

**Business at OECD (BIAC) submission to the public consultation on the OECD MNE Guidelines stocktaking**

14 September 2021

*Business at OECD* (BIAC) reiterates its strong support for the OECD MNE Guidelines, which are unique due to their comprehensive nature, their government backing and their stakeholder involvement. The Guidelines have provided very useful guidance for mainstreaming responsible business conduct (RBC) across companies, which have gained considerable experience in this field over the last decade.

We further underline the importance of close alignment between the MNE Guidelines and the UNGPs, championing the State duty to protect and the corporate responsibility to respect human rights, alongside access to remedy. These key principles lay out an important framework for addressing RBC challenges, which remains relevant also in light of new challenges.

We believe the stocktaking is a good opportunity to consider the successes of the MNE Guidelines as well as the opportunities and challenges related to fostering further uptake and efficient and balanced implementation of the instrument. It will be essential to ensure that the Guidelines remain a cornerstone for RBC in the decade to come. Yet, while there are ongoing discussions at the national and international levels, a full-fledged review process such as in 2011 would be premature. Nonetheless, we see an important role for the OECD to monitor ongoing developments and identify ways in which business and governments can proactively work together to address new challenges in the area of good governance.

To that end, we recommend the OECD to focus on the following issues:

- **Visibility:** While large Multinational Enterprises (MNEs) may be well familiar with the Guidelines, smaller MNEs and as well as other domestic companies are often less aware of the instrument, the supporting NCP system and the associated practical guidances. Additional efforts to increase their visibility as well as outreach to the broader business community, with the help of tailor-made, concise, plain language communications materials in close cooperation with national business organizations, are therefore urgently needed.
- **SME buy-in:** Smaller businesses, many of which are MNEs, often face particular challenges in implementing due diligence programs given resource constraints and limited leverage to influence suppliers and business partners. The Guidelines provide the needed flexibility, recognizing that expectations for the practical implementation of the provisions towards small and medium sized enterprises (SMEs) may differ from those towards large MNEs. This flexibility must be maintained. Moreover, the development of more targeted practical promotion materials for the MNE Guidelines, paying due consideration to the specific

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challenges companies may be facing on the ground could help to leverage uptake of the Guidelines among SMEs.

- **Global outreach:** In order to promote a broad-based paradigm shift and foster a global level playing field, regional outreach and capacity building efforts are key. The OECD is already engaging in a number of dedicated initiatives, which should be maintained and strengthened. Further outreach activities are needed to promote the Guidelines in non-OECD countries, with a view to further expanding the circle of adherents, provided that candidate countries demonstrate willingness to implement, enforce and live up to the expectations under the Guidelines.
- **NCPs:** While business efforts are vital, governments' commitments to create enabling policy environments and maintain well-functioning NCPs are key to the success of the Guidelines. Yet recent reports have shown that NCP capacity remains uneven. Efforts should focus on ensuring that NCPs are sufficiently equipped and capable to facilitate constructive dialogues and deal with emerging challenges according to national circumstances and that the process is transparent as well as well understood and trusted by all parties to allow for sound engagement. To that end, we underline the importance of consulting with representative stakeholders' groups, such as representative business/employers' organizations, and to engage in a joint dialogue in order to learn about representative stakeholders' expectations and identify avenues to foster confidence.