



## SECOND ITEM ON THE AGENDA

**Developments in other organizations****Contents**

	<i>Page</i>
European Commission .....	1
Initiative for Ethical Production and Consumption in Europe (IEPCE) .....	1
Social partners' agreement on fundamental principles and rights in the commerce sector.....	1
The European Commission's contribution to the review of the OECD Guidelines.....	2
Communication on Fair Trade .....	2
Food and Agriculture Organization of the United Nations (FAO).....	3
Prior Informed Consent (PIC).....	3
Organisation for Economic Co-operation and Development (OECD).....	4
Review of the OECD <i>Guidelines on Multinational Enterprises</i> .....	4
Consultations with civil society and non-members .....	5
Comparison with earlier reviews of the Guidelines: Conduct of the review.....	6
Conference on the Role of International Investment in Development, Corporate Responsibilities and the OECD Guidelines for Multinational Enterprises .....	7
World Bank .....	8
Global Corporate Governance Forum.....	8
World Bank Insolvency Initiative .....	8
Other organizations .....	9



1. This paper, submitted in accordance with an earlier request made by the Committee on Multinational Enterprises, briefly summarizes developments in, and the activities of, various international and regional intergovernmental organizations which have codes, guidelines or some form of instrument relating directly or indirectly to multinational enterprises and their activities. It updates the information submitted to the Subcommittee at the Governing Body's 274th Session (March 1999).<sup>1</sup> The Office gratefully acknowledges the cooperation of those organizations that responded to its request for information.

## **European Commission**

### **Initiative for Ethical Production and Consumption in Europe (IEPCE)**

2. The Initiative for Ethical Production and Consumption in Europe (IEPCE) was launched on 16 December 1999. Its first objective is to structure and exchange existing information on initiatives related to ethical production and consumption such as codes of conduct, social labels, etc. The preparation and launching of this initiative has been co-financed by the European Commission. As such the Commission is not a member of the IEPCE, but simply an observer. IEPCE now exists as an independent association between companies, employers' associations, trade unions, NGOs, experts and public authorities.
3. It will be possible for IEPCE – as well as for other organizations active in the field of industrial relations and fundamental social rights – to request financial assistance from the European Commission for specific projects related to this objective. Where a project is in line with the Commission's opinion on the issue, such assistance could be granted. For the European Commission, there is still a (growing) need related to both the availability of information and the exchange of this information and of good practices. These two needs should receive a structured reply at the European level on the condition that projects aimed at giving such an answer concern voluntary initiatives in the field of ethical production and consumption. This principle remains one of the major concerns of the Commission.

### **Social partners' agreement on fundamental principles and rights in the commerce sector**

4. As far as European social dialogue is concerned, it is interesting to note that the European social partners in commerce – EuroCommerce (employers) and Euro-FIET (unions) – adopted last year an agreement on fundamental principles and rights at work. The aim is to improve social standards worldwide.
5. In signing this agreement, the social partners are seeking to make their contribution to the innovative measures designed to promote fundamental rights at the workplace at the international level. They recognize that, although large companies are able to apply more

<sup>1</sup> GB.274/MNE/2. Earlier papers were submitted in November 1982, 1983, 1984, 1985, 1986, 1987, 1989, 1990, 1991, 1992, 1993, 1994 and 1997 (GB.221/MNE/3/3, GB.224/MNE/3/3, GB.228/MNE/3/1, GB.231/MNE/3/3, GB.234/MNE/3/6, GB.238/MNE/5/5, GB.244/MNE/3/5, GB.248/MNE/3/4, GB.251/MNE/3/2, GB.254/MNE/3/5, GB.258/MNE/3/4, GB.261/MNE/3/5 and GB.268/MNE/2). Attention is also drawn to the information contained in the paper entitled "ILO activities on multinational enterprises: Coordination with other organizations" (GB.234/MNE/4/3), submitted to the Committee in November 1986.

direct measures than SMEs, ultimately the only way to avoid commerce in manufactured goods that violates fundamental labour standards is by ensuring that the same global objectives apply to all companies.

