

Activity Update

December 2016



BUSINESSatOECD

THE BUSINESS AND INDUSTRY ADVISORY COMMITTEE

BUSINESS AND INDUSTRY ADVISORY COMMITTEE TO THE OECD (BIAC)

Committee leadership

Investment & Responsible Business Conduct Committee

- Winand L.E. Quaedvlieg, Chair
VNO-NCW (Netherlands)
- Kimberley Claman, Vice-Chair
Citigroup (USA)
- Soichiro Sakuma, Vice-Chair
Nippon Steel & Sumitomo Metal Corp. (Japan)
- Àngel Luis Bautista Fernandez, Vice-Chair
Repsol S.A. (Spain)
- Paul Noll, Vice-Chair
Confederation of German Employers' Associations (BDA) (Germany)



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

As the officially recognized voice of business to the OECD, Business at 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 the opportunity to shape the development of long-term policies in OECD countries.

This update provides an overview of key activities of the BIAC Investment & Responsible Business Conduct Committee, the Task Force on Anti-Bribery/Corruption as well as the Corporate Governance Committee.

Task Force on Anti-Bribery/Corruption

- Klaus Moosmayer, Chair
Siemens AG (Germany)
- Corinne Lagache, Vice-Chair
Safran SA (France)
- Joseph Simon, Vice-Chair
A.P. Moller-Maersk A/S (Denmark)
- Gerrie Lenting, Vice-Chair
Deloitte (USA)

Committee 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)
- Pascal Durand-Barthez, Vice-Chair
MEDEF (France)



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

Investment

OECD conference on International Investment Agreements

Investment is a leading source of economic growth, job creation, international trade and innovation. Countries with a high level of investment systematically achieve higher levels of development. A central question among policy makers is therefore how to enhance investment.

International investment agreements play a fundamental role by providing an additional layer of security to foreign investors and are thus an important factor for attracting foreign direct investments. In this context, the OECD organized a second Investment Treaty Conference in March 2016, which gathered senior policy makers and investment treaty negotiators from 54 advanced and emerging economies to discuss how the OECD can support investment treaty discussions. A large BIAC delegation participated underlining the importance of international investment agreements for business. For further information on the conference, please click [here](#).

International Investment Agreements Matter

In March 2016, BIAC issued a new paper on why international investment agreements matter. The paper underlines the concrete role international investment agreements play in supporting foreign direct investment by providing an additional layer of security to foreign investors, promoting international competition, supporting development, and limiting unfair abusive use of states' power while at the same time reaffirming their rights.

In light of public criticism and widespread misconceptions about the value of international investment agreements, BIAC underlines that it is more important than ever to recall and highlight to policy makers, and the public at large, why international investment agreements matter, and how they contribute to economic prosperity worldwide.

In particular, BIAC called for the OECD to provide fact-based analysis and to communicate the essential contribution international investment agreement make in supporting investment. To read the paper, click [here](#).

OECD Policy Framework for Investment

The OECD [Policy Framework for Investment](#) (PFI), which was updated in 2015, provides a comprehensive and systematic approach for governments to implement specific policy reforms to create a robust and competitive environment for domestic and foreign investment. The PFI has been widely used for the OECD's country-specific investment policy reviews and has served as a reference point for investment promotion agencies and donors. It is the most comprehensive and systematic approach for improving investment conditions ever developed.

In February, BIAAC participated in an OECD workshop to provide input to the development of indicators for the implementation of the PFI, underlining the importance of measuring concrete results and focus on measurable investment outcomes. Monitoring is critical to effective implementation of key OECD instruments. At the same time, it must be kept in mind how final outcomes of monitoring are being communicated, both to experts and policy makers and the public at large.

OECD/G20 work on institutional investors and long-term financing

On 18 March, BIAAC representatives engaged in a stakeholder consultation with the G20-OECD Task Force on Institutional Investors and Long-term Financing, focusing on infrastructure investment. This consultation followed a recent mandate by the G20 Finance Ministers and Central Bank Governors to the OECD to develop a report on recommended policies for the diversification of financing instruments for both infrastructure and SMEs. BIAAC will remain involved in future work at OECD and G20 levels.

