

OECD Guidelines for Multinational Enterprises and Application in Country

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Member Board of Patrons

Indonesia Business Links

Reportage on IBL Seminar – Responsible Business Practices Across Value Chains. An ILO-OECD dialogue with the Indonesian Business Community

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Content of Presentation

1. What is the OECD?
2. What are the OECD MNE Guidelines?
3. Relevance for Indonesian Business
4. The Update process
5. What are the main results?
6. OECD and ILO
7. Future Work

What is the OECD ?

- Established 1961, 50th anniversary
- HQ in Paris
- 34 member countries
- 2500 staff
- Budget 342 \$million
- 300 committees
- 250 publications per annum

What is the OECD?

- **Mission: Help Governments**
 - Design and implement effective domestic policies to improve the economic and social well-being of their citizens
 - Work together in a coordinated way towards a stronger, cleaner and fairer world economy
- **50th Anniversary: Work Priorities**
 - Restore confidence in markets through improved public and corporate governance
 - Foster and support new sources of growth through innovation and “green growth” strategies
 - Help people of all ages develop the skills for the jobs of tomorrow
 - Address growing inequalities through targeted social policies
 - Promote coherent policies for development

What Are the OECD MNE Guidelines?

- OECD Declaration on International Investment and Multinational Enterprises 1976
- Four instruments including MNE Guidelines
- Updated four times, most recently in May 2011
- Government backed, binding for governments, non binding for MNEs
- OECD Guidelines are the only multilaterally agreed and comprehensive code of responsible business conduct that governments are committed to promoting;
- All areas of responsible business conduct (labor, environment, corruption..);
- Unique implementation and grievance mechanism through National Contact Points (NCPs);
- NCPs promote the Guidelines and deal with complaints about company behaviour in specific instances;
- Guidelines are designed to prevent misunderstandings and build an atmosphere of confidence and predictability between business, labour, governments and society as a whole;

What Are the OECD Guidelines?

- I. Concepts and Principles
- II. General Policies
- III. Disclosure
- IV. Human Rights **NEW**
- V. Employment and Industrial Relations
- VI. Environment
- VII. Combating Bribery, Bribe Solicitation and Extortion
- VIII. Consumer Interests
- IX. Science and Technology
- X. Competition

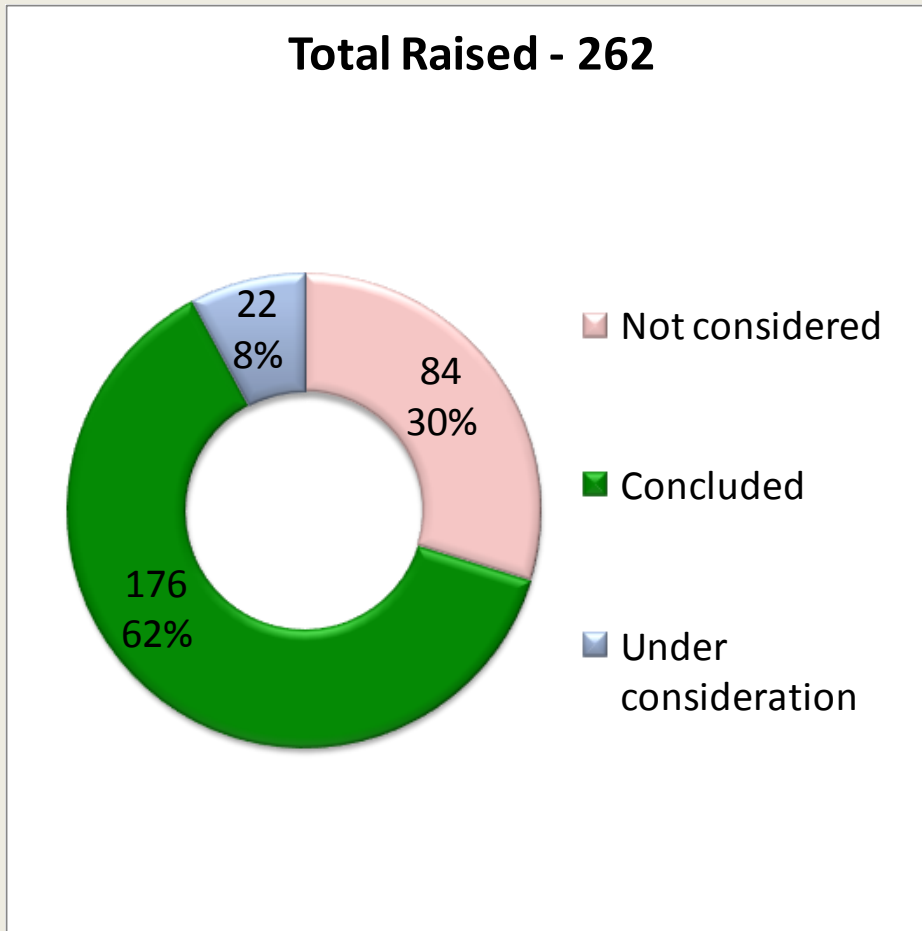
What are the OECD Guidelines?

