the OECD and the International Coordinating Committee of National Human Rights Institutions signed an MOU to promote respect by multinational enterprises of the new human rights chapter of the *Guidelines* and the UN Guiding Principles for Business and Human Rights.

The purpose of the MOU is to establish a program of co-operation over three years to promote greater understanding, visibility and use of the *Guidelines* and the NHRI Paris Principles mandate, towards greater respect for human rights in the sphere of business activities, and to exploit the synergies and complementarities between the parties and develop co-operation in such areas in support of this goal.

The ICC Chair welcomed the MOU as “important step” and reaffirmed “ICC support to the implementation of the new human rights chapter of the *Guidelines*”. The OECD highlighted the “essential role of National Human Rights Institutions in supporting the implementation of the *Guidelines*”.

RBC in Costa Rica, Jordan and Malaysia: highlights and challenges

The proposal of Costa Rica to adhere to the OECD *Declaration on International Investment and Multinational Enterprises* and the Investment Policy Reviews of Jordan and Malaysia each devote a chapter on country policies and initiatives for promoting RBC.

Costa Rica

Costa Rica has yet to develop a comprehensive national strategy on RBC, a series of initiatives were undertaken to promote RBC in the country, including partnerships with stakeholders and the private sector. Costa Rica also engaged in

international initiatives such as the ratification of international instruments covering RBC areas. The government has implemented reforms to establish disclosure requirements, has set in place a comprehensive and institutional framework for protecting human rights and has implemented effective environmental policies, which serve as a model in this field. On the other side, efforts will be required in certain areas, in particular with regard to stakeholder engagement with affected indigenous communities, enforcement of international instruments related to freedom of association and collective bargaining and addressing corruption in business.

Jordan

By adhering to the *Guidelines*, Jordan will show its commitment to promote the *Guidelines* and their observance by companies. The national context presents however important challenges since the concept of RBC is relatively new in Jordan. The level of awareness is low and there is no comprehensive national policy. Other challenges include, but are not limited to, improving disclosure and reporting practices, better integrating human and labour rights international standards within national legislation and practices and improving respect for human rights by enterprises, improving social dialogue with regard to labour issues, promoting greener business conduct and reinforcing consumer protection. Jordan is taking steps to address those challenges. In this context, it is worth mentioning that Jordan has developed a Corporate Governance Code based on the OECD *Principles of Corporate Governance*.

Malaysia

The first OECD Investment Policy Review of Malaysia published in 2013 includes an overview of Malaysian RBC-related policies, activities and practices, which shows that Malaysia is strongly committed in strengthening the framework for promoting RBC. A number of policy and institutional advances were seen in the past years, in particular with regard to environmental protection and promoting green investment. Government initiatives to promote RBC in Malaysia include requirements for public-listed companies to disclose their CSR activities and a framework to guide the implementation and reporting of RBC activities by listed companies that was launched in 2006 by the country's stock exchange. Public-private partnerships on CSR and other initiatives such as prestigious awards for RBC activities are acting as important incentives to foster RBC among companies.

Many challenges remain in this field, in particular in the area of labour relations where Malaysia needs to narrow the gap with international RBC best practices. Carrying out consultation with representatives from business community, civil society and partnerships on policy developments and improving governmental co-ordination of RBC-related policies and activities

would also be beneficial for Malaysia. As Malaysian enterprises are now becoming global players with significant investment abroad, Malaysia would send a strong signal to its outward investors and the global community by adhering to the *Guidelines*.

Notes

1. See of the Decision of the Council on the *OECD Guidelines for Multinational Enterprises* as amended in 2011.
2. http://mneguidelines.oecd.org/MNEguidelines_RBCmatters.pdf.

Chapter 4

Inaugural Global Forum on Responsible Business Conduct

This annual Global Forum, held for the first time in 2013, aims strengthen the international dialogue on responsible business conduct and contribute to the effective implementation of the Guidelines. The inaugural meeting addressed the Rana Plaza tragedy as a matter of priority along with other emerging challenges to help businesses address the core challenge of how to do well while doing no harm in an effort to contribute to sustainable development and enduring social progress.

Acknowledgements

The inaugural meeting of the Global Forum brought together over 80 speakers representing governments, businesses, trade unions, and civil society with 500 participants to provide insights and exchange views about the core challenges and opportunities in the global RBC field. The OECD Investment Committee wishes to thank the speakers, the audience, stakeholder organisations (BIAC, TUAC, and OECD Watch), and partner international organisations for their contribution in making the Global Forum a success. Special appreciation goes to the following lead speakers:

- **Christine Albanel**, Executive Vice-President, Orange Group and former Minister of Culture and Communications, France
- **Nicole Bricq**, Minister of Foreign Trade, France
- **Sharan Burrow**, General Secretary, International Trade Union Confederation
- **Pascal Canfin**, Minister for Development, Ministry of Foreign Affairs, France
- **Juan Guillermo Castro**, Vice-President of Promotion, National Mining Agency, Colombia
- **George Cohen**, Director, US Federal Mediation and Conciliation Service
- **Carlos Márcio Bicalho Cozendey**, Secretary for International Affairs, Ministry of Finance, Brazil
- **Jose W. Fernandez**, Assistant Secretary, Economic and Business Affairs, State Department, United States
- **Noeleen Heyzer**, Executive Secretary, UN Economic and Social Commission for Asia and the Pacific
- **Gilbert Hougbo**, Deputy Director-General for Field Operations and Partnerships, International Labour Organisation
- **Richard Howitt**, European Parliament Rapporteur on Corporate Social Responsibility, European Union
- **Dipu Moni**, Minister of Foreign Affairs, Bangladesh
- **Christiaan Rebergen**, Vice-Minister and Deputy Director General, International Co-operation, Ministry of Foreign Affairs, Netherlands
- **Simon Smits**, Vice-Minister for Foreign Economic Relations, Ministry of Foreign Affairs, Netherlands

The Investment Committee would also particularly like to thank the Senior Associate Dean of International Business and Finance Bhaskar Chakravorti from the Fletcher School of Law and Diplomacy, the Netherlands National Contact Point, ORSE Finance Club of France, Shift, Institute for Business and Human Rights and *Institut Responsabilité Sociétale de l'Entreprise Management* for their active role in the organisation of the Forum.

Key findings

Responsible business conduct has emerged as a key priority in the global economic agenda. The convergence in international standards and principles on what constitutes responsibility, centred around the *Guidelines* and the 2011 UN Guiding Principles for Business and Human Rights (the UN Guiding Principles), has resulted in significant advances in understanding how businesses should avoid and address societal risks and how governments can support and promote responsible practices. The result is a more predictable business environment that guides enterprises on how to meet their responsibilities and that enables stakeholders to hold them accountable to reasonable standards. These advancements are also echoed in the evolution of national RBC approaches, notably in government policies of major emerging economies and new investment frontiers.

These developments represent an unprecedented consensus on what constitutes RBC and have raised the expectations from and for all stakeholders to ensure that this historical opportunity to turn ideas into action is not missed. Integrating propriety, integrity, and transparency into markets is a collective duty. Governments have a responsibility to protect internationally recognised fundamental rights and to ensure good governance, fair regulations, and transparency. Businesses must acknowledge that their freedom to operate globally also carries a responsibility for their impact locally – adopting responsible practices that take into account both the bottom line and the impact of their activities is now a baseline expectation of behaviour. Trade unions and civil society can help ensure accountability and provide a voice for the most disadvantaged. International organisations can provide a forum for dialogue, peer learning, standard setting, analysis, and best policy recommendations.

However, consensus on a policy level does not automatically translate into successful implementation on the ground. The April 2013 Rana Plaza tragedy in Bangladesh is a stark reminder of the major gaps between theory and practice in the international business environment. This largest industrial accident in history, symptomatic of underlying structural problems that have plagued the field for years, is a wake-up call to all parties about the need to address significant breakdowns in supply chains, processes of production and

distribution, manufacturing, and throughout the entire value chain. Governments and businesses need to heed that wake-up call to ensure there is a before and an after Rana Plaza in the global economy.

The Global Forum was launched by the OECD in 2013 to strengthen international dialogue on RBC and to enhance the synergies between corporate responsibility instruments on all levels, including the *Guidelines*. Discussions were held in five thematic sessions and two special events:

- Trends in Responsible Business Conduct.
- Bangladesh: The Way Forward and Implications for the Textiles Sector Globally.
- *OECD Guidelines for Multinational Enterprises* and the Global RBC Agenda.
- Responsible Business Conduct and the Financial Sector.
- Stakeholder Engagement and Due Diligence in the Extractive Sector.
- Special Event: Disclosure and Reporting.
- Special Event: Responsible Business Conduct in the ICT Sector.

Each session was purposefully structured as a panel discussion to encourage dynamic exchanges among participants from governments, businesses, trade unions, and civil society. The broad message that has emerged from this discussion is that RBC is a crucial element in inducing change and that the Global Forum, as the first multi-stakeholder platform for integrating corporate responsibility into the global economic agenda, can play an important and convening role. The following summary report reflects the main outcomes of the discussion. It is organised according to each session and the main themes and highlights of the discussion.