Sustainable development of Chinese companies overseas

In March, BIAAC participated in an event organized by the OECD to present the main findings of the Report on the Sustainable Development of Chinese Enterprises Overseas, jointly released by the Chinese Academy of International Trade and Economic Cooperation (CAITEC), the Research Centre of the State-owned Assets Supervision and Administration Commission (SASAC) and the United Nations Development Program (UNDP). The report is the first attempt to clarify the relevant policies and measures taken by the Chinese government concerning the foreign operations of Chinese enterprises.



Business calls upon the OECD to communicate the benefits of open markets

BIAC was encouraged by the conclusion of the G20 summit in Hangzhou, which emphasized the need for effective communication of the benefits of trade, cross border investment and open markets. Unfortunately, the debate about open markets is increasingly influenced by populism, rhetoric and emotions as opposed to factual analysis. At the October meeting of the OECD Investment Committee, BIAC therefore called upon the OECD to make a strong case for promoting open markets, free trade and cross border investment based on sound data and analysis, underlining that the OECD is particularly well equipped to push for an evidence-based dialogue and communicate its analysis in a way that effectively informs policy discussions and the wider public.

Analysis is needed to highlight the fact that severe consequences for productivity would follow if global value chains are compromised or even interrupted. Much work remains to be done as barriers to free trade and investment prevail. It is therefore important to communicate responsibly on the opportunities that come with open markets. Building on the G20 call, BIAC encourages the OECD to help communicate the benefits of open markets more forcefully, an issue which BIAC members also underlined in related B20 discussions.

Costs and benefits of investor protection in international investment agreements

Underlining the importance of international investment agreements as an important factor for host countries to incentivize foreign direct investment, BIAC expressed concerns during the consultation in October about the current stages of OECD analysis on the societal costs and benefits of investor protection in international investment agreements.

In BIAC's view, review of available analysis can only be considered as a very first step. There should be a clear path of action to fill the gaps identified with additional analysis. Due attention should also be given to the liberalization or market access component of IIAs. In particular in the current climate where public opposition to and misconceptions of IIAs are persistent and widespread, it is more important than ever to highlight to policy makers and the public at large why international investment agreements matter and how they contribute to economic growth worldwide.

Investment Promotion and Facilitation

As highlighted in the OECD Policy Framework for Investment, investment promotion and facilitation can be a powerful means to attract investment and maximise its contribution to development, but their success depends above all on the quality of investment-related policies and on the overall investment climate. In this context the OECD organised a workshop in October on "Good Practices in Investment Promotion & Facilitation" to bring together IPAs and policymakers from OECD countries and several emerging economies to share their experience and discuss good practices.

While no one-size-fits all approach is suitable to increase IPA effectiveness, BIAC supports the OECD in serving as a platform for exchange and learning of best practices and conducting research on the effectiveness of specific measures. BIAC further highlights the importance of accessibility and transparency of IPAs and calls for consistency in the application of investment policies to reduce uncertainty for investors and ensure equal treatment.



Responsible Business Conduct

OECD MNE Guidelines – 15 years of National Contact Points

The OECD Guidelines for Multinational Enterprises are the most comprehensive international instrument for responsible business conduct, which covers all major areas of business ethics. The MNE Guidelines are supported by a unique implementation mechanism of National Contact Points (NCPs) established by adhering governments. NCPs have been part of the MNE Guidelines since 1984. However it was the 2000 review that gave them a stronger role to deal with all matters relating to the Guidelines, including resolving issues related to non-observance.

To take stock of the experience over the last 15 years, the OECD has conducted an analysis of the functioning and performance of this unique implementation mechanism. The full report was published at the end of June on the occasion of the 40th anniversary of the MNE Guidelines ([click here](#)).

Forum on Responsible Mineral Supply Chains

The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas provides detailed recommendations to help companies respect human rights and avoid contributing to conflict through their mineral purchasing decisions and practices. The guidance had been developed with the active participation of business.

A strong BIAC delegation participated in the OECD Forum on 10-12 May 2016, which focused on compliance and implementation of the OECD Due Diligence Guidance and other initiatives to enable responsible mineral supply chains. The agenda as well as the OECD Due Diligence Guidance are available on the [OECD website](#).

BIAC considers responsible business conduct as promoted by the OECD Guidelines as an essential part of an open investment climate and in the best interest of business.

OECD Global Forum on Responsible Business Conduct

On 8-9 June, BIAC participated in the OECD Global Forum on Responsible Business Conduct, which once a year brings together representatives from governments, business, trade unions and civil society to discuss how to achieve actual impacts through responsible business conduct, to explore emerging supply chain issues and to promote active contribution of the private sector to the achievement of the Sustainable Development Goals.

