



Annual
report

2016



OECD **GUIDELINES**
FOR MULTINATIONAL ENTERPRISES

NATIONAL CONTACT POINT
FOR RESPONSIBLE BUSINESS
NORWAY



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Preface



The relationship of trust between elites and those who have not benefited from globalisation has been weakened in recent years, not least in 2016. This applies both between and within many countries. After the financial crisis in 2008, developments in the world have been characterised by uncertainty. Although China has succeeded in lifting millions of people out of poverty in the past decades, the development has been miserable for many other poor people in the world. At the same time, the seriousness of the climate change issue has dawned on many people, but not everyone. In September 2015, the UN General Assembly adopted 17 ambitious goals to try to address this: the Sustainable Development Goals, also known as Agenda 2030. The first goal nearly says it all: to end poverty in all its forms everywhere. Goal 13 is about taking urgent action to combat climate change and its consequences.

The Sustainable Development Goals are extremely important. Work on making the goals more specific started last year. Norway plays an important role in that Prime Minister Erna Solberg is Co-chair of the group appointed by the UN's Secretary General to implement the goals, the Sustainable Development Goals Advocates. The OECD has, of course, expressed its wholehearted support of the goals. Many business initiatives are being developed. Does that mean that everything is positive?

Unfortunately, not. So far, too few companies have joined the work, and too little capital has been channelled in the right direction. Nonetheless, we are still in a start-up phase. However, there is also another risk that directly concerns the OECD Guidelines for Multinational Enterprises.

In many contexts, it seems as if the general requirements of responsible business conduct are sidelined by enthusiasm over how efforts by the business sector are needed to achieve the Sustainable Development Goals. Because it is correct, as many people have emphasised, that we cannot achieve these goals without mobilising private capital and efforts. At the same time, one should not forget the requirements of responsible business conduct in the enthusiasm of being part of something new and important.

Many of the new projects will, and must, take place in poor countries characterised by weak governments or totalitarianism. This entails a great risk of human rights violations

and corruption. In such contexts in particular, it is important that companies assess these risks and do what they can to prevent such violations, or, if something goes wrong, that they provide sufficient remedies. The Sustainable Development Goals cannot be achieved without responsible business conduct. And, in order to rebuild the trust in the world's economic system, the business sector must behave properly.

On a more fundamental level comes the transformative power of responsible business conduct. Companies responding to the expectations will lead to greater fulfilment of the Sustainable Development Goals: The OECD Guidelines state that all companies have a responsibility for what goes on in their supply chains and business relationships. The complexity of modern value chains means that this involves a large number of people, also in poor parts of the world. Especially the large multinational companies at the end of supply chains are in a position to require responsible business conduct throughout their respective supply chains. To assist in this, the OECD has also prepared guidance documents relating to value chains.

If all the links in the value chains show respect for human rights and the environment, it could be a bigger step towards achieving the 17 Sustainable Development Goals than spectacular individual projects, which attract more media attention, but have less impact on those who have not reaped the benefits of globalisation. Therefore, the requirements set out in the OECD Guidelines are more important than ever.

Throughout 2016, the Norwegian NCP has made targeted efforts in the three main areas of our work. Let us emphasise two of them: To promote the Guidelines, workshops for Norwegian companies have continued. The participants have stated that they benefited from in-depth work on human rights due diligence. We have also contributed to the OECD's important work on raising awareness about the sectoral guidance documents. You can read more about this, and more, in the report.

Enjoy reading the report!



Ola Mestad

OLA MESTAD
Chair



What are the OECD Guidelines for Multinational Enterprises?

The OECD Guidelines for Multinational Enterprises are recommendations from the OECD countries to promote responsible business conduct in all sectors. The Guidelines are the only multilaterally adopted, comprehensive guidelines for responsible business backed by 46 governments.

A main goal of the OECD Guidelines is that the business sector shall contribute to sustainable development. The Guidelines clearly express expectations in areas such as human rights, including labour rights, the environment, anti-corruption and transparency. Together, the Guidelines cover all key aspects of corporate social responsibility.

The Guidelines are supported by a unique implementation mechanism of national contact points (NCPs). The NCPs were established by the acceding governments to raise awareness about the Guidelines and to establish a grievance mechanism. The grievance mechanism ensures that concerned stakeholders have a place to turn to. The NCPs facilitate dialogue and mediation in order to resolve specific instances.

In 2016, it was 40 years since the OECD Guidelines were adopted. In order to ensure that they continue to be a relevant and leading international tool for promoting responsible business, the Guidelines were revised in 2011. The revision included adding a chapter on human rights. This chapter reflects the UN Guiding Principles on Business and Human Rights.

According to the OECD Guidelines, enterprises shall contribute to the following:



Protecting the environment



Respecting human rights



Protecting labour rights



Preventing corruption and bribery

The Guidelines also contain chapters on transparency, reporting, consumer interests, science and technology, competition and taxation.

46 national contact points



Countries with NCPs:

Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Jordan, Latvia, Lithuania, Luxembourg, Mexico, Morocco, the Netherlands, New Zealand, Norway, Peru, Poland, Portugal, Romania, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Tunisia, Turkey, the UK and the United States.



Observing countries:

India, China and Russia.

The map is for guidance only, and does not take a stance on territorial status or sovereignty.