Trends in responsible business conduct

CHAIR	Richard Boucher , Deputy Secretary-General of the OECD
MODERATOR	Bhaskar Chakravorti , Senior Associate Dean, International Business and Finance, Fletcher School of Law and Diplomacy and Executive Director, Institute for Business in the Global Context and the Center for Emerging Markets Enterprises
PANELLISTS	<p>Christine Albanel, Executive Vice-President, Corporate Social Responsibility, Events, Partnerships and Philanthropy, Orange Group and former Minister of Culture and Communications, France</p> <p>Jérôme Bédier, General Secretary, Executive Management, Carrefour Group</p> <p>Sharan Burrow, General Secretary, International Trade Union Confederation</p> <p>Jose W. Fernandez, Assistant Secretary, Economic and Business Affairs, State Department, United States</p> <p>Alexandra Guaqueta, Member, UN Working Group for Business and Human Rights</p> <p>Dhanendra Kumar, Principal Advisor, Indian Institute of Corporate Affairs</p> <p>Noeleen Heyzer, Executive Secretary, UN Economic and Social Commission for Asia and the Pacific</p> <p>Kekeletso Mashigo, Director, Multilateral Organisations, International Trade and Economic Development, Department of Trade and Industry, South Africa</p> <p>Marcio Senne de Moraes, Head, Corporate Affairs, Europe and North America, Vale</p> <p>Mikael Anzén, Vice-Chair, Sustainable Development Working Group, Arctic Council and Ministry for Foreign Affairs, Department for Eastern Europe and Central Asia, Sweden</p>

The objective of the opening plenary was to set the tone for the Global Forum by providing an overview of the current trends in RBC in light of the increased convergence in international principles and standards on what constitutes RBC. Government representatives from advanced, emerging, and developing economies came together with business representatives from three different sectors, labour and civil society to discuss ways in which governments promote RBC and engage the private sector in support of sustainable development goals, as well as the most effective ways businesses integrate RBC principles into operations. The main highlights of this rich and multi-faceted discussion follow.

Shifting centre of global economic activity

A number of panellists felt that the centre of gravity of global economic activity is shifting to developing economies and that there is danger that the challenges in translating RBC principles into practice could become amplified because the necessary institutions might not have had the time to catch up with rapid market changes. The example of Asia illustrates both the potential and the pitfalls of such circumstances. The panellists felt that although the perceived shift of manufacturing to Asia over the last two decades has spurred the region's unprecedented growth, that fast growth did not equal inclusive growth. Asia today is the home of both high-growth economies and least-developed countries and the region faces rising inequality, declining middle class, and significant sustainability issues. The current export-based growth model might prove insufficient in light of the declining global export markets. These panellists felt that fulfilling the full potential of the "Asian Century" would depend on integrating Asia's most disadvantaged into the formal markets. The bottom billion people represent a severely under-served and under-consuming segment of the population. Investments in infrastructure that serves them and in their productivity and financial inclusion would undoubtedly increase the aggregated demand of the entire regional market. Thus, closing the existing gaps would not merely be a development goal – it would also be a business opportunity and a source of new drivers of growth.

Getting rid of "responsible" in responsible business conduct

Majority of panellists felt that it would be smart business for enterprises to partake in the inclusion agenda, even if that might not be the primary objective for enterprises. One panellist particularly noted that in today's world of raised consumer consciousness, interconnectedness, and information sharing, profits should be viewed in the context of not adversely impacting the people and the planet. Moving away from the idea of shareholders to stakeholders, which include the communities in which businesses operate, would be necessary for enterprise's long-term sustainability. Most panellists

felt that competing on the social dimension should not be the accepted modus operandi of business. There was a general consensus that better companies mean better lives which mean better business.

However, internalizing this idea in core business operations is a significant challenge. Making responsibility business-as-usual requires a paradigm shift in how responsibility is viewed in internal business decision-making processes. A number of panellists commented that it appears that a schism exists between business units that pursue core business and the units that support it (where RBC is generally relegated to), suggesting that decision-makers conduct themselves one way while responsible business conduct would require something quite different. This schism would need to be bridged to reflect that responsibility is an integral part of regular business practices. Everything that comes under the label of “responsibility” should be compatible and aligned with the natural incentive systems that drive managerial conduct. This might require making a number of trade-offs and/or re-conceiving the main objectives of the business. It might require a change of time horizon away from the focus on quarterly profits to a longer term view. It might require a shift in how cost models are built to reflect the view that competing on social dimension is not an acceptable practice.

Stacking the deck for mutual benefits

Although many MNEs demonstrate a respect for high standards of business conduct, there have been far too many recent examples of irresponsible – and, in several cases, criminal – conduct in international business. Some panellist felt that despite the recent advancements in understanding responsibility, absence of compliance, often based on exploitation and risk to people and the environment, is stacking the decks against workers and the global economy. The recent tragedy at Rana Plaza in Bangladesh underlines just how high the consequences of such systematic failures are.

Trade union representatives commented that in absence of strong regulation and/or compliance, trade unions and collective power building can be an important and effective lever for representing the interests of the most disadvantaged. Union action in Bangladesh resulted in the Accord on Fire and Building Safety in Bangladesh, a compliance-driven model based on dialogue and negotiation which could be replicated in other sectors or sectors. A comment was made that other players also have an important role – for example, the pressure is on institutional investors to focus on long-term capital that is invested in the real economy rather than double digit returns which are followed by a crash to the bottom. Another example would be consumer action that has historically achieved results, although of mixed

success. All parties – not only enterprises – have a role to play in building a healthy business environment.

Completing the information grid

Several speakers said that one considerable barrier in the field of responsibility is that there is a lack of knowledge among all stakeholders about rules that govern business activity, universal human rights, and specific instruments that enshrine these rights, including the UN Guiding Principles and the *Guidelines*. Many businesses still do not fully understand the extent of their responsibilities, while their stakeholders might not understand the extent of resources available to them to ensure their basic rights are respected. Furthermore, lack of accessible and relevant information on the impacts of business activities in a given location presents an additional barrier. Due diligence process, as described in the UN Guiding Principles and the *Guidelines*, could help bridge these information gaps by bringing more disclosure, encouraging stakeholder engagement, and ensuring accountability from both inside and outside the business. This is particularly important considering that in many parts of the world agencies that can credibly monitor and report on business activities do not exist.

Responsibility of governments

There was an agreement that governments should meet their responsibilities for protecting internationally recognised fundamental rights and for improving the functioning of markets through good governance, fair regulations, and transparency. A particular comment was made that just as expectations are placed on businesses to embed responsibility into the core business, governments should also ensure that responsibility issues are an integral part of policy making. This could be done on multiple levels, both international and national. Speakers agreed that, for example, it is particularly important that policy coherence exist among all ministries as ministries that most often interface with business are not necessarily ministries directly in charge of RBC policy. On a multi-lateral level, governments could work together to ensure a level-playing field for business so that social or environmental dimensions do not unwittingly become a source of competitive advantage for business. This point is particularly important as new investment frontiers open, such as in the Arctic. Experience from other parts of the world would prove to be especially useful and governments could facilitate exchanges of those experiences, as the Arctic Council, for example, is already doing for the Arctic.

The unique approach that the 44 OECD and non-OECD adhering governments to the *Guidelines* take could be further replicated. These governments are placing concrete requirements on RBC not only on

businesses, but also on the government itself. Adherent countries are obliged to set up NCPs, which are tasked with furthering the effectiveness of the *Guidelines* by undertaking promotional activities, handling inquiries, and providing a mediation and conciliation platform for resolving issues that arise from the alleged non-observance of the *Guidelines*. This makes the *Guidelines* the only international corporate responsibility instrument with a built-in grievance mechanism.

National approaches to RBC

Government representatives from three different economies shared their experiences and national approaches to RBC. All three of these governments view RBC as an integral part of their strategic objectives and actively promote it in order to maximise the positive contribution of business to sustainable development.

United States. The United States representative described the government's efforts to foster economic prosperity by helping businesses find the balance between profit and development objectives. For example, the international boom in infrastructure affords both a financially lucrative business opportunity as well as a means to achieve strategic development priorities. If, however, the collaborative approach does not work, the government has other levers such as the OECD Anti-Bribery Convention, which builds on the US Foreign Corrupt Practices Act; recent Dodd-Frank legislation that requires businesses sourcing minerals from conflict-affected areas to disclose certain information to the Securities and Exchange Commission; and mandatory reporting requirements for investors in Myanmar as a condition to the recent lifting of sanctions. These US reporting requirements are intended to promote transparency and to empower civil society to monitor the impacts of these investments.

The US representative asserted that multilateralism can be more challenging than bilateral efforts, yet it is vital to success on a global scale in terms of levelling the playing field. Two such examples, which involved difficult multilateral debates, are the *Guidelines* and the Kimberley Process with respect to rough diamonds. At the heart of these multilateral initiatives is the underlying notion that right behaviour should benefit business: MNEs can “do well by doing good”.

India. The recent initiatives in India could effectively make it the first country in the world to mandate RBC. The Indian representative shared with the audience the new developments regarding the new Companies Bill, recently passed by the lower house of the Parliament and currently awaiting action in the upper house, which would mandate that 2% of total net profits of

businesses of a certain size be spent on development-oriented activities. The Bill would require that a specific committee under the Board of Directors be created to formulate and implement RBC policy and report on these activities in the annual reports. Any shortfalls in the implementation of these requirements would also need to be reported on. Should a business fail to do so, punitive measures, including fines and imprisonment, could theoretically be applied against it. The objective of these measures would be to ensure integration of responsibility in core operations in order to safeguard the long-term sustainability of businesses that operate in India.

Ghandi's teachings and India's rich history of philanthropic activity heavily influence the ethos of the Indian government about the role of businesses in the society. The view that business has stakeholders rather than just shareholders is at the centre of the government's approach and is also enshrined in India's National Voluntary Guidelines on Social, Environmental & Economic Responsibilities of Business, which largely align with the *Guidelines*. The Companies Bill, developed through intensive consultations with stakeholders and backed by business, attempts to give a proper shape to India's long philanthropic history in the legislative area.

South Africa. South African representative emphasized that South Africa actively promotes responsible business practices as part of solutions to reduce poverty, advance social equity, and ensure environmental protection through the King Codes. The Codes explicitly advocate the adoption of a triple bottom line approach and recognise that businesses should not and cannot operate in isolation from the communities in which they are located. Although the Codes are voluntary, they work in tandem with legislation that guarantees minimum rights of workers in terms of equality, labour rights, living standards, and health. The Codes are also backed by concrete action on a ministerial level, such as the Mine Medical Inspectorate that ensures health and safety in the mining sector through inspections. Additionally, the Codes propose an integrated reporting mechanism through which companies are expected to report annually on their impacts. This “apply or explain” approach is meant to foster an environment in which businesses actively partner with stakeholders to develop socio-economic impact assessment tools which would assist in identifying, understanding, and managing impacts and risks. Businesses that respect the rights of workers and understand and act on their responsibilities are the only businesses that can obtain a social licence to operate.

