

Chapter 2

Proactive agenda

The proactive agenda is a new prospective dimension added to the implementation of the Guidelines in the 2011 Update. It contributes to problem solving, as well as the avoidance of problems, in a broader context than the specific instance procedures. The proactive agenda complements the specific instance procedure by helping enterprises identify and respond to risks of adverse impacts associated with particular products, regions, sectors or industries. This chapter reviews the implementation of the proactive agenda over the June 2012-June 2013 reporting period.

About the proactive agenda

The proactive agenda was conceived in the 2011 update of the *Guidelines* as a complement to the specific instance procedure of NCPs. Whereas the specific instance procedure focuses on addressing issues which have arisen with specific enterprise behaviour after the fact, the proactive agenda is intended to be prospective in order to encourage responsible behaviour by enterprises in the context of the *Guidelines*, in particular through constructive collaboration with stakeholders. As a result, the proactive agenda is another important element for implementation of the *Guidelines*, and which could also help to effectively reduce the number of future specific instances.

In co-operation with NCPs, the WPRBC has sought to encourage multi-stakeholder dialogue on emerging issues to more clearly identify areas in which enterprises can make a positive contribution to economic, environmental and social progress, as well as activities and relationships of enterprises which pose common risks and could result in serious adverse impacts. Outcomes of the proactive agenda seek to identify emerging challenges and then leverage an inclusive multi-stakeholder process that would develop broadly-supported solutions to the complex challenges for implementing responsible business conduct, in particular as they relate to specific products, regions, sectors or industries.

In December 2012, the WPRBC approved the principles for the proactive agenda¹ to effectively utilise a multi-stakeholder process, while ensuring that all projects under the proactive agenda operate within a common framework. These Principles call for projects under the proactive agenda to be demand-driven and broadly supported. The projects should address issues where there may be risks of significant adverse impacts on matters covered by the *Guidelines*, and be sufficiently important and in need of attention to justify the time, energy and resources entailed in a broad and inclusive multi-stakeholder process. Proactive agenda projects should also add value in terms of contributing to the effective implementation by enterprises of the principles and standards contained in the *Guidelines*, and avoid duplication with other efforts relevant for it. Finally they should also have a reasonable expectation of success in reaching an outcome that will be supported by adherents to the OECD Declaration on International Investment and Multinational Enterprises as well as affected stakeholders.

In addition to the existing multi-stakeholder process for the *Due Diligence Guidance*, the Working Party has approved three other projects under the

proactive agenda, on due diligence in the financial sector, stakeholder engagement and due diligence in the extractive industry, and most recently on due diligence in agricultural supply chains.

Weak governance zones and conflict-affected and high-risk areas

Within the context of mining in areas of conflict, the promotional activities for the *Guidelines* primarily include the implementation of the *Due Diligence Guidance*. The multi-stakeholder, voluntary initiative which oversees the implementation activities of the Guidance has grown from strength to strength since its inception in 2010. A joint ICGLR-OECD-UN Group of Experts on the DRC Forum meets twice a year and includes participants from OECD, ICGLR and other partner countries, the private sector, international organisations and civil society. The Forum tracks progress on implementation of responsible business practices in the supply chains of minerals from areas of conflict, provides a space for collaborative solutions to solve due diligence challenges and encourages the broad uptake of the Guidance.

NCPs have played a larger role in promoting the Guidance and conflict-sensitive responsible business practices this past year. For example, two thirds of NCP reports received in 2013 affirmed that NCPs or other government agencies “promote the *OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones*”. About half of NCPs also promote the *Due Diligence Guidance* and do so by including a link to the *Due Diligence Guidance* or providing information on their national websites. The Japanese and Latvian NCPs have translated summaries of the *Due Diligence Guidance* into their national languages. Other NCPs have engaged with in-country networks and industry, actively promoted the *Due Diligence Guidance* to various audiences and have created relevant materials to promote the *Due Diligence Guidance* in their countries. Italy, for example, has created sector-specific due diligence guides for its jewellery sector, with substantial promotion of the Guidance therein. Canada, Colombia, Germany, Israel, Japan, the Netherlands and Switzerland, to name a few, are fully engaged in the multi-stakeholder implementation programme and actively support and participate in its activities.