46 countries have accepted the OECD Guidelines and are therefore obligated to establish a national contact point.



The NCPs have regular meetings at the OECD in Paris.



The Norwegian National Contact Point – who we are and what we do

The Norwegian NCP is an independent public expert body. The members are appointed by the Ministry of Foreign Affairs and the Ministry of Industry and Fisheries on the basis of their professional expertise, and based on proposals from the social partners and civil society, represented by the Confederation of Norwegian Enterprise (NHO), the Confederation of Norwegian Trade Unions (LO) and the Forum for Development and Environment (ForUM). All OECD countries are obliged to establish a national contact point. How they are organised varies from country to country. The Norwegian NCP assists the Norwegian authorities in promoting the Guidelines and contribute advice and guidance in specific instances.

MEMBERS



OLA MESTAD

*Professor dr. juris
University of Oslo
Chair*



FRODE ELGESEM

*Lawyer and partner at
Elgesem Advokatfirma AS*



SYNNE HOMBLE

*Chief Officer Strategy and
Corporate Functions at
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GRO GRANDEN

*Special Adviser
LO*

THE SECRETARIAT



CATHRINE HALSAA

Head of the Secretariat



BENTE F. BAKKEN

Senior Adviser



BENEDICTE E. BJERKNES

Higher Executive Officer

The Norwegian NCP has three main tasks:



To promote and provide
guidance about the OECD
Guidelines



To handle
specific instances



To cooperate internationally
with the OECD and other NCPs



1

Promoting and providing guidance about the OECD Guidelines

One of the NCP's most important tasks is to promote the OECD Guidelines. The NCP provides guidance and information about the use and importance of the Guidelines through a range of different channels.



THE OECD GUIDELINES

– an effective tool to prevent violations

The OECD Guidelines are more than just words. They are a practical tool that can prevent Norwegian companies from taking a wrong step in meetings with people and communities, culture and society in other countries.

Text: Marianne Alfsen

'All other attempts at establishing common global standards for responsible business have either resulted in demanding norms that carry little weight or weak arrangements that are widely endorsed,' concludes Ola Mestad. He is the Chair of the Norwegian NCP, and is certain: The OECD Guidelines are the best tool available to companies that want to uphold good business conduct in countries with challenging framework conditions.'

'One thing I learnt in my ten years on the Council on Ethics for the Norwegian Government Pension Fund Global was that norms that are not accompanied by sanctions are not very effective. The OECD Guidelines are the only international mechanism with the possibility of sanctions, in the form of a grievance mechanism,' explains Mestad.

'Today, the OECD Guidelines are also alone in addressing all relevant areas. The most important are human rights, the environment and corruption, but also topics like freedom of information, consumer protection and protection of competition

are addressed,' says Mestad, adding that the Guidelines are accompanied by strong recommendations:

'All communication from the Norwegian Government conveys the underlying expectation that Norwegian companies comply with the OECD Guidelines.'

Matured through 40 years

The Guidelines were developed in the 1970s, in the wake of protests against capitalism and scepticism towards the power exercised by international companies – hand in hand with the OECD's efforts to strengthen investments and economic growth. In 2016, it was 40 years since the Guidelines were adopted.

However, it was not until after the 2011 revision that the Guidelines grew the 'muscles' they needed to become a really useful tool in an increasingly globalised business environment, according to Mestad. Firstly, the UN Guiding Principles on Business and Human Rights were incorporated in the Guidelines in their entirety.

'The OECD goes even further than the UN, however,' says Mestad.

The UN Guiding Principles require companies to both analyse risk in advance and to remedy human rights violations once they have occurred. It is a principle that the OECD has taken further. The due diligence requirement applies to all areas covered



– Responsible business conduct is an ethical imperative even if it costs

by the OECD Guidelines. And there is a grievance mechanism, as mentioned.

‘Conducting due diligence is an important principle that is intended to ensure that it does not take a tragedy or scandal before something is done. It is not an easy task, but the parties are required to try to find a satisfactory solution,’ Mestad continues.

Moreover, the Guidelines are alone in setting requirements for the whole supply chain, not just individual companies’ own activities.

‘That has given us a potentially very powerful tool,’ says the Chair of the NCP.

Theory and practice

‘A great deal has happened since 2004. It is no longer difficult to get the overarching message of responsible business across. The challenge is how to comply with the Guidelines in practice,’ Mestad points out.

That is why the NCP is taking a practical approach to promoting the OECD Guidelines. Instead of relying on admonitions and good intentions, the NCP brings the toolbox to the companies. Among other things, Norwegian companies undergo training in how to analyse risks in both their own organisation and that of their business partners, and in making the intentions of the Guidelines an integral part of their day-to-day activities.

Eight chapters of somewhat abstract guidelines might seem overwhelming to people working in the

different sectors, but the challenges vary from one sector to the next, and not everything is equally relevant to everyone. That is why the OECD is also developing new sectoral guidelines that shed light on that shed light on specific issues in various industries.

‘In our experience, once a company sits down and analyses the challenges they face, everything becomes more manageable,’ says Mestad.

Profitable?

He points out that it is more expensive to have to stop a project because indigenous rights were neglected at the start-up, or to weaken your reputation because you failed to check the working conditions of a subcontractor, than it is to identify and address the identify and adress potential risks in advance.

