



Ministry of Foreign Affairs of the
Netherlands

*Netherlands National
Contact Point*
OECD Guidelines for
Multinational Enterprises

Lodewijk de Waal
24 oktober 2014



OECD Guidelines for multinational enterprises

Recommendations on Corporate Social Responsibility (CSR) addressed by 44 governments to their multinational enterprises. They are the broadest set of CSR guidelines for international business endorsed by governments.

Based on international treaties:

- ILO conventions (1919 - date)
- Universal Declaration of Human Rights (1948)
- UN declaration on environment and development (1992)
- UN Guiding Principles on Business and Human Rights ('Ruggie framework')



OECD Guidelines for Multinationals: topics

1. **Concepts and Principles**
2. **General policies**
3. **Disclosure**
4. **Human Rights**
5. **Employment and industrial relations**
6. **Environment**
7. **Combating bribery**
8. **Consumer interests**
9. **Science and technology**
10. **Competition**
11. **Taxation**

No other corporate responsibility instrument covers these four issues



III. Disclosure

Disclose on a regular basis reliable and relevant information on:

- Objectives and activities of the company
- Business structure
- Remuneration structure
- Financial results
- Social effects & objectives
- Environmental effects & objectives
- Risk factors
- Major shareholders
- Relations with stakeholders

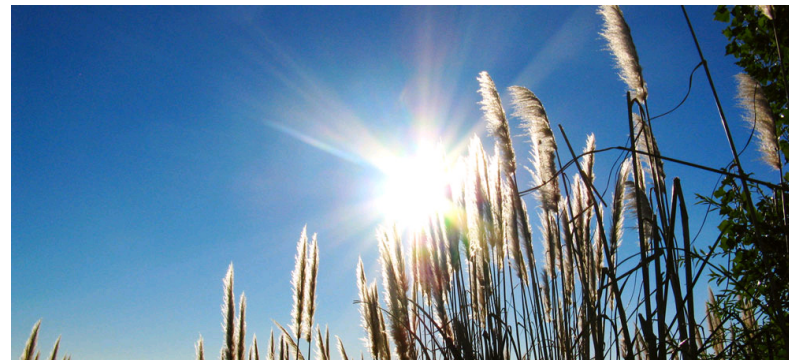




IV. Human rights

Within the context of their own activities (directly) or their business relations (indirectly):

- avoid causing or contributing to adverse HR impacts and address such impacts when they occur;
- have a **policy commitment** to respect human rights;
- carry out HR **due diligence** as appropriate to size, context, risks;
- provide for **remediation** procedures of adverse human rights impacts.





V. Employment & Industrial Relations

- Respect the freedom of association and of representation by unions
- Do not discriminate against employees
- Abolish child labour
- Abolish forced labour
- Secure health & safety of employees
- Employ and educate local personnel if possible





XI. Taxation

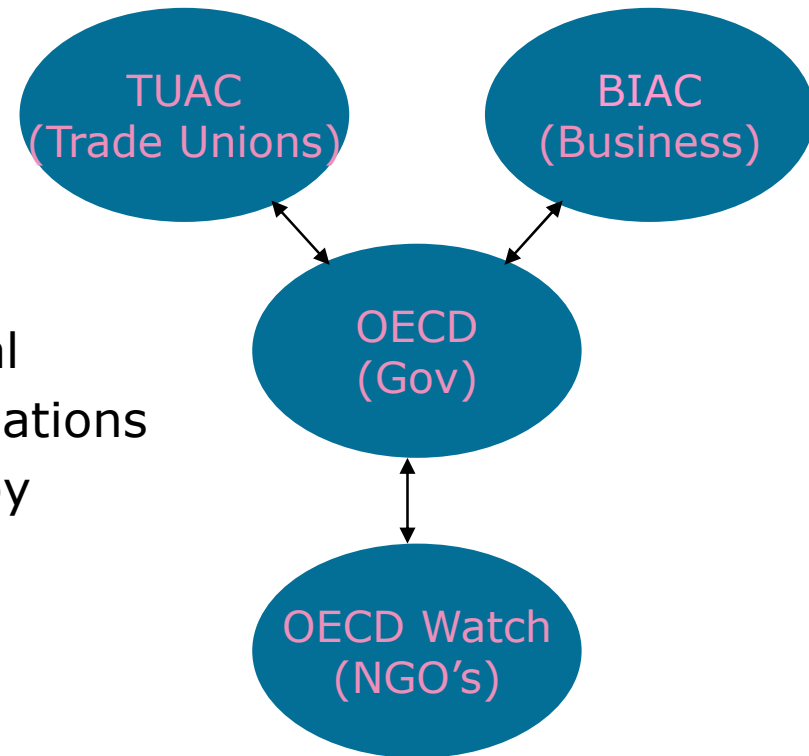
- Pay tax duties of the host country in time
- Meet all local tax regulations
- Provide all information necessary to impose and collect tax duties





Organisation

- OECD Investment Committee (IC) as responsible body
- Multi-stakeholder involvement (BIAC, TUAC, OECD Watch)
- Voluntary guidelines but not optional
- Grievance procedure for alleged violations
- Mediation and outreach worldwide by National Contact Points (44 NCPs)





OECD Guidelines: links with other CSR instruments

Positioning OECD Guidelines within field of CSR:

- UN Global Compact: private platform for action and discussion.
- ISO 26000: private tool to implement CSR
- OECD Guidelines: public normative standard (soft law)
 - binding for governments
 - only standard with grievance mechanism
- The three are complementary



2011: update of the OECD Guidelines

Why did the update come about?

