



TRADE UNION ADVISORY COMMITTEE
TO THE ORGANISATION FOR ECONOMIC
COOPERATION AND DEVELOPMENT
COMMISSION SYNDICALE CONSULTATIVE
AUPRÈS DE L'ORGANISATION DE COOPÉRATION
ET DE DÉVELOPPEMENT ÉCONOMIQUES

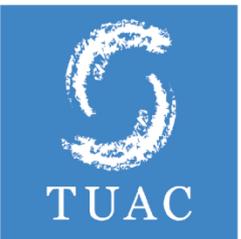
**The OECD Guidelines for Multinational Enterprises
Recommendations for Responsible Business Conduct
in a Global Context**

TRADE UNION ADVISORY COMMITTEE TO THE OECD (TUAC)

**COUNCIL OF NORDIC TRADE UNIONS
DECENT WORK CONFERENCE**

Social Dialogue: Shared Global Standards for Decent Work

**6-7 October 2016
TALLINN**



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Structure

- Overview
- Trade union cases
- Resources





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- Who had heard of the OECD Guidelines for Multinational Enterprises?
- Who has used the OECD Guidelines for Multinational Enterprises?





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Overview of the OECD Guidelines

- Provide (non-binding) **recommendations on Responsible Business Conduct** for MNEs on a broad range of issues: human rights, labour rights, information, environment
- **Signed by governments (46)** – not by MNEs
- Apply to **MNEs registered or listed in countries that have signed the Guidelines**, wherever those MNEs operate, as well as **MNEs operating in the territory** of those countries
- Cover **subsidiaries** as well as **joint ventures, suppliers, agencies, investors** and other business partners of MNEs
- Apply to **all categories of workers**: employees as well as agency, temporary and seasonal workers
- **Have a complaints mechanism – National Contact Points**
- Include a “proactive agenda” under which the OECD is developing **sectoral and general due diligence guidance**



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Overview

Chapters of the Guidelines

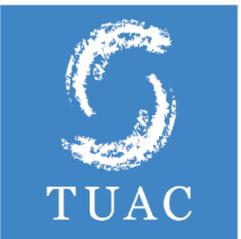
- I. [Concept and Principles](#)
- II. [General Policies](#)
- III. [Disclosure of Information](#)
- IV. [Human Rights](#)
- V. [Employment and Industrial Relations](#)
- VI. Environment
- VII. Combating Bribery, Bribe Solicitation and Extortion
- VIII. Consumer Interests
- IX. Science and Technology
- X. Competition
- XI. Taxation





Key provisions for social dialogue:

- Comply with national law and internationally-recognised standards
 - Companies can't hide behind domestic law
- Respect the right to form or join a trade union and recognise trade unions for collective bargaining (V)
- Respect **all** human rights and irrespective of whether governments protect human rights (IV)
 - Companies can't cherry-pick rights or hide behind government failures
- Conduct due diligence on matters covered by the Guidelines including on trade union and other human rights (II and IV)
- Share information with trade unions on company performance, activities and other material matters (III and V)
 - Important for collective bargaining

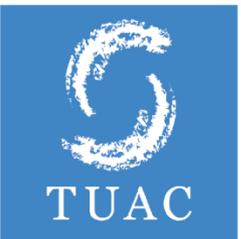


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Overview

– Adhering Countries OECD

Australia	Hungary	Norway
Austria	Iceland	Poland
Belgium	Ireland	Portugal
Canada	Israel	Slovak Republic
Chile	Italy	Slovenia
Czech Republic	Japan	Spain
Denmark	Republic of Korea	Sweden
Estonia	Luxembourg	Switzerland
Finland	Latvia	Turkey
France	Mexico	United Kingdom
Germany	Netherlands	United States
Greece	New Zealand	



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– **Adhering
Countries**
Non-OECD

Overview – Adhering Countries

Argentina	Lithuania (in OECD Accession process)
Brazil	Morocco
Colombia	Peru
Costa Rica	Romania
Egypt	Tunisia
Jordan	



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Overview – Adhering Countries

- Adherence under discussion
 - Croatia, Kazakhstan, Ukraine,
- OECD membership negotiations
 - Russia (**suspended**)
- Not yet signed the Guidelines?
 - **China**, India, Indonesia and South Africa





Overview – NCPs

National Contact Points

- Governments that sign the Guidelines are required to establish **National Contact Points** (NCPs) to resolve issues arising under the Guidelines, including handling cases/complaints of breaches of the Guidelines
- **Complaints mechanism: unique characteristic**
 - Trade unions and NGOs are able to **file complaints** against MNEs for their involvement in violations of the Guidelines around the world
 - NCPs provide a **forum for dialogue and problem-solving** through mediation



