

RESPONSIBLE BUSINESS CONDUCT AND GENDER



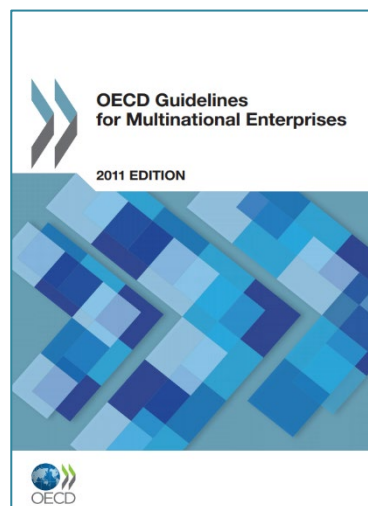
The OECD Centre for Responsible Business Conduct has developed tools and standards that aim to mitigate the negative impacts from business activities on people and the planet. The Centre also provides a gender perspective to its work through recommendations to identify and assess risks in supply chains, which affect women and ensure that access to remedy considers a gendered perspective. A detailed framework for supply chains due diligence, practical guidance for companies on how to integrate the gender perspective into due diligence as well as steps to promote fair access to remedy are part of the Centre’s approach.

This note, prepared by the Centre for Responsible Business Conduct, provides an overview on the OECD’s work on Responsible Business Conduct and issues related to gender.

1. OECD Guidelines for Multinational Enterprises

The OECD Guidelines to Multinational Enterprises (OECD Guidelines) are a key international instrument to promote responsible business conduct (RBC). They contain non-binding recommendations on responsible business conduct addressed by governments to multinational enterprises. They acknowledge and encourage the positive contributions that business can make to economic, environmental and social progress, and recognise that business activities can result in adverse impacts related to workers, human rights, the environment, bribery, consumers and corporate governance.

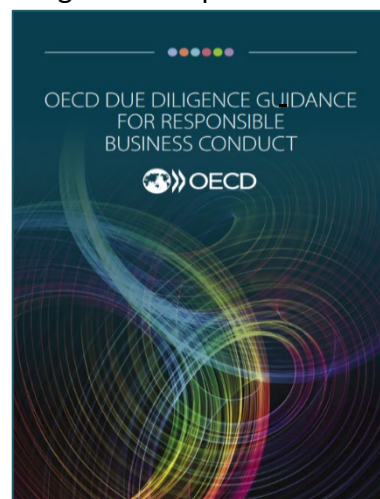
The Guidelines’ chapters cover all key aspects of business responsibility (see *Annex 1*). While gender issues cut across all aspects of business activity, the OECD Guidelines do not have any specific reference to gender.¹ In practice, the chapters of the Guidelines that are most closely related to gender issues, including women’s rights and gender discrimination, are the chapters on Human Rights and on Employment and Industrial Relations.



¹ The term “women” appears in the Guidelines, in paragraphs 40, 54, and 58 in the commentary under the Human Rights chapter as well as in the chapter on Employment and Industrial Relations.

2. OECD Due Diligence Guidance for Responsible Business Conduct – Integrating Gender Considerations into Supply Chain Due Diligence

The OECD Guidelines recommend that businesses carry out risk-based due diligence to avoid and address adverse impacts associated with their operations, their supply chains and other business relationships. To help companies implement the due diligence component of the OECD Guidelines, the OECD developed guidance providing “plain language” explanations and examples. The [OECD Due Diligence Guidance for Responsible Business Conduct](#) adopted in 2018, following a multi-stakeholder consultation process, elaborates on the Guidelines’ recommendations by offering practical guidance to companies on how to integrate a gender perspective into the due diligence process.



This practical guidance to companies provides a set of actionable answers to the question “How can an enterprise integrate gender issues into its due diligence?” (*See Q2 in Annex of the guidance*). It serves as a useful starting point to help business think through how real or potential adverse impacts may differ or may be specific to women. It thereby mirrors an observation articulated by all stakeholders that gender-focused due diligence starts with knowing where women are involved in the supply chain.

