

Activity Update

July 2017

Committee leadership

Investment & Responsible Business Conduct Committee

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

Task Force on Anti-Corruption

- Klaus Moosmayer, Chair
Siemens AG (Germany)
- Corinne Lagache, Vice-Chair
Safran SA (France)
- Gerrie Lenting, Vice-Chair
Deloitte (USA)
- Joseph Simon, Vice-Chair
Radiometer (Denmark)

Committee on Corporate Governance

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



BUSINESSat**OECD**

THE **B**USINESS AND **I**NDUSTRY **A**DVISORY **C**OMMITTEE

BUSINESS AND INDUSTRY ADVISORY COMMITTEE TO THE OECD (BIAC)



Investment, Responsible Business Conduct, Anti-Corruption, 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.

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

Investment

Business at OECD (BIAC) speaks at OECD Global Forum on Investment

The March 2017 [OECD Global Forum on Investment](#) focused on globalization, with a particular focus on openness, responsibility, and inclusiveness, which were also prominent on the agenda of the 2017 Ministerial Council Meeting. Business at OECD (BIAC) was represented at the Global Forum with a strong delegation and several speakers on the agenda, underlining the importance of an open international trade and investment environment to generate much needed growth and job creation around the world.

Both OECD member and non-member countries desperately need more growth to provide the revenues and jobs people need. Investment, principally private investment, is key to achieve the necessary growth. Governments and societies benefit from attracting foreign direct investment and offering a pro-investment policy framework. Business therefore called upon the OECD to make a strong case for open markets, based on sound data and analysis, underlining the important role of the Organization in pushing for an evidence-

based communication to counter the increasingly critical public perception of globalization.

For further information on the Global Forum, click [here](#). To read the BIAC key messages for the OECD investment week, please click [here](#).



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

Business underlines the importance of international investment agreements

A pro-investment policy environment requires among other issues assurance of fair and non-discriminatory treatment of foreign investors, adherence to the rule of law and effective dispute settlement. At the annual [OECD Conference on International Investment Treaties](#) in March, business experts underlined the important role investment agreements play by strengthening the policy and legal environment for foreign investment.

Bearing in mind that foreign direct investment is generally more risky than domestic investment, investment protection provided by investment agreements is essential. This requires efficient enforcement mechanism that investors can call upon. High-standard international and regional investment agreements that can deliver concrete results therefore play a key role to encourage an open investment environment and stimulate investment flows. For business, the key remains ensuring high-quality protection and enforcement provisions.

One of the sessions at the international investment agreements conference specifically addressed the societal costs and benefits of investment treaties. The OECD is in the process of preparing a literature review on this issue, on which BIAAC had submitted detailed comments in December 2016.

A World Open for Trade, Investment and Innovation

Investment was one of the key themes of our contribution to the annual consultation with OECD Ambassadors in January. Business called upon the OECD to include trade and investment as priority objectives and help communicate the benefits of open markets more forcefully to the general public. The OECD should play an active role in identifying and addressing protectionist measures that are detrimental to open markets and implement the Policy Framework for Investment as a top priority to guide policymakers to adopt a whole-of-government approach to investment. To access the paper, please click [here](#).

The importance of investment was also highlighted at the OECD Ministerial Council Meeting in June, which focused on “making globalization work”. In their final statement, Ministers recognized the importance of policies that support skills, innovation, and long term investment and inclusive growth; the need to strengthen international policy cooperation to help level the international playing field. They also called on the OECD to make further efforts to widen the adherence to the OECD Declaration on International Investment and Multinational Enterprises. For further information on the Ministerial Council Meeting and BIAAC’s contribution, please click [here](#).



Mr. Ángel Bautista, BIAAC Investment Committee Vice-Chair, speaking at the OECD Conference on International Investment Treaties, March 2017



Responsible Business Conduct

The OECD Guidelines for Multinational Enterprises are the most comprehensive international instrument for responsible business conduct, which covers all major areas of business ethics.

To read the BIAC Brochure on the Guidelines, please click [here](#).

BIAC comments on the draft OECD Due Diligence Guidance

In 2016, the OECD embarked on the development of a general Due Diligence Guidance to provide practical support to companies for the implementation of the [OECD Guidelines for Multinational Enterprises](#). The draft Guidance is intended to contain plain language explanations of the due diligence recommendations and associated provisions in the Guidelines to be used by companies in any sector of the economy.

