Activity Update

July 2018

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
  Nilfisk (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)
- Christoph Benedict, Vice-Chair
  GE Power AG (Germany)

Investment and 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.
The BIAC strategy paper highlights the importance of an enabling overarching policy framework for investment, and calls for effective implementation of key OECD instruments, including the OECD Policy Framework for Investment (PFI), the Declaration on International Investment and Multinational Enterprises and the Codes of Liberalization of Capital Movements. It also recommends specific action in a range of key areas, such as investment protection, investment screening, global value chains, investment for development, and state-owned enterprises to name just a few. To read the paper, please click here.

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.

Foreign direct investment is an integral part of a growth-oriented international economic system. It spurs public prosperity and economic development in home and recipient countries. While there were some signs towards greater openness for foreign investment and the easing of conditions for international capital flows, the overall environment for international investment remains volatile. Furthermore, misconceptions about the value of investment in the public discourse are often insufficiently addressed.

Underlining the important role that the OECD can play in the international debate on investment and in providing fact-based policy analysis, BIAC issued its “proactive investment agenda for 2018” on the occasion of the OECD investment meetings in March. The paper calls for a forceful defense from the OECD to underpin the value of an open international investment environment, which is an essential prerequisite for economic growth worldwide.

Mr. Shaun Donnelly, USCIB, speaking at the OECD Investment meetings, March 2018

The voice of the OECD in defending an open international investment environment is more important than ever.
Focus on investment treaties and on national security

In March, BIAC participated in the OECD Annual Conference on Investment Treaties, which focused on treaty shopping and exploring tools to help interested governments improve their investment treaty policies. The conference also presented the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) to the investment policy community. BIAC members present at the Conference underlined the fundamental importance of investment agreements and effective investment protection.

On the following day, BIAC members participated in the OECD workshop on investment policies related to national security. This meeting discussed the current upward trend in the introduction of new investment policies related to national security, or reforms aimed at expanding existing national security grounded screening or review mechanisms. Business cautioned against overly expansive or vague investment screening that could easily become a disguised form of protectionism, and highlighted the importance of the OECD “Guidelines for recipient country investment policies relating to national security”.

Investment and global value chains

Global value chains (GVCs) have sharpened the relationship and complexity between trade and investment, and there is growing consensus on the need for greater policy coherence. The OECD is therefore undertaking a project for GVCs to deepen the understanding of the inter-dependency between trade, FDI and GVCs, and identify opportunities for greater policy coherence. In March, BIAC chaired a dialogue session between business and policy makers, which was intended to highlight the practical experience of multinationals operating in GVCs.

FDI Qualities Network meeting

In 2018, the OECD launched a new project on measuring Foreign Direct Investment (FDI) qualities, to explore the role of FDI in the context of inclusive and sustainable growth and the SDGs. In June, BIAC participated in the first FDI qualities network meeting, which allowed for an exchange of views on the development of a toolbox for policy makers to mobilize FDI that maximizes sustainable growth. BIAC underlined that the project must not lead to a categorization of what is “good” and “bad” FDI. However, the project could make a useful contribution by helping policy makers better understand the wider benefits of FDI and its essential contribution to the SDGs.

Mr. Winand Quaedvlieg, BIAC Investment Committee Chair, speaking at the OECD investment meetings, March 2018
OECD Due Diligence Guidance for Responsible Business Conduct

At this year’s OECD Ministerial Council Meeting, Ministers welcomed the adoption of the OECD Due Diligence Guidance for Responsible Business Conduct. Forty-eight countries adopted and agreed to support and monitor the implementation of the Due Diligence Guidance. The Guidance is the first government-backed standard for corporate due diligence on responsible business conduct to cover all sectors of the economy.

BIAC had been actively involved in this process over the last two years to ensure that key business considerations would be reflected, underlining that the final outcome had to remain practical and flexible.

