

Activity Update

January – August 2014



BIAC THE VOICE OF
BUSINESS AT THE OECD

BUSINESS AND INDUSTRY ADVISORY COMMITTEE TO THE OECD (BIAC)



Committee leadership

Investment Committee

- Winand L.E. Quaedvlieg, Chair
VNO-NCW (Netherlands)
- Clifford Henry, Vice-Chair
Procter & Gamble (USA)
- Soichiro Sakuma, Vice-Chair
Nippon Steel & Sumitomo Metal Corp.
(Japan)

Task Force on Anti-Bribery/Corruption

- Klaus Moosmayer, Chair
Siemens AG (Germany)

Task Force on Corporate Governance

- Dan Konigsburg, Chair
Deloitte Touche Tohmatsu Ltd. (USA)
- Murat Dogu, Vice-Chair
Dogan Holding A.S. (Turkey)
- Christian Stiefel, Vice-Chair
Swiss Holdings (Switzerland)

Investment, Responsible Business Conduct, Anti-Bribery, Corporate Governance

As the officially recognized business voice to the OECD, the Business and Industry Advisory Committee to the OECD (BIAC) conveys business perspectives and expertise to policymakers on a broad range of global economic governance and policy issues.

In the framework of its consultative status with the OECD, BIAC keeps the OECD informed of the private sector's response to different policy options, thus giving the business community a chance to shape the development of long-term policies in OECD countries.

This update provides an overview of recent and upcoming key activities of the BIAC Investment Committee as well as its Task Force on Corporate Governance and its Task Force on Anti-Bribery/Corruption.



Investment

The voice of the OECD in defending an open international investment environment is more important than ever.

BIAC calls on OECD to step up work on freedom of investment

Many governments are currently engaged in negotiations concerning investment as part of bilateral, regional, or plurilateral agreements. At the same time, business observes a proliferation of restrictions on foreign direct investment (FDI), often hidden and difficult to counter. With the rising levels of capital required for many investments, companies are often challenged to manage the substantial risk that may come with investment decisions in local and foreign markets.

At its annual consultation with OECD Ambassadors and in its interaction with the leadership of the OECD Investment Committee, BIAC therefore offered strong support for the OECD and its Freedom of Investment (FOI) Roundtable to continue to play a leading role in the international debate on freedom of cross-border investment. OECD advice and leadership is particularly important at a time when important instruments, like bilateral investment treaties (BITs) and Investor-State Dispute Settlement

(ISDS), which are crucial to mitigate risk in international investment decisions, are under attack. Business needs the OECD to provide governments with state of the art analysis and to foster dialogue among member and non-member countries.

Truly open investment flows require, among others, adherence to the rule of law and to effective dispute settlement; assurance of fair and non-discriminatory treatment for foreign investors; freedom to own and control one's own investment; and adherence to key principles and declarations, including the OECD Declaration on International Investment and Multinational Enterprises (MNEs). These fundamental conditions will continue to be priorities for the work of BIAC and its members.

To read the BIAC paper on a proactive investment agenda as well as recent positions on investment issues, click [here](#).

Investment highlighted at 2014 OECD Ministerial Council Meeting

BIAC was pleased to see that at the May 2014 Ministerial Council Meeting, which focused on “Resilient Economies and Inclusive Societies – Empowering People for Jobs and Growth”, the importance of investment was duly recognized.

As mentioned in the [Chair’s summary](#), Ministers underlined the importance of investment-related work in the OECD, including the updating of the Policy Framework on Investment (PFI). Ministers also called on the OECD to improve the understanding of the economics of cross-border investment, including investment agreements, shedding light on investor-state dispute settlement systems, statistics for identifying FDI flows and analyzing the constraints for long-term investment.

Ministers also supported efforts to promote a level playing field for business, particularly in relation to state-owned enterprises (SOEs), and also urged the promotion of Responsible Business Conduct and the effective implementation of the Guidelines for Multinational Enterprises. They also welcomed greater international regulatory co-operation to reduce costs and foster a global level playing field.

In its statement to the Ministerial, BIAC encouraged Ministers to make good use of the potential the OECD holds in the struggle for greater policy consistency, underlining that good knowledge about the significance of global value chains is vital for informed policy decisions concerning trade and investment. The full BIAC Statement to the MCM is available [here](#).