Embedding RBC: Business experiences from the ground

Three MNEs from three different sectors – telecommunications, mining, and retail – shared their perspective, best practices, and approaches on RBC from an operational level. Although these MNEs operate in very different

markets and, thus, have differing needs, they do share some common approaches to RBC. For example, all three MNEs view RBC as an integral part of their operations that impacts the bottom line. Despite the continuous challenges of embedding his view through different tiers of the business, this is an encouraging development. Furthermore, all three MNEs view contracts as an important tool for enforcing responsibility within the supply chain. Finally, all three MNEs view RBC as an important way to create ecosystems with multiplier effects that in the end either directly or indirectly benefit their bottom lines.

Telecommunications sector. Panellist from the telecommunications MNE highlighted that RBC for them is much more than just cosmetics. It is a pre-condition to development, means of innovation, an important part of brand capital in a highly competitive environment, a way of building trust with all stakeholder and proof of listening to their expectations, needs, and wants. They use different levers to demonstrate their commitment to RBC.

- *Industry Initiatives.* A high value is placed in industry initiatives due to the nature of the telecommunications sector, especially when government action is lagging due to the rapid developments in the sector. For example, this MNE is a founding member of the Industry Dialogue on Human Rights, which is a group of telecommunication firms that jointly developed and committed to guiding principles that address the issues of freedom of expression and privacy of personal data as related to the telecommunications sector.
- *Procurement Policy.* At the cornerstone of this MNE's responsibility is its responsible procurement policy. This policy governs sourcing in the supply chain and all contracts with supplies include responsible purchasing clauses and commitments to uphold the corporate code of conduct. Quality is ensured through auditing. The MNE also took the initiative with other major European telecommunications operators to enter into joint audit co-operation, with a strong focus on improving working conditions. This approach is supported at the highest decision-making levels and, from 2010-12 resulted in remediation of 50% of non-compliance within the supply chain.
- *Telecommunications for Development:* The MNE's operations in Africa and the MENA region focus on the social and economic development of the countries in which it operates, thus contributing to the achievement of the Millennium Development Goals and the reduction of extreme poverty. One pillar of their development program is ensuring accessibility of technologies. Linking up remote villages through community phones, availability of mobile phones, and provision of Internet services has significantly increased penetration of technologies. These developments

make a real difference on the ground – one example is access to real-time price of agricultural commodities. Another example of value added services is a program that focuses on access to banking, which operates in 13 countries, has 6 million users, and serves a segment of population in Africa (80%) that has no access to bank accounts. Technologies can also have an impact on healthcare. For example, in the fight against infant mortality, mobile technologies enable mothers to send or receive information on their mobile phones about their own health or the health of their infants.

Mining sector. Due to the capital intensive nature of projects in the mining sector, a long-term view is necessary to ensure that return on investment is realised. This means that responsibility has to be a part of the core business from the start because of its direct impact on the bottom line. The panellist from an MNE that operates in the mining sector highlighted that achieving a return on investment and, at the same time fostering the establishment of solid social/political/environmental/economic legacies in host countries, is what sustainable development is all about. This happens through two main pillars of investment at the said MNE.

- *Infrastructure.* Mining projects generally take place in remote areas. In order to ship product out to the world markets, more often than not, significant infrastructure investments are needed. These investments, however, do not only benefit the enterprise, but also unleash other business possibilities.
- *Capacity-building.* This MNE's main way of capacity-building is through skills training for employees, resources invested in local suppliers, and support of initiatives in the public sector. Investing in local suppliers often had a multiplier effect – many suppliers often move from providing services only to the company to providing services to the entire market. In the same vein, support of public sector initiatives helps improve market predictability by contributing to functional government agencies and lasting regulatory frameworks.

The goal of these policies is to ensure that the mining project, often the first large-scale investment in the country, does not become the only project in the country, but, rather, that it unleashes other possibilities and becomes a catalyst for sustainable development. However, the panellist underscored that the mining project cannot be the only actor in trying to achieve sustainable development. Some basic pillars are needed in order to ensure that the extractive project will actually benefit the host country. For example, the government has to have a clear idea and a development plan so that the extractive projects can fit into the backbone of this plan. Second, a stable regulatory environment is needed in order for investors to be able to focus on the long-term.

Retail sector. The panellist representing an MNE in the retail sector highlighted that the sheer size of the MNE in question presupposes an active responsibility policy. Outside of the image and reputation benefits of acting responsibly, this MNE's customers have specific expectations on the products they are willing to buy. Thus, an active RBC policy is a necessity since RBC impacts the business bottom line. Two particular aspects – added value and labour norms – are the cornerstone of their RBC approach.

- *Sharing added value.* Supplier contracts, particularly for fresh produce and agricultural products, are one lever used to ensure that customer expectations are met. Contracts with suppliers across the world are used as means of upholding RBC principles and to reach agreements on pricing, quality, and regular supply. However, one major limit of this approach is that the MNE is unable to go against markets. If the prices change quickly, the contracts have to be adjusted accordingly. Remuneration of suppliers is sensitive to markets.
- *Labour standards.* Each supplier is also contractually obligated to meet International Labour Organisation's rules and standards. The main challenge is monitoring the actual implementation of these standards. In addition to quality audits, social audits by outside professional experts are used to monitor the supply chain. Furthermore, results and conclusions of audits are often shared with other companies in the field to promote best practices. In case where audits do not produce satisfactory results, what can realistically be done? In some cases, for example child or forced labour, response is obvious. Other times, the non-compliance is a more complicated issue. For example, is it possible to improve trade union presence considering the political situation in that country? Are labour standards sufficient in a broader sense? Regarding conflicting requirements that enterprises might face in different business environments, the *Guidelines* encourage the governments involved to co-operate in good faith to resolve any problems that might arise. The MNE also finds it difficult to find a consensus on concrete steps that could be taken in these more complex situations. Some stakeholders say social audits are enough, others say they don't mean much since nothing actually changes on the ground.

It is impossible for one single firm to change the reality of the business environment in which it operates. This is why this MNE places a lot of value on genuine exchanges and working with partners to discuss next steps. The Accord on Fire and Building Safety in Bangladesh is one example of how a solution-oriented dynamic process with multiple stakeholders helps move beyond initial barriers. Although time is needed to find the right solutions, the objective of such processes is to avoid competing on the basis of social standards.

A reality check

The significant advances that have been made in high-level international policy frameworks need to be matched on the implementation level. There appears to be a lack of balance between incentives and compliance. Some panellists highlighted that many stakeholders feel that too much emphasis is being put on helping enterprises “be good” and not enough on ensuring rights of workers and protection of environment. The voluntary frameworks, in the absence of compliance, have limited benefits. Shaping the future will require the engagement of progressive enterprises that do not compete on the social dimension.

A number of panellists also felt that a missing piece in the responsibility discussion is the role of the consumer. It is often said that consumers would be willing to pay a certain amount more to ensure that tragedies like Rana Plaza do not happen again, but it is not always obvious if that is the case. Consumers often do not give proper signals to markets about their unwillingness to tolerate irresponsible practices, although that might be slowly changing in the recent years. All stakeholders, including governments that might create skewed incentives for competition by not enforcing existing laws, have to do their part to ensure the protection of social and environmental rights. The Global Forum can provide a platform for multi-stakeholder dialogue with a view to focus on results-oriented solutions.

Bangladesh: The way forward and implications for the textiles sector globally

The objective of this working session was to consider the immediate response to the Rana Plaza tragedy, to discuss the need for further action, to assess the wider implications for the textiles industry as related to improving working conditions, respect for labour and human rights and responsible supply chain management, and to discuss the role of the *Guidelines*.

Development success story

The representative of the Bangladesh government shared with the audience the successes of Bangladesh. Bangladesh’s economy has grown steadily at around 5% annually over the last couple of decades. Most of this growth is based on the development of the ready-made garment (RMG) industry, which, as of 2011, constitutes a 4.5% share of global clothing exports and has brought 20 billion USD to Bangladesh just this year. Bangladesh’s social development, particularly the employment of women, has also largely been facilitated by this industry growth. Over 3,000 export-oriented factories are

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KEYNOTE PRESENTATION	Dipu Moni , Minister of Foreign Affairs, Bangladesh
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currently active in the country, employing four million people out of which three million are women. One out of every eight Bangladeshi, around 20 million people, is directly or indirectly dependent on the industry. Bangladesh's largest trading partner is the European Union (EU). Bangladesh benefits from EU's "Everything but Arms" trade preference program, which has been designed to ensure that export-led growth contributes to development and poverty alleviation. Trade with EU represents about 10% of Bangladesh's GDP and 5.5% of garment imports by the EU come from Bangladesh.

Hidden dangers of fast growth

Fast growth, if not supported by sustainable working conditions and the evolution of institutions to reflect the realities on the ground, can create structural deficiencies that carry serious consequences. Recent incidents, such as the fire at Tazreen Fashions in November 2012 and the Rana Plaza factory collapse in April 2013, have damaged the Bangladesh brand and have made clear that these structural deficiencies must be urgently addressed in order to sustain the growth momentum of both the overall economy and the RMG industry. From a practical point of view, a number of panellists thought that Bangladesh needs to urgently reform and meet certain conditions (i.e. no serious and systematic violation of human rights or core labour rights) to continue benefiting from trade preferences, especially with the EU. Majority of panellists thought that there is no scope for business-as-usual. Buyers, brands, and stakeholders in the global value chain need to urgently engage with the view to ensure responsible, ethical, and value-driven business in the country. As the OECD Secretary-General stated and NCPs reaffirmed, "abandoning production can deprive a country of an essential pathway out of

poverty and is not a solution. The responsible course is to work with stakeholders to guarantee the safety of workers, improve their working conditions and ensure respect for human rights.” A number of panellists felt that it is particularly important to ensure that local voices are represented adequately in any existing dialogues and to ensure the representation of women. Women make up about 80% of the RMG workforce, but are not represented in either trade unions or factory management.