‘In other words, it often pays off to comply with the Guidelines, but not always. Sometimes it costs you. It is also unfortunate that the Guidelines are not uniformly enforced in all the OECD countries. We acknowledge that this may distort competition, and we work continuously with other NCPs to remedy this,’ Mestad points out, and concludes:

‘Responsible business conduct is an ethical imperative, however, even if not everyone is a team player and even if it costs.’



THE OECD'S SECTORAL GUIDANCES:

– specific advice to individual companies

The OECD Guidelines are overarching and general. Therefore, the OECD has prepared guidance with specific and practical advice adapted to different sectors, like the agriculture and food sector, the garment and footwear industry, the financial sector, the extractive industry and minerals from conflict areas. General Due Diligence Guidance is also being developed, which addresses due diligence as a method. The sectoral guidelines focus in particular on how companies can use their influence to ensure responsible supply chains.

The guidance's are unique in that they are recommendations addressed by governments and that they have been created in cooperation with key practitioners in each sector and representatives of civil society. The sectoral guidance focus on stakeholder engagement and include a special gender perspective. It can be demanding for companies to familiarise themselves with the wide-ranging recommendations in the OECD Guidelines. The sectoral guidance's contain useful examples and specific advice. The Norwegian NCP will continue to promote the sectoral guidance's in 2017 in the form of seminars and courses.



The OECD Due Diligence Guidance for Responsible Business Conduct

OECD will launch a general Due Diligence Guidance for Responsible Business Conduct. The goal is to give companies in all sectors practical guidance in how to comply with the OECD Guidelines, and to carry out due diligence with a view to identifying, preventing and reducing potential risks, and to account for how this is followed up.



OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector

The guidance is a tool for identifying and handling risk relating to stakeholder engagement. The purpose is to ensure that companies avoid causing harm, and to help to remedy harm that has already occurred. The guide also contains separate chapters on consultations with indigenous people, women and employees. Read more about this on page 18.



OECD Guidance for Responsible Agricultural Supply Chains

The goal of the guidance is to get the agriculture and food sector to contribute to sustainable farming through responsible business operations. The guidance contains checklists for what kind of risk assessments companies are expected to perform, also in their own supply chain. In Norway, the guide is particularly relevant for food importers and grocery store chains.



Responsible Business Conduct for Institutional Investors

The guidance for responsible business conduct for institutional investors is part of an ongoing process in the OECD to develop clearer guidance for the financial sector, including minority shareholders, on how they can use due diligence to ensure responsible business conduct. The guidance contains specific, practical advice adapted to special characteristics of the financial sector, including complex and extensive portfolios.



OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas

The guidance was developed to help companies to achieve responsible purchasing of minerals (gold, tin, tantalum, wolfram) from conflict-affected areas. It provides detailed recommendations to assist companies in their purchasing procedures to ensure that they respect human rights and avoid conflict.



The garment and footwear sector

After the tragedy at Rana Plaza in Bangladesh in 2013, where more than 1,000 textile workers died because of poor conditions in the factory, the OECD has maintained particular focus on what companies can do to improve conditions in the supply chain for the garment and footwear sector.

The OECD has prepared a practical guidance for the purpose of improving the conditions in the supply chains in terms of labour rights, human rights and the environment. Garments and footwear are some of the world's biggest groups of consumer items, and an industry that involves a lot of subcontractors, often countries in the South. The guidance is

intended to help companies in their work on avoiding the negative consequences of their activities. It is ground-breaking because it was developed by governments in cooperation with key stakeholders in the industry, to provide a common basis for how to comply with the OECD Guidelines in the garment and footwear industry.

The guidance specifically refers to the fact that women often make up the majority of the workforce in this industry, and that women are often more at risk of discriminatory treatment. Companies are recommended to address gender equality in particular in their due diligence.



OECD Guidance for responsible supply chains in the garment and footwear sector.



The guidance is useful because it contains specific recommendations for how companies should conduct themselves in all parts of the value chain, and breaks down the recommendations into practical advice for all links in the chain. This makes it easier to understand what specific measures the different parties in the garment and footwear industry should take to ensure responsible business conduct.

*PIA GOYER
The Council of Ethics for the Government
Pension Fund Global*



REIDUN LÅNKAN
The Ethical Trade Initiative (IEH)



'The Ethical Trading Initiative (IEH) had a good dialogue and good discussions with the OECD throughout the process. The guide will create a common understanding, which is useful. It is detailed and describes due diligence processes in depth, including in relation to the topics of child labour, home workers, discrimination and not least the environment. The guide provides a good framework that the IEH will benefit from in our work with Norwegian garment and footwear companies.'

'We at the IEH are very pleased with the fact that the guide specifies that companies must have due diligence procedures in place for their own procurements and product development. Good procedures can help to reduce the risk of poor working conditions among suppliers, such as extreme use of overtime, low wages and the use of unprofessional subcontractors.'



PIA GOYER
The Council of Ethics for the Government Pension Fund Global



'The Council of Ethics relies on instruments and initiatives that receive widespread support internationally, that set standards for responsible business conduct. The OECD Guidelines for the textile industry is useful in that respect. It provides specific recommendations for responsible business conduct.'