- Key Recommendations
 - Respect human rights
 - Respect workers' rights
 - Protect the environment, public health and safety
 - Combat bribery
 - Do not use the Guidelines for protectionist purposes

What Are the OECD Guidelines?

- Adhering Governments
 - 42 countries, including 8 non OECD Members (Argentina, Brazil, Egypt, Latvia, Lithuania, Morocco, Peru and Romania).
 - (Indonesia one of five non OECD countries having an 'enhanced engagement relationship' with OECD)
 - More non Members currently under adherence process (Columbia, Costa Rica and Russia)
 - Essential component for open trade and investment policies
 - Account for 80% FDI by 80 000 MNEs

Implementation: Specific Instances: 2000-2011



Most involve Chapter V: Employment and Industrial Relations

50% raised by Trade Unions

Relevance for Indonesian Business

- CSR is an essential component of an attractive business environment
- OECD countries contribute to a large share of Indonesia inward investments
- NCP mechanism can help resolve problems arising from MNE activities

Why a new Update?

- 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
- First discussions among adhering countries on a possible update in mid 2009.
- Adoption of the Terms of Reference for an update on 4 May 2010

What was the Update process?

- Terms of Reference concluded after broad consultation with stakeholders
- Update was conducted by the Working Party of the OECD Investment Committee
- Regular consultation with stakeholders and experts
- Advisory Group consisting of key players
- Specialised chapters were dealt with by specialised OECD bodies
- First round of negotiations in October 2010, 5th and last round on 29 April 2011

Main results: Human Rights Chapter

- New chapter IV: Human Rights
- 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: Employment and Industrial Relations

- Full alignment with the ILO Declaration on Fundamental Principles and Rights at Work and the ILO and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy
- Change from 'employee' to '**worker**' captures triangular working relationships and workers in the supply chain
- New provision on **wages**
- *When multinational enterprises operate in developing countries, where comparable employers may not exist, provide the best possible wages, benefits and conditions of work, within the framework of government policies. These should be related to the economic position of the enterprise, but should at least adequate to satisfy the basic needs of the workers and their families."*

Main results: NCP Procedures

- Conceptual improvements: NCPs must act in a manner that is impartial, predictable, equitable and compatible with the Guidelines.
- Practical improvements: additional guidance for the NCP complaints procedure regarding:
 - Issuing statements on cases when closed;
 - Dealing with parallel proceedings
 - Indicative timeframes
- Institutional improvements:
 - NCP peer learning to enhance functional equivalence
 - Proactive CSR agenda of the OECD Investment Committee
 - Greater role for the OECD in promotion and supporting NCPs

OECD and ILO

- Labor Chapter is one of the pillars of the OECD Guidelines
- Labor Chapter is based on ILO Conventions
- Majority of specific instances is labor related -> De facto: additional grievance mechanism for ILO aquis
- Excellent support from ILO Office
- Potential for future collaboration in specific grievances (ILO Helpdesk)
- ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy

Future Work

- Substantive
 - Special guidance for particular sectors or type of enterprises (e.g. financial institutions and, with ILO, due diligence in supply chains)
 - Implementation of the proactive agenda
- Outreach
 - Intensification of cooperation with emerging economies and partner organisations (OHCHR, ILO, UN GC, IFC, GRI)
 - Regional NCP coordination
- Peer learning/capacity-building

Further Information

- Website at www.oecd.org/daf/investment/guidelines/index.htm
- Email daf.contact@oecd.org
- By post :
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Thank you