Legal reforms

Under increasing international pressure, the government of Bangladesh amended the country’s labour law on 15 July 2013 with the plan to ensure enforcement by end 2013. While the changes demonstrate a step in the right direction to improve worker rights and labour conditions, many human rights groups have criticized the law for not fully aligning with international standards. These concerns were also echoed in the Global Forum discussion. For example, although Bangladesh ratified most of the core International Labour Organisation conventions (including Convention No. 87 on freedom of association and Convention No. 98 on the right to organise and bargain collectively), important sections of the Labour Act have been criticized as not meeting those standards. It remains to be seen what the final text of the amended law will look like. Nonetheless, the government has taken concrete efforts to address the situation. For example, the factory inspection regime will be made more robust by hiring hundreds of new inspectors by year end. The EU Trade Commissioner hosted a meeting in Geneva on 8 July 2013 to announce a Compact between the Government of Bangladesh, the EU, and ILO to improve labour rights, working conditions and factory safety in the RMG industry in Bangladesh. The Compact commits the parties to a number of time-bound actions focusing on improvements in day-to-day life for workers, including reforming the Bangladesh Labour Law, improving building and fire safety by June 2014, and recruiting 200 additional inspectors by the end of 2013.

It is important to note that there has been a long history of employer hostility to trade union organisation in Bangladesh. The labour law by itself will not be enough to ensure improvement of working conditions in Bangladesh’s factories – implementation and enforcement will be critical. The majority of panellists at the Global Forum felt that ensuring that the freedom of association is safeguarded will require a proactive stance by the government to actively promote it to empower workers to understand and use their rights (i.e. the right to not enter an unsafe building).

Convergence needed in international efforts

The majority consensus at the Global Forum was that the international community, in co-operation with the government, has to also be actively

involved in improving the situation on the ground. The Accord on Fire and Building Safety, signed by 65 brands that represent the international interests in over 1 500 out of 4 500 existing factories in Bangladesh, is one such leading initiative. The Accord is a five-year program that commits signatory enterprises to safety inspections, remediation, and fire safety training. In addition, 17 North American brands, under the guidance of independent facilitators at the Bipartisan Policy Centre, have established an Alliance for Bangladesh Worker Safety that recently launched a five-year Bangladesh Worker Safety Initiative. The Initiative puts forth specific actions, such as common safety standards for factories, inspections, worker training and empowerment, oversight and accountability, funding, and collaboration with the Bangladesh government.

These international efforts build on existing ground initiatives in Bangladesh. In the aftermath of the fire at the Tazreen Fashions factory in November 2012, the tripartite constituents of the ILO – government, employers and workers – developed the National Tripartite Plan of Action on Fire Safety for the Ready-Made Garment Sector in Bangladesh which focuses on adopting a preventative approach across the sector. All panellists felt that greater co-ordination and coherence between all international initiatives and their national counterparts must be at the centre of improvement efforts in order for substantial changes to take place in Bangladesh's RMG sector.

Reinstating trust and confidence

Above all, the panellists agreed that trust has to be reinstated between workers and employers. A starting point could be promoting fair and ethical supply chain management. Sourcing practices and low prices were seen by a number of panellists as a major underlying cause of the Rana Plaza tragedy. These panellists felt that MNEs that operate in Bangladesh must acknowledge the pressures that sourcing practices place on their suppliers. Ethical pricing must become an integral part of ensuring workplace safety: the lower the price paid, the higher the risk of being linked to an adverse human rights impact. The panellists noted that the *Accord on Fire and Building Safety* has taken a concrete approach that aims to go beyond ethical pricing to actually assuming financial responsibility. The Accord also calls on MNEs to invest a portion of their profits into the factories.

Staying engaged

In conclusion, the panellists highlighted that there must be a co-ordinated effort to stop the race to the bottom at the expense of social welfare and human rights. The trade unions, in particular, called on competition not being based on the exploitation of workers. It was suggested that the OECD, in collaboration with the ILO, could play an important role by creating specific

recommendations for supply chains in the textile sector similar to the OECD *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*. NCPs have also reaffirmed that they will meet their responsibilities under the *Guidelines* in the textile sector by undertaking, where appropriate, stakeholder consultations at the national level and that they will support the implementation of robust and credible initiatives consistent with the *Guidelines*.

OECD Guidelines for Multinational Enterprises and the global RBC agenda

CHAIR	Roel Nieuwenkamp , Chair of the Working Party on Responsible Business Conduct
PANELLISTS	<p>Seokmo An, Director-General, National Human Rights Commission of Korea and Representative, International Coordinating Committee for National Human Rights Institutions</p> <p>George Cohen, Director, US Federal Mediation and Conciliation Service</p> <p>John Evans, Secretary General, Trade Union Advisory Committee to the OECD</p> <p>Alexandra Guaqueta, Member, UN Working Group for Business and Human Rights</p> <p>Gunhild Oerstavik, Senior Advisor, ForUM, OECD Watch</p> <p>Bernhard Welschke, Secretary General, Business and Industry Advisory Committee to the OECD</p> <p>Ursula Wynhoven, General Counsel, UN Global Compact</p>

This objective of this working session was to discuss the priorities for the *Guidelines* in view of their unique and multi-stakeholder based implementation mechanism and innovative proactive initiatives.

Unique problem-solving approach

The panellists echoed that the Rana Plaza tragedy was not a wake-up call for only the textile sector. Many leaders in responsible conduct also saw their own good systems fail, such as the robust social audit schemes that had indicated there were no problems on the ground. Moving forward, these systematic failures will have to be addressed with concrete and problem-solving action. The unique implementation mechanism of the *Guidelines* can help fulfil this ambition.

The countries that adhere to the *Guidelines* are obliged to set up NCPs that are tasked with furthering the effectiveness of the *Guidelines* by undertaking promotional activities, handling inquiries, and providing a mediation and conciliation platform for resolving issues that arise from the alleged non-observance of the *Guidelines*. This effectively makes the *Guidelines* the only international corporate responsibility instrument with a built-in grievance mechanism. The effective implementation of the *Guidelines* is also supported by the proactive agenda. The proactive agenda aims to promote the effective observance of the *Guidelines* by helping enterprises identify and respond to risks of adverse impacts associated with particular products, regions, sectors, or industries.

It is important to note that multi-stakeholder initiatives are the core of OECD approach. This includes the *Guidelines*, which were most recently updated in 2011 through a one-year multi-stakeholder update process that included intensive consultations with a wide range of stakeholders and partners. The *Guidelines* are also endorsed by the representatives of business, worker organisations and non-governmental organisations through the BIAC, TUAC, and OECD Watch. NCPs themselves also rely on multi-stakeholder processes and are committed to developing and maintaining relationships with all parties that are able to contribute to the effective implementation of the *Guidelines*. Furthermore, central to proactive agenda's potential to effect change on a broad scale is its employment of the multi-stakeholder process which gives relevant stakeholders the opportunity to participate side-by-side with enterprises in developing strategies to avoid risks of adverse impacts.

Ecosystem of remedy mechanism

A number of panellists highlighted that NCPs fit into an existing ecosystem of non-judicial grievance mechanisms. Delivering effective remedy is a complex issue that might require different agencies to play complementary roles (including operational-level systems, national human rights institutions, international finance institution and others). There was an agreement that the NCP system, in addition to providing access to remedy, can also serve as a conduit for governments to better understand if any adverse impacts might not be adequately dealt with. Due to its unique placement within the existing ecosystem, NCPs can help a feedback loop between governments, businesses, trade unions and civil society. The panellist representing the UN noted that this is why the NCP system is particularly relevant for all three pillars of the UN "Protect, Respect, and Remedy" Framework. Furthermore, panellists noted that NCPs are uniquely placed to drive collaboration and strengthen co-operation among not only the actors mentioned above, but also with other relevant institutions, for example, business associations, local UN Global Compact Networks and National Human Rights Institutions.

Improving NCP performance

There was an agreement on the panel that a key priority for future action should be to reinforce the unique role of the *Guidelines* in the global responsibility space. This includes improving NCP performance across a range of aspects. Panellist representing business also noted that proactive agenda projects are invaluable from the business perspective. Regarding NCP performance, it was noted that NCPs increasingly face complex situations which encompass both traditional issues in RBC, such as issues in the supply chain, and newer issues, such as in the ICT sector. Enhancing functional

equivalence among NCPs is one area where efforts would yield immediate results on the ground. A number of panellists highlighted that improvements in structure, in relationships with stakeholders, in clarifying specific instance procedures and follow-up mechanisms, and in strengthening links and co-operation among NCPs themselves would all serve to enhance the problem-solving focus of NCPs. Information dissemination, promotion of policy coherence among different government bodies on RBC, and outreach with a view to promote a global level-playing field, were also seen as priority areas of work. The panel agreed that it was crucial, however, to not spread the resources too thin. Focus on quality over quantity of non-duplicative initiatives would add the most value.

Added value of mediation

Since 2010, more attention is being given to the use informal problem-solving methods in NCP specific instance procedures. The panel noted that a compelling case can be made for the added value of mediation in NCP procedures due to its nature and flexibility. Informal problem-solving processes such as mediation allow the parties to exert a better level of control over the process of reaching an agreement than the more formal ones, such as arbitration or legal measures in which a third party final decision is binding. This fact can be a useful tool for NCPs in bringing the disagreeing parties to the table. Furthermore, mediation can often address a wider range of issues than formal processes, which is quite helpful since it allows for flexibility to tackle issues that might be easier to agree on in order to start building an environment of trust and partnership between the parties. Some panellists highlighted that confidentiality is also an important aspect in this formula. By ensuring confidentiality, the mediator can explore possibilities without asking either party to change its official public position. Business representatives called on NCPs to take extra measures to be impartial and honest brokers in these procedures. In addition to focusing on all-important constructive problem solving, based upon mutual trust and respect between the parties, mediation offers a significantly more expeditious and cost saving alternative to prolonged litigation. For all the above mentioned reasons, the United States Department of State and the Federal Mediation and Conciliation Service (FMCS) recently entered into a landmark agreement in which FMCS provides experienced, professional mediators in support of the US NCP's efforts to resolve issues related to the *Guidelines*. Business representatives called on NCPs to take extra measures to be impartial and honest brokers in these procedures.