'The Council of Ethics carries out its own assessments of how textile companies perform risk assessments and follow up any negative effects.'

'It's good that the guide focuses on the risk of negative consequences in areas where they conduct business operations, and not just the risk for the companies themselves.'



How to succeed in stakeholder engagement in the extractive sector

The OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector is a tool for identifying and managing risk. The purpose is to ensure that companies avoid causing harm, and to help to remedy harm that has already occurred. This is in line with the expectations expressed in the OECD Guidelines. The guidance also contains a separate chapter on consultations with indigenous people.

On 8 November, Norway's NCP organised a successful seminar targeting companies in the oil, gas and mineral industry in NHO. It was the first seminar that the NCP organised to promote the OECD's sectoral guidelines. Read more about these guidelines on page 15.

Good dialogue with different stakeholder groups is important to ensure responsible business conduct and should be integrated in all parts of the companies' efforts to act in compliance with international expectations. The seminar took a practical approach and used hands-on and specific examples from companies such as Statoil, DNO and the Norwegian Mineral Industry, which shared their experience from operations on the ground.

What is the importance of stakeholder engagement to achieve responsible business conduct? How does the company's project affect local communities? These were some of the questions discussed at the seminar.





**ELISABETH
GAMMELSÆTER**

*Secretary General
Norwegian Mineral
industry*



'Transparency is important to achieve successful stakeholder engagement. Simple initiatives like newsletters, information meetings and Facebook pages are often useful to provide information about how the mineral industry affects the local community.'



ARILD HERMSTAD

*Former Director of
the Future in our hands*



'Extraction projects entail a great need for transparency on the part of the developer. Good, open dialogue is decisive. The developer must be open about what they will do about negative consequences, and should also engage in dialogue with those opposed to the development.'



SVEN-ROALD NYSTØ

*Director of the ARRAN project
"Indigenous people and resource
extraction in Arctic-Evaluation
of ethical guidelines"*



'We need specific recommendations from an international organisation like the OECD on what is expected of consultations with indigenous people. The OECD guide and the chapter on indigenous people are very useful in this work, especially the recommendations on the process. As regards the need for concrete substance in terms of the depth of the consultations, it may vary from one case to the next. We will make contributions from our project, which may also be used as the basis for such assessments.'



Could your company be linked to human rights violations?

How does it affect the business? Where is it happening? Who is affected? What can be done to prevent it from happening?

In 2016, 12 Norwegian companies attended courses organised by the NCP to discuss the questions above and several other questions of relevance to human rights due diligence (HRDD).

The aim of the courses is to teach companies how to implement due diligence in the human rights area, including labour rights, in line with recommendations set out in the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights.

What is human rights due diligence?

Human rights due diligence (HRDD) is a method whereby companies identify, prevent and limit the risk of human rights violations. The method also requires them to remedy actual consequences and give an account of how they handle the negative consequences of their activities.

This is a continuous process in which the affected parties are heard through stakeholder engagement. The companies that have participated in the NCP's

HRDD courses have been taught the method and the following fundamental principles:

1. We have a human rights policy adopted by the executive management
2. We are committed to respect human rights, and to encourage our business partners to do the same
3. Our human rights policy is publicly accessible and well known, both internally and among our business partners
4. We identify whether our activities, products and services can be linked to human rights violations
5. If we find that there is a risk of us not respecting human rights, we implement risk reduction measures

In addition to three whole days of workshops, each company was offered eight hours of individual consultancy. The participants come from a diverse range of sectors, including the textile, electronics, grocery and service sectors.





TONE CECILIE F. LIE
CSR Manager, Eurosko



'Before, the CSR department and the product department each had their own system for following up the supply chain. During the course, we found a solution to how we could achieve a more integrated process in both departments. Moreover, the CSR department's work on responsible business has become more integrated in the day-to-day activities of the product department.'

'It was also very useful to learn more about how everything we do is related to the Sustainable Development Goals. Moreover, now we know that the Norwegian NCP is only a phonecall away if we need advice and guidance. We hope to be invited to a new course when the new sectoral guidance for the garment and footwear industry become available.'



CATHRINE DEHLI
*Director of Sustainability,
Nordic Choice Hotels*



'It was useful to gain an overview of all the legislation, guidelines and expectations that currently exist, thereby giving us the whole picture.'

'We have long been working to reduce risk in the supply chain, which includes everything from suppliers of tomatoes and cooking pans, to textiles and caretaker services. Having in-depth knowledge about each link in the chain is challenging and demanding. It was therefore useful to learn about other industries' experience, to find out where the bar is set and what we must strive for. The course also gave us an opportunity to build networks with key players.'



KNUT LUTNÆS
*Director of Sustainability,
Nordic Choice Hotels*



'We have suppliers all over the world, in high-risk industries and in raw materials exposed to risk. We have worked on following up and mapping our suppliers for many years, both in Norway and together with our sister organisations in the other Nordic countries, but new knowledge and new tools are important if we are to take the next step. The review of theory and methods provided at the course was therefore useful.'

'The course was also an inspiration to continue and strengthen our work. We know a lot about our suppliers, but in some contexts, we need to be even more hands-on to get an updated risk picture and identify improvement measures.'



