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The OECD Guidelines for Multinational Enterprises and their Complaint Mechanism –

Evaluation and Statistical Analysis of the *Case Law*

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(Benjamin T. Thannesberger)

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In all mountainous areas, it is the indispensable duty of a hiking man to write some sentences into this certain little book on top of the mountain he desperately aimed to climb for perceived ages. Although for many knowing and unknowing people, the mountain I am reaching these moments might look like a ridiculous hill – and someday I will as probably as hopefully belong to those who only see the shape of that elevation in those then passed regions of life – for me personally it still was the remarkable first attempt to get to the top of this never-ending rocky monster. Sourcing the hope for desperate guys on eternal odyssey-like, and, in fact, fairly lonely paths Marie Curie puts it into the mantra I steadily repeated for myself:

> *"Nothing in life is to be feared, it is only to be understood. Now is the time to understand more, so that we may fear less."*

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Abbreviations

BIAC	Business and Industry Advisory Committee
CIME	Committee on International Investment and Multinational Enterprises/Investment Committee
CoC	Code of Conduct
CSR	Corporate Social Responsibility
EC	European Commission
CEE	Central and Eastern Europe
ECHR	European Convention on Human Rights and Fundamental Freedoms
EP	European Parliament
EU	European Union
HR	Human Rights
ILO	International Labour Organization
NCP	National Contact Point
NGO	Non-Governmental Organization
OECD	Organisation for Economic Cooperation and Development
SR	Special Rapporteur
TNC	Transnational Corporation
TUAC	Trade Union Advisory Committee
UN	United Nations
UNCTAD	United Nation Conference on Trade and Development
UK	United Kingdom
WTO	World Trade Organization

1. Introduction

1.1. Motivation & Overview

The number of academic contributions to and discussions on the topic of Corporate Social Responsibility (CSR) dating back to the 1950s is high[1]. Corporate self-commitment to social and environmental morality has shifted from simply doing ‘something good’ to strategic entrepreneurial decisions:

> *“CSR has moved from ideology to reality, and many consider it necessary for organizations to define their roles in society and apply social and ethical standards to their businesses.”*[2]

But despite the successful anchoring of the concept into management practices, entrepreneurial misbehaviour, disrespect of moral and legal norms or simply the non-inclusion of sustainable strategies (however they might be designed) still play a significant role. A research project[3] draws the following demoralizing picture of the current status quo of CSR within the German-speaking area:

At first, looking at capital investments, only 0,7% in Germany and Austria and 2,8% in Switzerland are based on sustainability criteria (Belgium: 20%, Netherlands: 40%). At the European level a respective average value of 17,6% is observed. In absolute numbers the European share represents slightly more than half of the total global volume of sustainable funds of 5.000 billion Euro. This low number can be attributed to the bad reputation which sustainable investment has to deal with: the perception of a relatively weak performance of sustainable investments still prevails; in contrast to this, evidence proofs that this does not hold true. Though, the public interest for investments, e.g., with ecological criteria is rising.

1 See Chapter 1.2
2 Lindgreen / Swaen (2010)
3 Oekom (2010)

Generally seen, it needs to be stated that the recent economic crisis has not affected CSR in a negative sense; CSR rather serves as a strategy to stabilize corporate financial and overall economic success which becomes necessary just because of the crisis. This intensification of efforts, at least, holds for the group of enterprises which already showed strong commitments to CSR before the outbreak of the crisis. But throughout the parent population, CSR does not play a strong role in corporations on average[4].

Forming part of CSR, the respect for human rights remains one of the major problems within the broad range of CSR topics. This is the case especially in sectors such as the mining, oil and gas industries. Although in the aftermath of the financial turmoil no increase in the number of violations can be witnessed in this area it is very probable that due to a rising price pressure on the global markets the number of enterprises which do not respect human rights provisions and standards will shift upwards[5].

There are many tools, mechanisms and other strategies employed in order to achieve a certain degree of social responsibility among enterprises. One possibility are documents and mechanisms on the international level framed within the rules of international law. As will be argued and outlined in many spots of this work, all existing internationally agreed norms and standards are of non-binding character for private enterprises[6]. Voluntary commitments are not only the typical situation when it comes to CSR but especially in the field of human rights. Consequently, the adoption of existing provisions will be done due to good will, humanitarian considerations or even only because of marketing motivations. Put in a different way, those firms which do not consider such corporate policies as indispensable or simply worth pursuing will not implement them in their corporation. This leads to the following issue: How can enterprises be held responsible for their actions? How can they be motivated, if not forced, to adopt those policies?

These questions which are still to be explored in more detail throughout the course of this work represent the motivation of the subsequent elaborations. The question whether voluntary principles – even if backed by a more or less powerful

4 Ibid., p. 4
5 Ibid., p. 29
6 See, e.g., Chapter 2

implementation mechanism – can satisfy the demands of international and comprehensive human rights law in a globalized economy stands in its focus. To this end, the OECD Guidelines for Multinational Enterprises – widely acknowledged as the most important contemporary mechanism – the institutions established around them and these institutions' performance will be subject to both a detailed qualitative discussion and a quantitative statistical analysis.

The superordinate question of this paper is whether the most prominent document of international law to protect human rights within the global business world, the OECD Guidelines for Multinational Enterprises ('the Guidelines'), provide for sufficient means to minimize these shortcomings. The Guidelines represent a comprehensive mechanism to achieve CSR goals not only in the human rights area. In this work, the focus will be set on human rights and to which extent the Guidelines tackle this issue although, of course, with regard to the implementation of the document the whole mechanism has to be analysed.

The overall question leads to the discussion of the Guidelines' strengths and weaknesses. I will try to identify them by first discussing the chapters of the document. They will be reviewed outlining the most important arguments of critics whereby I will refer to academic research as well as to a number of NGOs. In addition to a critical discussion of the specific provisions contained in the document, the implementation mechanism and the institutional framework established by the Guidelines will be subject to this analysis.

In order to gain insight into the mechanism the above described qualitative discussion provides the basis for further examination which is undertaken by employing descriptive statistical methods. Thereby, I concentrate on the *case law*, i.e., the activities of the implementation mechanism. In sum, 121 cases have been filed under the 2000 version of the Guidelines[7]. Those cases represent issues where breaches of the Guidelines are alleged. The complaining entities will be described to gain insight in the nature of those institutions. How are they organised? What is their day-to-day business? How big are they? Where are they geographically situated?

[7] The Guidelines have been subject to several revisions. See section 2.3.

Then, a characterization of the accused firms will be employed. The sample of firms brought before the court-like institutions (the so-called National Contact Points; ‘NCPs‘) is analyzed in order to draw a picture and see who they actually are: their geographic origin, the industry in which they operate, and the question of supply chains (direct investment or trading partner) are the major issues raised.

The National Contact Points is the third party involved in the handling of cases. I will provide statistics to show how active the particular institutions are, on which issue they specialize, how much time they need to handle a case, etc.

The statistical analysis does not investigate reasons for the findings but aims to provide a starting point for further discussion. Nevertheless, major shortcomings and strengths as well as the characteristics of various NCPs make it possible to draw far-reaching conclusions and evaluate the complaint mechanism established by the OECD Guidelines for Multinational Enterprises.

Again, the human rights perspective will prevail throughout the course of this contribution. The discussion whether the OECD mechanism is appropriate to protect human rights in transnational business operations and whether the overall strengths outweigh the overall weaknesses (both not restricted to human rights issues) is put forward.

The paper is structured as follows:

First, I will start with an introductory section to give insight into the major topics of the paper. Corporate Social Responsibility will be defined to clarify the perception used in this paper. Then, I will shortly describe similar mechanisms established by other international organizations (mainly the UN). Then, the OECD itself is introduced, followed by its investment pillar and the history of the OECD Guidelines for Multinational Enterprises.

In Chapter 2 I will outline the 2000 version of the Guidelines. All sections of the document are described in detail. Questions about the topics contained in the Guidelines, the persons or entities able to complain before a National Contact Point, the implementing institutions, or the prescribed constitution and design of such an institution are subject to the investigation. A critical analysis reviewing the statements and claims of different academic researchers and NGOs will then illustrate the criticism directed to the OECD and their mechanism.

Chapter 3 will then turn to the statistical analysis. Descriptive methods are employed first to generally describe the mechanism. The geographical distribution of cases, their thematic direction (linked to human rights or not?), or a timeline intersecting each of the 10 years in which the 2000 version was valid with the respective number of filed cases are investigated in section 3.2. of this chapter (General).

The subsequent sections 3.3. (National Contact Points), 3.4. (Complainants), and 3.5. (accused Companies) deal with the three parties directly involved in the cases. As stated above, their geographical origin, area of business, constitutional nature, etc. will be shown here and the results will be critically evaluated.

Chapter 4 examines and summarises the findings attained in chapter 2 and 3.

Important for chapter 3, the annexes II - IV give all material analysed and their explanation. Annex I represents the text of the Guidelines itself, as it comprises the always present background to the paper.

The paper is partly an outcome of an internship at the Ludwig- Boltzmann- Institute of Human Rights in fall term 2011/12, in the course of which various extra-judicial complaint mechanism (established by international organizations or multinational enterprises) have been reviewed. Obviously, the relevance for the studies of international development can be depicted as follows: human rights represent a major part of the concept of Corporate Social Responsibility. Above all, it is the developing world which is most affected by the inadequacies of international business conduct and its regulatory regime. Certain ways of production are harmful to the local communities and their environmental surroundings. This situation stands in contrast to the view, that

> *"[…] investment is capable of generating economic growth, reducing poverty, increasing demand for the rule of law and contributing to the realization of human rights. […] Accordingly, there is potential for a positive correlation between foreign investment and human rights."*[8]

[8] Kriebaum (2010), p. 55

It is investigated in this work, whether the OECD Guidelines are able to protect human rights in a globalized economy and, consequently, help developing countries to enjoy all advantages and promises of foreign direct investment.

1.2. Introduction of Key Terms and Concepts

1.2.1. Corporate Social Responsibility – Definition, Measures and its Relationship to Human Rights

The emergence of the theoretical Concept of CSR

At first, it seems convenient to define the broad concept of corporate social responsibility (CSR) itself. The term has been used for several decades describing the concept as an area of business ethics, a part of the broader discipline of applied ethics[9]. In practice, first steps in the field of CSR were set by entrepreneurs such as Henry Ford, Andrew Carnegie or George Cadbury who initiated employees' health programs or provided improved workers' housing[10]. It was Bowen[11] who conceptualized the thoughts and practice of those business executives in the early 1950s. He postulated that CSR, albeit not being a one-size-fits-all solution, should guide corporate behavior into future[12]. In the 1960s, scholars such as Davis[13], McGuire[14], Blomstrom[15] or Walton[16] further contributed to the formalization of the policy. They recognized that CSR goes beyond all technical and business interests of an enterprise and gives the firm a social role[17]. Johnson[18] first mentioned the multi-stakeholder approach of CSR by imposing responsibilities on the firm aimed to satisfy a "multiplicity of interests"[19]. Additionally, he declared CSR a long-term profit-maximization strategy, thus firms should pursue it for their own sake of interest but nevertheless, they should also target achieving "utility maximization" which is wider in definition than simply the maximization of profits[20]. With the rise of an organized civil

9 Bassen, Jastram and Meyer (2005), p. 231
10 Ibid.
11 Bowen (1953)
12 Carroll (1999), p. 269
13 Davis (1960)
14 McGuire, J. W. (1963)
15 Davis / Blomstrom (1966)
16 Walton (1967)
17 Ibid., p. 270ff.
18 Johnson (1971)
19 Ibid., p. 273
20 Ibid., p. 274

society in the 1960s and 1970s, also business practitioners and their organizations such as the Committee for Economic Development[21] actively entered the discussion and underlined the necessity for enterprises to implement CSR[22]. The 1980s witnessed a shift towards familiar fields of CSR, namely, corporate social responsiveness, public policy, business ethics, or stakeholder theory/management. Accordingly, alternative models or simple extensions of CSR theory were introduced[23]. Models and techniques how to implement CSR in firms were introduced by Jones[24], Tuzzolino and Armandi[25] or Strand[26]. Generally, the 1980s revised the concept of CSR. From then onwards, it was no longer seen as mere outcome of a certain process but as evolving process itself[27].

During the 1990s, striking contributions to the core area of CSR were very few in number. Throughout the whole decade and similar to what was said about the 1980s, CSR rather served as starting point for further research and formed the basis for the expansion of the topic into areas like stakeholder theory, business ethics theory or corporate citizenship[28]. One important contribution worth mentioning was, e.g., the pyramid model of CSR[29] which embraces a four-part definition of CSR containing economic, legal, ethical and philanthropic goals.

Contemporary Views and Definitions

In the course of the subsequent paragraphs, I want to illustrate the contemporary perception of CSR giving examples of different definitions used in the business world, by non-governmental organizations (NGOs), and multilateral organizations. Although those definitions and views are rather broad, some minor differences appear.

Firstly, the Austrian Chamber of Commerce sees CSR as a concept

[21] Committee for Economic Development (1971). The Committee is a US-American lobbying organization and think tank comprising around 200 of top business leaders of the USA.
[22] Ibid., p. 274ff.
[23] Ibid., p.284
[24] Jones (1980)
[25] Tuzzolino / Armandi (1981)
[26] Strand (1983)
[27] Ibid., p. 288
[28] Ibid., p. 288ff.
[29] Carroll (1991)

„[…] which provides the entrepreneurial base to voluntarily integrate social and environmental considerations into business conduct and the mutual relationship with its stakeholders."[30]

Multinational enterprises, for instance, the Austrian Novomatic, share these views to a large extent. Novomatic states on its website section "Social Responsibility"[31] that the relation towards its stakeholders, above all its employees and customers, should be strengthened by enhancing mutual respect. In addition, it points out the firm's commitment to environmental sustainability.

The Financial Times defines CSR as

"Movement aimed at encouraging companies to be more aware of the impact of their business on the rest of society, including their own stakeholders and the environment. Corporate Social Responsibility (CSR) is a business approach that contributes to sustainable development by delivering economic, social and environmental benefits for all stakeholders."[32]

Looking closer to multi- and supranational organizations we do not observe too much difference. The Commission of the European Union states in its newly elaborated CSR strategy that

"The aim is both to enhance positive impacts – for example through the innovation of new products and services that are beneficial to society

[30]Austrian Chamber of Commerce, web source
[31]Novomatic, web source
[32]Financial Times Lexicon, web source

and enterprises themselves – and to minimize and prevent negative impacts."[33]

Broadly, the United Nations define it as

"[…] overall contribution of business to sustainable development."[34]

Beyond this wide concept they distinguish between *degrees* of CSR: a minimum standard is achieved if legal norms are not violated or, in case the legal system is insufficient, if the enterprise "does not harm". An enterprise reaches a medium level of CSR if it does its best to contribute to social and environmental progress. The maximum level is fulfilled if a company aligns all its business activities with societal goals.[35]

These distinctions are quite useful against the background of the strong criticism raised against the CSR approach. For instance, many firms which formally declare to commit to CSR principles do not keep their promises and rather misuse their pretended engagement to CSR as a marketing strategy.

To sum up, CSR is understood as an immensely wide concept. It comprises voluntary means of corporate self-regulation with regard to the economic, social and environmental impact of a company's operations.

[33] European Commission, web source
[34] United Nations Department for Economic and Social Affairs, web source
[35] Ibid.

Implementation and Measures

Knowing how CSR is perceived and defined by enterprises, nation states and multinational organizations we can now ask for the portfolio of implementation measures realized by firms. There are various policies[36] ranging from philanthropic sponsoring of projects and pure marketing strategies to the integration of human rights, social norms or environmental standards into the core business activities of an enterprise. Typically, far-reaching measures are found in the field of corporate governance (establishing codes, internal auditing), enhancing transparency or the improved controlling and monitoring of supply chains[37][38].

The European Commission[39] has summarized the motivations for enterprises to implement CSR measures. Firstly, staff trainings which are costly in the short-term can fortify the corporate identification and skills of the staff members, so that cost cutting can be achieved in the long-term being triggered by positive productivity shifts. Secondly, the public image of a company is improved. Thirdly, business ethics and values are acted out by means of CSR.

But not only enterprises themselves, motivated by whatever reason, dedicate themselves actively to the field of CSR. Also nation states apply various measures when contributing to CSR. Three fields of such policies can be identified: promoting CSR (awareness raising, research, public-private partnerships, business incentives, management tools), ensuring transparency (codes, reporting, labels, socially responsible investment, advertising), and supportive policies in order to further develop the CSR approach (sustainable development, social policies, environmental policies, public procurement, trade and export policies).[40]

However, voluntary self-commitment to social norms and standards has not proven satisfactory with regard to human rights, and corporate human rights violations keep recurring.

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[36] Corporate Watch (2006), p. 5f.
[37] Unilever / London Business School (2003)
[38] Novomatic, web source
[39] European Commission (2009)
[40] Lukas / Hutter (2009), p. 197

CSR and Human Rights

In this paper, CSR is not treated as a whole. The field of human rights stands in the focus of analysis. Therefore, the question how human rights are related to CSR remains to be answered.

Firstly, the minimum standards which corporations are expected to respect are given by the national legal system although, as stated, CSR should in general go beyond these norms and regulations. On the other hand, there are various internationally agreed norms which are not implemented at the national level but require compliance of transnational enterprises[41].

Accordingly, human rights obligations in international law bind states to respect, protect and fulfill those human rights provisions and apply them also in the context of private business and, especially, in the field of foreign investments. This means that besides not violating human rights through public agencies and bodies, states are held responsible to actively prevent such behavior of third parties. In the context of this paper, this refers to a situation in which private enterprises threaten the human rights of a particular community or population[42]. Therefore enterprises have to abide by a country's domestic laws, which have to be in line with the international human rights regime. For the state a further option to live up to its responsibility is providing an effective remedy to handle those cases in which human rights violations have occurred[43].

Besides the state responsibility to protect human rights (also in the private sector) the discussion whether there are any legal obligations under international law directly applicable to corporations is a very vital one[44]. As one of the most important documents of human rights, the Universal Declaration of Human Rights states that every organ of society has to respect human rights. Nevertheless, all human rights provisions only apply to states themselves[45]. Binding norms ('hard' law) exerting

[41] Kriebaum (2010), p. 55
[42] Ibid., p. 56f.
[43] Ibid., p. 59
[44] Ibid., p. 61
[45] With the exception of violations like war crimes or crimes against humanity

direct human rights obligations onto private business corporations cannot be found in international law. In contrast to this, there are plentiful soft law provisions.

Other documents and mechanisms

The efforts which aim to motivate enterprises to implement CSR and achieve persistent compliance with those norms can be localized and consequently grouped into six types: the company level, the industry level, the multi-industry level and the national, regional or international level[46]. There exist a handful of mechanisms at the international level which I will focus on hereunder. Besides the UN's attempts to regulate corporate behavior and the Tripartite Declaration of the International Labor Organization (ILO), the OECD Guidelines for Multinational Enterprises are the most prominent ones. The OECD Guidelines will be treated in detail from the next section onwards, in this section I want to concentrate on other important instruments dealing with the topic of CSR and human rights in international law. To start, I will discuss the emergence of the issue within the United Nations in short.

Arising with the flourishing international corporate activities of the 1970s the quest for a *regulation of deregulation* found its first attempt in 1973: the UN Economic and Social Council appointed a research group of experts which came up with the recommendation to establish a permanent commission on the issue of transnational corporations in 1974. Consequently, the UN Commission on Transnational Corporations (UNCTC) was created and drafted the first UN Code of Conduct for Transnational Corporations in 1976[47]. It was aimed to be binding upon member states. But even though the binding character had been given up at an early stage of the drafting process, the Code of Conduct was never adopted due to a range of disagreements between the western and the socialist hemisphere[48] and the UNCTC was finally closed in 1993[49]. The UN Draft Code of Conduct and the OECD Guidelines show some similarities: both are comprehensive and universally applicable documents although, and as a matter of fact, the UN Code would have

[46] Rees, C. / Vermijs, D. (2008)
[47] Rubin, S. J. (1995), p. 1282
[48] Cernic, J. L. (2008), p. 77
[49] UN International History Project (2009), p. 2

been, once adopted, impacting much more countries than it is the case with the OECD Guidelines[50].

Another important UN initiative is the UN Global Compact[51] which was created in 1999 according to the ideas of former UN Secretary General, Kofi Annan[52]. Comprising labour rights, human rights and environmental issues the Global Compact is entirely voluntary. The non-binding character has been harshly criticized (even by other UN organizations such as the UN Development Program)[53]. Additionally, it lacks implementation provisions as well as an enforcement mechanism and was claimed for not having included an adequate and necessary stakeholder dialogue (e.g., with NGOs)[54].

Parallel to the Global Compact, the UN has furthered its attempts to frame a binding document in the area of CSR. The Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights (known as Draft Norms) were approved by the UN Sub-Commission for the Promotion and Protection of Human Rights. They were aimed

> *"[…] to help governments identify what types of legislation they should enact and what enforcement mechanisms they should implement to ensure that the Norms had a positive influence; they were further designed to encourage companies to implement the Norms and to lay the groundwork for a binding international standard setting process."*[55]

Until now, the UN Draft Norms have not been adopted. This is also because of the opinion outlined by the UN Special Representative John Ruggie[56], who criticized the

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[50] Oldenziel (2008)
[51] UN Global Compact, web source
[52] Hillemans (2003)
[53] Oldenziel (2008), p. 43
[54] Ibid.
[55] Hillemans (2003), p. 1070
[56] Appointed in 2005 by the UN Secretary General, John Ruggie became the first Special Representative of the UN Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises. He proposed a conceptual policy framework around the pillars protection (by states), respect (by enterprises for human rights) and remedy (more effective remedies should be established). His mandate was extended for another 3 year period. See http://www.business-humanrights.org/SpecialRepPortal/Home

Norms for their wrong approach to set up a limited list of rights although all human rights must be respected[57].

The last document I want to mention here is the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy of the International Labour Organization (ILO). The ILO Tripartite Declaration contains voluntary principles with the goal to provide guidance for multinationals, governments, workers' and employers' organisations in adopting and implementing social policies. It was agreed between trade unions and workers' representatives in 1977 and revised twice (2000 and 2006)[58]. The Declaration's monitoring framework is very limited and, in contrast to the OECD Guidelines, it contains only rights in the field of labour (training, working conditions, child labour etc.)[59].

Other important mechanisms at the international level are the World Bank Ombudsman and the World Bank Inspection Panel or various mechanisms established by regional development banks[60].

1.2.2. History and Character of the OECD

The Organization for European Economic Cooperation (OEEC) was created in 1947 and installed to support the realization of the Marshall Plan for the reconstruction after World War II. Being motivated by the success of the OEEC the USA and Canada joined the organization leading in a re-labeling of the organization into Organization of Economic Cooperation and Development (OECD). Other countries – accessed the OECD, e.g., Japan in 1964.

After the end of the Cold War, most former Eastern European Countries either adopted the OECD standards or became full members of the Paris based organization. By means of the so called Enhanced Engagement Program, the OECD maintains close relationship to the newly emerging economies, e.g., China, India,

[57] Kriebaum (2010), p. 57
[58] Rees / Vermijs (2008), p. 94
[59] Oldenziel (2008), p. 41
[60] Rees / Vermijs (2008), p. 3

Brazil, or South Africa. Russia is about to access the organization within predictable time.[61]

The OECD mainly serves as a forum for the adhering governments to help them to

> *"[…] foster prosperity and fight poverty through economic growth and financial stability."*[62]

Thematically, a broad range of topics is covered, e.g.:

> *"[…]sluggish growth; unemployment; health care; ageing; trade protection; development; poverty; corporate malpractice; tax evasion; global warming; assessing future risks."*[63]

Peer reviews in the form of mutual examination by different governments are held on different topics. Additionally, the OECD head-quarter delivers support by the provision of expertise and a broad data base. The statistical division is immensely important in order to come up with these tasks.

Being determined every two years, the budget of the OECD is funded by contributions made by the member countries. These contributions are calculated according to the size and strength of the economy of a member state. According to the OECD scheme the USA finance 22% of the total budget. Japan (12%) and Germany (8%) follow on the ranks.

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[61] OECD – About, web source
[62] OECD – About, web source
[63] The OECD observer (2003)

1.2.2. The OECD and its investment pillar

In order to make the reader familiar with the structure embedding the OECD Guidelines for Multinational Enterprises I draw a preliminary introduction to this structural discussion in this section. This should provide the essential knowledge on which I will base the subsequent chapters.

The OECD has established instruments to promote transnational investment and make it beneficiary for growth and the steady improvement of living standards in the adhering countries. Thereby, two instruments play a major role:

The first are the Codes of Liberalization[64]. Adopted in 1961 their goal is to further the capital account liberalization in the member states by promoting peer pressure among the latter. The Codes comprise three more detailed parts, the first two dealing with capital movements (OECD Code of Liberalisation of Capital Movements) and current invisible operations[65] (OECD Code of Liberalisation of Capital Movements); the third is an explanatory attachment to the Codes (User's Guide).

The second instrument is of higher importance to this paper: The 1976 elaborated OECD Declaration and Decisions on International Investment and Multinational Enterprises. It should

- *„improve the investment climate*
- *encourage the positive contribution multinational enterprises can make to economic and social progress*
- *minimise and resolve difficulties which may arise from their operations"*[66]

34 OECD countries are adhering to the Declaration. In addition, 9 non-members have signed the document. Four elements can be seen as the core of the provisions made

[64] OECD - OECD Codes of Liberalisation of Capital Movements and of Current Invisible Operations, web source
[65] including services related to business, industry and foreign trade, transport, insurance and pensions, banking and finance, cinema and television, and travel and tourism
[66] OECD - OECD Declaration and Decisions on International Investment and Multinational Enterprises, web source

in the Declaration: national treatment, conflicting requirements, international investment incentives and disincentives, and the topic of this paper: The OECD Guidelines for Multinational Enterprises.

The main institution responsible for the interpretation and monitoring of the Declaration and the Codes of Liberalization is the Investment Committee[67]. Established in 2004 by a merger of the Committee on International Investment and Multinational Enterprises (CIME) and the Committee on Capital Movements and Invisible Transactions (CMIT) and located in the OECD head-quarter in Paris, it is in charge of the following tasks: serving as a forum for policy makers to discuss on topics related to the two OECD instruments outlined above, the resolution of disputes, conducting peer reviews, monitoring compliance with the rules and standards established, the amendment and review of these rules and standards, and the analysis of flows and trends of international investment activities.

Therefore, the Investment Committee is also in charge of the supervision of the OECD Guidelines for Multinational Enterprises which, as mentioned earlier, form an integral part of the Declaration.

The Guidelines provide for standards in the field of corporate activity on the international level. The specific topics will be outlined in detail in the next chapter. Here, it should be also mentioned that the implementation is based mainly on institutions set up and organized by each adhering state: the National Contact Points (NCPs). As we will see in the course of this paper, they are not uniformly constituted and act in quite differing ways. Their centralized superstructure on the OECD level is the Investment Committee. It helps to interpret the provisions, assists the Contact Points in their daily work and provides a forum to discuss matters which are linked to the Guidelines.

[67] OECD - OECD Investment Committee, web source

1.2.3. The OECD Guidelines for multinational enterprises – Historical Overview

After the economic recovery of World War II, there was a rise in transnational corporate activities, which were further intensified by the liberalisation and globalisation of national markets. International legal norms and frameworks had to be established in order to govern the new scope of business conduct. In this respect the OECD was an appropriate organisation to adopt the first thematically comprehensive document on corporate responsibility[68]. The major issue thereby was aligning the behaviour of OECD multinational firms in developing countries with their practices in industrialized countries, and at the same time ensure that those firms would enjoy national treatment[69] in the host countries[70]. These provisions were, to point that out, only binding upon governments, whilst for enterprises the Guidelines are, in fact, a document of mere voluntary character[71]. And after several amendments they still

> *"[…] remain the most prominent intergovernmental 'code of conduct' that seeks to encapsulate self-regulation with a universally mandated solution."*[72]

Between the adoption of the first version of the OECD Guidelines in 1976 and the version of 2000 which is described below, three revisions took place in the years 1979, 1984 and 1991. Far from being revolutionary in substance those revisions all comprised only minor changes[73].

Concerning the development of the Guidelines and how they impacted the business world one can differentiate between three phases[74]:

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[68] Ibid., p. 77

[69] This means, basically, that legislation should not discriminate against foreign competitors on the national market

[70] Countries where foreign firms are operating

[71] Hägg (1984), p. 71

[72] Tully (2001), p. 395

[73] Ibid.; 1979: amendment regarding the transfer of employees during collective bargaining; 1984: modification concerning the protection of consumer interests, collective bargaining and disclosure; 1991: chapter on environmental protection included

[74] Trade Union Advisory Committee to the OECD (2002), p. 3

The first phase covered the time from the inception of the Guidelines until the mid-1980s. Both trade unions and governments (through unilateral actions) were very pro-active which led to many cases claiming unacceptable corporate behaviour. This period is frequently called ‘the active period’. Trade unions are viewed to be the main beneficiaries of this era, as firms changed their attitudes towards trade unions and their members and cooperation between workers’ representatives and employers was improved and strengthened[75].

In the second phase, which lasted until the mid- or even late 1990s, the Guidelines witnessed their ‘dormant times’. Apart from some exceptions, formed by a few advocates of corporate responsibility and some committed governments, the Guidelines were actually not in use. The reason was that after termination of the paralyzing Cold War struggles states felt the need to compete for foreign direct investment (FDI) rather than scaring firms off by additional human rights, environmental or other requirements contained in the Guidelines. This competition was fought by means of lowering domestic standards including those that aimed to ensure sustainable business conduct. Therefore, the Guidelines were seen as barriers for FDI which were strived to be “eliminated” in order to attract new investment inflows. In addition to that, individual firms were not yet prepared to comply with those newly codified values. This period might also be referred to as ‘lost decade’ for Corporate Social Responsibility.

The third phase was predominantly characterized by the growing public criticism levelled at multinational corporations as well as at the OECD as their advocate on the international level. The OECD had to cope with a certain loss of credibility which was due to the above mentioned ‘dormant phase’. To regain its credibility and public trust, the OECD launched a reviewing process in 1998. In contrast to the very first phase, in which trade unions and governments engaged actively, the incentives for activity came from outside the business world now. Above all, the organized civil society (NGOs) emerged as an actor in this phase. But at the same time trade unions decreased in their importance, both on the national as well as on the international level[76].

[75] A famous case in this regard is the Electrolux Case which was handled by the Swedish National Contact Point
[76]Fatouros (1999), p. 5

During the 2000 reviewing process new and stronger challenges had to be faced: firstly, the number of multinational enterprises had multiplied over the years; secondly, several regional agreements had furthered economic cooperation; and thirdly, various measures taken by the international community had provided for a globally integrated business conduct. From their specific structure and organisation as well as their diversified linkages with different countries, legal systems, economic sectors and information systems[77], transnational firms amplified their multifaceted capabilities and climbed to new positions of power. This notion has been emphasised by the Guidelines and, especially, by their 2000 review.

[77] Ibid., p. 6

2. The OECD Guidelines for Multinational Enterprises

2.1. General Description of the 2000 review

In order to be able to draw a comprehensive picture of the 2000 update of the Guidelines, I must start by clarifying the Guidelines' voluntary character[78]: While the Guidelines are binding upon the states that have signed them[79], for companies they constitute recommendations only. The drafting states simply didn't agree on legally binding norms for business[80], thus, the Guidelines have remained a so called "soft law" instrument up to today. Nevertheless, some[81] argue that their voluntary character did not deprive the Guidelines of their effective implementation – an argument which will be rigorously challenged in section 2.3.

Notwithstanding their voluntariness, the implementation procedure was changed[82] in so far that National Contact Points were strengthened in their role of implementing the Guidelines. They were encouraged to increase cooperation with other Contact Points and to periodically report to the public and the OECD, as well as to promote the Guidelines in the business world. The Committee on International Investment and Multinational Enterprises (CIME) remained responsible for the clarification of matters regarding the meaning of the Guidelines and made a forum for addressing all matters covered by them[83].

With regard to the content of the Guidelines, a specific environmental chapter reflecting the principles and aims of the Rio-declaration on Environment and Development (Agenda 21) represented a major amendment. This aimed at improving responsible environmental management (to be understood in its widest sense) within

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[78] One exception is the compulsory for the adhering states: the installation of a National Contact Point, which will be analyzed in section 2.2.4.

[79] From which follows their obligation to establish National Contact Points, responsible for promoting and implementing the Guidelines. The NCPs will be analyzed in section 2.2.4.

[80] Ibid., p. 7

[81] Ibid., p. 8

[82] View section 2.2.4.

[83] OECD (2001)

the enterprises and efficient crisis management according to the provisions of this newly added chapter. Other revisions and additions were made concerning transparency, corruption and supply chains. The probably most important improvement of the Guidelines in view of the purposes of this paper was the introduction of the issue of human rights[84] and the core labour standards[85].

To take a step beyond those institutional and thematic changes, there are various elements of the document endorsed and added in the course of the 2000 review[86]: The enhanced support for the Guidelines was achieved by close consultation between business actors, labour unions and NGOs. There are 43 governments[87] adhering to the Guidelines. The seldom observed opening of an international organization towards non-member states, i.e., the inclusion of non-OECD members into the framework of the Guidelines, can be seen as quite revolutionary. In addition, synergies and cooperation have been established between the OECD Investment Committee and other international initiatives in the field of corporate responsibility such as the UN Global Compact or the ILO's Employment, Labour and Social Affairs Committee[88]. This support gives strong backing to the Guidelines which is necessary for the effective functioning of the document.

Another pillar of the Guidelines' review lies in the enhanced clarity of the wording itself. Should doubts about the implementation, exact meaning and/or scope of the provisions arise, both the National Contact Points and the OECD Investment Committee (at last instance)[89] are responsible for clarifying those issues.

Furthermore, the Guidelines constitute the only comprehensive document that reflects basic principles which corporations are advised to follow within their operations. By using ample and general wording, they cover all important and relevant topics of responsible business conduct. The stability of the document is ensured by the fact that all governments adhering to the Guidelines have to agree to amendments of the Guidelines. Stakeholder consultations have to be carried out prior

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[84] Geiger, Rainer (2002), p. 8.
[85] Trade Union Advisory Committee to the OECD (2002), p. 4
[86] Business and Industry Advisory Committee (2009), p. 2f.
[87] 34 OECD member states: 9 non-OECD member states (Argentina, Brazil, Colombia, Egypt, Latvia, Lithuania, Morocco, Peru and Romania); up-to-date: March 7th 2012
[88] OECD (2007)
[89] See section 2.2.3.

to amendments as well. It contributes to the mutual confidence of corporations, governments, the relevant OECD institutions civil society and other stakeholders[90].

The subsequent sections focus on the revised version of the Guidelines adopted by the adhering states in 2000.

2.2. Description of the OECD Guidelines for multinational Enterprises

2.2.1. The legal framework of the Guidelines – rationae materiae

The aim of this section is to provide the reader with detailed information about the specific topics addressed in the OECD Guidelines for Multinational Enterprises, as formulated in the reviewed version of the year 2000. I will closely follow the structure of the document outlining all important subjects contained in the text. In the next section I will focus on the wide range of criticism raised right after the review; it finally found a reaction in 2011 when the Guidelines were reviewed again. The discussion of these strengths and weaknesses forms a major part of the paper and will be the starting point for further analysis of the *case law*.

The Guidelines are divided into 10 main chapters being prefaced by introductory remarks by the adhering countries. The Preface describes the nature of the Guidelines as voluntary principles which are addressed by governments to multinational firms in order to build up a sustainable relationship between society, the environment and the economy[91]. The Guidelines form part of the OECD Declaration on International Investment and Multinational Enterprises and have been designed in response to the growing “internationalization” of business and the change of the typical character of the firm itself (higher propensity to diversification)[92]. The linkages amongst the OECD member states and their relations with the rest of the world are intensified[93]. As a consequence, private enterprises have been ascribed a major role in contributing to a socially, economically and environmentally responsible way to conduct business in “open, competitive and appropriately regulated markets”[94]. The adhering countries are highly aware of the issue that misbehaviour of a small number of enterprises can affect the reputation of the whole group of multinational enterprises[95]. Therefore, they promote initiatives realized by a number of firms

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[91] The OECD Guidelines for Multinational Enterprises, Revision 2000, Preface, see Annex I
[92] Ibid., Preface, para. 2 and para. 3
[93] Ibid., Preface, para. 4
[94] Ibid., Preface, para. 5
[95] Ibid., Preface, para. 6

individually in order to dispel public concerns about this misbehaviour[96]. Furthermore, the Preface emphasizes the important role of international conventions elaborated by state actors[97] and international organisations[98] as well as the need to openly support the Guidelines as a prerequisite for their functioning.

The subsequent chapter, “General Concepts and Principles” first of all underlines and summarizes what has already been said in the Guidelines’ Preface. It then points out that there is no need to define the term *international enterprises* since all entities of a multinational enterprise (including those within the supply chain) are in principle[99] targeted by the provisions made in the Guidelines[100]. The Guidelines constitute good practice for all firms, including those operating on a domestic level only[101]. The next paragraphs describe the rights and duties of governments: They should promote public observance of the Guidelines[102] while not using them as a tool for protectionism in trade or investment policy[103]; they should furthermore treat the enterprises in accordance with their obligations under international law[104]. In case of struggle, governments should make use of the international mechanisms such as arbitration if legal problems arise[105]. However, such legal means should only be used as a last resort; instead, governments are obliged to install so called National Contact Points[106] for the handling of specific instances of dispute[107].

