GLOBAL FORUM ON RESPONSIBLE BUSINESS CONDUCT

SESSION NOTE

Responsible business conduct and state-owned enterprises

Thursday 29 June 2017 - 16:30-18:00
Room CC5 - OECD Conference Centre

Presence of state-owned enterprises in the global marketplace

It is estimated that in 2014 22.8% of Global Fortune 500 companies were state-owned, compared with 9.8% in 2005 (OECD, 2017; Kwiatkowski et al., 2015). Activities of state-owned enterprises (SOEs) have traditionally been domestically-focused (e.g. public utilities), but over the past decade, SOEs have also rapidly internationalised. Asian SOEs in particular are playing an increasingly large cross-border role, both via exports and FDI activities.[1] SOEs are also deepening their commercial links in the global supply chains.[2]

Responsible business standards apply to state-owned enterprises

Main international instruments on responsible business conduct (RBC) are clear on their application to SOEs. The OECD Guidelines for Multinational Enterprises (MNE Guidelines) state that a precise definition of multinational enterprises is not required for their purpose and that ownership may be private, State or mixed (OECD, 2011: Chapter I: Concepts and Principles, par 4). MNE guidelines also recognise that public scrutiny is often magnified when a State is the final owner (OECD, 2011: Commentary on General Policies, par 10). The UN Guiding Principles for Business and Human Rights (Guiding Principles) apply to all states and all enterprises and stipulate that states should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State (UN, 2011: Guiding Principle 4).

The importance of RBC in SOE activities has also been recognised beyond main RBC instruments. The 2015 OECD Guidelines on Corporate Governance of State-Owned Enterprises (SOE Guidelines) recommend that the state ownership policy fully recognise SOE responsibilities towards stakeholders and request that SOEs report on their relations with stakeholders, as well as to make clear any expectations the state has in respect of RBC by SOEs (OECD, 2015: V). The SOE Guidelines further recommend (and rely on the Board of Directors to the executive management) extensive measures to report on foreseeable risks, including in the areas human rights, labour, the environment, and risks related to corruption and taxation. Furthermore, the OECD Policy Framework for Investment recommends that governments lead by example and model RBC principles and standards in their own practices, i.e. as employers, business partners, through procurement and contracting practices, and in commercial activities. This includes the activities of SOEs.Table 1 provides a summary.

Current practices

There is limited research on RBC practices of SOEs and on how the state is implementing the RBC and ownership policy objectives. A 2016 report by the UN Working Group on Business and Human Rights that examined the issue found that there is a general lack of attention to RBC issues and that policies, guidelines and good practices are lacking at both the international and national levels (UN, 2016). This panel will look at latest research and examples on how governments are linking the governance of SOEs with creating value for citizens and supporting the broader agenda on sustainable development and RBC. The links between RBC and SOE OECD instruments and latest research and conclusions by the UN Human Rights Council will be presented; examples from China and Kazakhstan will be highlighted.

OECD

Table 1: Summary of relevant RBC provisions as related to SOEs

International Standard	RBC-related provisions
OECD Guidelines for Multinational Enterprises (2011)	A precise definition of multinational enterprises is not required for their purpose and ownership may be private, State or mixed (Chapter I: Concepts and Principles, par 4). Recognise that public scrutiny is often magnified when a State is the final owner (Commentary on General Policies, par 10).
UN Guiding Principles for Business and Human Rights (2011)	Apply to all states and all enterprises. Guiding Principle 4 stipulates that "States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies such as export credit agencies and official investment insurance or guarantee agencies, including, where appropriate, by requiring human rights due diligence".
OECD Guidelines on Corporate Governance of State-Owned Enterprises (2015)	Recommend that the state ownership policy fully recognise SOE responsibilities towards stakeholders and request that SOEs report on their relations with stakeholders, as well as to make clear any expectations the state has in respect of RBC by SOEs (Chapter V). Recommend (and rely on the Board of Directors to the executive management) extensive measures to report on foreseeable risks, including in the areas human rights, labour, the environment, and risks related to corruption and taxation. The MNE and SOE Guidelines acknowledge their mutual relevance and each suggests that States take into account the other. Note that states should not use SOEs to implement non-commercial objectives in a non-transparent or ad-hoc manner. The state's expectations on RBC should be clearly defined and communicated via the ownership policy. Explicitly call for any non-commercial objectives to be clearly defined and financed by the state budget. This helps to avoid any undue disadvantages which could jeopardise efficiency and the level playing field with private companies.
OECD Policy Framework for Investment (2015)	Recommends that governments lead by example and model RBC principles and standards in their own practices, i.e. as employers, business partners, through procurement and contracting practices, and in commercial activities. This includes the activities of SOEs.

References and Links

- China General Office of the State Council 2017 Guidelines for Further Improving the Governance Structure of SOEs
- UNDP (2017), 2017 Report on the Sustainable Development of Chinese Enterprises Overseas
- Kwiatkowski, G., and P. Augustynowcz (2015), "State-owned enterprises in the global economy –analysis based on Fortune Global 500 list", *Management Knowledge and Learning Joint Conference*, Italy, 27-29 May
- OECD (2017), OECD Business and Finance Outlook 2017
- OECD (2016), State-Owned Enterprises as Global Competitors: A Challenge or an Opportunity?
- OECD (2015), OECD Guidelines on Corporate Governance of State-Owned Enterprises
- OECD (2011), OECD Guidelines for Multinational Enterprises
- UN (2016), Human Rights Council, Thirty-second session, *Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises*, A/HRC/32/45, 4 May 2016
- UN (2011), *Guiding Principles on Business and Human Rights*, HR/PUB/11/04

[1] For example, China's share of merchandise exports is 14% of the total and 10% of mergers and acquisitions (M&A) outflows. India, Indonesia and Malaysia, which also have many domestic SOEs, have only managed together to capture 4% of world exports (see OECD, 2017, Chapter 3).

[2] Through cross-border mergers and acquisitions (M&A) - since 2007, M&A activity by SOEs has grown rapidly - especially from emerging markets - with a notable surge during the 2008-09 economic and financial crisis, and with continued growth compared to overall M&A or foreign direct investment (OECD, 2016).