Responsible business conduct and the financial sector

Session organised with Netherlands National Contact Point and ORSE Finance Club of France

Current practices of the financial sector	
CO-CHAIRS KEYNOTE PRESENTATIONS	Simon Smits , Vice-Minister for Foreign Economic Relations, Ministry of Foreign Affairs, Netherlands Carlos Márcio Bicalho Cozendey , Secretary for International Affairs, Ministry of Finance, Brazil
MODERATOR	Herman Mulder , National Contact Point, Netherlands
PANELLISTS	Carey Bohjanen , Managing Director, Sustainable Finance Advisory Denis Childs , Head, Emerging Markets, Environment and Sustainable Development Department, Soci�t� G�n�rale CIB Gavin Duke , Investment Manager, Aloe Private Equity Roel Nieuwenkamp , Chair of the Working Party on Responsible Business Conduct
Responsibility and leverage of financial institutions	
CHAIR	Daniel Leb�g� , Chair of ORSE and former Chief Executive Officer of Caisse des D�p�ts
PANELLISTS	Andr� Abadie , Managing Director and Head of Global Environmental & Social Risk Management, J.P. Morgan Olaf Brugman , Head, Sustainability Policy and Reporting, Rabobank J�r�me Courcier , CSR Officer, Credit Agricole SA Cyrille de Montgolfier , Senior Vice-President, European and Public Affairs, AXA Group Mercedes Sotoca , Head, Environmental Social Risk, ING Giuseppe van der Helm , Executive Director, VBDO, and President of the Board of Directors, European Sustainable Investment Forum Maarten van Renssen , Senior Environmental and Social Specialist, FMO
DISCUSSANTS	Christine Kaufmann , Thun Group of Bank and Vice Dean, Faculty of Law, Centre of Competence for Human Rights, University of Zurich Simon Clow , Sustainability Officer, Aegon
Roles and procedures of National Contact Points	
KEYNOTE PRESENTATION	David Plumb , Senior Associate, Consensus Building Institute
MODERATOR	Herman Mulder , National Contact Point, Netherlands
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The objective of this day-long working session was to examine responsibility in the financial sector. The discussion started with the overview of the current practices of the financial sector during which the results of the mapping exercise on environmental and social due diligence practices of the financial sector were presented. An in-depth discussion on the responsibility and leverage options of financial institutions in their influence on client

activities followed. Existing international financial corporate responsibility instruments were examined to provide context. The afternoon session focused on roles and procedures of the NCPs under the *OECD Guidelines*, with discussion centred on reference specific instances in the financial sector and the added value of mediation.

Leading by example: Integrating RBC into day-to-day operations

There was wide agreement among all panellists that the business environment for financial institutions (FIs) and their clients has changed greatly since the 2008 global crisis. Public opinion about FIs is at an all-time low and the expectations about how business and FIs should contribute to economic growth and prosperity have grown. Restoring public trust in the sector is vital for the recovery of the real economy. RBC, in addition to being a driver of a successful and inclusive market economy, is key to restoring this trust and improving governance in the sector.

In order to drive meaningful change, majority of panellists noted that FIs must have an integrated approach to RBC in order to reduce the existing gaps between RBC policy and everyday operations. RBC is not just a tool for risk-management; it can also drive value and increase the bottom line. FIs should work toward ensuring environmental and social (E&S) principles are reflected in decision-making, not only on the investment side but also on the procurement and employment side. In order for this cultural shift to take place, several panellists emphasized that there needs to be a commitment to RBC by the highest-level leadership of FIs. In addition, it is essential to educate and inspire staff about the importance of RBC. Most importantly, FIs need to lead by example – one cannot expect their clients to make changes without making those changes themselves.

Integrated reporting was highlighted by panellists as one tool that can help facilitate these efforts on two fronts: 1) integration of E&S factors into reporting inevitably leads to E&S becoming integrated into decision-making and 2) integrated reporting is one way to influence clients as it could facilitate a meaningful dialogue about the bigger picture behind the investment. It was noted that this meaningful dialogue needs to continue after the signing of the contract – FIs need to guide their clients on an ongoing basis.

Collaborative efforts are needed

There was a shared view that the financial sector is in principle a very important driver for sustainable development – taking RBC to the next level gives the financial sector the opportunity to play the role it should in promoting sustainable business. A number of panellists believed that the ultimate goal of FIs should be to make the capital and financial services easily

accessible to enterprises that “do good” and not so easily accessible for those that do not or are not willing to improve. Such practices could safeguard the investments. Over the years, a number of initiatives have materialised at the sector level as there are increasing efforts at the individual FI level to address RBC practices. For example, the Thun Group of Banks, an informal group of bank representatives, aims to gain a better understanding about the ways in which the UN “Protect, Respect and Remedy” Framework and the Guiding Principles can be best applied to the activities of banks. The Group is planning to share best practices by the end of 2013 by publishing a discussion paper that describes how some banks are addressing the issue.

A majority of panellists thought that there is also wide scope for the financial sector to engage in collaborative efforts with other relevant actors on RBC. Steps should be taken to break down any mistrust that might exist between FIs, trade unions and the civil society and to focus on building partnerships.

Current practices of the financial sector

In order to get a better understanding of RBC efforts currently in place, Sustainable Finance Advisory (SFA), on behalf of Netherlands and with oversight by a multi-stakeholder advisory group of the research and evaluation process, surveyed over 50 FIs globally to better understand how FIs consider environmental and social issues in their products and services; the due diligence processes and procedures that are undertaken to identify and assess risk; and how FIs consider the guidance set out in the *Guidelines*. 30 institutions were interviewed as follow up. The findings were published in the paper *Environmental and Social Risk Due Diligence in the Financial Sector: Current Approaches and Practices*. The following key findings of the report give a comprehensive picture of current practices:

- Different FI business models and mix of financial products and services drive different E&S due diligence approaches.
- Some FIs systematically prioritize E&S due diligence for transactions and investments according to level of potential E&S risk.
- Awareness of the UN framework is variable and a number of implementation challenges are cited.
- FI views on leverage on client behavior on E&S issues varies, even within same product or service group.
- Most FIs do not apply the *Guidelines*, citing them as too generic and a lack of clarity on terminology.

Several panelists acknowledged that the last point is particularly salient as the *Guidelines* do apply to the financial sector just as they do to all sectors of

the economy. Neither the *Guidelines* nor the UN Guiding Principles make exceptions for certain types of financial institutions. However, due to the unique role of FIs in the global economy, several panellists indicated that confusion can arise about the extent of the industry responsibilities. This gap needs to be filled because, as acknowledged by several panellists, the *Guidelines* can be a powerful tool for risk management and for promoting accountability. It was also noted that, although the alignment between international frameworks is a very important development in the efforts to embed common standards on business and human rights to relevant global governance frameworks, the financial sector is among industries that still have to come to grips with the implications of this convergence on their business practices. A number of panellists highlighted that implementation remains an important challenge.

The SFA findings indicate that some of the concerns expressed by FIs appear to, in part, reflect a misunderstanding of some of the main concepts from the *Guidelines* and their implications (i.e. linkage and leverage). Thus, several panellists indicated that it will be very important to effectively communicate the expectations and definitions of these main concepts. In addition, practitioners raised concerns that existing instruments for RBC, including the *Guidelines*, are very high level and that clear and tangible steps would help the financial sector better apply the *Guidelines*.

Understanding due diligence and leverage

Several panellists emphasized that due diligence is not something new for FIs – it has been an integral part of risk-management in the sector for many years. However, the expectation to integrate human rights factors into existing due diligence frameworks is a newer challenge. There is a strong need for FIs to have proper due diligence processes in place because risk-management is based on the ability to make informed decisions – this implies knowing the social and environmental risks in addition to economic and financial risks. Due diligence process under the *Guidelines* and UN Guiding Principles can help FIs quantify risk and apply cost-benefit analysis to understand how improving working conditions, for example, can impact the bottom line. In addition, it is important that due diligence processes remain an on-going exercise by monitoring and evaluation and, if needed, corrective action. This does not necessarily imply pre-investment assessment in all FI transactions.

A wide number of panellists also indicated the need for more clarification on the responsibilities of FIs that derive from business relationships. The spirit and letter of the *Guidelines* and UN Guiding Principles point to the importance of being aware of the company you keep and who you engage with, and clearly indicate that FIs have responsibilities for adverse impacts that are directly linked to their business operations, products or services by a

business relationship even if they do not contribute to those impacts. As a result, investors should carry out due diligence to seek to prevent and mitigate that adverse impact, while also recognising that a distinct and different responsibility exists by the client enterprise that may actually be causing that adverse impact.

Investors, therefore, are expected to exercise leverage to bring change in the behaviour of the client enterprise that might be causing the adverse impact. Panellists also acknowledged that the type and extent of leverage a FI has are very complex issues given the number of factors involved. A number of panellists felt that getting a client to be transparent about health, safety, and environmental issues from one transaction to the next can be very challenging. Among the factors that will need to be considered in determining the appropriate action are the extent of leverage, how crucial the relationship is, the severity of the impact, and whether terminating the relationship would in itself have adverse impacts. There is also need to prioritise according to severity and frequency of risk. The amount of shares investors hold is only one factor in determining leverage. For instance, an institutional investor representative with minority shareholdings explained how they set priorities to promote responsible business conduct in companies they invest in based on gravity of issues, nature of the specific concern and an assessment of leverage. There was a general agreement that conversation going forward will need to address specific questions surrounding leverage (i.e. when you do have it, how to increase it, what are the circumstances, what is the type of relationship with the client, and who are other FIs involved, etc.).