Coordinated guidance on responsible business conduct

The government shall help to raise the public sector's expertise in the OECD Guidelines and the UN Guiding Principles on Business and Human Rights (UNGPs). This is set out in the Government's action plan for business and human rights.

The NCP therefore invited relevant public sector entities to an introduction to human rights due diligence. This way, we can contribute to sending a uniform message on the expectations of responsible business conduct.

On 30 August 2016, representatives of the Norwegian Guarantee Institute for Export Credits (GIEK), Innovation Norway, the Agency for Public Management and eGovernment (Difi), Export Credit Norway, the Ministry of Foreign Affairs and the Norwegian Agency for Development Cooperation (NORAD) contributed to good discussions about how we can promote respect for human rights and present a unified message to Norwegian companies

and other stakeholders. The meeting was well received by all parties and the dialogue will be continued.

The participants are all public sector entities that are tasked with providing guidance on responsible business conduct. One of the measures set out in the action plan is to:

'.. give companies with international operations that apply for public funding or services adequate and coherent information and guidance on the Government's expectations concerning respect for human rights.'

Increased cooperation between the parties that contribute to this guidance is therefore very important.

Two business representatives who have attended the NCP's courses also shared their experience of preventing human rights violations and discussed some of the challenges they face. They both underlined that guidance in the field is important for Norwegian multinational enterprises.



Interesting discussions among participants in the government.



SIGRID BRYNESTAD

*Senior Sustainability Expert,
the Norwegian Export Credit
Guarantee Agency (GIEK)*



'One of our tasks is to ensure that our customers comply the OECD guidelines for responsible business conduct. It was therefore useful for us to see how far the best companies have come, where the bar is set and learn where there are specific challenges. Moreover, the case studies gave us more hands-on experience of the challenges the companies face, so that we can become better advisers and provide more practical guidance in how to assess risk.'

'After the course, a forum was established for several representatives of the public funding agencies, to ensure that they all agree on the information provided to the companies in this field.'



**ELISABETH
FOSSELI OLSEN**

*Senior Adviser,
Norwegian Emergency
Preparedness System
(NOREPS), Innovation
Norway*



'The course was relevant for us, because we assist companies that want to gain access to demanding markets. It is important that we as advisers have up-to-date knowledge about human rights and how they affect the companies we are set to help. The course gave us tools that can help us to ensure that companies address human rights issues in a strategic and useful way.'

'We need more knowledge about how we can inspire the business sector to continue working on human rights issues, and how we can monitor what they do, preferably in the form of tools and courses that we can offer to companies looking to enter demanding markets.'



Business and Human Rights – National Action Plan for the implementation of the UN Guiding Principles

The Norwegian action plan for business and human rights shall help to make it easier for the business sector to act responsibly. The action plan outlines the Norwegian government's expectations of the business sector and can be downloaded from the Government's website.





SUSTAINABLE DEVELOPMENT GOALS



The 17 Sustainable Development Goals are ambitious, aiming, among other things, to eradicate all forms of poverty and combating climate change. The goals cannot be achieved without contributions from the business sector and the infusion of private capital. Responsible business conduct is both an important step towards achieving individual goals and fundamental to the goals as a whole. The OECD Guidelines express basic requirements of responsible business conduct that are a precondition for achieving the UN's Sustainable Development Goals.



'Aker is a pioneer among Norwegian companies in terms of cooperation between the main owner, the management and employee representatives. This is referred to as the Aker model and has been developed over a period of 100 years. Using the OECD Guidelines for responsible business and labour rights as one of our starting points, Aker is working with its Global Works Council on exporting the Aker model to countries outside Europe.'

ØYVIND ERIKSEN



ØYVIND ERIKSEN
President and CEO

The trade unions' role in promoting the Guidelines

The trade unions play an important role in ensuring decent and sustainable work by promoting fundamental rights in the workplace.

The OECD Guidelines address work-related rights in Chapter IV on human rights and Chapter V on employment and industrial relations.

Most of the basic agreements that govern the labour market, including the Basic Agreement between LO and NHO, contain provisions stating

that Norwegian companies shall base their activities on key instruments for responsible business conduct, both in Norway and abroad – including the OECD Guidelines and the UN Global Compact.

Many multinational Norwegian enterprises have also entered into global framework agreements between the parent company, Norwegian trade unions and international trade associations, which set out requirements for compliance with both ILO's core conventions on fundamental labour rights and the OECD Guidelines.



ÅSMUND KNUTSEN

*Director, elected by
the employees*

A company case: Aker ASA

Aker ASA is one of Norway's biggest industrial groups, with employees all over the world. The OECD Guidelines are one of the tools that form the basis for the cooperation between the group employee representatives and the management, with a view to safeguarding employees' rights.

'Getting the management on board is important. Human rights and the importance of responsible business conduct must be second nature to them,' says Åsmund Knutsen, group employee representative for Tekna at Aker Solutions.

Labour rights for employees of the Aker Group are set out in a global framework agreement that was signed for the first time in 2008.

'The agreement makes reference to ILO's core conventions on the importance of decent, sustainable work, both in the Aker companies and among their partners,' says Knutsen. He points out that the agreement is adopted at group level and communi-

cated to all employees. To ensure continuous focus on the agreement, it is reviewed on a regular basis by the group employee representatives.

