



# Annual Report on the OECD Guidelines for Multinational Enterprises 2017





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## *Foreword*

This report covers the activities undertaken to promote effective implementation of the OECD Guidelines for Multinational Enterprises (hereafter the “Guidelines”) by the OECD Secretariat, adhering governments and their National Contact Points (NCPs) during the period January to December 2017.

The first chapter describes the promotional activities undertaken in 2017 by the 48 OECD NCPs and reports on the specific instances they handled. It also provides an overview of actions to strengthen the NCPs through peer reviews, capacity building and peer learning. Chapter 2 addresses the OECD’s activities on due diligence for responsible business conduct (RBC), covering initiatives and progress in the minerals, extractive, garment and footwear, agriculture and financial sectors. Chapter 3 focuses on government policies in support of RBC; it provides an overview of links between RBC and other policy areas and maps to relevant OECD work.

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## *Introduction and Executive summary*

### **Responsible business conduct: rising expectations and demands**

Responsible business conduct (RBC) is increasingly relevant for the global economic agenda, in particular, for dealing with the downsides of globalisation and promoting the positive contribution of businesses to sustainable development. In 2017, the OECD's work on RBC, based on the OECD Guidelines for Multinational Enterprises (the Guidelines), was recognised in a variety of high-level political contexts.

In July 2017, G20 Leaders acknowledged the importance of sharing the benefits of globalisation and committed to foster “the implementation of labour, social and environmental standards and human rights in line with internationally recognised frameworks”, including the OECD Guidelines. The G20 Leaders' Declaration also expressed “support [for] access to remedy and, where applicable, non-judicial grievance mechanisms, such as the National Contact Points for the OECD MNE Guidelines (NCPs)”, and underline[d] the responsibility of businesses to exercise due diligence.”<sup>1</sup> The ministerial declaration entitled “Towards an Inclusive Future: Shaping the World of Work” adopted earlier by G20 Labour and Employment Ministers on 18-19 May 2017, recognised the role of the Guidelines, NCPs and due diligence.<sup>2</sup> These developments build on recognition of RBC under the 2016 Chinese G20 Presidency.

The 2017 OECD Ministerial Council Statement, entitled “Making globalisation work: better lives for all”, prominently featured OECD work on RBC, expressing strong support for the Guidelines, sector-specific due diligence guidance and the NCPs. Members committed “to having fully functioning and adequately resourced National Contact Points, and to undertake a peer learning, capacity building exercise or a peer review by 2021, with the aim of having all countries peer reviewed by 2023.” They encouraged “the OECD to develop a set of general due diligence guidelines that can be applied to any sector.”<sup>3</sup>

Heightened expectations of OECD work on RBC have also been driven by industry, consumers, and developments in legal and regulatory requirements. Examples of legislative developments in 2017 are the French Duty of Vigilance legislation requiring large companies to implement a due diligence plan, as well as the European Union (EU) regulation stipulating supply chain due diligence obligations for importers of certain minerals. In addition, the demand for more transparency and information on how companies deal with human rights, environmental, social and other “non-financial” issues, has rapidly grown. One particular trend is the increasing demand for information on how companies are identifying and addressing impacts in their supply chains. Investors have also been facing increasing expectations to manage climate and social risks in their portfolios.

In 2017, OECD's activities to support the global level playing field on RBC, and promote effective implementation of the Guidelines, have centred on three pillars of work. First, support for NCPs, who are tasked with promoting the Guidelines and providing a platform to address issues related to their implementation. Another important aspect of implementation is the provision of guidance to companies on how to apply the due diligence recommendations of the Guidelines in practice, through supply chains, in specific sectors. Third, the OECD is working with governments to design and implement policies to ensure an enabling environment for RBC, and to promote policy coherence.

### National Contact Points for Responsible Business Conduct

With the formal adherence of Ukraine on 15 March 2017,<sup>4</sup> and Kazakhstan on 20 June 2017,<sup>5</sup> 48 Adherents have now committed to establish an NCP to promote the Guidelines and contribute to the resolution of issues relating to implementation of the Guidelines in specific instances. This unique implementation mechanism distinguishes the Guidelines from other international RBC instruments. A total of 47 Adherents have an NCP in place, the exception is Tunisia which does not appear to have an NCP contact, website or any NCP-related activity.

In 2017, NCPs closed 34 specific instances and received 28 new specific instances. Of the closed specific instances: 12 went to mediation and agreement was reached between parties in eight specific instances through the NCP and, in another two instances, in parallel to the specific instance procedure, accounting for 83% of the 12 specific instances where mediation occurred (compared to 60% in 2016)). In some cases, agreements reached among parties included direct remedy to the submitters, or changes to a company's operations and policies to mitigate impacts. For example, a specific instance filed at the Dutch NCP involving former employees of Bralima (a subsidiary of Heineken) resulted in financial compensation to 168 employees, the remedy they had been seeking for nearly 17 years, and important changes to Heineken's human rights due diligence policy. Another specific instance was submitted to the French NCP involving a labour dispute at the Westin Long Beach Hotel, which Natixis (a French investment bank) had a business relationship with through a complex investment chain. Through the NCP's engagement with Natixis and its subsidiary, the labour dispute was resolved and the union was recognised by the new hotel operators.

In 2017, 40% (8) of the concluded specific instances resulted in some changes to company policy or operations to better meet recommendations of the Guidelines (compared to 37% in 2016). For example, in the context of the specific instance filed with the Swiss NCP regarding construction of facilities for the FIFA 2022 World Cup in Qatar, and as a result of the agreement reached between the Fédération Internationale de Football Association (FIFA) and the Building and Wood Workers' International, , FIFA agreed to implement several measures, including: strengthening its human rights policy, carrying out a human rights due diligence process throughout the supply chain, and enhancing grievance and oversight mechanisms.

In 2017, 18 NCPs (38% of all NCPs) received specific instance submissions.. The NCPs of Denmark and the Netherlands received the highest number of submissions (four submissions each), followed by the NCPs of France, Italy, Spain and the United States, which received two submissions each. The financial and manufacturing

sectors continued to be the most prevalent in specific instances and the human rights chapter was again the most often cited.

During 2017, 33 NCPs created a promotional plan for the Guidelines (compared to 25 in 2016), and 41 NCPs either held or attended promotional events, (compared to 35 in 2016). Most governments have made their NCP visible, e.g., via a dedicated website. A total of 35 NCPs published information on their website on procedures and explaining the specific instance process. There are currently four adhering governments that do not have a website in place on the Guidelines or the NCP. Furthermore, three NCPs did not attend the NCP meetings in either June or November (compared to five in 2016) and three NCPs did not report on their 2017 activities (compared to two in 2016).

In 2017, the programme of NCP peer reviews continued with finalisation of peer reviews by the NCPs of Italy, Switzerland and France, and on-site visits for peer reviews by the NCPs of Germany, Chile, the United States and Austria. In addition, two capacity-building missions took place to provide support for the new NCPs in Kazakhstan and Ukraine.

## Due diligence to implement the Guidelines

In 2017, expectations of due diligence for RBC are increasingly being reflected in international and national policy and regulation. In March 2017, France adopted legislation requiring certain large companies to prepare, implement and publish a due diligence plan to prevent human rights abuses<sup>5</sup> and environmental impacts associated with their operations and supply chains.<sup>6</sup> While regulatory directives can present a strong incentive for companies to carry out due diligence, a proliferation of expectations at a domestic level can create challenges for businesses operating globally as they may already be subject to various other international expectations. Throughout 2017, extensive consultations were carried out to prepare and revise the draft OECD Due Diligence Guidance for Responsible Business Conduct, which will be relevant for all sectors of the economy. The Guidance can help promote a common understanding on due diligence for businesses subject to various domestic obligations and international instruments. It will be completed and embodied in an OECD Recommendation of the Council to be adopted by ministers at the 2018 Ministerial Council Meeting (MCM).

Over the course of 2017, regulatory developments and market dynamics have supported implementation of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (the "OECD Minerals Guidance") in new geographies, minerals, and industries. In May 2017, the EU adopted a regulation that will require importers of tin, tantalum, tungsten and gold minerals and metals to carry out supply chain due diligence aligned with the OECD Minerals Guidance.<sup>7</sup> Other developments include stronger legislation and government-backed industry standards, particularly in mineral processing and consuming regions, such as China and India, as well as increased awareness and sensitisation of local stakeholders on issues relating to artisanal and small-scale mining in Colombia and West Africa. The increased demand for minerals, such as cobalt – which is critical for development of batteries and largely sourced from conflict-affected and high-risk areas – has also cultivated greater awareness of the OECD Minerals Guidance.

Building on the foundations of previous sectoral work and based on the experiences and knowledge shared during prior OECD Roundtables on Responsible Garment Supply Chains, the OECD launched the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector on 8 February 2017.<sup>8</sup> This Guidance responds to the OECD Ministerial Communiqué on Responsible Business Conduct adopted on 26 June 2014,<sup>9</sup> and the G7 Leaders' Declaration adopted on 7-8 June 2015, in Schloss Elmau, which welcomed international efforts to promulgate industry-wide due diligence standards in the textile and ready-made garment sector. The Guidance was approved by the Investment Committee on 14 January 2017 and was embodied in the Recommendation of the Council on the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, adopted in June 2017. A key component of OECD's work to support implementation of the OECD Garment Guidance in 2017 was building the industry's awareness and capacity on due diligence, supporting convergence and alignment of various initiatives, and engaging with key producing regions. To this end, an Alignment Assessment Tool was developed in 2017 to help companies and initiatives assess their activities and standards against the OECD Garment Guidance. In 2017, the OECD worked towards the conclusion of a memorandum of understanding (MOU) with the China National Apparel and Textile Council (CNTAC) to develop and implement a Chinese language Guidance aligned with the OECD Guidance (signed in January 2018). The OECD also laid the groundwork for a partnership with the Indian textile industry and global brands to develop an Indian-driven response to support responsible sourcing.

In 2017, the OECD paper on Responsible Business Conduct for Institutional Investors was formally launched and broadly disseminated. Awareness raising events and workshops in the United Kingdom, Norway, Denmark, Belgium, Canada and France informed practitioners about implementing the paper's recommendations. In addition, trainings were organised with NCPs to help them build a stronger technical understanding of the sector, which in turn could support them when handling specific instances implicating institutional investors. The OECD launched the second phase of its work on RBC in the financial sector, which is focused on corporate lending activities and underwriting. This project identifies due diligence approaches for banks to ensure they avoid and address risks related to their clients' RBC. There is currently no broadly recognised standard on environmental and social due diligence for general corporate lending and underwriting, although these transactions represent the majority of financing activity by banks.

The implementation programme of the OECD-FAO Guidance for Responsible Agricultural Supply Chains<sup>10</sup> is also developing. Following a specific call by the G7 Agricultural Ministers in 2017 to promote implementation of the Guidance,<sup>11</sup> the OECD Secretariat has been engaged in a number of awareness raising activities to prepare for the initial pilot programme. The pilot, launched in early 2018, aims to support enterprises in implementing the OECD-FAO Guidance and should serve as a voluntary, collective-learning exercise.

## **Government policies in support of Responsible Business Conduct**

Besides supporting NCPs and enhancing business capacity to implement due diligence for RBC, the OECD's work has also focussed on promoting policy coherence with respect to RBC in economic, environmental and social policies. In

the context of global challenges concerning climate, poverty, and sustainable development, governments are increasingly committed to designing and implementing a strong policy framework that supports and promotes RBC. This involves establishing and enforcing a legal framework in the areas covered by the Guidelines, and providing recognition and incentives to businesses that behave in line with RBC standards. It also requires governments to observe RBC standards in their role of economic actor (e.g. through public procurement, export credits, and development finance), and as owners of enterprises.

The OECD covers a wide range of these policy areas and has set international standards relating to economic policies which have a bearing on RBC. The growing work on RBC policies has therefore led to an increased number of horizontal efforts through policy analysis and advice, but also legal instruments (Council Recommendations) which recognise governments' responsibility to create an enabling environment for RBC. Chapter 3 provides an overview of policy areas relevant to RBC and maps relevant OECD work.

One way for governments to coordinate efforts on RBC is to elaborate National Action Plans (NAP) on Business and Human Rights and/or Responsible Business Conduct. Many NAPs provide an overarching policy framework for RBC and aim to ensure coordination and coherence within the government among all relevant policies relating to RBC (including investment, procurement, export credits, SOEs, etc.). As of December 2017, 20 countries, all of which are Adherents to the OECD Guidelines, have adopted a NAP. In addition, a number of governments are currently in the process of developing a NAP, e.g. Argentina, Japan, Mexico, Peru and Thailand. The scope of NAPs varies by country. Some go beyond the theme of business and human rights by encompassing the environment (for example, France and Italy) and RBC more generally, such as the United States and Switzerland, which developed a NAP on Business and Human Rights and on RBC.

The 2017 Roundtable for Policy-Makers, held as part of the Global Forum on Responsible Business Conduct, provided an opportunity for policy makers to exchange experiences and discuss ways to effectively design and implement policies to enable and promote RBC. This included discussions on NAPs organised jointly with the United Nations Office of the High Commissioner for Human Rights (UNOHCHR), as well as a deep dive into public procurement and economic diplomacy (including export credits).

## Outreach and cooperation with partners

Another important way to promote the Guidelines and enable RBC is outreach and cooperation with Partners and non-Adherents. Co-operation has continued with a number of key non-Adherents, either through regional, country, or sector programmes, as well as the annual Global Forum on Responsible Business Conduct (GFRBC) and sector-specific forums and roundtables, such as the OECD Forum on Responsible Minerals Supply Chains and the OECD Forum on Due Diligence in the Garment and Footwear Sector.

Starting in 2018, the OECD will be working with key non-Adherents in Asia to promote peer learning and co-operation as part of a three-year project, developed by the EU together with the International Labour Organization (ILO) and OECD, on responsible supply chains in Asia. A similar project in Latin America and the

Caribbean is expected to start in the second half of 2018. These projects will address all three pillars of work under the Guidelines, strengthening of NCPs (where relevant), working with business to implement due diligence and enhancing government policies to enable and promote RBC. These regional projects will be important vehicles for outreach on the Guidelines in the following years (see Annex 5 for more information).

## Chapter 1

### National Contact Points for Responsible Business Conduct

#### Background

All Adherents commit to establishing an NCP to promote the Guidelines and contribute to the resolution of issues relating to the implementation of the Guidelines in specific instances. This unique implementation mechanism distinguishes the Guidelines from other international RBC instruments. Of the 48 Adherents, a total of 47 have an NCP in place, the exception is Tunisia which does not appear to have an NCP contact, a website or any NCP-related activity.

This chapter focuses on the activities of NCPs during the period January–December 2017. It is based on responses to the annual reporting questionnaires submitted by the NCPs covering activities up to 31 December 2017.

The chapter begins by providing an overview of closed specific instances and new ones submitted within the reporting period, and addresses trends in handling specific instances during that period. This is followed by a section addressing the current structures of NCPs, including the involvement of ministries and relevant staff and financial resources. Following this, the chapter focuses on NCP activities conducted in 2017. An overview of NCPs in 2017 is provided in Annex 2.

#### 1.1. Overview of specific instances handled during the reporting period

In 2017, 34 specific instances were closed by NCPs and 28 new specific instances were submitted. Closed specific instances includes those submitted during and prior to 2017. The sections below give an overview of outcomes of closed specific instances and trends identified for new specific instances submitted.

##### *1.1.1. Overview and key outcomes of closed specific instances*

A total of 34 specific instances were closed in the reporting period: 29 were already in progress as of January 2017 and five new ones which were submitted during 2017. (See Table 2 for an overview of closed specific instances in 2017). Closed specific instances refer to both concluded cases and those that are not accepted for further examination (see Box 1). Of the specific instances in progress as of January 2017, 18 were submitted prior to 2016.

Out of the 34 specific instances closed in this period, 20 were concluded (59%) and 12 were not accepted (35%). An additional two were withdrawn by the submitter prior to the initial assessment by the NCP (6%).



### Box 1. Terminology for the status of specific instances

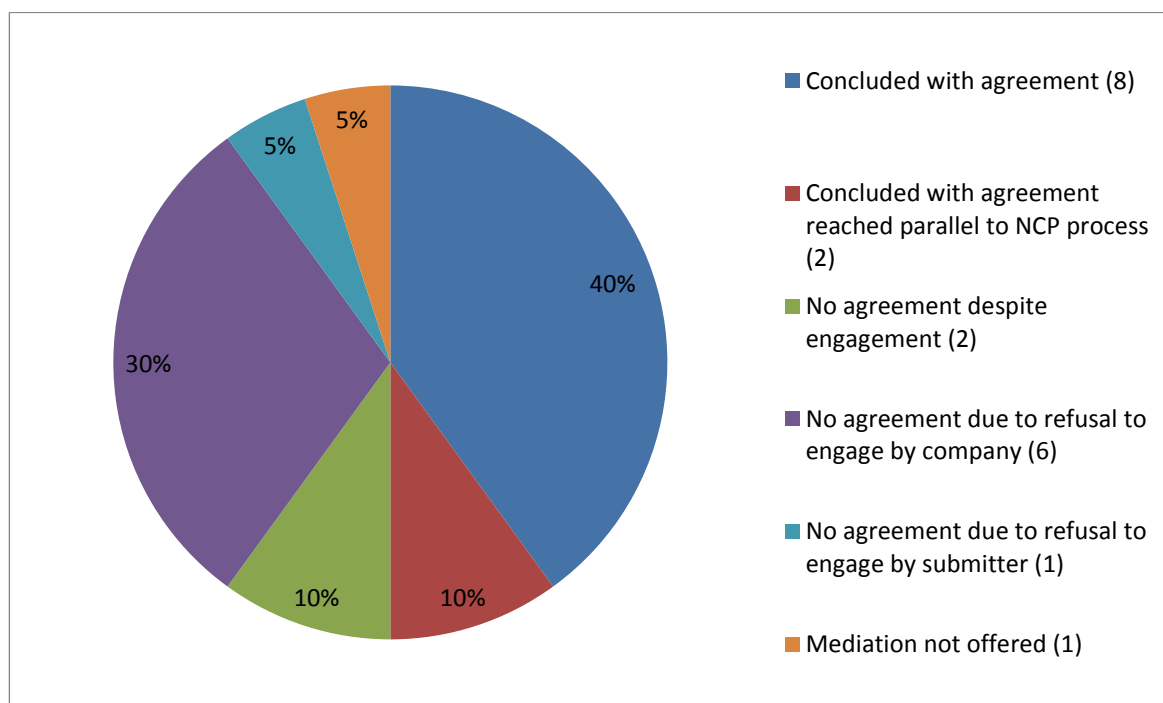
Specific instances closed during the year includes both specific instances that were concluded during the year and those that were not accepted during the year.

1. Specific instances concluded during the year are those that the NCP found to merit further examination after the initial assessment and that have subsequently been closed. For such specific instances the NCP will have offered its “good offices” (e.g. mediation/conciliation) to both parties.
2. Specific instances not accepted during the year were those that the NCP found did not merit further examination and therefore were closed.

Specific instances that are in progress are those that are not yet closed. These will include submissions received by the NCP and under consideration, along with those accepted by the NCP.

Of the 20 concluded specific instances, 12 underwent mediation which in eight cases resulted in some form of agreement between the parties through the NCP process<sup>12</sup> and two which resulted in some form of agreement between the parties in parallel to the NCP process. Two of the 12 specific instances that went to mediation did not result in agreement despite the engagement of both parties in the process.

**Figure 1. Outcomes of specific instances concluded in 2017**





For the remaining eight concluded specific instances, mediation was refused by the company involved in six specific instances. In one specific instance, mediation was refused by the submitter due to disagreement with the terms of the confidentiality agreement proposed by the NCP. Mediation was not offered in one concluded specific instance as the NCP found that offering a facilitated dialogue solely between the submitters and the company would not contribute to the direct resolution of the issues.

### *1.1.2 Agreement between parties*

Agreement was reached between parties in eight specific instances through the NCP and, in another two instances, in parallel to the specific instance procedure, accounting for 83% of all concluded specific instances where mediation occurred (12 specific instances). This is an increase from 2016, where some form of agreement was reached in nine specific instances accounting for 60% of all concluded specific instances where mediation occurred (15 specific instances).

In some cases, agreements reached among the parties included direct remedy to the submitters, or changes to a company's operations and policies to mitigate impacts (see Box 2).

#### **Box 2. Remedy through the National Contact Point mechanism**

**Heineken, Bralima and former employees of Bralima:** In December 2015, the Dutch NCP received a submission from three individuals involving Heineken, a Dutch multinational and its subsidiary Bralima, operating in the Democratic Republic of Congo (DRC). The three individuals stated that Bralima had not observed the Guidelines in the dismissals of 168 former employees in the DRC between the year 1999 and 2000.

The NCP accepted the specific instance and organised two mediation meetings, one in Uganda and one in Paris to facilitate the participation of the submitters. The mediation concluded with an agreement between the parties and the specific instance was concluded in August 2017. As part of the agreement Heineken agreed to provide compensation to the workers. Heineken also indicated that it will draw up a policy and guidelines on how to conduct business and operate in volatile and conflict-affected countries.

The parties noted that involvement in the specific instance has improved relationships between the company and submitters and also been important in signalling expectations with respect to corporate accountability to other enterprises operating in the region. The NCP was asked by the parties to monitor the next steps agreed to by the parties.

**Natixis-NGAM and UNITE HERE:** In September 2016, the French NCP received a specific instance submitted by the American trade union Unite Here Local 11 regarding the activities of the French bank Natixis and one of its asset managers Natixis Global Asset Manager (NGAM). The submission concerned a complex investment chain and business relationships in the United States and France. The union submitting the complaint noted a social conflict taking place at the Westin Long Beach Hotel, and alleged violations of freedom of association, collective

bargaining and working hours. This hotel was operated by an American hospitality conglomerate and owned indirectly by an American institutional investor. AEW Capital Management, a US subsidiary of Natixis and NAGM, provided asset management advisory services to the hotel owner.

The French NCP offered its good offices, engaging with the parties and offering to facilitate a dialogue between them. In September 2017, the NCP welcomed the results obtained: the hotel was sold to another owner, a new operator was chosen, and unionisation was agreed to. The NCP closed its good offices and drafted the final decision in consultation with the parties.

The parties recognised the NCP's role in contributing to solving the two-year long labour dispute at the Westin Long Beach hotel noting that "as a result of the NCP's constructive engagement with Natixis, the company changed its approach and carried out effective due diligence measures by engaging with its subsidiary to help resolve the complaint." And "[I]t is without question that the French NCP's critical work on the case, in mediating dialogue with Natixis and NGAM, was central to the outcome."<sup>13</sup> The NCP final report details steps of the NCP actions and gives a substantive analysis of the due diligence issues raised in the specific instance.

**Ansell Limited and IndustriALL Global Union:** In December 2013, the Australian NCP received a submission from IndustriALL on behalf of trade unions based in Sri Lanka and Malaysia. It alleged that some Ansell employees may have suffered significant health issues as a result of workplace contaminants and that Ansell acted inappropriately in relation to its handling of deteriorating working conditions. The Australian NCP, and representatives acting on behalf of the NCP, conducted successful mediation over four meetings between August 2014 and November 2015. Subsequent dialogue occurred directly between the NCP and two parties during 2016, resolving all outstanding issues and concluding with a memorandum of understanding (MOU) signed between the parties in August 2016. The specific instance was concluded by the Australian NCP in June 2017.

The MOU formalises an agreement between Ansell and IndustriALL regarding terms for rehiring employees and expectations of professional business conduct between both parties.

More recently, IndustriALL Global Union requested the Australian NCP to follow up Ansell Limited's adherence to their agreement.

### *1.1.3. Improvements to company policy or operations*

Eight specific instances concluded in 2017 resulted in some changes to company policy or operations to better meet recommendations of the Guidelines, amounting to 40% of all concluded specific instances (compared to 37% in 2016). These changes included strengthening corporate policies on human rights, improving due diligence processes, as well as improving reporting processes and transparency standards (see Box 3 for examples.)