The main chapters focus on specific topics as shown by the graph below:

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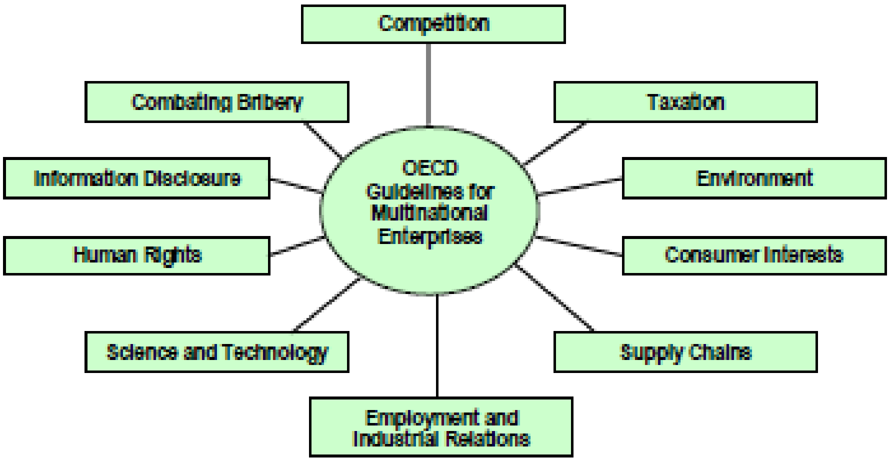
96 Ibid., Preface, para. 7
97 Ibid., Preface, para. 8
98 Ibid., Preface, para. 9
99 I will critically analyse this issue in section 2.3.
100 Ibid., Concepts and Principles, para. 3
101 Ibid., Concepts and Principles, para. 4
102 Ibid., Concepts and Principles, para. 5
103 Ibid., Concepts and Principles, para. 6
104 Ibid., Concepts and Principles, para. 7 and para. 8
105 Ibid., Concepts and Principles, para. 9
106 The National Contact Points will be discussed in Section 2.2.4.
107 Ibid., Concepts and Principles, para. 10



Graph 2.2.1 – Topics of the Guidelines[108]

Human rights and the supply chain constitute very prominent subjects that are mentioned several times in the Guidelines. However, no chapter is dedicated to human rights issues in particular.

Firstly, the General Policies expressly stress that

> *"Enterprises should […]: Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments."*[109]

This formulation leaves quite a lot to individual interpretation. The Guidelines' commentary doesn't clarify this either. It is a fact that not all states have ratified all conventions and treaties in the field of human rights. Thus, the level of human rights protection may differ from country to country. Enterprises are advised to actively

[108] OECD (2001), p. 3
[109] The Guidelines, II. General Policies, para. 2

protect the human rights[110] of those who are affected by their activities rather than simply fulfilling the prescriptions formulated by the host government[111].

This human rights specific Paragraph 2 of Chapter II of the Guidelines entails a rather broad conception of human rights with a sole restriction that they should be contained in the host state's *portfolio* of signed international law treaties or form part of customary practices of this state. Besides this, there are specific issues related to human rights included in paragraph 5 of the General Principles Chapter (Chapter II). Being only slightly more specific, this paragraph is also kept very general:

> *"Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labour, taxation, financial incentives, or other issues."*[112]

In addition to these two rather general preliminary provisions, Chapter IV discusses employment issues and fundamental labour standards. It holds enterprises responsible to contribute to the abolition of child labour and all forms of forced or compulsory labour[113][114]. Emphasising the right of workers to freely form unions and to bargain collectively[115] it specifies the general Paragraph 5 of Chapter II related to physical health and security[116]. A non-discrimination clause is added[117] and the motivation for enterprises to improve skills and contribute to the development of human capital within their business environment is stated[118]. Another interesting provision of Chapter IV is the aim to make firms report any changes of their business conduct in advance and to all those persons to whom they would ever have an effect (above all, if the changes and measures involve negative implications). This includes

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[110] as encoded in international treaties such as the Universal Declaration on Human Rights, the Covenant on Economic, Social and Cultural Rights and/or the Covenant on Civil and Political Rights
[111] The Guidelines, Preface
[112] The OECD Guidelines, General Policies, para. 5, according to Cernic (2008), p. 80
[113] Cernic (2008), p. 80
[114] The OECD Guidelines, Employment and Industrial Relations, para. 1.b and c
[115] Ibid., para. 1.a, 2, 7, 8
[116] Ibid., para. 4
[117] Ibid., para. 1.d
[118] Ibid., para. 5

for instance the announcement of a change in production scale or type, a significant change/reduction of employed workers or a dismantling of production facilities. Announcements should be made towards different stakeholders but especially directed to employees and their representatives, local governments and decision makers at the national level. In this regard, it is frequently stressed that the Guidelines aim to promote already existing labour standards previously elaborated by the International Labour Organization[119] and its Declaration on Fundamental Principles and Rights at Work of the year 1998[120].

Other Chapters which are somehow linked to human rights issues include provisions in the fields of reporting (social, ethical and environmental issues) and their timely and accurate disclosure of corporate information by adequate means and channels[121]. Chapter V contains a broad range of norms and standards to protect the environment and conduct environmentally sustainable business[122]. Combating bribery (Chapter VI), Consumer interests (VII), Science and Technology (VIII), Competition (IX) and Taxation (X) represent other standards and provisions for international business that is dealt with in the Guidelines.

The following overview[123] summarizes in short all of the topics representing one chapter each:

> **Preface:** situates the Guidelines in a globalising world. The common aim of adhering governments: encourage positive contributions that multinational enterprises can make to economic, environmental and social progress and to minimise difficulties to which various operations may give rise.
>
> **I. Concepts and Principles:** sets out the principles: such as voluntary character, application world-wide and the fact that they reflect good practice for all enterprises.
>
> **II. General Policies:** first specific recommendations: e.g., provisions on human rights, sustainable development, supply chain responsibility, local capacity building; more generally calls on enterprises to take full account of established policies in the countries in which they operate.

[119] Geiger, Rainer (2002)
[120] Business and Industry Advisory Committee (2009)
[121] The OECD Guidelines, Disclosure, para. 1.b and c
[122] Ibid., Environment
[123] OECD Policy Brief: The OECD Guidelines for Multinational Enterprises.

III. Disclosure: recommends disclosure on all material matters regarding the

enterprise such as its performance and ownership, and encourages communication in areas where reporting standards are still emerging such as social, environmental and risk reporting

IV. Employment and Industrial Relations: addresses major aspects of corporate behaviour in this area including child and forced labour, non-discrimination and the right to bona fide employee representation and constructive negotiations.

V. Environment: encourages enterprises to raise their performance in protecting the environment, including performance with respect to health and safety impacts. Features of this chapter include recommendations concerning environmental management systems and the desirability of precaution where there are threats of serious damage to the environment.

VI. Combating Bribery: covers both public and private bribery and addresses passive and active corruption.

VII. Consumer Interests: recommends that enterprises, when dealing with consumers, act in accordance with fair business, marketing and advertising practices, respect consumer privacy, and take all reasonable steps to ensure the safety and quality of goods or services provided.

VIII. Science and Technology: aims to promote the diffusion by multinational enterprises of the fruits of research and development activities among the countries where they operate, thereby contributing to the innovative capacities of host countries.

IX. Competition: emphasises the importance of an open and competitive business climate.

X. Taxation: calls on enterprises to respect tax laws and to co-operate with tax authorities.

The Commentaries can be seen as interpretation manual for all Chapters stated above, and are directly attached to the Guidelines[124]. This is a quite unique element in international law and directly contributes to the criticism raised in the run-up of the drafting process which I will turn to in section 2.3. . They do not officially form part of the Guidelines but may be referred by any party dealing with the Guidelines and their implementation procedure[125].

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[124] Not included in Annex I

[125] Milieu Defensie – Friends of Earth Netherlands (2002)

2.2.2. The Space of Applicability – *ratione loci* and *ratione materiae*

The drafting partners including the institutions established by the document are steadily concerned to extend the space of application (*ratione loci*). In this sense, the mechanism is open to states that wish to formally adhere to the Guidelines regardless of their membership to the OECD and their relationship to the latter. This is an important aspect of the Guidelines which aims to further the use of the Guidelines as standards of transnational or domestic business activities and spread their application as wide as possible. Notwithstanding this, the Guidelines are not restricted to those areas and countries which have signed the document, but they constitute standards which should be followed by enterprises operating that in or from an adhering country and thus might have raised concerns in a country not necessarily adhering to the Guidelines. For instance, assume a transnational enterprise which conducts business in a state of the OECD or another adhering non-OECD state, say, e.g., Brazil. If this enterprise disposes of branches, subsidiaries or very closely-related suppliers in a country which has not signed the Guidelines, say, e.g., Myanmar, and these entities raise concerns with respect to one of the topics of the Guidelines described above one might bring that case to the attention of the respective institution – the National Contact Point – in Brazil[126]. Sometimes, in case the enterprise conducts business in more than one adhering country the case might be transferred from one National Contact Point to another. In our example, the enterprise is active in Brazil and its subsidiaries have breached the Guidelines in Myanmar. Consequently, its case has been brought to the attention of the Brazilian Contact Point. Let us assume furthermore that this enterprise has a regional headquarter in, say Buenos Aires, Argentina. Due to those complex structures of transnationally operating firms it is not always an easy task to decide with which Contact Point a case should be appropriately filed. This decision can be based upon the following questions: In which country is the (regional) headquarter of the firm located? Are there any other relevant branches or directorates of the enterprise in other adhering countries[127]? In the above mentioned example, the case could have

[126] Milieu Defensie (2002), Section 4
[127] Ibid., Section 11

been filed with the Brazilian Contact Point, which would have consequently transferred the case to the Argentinian NCP, or directly brought before the latter.

Another important question here is which parties can be involved in a case, i.e., who can complain and who can be brought before the National Contact Points. The question of the potentially accused entity is not complicated to answer since multinational enterprises are the addressees of the Guidelines' provisions. Also, the question who can complain if a breach of or inconformity with the Guidelines has been observed is, in principle, not too challenging: The text states that basically any *interested party* can file a complaint with a National Contact Point – consequently, there is actually no standard answer to this question due to this lack of specification; it simply depends on a detailed analysis of the structure of the enterprise, the political circumstances within a country, the different characters of the National Contact Points and potential allies in the respective matter[128]. What can be stated up front – before giving specific numbers in chapter 3 of this paper – is that the vast majority of complainants are large-scaled NGOs working on various topics contained in the Guidelines. Most of them are dealing with environmental and/or human rights matters and are engaged in a number of countries (international NGOs). The second important group of those who frequently file complaints are trade unions. Research institutes appear as complainants in the one or other case that lies in their own scope of interest. Though, they still represent a small part of the entire group of complainants. Individual persons or groups of persons can be seen as mere exception.

2.2.3. Institutionalisation and Implementation

Until now I have focused on the thematic chapters of the Guidelines and outlined their regional coverage, i.e., under which circumstances and within which geographic areas they can be used. There is one crucial issue forming the basis for success or failure of a mechanism governed by international law: the institutions established by the adhering countries which are built to actively support, promote and monitor the

[128] Ibid.

standards and, in case of breach, provide an effective procedure to tackle those violations of the document.

The Guidelines are institutionalised on two complementary levels which are called to collaborate extensively: one of them centralized within the Paris offices of the OECD, the other on the national level connected to the governments of the 43 adhering countries. This is quite a unique situation in international agreements. I will hereafter turn my attention to the first, the international level, section 2.2.4. deals with the institutions built up by the adhering states themselves.

Framed in 1976, the OECD Declaration and Decisions on International Investment and Multinational Enterprises of which the Guidelines form part also installed a forum to channel discussions in the field of international investment and services. The so called Committee on International Investment and Multinational Enterprises (the Investment Committee or CIME) deals with issues of international capital movement (including foreign direct investment), international trade and multilateral cooperation in those matters[129]. Regarding the Guidelines it has various responsibilities and satisfies them by means of a special working party consisting of government representatives[130]. Generally speaking, it can be seen as the body of supervision and clarification for all national institutions which are to be established by the adhering countries[131] domestically (the National Contact Points, see section 2.2.4.). This means, it constitutes a forum for the exchange of best practice on the one hand and has to clarify and interpret the Guidelines with regards to their implementation on the other hand[132]. In this regard, it oversees the implementation of the Guidelines and represents a

> *"[…] backstop when things go wrong at the national level […]"*[133]

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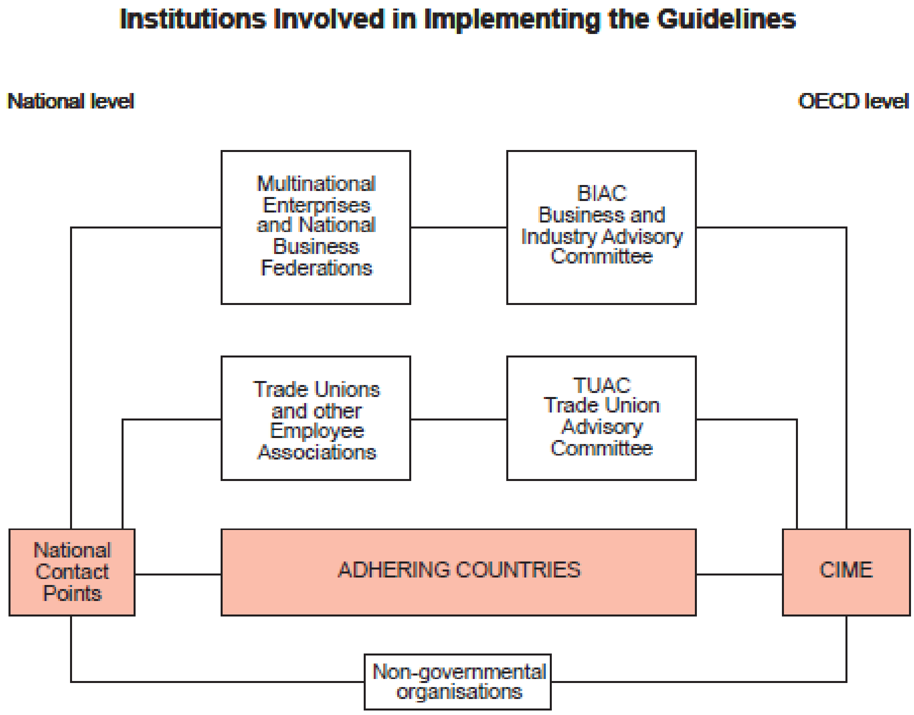
[129] OECD – The OECD Investment Committee, web source
[130] TUAC User Guide, p. 7
[131] analyzed in the section 2.2.4.
[132] Fatouros (1999)
[133] TUAC User Guide, p. 7

but does not directly voice a part in the day-to-day business of the implementation of the Guidelines. Adversely, in addition to the organization of annual conferences of national institutions it can be called upon by different stakeholder organisations, amongst them the main two advisory bodies to the OECD, the social partners: the Trade Union Advisory Committee (TUAC) and the Business and Industry Advisory Committee (BIAC) which frequently take their right to request clarifications concerning the Guidelines' wording and the consequent implementation. Besides the filing of such requests, those two stakeholder groups are furthermore responsible to raise awareness and promote the realization of the Guidelines among their member organisations[134].

In addition to those two, which are the most important stakeholder organisations with regard to the Guidelines, the 2000 review has introduced the right to request clarifications and interpretation also for NGOs[135]. Each of the nationally installed Contact Points is enabled to seek clarification by the Investment Committee too if it suspects that another Contact Point's action is in misalignment with the Guidelines[136]. Given the CIME's conclusion differs from the opinion of a National Contact Point, the latter should take appropriate action to adopt the CIMEs recommendations, align its own behaviour to the CIME's findings, or re-open the case[137].

[134]BIAC (2009), p. 5
[135] Tully (2001)
[136] Friends of Earth (2006), p. 7
[137] TUAC Guide, p. 7



Graph 2.2.3 - Implementing Institutions[138]

To summarize the above outlined, the Guidelines are implemented by a framework of institutionalised bodies on the national and international level. At the international level, the Investment Committee takes lead in overseeing the whole mechanism and framing actions on a general level without interfering with the daily work of the respective national institutions. In the realisation of those responsibilities it is assisted by the two stakeholder organisations, the BIAC and the TUAC. The entities immediately in charge of implementation of the Guidelines and, above all, the breaches of the latter are the National Contact Points: nationally embedded institutions which are often closely linked to their governments. I have mentioned them various times up to here and will focus on them in the section right below.

138 OECD (2001), p. 3

2.2.4. The National Contact Points

The adhering countries of the Guidelines are required to install institutionary bodies on their domestic national level. In general, they should work complementary to the centralized bodies of the OECD, especially, the Investment Committee. But what are the concrete responsibilities of those institutions and how should they be designed according to the Guidelines? Are there differences between those institutions? These are the main questions which I will answer here.

Firstly, according to the Guidelines all adhering states are obligated to install a so called National Contact Point[139]. Concerning the concrete design of the Contact Point the Guidelines leave a broad margin of discretion to the governments as long as the core principles (visibility, accessibility, transparency and accountability) are fulfilled when implementing their major responsibilities: promoting adherence among multinational enterprises and the awareness of the Guidelines themselves, providing a forum for discussion between stakeholders, submitting annual reports to the Investment Committee (see section 2.2.3), and the handling of specific instances[140] which I will turn to later on. Most important measures for complying with these responsibilities include *inter alia* the organisation of conferences and meetings to bring together business communities, workers' unions and other stakeholders (NGOs) in order to discuss certain topics covered by the Guidelines. The launching of campaigns and other promotional initiatives should raise awareness of the wider public and of those who are somehow directly involved or affected by business conduct. The composition of annual reports and their submission to the Investment Committee represents another task which should raise the degree of transparency. All reports are collected, summarised and published[141] by the Investment Committee and discussed at annual meetings in the OECD head-quarter in Paris.

In case an NGO, trade union, or other interested party alleges a company to have breached the Guidelines the NCPs should provide their offices and expertise to the complaining and the accused party in order to reach consent between them. These mediation activities take place in a framework called *specific instances*, as already

[139] This is the Guidelines' only binding clause
[140] Friends of Earth (2006), p.7
[141] OECD (2011)

mentioned above. The Procedural Guidance attached to the Guidelines sheds light on how the NCPs should act as such mediators[142]: Once a specific instance (or, to simplify, say *case*) has been filed by a complaining entity and transferred to an NCP the latter needs to find out if the case "merits further examination". This phase is called the *initial assessment* which, to hold that, is not necessarily an analysis of the alleged breaches themselves but merely an investigative process in order to examine whether the Guidelines are applicable. After this phase and if the NCP comes to a positive conclusion in this regard it should "offer good offices" to resolve the issue. Other NCPs might be contacted as well as the Investment Committee, which can be addressed to clarify the Guidelines in case of doubt of their interpretation. Additional advice should be sought from other authorities, institutions, employees' organisations, NGOs and relevant experts. Conciliation and mediation are the means by which a conclusion on the matter at stake should be reached.

In the optimal case, the conflicting parties reach an agreement. But also if this cannot be achieved due to one or the other reason, the NCP must communicate the conclusion of the case by issuing a final statement.

What is also worth mentioning – without diving deep into this issue – is the protection of private information in those cases and stages of the procedure where a disclosure of this information could harm one of the parties or has adverse effects on the settling of a case. Sometimes, the consequent possibility to retain information in an arbitrary way has been equally misused as the non-existing time limits[143].

This framework of mediation – although not binding on the conflicting parties – has been widely accepted and used as complaint mechanism in those situations where a stakeholder (or advocate of the latter) asserts that a multinational company's actions are in opposition with the content of the Guidelines.

In principal and to repeat that, governments are not bound to design the NCPs in accordance to a certain organizational form or structure as long as they enable them to carry out the above mentioned tasks. Therefore, both the inner structure of an NCPs as well as their actual institutionary location, i.e., their relation to any governmental body, differ widely across states. They may be a single governmental

[142] OECD Watch (2006), p.16

[143] For each of the mentioned phases there are neither written rules and codified regulations, nor established customary norms with regard to a fixed timeframe.

official, a governmental office, or a body linked to the government allowing employees' organisations, the business world and other interested parties to participate and cooperate with the NCP. These co-operations are mostly specific instances as outlined earlier in this section. On average, it can be stated that most countries opted for a NCP situated closely to the country's Ministry of Economic Affairs or the Treasury.[144]

During the last years and as a reaction to arising critical voices[145], two main tendencies regarding the restructuring of NCPs[146] were observed: Firstly, NCPs were put onto a broader base of their ministerial backing. Above all, the ministries in the field of environment and those concerned with international affairs were taken into steering committees, advisory boards, etc. increasing the variety of governmental stakeholders[147].

Secondly, to guarantee a higher degree of independence many NCPs witnessed an opening towards the public and the academic world. In this regard, collaboration with independent experts was strengthened, civil stakeholder involvement enhanced and some functions (e.g., the handling of specific instances) decentralized and put in the hand of more independent boards or panels.

There are two initiatives of NCPs worth mentioning which comprise examples for quite active national institutions: Those of the Norwegian and the Dutch Contact Points. To consider the efforts of the first, Norway issued the report "Corporate Social Responsibility in a Global Economy" in 2009. Following this, it evaluated different proposals modelled by more than 20 different organisations aiming to strengthen the NCP and extend its independence. These inputs were assembled and an overall model was derived: The re-structured NCP will now assume the shape of an independent board. After being proposed by different stakeholder associations, its four individual members are appointed by the ministries concerned. This selection process of the members was designed to meet the demand for increased transparency expressed in NCP draft models elaborated by different stakeholders.

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[144] Milieu Defensie (2002), Section 5

[145] See section 2.3.

[146] At least the most active NCPs (England, Germany, Norway, Netherlands…)

[147] OECD - CIME (2009), p. 6f.

The new structure enhances the NCP's ability to raise awareness, put more emphasis on information activities and handle specific instances more effectively.[148] The peer review and subsequent actions taken by the Dutch NCP constitute another example[149]of such a restructuring process. Due to the rising criticism alleging the NCP to work ineffectively and slowly and claiming that its procedures were insufficiently transparent the Ministry of Economic Affairs initiated an internal review process in 2005[150]. During this process, debating the structure of the NCP has also been of central concern. The review was based on desk investigations, interviews with other NCPs and stakeholders and one concluding roundtable. The results of this review accumulated several recommendations[151]: they suggested broader political support and a better networking between the NCP, its stakeholders and other NCPs.

Similar measures to enhance the effectiveness of the NCP have recently been discussed in various other adhering countries and have been taken into account in many other restructuring processes of different NCPs, as mentioned above. With regard to the structure of the NCP, an independently positioned NCP should be led by independent members which are highly accepted by various stakeholder organisations. This sounds familiar if we keep an eye on the earlier outlined Norwegian reconstitution. In addition, the official mandate of the Dutch NCP provided by the government should include the possibility to consult with the government and concerned ministries regarding the interpretation of the Guidelines.

In alignment to Norwegian efforts, the structure of the Dutch NCP was change so that it now consists of four members suggested by the stakeholders from then onwards[152][153]. In addition to that – and this comes with distinction to the Norwegian example – those four independent members are assisted by another four advisory members which are sent by different ministries[154]. This advisory board is supported

148 Ibid., p.7
149 NCP Netherlands (2009)
150 Ibid., p. 3
151 Ibid., p. 6
152 Ibid., p. 7
153 One of them should act as the leader of the NCP. The members do not represent those organisations by which they have been advocated.
154 Ministry of Foreign Affairs; Ministry of Economic Affairs; Ministry of Housing, Spatial Planning and the Environment; Ministry of Social Affairs and Employment

by a secretariat[155]which is located within the Ministry of Economic Affairs. In 2007, the NCP started business in the described form.

[155] three full time employees

2.3. Critical Remarks

The OECD Guidelines represent, on the merits' side, a broad framework in the field of Corporate Social Responsibility. It is widely accepted as the only far-reaching, comprehensive document[156]. It is gradually extending in geographic scope beyond its actually adherent state parties at the same time seeking to ensure compliance with already established norms and standards of various other documents concerning human rights, environmental issues etc., e.g., by the ILO. In fact, the rising awareness and relevance within the business world, labour unions and international NGOs makes the Guidelines the only comprehensive international tool for corporate responsibility. Albeit the document constitutes a landmark for multinational enterprises' business conduct, it has been confronted with a broad range of criticism, in spite of its expansive revision in 2000. The major issues which were claimed by critics after the 2000 review are subject to this section.

To start, I consider a rather philosophical question[157] which might be qualified, in my eyes, as very radical doubting the document and its views as a whole. Though, it depicts a useful starting point for further examination of the discussion. The question concerns the role of the multinational enterprise and its nature in the Guidelines. Thus, it states:

> *"Multinational enterprises have the opportunity to implement best practice policies for sustainable development that seek to ensure coherence between social, economic and environmental objectives."*[158]

According to Ferenschild, this outlines a rather contradictory role of the multinational enterprise. Companies are driven by profit maximization and cost minimization problems in the first place and only secondarily (if at all) by the aim to promote social, economic and environmental objectives. The harder the competition, the less

[156] Cernic (2008)
[157] Ferenschild (2002)
[158] The Guidelines, Preface, para. 5

importance would be given to human beings and the environmental circumstances impacted by the production process, she argues.

> *"If companies do not stick to their own codes, why should they adopt the OECD Guidelines? Why should those who up to now have been responsible for human rights violations suddenly turn into guardians who solve the problem?"*[159]

This might be true at the core of the issue and only persistent optimists or business lobbyists would deny that fact. But I would rather argue – taking a step away from over-enthusiastic arguing – that multinational enterprises should definitely be in the focus of all efforts to make business responsible. Nothing more was intended by the drafting partners of the code of conduct. Nevertheless, besides criticizing the opinions of the adhering states, this matter puts another issue into the focus of discussion comprising, on the one hand, the nature of the Guidelines as non-binding codes of conduct and, on the other hand, the question, how enterprises can be held responsible for breaches of the codes – if they are the final addressees of the Guidelines[160]? As mentioned plenty of times, enterprises are not legally obliged to align their behaviour with the Guidelines' provisions. They are strongly advised to do so, but as stated by Ferenschild, if enterprises are set (or, however, claim to be) under pressure exerted by increasing competition, strict regulation, or other factors, they would target economic goals (e.g., profits) rather than those of corporate social responsibility. And if the relevant standards are not compulsory, one might argue that those standards are consequently all but vigorous. If there are no traditional executable sanctions such as retaliation, financial penalties etc. in place, how can these norms then be enforced and kept alive even in those frequent situations were sole profit maximization takes place without accounting for social and environmental standards? Are there any non-traditional or non-formal sanctions existing which would help to strengthen the implementation of and compliance with the Guidelines?

[159] Ferenschild, p. 13
[160] as can be assumed after reading the above quoted paragraph and the Guidelines themselves

Some would endeavour to recall that public awareness raised by means of the specific instances would constitute a powerful check to enterprises and their behaviour. Following this track, the loss of reputation and trustworthiness vis-à-vis their customers would represent the necessary informal sanctions mechanism in order to ensure compliance. This could be seen as striking point as this would mean an internalisation of negative externalities, i.e., the enterprise would then suffer from its own misbehaviour and bear in mind the only threat to which it is really prone (at least according to MNE-critics such as Ferenschild): economic set-backs. This leads us again to the implementation system of the Guidelines, especially to the specific instances handled by the NCPs and the disclosure of information presented during this process.

The wording of the Guidelines states thereto:

> *"In order to facilitate resolution of the issues raised, [the NCP will] take appropriate steps to protect sensitive business and other information. While the procedures under paragraph 2 are underway, confidentiality of the proceedings will be maintained. At the conclusion of the procedures, if the parties involved have not agreed on a resolution of the issues raised, they are free to communicate about and discuss these issues. However, information and views provided during the proceedings by another party involved will remain confidential, unless that other party agrees to their disclosure."*[161]

These specifications regarding the disclosure of information are, as often criticized by NGOs, interpreted very – if not much too – broadly. Some NCPs have even attempted to unilaterally extend the confidentiality rule to every stage of the complaints' procedure[162] which takes away the looming momentum of public pressure and with it, remove the last remaining sanction which could give strength to the mechanism. This has been taken to an extreme: some NCPs do not even

[161] The Guidelines, Procedural Guidance, National Contact Points, C.4.a
[162] OECD Watch (2005)

publicize the filing of a complaint or even withhold company details (including names) in their annual reports[163].

In general, the communication policy of most NCPs is often declared as a major weakness of the mechanism. In many cases, the NCPs do not give due notice to complainants (mostly NGOs) about the current *status quo* of their specific instances[164]. Furthermore, it is quite often pointed out that the relation between the NCPs and the business world is too close on the one side to frame strict and critical judgements upon enterprises alleged for breaches of the Guidelines. This close relation is existent due to the fact that governments enjoy, as mentioned above, autonomy concerning the establishment, fine-tuning and design of their Contact Points. Most often, NCPs are closely connected to a ministry – in the vast majority of countries they are situated within the sphere of the Ministry of Business or Economic Affairs. Obviously, this ministry has established rather strong linkages to the business world and acts as quasi-advocate and promoter for the private economy. In fact, this does not contribute to the level of neutrality which would actually be needed in order to conclude cases objectively or decide upon their admissibility before the NCPs. Nevertheless and despite this criticism, there are several reasons and advantages of this situation: The government (here in form of the Ministry of Economic Affairs) disposes of the necessary authority and knowledge of the business world. It has privileged access to expertise and networking, can play a preventive role by promoting the OECD Guidelines and is relatively accountable for the public[165]. Though, most NGOs are propagating an independently organized form of the NCP or, at least, the specific instances procedure[166].

Besides the implementation procedure, the handling of the specific instances and the often poor relations between NCPs and NGOs[167] the content of the Guidelines bears two major weaknesses: the weak wording and the issue of supply chains.

In the first case, optimistic proponents of the Guidelines might argue that a rather general wording represents an integrative element in order to cover a wide range of matters but in practice

[163] Ibid., p. 25
[164] Ibid., p. 21
[165] Marmorat (2009), p. 15
[166] OECD Watch (2007), p. 8
[167] Ibid., p. 15f.

> *"It is far from clear that this is the case [in the Global Compact]. [T]he very broad language makes it harder to pin down whether a breach occurred […]. These difficulties are arguably even greater in the case of the OECD Guidelines and the NCP grievance mechanisms."*[168]

In addition to that, frequently used phrases such as 'where practicable' or 'if appropriate' water down the meaning of a great number of paragraphs and undermine the thematic inclusiveness and strength of the respective provisions[169] [170].

The second problem, which is of inherent problematic nature of international business conduct as a whole, is the extension of the Guidelines to supply chain issues. There are many multinational enterprises which argue that they cannot be blamed for an observed misbehaviour or breach of the Guidelines that it did not take place in their own realm of business but must be attributed to their suppliers' activities and responsibilities. Although this crucial issue was taken into account by the adhering countries, the topic is still not sufficiently reflected therein regarding its ever increasing complexity (growing internationalization and diversification). The respective wording which is contained in the 2000 review must be termed to be a fairly poor provision:

> *"[Enterprises should] encourage, where practicable, business partners, including suppliers and subcontractors, to apply principles of corporate conduct compatible with the Guidelines."*[171]

As we shall see in the subsequent analysis of cases (chapter 3) there are still many NCPs which refuse to take up a case stating that it exhibits a lack of the necessary *investment nexus*. This latter term remains undefined and points out the investment

[168] Reese (2008), p. 11
[169] Milieu Defensie (2002), Section 8
[170] Cernic (2008), p. 94
[171] The Guidelines, General Policies, para. 10

component of the supply chain discussion, therefore excluding any trade matters. Due to this fact, there is still no possibility to qualify on the relationship between the OECD enterprise and its non-OECD supplier. This leaves, consequently, the subcontractor with all responsibilities within the production process and washes the hands of the parent entity rather than making it accountable for breaches occurring in its whole supply chain – regardless of the real intensity of those contractor-subcontractor linkages. These shortcomings represent big loop holes and it will be a major task for the signing states to close them in future amendments and reviews[172]. Obviously, political will plays a crucial role in this process.

To round up this discussion, further criticism has been raised about the undefined length of the specific instances allowing NCPs not to handle a case even though they might deem it admissible[173]. The huge workload with which a potential complainant is confronted when filing a case makes the mechanism an elite one in a negative sense; small communities and NGOs are still excluded from participation although it is propagated, that “any interested party may file a complaint”[174]. Lastly, the investigative and fact finding capability and attitude of the NCPs is regarded as rather unsatisfactory. Again, in many cases, a lack of political will and support are the plausible reasons for that[175].

To repeat it at this point, all the above arguments and criticism are directed towards the 2000 version of the Guidelines. In 2011, the Guidelines were updated and some of those issues were taken into account by the adhering states. The OECD provides a detailed overview about those changes[176]. Most important and positively welcomed by NGOs are those amendments with regard to supply chain responsibilities, various regulations and specifications on the design and work of the National Contact Points, environmental norms, and stakeholder involvement. Criticism remains in the field of the above mentioned weak language, centralized control over the day-to-day business within the NCPs or the requirement of social and environmental disclosure[177].

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[172] Oldenziel / Opijnen (2010), p. 91
[173] OECD Watch(2007), p. 17
[174] Ibid.
[175] OECD Watch (2005), p.17
[176] OECD (2012)
[177] OECD Watch (2011)

Though, the current version of the Guidelines is in place for a time period which is much too short to file preliminary judgements on their applicability.

3. Statistical Analysis of 'Case Law'

An in-depth statistical analysis of all cases filed under the 2000 review of the Guidelines will represent the focus of the underlying chapter. It is the actual heart of the whole paper. Though, it will be much shorter than the broad material and data obtained in the research process would allow for.

The main question of this chapter deals with the issue of how one could make the mechanism built around OECD Guidelines for Multinational Enterprises tangible in a quantitative sense. There seems to be a huge amount of qualitative analysis circling around the topic which puts the different features of the mechanism (text, implementation, institutions...) in the center of analysis; but less so did scholars elaborate the fundamental component of 'case law'[178] in general. Different authors have made descriptive analyses or references to some of the most important cases. But this has rather been done in order to visualize the general functioning or the strengths and weaknesses of the Guidelines and especially, their implementation framework. Particular and very individual cases have been taken as a source therefore. In contrast, I will target the whole range of cases which have been filed between 2000 and 2011 to squeeze the inherent information and attempt to undertake a characterization of the mechanism as a whole, the institutions (the National Contact Points), and the parties involved in those cases (the complainants and accused companies). I will employ descriptive tools of statistics for picturing the sample, but not pay too much attention to single cases and their respective history and development.

I will start with an outline, think of a blueprint, how information was processed into numeric data. Subsequently, I will turn to the general description (section 3.2.) of the mechanism answering questions such as the following: How many cases have been filed in total? Which thematic areas were covered and how many of those cases were accepted, rejected, concluded, etc. by the National Contact Points? Do those Chapters of the Guidelines differ across industries or regions in which the cases have been filed?

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[178]When mentioning 'case law' I refer to specific instances

Part 3 of this chapter outlines the circumstances of the specific instances procedure. It reviews the National Contact Points concerning their handling of cases (How many cases are filed per NCP? Do they often reject? How long do they need to conclude a case? Do they *specialize* in a specific topic of the Guidelines?), the industrial concentration in those cases or regional differences amongst the national institutions.

In the course of part 4, I will undertake the challenging task to approach the complainants who have raised the specific instances. I will try to examine their sample by extracting and analyzing their different characteristics: type of organization (NGO, research institute, trade unions), regional prevalence, scope of business, etc. and intersect the findings with different patterns of the cases (status, time frame, and topic).

Part 5 provides insight to the group of accused companies: Which industries are represented more often? Are all companies directly responsible for their alleged breaches or are they accused because of their subsidy's behavior? Do distinct regions have problems with particular industries? And what about the vehemently criticized issue of supply chains (investment nexus)?

3.1. Methodology and Data

Regarding the methodological approach, the first step was to summarize all cases occurring within the framework of specific instances on a global scale. This required diving deep into every single of the 121 cases filed under the 2000 version of the Guidelines. The OECD Watch database which contains all these cases served as a starting point. The information provided there was complemented by data concerning the origin of the companies, their industrial sectors and the organization type and day-to-day business of the complainants. By those means a qualitative summery was obtained[179] and put together into a table yielding a sample of 121 cases with the following data[180]:

Firstly, the *General* data section gives information about the linkages between different cases. This is important because some cases have been filed with more than one NCP, though they are based on the same underlying issue (i.e. a case of one company or a case involving a range of firms allegedly having breached the Guidelines might be raised in one or more NCPs). The latter was most prominently observed in the Baku-T'blisi-Ceyhan case in which different complainants brought cases to the attention of the respective NCP accusing the Consortium (a conjunction of various international petroleum enterprises) of a breach of the Guidelines (above all for evading national legislation by pressing for exemptions, no consultation with affected communities and the government before building a 1700 km pipeline through Azerbaijan, Georgia and Turkey; see cases 15-21, 28-30 in Annex II). Another example is the DR Congo-Cases in which numerous firms – above all in the mining sector – were accused of not having respected a certain UN-Security Council resolution (see cases 31-39, 41-44, 66 in Annex II). Due to their actual formal nature as individual cases and statistical issues the paper treats these cases as if they were not connected to each other at all.

Secondly, the *Docs* column depicts the number of additional documents which are available at the OECD Watch database. These documents are communication letters between the parties and the NCPs, press releases, open letters to the public or detailed information about a case. They might be useful to the interested reader. In

179 OECD Cases Database, web source

180 See Annex II (Qualitative Summary Table) and Annex III (Abbreviation and Legends)

this paper, they have not found space apart from giving the number of such existing documents.

The *Status* represents a far more interesting element of this contribution. Besides the label *filed* (a case simply brought to the attention of an NCP) I will focus on the stati termed *rejected*, *concluded* or, on occasion, *pending*. The first means that after having concluded the initial assessment the respective NCP does not declare the case eligible under the Guidelines (i.e., the matter does not merit further examination). *Concluded* denotes that a settlement of the case was reached. This is neither necessarily positive for one of the conflicting parties, nor negative for the other; it only signals that the NCP has offered its good offices to the parties and has submitted a final statement to them and/or the public. As last relevant term, *pending* indicates that the case is stuck in one of the phases. This happens if an NCP refuses to consider a filed case in order to qualify on its eligibility or if the bargaining process between the parties does not evolve in one or the other direction. The other descriptions of Status are self-explaining on the one hand and on the other hand will not be considered in the following analysis due to their lack of potentially interesting features.

The *Issue* and *HR connex* column are closely related. Information given under *Issue* mentions one or more chapters of the Guidelines under which the complainants filed the case. This leads to the varying degrees of the *HR connex: high*, *linked* and *none*. As the conception of human rights is a rather broad one in this paper, not only issues under chapter II (General Policies) and its paragraph 2 but also those under chapter IV (Employment and Industrial Relations) are termed *high*ly connected to human rights matters. While *none* is self-explaining, the label *linked* is derived from the specific filing/opening note of the various cases handed in by the complainant. For instance, if a case entails a breach of environmental provisions, e.g., due to the construction of a dam, and the complainants mention that this construction <u>also</u> involves a worrisome situation for neighboring communities but, still, the case is primarily pointing out the threat to the environment, then *linked* would be employed.

The following information sections *NCPs*, *Companies* and *Complainants* are even more trivial and self-evident. Firstly, the two columns of NCPs only denote the NCP taking the lead of a case and, if existent, another involved NCP. This involvement is determined by either a transfer of a case from one NCP to another (were the first would be termed *involved*) or the simple cooperation in a matter between two or more NCPs. The latter is not too frequently witnessed.

