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DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS  
COMMITTEE ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES

**THE OECD DECLARATION AND DECISIONS ON INTERNATIONAL  
INVESTMENT AND MULTINATIONAL ENTERPRISES: BASIC TEXTS**

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## FOREWORD

The OECD has long been a focal point for co-operation among Member countries in the area of international direct investment and multinational enterprises. This co-operation is based on the 1976 Declaration on International Investment and Multinational Enterprises and its associated Decisions of the OECD Council which have been strengthened in various ways over the past twenty-four years. These instruments reflect a consensus based on a shared philosophy and a common approach among twenty-nine OECD and four non-OECD Member countries (Argentina, Brazil, Chile and the Slovak Republic<sup>1</sup>) and contain four inter-related elements:

- **The Guidelines for Multinational Enterprises** provide voluntary principles and standards for responsible business conduct addressed to multinational enterprises themselves;
- **The National Treatment Instrument** sets out member countries' commitment to accord to foreign-controlled enterprises operating in their territories treatment no less favourable than that accorded to domestic enterprises in like situations;
- An instrument on **International Investment Incentives and Disincentives** provides for efforts among member countries to improve co-operation on measures affecting international direct investment; and
- An instrument on **Conflicting requirements** calls on Member countries to avoid or minimise conflicting requirements imposed on multinational enterprises by governments of different countries.

The OECD Declaration and Decisions have periodically been reviewed<sup>2</sup> (1979, 1982, 1984, 1991). The most recent review concerned the Guidelines for Multinational Enterprises and was completed in June 2000. In comparison with the earlier reviews the changes to the text of the Guidelines are far-reaching and reinforce the core elements – economic, social and environmental—of the sustainable development agenda<sup>3</sup>. They have been developed in constructive dialogue with the business community,

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1 On 28 September 2000, Slovakia signed an Agreement setting out the terms under which it will become the thirtieth member of the OECD. The Agreement will now be submitted to the Slovak Parliament for ratification, a process that is expected to take approximately two months.

2 See the Review reports: *International Investment and Multinational Enterprises: Review of the 1976 Declaration and Decisions* (OECD Paris, 1979); *Mid-Term Report on the 1976 Declaration and Decisions* (OECD Paris, 1982); *1984 Review of the 1976 Declaration and Decisions* (OECD Paris, 1984); *The OECD Declaration and Decisions on International Investment and Multinational Enterprises, 1991 Review* (OECD Paris, 1992).

3 With the addition of recommendations relating to the elimination of child and forced labour, all internationally recognised core labour standards are now covered by the Guidelines. The environment section now encourages enterprises to raise their environmental performance, through such measures as improved internal environmental management, stronger disclosure of environmental information, and better contingency planning for environmental impacts. A recommendation on human rights has been introduced. New chapters on combating corruption and on consumer protection have also been added. The chapter on disclosure and transparency has been updated to reflect the *OECD Principles on Corporate Governance* and to recognise and encourage progress in enhancing firms' social and environmental accountability.

labour representatives and non-governmental organisations. The revisions to the implementation procedures maintain the focus on the National Contact Points (NCPs), as the key government institution responsible for furthering effective implementation of the Guidelines; however, they provided more guidance to National Contact Points in fulfilling their role and has also clarified the CIME's role.

In welcoming the updated Guidelines for Multinational Enterprises, OECD Ministers<sup>4</sup> noted that “the Guidelines provide a robust set of recommendations for responsible corporate behaviour worldwide consistent with existing legislation. They are part of the OECD Declaration on International Investment and Multinational Enterprises which provides a balanced framework to improve the international investment climate and encourage the positive contributions multinational enterprises can make to economic, social and environmental goals”.

Ministers also noted that “OECD will continue its analytical work in the field of investment policy, including work on maximising the benefits of investment liberalisation, its social and environmental dimensions and on harmful forms of policy-based competition to attract investment. OECD will encourage non-members to adhere to the Declaration on International Investment and Multinational Enterprises”.