Business at OECD (BIAC) has highlighted key business recommendations on the various drafts of the due diligence guidance on several occasions, underlining that the final outcome has to remain practical guidance, while also clarifying realistic expectations and limitations companies face in having concrete influence in their global supply chains.

However, it must neither become an interpretation of the MNE Guidelines, nor a new standard of due diligence rules.

Business also underlined that while the OECD Guidelines give companies sufficient space to develop their tailor-made due diligence, the recommendations in the Guidance must not become too prescriptive or unrealistic for companies, especially smaller ones.

In February, BIAC submitted detailed comments during the public consultation (to read them, please click [here](#)).

In June, BIAC participated in the OECD advisory group meeting, and subsequently submitted written comments on the revised draft outline of the Guidance. BIAC will closely follow further developments in this area.

High Level Business Session: National Contact Points in practice

On 28 June, BIAC organized a [high-level business seminar](#), on the OECD Guidelines and the National Contact Point (NCP) Procedure. The meeting was a unique opportunity for business leaders to share their experience regarding the application of the MNE Guidelines and the functioning of the NCPs in practice.

Specifically, the objectives of the BIAC meeting were to facilitate discussion among responsible business conduct business leaders in order to raise awareness about the NCP procedure and exchange experience about advantages and drawbacks of the system, to explore the strategic question of how business should position itself towards the NCP system, and discuss the conditions that must be in place to facilitate proactive engagement of all stakeholders in the process.

The meeting was a valuable opportunity to share experience in specific cases, which has been mixed. In some cases, it had a clear added value for companies. In other cases, it was criticized. It is therefore important to have a shared understanding among all stakeholders about the nature of the NCP process as a platform for mediation and problem-solving in good faith, which is very different from litigation.

Global Forum on Responsible Business Conduct

In June, BIAC participated in the [Global Forum on Responsible Business Conduct](#), which brought together business, trade unions, civil society and academia to debate key global social and economic challenges related to Responsible Business Conduct.

The forum focused among others on global supply chains and due diligence, with special sessions on a wide range of issues linked to the responsible business conduct agenda, including for example climate change, anti-corruption, education, the Sustainable Development Goals, infrastructure, and the use of technologies.

BIAC considers Responsible Business Conduct as promoted by the OECD Guidelines for Multinational Enterprises to be an essential part of an open investment environment. Business speakers at the Global Forum underlined the proactive role companies are playing, while highlighting that the expectations towards business must remain realistic and practical.



Mr. Winand Quaadvlieg, BIAC Investment Committee Chair, speaking at the BIAC High Level Business Seminar, June 2017

Confidentiality and campaigning under the MNE Guidelines

To encourage trust in the NCP system, it is essential that there is a clear understanding that the NCP procedure is a consensual and non-adversarial mediation platform and that stakeholders need to respect the provisions of the procedural guidance, including those related to confidentiality and transparency. Business also underlines that public campaigning during the NCP procedure is not compatible with the nature of the procedure and infringes the principles of good faith and confidentiality. As the OECD is developing guidance in these areas, BIAC submitted a [paper on confidentiality and campaigning during the NCP process](#) to summarize business messages.

High-level roundtable for policy makers for responsible business conduct

As responsible business conduct requires coherence and coordination across policies, the OECD organized a high-level roundtable for policy makers back-to-back with the Global Forum for Responsible Business Conduct in June. BIAC provided the business voice during the consultation, addressing the key topics on the agenda: (1) National Action Plans on Business and Human Rights to enable policy coherence for responsible business conduct,

(2) responsible business conduct in government procurement practices, and (3) responsible business conduct and economic diplomacy tools. To read the BIAC paper which summarized the key messages, please 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 business delegation participated in the OECD Forum on 2-4 May 2017, which focused on compliance and implementation of the OECD guidance and other initiatives to enable responsible mineral supply chains. The [agenda](#) as well as the [OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas](#) are available on the [OECD website](#). The Forum also focused on the risks and due diligence efforts for the supply chains of tin, tantalum, tungsten and gold.

BIAC considers responsible business conduct as promoted by the OECD Guidelines as an essential part of an open investment climate

Anti-Corruption



BIAC contribution to the B2o process

Throughout the year, Business at OECD (BIAC) actively participated as a network partner in the discussions of the B2o Working Group on Anti-Corruption and Responsible Business Conduct, which under the chairmanship of Klaus Moosmayer, who also chairs the BIAC anti-corrupting task force, developed the business recommendations on how to join forces in the fight against corruption and the promotion of integrity and responsible business conduct.