Secondly, every accused (or at least mentioned) company is listed under the section *Companies*. The crucial thing here was their distinction with respect to their involvement. Are they simply somehow *involved* in the case (maybe, they are accused at another NCP for the same or a similar breach as the company mainly involved?), did they directly *violate* the provisions contained in the Guidelines or did they exert a certain degree of control onto trading partners, suppliers or (often discarded) subsidiaries which makes them somehow *responsible* for the breaches committed by one of the latter? The results of a further research reflecting industrial sector and pristine origin of each enterprise extend these attributes taken from the OECD Watch database.

Similarly, the *Complainants* section was established: It mainly shows the type of complaining institution, thematic field and geographic scope of its own operations, and its national origin. The database does not disclose information beyond the names of the complainants. Therefore, the finding of this data was subject to further investigations.

The *Timeline* part of the table is divided into filing date, the time elapsed between the filing date and the conclusion of the initial assessment, the time between initial assessment and the conclusion and the total duration of the case (sum of all the latter). The time span is indicated in months which passed by during the mentioned phases of a case. The last column of the qualitative summery table shows, in case the database or particular documents provides this information, the reason for a non-conclusion of a specific instance.

After having finished the qualitative summery table, the goal was to transform the achieved data into numeric values so that statistical data processing software could process it. Consequently, numbers had to be found to label countries, industries or types of complaining institutions. Extending this, sub-categories were created (countries - continents and regions, industries – sectors). The organization of these sub-categories was only little more challenging than simply attaching values to the six degrees of *Status*, the eleven chapters of the Guidelines, and the three levels of the

HR connex. Those values which were already of numeric form (e.g., time specifications) were not hard to simply be copied.

What became by far more complicated than expected was the classification of the complainants. Because of the fact that there are regularly more than one or even two complainants, several features ranging from origin and scope to the institutional nature had to be expressed in one single number. This is due to the specifics of various data processing programs. Be it like that, the pattern visible under Annex III, Abbreviations and Legend – section complainants & sectors of activities, was invented. Four-digit values were given to each complainant. Thereby, the first digit implies the scope of operations: is it limited to the national level or does it reach international level? The second digit shows the nature of the complaining institution: Is it an NGO, a research institution, a trade union, or another entity? The last two digits indicate the thematic sector to which the complainants dedicate their work. Accordingly, with the exception of trade unions (last two digits indicate their industrial sector), all types of institutions are defined according to their business: 16 different categories (including combinations of two categories) are furthermore grouped into sub-groups (HR, environment, development, economy, others) which should bring some structure into the puzzle and make it easier to analyze them[181].

Having finished this step, a quantitative summary table shown in Annex IV puts all values together in an overview form. In Stata[182] several dummies were created for categories and sub-groups. This made it possible to apply some basic statistical tools, most of them nothing more than means, standard deviations and frequency counts. The results of this stage of work were then refined and graphically elaborated in Microsoft Excel 2010. The subsequent sections will show the findings of the analyzing process.

181 For examples consider Complainants section in Annex III

182 which turned out to not have been the most appropriate statistical program to analyze the toughly obtained data

3.2. General

To start with the core section of this paper I will hereunder examine general data about the complaint procedure and especially the cases of the Guidelines. Then I will turn my attention towards the three specialized sections about the National Contact Points (3.3.), the complainants (3.4.) and the companies accused (3.5). In this section, the most meaningful and interesting tabs and figures about the status of the cases, their proximity to human rights topics and the timeline will be revealed. Intersections of these quantities will be undertaken and sub-samples created. This is done in order to take an in-depth look at the time elapsed not just in all of the filed cases but also within subsamples such as *all rejected cases*, *cases closely linked to human rights issues,* or the regional distribution in relation to different degrees of human rights connectivity.

		none		linked		high		TOTAL[183]	
		cases	%	cases	%	cases	%	cases	%
status	filed	3	13,6	3	20	11	13,3	17	14,2
	rejected	5	22,7	3	20	23	27,7	31	25,8
	concluded	8	36,4	5	33,3	30	36,1	43	35,8
	others	6	27,3	4	26,7	19	22,6	29	24,2
	TOTAL[184]	22	18,3	15	12,5	83	69,2	120	100

Table 3.2.1 – Human Rights Nexus and Status

[183] The percentage numbers in the very right column show the number of cases of one status category relative to the total number of cases (e.g., filed cases – total number of cases) and are not the sum of the percentages given in the respective line on the left.
[184] The percentage numbers in this line show the number of cases of one human rights connex category relative to the total number of cases (e.g., cases not linked to human rights – total number of cases) and are not the sum of the percentage given in the respective column above.

In total, 121 cases[185] have been filed under the Guidelines version of the 2000 review. Table 3.2.1 reflects the human rights proximity of the cases and intersects it with the different types of status. Firstly, looking at the distribution of cases over these two categories we see that an absolute majority of cases (69,2%) is highly linked to certain human rights topics. 12,5 % are somehow linked while only 18,3 % do not have any human rights connection. This shows that the complaint procedure's ability to handle breaches of human rights is broadly accepted by potential complainants.

Secondly, looking at the very right column of the table, it is remarkable to see that only 35,8% of all cases have generally been concluded until now. This, however, is regardless of whether the conclusion favored the complaining or the accused party. This is a fairly low ratio especially if we have in mind that conclusions in the OECD Guidelines complaint procedure are defined as follows: the NCP has offered good offices and mediation facilities to the conflicting parties, reached any kind of an conlusion between them and communicated it in a final statement. This criterion is a quite weak one. Though, the ratio of concluded cases remains at a minimum.

The other columns show an interesting feature observed when linking status with human rights connex: We can state that only minor changes in percent occur when comparing the stati of the three subsamples of human rights connex degrees. All of them dispose of similar numbers regardless of their degree of status: filed (with a range between 13,3 – 20%), rejected (20 - 27%), concluded (33,3 – 36,1 %) and other cases (22,6 – 27,3 %) are almost equally distributed over the different categories of human rights nexus. This implies that it is not primarily relevant for the outcome of a case whether the complainants in this case invoke human rights provisions of the Guidelines or not. Carrying this idea one step further and arguing from the reverse point of view, the complaint procedure does not favour other, non-human rights topics such as environmental issues or corruption, over others. The treatment is quite equal and without regard to the Guidelines' chapter (topic) the breach of which builds the basis of a case. Consequently it can be stated, that the chapters are not ranked or classified in whatever sense – neither by the content and

[185] There is no information about the status of case 91 in which Greenpeace Germany complained against Vattenfall AB. Therefore, the table shows a total amount of only 120 cases.

text of the Guidelines (as we saw above in chapter 2), nor when it comes to their implementation.

In general, picturing the regional distribution is another illuminating exercise. The following table gives insight about how the region in which the concerned NCPs are situated affects the status.

	Europe[186]		**N.-Am & Oceania**[187]		**Latin America**[188]		**Asia**[189]	
	cases	%	cases	%	cases	%	Asia	%
filed	10	12,4	6	25	1	10	0	0
rejected	21	25,9	8	33.3	0	0	2	40
concluded	31	38,3	6	25	6	60	0	0
others	19	23,5	4	16,7	3	30	3	60
TOTAL[190]	81	67,5	24	20	10	8,33333	5	4,16667

Table 3.2.2 – NCP Regions and Status

First, the table gives us an impression about the number of cases handled in the different regions: The vast majority are dealt with by European NCPs (67,5%). Imputing a positive correlation between foreign direct investment (FDI) and the potential for breaches of the Guidelines, and against the background of an immense FDI level realized by the North-America & Oceania region we surprisingly observe a relatively low activity in this area. NCPs of these countries are responsible for only

[186] See Annex III, Abbreviations and Legend, section Country codes of NCPs

[187] North-America (without Mexico) and Oceania; See Annex III, Abbreviations and Legend, section Country codes of NCPs

[188] Latin America (including Mexico); See Annex III, Abbreviations and Legend, section Country codes of NCPs

[189] See Annex III, Abbreviations and Legend, section Country codes of NCPs

[190] The percentage numbers in this line show the number of cases of handled by an NCP in the above mentioned region relative to the total number of cases (e.g., cases handled by a European NCP – total number of cases) and are not the sum of the percentage given in the respective column above.

one fifth of all cases globally filed. Latin American institutions still handle more cases (10) than their Asian counterparts (5) although it is rather a net-receiver of FDI flows compared to countries like South-Korea, Japan or China. The Guidelines can thus be seen as negligible within the Asian context. This gets affirmed when looking at the distinct degrees of the status of the cases: Here we observe, that Asian NCPs did not even conclude one of the anyway few cases which were brought to their offices, two of those five were rejected. On the contrary, Latin America concludes 60% (6 out of 10) of the cases filed with their NCPs.

Comparing the major OECD regions Europe and North-America & Oceania we see in the first place that in the latter region more than half of all cases (14; 58,3%) of all cases were either rejected (8; 33,3%) or remained without a completed initial assessment. NCPs of this region only concluded 25% of the cases whilst in Europe NCPs seem to be more proactive in this regard. There, a relative majority of 38,3% of cases was concluded which is slightly more than the above mentioned global average of 35% but, doubtlessly, would actually have to be sharply extended in order to attach more weight to the mechanism. In addition, more than one fourth (25,9%) of the specific instances is declared not to merit further examination. With regard to the European NCPs it is necessary to mention that the implementation is quite effective at least in the very first stage of the procedure, the initial assessment: only 12,4 percent are left without an NCP's basic decision on the eligibility of a case.

The same procedure applies to the following table which shows how human rights linkages are allocated to the various regions. As above, this comes with the restriction of statistical significance[191] which is lower when the analyzed sample is rather small (as in the case of Asia and Latin America). Nevertheless, some important conclusions can be drawn from this.

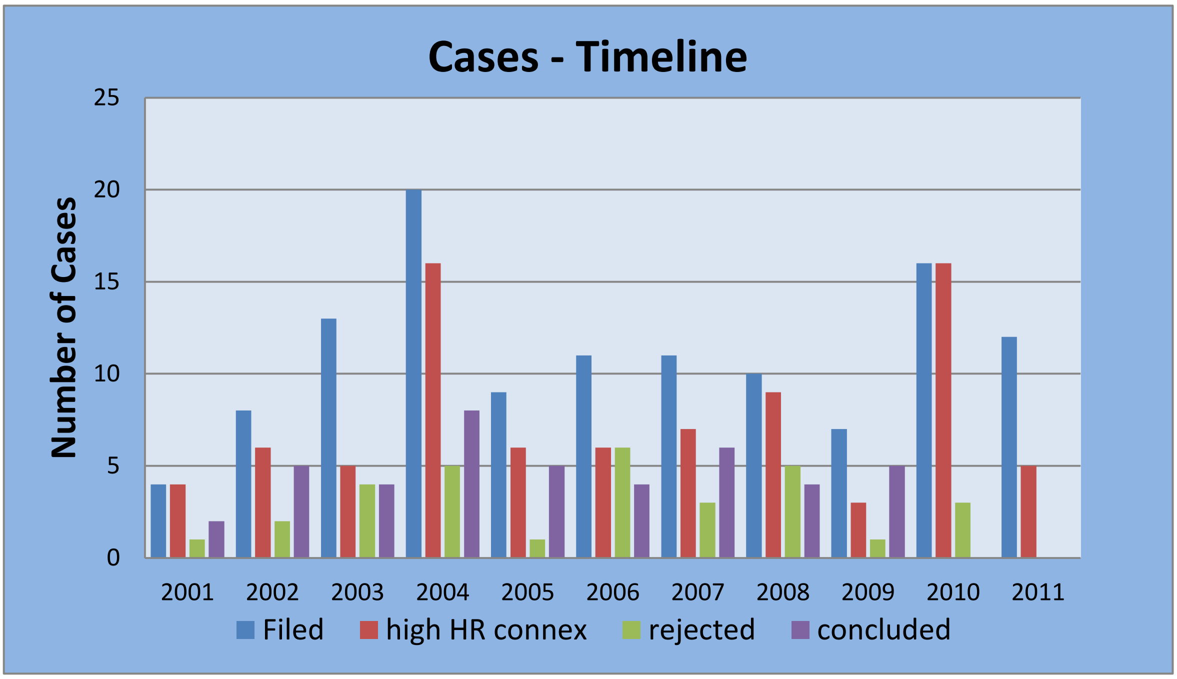
[191] Not analyzed here

		Europe		NAm. & Oceania		L-America		Asia	
		cases	%	cases	%	cases	%	Asia	%
HR Connex	none	15	18,3	6	25	2	20	0	0
	linked	11	13,4	1	4,2	3	30	0	0
	high	56	68,3	17	70,8	5	50	5	100

Table 3.2.3 – NCP Regions and Human Rights Nexus

The table reveals that the two major regions show only little difference in the percentage of cases were human rights play a significant role. Europe (68,3%) and North-America & Oceania (70,8%) are handling most of those cases where breaches of human rights provisions are being claimed. The distinction of the two regions in this regard comes with the various degrees of the human rights proximity: the numbers of cases with no and some linkages to human rights topics are quite balanced in Europe (18,3% and 13,4%), while in the North America & Oceania region this balance does not hold true (25% and 4,2%). As Asia has a quota of 100% high human rights connection in their specific instances one might suspect that environmental issues play an even smaller role than other provisions of the Guidelines do (see above).

After having commented on the status, the human rights linkages and the regional patterns I will now orient my argumentation towards the time component. The graph demonstrated below sheds light into the chronological evolvement of cases and their peculiarities.



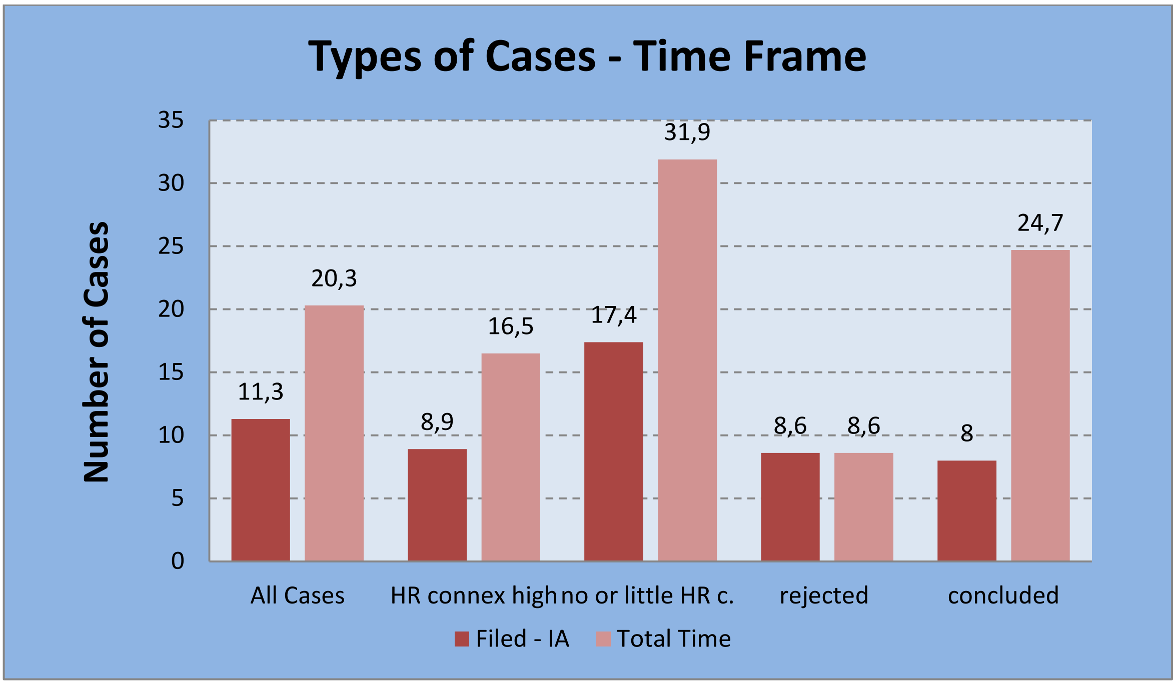
Graph 3.2.1 – Timeline of filed Cases

The dark-blue columns which represent the total number of cases filed per year reflect the optimism short after the approval of the 2000 review of the Guidelines. A steady growth of cases was witnessed during the first 4 years of its existence raising their number five-fold from four cases in 2001 to 20 cases in 2004. This peak was never reached again in the upcoming years. As over-enthusiastic optimism about the newly refreshed and improved Guidelines declined, complainants became less active in filing cases. Thus, the number of instances brought before the NCPs decreased and settled on a level of 9,6 on average between 2005 and 2009. 2010 and 2011 were slightly more fruitful again; 16 and 12 cases, respectively, were transferred to the various NCPs responsible for implementation of the Guidelines. Import in this illustration: both peaks of activity can be led back to cases with above-average linkages to human rights issues (red bars). Other cases do not show high fluctuations:

The poor performance of NCPs concerning the conclusion of their specific instances – I mentioned this fact already earlier in this section – can also be read out of the pictured graph (purple bars). In the course of the last two years (2010 and 2011) there was not even one case concluded globally. This reluctance of state officials can be partly excused by the fact that they might wait until the new revision is in place[192]. But in view of the numerous cases filed in the last two years and, additionally, the low percentage of concluded cases over the entire period, this inherent shortcoming can hardly be overemphasized.

The track of rejections (green bars) does not follow any tendencies. It rather seems reasonable to suspect an autonomous level of rejecting cases which is not dependent on the number of cases raised before NCPs. Between 1 and 5 cases are rejected per year (only in 2006 there are 6); this is, as argued, without any connection to the numeric level of filed cases.

The following graph shows a comparison of distinct types of cases with regard to the time it took, firstly, from the date a complaint was filed with an NCP to the date the NCP communicated the findings of its initial assessment; and, secondly, the overall time that elapsed while a case was handled by an NCP:



Graph 3.2.2 – Types of Cases and Time elapsed

192 See section 2.3

We see *prima facie* that both the initial assessment (IA; dark red bars) as well as the total time of handling those cases which are not explicitly linked to human rights issues account for a longer duration than those highly connected to them. Given the first type of cases (IA: 17,4 months; Total: 31,9) the period is, on average, almost twice as long than in the other cases (8,9; 16,5). As stated above, NCPs do not distinguish certain types of cases from others (human rights proximity high, somehow existent or non-existent) in terms of their overall judgment whether to take up, reject or conclude a case or not; notwithstanding this, cases strongly driven by human rights concerns are furthered much faster than those pertaining to other issues. This holds true, not only in the initial assessment phase but also with regard to the overall time elapsed in the course of the procedure.

In general, following the graph we see that for the initial assessment NCPs need between 8 and 9 months (with the exception of the above mentioned cases) regardless of the outcome. In case an NCPs reckons that a case merits further examination the parties in conflict would have to count with additional 7,6 (HR connex: high) and 14,5 months (HR connex: linked or none). In sum, the concluded cases consequently take 8 months for their first phase, i.e., the initial assessment, and 24,7 months in total. This is, already presuming the best possible outcome, a very broad time frame which demands a huge amount of resources in terms of financial means, expertise and personal devotion. It certainly makes various potential complainants refrain from reporting an observed breach of the Guidelines. This undermines the participatory idea of the Guidelines and waters down the effectiveness of their implementation procedure and consequently of the entire document.

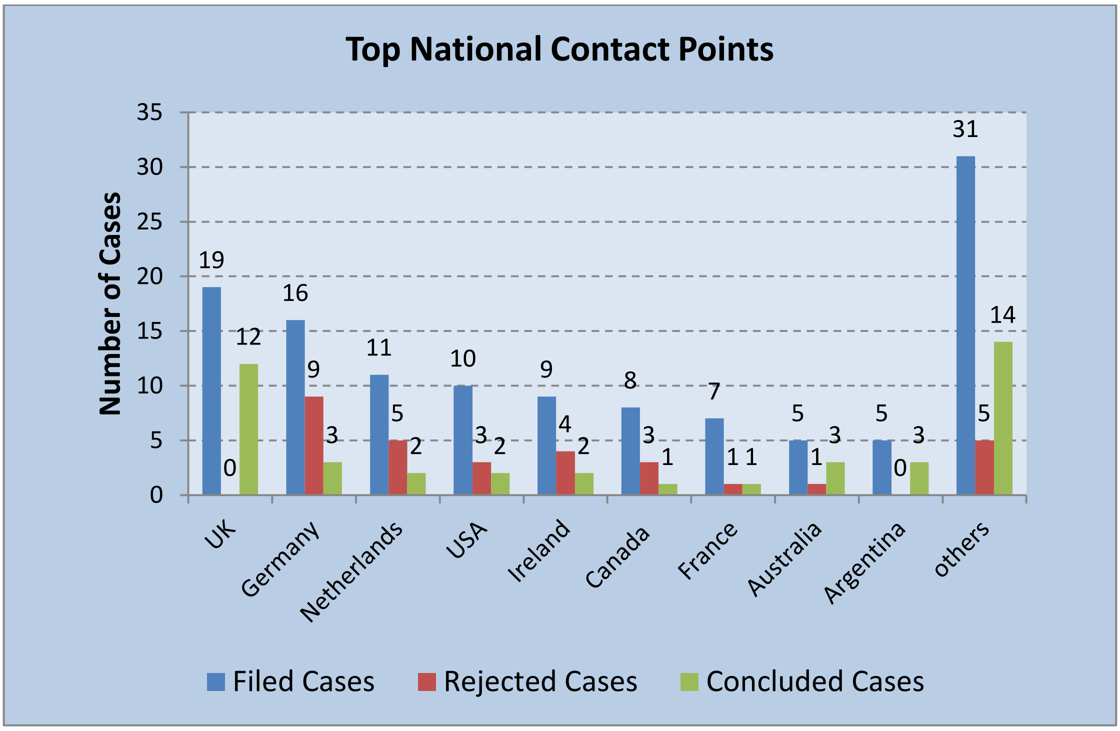
3.3. National Contact Points

In the realm of this section and the two following sections I will analyze the three main protagonists in the implementation procedure: the nationally installed institutions named Contact Points, the complainants and the accused companies. First of all, I will turn my attention to the National Contact Points (NCPs), which are – to bear that in remembrance at this point – responsible for promoting the Guidelines, for raising public awareness and for handling the grievance mechanism, i.e., the specific instances (*cases*). My research was conducted on the basis of the latter aiming to derive far-reaching conclusions about the whole mechanism established by the Guidelines through the anatomization of the sample (and various sub-samples) of those cases which were filed under the 2000 version.

Turning to the NCPs now, we have to consider the following: there exist much more NCPs than are actually actively working. The following table lists those NCPs which have ever handled at least one case ranked according to the total number of cases, while the busiest institutions are put on the left.

In graph 3.3.1 the NCP of the United Kingdom is the most active national institution having investigated 19 filed cases of which it rejected not one single case and concluded 12 cases. That is, in fact, an astonishing quota not reached by any of those where more than 5 cases have been filed (only Argentina has a similar quota and no rejection of a case on its account). All those NCPs with more than 5 procedures up to now feature a very low quota of conclusion. In addition, Germany, the Netherlands and Ireland tend to reject quite frequently: more than one in two cases (9 out of 16) is repelled by the German NCP, almost half of all filed cases are denied to be taken over by the Dutch (5 out of 11) and the Irish NCP (4 out of 9). France does not reject that often but does not frequently conclude cases either (both 1 out of 7).

All other NCPs are taken together in the very right columns of the graph (4 or less cases handled). In those institutions almost one half of the cases is concluded (14 out of 31) and very few cases are rejected (5 out of 31).



Graph 3.3.1 – National Contact Points and Number of Cases

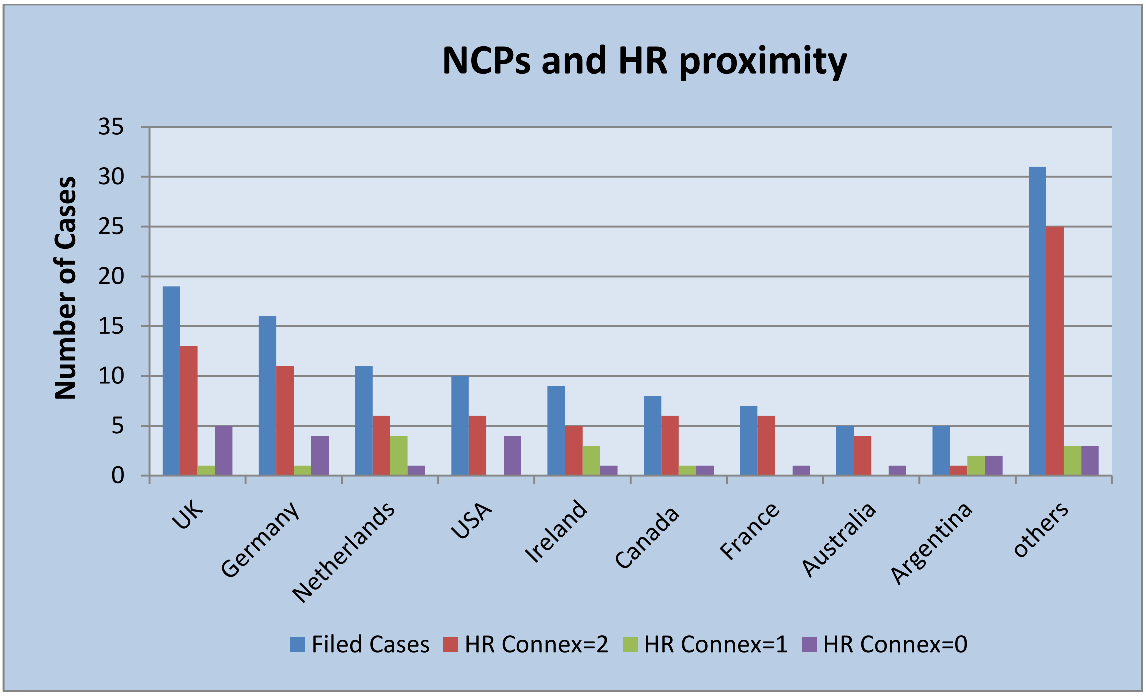
On the one hand, this provokes the impression that in terms of rejection small NCPs do reject less compared to bigger ones. Also, the percentage of concluded cases in relation to all filed cases is better. The exception of the large-scaled British NCP, which has a very high concluding rate (63%) and the lowest rejection (0%) ratio, is outstanding. Although the main reason of those numbers has most probably to be attributed to concrete specifics of the respective NCPs themselves this should not be seen as sole explanation. For instance, complainants may lack networking power in *bigger* countries[193] or simply are not that familiar with a certain area of business (lack of expertise).

On the other hand, one might perceive that in economically[194] strong countries the influence of the business community is stronger than in other states. And as we saw in chapter 2 of this paper, the national business communities have quite close links to

[193] Hereby I mean countries with an NCP which handles a relatively big amount of specific instances. Though, this is congruent with the (economic and geographic) size of the country in most cases.
[194] In terms of FDI flows

most NCPs[195]. But these presumptions should be subject to and motivation for other research and cannot be followed in detail here.

The next graph shows the NCPs and the proximity to human rights topics of the cases filed there:



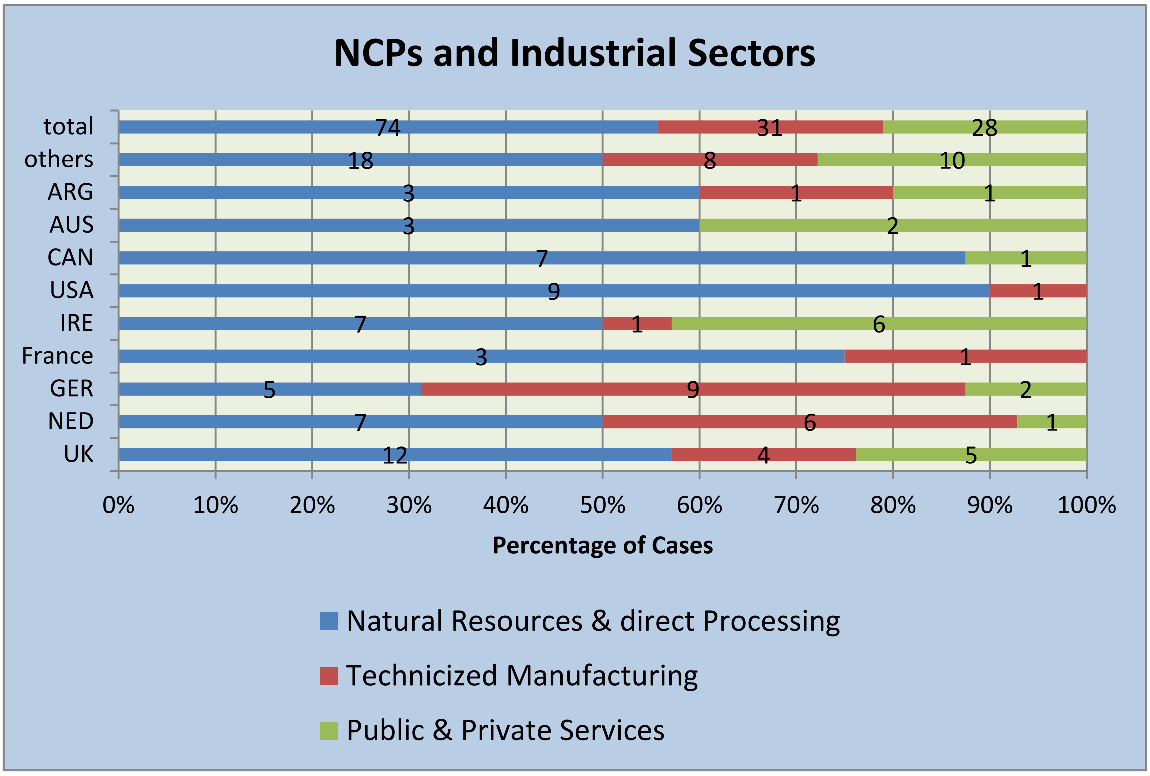
Graph 3.3.2 – National Contact Points and Human Rights Nexus

In general we can say that most NCPs are entrusted to handle between 55% (NL, IRE) and almost 70% (GER and UK: 68%) explicit human rights cases. But there are exceptions to this: The Canadian, the Australian and the French NCP exceed this rate by featuring even 75%, 80% and 85% of human rights specific cases. The collective group of other NCPs has also a very high level in this regard (80%). In contrast, we see the highest ratio of cases linked to other topics than human rights in the USA and Argentina (each 40%). In Europe but also in Canada and Australia,

195 To recall that: Most NCPs are situated and institutionalized in close connection to the Ministry of Business Affairs which has to be assumed to be a strong advocate of the business world.

these cases represent only a minority ranging around the overall average of 19% (GER, UK: ~25%, AUS: 20%; NL, IRE, CAN, FRA:9-15%). These findings are merely descriptive and are not aimed to value the performance of particular NCPs as opposed to the above arguments.

The industrial distribution of cases to the most active NCPs is depicted in graph 3.3.3. Prior to that, the illustration shows the distribution of industrial sectors in relation to the NCPs:



Graph 3.3.3 – National Contact Points and economic Sectors

To start with the least important sector, Public and private services play a minor role for the majority of NCPs, accounting for not more than 25% of cases in the group of top NCPs[196]. Only in Ireland (42,8%) and Australia (40%) the Guidelines were

[196]here, all explicitly mentioned NCPs

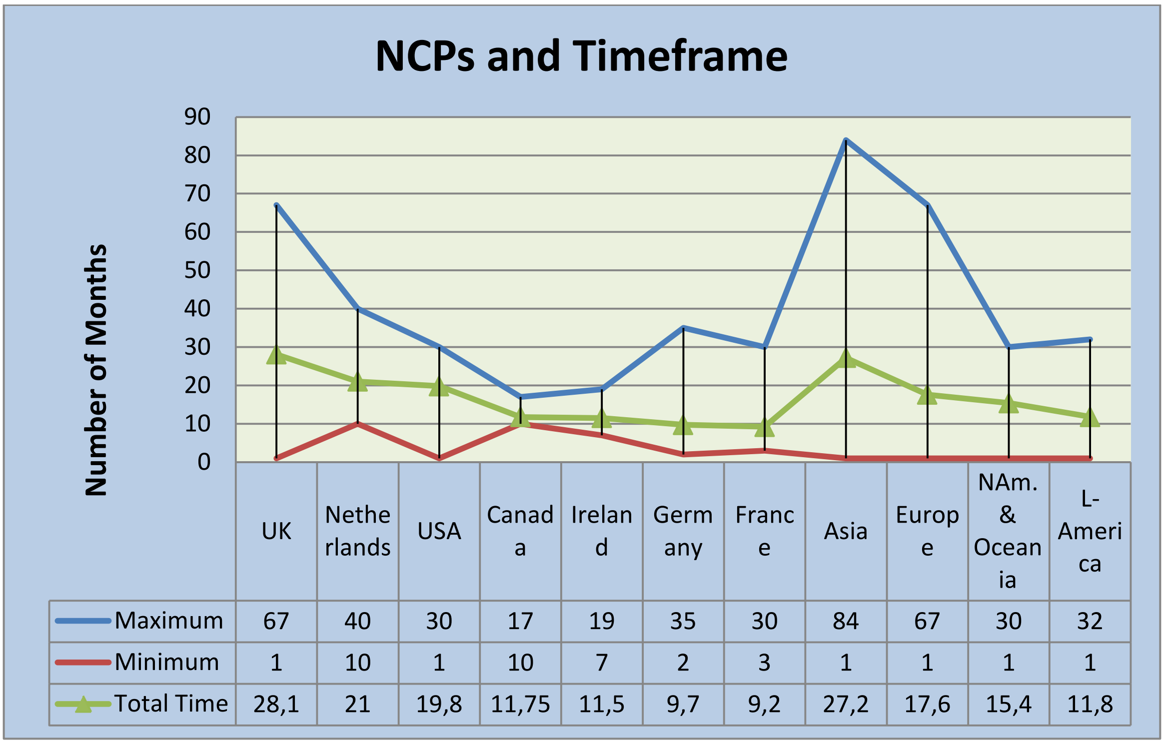
broadly used to tackle shortcomings in this sector. In France and the USA not even one case has been filed alleging breaches in the services sector. Again, this does not explain more than the above stated arguments: other legal remedies to deal with those breaches might be available; or the composition of the economy and the foreign direct investment of its firms might be constituted differently. The manufacturing sector varies greatly in numbers. There, cases raised in this sector do not exist in Canada and Australia (USA has also a very low ratio of only 10%) but are relatively numerous in the Netherlands and Germany. The respective ratios of the NCPs range between 20 and 25%.

The most important economic sector by far is the primary sector, which is represented by industries such as mining, mineral extraction (including oil) or crop farming. It also artificially[197] includes the processing of those raw materials into a primary stage of the final product[198]. Only in Germany this is not the prevailing sector, with only 30% of cases originating in this sector; all other NCPs handle almost 50% (NL) or more cases pertaining to these industries.

I will return to the connection of NCPs and industry sectors later on in section 3.5, where I will split up the three sectors mentioned here into particular industries and analyze them in a more detailed way. At this point, similar to the content of the previous sections in this chapter the reader will be confronted with specifications of time (duration of handling cases). To this ends, look at the illustration below (graph 3.3.4) first:

[197] I extended this sector in order to come up with the nature of enterprises busy in this sector; e.g., companies like Shell not only extract raw oil but also refine it in its own subsidiary processing stations and therefore within its own enterprise.

[198] E.g.: Extracting crude oil- processing it to fuel; Extracting bauxite – processing it to aluminium



Graph 3.3.4 – National Contact Points and Time elapsed

We see that among the most active NCPs the British is the one which takes most time to consider (or not) specific instances. Even if we take out the two extreme values[199] it takes much longer for the British NCP to handle a case. A lack of commitment is as imaginable as a very intense investigation phase which simply takes longer than in other countries. Though, one might rather be tending to suspect the first.

On the (questionable) second and third ranks follow the Dutch and the US-American NCP both handling cases in about 20 months on average. Outstanding in terms of predictability – the standard deviation is lowest throughout the whole sample – is the example of Canada whose NCP deals with one case for a period of little less than a year. Ireland, Germany and France are handling cases almost as fast although their standard deviation is higher, thus implying less predictability for potential complainants.

[199]They are very extreme cases (quite far away from the mean) and therefore decided not to be included in the sample. If those values (148 and 154 months) were included the mean would even rise to 41,8 months on average.

If regions of NCPs are formed we see that Asia has extremely long consideration periods: 27,2 months on average, ranging from one month up to 84 months[200]. Europe, which is strongly driven by the proactive British NCP, accounts for the largest time frames and is the second slowest region albeit the average it takes to handle a case (17,6 months) does not lie far beyond the North-American & Oceanian (15,4) and the Latin-American (11,3) equivalents, however.

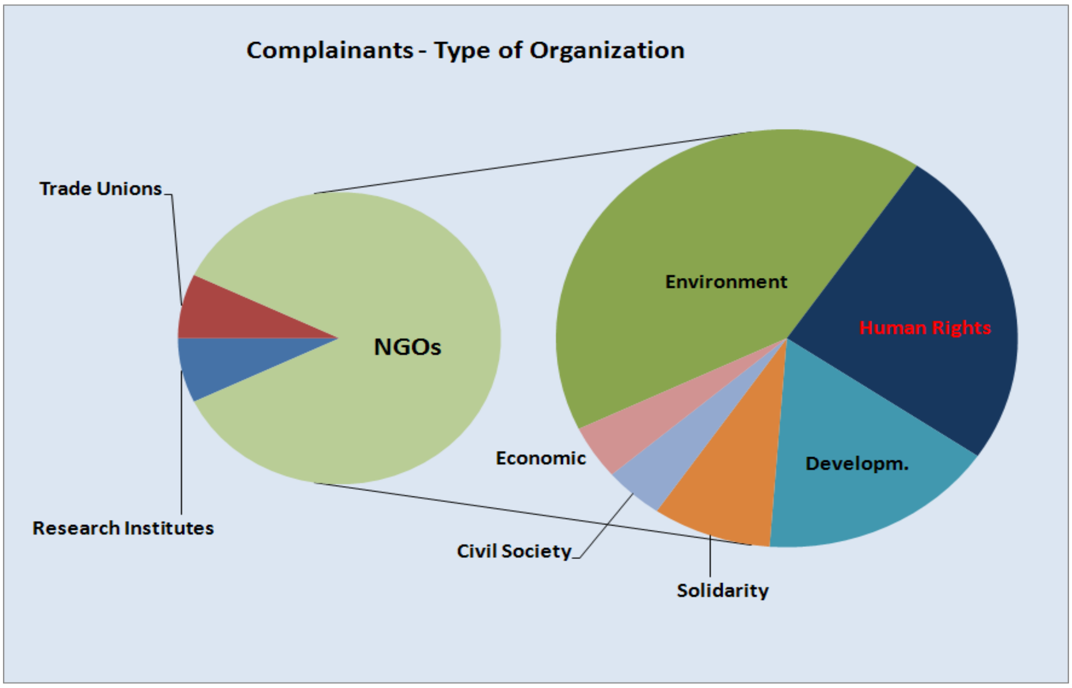
Again, time should not be a major criterion for quality. The question about what is done during this period is more valuable. Still, it is very important for different claimants to know how long they will be involved in such procedure prior to filing it. In some cases, the figures outlined may suggest to rather think twice before filing a complaint. Nevertheless, there are also positive examples in this sense.