The effectiveness of the Declaration and its constituent elements depends on the follow-up which adhering countries will give to it, both nationally and within the procedures set up at the level of OECD.

The ongoing support and involvement of the business community represented by the Business and Industry Advisory committee (BIAC), labour, represented by the Trade Union Advisory Committee (TUAC) and other non-governmental organisations will also be crucial.

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4 Extract from the final news release at the OECD Ministerial, June 2000 [<http://www.oecd.org/media/release/nw00-70a.htm> (paragraph 26)].

## TABLE OF CONTENTS

I. DECLARATION ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES	5
<i>Annex 1</i> THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES .....	7
<i>Annex 2</i> GENERAL CONSIDERATIONS AND PRACTICAL APPROACHES CONCERNING CONFLICTING REQUIREMENTS IMPOSED ON MULTINATIONAL ENTERPRISES .....	22
II. DECISIONS OF THE OECD COUNCIL .....	24
1. The OECD Guidelines for Multinational Enterprises .....	25
2. National Treatment .....	30
3. Conflicting Requirements .....	33
4. International Investment Incentives and Disincentives.....	35

## I. DECLARATION ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES

27 June 2000

ADHERING GOVERNMENTS<sup>5</sup>

### 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<sup>6</sup>, having regard to the considerations and understandings that are set out in the Preface and are an integral part of them;”

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5. 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.

6. The text of the Guidelines for Multinational Enterprises is reproduced in Annex 1 of this booklet.

National Treatment	<p>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");</p> <p>2. That adhering governments will consider applying "National Treatment" in respect of countries other than adhering governments;</p> <p>3. That adhering governments will endeavour to ensure that their territorial subdivisions apply "National Treatment";</p> <p>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;</p>
Conflicting Requirements	<p>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 as set forth in Annex 2 hereto<sup>7</sup>.</p>
International Investment Incentives and Disincentives	<p>IV.1. That they recognise the need to strengthen their co-operation in the field of international direct investment;</p> <p>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;</p> <p>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;</p>
Consultation Procedures	<p>V. That they are prepared to consult one another on the above matters in conformity with the relevant Decisions of the Council;</p>
Review	<p>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.</p>

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7. The text of General considerations and Practical Approaches concerning Conflicting Requirements Imposed on Multinational Enterprises is reproduced in Annex 2 of this booklet.

*Annex 1***THE 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:

1. The financial and operating results of the company;
2. Company objectives;
3. Major share ownership and voting rights;
4. Members of the board and key executives, and their remuneration;
5. Material foreseeable risk factors;
6. Material issues regarding employees and other stakeholders;
7. 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.

*Annex 2*

**GENERAL CONSIDERATIONS AND PRACTICAL APPROACHES CONCERNING  
CONFLICTING REQUIREMENTS IMPOSED ON MULTINATIONAL ENTERPRISES**<sup>8</sup>

GENERAL CONSIDERATIONS

1. In contemplating new legislation, action under existing legislation or other exercise of jurisdiction which may conflict with the legal requirements or established policies of another Member country and lead to conflicting requirements being imposed on multinational enterprises, the Member countries concerned should:
  - a) Have regard to relevant principles of international law;
  - b) Endeavour to avoid or minimise such conflicts and the problems to which they give rise by following an approach of moderation and restraint, respecting and accommodating the interests of other Member countries<sup>9</sup>;
  - c) Take fully into account the sovereignty and legitimate economic, law enforcement and other interests of other Member countries;
  - d) Bear in mind the importance of permitting the observance of contractual obligations and the possible adverse impact of measures having a retroactive effect.
2. Member countries should endeavour to promote co-operation as an alternative to unilateral action to avoid or minimise conflicting requirements and problems arising therefrom. Member countries should on request consult one another and endeavour to arrive at mutually acceptable solutions to such problems.

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8 The General Considerations and Practical Approaches were endorsed by the Ministers in May 1984. They were annexed to the 1976 Declaration as a result of the 1991 Review exercise.