National Contact Points

- Located in the adhering countries:
 - » Not located at the OECD
- All government-backed
 - Majority comprised only of government representatives:
 - **Estonia:** Ministry of Economic Affairs and Cooperation
 - **Finland:** Ministry of Economic Affairs and Employment and the Committee on Social and Corporate Responsibility
 - **Lithuania:** Ministry of Economy
 - Minority are tripartite:
 - **Latvia:** (Free Trade Union Confederation of Latvia)
 - **Swedish NCP:** LO, SACO, TCO, IF Metall and Unionen
 - Minority are independent, including
 - **Denmark and Norway**





Filing Cases

- **No complaints mechanism at the OECD**
- Complaints filed with the National Contact Points
 - If the violation takes place in a country that has signed the Guidelines
 - then the case should be filed with the **host** country NCP
 - **E.g., violation involving a Swedish NCP in Estonia**
 - » Estonian NCP
 - If the violation takes place in a country that has not signed the Guidelines then the case should be filed with the **home** country NCP
 - **E.g., violation involving a Swedish MNE in Thailand**
 - » Swedish NCP





– Trade union use of the Guidelines

- 182 trade union cases (1 per month)

- Refusal of union recognition and collective bargaining
- Victimisation of union leaders/union members
- Threat to relocate production during organising/bargaining
- Failure to consult on restructuring/changes to employment
- Abusive use of precarious employment contracts (temporary and/or agency) to restrict trade union rights and recognition
- Failure to provide adequate information for collective bargaining