Specifically, the guidance highlights how business needs to be aware of gender and women’s human rights in situations where women may be disproportionately impacted, such as:

- In contexts where women face severe discrimination. In the context of sexual harassment, enterprises should assume that if sexual harassment is a high-risk in a particular geographic location, it is a high-risk within the workplace. This is true even if specific instances of sexual harassment have not been reported on-site.
- In contexts where the companies’ activities significantly affect the local economy, environment and access to land and livelihoods.
- In conflict and post-conflict areas.
- In sectors and global supply chains in which large numbers of women are working, such as apparel, electronics, tourism, health and social care, domestic work, agriculture (including fisheries) and fresh cut flowers.

The guidance also states that a gendered approach to due diligence involves adjusting, as appropriate, the actions that enterprises take to identify, prevent, mitigate and address those impacts to ensure these are effective and appropriate. This includes for example that companies:

- Collect and assess sex-disaggregated data, and understand whether enterprise activities impact differently on men and women. Sexual harassment and gender-based violence can be particularly difficult to identify due to a dearth of country- and sector-level data.
- Develop, design and evaluate gender sensitive and gender responsive policies and plans to mitigate and address real and potential adverse impacts identified.

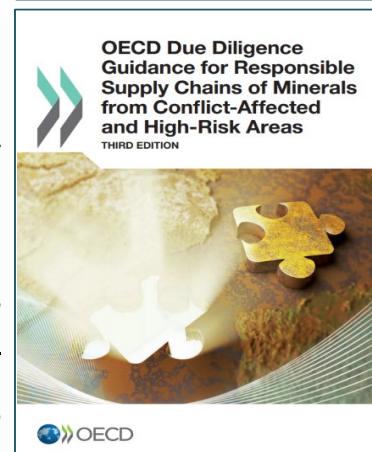
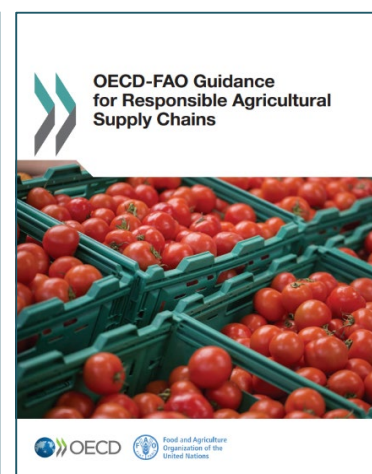
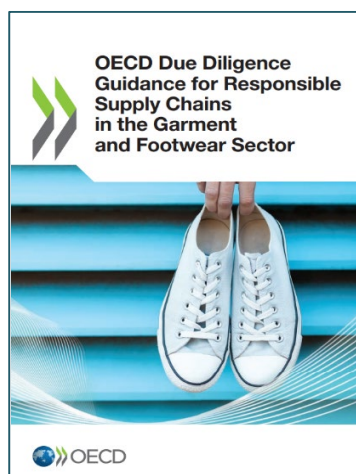
- Identify overlapping/accumulated vulnerabilities affecting women - indigenous, illiterate, and female workers.
- Develop gender sensitive warning systems and protection of whistle blowers. Workers should be provided avenues outside of their employer for filing a complaint so they do not have to complain to the harasser or to someone with whom they do not feel comfortable.
- Support women’s equal and meaningful participation in consultations and negotiations.
- Assess whether women benefit equitably in compensation payments or other forms of restitution.
- Consult women outside the presence of men and facilitating separate spaces for women to express opinions and provide input on business decisions.
- Identify gender-specific trends and patterns in actual or potential adverse impacts that have been overlooked in the due diligence processes.
- Assess whether grievance mechanisms are gender-sensitive, taking into consideration the obstacles that may prevent women from accessing them.

3. Sector Specific Guidance: Raising Awareness of Gender Specific Risks

In addition to the general due diligence guidance, the OECD has also adopted sector guidance to help companies operating in specific sectors identify how their actions can disproportionately affect women.

The OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector as well as the OECD-FAO Guidance for Responsible Agricultural Supply Chains, explain how companies along these value chains can identify and address specific gender-related risks, such as sexual harassment and discrimination. Both these guidances encourage the meaningful participation of women in decision-making and leadership roles to facilitate their access and control over natural resources, productive tools, training and financial services, markets and information.