9 Applying the principle of comity, as it is understood in some Member countries, includes following an approach of this nature in exercising one's jurisdiction. This text is an integral part of the negotiated instruments.

## PRACTICAL APPROACHES

3. Member countries recognised that in the majority of circumstances, effective co-operation may best be pursued on a bilateral basis. On the other hand, there may be cases where the multilateral approach could be more effective.
4. Member countries should therefore be prepared to:
  - a) Develop mutually beneficial, practical and appropriately safeguarded bilateral arrangements, formal or informal, for notification to and consultation with other Member countries;
  - b) Give prompt and sympathetic consideration to requests for notification and bilateral consultation on an ad hoc basis made by any Member country which considers that its interests may be affected by a measure of the type referred to under paragraph 1 above, taken by another Member country with which it does not have such bilateral arrangements;
  - c) Inform the other concerned Member countries as soon as practicable of new legislation or regulations proposed by their Governments for adoption which have significant potential for conflict with the legal requirements or established policies of other Member countries and for giving rise to conflicting requirements being imposed on multinational enterprises;
  - d) Give prompt and sympathetic consideration to requests by other Member countries for consultation in the Committee on International Investment and Multinational Enterprises or through other mutually acceptable arrangements. Such consultations would be facilitated by notification at the earliest stage practicable;
  - e) Give prompt and full consideration to proposals which may be made by other Member countries in any such consultations that would lessen or eliminate conflicts.

These procedures do not apply to those aspects of restrictive business practices or other matters which are the subject of existing OECD arrangements.

## **II. DECISIONS OF THE OECD COUNCIL**



## **1. The OECD Guidelines for Multinational Enterprises**

### **DECISION OF THE COUNCIL**

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 Committee on International Investment and Multinational Enterprises, 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 Committee on International Investment and Multinational Enterprises:

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 Committee on International Investment and Multinational Enterprises.

## **II. The Committee on International Investment and Multinational Enterprises**

1. The Committee on International Investment and Multinational Enterprises (“CIME” or “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 CIME 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. Committee on International Investment and Multinational Enterprises**

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.

## 2. National Treatment

### THIRD REVISED DECISION OF THE COUNCIL

December 1991

THE COUNCIL,

Having regard to the Convention on the Organisation for Economic Co-operation and Development of 14th December 1960 and, in particular, to Articles 2 (c), 2 (d), 3 and 5 (a) thereof;

Having regard to the Resolution of the Council of 13th December 1984 on the Terms of Reference of the Committee on International Investment and Multinational Enterprises [C(84)171(Final)];

Having regard to the Section on National Treatment of the Declaration by Governments of OECD Member countries of 21st June 1976 on International Investment and Multinational Enterprises (hereinafter called "the Declaration");

Having regard to the Second Revised Decision of the Council of 17th May 1984 on National Treatment [C(84)91];

Having regard to the report on the National Treatment Instrument by the Committee on International Investment and Multinational Enterprises [C(91)147 and Corrigendum 1];

Considering it appropriate to strengthen the procedures established within the Organisation for reviewing laws, regulations and administrative practices (hereinafter called "measures") which depart from National Treatment, as defined in the Declaration (hereinafter called "National Treatment");

On the proposal of the Committee on International Investment and Multinational Enterprises;

DECIDES:

The Second Revised Decision of the Council of 17th May 1984 on National Treatment [C(84)91] is repealed and replaced by the following:

#### *Article 1*

#### NOTIFICATION

- a. Members<sup>10</sup> shall notify the Organisation, of all measures constituting exceptions to National Treatment within 60 days of their adoption and of any other measures which have a bearing on National Treatment. All exceptions shall be set out in Annex A to this Decision<sup>11</sup>.

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10 For the purposes of this Decision, "Members" means all parties to the Decision. This text is an integral part of the negotiated instrument.

11 In the interests of brevity, Annex A to the Decision is not reproduced herein. A full list of country exceptions is available from the OECD website: [www.oecd.org/daf/investment/legal-instruments/nti.htm](http://www.oecd.org/daf/investment/legal-instruments/nti.htm).

