Responsible Business Conduct

OECD Guidelines for Multinational Enterprises and Sector Projects

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OECD Guidelines for Multinational Enterprises

- Most comprehensive set of guidelines for Responsible Business Conduct (RBC)
- All areas of business ethics: disclosure, human rights, labour, environment, bribery & corruption, consumer interests, science & technology, competition, taxation
- All sectors of the economy
- Government-backed recommendations for business
- Binding for governments, non-binding for MNE’s
- 46 Adherent Countries, including 12 non-OECD countries
- Unique implementation and complaint mechanism, e.g. national promotion and mediation of “specific instances” by National Contact Points (NCPs)
OECD Guidelines for Multinational Enterprises

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

If needed: NCP Mediation

No other corporate responsibility instrument covers these issues
Specific instances at a glance

Over 320 specific instances were submitted to National Contact Points (NCPs) between 2000 and mid-2015, covering MNE operations in 90 countries.
Complementarity of international instruments for responsible business

- UN Guiding Principles on Business and Human Rights (2011)
- OECD Guidelines for Multinational Enterprises (2011 update)

OECD Guidelines and its implementation are unique:

- Comprehensive due diligence provision (all risk areas, supply chain, etc.)
- NCP mediation mechanism
- Practical, sector-specific guides on due diligence developed with stakeholders: extractive, financial, agriculture and textile sectors
Risk-based due diligence is main tool to identify, prevent or mitigate risk

“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.**”
Common 5-Step Framework for Due Diligence from OECD sector projects

1. **Establish strong management systems**: Policy, internal capacity, supplier & business partner engagement, internal controls, data collection, grievance mechanism

2. **Identify, assess and prioritise RBC risks**: Map operations, business partners & supply chains, prioritize based on severity of harm (sector, counterparty, and site for high-risk issues)

3. **Manage risks**: Inform senior management, fix internal systems, build leverage individually or collaboratively, use existing networks to manage risk (e.g. industry, workers reps, non-traditional partnerships), build internal and business partner capacity, provide remedies when “caused” or “contributed” to adverse impacts

4. **Verify due diligence**: Where relevant, monitor medium-high-risk operations, products or services, after change of circumstance, undertake audits, assurance, etc.

5. **Communicate and report on due diligence**: With due regard for commercial confidentiality and competitive concerns
Due Diligence is **flexible**, use **risk-based approach.** Prioritise business relationships for risk identification and management, based on **severity** of adverse impacts. E.g.

- Sector assessment (e.g. high-risk sector?)
- Counterparty assessment (e.g. commitment to RBC, practices, reporting?)
- Asset or project assessment (for high-risk sectors, counterparties or geographies)

**Practical limitations:** Nature and extent of due diligence tailored to size of company and clients, context, severity of adverse impacts, etc.

“**Leverage**” is essential to prevent or mitigate adverse impacts directly linked to operations, products or services by a business relationship

**Disengagement a last resort** and considering impacts of disengagement

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**Factors that could affect leverage in financial sector:**

- Amount of funds, size of holdings
- Duration of tenor
- Nature and strength of relationship
- Potential for negative impact on client/investee performance
- Potential for negative impact on own institution
- Multiple financiers/business relationships with similar ESG objectives
- Written agreement or contractual clauses on ESG issues

* Adapted from SFA report, 2012
Sector projects
Seek to clarify MNE responsibility and improve global practices

Minerals & Extractives
- **Consensus-building:** 1) Due Diligence Guidance for Responsible Mineral Supply Chains; 2) Due Diligence Guidance for Stakeholder Engagement *(being finalized)*
- **Problem-solving & enforcement:** Multi-stakeholder peer-learning, assist audit programmes, legislative assistance

Agriculture
- **Consensus-building:** Due Diligence Guidance for responsible agricultural supply chains *(being finalized)*

Textile
- **Consensus-building:** Due Diligence Guidance for responsible agricultural supply chains *(in development)*
- **Problem-solving & enforcement:** Peer-learning, compensation agreements & facilitation

Financial
- **Consensus-building:** Due diligence recommendations for different financial services
OECD Due Diligence Guidance for Responsible Mineral Supply Chains

Objective

✓ To provide clear, practical guidance for companies to ensure they do not contribute to conflict or abuses of human rights through their mineral and metal procurement practices

Method and scope

✓ 5-step risk-based due diligence process, applies to all companies throughout the entire mineral supply chain that potentially use minerals conflict or high-risk areas

Features

✓ One set of expectations throughout the entire mineral supply chain from mines until end users
✓ Progressive approach, good faith and reasonable efforts promoting constructive engagement with suppliers
✓ Complementary and practical due diligence measures depending on mineral and position of company in the supply chain
✓ Industry initiatives can help companies implement the OECD Guidance within their sector and market.
Industry due diligence, audit and certification programmes

*Common benchmark = OECD Due Diligence Guidance!!*

### Miners (artisanal and industrial)

### Refiners & Smelters

**Step 4 Audits under OECD Guidance**

- LBMA and other industry audits cover ~85-90% of total refined gold production
- Conflict-Free Smelter Program audits cover ~80% Ta, ~65% Sn, ~50% W production

### Bullion Banks

### Downstream Manufacturers

*electronics, jewellers & others*
Thank you

For further information on the OECD’s work on Responsible Business Conduct

http://mneguidelines.oecd.org/
http://mneguidelines.oecd.org/mining.htm