Essential role of NCPs

The discussion concluded by highlighting the essential role NCPs can play in the financial sector. It was underscored that collaboration with NCPs is very important. Since the *Guidelines* give general guidance, collaboration with NCPs is an opportunity for FIs to help contribute to clarifying responsible finance in practice and, thus, to help solve issues related to implementation of the *Guidelines*. However, there was a general acknowledgement that one of the main challenges NCPs face is that they are not well known in the financial sector. As a result, FIs have less experience engaging with NCPs as problem solvers. This unfamiliarity about the role of the NCPs, combined with the differing views about the actual responsibilities of the financial sector, creates an unfortunate scepticism about the applicability of the *Guidelines*. A majority of panellists felt that an effective implementation of the *Guidelines* will require close collaboration by all stakeholders to further clarify what different concepts in the *Guidelines* really mean for everyday business in the financial sector.

Stakeholder engagement and due diligence in the extractive sector

Session organised with Shift

CO-CHAIRS	Francine Noffle , Interim National Contact Point and Acting Director General, Canada Are-Jostein Norheim , CSR Ambassador, Ministry of Foreign Affairs, Norway
KEYNOTE PRESENTATION	Juan Guillermo Castro , Vice-President of Promotion, National Mining Agency, Colombia
MODERATOR	Caroline Rees , President and CEO, Shift
PANELLISTS	Lloyd Lipsell , Project Associate, Shift Mattias Ahren , President, Saami Council Daniel Cossio , Member, National Executive Committee, National Mining Union, Mexico Tricia Feeney , Executive Director, Rights and Accountability in Development, UK Serena Lillywhite , Mining Advocacy Coordinator, Oxfam Australia Jose Link , General Manager, Global Link Solutions Sandeep Pattnaik , Programme Officer, National Centre for Advocacy Studies, India Jon Samuel , Head of Social Performance and Acting Head of Government Relations, AngloAmerican <i>Lead Respondent: Hubert des Longchamps</i> , Senior Vice-President, Public Affairs, Total

The objective of this working session was to hold a multi-stakeholder dialogue related to a new provision in the *Guidelines*, which recommends that businesses engage with relevant stakeholders in order to provide meaningful opportunities for their views to be taken into account in a comprehensive way in relation to planning and decision-making for projects or other activities that may significantly impact local communities. The working session was organised in two panels to address the question of persistent challenges and gaps in the practice of stakeholder engagement and to address the question of whether and how further *Due Diligence Guidance* could add value and could support improved implementation of this provision within the extractive industry.

A discussion paper prepared by Shift was presented to stimulate conversation. The discussion paper's overarching findings were that:

- a) there is a great deal of existing guidance on stakeholder engagement and the critical gaps are in implementation on the ground;
- b) in more recent policies and guidance, there is increasing focus on the convergence between stakeholder engagement, due diligence, and risk and impact assessment processes;
- c) recent guidance also emphasizes the need to strengthen i) the life-cycle approach to stakeholder engagement and ii) a rights-based approach to stakeholder engagement.

Regarding the rights-based approaches to stakeholder engagement, the discussion paper further noted that there are inherent linkages between: stakeholder engagement and substantive human rights; stakeholder

engagement and effective human rights due diligence; and stakeholder engagement and broader social/environmental due diligence.

Conflicts related to extractive industry projects are increasingly framed in human rights terms and stakeholder engagement is typically raised as a fundamental concern in cases where problems have escalated. Furthermore, there is increasing international and national recognition of indigenous peoples rights, including free, prior and informed consent (FPIC), which provides challenges and opportunities for improving stakeholder engagement performance.

The discussion paper recognised that there are important challenges and gaps with regard to government regulation, enforcement and practices regarding stakeholder engagement. However, given that the *Guidelines* address business, it focused on persistent challenges for, and gaps in, company practice. The particular issues highlighted for discussion, and which could be addressed in any future guidance on the matter, were:

- Adapting stakeholder engagement to the operational context.
- Identifying the right stakeholders.
- Choosing the right engagement activities.
- Engaging early stages of exploration and project development.
- Developing a strategic approach across the project lifecycle.
- Building capacity and support for effective stakeholder engagement.

Below are the highlights of the discussion based on the discussion paper from the two panels.

Getting it right from the start

There was a general agreement that the lack of effective stakeholder engagement at the earliest phases of a project is an important gap in the engagement process. Engaging during the exploration stage could help build trust and provide a basis for dialogue throughout the entire project cycle. If proper time is not invested to engage with the affected communities from the start it is likely that negative repercussions at later stages of the project would be incurred as a result of poor relationships. However, business representatives pointed out that one main challenge is to reconcile the time needed for effective stakeholder engagement with the pressures to move forward under strict deadlines and limited resources.

A number of panellists and audience members highlighted that an additional barrier arises when smaller exploration companies or individuals (i.e. geologists) are the first to be in contact with affected communities. Most of the time they do not have the resources or knowledge readily available to conduct valuable stakeholder engagement. Furthermore, at such early stages

of a project, there are a lot of uncertainties about the future of the project. Business representatives agreed that this was indeed a major challenge. Nevertheless, there was general agreement that the framework for engaging as early as possible remains a key step for an effective engagement strategy. The panel agreed that any further guidance should take into account the different needs and sophistication of the range of companies that operate in the extractive sector.

Identifying the right stakeholders

The panellists also recognised that there are significant challenges in understanding and identifying the breadth of stakeholders that need to be engaged and who their legitimate representatives are. This includes understanding the divisions within and between communities. The majority of panellists agreed that the question of stakeholders should be viewed in a dynamic manner: new stakeholders may be affected by a project at different stages or in the event of expansion; leaders and power dynamics may change; and there may be differing views and interests between the different generations affected in the course of long-term extractive projects.

It was noted that a project can also be the source of division within communities as community members do not have a single voice or a single opinion. Divisions may also occur between affected communities and, on one hand, workers from that community and, on the other hand, workers brought from other locations. Disempowerment issues are very likely to occur as a result of the gaps between the interests of workers and those of the affected communities. A number of panellists, in addition to a number of audience members, thought that a correct mapping of the stakeholders that takes into account the divergent interests of the affected communities and their members is therefore an essential step in the process of stakeholder engagement.

Understanding the multi-faceted relationship between communities and workers was also viewed by the panel and the audience as important. It was noted that in some cases businesses divide and pressure communities by maintaining that if communities don't support continued operations, the jobs for workers from those communities will be lost. Trade union representatives highlighted that where workers come from local communities, trade unions can be important channels for expressing community views. In other situations, workers may be brought in from outside the local communities, creating local resentment. Equally, workers from outside could find they are less able to raise concerns with the business because they lack the leverage that comes from the connection to communities.

How you engage matters

Panellists pointed out that there is also danger to potentially mismatch the modes of engagement used by enterprises and the expectations of communities. For example, publishing project information in a newspaper is inadequate when a community expects a discussion of environmental and social impacts in a public hearing. Panellists and the audience noted that, in some countries, there may be intimidation by security forces or criminalization of protests that create serious obstacles to two-way communication, as well as additional concerns from a human rights perspective.

Rule of law and the role of government

This is why rule of law and the role of government are very important for effective stakeholder engagement according to the panel, as well as the audience. A good legislative framework can create a level-playing field and drive good stakeholder engagement practices at the project level. However, panellists noted that where the law is inadequate, it can create obstacles for enterprises. Whether through laws or other pressure, governments can sometimes prevent or discourage enterprises from consulting with communities.

Furthermore, the importance of free, prior and informed consent at the policy level was highlighted by the civil society and indigenous peoples representatives as a framing reference for good stakeholder engagement. FPIC is a recognised right of indigenous peoples with regard to their traditional lands. The constituent elements of “free”, “prior” and “informed” should also be understood as key principles for engagement with all stakeholders. Consent or agreement about extractive industry projects should be a shared objective for enterprises, communities and governments. A number of panellists, with agreement from several audience members, noted that, given the long time frames for extractives projects, consent should not be viewed as a one-time event; rather it may need to be revisited at different moments. This strengthens the imperative for effective and ongoing stakeholder engagement across the project lifecycle. There is a real need to find ways to address the various imbalances – political, economic and informational – in relationships between businesses and communities so that engagement can be based on real partnerships. There is a role for legal frameworks in redressing power imbalances, as well as the need for capacity building for communities and their representatives.

Making sense of stakeholder engagement on a project-level

There was a general agreement that self-interest of businesses should naturally align with the interests of communities in favour of more meaningful engagement processes. The business case for better stakeholder engagement

is reinforced when framed in terms of preventing the delays, costs and conflicts that often result from poor practices. Thus, framing best practices should be done with a practical focus, rather than a policy focus. Anything on paper needs to be translated into management systems and used by employees in their daily work. This suggests that abstract policy discussions are not particularly useful at the project level. Instead, there was a general agreement that any further guidance should focus on the question of “how” rather than “why”. This type of focus would also have implications for the length of the guidance and the style of language used. Given the fact that there is extensive guidance on stakeholder engagement at the policy level and that the greatest challenges are in translating this policy guidance into practice in highly varied circumstances, the main proposition for any new guidance is that it should be geared towards practitioners at the operational level. Panellists supported the view that further guidance might involve a series of modules to address different aspects of the key practical challenges identified. Each module could reference existing resources and offer new tools (check-lists, templates, case studies, etc.). Furthermore, a module format could be presented along a typical project lifecycle and could point to convergence between stakeholder engagement and other aspects of on-going due diligence and risk/impact assessment processes at different points in time.