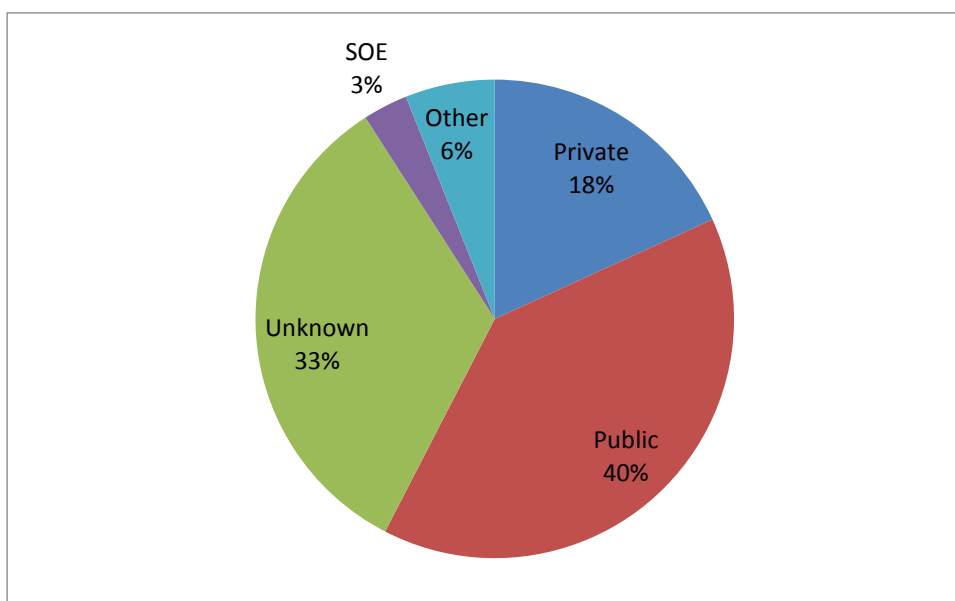
### Box 3. Changes to company policies through specific instance procedures

**Fédération Internationale de Football Association (FIFA) and Building and Wood Workers' International (BWI):** In May 2015, the Swiss NCP received a submission from BWI regarding alleged human rights violations of migrant workers related to the construction of facilities for the FIFA 2022 World Cup in Qatar. The NCP offered mediation to the parties which resulted in agreement on May 2017 between the parties on a detailed action plan for promoting decent and safe work conditions for migrant construction workers. The agreed plan included actions on:

- A strengthened human rights policy;
- A human rights due diligence process, extending through supply chains and subcontracts;
- Robust processes for monitoring labour conditions, including joint labour inspections; and
- A strengthened grievance mechanism and oversight/advisory body

The parties agreed they would send a report to the Swiss NCP about the progress made regarding the agreement and to meet to discuss whether further follow up is necessary.

**Figure 2. Type of companies/organisations involved in specific instances in 2017**



#### 1.1.4. *Type of companies involved in specific instances*

The 34 specific instances closed in 2017 primarily involved large enterprises (defined as companies employing over 250 employees).<sup>14</sup> In 11 specific instances, there is no information on the size of the company involved, as some final statements do not identify the company's name..

Companies were mostly publically listed entities representing 37% (13 specific instances) of all closed specific instances, followed by privately held companies (18% or specific instances). Two of the specific instances involved state-owned enterprises (SOEs), one involved a non-profit organisation involved in commercial activity (World Wildlife Federation) and one involved a sports association (Fédération Internationale de Football Association). Information on the identity of 31% of the companies (11 specific instances) is unavailable either because this was kept confidential in final statements or the relevant final statements have not yet been published (see Figure 2). The numbers are similar to those reported in 2016.

Four specific instances closed in this period involved Fortune 500 companies.<sup>15</sup> The headquarters companies involved in specific instances cover 16 countries. The headquarter location of companies implicated in nine specific instances is unavailable either because this was kept confidential in final statements or the relevant final statements have not yet been published (see Table 1).

**Table 1. Known headquarter locations of companies/organisations involved in specific instances closed in 2017**

Headquarter location of company/organisation	Number of specific instances	Headquarter location of company	Number of specific instances
Canada	4	Colombia	1
Netherlands	2	France	1
Switzerland	3	Finland	1
Belgium	2	Germany	1
United Kingdom	2	Italy	1
United States	2	Japan	1
Austria	1	Peru	1
Australia	1	Spain	1

#### 1.1.5. *Final statements*

The Procedural Guidance of the Guidelines provides that NCPs will "at the conclusion of the [specific instance] procedures and after consultation with the parties involved, make the results of procedures publically available [...]".<sup>16</sup> In particular, the Commentary on the Implementation Procedures of the OECD Guidelines for Multinational Enterprises provides that when the NCP "decides that the issues raised in the specific instance do not merit further consideration, it will make a statement publicly available after consultations with the parties involved" and if the parties fail to reach agreement, or if the NCP finds that one or more of the parties to the specific instance is unwilling to engage or to participate in good faith, the NCP will make recommendations as appropriate in the public statement.

Determinations can be made by NCPs to indicate that a company has, or has not, observed the recommendations of the Guidelines, however this is not required by the Procedural Guidance. Statements constitute an important tool to support the effectiveness of the Guidelines and enhance transparency, accountability and visibility of NCPs. Indeed, substantiated decisions, recommendations and determinations can help companies and stakeholders understand the Guidelines more concretely and what steps, actions, policy measures they can take to fully observe them.

Final statements were published for 27 of the 34 (79%) specific instances that were closed in 2017. Out of the seven specific instances for which final statements were not published, one specific instance was accepted for further examination and concluded, one was withdrawn prior to the initial assessment and the remaining 5 were not accepted for further examination.

Of the 20 final statements published for concluded cases, 14 (70%) included recommendations.<sup>17</sup> This is an increase from 2016 where 59% of final statements published for concluded cases included recommendations. Recommendations are especially useful in cases where parties have not been able to engage or reach agreement. Determinations of whether an enterprise observed or did not observe the Guidelines were included in four of the 20 final statements (20%).<sup>18</sup> These included both determinations that a company did not observe the Guidelines as well as determinations that the Guidelines had been observed.

#### **Box 4. Follow-up in NCP specific instances**

**Bolloré and Socfin Groups/Socapalm and Sherpa concerning operations in Cameroon:** In June 2017, the NCP of Belgium closed a specific instance involving the Belgian Group SOCFIN and Socapalm operations in Cameroon. This specific instance was submitted by the French non-governmental organisation (NGO), Sherpa, and other NGOs to the NCPs of France, Belgium and Luxembourg in 2010. The French NCP first took the lead in handling the specific instance, engaging with the French Group, Bolloré, and the submitters between 2010-2013. This resulted in an agreement amongst Sherpa and Bolloré to elaborate a remediation plan to be implemented over two years by Socapalm in Cameroon. Three follow-up statements were later released by the French NCP in 2014, 2015 and 2016 providing updates on the status of the remediation plan and including additional recommendations with respect to failures to fully implement the plan. In 2016, the French NCP reviewed its actions and transferred the leadership of the specific instance to the Belgian NCP as the Socfin Group (Socapalm's parent company) had accepted its good offices. The Belgian NCP offered mediation to the parties and hosted three meetings between them. In its final statement, published in June 2017, the Belgian NCP noted that that the remediation plan agreed to in 2013 was only partially implemented by the Socfin Group and provided additional recommendations to the enterprise. It invited the parties to a follow-up meeting to discuss measures taken by the Socfin Group in relation to this specific instance within one year. The NCPs of France and Belgium have coordinated their actions and shared draft statements with respect to this specific instance since 2010.

### ***1.1.6. Follow-up***

Following up on specific instances can be a valuable exercise in ensuring agreements reached through specific instance proceedings are implemented and in tracking whether recommendations are being implemented (See Box 4). In 2017, the NCPs of Belgium, France, and the Netherlands, issued follow-up statements relating to specific instances. In addition, follow-up is mentioned in seven of the 20 final statements (35%) available for concluded specific instances. NCPs are increasingly engaging in follow-up of specific instances. Follow-up has been identified as a valuable activity by parties to specific instances and has, in some situations, resulted in stronger relationships between the parties and additional positive outcomes. Further analysis on ways to carry out follow-up and its impact could be useful to promote strengthened outcomes of the NCP system.

### ***1.1.7. Specific instances not accepted for further examination***

As noted above, 35% of specific instances closed in 2017 were not accepted for further examination (12 specific instances). This rate is within the range of, and close to, the highest historical rates of non-acceptance which have been between 25% and 40% since 2001.<sup>19</sup>

The main reason for not accepting specific instances in 2017 was a lack of materiality and substantiation. This reason was provided in 10 (83%) of the specific instances not accepted for further examination. The existence of parallel proceedings was referenced in two specific instances (17%). The Guidelines do not define “material” or “substantiated”, or provide further guidance on how to evaluate these criteria with respect to submissions. Some NCPs have created templates for the submission of specific instances to set clear indications on the nature and level of information required from submitters. Some NCPs, as general practice, follow up with submitters to ensure that submissions are complete and adequately substantiated. Such practices can help ensure that NCPs encourage accessibility to the greatest extent possible.

### ***1.1.8. Duration of procedures***

Of the 35 specific instances closed in 2017, the initial assessment period exceeded three months in 17 of them (48%). In two of these, the initial assessment was completed eleven months after the original submission of the specific instance and, in another two, completion of the initial assessment took over a year. Information on the timeframe for the initial assessment is not available for 12 specific instances. The Commentary on the Implementation Procedures provides an indicative timeframe of three months for completing the initial assessment.<sup>20</sup> NCPs have identified this as a challenge. On the other hand, stakeholders have identified long initial assessment periods as a shortcoming of the mechanism and have expressed that completing this process sooner would make the system more impactful and effective.

The Commentary on the Implementation Procedures provides that “[a]s a general principle, NCPs should strive to conclude the procedure within 12 months from receipt of the specific instance. It is recognised that this timeframe may need to be extended if circumstances warrant it, such as when the issues arise in a non-adhering country.”<sup>21</sup> In 13 (37%) of the 35 specific instances closed in 2017, proceedings lasted for over two years, in five of the 13 they lasted for over three years, and one of the 13 proceedings took eight years in total. In some cases delays reflect extended

follow-up activities, challenges in handling complex and transnational issues, or multiple mediation or dialogue sessions, sometimes requested by parties to specific instances. A better understanding of the reasons behind delays could be useful to develop tools and strategies for ensuring that specific instances are handled **efficiently and predictably**.

**Table 2. Overview of closed specific instances in 2017**

	Specific instance	Lead NCP	Host country(ies)	Year submitted-closed	Status
1	Ansell Ltd and IndustriALL Global Union	Australia	Malaysia, Sri Lanka	2015-2017	Concluded with agreement between the parties.
2	Serco Group plc and Prof. Ben Saul, Sydney Centre for International Law	Australia	Australia	2014-2017	Not accepted for further examination.
3	Andritz Hydro GmbH and Finance and Trade Watch Austria	Austria	Lao People's Democratic Republic	2014-2017	Concluded with agreement between the parties.
4	Etex, Building and Wood Workers' International (BWI) and Ceramic Workers' Union of the Republic of Argentina (FOCRA)	Belgium	Argentina	2016-2017	Concluded without agreement between the parties.
5	Socfin Group/Socapalm and Sherpa	Belgium	Cameroon	2016-2017	Concluded without agreement between the parties.
6	Banro Corporation and group of former employees	Canada	Democratic Republic of the Congo	2016-2017	Concluded without agreement between the parties.
7	Endeavour Mining Corporation and a Labour Union	Canada	Mali	2015-2017	Concluded without agreement between the parties.
8	Seabridge Gold and the Southeast Alaska Conservation Council	Canada	Canada	2016-2017	Not accepted for further examination.
9	"Sakto Group" and Bruno Manser Fond	Canada	Canada	2016-2017	Not accepted for further examination.
10	Hoteles Decamerón Colombia S.A.S. and the National Union of the Gastronomic, Hotel and Tourism Industry Workers of Colombia (SINTHOL)	Colombia	Colombia	2016-2017	Concluded without agreement between the parties.
11	Not reported	Denmark	Not reported	2017-2017	Resolved between the parties and withdrawn prior to initial assessment.
12	Stora Enso and trade unions	Finland	France	2016-2017	Concluded without agreement between the parties.
13	NATIXIS -NGAM and Unite Here	France	United States	2016-2017	Concluded with agreement between the parties.
14	Robert Bosch GmbH, Bosch Limited (India) and an individual	Germany	India	2015-2017	Concluded with agreement between the parties (reached through a parallel process).
15	Survival International Italia and Salini Impregilo	Italy	Ethiopia	2016-2017	Concluded without agreement between the parties.
16	Suzuki Motor Corporation and trade unions and NGOs	Japan	Thailand	2016-2017	Concluded without agreement between the parties.
17	Bralima, Heineken and former	Netherlands	Democratic	2015-2017	Concluded with

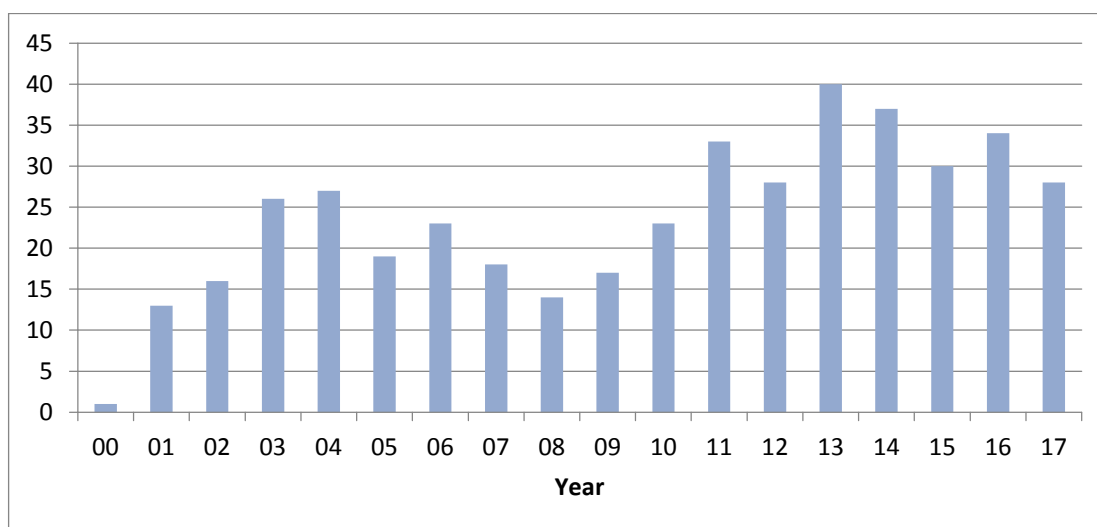


	Specific instance	Lead NCP	Host country(ies)	Year submitted-closed	Status
	employees of Bralima		Republic of the Congo		agreement between the parties.
18	Philips Lighting/Royal Philips	Netherlands	Ukraine	2016-2017	Not accepted for further examination.
19	Insurance company and NGO	New Zealand	New Zealand	2015-2017	Not accepted for further examination.
20	Insurance company and NGO	New Zealand	New Zealand	2015-2017	Not accepted for further examination.
21	Insurance company and NGO	New Zealand	New Zealand	2015-2017	Not accepted for further examination.
22	Insurance company and NGO	New Zealand	New Zealand	2015-2017	Not accepted for further examination.
23	Insurance company and NGO	New Zealand	New Zealand	2016-2017	Not accepted for further examination.
24	Building-related enterprise and NGOs	New Zealand	New Zealand	2014-2017	Concluded with agreement between the parties.
25	Telefonica and SITENEL	Peru	Peru	2009-2017	Concluded with agreement between the parties (reached through a parallel process).
26	French multinational enterprise operating in energy sector and former company employee	Poland	Poland	2017-2017	Not accepted for further examination.
27	Multinational enterprise operating in food distribution and trade union	Poland	Not reported	2014-2017	Withdrawn prior to initial assessment.
28	Prosegur and UNI Global Union	Spain	Brazil, Colombia, Paraguay, Peru	2013-2017	Concluded without agreement between the parties.
29	Fédération Internationale de Football Association (FIFA) and Building and Wood Workers' International (BWI)	Switzerland	Qatar	2015-2017	Concluded with agreement between the parties.
30	Holcim and NGO consortium	Switzerland	Indonesia	2015-2017	Concluded with partial agreement between the parties.
31	World Wide Fund for Nature International (WWF) and Survival International Charitable Trust	Switzerland	Cameroon	2016-2017	Concluded with partial agreement between the parties.
32	KPO Consortium and Crude Accountability	United Kingdom	Kazakhstan	2013-2017	Concluded without agreement between the parties.
33	US Company and Jamaa Resources Initiatives	United States	Kenya	2016-2017	Concluded without agreement between the parties.
34	US Company and Individual Acting for Descendants of Oswald Weiss	United States	Czech Republic	2017-2017	Not accepted for further examination.

## 1.2. Overview and trends of new specific instances in the reporting period

A total of 28 new specific instances were submitted to NCPs in 2017 compared to 34 submitted in 2016. This is slightly lower than general annual rates of submission since 2000 (see Figure 3).



**Figure 3. Number of specific instances submitted annually 2000-2017**

Of the 28 new specific instances submitted, the following trends were noted:

**Sector:** The financial sector and manufacturing sectors were the most frequently cited sector, accounting for 25% and 18% respectively of all new submissions. This is in line with recent trends as the financial sector has been the most frequently cited sector in specific instances filed since 2015.

**Chapter:** The human rights chapter continues to be the most cited chapter in specific instances, which is also in line with previous years. In 2017, it was referenced in 54% of all specific instances submitted. The second most cited chapter was the Employment and Industrial relations chapter, accounting for 39% of all specific instances submitted.

In 2017, 18 NCPs received specific instance submissions (representing 38% of all NCPs). The NCPs of Denmark and the Netherlands received the highest number of submissions (four submissions each), followed by the NCPs of France, Italy, Spain and the United States which received two submissions each.

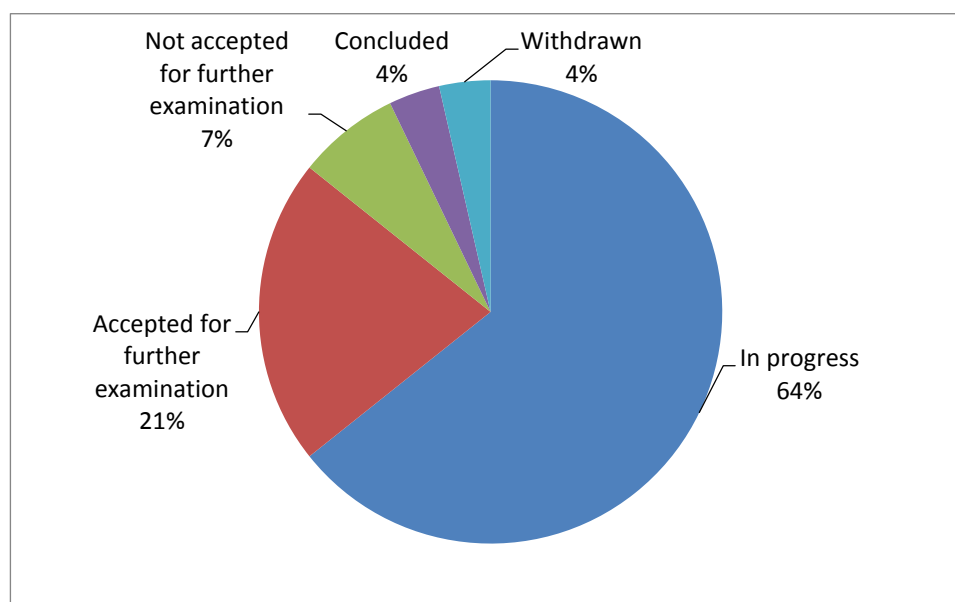
**Table 3. Number of specific instances received by NCPs in 2017**

NCP	Number of specific instances received	NCP	Number of specific instances received
Denmark	4	Canada	1
Netherlands	4	Chile	1
France	2	Japan	1
Italy	2	Korea	1
Spain	2	Luxembourg	1
United States	3	Poland	1
Argentina	1	Switzerland	1
Australia	1	Turkey	1
Brazil	1	United Kingdom	1

At the end of 2017, the 28 specific instances submitted during this reporting period covered all stages of the specific instance process: one had been concluded, six were

accepted for further examination after initial assessment, two were not accepted, one had been withdrawn by the submitter and 18 were in progress prior to initial assessment (See Figure 4).

**Figure 4. Status of specific instances submitted in 2017**



The Commentary on the Implementation Procedures provides that the NCP of the host country should consult with the NCP of the home country in its efforts to assist the parties in resolving the issues.<sup>22</sup> It also provides that when issues arise from an enterprise's activity that takes place in several adhering countries or from the activity of a group of enterprises organised as a consortium, joint venture or similar form, based in different adhering countries, the lead NCP should consult with other NCPs.<sup>23</sup> Five specific instances (18%) of those submitted in 2017 are being handled with the help of supporting NCPs. This is lower than the last reporting cycle where 26% of specific instances filed were being handled with the help of a supporting NCP.

Coordination on specific instances has been identified by NCPs as an ongoing challenge. Specific instances being filed with NCPs are increasing complex and the nature of global business operations, supply chains, investment chains, and corporate structures today has meant that identifying the lead NCP can be challenging. Additionally, diversity across NCPs in terms of their level of functionality as well as variation in procedural rules for handling specific instances has meant that there has not been a consistent approach to coordination. In this respect this year the OECD began development of a paper that seeks to consider current challenges in specific instance coordination amongst NCPs and identify good practice to help ensure consistency and encourage resolution of issues.

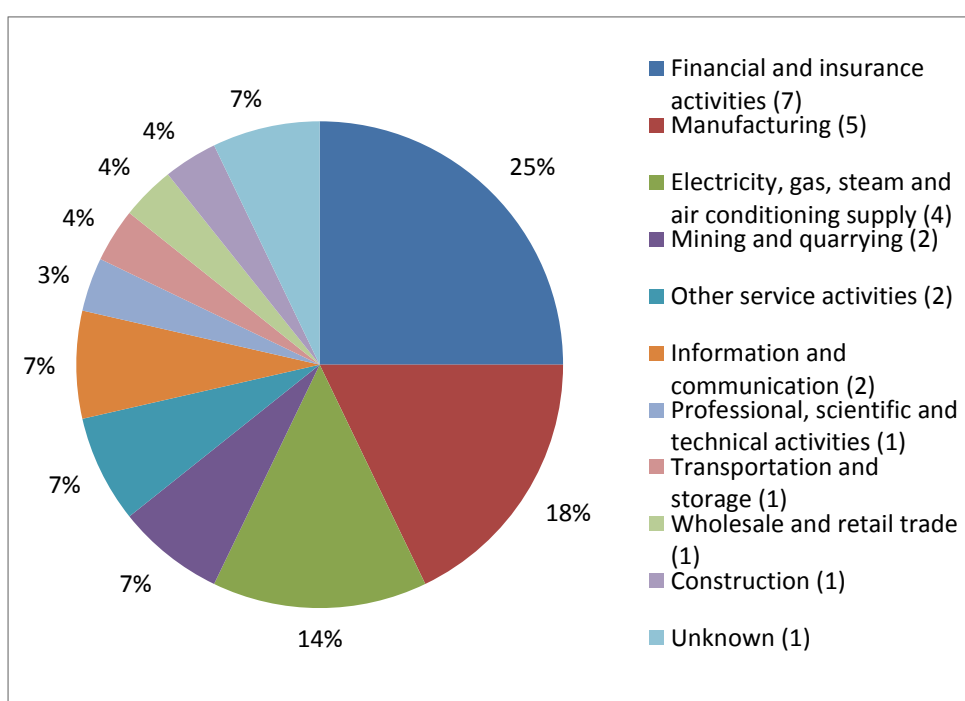
### ***1.2.1. Specific instances by industry sectors***

As noted above, specific instances related to the financial sector were the most prevalent of new specific instances in 2017 accounting for 25% (seven specific instances) of all specific instances submitted (see Box 5). The second most prevalent

sector is the manufacturing sector (five specific instances), followed by the electricity and gas sector (four specific instances) (See Figure 5).