[200] As these extreme values of maximum months cannot be regarded to be outliers (neither is there a dense sample region as in the case of Britain nor are there enough cases to depict this region) they are not excluded

3.4. Complainants

In this section the next important category will be analyzed. I will deal with those actors and institutions who file the complaints with the NCPs. Firstly, I will take a look at their constitutional nature and the question of how those complainants are organized. In this regard, graph 3.4.1 provides necessary insights:

The picture is somehow surprising. As shown below, NGOs account for 86% (or averaged 2,3 entities/case) of the complainants in an ordinary case; this is the vast majority. Trade unions and research institutes are present to an equal extent: only 0,2 of such entities per case are involved in a complaint. This number means that while there are in fact only three cases in which no NGO was somehow included in the filing of a case only every fifth case was filed with help and expertise from research institutes and trade unions.



Graph 3.4.1 – Organizational Type of Complainants

If we dig deeper into the group of NGOs we see environmental NGOs on top of the list. 60 cases can be identified with one or more NGOs primarily dealing with environmental issues. Consequently, in a typical case 36% (one complainant) is such an NGO. Other strongly represented NGOs are Human Rights NGOs (21%; 0,6/case) and NGOs in the development assistance sector (14%; 0,4). So called Solidarity[201] NGOs (7%; 0,2), Civil Society[202] NGOs (4%; 0,1) and NGOs that dedicate their attention to the economy and its evolvement are less represented.

Solidarity and Civil Society NGOs are rather small entities which work quite close to the individuals they represent or for whom they work. While complaints in which a Solidarity NGO has been involved have an under-average rate of conclusion (21%) this picture is changed given the case a civil society NGO participates in the conjunction of complainants (35,7% of cases concluded). Still, they are not represented well in the whole sample of the complaining institutions. More weight should consequently be given to those organizations which are the actual beneficiaries of the Guidelines or are representatives of the latter group – at least in those cases connected to human rights.

The observance that smaller NGOs based in the countries where breaches of the Guidelines occur are lower in number than bigger, international, and western NGOs is furthermore supported by the following two tables (tables 3.4.1. and 3.4.2.). It entails the number of cases with equal or more than one complainant in absolute values and relative to the number of all complaints filed in the respective region of the complainant (here I start with Europe and the North America & Oceania region):

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[201] Those NGOs are situated mainly in western countries and actively support a (part of a) certain country, an ethnic community or region. The type of support can be of financial means or moral endorsement. Often awareness in the home country of the NGO is raised and donations collected and transferred. Example: The India Committee of the Netherlands (responsible for the filing of three specific instances; cases 2, 3 and 65) or the Ireland-Palestine Solidarity Committee (case 115)

[202] Civil Society organizations are those which emerge out of local structures. They aim to strengthen political weight and bargaining position of individuals, communities or regions linked by their shared interest and attitude towards a specific problem and, in our case, are often connected with a project or (branch of an) enterprise. Example: OyuTogloi Watch (preserving the surroundings of the mining activities in Mongolia; cases 95 and 96), the multi-nationally based Saami Council (case 97), or the Chickaloon Native Village Traditional Council (USA; cases 116, 117)

	Europe		N.-Am. & Oceania	
	absolute	relative[203]	absolute	relative[204]
NGOs	81,0	1,0	30,0	1,3
Research Inst.	21,0	0,3	3,0	0,1
Trade Unions	2,0	0,0	2,0	0,1
international[205]	27,0	0,3	11,0	0,5
national[206]	68,0	0,8	22,0	0,9
Human Rights[207]	41,0	0,5	8,0	0,3
Environmental[208]	35,0	0,4	20,0	0,8
others[209]	43,0	0,5	11,0	0,5

Table 3.4.1 – National Contact Point Regions and Types of Complainants A

We see here three crucial points differing across the two regions: Firstly, there are by far more research institutes involved in the filing of complaints in Europe than in the North America & Oceania region (Europe: 21, N.-Am. & O.: 3). Secondly, in the latter area NGOs are more active on the international level than in Europe: on the one hand, a relative quotient above 1,3 means that NGOs are involved in more cases than originally have been filed in their regions and, on the other hand, more NGOs of international scope (implying bigger size, of course) are active in North America & Oceania, relatively seen. And thirdly, the thematic areas covered by the NGOs are reciprocal in the two regions. Regarding the cases filed, human rights are more important in number than environmental issues in Europe. In North America & Oceania, the reverse picture holds true. This last finding obviously reflects the

203 Relative to the total number of cases filed in European NCPs (82 cases), rounded up to one decimal
204 Relative to the total number of cases filed in North American or Oceanian NCPs (24 cases)
205 Scope of activities of *all* complainants in the respective area
206 Scope of activities of *all* complainants in the respective area
207 Only NGOs
208 Only NGOs
209 Only NGOs, including developmental NGOs, civil society NGOs, solidarity NGOs, among others

thematic *specialization* of the NCPs which was brought to the attention of the reader in the previous section of this chapter (3.3).

	Latin America		Asia		Sub-Sah. Africa	
	absolute	**relative**[210]	**absolute**	**relative**[211]	**absolute**	**relative**
NGOs	17,0	1,7	9,0	1,8	13,0	no NCP
Research Inst.	0,0	0,0	1,0	0,2	0,0	no NCP
Trade Unions	3,0	0,3	6,0	1,2	0,0	no NCP
international[212]	1,0	0,1	0,0	0,0	0,0	no NCP
national[213]	20,0	2,0	12,0	2,4	13,0	no NCP
Human Rights[214]	6,0	0,6	4,0	0,8	4,0	no NCP
Environmental[215]	17,0	1,7	2,0	0,4	8,0	no NCP
others[216]	8,0	0,8	6,0	1,2	3,0	no NCP

Table 3.4.2 - National Contact Point Regions and Types of Complainants B

In the regions given in the table, the first line shows an interesting feature which becomes rather trivial on closer examination: Due to the fact, that most countries in those regions do not have an own domestic NCP[217] they have to file cases in the home country of the accused enterprise. Therefore, the relative numbers are bigger than 1 here. This might not be very enlightening but shows that the ongoing

[210] Relative to the total number of cases filed in European NCPs (82 cases), rounded up to one decimal
[211] Relative to the total number of cases filed in North American or Oceanian NCPs (24 cases)
[212] Scope of activities of *all* complainants in the respective area
[213] Scope of activities of *all* complainants in the respective area
[214] Only NGOs
[215] Only NGOs
[216] Only NGOs, including developmental NGOs, civil society NGOs, solidarity NGOs, among others
[217] In the Sub-Saharan region there is no such institution

expansion of the NCP network to those regions where breaches of the Guidelines are frequently discovered could lend support to those areas in order to locally handle their issues and consequently come up with the obvious demand for such institutions domestically. Building institutions on the local or, at least, regional level would not only facilitate the handling of specific instances by enhancing the participation of those who are directly affected by breaches of the Guidelines; but it would also render a contribution to align corporate behavior with the standards established by the Guidelines. Additionally, problems linked to the mentioned investment nexus, which I will turn to in the course of the next section (3.5) could be minimized.

Getting back to the above table, we observe rather negligible numbers of research institutes and international NGOs. Also, trade unions are not often involved in specific instances in Latin America and the Sub-Saharan Africa. In contrast to this, Asian trade unions account for a relatively high number of complainants. Cases in which NGOs of the environmental sector have complained, are fairly numerous in Latin America (17; relative: 1,7) – a statement which also holds for the Sub-Saharan Africa: cases filed with the support of environmental NGOs are twice as important in number as human rights issues (8 vs. 4). In Asia, those cases where human rights NGOs are involved are more important compared to other cases (4; relatively: 0,8).

To probe into the effect of the type of an NGO in terms of the status of a case, the numbers of different complainants participating in rejected and concluded cases, respectively, have been computed and are shown in the table below.

	# of Complainants	
	rejected	**concluded**
all NGOs	2,5	1,9
Environment	1,1	0,7
Human Rights	0,7	0,7
others	0.9	0,7
Research	0,2	0,1
Trade Union	0,2	0,2

Table 3.4.3 – Number of Complainants per Type of Case

Reading table 3.4.3, we see no sharp divergence between the number of complainants in the shape of trade unions, research institutes and human rights. Little difference is observed in the number of NGOs which are not active in the environmental or human rights field. The biggest step is made in the case of environmental NGOs: in rejected cases there are interestingly 1,1 complainants of this type; over 0,4 complainants more than in concluded cases. It is not easy to interpret this but as a matter of fact it seems that more NGOs from the environmental field might rather lead to rejection of a case. This is of course without regard to the level of statistical significance. Further examination on this could bring some insights.

	Participation		**Non-Participation**	
	Rejected (%)	**Concluded (%)**	**Rejected (%)**	**Concluded (%)**
Europe	26,3	36,3	25	35
N.-Am. & Oceania	37,5	21,9	21,6	40,9
Industrial C.	25,7	35,6	26,3	36,8
Developing C.[218]	16,3	34,9	31,2	36,4
all NGOs	26,5	35,9	Too few obs.[219]	33,3
Human Rights[220]	23,6	36,4	27,7	35,4
Environmental[221]	32,2	27,1	19,7	44,3
others[222]	26,4	34,7	25	37,5
Research	28	16	25,3	41
Trade Union	16,7	33,3	26,9	36,1

Table 3.4.4 – (Non)participation of Complainants and Effect on Status

218 Including those which are commonly added to the group of emerging countries; all non-OECD countries plus Mexico
219 There are only three cases where none of the complainants was an NGO.
220 Only NGOs
221 Only NGOs
222 Only NGOs, including developmental NGOs, civil society NGOs, solidarity NGOs, among others

The above numbers sum up how the status is affected by the involvement or the non-participation of a certain group of complainants. Remember here that the variable status features six components out of which the above mentioned two (rejection or conclusion) are the most relevant ones for the purpose of this paper. Hence, as status is not a binary variable the two numbers do not sum up to 100%.

Furthermore, the task here is to find differences between participation and non-participation. If those occur we are enabled to conclude that the presence of a particular group impacts the outcome of a case. In either way, the above picture – or at least its regional characteristics – somehow approximates the image created by the behavior of NCPs. A reason for this similarity might be that in many of the cases filed the complainant's origin is, as a matter of fact, the same country where the case was filed with the NCP.

Following this, we do not survey big differences in the cases where complainants are of European or Industrial Country origin or if they are dedicated to human rights or other issues. This means, that a participation or non-participation of those types of complainants does not impact a case regarding its outcome at all, i.e., the quotas for rejection and conclusion remain the same regardless of whether they are involved in a procedure or not.

Rather crucial are the diverging numbers in the case of North-American & Oceanian complainants. There, cases are almost twice as often rejected and half as frequently concluded if such a complainant participates. Furthermore, the involvement of complainants rooted in a developing country does not influence the degree of conclusion but, interestingly, given circumstances in which they are <u>not</u> taken on board of a specific instance (or even take over as lead complainants) the relation of rejected cases to the total number of cases almost doubles.

If environmental NGOs file a complaint or are otherwise involved in a case, a negative effect can be discovered similar to the one in the case of a complainant from North-America or Oceania: The quota of rejected cases increases by 12,5% (19,7% to 32,2%) and the percentage of concluded cases decreases by 17,2% (44,3% to 27,1%). Involvement of research institutes does only marginally affect the propensity to be rejected but lets the conclusion rate drop drastically (41% to16%). With trade unions it is the other way round: only minor differences between participation and non-participation can be discovered with regards to the level of conclusion but, in contrast, their participation lowers the quota of rejected cases by 10,2% (16,7% 26,9%).

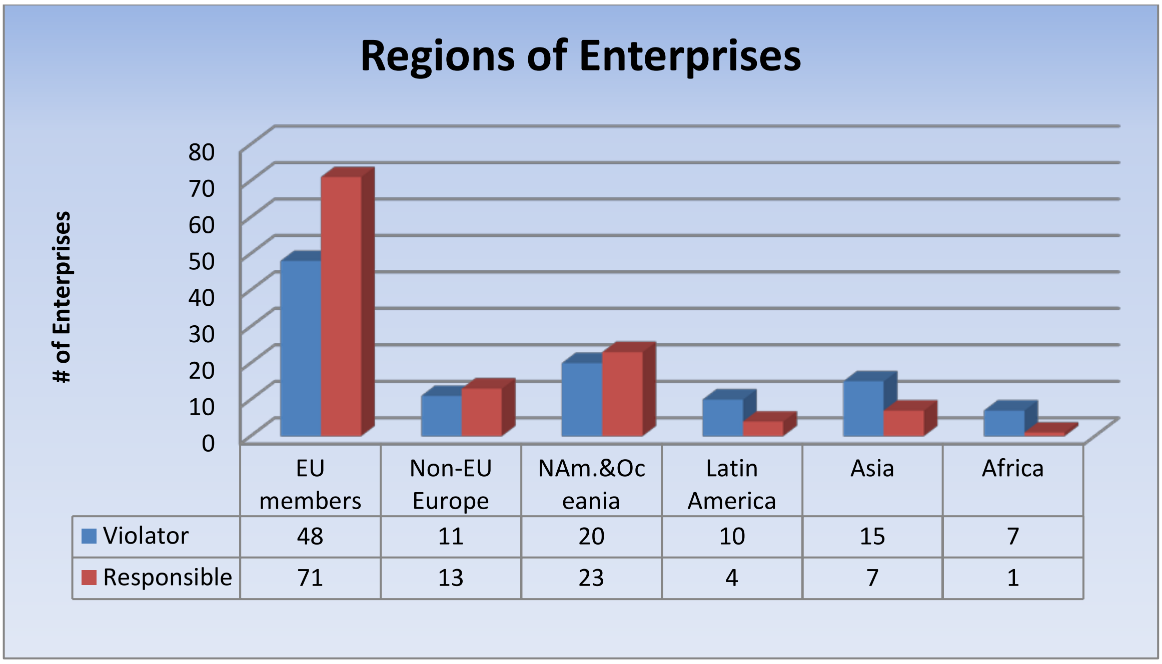
3.5 Accused Companies

Two of the main protagonists of the specific instances procedure, the National Contact Points and the complaining institutions, were analyzed in sections 3.3 and 3.4. . To conclude this chapter, I will approach the third party in this section: the accused companies. In order to fulfill this challenge, I will undertake a broad but crucial distinction: all companies allegedly having breached the Guidelines are divided into a group of violating and a group of responsible enterprises. In most cases – especially if the breach had happened within the industrialized world itself – the violator is identical to the responsible entity. This means that a branch company or direct subsidiary of a multinational firm has committed the breach and, consequently, the company itself or its head-quarter has been accused according to the provisions of the Guidelines. The other option applies where the violating company differs from the responsible one; this is the case when, e.g., a textile factory in a developing country has violated the standards and a major multinational enterprise is held responsible for this violation (there is, typically, a strong relationship between both these firms). Therefore, contractor-supplier relations are a central issue for multinational enterprises and are discussed frequently. As has been outlined in chapter 2, this is also a major issue of the Guidelines and has served as the basis for various criticisms. In this context, many NGOs and researchers have stated that large enterprises might contract local firms to supply a certain product[223] rather than directly investing in the establishment of a subsidiary[224] and thus circumvent the issues mentioned in the Guidelines and other relevant documents. As a result, problems would be less easily found and sued at the NCPs. Some of the NCPs are quite reluctant in the admission of those cases that appear in the light of supply chain matters. I will provide a detailed look into this matter circling around the topic of the so called “investment nexus” which is mentioned but not further defined in the 2000 version of the Guidelines, thus leaving a wide margin of interpretation to the NCPs.

[223] without having a formal relationship

[224] creating a formal relationship by integrating parts of the supply chain into the overall structure of the firm

As in the previous chapter, I want to undertake a characterization of regional peculiarities as well as those describing the business sectors and industries both of the two groups of companies in the first place.

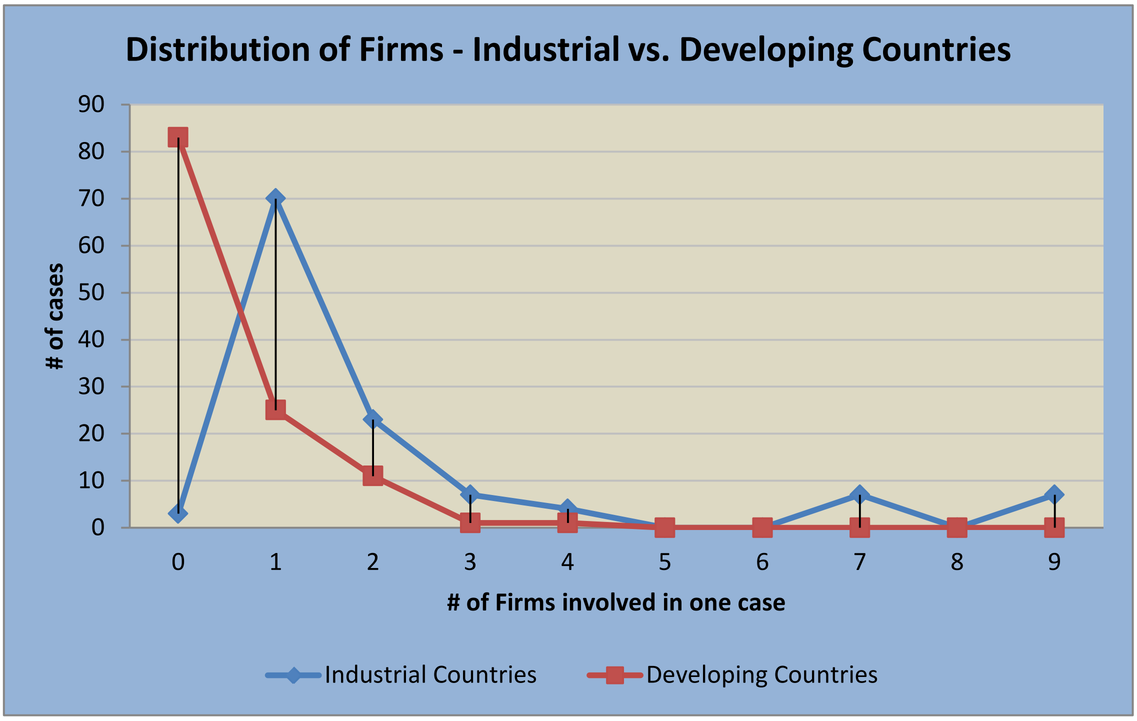


Graph 3.5.1 – Regions of Enterprises

Observing table 3.5.1 we see that while in non-EU Europe and the North-America & Oceania region the numbers of violators and responsible companies are more or less balanced[225] they diverge remarkably in the other four regions (EU, Latin America, Asia and Africa). Though, these spreads come with different algebraic signs: the EU area shows a surplus of firms deemed *responsible* for a breach, in Latin America, Asia and Africa the excess quantity is on the violators' side. Both obviously reflect the global investment pattern. European firms have suppliers in those other regions and are associated with the violations of those enterprises. Within the other regions this comes vice versa. This is not too surprising.

[225] This can be explained by the congruence of violator and responsible company and basically means that those two firms (statistically seen) are one firm in most cases.

What delivers more insights is the following illustration:



Graph 3.5.2 – Distribution of Firms, Industrial vs. Developing Countries

The table reveals a very low number of cases where enterprises of industrial countries have not been involved (3). In contrast, 118 cases are with the participation of at least one of them. On the other hand, 83 of all 121 cases are without involvement of companies from the global *south* and therefore only 38 cases have been filed involving a *southern* firm. Knowing that 10 cases have been filed with NCPs in developing countries[226] and that a case has to be filed with the NCP where the mother company is located it can be concluded that in 28 of those cases involving an enterprise from a developing country the mentioned issue of the investment nexus is inherent. This is a fairly high number and underlines the criticism that in the Guidelines this thematic field remains an almost definition-free space

[226] Review section 3.3

demanding much further elaboration in the future reviews[227]. For the sake of completeness, the list of those countries whose enterprises are most frequently brought before NCPs is given[228] below. The graph illustrates the number of cases filed in which at least one company of the various countries has been involved.

Graph 3.5.3 – Countries and Accused Firms

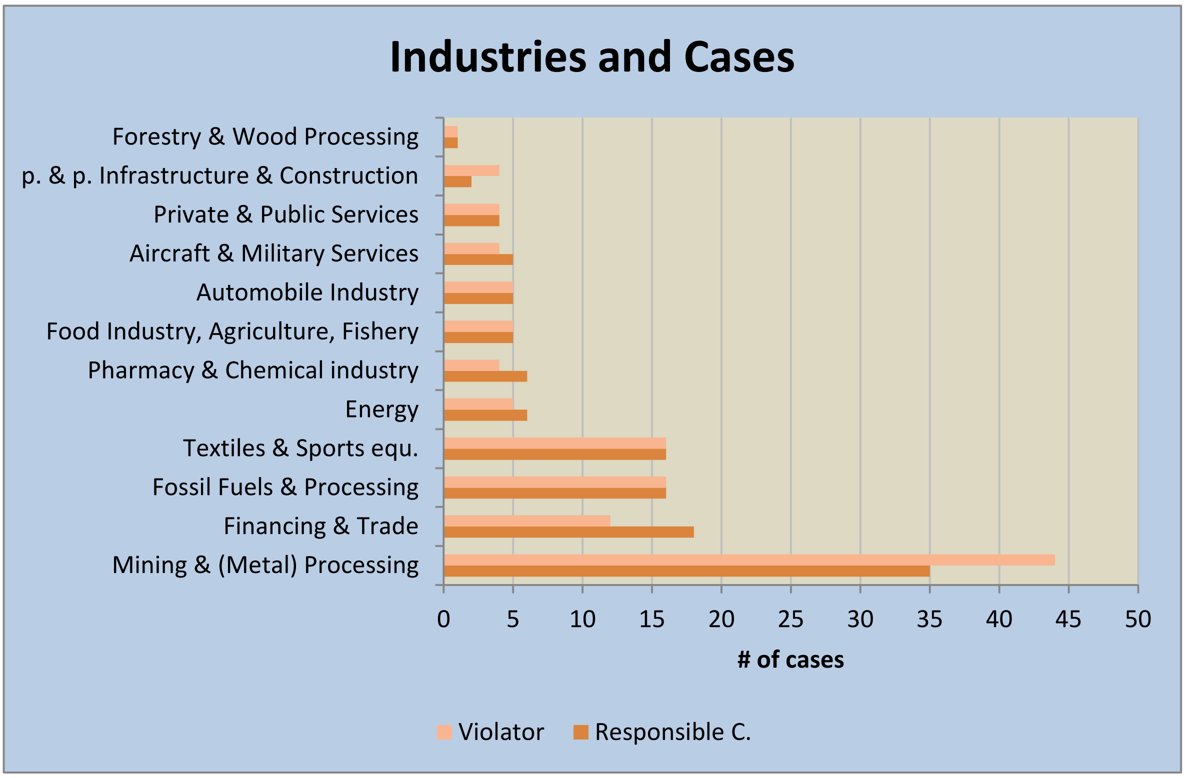
The next task here is to outline which industries trigger the filing of cases more often. In order to do this, twelve industrial groups were created[229] and the cases filed with distinction to violating and responsible company were counted. The following figure

[227] See section 2.3. for a short summary of the 2011 review

[228] again, responsible and violating firm can be identical; double counts are therefore subject to statistical procedures

[229] Review the section Accused Companies – Industrial Sectors in Annex III

shows that cases are most often associated with the mining sector and its primary processing industries[230]. Cases connected to this industry account for almost two-fold of the second ranked industry (35 vs. 18 cases). Companies dealing with finance and trade (18), fossil fuels and their processing industries (16) as well as the textile (garment) industries and the production of sports equipment (16) are the second, third and fourth most important industries regarding the breaches allegedly committed by companies of these industries. All other industries are more or less equally represented in cases filed at the various NCPs (~5 cases each).

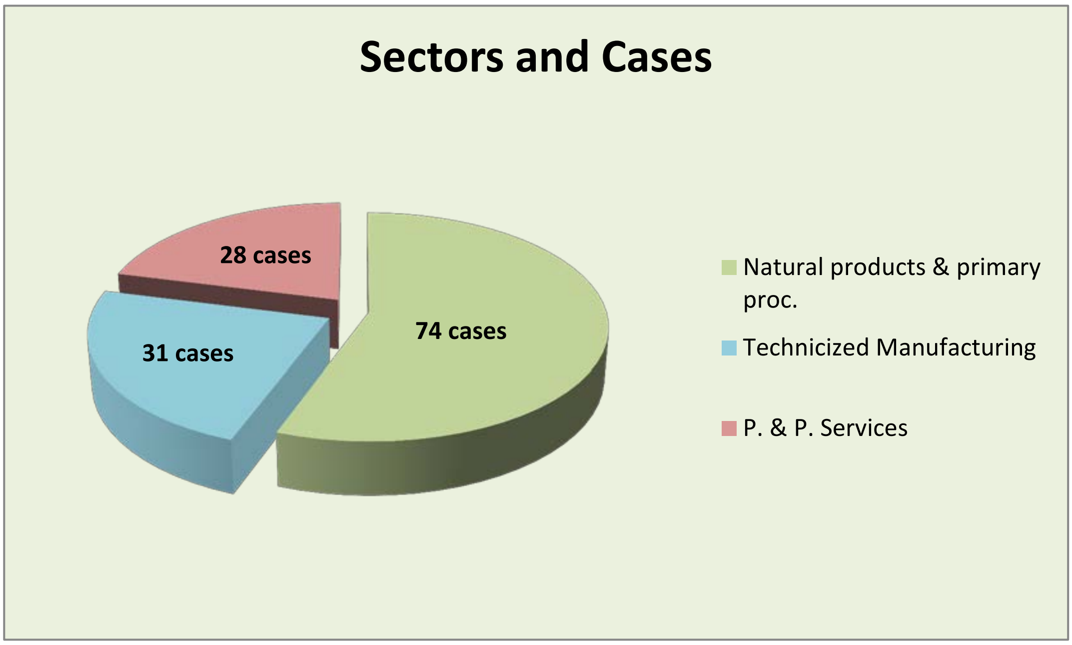


Graph 3.5.4 – Industries and Number of Cases

An interesting feature can also be observed here: most industries show an almost equal number of violators and responsible firms suggesting that violating and

[230] Here I refer to the violator's industrial type

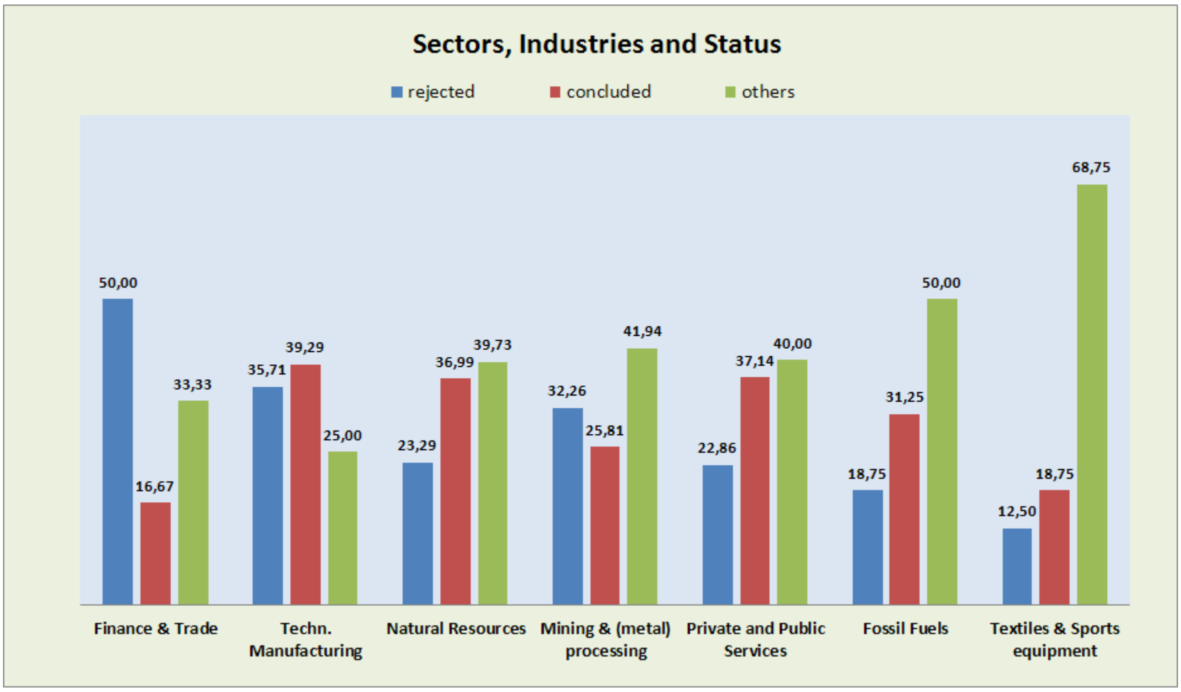
responsible companies are the same. If they are not the same, then at least they both come from the same industrial surrounding and the violator is the intra-industrial supplier of the responsible company. This cannot be stated in the case of mining and (metal) processing on the one hand and the financing and trade industry on the other. The first has much less responsible companies while the latter has an excess of those firms. This means, that the only relevant cases filed with trans-industrial character are those in which, typically, financing firms have relations to a local production identity in the mining & raw material sector, e.g., a mine.



Graph 3.5.5 – Cases per Sector

By further grouping of the industries into three economic sectors, we see that public and private services (28 cases) are as subordinate as the technicized manufacturing sector (31). By far most importantly, the exploitation of natural resources and their primary processing sector account for more than half of all cases (74).

Knowing the distribution of cases over the various sectors and industries and consequently being able to draw conclusions upon those numbers we can now try to intersect those different groups with the particular status of the cases. Like in previous sections, I will concentrate on the stati of *rejection* and *conclusion* and sum up all other peculiarities under *others*. The left three categories are the sectors according to which I list up the four most represented industries as mentioned before. The numbers depict the percentage of the respective status category.

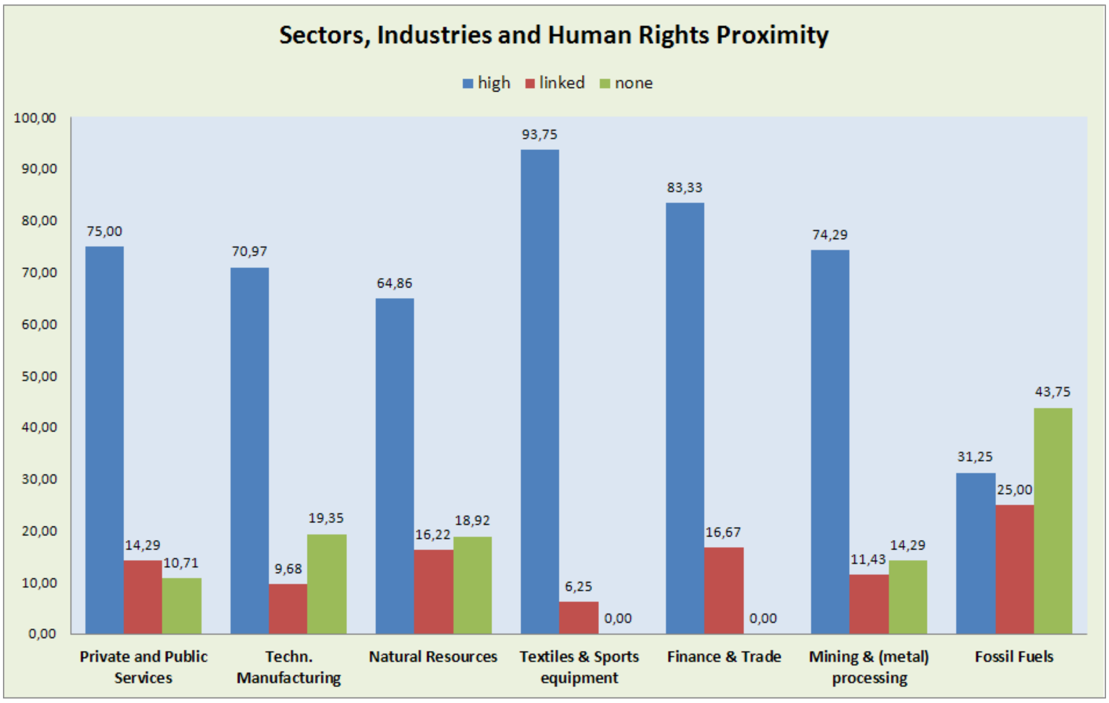


Graph 3.5.6 – Sectors, Industries and Status of Cases

At very first sight we see that in the financing sector there is a huge rate of rejections. Together with the mining and (metal) processing industry we observe only these two situations where rejection dominates conclusion. The relatively high number of rejected cases can be led back to the investment nexus problem again, which is, by nature of the business and as was shown in 3.5.4, an inherent feature of the financing business. There, the investing company is most often distinct from the actual firm in production and under the current provisions made in the Guidelines this makes it hard to attribute the violations occurring in the producing entity to banks and non-banking investment firms.

In all other sectors and industries conclusions are more frequent than rejections. This also holds for the textiles and sports equipment production industry where a notably high percentage of the total number of cases is neither concluded nor rejected (among them, 7 out of 16 cases are termed *pending*). The highest conclusion rate is found in the manufacturing sector.

Applying the same method to the human rights affinity, i.e., looking at sectors disposing of different types[231] of cases we obtain the following picture:



Graph 3.5.7 – Sectors, Industries and Human Rights Nexus

[231] As often mentioned throughout the course of this work, three degrees of human rights affinity exist her: high, linked, and none

This shows that human rights issues play a key role in all three major sectors and the mining and (metal) processing industry. Outstanding in terms of human rights proximity are, as can be easily observed, the textiles and sports equipment production industry and the finance and trade industry. In those industries all cases filed show links to the topic, and 93,75% in the first and 83,3% in the latter category of industries are even highly linked with it.

The only industry representing an outlier to this pattern is the industry dedicated to the extraction and the processing of fossil fuels. Cases which are filed against firms of this industrial sector are by 31,25% highly linked and by 25% linked to human rights while 43,74% have no connection with these topics. Still, the two types taken together, i.e., all cases which are <u>somehow</u> linked to human rights, account for more than half of the cases.

4. Conclusion

To conclude upon the findings I will summarize them here in short and then return to the initially postulated research question.

After the introductory remarks which provided an overview about the theoretical concept and the praxis of Corporate Social Responsibility, the OECD, its investment pillar, and some other important CSR mechanisms at the international level, I outlined the 2000 version of the OECD Guidelines for Multinational Enterprises in detail (Chapter 2).

Thereby, I took a closer look at the chapters relevant to human rights and saw that there is no particular human rights chapter in the document. Nevertheless, they play a significant role throughout the whole document. This was also proven by the analysis of cases.

With regard to the institutions built by the document, a distinction was made: the domestic level with its National Contact Points and the centralized Investment Committee located at the Paris headquarter of the OECD. The National Contact Points are institutions which are mandatorily installed by the adhering countries. The countries are free in designing, fine-tuning and locating the NCP as long as they fulfill some very basic requirements: promoting the Guidelines, achieving a high degree of transparency, and handling of the so-called specific instances which are often termed *cases*. Those specific instances procedures are initialized if a complainant ('any interested party') allegedly blames a firm that conducts business in an adhering country to have breached the Guidelines – regardless of whether the breach has occurred in an adhering country or not.

The Investment Committee of the OECD serves as centralized body to coordinate the NCPs, promote the Guidelines on a global level and, in case the wording is or is claimed to not have been adequately put into practice by an NCP, as interpreting instance. It holds annual meetings resembling representatives of adhering countries and is used as a forum to discuss best practices. Furthermore, the social partners (Business and Industry Advisory Committee and the Trade Union Advisory

Committee) are in permanent and close contact with the Investment Committee, which is moreover responsible for the coordination of a broad stakeholder dialogue.

Criticism has been raised, above all, regarding the voluntary character of the Guidelines. It is claimed, that enterprises are rather driven by profit maximization than considerations in the field of human rights or CSR in general. Therefore, many critics would favor legally binding norms directly binding upon (multinational) enterprises which are not yet existing in international law.

Other voices point at the structure of NCPs which is regulated neither by the Guidelines nor by any advisory statements of the Investment Committee. Specifically, states often establish their NCP closely to or even within the ministry of economics which is seen as quite questionable bearing in mind the close relationship of this ministry with the business community. Accordingly, the NCP might be biased in its actions, especially when handling the specific instances procedures involving reputable domestic enterprises. In addition, NCPs are often said to insufficiently integrate other stakeholders, which does not help eliminating prejudices either.

The quite general wording which gradually waters down the strength of the Guidelines, the supply chains issue (how do the Guidelines apply to subcontractors, subsidiaries, suppliers, and other entities which are not formally, but practically closely linked to the mother firm) and the undetermined procedural length of specific instances, which often leads to arbitrary misuse of this loop hole are also mentioned as structural weaknesses of the Guidelines.

The second part of this work (Chapter 3) dealt with the analysis of specific instances in order to draw conclusions derived from the praxis of the Guidelines.

Firstly, examining general data of the 121 filed cases[232] revealed that almost 70% of all cases have thematic proximity to human rights, whilst only 18,3% do not show any linkages to the topic. The conclusion rate of cases is very low (35%) but is not affected by the human rights connex. European National Contact Points are the most active ones (67,5), while North American & Oceanian NCPs only handle 20% of all cases; Latin American NCPs (8,3%) are by far more active than Asian ones (4,2%). Reviewing the time component, we first saw that the contemporary economic crisis

[232] Under the 2000 version of the Guidelines

has no effect on the number of cases filed although the sharp rise until the year 2004 was not maintained. An interesting feature is found in the data concerning the time elapsed in specific instances procedures: cases where human rights did play a significant role were handled much faster than others. In general, the time frame of NCPs to deal with a case is fairly long implying a huge amount of time and financial resources needed by complainants to file a case and follow up on it.