6. The text includes the principles laid down in the ILO Declaration on Fundamental Principles and Rights at Work. EuroCommerce and Euro-FIET recommend their members to actively encourage companies and workers in the European commerce sector to respect the fundamental rights laid down in ILO Conventions.<sup>2</sup> They also want their members to draw up their own codes of conduct for trade relations with third countries. Specifically, this means eliminating all forms of forced or compulsory labour, the effective abolition of all forms of child labour, the elimination of discrimination at work, freedom of association and recognition of the right to collective agreements.

### **The European Commission's contribution to the review of the OECD Guidelines**

7. The Commission has been very active over the last year in the review of the OECD *Guidelines for Multinational Enterprises*. The Commission considers that the Guidelines, constituting a unique instrument on corporate responsibility, could be part of a global answer to the widely perceived need to harness globalization and act as a vehicle to promote new ideas on how to address labour and social issues in international rule-making.
8. Moreover, when the European Parliament called on the Commission in 1998 to establish EU guidelines for European multinational enterprises operating in third countries, the Commission made the point that the OECD Guidelines should serve the objectives expressed by Parliament. The European Union will be increasingly accountable to its constituencies on behavioural standards for its MNEs, and the Community will be better equipped in that respect by being more involved in the review and in the implementation of the OECD Guidelines.

### **Communication on Fair Trade**

9. On 29 November 1999 the Commission adopted a *Communication on Fair Trade*. The Communication describes the concept of fair trade and gives a brief outline of the current situation with a view to assisting discussion on courses of action the EU could adopt to assist the development of fair trade within the EU, and thus contribute to the key aims of EU development policy as set out in Article 177 of the EC Treaty. The Communication is a first step that can be used as a basis for the Commission to develop its position on fair trade and on how this will integrate with existing Community policies.
10. The concept of "fair trade", as set out in the Communication, is distinct from, though related to, the notion of "ethical trade". The objective of fair trade is to ensure that producers receive a price that reflects an adequate return on their input of skill, labour and resources, and a share of the total profit commensurate with their input. The term "ethical trade" is more usually used in relation to activities (e.g. codes of conduct) by multinational companies operating in developing countries which demonstrate their ethical and social responsibilities to employees and other associates.

<sup>2</sup> ILO Conventions Nos. 29 and 105 on forced labour, No. 138 on child labour, No. 111 on discrimination in the field of employment, Nos. 87 and 98 on freedom of association and the right to organize and bargain collectively.

11. It is important to note that the principle of voluntary initiatives is stressed in this Communication on Fair Trade. Thus, fair trade initiatives originate in private NGOs. They are incentive-based in the sense that they rely on consumer choice and do not manage trade or otherwise erect barriers to market access in different countries.
12. The Directorate-General for Employment and Social Affairs published a special issue of the *Newsletter on Social Dialogue* (May 1999) on the issue of codes of conduct.<sup>3</sup>

## Food and Agriculture Organization of the United Nations (FAO)

### Prior Informed Consent (PIC)

13. As reported previously,<sup>4</sup> the *International Code of Conduct on the Distribution and Use of Pesticides* was amended in 1989 to include the principle of Prior Informed Consent, a voluntary procedure coordinated by FAO and UNEP. As at December 1999, 163 countries had nominated designated national authorities to serve as official contact points for PIC; two pesticides were added in 1999, bringing the total to 24 pesticides and five chemicals which are subject to the PIC procedure.
14. It may be recalled that, in 1992, the United Nations Conference on Environment and Development (UNCED) in Chapter 19 of *Agenda 21* made recommendations for the conclusion of a legally binding instrument on PIC. In paragraph 19.39d UNCED recommended that governments and relevant international organizations, with the cooperation of industry, “should implement the PIC procedure as soon as possible and, in the light of experience gained, invite relevant international organizations such as UNEP, GATT, FAO, WHO and others in their respective area of competence to consider working expeditiously towards the conclusion of legally binding instruments”.
15. In line with the guidance provided by their respective governing bodies, UNEP and FAO convened five meetings of the Intergovernmental Negotiating Committee concerning prior informed consent (INC/PIC) between March 1996 and April 1998. Governments, intergovernmental organizations and non-governmental organizations attended the negotiating sessions. The negotiations were chiefly funded through voluntary contributions by a number of negotiating parties.
16. The negotiations were concluded at the Fifth Session of the INC/PIC in March 1998, and a final Convention text was drafted. This text was subsequently adopted as the “Rotterdam Convention on the prior informed consent procedure for certain hazardous chemicals and pesticides in international trade” by a Conference of Plenipotentiaries on 10 September 1998 in Rotterdam, Netherlands. The Convention was signed by 62 parties, and 80 parties signed the Final Act.
17. The Convention will enter into force on the 19th day after the date of deposit of the 50th instrument of ratification, acceptance, approval or accession. The first meeting of the

<sup>3</sup> The full text (in English) is available at the following address: [http://europa.eu.int/comm/dg05/soc-dial/social/index\\_en.htm](http://europa.eu.int/comm/dg05/soc-dial/social/index_en.htm).