As a result of this broad network of engaged participants, the *Due Diligence Guidance* has gained wide acceptance throughout the supply chains of tin, tantalum and tungsten (3T), with increased awareness and uptake in the complex supply chains of gold. The *Due Diligence Guidance* has become the leading international and industry standard for companies to meet the expectations of the international community and customers *vis-à-vis* minerals from conflict-affected and high-risk areas. Importantly, it appears that in areas of the Democratic Republic of the Congo (DRC) where due diligence is being carried out, there is a reduction in financial support from the

mineral trade towards conflict. The UN Group of Experts on the DRC reported in 2012 that as a result of the implementation of due diligence “the security situation at tin, tantalum and tungsten mine sites has improved and trade in tin, tantalum and tungsten has become a much less important source of financing for armed groups”.

Regional and national legal developments

In August 2012, the US Securities and Exchange Commission’s Final Rule on Section 1502 of the Dodd-Frank Act on Conflict Minerals recognised the *Due Diligence Guidance* as an international framework available to companies to perform due diligence for responsible mineral sourcing and thereby help them meet their reporting obligations under the Act. The EU is expected to put forward a possible initiative on responsible sourcing of minerals from conflict-affected and high-risk areas and continues to support efforts to improve transparency throughout the supply chains of minerals and ways to promote further uptake of the Guidance through enhanced industry engagement and outreach to non-OECD countries. The active engagement of 11 African countries of Central Africa, has resulted in the incorporation of OECD standards into host countries’ regional and national legal frameworks (e.g. DRC and Rwanda) and policies (e.g. ICGLR Regional Certification Mechanism), with positive implications for the creation of a level playing field and demonstrated ownership over the *Due Diligence Guidance* by partner countries. The UN Security Council in its 1952/2010 and 2021/2011 resolutions on the situation in the DRC also relied on the *Due Diligence Guidance*, thus laying down a common UN-OECD framework for responsible sourcing. On 25 April 2013 the UN Security Council also recognised the utility of the *Due Diligence Guidance* beyond the Great Lakes Region, in its Resolution 2101 (2013) on Côte d’Ivoire, which encouraged Ivorian Authorities to engage in the OECD-hosted implementation programme to implement due diligence in its gold sector to prevent gold from becoming a further source of conflict and insecurity.

Market uptake of the Due Diligence Guidance

Over the course of 2012-13 there has been increased market awareness of and uptake of the *Due Diligence Guidance* in their mineral supply chains. The OECD launched a 3T pilot implementation phase in November 2011 with the goal to assist implementing companies to learn from each other’s experiences and share best practices as well as tools, and methodologies for implementing the *Due Diligence Guidance*.

Over 110 companies participated in a voluntary basis in the 3T pilot implementation exercise and, participants reported on the steps taken to implement due diligence, the challenges faced, the tools used and lessons learnt during 3 reporting cycles over a 12 month period. As a result of the pilot

and the implementation efforts of those involved, awareness of the *Due Diligence Guidance* has improved considerably. For example, 75% of downstream company pilot participants reported that they intend to source minerals responsibly in accordance with the international standards contained in the Guidance. Additionally, 80% of the total number of upstream participants in the pilot had by the final report adopted a policy commitment setting forth due diligence principles, up from 15% in the first reporting cycle. Pilot participants noted that the implementation of due diligence implementation in the 3T sector has prompted the creation of market-driven initiatives and partnerships enabling responsible and conflict-sensitive mineral trade from both conflict and non-conflict areas in the Great Lakes Region. For example, in 600 mine sites in the DRC and Rwanda, the implementation of the *Due Diligence Guidance* through industry programs has enabled 45 000 artisanal miners – who in turn provide support for 225 000 dependents – to bring the 3T minerals they dig to the legitimate market. Participants reflected on lessons learnt during the 12-month pilot implementation programme and proposed activities for further follow-up, including a more robust outreach programme in non-OECD countries, and the development of broadly-supported risk mitigation strategies in the 3Ts.

The Gold Implementation Programme of Activities was launched at the May 2013 Forum meeting. Like the 3T pilot implementation exercise, the Gold Implementation Programme of Activities invites participation from the gold industry, implementing governments, donor countries, international organisations and civil society. In gold, the issue of artisanal and small-scale mining (ASM) requires innovative approaches to implementing the Guidance. To this end, the Forum is launching a “Responsible ASM Hub” as part of the Gold Implementation Programme of Activities. The ASM Hub will enable interested retailers, traders, refiners, local exporters and producers, large-scale miners, interested donors, civil society, OECD and partner countries to share experiences on innovative models to build secure and transparent conflict-free supply chains of gold from artisanal and small-scale gold mine sites.

