

OECD Working Party on Responsible Business Conduct (WPRBC)

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The Danish Chamber of Commerce contribution to the Draft report for the Stocktaking of the OECD Guidelines for Multinational Enterprises

The Danish Chamber of Commerce appreciates the opportunity to provide input to the consultation on draft report for the Stocktaking of the OECD Guidelines for Multinational Enterprises (hereafter the MNE guidelines).

General comments

Better policy coherence going forward

The Danish Chamber of Commerce concurs that the regulatory eco-system of responsible business conduct is rapidly changing. Multiple new and revised pieces of European legislation target some of the same provisions as the MNE guidelines, among others the European Taxonomy Regulation, the Non-Financial Reporting Directive, NFRD, reviewed as CSRD, and the upcoming proposal on Sustainable Corporate Governance foresees mandatory due diligence. At the same time, we see many legislative due diligence initiatives at the national level, for instance France's Duty of Vigilance, the UK Modern Slavery Act and child labour regulation in the Netherlands. The result is a highly complex landscape of international guidelines and legislative requirements. The situation is detrimental to international trade and may lead to confusion and unnecessary cost for businesses. Even worse, it may inhibit responsible business conduct because of lack of transparency and clarity of expectations. The Danish Chamber of Commerce therefore recommends that the WPRBC seeks to enable a harmonised understanding of what risk-based due diligence on human rights and environment in international operations should look like across the international, European and national level.

Specific comments

The role of the national contact points

The Danish Chamber of Commerce recognises the role of the NCPs in promoting the Guidelines and its grievance mechanism. Going forward the Danish Chamber of Commerce urges the OECD to coordinate and align the role of the NCP grievance mechanisms with the proposal of DG FISMA and DG GROW named Sustainable Corporate Governance, which is expected to be put forward in 2021. The NCPs may very well place a role in overseeing the implementation of potential due diligence requirements.

OECD Sector-specific guidelines are helpful

The Danish Chamber of Commerce supports a sector-specific guidance approach and encourages the WPRBC to continue to pursue this, when making additional guidance material. Guidance on specific topics is in our view generally more helpful to companies than generic support and tools.

Attention to competitive conditions for SMEs

The Danish Chamber of Commerce finds that responsible business conduct policies place relatively greater administrative burdens on SMEs than on large companies. SMEs often operate further up the value chain, for instance as suppliers, and, given their size, they tend to hold less bargaining power vis á vis their own suppliers, and generally have fewer administrative resources at their disposal. It must also be expected that some large companies will pass derived costs from RBC policies on to their value chain partners. Going forward, we need to focus attention on the competitive conditions for SMEs and for instance allow for proportional targets, depending on size, as well as offering tailored SME-specific guidance.

The risk-based principle of the MNE guidelines is a strength

In continuation of the point made above about proportionality, the MNE guideline should guard and hold on to the flexibility that lies in the risk-based approach. It allows companies to devise solutions that suit their size, sector, market and business model and allows them to identify where the significant risk of adverse effects is. This prevents unnecessary compliance costs for businesses.

Inclusion of public purchasers

Including public purchasers in the scope of the MNE guidelines will be a helping hand to companies, enhancing the market mechanisms for responsible business conduct that we already see taking shape with corporate purchasers. We see no reason why the guidelines should not extend also to public purchasers.

Best regards

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