Recommendation of the Council on the OECD Due Diligence Guidance for Responsible Business Conduct

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Date(s)

Adopted on 30/05/2018

Background Information

The Recommendation on the OECD Due Diligence Guidance for Responsible Business Conduct was adopted by the Council at its meeting at Ministerial level on 30 May 2018. The Recommendation calls on Adherents to promote the use and implementation of the Guidance and to support, as a result, a common, international understanding that creates certainty and a level playing field for business regarding their responsibilities to conduct due diligence for responsible business conduct. In addition, the Recommendation provides an avenue for promoting wide dissemination and robust implementation of the Guidance. The Guidance provides practical support to enterprises by explaining the due diligence recommendations in the OECD Guidelines for Multinational Enterprises (MNE Guidelines) in plain language. The Recommendation was abrogated on 30 May 2018.

The OECD has developed sector specific due diligence guidance and good practice documents for the minerals, agriculture and garment and footwear supply chains, as well as for the extractive and financial sectors. These were developed in close cooperation with governments, business, trade unions and civil society. Approaches articulated under the sector guidance align with the approach of this Guidance, but provide more detailed recommendations tailored to specific contexts or sectors. This Guidance is not intended to replace or otherwise modify, but can supplement, existing sector-specific or thematic OECD guidance on RBC. Where questions arise, enterprises should use the guidance that is most specific and relevant to their operations, supply chain or sector

Most of these Guidances have also been embodied in OECD Recommendations:

- Recommendation of the Council on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas;
- Recommendation of the Council on the Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector;
- Recommendation of the Council on the OECD-FAO Guidance for Responsible Agricultural Supply Chains;
- Recommendation of the Council on Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector.

For more information on OECD work on Responsible Business Conduct, please consult: http://mneguidelines.oecd.org/.

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THE COUNCIL,

HAVING REGARD to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

HAVING REGARD to the Declaration on International Investment and Multinational Enterprises [C(76)99/FINAL], the Decision of the Council on the OECD Guidelines for Multinational Enterprises [C(2000)96/FINAL] (hereafter the "Decision on the Guidelines"), the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the Recommendation of the Council on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas [C/MIN(2011)12/FINAL], the Recommendation of the Council on the Policy Framework for Investment [C(2015)56/REV1], the Recommendation of the Council on the OECD-FAO Guidance for Responsible Agricultural Supply Chains [C(2016)83], the Recommendation of the Council on the Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector [C(2016)100] and the Recommendation of the Council on the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector [C(2017)63];

CONSIDERING that OECD Ministers encouraged the OECD to develop a set of general due diligence guidelines that can be applied to any sector [C/MIN(2017)9/FINAL];

RECALLING that the common aim of governments recommending the observance of the Guidelines for Multinational Enterprises (hereafter the "Guidelines") is to promote responsible business conduct;

RECALLING FURTHER that the Decision on the Guidelines provides that the Investment Committee shall, in co-operation with National Contact Points, pursue a proactive agenda in collaboration with stakeholders to promote the effective observance by enterprises of the principles and standards contained in the Guidelines with respect to particular products, regions, sectors or industries;

CONSIDERING the efforts of the international community to promote responsible business conduct globally in order to strengthen and harmonise the implementation of standards for human rights, labour, the environment, and anti-corruption and to support a level playing field for business that takes into account their impacts on society and the environment;

RECOGNISING that responsible business conduct across all sectors of the economy is critical to sustainable development;

NOTING that the Guidelines recommend that enterprises carry out risk-based due diligence to identify, prevent and mitigate actual and potential adverse impacts related to disclosure, human rights, employment and industrial relations, the environment, bribery and corruption, and consumer interests in their own operations, supply chains and other business relationships;

RECOGNISING that governments, enterprises, trade unions, civil society organisations and international organisations can draw on their respective competences and roles to promote and support responsible business conduct, including in supply chains;

HAVING REGARD to the OECD Due Diligence Guidance for Responsible Business Conduct [C(2018)42/ADD1] (hereafter "the Guidance"), that may be modified as appropriate by the Investment Committee, in particular as due diligence practices evolve and become more effective in avoiding and addressing adverse impacts on society and the environment;

HAVING REGARD to the United Nations' Guiding Principles on Business and Human Rights and the International Labour Organization's Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy which contain due diligence recommendations with which this Guidance seeks to align;

RECOGNISING the valuable collaboration between the OECD and relevant intergovernmental organisations in the development and future implementation of the Guidance;