Secondly, the NCPs were analyzed in detail. Here we saw that the British NCP is most active having handled 19 cases and not rejected a single one; Germany (16), Netherlands (11) and the USA (10) follow. In total, there are 31 cases handled by NCPs which have not dealt with more than 4 cases. The time taken by the various NCPs is highest in the UK (28,1 months on average), followed by the Netherlands (21) and the USA (19,8). Looking at the respective numbers for different regions, Asia needs longest (27,2). Europe (17,6), North America & Oceania (15,4) and Latin America (11,8) do not differ much.

Human rights cases represent the majority in all NCPs (between 50% and 70%), although this number is higher in some cases (France: 85%; Australia: 80%; Canada: 75%). Taking a look at the industrial sectors related to the number of cases filed with the various NCPs, the public and private services sector plays only a subordinate role (mostly only 25%); the manufacturing sector shows big differences throughout the group of NCPs; with the exception of Germany (30%), more than 50% of cases are raised on grounds of issues arising within the primary sector (mining, oil extraction, farming, etc.) in each of the NCPs.

Thirdly, the sample of complainants was reviewed. 86% of all entities which have filed a case under the 2000 version of the Guidelines are NGOs which constitutes a number of 2,3 NGOs on average per case whilst research institutes and trade unions both account for only 0,2 entities per case. Among the NGOs, those who deal with environmental issues are the biggest group (36%). Human rights (21%) and developmental NGOs (14%) are ranked second and third although there are quite a few regional differences.

Putting the type of complainant in relation to the status of a case, I observed the effects of different NGOs on the outcome of a case. Thereby, (non)involvement of European NGOs and NGOs based in industrialized countries had no impact on the outcome. On the other side, North American & Oceanian NGOs contributing to the filing of a case raise the probability to reject a case and lower the rate of conclusion. Participation of complainants from the developing world does not affect the outcome, but, interestingly, their absence lifts the rate of rejection quite a bit. While the involvement of research institutes leaves the rejection rate unchanged, it affects the conclusion rate adversely. Trade unions show the exact reverse pattern.

In addition it is to state that small NGOs acting on a national scale in developing countries are not represented very well and almost always need a (bigger, northern) partner NGO to file a case. Exceptions are countries with an own NCP, such as Argentina.

The fourth exercise was the investigation of accused companies. It was remarkable here that 28 cases representing almost one fourth of all filed cases feature an investment nexus issue. This can be interpreted as support for the claim of many critics who argue that this thematic area has not been sufficiently elaborated in the Guidelines: due to the high number of cases in which NCPs have to deal with the investment nexus this area has to be further discussed.

Another interesting finding in the companies section was the distribution of cases over industries. Here again, the investment nexus issue was observable: all industries show equal amounts of violating and responsible firms, except the financing & trade industry and the mining & metal processing industry. From this fact we can derive that the investment nexus problem is inherent in those two industries. Furthermore, another result indicates that those industries are the only ones in which the rejection of cases dominates the number of concluded cases. In all other sectors and industries conclusions are more frequent than rejections.

With regard to the human rights nexus of cases raised in the different sectors, we see that especially the textiles and sports equipment and the financing & trade industry are closely linked to this topic. This proximity to human rights issues is also immanent in other industries although there is one outlier: the extraction and processing of fossil fuels in which 43,7% show no link to human rights.

Turning towards answering the superordinate research question of this work, asking for the adequacy of the OECD Guidelines for Multinational Enterprises to deal with human rights issues in transnational enterprises, I think that it is clearly visible that human rights are, on the one hand, a fairly prominent topic in the document itself (although there exists no exclusively dedicated human rights chapter); on the other hand, the majority of filed cases exhibits human rights topics. Hence, the Guidelines practically deal with human rights to a large extent. This means that they would actually be an appropriate mechanism to protect human rights if other shortcomings would be dismantled:

The functioning of the mechanism itself is very questionable. The findings of this work do support criticism with regard to the investment nexus problem. This refers to a situation in which the actually responsible firm is released from its duties just because it is not <u>formally</u> linked to the violating company.

Another issue is the voluntary character of the Guidelines; many argue in favor of binding codes at the international level. Given this mere voluntariness, the fear remains that, firstly, any CSR commitment might be misused as marketing strategy and, secondly, times of economic turmoil could lower the number of firms which pursue long-term utility maximization (i.e., CSR) and increase the number of companies which aim to maximize their profits in the short term losing social and environmental sustainability out of their strategic mind.

In addition to those two bigger ‘construction areas’ of the 2000 version of the Guidelines, many critical points were mentioned throughout this work. Among them, e.g., the low participation of local, directly impacted communities and their representative organizations. Most of the complaining entities are large-scaled, northern NGOs. One reason for this is the extremely long duration of the specific instances handled by the NCPs and the huge amounts of resources that is consequently needed.

Also, the structure, design and institutional location of the NCPs should be regulated in order to overcome the crucial differences between them, their exposition to political will and their divergence in terms of activity (measure: cases handled by an NCP). Notwithstanding this, their network should be expanded to other areas where human rights and other standards treated in the Guidelines are often challenged in multinational enterprises.

Because of its outstanding role as only comprehensive international mechanism in the field of CSR, the Guidelines represent the ceiling of international law to hold companies responsible for human rights violations. This benchmark should be steadily improved and extended. Some improvements in the fields of supply chains and the design of the National Contact Points were made in the review of 2011. Time will show whether those formal steps point in the right direction.

5. Sources

Literature

Bassen, Jastram and Meyer (2005): *Corporate Social Responsibility – Eine Begriffserläuterung*. In: Zeitschrift für Wirtschaft und Unternehmensethik 6/2 (2005).

Bowen, H. R. (1953): Social Responsibilities of the Business Man. Harper&Row, New York.

Business and Industry Advisory Committee (2009): *BIAC Guide to the OECD Guidelines for Multinational Enterprises*. Paris.

Carroll, A. B. (1991, July/August): *The pyramid of corporate social responsibility: Toward the moral management of organizational stakeholders*. Business Horizons, Vol. 34, p. 39-48.

Carroll, A. B. (1999): *Corporate Social Responsibility – Evolution of a Definitional Construct*. Business Society 1999/38, p. 268-295.

Cernic, J. L. (2008): *Corporate Responsibility for Human Rights: A Critical Analysis of the OECD Guidelines for Multinational enterprises*. Hanse Law Review, Vol. 4 No. 1.

Committee for Economic Development (1971): *Social responsibilities of business corporations*. Author, New York.

Corporate Watch (2006): *What is wrong with Corporate Social Responsibility?* Corporate Watch, Oxford.

Davis, K. (1960): *Can business afford to ignore social responsibilities?* California Management Review, 2, p. 70-76.

Davis, K., & Blomstrom, R. L. (1966): *Business and its Environment*. McGraw-Hill, New York.

European Commission (2009): *Corporate Social Responsibility*. EC MEMO 09/109, Brussels.

Fatouros, A. A. (1999): *The OECD Guidelines in a globalizing world*. OECD, Paris.

Ferenschild, S. (2002): *The OECD Guidelines for Multinational Enterprises – an Insufficient Step towards realization of Social Standards*. In: Germanwatch (2002): Responsible Globalization? The OECD Guidelines for Multinational Enterprises – A Discussion. Bonn.

Friends of Earth (2006): *A Guide to the Guidelines*. Washington D.C. .

Geiger, R. (2002): *The OECD Guidelines for Multinational Enterprises*. p. 8. In: Germanwatch (2002): Responsible Globalization? The OECD Guidelines for Multinational Enterprises.A Discussion. Bonn – Berlin.

Hägg, C. (1984): *The OECD Guidelines for Multinational Enterprises*. A Critical Analysis. Journal of Business Ethics 3.

Hillemans, C. F. (2003): *UN Norms on the Responsibilities of transnational Corporations and other business Enterprises with regard to Human Rights*. German Law Journal, Vol. 4, No. 10.

Johnson, H. L. (1971): *Business in contemporary society: Framework and issues*. Wadsworth, Belmont.

Jones, T. M. (1980): *Corporate social responsibility revisited, redefined*. California Management Review, 59-67.

Kriebaum, Ursula (2010): *Corporate Social Responsibility and Human Rights – Assessing the relevance of international investment law*. In: Binder etal. (2010): Corporate Social Responsibility and Social Rights. FacultasVerlag, Wien.

Lindgreen, A. / **Swaen**, V. (2010): *Corporate Social Responsibility. International Journal of Management Reviews 12/1*. Blackwell Publishing / British Academy of Management, Oxford.

Lukas, K. / **Hutter**, F.-J. (2009): *Menschenrechte und Wirtschaft.* Studienreihe des Ludwig Boltzmann Instituts für Menschenrechte Bd. 17, Neuer wissenschaftlicher Verlag, Graz.

Marmorat, M. (2009): *Non-judicial remedies in Norway for Corporate Social Responsibility Abroad.* A Discussion Paper. Fafo-paper No. 14.

McGuire, J. W. (1963): *Business and society*. New York: McGraw-Hill.

Milieu Defensie – Friends of Earth Netherlands (2002): *Using the OECD Guidelines for Multinational Enterprises.* A critical starterkit for NGOs. FoE Netherlands, Amsterdam.

NCP Netherlands (2009): *Introductory document on the Dutch National Contact Point fort he OECD Guidelines for Multinational Enterprises*.

www.oecdguidelines.nl/wp-content/uploads/annex_1_introductory_document_nl_ncp.pdf

[accessed: April 2012]

OECD (2001): *The OECD Guidelines for Multinational Enterprises*. Policy Brief, Paris.

OECD (2007): *The contribution of the OECD Guidelines for Multinational Enterprises to managing Globalisation*. Meeting of G8 Labour and Employment Ministers, Dresden.

http://www.oecd.org/dataoecd/5/34/38543990.pdf

[accessed: April 2012]

OECD (2011): *Annual meeting of National Contact Points*. Paris.

http://www.oecd.org/document/53/0,3746,en_2649_34889_2512693_1_1_1_1,00.html

[accessed: April 2012]

OECD – CIME (2009): 2009 Annual meeting of the National Contact Points, Report by the Chair. OECD, Paris.

http://www.oecd.org/dataoecd/41/25/43753441.pdf

[accessed: April 2012]

OECD (2012): 2011 Update of the Guidelines for Multinational Enterprises.

http://www.oecd.org/dataoecd/53/59/49744860.pdf

[accessed: April 2012]

OECD Watch (2005): *5 years on - A Review of the OECD Guidelines and National Contact Points*. PrimaveraQuint, Amsterdam.

OECD Watch (2007): *Model National Contact Point*. Amsterdam.

http://germanwatch.org/corp/ncp07.pdf

[accessed: April 2012]

OECD Watch (2011): *OECD Watch statement on the update of the OECD Guidelines for MNEs*.

http://oecdwatch.org/publications-en/Publication_3675

[accessed: April 2012]

Oekom (2010): *Corporate Responsibility Review 2010. Nachhaltigkeit in Unternehmensführung und Kapitalanlagen – eine Bestandsaufnahme*. Oekom Research, Munich.

Oldenziel, J. (2008): *The 2000 Review of the OECD Guidelines for Multinational Enterprises.* SOMO, Amsterdam.

Oldenziel, J. and **Opijnen**, Marjon van (2010): *Responsible Supply Chain Management, Potential success factors and challenges for addressing prevailing human rights and other CSR issues in supply chains of EU-based companies*. European Commission, Brussels.

Rees, C. / **Vermijs**, D. (2008): *Mapping Grievance Mechanisms in the Business and Human Rights Arena.* Corporate Social Responsibility Initiative Report No. 28. Harvard Kennedy School, Cambridge.

Rees, C. (2008): *Grievance Mechanisms for Business and Human rights: Strengths, Weaknesses and Gaps*. Corporate Social Responsibility Initiative, Working Paper No. 40. Cambridge.

Rubin, S. J. (1995): *Transnational Corporations and international codes of conduct – A Study of the relationship between international legal cooperation and economic development.* American University Journal of International Law & Policy, Vol. 10:4.

Strand, R. (1983): *A system paradigm of organizational adaptations to the social environment.* Academy of Management Review, 8, 90-96.

The OECD observer (2003): *The OECD - securing the future.*

http://www.oecdobserver.org/news/fullstory.php/aid/1197/The_OECD:_Securing_the_future.html

[accessed: April 2012]

Trade Union Advisory Committee to the OECD (2002): *A User's Guide for Trade Unionists to the OECD Guidelines to Multinational Enterprises.* TUAC, Paris.

http://old.tuac.org/publicat/guidelines-EN.pdf

[accessed: April 2012]

Tully, S. (2001): *The 2000 review of the OECD Guidelines for Multinational Enterprises.* The international and Comparative Law Quarterly, Vol. 50, No.2.

Tuzzolino, F., / **Armandi**, B. R. (1981). *A need-hierarchy framework for assessing corporate social responsibility.* Academy of Management Review, 6, 21-28.

UN International History Project (2009): *The UN and transnational corporations*. Briefing Note Nr. 17.

Unilever / London Business School (2003): *Rebuilding Trust in Business – a perspective on corporate social responsibility in the 21st century*.

http://www.unilever.com/Images/A%20Perspective%20on%20Corporate%20Social%20Responsibility%20in%20the%2021st%20Century_tcm13-5520.pdf

[accessed: April 2012]

Verwej, M. (2002): Using *the OECD Guidelines for Multinational Enterprises. A critical starterkit for NGOs*. Milieu Defensie – FoE Netherlands, Amsterdam.

Walton, C. C. (1967): *Corporate social responsibilities*. Belmont, CA: Wadsworth.

Web sources

Austrian Chamber of Commerce

portal.wko.at/wk/format_detail.wk?AngID=1&StID=151990&DstID=7276

[accessed: April 2012]

European Commission

http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/index_en.htm

[accessed: April 2012]

Financial Times Business Lexicon

lexicon.ft.com/Term?term=corporate-social-responsibility-CSR

[accessed: April 2012]

Novomatic

www.novomatic.at/de/corporate_information/social_responsibility

[accessed: April 2012]

Organisation for Economic Cooperation and Development

http://www.oecd.org

[accessed: April 2012]

About the OECD

http://www.oecd.org/pages/0,3417,en_36734052_36761681_1_1_1_1_1,00.html

[accessed: April 2012]

OECD Codes of Liberalisation of Capital Movements and of Current Invisible Operations

http://www.oecd.org/document/63/0,3746,en_2649_34887_1826559_1_1_1_1,00.html

[accessed: April 2012]

OECD Declaration and Decisions on International Investment and Multinational Enterprises:

http://www.oecd.org/document/24/0,3746,en_2649_34887_1875736_1_1_1_1,00.html

[accessed: April 2012]

OECD Investment Committee

http://www.oecd.org/document/24/0,3746,en_2649_34863_2373464_1_1_1_1,00.html

[accessed: April 2012]

OECD Watch

oecdwatch.org

[accessed: April 2012]

OECD Cases Database

http://oecdwatch.org/cases

[accessed: April 2012]

Trade Union Advisory Committee to the OECD (TUAC)

www.tuac.org

[accessed: April 2012]

United Nations Department for Economic and Social Affairs

http://www.un.org/esa/sustdev/publications/innovationbriefs/no1.pdf

[accessed: April 2012]

United Nations Global Compact

http://www.unglobalcompact.org/index.html

[accessed: April 2012]

United Nations Special Rapporteur on Business and Human Rights

http://www.business-humanrights.org/SpecialRepPortal/Home

[accessed: April 2012]

Annex I – The OECD Guidelines for Multinational Enterprises

OECD Guidelines for Multinational Enterprises

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

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Les Principes directeurs de l'OCDE à l'intention des entreprises multinationales

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Declaration on International Investment and Multinational Enterprises

27 June 2000

ADHERING GOVERNMENTS[1]

CONSIDERING:

– That international investment is of major importance to the world economy, and has considerably contributed to the development of their countries;

– That multinational enterprises play an important role in this investment process;

– That international co-operation can improve the foreign investment climate, encourage the positive contribution which multinational enterprises can make to economic, social and environmental progress, and minimise and resolve difficulties which may arise from their operations;

– That the benefits of international co-operation are enhanced by addressing issues relating to international investment and multinational enterprises through a balanced framework of inter-related instruments;

DECLARE:

Guidelines for Multinational Enterprises

I. That they jointly recommend to multinational enterprises operating in or from their territories the observance of the Guidelines, set forth in Annex 1 hereto,[2] having regard to the considerations and understandings that are set out in the Preface and are an integral part of them;

National Treatment

II.1. That adhering governments should, consistent with their needs to maintain public order, to protect their essential security interests and to fulfil commitments relating to international peace and security, accord to enterprises operating in their territories and owned or controlled directly or indirectly by nationals of another adhering government (hereinafter referred to as "Foreign-Controlled Enterprises") treatment under their laws, regulations and administrative practices, consistent with international law and no less favourable than that accorded in like situations to domestic enterprises (hereinafter referred to as "National Treatment");

2. That adhering governments will consider applying "National Treatment" in respect of countries other than adhering governments;

3. That adhering governments will endeavour to ensure that their territorial subdivisions apply "National Treatment";

4. That this Declaration does not deal with the right of adhering governments to regulate the entry of foreign investment or the conditions of establishment of foreign enterprises;

Conflicting Requirements

III. That they will co-operate with a view to avoiding or minimising the imposition of conflicting requirements on multinational enterprises and that they will take into account the general considerations and practical approaches.[3]

International Investment Incentives and Disincentives

IV.1 That they recognise the need to strengthen their co-operation in the field of international direct investment;

2. That they thus recognise the need to give due weight to the interests of adhering governments affected by specific laws, regulations and administrative practices in this field (hereinafter called "measures") providing official incentives and disincentives to international direct investment;

3. That adhering governments will endeavour to make such measures as transparent as possible, so that their importance and purpose can be ascertained and that information on them can be readily available;

Consultation Procedures

V. That they are prepared to consult one another on the above matters in conformity with the relevant Decisions of the Council;

Review

VI. That they will review the above matters periodically with a view to improving the effectiveness of international economic co-operation among adhering governments on issues relating to international investment and multinational enterprises.

Notes

1. As at 27 June 2000 adhering governments are those of all OECD Members, as well as Argentina, Brazil, Chile and the Slovak Republic. The European Community has been invited to associate itself with the section on National Treatment on matters falling within its competence.

2. The text of the *Guidelines for Multinational Enterprises* is reproduced in Part I of this Booklet.

3. The text of General considerations and Practical Approaches concerning Conflicting Requirements Imposed on Multinational Enterprises is available from the OECD Website *www.oecd.org/daf/investment/guidelines/conflict.htm*.

PART I

OECD Guidelines for Multinational Enterprises

Preface

1. The *OECD Guidelines for Multinational Enterprises* (the *Guidelines*) are recommendations addressed by governments to multinational enterprises. They provide voluntary principles and standards for responsible business conduct consistent with applicable laws. The *Guidelines* aim to ensure that the operations of these enterprises are in harmony with government policies, to strengthen the basis of mutual confidence between enterprises and the societies in which they operate, to help improve the foreign investment climate and to enhance the contribution to sustainable development made by multinational enterprises. The *Guidelines* are part of the *OECD Declaration on International Investment and Multinational Enterprises* the other elements of which relate to national treatment, conflicting requirements on enterprises, and international investment incentives and disincentives.

2. International business has experienced far-reaching structural change and the *Guidelines* themselves have evolved to reflect these changes. With the rise of service and knowledge-intensive industries, service and technology enterprises have entered the international marketplace. Large enterprises still account for a major share of international investment, and there is a trend toward large-scale international mergers. At the same time, foreign investment by small- and medium-sized enterprises has also increased and these enterprises now play a significant role on the international scene. Multinational enterprises, like their domestic counterparts, have evolved to encompass a broader range of business arrangements and organisational forms. Strategic alliances and closer relations with suppliers and contractors tend to blur the boundaries of the enterprise.

3. The rapid evolution in the structure of multinational enterprises is also reflected in their operations in the developing world, where foreign direct investment has grown rapidly. In developing countries, multinational enterprises have diversified beyond primary production and extractive industries into manufacturing, assembly, domestic market development and services.

4. The activities of multinational enterprises, through international trade and investment, have strengthened and deepened the ties that join OECD economies to each other and to the rest of the world. These activities bring substantial benefits to home and host countries. These benefits accrue when multinational enterprises supply the products and services that consumers

want to buy at competitive prices and when they provide fair returns to suppliers of capital. Their trade and investment activities contribute to the efficient use of capital, technology and human and natural resources. They facilitate the transfer of technology among the regions of the world and the development of technologies that reflect local conditions. Through both formal training and on-the-job learning enterprises also promote the development of human capital in host countries.

5. The nature, scope and speed of economic changes have presented new strategic challenges for enterprises and their stakeholders. Multinational enterprises have the opportunity to implement best practice policies for sustainable development that seek to ensure coherence between social, economic and environmental objectives. The ability of multinational enterprises to promote sustainable development is greatly enhanced when trade and investment are conducted in a context of open, competitive and appropriately regulated markets.

6. Many multinational enterprises have demonstrated that respect for high standards of business conduct can enhance growth. Today's competitive forces are intense and multinational enterprises face a variety of legal, social and regulatory settings. In this context, some enterprises may be tempted to neglect appropriate standards and principles of conduct in an attempt to gain undue competitive advantage. Such practices by the few may call into question the reputation of the many and may give rise to public concerns.

7. Many enterprises have responded to these public concerns by developing internal programmes, guidance and management systems that underpin their commitment to good corporate citizenship, good practices and good business and employee conduct. Some of them have called upon consulting, auditing and certification services, contributing to the accumulation of expertise in these areas. These efforts have also promoted social dialogue on what constitutes good business conduct. The *Guidelines* clarify the shared expectations for business conduct of the governments adhering to them and provide a point of reference for enterprises. Thus, the *Guidelines* both complement and reinforce private efforts to define and implement responsible business conduct.

8. Governments are co-operating with each other and with other actors to strengthen the international legal and policy framework in which business is conducted. The post-war period has seen the development of this framework, starting with the adoption in 1948 of the Universal Declaration of Human Rights. Recent instruments include the ILO Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development and Agenda 21 and the Copenhagen Declaration for Social Development.

9. The OECD has also been contributing to the international policy framework. Recent developments include the adoption of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and of the OECD Principles of Corporate Governance, the OECD Guidelines for Consumer Protection in the Context of Electronic Commerce, and ongoing work on the OECD Guidelines on Transfer Pricing for Multinational Enterprises and Tax Administrations.

10. The common aim of the governments adhering to the *Guidelines* is to encourage the positive contributions that multinational enterprises can make to economic, environmental and social progress and to minimise the difficulties to which their various operations may give rise. In working towards this goal, governments find themselves in partnership with the many businesses, trade unions and other non-governmental organisations that are working in their own ways toward the same end. Governments can help by providing effective domestic policy frameworks that include stable macroeconomic policy, non-discriminatory treatment of firms, appropriate regulation and prudential supervision, an impartial system of courts and law enforcement and efficient and honest public administration. Governments can also help by maintaining and promoting appropriate standards and policies in support of sustainable development and by engaging in ongoing reforms to ensure that public sector activity is efficient and effective. Governments adhering to the *Guidelines* are committed to continual improvement of both domestic and international policies with a view to improving the welfare and living standards of all people.

I. Concepts and Principles

1. The *Guidelines* are recommendations jointly addressed by governments to multinational enterprises. They provide principles and standards of good practice consistent with applicable laws. Observance of the *Guidelines* by enterprises is voluntary and not legally enforceable.

2. Since the operations of multinational enterprises extend throughout the world, international co-operation in this field should extend to all countries. Governments adhering to the *Guidelines* encourage the enterprises operating on their territories to observe the *Guidelines* wherever they operate, while taking into account the particular circumstances of each host country.

3. A precise definition of multinational enterprises is not required for the purposes of the *Guidelines*. These usually comprise companies or other entities established in more than one country and so linked that they may co-ordinate their operations in various ways. While one or more of these entities may be able to exercise a significant influence over the activities of others, their degree of autonomy within the enterprise may vary widely from one multinational enterprise to another. Ownership may be private, state or mixed. The *Guidelines* are addressed to all the entities within the multinational enterprise (parent companies and/or local entities). According to the actual distribution of responsibilities among them, the different entities are expected to co-operate and to assist one another to facilitate observance of the *Guidelines*.

4. The *Guidelines* are not aimed at introducing differences of treatment between multinational and domestic enterprises; they reflect good practice for all. Accordingly, multinational and domestic enterprises are subject to the same expectations in respect of their conduct wherever the *Guidelines* are relevant to both.

5. Governments wish to encourage the widest possible observance of the *Guidelines*. While it is acknowledged that small- and medium-sized enterprises may not have the same capacities as larger enterprises, governments adhering to the *Guidelines* nevertheless encourage them to observe the *Guidelines* recommendations to the fullest extent possible.

6. Governments adhering to the *Guidelines* should not use them for protectionist purposes nor use them in a way that calls into question the comparative advantage of any country where multinational enterprises invest.

7. Governments have the right to prescribe the conditions under which multinational enterprises operate within their jurisdictions, subject to international law. The entities of a multinational enterprise located in various countries are subject to the laws applicable in these countries. When multinational enterprises are subject to conflicting requirements by adhering countries, the governments concerned will co-operate in good faith with a view to resolving problems that may arise.

8. Governments adhering to the *Guidelines* set them forth with the understanding that they will fulfil their responsibilities to treat enterprises equitably and in accordance with international law and with their contractual obligations.

9. The use of appropriate international dispute settlement mechanisms, including arbitration, is encouraged as a means of facilitating the resolution of legal problems arising between enterprises and host country governments.

10. Governments adhering to the *Guidelines* will promote them and encourage their use. They will establish National Contact Points that promote the *Guidelines* and act as a forum for discussion of all matters relating to the *Guidelines*. The adhering Governments will also participate in appropriate review and consultation procedures to address issues concerning interpretation of the *Guidelines* in a changing world.

II. General Policies

Enterprises should take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders. In this regard, enterprises should:

1. Contribute to economic, social and environmental progress with a view to achieving sustainable development.
2. Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments.
3. Encourage local capacity building through close co-operation with the local community, including business interests, as well as developing the enterprise's activities in domestic and foreign markets, consistent with the need for sound commercial practice.
4. Encourage human capital formation, in particular by creating employment opportunities and facilitating training opportunities for employees.
5. Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labour, taxation, financial incentives, or other issues.
6. Support and uphold good corporate governance principles and develop and apply good corporate governance practices.
7. Develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate.
8. Promote employee awareness of, and compliance with, company policies through appropriate dissemination of these policies, including through training programmes.
9. Refrain from discriminatory or disciplinary action against employees who make *bona fide* reports to management or, as appropriate, to the competent public authorities, on practices that contravene the law, the *Guidelines* or the enterprise's policies.
10. Encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the *Guidelines*.
11. Abstain from any improper involvement in local political activities.

III. Disclosure

1. Enterprises should ensure that timely, regular, reliable and relevant information is disclosed regarding their activities, structure, financial situation and performance. This information should be disclosed for the enterprise as a whole and, where appropriate, along business lines or geographic areas. Disclosure policies of enterprises should be tailored to the nature, size and location of the enterprise, with due regard taken of costs, business confidentiality and other competitive concerns.

2. Enterprises should apply high quality standards for disclosure, accounting, and audit. Enterprises are also encouraged to apply high quality standards for non-financial information including environmental and social reporting where they exist. The standards or policies under which both financial and non-financial information are compiled and published should be reported.

3. Enterprises should disclose basic information showing their name, location, and structure, the name, address and telephone number of the parent enterprise and its main affiliates, its percentage ownership, direct and indirect in these affiliates, including shareholdings between them.

4. Enterprises should also disclose material information on:

a) The financial and operating results of the company.

b) Company objectives.

c) Major share ownership and voting rights.

d) Members of the board and key executives, and their remuneration.

e) Material foreseeable risk factors.

f) Material issues regarding employees and other stakeholders.

g) Governance structures and policies.

5. Enterprises are encouraged to communicate additional information that could include:

a) Value statements or statements of business conduct intended for public disclosure including information on the social, ethical and environmental policies of the enterprise and other codes of conduct to which the company subscribes. In addition, the date of adoption, the countries and entities to which such statements apply and its performance in relation to these statements may be communicated.

b) Information on systems for managing risks and complying with laws, and on statements or codes of business conduct.

c) Information on relationships with employees and other stakeholders.

IV. Employment and Industrial Relations

Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices:

1. *a)* Respect the right of their employees to be represented by trade unions and other *bona fide* representatives of employees, and engage in constructive negotiations, either individually or through employers' associations, with such representatives with a view to reaching agreements on employment conditions.

   b) Contribute to the effective abolition of child labour.

   c) Contribute to the elimination of all forms of forced or compulsory labour.

   d) Not discriminate against their employees with respect to employment or occupation on such grounds as race, colour, sex, religion, political opinion, national extraction or social origin, unless selectivity concerning employee characteristics furthers established governmental policies which specifically promote greater equality of employment opportunity or relates to the inherent requirements of a job.

2. *a)* Provide facilities to employee representatives as may be necessary to assist in the development of effective collective agreements.

   b) Provide information to employee representatives which is needed for meaningful negotiations on conditions of employment.

   c) Promote consultation and co-operation between employers and employees and their representatives on matters of mutual concern.

3. Provide information to employees and their representatives which enables them to obtain a true and fair view of the performance of the entity or, where appropriate, the enterprise as a whole.

4. *a)* Observe standards of employment and industrial relations not less favourable than those observed by comparable employers in the host country.

   b) Take adequate steps to ensure occupational health and safety in their operations.

5. In their operations, to the greatest extent practicable, employ local personnel and provide training with a view to improving skill levels, in co-operation with employee representatives and, where appropriate, relevant governmental authorities.
6. In considering changes in their operations which would have major effects upon the livelihood of their employees, in particular in the case of the closure of an entity involving collective lay-offs or dismissals, provide reasonable notice of such changes to representatives of their employees, and, where appropriate, to the relevant governmental authorities, and co-operate with the employee representatives and appropriate governmental authorities so as to mitigate to the maximum extent practicable adverse effects. In light of the specific circumstances of each case, it would be appropriate if management were able to give such notice prior to the final decision being taken. Other means may also be employed to provide meaningful co-operation to mitigate the effects of such decisions.
7. In the context of *bona fide* negotiations with representatives of employees on conditions of employment, or while employees are exercising a right to organise, not threaten to transfer the whole or part of an operating unit from the country concerned nor transfer employees from the enterprises' component entities in other countries in order to influence unfairly those negotiations or to hinder the exercise of a right to organise.
8. Enable authorised representatives of their employees to negotiate on collective bargaining or labour-management relations issues and allow the parties to consult on matters of mutual concern with representatives of management who are authorised to take decisions on these matters.

V. Environment

Enterprises should, within the framework of laws, regulations and administrative practices in the countries in which they operate, and in consideration of relevant international agreements, principles, objectives, and standards, take due account of the need to protect the environment, public health and safety, and generally to conduct their activities in a manner contributing to the wider goal of sustainable development. In particular, enterprises should:

1. Establish and maintain a system of environmental management appropriate to the enterprise, including:
   a) collection and evaluation of adequate and timely information regarding the environmental, health, and safety impacts of their activities;
   b) establishment of measurable objectives and, where appropriate, targets for improved environmental performance, including periodically reviewing the continuing relevance of these objectives; and
   c) regular monitoring and verification of progress toward environmental, health, and safety objectives or targets.
2. Taking into account concerns about cost, business confidentiality, and the protection of intellectual property rights:
   a) provide the public and employees with adequate and timely information on the potential environment, health and safety impacts of the activities of the enterprise, which could include reporting on progress in improving environmental performance; and
   b) engage in adequate and timely communication and consultation with the communities directly affected by the environmental, health and safety policies of the enterprise and by their implementation.
3. Assess, and address in decision-making, the foreseeable environmental, health, and safety-related impacts associated with the processes, goods and services of the enterprise over their full life cycle. Where these proposed activities may have significant environmental, health, or safety impacts, and where they are subject to a decision of a competent authority, prepare an appropriate environmental impact assessment.

4. Consistent with the scientific and technical understanding of the risks, where there are threats of serious damage to the environment, taking also into account human health and safety, not use the lack of full scientific certainty as a reason for postponing cost-effective measures to prevent or minimise such damage.
5. Maintain contingency plans for preventing, mitigating, and controlling serious environmental and health damage from their operations, including accidents and emergencies; and mechanisms for immediate reporting to the competent authorities.
6. Continually seek to improve corporate environmental performance, by encouraging, where appropriate, such activities as:
   a) adoption of technologies and operating procedures in all parts of the enterprise that reflect standards concerning environmental performance in the best performing part of the enterprise;
   b) development and provision of products or services that have no undue environmental impacts; are safe in their intended use; are efficient in their consumption of energy and natural resources; can be reused, recycled, or disposed of safely;
   c) promoting higher levels of awareness among customers of the environmental implications of using the products and services of the enterprise; and
   d) research on ways of improving the environmental performance of the enterprise over the longer term.
7. Provide adequate education and training to employees in environmental health and safety matters, including the handling of hazardous materials and the prevention of environmental accidents, as well as more general environmental management areas, such as environmental impact assessment procedures, public relations, and environmental technologies.
8. Contribute to the development of environmentally meaningful and economically efficient public policy, for example, by means of partnerships or initiatives that will enhance environmental awareness and protection.

VI. Combating Bribery

Enterprises should not, directly or indirectly, offer, promise, give, or demand a bribe or other undue advantage to obtain or retain business or other improper advantage. Nor should enterprises be solicited or expected to render a bribe or other undue advantage. In particular, enterprises should:

1. Not offer, nor give in to demands, to pay public officials or the employees of business partners any portion of a contract payment. They should not use subcontracts, purchase orders or consulting agreements as means of channelling payments to public officials, to employees of business partners or to their relatives or business associates.
2. Ensure that remuneration of agents is appropriate and for legitimate services only. Where relevant, a list of agents employed in connection with transactions with public bodies and state-owned enterprises should be kept and made available to competent authorities.
3. Enhance the transparency of their activities in the fight against bribery and extortion. Measures could include making public commitments against bribery and extortion and disclosing the management systems the company has adopted in order to honour these commitments. The enterprise should also foster openness and dialogue with the public so as to promote its awareness of and co-operation with the fight against bribery and extortion.
4. Promote employee awareness of and compliance with company policies against bribery and extortion through appropriate dissemination of these policies and through training programmes and disciplinary procedures.
5. Adopt management control systems that discourage bribery and corrupt practices, and adopt financial and tax accounting and auditing practices that prevent the establishment of "off the books" or secret accounts or the creation of documents which do not properly and fairly record the transactions to which they relate.
6. Not make illegal contributions to candidates for public office or to political parties or to other political organisations. Contributions should fully comply with public disclosure requirements and should be reported to senior management.

VII. Consumer Interests

When dealing with consumers, enterprises should act in accordance with fair business, marketing and advertising practices and should take all reasonable steps to ensure the safety and quality of the goods or services they provide. In particular, they should:

1. Ensure that the goods or services they provide meet all agreed or legally required standards for consumer health and safety, including health warnings and product safety and information labels.
2. As appropriate to the goods or services, provide accurate and clear information regarding their content, safe use, maintenance, storage, and disposal sufficient to enable consumers to make informed decisions.
3. Provide transparent and effective procedures that address consumer complaints and contribute to fair and timely resolution of consumer disputes without undue cost or burden.
4. Not make representations or omissions, nor engage in any other practices, that are deceptive, misleading, fraudulent, or unfair.
5. Respect consumer privacy and provide protection for personal data.
6. Co-operate fully and in a transparent manner with public authorities in the prevention or removal of serious threats to public health and safety deriving from the consumption or use of their products.

VIII. Science and Technology

Enterprises should:

1. Endeavour to ensure that their activities are compatible with the science and technology (S&T) policies and plans of the countries in which they operate and as appropriate contribute to the development of local and national innovative capacity.
2. Adopt, where practicable in the course of their business activities, practices that permit the transfer and rapid diffusion of technologies and know-how, with due regard to the protection of intellectual property rights.
3. When appropriate, perform science and technology development work in host countries to address local market needs, as well as employ host country personnel in an S&T capacity and encourage their training, taking into account commercial needs.
4. When granting licenses for the use of intellectual property rights or when otherwise transferring technology, do so on reasonable terms and conditions and in a manner that contributes to the long term development prospects of the host country.
5. Where relevant to commercial objectives, develop ties with local universities, public research institutions, and participate in co-operative research projects with local industry or industry associations.

IX. Competition

Enterprises should, within the framework of applicable laws and regulations, conduct their activities in a competitive manner. In particular, enterprises should:

1. Refrain from entering into or carrying out anti-competitive agreements among competitors:
   a) to fix prices;
   b) to make rigged bids (collusive tenders);
   c) to establish output restrictions or quotas; or
   d) to share or divide markets by allocating customers, suppliers, territories or lines of commerce.
2. Conduct all of their activities in a manner consistent with all applicable competition laws**,** taking into account the applicability of the competition laws of jurisdictions whose economies would be likely to be harmed by anti-competitive activity on their part.
3. Co-operate with the competition authorities of such jurisdictions by, among other things and subject to applicable law and appropriate safeguards, providing as prompt and complete responses as practicable to requests for information.
4. Promote employee awareness of the importance of compliance with all applicable competition laws and policies.

X. Taxation

It is important that enterprises contribute to the public finances of host countries by making timely payment of their tax liabilities. In particular, enterprises should comply with the tax laws and regulations in all countries in which they operate and should exert every effort to act in accordance with both the letter and spirit of those laws and regulations. This would include such measures as providing to the relevant authorities the information necessary for the correct determination of taxes to be assessed in connection with their operations and conforming transfer pricing practices to the arm's length principle.