- b.* Members shall notify the Organisation within 60 days of their introduction of any modifications of the measures covered in paragraph *a.*
- c.* The Organisation shall consider the notifications submitted to it in accordance with the provisions of paragraphs *a* and *b* with a view to determining whether each Member is meeting its commitments under the Declaration.

*Article 2*

EXAMINATION

- a.* The Organisation shall examine each exception lodged by a Member and other measures notified under Article 1 at intervals to be determined by the Organisation. These intervals shall, however, be not more than three years, unless the Council decides otherwise.
- b.* Each Member shall notify the Organisation prior to the periodic examination called for in paragraph *a*, whether it desires to maintain any exception lodged by it under Article 1 and if so, state its reasons therefore.
- c.* The examinations provided for in paragraph *a* shall be directed at making suitable proposals designed to assist Members to withdraw their exceptions.
- d.* The examinations provided for in paragraph *a* shall be country reviews in which all of the exceptions lodged by a Member are covered in the same examination.
- e.* Notwithstanding paragraph *d*, the examinations provided for in paragraph *a* may focus on specific types or groups of measures of particular concern, as and when determined by the Organisation.

*Article 3*

REFERENCE TO THE ORGANISATION

- a.* If a Member considers that another Member has, contrary to its undertakings with regard to National Treatment, retained, introduced or reintroduced measures and if it considers itself to be prejudiced thereby, it may refer to the Organisation.
- b.* The fact that the case is under consideration by the Organisation shall not preclude the Member which has referred to the Organisation from entering into bilateral discussion on the matter with the other Member concerned.

*Article 4*

COMMITTEE ON INTERNATIONAL INVESTMENT  
AND MULTINATIONAL ENTERPRISES: GENERAL TASKS

- a.* The Committee on International Investment and Multinational Enterprises (hereinafter called "the Committee") shall consider all questions concerning the interpretation or implementation of the

provisions of the Declaration or of Acts of the Council relating to National Treatment and shall report its conclusions thereon to the Council.

- b.* The Committee shall submit to the Council any appropriate proposals in connection with its tasks as defined in paragraph *a* and, in particular, with the abolishing of measures constituting exceptions to National Treatment.

*Article 5*

COMMITTEE ON INTERNATIONAL INVESTMENT  
AND MULTINATIONAL ENTERPRISES: SPECIAL TASKS

- a.* The Committee shall:
- i)* consider, in conformity with paragraphs (*a*) and (*b*) of Article 2, each exception notified to the Organisation and make, where appropriate, suitable proposals to assist Members to withdraw their exceptions;
  - ii)* consider, in accordance with Article 1, the notifications submitted to the Organisation;
  - iii)* consider references submitted to the Organisation in accordance with the provisions of Article 3;
  - iv)* act as a forum for consultations, at the request of a Member, in respect of any matter related to the Declaration and its implementation.
- b.* The Committee may periodically invite the Business and Industry Advisory Committee to the OECD (BIAC) and the Trade Union Advisory Committee to the OECD (TUAC) to express their views on matters related to National Treatment and shall take account of such views in its reports to the Council.

*Article 6*

REVIEW OF THE DECISION

This Decision shall be reviewed within three years.

*Article 7*

PARTICIPATION BY THE EUROPEAN ECONOMIC COMMUNITY

The present Decision, as well as any further Decision amending it, shall be open for accession by the European Economic Community. Such accession shall be notified to the Secretary-General of the Organisation.