It was particularly important for business that the flexibility, an underlying concept in the MNE Guidelines, be reflected in the Guidance, recognizing that the nature and extent of due diligence depend on the precise circumstances. The Guidance recognizes several of our key requests, i.e. that the suggested practical actions are not meant to represent an exhaustive “tick box” list for due diligence, that not every practical action will be appropriate for every situation, and that the Guidelines remain the reference for specific instances. The focus should now be on dissemination and on capacity building to ensure that companies at large understand and can benefit from the Guidance.
OECD Global Forum on Responsible Business Conduct

In June, a large BIAC delegation participated in the OECD Global Forum on Responsible Business Conduct, including in several speaking roles. The Forum brought together OECD member and non-member countries, business, trade unions, civil society and academia to debate key global social and economic challenges related to responsible business conduct (RBC).

This year’s Forum focused, among others, on due diligence, with a high-level session on the launch of the OECD Due Diligence Guidance on Responsible Business Conduct - the first-government-backed reference on due diligence for responsible business conduct. It also included a roundtable for RBC policy makers and a range of special sessions, including on agricultural supply chains, blockchain, social dialogue, and business in society. BIAC speakers at the Forum underlined the pro-active role companies are playing, while highlighting that the expectations towards business must remain realistic and practical. For further information on the forum, please click here.

OECD Forum on due diligence in the garment and footwear sector

In January, a strong business delegation participated in the OECD Forum on due diligence in the garment and footwear sector, which brought together government, business, trade unions, civil society and academia to review the progress made on the implementation of the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, as well as to address emerging risks and to share learnings on implementing due diligence across geographies. The Forum also announced the development of the alignment assessment tool for assessing collaborative initiatives and to be used by individual companies to carry out self-assessments of their due diligence practices against the guidance.

Mr. Winand Quaedvlieg, BIAC Investment Committee Chair, speaking at the OECD Global Forum on Responsible Business Conduct, June 2018
OECD Forum on responsible mineral supply chains

The April 2018 Forum on responsible mineral supply chains provided the opportunity to review and discuss the implementation of the OECD Due Diligence Guidance for Minerals and other initiatives to enable responsible mineral production and sourcing. The OECD Guidance provides recommendations to help companies respect human rights and avoid contributing to conflict through their mineral purchasing decisions and practices.

More than 700 experts came together to discuss challenges and opportunities for responsible sourcing across various minerals, compliance and implementation of the OECD guidance and alignment of industry programs to enable effective responsible mineral supply chains. The Forum also addressed the risks and due diligence efforts for the supply chains of cobalt in addition to tin, tantalum, tungsten, and gold.

Responsible Business Conduct and Corporate Lending

The proactive agenda is an approach to develop, on the basis of the MNE Guidelines, practical tools for addressing specific challenges, products, sectors or countries.

As one of the projects, the OECD published its report on responsible business conduct for institutional investors, which summarizes key considerations for due diligence for institutional investors. The focus of the next phase of this project is on corporate lending and how it relates to responsible business conduct due diligence. BIAC has underlined that this should not create any additional expectations and obligations, and should not introduce prescriptive guidance that would go beyond the Guidelines. The objective should be to take stock of existing tools and consider tools that would be of practical value to financial institutions as they develop due diligence.

BIAC considers responsible business conduct as promoted by the OECD MNE Guidelines as an essential part of an open investment climate.
OECD Global Anti-Corruption & Integrity Forum

The OECD Global Anti-Corruption & Integrity Forum provides an annual high-level venue for global anti-bribery discussions on the broadest range of issues, by bringing together different governments, business, and civil society leaders and experts. The 2018 forum in March, with over 1800 participants from 120 countries, took place under the theme of “Planet Integrity: Building a fairer society”, addressing key issues such as integrating anti-corruption strategies and practices to ensure inclusive growth, strengthening sustainable development, and addressing the backlash to globalization.