OECD Policy Framework for Investment to be revised

BIAC has actively promoted the OECD [Policy Framework for Investment](#) (PFI), which has played a key role in fostering investment in countries around the world. The PFI addresses specific questions to governments to help them design and implement policy reforms to create an attractive and competitive environment both for domestic and foreign investment and has been extensively used to support international policy dialogue and reform. Originally developed in 2006, the PFI will now be updated to reflect recent developments and strengthen certain dimensions, such as infrastructure, global value chains and development issues.

The update will be an important opportunity to ensure that the PFI keeps pace with new developments and challenges regarding investment and remains an important and widely recognized key OECD instrument. BIAC was actively involved in the development of the PFI and intends to make a constructive contribution to the update going forward. Building on OECD outreach activities and the important work on investment and development, a key focus should be to promote a shared view among OECD and non-OECD governments on what conditions need to be in place to attract and retain foreign and domestic investment, thereby encouraging a level playing field for investors.



Responsible Business Conduct

BIAC calls for shared understanding of the NCP process

The OECD Guidelines for Multinational Enterprises (MNEs) are recommendations on responsible business conduct addressed to multinational enterprises operating in or from countries that adhere to the Guidelines. National Contact Points (NCP) are set up in adhering countries with the aim to further the effectiveness of the Guidelines by undertaking promotional activities, handling enquiries, and contributing to the resolution of issues that may arise in case of alleged non-observance of the guidelines in specific instances.

On 25 June, BIAC participated in the stakeholder consultation with NCPs to share business experience with the implementation of the MNE Guidelines and the NCP process in particular.

BIAC has consistently underlined that a correct understanding of the NCP process is essential for the success of the MNE Guidelines. The NCP should be a forum for discussion and conciliation with a view to address issues in a constructive and forward-looking manner. To read the BIAC paper for the consultation, click [here](#).

BIAC contributes to OECD Global Forum on Responsible Business Conduct

On 26 and 27 June 2014, BIAC actively engaged in the second OECD Global Forum on Responsible Business Conduct, which gathered more than 700 participants.

The Forum featured a number of prominent business speakers, including Muhtar Kent, Chairman and Chief Executive Officer of The Coca-Cola Company, in the opening panel; Winand Quaadvlieg, Chair of the BIAC Investment Committee, in the grievance mechanism session; and a range of BIAC experts in the sector-specific sessions concerning the proactive agenda projects of the OECD MNE Guidelines.

The Global Forum is intended to strengthen international dialogue on responsible business conduct and to contribute to the effective implementation of the Guidelines for Multinational Enterprises, which BIAC considers an essential part of an open investment climate and in the best interest of business.

BIAC considers responsible business conduct as promoted by the OECD Guidelines for Multinational Enterprises (MNEs) as an essential part of an open investment climate and in the best interest of business.

Back-to-back with the OECD Global Forum and at the initiative of France and the Netherlands, an informal Ministerial on Responsible Business Conduct was organized. To access the BIAC paper on responsible business conduct, click [here](#).

For further information on the OECD MNE Guidelines and responsible business conduct, click [here](#).

BIAC expresses concerns about the proposed Treaty on Business and Human Rights

On 26 June, the UN Human Rights Council adopted the initiative by Ecuador proposing a new international and legally binding treaty on business and human rights. BIAC had previously raised serious concerns about this proposal, questioning the rationale and added value (click [here](#)).

BIAC strongly supports greater efforts to ensure the respect of human rights, and substantial progress has been achieved in this area in recent years. The uptake to date of the UN Guiding Principles has been impressive and is continuously making progress. Rather than detracting from ongoing efforts, BIAC had underlined the importance of continued promotion and consistent implementation of the UN Guiding Principles and the OECD MNE Guidelines, which include a chapter on human rights.

The MNE Guidelines are an important reference instrument and ideally suited

to serve as a basis for a global level playing field. In BIAC's view, the impact of the development of a new treaty risks being counterproductive. Instead of promoting the implementation of the UN Guiding Principles, attention risks turning to treaty negotiations with limited perspective of reaching agreement. Going forward, BIAC will follow discussions in close coordination with other business organizations.

BIAC contributes to CSR for all project

The “CSR for all” project has played a key role in promoting responsible business, building capacity in the region and engaging in dialogue on key CSR issues.

