OECD long-term vision for responsible business conduct

Initial BIAC comments

The private sector has long recognized the importance of responsible business conduct, which many companies have integrated into their overall business strategy. BIAC considers responsible business conduct as promoted by the OECD Guidelines for Multinational Enterprises (MNEs) as an essential part of an open investment environment and in the best interest of business. To that end, BIAC is committed to work in partnership with the OECD and national governments to promote the Guidelines in adhering countries and beyond.

We generally support the fact that there is a discussion of long-term strategic approaches for any major policy issue and thank the secretariat for sharing the initial draft for a long-term vision of OECD work in the area of responsible business conduct, with the understanding that it is not meant to introduce any new normative framework. As the vision is being further developed, BIAC believes that it is important to keep in mind the following overarching considerations:

- **Underline the link between investment and responsible business conduct:** We generally believe that a long-term vision on responsible business conduct should be developed in close cooperation with the OECD Investment Committee, bearing in mind that the Working Party on Responsible Business Conduct works under the auspices of the Investment Committee and that the OECD MNE Guidelines are part of the OECD Declaration on Investment and MNEs. The Declaration emphasizes both the importance of an open and stable investment environment, and of responsible business conduct.

  Work on responsible business conduct should go hand in hand with defining an open international investment environment and addressing issues associated with weak governance of host countries. The vision should therefore be designed in the framework of the need for governments to provide an open and transparent environment for international investment while encouraging MNEs to act responsibly. The link between investment and responsible business conduct should not be lost as the OECD has a unique role in this area, both institutionally and as far as its expertise is concerned. Furthermore, we encourage the Investment Committee to also develop its long-term vision, after which it should be considered how the two approaches could be made mutually supportive of each other.
Underline the respective role of business and of governments: As the OECD Policy Framework for Investment (PFI) correctly underlines, while business needs to act responsibly, governments have a role in providing an enabling framework for responsible business conduct. In practice, many issues that come up in the area of responsible business conduct are also related to deficiencies in public governance. Good public governance is not only an indispensable prerequisite for investment flows, but also for responsible business conduct. The most responsible businesses will not be able to make lasting and sustainable contributions, if they are faced with corrupt or inefficient government officials. The vision needs to provide realistic expectations of what business can do while underlining the role of governments.

In line with the PFI, which recognizes that investment requires a comprehensive approach, touching on a range of different policy areas including responsible business conduct, it also has to be recognized that responsible business conduct requires a comprehensive approach and an enabling overall framework for companies to act in. The importance of good public governance should be further underlined in the vision.

Foster outreach and global engagement: In an increasingly globalized economy, responsible business conduct activities have to be considered beyond the OECD membership. BIAC has therefore consistently underlined the importance of OECD outreach activities and close cooperation with key emerging economies which are not yet adherents to the OECD Declaration on International Investment and MNEs. With the shift of weight in the global economy, it is more important than ever to foster the standards of the MNE Guidelines in non-adhering countries and expand the geographical coverage of the OECD Declaration.

Focus on OECD’s unique added value in the area of responsible business conduct: There are a number of international reference texts and tools that provide a framework for responsible action. The OECD MNE Guidelines play a unique role, covering all major areas of business ethics. They are the only multilaterally agreed upon corporate responsibility instrument that adhering countries have committed to promoting in a global context. Work on additional activities in the context of a long-term vision should therefore not take away resources from the fundamental on-going work regarding the MNE Guidelines and the OECD Investment Committee more broadly.

With regard to the MNE Guidelines, we underline the importance of further work with regard to fostering outreach and global engagement as well as ensuring a shared understanding among all stakeholders of the NCP process as a platform for mediation and conciliation, where all those involved work towards a common future-oriented solution to the advantage of all parties. In cases where the OECD has dedicated activities and working groups, such as in the area of tax, duplication of work should be avoided.
Selected additional comments on points raised in the paper:

- **Responsible supply chains**: Work on responsible supply chains is addressed in the framework of the various proactive agenda projects, in which business and other stakeholders are actively involved. We underline the importance of pro-active agenda projects to avoid duplication and develop practical tools for addressing specific challenges. However, these projects should not lead to prescriptive guidance that would go beyond the MNE Guidelines. The pro-active agenda projects should remain prospective in nature, foster multi-stakeholder dialogue in close cooperation with member and non-member countries, take stock of existing information, and develop practical tools that would be of concrete value to large and small companies as they conduct due diligence. We underline the importance of focused discussions as sharing of best practice is often best done in smaller sector-specific settings, unless there are cross-cutting RBC issues that need to be addressed.

- **Sustainable Development Goals**: Unless urgent action is taken to mobilize the necessary private investment to make sustainable development a reality, global efforts will fall short of expectations. Improving business environments, including well-designed policies that provide legal certainty and risk mitigation for companies, is an indispensable prerequisite for sustainable development. It is also important to identify where the companies can find new opportunities for further contributions to sustainable development according to a new set of goals. With regard to the contributions, we underline the importance of sharing best practices between companies and between key stakeholders. In our view, the importance of private investment is currently not sufficiently reflected in the current draft. We therefore support the promotion of the PFI, which also includes RBC, in the context of the post-2015 development framework. We hope that the Working Party would be supportive of these efforts.

- **Strengthening accountability and improving access to remedy**: We generally recommend focusing on improvements to deliver access to remedy at local level. Extraterritorial jurisdiction is no alternative to an effective national judicial system and the need to generally improve law enforcement in national jurisdictions.

- With regard to the MNE Guidelines, we underline the importance of sharing best practice and peer learning among NCPs to ensure that less well performing NCPs gain capacity to fulfil their tasks. BIAC is also supportive of horizontal peer reviews on topics that are of cross-cutting interest.

- **Emerging activities**: The focus should be on work areas where the OECD can do thorough work that has real impact and provides clear added value. Regarding the reference to investment in the Arctic regions, it should be considered to what extent UN agencies (e.g. UNEP on the environment side) are already involved. Duplication of work should be avoided.

- **Outreach and development**: Outreach related to the Guidelines and the PFI remains a priority for BIAC. We support the development of enabling frameworks for RBC in line with the updated PFI, and suggest coordinated outreach efforts regarding both instruments. It would also be
helpful to have outreach to actors that are not typically involved in the debate. The roundtable on competition at the Global Forum in June is an interesting step in this direction.

- **RBC and inclusiveness:** We encourage more substantial engagement and capacity building with SMEs, including outreach to governments to train them on RBC issues so that they can in turn train SMEs on RBC standards.

- **Close involvement of key stakeholders:** We have noted that there will be a high-level lunch on the strategic vision at the next Global Forum. BIAC should be represented at this important lunch, recognizing our active involvement in the RBC discussions all along the process.