BIAC participated as a knowledge partner in the Forum with a large delegation, including with speakers in sessions on trade, SOEs, settlements, in addition to several other side-events as well as the high-level leaders’ closing panel. BIAC called for decisive action in the fight against corruption and for close cooperation with the private sector.

Dialogue on High Level Reporting Mechanisms

Back-to-back with the OECD Global Anti-Corruption & Integrity Forum, BIAC engaged in the panel session on key considerations for a High Level Reporting Mechanisms (HLRM), an innovative tool to fight bribe solicitation. The session also allowed for an exchange of experience with the implementation of a HLRM in Colombia and Argentina.

BIAC underlined the importance of strong governmental engagement to act against solicitation of bribes, to assist companies in specific situations, and to co-operate internationally. With the right conditions in place, a HLRM can play an important role as a mechanism for reporting bribe solicitation and extortion attempts above the level of the public agency or ministry involved, which companies can call upon.

Mr. Joseph Simon
BIAC Anti-Corruption Task Force Vice-Chair,
speaking at the OECD Global Anti-Corruption & Integrity Forum, March 2018
The OECD Anti-Bribery Convention remains a landmark in the global fight against bribery and corruption.

**OECD Recommendation for Further Combating Bribery of Foreign Public Officials**

The OECD Recommendation for Further Combating Bribery of Foreign Public Officials, released in 2009 when the OECD marked the tenth anniversary of the entry into force of the OECD Anti-Bribery Convention, was adopted to enhance the ability of the State Parties to the Anti-Bribery Convention to prevent, detect and investigate allegations of foreign bribery. In 2018, the OECD decided to look into an update of this Recommendation. BIAC will closely follow discussions in this area and provide comments once the process will have been formally launched.

**B20 Argentina Integrity and Compliance Task Force**

BIAC has actively participated as a network partner in the discussions of the B20 Argentina Integrity and Compliance Cross-Thematic Group. The B20 group is developing the business recommendations including in the areas of integrity in public procurement, implementation of high standards of ethics and integrity focusing on SOEs, and beneficial ownership transparency. Many of the B20 calls are supportive of BIAC’s recommendations to the OECD, particularly in the area of SOEs, where the OECD is very active. Following the task force meeting BIAC co-hosted in Paris at the end of May, BIAC will continue its active engagement in the B20 discussions encouraging an active role of the OECD in the implementation of the B20 recommendations.

**Monitoring of the OECD Anti-Bribery Convention**

Countries’ implementation and enforcement of the OECD Anti-Bribery Convention is monitored by the OECD Working Group on Bribery through a rigorous peer-review monitoring system. To access the country reports, please click [here](#).
The G20/OECD Principles of Corporate Governance provide a 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.

Corporate governance proactive agenda

On the occasion of the April meeting of the OECD Corporate Governance Committee, BIAC submitted its strategic proposals for future OECD work on corporate governance. Good corporate governance, across all sectors of the economy, is a fundamental prerequisite for the long-term sustainability of businesses, the stability of capital markets, and sustainable growth. As the world undergoes profound changes, the role of the OECD is increasingly important to analyze new trends and ensure sound corporate governance arrangements that are supportive of long-term investment and corporate access to capital markets to support the sustainable growth of our economies.

Most importantly, we need continued emphasis on the effective implementation of the OECD/G20 Corporate Governance Principles, with due mechanisms in place to review progress and encourage leading practices.

The BIAC paper also underlines the important role of the OECD as a knowledge center, recognizing its strength in the collection and compilation of fact-based information. Additionally, it makes a number of specific recommendations in areas, such as the role of institutional investors, stock markets and stakeholders, rights and equitable treatment of shareholders, flexibility and proportionality, and directors’ skills to name just a few. To read the document, please click here.