PART II

Implementation Procedures of the OECD Guidelines for Multinational Enterprises

Decision of the OECD Council on the OECD Guidelines for Multinational Enterprises

June 2000

THE COUNCIL,

Having regard to the Convention on the Organisation for Economic Co-operation and Development of 14th December 1960;

Having regard to the OECD Declaration on International Investment and Multinational Enterprises (the "Declaration"), in which the Governments of adhering countries ("adhering countries") jointly recommend to multinational enterprises operating in or from their territories the observance of Guidelines for Multinational Enterprises (the "Guidelines");

Recognising that, since operations of multinational enterprises extend throughout the world, international co-operation on issues relating to the Declaration should extend to all countries;

Having regard to the Terms of Reference of the Investment Committee, in particular with respect to its responsibilities for the Declaration [C(84)171(Final), renewed in C/M(95)21];

Considering the Report on the First Review of the 1976 Declaration [C(79)102(Final)], the Report on the Second Review of the Declaration [C/MIN(84)5(Final)], the Report on the 1991 Review of the Declaration [DAFFE/IME(91)23], and the Report on the 2000 Review of the Guidelines [C(2000)96];

Having regard to the Second Revised Decision of the Council of June 1984 [C(84)90], amended June 1991 [C/MIN(91)7/ANN1];

Considering it desirable to enhance procedures by which consultations may take place on matters covered by these Guidelines and to promote the effectiveness of the Guidelines;

On the proposal of the Investment Committee:

DECIDES:

To repeal the Second Revised Decision of the Council of June 1984 [C(84)90], amended June 1991 [C/MIN(91)7/ANN1], and replace it with the following:

I. National Contact Points

1. Adhering countries shall set up National Contact Points for undertaking promotional activities, handling inquiries and for discussions with the parties concerned on all matters covered by the Guidelines so that they can contribute to the solution of problems which may arise in this connection, taking due account of the attached procedural guidance. The business community, employee organisations, and other interested parties shall be informed of the availability of such facilities.
2. National Contact Points in different countries shall co-operate if such need arises, on any matter related to the Guidelines relevant to their activities. As a general procedure, discussions at the national level should be initiated before contacts with other National Contact Points are undertaken.
3. National Contact Points shall meet annually to share experiences and report to the Investment Committee.

II. The Investment Committee

1. The Investment Committee ("the Committee") shall periodically or at the request of an adhering country hold exchanges of views on matters covered by the Guidelines and the experience gained in their application.
2. The Committee shall periodically invite the Business and Industry Advisory Committee to the OECD (BIAC), and the Trade Union Advisory Committee to the OECD (TUAC) (the "advisory bodies"), as well as other non-governmental organisations to express their views on matters covered by the Guidelines. In addition, exchanges of views with the advisory bodies on these matters may be held at their!request.
3. The Committee may decide to hold exchanges of views on matters covered by the Guidelines with representatives of non-adhering countries.
4. The Committee shall be responsible for clarification of the Guidelines. Clarification will be provided as required. If it so wishes, an individual enterprise will be given the opportunity to express its views either orally or in writing on issues concerning the Guidelines involving its interests. The Committee shall not reach conclusions on the conduct of individual enterprises.
5. The Committee shall hold exchanges of views on the activities of National Contact Points with a view to enhancing the effectiveness of the Guidelines.
6. In fulfilling its responsibilities for the effective functioning of the Guidelines, the Committee shall take due account of the attached procedural guidance.

7. The Committee shall periodically report to the Council on matters covered by the Guidelines. In its reports, the Committee shall take account of reports by National Contact Points, the views expressed by the advisory bodies, and the views of other non-governmental organisations and non-adhering countries as appropriate.

III. Review of the Decision

This Decision shall be periodically reviewed. The Committee shall make proposals for this purpose.

Procedural Guidance

I. National Contact Points

The role of National Contact Points (NCP) is to further the effectiveness of the Guidelines. NCPs will operate in accordance with core criteria of visibility, accessibility, transparency and accountability to further the objective of functional equivalence.

A. Institutional arrangements

Consistent with the objective of functional equivalence, adhering countries have flexibility in organising their NCPs, seeking the active support of social partners, including the business community, employee organisations, and other interested parties, which includes non-governmental organisations.

Accordingly, the National Contact Point:

1. May be a senior government official or a government office headed by a senior official. Alternatively, the National Contact Point may be organised as a co-operative body, including representatives of other government agencies. Representatives of the business community, employee organisations and other interested parties may also be included.
2. Will develop and maintain relations with representatives of the business community, employee organisations and other interested parties that are able to contribute to the effective functioning of the Guidelines.

B. Information and promotion

National Contact Points will:

1. Make the Guidelines known and available by appropriate means, including through on-line information, and in national languages. Prospective investors (inward and outward) should be informed about the Guidelines, as appropriate.
2. Raise awareness of the Guidelines, including through co-operation, as appropriate, with the business community, employee organisations, other non-governmental organisations, and the interested public.
3. Respond to enquiries about the Guidelines from:

   a) Other National Contact Points;

b) the business community, employee organisations, other non-governmental organisations and the public; and

c) governments of non-adhering countries.

C. Implementation in specific instances

The NCP will contribute to the resolution of issues that arise relating to implementation of the Guidelines in specific instances. The NCP will offer a forum for discussion and assist the business community, employee organisations and other parties concerned to deal with the issues raised in an efficient and timely manner and in accordance with applicable law. In providing this assistance, the NCP will:

1. Make an initial assessment of whether the issues raised merit further examination and respond to the party or parties raising them.

2. Where the issues raised merit further examination, offer good offices to help the parties involved to resolve the issues. For this purpose, the NCP will consult with these parties and where relevant:

   a) Seek advice from relevant authorities, and/or representatives of the business community, employee organisations, other non-governmental organisations, and relevant experts.

   b) Consult the National Contact Point in the other country or countries concerned.

   c) Seek the guidance of the Investment Committee if it has doubt about the interpretation of the Guidelines in particular circumstances.

   d) Offer, and with the agreement of the parties involved, facilitate access to consensual and non-adversarial means, such as conciliation or mediation, to assist in dealing with the issues.

3. If the parties involved do not reach agreement on the issues raised, issue a statement, and make recommendations as appropriate, on the implementation of the Guidelines.

4. *a)* In order to facilitate resolution of the issues raised, take appropriate steps to protect sensitive business and other information. While the procedures under paragraph 2 are underway, confidentiality of the proceedings will be maintained. At the conclusion of the procedures, if the parties involved have not agreed on a resolution of the issues raised, they are free to communicate about and discuss these issues. However, information and views provided during the proceedings by another party involved will remain confidential, unless that other party agrees to their disclosure.

   b) After consultation with the parties involved, make publicly available the results of these procedures unless preserving confidentiality would be in the best interests of effective implementation of the Guidelines.

5. If issues arise in non-adhering countries, take steps to develop an understanding of the issues involved, and follow these procedures where relevant and practicable.

D. Reporting

1. Each National Contact Point will report annually to the Committee.
2. Reports should contain information on the nature and results of the activities of the National Contact Point, including implementation activities in specific instances.

II. Investment Committee

1. The Committee will discharge its responsibilities in an efficient and timely manner.
2. The Committee will consider requests from NCPs for assistance in carrying out their activities, including in the event of doubt about the interpretation of the Guidelines in particular circumstances.
3. The Committee will:

   a) Consider the reports of NCPs.

   b) Consider a substantiated submission by an adhering country or an advisory body on whether an NCP is fulfilling its responsibilities with regard to its handling of specific instances.

   c) Consider issuing a clarification where an adhering country or an advisory body makes a substantiated submission on whether an NCP has correctly interpreted the Guidelines in specific instances.

   d) Make recommendations, as necessary, to improve the functioning of NCPs and the effective implementation of the Guidelines.
4. The Committee may seek and consider advice from experts on any matters covered by the Guidelines. For this purpose, the Committee will decide on suitable procedures.

Annex II – Qualitative Summary Table of Cases

Annex II - Qualitative Summary Table - General, NCP

General						NCP	
Case	**Linked**	**Docs**	**Status**	**Issue**	**HR connex**	**main**	**involved**
1		0	withdrawn	Gen. Policies (+ HR, § 2), Ch. II	high	UK	
				Empl. and Ind. Relations, Ch. IV			
				Combating Bribery, Chapter VI			
2		3	concluded	Empl. and Ind. Relations, Ch. IV	high	NL	
3		3	rejected	Empl. and Ind. Relations, Ch. IV	high	NL	
4		2	concluded	Gen. Policies (+ HR, § 2), Ch. II	high	CAN	
				Environment, Chapter V			
5		1	closed	Gen. Policies (+ HR, § 2), Ch. II	high	UK	
				Disclosure, Chapter III			
				Environment, Chapter V			
				Competition, Chapter IX			
6		1	rejected	Gen. Policies (+ HR, § 2), Ch. II	high	GER	
7		1	concluded	Gen. Policies (+ HR, § 2), Ch. II	high	MEX	GER
				Empl. and Ind. Relations, Ch. IV			
8		2	concluded	Gen. Policies, Chapter II	linked	Chile	NED
				Empl. and Ind.Relations, Ch. IV			
9	10, 11	3	concluded	Gen. Policies, Chapter II	high	GER	AUT
				Empl. and Ind. Relations, Ch. IV			
10	9, 11	1	rejected	Gen. Policies, Chapter II	high	USA	AUT
				Empl. and Ind. Relations, Ch. IV			
11	9, 10	1	withdrawn	Empl. and Ind. Relations, Ch. IV	high	AUT	France
12		3	closed	Combating Bribery, Chapter VI	none	CAN	
13	14	1	concluded	Environment, Chapter V	high	SWE	
				Combating Bribery, Chapter VI			
14	13	1	concluded	Gen. Policies (+ HR, § 2), Ch. II	high	SWE	
				Disclosure, Chapter III			
				Environment, Chapter V			
15	15-21, 28-	1	rejected	Concept and Principles, Chapter I	none	France	UK
	30			Gen. Policies, Chapter II			
				Disclosure, Chapter III			
				Environment, Chapter V			
16	15-21, 28-	1	pending	Concept and Principles, Chapter I	none	Italy	UK
	30			Gen. Policies, Chapter II			
				Disclosure, Chapter III			
				Environment, Chapter V			

Annex II - Qualitative Summary Table - General, NCP

17	15-21, 28-	1	pending	Concept and Principles, Chapter I	none	Italy	UK
	30			Gen. Policies, Chapter II			
				Disclosure, Chapter III			
				Environment, Chapter V			
18	15-21, 28-	2	pending	Concept and Principles, Chapter I	none	USA	UK
	30			Gen. Policies, Chapter II			
				Disclosure, Chapter III			
				Environment, Chapter V			
19	15-21, 28-	2	pending	Concept and Principles, Chapter I	none	USA	UK
	30			Gen. Policies, Chapter II			
				Disclosure, Chapter III			
				Environment, Chapter V			
20	15-21, 28-	2	pending	Concept and Principles, Chapter I	none	USA	UK
	30			Gen. Policies, Chapter II			
				Disclosure, Chapter III			
				Environment, Chapter V			
21	15-21, 28-	7	concluded	Concept and Principles, Chapter I	none	UK	GER
	30			Gen. Policies, Chapter II			USA
				Disclosure, Chapter III			France
				Environment, Chapter V			ITA
22		0	rejected	Gen. Policies (+ HR, § 2), Ch. II	high	GER	
				Environment, Chapter V			

23		3	rejected	Gen. Policies (+ HR, § 2), Ch. II	high	NED	
				Environment, Chapter V			
24		1	closed	Gen. Policies, Chapter II	linked	UK	
				Empl. and Ind. Relations, Ch. IV			
				Combating Bribery, Chapter VI			
				Consumer Interests, Chapter VII			
				Competition,Chapter IX			
25			rejected	Gen. Policies (+ HR, § 2), Ch. II	high	GER	
26			blocked	Gen. Policies (+ HR, § 2), Ch. II	high	JAP	
				Empl. and Ind. Relations, Ch. IV			
27		1	concluded	Gen. Policies (+ HR, § 2), Ch. II	high	BEL	
				Disclosure, Chapter III			
28	15-21, 28-	1	blocked	Concepts and Principles, Chapter I	linked	BEL	UK
	30			Gen. Policies, Chapter II			
				Environment, Chapter V			
29	15-21, 28-	1	blocked	Concepts and Principles, Chapter I	linked	BEL	UK
	30			Gen. Policies, Chapter II			
				Environment, Chapter V			
30	15-21, 28-	1	blocked	Concepts and Principles, Chapter I	linked	BEL	UK
	30			Gen. Policies, Chapter II			
				Environment, Chapter V			
31	31-39, 41-	1	withdrawn	Gen. Policies, Chapter II	none	UK	
	44, 66			Disclosure, Chapter III			
				Combating Bribery, Chapter VI			
32	31-39, 41-	1	withdrawn	Gen. Policies (+ HR, § 2), Ch. II	high	UK	
	44, 66			Empl. and Ind. Relations, Ch. IV			
33	31-39, 41-	1	withdrawn	Gen. Policies (+ HR, § 2), Ch. II	high	UK	
	44, 66			Disclosure, Chapter III			
				Combating Bribery, Chapter VI			
34	31-39, 41-	4	concluded	Gen. Policies (+ HR, § 2), Ch. II	high	UK	
	44, 66						
35	31-39, 41-	4	concluded	Gen. Policies (+ HR, § 2), Ch. II	high	UK	
	44, 66						
36	31-39, 41-	3	concluded	Gen. Policies (+ HR, § 2), Ch. II	high	UK	
	44, 66			Disclosure, Chapter III			
				Environment, Chapter V			
				Combating Bribery, Chapter VI			
37	31-39, 41-	4	concluded	Gen. Policies (+ HR, § 2), Ch. II	high	UK	
	44, 66						
				Empl. and Ind. Relations, Ch. IV			
				Environment, Chapter V			
				Competition, Chapter IX			
38	31-39, 41-	1	rejected	Concepts and Principles, Chapter I	high	USA	
	44, 66			Gen. Policies (+ HR, § 2), Ch. II			
				Disclosure, Chapter III			
				Empl. and Ind. Relations, Ch. IV			
				Taxation, Chapter X			
39	31-39, 41-	2	rejected	Gen. Policies, Chapter II	high	USA	
	44, 66			Disclosure, Chapter III			
40		3	concluded	Gen. Policies, Chapter II	high	GER	
				Empl. and Ind. Relations, Ch. IV			

41	31-39, 41-	1	rejected	Gen. Policies, Chapter II	high	BEL	
	44, 66						
42	31-39, 41-	3	rejected	Concepts and Principles, Chapter I	high	BEL	
	44, 66			Gen. Policies, Chapter II			
				Taxation, Chapter X			
43	31-39, 41-	1	rejected	Concepts and Principles, Chapter I	high	BEL	
	44, 66			Gen. Policies, Chapter II			
				Empl. and Ind. Relations, Ch. IV			
44	31-39, 41-	3	concluded	Concepts and Principles, Chapter I	high	BE	
	44, 66			Disclosure, Chapter III			
				Empl. and Ind. Relations, Ch. IV			
				Environment, Chapter V			
				Competition, Chapter IX			
45		5	concluded	Gen. Policies (+ HR, § 2), Ch. II	high	France	
				Environment, Chapter V			
				Competition, Chapter IX			
46	47, 48	3	closed	Combating Bribery, Chapter VI	none	UK	
47	46, 48	3	closed	Combating Bribery, Chapter VI	none	UK	France
48	46, 47	3	closed	Combating Bribery, Chapter VI	none	UK	
49		4	withdrawn	Concepts and Principles, Chapter I	high	CAN	
				Gen. Policies (+ HR, § 2), Ch. II			
				Disclosure, Chapter III			
				Environment, Chapter V			
50	51	1	blocked	Gen. Policies (+ HR, § 2), Chapter II	high	Brazil	
				Environment, Chapter V			
51	50	1	blocked	Gen. Policies (+ HR, § 2), Ch. II	high	Brazil	
				Environment, Chapter V			
52		5	concluded	Gen. Policies (+ HR, § 2), Ch. II	high	AUS	UK
				Consumer Interests, Chapter VII			
53		7	rejected	Gen. Policies (+ HR, § 2), Ch. II	high	CAN	
54		1	concluded	Gen. Policies (+ HR, § 2), Ch. II	high	NOR	
55		2	closed	Gen. Policies (+ HR, § 2), Ch. II	high	DEN	
				Empl. and Ind. Relations, Ch. IV			
				Environment, Chapter V			
56	61, 62	10	concluded	Gen. Policies (+ HR, § 2), Ch. II	high	FIN	
				Disclosure, Chapter III			
				Environment, Chapter V			
57	63		rejected	Disclosure, Chapter III	none	GER	
				Combating Bribery, Chapter VI			
58	59	4	concluded	Gen. Policies, Chapter II	linked	NL	
				Disclosure, Chapter III			
				Environment, Chapter V			
				Combating Bribery, Chapter VI			
59	58	3	rejected	Gen. Policies, Chapter II	linked	NL	BRA
				Environment, Chapter V			
				Combating Bribery, Chapter VI			

Annex II - Qualitative Summary Table - General, NCP

60		2	rejected	Gen. Policies, Chapter II	linked	NL	BRA
				Environment, Chapter V			
61	56, 62	6	rejected	Gen. Policies (+ HR, § 2), Ch. II	high	FIN	
				Disclosure, Chapter III			
				Environment, Chapter V			
62	56, 62	4	concluded	Gen. Policies (+ HR, § 2), Ch. II	high	SWE	FIN
				Disclosure, Chapter III			NOR
				Environment, Chapter V			
63	57	1	rejected	Disclosure, Chapter III	none	GER	
				Combating Bribery, Chapter VI			
				Consumer Interests, Chapter VII			
				Competition,Chapter IX			
64	74	2	rejected	Gen. Policies (+ HR, § 2), Ch. II	high	AUS	
				Disclosure, Chapter III			
				Environment, Chapter V			
65		2	withdrawn	Concepts and Principles, Chapter I	high	NL	
				Gen. Policies (+ HR, § 2), Ch. II			
				Empl. and Ind. Relations, Ch. IV			
66	31-39, 41-44	10	concluded	Gen. Policies (+ HR, § 2), Ch. II	high	UK	
				Empl. and Ind. Relations, Ch. IV			
				Combating Bribery, Chapter VI			
				Taxation, Chapter X			
67		3	closed	Gen. Policies (+ HR, § 2), Ch. II	high	Chile	
				Empl. and Ind. Relations, Ch. IV			
68		8	rejected	Gen. Policies, Chapter II	none	GER	
				Disclosure, Chapter III			
				Environment, Chapter V			
				Consumer Interests, Chapter VII			
				Taxation, Chapter X			
69		6	rejected	Combating Bribery, Chapter VI	linked	GER	
70	75	2	concluded	Concepts and Principles, Chapter I	high	AUS	UK
				Gen. Policies (+ HR, § 2), Ch. II			SUI
				Disclosure, Chapter III			
				Environment, Chapter V			
71	89	2	closed	Combating Bribery, Chapter VI	none	ARG	
				Taxation, Chapter X			
72	73	1	pending	Concepts and Principles, Chapter I	high	Korea	
				Gen. Policies (+ HR, § 2), Ch. II			
				Empl. and Ind. Relations, Ch. IV			
73	72	1	pending	Concepts and Principles, Chapter I	high	Korea	
				Disclosure, Chapter III			
				Empl. and Ind. Relations, Ch. IV			
				Combating Bribery, Chapter VI			
74	64	2	rejected	Gen. Policies (+ HR, § 2), Ch. II	high	NZL	
				Environment, Chapter V			
75	70	3	concluded	Concepts and Principles, Chapter I	high	AUS	SUI
				Disclosure, Chapter III			
				Environment, Chapter V			

76		1	concluded	Gen. Policies, Chapter II	linked	ARG	
				Empl. and Ind. Relations, Ch. IV			
				Combating Bribery, Chapter VI			
77		4	rejected	Gen. Policies, Chapter II	none	BEL	GER
				Disclosure, Chapter III			
				Combating Bribery, Chapter VI			
				Consumer Interests, Chapter VII			
78		2	rejected	Gen. Policies (+ HR, § 2), Ch. II	high	GER	
79		2	pending	Gen. Policies (+ HR, § 2), Ch. II	high	ARG	
				Disclosure, Chapter III			
				Environment, Chapter V			
80	81-82	4	closed	Gen. Policies (+ HR, § 2), Ch. II	high	IRE	CAN
				Environment, Chapter V			USA
							NOR
							NL
81	80-82	4	closed	Gen. Policies (+ HR, § 2), Ch. II	high	IRE	CAN
				Environment, Chapter V			USA
							NOR
							NL
82	80-82	4	closed	Gen. Policies (+ HR, § 2), Ch. II	high	IRE	CAN
				Environment, Chapter V			USA
							NOR
							NL
83		3	rejected	Gen. Policies (+ HR, § 2), Ch. II	high	NL	
				Environment, Chapter V			
84	85	5	rejected	Gen. Policies (+ HR, § 2), Ch. II	high	KOR	
				Disclosure, Chapter III			
				Empl. and Ind. Relations, Ch. IV			
				Environment, Chapter V			
85	84	5	rejected	Gen. Policies (+ HR, § 2), Ch. II	high	KOR	
				Disclosure, Chapter III			
				Empl. and Ind. Relations, Ch. IV			
				Environment, Chapter V			
86		6	concluded	Gen. Policies (+ HR, § 2), Ch. II	high	UK	
				Environment, Chapter V			
87		7	pending	Gen. Policies (+ HR, § 2), Ch. II	high	NOR	
				Environment, Chapter V			
				Combating Bribery, Chapter VI			
88		3	concluded	Gen. Policies, Chapter II	none	NOR	CAN
				Empl. and Ind. Relations, Ch. IV			CHL
				Environment, Chapter V			
89	71	1	closed	Combating Bribery, Chapter VI	none	ARG	
90		5	closed	Gen. Policies (+ HR, § 2), Ch. II	high	GER	
91				Gen. Policies, Chapter II	none	GER	
				Environment, Chapter V			
				Consumer Interests, Chapter VII			
92		4	closed	Gen. Policies, Chapter II	linked	SUI	
				Empl. and Ind. Relations, Ch. IV			
				Consumer Interests, Chapter VII			
93		8	closed	Gen. Policies (+ HR, § 2), Ch. II	high	CAN	

Annex II - Qualitative Summary Table - General, NCP

94		0	withdrawn	Gen. Policies (+ HR, § 2), Ch. II	high	NOR	
95	96	4	rejected	Gen. Policies, Chapter II	high	CAN	AUS
				Environment, Chapter V			USA
							UK
96	95	3	rejected	Gen. Policies, Chapter II	high	CAN	AUS
				Environment, Chapter V			USA
							UK
97		1	rejected	Concepts and Principles, Chapter I	high	GER	SWE
				Gen. Policies (+ HR, § 2), Ch. II			
98		2	pending	Gen. Policies (+ HR, § 2), Ch. II	high	UK	AUS
				Disclosure, Chapter III			
				Environment, Chapter V			
99	99-102, 107-109	1	filed	Gen. Policies (+ HR, § 2), Ch. II	high	GER	France
				Empl. and Ind. Relations, Ch. IV			SUI
100	99-102, 107-109	1	pending	Gen. Policies (+ HR, § 2), Ch. II	high	GER	France
				Empl. and Ind. Relations, Ch. IV			SUI
101	99-102, 107-109	1	pending	Gen. Policies (+ HR, § 2), Ch. II	high	GER	France
				Empl. and Ind. Relations, Ch. IV			SUI
102	99-102, 107-109	1	filed	Gen. Policies (+ HR, § 2), Ch. II	high	France	GER
				Empl. and Ind. Relations, Ch. IV			SUI
103	103-106	1	filed	Concepts and Principles, Chapter I	high	France	BEL
				Gen. Policies (+ HR, § 2), Ch. II			LUX
				Empl. and Ind. Relations, Ch. IV			
				Environment, Chapter V			
104	103-106	1	filed	Concepts and Principles, Chapter I	high	France	BEL
				Gen. Policies (+ HR, § 2), Ch. II			LUX
				Empl. and Ind. Relations, Ch. IV			
				Environment, Chapter V			
105	103-106	1	filed	Concepts and Principles, Chapter I	high	France	BEL
				Gen. Policies (+ HR, § 2), Ch. II			LUX
				Empl. and Ind. Relations, Ch. IV			
				Environment, Chapter V			
106	103-106	1	filed	Concepts and Principles, Chapter I	high	France	BEL
				Gen. Policies (+ HR, § 2), Ch. II			LUX
				Empl. and Ind. Relations, Ch. IV			
				Environment, Chapter V			

107	99-102,	2	pending	Gen. Policies (+ HR, § 2), Ch. II	high	UK	
	107-109			Empl. and Ind. Relations, Ch. IV			
108	99-102,	3	pending	Gen. Policies (+ HR, § 2), Ch. II	high	UK	
	107-109			Empl. and Ind. Relations, Ch. IV			
109	99-102,	3	pending	Gen. Policies (+ HR, § 2), Ch. II	high	SUI	UK
	107-109			Empl. and Ind. Relations, Ch. IV			GER
							France
110		1	filed	Gen. Policies, Chapter II	none	NL	
				Combating Bribery, Chapter VI			
111			pending	Disclosure, Chapter III	linked	NL	UK
				Environment, Chapter V			
				Consumer Interests, Chapter VII			
112		1	filed	Gen. Policies (+ HR, § 2), Ch. II	high	CAN	
				Environment, Chapter V			
113	114	3	filed	Gen. Policies, Chapter II	linked	CAN	SUI
				Taxation, Chapter X			
114	113	3	filed	Gen. Policies, Chapter II	linked	SUI	CAN
				Taxation, Chapter X			
115		1	filed	Gen. Policies (+ HR, § 2), Ch. II	high	IRL	
116	117	1	filed	Gen. Policies (+ HR, § 2), Ch. II	high	USA	JAP
				Disclosure, Chapter III			
				Environment, Chapter V			
117	116	1	filed	Gen. Policies (+ HR, § 2), Ch. II	high	USA	JAP
				Disclosure, Chapter III			
				Environment, Chapter V			
118		1	filed	Gen. Policies, Chapter II	none	AUS	
				Disclosure, Chapter III			
				Environment, Chapter V			
119		2	filed	Concepts and Principles, Chapter I	none	USA	France
				Environment, Chapter V			
				Combating Bribery, Chapter VI			
120		3	filed	Gen. Policies (+ HR, § 2), Ch. II	linked	ARG	
				Disclosure, Chapter III			
				Environment, Chapter V			
121		0	filed	Gen. Policies (+ HR, § 2), Ch. II	high	NL	
				Empl. and Ind. Relations, Ch. IV			

Annex II - Qualitative Summary Table - Company

	Company				
Case	**Name**	**Status**	**Country**	**Industry**	**C. of Viol.**
1	Ramco	violator	ZAM	mining & metal processing	
	Binani Inc.	responsible	IND	mining & metal processing	
2	Mayor & Company	Violator	IND	textiles & sports equ.	IND
	Adidas Benelux	responsible	NED	textiles & sports equ.	
	Mitre Sports	involved	UK	textiles & sports equ.	
3	Mayor & Company	Violator	IND	textiles & sports equ.	IND
	Ch. H. Kubbinga B.V.	responsible	NED	textiles & sports equ.	
4	Mopani Copper Mines	Violator	ZAM	mining & metal processing	ZAM
	First Quantum Minerals Ltd.	responsible	CAN	mining & metal processing	
	Glencore International	involved	SUI	mining & metal processing	
5	Congola Copper Mines	Violator	ZAM	mining & metal processing	ZAM
	Anglo American Plc.	responsible	UK	mining & metal processing	
6	Total Fina Elf GmbH	responsible	GER	Fossil Fuels & processing	RUS
7	Continental AG	violator	GER	Automobile Industry	MEX
	Euzkadi	involved	MEX	Automobile Industry	
8	Marine Harvest	violator	CHL	food industry, agriculture, fishery	CHL
	Nutreco Holding	responsible	NED	food industry, agriculture, fishery	
9	Panarub	violator	IDS	textiles & sports equ.	IDS
	Adidas	responsible	GER	textiles & sports equ.	
	PT Nikomas Gemilang	involved	IDS	textiles & sports equ.	
10	PT Nikomas Gemilang	violator	IDS	textiles & sports equ.	IDS
	Nike	responsible	USA	textiles & sports equ.	
11	Brylane Inc.,	violator	USA	textiles & sports equ.	USA
	Pinault-Printemps-Redoute	responsible	France	textiles & sports equ.	
	Gucci Group	involved	ITA	textiles & sports equ.	
12	First Quantum Minerals Ltd.	responsible	CAN	mining & metal processing	DRC
	First Quantum Minerals Ltd.	violator	CAN	mining & metal processing	
13	Ashanti Goldfields Ltd.	violator	GHA	mining & metal processing	GHA
	Atlas Copco Group	responsible	SWE	mining & metal processing	
	Sandvik AB	involved	SWE	mining & metal processing	
14	Ashanti Goldfields Ltd.	violator	GHA	mining & metal processing	GHA
	Sandvik AB	responsible	SWE	mining & metal processing	
	Atlas Copco Group	involved	SWE	mining & metal processing	
15	Baku-T'blisi-Ceyhan Consortium	violator	multin.	Fossil Fuels & processing	GEO
	ENI	responsible	Italy	Fossil Fuels & processing	
	Total Fina Elf GmbH	involved	France	Fossil Fuels & processing	
	BP p.l.c.	involved	UK	Fossil Fuels & processing	
	SOCAR	involved	USA	Fossil Fuels & processing	
	Unocal	involved	USA	Fossil Fuels & processing	
	ConocoPhilips	involved	USA	Fossil Fuels & processing	
	Statoil	involved	NOR	Fossil Fuels & processing	
	TPAO National Oil & Gas Company	involved	TUR	Fossil Fuels & processing	
	Itochu	involved	JAP	Fossil Fuels & processing	
	Inpex Corporation	involved	JAP	Fossil Fuels & processing	
	Delta Hess	involved	KSA	Fossil Fuels & processing	
16	Baku-T'blisi-Ceyhan Consortium	violator	multin.	Fossil Fuels & processing	GEO
	Total Fina Elf GmbH	responsible	France	Fossil Fuels & processing	
	ENI	involved	Italy	Fossil Fuels & processing	
	BP p.l.c.	involved	UK	Fossil Fuels & processing	
	SOCAR	involved	USA	Fossil Fuels & processing	
	Unocal	involved	USA	Fossil Fuels & processing	
	ConocoPhilips	involved	USA	Fossil Fuels & processing	
	Statoil	involved	NOR	Fossil Fuels & processing	
	TPAO National Oil & Gas Company	involved	TUR	Fossil Fuels & processing	
	Itochu	involved	JAP	Fossil Fuels & processing	
	Inpex Corporation	involved	JAP	Fossil Fuels & processing	
	Delta Hess	involved	KSA	Fossil Fuels & processing	

Annex II - Qualitative Summary Table - Company

17	Baku-T'blisi-Ceyhan Consortium	violator	multin.	Fossil Fuels & processing	GEO
	ENI	responsible	Italy	Fossil Fuels & processing	
	Total Fina Elf GmbH	involved	France	Fossil Fuels & processing	
	BP p.l.c.	involved	UK	Fossil Fuels & processing	
	SOCAR	involved	USA	Fossil Fuels & processing	
	Unocal	involved	USA	Fossil Fuels & processing	
	ConocoPhilips	involved	USA	Fossil Fuels & processing	
	Statoil	involved	NOR	Fossil Fuels & processing	
	TPAO National Oil & Gas Company	involved	TUR	Fossil Fuels & processing	
	Itochu	involved	JAP	Fossil Fuels & processing	
	Inpex Corporation	involved	JAP	Fossil Fuels & processing	
	Delta Hess	involved	KSA	Fossil Fuels & processing	
18	Baku-T'blisi-Ceyhan Consortium	violator	multin.	Fossil Fuels & processing	GEO
	Delta Hess	responsible	KSA./USA	Fossil Fuels & processing	
	Total Fina Elf GmbH	involved	France	Fossil Fuels & processing	
	BP p.l.c.	involved	UK	Fossil Fuels & processing	
	SOCAR	involved	USA	Fossil Fuels & processing	
	Unocal	involved	USA	Fossil Fuels & processing	
	ConocoPhilips	involved	USA	Fossil Fuels & processing	
	Statoil	involved	NOR	Fossil Fuels & processing	
	TPAO National Oil & Gas Company	involved	TUR	Fossil Fuels & processing	
	Itochu	involved	JAP	Fossil Fuels & processing	
	Inpex Corporation	involved	JAP	Fossil Fuels & processing	
	ENI	involved	Italy	Fossil Fuels & processing	
19	Baku-T'blisi-Ceyhan Consortium	violator	multin.	Fossil Fuels & processing	GEO
	ConocoPhilips	responsible	USA	Fossil Fuels & processing	
	Total Fina Elf GmbH	involved	France	Fossil Fuels & processing	
	BP p.l.c.	involved	UK	Fossil Fuels & processing	
	SOCAR	involved	USA	Fossil Fuels & processing	
	Unocal	involved	USA	Fossil Fuels & processing	
	Delta Hess	involved	KSA./USA	Fossil Fuels & processing	
	Statoil	involved	NOR	Fossil Fuels & processing	
	TPAO National Oil & Gas Company	involved	TUR	Fossil Fuels & processing	
	Itochu	involved	JAP	Fossil Fuels & processing	
	Inpex Corporation	involved	JAP	Fossil Fuels & processing	
	ENI	involved	Italy	Fossil Fuels & processing	
20	Baku-T'blisi-Ceyhan Consortium	violator	multin.	Fossil Fuels & processing	GEO
	Unocal	responsible	USA	Fossil Fuels & processing	
	Total Fina Elf GmbH	involved	France	Fossil Fuels & processing	
	BP p.l.c.	involved	UK	Fossil Fuels & processing	
	SOCAR	involved	USA	Fossil Fuels & processing	
	ConocoPhilips	involved	USA	Fossil Fuels & processing	
	Delta Hess	involved	KSA./USA	Fossil Fuels & processing	
	Statoil	involved	NOR	Fossil Fuels & processing	
	TPAO National Oil & Gas Company	involved	TUR	Fossil Fuels & processing	
	Itochu	involved	JAP	Fossil Fuels & processing	
	Inpex Corporation	involved	JAP	Fossil Fuels & processing	
	ENI	involved	Italy	Fossil Fuels & processing	
21	Baku-T'blisi-Ceyhan Consortium	violator	multin.	Fossil Fuels & processing	GEO
	BP p.l.c.	responsible	UK	Fossil Fuels & processing	
	Total Fina Elf GmbH	involved	France	Fossil Fuels & processing	
	Unocal	involved	USA	Fossil Fuels & processing	
	SOCAR	involved	USA	Fossil Fuels & processing	
	ConocoPhilips	involved	USA	Fossil Fuels & processing	
	Delta Hess	involved	KSA./USA	Fossil Fuels & processing	
	Statoil	involved	NOR	Fossil Fuels & processing	
	TPAO National Oil & Gas Company	involved	TUR	Fossil Fuels & processing	
	Itochu	involved	JAP	Fossil Fuels & processing	
	Inpex Corporation	involved	JAP	Fossil Fuels & processing	
	ENI	involved	Italy	Fossil Fuels & processing	
22	Cons. Heavy Crude Oil Pipeline ECU	violator	ECU	Fossil Fuels & processing	ECU
	Westdeutsche Landesbank AG	responsible	GER	Financing & Trade	
23	Eagle Wings Resources International	violator	USA	mining & metal processing	DRC
	Chemie Pharmacie Holland	responsible	NL	Pharmacy & Chemical industry	

Annex II - Qualitative Summary Table - Company

24	National Grid Transco plc	violator	UK	mining & metal processing	ZAM
	National Grid Transco plc	responsible	UK	mining & metal processing	
	Copperbelt Energy Corporation plc	involved	ZAM	mining & metal processing	
	Cinergy Corporation	involved	USA	mining & metal processing	
	Consolid. Copper Mines Invest. Holdings	involved	ZAM	mining & metal processing	
25	H.C. Stark	violator	GER	mining & metal processing	DRC
	H.C. Stark	responsible	GER	mining & metal processing	
26	Toyota Motor Corporation	violator	JAP	Automobile Industry	PHP
	Toyota Motor Corporation	responsible	JAP	Automobile Industry	
27	Houay Ho Power Limited	violator	Laos	Energy	LAO
	Tractebel Electricity & Gas Intern.	responsible	BEL	Energy	
28	Baku-T'blisi-Ceyhan-Consortium	violator	multin.	Fossil Fuels & processing	GEO
	ING	responsible	BEL	Financing & Trade	
	KBC	involved	BEL	Financing & Trade	
	Dexia	involved	BEL	Financing & Trade	
29	Baku-T'blisi-Ceyhan-Consortium	violator	multin.	Fossil Fuels & processing	GEO
	Dexia	responsible	BEL	Financing & Trade	
	KBC	involved	BEL	Financing & Trade	
	ING	involved	BEL	Financing & Trade	
30	Baku-T'blisi-Ceyhan-Consortium	violator	multin.	Fossil Fuels & processing	GEO
	KBC	responsible	BEL	Financing & Trade	
	Dexia	involved	BEL	Financing & Trade	
	ING	involved	BEL	Financing & Trade	
31	Ridgepoint Intern. Developments Ltd	violator	UK	mining & metal processing	DRC
	Ridgepoint Intern. Developments Ltd	responsible	UK	mining & metal processing	
	Gecamines	involved	DRC	mining & metal processing	
	Central Mining Group	involved	AUS	mining & metal processing	
32	Eagle Wings Resources International	violator	USA	mining & metal processing	DRC
	Alex Stewart (Assayer) Ltd.	responsible	UK	mining & metal processing	
33	Tremalt Ltd.	violator	UK	mining & metal processing	DRC
	Breco Business Group	responsible	UK	mining & metal processing	
34	Dairo Air Services	violator	UK	aircraft & military services	DRC
	Dairo Air Services	responsible	UK	aircraft & military services	
35	Avient Air	violator	UK	aircraft & military services	DRC
	Avient Air	responsible	UK	aircraft & military services	
	Oryx National Resources	involved	RSA	mining & metal processing	
36	Oryx National Resources	violator	RSA	mining & metal processing	DRC
	Sengamines	responsible	DRC	aircraft & military services	
	Operation Sovereign Legitimacy	involved	ZBW	aircraft & military services	
37	Groupe Traitement des Scories du Terril de Lumbumbashi, Ltd.	violator	DRC	mining & metal processing	DRC
	OM Group Inc	responsible	USA	Pharmacy & Chemical industry	
	George Forrest International S.A.	involved	BEL	mining & metal processing	
38	Eagle Wings Resources International	violator	USA	mining & metal processing	DRC
	Trinitech International Inc	responsible	USA	mining & metal processing	
39	Eagle Wings Resources Intern.	violator	USA	mining & metal processing	DRC
	Cabot Corporations	responsible	USA	mining & metal processing	
40	Proagro Seed Company Private Ltd	violator	IND	Pharmacy & Chemical industry	IND
	Bayer	responsible	GER	Pharmacy & Chemical industry	
41	Belgolaise	violator	BE	Financing & Trade	DRC
	Belgolaise	responsible	BE	Financing & Trade	
42	Nami Gems	violator	BE	mining & metal processing	DRC
	Nami Gems	responsible	BE	mining & metal processing	

