

**OECD Guidelines
for Multinational Enterprises
and the United States
National Contact Point**



What Are the Guidelines?

The Organization for Economic Cooperation and Development (OECD) *Guidelines for Multinational Enterprises* (“the Guidelines”) constitute a set of voluntary recommendations to multinational enterprises (MNEs) on general concepts, principles and policies that OECD members agree constitute responsible business conduct. In addition, the Guidelines contain separate chapters on the following areas of corporate conduct:

- information disclosure
- employment and industrial relations
- environment
- combating bribery
- consumer interests
- science and technology
- competition
- taxation

How Do the Guidelines Fit Into the Overall OECD Mission?

The Guidelines constitute one of the four substantive components of the OECD Declaration on International Investment and Multinational Enterprises that OECD member governments promote as a whole.

The other three components are:

1. **National Treatment:** This component seeks to ensure that foreign companies be treated no less favorably than domestic enterprises in comparable situations.
2. **International Investment Incentives and Disincentives:** This component seeks to ensure that governments that adhere to the Declaration operate in as transparent a manner as possible with respect to investment regulations and procurement practices.
3. **Conflicting Requirements:** This component reflects commitments among governments that adhere to the Declaration to avoid or minimize the imposition of conflicting requirements on multinational enterprises.

Why Are the Guidelines Important?

The Guidelines are intended to reinforce the high standards already maintained by good corporate citizens and to strengthen them with comprehensive and uniform recommendations relevant to the global activities of all firms doing business in or from countries adhering to the Guidelines.

- The Guidelines are the only multilaterally endorsed comprehensive set of corporate social responsibility recommendations that governments are committed to promoting.
- OECD member governments support the Guidelines and are committed to work with business, labor, and other elements of civil society to promote their observance.
- The Guidelines are not intended to override local laws or to expose MNEs to conflicting expectations. A fundamental principle of the Guidelines is that MNEs comply with the laws of the countries in which they operate.
- The Guidelines have been shaped with the active participation of the business community, labor federations, and other non-governmental organizations.
- The OECD Investment Committee has oversight responsibility for the Guidelines, which are part of a broader OECD investment instrument – the *Declaration on International Investment and Multinational Enterprises*.
- The Guidelines, which were first established in 1976, are reviewed periodically. The current Guidelines were adopted in 2000. A new review is underway, and is scheduled to be completed in 2011.

What is the National Contact Point?

OECD members and other governments that adhere to the OECD Declaration on International Investment and Multinational Enterprises, which includes the Guidelines, are obligated to establish a National Contact Point (NCP).

The NCP's responsibilities are:

- to promote the Guidelines among the business, labor and non-governmental organization sectors that operate within and from the country's territories, as well as among the interested public;
- to serve as a clearing house for inquiries and comments about the Guidelines; and
- to discuss all matters covered by the Guidelines with concerned parties in order to contribute to the solution of any issues that may arise.

The Guidelines provide for the NCPs to cooperate with each other where appropriate, to meet annually to share experiences, and to report annually to the OECD Investment Committee on their activities.

They also provide guidance to NCPs on how to resolve matters of concern that are raised by interested parties with respect to activities of MNEs operating in or from a country adhering to the Guidelines with respect to recommendations contained in the Guidelines.

In the United States, the office of the NCP is located in the **Bureau of Economic, Energy, and Business Affairs** of the U.S. Department of State. The U.S. NCP is assisted by the State Department Bureau of Democracy, Human Rights, and Labor, as well as by other U.S. government agencies, including the Departments of Labor, Commerce, Justice, Treasury, the Environmental Protection Agency, and the U.S. Trade Representative.

How to Raise Questions Regarding Compliance with the Guidelines

One of the functions of the NCP is to provide a forum for discussion to assist MNE's and other interested parties, such as employee organizations and nongovernmental organizations, in their efforts to resolve questions regarding the consistency of an MNE's activities with the Guidelines. A request for such assistance is referred to as a "*specific instance*."