The new multi-stakeholder steering group governance structure

At the Forum on due diligence implementation held on May 2012 it was agreed that, given the maturing of the process and the importance and sensitivity of implementation, it would be desirable for governments and stakeholders to take on a larger share of responsibility for the OECD-hosted process. The multi-stakeholder steering group (MSG), comprised of governments, industry and civil society was adopted by the Forum in November 2012 and endorsed by OECD bodies in February 2013. It was agreed that the Forum, comprised of all stakeholders who have committed to the *Due Diligence Guidance* and actively participate in its implementation, is the plenary multi-

stakeholder body charged with supporting the implementation programme by proposing implementation activities to OECD Bodies and assisting with follow-up. The MSG serves as the management committee of the Forum in collaboration with the OECD Secretariat. In May 2013, the Forum approved the composition of the MSG with representatives of stakeholders from producer, processing and consuming countries, 3T and Gold upstream and downstream supply chain participants, and international and local Great Lakes-based CSOs. In early June 2013, MSG members proposed the Government of Canada as the Chair of the MSG, along with three Vice Chairs from industry and civil society.

Next steps

Awareness-raising on due diligence and the *Due Diligence Guidance*, particularly in non-OECD countries, remain a critical first step in many parts of the 3Ts and gold supply chains. There are still many important private sector actors in the mineral supply chain, such as 3T and gold smelters based in Asia, who are not engaged in the process. A key step in 2013 will include translating the full *Due Diligence Guidance* into Mandarin. During the May 2013 Forum meeting, the Gem & Jewellery Export Promotion Council of India invited the OECD to participate and co-host a due diligence training workshop during the India International Jewellery Show in August 2013 in Mumbai.

The next twelve months will be focused on the Gold Implementation Programme of Activities as well as the follow-up activities in 3T implementation. The gold implementation activities which were officially launched in May 2013 include designing new materials for outreach (e.g. Simplified and sector-specific guides), coordinating outreach activities with planned external events in various regions of the world, organising peer-learning and due diligence training exercises for Forum members, developing case studies and launching an Artisanal and Small Scale Mining Hub to promote economic and development opportunities for artisanal miners in areas of conflict. As part of the follow-up for the 3T supply chain, participants will provide recommendations to the Forum on practical ways to manage commercial risk, existing and seized stocks as well as confidentiality and disclosure issues.

In addition, the MSG will continue to engage new participants in the Forum, and ensure that less represented stakeholders such as market exchanges, Chinese, African, Asian and other non-OECD industry are actively invited to participate in the process.

Stakeholder engagement in the extractive sector

Following the inclusion of a new provision on stakeholder engagement in the revised 2011 *Guidelines*, adherents discussed over the past year a proposal by Canada and Norway for a possible proactive agenda project which would

develop a user's guide for extractive companies and relevant stakeholders in conducting stakeholder engagement.

As a first step, a literature survey was commissioned by Canada to Partnership Africa Canada (PAC), in order to assess gaps in existing guidance on stakeholder engagement and due diligence. This survey, which was initially circulated at the June 2012 NCP meeting, also contained some preliminary ideas on the content of the proposed guide. The initial scoping efforts suggested the need for greater guidance on disclosure of stakeholder engagement, supply and value chain management and stakeholder engagement, indigenous peoples, and SMEs in the extractive sector throughout the project life-cycle, as well as clear expectations on what constitutes responsible stakeholder engagement from the vantage point of key non-industry stakeholders, such as local governments and communities, have also been identified as areas for further work.

In October and December 2012, the Working Party of the Investment Committee reviewed the findings of PAC's study and next steps for the project, and approved the establishment of a multi-stakeholder Advisory Group for the project, with voluntary contributions by Canada and Norway to support the work.

The inaugural Global Forum on RBC included an enlightening discussion on existing gaps in stakeholder engagement practices, based on a paper² prepared by SHIFT, an independent, non-profit center for business and human rights. The Advisory Group met subsequently on 28 June and provided further insight into the complex and wide range of challenges faced by extractive companies undertaking stakeholder engagement of affected populations. The Advisory Group offered its general support for the modules of the User Guide outlined in SHIFT's discussion paper, and agreed to try and produce a solid draft of the Guide in time for the 2014 Global Forum, which could be used to obtain wider input.

