

Kirsty Drew Senior Policy Adviser, TUAC

OECD Guidelines for Multinational Enterprises

The OECD Guidelines for Multinational Enterprises are non-binding recommendations that set out the standard of behaviour that is expected of multinational enterprises by their governments.

They cover a wide range of issues including trade union rights, but also transparency, environment, corruption and tax.

The OECD Guidelines apply to all categories of workers: employees, temporary workers, agency workers, workers in the supply chain, and migrant workers.

The OECD Guidelines are unique in having a government-backed complaints mechanism for addressing violations of the Guidelines by multinational enterprises – National Contact Points. Trade unions have successfully submitted cases to these National Contact Points.

Sharan Burrow this morning, and Stephan Cotton and Phil Jennings in the previous session already referred to a successful UNI/ITF case submitted against Deutsche Post DHL to the German National Contact Point under the OECD Guidelines.

So far, 46 of the most industrialised countries have signed the OECD Guidelines. Notably a number of BRICS have not signed. This means that Chinese, Indian and Russian MNEs are not covered by the OECD Guidelines.

The UN Guiding Principles on Business and Human Rights

Turning to our second instrument, in 2011, the UN Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights. These are also non-binding principles.

These Guiding Principles set out on the one hand the duties of States and on the other the responsibilities of enterprises with regard to business-related human rights abuses.

They require all companies to respect human rights. This means they should avoid infringing on the rights of others, including workers, and to address any human rights that occur. Workers' rights are of course human rights.

This **corporate responsibility to respect human rights** is the new global standard of expected conduct for enterprises, wherever they operate.

It exists independently of the abilities or willingness of States to fulfil their human rights obligations.

And it extends to all human rights – under the Guiding Principles companies can't pick and choose rights. Companies can't opt to focus on eliminating child labour in their supply chains, while ignoring violations of trade union rights.

CONVERGENCE OF STANDARDS

In 2011 key provisions of the Guiding Principles were incorporated into a new Human Rights chapter in the OECD Guidelines.

Hence with respect to union growth, the two instruments expect that multinational enterprises:

- Respect the right of workers to form or join a trade union including workers in the global supply chain;
- Respect the right of workers to bargain collectively, including in the global supply chain;
- Draw up and publish a human rights policy;
- Conduct human rights due diligence – due diligence is the process by which companies “know and show” that they are respecting human rights.
 - In the DHL case, UNI and ITF argued that DHL had failed to undertake human rights due diligence with respect to trade union rights.
- Use their leverage to ensure that their business partners respect trade union rights.

Use by Trade Unions

Trade unions have submitted a total of 160 cases using the complaints mechanism of the OECD Guidelines.

In a landmark case the International Union of Foodworkers, the IUF, submitted a case to the UK National Contact Point, against Unilever concerning the abusive use of temporary contracts at its Lipton’s tea factory in Khanewal in Pakistan. There were 22 employees and 723 temporary workers at the factory.

The IUF argued that this abusive use of precarious employment contracts denied workers their right to be represented by a trade union that had a collective bargaining relationship with Unilever - the real employer.

The case was submitted to the UK National Contact Point because the violations concerned a UK multinational company – Unilever – and because the UK has signed the OECD Guidelines. All MNEs registered in countries that have signed the Guidelines are covered by the OECD Guidelines.

The role of the UK National Contact Point was to provide a neutral forum and to bring the parties together in order to solve the issues raised in the case through mediation.

Following mediation provided by the UK NCP, Unilever agreed to transform precarious contracts into direct, permanent employment, thus significantly enlarging union membership.

Unilever agreed to establish 200 permanent positions at Khanewal in addition to the existing 22 positions.

ITUC Resolution on Union Growth

TUAC would suggest including in the Resolution a commitment to:

Promote understanding of the international instruments, as part of a global supply chain strategy

Submit cases to build union power and to challenge violations of trade union rights in the supply chain and through the abusive use of temporary contracts.