Specific instances involving the financial sector have significant increases in terms of submissions of complaints, from about 8% of specific instances from 2000-2010 to around 20% of specific instances from since 2015. Increased attention is being paid to the role of investors to seek to mitigate environmental, labour, and human rights risks in their underlying companies as well as recognition of the financial materiality that such risks may bring. Investors and other financial service providers are involved in a diverse range of sectors and are uniquely positioned to exert leverage on their clients or investee companies.

**Figure 5. Specific instances by industry sector in 2017**



### **1.2.2. Chapters of the Guidelines cited in specific instances**

The chapter on human rights was cited in 15 specific instances, representing 54% of all specific instances submitted, and was the most frequently cited chapter. This is in line with previous years since the 2011 revision of the Guidelines when the chapter on human rights was added. The preponderance of specific instances submitted citing the human rights chapter may be explained by the fact that increasingly impacts related to employment and labour issues and the environment are being recognised and framed as human rights impacts. Additionally the human rights chapter of the Guidelines aligns with recommendations in the UN Guiding Principles on Business and Human Rights (UNGPs).

The second most frequently cited chapter was the chapter on general policies, mainly with respect to provisions on due diligence, followed by the chapter on employment and industrial relations which is similarly in line with 2016. Three chapters of the

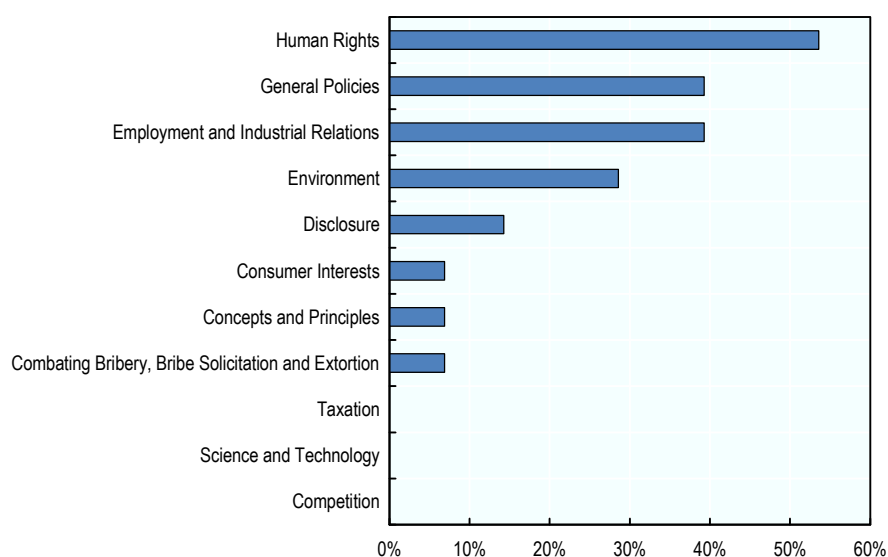
Guidelines were not cited in any specific instance during this reporting period: Science and Technology, Taxation and Competition<sup>24</sup> (see Figure 6).

#### Box 5. Specific instances involving the financial sector in 2017

**ING and Oxfam Novib:** In May 2017, the NGOs Oxfam Novib, Greenpeace, BankTrack and Friends of the Earth Netherlands submitted a specific instance to the Dutch NCP concerning ING, a Dutch bank. Specifically, the submitters argued that the bank does not report the levels of greenhouse gas emissions caused by its lending activities and has not yet announced whether it intends to do so in the near future. In addition, they argued that the bank has not set a target to reduce greenhouse gas emissions in its lending. In their submission they ask the NCP to examine ING's climate policy and to urge ING to align its climate and other policies with the Guidelines. The Dutch NCP accepted the specific instance in November 2017 and offered its good offices to the parties, which are currently ongoing.

**Crédit Suisse and Society for Threatened Peoples Switzerland (North Dakota Access Pipeline):** In April 2017, the Swiss NCP received a submission from the Society for Threatened Peoples (STP) concerning the business relationship of Credit Suisse with companies involved in the construction of the Dakota Access Pipeline ("DAPL") in the United States. The submitter notes that despite international criticism about the project, Credit Suisse has increased its business relations with enterprises involved in the construction of the DAPL. The Swiss NCP accepted the specific instance in October 2017 and offered its good offices to the parties, which are currently ongoing.

Figure 6. Specific instances by Guidelines chapter in 2017



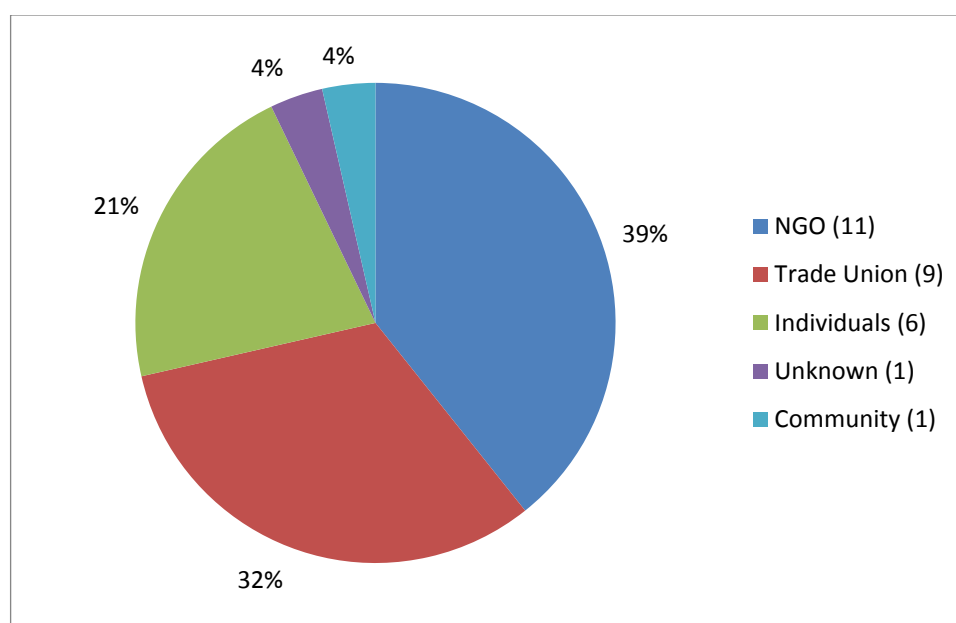
### 1.2.3. *Host countries*

12 of the specific instances submitted in 2017 address issues arising in one of the 48 Adherent countries and 11 address issues arising in non-Adherent countries. Information on the remaining five specific instances is not available at this time as they are still in progress. This data also illustrates the global reach of the Guidelines and the NCP mechanism. Since the year 2000 NCPs have handled specific instances involving issues arising in over 100 countries and territories.

### 1.2.4. *Submitters of specific instances*

As in previous years, NGOs have continued to be the primary users of the NCP system. In 2017, their share of submissions was 39% (11 specific instances), this is lower than in previous years where they have accounted for approximately 50% of all submissions. Trade unions made 32% of submissions (nine specific instances) and individuals made 21% of submissions (six specific instances). In 2017, one specific instance was submitted by a local community (See Figure 7).

**Figure 7. Submitters of specific instances in 2017**



## 1.3. *NCP structures and activities*

### 1.3.1. *Locations*

As set out in the Decision on the Guidelines, NCPs are required to meet the core criteria for functional equivalence of: visibility, accessibility, transparency and accountability<sup>25</sup>, in addition specific instances should be handled in a way that is impartial, predictable, equitable and compatible with the Guidelines.<sup>26</sup> Governments have flexibility on how they structure their NCPs provided the core criteria are met.

As at January 2018, 31 NCPs are based in Ministries of Economy (including ministries of trade, investment, business, etc.), five NCPs are based in Investment Promotion Agencies and seven NCPs are based in Ministries of Foreign Affairs.

Four NCPs are structured as independent agencies (Denmark, Lithuania, Netherlands and Norway). An independent NCP is one whose members do not belong to a government administration, although it will generally be supported by a Secretariat based in a government administration. Three NCPs are structured as tripartite agencies involving government, trade unions and business in their decision-making (France, Belgium and Sweden) and an additional two NCPs are structured as quadripartite (Czech Republic and Finland) adding NGOs to the decision-making process. Five NCPs (Jordan, Morocco, Peru, Portugal and Romania) are located in investment promotion agencies.

### ***1.3.2. Reporting and accountability***

As part of the core criteria for functional equivalence, NCPs are required to be accountable. One way to meet this requirement is through regular reporting to the government or parliament. In 2017, 29 NCPs reported to their respective governments, of those, 10 also reported to their parliament.

### ***1.3.3. Meeting attendance and reporting to the OECD***

In total, 45 NCPs attended the meetings of the Network of NCPs in both June and December 2017. Two NCPs did not attend the meetings either in June or December 2017, compared to five in 2016. In 2016, two NCPs did not report to the OECD and in 2017, two NCPs did not report (Jordan and Tunisia).<sup>27</sup>

### ***1.3.4. Stakeholders as part of the institutional arrangements***

Stakeholders may be formally integrated into the institutional arrangements of the NCP, for example as members of the NCP or present on advisory or oversight bodies. In 2017, 27 NCPs reported having trade union representation, 28 NCPs reported having business representation, while 19 NCPs reported NGO representation across the various bodies relating to NCPs (decision-making and advisory). Regular meetings with external stakeholders may also be organised by NCPs to formalise their relations and communication with external stakeholders.

### ***1.3.5. Oversight and advisory bodies***

The involvement of different ministries and of stakeholders in NCPs' activities is in some cases formalised through the establishment of advisory or oversight bodies. Advisory bodies can be consulted by the NCP on a range of activities and issues on which it provides advice, while oversight bodies have a monitoring role, for example on whether the NCP has followed its own rules of procedure. Both advisory and oversight bodies can include representatives from trade unions, NGOs, business and/or academia, along with representatives of other government ministries or agencies. They do not normally form part of the NCP and do not have decision-making power on accepting or concluding specific instances. In 2017, 19 NCPs reported having an advisory body and four NCPs reported having a combined oversight and advisory body. Additional NCPs are in the process of considering development of advisory bodies.

In this respect a session was organised during a meeting of the NCP Network to identify good practice in structuring advisory or oversight bodies for NCPs including thinking through: nomination or appointment or representatives; representation; size; ensuring that advisory bodies are constructive and critical; designating a chair;

agenda setting; decision- making processes; defining the functions and mandate of advisory and oversight bodies; and reporting functions of advisory bodies and oversight.

### **1.3.6. NCP resources**

Adherents are required to provide human and financial resources to their NCP to ensure it can meet its mandate of promoting the Guidelines and handling specific instances. Nonetheless, lack of resources is often cited as a barrier by both NCPs and stakeholders.

In 2017, 17 NCPs reported having both dedicated full-time and part-time staff working on NCP matters. A further 9 NCPs reported having full-time staff and a further 19 NCPs reported having part-time staff.

With regards financial resources, a total of 19 NCPs reported having access to a dedicated budget for their activities, while all reporting NCPs noted that funds would be available for attending NCP meetings, for promotional events and for activities linked to specific instances should they be requested. In 2017 seven NCPs hired professional mediators to assist in handling specific instances (Colombia, Italy, Korea, the Netherlands, Norway, Switzerland and the United States). Seven NCPs conducted mediation using NCP staff (Austria, Belgium, Canada, France, Germany, Norway and Sweden.)

In order to build capacity on mediation amongst NCPs a session was organised during a biannual meeting of the NCP Network. Activities on key moments in mediation were organised building upon activities of the Mediation Academy workshop organised by the US NCP (see section on NCP hosted peer learning events below for more information).

## **1.4. Promotion of the Guidelines**

Part of the NCP mandate is to promote the Guidelines and to handle enquiries. In 2017, a total of 169 promotional events were organised or co-organised by 35 NCPs. Of this group, there were 5 NCPs<sup>28</sup> which organised or co-organised 75 events. A total of 13 NCPs<sup>29</sup> did not organise or co-organise any promotional events.

The types of events organised by NCPs ranged from training, official meetings with stakeholders, annual meetings with stakeholders to report on NCP activities, to larger conferences on topics such as due diligence and responsible supply chains and those specific to different industries such as the garment sector or mining.

In addition to organising events, 33 NCPs reported taking part in a total of 405 events organised by others, during which they participated in presentations, panels and discussions, contributing to promoting the Guidelines and the NCP. Half of these events were carried out by five NCPs.<sup>30</sup> In total, 41 NCPs either held or attended promotional events during 2017, compared to 35 in 2016. A total of 7 NCPs<sup>31</sup> did not organise, co-organise nor participate in any promotional events in 2017 compared to 11 NCPs in the last reporting period.

In addition to holding and contributing to promotional events, NCPs use a variety of tools to promote the Guidelines and the specific instance mechanism. For instance, the French NCP signed a partnership with the Human Rights Club of the French network of the UN Global Compact to collaborate on human rights related activities.

The Austrian NCP conducted its annual survey among the business community to measure awareness of the Guidelines and the NCP. Similar awareness-raising surveys have been undertaken by the NCPs of Costa Rica, Denmark, Italy, the Netherlands, Switzerland and Ukraine.

A total of 33 NCPs reported having a promotional plan for 2018 setting out target audiences for promotional activities over the coming year, compared to 25 in 2016.

NCPs also spoke at the GFRBC in June 2017 where a dedicated session addressed interesting developments in NCP cases including cases involving non-profit organisations, public agencies and sports organisations. This session brought together representatives of the NCPs of the Netherlands and Switzerland, along with representatives of BIAC, OECD Watch and TUAC. In February 2017, the NCPs of France, Denmark and Germany spoke at the OECD Roundtable on due diligence in the garment and footwear sector. The NCP of France spoke on a panel addressing responsible employment of migrant workers; the NCPs of Denmark and Germany presented specific instances related to the sector at a dedicated lunchtime session.

Many NCPs have begun to adopt an analytical approach to promotional activities for example through developing detailed promotional plans with key targets and objectives. For example the US NCP strategy for outreach includes measurement criteria to assess the impact of outreach activities which includes: the number of participants and opportunities for follow-up engagement; peer learning and capacity building opportunities; and, the multiplier effect: publicity generated surrounding the NCP's engagement.

Additionally NCPs are seeking to measure the impact of their promotional activities and to help shape their promotional activities through conducting awareness measuring surveys on the Guidelines and NCP mechanism. The NCPs of Austria, Denmark, the Netherlands and Switzerland have all carried out such surveys. To support these activities during a meeting of the NCP Network the OECD Secretariat presented on methodological approaches for designing surveys or research to measure awareness. Recent studies measuring awareness and implementation of RBC by NCPs and other entities were also discussed.

#### ***1.4.1. Accessibility of information – NCP websites***

Although there is no specific requirement on NCPs to create a website, it can help NCPs meet the core criteria of visibility and accessibility as websites generally serve as a main source of information about the NCP and its activities. NCP websites also serve as platforms for conveying information on the Guidelines, and explain the NCP's role and procedures. They can also be the main point of contact for raising enquiries and submitting specific instances.

A total of 44 NCPs have websites in place which provides information regarding the Guidelines and the NCP, as well as contact information for reaching the NCP directly. Of these, 35 NCP websites include the NCP's rules of procedures.

In addition, four NCPs created a new website in 2017 (Iceland, Kazakhstan, Poland and Turkey). Seven NCPs also improved their websites (Argentina, Austria, Canada, France, the Slovak Republic, Slovenia and the United States). The NCPs in Argentina, Austria and France added to their website a template form for submitting specific instances. The NCP in Austria also placed a direct link to the NCP on the home page of the ministry and the NCP in Canada created a new infographic explaining the specific



instance process and added short summaries of ongoing NCP cases to the website. Two NCPs created new brochures available online to explain the NCP (Austria and Finland) and two NCPs created new promotional materials to visually explain the different stages of the specific instance process (Canada and France).

#### ***1.4.2. NCP hosted peer learning events***

On 18-19 May 2017, the Polish NCP hosted a workshop convened by OECD Watch to address co-operation and trust building amongst NCPs in Central and Eastern European countries. NCPs from Estonia and Lithuania joined the meeting which focused on civil society activities in the region.

On 25-26 September 2017, the NCP in the United States hosted a peer-learning event focused on building key skills for mediation. Sessions were led by the Consensus Building Institute and a total of eleven NCPs participated in this mediation academy. The training included several role play sessions to highlight the different steps involved in a mediation process.

On 24-25 October 2017, the NCP in the Slovak Republic held their first promotional event on the Guidelines and combined this meeting with a peer learning session involving NCPs from Germany, Hungary and the Netherlands. Topics covered included promotional strategies and building capacity.

#### ***1.4.3. UN Annual Forum on Business and Human Rights***

From 27-29 November 2017, the UN Annual Forum on Business and Human Rights took place in Geneva, Switzerland. The Forum focused for the first time on access to remedy. This was a welcome focus for NCPs and the event brought together NCPs from 15 countries, many of which participated in panels to raise awareness of developments across NCPs.

Two OECD-led sessions took place at the forum, the first focused on lessons learned from the NCP peer review process which brought together representatives from the NCPs of Austria, Belgium, the Netherlands, and the United States along with representatives of OECD Watch and TUAC.

The second session focused on a deep dive into a recent case completed by the NCP in the Netherlands which brought together the submitter (a former employee of Bralima, a subsidiary of Heineken), the Dutch NCP mediator, a representative of Heineken and a representative of OECD Watch.

Several NCP representatives spoke in sessions during the UN Forum. For instance, the French NCP spoke in a session to discuss the preliminary findings of the OHCHR Accountability and Remedy Project on state-based non-judicial grievance mechanisms and in a separate session to present the newly adopted law on the duty of vigilance.

The annual forum also provided an opportunity for the first joint meeting between NCPs and representatives of National Human Rights Institutions to discuss complementarities in receiving complaints regarding human rights and business.

The OECD participated in the closing session of the forum where it highlighted recent successes with respect to specific instances handled by NCPs and ongoing activities being undertaken to strengthen the functioning of the NCP network as a whole.

#### ***1.4.4. Action plan to strengthen NCPs***

The Action Plan to strengthen NCPs, continued to be implemented over the course of 2017 under the three strands of peer reviews and capacity building; peer learning and the development of tools to support NCPs in delivering their mandate.

An important tool to assess the functioning of NCPs, share experiences and provide recommendations for further improvement are peer reviews. All NCP peer reviews include on-site visits with extensive consultations with the members of the NCP and other relevant members of government and stakeholders. In May 2017, Ministers at the Ministerial Council Meeting specifically made a time-bound commitment that all of their NCPs would be fully functioning and adequately resourced. In addition, they agreed that they would all undertake "a peer learning, capacity building exercise or a peer review by 2021, with the aim of having all countries peer reviewed by 2023." The Ministers also called for a report on progress to be made to the MCM in 2019.

In 2017, the peer reviews of the NCPs of Italy, Switzerland and France were completed and on-site visits for the peer reviews of Germany, Chile, the United States and Austria took place. Recommendations from the completed peer reviews are included in Annex 3.

An additional three Adherents have committed to a peer review of their NCP in 2018 (Canada, Argentina and the United Kingdom), and four in 2019 (Korea, Sweden, Brazil and Australia). By 2019, NCPs in all G7 countries, which had committed in 2015 to lead by example and make sure the NCPs in G7 countries are effective, will have completed a peer review.

In addition, two capacity building exercises took place in Astana, Kazakhstan and in Kiev, Ukraine. When Kazakhstan and Ukraine were invited to adhere to the Investment Declaration, it was on the understanding that they would each report on action to implement the recommendations made in a capacity building exercise.

The capacity building exercise in Astana, Kazakhstan took place on 9-10 October 2017. As agreed by the OECD Council, the capacity building exercise would take "a particular focus on whether the NCP operates in an impartial manner while maintaining an adequate level of accountability to the Adherent government and in accordance with core criteria of visibility, accessibility, transparency and accountability".

The capacity building exercise in Kiev, Ukraine took place on 12-13 October 2017. On 13 October 2017, linked to the capacity building exercise, the NCP held a Responsible Business Forum aimed at representatives from business, business associations, embassies, trade unions, academia and non-governmental organisations. The meeting was opened by the Deputy Minister, Ministry of Economic Development and Trade.

On 6-7 November 2017, a regional workshop on Sustainable investment and responsible business conduct in the Mediterranean took place in Cairo, Egypt under the framework of the EU-OECD Programme on Promoting Investment in the Mediterranean. The NCPs of France and Morocco participated in this event which was followed by a half-day capacity building exercise with the Egyptian authorities to support the development of the Egyptian NCP. During the capacity building session, the NCPs of France and Morocco shared experiences on the mandate of NCPs, NCP structures and promotional and case-handling activities.

In December 2017, a set of 16 letters were sent by the Secretary-General to Ministers where National Contact Points are based. The 16 NCPs were identified following the Council discussion on the Annual Report in May 2017 which highlighted the following criteria: whether there is an NCP in place; whether the NCP reported to the OECD Investment Committee in 2016, whether the NCP has a website, whether the NCP conducted or participated in promotional activities in 2016 and whether the NCP had rules of procedure for handling specific instances. The letters invited Ministers to report back on progress and encouraged a continuous dialogue on these matters. Council members also requested an annual discussion on the implementation of the Guidelines and to take stock of developments regarding the NCP mechanism.

In November 2017, OECD Watch made the first substantiated submission under the Procedural Guidance of the Guidelines, part II, section II.2b). This process notes that the Investment Committee will consider a substantiated submission on whether an NCP is fulfilling its responsibilities with regard to its handling of specific instances. The submission was made by OECD Watch in respect of the Australian NCP and will be considered by the Investment Committee in 2018.