Due diligence in the financial sector

In October 2012, the Working Party of the Investment Committee (now WPRBC) agreed to establish a multi-stakeholder advisory group on due diligence in the financial sector chaired by the Netherlands. As a first step, the advisory group assisted with a mapping exercise in the existing environmental, social and human rights related due diligence measures utilised by financial institutions, particularly as they relate to the impacts of its clients and business partners. The research was commissioned by the Netherlands and undertaken by Sustainable Advisory Finance, whose project team surveyed over 50 FIs globally and interviewed more than 25 FIs.

As a result, a list of recommendations (see Table 2.1) was presented at the June 2013 meeting of the WPRBC. In light of the outcomes of the discussion, it was agreed to focus on recommendation 1, based on WPRBC delegates and NCPs shared understanding that further work will focus on "how" the *Guidelines* apply to the financial sector, not "if".

Table 2.1. **Recommendations from the Advisory Group of the financial sector project**

Recommendation	Brief description of recommendation
Scope and application (highest priority)	<p>The Advisory Group recommends the WPRBC to consider, in co-operation with the UN Working Group on Business and Human Rights and other relevant organisations as appropriate, seeking more clarity on how the following terminology relates to the practices of the financial sector:</p> <ul style="list-style-type: none"> ● Being directly linked to adverse impacts: what does it mean exactly? <p>FIs appear to distinguish between direct and indirect adverse impacts and, in some cases, between direct versus indirect links, whereas the <i>Guidelines</i> focus on the ways in which the enterprise can be linked to an (adverse) impact (by causing, contributing, or by not contributing but being directly linked through a business relationship). Is this a mere optical difference or also a conceptual one? When or under what circumstances can a financial institution be considered to be directly linked to an adverse impact via a third party? Does “directly linked” imply that an enterprise can also be “indirectly linked” (but nonetheless linked), and so, fall outside the remit of the <i>Guidelines</i> and the UNGPs for these particular provisions? Through the provision of particular financial services or of capital to a third party does an FI <i>contribute</i> to the adverse impacts of that third party? If so, under what circumstances?</p>
Tools for high risk areas	<p>The Advisory Group recommends the WPRBC to consider developing supporting tools for FIs or seeking co-operation with existing relevant tools, standards, guidelines and/or initiatives (“Tools”) on high-risk sectors/issues or regions (e.g. mining industry, child labour, conflict zones) to clarify the role of financial institutions in managing those risks. In this light, the Investment Committee could consider:</p> <ul style="list-style-type: none"> ● mapping existing Tools for high-risk areas that are most relevant for the financial sector; ● development of a matrix capturing hierarchy of due diligence practices and potential leverage implications as they relate to specific FI products and services; ● identifying gaps between the <i>Guidelines</i> and existing Tools; and ● identifying potential solutions to fill identified gaps that: <i>a)</i> build on existing Tools; and <i>b)</i> where existing tools do not suffice, development of new ones. The WPRBC could also consider who is best placed to deliver the tools (e.g. the OECD, other initiatives, a joint collaboration, etc.). <p>It is recommended that the mapping and/or development of tools for high-risk areas would occur after the scope and application have been clarified.</p>
Role of NCPs	<p>The Advisory Group recommends that the WPRBC and/or the National Contact Points (NCPs) acting together in their semi-annual NCP Meetings consider:</p> <ul style="list-style-type: none"> ● providing explanatory guidance on how NCPs should deal with specific instances raised concerning FIs, and the potential or desirable role in the NCP procedures of the actual business partner or client, that allegedly causes the adverse impact; ● identifying opportunities to promote the <i>Guidelines</i> to financial institutions; and ● developing a communication/dissemination strategy with the aim of promoting “functional equivalence”, which addresses commonality of application and approach. The strategy would include dissemination of specific instances dealt with by NCPs or known FI practices in order to enhance mutual understanding of the responsibility of FIs under the <i>Guidelines</i> for the benefit of fair and equal treatment of future cases by NCPs. <p>It is recommended that action relating to providing guidance to NCPs could be undertaken after the scope and application have been clarified.</p>
Process recommendation: Continued multi-stakeholder engagement	<p>In light of the substantial recommendations made above, the Advisory Group recommends the WPRBC to continue engagement with, and provide a discussion platform for, the finance community, BIAC, TUAC, NGOs, specific industry groups, interested adhering countries and their NCPs, and other interested (international) organisations. This could be done through existing co-operation between this Advisory Group and the UN Working Group on Business and Human Rights in order to keep momentum on the outcomes of this project and ensure coherence of international developments and initiatives.</p>

