

General comments

Please include any overall comments you wish to make on the consultation draft (max. 2000 characters)

The OECD Guidelines for Multinational Enterprises (MNE Guidelines) provide important guidance to companies by promoting responsible corporate behaviour. As it is increasingly referred to in regional and national legislation, its fundamental role as an international standard is recognized confirming the importance of the ongoing revision.

As mandatory due diligence legislations are adopted in various countries and regions, companies are required to comply with multifarious due diligence requirements. Firstly, countries adhering to the MNE Guidelines should, besides taking actions to further their effectiveness, also make sure that by integrating their efforts, an equal level playing field is created for businesses. Secondly, a harmonized legislative approach will avoid effort duplication with a more effective investment of company resources when implementing responsible business conduct as a result. To reflect this adequately, we propose to amend the language in the Preface as follows:

- 1) §2: "... take **integrated** actions...
- 2) §4: "...including by creating an enabling policy environment **harmonizing legislative efforts** to drive, support, and promote responsible business practices, including..." AND "... international standards **and regional and national legislations** on responsible business conduct..." AND
"The design of specific policies, legislation and other measures on responsible business conduct will be shaped by individual countries' political, administrative, and legal contexts **while always reflecting a harmonized legislative approach**".
- 3) §8: "... have presented new strategic **and legislative** changes..."
- 4) §13: "...to co-operating and **harmonizing efforts** with each other..."

Chapter 1: Concepts and Principles

Please include any comments you wish to make on this specific chapter of the consultation draft (max. 2000 characters)

We believe it is crucial to communicate clearly on the distinction of roles between states and companies in alignment with the UN Guiding Principles on Business and Human Rights (UNGPs). The State has a duty to protect human rights and companies are responsible for respecting them. Where the State cannot meet its obligations, companies still need to aim for international standards as far as possible, as indicated by the UNGP23. Furthermore, the OECD's RBC Guidance clearly states that "the recommendations in the RBC Guidelines on due diligence are not intended to shift responsibility from governments to companies". Therefore, it is important to emphasize the expectation for companies to voluntarily observe the MNE Guidelines and respect human rights to the extent reasonably feasible regardless of state's failure to protect human rights. A general disclaimer should be added to underline the voluntary and aspirational nature of the Guidelines, which are increasingly being used as a basis for legislation. This should also be reflected in the tone of the document.

To reflect this adequately, we propose not to delete 'seek ways to' from §2 to foster coherence with the UNGPs.

Chapter II: General Policies

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There is a need to emphasize that encouraging business partners to apply the principles of responsible business conduct does not mean that business partners themselves carry the sole responsibility to respect human rights. For example, customers are increasingly requesting assurances that all tiers of the supply chain are free from forced labour and hold business partners accountable for any activities in the lower supply chain tiers. The traditional structure of shifting due diligence responsibility to avoid risk does not lead to stopping negative impacts, nor does this result in continuous improvement which is a core principle of responsible business conduct. While it is necessary to encourage business partners to perform responsible business conduct, it should be clarified that this does not result in shifting all responsibility for ensuring respect for human rights to the business partner. Therefore, the MNE Guidelines should emphasize that the responsibility to respect human rights is a shared business responsibility encouraging an environment of trust and cooperation in which companies are enabled to continuously improve.

To reflect this adequately, we propose the following text amendment in §A15: "...compatible with the Guidelines. ***This approach should not result in an unreasonable shift of due diligence responsibility on these entities but rather foster a collaborative environment in which businesses are enabled to continuously improve.***"

Given the increasing adoption of due diligence legislation at the regional and local level resulting in a tsunami of new requirements for companies, we welcome the explicit acceptance of the prioritization strategy in the fulfilment of companies' due diligence obligations, in line with the wider risk-based approach (§B18-19) as it would not be realistic to take actions on all identified risks at once.

Chapter III: Disclosure

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While recognizing public disclosure is important source of material information for investors to assess their investees risks and opportunities, we believe enterprises should remain encouraged to communicate their responsible business conduct information based on their material issues. To reflect this point, we propose the following amendments:

§ 34: Disclosure recommendations should not place unreasonable administrative or cost burdens on enterprises. *Enterprises should remain encouraged to communicate their responsible business conduct information based on their material issues.*

Chapter IV: Human Rights

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Given that multiple legislative efforts are requiring businesses to set-up grievance and remediation mechanisms, we see the increasing adoption of individual company processes that are being rolled out in global supply chains. Given that companies often do not operate in isolation of one other, the accessibility for impacted stakeholders to these mechanisms is consistently being undermined as they

are confused by the diverse landscape of initiatives. Therefore, we believe that more emphasis should be put on the need for integrated grievance mechanism approaches and collaborative remediation processes.

To reflect this adequately, we propose the following text amendment in §46: "...should establish or participate in **collaborative** processes to enable **effective** remediation."

Chapter V: Employment and Industrial Relations

Please include any comments you wish to make on this specific chapter of the consultation draft (max. 2000 characters)

No comments

Chapter VI: Environment

Please include any comments you wish to make on this specific chapter of the consultation draft (max. 2000 characters)

No comments

Chapter VII: Combatting Bribery, Bribe Solicitation and Extortion

Please include any comments you wish to make on this specific chapter of the consultation draft (max. 2000 characters)

No comments

Chapter VIII: Consumer Interests

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