BIAC participated in the training conference, which took place in Ankara in January, hosted by TISK, and presented what companies need to know about the OECD Guidelines for Multinational Enterprises, which are a key component of the global CSR landscape. For further information on the “CSR for all” project, including the handbook on CSR for employers’ organizations, please click [here](#).

BIAC is actively involved in a wide range of outreach and awareness raising initiatives regarding the MNE Guidelines. To read an overview of the awareness-raising activities of BIAC and its members, click [here](#).

Anti-Bribery/Corruption



Implementation of the OECD Anti-Bribery Convention: Initial BIAAC comments on a phase 4 review

More than 15 years after its entry into force, the OECD Anti-Bribery Convention remains a landmark in the global fight against corruption and bribery. The Convention is the only international legally binding instrument that specifically addresses the bribing of public foreign officials and has become a recognized international standard. So far, all OECD countries as well as seven non-member economies have ratified the Convention. While not yet truly global, the 41 parties to the Convention represent a significant proportion of global trade and outward foreign direct investment.

Countries' implementation and enforcement of the Convention are monitored through a rigorous peer review system, which has so far taken place in three phases, with phase 1 evaluating the adequacy of a country's legislation to implement the Convention, phase 2 assessing whether a country is applying this legislation effectively, and phase 3 focusing on enforcement of the Convention, the 2009 Anti-Bribery Recommendation, and outstanding recommendations from phase 2.

As the OECD has started reflecting on a possible phase 4 review, BIAAC submitted initial comments in July on what, if decided, such a review should focus on, as well as recommendations for OECD work looking beyond a phase 4 review. To read the BIAAC paper, click [here](#).

OECD/G20 High-level Anti-Corruption Conference

Throughout the year, BIAAC continued its active contribution to the B20 Anti-Corruption Working Group (click here to read the [final recommendations](#)). BIAAC also participated in the annual OECD/G20 High-Level Anti-Corruption Conference for G20 Governments and Business which took place on 11 June in Rome.

The objective of the conference was to facilitate discussions on the implementation of the G20 priorities and foster closer co-operation between governments and the private sector and for advancing the key elements of the global anticorruption agenda and innovative solutions. It also included a special session on the 15th Anniversary of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

More than 15 years after its entry into force, the OECD Anti-Bribery Convention remains a landmark in the global fight against bribery and corruption.

To access the BIAAC paper on “The impact of the OECD Anti-Bribery Convention 15 years on”, click [here](#). The agenda and additional background papers for the Rome conference are available on the [OECD website](#).

BIAC contributes to OECD Forum on Integrity

The OECD Forum on Integrity provides a platform for government officials as well as experts from international organizations, business, and civil society to discuss best practices as well as recent developments and projects relating to anti-corruption and integrity building.

In March, BIAC participated in the 2014 Forum, which addressed, among others, how to improve co-ordination and co-operation with regard to research and policies in order to more efficiently and effectively achieve progress in eliminating corruption and reinforcing public trust in all sectors of society. Dr Klaus Moosmayer, Chair of the BIAC Task Force on Anti-Corruption/Bribery, represented BIAC on the panel on new anti-corruption and integrity projects, underlining among others the importance of public-private dialogue, rewarding good compliance and innovative collective action.

BIAC expresses concerns about ISO process

In May, BIAC registered concerns that have been expressed by the business community regarding ongoing discussions in the International Standard Setting Organization (ISO) concerning anti-bribery/management systems.

BIAC called for particular vigilance on the ISO work regarding two separate proposals from Australia and the UK, underlining among others that there are already a series of international instruments and references for companies in the area of bribery, in particular, the OECD Anti-Bribery Convention, relating OECD Council recommendations and good practice guidance on international controls, ethics and compliance, as well as guidance by other international organizations. If ISO should produce a unique model such as ISO 37001, business is concerned that this would create additional complexity for all parties concerned.

BIAC reiterates its strong support for an effective implementation of the OECD Convention and for continued outreach to increase the number of adhering countries. The development of parallel standards would be counterproductive as they could invite companies or countries that are not signatories to the Convention to use them as sufficient proof of compliance, regardless of their adherence to the Convention.

To read the most recent country reports on the implementation of the OECD Anti-Bribery Convention, click [here](#).

