11th International Anti-Corruption Conference: Workshop 1.3

Presentation Abstract

1. Panelist Name: Kathryn Gordon	2. Workshop Title: International Standards and Pressures: Agents for Change or Waste of Time?

3. Title of case-study or paper: The OECD Guidelines for Multinational Enterprises as an Emerging Anti-corruption Instrument

The 2002 OECD Ministerial Statement and G8 Summit's "Africa Action Plan" have both highlighted the role of the OECD Guidelines for Multinational Enterprises in supporting "the implementation of effective measures to combat corruption, bribery and embezzlement." The OECD approach to these high-level calls for use of the Guidelines seeks to engage both multinational enterprises and host and home governments in the search for solutions to what are often intractable and inter-related problems in the public and private sectors.

The Guidelines are one of the world's foremost corporate responsibility instruments. They express the shared views and commitments of 37 adhering governments on ethical business conduct. Key features of the Guidelines are as follows:

- They contain voluntary recommendations to multinational enterprises (MNEs) in such areas as anti-corruption, human rights, disclosure of information, taxation, labor relations and consumer protection.
- The 37 governments that adhere to the Guidelines represent countries that are the source of most of the world's foreign direct investment and are home to most major MNEs.
- The Guidelines are part of a broader and balanced instrument of rights and commitments – the OECD Declaration on International Investment and Multinational Enterprises.
- Adhering governments make a binding commitment to promote the recommendations of the Guidelines among MNEs operating in or from their territories.

The Guidelines' distinctive follow-up mechanisms include the operation of National Contact Points (NCP), which are government offices charged with promoting the Guidelines and handling inquiries in the national context. The Guidelines provide an institutional home for government consideration – in partnership with business, labor and NGOs – of corporate responsibility issues.

Specific instances. Guidelines implementation establishes a "soft whistle-blowing" facility – specific instances - that allows interested parties to call a company's alleged non-observance of Guidelines recommendations to the attention of an NCP, who may then undertake a process of dialog with the company and other parties about the allegations. Adhering governments have used the "specific instances" procedures to consider company practices, in OECD as well as non-OECD countries, in areas that go to the heart of the current debate on globalization (e.g. resettlement plans in Zambia, child labor in India and human rights in Myanmar). Over 25 such cases have been raised. A recent UN expert panel report listed some 60 companies based in countries adhering to the Guidelines that have allegedly not observed the OECD Guidelines in relation to illegal exploitation of natural resources in the Democratic Republic of Congo (some of the allegations are corruption-related). NCPs are looking into these allegations using the "specific instances" procedure.

Clarifications. The Guidelines also provides a facility – "clarifications" – that allows adhering governments to elucidate the meaning of particular Guidelines recommendations. Several of the specific instances (e.g. in Myanmar and DRC) might lend themselves to clarification because they raise a generic issue – how can a company conduct business with integrity when operating in areas where public governance is weak? All parties to the Guidelines process – business, trade unions, NGOs and governments themselves – recognize the need to clarify the respective roles of governments and companies. Work has already been undertaken on the issue of assisting MNEs in observing the recommendations of the Guidelines in situations involving the inter-connected problems of corruption, violent conflict and widespread human rights abuses. Further OECD work on corruption and on business operations in weak governance zones might provide an opportunity for adhering governments to use the Guidelines to help define what is reasonable to expect of companies operating in such situations.

Export-credit, investment guarantees and investment promotion. At least 9 adhering governments have established specific linkages between the Guidelines and programs such as export credits and investment guarantees. While care must be taken to respect the voluntary nature of the Guidelines, governments are still exploring how the Guidelines can be used to communicate home societies' expectations concerning the proper use of these tax-payer financed programs by business.