- Since 2000, the landscape of international business has rapidly changed.
→ Emerging economies, outsourcing, financial crisis, climate change
- At the UN, the debate on business and human rights was revived in 2008 by Professor John Ruggie with his 'Protect, Respect and Remedy' framework.
- Continuous criticism from civil society on the NCP system



Adoption by the 2011 Ministerial Council Meeting



US Secretary of State, Ms. Hillary Clinton, at the adoption of the update:

"If you look at these guidelines, they will be helping us determine how supply chains can be changed so that it can begin to prevent and eliminate abuses and violence. We're going to look at new strategies that will seek to make our case to companies that due diligence, while not always easy, is absolutely essential."



Main results 2011 update

- New chapter on human rights
- Due diligence: risk analysis & impact assessments on CSR issues
- Supply chain responsibility: refers to the whole supply chain
- Living wage: breadwinner must be able to maintain his family
- Temporary and seasonal workers are seen as employees
- Supplement on climate change
- More uniformity in funding and operation of NCPs



Main results: Human Rights Chapter

In line with the work of Professor John Ruggie:

States have the duty to protect human rights. Enterprises should (...):

- **Respect human rights**, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.
- **Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur.**
- **Seek ways to prevent or mitigate adverse human rights 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.**
- **Carry out human rights due diligence** as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts.



Main results: Due Diligence and Supply Chain

- Scope of application of the Guidelines extended from investment to business relationships, including suppliers, agents and franchises
- Risk-based due diligence main tool to prevent adverse impact.

Enterprises should:

• *Carry out **risk-based due diligence** , (...), to identify, prevent and mitigate actual and potential adverse impacts (...), and account for how these impacts are addressed.*

• ***Avoid causing or contributing to adverse impacts** on matters covered by the Guidelines, through their own activities, and address such impacts when they occur.*

• ***Seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship.***



Main results: wages

Enterprises should:

*“(...) in developing countries, where comparable employers may not exist, **provide the best possible wages**, benefits and conditions of work (...).”*

(Chapter V. Employment and Industrial Relations, paragraph 4.b)