## Chapter 2

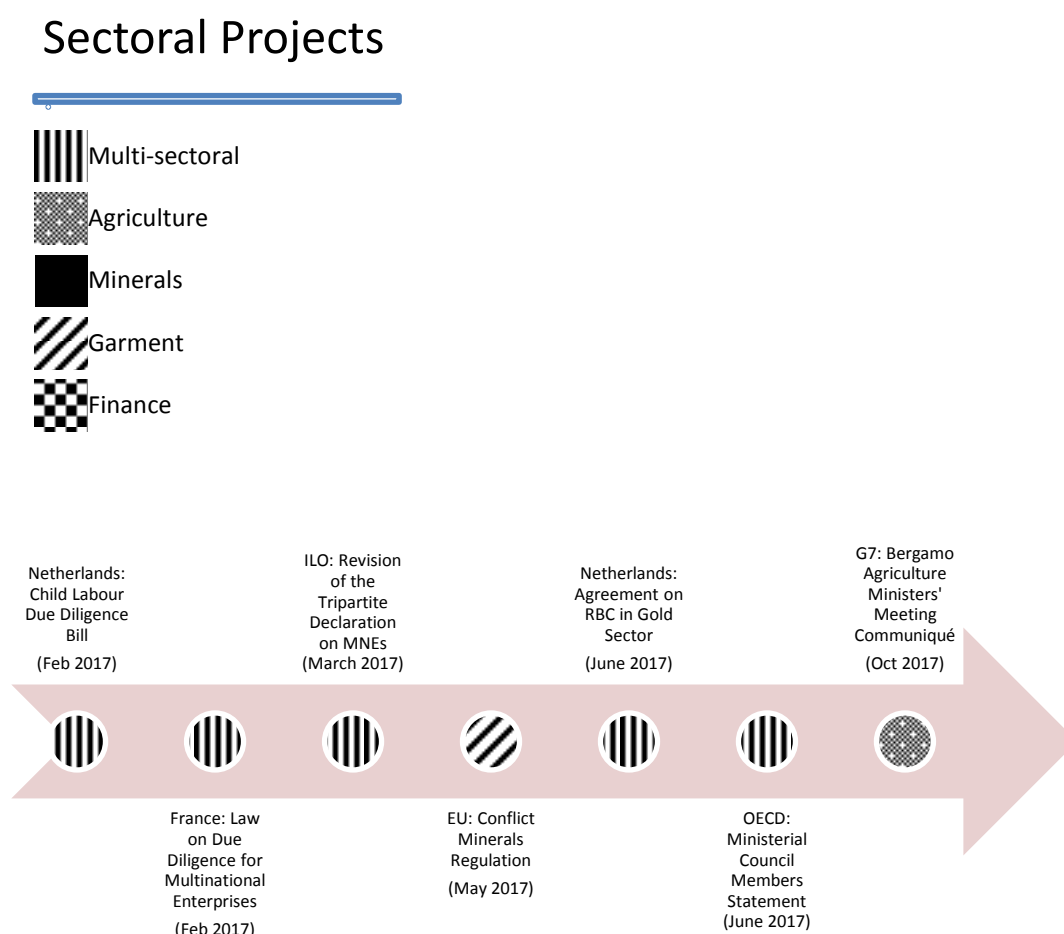
### Due diligence to implement the Guidelines

#### 2.1 Policy drivers for due diligence

The Guidelines recommend that enterprises carry out risk-based due diligence to identify, prevent and mitigate actual and potential adverse impacts, both in their operations and through their supply chains. Expectations of due diligence for responsible business conduct are increasingly being reflected in international and national policy, as well as in some cases regulation. For example the 2017 G20 Leader's Declaration noted it would work towards establishing adequate policy frameworks such as national action plans on business and human rights and underline the responsibility of businesses to exercise due diligence.<sup>32</sup> Additionally in 2017 a revision was issued of the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy Enterprises which added an expectation that multinational enterprises should carry out due diligence to identify, prevent, mitigate and account for how they address their actual and potential adverse impacts that relate to internationally recognized human rights.<sup>33</sup>

In March, France adopted legislation imposing a duty of vigilance on large companies to prepare, implement, and publish details of their due diligence plan to prevent adverse serious human rights and environmental impacts associated with their operations and supply chains.<sup>34</sup> The law applies to all French joint-stock companies employing 5 000 employees or more domestically or 10 000 employees or more internationally, as well as their subsidiaries and certain relevant suppliers and subcontractors.<sup>35</sup> In Switzerland a petition proposing mandatory human rights due diligence was presented to the Swiss government and is currently under discussion in the Parliament.<sup>36</sup> It will be put up to vote by the public in 2019. Germany's National Action Plan commits the government to examine steps to take further action, including legislative measures if more than 50% of all German-based companies with over 500 employees have *not* taken credible action to integrate human rights due diligence in their operations by 2020.<sup>37</sup> In the Netherlands, the government has been developing so-called International Responsible Business Conduct (IRBC) Agreements with businesses and NGOs to work together to address human rights abuse and environmental degradation. IRBC agreements currently exist for the garment, gold, and banking sectors, with agreements for metallurgy, natural stones, and the food industry currently under development.<sup>38</sup> See Figure 8 below for a timeline on legislative developments on responsible business conduct.

Figure 8. Timeline of selected legislative &amp; policy developments in 2017 (by sector)



While regulatory directives can represent a strong inducement for companies to carry out due diligence, a proliferation of expectations at a domestic level can create challenges for businesses operating globally who may be subject to various expectations. During the Working Party on Responsible Business Conduct (WPRBC) meeting of October 2015, several delegations as well as institutional stakeholders (BIAC, TUAC and OECD Watch) supported the idea of developing a general guidance on risk-based due diligence for responsible business conduct that can be applied in any sector of the economy. Such a Guidance could help promote a common understanding on due diligence for business subject to various domestic obligations and international instruments and avoid the potential for conflicting expectations.<sup>39</sup>

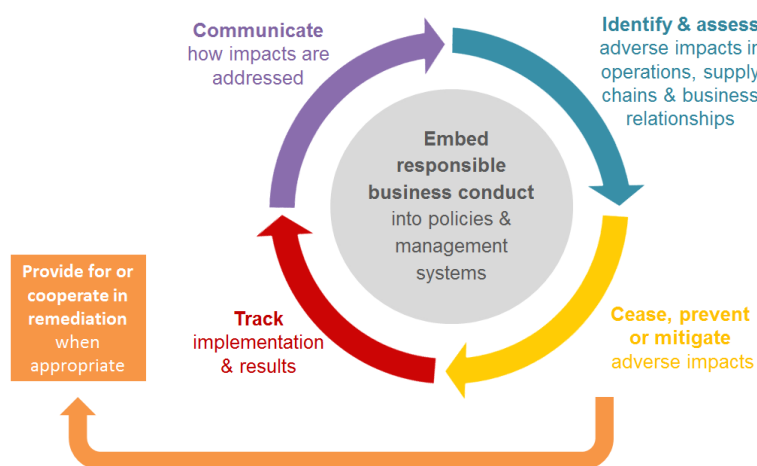
A first draft of this Guidance was submitted to the WPRBC and institutional stakeholders of the OECD in May 2016. In an effort to seek consensus among all the stakeholders, key issues were identified through the extensive consultation process involving a number of public consultations and the establishment of an advisory group to develop the Guidance.<sup>40</sup> In December 2017, a fourth draft of the Guidance

was submitted to the advisory group, with the view to finalising the Guidance for release in the first half of 2018.

The draft Due Diligence Guidance for Responsible Business Conduct was prepared in order to provide practical support to enterprises by providing a plain language explanation of the due diligence recommendations in the Guidelines. Enterprises will be able to use the Guidance, once complete, as a framework for developing and strengthening their own tailored due diligence systems and processes.

The draft Guidance begins by providing a brief summary of each chapter of the MNE Guidelines and an overview of due diligence, including some key concepts, so readers can easily understand the due diligence approach recommended in the MNE Guidelines. The main body of the Guidance describes the due diligence process and supporting measures in a step-by-step fashion, with “Practical Actions” included in each step to further illustrate ways to implement the supporting measures and due diligence process. Additional explanations, tips, and illustrative examples of due diligence are referenced and crosslinked throughout the Guidance.

**Figure 9. Due diligence process & supporting measures**



## 2.2. Sectoral work

The OECD has developed sector-specific guidance on due diligence under the proactive agenda for the OECD Guidelines which aims to help companies carry out due diligence in their supply chains and respond to risks of adverse impacts associated with particular products, regions, or industries. These tools, developed in multi-stakeholder settings, enjoy strong recognition and buy in by stakeholders, especially the private sector. A number of policy and economic factors continue to drive uptake of due diligence activities.

### 2.2.1. Minerals Sector

Over the course of 2017, new regulatory developments and market dynamics have helped promote implementation of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (“OECD Minerals Guidance”) in new geographies, minerals, and industries. These developments include stronger legislation and government-backed industry

standards, particularly in mineral processing and consuming regions like the EU, China, and India, as well as increased awareness and sensitisation of local stakeholders on issues relating to artisanal and small scale mining activities in Colombia and West Africa.

### *Global regulatory developments leading to uptake in due diligence*

In May 2017, the EU adopted a regulation that will require supply chain due diligence and implementation of the OECD Minerals Guidance for importers of tin, tantalum, tungsten and gold (3TG).<sup>41</sup> The regulation entered into force in June 2017 and its requirements for importers will take full effect in 2021. The regulation is global in scope and is expected to cover roughly 95% of all imports of 3TG into the EU. In order to support the EU in the implementation of the new regulation, the OECD continued efforts to develop and pilot a methodology to assess alignment of industry-led responsible sourcing initiatives, which will be important input for a forthcoming EU delegated act on the recognition of industry programmes under the EU regulation. This has been a powerful accelerator of uptake and awareness of the expectations of OECD Minerals Guidance, even beyond Europe, as it puts significant leverage on those industry initiatives (and in turn with their hundreds of member companies) to fully align to OECD standards and avoids duplication of checks for those companies that are members of multiple initiatives and fall under several regulatory regimes, such as the US Dodd Frank Act Section 1502. As part of the Alignment Assessment, five industry initiatives piloted the methodology by undergoing shadow audits led by the OECD.<sup>42</sup> The industry initiatives are now being given an opportunity to comment on their assessments and make adjustments before the final pilot assessment results are released early 2018. The draft Alignment Assessment Tool and Alignment Assessment Methodology are available online for individual companies and other industry initiatives to use for self-assessments. These will be updated when the results of the pilot program are complete.

China is a key market in mineral supply chains, importing and consuming approximately half of all mineral resources globally. China's commitment and participation could therefore be a critical element of success for due diligence implementation programmes globally. In particular, the increasing global need for energy storage, considered crucial for successfully tackling global climate challenges, has put pressures on metal markets, in particular for cobalt, which is a critical resource for lithium-ion batteries (see figure 10). It is widely reported that over half of the world's cobalt is sourced from the Democratic Republic of Congo and then sent to be refined in China, and that large electronic and automobile manufacturers are facing significant pressures as a result of alleged links with the cobalt supply chain and human rights impacts, specifically child labour.<sup>43</sup> As a result, China is increasing its drive to align domestic responsible mineral sourcing standards with international expectations on Chinese industry.

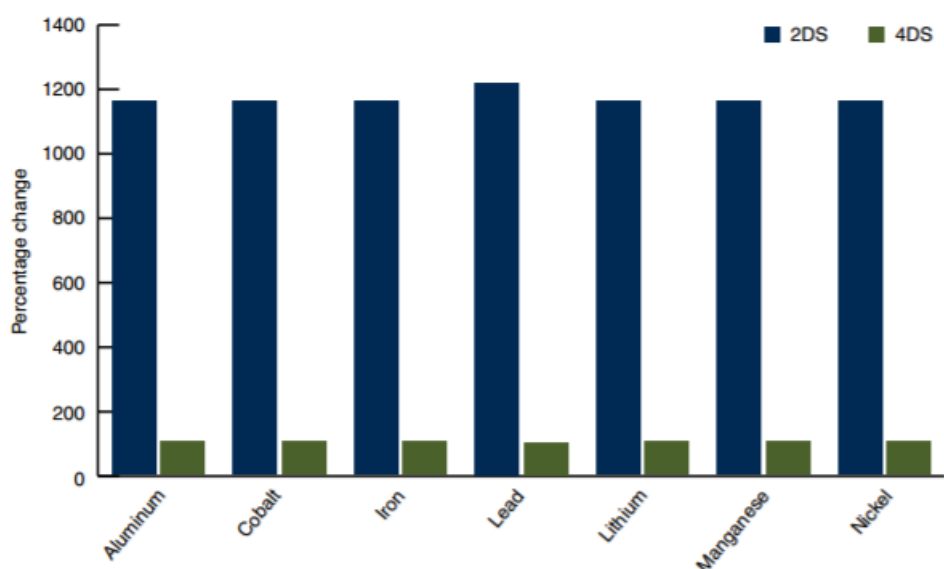
In October 2014 the OECD and the China Chamber of Commerce for Metals, Minerals and Chemicals Importers and Exporters (CCC MC) signed a Memorandum of Understanding to develop guidelines on responsible minerals sourcing practices by Chinese companies. Activities carried out to implement and operationalise this MoU continued in 2017 and include OECD technical support for the CCC MC. Concurrently, the OECD is working with commercial regulatory authorities, the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), to support their development of national standards and requirements for Chinese



importers, smelters, and refiners of tin, tantalum and tungsten, in line with the OECD Guidance for minerals. Additionally, the OECD currently sits as an observer for the Chinese-led Responsible Cobalt Initiative.

**Figure 10. Median Metals Demand Scenario for Supplying Energy Storage Technologies through 2050**

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Note: 2DS = 2 degree scenario; 4DS = 4 degree scenario; 6DS = 6 degree scenario. Figure shows change in metal demand for energy storage technologies as compared with the 6DS.

Source: World Bank (The Growing Role of Minerals and Metals for a Low Carbon Future, June 2017)

India is the second largest importer of gold in the world. In order to meet growing market demands for responsibly-sourced gold, several industry associations in India are supporting the development of a due diligence audit programme on responsible gold. These include the Indian Bullion & Jewellery Association, the Bullion Federation of India, the Gem & Jewellery Export Promotion Council of India, and the Indian Bullion Bankers Association. In 2017 the OECD Secretariat helped secure the interest of major industry players and the Central Government to support the drafting of responsible gold sourcing guidelines and accompanying audit protocols, based on the OECD Guidance and tailored to the needs of local Indian gold markets. Following the recommendation of the Indian Minister of State for Finance, a working group was formed to draft Indian Responsible Gold Guidelines, in line with the OECD Guidance for minerals. This is intended to feed into India's comprehensive gold policy, to be developed in 2018, and the requirements for delivery into the new gold exchange to be set up in 2018 in India.

### *Supporting artisanal and small scale mining*

Artisanal and Small Scale Mining (ASM) is a major source of mineral resource production in the world. It is largely informal, and is associated with low levels of safety measures, health care or environmental protection. Gradual formalisation of the ASM sector will reinforce inclusive growth and sustainable development in resource-rich countries. An estimated 100 million people (workers and families)

depend on ASM in approximately 80 developing countries in Africa, Latin America, and the Asia-Pacific Region.<sup>44</sup> The activity offers opportunities for economic diversification and shared and inclusive growth, but it has many technical, economic, social, environmental, and security challenges.

**Table 4. Large-scale mining (LSM) and ASM jobs in Africa**

Main Mining Countries	Main Commodities Mined by LSM	Main Commodities	Number of ASM workers
Angola	diamond	diamond	100 000-500 000
Botswana	diamond	-	-
Burkina Faso	gold	gold	80 000-200 000
Central African Rep.	-	diamond	60 000-120 000
Dem. Rep. of Congo	diamond, copper, cobalt	diamond, coltan, gold, copper	800 000-1 500 000
Ethiopia	gold, tantalum	gold	50 000-150 000
Ghana	gold, diamond, manganese	gold, diamond	150 000-250 000
Guinea	bauxite, gold, iron	gold, diamond	80 000-150 000
Liberia	diamond, iron	diamond, gold	25 000-75 000
Madagascar	titanium, nickel, chromite	sapphires, rubies, semiprecious stones, gold	350 000-900 000
Mali	gold	gold	130 000-200 000
Mauritania	iron	-	-
Mozambique	titanium, coal	gold	12 000-35 000
Namibia	diamond, zinc	diamond	8 000-10 000
Niger	uranium, gold	gold, tin	80 000-150 000
Sierra Leone	diamond, titanium	diamond, gold	300 000-650 000
South Africa	iron, manganese, platinum, gold, chromium, coal	diamond, gold	8 000-25 000
Tanzania	gold, diamond, tanzanite	diamond, gold, tanzanite, gemstones	400 000-800 000
Zambia	copper	gold, emeralds, semiprecious stones	25 000-50 000
Zimbabwe	platinum	diamond, gold	200 000-400 000

*Note:* Compiled by Pelon 2005. - = not applicable.

*Source:* World Bank (2009)<sup>45</sup>

The OECD-led multi-stakeholder group set up to implement the OECD Minerals Guidance gives special attention to this issue, as artisanal and small-scale miners operating in conflict-affected and high-risk areas are particularly vulnerable to adverse impacts and serious abuses associated with the extraction, transport, trade, handling and export of minerals. In addition, ASM has a very important development dimension. It is widely agreed that a necessary step to addressing these challenges and developing the potential of ASM is to support the legalisation and formalisation of artisanal mining communities. The objective is to build secure, transparent and verifiable supply chains and to ensure that legitimate artisanal mining communities can benefit from ongoing trade in conflict-affected and high-risk areas and to support their development.

In order to contribute to global discussions and current policy developments supporting ASM formalisation efforts, the OECD works closely with several international institutions such as the World Bank or the United Nations (in particular in the frame of the Minamata Convention on Mercury) to support the development of a global responsible and formalised artisanal mining sector. The OECD, jointly with the World Bank, has begun development of a global ASM Centre of Excellence to improve future

identification and present coordination of all relevant ASM formalisation projects and programs being undertaken at a bilateral or multilateral level.<sup>46</sup>

Additionally, the OECD is assisting the Colombian authorities in imbedding recommendations from the OECD Minerals Guidance into domestic policy, as well as technical advice and training for the private sector sourcing from Colombian artisanal miners. This reform effort comes at a vital time as the government is moving forward with the peace process, but illegal and criminal gold is reported to have surpassed cocaine in terms of revenue generation of non-state armed groups and criminal organisations. The Colombian authorities are rolling out multiple initiatives that aim to promote the formalisation and regulation of what is still a highly informal gold sector. These legislative and policy developments are outlined in a series of assessments conducted by the OECD on Colombian gold supply chains.<sup>47</sup> They include a number of new mechanisms designed to facilitate the legalisation of miners that have been working without a title. The Colombian government expressed interest in further cooperation with and development of these initiatives during the May 2017 OECD-World Bank event on Artisanal and Small Scale Mining.

ASM in the gold sector in Mali, Niger, Burkina Faso, and Cote d'Ivoire could employ as much as two million individuals and thus has substantial economic implications for the region. Following calls from stakeholders to expand the implementation programme into new geographies and working with local partners, the OECD conducted two on-the-ground workshops for stakeholders in West Africa to promote the dissemination of the OECD Guidance, in Cote d'Ivoire in February 2017 and Burkina Faso in October 2017. The workshops were well attended by government officials from Mali, Niger, Cote d'Ivoire, and Burkina Faso, local NGOs, and private sector participants. Discussion topics ranged from ASM formalisation efforts, gold smuggling, and specific training on implementation of the OECD Minerals Guidance.

Discussions also continued at the annual Forum on Responsible Mineral Supply Chains, organised at the OECD in May 2017.<sup>48</sup> The Forum provided the opportunity to review and discuss implementation of the OECD Due Diligence Guidance for Minerals, the ICGLR Regional Certification Mechanism and other initiatives to enable responsible mineral supply chains. More than 900 stakeholders came together to focus on regulatory, compliance and alignment efforts, regional implementation of due diligence in Latin America, Central and West Africa, India, and China, and responsible sourcing initiatives in a variety of mineral supply chains, including gold, precious stones, cobalt, coal, and mica.

### 2.2.2. *Garment Sector*

#### *Launch of a government-backed Due Diligence Guidance*

The first supplier code of conduct was a product of the garment and footwear industry in the 1990s and represents the relatively long history of engaging on labour and environmental risks in the sector. Although the sector was amongst the first to respond to risks in its supply chain, the tragic collapse of the Rana Plaza factory in 2013, which claimed over 1 100 lives, was a jarring reminder of the persistent labour, human rights, corruption and environmental risks in the sector and the need for a comprehensive approach to identifying and preventing adverse impacts. The OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector ("OECD Garment Guidance") was approved by the Investment

Committee on 14 January 2017. The Recommendation of the Council on the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector was adopted in June 2017. The Guidance and Recommendation were launched in a special event on 8 February 2017 held at the OECD.<sup>49</sup>

The OECD Garment Guidance builds on the in-depth reports of the NCPs of France and Italy on the implementation of the OECD Guidelines in the textile and garment sector and the initiatives of Belgium, Canada, Denmark, the European Union, Germany, the Netherlands, Sweden, the United Kingdom and the United States in the sector. It seeks to respond to statements made in June 2013 and 2014 by NCPs following the collapse of Rana Plaza.<sup>50</sup> The OECD Garment Guidance was also developed in response to the Ministerial Communiqué on Responsible Business Conduct adopted on 26 June 2014, and the G7 Leaders' Declaration adopted on 7-8 June 2015, which welcomed international efforts to promulgate industry-wide due diligence standards in the textile and ready-made garment sector.

### *Capacity and awareness building of government, industry and trade unions*

Due diligence under the OECD Garment Guidance diverges from traditional audit-driven compliance models carried out in the sector since the 1990s in that it recognises the importance of supplier assessments, but moves the primary focus from auditing to monitoring and prevention. Furthermore, it requires companies to look beyond suppliers with whom they have direct contractual relationships to seek to address risks that may be linked to subcontracting or found deeper in their supply chains. Finally, a due diligence approach under the OECD Garment Guidance requires companies to assess their own purchasing practices which may be contributing to labour, human rights and environmental risks in their supply chains. Recognising this shift in how the sector identifies and addresses risks in its supply chain, a key component of the OECD's work to support implementation of the OECD Garment Guidance in 2017 was building the awareness and capacity of industry on due diligence. This work also seeks to build the awareness of governments— both of importing and producing economies – and trade unions on how they can enable due diligence. Key activities to support the awareness raising and capacity building of industry and stakeholders include the OECD Roundtable on Due Diligence in the Garment and Footwear Sector, practical scenario-workshops, webinars and speaking engagements at key industry events.<sup>51</sup>

### *Towards harmonisation and alignment with the OECD Garment Guidance*

Thanks to its early response to stakeholder pressures to address known labour and environmental risks in the sector, the garment and footwear sector is uniquely characterised by numerous industry, civil society and multi-stakeholder initiatives that hold labour and environmental codes of conduct, auditing protocols, and provide capacity building to enterprises and their suppliers. While the above initiatives have been instrumental in propelling the sector forward in responding to known sector labour and environmental risks, they have also been criticised for contributing to the outsourcing of enterprise responsibility to assess, monitor and prevent adverse impacts in the supply chain. Furthermore, in many cases, industry, civil society and multi-stakeholder initiatives have been criticised for multiplying standards and an over-emphasis on auditing, thus leading to duplicative auditing and auditing fatigue amongst suppliers.<sup>52</sup> While industry and civil society-led initiatives have been commonplace in the sector for years, a more recent development has been the

establishment of government-backed multi-stakeholder initiatives, including the German Partnership for Sustainable Textiles, the Dutch Covenant Agreement on Sustainable Garments, and industry-trade union agreements, as well as the French Working Group for sustainable garment supply chains.

The above context led to strong calls from industry and government towards harmonisation and recognition across initiatives and from all stakeholders for alignment with the OECD Garment Guidance to encourage high-standards of due diligence, and to enhance the coherence, effectiveness and credibility of initiatives that seek to operationalise the Guidance. In response, one of the key pillars to the OECD's work in the garment and footwear sector in 2017 was the development of an Alignment Assessment Tool, which builds on the learnings of a similar tool developed under the OECD minerals sector work.<sup>53</sup> The OECD will pilot the Alignment Assessment Tool in 2018 to carry out comprehensive reviews of key industry and multi-stakeholder initiatives on their alignment with the OECD Garment Guidance. The Alignment Assessment Tool is also designed for individual company use so that enterprises can assess the alignment of their due diligence with OECD Garment Guidance, thus further supporting capacity building of industry. The OECD further supported the convergence of standards in the sector through its contribution on the Steering Committee of the Social and Labour Convergence Project (SLCP). Launched in 2015, the SLCP seeks to develop a simple, converged industry-wide labour and human rights assessment framework that reduces the number of social and labour assessments in the industry. The OECD contributes to this project by providing input on the strategic direction of the project, and to support its alignment with the OECD Guidance.

### *Engaging key markets*

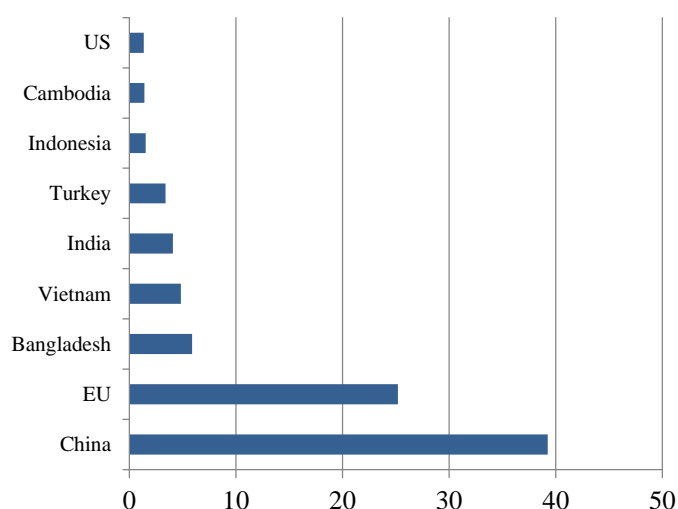
Accounting for 39 percent of global clothing exports and 37.4 percent of global textile exports, China is an important actor in the garment and footwear sector.<sup>54</sup> In 2017 the OECD laid the groundwork for an MOU with the China National Apparel and Textile Council (CNTAC) to develop a Chinese Guidance aligned with the OECD Garment Guidance. The Guidance is expected to be relevant to Chinese companies operating within and from China. This work will build on experience collaborating with the CCCMC in the development of the Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains.<sup>55</sup> The implementation programme of the Chinese Guidance, which will commence in 2018, will fall under the OECD's broader partnership with the EU and ILO to support responsible business conduct in China.