Moving forward

By the end of the working session, there was broad agreement that in moving forward, in the context of the *Guidelines*, there is a need to focus on key challenges in implementation such as the purpose and importance of stakeholder engagement, adapting stakeholder engagement to the operational context, engaging with the right stakeholders, using the right mode of engagement for the different stakeholders, supporting a more strategic approach to stakeholder engagement across the project lifecycle and enhancing capacity and support for effective stakeholder engagement. Many panellists took the view that guidance should be practical, task-oriented and written for practitioners. However, one panellist noted that guidance on stakeholder engagement exists and that brand new guidance may not necessarily be the way forward. The panellist stressed that the issue is more about implementing existing guidance and guidelines and helping actors on the ground resolve concrete issues. Clarifying and reinforcing the provisions of the *Guidelines* in relation to stakeholder engagement, with a broader framing that could include aspects of engagement with workers and their trade union representatives as well as indigenous peoples could also be desirable. Furthermore, guidance for NCPs could be developed to support their role in addressing specific instances that raise issues of stakeholder engagement.

Special event: Disclosure and reporting

Session organised with Institut Responsabilité Sociétale de l'Entreprise Management

CHAIR	Yvonne Zwick , Project Manager, German Council for Sustainable Development
MODERATORS	Patrick d'Humières , President, L'Institut Responsabilité Sociétale de l'Entreprise Management Claude Fussler , Independent Facilitator
PANELLISTS	Pietro Bertazzi , Senior Manager, Policy and Government Affairs, Global Reporting Initiative Carlos Márcio Bicalho Cozendey , Secretary for International Affairs, Ministry of Finance, Brazil Christine Diamente , Head, Sustainability, Corporate Messaging & Brand, Alcatel-Lucent Michel Doucin , CSR Ambassador, Ministry of Foreign Affairs, France and Chair, Group of Friends of Paragraph 47, Rio + 20 Declaration Rodney Irwin , Managing Director, Financial Capital, World Business Council for Sustainable Development Dominique Ledouble , Chairman of Fédération Française des Experts en Evaluation and Chair, Working Group on Integrated Reporting, ORSE Philippe Peuch Lestrade , Deputy to the Chief Executive Officer, International Integrated Reporting Council and Partner, Ernst and Young Amol Mehra , Director, International Corporate Accountability Roundtable Ursula Wynhoven , General Counsel, UN Global Compact

The objective of this special event was to discuss the recent trends and developments in the disclosure and reporting field with a view to contributing to the effective observance of the *Guidelines*. The discussion was centered on the disclosure requirements of the *Guidelines* and current practices in the field.

Disclosure and reporting are integral to transparency

Disclosure and reporting help address the need for transparency in business conduct. One panellist mentioned that although only a few thousand enterprises from around the world currently report on their activities, more and more are finding it increasingly important to disclose information about the initiatives taken to integrate social and environmental aspects into business operations. There was a general agreement that doing so helps them to respond to pressure from stakeholders, to highlight best practices, and to demonstrate concrete improvements in their operations. In today's interconnected world, it is increasingly becoming harder to view disclosure and reporting as an option. As noted by a few panellists, the question then becomes how, not whether, enterprises can disclose information and report on their activities in a practical and accessible manner.

Global standards and reporting frameworks

There are a number of global standards that address disclosure and reporting, including the *Guidelines*. The *Guidelines* require that timely, accurate and material information be disclosed by enterprises. Material information is defined as information whose omission or misstatement could influence

economic decisions taken by the users of that information. Material matters include enterprises' activities, structure, financial situation, performance, ownership and governance. Enterprises are also encouraged to disclose information regarding their social and environmental performance, including how they manage risk in those contexts. Furthermore, businesses that sign up to the UN Global Compact commit to issue an annual Communication on Progress, a public disclosure on progress made in implementing the ten principles of the UN Global Compact and in supporting broader UN development goals. The ISO guidance on social responsibility also emphasizes the value of public reporting on social responsibility performance to internal and external stakeholders, such as employees, local communities, investors and regulators. In addition, the United Nations supported Principles for Responsible Investment (PRI), an international network of investors committed to putting the six Principles for Responsible Investment into practice, makes reporting one of the mandatory requirements for all asset owners and investment managers who have signed on to PRI.

Disclosure and reporting frameworks offer an opportunity for companies to demonstrate compliance with global standards. There are a number of reporting frameworks which cover specific issues such as financial, environmental, and labour, and also include all business activities. The most widely used framework around the world is the GRI Sustainability Reporting Framework which includes specific reporting guidelines. It is a comprehensive tool to measure and report on economic, environmental, social and governance performance. The *Guidelines* recognise that such frameworks enhance enterprises' ability to communicate how their activities influence sustainable development outcomes and the GRI maintains strategic partnerships with the OECD, UN Global Compact, ISO and other international organizations in order to foster co-ordination of initiatives. An updated version of the Reporting Guidelines, G4, was launched in May 2013 emphasizing the concept of materiality and providing references to the *Guidelines*. G4 includes a complete list of the sections that are linked to the *Guidelines*, which could be used in a practical way to report on how companies implement the *Guidelines*.

As mentioned by a few panellists and audience members, an increasing number of enterprises are also developing firm-level codes of conduct to outline their commitments to ethical business conduct. Specialised management systems at the firm-level could be developed to help fulfill these commitments. Furthermore, there has been a push for encouraging more use of integrated reporting to report on all factors material to an enterprise, including social and environmental impacts. The International Integrated Reporting Council (IIRC), a global coalition of regulators, investors, companies, standard setters, the accounting profession and NGOs, has committed to the

view that communication about businesses' value creation should be the next step in the evolution of corporate reporting.

Challenges and uncertainties

Despite the evolution of the field, many challenges and uncertainties still remain. There was a general agreement that one of the main obstacles continues to be the lack of understanding about how to best apply reporting standards and practices as a result of the confusion about various international and domestic initiatives that currently exist. In addition, some panellists mentioned that countries have different requirements and laws on mandatory reporting, which adds an added layer of complexity from a practical point of view. Distinguishing between legal obligations at a domestic level and voluntary disclosure guidelines at an international level can be a significant challenge.

Furthermore, the format of reports on sustainable performance is often inadequate according to a number of panellists and audience members. Reports are often too long and inaccessible to key stakeholders. Enterprises should aim to make reports simple and practical in plain language and format that appeals to consumers, focusing on internal progress and a clear goal to improving performance. Enterprises are also encouraged to communicate values they subscribe to, including their own value statements as well as any additional codes of conduct.

There was a wide agreement that enterprises should also emphasize sharing reports internally in order to better integrate disclosure and reporting within current management practices. Reporting is often seen as an external or a "check-box" exercise rather than a way to foster an integrated approach to decision-making. Focused reporting practices can help enterprises improve management processes and, therefore, overall performance. Reporting must be integrated into the strategy of a company in order to be truly impactful.

In addition, as a large number of panellists noted, reporting on non-financial information can be especially challenging since, unlike financial indicators, social and environmental information is not readily quantifiable. It is also more difficult to analyze and understand. Many enterprises lack sufficient resources, and thus, may not be able to measure non-financial indicators in a meaningful way.

Way forward

Some panellists and audience members agreed that governments could play a bigger role in promulgating disclosure and transparency principles among enterprises. Although, as mentioned above, there are challenges associated with mandatory reporting requirements, it is still seen by a number

of panellists as a useful way for creating a level-playing field and providing more certainty in terms of reporting requirements and enforcement. Many countries already require mandatory reporting. A comprehensive list of mandatory reporting requirement can be found in the GRI, UNEP et al. 2013 Carrots and Sticks publication. For example, France, through the *Loi Grenelle*, requires enterprises with more than 500 employees to publish information on their social, environmental, and governance performance. Similarly, Denmark, through the (Act amending the) Danish Financial Statements Act, requires the country's largest companies to include RBC activities in their annual reports or justify the absence of such information. The United States also requires through Dodd-Frank legislation that businesses disclose their use of certain minerals from conflict-affected areas. Businesses in the extractive sector are also required to disclose payments to governments for commercial developments of minerals and oil and gas. The United States has also recently instituted reporting requirements on investments in Myanmar that obligate businesses to publicly report on a range of policies when investing in Myanmar, notably on human rights, land rights, environmental stewardship, anti-corruption, payments to governments, arrangements with security providers and others. As noted by one panellist, the European Commission has also recently adopted a proposal for a Directive to enhance transparency of large businesses. As part of the proposal, companies with over 500 employees would be required to disclose relevant and material environmental and social information in their annual reports. The objective of the Directive is to increase EU companies' transparency and performance on environmental and social matters, and, therefore, to contribute effectively to long-term economic growth and employment.

The *Guidelines* can also provide additional guidance to enterprises, specifically when it comes to issues such as due diligence, taxation and corruption, which may not be fully covered by existing reporting frameworks. There was a general agreement that the voluntary nature of the *Guidelines* is key to facilitating dialogue between governments, businesses and other stakeholders. The *Guidelines* provide the necessary flexibility for enterprises to take a strategic and integrated approach to disclosing and reporting on their financial, social and environmental performance, as well as contribution to sustainable development goals, taking into consideration resource constraints, business confidentiality issues, and other concerns.

NCPs could also play a role through examining disclosure and reporting issues in the specific instance mechanism, as well as through raising awareness of the *Guidelines* disclosure requirements through capacity building sessions. As suggested by some panellists, the OECD could support this work by developing a guidance document on the current disclosure and reporting requirements and recommendations and also by creating a materiality

matrix. The OECD could also administer a survey to measure progress on how companies are adopting disclosure and reporting practices. The focus of any of these efforts should be to clarify definitions of existing key concepts, rather than on developing new standards or normative frameworks. Existing approaches should be evaluated under different criteria, such as simplicity, accessibility and practicality, in order to create greater harmonization and adoption of best practices in disclosure and reporting.