Corporate Governance



BIAC contributes to review of OECD Corporate Governance Principles

The OECD Corporate Governance Principles are one of the 12 key standards for international financial stability of the Financial Stability Board and assist governments in their efforts to evaluate and improve the legal, regulatory and institutional framework for corporate governance. First released in May 1999 and last revised in 2004, the OECD has launched a further review of the Principles. The review process started in 2014 with the objective of conclusion by the time of the 2015 Ministerial Council Meeting.

The review is intended to ensure the continuing high quality, relevance and usefulness of the Principles taking into account recent developments in the corporate sector and capital markets. The outcome should provide policy makers, regulators and other rule-making bodies with a sound benchmark for establishing an effective corporate governance framework. BIAC has been closely following discussions on the update. To read BIAC comments, click [here](#). BIAC will update these comments in light of the new draft to be made available for the 13 October consultation.

Update of the OECD Guidelines on Corporate Governance of State-Owned Enterprises

The OECD Guidelines on Corporate Governance of State-Owned Enterprises (SOEs) are an internationally-agreed standard on how governments should exercise ownership of SOEs. They provide concrete advice to countries on how to manage effectively their responsibilities as company owners. The Guidelines were first developed in 2005 and are currently being updated.

BIAC has been actively involved in the discussions underlining that the ongoing revision presents an opportunity to ensure that the Guidelines are strengthened as a global benchmark for SOE governance with a view to ensure competitive neutrality, avoid distortions of competition, and foster open trade and investment. The revised Guidelines should help ensure that on the one hand states exercise their ownership functions responsibly and on the other that they do not abuse their power.

BIAC will participate in the expert consultation, which will take place on 8 September and which will provide an important opportunity to further highlight its [comments and key considerations](#).

BIAC strongly supports corporate governance principles that promote long-term business sustainability and that facilitate the continued stability of capital markets.

For further information on corporate governance, download the [OECD Factbook 2014](#).

This report contains up-to-date information about corporate governance practices in OECD countries and a selection of additional jurisdictions. Published for the first time in February 2014, the report will be updated at regular intervals.

Proposal for a roundtable on skills for effective corporate governance

Good corporate governance starts and is driven from the top. Having an effective board is therefore of utmost importance. The responsibilities of the board are diverse and require a balanced team of directors with the right skills set.

In order to provide further input to the discussions on skills in the context of the OECD Corporate Governance Principles, the Guidelines on Corporate Governance of State-Owned Enterprises and beyond, BIAC has proposed to organize an expert roundtable back-to-back with the OECD Corporate Governance Committee meeting (precise date to be confirmed), bringing together institutes of directors; directors, including from emerging markets; investors; as well as gatekeepers, including lawyers, accountants/IFAC/rating agencies.

The meeting is intended to shed light, among others, on questions of what skills governing body members require to perform their roles effectively; how the board can ensure it has the right mix of skills, values and experiences to keep up with changing external and internal environments; and what role the OECD can play in this area.

Further details regarding the organization of the meeting will be discussed by the BIAC Task Force on Corporate Governance Task Force during the second half of the year.

Upcoming meetings

Please find below a non-exhaustive list of meetings during the second part 2014. Please note that some meetings are subject to confirmation and others might be added. Please contact the BIAC Secretariat for final confirmation.

8 September: Consultation on the update of the OECD Guidelines for Corporate Governance of State-Owned Enterprises

29-30 September: OECD-ILO High-level Roundtable on Responsible Supply Chains in the Textile and Garment Sector

13 October: Consultation with the OECD Corporate Governance Committee and meeting of the BIAC Corporate Governance Task Force

Week of 13 October: OECD Investment Week – Precise date of the Consultation and BIAC Investment Committee meeting tbc

22 October: Consultation with the OECD Working Party on State Ownership and Privatization Practices

6-7 November: BIAC Business Visit to the OECD (including discussions on investment, responsible business conduct, corporate governance)

Week of 1st December: OECD Investment Week – Consultation tbc

Week of 13 October or week of 9 December: Consultation with the OECD Working Party on Bribery tbc



For further information, please contact

Hanni Rosenbaum, Senior Policy Manager

13-15 chaussée de la Muette
75016 Paris
rosenbaum@biac.org
tel: +33 1 42 30 09 60
www.biac.org