As the second largest textile fibre producer in the world, India also remains an important global actor in the garment and textile sectors. In recent years key end markets for the textile industry in India have seen an increase in legislation and other policy developments that hold companies accountable to addressing labour and environmental impacts not only in their own operations but also in their supply chains. This is particularly true of the EU, which represents the largest end market for India in the textile and garment sector. Furthermore, since 2012, a number of civil society reports have highlighted alleged labour and human rights risks in the textile sector in India. The findings of these reports have been discussed in the Dutch Parliament and are identified as priorities under both the National Textile Compact and the German Partnership for Sustainable Textiles. Within the above context, and building on the demand from global industry and OECD Member governments, the

OECD laid the groundwork in 2017 for a partnership with the Indian textile industry and global brands to develop an Indian-driven response to support responsible sourcing based on the recommendations in the OECD Garment Guidance in the textile sector in India. This potential partnership grew out of OECD engagement in India with Indian industry during the OECD-DIPP Roundtable on Investment hosted in Delhi in April 2017 and follow-up discussions with the Confederation of Indian Industry in December 2017.

**Figure 11. % Share of global clothing exports**

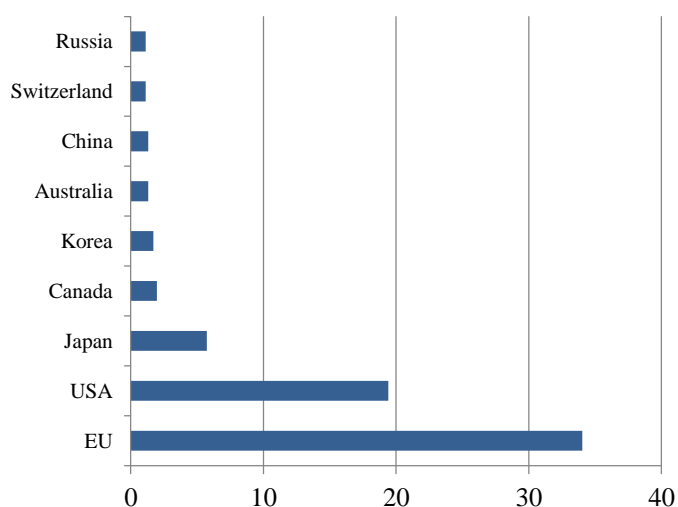
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Source: WTO (2016), World Trade Statistical Review 2016

**Figure 12. % Share of global clothing imports**

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Source: WTO (2016), World Trade Statistical Review 2016

### 2.2.3. *Financial Sector*

#### *Responding to a growing understanding of investor responsibility*

Spurred by the global financial crisis and ongoing global challenges such as climate change, increasingly, a broader understanding of fiduciary duty is being recognised in the context of institutional investors. A study by the UNEP Finance Initiative, UN Global Compact and the PRI concluded that “failing to consider long-term investment value drivers, which include environmental, social and governance issues, in investment practice is a failure of fiduciary duty.”<sup>56</sup> Likewise a core recommendation of the EU High-Level Expert Group on sustainable finance recognises that incorporating information related to ESG factors into investment decisions is part of an investor's fiduciary duty.<sup>57</sup>

The OECD work on RBC for institutional investors recognises that developing processes to manage RBC risks supports an investor's ability to represent the interests and expectations of its beneficiaries, and provides a clear due diligence approach for how asset owners and investment managers can achieve this. In February 2017 the OECD paper on Responsible Business Conduct for Institutional Investors was adopted by the Investment Committee, launched and broadly disseminated. Awareness raising events and workshops with practitioners in the UK, Norway, Denmark, Belgium, Canada and France helped to inform practitioners about how to implement the recommendations of the paper. In addition, trainings have been organised with OECD National Contact Points to help them build a stronger technical understanding of the sector, which in turn could support them in handling specific instances implicating institutional investors. Ongoing challenges with respect to recognising a broader understanding of fiduciary duty were discussed during a session on the OECD paper on Responsible Business Conduct for Institutional Investors and Investment governance and the integration of environmental, social and governance factors, organised during the 2017 OECD Global Forum on Responsible Business Conduct.

#### *Understanding accountability in the context of financial activities*

Increasing scrutiny is being paid to the responsibility of banks with respect to adverse impacts that their clients cause or contribute to. Over the past several years the financial sector has been the sector with the highest number of new specific instance submissions to OECD National Contact Points.<sup>58</sup> In 2017 two submissions were filed with the NCP mechanism addressing the responsibility of banks in the context of reporting on climate risks and financing of the Dakota Access Pipeline (See Box 5, Chapter 2). Additionally various initiatives are seeking to define the responsibility of banks with respect to their financing activities. In December 2017 the Thun group of banks released a paper on the implications of UN Guiding Principles 13b and 17 in a Corporate and Investment Banking Context.<sup>59</sup> In June of 2017 the OHCHR published a paper on the application of the UN Guiding Principles on Business and Human Rights in the context of the banking sector.<sup>60</sup> The Dutch Banking Sector Agreement on International Responsible Business Conduct Regarding Human Rights, a group of Dutch practitioners and experts has been seeking to develop guidance outlining responsible practices in the context of banking transactions.

With the objective of developing a widely-supported and recognised approach, the OECD has launched the second phase of its work on RBC in the financial sector focused on corporate lending activities and under

writes are put towards projects and companies that behave responsibly and thereby help achieve the objectives writing. This project will seek to identify due diligence approaches for banks to ensure they adequately avoid and address to risks related to responsible business conduct associated with their clients. Currently no broadly recognised standard on environmental and social due diligence exists for general corporate lending and underwriting, although these transactions represent the majority of financing activity by banks.

An advisory group to support the project was reconstituted with experts from the banking sector and a scoping paper providing analysis of key considerations for due diligence under the principal products and services provided by finance institutions has been developed. A comparative analysis was conducted to understand the relationship of due diligence approaches under the OECD Guidelines for Multinational Enterprises to other leading environmental and social standards in the context of corporate finance (i.e. the Equator Principles, the IFC performance standards, the Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence.) The advisory group has met on several occasions and the first expert meeting for this work will take place in March 2018. In preparation for the expert meeting case studies are being developed on the application of due diligence frameworks in the context of corporate lending.

### *Recognising the role of the financial sector in driving sustainable development*

Since the introduction of the Paris Climate Agreement in 2015, investors have been facing increasing expectations to manage climate risks in their portfolios. In 2017 the Task Force on Climate-related Financial Disclosures (TCFD), an industry-led initiative developed a set of recommendations for voluntary climate-related financial disclosures.

International financial institutions have also signalled plans to mobilise USD 400 billion towards achieving the Sustainable Development Goals (SDGs). Strong due diligence processes can help ensure that investment of the SDGs. A session on innovative tools for responsible finance was organised at the 2017 Global Forum on Responsible Business Conduct to discuss innovative approaches finance institutions are working on to promote sustainability. Thinking through the positive contribution the financial sector can make to sustainable development will be a key component of the ongoing work on RBC in the context of corporate lending.

#### **2.2.4. Agriculture Sector**

##### *Answering the call for greater supply chain due diligence in agriculture*

Agricultural production is expected to increase by almost 60% by 2050 to feed 9.1 billion people.<sup>61</sup> As such, agricultural production in developing countries may double during that time period.<sup>62</sup> While agriculture jobs accounts for up to a third of global employment, enterprises operating in the sector face several changes to respect core labour rights in the sector, particularly the exclusion of many agricultural workers



from national labour laws, low wages, dangerous working conditions, the largely unrecognised role of women in agriculture, and a high incidence of child and forced labour.

Since the launch of the OECD-FAO Guidance for Responsible Agricultural Supply Chains<sup>63</sup> in March 2016, and following a call by the G7 Agricultural Ministers to promote implementation of the this Guidance,<sup>64</sup> the OECD Secretariat has participated in a number of conferences and events to raise awareness of the Guidance with policy makers and promote its uptake by enterprises. A pilot implementation programme with enterprises will be launched in February 2018. The pilot will aim to support enterprises in implementing the OECD-FAO Guidance and should serve as a voluntary, collective learning exercise. It will allow participating enterprises to learn by doing, proactively develop solutions to manage risks along agricultural supply chains and put appropriate due diligence processes in place. Over 30 companies and certification initiatives committed to participate in the pilot programme.



## Chapter 3

### Government policies in support of Responsible Business Conduct

#### Background

In the context of global challenges concerning climate, poverty, and sustainable development, governments are increasingly committed to designing and implementing a strong policy framework that supports and promotes RBC. This involves establishing and enforcing a legal framework in the areas covered by the Guidelines, and providing recognition and incentives to businesses that behave in line with RBC standards. It also entails that governments observe RBC standards in their role of economic actor (e.g. through public procurement, export credits, and development finance), and as owners of enterprises.

Several OECD instruments recognise the importance of governments' role in promoting and enabling RBC and in designing and implementing a strong RBC policy framework. The Policy Framework for Investment includes a Chapter on policies for promoting and enabling RBC (Chapter 7) and RBC is now systematically integrated into Investment Policy Reviews (IPRs), which take the PFI as a basis. IPRs have become an important tool for outreach on the Guidelines and dialogue with non-Adherents on levelling the playing field for responsible investment. Consequently, the reviews for adherence to the OECD Declaration on Investment and Multinational Enterprises and for accession to the OECD now also consider RBC policies. The Roundtable for Policy-Makers, held since 2015 as part of the Global Forum on Responsible Business Conduct, has provided a space for dialogue among policy makers responsible for designing and implementing policies to enable and promote RBC.

Collaboration and coordination outside and inside the OECD to ensure coherence around RBC policies has strengthened over the years. Both the UN Guiding Principles for Business and Human Rights and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy address the role of Governments to promote corporate responsibility. The OECD cooperates with the UN Office of the High Commissioner for Human Rights (UNOHCHR) and the International Labour Organisation (ILO) in this area, in the context of the GFRBC's Roundtable for Policy-makers, as well regional projects in Asia and Latin America (see Annex 5).

With regard to Government policies in support of RBC, the OECD has an important value added. Beyond labour and human rights, the OECD Guidelines promote RBC across the entire spectrum of issues where business operations intersect with society, including also corruption, environment, consumer protection, taxation, etc.

Moreover, the OECD covers a wide range of policy areas, in which technical experts from governments work together to share experiences and set international standards relating to economic policies which have a bearing on RBC. In practice, the growing work on RBC policies has therefore led to an increased number of horizontal efforts through policy analysis and advice, but also legal instruments which recognise governments' responsibility to create an enabling environment for RBC. In 2017, several developments within and outside OECD showed the increasing focus on the government's role in promoting RBC, including through stronger policy coherence.

### 3.1. Overarching policies and action plans for RBC

Policy coherence relies on communication, collaboration and coordination across ministries and government agencies. National Action Plans on Business and Human Rights or on Responsible Business Conduct have become an important tool through which Governments have tried to unify national efforts, to provide an overarching policy framework for RBC, and to ensure coordination and coherence within the government. As of December 2017, 20 countries, all of which are Adherents to the OECD Guidelines, have adopted a NAP and 21 countries are in the process of developing or have committed to developing one.<sup>65</sup> In 2017 alone, 8 new NAPs were launched. The scope of NAPs varies from country to country. Some go beyond the theme of business and human rights by encompassing the environment (for example France and Italy) and RBC more generally, such as the United States and Switzerland (see also table 4).

In some cases, NAPs on Business and Human Rights complement existing laws, regulations and policy tools. For instance, many EU members have adopted NAPs on Corporate Social Responsibility (CSR) following the 2011 renewal of the EU CSR strategy.<sup>66</sup> It is important that governments ensure that the links between the different but related action plans are made explicit and that the ministries involved in developing these plans ensure complementary and alignment. For example, this is especially relevant as a new set of national plans to implement the Sustainable Development Goals (SDGs) are in the process of being developed.<sup>67</sup> Japan, for example, has pledged that the progress of the NAP on Business and Human Rights would function as an indicator for the achievement of the SDGs.<sup>68</sup>

By exchanging information and sharing experiences on NAPs either completed or under development, governments can share learnings on good practices for inter-ministerial collaboration and strengthened policy coherence. This was the purpose of the session *National Action Plans on Business and Human Rights to enable policy coherence for responsible business conduct*, at the GFRBC's Roundtable for Policy Makers 2017, organised jointly with the UNOHCHR, which focused on collaboration across ministries, supply chain due diligence, access to remedy and the role of NCPs. NAPs in Adherent countries are in general aligned with OECD work on RBC, integrating not only the Guidelines, but also the OECD due diligence guidance instruments and implementation programmes, as well as the role of the NCPs. The NAP process has thereby reinforced the role of NCPs in promoting policy coherence across different ministries and government agencies and a number of countries have included in their NAPs the commitment to strengthening their NCP, to channel additional resources to it, or both.

**Table 5. National Action Plans on Business and Human Rights in Adherent countries**

Country	Status of NAP	Reference to the OECD Guidelines	Reference to NCPs
Argentina	In progress	Yes	Yes
Australia	In progress	Not reported	Not reported
Austria			
Belgium	Completed 2017	Yes	Yes
Brazil	In progress	Yes	Yes
Canada			
Chile	Completed 2017	Yes	Yes
Colombia (Spanish)	Completed 2015	Yes	Yes
Costa Rica	In progress	Yes	Not reported
Czech Republic	In progress	Yes	Yes
Denmark	Completed 2014	Yes	Yes
Egypt			
Estonia			
Finland	Completed 2014	Yes	Yes
France	Completed 2017	Yes	Yes
Germany	Completed 2016	Yes	Yes
Greece	In progress		
Hungary	In progress	Not reported	Not reported
Iceland			
Ireland	Completed 2017	Yes	Yes
Israel			
Italy	Completed 2016	Yes	Yes
Japan	In progress	Not reported	Not reported
Jordan	Completed 2016	No	No
Korea	In progress	Yes	Yes
Latvia	In progress	Not reported	Not reported
Lithuania	Completed 2015	No	No
Luxembourg	In progress	Not reported	Not reported
Mexico	In progress	Not reported	Not reported
Morocco	In progress	Not reported	Not reported
Netherlands	Completed 2013	Yes	Yes
New Zealand			
Norway	Completed 2015	Yes	Yes
Peru			
Poland	Completed 2017	Yes	Yes
Portugal	In progress	Not reported	Not reported
Romania			
Slovak Republic			
Slovenia	In progress	Not reported	Not reported
Spain (Spanish)	Completed 2014	Yes	Yes
Sweden	Completed 2015	Yes	Yes
Switzerland	NAP on RBC completed 2015	Yes	Yes
	NAP on Business and Human Rights completed 2016	Yes	Yes
Tunisia			
Turkey			
United Kingdom	Completed 2013, Updated 2016	Yes	Yes
United States	NAP on RBC completed 2016	Yes	Yes

### 3.2. Policies for enabling responsible business conduct

Societies can benefit from investment in many ways, but the relationship between the volume of investment and the benefit from that investment is not necessarily linear. More investment does not automatically lead to productivity growth, more competitive local firms or a more inclusive workforce. Policymakers worldwide increasingly recognise the need to balance economic growth objectives with environmental and social considerations to enhance competitiveness for both individual businesses and the overall economy. The Policy Framework for Investment (PFI) reinforces the message that to the extent that governments provide an enabling environment for businesses to act responsibly and meet their duty to protect the public interest from potential adverse impacts of business activities, they are more likely to keep and attract sustainable investment.

#### Box 6. Recommendation of the Council on the Policy Framework for Investment

##### Extract from Chapter 7. Policies for enabling responsible business conduct

Governments can promote and enable RBC in several ways through:

- *Regulating* – establishing and enforcing an adequate legal framework that protects the public interest and underpins RBC, and monitoring business performance and compliance;
- *Facilitating* – clearly communicating expectations on what constitutes RBC, providing guidance on specific practices and enabling enterprises to meet those expectations;
- *Co-operating* – working with stakeholders in the business community, worker organisations, civil society, the general public, across internal government structures, as well as other governments to create synergies and establish coherence with regard to RBC;
- *Promoting* – demonstrating support for best practices in RBC;
- *Exemplifying* – behaving responsibly in the government's role as an economic actor."

Source: OECD, 2015 Policy Framework for Investment 2015, [www.oecd.org/investment/pfi.htm](http://www.oecd.org/investment/pfi.htm).

The inclusion of RBC as a core element of OECD Investment Policy Reviews continued in 2017. Following the reviews of Viet Nam, Lao People's Democratic Republic (Lao PDR), Cambodia and Ukraine completed in 2016, the review of Kazakhstan was finalised in 2017 and the reviews of Southeast Asia and Croatia started. A report on RBC policies and initiatives in the Mediterranean region was also produced and presented at the regional workshop on *Sustainable investment and responsible business conduct in the Mediterranean*, which took place in Cairo, Egypt on 6-7 November 2017.<sup>69</sup> The workshop was organised in the framework of the EU-OECD Programme on Promoting Investment in the Mediterranean launched in October 2016. The governments from emerging and developing economies are increasingly connecting RBC with various policy areas in practice. For example, the Association of Southeast Asian Nations (ASEAN) has included references to key RBC concepts in the ASEAN Economic, Socio-Cultural, and Political-Security Community Blueprints 2025 and has taken specific action on urgent social issues in the global supply chain.<sup>70</sup> Several ASEAN members have also included RBC in their regulatory framework.<sup>71</sup>

One area where stakeholders have called for further work is on RBC and international investment treaties.<sup>72</sup> Possible areas of work could focus on promoting peer learning and policy dialogue, and could include updating the 2014 fact-finding survey on RBC in treaties,<sup>73</sup> more empirical analysis on the impacts of treaties, analysis on enhancing access to remedy in the dispute settlement system, and analysis for how RBC-related provisions could be improved.

**Box 7. Implementing the Policy Framework in Practice – Supporting reforms in Southeast Asia**

Southeast Asia has been one of the most successful emerging regions in terms of export-led development in part through foreign direct investment (FDI). The region punches above its weight globally in terms of both exports and FDI inflows and has been a leading destination for multinational enterprises from all parts of the world for at least three decades. ASEAN policymakers, in the tradition of leadership as early movers in welcoming FDI and promoting an export-oriented development strategy, have already recognised the importance of RBC in certain policy areas. This is true both at the regional level, as seen by the inclusion of RBC expectations in various ASEAN Blueprints, but also at the national level, even if specific government actions vary widely across the region. A promising trend has been the inclusion of RBC provisions in a recent wave of investment strategies and laws, as well as the elaboration of comprehensive national action plans related to RBC. Such initiatives can not only bring about improved outcomes from investment in terms of broader value creation and sustainable development but can also help to position the region as a reliable location for production and safe sourcing by helping to reduce the reputational risks faced by investors.

Nevertheless, more can be done to support and encourage responsible businesses and quality investment. Several objectives envisioned for the integrated ASEAN Economic Community will depend in large part on improving the business environment beyond investment liberalisation. While the export-oriented investment strategy implemented so far has made ASEAN one of the premier investment destinations in the world, in many cases it has not always led to lasting local capabilities. The 2018 OECD Investment Policy Review of Southeast Asia, which builds on national reviews of seven countries in Southeast Asia and looks at common challenges across the region and at the interplay between regional initiatives and national reforms, includes a chapter on how policies that promote and enable RBC can help achieve these goals.

### 3.3. Links between RBC and other policy areas: moving towards policy coherence

#### 3.3.1. *Public procurement*

Governments are the largest consumers in the global marketplace through the acquisition of goods and services. Public procurement in OECD Member countries represents on average 12% of GDP and 29% of the national budget,<sup>74</sup> with two thirds of this expenditure occurring at the sub-national levels. Public procurement has been increasingly used as a policy lever to further government action in many policy areas, including promoting RBC. Recognising this role, the 2015 Recommendation of the

Council on Public Procurement calls on countries to ensure the strategic and holistic use of public procurement, including fostering RBC.<sup>75</sup>

#### **Box 8. Recommendation of the Council on Public Procurement**

##### **Relevant extracts**

- Reference to the OECD Guidelines for Multinational Enterprises in the preamble
- Definitions:
  - "Primary procurement objective refers to delivering goods and services necessary to accomplish government mission in a timely, economical and efficient manner;"
  - "Secondary policy objectives refers to any of a variety of objectives such as sustainable green growth, the development of small and medium-sized enterprises, innovation, standards for responsible business conduct or broader industrial policy objectives, which governments increasingly pursue through use of procurement as a policy lever, in addition to the primary procurement objective (emphasis added)."
- "V. RECOMMENDS that Adherents recognise that any use of the public procurement system to pursue secondary policy objectives should be balanced against the primary procurement objective.
- To this end, Adherents should (i): evaluate the use of public procurement as one method of pursuing secondary policy objectives"[...]; (ii) "develop an appropriate strategy for the integration of secondary policy objectives in public procurement systems" [...]; (iii) employ appropriate impact assessment methodology to measure the effectiveness of procurement in achieving secondary policy objectives [...]."

Governments have widely recognised public procurement as a lever for achieving economic, social, and environmental policy goals. Besides Sustainable Development Goal 12.7 calling for the implementation of sustainable public procurement policies and action plans, a set of political commitments are in place to provide a framework for these practices. In addition to OECD instruments, this includes the UN Guiding Principles<sup>76</sup> as well as the revised European Directive on Public Procurement (Directive 2014/24/EU). Procurement has also been widely taken up in NAPs on Business and Human Rights, as well as National Action Plans on CSR and RBC, for example by Germany, Italy, Switzerland, United Kingdom, and the United States.

While in the past value for money meant lowest price, now Governments are increasingly concerned with the broader impacts of the goods and services they purchase. However, procurement processes are complex and it can be challenging for policy-makers to reconcile core procurement principles - transparency, economy, openness, fairness and competition - with the pursuit of social and environmental objectives.<sup>77</sup>

Some national public procurement processes have made a direct link with the OECD Guidelines or have used OECD tools to clarify the expectations on suppliers to provide risk assessment and mitigation strategies with regard to potential or actual



adverse impacts of violations in their supply chain, in particular the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.<sup>78</sup> However, most human rights, labour and environmental related provisions limit responsibilities to the first-tier contractor or supplier but do not take into account environmental, social and human rights related adverse impacts through supply chains.<sup>79</sup>

During the session *RBC in government procurement practices*, held at the GFRBC's Roundtable for Policy Makers 2017, policy makers discussed the benefits and challenges related to integrating RBC standards in public procurement. A main take-away of the session was that strengthened international collaboration among public buyers may increase leverage for RBC standards. The inclusion of RBC in public procurement could be advanced by bringing together practitioners to share learning and best practice, spread tools, exchange information on risks related to certain products and markets and share information on follow-up and monitoring. The Secretariat presented the OECD's work on RBC and the outcomes of the Roundtable to the OECD Working Party of Leading Practitioners on Public Procurement (LPP) in October 2017. There has been a growing interest to intensify work on RBC and public procurement and discussions are currently ongoing on how to take this forward.

### 3.3.2. *Economic diplomacy*

Economic diplomacy refers to government services and support provided to business in foreign markets. It can take the form of financial support such as export credits, investment guarantees and direct lending, but also includes other public services such as trade missions, capacity building activities and access to information and networks through embassies. These tools are not only instrumental to promote foreign trade and investment, but they can also be powerful levers for governments to guide corporate behaviour and support best practice on RBC. Although far from mainstream, some governments have recognised this potential, for example in their NAPs, and are using economic diplomacy to create further incentives for business to behave responsibly.