<sup>4</sup> GB.274/MNE/2, paras. 29-30.

Conference of the Parties (COP) must be held not later than one year after the date of entry into force of the Convention.

18. The Conference of Plenipotentiaries also considered work to be performed during the interim period between the adoption of the Convention and the first meeting of the COP. It adopted a resolution that changed the original, voluntary PIC procedure to a voluntary interim procedure that closely resembled the procedure identified in the Convention text. It also created the mechanisms for work during the interim period and indicated activities for the interim period. The Conference invited the Executive Director of the United Nations Environment Programme and the Director-General of FAO to convene such further sessions of the INC/PIC, during the period between the date on which the Convention is opened for signature and the date of the opening of the first meeting of the Conference of the Parties, as are necessary to oversee the operation of the interim PIC procedure and to prepare for and service the Conference of the Parties until the end of the fiscal year in which the first meeting of the Conference of the Parties takes place. It also requested the Executive Director and the Director-General to provide secretariat services for the operation of the interim PIC procedure.
19. In line with the request of the Conference of Plenipotentiaries, UNEP and FAO provide the interim secretariat servicing the INC/PIC and implementing the interim PIC procedure.
20. The Sixth Session of the INC/PIC (FAO, Rome, 12-16 July 1999) agreed on interim PIC regions based on FAO regions; established an interim Chemicals Review Committee; and included two additional pesticides in the PIC procedure. It also requested the secretariat to draft a number of papers in preparation for the first COP. Many countries indicated that they had initiated procedures for the ratification of the Convention.
21. The INC/PIC established an Interim Chemicals Review Committee as a subsidiary body. The first meeting of this committee will be held from 21 to 25 February 2000 in Geneva. The Seventh Session of the INC/PIC is foreseen for late 2000. The convening of these meetings is subject to the availability of financial resources.

## **Organisation for Economic Co-operation and Development (OECD)**

### **Review of the OECD *Guidelines on Multinational Enterprises***

22. Following the 1998 OECD Ministerial Meeting, the Committee on International Investments and Multinational Enterprises (CIME) initiated a review of the Guidelines to update and improve them so as to reflect recent developments in the activities of MNEs and the world economy.
23. To launch this review, an inaugural conference was held in Budapest, Hungary, from 16 to 18 November 1998. Representatives of governments, business, labour, and other areas of civil society discussed the influence of the Guidelines on corporate behaviour and explored ways to strengthen their role.<sup>5</sup>

<sup>5</sup> GB.274/MNE/1/2.

24. Since the Budapest conference a CIME Working Party on the Guidelines (WPG) has received a new mandate to work exclusively on the Guidelines and the review. The WPG met four times in 1999, and is continuing its intensive work. A report on the results of the review will be made to the next meeting of the Ministerial Council on 26 June 2000.
25. This review by OECD member governments and those of Argentina, Brazil and Chile, is expected to be the most far-reaching since the adoption of the Guidelines in 1976, and will address the text and operating procedures, with a view to ensuring that this instrument plays a more meaningful role in providing guidance for international business conduct. Both textual changes and improved implementation procedures that might promote the visibility and effective implementation of the Guidelines are being considered. The geographical reach of the Guidelines is also being reviewed.
26. The draft (integrated) text being discussed by the WPG is divided into ten sections: concepts and principles; general policies; disclosure; employment and industrial relations; environment; combating bribery; consumer interests; science and technology; competition; and taxation.