### 3. Conflicting Requirements

#### DECISION OF THE COUNCIL

June 1991

THE COUNCIL,

Having regard to the Convention on the Organisation for Economic Co-operation and Development of 14th December 1960 and, in particular, to Articles 2 (*d*), 3 and 5 (*a*) thereof;

Having regard to the Resolution of the Council of 28th November 1979, on the Terms of Reference of the Committee on International Investment and Multinational Enterprises and, in particular, to paragraph 2 thereof [C(79)210(Final)];

Recalling that the Council at Ministerial level endorsed the Conclusions and Recommendations of the Report on the Second Review of the 1976 Declaration and Decisions on International Investment and Multinational Enterprises [C/MIN(84)5(Final)], and in particular the section in that Report on conflicting requirements;

Taking note of the Declaration by the Governments of OECD Member countries of 21st June 1976 (Revised 4-5 June 1991) in which they jointly recommend to Member countries to co-operate with a view of avoiding or minimising conflicting requirements being imposed on multinational enterprises;

Recognising the desirability of maintaining procedures by which consultations may take place on matters related to conflicting requirements;

Recognising that, while bilateral and multilateral co-operation should be strengthened when multinational enterprises are made subject to conflicting requirements, effective co-operation on problems arising therefrom may best be pursued in most circumstances on a bilateral level, although there may be cases where the multilateral approach would be more effective;

On the proposal of the Committee on International Investment and Multinational Enterprises:

DECIDES:

1. Member countries may request that consultations be held in the Committee on any problem arising from the fact that multinational enterprises are made subject to conflicting requirements. The Member countries concerned shall give prompt and sympathetic consideration to requests by Member countries for consultations in the Committee or through other mutually acceptable arrangements, it being understood that such consultations would be facilitated by notification at the earliest stage practicable. Member countries concerned will co-operate in good faith with a view to resolving such problems, either within the Committee or through other mutually acceptable arrangements.
2. The Committee will continue to serve as a forum for consideration of the question of conflicting requirements, including, as appropriate, the national and international legal principles involved.

3. Member countries shall assist the Committee in its periodic reviews of experience on matters relating to conflicting requirements.
4. 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) to express their views on matters relating to conflicting requirements.
5. This Decision shall be reviewed at the latest in 1997. The Committee shall make proposals for this purpose as appropriate.
6. Paragraphs 7 to 10 of the Decision on the Guidelines for Multinational Enterprises [C(84)90] are repealed.

#### **4. International Investment Incentives and Disincentives**

##### **SECOND REVISED DECISION OF THE COUNCIL**

May 1984

THE COUNCIL,

Having regard to the Convention on the Organisation for Economic Co-operation and Development of 14th December 1960 and, in particular, Articles 2 (c), 2 (d), 2 (e), 3 and 5 (a) thereof;

Having regard to the Resolution of the Council of 28th November 1979 on the Terms of Reference of the Committee on International Investment and Multinational Enterprises [C(79)210(Final)];

Taking note of the Declaration by the Governments of OECD Member countries of 21st June 1976 on International Investment Incentives and Disincentives;

Having regard to the Revised Decision of the Council of 13th June 1979 on International Investment Incentives and Disincentives [C(79)145];

Considering the Report on the Second Review of the 1976 Declaration and Decisions on International Investment and Multinational Enterprises [C/MIN(84)5(Final)];

On the proposal of the Committee on International Investment and Multinational Enterprises;

DECIDES:

1. Consultations will take place in the framework of the Committee on International Investment and Multinational Enterprises at the request of a Member country which considers that its interests may be adversely affected by the impact on its flow of international direct investments of measures taken by another Member country which provide significant official incentives and disincentives to international direct investment. Having full regard to the national economic objectives of the measures and without prejudice to policies designed to redress regional imbalances, the purpose of the consultations will be to examine the possibility of reducing such effects to a minimum.
2. Member countries shall supply, under the consultation procedures, all permissible information relating to any measures being the subject of the consultation.
3. The Committee may periodically invite the Business and Industry Advisory Committee to OECD (BIAC) and the Trade Union Advisory Committee to OECD (TUAC) to express their views on matters relating to international investment incentives and disincentives and shall take account of these views in its periodic reports to the Council.
4. This Decision shall be reviewed at the latest in six years. The Committee on International Investment and Multinational Enterprises shall make proposals for this purpose as appropriate.
5. This Decision shall replace Decision [C(79)145].