Special event: Responsible business conduct in the ICT sector

Session organised with Institute for Business and Human Rights and Norway National Contact Point

Co-operative efforts to promote Internet freedom

CHAIR	John Morrison , Executive Director, Institute for Human Rights and Business
PANELLISTS	John Kampfner , European Advisor, Global Network Initiative Marie Baumgarts , Head of Corporate Responsibility, Tele2 and Member, Global e-Sustainability Initiative and Climate Change Christine Diamente , Head, Sustainability, Corporate Messaging & Brand, Alcatel-Lucent and Member, Industry Dialogue

National Contact Points and the ICT sector – why it matters

CHAIR	Margaret Wachenfeld , Director of Legal Affairs, Institute for Human Rights and Business
PANELLISTS	Roel Nieuwenkamp , Chair of the Working Party on Responsible Business Conduct Laura Ceresna , Workers' Rights and Corporate Accountability, Civedip India Eric King , Head of Research, Privacy International

The objective of this special event was to deepen the understanding between governments, enterprises, trade unions and civil society of the relevance of the *Guidelines* in relation to the ICT sector, with particular reference to human rights and Internet freedom. The Internet has a dual existence within the context of the *Guidelines*. On one hand, ICT is a significant business sector that has both offline (e.g. supply chains, manufacturing equipment, rare earth minerals) and online (e.g. the impact on freedom of expression and privacy) responsibilities for impacts. On the other hand, the *Guidelines* encourage enterprises to “support, as appropriate to their circumstances, co-operative efforts in the appropriate fora to promote Internet Freedom through respect of freedom of expression, assembly and association online.”

Fast-paced sector brings new challenges

The panels noted that the ICT sector is one of the fastest growing sectors and that the Internet and digital communications have become a valuable tool for the enjoyment of many human rights. There is little doubt that, driven mainly by the private sector, the development of digital communications and

the Internet has had a largely beneficial effect both in economic and social terms. The panellists highlighted that due to the fast-paced nature of technology, ICT companies are facing increasing challenges in fulfilling the corporate responsibility to respect human rights. For example, many governments, formally and informally request that ICT companies impose surveillance on individuals or groups, or to permit governments to intercept their communication; to block specific websites; to seek access to data to gather intelligence; and on occasion, to suspend access to the Internet and mobile phone networks, citing reasons of national security or public order, with or without judicial oversight.

Proliferation of industry initiatives

The discussion from the first panel pointed to the fact that ICT companies are increasingly becoming involved in multi-stakeholder and industry initiatives in order to act together to create a level playing field in terms of respecting human rights for freedom of expression, association and assembly online. The panellists noted that there is no silver bullet for addressing the challenges enterprises face in doing so; therefore, multi-stakeholder initiatives can play an important role in encouraging companies to work together. Given the number of industry initiatives, there was agreement that it is becoming increasingly important to ensure that efforts are not duplicated across the sector. Collaboration is key to ensure the initiatives complement each other and it is encouraging to see some movement in this direction already. For example, the Industry Dialogue is now housed under the auspices of the Global Network Initiative and is working with GeSI. It should be noted that enterprises must still exercise due diligence on the firm-level and know their specific risks and leverage.

Importance of transparency

Recent revelations and allegations of government mass surveillance have consumed the debate around privacy and freedom of expression in the ICT sector. These revelations implicate enterprises in the infringements of human rights, since Internet and telecommunications companies and undersea cable operators own the infrastructure and store the data that governments seek to access. It was noted that some ICT companies do publish transparency reports that give information on the number of times governments worldwide have requested user information or content to be taken down. They also publish the percentage of requests an enterprise has complied with in these reports. However, under some legal frameworks, enterprises are required to keep these requests secret and are often unable to even acknowledge their existence. Costs and logistical hurdles to conduct mass surveillance continue to decline rapidly and the mass surveillance orders are expected to increase worldwide.

The panellists highlighted that this places enterprises in a difficult position where governments that are supposed to protect human rights are asking the companies to infringe on those human rights.

However, although the dilemma is particularly difficult, a number of panellists agreed that it should not be an excuse for inaction. It was pointed out that one concrete step that enterprises could take is to be transparent to the fullest extent possible about what they are being asked to do by governments. Even if enterprises can only go so far in disclosing information about specific orders, it is possible to be transparent about laws and how they impact enterprise operations, including possible lack of knowledge about government activities on the network and/or loss of operational control. There have been examples in the past where the government had direct access to the network infrastructure, which limited the leverage the enterprise had in pushing back on transparency. At the same time, a number of panellists noted that any enterprise that provides full access to their network, which would allow for indiscriminate mass surveillance, cannot claim to be unable to pinpoint changes in the flow of information through the network engineers.

Addressing these extremely complex issues is not easy. There was a general agreement that ICT sector should leverage the opportunity provided by the recent revelations from leaked documents to push governments to be allowed to be transparent to the fullest extent possible and to reiterate that enterprises are expected to respect human rights, even when that means going beyond just abiding by the law.

New challenges for NCPs

The first specific instance related to the ICT sector was submitted in 2013 alleging human rights abuses by an enterprise that sold surveillance technology to a foreign government. The specific instance was recently accepted for further consideration. Due to the rapid expansion and fast-paced nature of the ICT sector, the second panel felt that NCPs can expect to receive more complaints about the ICT sector. An important point was made that NCPs should be aware that the ICT sector is one of the few sectors where smaller and medium size enterprises can have a significant impact on human rights, given the potentially wide reach of technology, without the necessity for physical presence in the country of operation. NCPs can, therefore, expect to be faced with cases involving enterprises that are quite unfamiliar international human rights frameworks, including the *Guidelines*.

The panel highlighted that although the ICT sector is a new area for many NCPs, the potential of NCP impact on the sector is large. For example, investors and export credit agencies (ECAs) are increasingly looking to NCP final statements to inform investment decisions. Under the *OECD Common*

Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence that apply to ECAs, ECAs should consider NCP statements before awarding export credit. This has particular significance for some companies in the ICT sector because of the “dual use” nature of some technology and the need for ECAs support in underwriting the sale of particular technology. A failure to engage with an NCP can, therefore, result in blocking or withdrawal of export finance or diplomatic assistance for companies. The panel noted that the speed of industry growth and its global span can make it difficult for NCPs to keep track of relevant developments. Therefore, it is particularly important for NCPs to engage in collaborative efforts in order to ensure the most effective implementation of the *Guidelines*.

Moving forward: Lessons learned

Start of a new era

The launch of this Global Forum as a new platform for dialogue, on the heels of the significant advances in the convergence of international standards and principles on what constitutes responsibility, signals a start of a new era. In today's interconnected world, it is impossible for any stakeholder to escape or ignore questions of responsibility. As the Rana Plaza tragedy painfully demonstrated, although one might be able to outsource production, one cannot outsource responsibility.

Reinforcing the ecosystem of responsibility

As the discussions during the Global Forum clearly demonstrated, challenges are many. Classical issues that have existed for years, such as issues in the supply chain, continue to be a problem. At the same time, new issues, such as issues in the ICT sector, present complex challenges that often span multiple sectors and situations. Although the diversity of hurdles can at times be overwhelming, it has to be matched by a commonly shared ambition and concrete action for ensuring social rights and protection of the environment. Enterprises cannot exist in isolation of the communities in which they operate. At the same time, all actors – not only enterprises – have a responsibility for building a healthy business environment. Governments cannot abdicate their responsibility for protecting internationally recognised fundamental rights and ensuring good governance, fair regulations, and transparency. Labour and civil society have to engage constructively to ensure accountability and provide a voice for the most disadvantaged. Demonstrating a can-do attitude is a must for moving forward.

Leading by example

The discussion at the Global Forum pointed to the fact that one of the main barriers for seeing change on the ground is the large gap between theory and practice. A resounding message from all the panels was that shaping the future we want will require an unrelenting focus on the “how” in order to answer questions such as: how do you do due diligence; how do you ensure free and prior consent in stakeholder engagement; how do you use leverage to influence behaviour of investee companies, etc. For enterprises, this means translating words on paper to application on the ground; integrating responsibility into core business and making responsibility business-as-usual in internal business decision-making processes; not competing on social or environmental dimensions and accordingly re-aligning the incentive systems that drive managerial conduct; expanding the time horizon from the focus on quarterly profits to a longer term view; and finally, but most importantly, not doing harm. For governments, this means using resources effectively to focus on quality rather than quantity; building intra-governmental capacity to ensure RBC principles are integrated throughout government policies; engaging on multilateral platforms to work toward a global level-playing field; closing the information gap and increasing awareness of expectations among businesses; and implementing RBC principles in their own procurement policies as an example of how to drive change. Being accountable for your actions is at the core of responsibility for all actors.

Sustained engagement

Accelerating and amplifying these efforts will require active and sustained engagement by all stakeholders. Business executives, factory workers, and consumers alike are often missing from RBC conversations. Engagement is needed on a broad scale. Bringing relevant people to the table in venues such as this Global Forum is one area in which the OECD can add value since multi-stakeholder initiatives, including the *Guidelines*, are OECD's core business. Proactive OECD initiatives, such as the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High Risk Areas*, have yielded concrete results in the past through multi-stakeholder processes. NCPs could also play a critical role in this area as they themselves rely on multi-stakeholder processes; thus, improving NCP performance has to be on top of the agenda for the OECD. However, the only way we can hope to move forward the global responsibility agenda is through dialogue that is matched by action and results-oriented solutions. There was a strong agreement among all that allowing another Rana Plaza to happen on our watch is not an option.

Box 4.1. Programme outline for the Global Forum for Responsible Business Conduct

Wednesday, 26 June 2013

09:30-10:00	Welcoming remarks and opening addresses	
10:00-12:30	Trends in responsible business conduct	
14:00-16:00	Bangladesh: the way forward and implications for the textiles sector globally	14:00-18:00 Special event:
16:30-18:00	OECD Guidelines for Multinational Enterprises and the global RBC agenda	Disclosure and reporting

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09:30-16:30	WORKING SESSION 1 Responsible business conduct and the financial sector	09:30-13:00	WORKING SESSION 2 Stakeholder engagement and due diligence in the extractive sector
09:30-11:00	Current practices of the financial sector	09:30-11:00	Challenges of stakeholder engagement on the ground
11:15-13:00	Responsibility and leverage of financial institutions	11:30-13:00	Next steps – options and recommendations
14:30-16:30	Roles and procedures of National Contact Points	14:30-16:30	Special event: Responsible business conduct in the ICT sector
16:30-17:45	Moving forward: Lessons learned		
17:45-18:00	Closing plenary		

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