Debates focused among others on addressing severe human rights impacts in global supply chains, taxation and responsible business conduct, activities of National Contact Points 15 years since their establishment, benefits of engaging in multi-stakeholder initiatives, fiduciary duty in institutional investments as well as responsibility in mega-sporting events and in the pharmaceutical industry. For further information on the Global Forum, please [click here](#).

BIAC Comments on OECD due diligence guidance

In June, the OECD produced a first draft of a guidance document to develop a common approach to due diligence, which is intended to facilitate enterprise implementation of international standards such as the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles for Business and Human Rights.

BIAC expressed strong concerns and underlined that the final outcome of the proposed guidance must remain practical and realistic for companies around the world clarifying realistic expectations and limitations companies face in having concrete influence in global supply chains. As the Guidance is about the implementation of the OECD MNE Guidelines, it cannot go beyond the existing provisions of the Guidelines and must not create a new set of rules for human rights due diligence. The aim should be to provide practical guidance to companies, but not an instrument for interpretation for NCPs in evaluating specific cases or a negotiated interpretation of the MNE Guidelines.

BIAC submitted detailed comments on the first draft in July, and is currently collecting comments from members on the new draft which has been made available for a public consultation. BIAC encourages members to contribute to the BIAC response, which will not only be a contribution to the public consultation, but which will be the official business input for the next meeting of the OECD Working Party on Responsible Business Conduct. At the same time, members are encouraged to submit individual contributions, highlighting BIAC key messages, as part of the public consultation.

In addition to BIAC's active involvement in the general due diligence guide, BIAC also contributed to the discussions on the OECD paper on Responsible Business Conduct for institutional investors as well as to textiles due diligence guidance, which was finalized at the end of 2016.

BIAC celebrates 40th anniversary of the OECD Declaration on International Investment and Multinational Enterprises

On the occasion of its 2016 General Assembly, BIAC celebrated the 40th anniversary of the OECD Declaration on International Investment and Multinational Enterprises (MNEs), a policy commitment by adhering governments to promote open and transparent environment for international investment and encourage the positive contribution MNEs can make to economic and social progress.

The Declaration consists of four parts and is intended to balance public policy to promote an open international investment climate with a business commitment to responsible business conduct: the “national treatment” principle, the commitment to minimize conflicting requirements, the commitment to cooperation in the field of international investment incentives and disincentives, and the OECD MNE Guidelines, the most comprehensive government-backed instrument for promoting responsible business conduct. The Declaration commits adhering countries to improve the investment climate, while companies are encouraged to apply the standards of responsible business conduct as set out in the Guidelines. For further information on the OECD MNE Guidelines, please check the [BIAC brochure](#).

BIAC contributes to discussions on treaty on business and human rights

In 2014, the Intergovernmental Working Group on Business and Human rights was established to elaborate an international, legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises.

In preparation for the meeting of the Intergovernmental Working Group in October 2016, BIAC joined IOE, ICC and WBCSD in a submission on further considerations on the treaty process, summarizing the key messages of the main international business federations (click [here](#)).

BIAC highlights the importance of the OECD MNE Guidelines

BIAC has remained active throughout the year in raising the visibility of the OECD MNE Guidelines and contributing business views on how to make implementation of the Guidelines a success. In addition to organizing a special focus session on the 40th anniversary, on the occasion of its General Assembly, BIAC participated in a number of separate events, including a meeting organized by our German member BDA on responsible business conduct and due diligence in February, a meeting on the MNE Guidelines in Vienna in October, and a major conference in Budapest on responsible business conduct and the OECD MNE Guidelines. BIAC encourages its member organizations to raise the visibility of the OECD Guidelines among their member companies.

BIAC also spoke at the OECD Conference on “Forty Years of the OECD Guidelines”, In December 2016.

Anti-Bribery/Corruption



BIAC at Anti-Bribery Ministerial

On 16 March, the leadership of the BIAC Task Force on Anti-Bribery/Corruption participated in the OECD Ministerial Meeting on the Anti-Bribery Convention, which brought together Ministers from the State Parties as well as partner countries to the Anti-Bribery Convention and key stakeholders. Ministers reaffirmed their commitment to continued implementation of the Convention and formally launched the fourth phase of country evaluations by the OECD Working Group on Bribery.