The [final report](#)'s main recommendations call for: (1) Establishing beneficial ownership transparency, (2) Recognizing compliance efforts, and (3) Enhancing responsible business conduct in infrastructure projects. Recognizing the important role of the OECD in supporting responsible business conduct and fighting corruption, B2o also underlined the importance of effectively implementing and promoting key international instruments, including the OECD Anti-Bribery Convention and the OECD Guidelines for Multinational Enterprises, as well as the need to address both the demand and supply sides of corruption.

Many of the B2o calls are supportive of BIAC's recommendations to the OECD, e.g. encouraging compliance efforts and recognizing voluntary disclosure, as well as addressing the demand side of bribery and combat bribe solicitation. Going forward, BIAC will therefore encourage an active role of the OECD in the implementation of the B2o recommendations.

BIAC joins the B2o and OECD/G2o meetings

In January, BIAC members participated in the B2o Conference on Responsible Business Conduct and Anti-Corruption "From Aspiration to Business Action: The Agenda 2030 as driver for responsible business and anti-corruption in infrastructure development" organized by the B2o, the Alliance for Integrity and the Emerging Market Sustainability Dialogue in Berlin.

BIAC also participated in the High-Level Anti-Corruption Conference for G2o Governments, Business and Civil Society, jointly organized by the German Presidency of the G2o Anti-Corruption Working Group and the OECD. The annual Conference provided the opportunity for participants to discuss cutting-edge compliance and collective action practices, in particular for SMEs, as well as sectoral challenges including in the health sector and in sports. Klaus Moosmayer, Chair of the B2o Working Group on Responsible Business Conduct and Anti-Corruption and Chair of the BIAC Anti-Corruption Task Force also participated in the delegation that handed over a summary of the B2o initial recommendations to the G2o Working Group.

In March, BIAC co-hosted with the OECD a meeting for B2o task forces to finalize their key recommendations and provide a platform to communicate the main messages to the OECD and the G2o leadership.

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

Strong business participation in OECD Integrity Forum

The [OECD Global Anti-Corruption & Integrity Forum](#) provides an annual high-level venue for global anti-bribery discussions, by bringing together different policy communities as well as the private sector, civil society organisations and academia.

The 2017 Forum, which was held at the OECD in March and brought together over 1000 participants, took place under the theme of “taking integrity to higher standards”, addressing key issues such as: stimulating fair competition and economic growth, shaping a level playing field for business, safeguarding the public interest in policy making, and promoting trust in government and politics.

Alongside the Mexican Minister of Public Administration, the BIAAC Anti-Corruption Chair spoke in the high-level opening session to discuss practical ways of addressing corruption challenges. BIAAC members also participated as panellist in sessions on restoring trust in the tax system, corporate liability, legal means ethical, how long is arm’s length, re-gaining public trust, and corporate due diligence.



Dr. Klaus Moosmayer, BIAAC Anti-Corruption Task Force Chair, and **Ms. Corinne Lagache**, Vice-Chair, speaking at the *B20 Responsible Business Conduct and Anti-Corruption Conference*, January 2017

Corporate Governance



The 2015 [G20/OECD Principles of Corporate Governance](#) provide an indispensable and globally recognized benchmark for assessing and improving corporate governance. The Principles have also been adopted as one of the Financial Stability Board's key standards for sound financial systems. The OECD work now focuses on implementation, including through peer reviews and benchmarking.

Flexibility and Proportionality of Corporate Governance Frameworks

Considering that companies are not a homogenous group, but differ with respect to size, ownership structure, stage of development, sectors, etc., the OECD Corporate Governance Committee organized a special roundtable in March, focusing on flexibility and proportionality of corporate governance frameworks. BIAC participated in the roundtable and conveyed the views of business, which are summarized in our [Thought Starter, Proportionality and Flexibility in Corporate Governance](#).

Business underlined that while one should not necessarily assume that “one size fits all”, the call for different standards applying to companies of differing size, form, purpose, ownership and stage of maturity or geography should not be the automatic answer in order to not undermine basic standards and key principles of good governance. Participants underlined the importance of a principles-based framework with a “comply or explain” provision.



Mr. Dan Konigsburg, BIAC Corporate Governance Committee Chair, with the BIAC Delegation at the March 2017 OECD Corporate Governance Consultation

Methodology for assessing the implementation of the Principles

Following the adoption of the updated OECD/G20 Principles, BIAC contributed to the development of the assessment methodology for the OECD/G20 Principles, which was published in March 2017. The methodology underpins the assessment of the implementation of the Principles in a jurisdiction and helps identify the nature and extent of specific strengths and weaknesses in corporate governance. For further information, please click [here](#).