'Cooperation between the management and employees take very different forms in different countries and cultures. In Malaysia, for example, they were astonished the first time they saw employee representatives and members of the management get out of the same taxi. There was no culture for that sort of interaction,' explains Knutsen, adding that both the management and employee representatives are working actively to spread the culture of cooperation to other countries they operate in. Among other things, Aker has established a Global Works Council comprising representatives of countries where the company operates.

'Aker Solutions has also established a whistleblower channel, where employees and external parties can report violations of internal guidelines, laws and regulations,' explains Knutsen.



2

Handling specific instances

The other main task of the NCP is to handle specific instances in which it is alleged that a company has not complied with the OECD Guidelines. The NCP offers guidance, dialogue and mediation between the complainant and the party against which the complaint was filed. The NCP does not investigate matters on its own initiative, but considers specific instances it is notified of. The NCP is not a legal body, but encourages the parties and helps them to find a solution in the case. The case processing shall be impartial, predictable, fair and in line with the Guidelines.



A unique grievance mechanism

The OECD gives individuals, local communities and organisations a place to go when they are concerned about how multinational enterprises are affecting people and the environment. This makes the OECD Guidelines for Multinational Enterprises unique.

Text: Marianne Alfsen

'No other international instruments for promoting responsible business conduct have a corresponding grievance mechanism,' explains Synne Hombler of the Norwegian NCP.

To ensure impartiality and trust in the process, the NCP can only consider instances reported by organisations or private individuals.

Easy to get defensive

'It's easy to get defensive if you are the subject of a complaint. At the same time, many Norwegian companies have done thorough, systematic work on corporate social responsibility, and recognise that dialogue is important and that the process can be a source of learning,' Hombler points out.

She knows what it is like to be scrutinised by the NCP.

In 2009, when Hombler was Chief Officer at Cermaq – one of the world's leading aquaculture companies – a complaint was filed against the company by Friends of the Earth Norway (Naturvernforbundet) and the Forum for Development and Environment (ForUM) concerning

its activities in Chile and Canada. The complaint concerned fish health, working conditions and indigenous rights.

'We first thought the complaint was unfair, before we arrived at a joint solution through mediation. The process helped us to establish dialogue with the organisations that filed the complaint, where we had to listen to each other and understand both sides of the matter. The NCP did an important job in sorting out poorly substantiated claims and ensuring an unbiased dialogue,' explains Hombler.

Creates trust

The grievance mechanism is non-judicial, but the NCP relies on key legal concepts like the adversarial principle and documentation requirements.

'This is important to ensure that the case is well elucidated and to gain the trust of all the affected parties,' Hombler believes.

When a complaint is reported, the NCP first carries out an initial assessment. Are the matters reported covered by the OECD guidelines? Does the complainant have a right to represent the violated parties? The secretariat also provides guidance in how to set up and formulate the complaint.

'Claims must be substantiated and related to the Guidelines,' Hombler points out.

The company that is the subject of the complaint is then given an opportunity to make a statement. When this is received, the NCP makes a decision on whether to accept the complaint for consideration.



– Dialogue is a goal in itself



The complaint is not made public until it is taken under consideration.

Dialogue is the key

‘The aim is not to name and shame, but to achieve improvements and find solutions’, says Homble.

The best solution is when the parties, through dialogue and support from the NCP, are given the tools they need to resolve the conflict themselves. The agreement is finalised in a joint statement. The NCP also offers free mediation.

‘Dialogue is a goal in itself. The process creates a platform for mutual understanding, not only with a view to solving a specific instance but also to resolve future problems before they arise,’ says Homble, and adds:

‘We have also seen examples of parties who have not reached agreement during the complaints process continuing their dialogue and reaching a solution later on,’ explains Homble.

Deterrent effect

If the parties fail to reach an agreement, the NCP issues its final statement, giving its opinion on whether the company has or has complied with the Guidelines, and providing recommendations for the road ahead.

‘This is a strong deterrent factor,’ says Homble, and points out that public criticism from the NCP can be a burden, especially for companies that are normally perceived as responsible. They must

answer to the public, organisations, shareholders and investors.

‘The risk of a negative statement can be enough to make the parties look for a voluntary solution,’ Homble believes.

Great variation

The Guidelines cover all key aspects of corporate social responsibility. This means that the complaints vary greatly.

‘The NCP has considered cases concerning requirements for financial investors, indigenous people, stakeholder engagement and local communities, working conditions and the environment. The 2011 revision of the Guidelines added a new chapter on human rights, which has since been an important topic. In general, Norwegian companies have difficulties ensuring that their suppliers meet the expected standard,’ says Homble.

Only companies from the countries that have endorsed the Guidelines can be the subject of a complaint, but the complaint can concern any country in which the companies operate.

‘It is a challenge that civil society in the countries with the weakest legislation and inadequate court systems is not familiar with the OECD’s grievance mechanism,’ says Homble, and concludes:

‘The goal is not to receive as many complaints as possible, but to ensure that the companies know how to prevent and avoid violations of the Guidelines.’