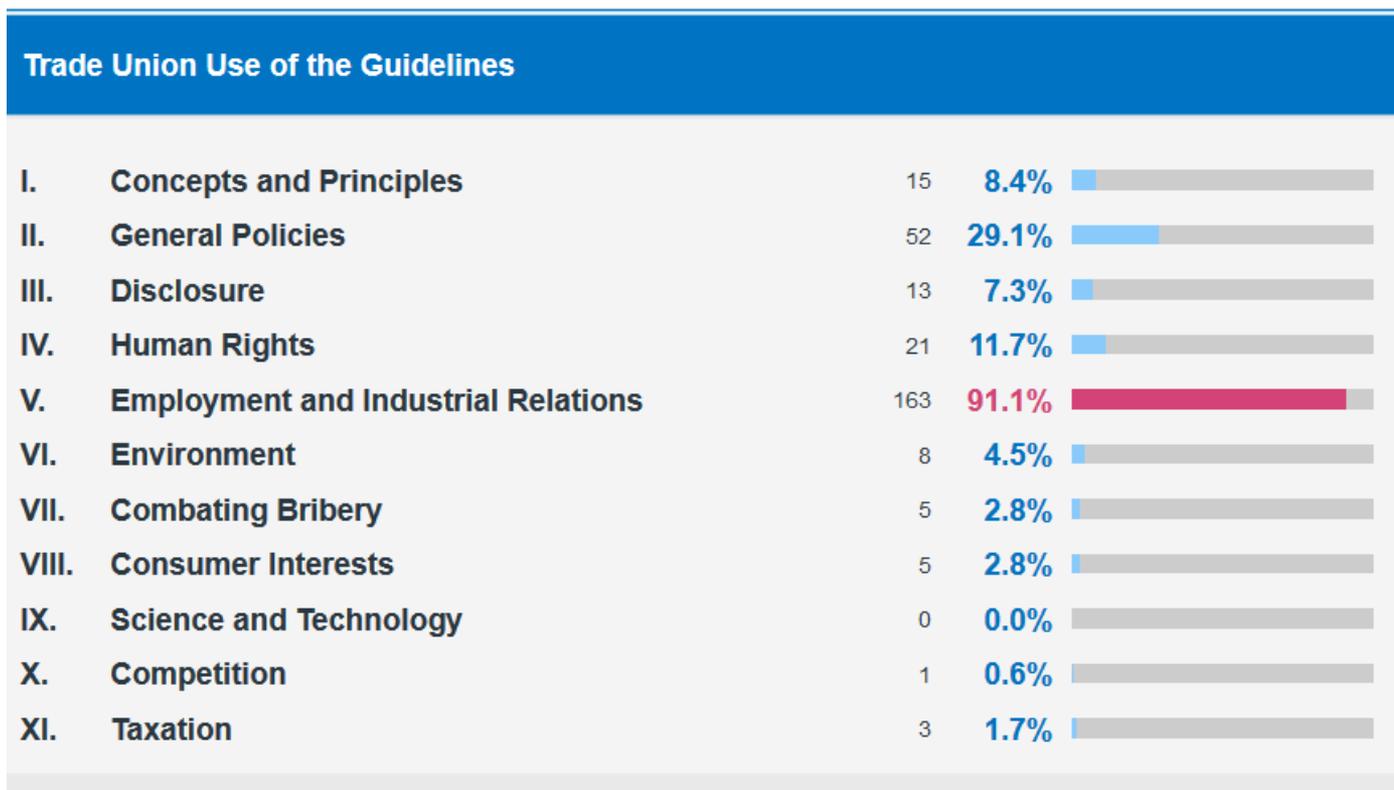


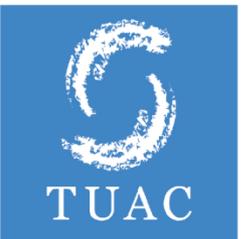


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Trade union cases

182 trade union cases (1 per month)





Overview - trade union cases

V: Employment and Industrial Relations

V.1-a Right to organise	104 cases	66.2%	
V.1-b Right to collective bargaining	105 cases	66.9%	
V.1-c Child labour	3 cases	1.9%	
V.1-d Forced labour	11 cases	7.0%	
V.1-e Discrimination	11 cases	7.0%	
V.2-a Provide facilities to workers	26 cases	16.6%	
V.2-b Provide meaningful information to workers	36 cases	22.9%	
V.2-c Provide information on company performance to workers	32 cases	20.4%	
V.3 Promote consultation and cooperation with workers	29 cases	18.5%	
V.4-a Observe common standards of employment and industrial relations	26 cases	16.6%	
V.4-b When multinational enterprises...	3 cases	1.9%	
V.4-c Ensure occupational health and safety	13 cases	8.3%	
V.5 Employ local workers and provide training	7 cases	4.5%	
V.6 Provide information on changes in operations with major employment effects	44 cases	28.0%	
V.7 Do not threaten to transfer operations or workers in order to influence negotiations	25 cases	15.9%	
V.8 Engage in collective bargaining	33 cases	21.0%	





LANDMARK CASE

IUF v Unilever : Precarious Work and Trade Union Rights

- Trade union: IUF
 - MNE: Unilever (food - Brooke Bond and Lipton's tea factory), UK
 - Country: Pakistan (Khanewal)
 - NCP: UK
 - Issue: precarious work/abusive use of temporary contracts/agency work (22 v 723):
 - Provisions of the Guidelines: right to organise (V. 1a)
 - NCP Role:
 - Provided external mediation
 - Led to an agreement between IUF and Unilever
- "1. The IUF and Unilever have agreed there will be a significant change in the model of employment at Khanewal based on a combination of directly employed permanent labour in non-seasonal manufacturing and contract agency workers (labour engaged through third party service providers) for ancillary, non-manufacturing and seasonal positions.
2. Under the terms of this agreement, Unilever will establish 200 permanent positions at Khanewal. This is in addition to the existing 22 positions at this facility..." <http://www.bis.gov.uk/files/file49308.doc>



- **High to low performing NCPs**
 - NCPs have common rules
 - visible, transparent, accountable, impartial, predictable and equitable
 - No common performance
 - seek advice from GUFs/TUAC
- **Key obstacles to success**
 - Other legal proceedings (parallel proceedings)
 - Timescales
 - Getting companies to participate in mediation
 - Lack of 'consequences'/teeth





TUAC Priority 1: Strengthen National Contact Points

- TUAC
 - 15-Point Plan for NCPs
 - NCP Performance Index
- National Level
 - Working with affiliates
 - Opportunity for Lithuania due to OECD Accession process
- OECD Level
 - Participate in OECD Peer Reviews (Italy, Sept 2016, Switzerland, Nov 2016, Chile and Germany first half of 2017)
 - Push for a **Revision of the Procedural Guidance** of the OECD Guidelines
- G7/G20
 - Build on success of the G7 under the German Presidency
 - Seek G20 commitment to improve NCPs and **introduce consequences**



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Overview – NCPs

TUAC Priority 2: Strengthen Implementation of Due Diligence

- OECD Level
 - Ensure that the role of trade unions and social dialogue are strongly recognised in the OECD due diligence guidance:
 - Garment and Footwear
 - Extractives
 - Financial
 - **General**
- G7/G20
 - Push for G20 time bound commitment to enact domestic legislation that makes it mandatory for companies headquartered in, or mainly operating in or from, their territory to conduct due diligence, including in their global supply chains





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Key Resources

- TUAC web site on trade union cases and NCP performance:

<http://www.tuacoecdmguidelines.org/home.asp>

- OECD Watch web site on NGO cases:

<http://oecdwatch.org/>

- OECD web site: <http://mguidelines.oecd.org>

