



BUSINESSatOECD

Business at OECD (BIAC)

Investment and RBC

Activity Update – Summer 2023

Executive Summary

This update provides an overview of the activities of the BIAC Investment and RBC Committee in the first half of 2023, and includes a list of upcoming meetings for the second half of the year.

The OECD has a leading role in promoting open markets for international investment, while emphasizing the sustainability aspects of private investment. In this context, the Organization builds on its Freedom of Investment Roundtable, its network of investment promotion agencies, its Investment Treaty Conference as well as several legal instruments.

BIAC submitted a comprehensive list of priorities ahead of the **Investment Committee Consultations** in April 2023. A BIAC delegation also actively participated in the OECD Conference on *Investment treaties, the Paris Agreement and Net Zero: Towards alignment?* on 11 April. In addition, we submitted our views on a text proposal for **updating the OECD Declaration on International Investment and Multinational Enterprises**.

With its **Guidelines for Multinational Enterprises**, the OECD further hosts the most comprehensive multilaterally agreed responsible business conduct instrument. The process of updating the Guidelines, which had been ongoing over the past two years, was finalized in May 2023.

BIAC actively contributed to all stages of the updating process, both at political and technical level. We emphasized that any changes need to be proportionate, workable, realistic, and implementable for multinational enterprises of all sizes. Since, we have worked with the OECD Secretariat on raising awareness on the updated Guidelines in adhering and non-adhering countries, and on promoting a balanced application on the ground. We will bring any challenges that companies may encounter in this context to the attention of the OECD. Finally, we contributed to the OECD's efforts to develop guidance and background documents in this area.

Finally, the BIAC board took the decision to split the Investment and RBC Committee into two separate committees. This decision will be implemented in the second half of 2023.

Investment Highlights

Business priorities for investment policy making

Ahead of the Investment Committee Consultations in April 2023, BIAC submitted a comprehensive paper with business priorities for investment policy making to delegates. The BIAC delegation re-emphasizes these key messages during its participation in the OECD Conference on *Investment treaties, the Paris Agreement and Net Zero: Towards alignment?* on 11 April. The conference provided an opportunity to gain insights on the OECD's investment agenda, and exchange views with the Head of the OECD Investment Division and the Chair of the OECD's Investment Committee. BIAC emphasized key business concerns including the renewed need for foreign direct investment attraction and facilitation, the impact of rising geopolitical tensions, the proliferation of foreign direct investment screening policies, as well as the need to pursue balanced approaches to leveraging the qualities of foreign direct investment and discussions around the future of investment treaties.

Update of the OECD Investment Declaration

Since its adoption in 1976, the OECD Declaration on International Investment and Multinational Enterprises has been the cornerstone of the organization's work on investment. While some of its parts (including the MNE Guidelines) have been updated since, the Declaration has so far remained unchanged. However, the OECD investment agenda has advanced since 1976, which is why the OECD launched a process to update the text of the Investment Declaration in June 2023. BIAC submitted its comments on the first updated draft, emphasizing particularly the importance of an adequate level of investment protection. We emphasized its key messages at a meeting of the OECD Investment Committee on 28 June. Many of BIAC's comments were taken on board in the final draft that was circulated after, and which will be adopted at the Investment Committee meeting in November 2023. The update of the Declaration may prepare the ground for the revision of related instruments over the coming years, and BIAC will keep actively following the any relevant developments.

Split of the BIAC Committee on Investment and RBC

In its meeting on 6 June, the BIAC General Assembly decided to split the Committee on Investment and RBC into two separate committees – one focusing on international investment, the other one on RBC. There are several reasons for this decision:

- The activities of the OECD Working Party on RBC have grown rapidly in recent years, requiring increased business input and experts with specific RBC experience
- The vast majority of committee members are either interested in investment or RBC issues, but only in a few cases in both. Several members have expressed a preference for targeted communication and discussion related to their respective field only.
- Two distinct committees with separate bureaus allow for more targeted and strategic discussions in each area. Moreover, in this way, the committee leadership can dedicate more time to each issue.

Members could suggest candidates for the position of chair/vice-chair of each of the two groups before the summer. The bureaus of the two new groups will be formally appointed by the BIAC board in early November.

Other activities

BIAC joins FDI Qualities Advisory Group: BIAC nominated its policy manager for investment, Benedikt Wiedenhofer, as its representative on the OECD FDI Qualities Advisory Group. The group, which will have its first meeting in the final quarter of 2023, advises the OECD on this important initiative and submits proposals on how to develop it further.