The Ministerial Declaration is available [here](#). In total, 50 countries from around the world have joined the Declaration, underlining among others the importance of improving international cooperation, promoting whistleblower protection, dialogue on voluntary disclosure and settlement procedures, promoting the use of anti-corruption compliance measures, as well as strengthening cooperation with the private sector as an indispensable partner in the fight against corruption. BIAC called for a comprehensive OECD anticorruption strategy which benefits from the OECD's strong capacity to work in a cross-cutting manner and with the private sector as a key partner. The full BIAC statement is available [here](#).

Strong business participation in OECD Integrity Forum

A strong business delegation participated in the OECD Integrity Forum on 19-20 April, which focused on “Global Trade Without Corruption”. The Forum brought together different policy communities as well as the private sector, civil society organisations and academia to encourage discussion on key issues, such as preventing corruption in customs, protecting supply chains, improving business in emerging markets, and countering illicit trade. BIAC policy group leadership and experts were also represented as speakers at the Forum. To read the BIAC statement on global trade without corruption, [click here](#).

Back-to-back with the Forum, the OECD organized a seminar on Enhancing Integrity for Business Development in the Middle East and North Africa (MENA) Region on 18 April to identify good practices in improving business integrity and actions required to level the playing field for companies, and identify priorities for the OECD MENA work going forward.

The OECD Anti-Bribery Convention remains a landmark in the global fight against bribery and corruption.

B20 addresses anti-corruption and responsible business conduct

The B20 is an integral part of the G20 process and supports the G20 through consolidated representation of interests, concrete policy proposals, and expertise. Under the German presidency, the B20 includes a cross-thematic working group on anti-corruption and responsible business conduct, which works under the leadership of Klaus Moosmayer, who also chairs the BIAC anti-corruption task force, and includes several BIAC members and BIAC as a network partner.

Focus areas for the B20 this year include the following: (1) Beneficial ownership transparency, (2) compliance and voluntary self-disclosure, and (3) responsible business in infrastructure projects. The group also contributes its expertise to other B20 task forces, including in the areas of supply chains and human rights due diligence, trade, and SMEs. BIAC participated in the B20 meetings in Berlin in December and will continue to contribute to the development of the recommendations, which will be further refined at a meeting in Berlin at the end of January and the B20 meetings at the OECD in Paris on 21 March, ahead of the B20 summit in May 2017. For further information on the B20 process and priorities, click [here](#).

BIAC contributes to discussions on follow-up to the Anti-Bribery Ministerial

A strong BIAC delegation participated in the annual consultation with the OECD Working Group on Bribery in December, which was intended to offer an opportunity to key stakeholders to contribute their perspective on follow-up to the Ministerial Meeting on the OECD Anti-Bribery Convention, which took place in March.

Referring to the Ministerial Communiqué, BIAC expressed its appreciation for the recognition of the importance of public-private cooperation and underlined its interest in contributing constructively to OECD discussions going forward. BIAC also welcomed the fact that Ministers recognized the importance of voluntary self-disclosure and called upon the OECD to launch a dedicated work program in this area. BIAC members also underlined the importance of collective action, and reiterated the proposed concrete steps forward based on the BIAC proposal submitted in June, which calls for a specific cooperative project to address the root causes of bribery (to read the BIAC proposal, click [here](#)). Finally, BIAC underlined again the importance of addressing the demand side, which is currently not covered by the Working Group on Bribery, but which is an indispensable component for the fight against corruption.

BIAC contributes to discussions on liability of legal persons

Taking place on the International Anti-Corruption Day, BIAC contributed actively to the OECD Roundtable on Corporate Liability for Foreign Bribery on 9 December. The event was organized by the OECD Working Group on Bribery and offered an opportunity for governments, the private sector, civil society, and the media, to reflect on the liability of legal persons. The discourse centered on questions of how a legal person liability system needs to be designed, implemented and the practitioners' view on the matter. The BIAC delegation, led by Klaus Moosmayer, advocated among others for the recognition of compliance efforts to further incentivize corporate self-disclosure, embedded in clear and consistent legal frameworks.

In preparation for the roundtable, the OECD had organized a public consultation to collect the perspectives from business and other key stakeholders (click [here](#) to read the BIAC contribution to the survey). The OECD also launched a report presenting a chronology and a "mapping" of the features of the systems for liability of legal persons found in the 41 Parties to the OECD Anti-Bribery Convention (click [here](#) for the full report).