Since 2003, OECD Member countries have agreed on provisions to consider the potential environmental, social and human rights impacts of projects for which official export credits support is requested. The Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence (also known as the "Common Approaches") encourages members, via their Export Credit Agencies (ECAs), to promote the Guidelines, consider the outcomes of NCP cases when undertaking project reviews, as well as to give consideration to policy coherence with the Guidelines (see box below).

The majority of ECAs have incorporated reference to the Guidelines within their policies and actively promote the Guidelines as a tool for responsible business conduct, most commonly by providing information on their websites. The exceptions are those that do not provide export credits support for the types of projects falling within the scope of the Common Approaches. All ECAs also have policies and procedures in place for considering any statements or reports made publicly available by their NCPs when undertaking project due diligence. Some ECAs, such as Austria, Canada, the Netherlands and Slovenia, have reported that they have formal processes set out in their policy documentation for considering such statements; other ECAs

rely on informal ad hoc processes on a project by project basis. In addition, ECAs regularly exchange information with their NCPs or meet with them to discuss cases: for example, the United States has reported that its ECA, USEXIM, is a member of the US NCP Interagency Working Group and, as such, participates in regular Group meetings to discuss specific instances.

In addition to export credits, governments also systematically provide non-financial services to business to support their trade and investment efforts abroad. In particular trade missions organised by the government with a view to exploring international business opportunities presents an opportunity to raise awareness about RBC and governments can use them as incentive structures to promote corporate accountability for social, environmental and human rights impacts. At the same time, governments have direct access to companies operating abroad through their diplomatic network. Embassies and consulates fulfil a counselling role to these enterprises, especially in risk and conflict areas where the respect of human rights, labour and environmental conditions may be threatened.

Government cooperation between home and host countries of trade and investment also provides an enabling framework for governments to foster RBC standards by companies operating abroad. Recent examples include the EU-Canada Economic and Trade Agreement, the EU-Viet Nam Free Trade Agreement and the Free Trade Agreement between the European Free Trade Association (EFTA) States and Georgia, which all include provisions on RBC, as well as on sustainable development, labour and environment. RBC considerations are also part of the ongoing EU-Mercosur negotiations.<sup>80</sup> Labour and environment provisions are also included in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) between Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Viet Nam which was signed in March 2018. To further implementation of RBC provisions, the EU has promoted implementation through awareness raising activities for stakeholders, notably in May 2017 in the context of the EU-Costa Rica Free Trade Agreements.

The GFRBC's Roundtable for Policy Makers 2017 provided a first opportunity to discuss different government approaches to economic diplomacy during the session on *Responsible Business Conduct and Economic Diplomacy Tools*. Some of the takeaways of the session were that the most successful models are those that combine incentives with responsibilities. In parallel, alignment and policy coherence are critical, i.e. the messaging needs to be the same at all levels of government.

### 3.3.3. *Corporate governance and State-owned enterprises*

Another policy area of importance for the implementation of the Guidelines is corporate governance. The OECD sets out guidelines for policymakers to evaluate and improve the legal, regulatory, and institutional framework for corporate governance, including also for corporate governance of State-Owned Enterprises. OECD instruments in these areas - the Recommendation of the Council on the Principles of Corporate Governance and the Recommendation of the Council on Guidelines on Corporate Governance of State-Owned Enterprises - are aligned with the expectations of the Guidelines. The OECD Guidelines also recommend that enterprises apply good corporate governance practices drawn from the G20/OECD Principles of Corporate Governance.

Strong corporate governance and establishing a tone from the top is essential to ensuring RBC. For example, a survey conducted by PWC found that “nearly 90% of survey respondents agree that tone from the top is critical in the effective mitigation of risk to their organisation around fraud, corruption and ethical behaviour.”<sup>81</sup> As such it is recommended that corporate boards take on responsibilities related to RBC. For example boards will generally be involved in approving an enterprise’s RBC policies. They may also be involved in taking decisions about a business strategy which may have implications for RBC. Additionally, they may intervene in instances where the RBC policies are not being implemented and request management to take action. It can be useful to appoint board member(s) with expertise on and responsibility for RBC issues. In this respect, the G20/OECD Principles of Corporate Governance recognise that an important responsibility of the board of public enterprises is to oversee the risk management system and systems designed to ensure RBC (see Box 9).

**Box 9. Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence**

**Relevant extracts**

- Reference to the OECD Guidelines for Multinational Enterprises in the preamble
- Para 4, Adherents should (iii): "Promote awareness of the OECD Guidelines for Multinational Enterprises among appropriate parties involved in applications for officially supported export credits as a tool for responsible business conduct in a global context."
- Para 16: "When undertaking a review, Adherents should, where appropriate:
  - assess the potential environmental and/or social impacts of any associated facilities, taking into account the timing and location of their construction, including making reasonable efforts to benchmark against relevant international standards using the available information; and
  - consider any statements or reports made publicly available by their National Contact Points (NCPs) at the conclusion of a specific instance procedure under the OECD Guidelines for Multinational Enterprises.
  - Para. 48: "Adherents shall give further consideration to the issue of human rights, with the aim of reviewing how project-related human rights impacts are being addressed and/or might be further addressed in relation to the provision of officially supported export credits. To facilitate this work, Adherents shall:
    - Share approaches to and experience of, inter alia, screening and assessing applications for potential severe project-related human rights impacts, reviewing projects where there is a high likelihood of such impacts occurring, and applying relevant due diligence tools and international standards.
- Consider further issues relating to policy coherence with the OECD Guidelines for Multinational Enterprises and with the ‘Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework’."

### Box 10. G20/OECD Principles of Corporate Governance

Extract from Chapter IV. The role of stakeholders in corporate governance

A. The rights of stakeholders that are established by law or through mutual agreements are to be respected.

“The rights of stakeholders are often established by law (e.g. labour, business, commercial, environmental, and insolvency laws) or by contractual relations that companies must respect. Nevertheless, even in areas where stakeholder interests are not legislated, many firms make additional commitments to stakeholders, and concern over corporate reputation and corporate performance often requires the recognition of broader interests. For multinational enterprises, this may in some jurisdictions be achieved by companies using the OECD Guidelines for Multinational Enterprises for due diligence procedures that address the impact of such commitments (emphasis added).”

Extract from Chapter V. Disclosure and transparency

“Disclosure also helps improve public understanding of the structure and activities of enterprises, corporate policies and performance with respect to environmental and ethical standards, and companies’ relationships with the communities in which they operate. The OECD Guidelines for Multinational Enterprises may, in many jurisdictions be relevant for multinational enterprises (emphasis added).”

Extract from Chapter VI. The responsibilities of the board

“Another important board responsibility is to oversee the risk management system and systems designed to ensure that the corporation obeys applicable laws, including tax, competition, labour, environmental, equal opportunity, health and safety laws. In some countries, companies have found it useful to explicitly articulate the responsibilities that the board assumes and those for which management is accountable.”

“The board should apply high ethical standards. It should take into account the interests of stakeholders. High ethical standards are in the long term interests of the company as a means to make it credible and trustworthy, not only in day-to-day operations but also with respect to longer term commitments. To make the objectives of the board clear and operational, many companies have found it useful to develop company codes of conduct based on, inter alia, professional standards and sometimes broader codes of behaviour, and to communicate them throughout the organisation. The latter might include a voluntary commitment by the company (including its subsidiaries) to comply with the OECD Guidelines for Multinational Enterprises which reflect all four principles contained in the ILO Declaration on Fundamental Principles and Rights at Work (emphasis added).”

Additionally, recognising that good corporate governance also means recognising broader stakeholder and societal interests is crucial. This may mean taking into account external harms and long term value drivers, which include environmental, social and governance issues. For institutions acting in a fiduciary capacity, such as pension funds, collective investment schemes and some activities of insurance

companies, and asset managers acting on their behalf, this may mean recognising that “failing to consider long-term investment value drivers, which include environmental, social and governance issues, in investment practice is a failure of fiduciary duty”<sup>82</sup> (see also Chapter 2, financial sector).

Lastly, corporate reporting to the public on environmental and social issues as well as due diligence processes is an important aspect of corporate governance as it allows both shareholders and the broader public understand material risks associated with a company’s activities. However of the estimated 80 000 multinational companies in the world, only around 5 000-10 000 are estimated to publish environmental and social performance reports<sup>83</sup> (see section below on disclosure for more information). In 2014, 22.8% of Global Fortune 500 companies were state-owned, compared with 9.8% in 2005.<sup>84</sup> SOE activities have traditionally been domestically-focused (e.g. public utilities), but over the past decade, SOEs have also rapidly internationalised and are also deepening their commercial links in the global supply chains.<sup>85</sup>

RBC expectations are applicable to SOEs. The MNE Guidelines apply to all entities within the enterprise and all sectors whether private, state or mixed. The PFI also recognises that governments should lead by example on RBC in their own role within the economy and ensure that the practices of state-owned enterprises exemplify RBC.

The Recommendation of the Council on Guidelines on Corporate Governance of State-Owned Enterprises recommends that the state ownership policy fully recognise SOE responsibilities towards stakeholders and request that SOEs report on their relations with stakeholders, as well as to make clear any expectations the state has in respect of RBC by SOEs. The SOE Guidelines further recommend (and rely on the Board of Directors to the executive management) extensive measures to report on foreseeable risks, including in the areas human rights, labour, the environment, and risks related to corruption and taxation (see box 11).

However, so far there has been limited research on RBC practices of SOEs and on how and if the state is implementing RBC and ownership policy objectives. A 2016 report by the UN Working Group on Business and Human Rights that examined the issue found that there is a general lack of attention to RBC issues and that policies, guidelines and good practices are lacking at both the international and national levels.<sup>86</sup> During the session *RBC and State-owned enterprises* held at the 2017 GFRBC, panellists argued that more research is needed in this area, which would also be important for ensuring a level-playing field for private enterprises which are expected to follow RBC principles and standards. Making RBC expectations clear and in the context of a transparent ownership rationale is a role and an opportunity for governments.

The OECD Working Party on State Ownership and Privatisation (WPSOPP) organised an exchange on RBC following the GFRBC on 23 October 2017 as part a special roundtable on *Integrity, the fight against corruption and responsible business conduct in the SOE sector*, where the Chair of the WPRBC and the Chair of the UN Working Group on Business and Human Rights were invited to present on RBC. Further research on RBC and SOEs and strengthened dialogue between the different policy communities were identified as possible next steps.

**Box 11. Recommendation of the Council on Guidelines  
on Corporate Governance of State-Owned Enterprises**

**Extract of Chapter V Stakeholder Relations and Responsible Business**

The state ownership policy should fully recognise SOEs' responsibilities towards stakeholders and request that SOEs report on their relations with stakeholders. It should make clear any expectations the state has in respect of responsible business conduct by SOEs.

Governments, the state ownership entities and SOEs themselves should recognise and respect stakeholders' rights established by law or through mutual agreements.

Listed or large SOEs should report on stakeholder relations, including where relevant and feasible with regard to labour, creditors and affected communities.

The boards of SOEs should develop, implement, monitor and communicate internal controls, ethics and compliance programmes or measures, including those which contribute to preventing fraud and corruption. They should be based on country norms, in conformity with international commitments and apply to the SOE and its subsidiaries.

SOEs should observe high standards of responsible business conduct. Expectations established by the government in this regard should be publicly disclosed and mechanisms for their implementation be clearly established.

SOEs should not be used as vehicles for financing political activities. SOEs themselves should not make political campaign contributions.

### **3.3.4. Disclosure**

The demand for more transparency and information on how companies deal with human rights, environmental, social and other "non-financial" issues has rapidly grown. A particular trend is increasing demand of information on how companies are identifying and addressing impacts in their supply chains. On 26 June 2017, the EU released Guidelines on non-financial reporting to enhance business transparency on social and environmental matters,<sup>87</sup> which supplement the already existing EU rules on non-financial reporting ([Directive 2014/95/EU](#)). The EU Guidelines are based on and reference the OECD Guidelines throughout, as well as the sector-specific OECD due diligence guidance instruments. In 2017 the Task Force on Climate-related Financial Disclosures (TCFD), an industry-led initiative developed a set of recommendations for voluntary climate-related financial disclosures.<sup>88</sup>

The disclosure recommendations of the Guidelines call for timely and accurate disclosure on all material matters regarding the corporation, including the financial situation, performance, ownership and governance of the company. The Guidelines also encourage a second set of disclosure or communication practices in areas where reporting standards are still evolving such as, for example, social, environmental and risk reporting.<sup>89</sup> Additionally reporting on due diligence is an integral step of the due diligence process and has been recognised in legislation introduced in the UK and France, as well as under the EU Guidelines. For example, EU importers of tin, tungsten, tantalum and gold covered by Regulation (EU) 2017/821 will have to

publicly report on their supply chain due diligence policies and practices for responsible sourcing for these metals and minerals.

These developments are generating a shift from traditional, voluntary and sometimes "PR-oriented" corporate reporting toward more meaningful and user-oriented disclosure. This was also addressed as part of the 2017 GFRBC session on *Lessons from the Climate Agenda*.<sup>90</sup> The OECD also organised a side event on Mainstreaming climate disclosure in OECD Member countries in November 2017 during the 23<sup>rd</sup> Conference of the Parties (COP23) at Bonn, jointly with the Institute for Global Environmental Strategies (IGES). The event discussed key challenges and priorities to ensure reporting and disclosure frameworks incorporate climate factors, and that information is incorporated by institutional investors in their investment decisions. It furthermore addressed how climate disclosure can be used as a tool for investors to influence corporations' business strategies. Several participants also stressed the role of policy makers and made clear calls for OECD to support progress on climate disclosure.

In December of 2017 the OECD organised a workshop on Corporate Disclosure and Responsible Business Conduct. Participants called on policy makers to encourage corporate disclosure on RBC issues (including on climate change and human rights), and on the OECD to further engage on corporate disclosure, both as a convener and standard-setter, including to: help implement the TCFD recommendations on climate disclosure; and clarify issues associated with disclosure of climate change, human rights and other RBC issues for investors and corporations.

### 3.4. Conclusion and other pertinent areas of work

This Chapter demonstrates how RBC issues are linked to a range of policy areas and how this has been taken up by other OECD policy communities. While discussions on investment and trade have long been associated with the corporate responsibility agenda, RBC principles and standards are also increasingly finding their way into other fields of public policy such as public procurement and disclosure. In this context the implementation of the 2030 Agenda for Sustainable Development and the 17 Sustainable Development Goals also encourage governments to design and implement policies which lead to responsible and sustainable outcomes by the private and public sector and reinforce the message for policy coherence for RBC. The SDGs have also brought to the fore other policy areas relevant for RBC, such as development finance and infrastructure development. Moreover to support policy action on RBC, measuring impact and collecting evidence that RBC delivers better outcomes is key. Different streams of work at the OECD have contributed this effort.

#### 3.4.1. Implementation of the SDGs

Stakeholders at the 2017 Global Forum on RBC called on the OECD to make the link between RBC and development co-operation goals and finance, particularly in the context of the implementation of the SDGs. There are a number of synergies in this area. For example, development practitioners can have an important role in promoting and enabling RBC, and RBC practitioners can bring in expertise on multi-stakeholder platforms and on engaging with the private sector in the context of promoting private sector involvement in the implementation of the SDGs. One area where promoting and enabling RBC could be particularly beneficial is infrastructure. Investment needs to implement the SDGs are in the trillions of dollars and cannot be

met solely through public financing. Mobilising the private sector will be a crucial element of the SDGs success, not only in terms of delivery but also financing and partnerships. However, the development benefits of infrastructure investment depend, *inter alia*, on how potential and actual negative impacts are addressed. Infrastructure projects are complex, with long supply chains and multiple stakeholders, and are highly vulnerable to corruption, as well as social and environmental risks.

OECD instruments like the Policy Framework for Investment (PFI) and the Recommendation of the Council on Principles for Private Sector Participation in Infrastructure explicitly encourage governments to ensure that businesses participating in projects meet RBC standards, such as the Guidelines. Meaningfully integrating environmental and social issues across all steps of the infrastructure project life-cycle, becomes as much of an economic incentive as a broad sustainability goal for both governments and businesses involved in the financing and delivery of infrastructure.

#### **3.4.2. *Measuring impacts***

There is increasing evidence that acting responsibly is not just a matter of compliance but also has a win-win outcome: that sustainable supply chains and better financial performance can go hand in hand and that one can drive the other. Numerous studies, including at the OECD, show that responsible business is often also good business.<sup>91</sup> RBC can help with increasing returns, lowering cost of capital, and retaining employees; reducing costs and avoiding legal liability. For example, one study found that better business practices have the potential to reduce the cost of debt for companies by 40% or more and increase revenue by up to 20%.<sup>92</sup> More broadly, a cross-sector study tracking performance of companies over 18 years found that high sustainability companies – that is those with strong environmental, social, and governance (ESG) systems and practices in place – outperform low sustainability companies in stock performance and real accounting terms.<sup>93</sup> OECD results from a panel regression study with over 6 500 observations lend support to the proposition that investing in and implementing RBC practices throughout the supply chain enhances financial performance in the long-run, on average, while supporting social goals. The study examined the issue of RBC and the financial performance of companies (return on equity and return on assets) and controlling for value chain structure, economic and financial factors, the overwhelming finding is that the social score (a measure of a company's capacity to generate trust and loyalty with its workforce, customers and society) has a highly-significant positive effect on companies' return on equity and return on assets.<sup>94</sup>

A number of initiatives at the OECD are looking at how to measure impact better. For example, the project on Measuring Business Impact on Well-being<sup>95</sup> is a new strand of work that aims to create a common base of understanding on how to measure the impact of businesses on well-being, and how to compare the existing tools and frameworks. Additionally, the OECD has established an Inclusive Growth and Business network<sup>96</sup> with the objective to bring in businesses in the global efforts to tackle inequality, increase prosperity, and ensure that the benefits of growth are widely shared. The RBC dimension is included in both these projects.<sup>97</sup>



## Notes

<sup>1</sup> See [http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Pressemitteilungen/2017/g20-ministerial-declaration.pdf?\\_\\_blob=publicationFile&v=2](http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Pressemitteilungen/2017/g20-ministerial-declaration.pdf?__blob=publicationFile&v=2)

<sup>2</sup> [http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Pressemitteilungen/2017/g20-ministerial-declaration.pdf?\\_\\_blob=publicationFile&v=2](http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Pressemitteilungen/2017/g20-ministerial-declaration.pdf?__blob=publicationFile&v=2)

<sup>3</sup> See <http://www.oecd.org/mcm/documents/2017-ministerial-council-statement.htm>

<sup>4</sup> OECD (2017) "Ukraine signs OECD agreement to strengthen investment climate" <http://mneguidelines.oecd.org/ukraine-signs-oecd-agreement-to-strengthen-investment-climate.htm> (Accessed 20 March 2017).

<sup>5</sup> OECD (2017) "Kazakhstan signs OECD agreement to strengthen investment climate" <http://mneguidelines.oecd.org/kazakhstan-signs-oecd-agreement-to-strengthen-investment-climate.htm> (Accessed 20 March 2017).

<sup>6</sup> Act no. 2017-399 of 27 March 2017 published in OJ no. 0074 of 28 March 2017 <https://www.legifrance.gouv.fr/eli/loi/2017/3/27/2017-399/jo/texte>.

<sup>7</sup> EU (2017), Regulation 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for EU importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2017:130:TOC>.

<sup>8</sup> OECD (2017), *Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector*, <http://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-Garment-Footwear.pdf>.

<sup>9</sup> See Ministerial Communiqué on Responsible Business Conduct, adopted on 26 June 2014. <https://www.oecd.org/corporate/Ministerial-Communique-RBC-June-2014.pdf>

<sup>10</sup> OECD (2016), *OECD-FAO Guidance for Responsible Agricultural Supply Chains*, <http://www.oecd.org/daf/inv/investment-policy/rbc-agriculture-supply-chains.htm>.

<sup>11</sup> G7 Information Centre (2017), *G7 Bergamo Agriculture Ministers' Meeting Communiqué: Empowering Farmers, Developing Rural Areas and Enhancing Cooperation to Feed the Planet*, <http://www.g8.utoronto.ca/agriculture/2017-agriculture.html>.

<sup>12</sup> Some form of agreement means that the parties either reached full or partial agreement on the issues raised in the complaint or ways forward,

<sup>13</sup> 22 February 2018, Success for US Hotel Workers at the French NCP – UNITE HERE, TUAC Website, Accessed 19 March 2018 <https://tuac.org/news/unite-here-success-at-the-french-ncp/>

<sup>14</sup> The most frequent upper limit designating an SME is 250 employees. See OECD Glossary of Statistical Terms, "Small and Medium Sized Enterprises." <https://stats.oecd.org/glossary/detail.asp?ID=3123>

<sup>15</sup> Fortune 500 is a list compiled by Fortune magazine ranking the top 500 public corporations of the US as measured by their gross revenue. USPages.com, "Fortune500", [www.uspages.com/fortune500.htm](http://www.uspages.com/fortune500.htm)

<sup>16</sup> OECD Guidelines for Multinational Enterprises (2011), Procedural Guidance, I. C (3).

<sup>17</sup> Recommendations were issued by the NCPs of Australia, Austria, Belgium, Canada, Finland, Germany, Italy, Netherlands, Spain, Switzerland, United Kingdom

<sup>18</sup> Determinations were made by the NCPs of Belgium, Peru and the United Kingdom

<sup>19</sup> OECD (2016), Implementing the OECD Guidelines for Multinational Enterprises: The National Contact Points from 2000 to 2015 [www.oecd.org/corporate/mne/15-years-of-ncps.htm](http://www.oecd.org/corporate/mne/15-years-of-ncps.htm).

<sup>20</sup> OECD Guidelines for Multinational Enterprises (2011), Commentary on the Implementation Procedures of the OECD Guidelines for Multinational Enterprises.

<sup>21</sup> Id. Para 41.

<sup>22</sup> OECD Guidelines (2011), Commentary on the Procedural Guidance, para 23.

<sup>23</sup> Id. para 24.

<sup>24</sup> The Chapter on competition was also not referenced in specific instances submitted in 2016 or 2015.

<sup>25</sup> Decision of the Council on the OECD Guidelines for Multinational Enterprises (the Decision on the Guidelines).

<sup>26</sup> Commentary on the Implementation Procedures of the OECD Guidelines for Multinational Enterprises, para. 22.

<sup>27</sup> Due to the late submission (4 May 2018), the report by Ireland could not be taken into account in the 2017 Annual Report.

<sup>28</sup> The NCPs of France (36), Costa Rica (12), Poland (11), Norway (8) and Romania (8)

<sup>29</sup> The NCPs of Egypt, Estonia, Finland, Greece, Hungary, Iceland, Ireland, Japan, Jordan, Luxembourg, New Zealand, Slovenia and Tunisia.

<sup>30</sup> The NCP of Canada (58), France (41), Norway (22), Poland (21) and Germany (20)

<sup>31</sup> The NCPs of Egypt, Estonia, Iceland, Ireland, Jordan, Slovenia and Tunisia.

<sup>32</sup> It also noted that G20 countries support access to remedy and, where applicable, non-judicial grievance mechanisms, such as the National Contact Points for the OECD MNE Guidelines (NCPs). G20 Leaders' Declaration, "Shaping an interconnected world" 7-8 July 2017, Hamburg [https://www.g20germany.de/Webs/G20/EN/G20/Summit\\_documents/summit\\_documents\\_no\\_de.html](https://www.g20germany.de/Webs/G20/EN/G20/Summit_documents/summit_documents_no_de.html)

<sup>33</sup> ILO (2017), Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy [http://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---emp\\_ent/---multi/documents/publication/wcms\\_094386.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---multi/documents/publication/wcms_094386.pdf)

<sup>34</sup> Act no. 2017-399 of 27 March 2017 published in OJ no. 0074 of 28 March 2017 <https://www.legifrance.gouv.fr/eli/loi/2017/3/27/2017-399/jo/texte>.

<sup>35</sup> See Trésor Info

<https://www.tresor.economie.gouv.fr/Publications/Articles/2017/05/09/devoir-de-vigilance-des-societes-meres-et-des-entreprises-donneuses-d-ordre>.