In appropriate circumstances the NCP will offer its good offices to assist the interested parties in efforts to resolve the issues raised in the specific instance.

The OECD has established procedural guidance to assist NCPs in meeting their responsibilities. This guidance is set out in the *Decision of the Council on the OECD Guidelines for Multinational Enterprises*.

Normally, requests for assistance in specific instances should be raised with the NCP of the country in which the concern arose (the 'host' country). If the host country does not adhere to the Guidelines and/or does not have an NCP, the issue should be raised with the NCP in the country where the enterprise is headquartered (the 'home' country). NCPs in home countries are expected to consult with the NCPs in the host countries with respect to their activities.

How to Request Assistance from the NCP:

In order to seek the assistance of the NCP, the interested party should submit a written request that includes the following information:

1. The requestor's name, interest in the matter, and contact details
2. The name (and if possible contact information) of the multinational enterprise (MNE)
3. A description of the activity about which the requestor has a concern, including any supporting or documentary evidence
4. The location and time when the activity of concern occurred
5. The chapter(s) and specific part(s) of the Guidelines that are at issue
6. Whether the requestor or affected parties have already raised the matter with the MNE, either directly or in any other venue, and the status of those efforts
7. A description or explanation of the resolution sought
8. Whether the information supplied by the requestor may be disclosed to the MNE

In seeking to resolve specific instances in a transparent manner, the NCP normally shares information and correspondence received from the requestor and the MNE with the other party or parties, unless the party that has provided the information requests that it be held in confidence. All parties are expected to respect the confidentiality of the proceedings.

What Happens Once a Request is Received by the NCP?

- A response is sent to the requestor to confirm receipt of the inquiry.
- The MNE whose activities are in question is contacted, made aware of the inquiry, provided a copy of the request, and offered an opportunity to respond.
- Other relevant NCPs (e.g. in the country where the activity took place or where the multinational enterprise is headquartered) are consulted.
- Based on the information provided by both parties, along with information obtained by the NCP through other sources including other NCPs, other U.S. Government agencies, and any other source that may have relevant information or the means to assist the parties, an initial assessment of the request is made to determine whether the NCP should further examine the issues raised and whether it would be appropriate for the NCP to offer its good offices to assist the parties involved to resolve those issues.
- In making its initial assessment, the NCP must determine whether the issue is *bona fide* and relevant to the implementation of the Guidelines. In this context, consistent with the Commentaries on Implementation of the Guidelines, the NCP takes into account:
 - ✓ The identity of the party making the request, and its interest in the matter
 - ✓ Whether the issue is material and substantiated
 - ✓ The relevance of applicable law and procedures
 - ✓ How similar issues have been, or are being, treated in other domestic or international proceedings
 - ✓ Whether the consideration of the specific issue would contribute to the purposes and effectiveness of the Guidelines
- Once it completes its initial assessment, the NCP will forward this in writing to all parties involved. The NCP will attempt to complete this initial assessment within three months.
- If the NCP decides that the specific instance merits further consideration, and that it would be appropriate to offer its good offices to assist the parties in their efforts to resolve the issues, it will consult with the parties on how to proceed. This may, with the agreement of the parties involved, include facilitating their access to consensual and non-adversarial means, such as conciliation or mediation.
- If the parties do not agree to the offer of good offices by the NCP, or they do agree but are unable through that process to reach a resolution of the issues, the NCP will issue a statement and make recommendations, as appropriate, concerning the implementation of the Guidelines.

- At the end of the process, after consultation with the parties, the NCP will, in accordance with the procedural guidance, make the results publicly available on its web site, unless preserving confidentiality would be in the best interests of effective implementation of the Guidelines, and provide them to the OECD for inclusion in the Report on the Annual Meeting of NCPs.

How to Contact the U.S. NCP:

General inquiries, comments and views concerning the Guidelines are welcome from all interested parties. Anyone wishing to raise a concern about the activities of a particular U.S. corporation in relation to the Guidelines should contact the U.S. NCP at:

U.S. National Contact Point
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U.S. Department of State,
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