Responsible business conduct along agricultural supply chains

This work aims to promote the effective implementation of RBC in the agricultural sector by enabling a common understanding of due diligence for responsible agricultural supply chains that is consistent with existing principles and standards, and by proposing broadly-supported strategies to implement them. Through an inclusive, multi-stakeholder process, this project would seek to develop a practical guide for responsible agricultural supply chains that would help private companies, both domestic and foreign, identify and avoid infringing internationally recognised principles and standards for RBC when entering and operating in agricultural supply chains.

A scoping paper was presented to the Working Party of the Investment Committee (now WPRBC) on 22 March 2012, to the Working Party on Agricultural Policies and Markets on 30 May 2012 and to BIAC Committee on Food and Agriculture on 25 June 2012. Members expressed support for this work while highlighting the need to promote coherence with CFS work. A project proposal was then presented to the Working Party on Agricultural Policies and Markets on 19 March 2013 and to the WPRBC on 21 March 2013. The latter agreed to establish a multi-stakeholder advisory group to support this work and the terms of reference of this advisory group were approved by the Working Party on 28 June. The first meeting of the advisory group will be held on 16 October 2013.

Notes

1. See Annex 2.A1– Principles for the proactive agenda.
2. See http://mneguidelines.oecd.org/globalforumonresponsiblebusinessconduct/2013_WS2_1.pdf.

ANNEX 2.A1

Principles of the proactive agenda

Introduction

The Decision of the Council on the *OECD Guidelines for Multinational Enterprises* provides, “[t]he Committee shall, in co-operation with National Contact Points, pursue a proactive agenda that promotes the effective observance by enterprises of the principles and standards contained in the *Guidelines*. It shall, in particular, seek opportunities to collaborate with the advisory bodies, OECD Watch, other international partners and other stakeholders in order to encourage the positive contributions that multinational enterprises can make, in the context of the *Guidelines*, to economic, environmental and social progress with a view to achieving sustainable development, and to help them identify and respond to risks of adverse impacts associated with particular products, regions, sectors or industries.”¹

The following outlines broad principles for designing and implementing projects under the proactive agenda, consistent with the mandate set by Council and in accordance with Convention on the Organisation for Economic Co-operation and Development and Rules of Procedure of the Organisation. These principles are intended to recognise the importance of the multi-stakeholder process and provide flexibility in working methods of the Investment Committee, the WPRBC and other OECD Committees and subsidiary bodies which partner in the projects to effectively utilise a multi-stakeholder process, while ensuring that all projects under the proactive agenda operate within a common framework.

Characteristics and outputs of projects under the proactive agenda

The proactive agenda was conceived in the *Guidelines* as a complement to the specific instance procedure of NCPs. Whereas the specific instance procedure focuses on addressing issues which have arisen with specific enterprise behavior after the fact, the proactive agenda is intended to be prospective in order to encourage responsible behavior by enterprises in the

context of the *Guidelines*, in particular through constructive collaboration with stakeholders, and effectively reduce the number of future specific instances.

Projects supported under the proactive agenda should:

- be demand-driven;
- be broadly supported by NCPs and relevant stakeholders;
- address issues where there may be risks of significant adverse impacts on matters covered by the *Guidelines*, and be sufficiently important and in need of attention to justify the time, energy and resources entailed in a broad and inclusive multi-stakeholder process;
- add value in terms of contributing to the effective observance by enterprises of the principles and standards contained in the *Guidelines*;
- avoid duplication with other efforts relevant to the effective implementation of the *Guidelines*; and
- have a reasonable expectation of success in reaching an outcome that will be supported by adherents to the OECD Declaration on Investment and Multinational Enterprises as well as affected stakeholders.

In co-operation with NCPs, the WPRBC will seek to encourage multi-stakeholder dialogue to more clearly identify areas in which enterprises can make a positive contribution to economic, environmental and social progress, as well as activities and relationships of enterprises which pose common risks and could result in serious adverse impacts, in particular as they relate to specific products, regions, sectors or industries. Outcomes of the proactive agenda should seek to identify such issues and also develop strategies to address them to promote the effective observance by enterprises of the principles and standards contained in the *Guidelines*. Those strategies may include sharing individual experiences in managing those risks among stakeholders, promoting better understanding of risks and their potential consequences if unaddressed, mapping gaps in the existing tools, sharing best practices, and, where appropriate, clarifying the application of the *Guidelines* and/or developing additional guidance.