<sup>36</sup> Initiative Parlementaire 17.498 Contre-projet indirect à l'initiative populaire “Entreprises responsables-pour protéger l'être humain et l'environnement”

[www.parlament.ch/en/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20170498](http://www.parlament.ch/en/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20170498).

<sup>37</sup> German Federal Foreign Office (December, 2016), [www.auswaertiges-amt.de/cae/servlet/contentblob/754690/publicationFile/222786/161221-NAP-DL.pdf](http://www.auswaertiges-amt.de/cae/servlet/contentblob/754690/publicationFile/222786/161221-NAP-DL.pdf).

<sup>38</sup> See the website of the Social and Economic Council of the Netherlands for a full list on IRBC Agreements [https://www.internationalrbc.org/agreements?sc\\_lang=en](https://www.internationalrbc.org/agreements?sc_lang=en).

<sup>39</sup> OECD (2015) Draft summary record of the meeting of the Working Party on Responsible Business Conduct on 12 October 2015, [DAF/INV/RBC/M\(2015\)2/REV1](http://DAF/INV/RBC/M(2015)2/REV1).

<sup>40</sup> Membership of the advisory group reflect a diversity of perspectives from governments, companies, industry associations, workers' associations and civil society.

<sup>41</sup> EU (2017), Regulation 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2017:130:TOC>.

<sup>42</sup> OECD (2016), Alignment assessment of industry initiatives with the OECD Due Diligence Guidance for Responsible Mineral Supply Chains: <http://mneguidelines.oecd.org/industry-initiatives-alignment-assessment.htm>.

<sup>43</sup> Amnesty International (2017), Time to Recharge: Corporate Action and Inaction to Tackle Abuses in the Cobalt Supply Chain, Amnesty International Ltd, London, [www.amnesty.org/en/documents/afr62/7395/2017/en/](http://www.amnesty.org/en/documents/afr62/7395/2017/en/).

<sup>44</sup> World Bank (2013), Artisanal and Small Scale Mining, <http://www.worldbank.org/en/topic/extractiveindustries/brief/artisanal-and-small-scale-mining>.

<sup>45</sup> World Bank (2009), Mining Together: Large-Scale Mining meets Artisanal Mining, <http://documents.worldbank.org/curated/en/148081468163163514/pdf/686190ESW0P1120ng0Together0HDD0final.pdf>

<sup>46</sup> OECD (2017), Global ASM Centre of Excellence, [www.oecd.org/corporate/mne/artisanal-small-scale-miner-hub.htm](http://www.oecd.org/corporate/mne/artisanal-small-scale-miner-hub.htm).

<sup>47</sup> OECD (2017), Due diligence in Colombia's gold supply chain, [www.oecd.org/investment/mne/colombias-gold-supply-chain.htm](http://www.oecd.org/investment/mne/colombias-gold-supply-chain.htm).

<sup>48</sup> OECD (2017), 2017 Forum on Responsible Mineral Supply Chains, <http://mneguidelines.oecd.org/2017-forum-on-responsible-mineral-supply-chains.htm>.

<sup>49</sup> OECD (2017), *Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector*, <http://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-Garment-Footwear.pdf>.

<sup>50</sup> OECD (2014), Statement by the National Contact Point Points for the OECD Guidelines on Multinational Enterprises, <https://mneguidelines.oecd.org/NCP-statement-one-year-after-Rana-Plaza.pdf>.

<sup>51</sup> The OECD's garment sector work has been supported by the EU, and this support was renewed in 2017 for additional implementation activities relating to the Garment Guidance.

<sup>52</sup> Nieuwenkamp, R. (31 January 2017), “A Responsibility Revolution in the Fashion Industry: How OECD’s new Due Diligence Instrument can transform the global garment industry,” OECD Insights Blog, <http://oecdinsights.org/2017/01/31/fashion-industry-oecd-due-diligence-instrument/>.

<sup>53</sup> OECD (2017), Alignment assessment of industry initiatives with the OECD Due Diligence Guidance for Responsible Mineral Supply Chains, <http://mneguidelines.oecd.org/industry-initiatives-alignment-assessment.htm>.

<sup>54</sup> WTO 2016, World Trade Statistical Review 2016, p108, [https://www.wto.org/english/res\\_e/statistics\\_e/wts2016\\_e/wts2016\\_e.pdf](https://www.wto.org/english/res_e/statistics_e/wts2016_e/wts2016_e.pdf)

<sup>55</sup> OECD (2015), Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains, <http://mneguidelines.oecd.org/chinese-due-diligence-guidelines-for-responsible-mineral-supply-chains.htm>.

<sup>56</sup> UN Global Compact, UNEP Finance Initiative, Principles for Responsible Investment, UNEP Inquiry into the Design of a Sustainable Financial System (2015), ‘Fiduciary Duty in the 21<sup>st</sup> Century,’ [www.unepfi.org/fileadmin/documents/fiduciary\\_duty\\_21st\\_century.pdf](http://www.unepfi.org/fileadmin/documents/fiduciary_duty_21st_century.pdf).

<sup>57</sup> The 2017 interim report of the Expert Group likewise highlights that “[t]he responsibility of directors and investors to manage long-term sustainability risks should be enshrined in their relevant duties, whether it is through fiduciary duty in common law or its equivalent in other legal systems. Updates should make clear that managing ESG risks is integral to fulfilling these duties.” Financing a Sustainable European Economy: Interim Report, July 2017 By the High-Level Expert Group on Sustainable Finance Secretariat provided by the European Commission. [https://ec.europa.eu/info/sites/info/files/170713-sustainable-finance-report\\_en.pdf](https://ec.europa.eu/info/sites/info/files/170713-sustainable-finance-report_en.pdf).

<sup>58</sup> Accounting for 20% of all new submissions in 2015-2016 (add for 2017)

<sup>59</sup> Thun Group of Banks (2017), Paper on the Implications of UN Guiding Principles 13b & 17 in a Corporate and Investment Banking Context, [https://business-humanrights.org/sites/default/files/documents/2017\\_01\\_Thun%20Group%20discussion%20paper.pdf](https://business-humanrights.org/sites/default/files/documents/2017_01_Thun%20Group%20discussion%20paper.pdf).

<sup>60</sup> OHCHR (2017), OHCHR response to request from BankTrack for advice regarding the application of the UN Guiding Principles on Business and Human Rights in the context of the banking sector, <http://www.ohchr.org/Documents/Issues/Business/InterpretationGuidingPrinciples.pdf>.

<sup>61</sup> FAO (2012), World Agriculture towards 2030-50, <http://www.fao.org/docrep/016/ap106e/ap106e.pdf>.

<sup>62</sup> FAO (2009), How to feed the world in 2050, High-Level Expert Forum, [http://www.fao.org/fileadmin/templates/wsfs/docs/Issues\\_papers/HLEF2050\\_Global\\_Agriculture.pdf](http://www.fao.org/fileadmin/templates/wsfs/docs/Issues_papers/HLEF2050_Global_Agriculture.pdf).

<sup>63</sup> OECD (2016), *OECD-FAO Guidance for Responsible Agricultural Supply Chains*, <http://www.oecd.org/daf/inv/investment-policy/rbc-agriculture-supply-chains.htm>.

<sup>64</sup> G7 Information Centre (2017), *G7 Bergamo Agriculture Ministers' Meeting Communiqué: Empowering Farmers, Developing Rural Areas and Enhancing Cooperation to Feed the Planet*, <http://www.g8.utoronto.ca/agriculture/2017-agriculture.html>.

<sup>65</sup> [www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx](http://www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx) On 16 June 2017, the National Human Rights Commission of Indonesia launched a NAP on Business and Human Rights in Indonesia <https://business-humanrights.org/sites/default/files/documents/Indonesia%27s%20NAP%20Launch.pdf>

<sup>66</sup> European Commission (2011), A renewed EU strategy 2011-14 for Corporate Social Responsibility, [www.europarl.europa.eu/](http://www.europarl.europa.eu/)

<sup>67</sup> Each government decides on how to incorporate the sustainable development goals and targets into national planning processes, policies and strategies. See paragraph 55 of the Resolution adopted by the General Assembly on 25 September 2015, 70/1. Transforming our world: the 2030 Agenda for Sustainable Development, [www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/70/1&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E).

<sup>68</sup> Japan, The SDGs Implementation Guiding Principles (2016), [www.mofa.go.jp/mofaj/gaiko/oda/files/000252819.pdf](http://www.mofa.go.jp/mofaj/gaiko/oda/files/000252819.pdf).

<sup>69</sup> <http://www.oecd.org/investment/promoting-investment-in-the-mediterranean.htm>

<sup>70</sup> For example, the legally binding 2015 ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP) entered into force in March 2017. ASEAN has also taken steps to tackle a broader but related issue of migrant workers. In November 2017, ASEAN leaders adopted the ASEAN Consensus on the Protection and the Promotion of the Rights of Migrant Workers.

<sup>71</sup> Myanmar, for example, explicitly references responsible investment in the 2016 Investment Law and includes various RBC criteria in the 2017 implementation rules Government of Myanmar (2017), Myanmar Investment Rules, Ministry of Planning and Finance Notification No. 35 / 2017, Unofficial Translation, 30 March 2017, [https://www.dica.gov.mm/sites/dica.gov.mm/files/document-files/mir\\_english\\_0.pdf](https://www.dica.gov.mm/sites/dica.gov.mm/files/document-files/mir_english_0.pdf).

Government of Myanmar (2016), Myanmar Investment Law, Official Translation, 18 October 2016, [https://www.dica.gov.mm/sites/dica.gov.mm/files/document-files/myanmar\\_investment\\_law\\_official\\_translation\\_3-1-2017.pdf](https://www.dica.gov.mm/sites/dica.gov.mm/files/document-files/myanmar_investment_law_official_translation_3-1-2017.pdf).

<sup>72</sup> This was raised during the 2017 Global Forum on International Investment; where the OECD was called on to provide more analysis and guidance on this topic, see <https://www.oecd.org/investment/globalforum/>

<sup>73</sup> Gordon, K., J. Pohl and M. Bouchard (2014), Investment Treaty Law, Sustainable Development and Responsible Business Conduct: A Fact Finding Survey, OECD Working Papers on International Investment, 2014/01, OECD Publishing, <http://dx.doi.org/10.1787/5jz0xvgx1zlt-en>

<sup>74</sup> OECD (2017), *Government at a Glance 2017*, OECD Publishing, Paris; A significant portion of public procurement takes place at the sub-national level (state and municipal levels) 62% of the public procurement spending in OECD countries is estimated to be spent at the sub-central level (2015).

<sup>75</sup> Recommendation of the Council on Public Procurement (2015), [www.oecd.org/gov/public-procurement/recommendation/](http://www.oecd.org/gov/public-procurement/recommendation/).

<sup>76</sup> United Nations (2011) *United Nations Guiding Principles on Business and Human Rights*, Chapter 1, Section B(6), [www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf).

<sup>77</sup> In this context, so-called "green" public procurement, whereby authorities seek to procure goods, services and public works with a reduced environmental impact throughout their life-cycle, is particularly advanced. More recently, green procurement efforts have been taken up as part of sustainable procurement, which pursues economic, environmental and social objectives.

<sup>78</sup> OECD (2017), *Responsible Business Conduct in Government Procurement Practices*, concept note, Policy-makers Roundtable, June 2017,

<http://mneguidelines.oecd.org/Responsible-business-conduct-in-government-procurement-practices.pdf>.

<sup>79</sup> International Learning Lab on Public Procurement and Human Rights (2016) *Public Procurement and Human Rights: A Survey of Twenty Jurisdictions*, [www.hrprocurementlab.org/wp-content/uploads/2016/06/Public-Procurement-and-Human-Rights-A-Survey-of-Twenty-Jurisdictions-Final.pdf](http://www.hrprocurementlab.org/wp-content/uploads/2016/06/Public-Procurement-and-Human-Rights-A-Survey-of-Twenty-Jurisdictions-Final.pdf).

<sup>80</sup> [http://trade.ec.europa.eu/doclib/docs/2017/october/tradoc\\_156339.pdf](http://trade.ec.europa.eu/doclib/docs/2017/october/tradoc_156339.pdf)

<sup>81</sup> PricewaterhouseCoopers (2013) “Tone from the Top: Transforming words into action,” [https://www.ibe.org.uk/userimages/pwc\\_tone\\_from\\_the\\_top\\_2013.pdf](https://www.ibe.org.uk/userimages/pwc_tone_from_the_top_2013.pdf)

<sup>82</sup> UNEP, UN Global Compact, PRI (2015) *Fiduciary Duty in the 21st Century*, p.9 [www.unepfi.org/fileadmin/documents/fiduciary\\_duty\\_21st\\_century.pdf](http://www.unepfi.org/fileadmin/documents/fiduciary_duty_21st_century.pdf)

<sup>83</sup> Sustainable Stock Exchanges Initiative (2014). *Report on Progress*. [www.sseinitiative.org/wp-content/uploads/2012/03/SSE-2014-ROP.pdf](http://www.sseinitiative.org/wp-content/uploads/2012/03/SSE-2014-ROP.pdf)

<sup>84</sup> OECD (2017), *OECD Business and Finance Outlook 2017*.

<sup>85</sup> Through cross-border mergers and acquisitions (M&A) - since 2007, M&A activity by SOEs has grown rapidly - especially from emerging markets - with a notable surge during the 2008-09 economic and financial crisis, and with continued growth compared to overall M&A or foreign direct investment; OECD (2016), *State-Owned Enterprises as Global Competitors: A Challenge or an Opportunity?*

<sup>86</sup> UN (2016), Human Rights Council, Thirty-second session, *Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises*, A/HRC/32/45, 4 May 2016.

<sup>87</sup> Communication from the Commission — Guidelines on non-financial reporting (methodology for reporting non-financial information) , C/2017/4234, 5 July 2017, [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XC0705\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XC0705(01)&from=EN)

<sup>88</sup> <https://www.fsb-tcfd.org/publications/final-recommendations-report/>

<sup>89</sup> OECD Guidelines for Multinational Enterprises (2011), Chapter III: Disclosure, para. 32.

<sup>90</sup> <http://mneguidelines.oecd.org/global-forum/2017-GFRBC-Session-Note-Climate-Agenda.pdf>

<sup>91</sup> An overview of these studies has been included in the *Business and Finance Outlook 2017*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264274891-en>

<sup>92</sup> Rochlin, S., R. Bliss, S. Jordan, and C. Yaffe Kiser (2015), “Defining the Competitive and Financial Advantages of Corporate Responsibility and Sustainability, Babson College, available at: <http://projectroi.com/wp-content/uploads/2015/07/Project-ROI-Report.pdf>. The study was supported by Verizon and Campbell Soups

<sup>93</sup> Eccles G.R., Ioannou I. Serafeim G. (2011), *The Impact of a Corporate Culture of Sustainability on Corporate Behavior and Performance*, Harvard Business School. <http://hbswk.hbs.edu/item/the-impact-of-corporate-sustainability-on-organizational-process-and-performance>

<sup>94</sup> *Business and Finance Outlook 2017*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264274891-en>

<sup>95</sup> <http://www.oecd.org/investment/measuring-business-impacts-on-peoples-well-being.htm>

<sup>96</sup> [http://www.oecd.org/inclusive-growth/Business\\_for\\_IG.pdf](http://www.oecd.org/inclusive-growth/Business_for_IG.pdf)

<sup>97</sup> See also the *Update on data collection efforts at the OECD relevant to RBC* presented to the WPRBC in December 2017.



## *Annex 1.*

### **Opinion piece by Roel Nieuwenkamp, Chair of the Working Party on Responsible Business Conduct**

#### **Accountability and leading by example**

In this Annual Report 2017 I would like to convey two messages to governments and the OECD: 'show the effectiveness of NCPs' and 'practice what you preach'. These messages touch on several aspects of corporate responsibility policies. As this report is a part of an accountability mechanism to the OECD Council I will start with the first.

#### **Demonstrate the effectiveness of NCPs**

One of the unique features of the OECD Guidelines for Multinational Enterprises is that, through the Decision attached to the Guidelines, they include a legally binding commitment for Adherent countries to promote responsible business conduct and to set up 'National Contact Points' (NCPs). Most Adherent countries are implementing this commitment. But do we know if we are successful? Yes and no. For a couple of years we have had some figures in the Annual Report that are good performance indicators of the NCP mechanism. In particular in this report, the finding that 83% of successful mediated agreements out of all specific instances for which mediation was offered in 2017 is an impressive figure. However this does not give a complete picture of the success of the NCP mechanism. As responsible business authorities, NCPs promote the Guidelines and also provide recommendations to business on how to apply the Guidelines when dealing with cases.

We need facts and figures to demonstrate the effectiveness of the NCP system. The motto 'Be good and tell it' is important for a responsible business mechanism like this. A distinction can be made between performance indicators that show how effective an NCP is and key indicators that show important characteristics of the NCP and its context.

NCPs have two tasks: handling cases relating to alleged violations of the Guidelines and promotion of the Guidelines.

#### ***Performance indicators for handling of specific instances***

An already existing important performance indicator is the *% of cases where mediation was offered that led to an agreement*. This is essential to assess the performance of the NCP system, but it only captures part of the work, as NCPs in many cases also make recommendations in cases where mediation fails or a company refuses mediation. Often companies act upon these recommendations. Take the good examples of the French Michelin case<sup>1</sup> and the Danish PWT case.<sup>2</sup> The recent

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<sup>1</sup> <http://mneguidelines.oecd.org/database/instances/fr0016.htm>



German NCP peer review showed that even without an agreement, companies implemented the recommendations of the NCP.

Therefore a useful performance indicator would be: *% of cases where mediation was refused or failed that had significant positive RBC results*. Many NCPs now evaluate implementation of their recommendations after a year, so this essential, but qualitative information will be available increasingly in the future.

### ***Performance indicators for promotion by NCPs***

The other key task of NCPs is to promote the Guidelines. How do NCPs know whether they are effective in their promotion of RBC? Several NCPs have started measuring this. Two key performance indicators are emerging: *% awareness of companies of the OECD Guidelines* and *% companies committing to follow the OECD Guidelines*. Some NCPs have measured this and some are planning to do it. I would encourage all NCPs to start measuring this.

### ***Other key indicators***

There are also some key indicators that are important to know more about the NCP, but do not tie per se with performance. Important indicators are: *% of companies that accept an offer of good offices (mediation or conciliation)*. This shows the willingness of companies to participate in the NCP process. It is therefore an indicator of business confidence in the good offices of NCPs.

Another key indicator is: *% of cases that are accepted for further examination*. This is in fact not a performance indicator, since acceptance or dismissals can be valid decisions in specific cases. For NCPs which receive a lot of insufficiently substantiated cases, this rate will be low, but this does not qualify the functioning of the NCP. It may for example indicate that the NCP could target its promotional activities to include raising awareness about its non-judicial grievance mechanism and what types of cases can be submitted to NCPs.

Stakeholder confidence is key to the success of an NCP. The Procedural Guidance states that the NCP should retain the confidence of social partners and other stakeholders. Therefore a key indicator is: *The level of confidence by stakeholders in the NCP (qualitative)*. At this moment the best proxy indicator available would be whether all stakeholders are represented in the institutional arrangements of the NCP, in an advisory body or as part of a tripartite or independent NCP. This provides at least some indication of confidence, but this does not necessarily translate into full confidence in the NCP. I encourage all NCPs and the OECD to develop and measure qualitative indicators that indicate high/ medium/ low/ or no confidence levels.

I hope that in the future a useful scorecard could be provided for all NCPs that consist of the above-mentioned (K)PIs. Such a scorecard would also be essential for NCP peer reviewers and accountability to the OECD Council.

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<sup>2</sup> <http://mneguidelines.oecd.org/database/instances/dk0015.htm>

## Practice what you preach

Many governments have made strong high level statements about policy coherence for responsible business conduct. They call on corporate responsibility to be embedded in government procurement and in economic diplomacy instruments, and encourage state-owned enterprises to lead by example.

In the area of export credit agencies there was significant progress with the ‘OECD Common Approaches’ which recommend that ECAs should promote the OECD Guidelines with their clients and that they should take into account NCP statements. Canada and Germany link the granting of economic diplomacy support to good faith engagement by the company in the NCP process. Other governments are looking into this.

Responsible public procurement is one of the areas where more progress can be made. United Nations Sustainable Development Goal 12 deals with “Ensuring sustainable consumption and production patterns” and its Target 12.7 refers to the need to “Promote public procurement practices that are sustainable, in accordance with national policies and priorities”. Implementation and more concrete government action is needed to ensure responsibilities extend beyond the first-tier contractor or supplier to take into account environmental, social and human rights related adverse impacts throughout the entire supply chain of procured goods.

The OECD has developed a range of tools for businesses on how to conduct risk-based due diligence on human rights, labour standards and environmental aspects in their supply chains. It is time for governments to implement this in their own supply chains, too. They should lead by example. State-owned enterprises should be spearheading this effort and public procurement needs to follow state of the art corporate responsibility standards. Some governments are taking significant steps in this regard, such as Sweden, but most are still lagging behind. As there is a strong need for a level playing field, the OECD is well positioned to move this emerging area of work forward through the WPRBC and the OECD Working Party on Leading Practitioners of Procurement to join forces on this emerging area of work. The OECD due diligence guidance instruments provide concrete tools to take this forward.