FSB publishes thematic peer review on corporate governance

In April, the Financial Stability Board (FSB) published a [peer review on corporate governance](#), taking stock of how FSB member jurisdictions have implemented the G20/OECD Principles of Corporate Governance for publicly listed, regulated financial institutions.

BIAC had previously submitted comments on the FSB review and a published a [Thought starter, Corporate Governance of Financial Institutions](#).

Privatizing SOEs

In March, BIAC participated in a roundtable on Privatising SOEs, hosted by the OECD Working Party on State Ownership and Privatisation Practices. The main goal of the meeting was to identify good practices for conducting privatisation and inform future work by the OECD in this area.

In line with earlier comments on the update of the [SOE Guidelines](#), business underlined the need to provide further guidance for the privatisation of certain SOEs as governments should consider both when State ownership is desirable and when it is not, what the various implications and challenges are, and when future privatisation should be aimed for.

The [OECD Guidelines on Corporate Governance of State-Owned Enterprises](#) advise countries how to manage more effectively their responsibilities as company owners.

Transparency Checklist for SOEs

During the SOE consultation in March, BIAC welcomed the initiative to develop a transparency checklist for SOEs operating abroad to highlight existing distortions as well as ways to address them. Such a checklist should provide a basis for objective assessment of SOEs and create clear expectations of what should be considered good practices when SOEs operate abroad.

At the 2017 [OECD Ministerial Council Meeting](#), Ministers underlined the importance of work on competitive neutrality and called on the OECD to examine the possibility to develop a voluntary global reporting standard for internationally active SOEs.

Integrity guidelines for SOEs

Earlier this year, the OECD launched a new in-depth analysis of SOE's exposure to corruption risks as a basis for developing future guidance.

BIAC underlined the importance of close cooperation with the private sector to share best practice, including in the area of compliance systems. The ultimate objectives are to effectively fight corruption at all levels and establish a level playing field for all market participants.

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.

16-20 October:

OECD Investment Week (Consultations tbc)

23-24 October:

OECD Working Party on State Ownership and Privatisation Practices (Consultation on the first day)

2-3 November:

OECD Corporate Governance Committee
(Consultation on the first day)

4-7 December:

OECD Responsible Business Conduct Week
(Consultations tbc)

11-15 December:

OECD Working Group on Bribery in International Business Transactions (Consultation tbc)

For further information, please contact



BUSINESSatOECD

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Recent OECD Publications

(Please click on the link to access the publication)

Investment

[FDI IN FIGURES \(APRIL 2017\)](#)

Based on the OECD's most recent dataset, this report analyses the fall of foreign direct investments in 2016. Such a report is produced biannually by the OECD.

[IS INVESTMENT PROTECTIONISM ON THE RISE? \(MARCH 2017\)](#)

This note was provided as background information at the Global Forum on International Investment, which took place in March 2017. It analyses the FDI restrictiveness per country and sector, based on the OECD FDI Regulatory Restrictiveness Index methodology and UNCTAD statistics.

Responsible Business Conduct

[OECD DUE DILIGENCE GUIDANCE FOR RESPONSIBLE SUPPLY CHAINS IN THE GARMENT AND FOOTWEAR SECTOR](#)

The Guidance, which was released in February 2017, is intended to provide a common understanding of company responsibility in the garment and footwear sector.

[RESPONSIBLE BUSINESS CONDUCT FOR INSTITUTIONAL INVESTORS](#)

The Guidance, which was published in March 2017, is intended to key actions for asset managers and asset owners seeing through the due diligence process.

Anti-Bribery

[COUNTRY REPORTS ON THE IMPLEMENTATION OF THE OECD ANTI-BRIBERY CONVENTION](#)

Countries which are parties to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions are subject to monitoring reports. To access country reports and see the schedule of upcoming review, please [click here](#).

Corporate Governance

[STATE-OWNED ENTERPRISES AS GLOBAL COMPETITORS](#)

This study aims at understanding whether global SOEs jeopardize the international level playing field. This study adopts a multidisciplinary approach, exploring the issues from competition, investment, corporate governance and trade policy perspectives.

[OECD CORPORATE GOVERNANCE FACTBOOK](#)

The Factbook tracks how countries implement the OECD Principles, and catalogues the legal and regulatory frameworks, institutions and practices at place in 47 jurisdictions.