NOTING that due diligence is ongoing and responsive, involves multiple processes and objectives, should aim to prevent adverse impacts on society and the environment in the first instance, and should be risk-based, appropriate to an enterprise's circumstances, adapted to deal with the limitations of working with business relationships, and informed by meaningful engagement with stakeholders;

On the proposal of the Investment Committee:

I. **RECOMMENDS** that Members and non-Members adhering to this Recommendation (hereafter the "Adherents") and, where relevant, their National Contact Points to the Guidelines (hereafter the "NCPs"), actively promote the use of the Guidance by enterprises operating in or from their territories with the aim of ensuring that they observe internationally agreed standards of responsible business in order to prevent the adverse impacts of their activities and contribute to sustainable development;

II. **RECOMMENDS**, in particular, that Adherents take measures to actively support and monitor the adoption of the due diligence framework set out in the Guidance according to which the enterprises operating in or from their territories should:

1. embed responsible business conduct into their policies and management systems;
2. identify and assess actual and potential adverse impacts associated with their operations, products or services;
3. cease, prevent and mitigate adverse impacts;
4. track implementation and results;
5. communicate how impacts are addressed; and
6. provide for or cooperate in remediation when appropriate;

III. **RECOMMENDS** that Adherents and where relevant their NCPs, with the support of the OECD Secretariat, ensure the widest possible dissemination of the Guidance and its active use by enterprises, as well as promote the use of the Guidance as a resource for stakeholders such as industry associations, trade unions, civil society organisations, multi-stakeholder initiatives, and sector-initiatives, and regularly report to the Investment Committee on any monitoring, dissemination and implementation activities;

IV. **INVITES** Adherents and the Secretary-General to disseminate this Recommendation;

V. **INVITES** non-Adherents to take due account of and adhere to the present Recommendation;

VI. **INSTRUCTS** the Investment Committee to monitor the implementation of the Recommendation and to report to Council no later than five years following its adoption and as appropriate thereafter.

Adherents*

OECD Members		Non-Members
Australia	United States	Argentina
Austria		Brazil
Belgium		Colombia
Canada		Costa Rica
Chile		Egypt
Czech Republic		Jordan
Denmark		Kazakhstan
Estonia		Morocco
Finland		Peru
France		Romania
Germany		Tunisia
Greece		Ukraine
Hungary		
Iceland		
Ireland		
Israel		
Italy		
Japan		
Korea		
Latvia		
Lithuania		
Luxembourg		
Mexico		
Netherlands		
New Zealand		
Norway		
Poland		
Portugal		
Slovak Republic		
Slovenia		
Spain		
Sweden		
Switzerland		
Turkey		
United Kingdom		

*Additional information and statements are available in the Compendium of OECD Legal Instruments: http://legalinstruments.oecd.org

About the OECD

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

The OECD Member countries are: Australia, Austria, Belgium, Canada, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. The European Union takes part in the work of the OECD.

OECD Legal Instruments

Since the creation of the OECD in 1961, around 450 substantive legal instruments have been developed within its framework. These include OECD Acts (i.e. the Decisions and Recommendations adopted by the OECD Council in accordance with the OECD Convention) and other legal instruments developed within the OECD framework (e.g. Declarations, international agreements).

All substantive OECD legal instruments, whether in force or abrogated, are listed in the online Compendium of OECD Legal Instruments. They are presented in five categories:

- **Decisions**: OECD legal instruments which are legally binding on all Members except those which abstain at the time of adoption. While they are not international treaties, they entail the same kind of legal obligations. Adherents are obliged to implement Decisions and must take the measures necessary for such implementation.

- **Recommendations**: OECD legal instruments which are not legally binding but practice accords them great moral force as representing the political will of Adherents. There is an expectation that Adherents will do their utmost to fully implement a Recommendation. Thus, Members which do not intend to do so usually abstain when a Recommendation is adopted, although this is not required in legal terms.

- **Declarations**: OECD legal instruments which are prepared within the Organisation, generally within a subsidiary body. They usually set general principles or long-term goals, have a solemn character and are usually adopted at Ministerial meetings of the Council or of committees of the Organisation.

- **International Agreements**: OECD legal instruments negotiated and concluded within the framework of the Organisation. They are legally binding on the Parties.

- **Arrangement, Understanding and Others**: several ad hoc substantive legal instruments have been developed within the OECD framework over time, such as the Arrangement on Officially Supported Export Credits, the International Understanding on Maritime Transport Principles and the Development Assistance Committee (DAC) Recommendations.