## Annex 2. Overview of National Contact Points

No.	Country	Full time staff	Part time staff	Staff joined NCP	Staff left NCP	NGOs	Business	Trade unions	Advisory body	Advisory body with some oversight	Other ministries	Dedicated budget	Report to Government	Report to Parliament	Website	Rules of procedure	Online	Revised in 2017	Promotional plan	Organised/co-organised events	Number of events organised/co organised	Participated in events	Number of events participated in	June 2017 attended NCP meeting	Dec 2017 attended NCP meeting
1	Argentina	YES	YES	YES	YES	YES	YES	YES	YES		YES	NO	YES	NO	YES	YES	YES	YES	NO	YES	2	NO	0	YES	YES
2	Australia	YES	YES	YES	YES	NO	NO	NO	NO	YES	YES	NO	NO	NO	YES	YES	YES	NO	YES	YES	4	NO	0	YES	NO
3	Austria	YES	NO	NO	NO	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	4	YES	6	YES	YES
4	Belgium	YES	YES	YES	YES	NO	YES	YES	YES		YES	NO	YES	YES	YES	YES	YES	YES	YES	YES	4	YES	4	YES	YES
5	Brazil	YES	YES	NO	YES	NO	NO	NO	YES		YES	NO	YES	NO	YES	YES	YES	YES	YES	YES	2	YES	3	YES	NO
6	Canada	YES	YES	YES	YES	NO	NO	NO	NO		YES	NO	YES	NO	YES	YES	YES	YES	YES	YES	6	YES	58	YES	YES
7	Chile	NO	YES	YES	YES	YES	YES	YES	YES		YES	YES	YES	NO	YES	YES	YES	YES	NO	YES	3	YES	6	YES	YES
8	Colombia	YES	YES	YES	YES	YES	YES	YES	YES		NO	NO	YES	YES	YES	YES	YES	NO	YES	YES	2	YES	6	YES	YES
9	Costa Rica	YES	NO	NO	NO	NO	NO	NO	NO		NO	YES	YES	YES	YES	YES	YES	NO	YES	YES	12	YES	5	YES	YES
10	Czech Republic	NO	YES	YES	YES	YES	YES	YES	NO		YES	NO	NO	NO	YES	YES	YES	YES	YES	YES	1	YES	5	YES	NO
11	Denmark	YES	NO	NO	NO	YES	YES	YES	NO		NO	YES	NO	NO	YES	YES	YES	YES	YES	YES	4	YES	4	YES	YES
12	Egypt	YES	NO	n/a	n/a	NO	YES	YES	YES		YES	YES	YES	NO	NO	YES	NO	NO	NO	NO	0	NO	0	NO	NO
13	Estonia	NO	YES	NO	NO	YES	YES	YES	NO		YES	YES	NO	NO	YES	NO	n/a	n/a	YES	NO	0	NO	0	YES	YES
14	Finland	YES	YES	NO	YES	YES	YES	YES	NO		YES	NO	NO	NO	YES	YES	YES	NO	NO	NO	0	YES	8	YES	YES
15	France	YES	YES	YES	YES	NO	YES	YES	NO		YES	NO	NO	NO	YES	YES	YES	NO	YES	YES	36	YES	41	YES	YES
16	Germany	YES	YES	YES	YES	YES	YES	YES	YES		YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	4	YES	28	YES	YES
17	Greece	NO	YES	YES	YES	NO	NO	NO	NO		NO	NO	YES	NO	YES	YES	YES	NO	YES	NO	0	YES	2	YES	YES
18	Hungary	YES	YES	YES	NO	NO	NO	NO	NO		YES	YES	NO	NO	YES	YES	YES	NO	NO	NO	0	YES	4	YES	YES

No.	Country	Full time staff	Part time staff	Staff joined NCP	Staff left NCP	NGOs	Business	Trade unions	Advisory body	Advisory body with some oversight	Other ministries	Dedicated budget	Report to Government	Report to Parliament	Website	Rules of procedure	Online	Revised in 2017	Promotional plan	Organised/co-organised events	Number of events organised/co organised	Participated in events	Number of events participated in	June 2017 attended NCP meeting	Dec 2017 attended NCP meeting
19	Iceland	NO	YES	NO	NO	NO	NO	NO	NO		NO	NO	NO	NO	YES	NO	n/a	n/a	NO	NO	0	NO	0	YES	NO
20	Israel	NO	YES	YES	YES	YES	YES	YES	NO		YES	NO	NO	NO	YES	NO	n/a	n/a	NO	YES	4	YES	3	YES	YES
21	Italy	YES	YES	YES	NO	YES	YES	YES	YES		YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	7	YES	16	YES	YES
22	Japan	NO	YES	YES	YES	NO	YES	YES	YES		YES	NO	NO	NO	YES	YES	YES	NO	YES	NO	0	YES	2	YES	YES
23	Kazakhstan	YES	NO	NO	NO	YES	YES	YES	YES		YES	NO	YES	NO	YES	YES	NO	YES	YES	YES	2	NO	0	YES	YES
24	Korea	YES	YES	YES	YES	NO	NO	NO	NO		YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	6	YES	10	YES	YES
25	Latvia	NO	YES	YES	YES	NO	YES	YES	NO		YES	YES	YES	NO	YES	YES	NO	NO	YES	YES	3	YES	2	YES	YES
26	Lithuania	YES	NO	YES	YES	NO	YES	YES	YES		YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	3	YES	2	YES	YES
27	Luxembourg	NO	YES	NO	NO	NO	YES	YES	YES		YES	NO	YES	NO	YES	YES	YES	NO	NO	NO	3	YES	1	YES	YES
28	Mexico	YES	YES	YES	YES	NO	NO	NO	NO		NO	NO	YES	NO	YES	YES	YES	NO	YES	YES	2	YES	7	YES	YES
29	Morocco	NO	YES	NO	YES	NO	NO	NO	NO		YES	NO	NO	NO	YES	YES	YES	NO	YES	YES	6	YES	10	YES	YES
30	Netherlands	YES	NO	NO	NO	YES	YES	YES	YES		YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	2	YES	10	YES	YES
31	New Zealand	NO	YES	NO	NO	YES	YES	YES	YES		YES	NO	YES	NO	YES	YES	YES	NO	NO	NO	0	YES	1	NO	YES
32	Norway	YES	YES	YES	YES	NO	NO	NO	NO		YES	YES	YES	NO	YES	YES	YES	NO	YES	YES	8	YES	22	YES	YES
33	Peru	NO	YES	NO	NO	NO	NO	NO	NO		NO	YES	YES	NO	YES	YES	YES	NO	YES	YES	2	YES	1	YES	YES
34	Poland	NO	YES	YES	NO	NO	NO	NO	YES		NO	NO	NO	NO	YES	YES	YES	YES	YES	YES	11	YES	21	YES	YES
35	Portugal	NO	YES	YES	YES	NO	NO	NO	NO		NO	NO	YES	NO	YES	NO	n/a	n/a	YES	YES	2	NO	0	YES	YES
36	Romania	NO	YES	YES	YES	NO	YES	NO	NO		YES	NO	NO	NO	YES	NO	n/a	n/a	YES	YES	8	YES	2	NO	YES
37	Slovak Republic	NO	YES	YES	YES	YES	YES	YES	NO		YES	NO	NO	NO	YES	YES	YES	YES	NO	YES	1	NO	0	YES	YES
38	Slovenia	NO	YES	NO	NO	NO	NO	NO	NO		NO	NO	YES	NO	YES	NO	n/a	n/a	NO	NO	0	NO	0	NO	YES
39	Spain	YES	YES	YES	YES	YES	YES	YES	YES		YES	YES	NO	NO	YES	YES	YES	NO	YES	YES	1	NO	0	YES	YES

No.	Country	Full time staff	Part time staff	Staff joined NCP	Staff left NCP	NGOs	Business	Trade unions	Advisory body	Advisory body with some oversight	Other ministries	Dedicated budget	Report to Government	Report to Parliament	Website	Rules of procedure	Online	Revised in 2017	Promotional plan	Organised/co-organised events	Number of events organised/co organised	Participated in events	Number of events participated in	June 2017 attended NCP meeting	Dec 2017 attended NCP meeting
40	Sweden	NO	YES	NO	NO	NO	YES	YES	NO		YES	NO	YES	NO	YES	NO	n/a	n/a	NO	YES	1	YES	2	YES	YES
41	Switzerland	YES	YES	NO	NO	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	1	YES	8	YES	YES
42	Turkey	YES	NO	YES	NO	NO	NO	NO	NO		NO	YES	YES	NO	YES	YES	YES	NO	YES	YES	2	NO	0	YES	YES
43	Ukraine	NO	YES	YES	NO	NO	NO	NO	NO		YES	NO	NO	NO	NO	NO	n/a	n/a	YES	YES	6	NO	0	YES	NO
44	United Kingdom	YES	NO	YES	YES	YES	YES	YES	NO	YES	YES	YES	YES	NO	YES	YES	YES	NO	YES	YES	1	YES	2	YES	YES
45	United States	YES	YES	YES	YES	YES	YES	YES	YES		YES	NO	YES	NO	YES	YES	YES	NO	YES	YES	3	YES	13	YES	YES
No report:																									
	Ireland																								
	Jordan																								
	Tunisia																								

## *Annex 3. Italy, Switzerland and France NCP peer review reports: Key findings and recommendations*

### *Peer review of the National Contact Point of Italy*

#### *Institutional Arrangements*

	Findings	Recommendations
1.1	The NCP's position within the Ministry of Economic Development (MED) has been effective in raising the profile of its work and in developing relationships with Italian enterprises, relevant government agencies and other stakeholders. At the same time there is room to increase visibility of the work of the NCP within the Ministry.	The NCP should consider establishing direct communication channels with the office of the Minister of Economic Development in order to further increase its visibility.
1.2	Not all members of the NCP Committee are equally active. Some members of the NCP Committee do not have a strong awareness of the activities of the NCP.	The NCP should consider reforming the NCP Committee to ensure it is practical and effective. For example, the NCP Committee could reduce its membership to create a more efficient and engaged advisory body. A smaller yet still representative committee could play a stronger advisory role. The members of the current NCP Committee could continue to meet and exchange views on RBC biannually, or as appropriate.

#### *Promotional activities*

	Findings	Recommendations
2.1	Despite the strong promotional efforts of the NCP, there is a low awareness of the grievance mechanism function of the NCP amongst stakeholders.	The NCP should look for more opportunities to promote the function of the NCP as a grievance mechanism within its current promotional activities.

#### *Specific instances*

	Findings	Recommendations
3.1	The NCP Committee is a large body that formally meets twice a year, which could make it challenging to provide feedback on specific instances as they arise	The NCP should consider developing a more flexible and reactive mechanism to provide technical advice to the NCP Secretariat and ensure that specific instances are handled in an efficient manner, for example by setting up ad hoc subcommittee(s).

3.2	Certain aspects of the current rules of procedure of the NCP are based upon the NCP's discretion and the current indicative time frame of one month for initial assessment is not sufficient for this phase of the process.	The NCP should consider modifying the rules of procedure to ensure that the initial assessment phase is: 1) more predictable, by avoiding procedures which rely on the NCP's discretion 2) easier to implement, by extending the one month initial assessment period to three months as provided by the Procedural Guidance of the Guidelines, while retaining the possibility for submitters to reformulate their
3.3	In two specific instances where the NCP has been involved in a supporting role Italian parties noted they would have appreciated additional communication from the NCP.	The NCP could play a more active role when it acts as a supporting NCP by informing the parties of the procedure and relevant developments. This provides an opportunity to further promote the Guidelines.

## Peer review of the National Contact Point of Switzerland

### *Institutional Arrangements*

	Findings	Recommendations
1.1	The role of the Advisory Board is still being developed and the status of its advice with respect to the activities of the NCP is not fully clear.	The NCP could consider clarifying the role and authority of the Advisory Board, particularly in relation to the status of the advice it provides with respect to specific instances.
1.2	The contribution of ad hoc working groups to the specific instance process is unclear, not always visible to parties and adds a procedural burden to the process.	The NCP should consider whether ad hoc working groups should play a more active and visible role in specific instances or, alternatively, whether their role could be streamlined to make it less procedurally onerous.

### *Promotional activities*

	Findings	Recommendations
2.1	Civil society groups, particularly NGOs, seem less aware of the value of the specific instance mechanism and the activities of the NCP.	The NCP could focus more attention on awareness raising and relationship building with civil society. In this respect specific promotional events could be planned with civil society groups, particularly NGOs, to explain the potential benefits of the specific instance mechanism. The Advisory Board, which includes civil society representatives, could be instrumental in these outreach efforts.
2.2	The NCP promotes the Guidelines through participating in external events and strategic initiatives but does not organise many of its own promotional events.	The NCP could be more proactive with respect to promotion by organising its own promotional events and activities

*Specific instances*

	Findings	Recommendations
3.1	The NCP as well as users of the system have identified the length of specific instance proceedings as an ongoing challenge.	The NCP could consider streamlining processes, specifically with respect to information gathering during the phase between submission and initial assessment to reduce the time involved.
3.2	Several stakeholders noted that final statements could be made more substantive in order to demonstrate the full added value of the specific instance mechanism to civil society and other parties, to encourage greater use of the specific instance mechanism.	The NCP could consider developing final statements which include more meaningful recommendations and make efforts to encourage the parties to report agreed to actions relevant to better observing the Guidelines.

**Peer review of the National Contact Point of France***Institutional arrangements*

	Findings	Recommendations
1.1	Despite the strong representation provided by the tripartite structure, MEDEF is the only business representative in the NCP, whereas worker organisations are represented by six different trade unions and there are four government representatives from different ministries.	The NCP should ensure a balanced representation to promote diversity of perspectives within its structure.
1.2	Some NCP member organisations do not play an active role in achieving the NCP's mandate. In addition, one NCP member organisation does not advocate using the NCP to settle disputes within the framework of specific instances.	All NCP members should be encouraged to play an active and constructive role in successfully achieving the NCP's mandate.
1.3	The NCP seems to be lacking the necessary human and financial resources to sustain the high level of its activities and services over the long term, most of which are performed by the Secretariat.	In order to maintain, and even build on, the current high level of activities and services offered by the NCP, the human resources in the NCP's Secretariat should be increased, and the Secretariat should be allocated the financial resources required to ensure the proper functioning and achievement of its objectives.



*Promotional activities*

	Findings	Recommendations
2.1	Civil society organisations, and NGOs in particular, do not seem very aware of the potential benefits of using the NCP's procedure for specific instances. The 2014 revision of the Bylaw, followed by the adoption of the communication plan in 2015, provided for a specific annual meeting with NGOs. That said, this meeting did not take place in 2015 and 2016.	The NCP is encouraged to continue its work with NGOs with a view to establishing a regular dialogue so as to improve their confidence in the NCP's specific instance mechanism.
2.2	Despite the fact that the Secretariat is very active in promoting the Guidelines and the NCP to external stakeholders, they both still appear to be relatively unfamiliar to NCP member organisations and networks.	The less active NCP members should be more involved in promoting the Guidelines and the NCP within their respective organisations and networks.

*Specific instances*

	Findings	Recommendations
3.1	The Guidelines and Bylaw (Art. 27) provide that the NCP may propose and facilitate access to consensual and non-adversarial means, such as conciliation or mediation, to assist the parties in resolving their problems. Of the 14 specific instances for which good offices were offered, mediation was successfully undertaken on one occasion, and there was discussion and exchange between the parties on two occasions.	When a specific instance is accepted for further examination, it is recommended that the NCP facilitate discussion and exchange between the parties as early as possible.
3.2	Clarity around some aspects of the procedure for handling specific instances could be improved to promote predictability. In particular: <ul style="list-style-type: none"> <li>- If and under what circumstances the enterprise is consulted during the initial assessment phase;</li> <li>- The types of processes or support which are proposed under 'good offices';</li> <li>- What does mediation look like and under what circumstances it can be proposed to parties</li> </ul>	In order to strengthen the predictability of communication on the procedure for handling specific instances, the NCP is encouraged to specify the different phases in its procedure, including the planned exchanges with the enterprise and the types of processes or support that are envisioned in the offer of good offices and mediation. A diagram to explain the procedure in simple terms could be developed and posted on the NCP's website.

3.3	<p>There may be conflict of interest, or the appearance of conflict of interest, when a specific instance is submitted by an NCP member organisation or when a member finds themselves in a situation of conflict of interest. The NCP does not have formal policies on how to proceed in this situation.</p>	<p>The NCP should formalise the practice of having an NCP member withdraw from the procedure for handling a specific instance when conflict of interest, or the appearance of conflict of interest, arises. In particular, NCP members should declare any conflict of interest, or appearance of conflict of interest, which is likely to impact the handling of a specific instance.</p>
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## *Annex 4. Statements by institutional stakeholders*

### **Business and Industry Advisory Committee (BIAC)**

Business, as represented by Business at OECD (BIAC), has long recognized the importance of responsible business conduct in a globalized world. BIAC considers responsible business conduct, as promoted by the MNE Guidelines, to be an essential part of an open investment climate and in the best interest of business.

To that end, BIAC is working closely with its member organizations and multinational enterprises in order to raise the visibility of the MNE Guidelines by participating in events and raising awareness in regular online communications. In 2017, BIAC updated its brochure on the MNE Guidelines, which was issued to ensure that companies are aware of this key instrument and its concrete implications for business. The updated brochure was distributed to our wider membership, which includes the major national business and employers' organizations from OECD member countries and a number of non-member countries as well as over 40 international sector organizations.

On 28 June 2017, BIAC organized a high-level business seminar on the OECD MNE Guidelines and the National Contact Point procedure. The meeting brought together close to 50 RBC business experts from major multinational companies around the world. The seminar included a joint session with TUAC, OECD Watch and the OECD's Deputy Secretary General as well as a business only session where companies shared their specific experience with the NCP system. The meeting was organized in the light of the increasing importance of the NCP system and to provide a platform for business leaders to share their experience regarding the functioning of the NCP procedure in practice.

BIAC also highlighted the importance of the MNE Guidelines in other international discussions, including in the context of the B20, where BIAC was an active member of the B20 employment and education task force as well as the B20 working group on anti-corruption and responsible business conduct. The importance of the MNE Guidelines was duly underlined in the final B20 reports.

BIAC maintained a strong presence at the annual OECD Global Forum on Responsible Business Conduct in June 2017. BIAC also remained an active partner in the proactive agenda project to ensure that the concrete experience of different sectors, including finance, textiles, as well as food and agriculture, is duly reflected. BIAC members also participated in the Forum on Responsible Mineral Supply Chains.

Throughout the year, BIAC actively contributed to the discussions on the draft OECD general due diligence guidance underlining that the final outcome must be of practical use to business, recognising both business opportunities and challenges in this context. BIAC participated in consultations with the Working Party on Responsible Business Conduct, NCPs and RBC policy makers.

Our member organizations were also actively involved in the peer reviews of their respective NCPs.

### **Trade Union Advisory Committee (TUAC)**

In 2017, the Trade Union Advisory Committee to the OECD (TUAC), working with its affiliates and trade union partners, undertook a range of activities directed at achieving

the effective implementation of the OECD Guidelines through well-resourced and accountable National Contact Points (NCPs). Trade unions have also supported the OECD in its efforts to establish a common understanding of due diligence and to promote its implementation.

On country peer reviews and accession, TUAC participated in four out of five peer reviews held in 2017 (Austria, France, Germany, US), together with its affiliates, and held discussions with CUT-Chile on the Chilean peer review. TUAC undertook a mission to Costa Rica in the context of Costa Rica's OECD Accession. It met with representatives of the Costa Rican NCP and other Ministries, and held information sessions to raise trade union awareness of the role of the Costa Rican NCP. TUAC and the International Trade Union Confederation (ITUC) continued to highlight the ongoing repression of trade union rights in Kazakhstan, in the context of Kazakhstan's adherence to the OECD Guidelines.

TUAC provided training on the OECD Guidelines and due diligence to trade unionists around the world: Stockholm, meeting for Swedish trade unions, also attended by the Swedish NCP (Union to Union); Berlin, international trade union meeting on global supply chains (DGB) and a meeting on the German National Action Plan (FES); Brussels, meeting of the Pan European Regional Council (PERC); Yangon, regional meeting for trade unions from the textile sector in South East Asia (IndustriALL); Guatemala City, regional meeting for trade unionists from the textile sector in Latin America (IndustriALL); Santiago, training workshop on the Guidelines for Chilean trade unionists, also attended by the Chilean NCP (CUT-CHILE, FES, TUAC); Paris, international trade union workshop on due diligence, including a presentation from the OECD Secretariat on the Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector (TUAC-ITUC).

TUAC was also a panellist at promotional events organised by NCPs and the OECD: an information exchange workshop involving representatives of Works Councils of Austrian Multinational Enterprises, organised by the Austrian NCP; a seminar of the OECD MENA Programme on Boosting SMEs for Diversification, Inclusion and Resilience in the MENA region, co-hosted by the Italian NCP; and the OECD Session 'Lessons Learned from the OECD NCP Peer Review Process' held at the UN Forum on Business and Human Rights.

On due diligence, TUAC, the ITUC, UNI Global Union, the AFL-CIO and the Korean Metal Workers' Union were members of the Advisory Group for the cross-sectoral due diligence guidance; TUAC, UN Global Union, AFL-CIO AND UIL were on the Advisory Group for the Financial Sector; and TUAC, IndustriALL and UNI Global Union were part of the Advisory Group for Responsible Supply Chains in Garments and Footwear. IndustriALL was strongly represented at the launch of the Garment and Footwear Guidance, at the 2017 Roundtable, and is working with the OECD in the implementation phase with regard to building trade union capacity on due diligence.

Throughout 2017, TUAC provided support to trade unions around the world in submitting cases under the OECD Guidelines, maintained its database on trade unions cases,<sup>1</sup> and

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<sup>1</sup> <http://www.tuacoecdmneguidelines.org/Home.asp>

continued to disseminate its Trade Union Guide to the Guidelines, which is currently available in 14 languages.<sup>2</sup>

## OECD Watch

As a network of over 100 civil society organizations from around the world, OECD Watch continues to monitor the effectiveness of National Contact Points (NCPs) in promoting corporate adherence to the OECD Guidelines for Multinational Enterprises (the Guidelines) and access to remedy for victims of corporate misconduct.

2017 marked the launch of OECD Watch's 'Remedy is the Reason' campaign, a coordinated international effort to ensure all governments that adhere to the OECD Guidelines honour their binding commitment to establish effective NCPs. The campaign aims to improve the effectiveness of NCPs so that the NCP system can provide effective access to remedy for victims of business related human rights abuses.

As part of the November 2017 campaign launch, OECD Watch made history by filing the first ever 'substantiated submission' to the OECD's Investment Committee regarding the failure of an NCP, in this case the Australian NCP, to fulfil its obligations under the OECD Guidelines' Procedural Guidance. OECD Watch challenged the Australian NCP's poor handling of a case filed against G4S for human rights violations that occurred in an Australian detention centre located in Papua New Guinea.

OECD Watch was also very active in NCP peer review processes in 2017. OECD Watch participated in all four 2017 NCP peer reviews by providing concrete recommendations aimed at improving civil society confidence in the NCP and improving the various NCPs' performance in providing access to remedy and actually resolving disputes related to companies' failure to observe the OECD Guidelines.

In addition, OECD Watch teamed up with the International Corporate Accountability Roundtable (ICAR) to research and evaluate the overall NCP peer review process in an effort to ensure that the NCP peer reviews lead to advancing and strengthening the NCP system. Based on research on the peer reviews of the Belgium, Danish, Italian and Swiss NCPs, we published an interim report in November 2017 to inform discussions on how to maximize the value of the peer review process for all stakeholders.

OECD Watch continues to support communities and civil society groups to use the OECD Guidelines by filing specific instance complaints with NCPs through training workshops. In 2017, OECD Watch conducted such capacity building workshops for civil society organisations in Poland, the Czech Republic, Kenya and Tanzania. OECD Watch also provided technical advice to (potential) complainants. For example, with OECD Watch's assistance, 168 former employees of Heineken in the DRC engaged in a successful process of mediation facilitated by the Dutch NCP. This complaint marked the first-time monetary compensation was provided to remediate past harms as a direct result of an NCP procedure. OECD Watch provided similar support to complainants in over a dozen other specific instance complaints in 2017.

Finally, OECD Watch continued to coordinate civil society input and submissions related to the OECD's Proactive Agenda and participated in the Advisory Groups formed around

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<sup>2</sup> Arabic, Bengali, Chinese, English, French, German, Hindi, Italian, Japanese, Korean, Portuguese, Russian, Spanish, Swedish.

various proactive agenda projects. OECD Watch's efforts in 2017 focused on developing due diligence guidance for institutional investors and commercial banks, and the general Due Diligence Guidance for Responsible Business Conduct.

## Annex 5.

### Update on Regional Projects on RBC

#### Asia

Under a project on responsible supply chains in Asia developed by the European Union together with the International Labour Organization (ILO) and the OECD, the OECD - in close co-operation with country authorities and under the auspices of the WPRBC, - will be working with five non-Member countries, China, Thailand, Viet Nam, Philippines, and Myanmar, as well as with Japan, to promote responsible supply chains. This project will focus on risks related to labour rights, human rights, and environment in supply chains, and will include research, capacity building, outreach and events, and policy support. Additionally, it will allow for sharing of experiences on the ground as related to the Guidelines, particularly considering that Japan, an OECD Member, has extensive ties and business networks in most countries concerned. Negotiation of the project has been concluded in December 2017 and implementation of the project has started in 2018.<sup>1</sup>

#### Latin America and the Caribbean (LAC)

A new work stream on RBC in LAC will start in 2018, developed by the EU and to be implemented in cooperation with the ILO.<sup>2</sup> The focus of the overall project will be primarily on providing support for the design and implementation of National Action Plans on RBC/Business and Human Rights, and on capacity building for companies to implement due diligence. The project, to be implemented over a period of 4 years, covers the following countries: Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Panama, and Peru, although further countries may be added at a later stage.<sup>3</sup> The project will support, *inter alia*, work by the OECD on capacity building for enabling policy frameworks for RBC; strengthening of the National Contact Points in the LAC region; dissemination of, and support for the implementation of OECD due diligence guidance in various sectors, and experience sharing among companies in the implementation of RBC.

<sup>1</sup> Responsible Supply Chains in Asia - Factsheet of the Action, see [http://trade.ec.europa.eu/doclib/docs/2018/march/tradoc\\_156624.pdf](http://trade.ec.europa.eu/doclib/docs/2018/march/tradoc_156624.pdf)

<sup>2</sup> The UN Working Group on Business and Human Rights and the UN Office of the High Commissioner for Human Rights will also be involved in the implementation of the project.

<sup>3</sup> Argentina is expected to be added before the start of the project.

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