Approval of projects under the proactive agenda

The WPRBC should consider projects under the proactive agenda when they meet the characteristics defined above. This should be ascertained through consultations with adherents to the Declaration on International Investment and Multinational Enterprises, BIAC and TUAC and OECD Watch, as well as non-OECD countries, other international partners,² and stakeholders who would be affected by, or potentially benefit from, expected outputs.

Projects under the proactive agenda may be undertaken in partnership with other OECD Committees or subsidiary bodies, as appropriate, based on their responsibilities, expertise and interest.

Each project under the proactive agenda should be approved by the WPRBC based on a terms of reference. Where projects may have substantial resource implications, or may result in the development of substantial new guidance to enterprises, the Investment Committee may request that a recommendation on the project be submitted to the Committee for consideration and approval. If the project is intended to be undertaken in partnership with another OECD Committee or subsidiary body, it should be consulted in the preparation of the terms of reference, and the Investment Committee should also approve the project.

The terms of reference should describe the potential outputs of project, the time line for their completion, the process for engaging stakeholders in the project, in particular the anticipated composition of any multi-stakeholder advisory or consultative group, and the involvement of any other OECD committee or subsidiary body collaborating in the project.

The Investment Committee should be periodically updated on progress of the project and any recommended outputs of the project should be approved by the Investment Committee. The Investment Committee should also consider whether the outputs should be approved by any other Committee or subsidiary body which has partnered with the Working Party for the project, depending on the significance of the recommended outputs and the contribution made by the partnering Committee or subsidiary body. When appropriate, in view of their importance to the Organisation, outputs should be submitted for consideration by the Council.³

Management of projects under the proactive agenda

The WPRBC, under the guidance of the Investment Committee, will be responsible for overseeing projects under the proactive agenda. Where projects have a substantial relationship with the development agenda, and substantial interest in the project exists in the Development Assistance Committee, Advisory Group on Investment and Development may partner or advise on the project.

Multi-stakeholder advisory/consultative groups for projects under the proactive agenda

The WPRBC may create multi-stakeholder advisory/consultative groups to facilitate collaboration with advisory bodies (BIAC, TUAC), OECD Watch, international partners, business, and other affected stakeholders on specific projects, especially projects on responsible supply chain management under

the proactive agenda.⁴ The WPRBC should designate a Chair for, and approve the mandate and expected composition of, any multi-stakeholder advisory/consultative group created for these purposes. Such bodies should be created for a fixed term, which may be reviewed and extended as appropriate by the WPRBC.

Multi-stakeholder advisory/consultative groups are not subsidiary bodies of the OECD as defined by the Rules of Procedure of the Organisation.

Any adherent to the Declaration on International Investment and Multinational Enterprises which is deemed well qualified may serve as the chair of an advisory/consultative group constituted for a specific project under the proactive agenda. The Chair will be responsible for ensuring the advisory/consultative group operates consistent with these principles and the Rules of Procedure of the Organisation.

The composition and organisation specific multi-stakeholder advisory/consultative groups for individual projects should be based on the nature of the issues being addressed by the project, and be designed to provide an opportunity for substantial and balanced input into the project. They should be comprised of sufficient members to adequately represent relevant interests and afford credibility to their recommendations, while mindful of the need to operate efficiently. Governments adhering to the Declaration on International Investment and Multinational Enterprises that are interested in the project should be represented. Non-adherent governments with a particular interest in the project may also be invited to participate.⁵ The advisory bodies (BIAC and TUAC) and OECD Watch should be invited to participate and/or designate a representative from their affiliates. Other business organisations, enterprises, non-governmental organisations, experts and representatives from international partners and other stakeholders with a particular interest and expertise relevant to the project should also be considered.

Multi-stakeholder advisory/consultative groups should collaborate with a designated Chair of the project and with the secretariat to accomplish the tasks assigned to them by the Working Party. Such tasks may include:

- providing substantive input on project content, including views that may be useful in reaching consensus and drafting any outputs;
- assisting with the effective functioning of the project, as agreed by the Chair, which may include outreach to experts and other stakeholders in their constituencies, and providing input on the subjects and agendas for project consultations and other expert meetings; and
- offering input on the operating procedures for the effective functioning of the advisory/consultative groups.