Status of specific instances

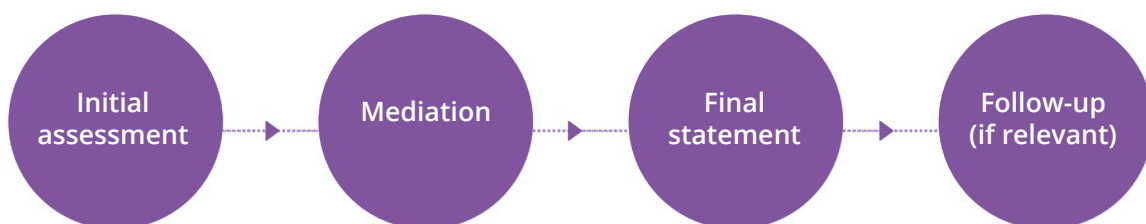
The Norwegian Association for International Water Studies (FIVAS) vs Norconsult AS

In June 2015, the NCP negotiated a joint statement between FIVAS and Norconsult. In 2016, the NCP held follow-up meetings about the mediated agreement at which the parties provided information about how they have followed up the joint statement.

New complaint

The NCP received a new complaint in November 2016. In accordance with our procedures, the NCP is considering whether to take the matter under consideration based on the nature of the complaint, the company's response and any other documentation available.

THE FOUR STAGES OF THE NCP'S HANDLING OF A SPECIFIC INSTANCE





Jijnjevaerie Sami village versus Statkraft/SSVAB

In February 2016, the Norwegian and the Swedish NCP concluded their consideration of the complaint submitted by Jijnjevaerie Sami village against Statkraft/SSVAB. In its complaint, the Sami village claimed that Statkraft/SSVAB's planned wind power project in Jämtland would limit the Sami village's possibility of reindeer herding practices.

The Sami village asked the NCPs to facilitate mediation with Statkraft/SSVAB, but the attempt did not succeed. The NCPs final statement encouraged the parties to demonstrate

renewed willingness to reach agreement on the further development of the wind power project.

In June 2016, the parties managed to arrive at an agreement in the case. According to Statkraft, the NCPs' recommendations were useful to the achievement of the agreement. The agreement regulates compensation, the relationship between the parties and safety measures SSVAB should take to reduce the impact of wind power on the Sami village and reindeer herding.

The OECD has used the case as an example of how the OECD contact point arrangement produces results.



3

International cooperation with the OECD and other NCPs

The third task of the Norwegian NCP is to cooperate and share best practice with the OECD and other countries' NCPs. As far as possible, local businesses should be met with equal requirements and expectations in all countries. It varies how well the national contact point arrangement works. Some NCPs have few resources to consider specific instances and provide guidance and information about the Guidelines. Realising synergies through the exchange of experience at the international level is an important premise for professionalising the national contact point arrangement.



– It is important that both Norwegian companies and civil society perceive the system as fair

Cooperation ensures equal treatment

Equal treatment is an important principle. The OECD's 46 national contact points for responsible business conduct collaborate closely to harmonise their interpretation of the guidelines and strengthen each other's work.

Text: Marianne Alfsen

'It is important that both Norwegian companies and civil society perceive the system as fair and that other countries' contact points treat Norwegian and foreign companies equally,' says Frode Elgesem of the Norwegian NCP.

'Equal treatment and an efficient grievance mechanism are preconditions to ensure that the system provides effective protection against violations relating to business conduct,' he continues.

Room for interpretation

The Guidelines apply to all multinational enterprises with roots in OECD countries, regardless of where in the world they do business. However, as with most laws and regulations, there is room for interpretation when the Guidelines are put into practice. Therefore, the NCPs are continuously exchanging

information about the consideration of specific instances.

'The OECD Guidelines are unique because they are the only international mechanism for promoting responsible business that is supported by a grievance mechanism. At the same time, we can neither pronounce binding "judgments" nor order anyone to pay compensation. We are therefore dependent on trust, being good at giving advice and achieving results through mediation,' says Elgesem.

Meeting to learn

Representatives of the NCPs regularly come together for what are known as peer learning sessions, the goal of which is to learn from each other by sharing experience and discussing relevant issues, and to receive top-up from experts. All the NCPs also get together at least once a year under the auspices of the OECD. Regional meetings are organised in addition.

'Among other things, we discuss different aspects of the complaints process, such as how to ensure transparency or when you should reject a case,' explains Elgesem.

In addition, the NCPs share best practice on how to raise awareness of the Guidelines and assist companies in complying with them.



'The Norwegian NCP is often asked to talk about the courses we give in human rights due diligence,' says Elgesem.

Evaluate each other

The NCPs also perform voluntary peer reviews, where a contact point is placed under the scrutiny of one or more contact points. The process identifies strengths and weaknesses, and points for improvement and often ends in recommendations for the government responsible for the NCP in question.

'This way, the NCPs help each other to work smarter and more efficiently, at the same time as we strengthen individual countries' contact point arrangements,' says Elgesem.

The Norwegian NCP was the subject of a peer review in 2013. The evaluation concluded that the Norwegian NCP is one of the leading contact points in the OECD. However, the NCP was also advised to increase its efforts to promote the Guidelines to small and medium-sized enterprises and public agencies.

'We have followed up this recommendation,' Elgesem points out.

A pioneer

Norway is seen as a pioneer country in the implementation of the OECD Guidelines for Multinational Enterprises, and by association, the UN Guiding Principles on Business and Human Rights (UNGPs).