Annex II - Qualitative Summary Table - Company

43	Cogecom	violator	BE	mining & metal processing	DRC
	Cogecom	responsible	BE	mining & metal processing	
44	George Forrest International	violator	BE	Fin. & Trade, mining & metal proc.	DRC
	George Forrest International	responsible	BE	Fin. & Trade, mining & metal proc.	
45	Nam Theun 2 Power Company	violator	LAO	Energy	LAO
	Electricité de France	responsible	France	Energy	
	Electr. Gen. Public Comp.of THA	involved	THA	Energy	
	Ital-Thai Dev. Public Company Limited	involved	THA	Energy	
	Electricité du Laos	involved	LAO	Energy	
46	Rolls Royce	violator	UK	automobile industry	UK
	Rolls Royce	responsible	UK	automobile industry	
47	Airbus	violator	France	aircraft & military services	UK
	Airbus	responsible	France	aircraft & military services	
48	BAE Systems	violator	UK	aircraft & military services	UK
	BAE Systems	responsible	UK	aircraft & military services	
49	Ascendant Copper Corporation	violator	CAN	mining & metal processing	ECU
	Ascendant Copper Corporation	responsible	CAN	mining & metal processing	
50	Grupo Votorantim	violator	BRA	mining & metal processing	BRA
	Grupo Votorantim	responsible	BRA	mining & metal processing	
	Alcoa Aluminios	involved	USA	mining & metal processing	
51	Grupo Votorantim	violator	BRA	mining & metal processing	BRA
	Grupo Votorantim	responsible	BRA	mining & metal processing	
	Alcoa Aluminios	involved	USA	mining & metal processing	
52	Global Solutions Limited	violator	AUS	Private & Public Services	AUS
	Global Solutions Limited	responsible	AUS	Private & Public Services	
53	Anvil Mining Corporation	violator	CAN	mining & metal processing	DRC
	Anvil Mining Corporation	responsible	CAN	mining & metal processing	
54	Aker Kvaerner ASA	violator	NOR	Private & Public Services	CUB
	Aker Kvaerner ASA	responsible	NOR	Private & Public Services	
55	Dalhoff, Larsen & Hornemann	violator	DEN	mining & metal processing	LIB
	Dalhoff, Larsen & Hornemann	responsible	DEN	mining & metal processing	
56	Oy Metsä-Botnia	violator	FIN	forrestry & wood processing	URU
	Oy Metsä-Botnia	responsible	FIN	forrestry & wood processing	
57	Ratiopharm	violator	NL	Pharmacy & Chemical Industry	GER
	Ratiopharm	responsible	NL	Pharmacy & Chemical Industry	
58	Royal Dutch Shell	violator	NL	Fossil Fuels & processing	PHP
	Royal Dutch Shell	responsible	NL	Fossil Fuels & processing	
59	Pool Sao Paolo	violator	BRA	infrastructure, construction	BRA
	Royal Dutch Shell	responsible	NL	Fossil Fuels & processing	
60	Pool Sao Paolo	violator	BRA	infrastructure, construction	BRA
	Exxon Mobile	responsible	USA	Fossil Fuels & processing	
61	Finnvera	violator	FIN	Financing & Trade	URU
	Finnvera	responsible	FIN	Financing & Trade	
62	Nordea	violator	SWE	Financing & Trade	URU
	Nordea	responsible	SWE	Financing & Trade	

Annex II - Qualitative Summary Table - Company

	Oy Metsä-Botnia	involved	FIN	forrestry & wood processing	
63	Ratiopharm	violator	NL	Pharmacy & Chemical Industry	GER
	Ratiopharm	responsible	NL	Pharmacy & Chemical Industry	
64	ANZ Bank	violator	AUS	Financing & Trade	PNG
	ANZ Bank	responsible	AUS	Financing & Trade	
65	Fibres and Fabrics International	violator	IND	textiles & sports equ.	IND
	G-Star International BV	responsible	NL	textiles & sports equ.	
66	Afrimex Ltd.	violator	UK	mining & metal processing	UK
	Afrimex Ltd.	responsible	UK	mining & metal processing	
67	Banco del Trabajo	violator	PER	Financing & Trade	PER
	Grupo Altas Cumbres	responsible	CHL	Financing & Trade	
68	Volkswagen AG	violator	GER	Automobile Industry	GER
	Volkswagen AG	responsible	GER	Automobile Industry	GER
69	57 german companies	violator + resp.	GER	n.a.	IRK
70	Correjon Coal	violator	COL	mining & metal processing	COL
	BHP Billiton	responsible	AUS	mining & metal processing	
71	Skanska	violator	SWE	Fossil Fuels & processing	ARG
	Skanska	responsible	SWE	Fossil Fuels & processing	
72	Phils. Jeon Garmet Inc.	violator	PHP	textiles & sports equ.	PHP
	Il-Kyoung Co. Ltd	responsible	KOR	textiles & sports equ.	
73	Chongwon Fashion .	violator	KOR	textiles & sports equ.	PHP
	Chongwon Trading	responsible	KOR	textiles & sports equ.	
74	ANZ Bank	violator	NZL	Financing & Trade	PNG
	ANZ Bank	responsible	NZL	Financing & Trade	
75	Correjon Coal	violator	COL	mining & metal processing	COL
	Xstrata	responsible	SUI	mining & metal processing	
	BHP Billiton	involved	AUS	mining & metal processing	
76	Accor Argentina	violator	ARG	Private & Public Services	ARG
	Accor Services	responsible	France	Private & Public Services	
	Sodexho Pass	involved	France	Private & Public Services	
77	Ratiopharm	violator	NL	Pharmacy & Chemical Industry	BEL
	Ratiopharm	responsible	NL	Pharmacy & Chemical Industry	
78	Volkswagen AG	violator	GER	automobile industry	CHN
	Volkswagen AG	responsible	GER	automobile industry	
79	Royal Dutch Shell	violator	NL	Oil Exploitation & processing	ARG
	Royal Dutch Shell	responsible	NL	Oil Exploitation & processing	
80	Royal Dutch Shell	violator	NL	Fossil Fuels & processing	IRL

Annex II - Qualitative Summary Table - Company

	Royal Dutch Shell	responsible	NL	Fossil Fuels & processing	
	Statoil	involved	NOR	Fossil Fuels & processing	
	Marathon Oil Corporation	involved	USA	Fossil Fuels & processing	
81	Marathon Oil Corporation	violator	USA	Fossil Fuels & processing	IRL
	Marathon Oil Corporation	responsible	USA	Fossil Fuels & processing	
	Statoil	involved	NOR	Fossil Fuels & processing	
	Royal Dutch Shell	involved	NL	Fossil Fuels & processing	
82	Statoil	violator	NOR	Fossil Fuels & processing	IRL
	Statoil	responsible	NOR	Fossil Fuels & processing	
	Marathon Oil Corporation	involved	USA	Fossil Fuels & processing	
	Royal Dutch Shell	involved	NL	Fossil Fuels & processing	
83	Makro Habib Pakistan Ltd.	violator	PAK	finance & trade	PAK
	SHV Holdings NV	responsible	NL	finance & trade	
84	Korea Gas Corporation	violator	KOR	energy	MYM
	DAEWOO International	responsible	KOR	finance & trade	
85	DAEWOO International	violator	KOR	finance & trade	MYM
	Korea Gas Corporation	responsible	KOR	energy	
86	Vedanta Resources plc	violator	UK	mining & metal processing	IND
	Vedanta Resources plc	responsible	UK	mining & metal processing	
87	Intex Resources	violator	NOR	mining & metal processing	PHP
	Intex Resources	responsible	NOR	mining & metal processing	
88	Cermaq ASA	violator	NOR	food industry, agriculture, fishery	CAN
	Cermaq ASA	responsible	NOR	food industry, agriculture, fishery	
89	Skanska	violator	SWE	Fossil Fuels & processing	ARG
	Skanska	responsible	SWE	Fossil Fuels & processing	
90	Neumann Kaffee Gruppe	violator	GER	food industry, agriculture, fishery	UGD
	Neumann Kaffee Gruppe	responsible	GER	food industry, agriculture, fishery	
91	Vattenfall AB	violator	SWE	energy	GER
	Vattenfall AB	responsible	SWE		
92	Triumph International	violator	SUI	textiles & sports equ.	THA,PHP
	Triumph International	responsible	SUI	textiles & sports equ.	
93	Goldcorp Inc	violator	CAN	mining & metal processing	GUA
	Goldcorp Inc	responsible	CAN	mining & metal processing	
94	Fugro Geoteam AS	violator	NOR	Fossil Fuels & processing	WSA
	Fugro Geoteam AS	responsible	NOR	Fossil Fuels & processing	
95	Ivanhoe Mines Ltd.	violator	CAN	mining & metal processing	MGL
	Ivanhoe Mines Ltd.	responsible	CAN	mining & metal processing	
	Rio Tinto International Holdings Ltd.	involved	UK/USA/CAN	mining & metal processing	
96	Rio Tinto International Holdings Ltd.	violator	UK/USA/CAN	mining & metal processing	MGL
	Rio Tinto International Holdings Ltd.	responsible	UK/USA/CAN	mining & metal processing	
	Ivanhoe Mines Ltd.	involved	CAN	mining & metal processing	
97	KfW IPEX-Bank	violator	GER	finance & trade	SWE
	KfW IPEX-Bank	responsible	GER	finance & trade	
98	BHP Billiton	violator	AUS/UK	mining & metal processing	MZB
	BHP Billiton	responsible	AUS/UK	mining & metal processing	

Annex II - Qualitative Summary Table - Company

99	Devcot S.A.	violator	France	textiles & sports equ.	UZB
	Devcot S.A.	responsible	France	textiles & sports equ.	
	Otto Stadtlander	involved	GER	textiles & sports equ.	
	Paul Reinhart AG	involved	SUI	textiles & sports equ.	
	ECOM Agroindus-trial Corp Ltd	involved	SUI	textiles & sports equ.	
	Cargill Cotton	involved	UK	textiles & sports equ.	
	ICT Cotton Limited	involved	UK	textiles & sports equ.	
	Louis Dreyfus Commodities SUI SA	involved	SUI	textiles & sports equ.	
100	ECOM Agroindus-trial Corp Ltd	violator	SUI	textiles & sports equ.	UZB
	ECOM Agroindus-trial Corp Ltd	responsible	SUI	textiles & sports equ.	
	Otto Stadtlander	involved	GER	textiles & sports equ.	
	Paul Reinhart AG	involved	SUI	textiles & sports equ.	
	Devcot S.A.	involved	France	textiles & sports equ.	
	Cargill Cotton	involved	UK	textiles & sports equ.	
	ICT Cotton Limited	involved	UK	textiles & sports equ.	
	Louis Dreyfus Commodities SUI SA	involved	SUI	textiles & sports equ.	
101	Paul Reinhart AG	violator	SUI	textiles & sports equ.	UZB
	Paul Reinhart AG	responsible	SUI	textiles & sports equ.	
	Otto Stadtlander	involved	GER	textiles & sports equ.	
	ECOM Agroindus-trial Corp Ltd	involved	SUI	textiles & sports equ.	
	Devcot S.A.	involved	France	textiles & sports equ.	
	Cargill Cotton	involved	UK	textiles & sports equ.	
	ICT Cotton Limited	involved	UK	textiles & sports equ.	
	Louis Dreyfus Commodities SUI SA	involved	SUI	textiles & sports equ.	
102	Otto Stadtlander	violator	GER	textiles & sports equ.	UZB
	Otto Stadtlander	responsible	GER	textiles & sports equ.	
	Paul Reinhart AG	involved	SUI	textiles & sports equ.	
	ECOM Agroindus-trial Corp Ltd	involved	SUI	textiles & sports equ.	
	Devcot S.A.	involved	France	textiles & sports equ.	
	Cargill Cotton	involved	UK	textiles & sports equ.	
	ICT Cotton Limited	involved	UK	textiles & sports equ.	
	Louis Dreyfus Commodities SUI SA	involved	SUI	textiles & sports equ.	
103	Compagnie Intern. de Cultures S.A.	violator	France	food industry, agriculture, fishery	CMR
	Compagnie Intern. de Cultures S.A.	responsible	France	food industry, agriculture, fishery	
	Bolloré S.A	involved	France	food industry, agriculture, fishery	
	Financière du champ de Mars S.A	involved	BEL	food industry, agriculture, fishery	
	Société fin. Luxembourgeoise SA	involved	LUX	finance & trade	
104	Société fin. Luxembourgeoise SA	violator	LUX	finance & trade	CMR
	Société fin. Luxembourgeoise SA	responsible	LUX	finance & trade	
	Bolloré S.A	involved	France	food industry, agriculture, fishery	
	Financière du champ de Mars S.A	involved	BEL	food industry, agriculture, fishery	
	Compagnie Intern. de Cultures S.A.	involved	France	food industry, agriculture, fishery	
105	Financière du champ de Mars S.A	violator	BEL	finance & trade	CMR
	Financière du champ de Mars S.A	responsible	BEL	finance & trade	
	Bolloré S.A	involved	France	food industry, agriculture, fishery	
	Société fin. Luxembourgeoise SA	involved	LUX	food industry, agriculture, fishery	
	Compagnie Intern. de Cultures S.A.	involved	France	food industry, agriculture, fishery	
106	Bolloré S.A	violator	France	finance & trade	CMR
	Bolloré S.A	responsible	France	finance & trade	
	Société fin. Luxembourgeoise SA	involved	LUX	food industry, agriculture, fishery	
	Financière du champ de Mars S.A	involved	BEL	food industry, agriculture, fishery	
	Compagnie Intern. de Cultures S.A.	involved	France	food industry, agriculture, fishery	
107	ICT Cotton Limited	violator	UK	textiles & sports equ.	UZB
	ICT Cotton Limited	responsible	UK	textiles & sports equ.	
	Paul Reinhart AG	involved	SUI	textiles & sports equ.	
	ECOM Agroindus-trial Corp Ltd	involved	SUI	textiles & sports equ.	
	Devcot S.A.	involved	France	textiles & sports equ.	
	Cargill Cotton	involved	UK	textiles & sports equ.	
	Otto Stadtlander	involved	GER	textiles & sports equ.	
	Louis Dreyfus Commodities SUI SA	involved	SUI	textiles & sports equ.	
108	Cargill Cotton	violator	UK	textiles & sports equ.	UZB
	Cargill Cotton	responsible	UK	textiles & sports equ.	
	Paul Reinhart AG	involved	SUI	textiles & sports equ.	
	ECOM Agroindus-trial Corp Ltd	involved	SUI	textiles & sports equ.	
	Devcot S.A.	involved	France	textiles & sports equ.	
	ICT Cotton Limited	involved	UK	textiles & sports equ.	
	Otto Stadtlander	involved	GER	textiles & sports equ.	

Annex II - Qualitative Summary Table - Company

	Louis Dreyfus Commodities SUI SA	involved	SUI	textiles & sports equ.	
109	Louis Dreyfus Commodities SUI SA	violator	SUI	textiles & sports equ.	UZB
	Louis Dreyfus Commodities SUI SA	responsible	SUI	textiles & sports equ.	
	Paul Reinhart AG	involved	SUI	textiles & sports equ.	
	ECOM Agroindus-trial Corp Ltd	involved	SUI	textiles & sports equ.	
	Devcot S.A.	involved	France	textiles & sports equ.	
	ICT Cotton Limited	involved	UK	textiles & sports equ.	
	Otto Stadtlander	involved	GER	textiles & sports equ.	
	Cargill Cotton	involved	UK	textiles & sports equ.	
110	ArcelorMittal	violator	LUX	mining & metal processing	LIB
	ArcelorMittal	responsible	LUX	mining & metal processing	
111	Royal Dutch Shell	violator	NL	Fossil Fuels & processing	NIG
	Royal Dutch Shell	responsible	NL	Fossil Fuels & processing	
112	Barrick Gold Corporation	violator	CAN	mining & metal processing	PNG
	Barrick Gold Corporation	responsible	CAN	mining & metal processing	
113	First Quantum Minerals Ltd	violator	CAN	mining & metal processing	ZAM
	First Quantum Minerals Ltd	responsible	CAN	mining & metal processing	
	Glencore International AG	involved	SUI	mining & metal processing	
114	Glencore International AG	violator	SUI	mining & metal processing	ZAM
	Glencore International AG	responsible	SUI	mining & metal processing	
	First Quantum Minerals Ltd	involved	CAN	mining & metal processing	
115	CRH	violator	IRL	infrastructure, construction	OPT
	CRH	responsible	IRL	infrastructure, construction	
116	J-Power	violator	JAP	Energy	USA
	J-Power	responsible	JAP	Energy	
	Usibelli Coal Mine Inc.	involved	USA	mining & metal processing	
117	Usibelli Coal Mine Inc.	violator	USA	mining & metal processing	USA
	Usibelli Coal Mine Inc.	responsible	USA	mining & metal processing	
	J-Power	involved	JAP	Energy	
118	Xstrata PLC	violator	SUI	mining & metal processing	ARG
	Xstrata PLC	responsible	SUI	mining & metal processing	
119	United Water	violator	USA	Private & Public Services	USA
	United Water	responsible	USA	Private & Public Services	
120	Barrick Gold Corporation	violator	CAN	mining & metal processing	ARG
	Barrick Gold Corporation	responsible	CAN	mining & metal processing	
121	Nidera	violator	NL	food industry, agriculture, fishery	ARG
	Nidera	responsible	NL	food industry, agriculture, fishery	

Annex II - Qualitative Summary Table - Complainants

	Complainants		
Case	**Name**	**Country**	**Type**
1	Afronet	Zambia	NGO, HR
	Rights and Accountability in Development	UK	NGO, HR, dev.
2	India Committee of the Netherlands	NED	NGO, solid.
3	India Committee of the Netherlands	NED	NGO, solid.
4	Afronet	Zambia	NGO, HR
	Oxfam Canada	CAN	NGO, multi, intern.
	DECOP		NGO
	Rights and Accountability in Development	UK	NGO, HR, dev.
5	Afronet	Zambia	NGO, HR
	Citizens for a better environment	Zambia	NGO, env.
	Rights and Accountability in Development	UK	NGO, HR, dev.
6	Greenpeace Germany	GER	NGO, env., intern.
7	Germanwatch	GER	NGO, multi
8	Centro Ecoceanos	CHL	NGO, env.
	FoE Netherlands	NED	NGO, env., intern.
9	Clean Clothes Campaign Austria	AUT	NGO, HR, env., intern.
	Clean Clothes Campaign Germany	GER	NGO, HR, env., intern.
	Südwind - Institut für Ökonomie und Ökomene	GER	Research Inst., chistian
10	Clean Clothes Campaign Austria	AUT	NGO, HR, env., intern.
	Clean Clothes Campaign Germany	GER	NGO, HR, env., intern.
	Global exchange	USA	NGO, multi
11	UNITE	UK	Trade Union
	FNV Mondiaal	NED	Trade Union
	Conf. Gen. du Traivail-Force Ouvriere	Frankreich	Trade Union
	Am. Fed. of Labor - Congress of Ind. Org.	USA	Trade Union
	Conféd. Française Démocratique du Travail	Frankreich	Trade Union
	Clean Clothes Campaign Austria	AUT	NGO, HR, env., intern.
12	Table de Concertation sur Droits Humains	DR Congo	NGO, HR
13	ATTAC Sweden	SWE	NGO, econ., intern.
	Friends of the Earth Sweden	SWE	NGO, env., intern.
14	ATTAC Sweden	SWE	NGO, econ., intern.
	Friends of the Earth Sweden	SWE	NGO, env., intern.l
15	Campagna Riforma della Banca Mondiale	ITA	NGO, economy
	World Economy, Ecology & Development	GER	Research Inst., multi
	FERN	BEL	
	FoE Netherlands	NED	NGO, env., intern.
	FoE UK	UK	NGO, env., intern.
	FoE Germany	GER	NGO, env., intern.
	FoE USA	USA	NGO, env., intern.
	Germanwatch	GER	NGO, multi
	PLATFORM	n.a.	n.a.
	The Corner House	UK	NGO, Multi
	urgewald e. V.	GER	NGO, env.
16	Campagna Riforma della Banca Mondiale	ITA	NGO, economy
	World Economy, Ecology & Development	GER	Research Inst., multi
	FERN	BEL	NGO, environment

Annex II - Qualitative Summary Table - Complainants

	FoE Netherlands	NED	NGO, env., intern.
	FoE UK	UK	NGO, env., intern.
	FoE Germany	GER	NGO, env., intern.
	FoE USA	USA	NGO, env., intern.
	Germanwatch	GER	NGO, multi
	PLATFORM	n.a.	n.a.
	The Corner House	UK	NGO, Multi
	urgewald e. V.	GER	NGO, environment
17	Campagna Riforma della Banca Mondiale	ITA	NGO, economy
	World Economy, Ecology & Development	GER	Research Inst., multi
	FERN	BEL	NGO, environment
	FoE Netherlands	NED	NGO, env., intern.
	FoE UK	UK	NGO, env., intern.
	FoE Germany	GER	NGO, env., intern.
	FoE USA	USA	NGO, env., intern.
	Germanwatch	GER	NGO, multi
	PLATFORM	n.a.	n.a.
	The Corner House	UK	NGO, Multi
	urgewald e. V.	GER	NGO, environment
18	Campagna Riforma della Banca Mondiale	ITA	NGO, economy
	World Economy, Ecology & Development	GER	Research Inst., multi
	FERN	BEL	NGO, environment
	FoE Netherlands	NED	NGO, env., intern.
	FoE UK	UK	NGO, env., intern.
	FoE Germany	GER	NGO, env., intern.
	FoE USA	USA	NGO, env., intern.
	Germanwatch	GER	NGO, multi
	PLATFORM	n.a.	n.a.
	The Corner House	UK	NGO, Multi
	urgewald e. V.	GER	NGO, environment
19	Campagna Riforma della Banca Mondiale	ITA	NGO, economy
	World Economy, Ecology & Development	GER	Research Inst., multi
	FERN	BEL	NGO, environment
	FoE Netherlands	NED	NGO, env., intern.
	FoE UK	UK	NGO, env., intern.
	FoE Germany	GER	NGO, env., intern.
	FoE USA	USA	NGO, env., intern.
	Germanwatch	GER	NGO, multi
	PLATFORM	n.a.	n.a.
	The Corner House	UK	NGO, Multi
	urgewald e. V.	GER	NGO, environment
20	Campagna Riforma della Banca Mondiale	ITA	NGO, economy
	World Economy, Ecology & Development	GER	Research Inst., multi
	FERN	BEL	NGO, environment
	FoE Netherlands	NED	NGO, env., intern.
	FoE UK	UK	NGO, env., intern.
	FoE Germany	GER	NGO, env., intern.
	FoE USA	USA	NGO, env., intern.
	Germanwatch	GER	NGO, multi
	PLATFORM	n.a.	n.a.
	The Corner House	UK	NGO, Multi
	urgewald e. V.	GER	NGO, environment
21	Campagna Riforma della Banca Mondiale	ITA	NGO, economy
	World Economy, Ecology & Development	GER	Research Inst., multi

Annex II - Qualitative Summary Table - Complainants

	FERN	BEL	NGO, environment
	FoE Netherlands	NED	NGO, env., intern.
	FoE UK	UK	NGO, env., intern.
	FoE Germany	GER	NGO, env., intern.
	FoE USA	USA	NGO, env., intern.
	Germanwatch	GER	NGO, multi
	PLATFORM	n.a.	n.a.
	The Corner House	UK	NGO, Multi
	urgewald e. V.	GER	NGO, environment
22	Greenpeace Germany	GER	NGO, intern., env.
23	Centre Nat. d'Appui au Dév. et à la Particip. Pop.	DR Congo	NGO, environment
	FoE Netherlands	NL	NGO, env., intern.
	IUCN Netherlands Committee	NL	NGO, environment
	Netherlands institute for Southern Africa	NL	NGO, solid., multi
	Oxfam Novib	NL	NGO, multi, intern.
	Programme d'Actions Locales	DR Congo	NGO, multi
	RECORE	n.a.	n.a.
24	Citizens for a better environment	USA	NGO, environment
25	Coalition against Bayer dangers	GER	NGO, specific, multi
26	Protest Toyota Campaign	JAP	NGO, specific, multi
	Toyota Motor Philippines Corp. Workers' Ass.	Philippines	Trade Union
27	Proyecto Gato	BEL	NGO, environment
28	Proyecto Gato	Bel	NGO, environment
29	Proyecto Gato	Bel	NGO, environment
30	Proyecto Gato	BEL	NGO, environment
31	Rights and Accountability in Development	UK	NGO, HR, dev.
32	Rights and Accountability in Development	UK	NGO, HR, dev.
33	Rights and Accountability in Development	UK	NGO, HR, dev.
34	Rights and Accountability in Development	UK	NGO, HR, dev.
35	Rights and Accountability in Development	UK	NGO, HR, dev.
36	Rights and Accountability in Development	UK	NGO, HR, dev.

Annex II - Qualitative Summary Table - Complainants

37	Rights and Accountability in Development	UK	NGO, HR, dev.
38	Friends of Earth USA	USA	NGO, env., intern.
	Rights and Accountability in Development	UK	NGO, HR, dev.
39	Friends of Earth USA	USA	NGO, env., intern.
	Rights and Accountability in Development	UK	NGO, HR, dev.
40	Coalition Against Bayer Dangers	GER	NGO, specific, multi
	Germanwatch	GER	NGO, multi
	Global March Against Child Labour	NL	NGO, HR
41	Proyecto Gato	USA	NGO, environment
	Rights and Accountability in Development	UK	NGO, HR, dev.
	Vlaamse Noord-Zuid beweging	BE	NGO, development
	Groupe Recherche pour une Stratégie écon. Alternative	BE	research inst., econ.
42	Proyecto Gato	USA	NGO, environment
	Rights and Accountability in Development	UK	NGO, HR, dev.
	Vlaamse Noord-Zuid beweging	BE	NGO, development
	Groupe Recherche pour une Stratégie écon. Alternative	BE	research inst., econ.
43	Proyecto Gato	USA	NGO, environment
	Rights and Accountability in Development	UK	NGO, HR, development
	Vlaamse Noord-Zuid beweging	BE	NGO, development
	Groupe Recherche pour une Stratégie écon. altern.	BE	research inst., econ.
44	Proyecto Gato	USA	NGO, environment
	Rights and Accountability in Development	UK	NGO, HR, dev.
	Vlaamse Noord-Zuid beweging	BE	NGO, development
	Groupe Recherche pour une Stratégie écon. altern.	BE	research inst., econ.
45	Campagna per la Riforma della Banca Mondiale	ITA	NGO, economy
	Finnish Asiatic Society	FIN	NGO, dev., solid.
	Friends of the Earth France	France	NGO, environment
	International Rivers Network	USA	NGO, environment
	Proyecto Gato	BE	NGO, environment
	World Rainforest Movement	multinational	NGO, environment
46	The Corner House	UK	NGO, Multi
47	The Corner House	UK	NGO, Multi
48	The Corner House	UK	NGO, Multi
49	Defensa y Conservación Ecológica de Intag	Ecuador	NGO, env.
	Les Ami(e)s de la Terre Canada	CAN	NGO, env., intern.
	Mining Watch Canada	CAN	NGO, multi
50	Movimento dos Atingidos por Barragens	BRA	NGO, civil soc., specific
	Terra de Direitos	BRA	NGO, multi
51	Movimento dos Atingidos por Barragens	BRA	NGO, civil society
	Terra de Direitos	BRA	NGO, multi

Annex II - Qualitative Summary Table - Complainants

52	Brotherhood of St Laurence	AUS	NGO, christian
	ChilOut	AUS	NGO, Multi
	Human Rights Council of Australia	AUS	NGO, Human Rights
	International Commission of Jurists	multinational	NGO, Human Rights
	Rights and Accountability in Development	UK	NGO, HR, dev.
53	L'Entraide Missionaire	CAN	NGO, christian, HR
	Rights and Accountability in Development	UK	NGO, HR, dev.
	Rights and Democracy	CAN	NGO, HR, dev.
54	Forum for Environment and Development	NOR	NGO, env., dev.
55	Nepenthes	DEN	NGO, environment
56	Fundación Centro de Der. Hum. y Ambiente	ARG	NGO, HR, env.
57	Transparency International	Germany	NGO, anti-corr., intern.
58	FoE Netherlands	NED	NGO, env., intern.
	FoE International	multinational	NGO, env., intern.
	The Fenceline Community For Human Safety	Phillipines	NGO, HR, env.
59	Coletivo Alternativa Verde	BRA	NGO, environment
	FoE Netherlands	NED	NGO, env., intern.
	FoE International	multinational	NGO, env., intern.
	SIPETROL	n.a.	n.a.
60	Coletivo Alternativa Verde	BRA	NGO, environment
	FoE Netherlands	NED	NGO, env., intern.
	FoE International	multinational	NGO, env., intern.
	SIPETROL	n.a.	n.a.
61	Fundación Centro de Der. Hum. y Ambiente	ARG	NGO, HR, env.
62	Fundación Centro de Der. Hum. y Ambiente	ARG	NGO, HR, env.
	The Bellona Foundation	NOR	NGO, environment
63	Transparency International	Germany	NGO, anti-corr., intern.
64	Centre for Env. Law and Community Rights	AUS	NGO, HR, environment
	Australian Conservation Foundation	AUS	NGO, environment
	Environmental Law Centre	AUS	Research Inst., public
	Human Rights Council of Australia	AUS	NGO, human rights
	PNG Eco-Forestry Forum	AUS	NGO, environment
65	Civil Initiatives for Development and Peace	India	Research Inst., HR, dev.
	Clean Clothes Campaign	NL	NGO, HR, env., intern.
	India Committee of the Netherlands	NL	NGO, solid.
	Garment and Textile Workers Union	NL	Trade Union
66	Global Witness	UK	NGO, Multi
67	Confederacion general de trabajoderes del Perú	Peru	Trade Union
	Centro de Est. Nac. de Desarrollo Alternativo	Chile	NGO, development
	Programa Laboral de Desarrollo	Peru	NGO, Human Rights
	Federación de Trabajadores Bancarios de Chile	Chile	Trade Union
68	Germanwatch	GER	NGO, Multi

Annex II - Qualitative Summary Table - Complainants

69	Transparency International	Germany	NGO, anti-corr., intern.
70	Arbeitsgruppe Schweiz-Kolumbien ask	Switzerland	NGO, solid.
	Corporación Colectivo de Abogados	COL	Trade Union
71	Centro de Invest. y Prevencion de la Criminalidad Econ.	ARG	NGO, anti-corr.
72	Workers Assistance Center, Inc.	KOR	Trade Union
	Korean House of International Solidarity	KOR	Trade Union
	Phils. Jeon Union	PHP	Trade Union
	Korean Confederation of Trade Unions	KOR	Trade Union
73	Workers Assistance Center, Inc.	KOR	Trade Union
	Korean House of International Solidarity	KOR	Trade Union
	Phils. Jeon Union	PHP	Trade Union
	Korean Confederation of Trade Unions	KOR	Trade Union
74	Centre for Environmental Law and Comm. Rights	AUS	NGO, HR, env.
	Australian Conservation Foundation	AUS	NGO, environment
	Environmental Law Centre	AUS	Research Inst., public
	Human Rights Council of Australia	AUS	NGO, human rights
	PNG Eco-Forestry Forum	AUS	NGO, environment
75	Arbeitsgruppe Schweiz-Kolumbien ask	Switzerland	NGO, solid.
	Corporación Colectivo de Abogados	COL	Trade Union
76	National Deputy Hector Recalde	ARG	private person
	Wortman Jofre Isola Abogados	ARG	private person
77	Transparency International	Germany	NGO, anti-corr., intern.
	Groupe de Recherche pour une Stratégie écon. Alternative	BEL	research inst., econ.
78	Gesellschaft für bedrohte Völker	GER	NGO, human rights
79	Foro para la Participación Ciudadana	ARG	NGO, civil society
	Friends of the Earth Argentina	ARG	NGO, env., intern.
80	Pobal Chill Chomain, Rossport, Ballina, Co Mayo	IRE	NGO, civil society
	Action from Ireland	IRE	NGO, human rights
	Association SHERPA	France	NGO, HR, development
81	Pobal Chill Chomain, Rossport, Ballina, Co Mayo	IRE	NGO, civil society
	Association SHERPA	France	NGO, HR, development
	Action from Ireland	IRE	NGO, human rights
82	Pobal Chill Chomain, Rossport, Ballina, Co Mayo	IRE	NGO, civil society
	Association SHERPA	France	NGO, HR, development
	Action from Ireland	IRE	NGO, human rights
83	Shehri Citizens for a Better Environment	PAK	NGO, environment
84	Citizen’s Action Network		NGO, civil society

Annex II - Qualitative Summary Table - Complainants

	Burma Action Korea	Korea	NGO, solid.
	EarthRights International	USA	NGO, HR, env.
	Human Rights Solidarity for New Society	Korea	NGO, human rights
	People for Democracy in Burma	USA	NGO, solid., HR
	The Association for Migrant Workers' HR	Korea	NGO, human rights
	Writers for Democracy in Burma	USA	NGO, solid.
	Korean Confederation of Trade Unions	Korea	Trade Union
	Korean House of International Solidarity	Korea	Trade Union
	Federations of Korean Trade Unions	Korea	Trade Union
85	Citizen's Action Network	n.a.	NGO, civil society
	Burma Action Korea	Korea	NGO, solid.
	EarthRights International	USA	NGO, HR, env.
	Human Rights Solidarity for New Society	Korea	NGO, human rights
	People for Democracy in Burma	USA	NGO, solid., HR
	The Association for Migrant Workers' HR	Korea	NGO, human rights
	Writers for Democracy in Burma	USA	NGO, solid.
	Korean Confederation of Trade Unions	Korea	Trade Union
	Korean House of International Solidarity	Korea	Trade Union
	Federations of Korean Trade Unions	Korea	Trade Union
86	Survival International	UK	NGO, human rights
87	Future in Our Hands	NOR	NGO, environment
88	Norges Naturvernforbund	NOR	NGO, environment
	Forum for Environment and Development	NOR	NGO, Multi
89	Centro de Inv. y Prev. de la Criminalidad Econ.	ARG	NGO, anti-corruption
90	Foodfirst Information & Action Network	GER	NGO, multi
	Wake up and fight for your rights Madudu Group	France	NGO, civil society
91	Greenpeace Germany	GER	NGO, env., intern.l
92	Bagong Pagkakaisa ng mga M. sa Triumph Int. Phils.	Philippines	NGO, human rights
	Defend Job Philippines Organization Inc.	Philippines	Trade Union
	Thai Labour Campaign	Thailand	Trade Union
	Triumph International Thailand Labour	Thailand	Trade Union
93	Coal. for the Defense of San Miguel Ixtahuacán	Guatemala	NGO, civil society
	Center for International Environmental Law	USA	research inst., env., HR
94	Norwegian Support Committee for Western Sahara	NOR	NGO, solid.
95	Oyu Togloi Watch	Mongolia	NGO, specific, multi
96	f	Mongolia	NGO, specific, multi
97	Saami Council	multinational	NGO, civil soc.
98	Justica Ambiental	Mozambique	NGO, env.
99	Association SHERPA	France	NGO, HR, dev.
	European Center for Constitutional and HR	GER	research inst., HR
	Uzbek German Forum	GER	NGO, solid., HR

Annex II - Qualitative Summary Table - Complainants

100	Association SHERPA	France	NGO, HR, dev.
	European Center for Constitutional and HR	GER	research inst., HR
	Uzbek German Forum	GER	NGO, solid., HR
101	Association SHERPA	France	NGO, HR, dev.
	European Center for Constitutional and HR	GER	research inst., HR
	Uzbek German Forum	GER	NGO, solid., HR
102	Association SHERPA	France	NGO, HR, dev.
	European Center for Constitutional and HR	GER	research inst., HR
	Uzbek German Forum	GER	NGO, solid., HR
103	Association SHERPA	France	NGO, HR, dev.
	Centre pour l'Environnement et le Développement	CAM	NGO, env., dev.
	FOCARFE	CAM	NGO, environment
	Misereor Geschaeftsstelle	GER	Institution, christian
104	Association SHERPA	France	NGO, HR, development
	Centre pour l'Environnement et le Développement	CAM	NGO, env., dev.
	FOCARFE	CAM	NGO, environment
	Misereor Geschaeftsstelle	GER	Institution, christian
105	Association SHERPA	France	NGO, HR, development
	Centre pour l'Environnement et le Développement	CAM	NGO, env., dev.
	FOCARFE	CAM	NGO, environment
	Misereor Geschaeftsstelle	GER	Institution, christian
106	Association SHERPA	France	NGO, HR, dev.
	Centre pour l'Environnement et le Développement	CAM	NGO, env., dev.
	FOCARFE	CAM	NGO, environment
	Misereor Geschaeftsstelle	GER	Institution, christian
107	Association SHERPA	France	NGO, HR, development
	European Center for Constitutional and Human Rights	GER	research inst., HR
	Uzbek German Forum	GER	NGO, solid., HR
108	Association SHERPA	France	NGO, HR, dev.
	European Center for Constitutional and Human Rights	GER	research institute, HR

	Uzbek German Forum	GER	NGO, solid., HR
109	Association SHERPA	France	NGO, HR, dev.
	European Center for Constitutional and Human Rights	GER	research inst., HR
	Uzbek German Forum	GER	NGO, solid., HR
110	Friends of the Earth Europe	multinational	NGO, environment
	Sustainable Development Institute Liberia	Liberia	NGO, environment
111	Amnesty International Secretariat	multinational	NGO, human rights
	FoE Nederland	NL	NGO, environment
	FoE International	multinational	NGO, environment
112	Porgera SML Landowners Association	Papua New Guinea	NGO, specific, civil s.
	Akali Tange Association	Papua New Guinea	n.a.
	Mining Watch Canada	CAN	NGO, multi
113	Association SHERPA	France	NGO, HR, dev.
	Berne Declaration	Switzerland	NGO, dev., multi
	Centre for Trade Policy and Devepment	Zambia	NGO, dev., econ.
	L'Entraide Missionaire	CAN	NGO, christian, HR
	Mining Watch Canada	CAN	NGO, multi
114	Association SHERPA	France	NGO, HR, development
	Berne Declaration	Switzerland	NGO, dev., multi
	Centre for Trade Policy and Devepment	Zambia	NGO, dev., econ.
	L'Entraide Missionaire	CAN	NGO, christian, HR
	Mining Watch Canada	CAN	NGO, multi
115	The Ireland-Palestine Solidarity Campaign	IRL	NGO, solid.
116	Chickaloon Native Village Traditional Council	USA	NGO, civil society
117	Chickaloon Native Village Traditional Council	USA	NGO, civil society
118	Center for Human Rights and Environment	ARG	NGO, env., HR
119	Food and Water Watch	USA	NGO, multi
	Utility Workers Union of America	USA	Trade Union
120	Foro para la Participación Ciudadana	ARG	NGO, civil society
121	Center for Human Rights and Environment	ARG	NGO, env., HR
	Oxfam Novib	NL	NGO, multi, intern.
	SOMO	NL	research inst., econ.