In the framework of the country evaluation process, BIAC regularly establishes links between the OECD and the business community to ensure that business can provide input to the country reviews.

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



Corporate Governance



Implementation of the G20/OECD Corporate Governance Principles

The G20/OECD Corporate Governance Principles are widely recognized by policy makers and business as a key international point of reference and form the basis for many local codes of corporate governance around the world. They offer a principles-based approach to address key corporate governance issues and are one of the 12 standards for international financial stability of the Financial Stability Board. After extensive discussions, to which BIAC actively contributed, the Principles were approved by the OECD Council and subsequently by G20 Finance Ministers in 2015. To read the final Corporate Governance Principles, click [here](#).

Ensuring broad-based implementation of the updated Principles is now a priority for both governments and the business community. In this context, BIAC contributed to discussions on the review of the OECD assessment methodology, which was finalized at the end of 2016, underlining the importance of a user-friendly framework and the recognition that one size does not fit all in relation to delivering corporate governance. BIAC also contributed to discussions on future OECD peer reviews, which will contribute to the effective implementation of the Principles. Peer reviews which have already been finalized are available on the [OECD website](#).

Corporate governance of financial institutions

In 2016, the Financial Stability Board (FSB) published the terms of reference for its peer review of the implementation of the G20/OECD Corporate Governance Principles. The main objective of the FSB review is to take stock of how FSB member jurisdictions have applied the Principles to publicly listed, regulated financial institutions, identifying effective practices and areas where good progress has been made while also identifying gaps and need for further action. It will also identify possible areas of follow-up to further promote effective governance within financial institutions.

Given BIAC's involvement in OECD corporate governance activities, the FSB invited BIAC to a consultation in June 2016 for an exchange of views on which of the recommendations may be of most relevance for financial institutions and financial stability. The FSB review was further discussed during the consultation with the OECD Corporate Governance Committee in November 2016, where BIAC recalled that while many of the overarching recommendations of the Principles are also relevant to financial institutions, not all the specifics may be readily applicable to them, which should be taken into account during the peer review. For further information, please read the [BIAC paper](#).



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

BIAC engages in discourse about state-owned enterprises

In parallel with work related to the Corporate Governance Principles, BIAC actively supports effective implementation of the [OECD Guidelines on Corporate Governance of State-Owned Enterprises](#) (SOEs). The Guidelines represent an internationally agreed standard on how governments should exercise ownership of SOEs and foster competitive neutrality.

In light of the growing importance of SOEs, the OECD Freedom of Investment Roundtable and the Working Party on State-Ownership and Privatisation Practices jointly hosted a workshop in October on “State-owned enterprises as competitors: How to react, how not to overreact?” to discuss concerns about their market distorting potential, the importance of transparency, good governance and strict application of competition law. On the same day, a second workshop took place focusing on “Preventing Corruption in SOEs: The Role of State Shareholders.” Underlining that SOEs are uniquely exposed to corruption risk, BIAC stressed the relevance of implementing the SOE Guidelines, well-functioning compliance systems and appropriate risk management and reporting arrangements. Business needs a global level playing field and market disruption by SOEs can have serious implications. To read BIAC’s key messages for both events, click [here](#).

Upcoming meetings in 2017

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

26-27 January:

OECD G20/B20 Meeting

8-9 February:

OECD Roundtable on Due Diligence for Responsible Garment & Footwear Supply Chains

6-10 March:

OECD Investment Committee meetings

21 March:

B20 Germany meetings at the OECD

23-24 March:

OECD Working Party on State Ownership and Privatisation Practices

28-29 March:

Corporate Governance Committee

30-31 March:

OECD Integrity Forum

2-5 May:

ICGLR-OECD-UN GoE Joint Forum on Responsible Mineral Supply Chains

28-29 June:

OECD Global Forum on Responsible Business Conduct

16-20 October:

OECD Investment Committee meetings

23-24 October (tbc):

OECD Working Party on State Ownership and Privatisation Practices

22-24 November:

OECD Corporate Governance Committee

For further information, please contact



BUSINESSatOECD

THE BUSINESS AND INDUSTRY ADVISORY COMMITTEE

Hanni Rosenbaum, Senior Director, Policy and Strategic Planning

13-15 chaussée de la Muette
75016 Paris

rosenbaum@biac.org

tel: +33 1 42 30 09 60

www.biac.org