### **Consultations with civil society and non-members**

27. In order to address the needs of the business community and to reflect evolving public concerns, the current review has drawn extensively on consultations with enterprises, trade unions, NGOs and non-member countries. The transparency of the process is further enhanced by the opportunity given to the public in member countries to participate in the review process. As part of this attempt consultations were held on the review in Paris on 19 April 1999, when CIME played host to representatives from BIAC (the OECD's Business and Industry Advisory Council) and TUAC (the OECD's Trade Union Advisory Committee), as well as from non-governmental organizations (NGOs), for a day of discussion to hear and consider the views of the social partners with respect to both the form and substance of the review. A series of meetings with civil society representatives continues. Others were held in June, September and October.<sup>6</sup> Further meetings with civil society representatives as well as non-members until the conclusion of the review are also planned.
28. There has been good progress throughout 1999 and so far in 2000. A comprehensive text integrating all chapters has been discussed intensively by delegations. Discussions have progressed such that in early January 2000 the draft integrated text and commentary were published on the OECD website for public comment.<sup>7</sup>
29. A successful outcome is anticipated as delegations, together with representatives of the business and labour communities, as well as NGOs, work to improve the Guidelines as an instrument that can aid in the management of relations between business and the societies in which they operate.

<sup>6</sup> See "Conference on the Role of International Investment in Development, Corporate Responsibility and the OECD Guidelines for Multinational Enterprises", September 1999, below.

<sup>7</sup> Full information on the review, including background information on the Guidelines, FAQs, etc, is available through the OECD website: [www.oecd.org/daf/investment/guidelines/newtext.htm](http://www.oecd.org/daf/investment/guidelines/newtext.htm).

## **Comparison with earlier reviews of the Guidelines: Conduct of the review**

- 30.** Earlier reviews focused primarily on assessing experience with the Guidelines. They examined the different elements in the life of the Guidelines and drew conclusions on the best way forward. More specifically, reviews have been guided by the desire –
- to maintain the stability of the Guidelines, while ensuring their continuing relevance;
  - to preserve sufficient flexibility in the instrument to allow it to meet new developments and concerns;
  - to monitor and promote their implementation.
- 31.** Amendments to the text of the Guidelines have been relatively few (in 1979, 1984 and 1991) because of the Committee's commitment to their stability. The reviews have, nevertheless, resulted in changes to the chapters on general policies, disclosure of information, employment and industrial relations and in the addition, in 1991, of a chapter on the environment.
- 32.** The current review recognizes the value of stability, but also responds to the need for a thorough consideration of the recommendations in the Guidelines in the light of the demands of the global economy as it enters a new millennium. New issues have gained prominence since the Guidelines were first issued in 1976, and the international consensus on appropriate business conduct in a number of areas is evolving rapidly, much of it supported by business itself.
- 33.** With respect to the relationship of the OECD Guidelines to MNEs and the work of the ILO, OECD countries are aware of the linkages between the work of these institutions since the complementarities in evidence at the outset of the original OECD Guidelines in 1976 and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy which followed in 1977. Delegations involved in the current review of the OECD Guidelines are eager to reinforce these complementarities while avoiding any potential for conflicting requirements being made of MNEs. Thus, in order to retain similarities in terms of scope, recommendations on child labour and forced labour – in recognition of the ILO Declaration on Fundamental Principles and Rights at Work – are under consideration by the OECD's Working Party on the Guidelines.
- 34.** The review under way, which is an attempt to position the Guidelines in this much changed and rapidly evolving environment, is shaping up as the most far-reaching in the history of the instrument. The text of the Guidelines is expected to be revised significantly, and new chapters dealing with combating bribery and protecting consumers are likely to be added. All aspects of the review are still under active consideration.

**Conference on the Role of International Investment in Development, Corporate Responsibilities and the OECD Guidelines for Multinational Enterprises (Paris, 20-21 September 1999)**