RBC Highlights

Targeted update of the OECD MNE Guidelines

In May 2023, the OECD finalized the revision of its Guidelines for Multinational Enterprises on Responsible Business Conduct, about two years after it had initiated the process. From the very beginning, BIAC had proactively engaged in this process, providing feedback at the OECD Working Party on RBC meetings as well as in the public consultation. Especially in early 2023, BIAC participated in many meetings and adopted several position papers and letters to make sure business concerns were addressed in the final version of the Guidelines. This included:

- BIAC comments on the third consolidated draft of the MNE Guidelines in submitted in January 2023
- The [BIAC contribution](#) to the 2023 RBC Ministerial from 14-16 February, in which it participated with a high-level business delegation and underlined our concerns both in official interventions and in meetings with high-level OECD and government representatives on the sidelines of the event.
- [BIAC contribution](#) to the OECD Public Consultation on the MNE Guidelines from February 2023
- A joint letter of BIAC, BusinessEurope and IOE submitted to the Japanese B7 presidency in February 2023, expressing concerns regarding the draft revised text of the MNE Guidelines

The revised Guidelines were adopted on 8 June 2023. On the same day, BIAC released its [perspective on the Guidelines](#). The document highlights that the scale and scope of the Guidelines has expanded significantly and that the business community must thus be given sufficient time to adjust. BIAC states it will bring any challenges that companies encounter in this respect to the attention of the OECD. Whilst the Guidelines cannot be considered a basis for any binding legislation, BIAC emphasizes that it is important for the OECD to promote them in non-OECD countries with a view to contribute to a global level playing field.

Other Activities

10th OECD Global Forum on Responsible Business Conduct: The Forum took place as a panel in hybrid format in the afternoon of 15 February 2023. As part of the OECD RBC Week, the panel provided the opportunity to discuss the outcomes of the Ministerial Meeting on Responsible Business Conduct.

OECD Forum on Due Diligence in the Garment and Footwear Sector: The 2023 OECD Forum on Due Diligence in the Garment and Footwear Sector took place on 16-17 February. Discussions considered key developments in the sector, including in the context of purchasing practices, supply chain dialogue structures, living wages, climate risk mitigation and adaptation, mandatory due diligence and public procurement. The Forum is linked to the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector.

OECD Forum on Responsible Mineral Supply Chain: The OECD Forum on Responsible Mineral Supply Chains (24-28 April 2023) provides a forum for discussions on the implementation of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and other initiatives to enable responsible mineral production and sourcing. This year's edition reflected longstanding and emerging priorities in fostering responsible mineral supply chains, with sessions spanning new conflict risks, corruption and environmental risks in mineral supply chains, drivers of responsible trade, and systemic issues like regulatory developments and taking responsible finance to scale. A key theme was fostering synergies between the objectives of a responsible and reliable supply of minerals critical to the energy transition through due diligence.

Participation in IOE meeting: On 16 May, the BIAC secretariat provided an update on the updated MNE Guidelines to the IOE Policy Working Group on Human Rights and Responsible Business Conduct. The meeting also touched upon the EU Corporate Sustainability Due Diligence Directive and the UN Treaty discussions.

Exchange with US Ambassador on responsible minerals: In May, BIAC and the USCIB coordinated an exchange between US ambassador Markell, the OECD RBC Divisions and representatives of US companies on responsible minerals supply chains.

Meetings of WPRBC and NCP Network: A BIAC delegation participated in the meetings in mid-June 2023. The following agenda items were open for business representatives and BIAC representatives intervened in each of them:

- *Meeting of the WPRBC*
 - Discussion on emerging trends from recent NCP peer reviews
- *Meeting of the Network of NCPs for RBC*
 - Discussion on managing the risk of reprisals in the context of specific instances
 - Discussion on training programme on good offices

BIAC submits comments on preventing reprisals in specific instances: In July 2023, BIAC submitted business comments on the draft of an OECD Guide on managing the risk of reprisals in the context of specific instances. The guide aims at giving an indication on existing best practices in this area to National Contact Points.

OECD webinar on updated MNE Guidelines: On 7 September 2023, representatives of the BIAC Investment and RBC Committee bureau spoke on a panel at an OECD webinar on the updated MNE Guidelines. The webinar, which aimed at raising awareness amongst business around the world on the revised Guidelines, brought together representatives of governments, business and civil society to discuss priorities for their application. It was the first of a series of upcoming OECD webinars, which will touch upon different chapters of the Guidelines.

Publications

Investment

[OECD FDI IN FIGURES, April 2023](#)

[OECD UNCTAD report on G20 Investment Measures, July 2023](#)

RBC

[Revised OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, June 2023](#)

Upcoming Sessions

OECD Sessions with Member Participation – Investment

2023

7 November

OECD Investment Promotion Agencies Network Workshop (hybrid, tbc)

8 November

OECD Roundtable on Investment and sustainable development (hybrid), theme: The future of investment policy: Do we need a paradigm shift to address global challenges?

6-10 November

OECD Investment Committee on 9 November, including stakeholder consultation, & **Discussion on Future of Investment Treaties & LAC Investment Initiative & farewell cocktail for the Chair Manfred Schekulin** on 8 November

OECD Sessions with Member Participation – RBC

2023/2024

6-10 November 2023

Meeting of the OECD Working Party on RBC and the Network of National Contact Points (hybrid), including discussion with institutional stakeholders

20-22 February 2024
(tbc)

Forum on Due Diligence in the Garment and Footwear Sector (in-person)



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Committee leadership

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