Mr. Dan Konigsburg, BIAC Corporate Governance Committee Chair, at the April 2018 OECD Corporate Governance Consultation
BIAC engagement in the OECD work on State-Owned Enterprises

In parallel with work related to the OECD/G20 Corporate Governance Principles, BIAC actively supports the OECD work on corporate governance of state-owned enterprises (SOEs) and calls for effective implementation of the OECD Guidelines. In light of the growing importance of SOEs, which are increasingly active at the international level, BIAC provided comments on the future program of work at the March meeting of the OECD Working Party for State Ownership and Privatization Practices.

In particular, BIAC members commented on the OECD initiative to develop a global reporting standard for internationally active SOEs as well as the draft OECD Anti-Corruption Guidance for the state as SOE owners. In light of the fact that SOEs are uniquely exposed to corruption risks, BIAC supports both projects and underlined the relevance of implementing the SOE Guidelines, fostering transparency, well-functioning compliance systems and appropriate risk management.

Blockchain technology and corporate governance

Blockchain, a decentralized distributed ledger technology, could have huge impacts on markets and economies far beyond Bitcoin or cryptocurrencies. Currently, blockchain models are being developed and tested in many different sectors. Since blockchain technology's biggest promise is the elimination of some or all intermediaries, it also offers an opportunity for better corporate governance. Blockchain technology can thus be a tool for stakeholder engagement. BIAC participated in a special session on corporate governance and blockchain and will remain actively involved in related OECD activities, through the newly launched BIAC Blockchain Network.

The OECD Guidelines on Corporate Governance of State-Owned Enterprises advise countries how to manage more effectively their responsibilities as company owners.
Upcoming meetings in 2018

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.

OECD Blockchain Policy Forum
5 September

OECD Expert Working Session on Responsible Business Conduct and Corporate Lending
28 September

OECD Corporate Governance Committee
16-17 October (Consultation tbc)

OECD Investment week (week of 22 October)

- Investment Promotion Agencies Network meeting, 22 October
- Stakeholder consultations with the OECD Investment Committee, 23 October
- FDI benefits expert meeting, 24 October
- Joint Meeting of the OECD Trade and Investment Committees, 24 October
- OECD Roundtable on Investment and Sustainable Development, 24 October

OECD Working Party on State Ownership and Privatization Practices
14-15 November (Consultation tbc)

OECD Working Party on Responsible Business Conduct and Meeting of the National Contact Points
Week of 03 December (Consultation tbc)

OECD Working Group on Bribery in International Business Transaction
Week of 10 December (Consultation tbc)

For further information, please contact

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Recent OECD Publications

Please click on the link to access the publication

Investment

FDI IN FIGURES (APRIL 2018)
According to the 2018 report, global FDI flows decreased by 18% to USD 1 411 billion in 2017 compared to 2016 as corporate restructurings declined.

TOWARDS AN INTERNATIONAL FRAMEWORK FOR INVESTMENT FACILITATION
This paper looks at the merits of an international framework to facilitate investment in support of sustainable and inclusive growth.

Responsible Business Conduct

OECD DUE DILIGENCE GUIDANCE FOR RESPONSIBLE BUSINESS CONDUCT
The Guidance provides practical support to enterprises on the implementation of the OECD MNE Guidelines by providing plain language explanations of its due diligence recommendations.

ANNUAL REPORT ON THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES
The Annual Report covers the activities undertaken to promote the effective implementation of the OECD MNE Guidelines and specific instances over the last year.

Anti-Bribery

OECD STRATEGIC APPROACH TO COMBATING CORRUPTION AND PROMOTING INTEGRITY
This report provides recommendations for strengthening the OECD’s work on fighting corruption in a cross-cutting manner. The report proposes five pillars to open, efficient and inclusive markets.

Corporate Governance

OWNERSHIP AND GOVERNANCE OF STATE-OWNED ENTERPRISES: A COMPREHENDIUM OF NATIONAL PRACTICES
The Compendium serves as a source of up-to-date information on SOEs’ institutional, legal and regulatory frameworks presented country-by-country, in line with the main pillars of the SOE Guidelines.