35. Government officials from member and non-member countries, academics and representatives of business, trade unions and advocacy groups, discussed critical current issues arising at the interface between government and business expectations, notably the rationale and effectiveness of government policies and the responsibilities of international investors. Special attention was given to the OECD Guidelines for Multinational Enterprises.
36. The Conference was intended to make a distinctive contribution to the current international debate on the usefulness of and need for international investment rules. It built on the multidisciplinary character and long experience of the OECD as a forum for cooperation on international investment and development.
37. The agenda of the meeting included the following:
- Foreign direct investment and development: A reassessment of the evidence and policy implications;
  - The importance of standards and corporate responsibilities – The role of voluntary corporate codes of conduct;<sup>8</sup>
  - Social accountability, the OECD Guidelines for Multinational Enterprises and the OECD Principles of Corporate Governance;
  - Policy competition and foreign direct investment: A study of competition between governments to attract FDI;
  - The role of foreign investors in developing countries;
  - Transparency International – Developing an integrity standard;
  - Foreign direct investment and the environment: From pollution havens to sustainable development;
  - Can the OECD MNE Guidelines promote responsible corporate behaviour? An analysis of P&O's proposed port in Dahanu, India.
38. The Conference attracted over 200 participants, including officials from the 29 OECD member States, 30 non-member countries, business community representatives, members of the labour community, academics, international organizations and NGOs. Proceedings were published as part of the OECD series of publications on international investment policy-related issues in *Foreign Direct Investment, Development and Corporate Responsibility*.
39. Other recent research and analysis on a number of related issues was undertaken by the OECD in 1999. Publications in this series include: *Foreign Direct Investment and the Environment*; and *Foreign Direct Investment and Recovery in Southeast Asia*, as well as a

<sup>8</sup> Topic addressed by the ILO.

series of Working Papers on Investment Trends and Corporate Responsibility. Important work continues on implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

## World Bank

40. The World Bank Group's work that affects most directly multinational enterprises and foreign direct investment is its work on private sector development and on improving the stability of the international financial system. In this context, two recent initiatives are worth mentioning: the Global Corporate Governance Forum and the World Bank Insolvency Initiative.

### Global Corporate Governance Forum

41. To meet the growing demand for governance reform worldwide, the World Bank and OECD have convened the Global Corporate Governance Forum to provide assistance to developing and transition economies on corporate governance. This new international initiative brings together the leading bodies engaged with governance internationally: multilateral banks active in developing countries and transition economies, country groupings such as the Commonwealth and APEC, alongside professional standard-setting bodies. The Global Corporate Governance Forum will –

- build a consensus in favour of appropriate policy, regulatory and institutional reforms;
- coordinate and disseminate corporate governance activities;
- provide support for regulatory and private voluntary action;
- promote institutional development and human capacity building in the associated fields of corporate governance;
- train the various professions and other agents who are essential to bring about a culture of compliance.

### World Bank Insolvency Initiative

42. As part of the wider effort to improve the future stability of the international financial system, the World Bank is leading an initiative to identify principles and guidelines for sound insolvency systems and for the strengthening of related debtor-creditor rights in emerging markets. Assisted by an international task force, the Bank is preparing a report on principles and guidelines for effective insolvency systems, drawing on the efforts of various working groups of international experts. Reports of working groups were presented at a Symposium on Building Effective Insolvency Systems in Washington, DC, on 14-15 September 1999. Further feedback is being sought through an Internet website and regional workshops,<sup>9</sup> by which a truly international dialogue on these issues will be advanced at the highest level. Recognizing the complexity of economies, and the diversity in legal systems

<sup>9</sup> A general description of the initiative can be found at [http://www1.worldbank.org/legal/insolvency\\_ini/overview.htm](http://www1.worldbank.org/legal/insolvency_ini/overview.htm); the page inviting feedback is at [http://www1.worldbank.org/legal/insolvency\\_ini/feedback.htm](http://www1.worldbank.org/legal/insolvency_ini/feedback.htm).

and their unique cultural expressions, the initiative does not envision the creation of a one-size-fits-all model. Rather, it is contemplated that the report will aspire to provide a diagnostic tool for self-assessment that takes into account all the important and relevant variables that should be considered in designing an appropriate insolvency system, with proper respect for global economics and current insolvency trends. An effective system will embrace specific policy choices that balance the strengths and weaknesses of different facets of the broader system. It is estimated that the final report will be available by mid-2000.

## **Other organizations**

- 43.** The Andean Community (Cartagena Pact) and the World Health Organization had nothing new to report, and the following organizations indicated that they had no input to offer at this time: the United Nations Economic Commission for Latin America and the Caribbean (ECLAC); the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP); and the United Nations Centre for Regional Development (Tokyo).
- 44.** At the time of preparation of this report, no information had yet been received from: the Council of Europe; the United Nations Economic Commission for Africa (ECA), MERCOSUR, UNCTAD, UNEP or UNIDO.

Geneva, 25 February 2000.