- Might be tested in future specific instances

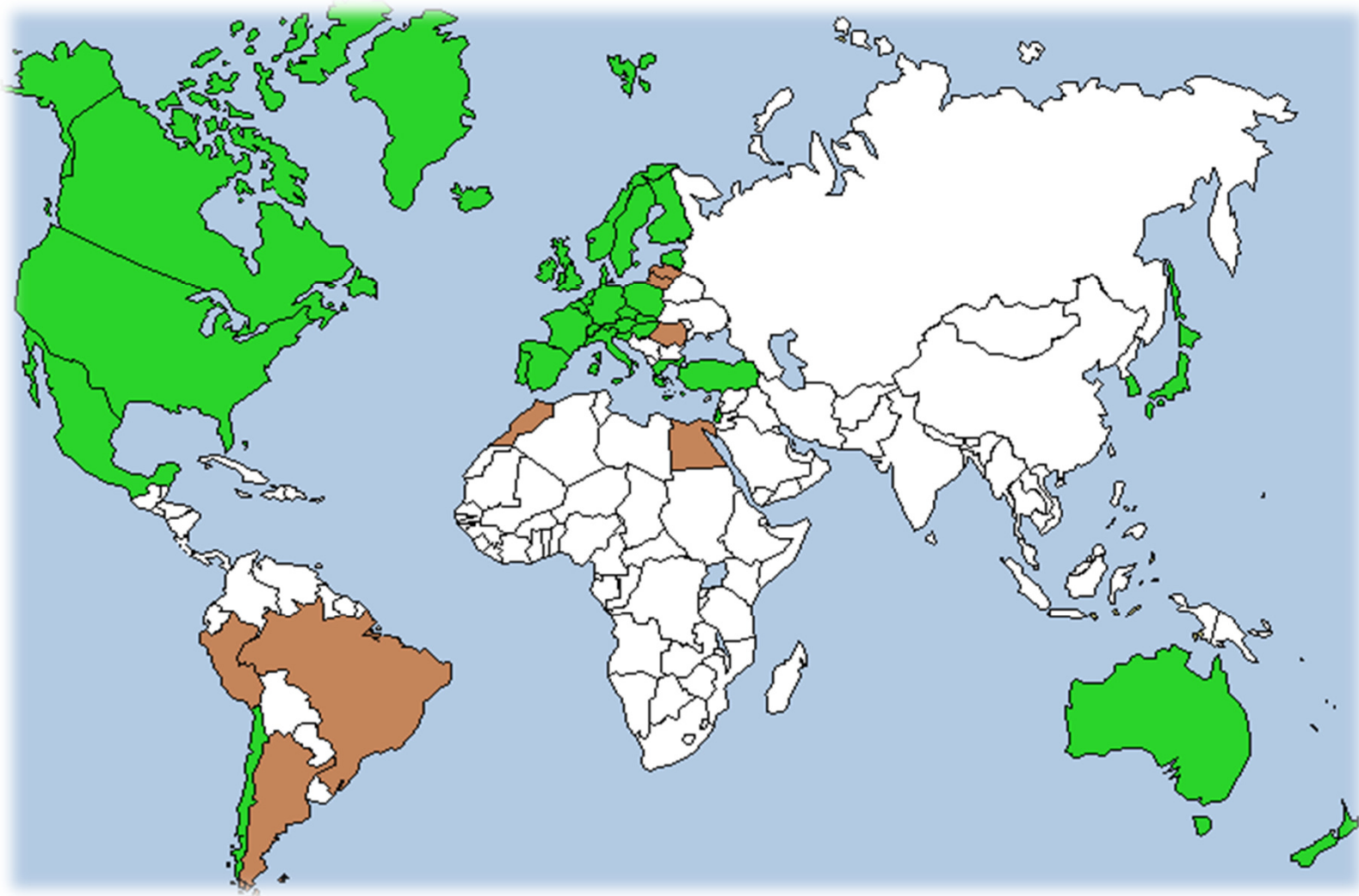


Main results: Stakeholder engagement

Enterprises should:

“(...) engage with relevant stakeholders in order to provide meaningful opportunities for their views to be taken into account (...).”

- Planning and decisionmaking
- Local communities





National Contact Point: Netherlands

Each adhering country must set up an NCP with the tasks of:

- Raising awareness of the OECD Guidelines with businesses, trade unions and non-governmental organisations;
 - › Promotion of Guidelines and grievance procedure to companies
 - › Assistance to companies on implementing the Guidelines (tools, workshops etc)
 - › Assistance to companies in the early resolution of dilemma's (prevention)
 - › Assistance to interested parties on filing a complaint

- Implementing the OECD Guidelines' complaint mechanism
 - › Solution-oriented handling of complaints
 - › By independent experts/mediators
 - › Through constructive dialogue, mediation and long term perspective



National Contact Point: Netherlands

Additional activities of the Dutch NCP:

- Cooperation with other NCPs:
 - › NCPs of different countries work together, when necessary, on all Guidelines-related activities when these are relevant for their work
 - › The Netherlands NCP shares experience and expertise with NCP in other countries to strengthen their local role (eg: visit to Brazil by the Chair of the Dutch NCP, in cooperation with the Dutch embassy in Brazil)
- Regular meetings with the *key stakeholders* (VNO-NCW, OECD Watch, FNV) about the functioning of the NCP and effectively promoting the OECD Guidelines
 - › Organising 'stakeholder meetings'
 - › Cooperating to reach out effectively to target groups



NCP Netherlands: structure

- NL NCP in its current form since 2007
 - › Following an evaluation in 2006, a more independent NCP was established: 4 independent (non-governmental) members, supported by 4 governmental advisory members
- The NCP sets its own way of work, in accordance with the Procedural Guidance of the OECD Guidelines
 - › Fits within the core criteria of *visibility, accessibility, transparency, accountability, impartiality, predictability, equitability*
 - › Core criteria are part of all activities of the NCP
 - › Improving procedure is continuous work in progress
- Dutch minister of Foreign Trade and Development Cooperation is politically responsible for the functioning of the NCP
 - › Due to the independent character of the NCP, the minister cannot comment on the contents of final assessments, but only about the correct procedures.



NCP Netherlands

4 independent members:

- ❖ Mw. Melanie Peters
- ❖ Mr. Herman Mulder
- ❖ Lodewijk de Waal
- ❖ Dr. Maartje van Putten

4 advisory members SZW, I&M, EZ and BuZa



3.6 Future Work

Substantive

- Special guidance for particular sectors or type of enterprises (e.g. conflict minerals, financial institutions and due diligence in supply chains)
- Implementation of the proactive agenda

Outreach

- Adherence: Ukr., Costa Rica, Jordan
- Russia: adherence to OECD
- India, China, South Africa



4. Relevance for Multinationals

- Serious implementation necessary: due diligence system!
- Focus on problem prevention and problem solving
- New guidelines will be tested in NCP
- Political pressure and campaign framed in these terms