'The Government's own action plan for business and human rights is a useful tool in this work,' says Elgesem.

The Norwegian NCP makes regular contributions to the OECD's central organisation, both in the Working Party on Responsible Business Conduct and in the development of sectoral guidelines.

'We are also involved in the UN's Working Group on Business and Human Rights. We were recently invited to contribute to the regional consultation on the implementation of the UN Guiding Principles in South America,' says Elgesem.

The Norwegian NCP is organised under, but operates independently of, the Ministry of Foreign Affairs.

'Independence is crucial for building trust. We are free to prioritise our work and are confident in the exercise of our mandate. Raising our profile and achieving recognition is also important.'



The NCP contributes in international forums

During 2016, the Norwegian NCP has attended and made contributions to international meetings with the business sector, the OECD's central organisation, other NCPs, the UN, civil society and trade unions.

These events are important arenas where the NCP works to promote the Guidelines, and they are an essential part of our three-part mandate. Participation in various seminars, both in Norway and abroad, helps to harmonise the understanding of the OECD Guidelines in several countries and will thereby contribute to a more level playing field for international companies.

In 2016, the NCP has hosted eight events on responsible business conduct and also co-hosted five events. In addition, it has given different kinds of presentations at 15 different events. The attendants and partners at these events have been representatives of the Norwegian business sector, other public agencies, the academic community and Norwegian special interest organisations, including indigenous organisations, development organisations and trade unions.

The topics have included the OECD Guidelines, human rights due diligence (including labour rights), stakeholder engagement, the OECD's sectoral guidelines and indigenous issues.



Seminar in Kenya on the implementation of the OECD Guidelines and the UN Guiding Principles

On 13 and 14 April, Ola Mestad, Chair of the Norwegian NCP, attended a seminar and several meetings in Nairobi, Kenya to discuss how to best implement the OECD Guidelines and the UN Guiding Principles.

Mestad met with the Kenyan Attorney General, the National Steering Committee on the National Action Plan on Business and

Human Rights, and a number of Kenyan and Norwegian companies. In cooperation with Innovation Norway's East Africa office, Mestad shared experience at a seminar hosted by Team Norway on how affected parties can successfully be included in business development projects.

Meetings and peer reviews in the OECD system

The Norwegian NCP is often invited by both the OECD and other NCPs to share experience and learn about how the contact point arrangement can be organised and how the Guidelines for Multinational Enterprises can best be promoted.

In 2016, the NCP attended such meetings in Brazil, Italy and Finland. At these meetings, the Norwegian NCP shared its experience with the NCPs of the UK, Denmark, the USA, Switzerland and Sweden.



The OECD Global Forum on Responsible Business Conduct

The Global Forum in Paris aims to strengthen cooperation between public sector agencies, the business sector, trade unions and civil society. Key topics at this year's forum, which took place on 8-9 June, were supply chain issues, transparency, taxation and investors' role in responsible business. The programme was full of interesting presentations that show how parts of the international business sector are at the forefront of promoting innovative methods for responsible business. A total of 600 different participants were present.

OECD Secretary-General Angel Gurría pointed out to the forum that the business sector is important in achieving both the

Sustainable Development Goals and the climate goals. He referred to the fact that more investors are now making requirements of companies to meet responsible business standards, including the OECD Guidelines. Angel Gurría also pointed out the unfortunate fact that not all the acceding countries make enough resources available to their NCPs. Ola Mestad gave a talk about the Norwegian NCP's human rights due diligence course for the business sector and the strengths of the OECD's contact point arrangement compared with other grievance mechanisms and legal bodies.



The UN Forum on Business and Human Rights

The 5th UN Forum was held in Geneva and included 2,500 participants from the business sector, civil society and the public authorities. Chair of the Norwegian NCP, Ola Mestad, contributed with a talk on the specific instance of Jijnjevaerie vs Statkraft in one of the sessions on sustainability and renewable energy.

The topics that received particular focus at the 2016 Forum (14–16 November) included financial institutions, state leadership and indigenous rights. Other topics that were discussed were anti-corruption, migration, renewable energy, successful grievance mechanisms, supply chain challenges, and how to incorporate human rights in connection with the UN Sustainable Development Goals (SDGs). In his keynote address, Professor John G Ruggie, the ‘architect’ behind the UN Guiding Principles on Business and Human Rights, focused on how the SDGs can only be realised through responsible business conduct, and that we must keep this in mind.





Financial accounts for 2016 for the NCP

All figures in NOK

	2016 EXPENDITURE
Fees for NCP members	345 000
Pay, secretariat	2 025 000
Travel	325 000
External consultancy	727 000
IT, misc. office equipment and printed matter	35 000
Information activities/meetings	350 000
Translations	67 000
Total	3 874 000

5

steps to ensure responsible business



The OECD guidelines expect that enterprises carry out risk-based due diligence to identify, prevent and mitigate actual and potential adverse impacts, both in their own operations and in the supply chain. Furthermore, enterprises should account for how these impacts are addressed.

Risks refers to the risk of harm on individuals, other organisations and communities in relation to human rights, labour rights and the environment.

Enterprises should track progress on due diligence and should communicate publicly on the processes, including on how the enterprise has addressed negative impacts.

The five steps illustrates that this entails a dynamic, and ongoing process.



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