Annex II - Qualitative Summary Table - Timeframe, Remarks

	Time				Add. Remarks
Case	**Filed**	**file-ia**	**ia - f**	**total**	**reason for non-conclusion**
1	5/2001	1	24	25	bankrupcy of violator
2	6/2001		18	18	
3	6/2001	28		28	investment nexus
4	7/2001	7		7	
5	2/2002		148	148	unwill, "waste of time"
6	4/2002	13		13	investment nexus
7	5/2002		32	32	
8	8/2002		15	15	
9	9/2002	6	15	21	
10	9/2002	21		21	NCP USA: "adressed through other appropriate means"
11	10/2002				
12	122002				NCP never filed decision
13	2/2003	1	3	4	
14	2/2003	1	3	4	
15	9/2004	30		30	UK records status as lead NCP
16	4/2003	30		30	UK records status as lead NCP

Annex II - Qualitative Summary Table - Timeframe, Remarks

17	4/2003	30		30	UK records status as lead NCP
18	4/2003	30		30	UK records status as lead NCP
19	4/2003	30		30	UK records status as lead NCP
20	4/2003	30		30	UK records status as lead NCP
21	4/2003	30	124	154	

Annex II - Qualitative Summary Table - Timeframe, Remarks

22	5/2003	5		5	lack of investment nexus
23	7/2003	3	7	10	
24	7/2003	24		24	closed due to "want of prosecution"
25	10/2003	3		3	n.a.
26	3/2004	84		84	blocked; "no time limit specified for initial assessment"
27	4/2004		15	15	
28	5/2004				forward to UK-NCP, UK-NCP: "Not responsible for belgian banks."
29	5/2004				forward to UK-NCP, UK-NCP: "Not responsible for belgian banks."
30	5/2004				forward to UK-NCP, UK-NCP: "Not responsible for belgian banks."
31	6/2004		32	32	dropped by complainant, UN Panel resolved issues
32	6/2004		32	32	dropped by complainant, UN Panel resolved issues
33	6/2004		32	32	dropped by complainant, UN Panel resolved issues
34	6/2004		49	49	
35	6/2004	4		4	
36	6/2004		12	12	
37	8/2004				
38	8/2004				n.a.

Annex II - Qualitative Summary Table - Timeframe, Remarks

39	8/2004	1		1	allegations "have not been adequately substantiated, denied by the firms concerned and called into doubt by the party that originally made them". The NCP is "prepared to make further inquiries with the UN regarding the availability of any further information on the US firms mentioned in the UN Panel's report"
40	10/2004		35	35	
41	8/2004	8		8	ongoing legal procedures
42	11/2004	19		19	things have changed for the better since the facts of the case, no investment nexus
43		8		8	ongoing legal procedures
44	11/2004		12	12	
45	11/2004		7	7	
46	4/2005		67	67	
47	4/2005		67	67	
48	4/2005		67	67	
49	5/2005		10	10	
50	6/2005				blocked; reason not available
51	6/2005				blocked; reason not available
52	6/2005		11	11	
53	6/2005				Anvil Mining denies unfounded allegation
54	6/2005		5	5	
55	3/2006	3	48	51	

Annex II - Qualitative Summary Table - Timeframe, Remarks

56	4/2006	8		8	rejection of specific instance => legal complaint "rejection was ilegal
57	4/2006	n.a.	n.a.		
58	5/2006		40	40	
59	5/2006	n.a.	n.a.		
60	n.a.	n.a.	n.a.		
61	6/2006	5		5	Finnvera is not a multinational enterprise and the Guidelines cannot be considered
62	6/2006	5	15	20	
63	7/2006	6		6	"to be dealt with by the NCPs of the countries where the alleged misbehaviour occurred, i.e. Belgium, Canada, Estonia, and Spain."
64	8/2006	2		2	ANZ's loans and guarantees do not constitute an "investment nexus" between the bank and the logging company
65	10/2006		15	15	G-Star has repaired its relations with FFI/JKPL
66	2/2007		18	18	
67	4/2007	1		1	subsidiary "Banco del Trabajo" sold to Scotiabank Group (CAN)
68	5/2007	6		6	non of the issues are regarded violations of the OECD Guidelines
69	6/2007	3		3	"trade is not covered by the OECD Guidelines and ongoing parallel procedures preclude the NCP's handling the case."
70	6/2007		24	24	
71	9/2007	3	10	13	rejected the request for intervention by the Investment Committee, arguing that the committee does not have the ability to interpret the Guidelines.
72	9/2007	48		48	

Annex II - Qualitative Summary Table - Timeframe, Remarks

73	9/2007	2		2	"because of the close down of both the Philippine branch and the head office in Korea."
74	9/2007	7		7	ANZ's loans and guarantees do not constitute an "investment nexus" between the bank and the logging company
75	10/2007		21	21	
76	11/2007	n.a.	n.a.		
77	1/2008	7		7	alleged violations are commonplace in the generic drugs sector and thus not specific to this company
78	4/2008	2		2	n.a.
79	5/2008	4			
80	8/2008		24	24	
81	8/2008		24	24	
82	8/2008		24	24	
83	10/2008		15	15	investment nexus has ceased to exist
84	10/2008	1		1	n.a.
85	10/2008	1		1	n.a.

Annex II - Qualitative Summary Table - Timeframe, Remarks

86	12/2008	4	6	10	
87	1/2009	14		14	pending
88	5/2009	12	16	28	
89	5/2009	6		6	closing both cases without making an evaluation of the validity of the allegations
90	6/2009	14	8	22	
91	10/2009	6		6	some of the allegations were not substantiated, some did not fall under the jurisdiction of the OECD Guidelines, and some were already being dealt with in the German courts
92	12/2009		12	12	
93	12/2009		17	17	
94	2/2010		13	13	Fugro NV endorsed its subsidiarys statement and announced that it would terminate its involvement in Western Sahara
95	4/2010	10		10	
96	4/2010	10		10	
97	4/2010	2		2	"complaint did not merit being accepted as a specific instance."
98	10/2010	4		4	
99	10/2010				
100	10/2010	6		6	
101	10/2010	6		6	
102	10/2010				

Annex II - Qualitative Summary Table - Timeframe, Remarks

103	10/2010				
104	12/2010				
105	12/2010				
106	12/2010				
107	12/2010	3		3	
108	12/2010	3	6	9	
109	12/2010	3	6	9	
110	1/2011				
111	1/2011	1		1	
112	3/2011				
113	4/2011				

Annex II - Qualitative Summary Table - Timeframe, Remarks

114	4/2011				
115	5/2011				
116	5/2011				
117	5/2011				
118	6/2011				
119	6/2011				
120	6/2011				
121	6/2011				

Annex III – Abbreviations and Legend

ANNEX III - Abbreviations and Legend

Abbreviations & Legend

(Sub-) Cathegory	Value	Explanation	Sub-Cath.

Status

filed	**1**	Case opened by a certain complainant
rejected	**2**	filed case *not* accepted and declared *non*-eligible after initial assessment by the NCP
pending	**3**	filed case accepted and declared eligible after initial assessment by the NCP
withdrawn	**4**	accepted or filed case withdrawn by the complainant
blocked	**5**	accepted or filed case blocked by the respective NCP
closed/concluded	**6**	final statement by the NCP and/or agreement between the parties after a mediation process

OECD Guidelines Topics

Chapter 1	**1**	Concept and Principles
Chapter 2, type a	**2**	General Principles containing § 2.2 - Human Rights explicitely mentioned
Chapter 2, type b	**3**	General Principles without § 2.2 - Human Rights *not* explicitely mentioned
Chapter 3	**4**	Disclosure
Chapter 4	**5**	Employment and Industrial Relations
Chapter 5	**6**	Environment
Chapter 6	**7**	Combating Bribery
Chapter 7	**8**	Consumer Interests
Chapter 8	**9**	Science and Technology
Chapter 9	**10**	Competition
Chapter 10	**11**	Taxation

Human Rights Connex

none	**0**	no connection to human rights topics
linked	**1**	some connection to human rights topics
high	**2**	highly connected to human rights topics, human rights topic itself; containing §2.2

Country codes of NCPs/Companies/Complainants/Violations

UK	**1**	United Kingdom	**EU - Member States (1)**
NL	**2**	Netherlands	
GER	**3**	Germany	
AUT	**4**	Austria	
France	**5**	France	
ITA	**6**	Italy	
SWE	**7**	Sweden	
BEL	**8**	Belgium	
IRL	**9**	Ireland	
DEN	**10**	Denmark	
FIN	**11**	Finland	
LUX	**12**	Luxembourg	
NOR	**13**	Norway	**European Non-EU (2)**
SUI	**14**	Switzerland	
TUR	**15**	Turkey	
GEO	**16**	Georgia	
RUS	**17**	Russia	
USA	**18**	USA	**N-America + Oceania (3)**
CAN	**19**	Canada	
AUS	**20**	Australia	
NZL	**21**	New Zealand	
BRA	**22**	Brazil	**Latin-America (4)**
ARG	**23**	Argentina	
CHL	**24**	Chile	
MEX	**25**	Mexiko	
ECU	**26**	Ecuador	
COL	**27**	Colombia	
PER	**28**	Peru	
CUB	**29**	Cuba	
URU	**30**	Uruguay	
GUA	**31**	Guatemala	

ANNEX III - Abbreviations and Legend

JAP	**32**	Japan	**Asia (5)**
KOR	**33**	Korea	
IND	**34**	India	
CHN	**35**	China	
IDS	**36**	Indonesia	
THA	**37**	Thailand	
PHP	**38**	Philippines	
LAO	**39**	Laos	
MYM	**40**	Myanmar	
PNG	**41**	Papua New Guinea	
PAK	**42**	Pakistan	
UZB	**43**	Uzbekistan	
MGL	**44**	Mongolia	
KSA	**45**	Saudi Arabia	**Arab Countries (6)**
OPT/ISR	**46**	Occupied Palestine Territorries/Israel	
IRQ	**47**	Iraq	
WSA	**48**	West-Sahara/Marroq	
GHA	**49**	Ghana	**Africa (7)**
ZAM	**50**	Zambia	
DRC	**51**	DR Congo	
ZBW	**52**	Zimbabwe	
RSA	**53**	Republic of South Africa	
CMR	**54**	Cameroon	
MZB	**55**	Mozambique	
LIB	**56**	Liberia	
UGA	**57**	Uganda	
	58	Nigeria	
multin.	**59**	multinational/international/transnational	

Accused Companies - Industrial Sectors

mining & metal processing	**1**	mining companies, metal producers, raw materials and metal traders	**natural products & processing**
Fossil Fuels & processing	**2**	Oil raffineries, oil fields, pipeline operators, companies and their consortia	
forestry & wood processing	**3**	Plantations of Woods, Deforestation, Wood Processors, Furniture Producers	
Energy	**4**	Energy Provider, Power Plants, …	
food industry, agriculture, fishery	**5**	Palm Oil Producers, Plantations, Aquacultures, Crop Dealers	
p & p infrastructure, construction	**6**	private and public infrastructure and construction enterprises	**technicized mafucturing industry**
Automobile Industry	**7**	Car manufacturing, Retailers, Suppliers	
textiles & sports equ.	**8**		
Pharmacy & Chemical industry	**9**		
Financing & Trade	**10**	Banking Services, Traders, Wholesale Houses, Holdings, Insurance Companies, Funds…	**Public & Private Services**
aircraft & military services	**11**		
Private & Public Services	**12**	outsourced Services of a state, Water supply, refugee camps	

ANNEX III - Abbreviations and Legend

Complainants - Sectors of Activities

national	**1xxx**	activities and structure of an organization bordered by national frontiers	**Scope**
intern.	**2xxx**	international	

NGO	**x1xx**	non-governmental organization	**Type of Organization**
Research Ist.	**x3xx**	research based organization or institute, public	
Trade Union	**x5*yy***	association of workers in order to express, bargain and achieve the workers' interests and rights, combined with industrial sectors (view above)	
other	**x7xx**		

HR	***xx01***	explicit and sole human rights focus	**Human Rights**
HR, env.	**xx02**	combined environmental & human rights focus	
HR, dev.	***xx03***	combined human rights & development focus	
other HR combinations	**xx04**	human rights & solidarity, human rights & anti-corruption…	
env.	***xx05***	explicit and sole environmental focus	**Environ ment**
env., dev.	**xx06**	combined environmental & development focus	
other env. combinations	***xx07***	environment & anti-corruption,…	
dev.	**xx08**	explicit and sole development issues in general	**Develop ment**
other dev. combinations	***xx09***	development & civil society,…	
econ.	**xx10**	organization or institution whose interests lie mainly upon economic topics	**Economy**
other econ. Combinations	***xx11***	every combination with economic focus except the above mentioned	
solid.	**xx12**	solidarity committee or organization	**others**
anti-corruption	***xx13***	focussed on reducing corruption, bribery and intransparency	
specific, (multi)	**xx14**	organization or institution founded in order to survey a specific company, project or sector, often with multidisciplinary (HR, env.,…) orientation	
civil society	**xx15**	formed to strengthen the civil society, grassroot organization, multidisciplinary, used as forum	
multi	**xx16**	organization or institution acting in 3 or more disciplines and sectors	

examples:	
FoE Netherlands	2102
Transparency International	2106
US Mining Workers Union	1501
BIM	1301
WIFO	1310

Time

file-ia	time frame from the filing of a case until the NCP finalizes the initial assessment (in months)
ia - f	time frame from the acceptance until the finalization (conclusion, withdrawal,…) of a case (in months)
total	total amount of elapsed time from the filing date until the finalization (*rejection,* conclusion, withdrawal,…) of a case (in months)

2001	1	filed in the year of 2001
2002	2	filed in the year of 2002
2003	3	filed in the year of 2003
2004	4	filed in the year of 2004
2005	5	filed in the year of 2005
2006	6	filed in the year of 2006
2007	7	filed in the year of 2007
2008	8	filed in the year of 2008
2009	9	filed in the year of 2009
2010	10	filed in the year of 2010
2011	11	filed in the year of 2011

Annex IV – Quantitative Summary Table of Cases, Numeric Values

Annex IV - Numeric Values - General Information, Companies

General Information								Accused Companies																
Case	Status	HR connex	NCP lead	NCP inv. 1	NCP inv. 2	NCP inv. 3	NCP inv. 4	Viol. C.	Viol. S.	Resp. C.	Resp. S.	viol = resp[1]	*inv. 1*	*inv. 2*	*inv. 3*	*inv. 4*	*inv. 5*	*inv. 6*	*inv. 7*	*inv. 8*	*inv. 9*	*inv. 10*	*# of inv. Ind. C.* [2]	*# of inv. Dev. & Em. C.*
1	4	2	1					50	1	34	1												0	2
2	6	2	2					34	8	2	8		1										2	1
3	2	2	2					34	8	2	8												1	1
4	6	2	18					50	1	19	1		14										2	1
5	6	2	1					50	1	1	1												1	1
6	2	2	3					3	2														1	0
7	6	2	25	3				3	7	25	7												1	1
8	6	1	24	2				24	5	2	5												1	1
9	6	2	3	4				36	8	3	8		36										1	2
10	2	2	18	4				36	8	18	8												1	1
11	4	2	4					18	8	5	8		6										3	0
12	6	0	18					19	1	17	1												2	0
13	6	2	7					49	1	7	1		7										2	1
14	6	2	7					49	1	7	1		7										2	1
15	2	0	5	1				59	2	6	2		5	1	18	18	18	13	15	32	32	45	9	2
16	3	0	6	1				59	2	5	2		6	1	18	18	18	13	15	32	32	45	9	2
17	3	0	6	1				59	2	6	2		5	1	18	18	18	13	15	32	32	45	9	2
18	3	0	18	1				59	2	45	2		5	1	18	18	18	13	15	32	32	6	9	2
19	3	0	18	1				59	2	18	2		5	1	35	18	18	13	15	32	32	6	9	2
20	3	0	18	1				59	2	18	2		5	1	35	18	18	13	15	32	32	6	9	2
21	6	0	1	3	15	5		59	2	1	2		5	35	18	18	18	13	15	32	32	6	9	2
22	2	2	3					26	2	3	10												1	1
23	2	2	2					18	1	2	9												2	0
24	6	1	1					1	1	1	1	1	50	18	50								2	2
25	2	2	3					3	1	3	1	1											1	0
26	5	2	32					32	7	32	7	1											1	0
27	6	2	8					39	4	8	4												1	1
28	5	1	8	1				59	1	8	10		8	8									3	0
29	5	1	8	1				59	1	8	10		8	8									3	0
30	5	1	8	1				59	1	8	10		8	8									3	0
31	4	0	1					1	1	1	1	1	51	20									2	1
32	4	2	1					18	1	1	1												2	0
33	4	2	1					1	1	1	1												2	0
34	6	2	1					1	11	1	11	1											1	0
35	6	2	1					1	11	1	11	1	53										1	1
36	6	2	1					53	1	51	11		52										0	3
37	6	2	1					51	1	18	9		8										2	1
38	2	2	18					18	1	18	1												2	0
39	2	2	18					18	1	18	1												2	0

Annex IV - Numeric Values - General Information, Companies

40	6	2	3					34	9	3	9												1	1
41	2	2	8					8	10	8	10	1											1	0
42	2	2	8					8	1	8	1	1											1	0
43	2	2	8					8	1	8	10	1											1	0
44	6	2	8					8	1	8	10	1											1	0
45	6	2	5					39	4	5	4		37	37	39								1	4
46	6	0	1					1	7	1	7	1											1	0
47	6	0	1	5				5	11	5	11	1											1	0
48	6	0	1					1	11	1	11	1											1	0
49	4	2	19					19	1	19	1	1											1	0
50	5	2	22					22	1	22	1	1	18										1	1
51	5	2	22					22	1	22	1	1	18										1	1
52	6	2	20	1				20	12	20	12	1											1	0
53	2	2	19					19	1	19	1	1											1	0
54	6	2	13					13	12	13	12	1											1	0
55	6	2	10					10	1	10	1	1											1	0
56	6	2	11					11	3	11	3	1											1	0
57	2	0	3					2	9	2	9	1											1	0
58	6	1	2					2	2	2	2	1											1	0
59	2	1	2	22				22	6	2	2												1	1
60	2	1	2	22				22	6	18	2												1	1
61	2	2	11					11	10	11	10	1											1	0
62	6	2	7	11	13			7	10	7	10	1	11										2	0
63	2	0	3					2	9	2	9	1											1	0
64	2	2	20					20	10	20	10	1											1	0
65	4	2	2					34	8	2	8												1	1
66	6	2	1					1	1	1	1	1											1	0
67	6	2	24					28	10	24	10												0	2
68	2	0	3					3	7	3	7	1											1	0
69	2	1	3					3		3													2	0
70	6	2	20	1	14			27	1	20	1												1	1
71	6	0	23					7	1	7	1	1											1	0
72	3	2	33					38	8	33	8												1	1
73	3	2	33					33	8	33	8	1											1	0
74	2	2	21					21	10	21	10	1											1	0
75	6	2	20	14				27	1	14	1		20										1	1
76	6	1	23					23	12	5	12		5										1	1
77	2	0	8	3				2	9	2	9	1											1	0
78	2	2	3					3	7	3	7	1											1	0
79	3	2	23					2	2	2	2	1											1	0
80	6	2	9	19	18	13	2	2	2	2	2	1	13	18									3	0
81	6	2	9	19	18	13	2	18	2	18	2	1	13	2									3	0
82	6	2	9	19	18	13	2	13	2	13	2	1	18	2									3	0

Annex IV - Numeric Values - General Information, Companies

83	2	2	2					42	10	2	10												1	1
84	2	2	33					33	4	33	10												2	0
85	2	2	33					33	10	33	4												2	0
86	6	2	1					1	1	1	1	1											1	0
87	2	2	13					13	1	13	1	1											1	0
88	6	0	13	19	24			13	5	13	5	1											1	0
89	6	0	23					7	6	7	6	1											1	0
90	6	2	3					3	5	3	5	1											1	0
91		0	3					7	4	7	4	1											1	0
92	6	1	14					14	8	14	8	1											1	0
93	6	2	19					19	1	19	1	1											1	0
94	4	2	13					13	2	13	2	1											1	0
95	2	2	19	20	18	1		19	1	19	1	1	1										2	0
96	2	2	19	20	18	1		1	1	1	1	1	17										2	0
97	2	2	3	7				3	10	3	10	1											1	0
98	3	2	1	20				20	1	20	1	1											1	0
99	1	2	3	5	14			5	8	5	8	1	3	2	2	1	1	14					7	0
100	3	2	3	5	14			14	8	14	8	1	3	14	5	1	1	14					7	0
101	3	2	3	5	14			14	8	14	8	1	3	14	5	1	1	14					7	0
102	1	2	5	3	14			3	8	3	8	1	14	14	5	1	1	14					7	0
103	1	2	5	8	12			5	5	5	5	1	5	8	9								4	0
104	1	2	5	8	12			9	10	9	10	1	5	8	5								4	0
105	1	2	5	8	12			8	10	8	10	1	5	9	5								4	0
106	1	2	5	8	12			5	10	5	10	1	9	8	5								4	0
107	3	2	1					1	8	1	8	1	14	14	5	1	3	14					7	0
108	3	2	1					1	8	1	8	1	14	14	5	1	3	14					7	0
109	3	2	14	1	3	5		14	8	14	8	1	14	14	5	1	3	1					7	0
110	1	0	2					9	1	9	1	1											1	0
111	3	1	2	1				2	2	2	2	1											1	0
112	1	2	19					19	1	19	1	1											1	0
113	1	1	19	14				19	1	19	1	1	14										2	0
114	1	1	14	19				14	1	14	1	1	17										2	0
115	1	2	9					9	6	9	6	1											1	0
116	1	2	18	32				32	4	32	4	1	18										2	0
117	1	2	18	24				18	1	18	4	1	32										2	0
118	1	0	20					14	1	14	1	1											1	0
119	1	0	19	5				18	12	18	12	1											1	0
120	1	1	23					19	1	19	1	1											1	0
121	1	2	2					2	5	2	5	1											1	0

Annex IV - Numeric Values - Complainant, Time

	Complainant - Country of origin and Sector																						Time & Process			
Case	C1 C	C1 S	C2 C	C2 S	C3 C	C3 S	C4 C	C4 S	C5 C	C5 S	C6 C	C6 S	C7 C	C7 S	C8 C	C8 S	C9 C	C9 S	C10 C	C10 S	*# of inv. Ind. C.* 2	*# of inv. Dev. & Em. C.*	Filed	File - IA	IA - Concl.	Total
1	50	1101	1	1103																	1	1	1	1	24	25
2	2	1112																			1	0	1		18	18
3	2	1112																			1	0	1	28		28
4	50	1101	19	2116		1116	1	1103													2	1	1	7		7
5	50	1101	50	1105	1	1103															1	2	2		148	148
6	3	2105																			1	0	2	13		13
7	3	1116																			1	0	2		32	32
8	24	1105	2	2105																	1	1	2		15	15
9	4	2102	3	2102	3	1310															3	0	2	6	15	21
10	4	2102	3	2102	18	1116															3	0	2	21		21
11	1	1500	2	1506	5	1500	18	1500	5	1500	4	2102									6	0	2			0
12	51	1101																			0	1	2			0
13	7	2110	7	2105																	2	0	3	1	3	4
14	7	2110	7	2105																	2	0	3	1	3	4
15	6	1110	3	1316	8		2	2105	1	2105	3	2105	18	2105	3	1116	1	1116	3	1105	10	0	3	30		30
16	6	1110	3	1316	8		2	2105	1	2105	3	2105	18	2105	3	1116	1	1116	3	1105	10	0	3	30		30
17	6	1110	3	1316	8		2	2105	1	2105	3	2105	18	2105	3	1116	1	1116	3	1105	10	0	3	30		30
18	6	1110	3	1316	8		2	2105	1	2105	3	2105	18	2105	3	1116	1	1116	3	1105	10	0	3	30		30
19	6	1110	3	1316	8		2	2105	1	2105	3	2105	18	2105	3	1116	1	1116	3	1105	10	0	3	30		30
20	6	1110	3	1316	8		2	2105	1	2105	3	2105	18	2105	3	1116	1	1116	3	1105	10	0	3	30		30
21	6	1110	3	1316	8		2	2105	1	2105	3	2105	18	2105	3	1116	1	1116	3	1105	10	0	3	30	124	154
22	3	2105																			1	0	3	5		5
23	51	1105	2	2105	2	1105	2	1112	2	2116	51	1116									4	2	3	3	7	10
24	18	1105																			1	0	3	24		24
25	3	1114																			1	0	3	3		3
26	32	1114	38	1507																	1	1	4	84		84
27	8	1105																			1	0	4		15	15
28	8	1105																			1	0	4			0
29	8	1105																			1	0	4			0
30	8	1105																			1	0	4			0
31	1	1103																			1	0	4		32	32
32	1	1103																			1	0	4		32	32
33	1	1103																			1	0	4		32	32
34	1	1103																			1	0	4		49	49
35	1	1103																			1	0	4	4		4
36	1	1103																			1	0	4		12	12
37	1	1103																			1	0	4			0
38	18	2105	1	1103																	2	0	4			0
39	18	2105	1	1103																	2	0	4	1		1

Annex IV - Numeric Values - Complainant, Time

40	3	1114	3	1116	2	1101															3	0	4		35	35
41	18	1105	1	1103	8	1108	8	1310													4	0	4	8		8
42	18	1105	1	1103	8	1108	8	1310													4	0	4	19		19
43	18	1105	1	1103	8	1108	8	1310													4	0	4	8		8
44	18	1105	1	1103	8	1108	8	1310													4	0	4		12	12
45	6	1110	11	1109	5	2105	18	1105	8	1105	59	1105									5	0	4		7	7
46	1	1116																			1	0	5		67	67
47	1	1116																			1	0	5		67	67
48	1	1116																			1	0	5		67	67
49	26	1105	19	2105	19	1116															2	1	5		10	10
50	22	1115	22	1116																	0	2	5			0
51	22	1115	22	1116																	0	2	5			0
52	20	1112	20	1116	20	1101	59	1101	1	1103											4	0	5		11	11
53	19	1112	1	1103	19	1103															3	0	5			0
54	13	1106																			1	0	5		5	5
55	10	1105																			1	0	6	3	48	51
56	23	1102																				1	6	8		8
57	3	2113																			1	0	6			0
58	2	2105	59	2105	38	1102															1	2	6		40	40
59	22	1105	2	2105	59	2105															1	1	6			0
60	22	1105	2	2105	59	2105															1	1	6			0
61	23	1102																				1	6	5		5
62	23	1102	13	1105																	1	1	6	5	15	20
63	3	2113																			1	0	6	6		6
64	20	1102	20	1105	20	1305	20	1101	20	1105											5	0	6	2		2
65	34	1303	2	2102	2	1112	2	1508													3	1	6		15	15
66	1	1116																			1	0	7		18	18
67	28	1500	24	1108	28	1101	24	1510													0	4	7	1		1
68	3	1116																			1	0	7	6		6
69	3	2113																			1	0	7	3		3
70	14	1112	27	1512																	1	1	7		24	24
71	23	1113																			2	0	7	3	10	13
72	33	1500	33	1500	38	1508	33	1500													3	1	7	48		48
73	33	1500	33	1500	38	1508	33														3	1	7	2		2
74	20	1102	20	1105	20	1305	20	1101	20	1105											5	0	7	7		7
75	14	1112	27	1512																	1	1	7		21	21
76	23	1700	23	1700																	0	2	7			0
77	3	2113	8	1310																	2	0	8	7		7
78	3	1101																			1	0	8	2		2
79	23	1115	23	2105																	0	2	8	4		4
80	9	1115	9	1101	5	1103															3	0	8		24	24
81	9	1115	9	1101	5	1103															3	0	8		24	24
82	9	1115	9	1101	5	1103															3	0	8		24	24

Annex IV - Numeric Values - Complainant, Time

83	42	1105																			1	0	8		15	15
84	33	1112	18	1102	18	1101	18	1104	33	1101	33	1112	33	1500	33	1500	33	1500		1115	10	0	8	1		1
85	33	1112	18	1102	18	1101	18	1104	33	1101	33	1112	33	1500	33	1500	33	1500		1115	10	0	8	1		1
86	1	1101																			1	0	8	4	6	10
87	13	1105																			1	0	9	14		14
88	13	1105	13	1116																	2	0	9	12	16	28
89	23	1113																			1	0	9	6		6
90	3	1116	5	1115																	2	0	9	14	8	22
91	3	2105																			1	0	9	6		6
92	38	1101	38	1500	37	1500	37	1508													0	4	9		12	12
93	31	1115	18	1302																	1	1	9		17	17
94	13	1112																			1	0	10		13	13
95	44	1114																			0	1	10	10		10
96	44	1114																			0	1	10	10		10
97	59	1115																			1	0	10	2		2
98	55	1105																			0	1	10	4		4
99	5	1103	3	1301	3	1112															3	0	10			0
100	5	1103	3	1301	3	1112															3	0	10	6		6
101	5	1103	3	1301	3	1112															3	0	10	6		6
102	5	1103	3	1301	3	1112															3	0	10			0
103	5	1102	54	1106	54	1105	3	1700													2	2	10	3		3
104	5	1102	54	1106	54	1105	3	1700													2	2	10	3		3
105	5	1102	54	1106	54	1105	3	1700													2	2	10	3		3
106	5	1102	54	1106	54	1105	3	1700													2	2	10			0
107	5	1102	3	1301	3	1112															3	0	10	1		1
108	5	1102	3	1301	3	1112															3	0	10		6	6
109	5	1102	3	1301	3	1112															3	0	10		6	6
110	59	2105	56	1105																	1	1	11			0
111	59	2101	2	1105	59	1105															1	0	11			0
112	41	1114	41		19	1116															2	1	11			0
113	5	1103	14	1109	50	1109	19	1101	19	1116											4	1	11			0
114	5	1103	14	1109	50	1109	19	1101	19	1116											4	1	11			0
115	9	1112																			1	0	11			0
116	18	1115																			1	0	11			0
117	18	1115																			1	0	11			0
118	23	1102																			0	1	11			0
119	18	1116	18	1512																	2	0	11			0
120	23	1115																			0	1	11			0
121	23	1102	2	2116	2	1310															0	1	11			0

Annex V – Abstract (English)

The aim of this paper is to research the adequacy of the OECD Guidelines for Multinational Enterprises ('the Guidelines') to protect human rights in a globalized economy. The scope of this comprehensive international mechanism goes beyond human rights provisions; it also contains norms and standards with regard to the environment, bribery, taxes or transparency, among others. Because of this fact, I explicitly target the question whether it provides sufficient means to specifically tackle and consequently prevent human rights violations.

To analyze this issue, I conduct investigations on two levels: the first looks at the various paragraphs of the document itself, characterizes the institutional framework established by the Guidelines and pictures their critical elements. As mentioned, human rights stand in the focus of this section. Though, the entire mechanism is explored in order to provide the reader with the necessary knowledge for the subsequent parts of the work and, particularly with regard to the institutional system, to be able to examine ways of implementation and different functions of the entire system.

The second level comprises a detailed statistical evaluation of the *case law*, i.e., the 121 so-called specific instances ('the cases') which have been filed with the court-like institutions (the National Contact Points) which were mandatorily installed on the national level by the adhering countries of the Guidelines. Thereby, general patterns were considered as well as the three parties to such cases: the mentioned National Contact Points, the complainants (mostly NGOs, but also trade unions, research institutes, or private persons), and the accused companies.

Strengths and weaknesses are identified in the two described sections in order to qualify on the research question. My argumentation is, on the one hand, that the Guidelines and their complaint mechanism do entail human rights provisions and their violations to a large extent and, in fact, would suffice the respective demands of a globalized economy. But, on the other hand, this comes with the restriction that the mechanism as a whole is still too weak; voluntary in character, not easily accessible for affected people and communities, and with implementing institutions that are said to be biased in their conclusion of cases, etc. are the criticized features which deprive the mechanism of being a strong tool to globally fight entrepreneurial misbehavior especially in the field of human rights, but also concerning other issues mentioned in the Guidelines.

Annex VI – Abstract (German)

Ziel der vorliegenden Arbeit ist es zu untersuchen, ob die OECD Richtlinien für Multinationale Unternehmen (‚die OECD Richtlinien') dazu beitragen können, die Menschenrechte in einer globalisierten Weltwirtschaft zu schützen. Neben den Menschenrechten enthalten die OECD Richtlinien unter anderem auch Standards im Bereich von Umwelt, Korruption, Steuern oder Informationstransparenz von Firmen. Der Fokus wird jedoch auf die Frage gelegt, ob der Mechanismus der OECD Richtlinien ausreichend und adäquate Mittel zur Verfügung stellt, um Menschenrechtsverletzungen zu ahnden und diesen dadurch auch möglichst vorzubeugen.

Um diese Problemstellung zu analysieren, wird sie auf zwei Ebenen untersucht: Die erste bezieht sich auf die verschiedenen, im Dokument enthaltenen Regulative selbst, charakterisiert den von den OECD Richtlinien etablierten institutionellen Rahmen und umreißt die wichtigsten Argumentationsstränge veräußerter Kritik. Die Menschenrechte stellen, wie erwähnt, den Fokus der Arbeit dar. Trotzdem muss – vor allem hinsichtlich der Institutionen – der gesamte Mechanismus in all seinen Facetten betrachtet werden, um einerseits den Leser mit einem detaillierten, für das Verständnis der weiteren Arbeit unerlässlichen Wissen auszustatten und andererseits, um das aktive Verhalten der Institutionen und, damit einhergehend, die gelebte Realität veranschaulichen zu können.

Letzteres trifft auch für den zweiten Teil der Arbeit zu, in der eine Evaluierung des Mechanismus unter Zuhilfenahme deskriptiver statistischer Arbeitstechniken unternommen wird. Das beobachtete Sample konstituiert sich aus 121 Fällen, die unter der Version der OECD Richtlinien von 2000 in Gerichts-ähnlichen Institutionen (den Nationalen Kontaktpunkten) eingereicht und behandelt wurden. Allgemeine Überlegungen über den Mechanismus in seiner Gesamtheit werden ebenso angestellt wie über die drei Typen von Protagonisten dieser Fälle: die eben erwähnten Nationalen Kontaktpunkte, die Klägerpartei(en) (vor allem Nichtregierungsorganisationen, aber auch Gewerkschaften, Forschungseinrichtungen und Privatpersonen) und die beschuldigten Unternehmen.

Um die Forschungsfrage beantworten zu können, werden Stärken und Schwächen in den zwei beschriebenen Kapiteln aufgezeigt. Meine diesbezügliche Argumentation beläuft sich darauf, dass der OECD Mechanismus das Thema Menschenrechte zwar stark aufzugreifen vermag, jedoch selbst von mannigfaltigen strukturellen Unzulänglichkeiten betroffen ist, um sein Potential weiter zu entfalten. Diese werden in der Arbeit eingehend diskutiert.

Annex VII – Curriculum Vitae

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PERSONAL INFORMATION

Date of Birth: 19th of November, 1983
Place of Birth: Managua/Nicaragua
Nationality: Austrian
Gender: male

EMPLOYMENT HISTORY

October 2011 - January 2012

Internship at Austrian Institute for International Affairs (OIIP), *Vienna, Austria*

August 2011 - April 2012

Internship at Ludwig-Boltzmann-Institute for Human Rights (BIM), *Vienna, Austria*

- Business & Development Cooperation Section

Fall 2010

Advisor Fa. Schrittwieser, Wels/Upper Austria:

- Marketing, Account Management, Investor Relations for *gusterl.at*

Fall Terms 2009/10, 2010/11 and 2011/12 and Summer Term 2012

Tutor at the Institute of International Development Studies, assigned to the course *Development Economics* taught by Prof. Alejandro Cuñat and Anja Breitwieser, Department of Economics:

- Correcting and Grading Students' Papers
- Administrative tasks of the course
- Supporting students with theoretic and practical issues
- Design and Administration of the E-learning platform

July - September 2009

Internship at CARE Austria:

- Modifying project reports and proposals of different CARE field offices
- Communication with CARE field offices and institutional donors (Europ. Commission, ADA)
- Adaptation of project documents and project information for marketing purposes
- Assisting the Humanitarian Assistance Unit in preparing financial project information for two project audits carried out by an external auditor
- Translation of project information, legal documents and policy guidelines (German-English, English-German, Spanish-German)
- General administrative support

August - September 2007

Internship at *ProZoon Austria*, Wels/Upper Austria:

3. Assisting the Senior Management in Marketing and Sales, Accounting, Logistics, Account Management

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July/August 2001, 2002 and 2005

Administration Employee and Labourer at the City Council,Wels/Upper Austria

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July - August 2004

Mailman at *Post Austria*, Vienna/Austria

September 2002 – August 2003

Civil Service at *Caritas* in Linz/Upper Austria:

support and assistance to home less and socially excluded people, food provision, administration tasks, maintaining database

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EDUCATION

September 2007 – September 2008

Exchange student at the University of Antwerp, Belgium, Department of Applied Economics and Department of History

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2003 - 2012

- **Economics** at the University of Vienna, conclusion with Master Degree
(*special interests:* financial economics, international trade, economic and social history)

- **International Development** at the University of Vienna, conclusion with Master Degree
(*special interests:* global history, international relations, European expansion and trade relations, emerging markets, development theories)

- **International Law** at the University of Vienna/Law Department
(*special interests*: International Organizations, Human Rights, Legal Framework of the International Security Policy)

Fall Term 2000

Exchange Student at the “Bachil.lerato Emperador Carles III” in Barcelona/Spain

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1994-2002

High School at the BG/BRG Anton-Bruckner-Str. in Wels/Upper Austria

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LANGUAGES

German (mother-tongue)

English (fluent)

Spanish (fluent)

Dutch (fluent)

French (intermediate skills, 4 years of lectures at high school)

Latin

ADDITIONAL SKILLS

- Excellent knowledge of **MS Office** (in particular Word, Power Point and Excel), various MS Windows and Web Applications
- **Data Analysis** with Stata, Eviews and SPSS
- Experience in **Market Research** through participation at a customer research project for the Austrian journal ***Südwind*** in fall 2006
- Working Experience within the **Event Business and Gastronomy**
- Driving Licence B