Bearing in mind the limited resources available for proactive agenda projects, the Chair of any multi-stakeholder advisory/consultative groups and the OECD Secretariat should endeavour where possible to find a means to make key written materials on proactive agenda projects available in the languages of advisory/consultative groups members and other relevant stakeholders. This may include coordinating a common effort among individual or multiple stakeholders to translate key materials.

The OECD Secretariat and projects under the proactive agenda

The OECD Secretariat, under the guidance of the Chair of the WPRBC, and in collaboration with the Chair of the advisory/consultative group, is responsible for coordinating and administering the projects of the proactive agenda in a manner consistent with the Rules of Procedures of the Organisation.

NCPs co-operation in projects under the proactive agenda

The Commentary to Paragraph 8, Section II of the Decision of the Council on the *OECD Guidelines for Multinational Enterprises* provides that, “[i]n accordance with the Investment Committee’s proactive agenda, NCPs should maintain regular contact, including meetings, with social partners and other stakeholders in order to:

- a) consider new developments and emerging practices concerning responsible business conduct;
- b) support the positive contributions enterprises can make to economic, social and environmental progress;
- c) participate where appropriate in collaborative initiatives to identify and respond to risks of adverse impacts associated.”⁶

NCPs activities and experiences can make an important contribution to the proactive agenda. Given that one of their main responsibilities is to promote the *Guidelines*, they are often exposed to the challenges encountered by enterprises in observing the standards and principles contained in the *Guidelines*. They are also confronted with these challenges in the context of specific instances. NCPs may assist with the identification of issues that may be considered for proactive agenda projects, facilitate broader consultations on such projects, and assist with the implementation and promotion of any associated outputs.

When NCPs are not part of a government’s delegations to the WPRBC, they should endeavour to co-operate as appropriate with their government’s delegates regarding consideration of potential projects on the proactive agenda. As projects approved by the WPRBC under the proactive agenda move

forward, NCPs and their government's delegates to the WPRBC should continue to share relevant information, in particular, where the NCPs have specific experiences through implementation of the *Guidelines* in addressing issues under consideration in a project.

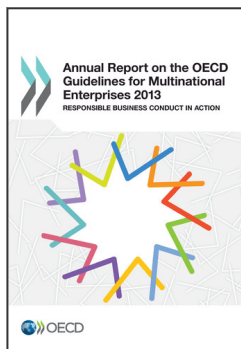
NCPs in collaborative initiatives with social partners and other stakeholders may identify risks and emerging practices which enterprises are using to respond to those risks. Such information may be shared through discussions with other NCPs individually or through regular meetings of NCPs. Where such experiences cause the NCP to believe that additional guidance to enterprises or further elaboration of the *Guidelines* might be needed, they should bring this to the attention of their government's delegates to the WPRBC.

Consultations with stakeholders and non-adhering countries on projects under the proactive agenda

Broader consultations with stakeholders and non-adhering countries will be an integral part of proactive agenda projects. These consultations should be transparent, participatory and inclusive and timely. They may be carried out at appropriate stages of the preparation of envisaged outputs under the chairmanship of the Chair of the project, including in the context of meetings of the Global Forum or other events organised by the Investment Committee. Opportunities for consultations on the Internet may also be provided.

Notes

1. See Paragraph 8 to Section II of the Amendment of the Decision of the Council on the *OECD Guidelines for Multinational Enterprises*.
2. "International partners" refers to international and multi-stakeholder organisations and their subsidiary bodies and expert groups, including those with which the Investment Committee has an MOU.
3. In accordance with Article 10 of the Convention on the Organisation for Economic Co-operation and Development, and Rules 21-26 of the Rules of Procedure.
4. In accordance with Rules 21-22 of the Rules of Procedure.
5. Consistent with paragraph 3 of the 2011 Amendment of the Decision of the Council on the *OECD Guidelines for Multinational Enterprises*, which provides, "[t]he Committee shall engage with non-adhering countries on matters covered by the *Guidelines* in order to promote responsible business conduct worldwide in accordance with the *Guidelines* and to create a level playing field. It shall also strive to co-operate with non-adhering countries that have a special interest in the *Guidelines* and in promoting their principles and standards."
6. Paragraph 18, Commentary to the Procedural Guidance. Implementation Procedures of the *OECD Guidelines for Multinational Enterprises*, 2011,



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