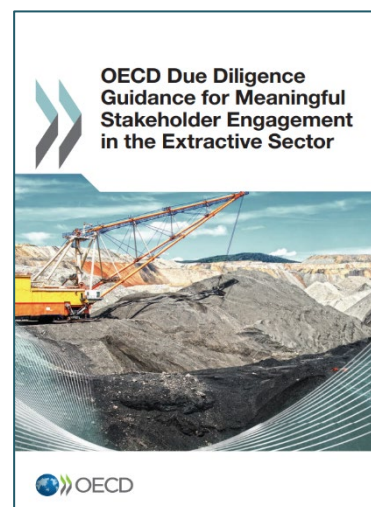
Widespread sexual violence is one of the serious human rights violations highlighted in the OECD Due Diligence Guidance on Responsible Mineral Supply Chains. Implementation of effective due diligence and multi-stakeholder monitoring can help ensure



that abuses are identified and addressed, including in conflict-affected and high-risk areas such as the Democratic Republic of the Congo.

Finally, the OECD Due Diligence Guidance on Meaningful Stakeholder Engagement in the Extractive Sector contains an annex (*Annex C*) on “Engaging with Women”. This annex specifies that businesses take steps to:

- Understand the context of engagement;
- Ensure that impacted women and their interlocutors are appropriately identified and prioritised;
- Design appropriate and effective stakeholder engagement activities and processes for engagement with women;
- Monitor and evaluate inclusive engagement with men and women.



4. National Contact Points: Addressing Gender Issues through Mediation and Promotion

All governments adhering to the OECD Guidelines for Multinational Enterprises are required to set up a National Contact Point for Responsible Business Conduct (NCP). NCPs promote the Guidelines, and related due diligence guidance, and handle cases (referred to as “specific instances”) as non-judicial grievance mechanisms. To date over 500 cases (known as ‘specific instances’) have been handled by NCPs.²

Among these, very few cases address specifically the issue of gender violence or discrimination. In 2006, the Polish NCP handled a case relating to sexual harassment (see ‘*Sexual harassment claim in Poland*’).

A number of cases handled by NCPs deal with issues, which have gendered implications. There are for example many cases regarding labour rights in the hotel industry (*Natixis and Unite Here*³) resulted in hotel workers being allowed to unionize, women working at the hotel also formed a group to defend their particular interests⁴, or in the garment industry⁵, where a majority of workers are female.

In addition, NCPs can play an important role in raising awareness on gender issues in their promotion of the Guidelines.

² See the specific instances database at <http://mneguidelines.oecd.org/database/>.

³ See *Natixis and Unite Here* case at http://mneguidelines.oecd.org/database/instances/fr0023.htm#_blank

⁴ See e.g. Colombian NCP, ‘[Hoteles Decamerón Colombia S.A.S. \(Hodecol S.A.S\) and the National Union of the Gastronomic, Hotel and Tourism Industry Workers of Colombia \(SINTHOL\)](#)’; French NCP, ‘[Hotel industry in Benin and Canada](#)’; French NCP, ‘[Accommodation activities in Colombia, the US, Morocco and the Dominican Republic](#)’.

⁵ Several NCP cases concern health and safety in the textile sector, e.g. in relation to catastrophes such as the Rana Plaza collapse, see Brazil NCP, ‘[C&A Moda Ltda and individual](#)’; German NCP, ‘[KiK Textilien und Non-Food, C&A Mode, Karl Rieker and Uwe Kekeritz, Member of the German Bundestag](#)’; Danish NCP, ‘[PWT Group and the NGOs Clean Clothes Campaign Denmark and Active Consumers](#)’.

Finally, the selection and instruction of (external) mediators provides an opportunity for NCPs to raise awareness on gender-related aspects of due diligence and foster policy coherence between the Guidelines, the UNGPs and the International Labour Organization Tripartite Declaration.

Other OECD resources on gender

- OECD Gender Initiative: <https://www.oecd.org/gender/>
- OECD Gender Data Portal: <http://www.oecd.org/gender/data/>
- Toolkit for Mainstreaming and Implementing Gender Equality: <http://www.oecd.org/gender/governance/toolkit/>
- OECD participation in Equal Pay International Coalition (EPIC) (with ILO): <https://www.ilo.org/global/topics/equality-and-discrimination/epic/lang-en/index.htm>
- OECD Policy Brief on Going Digital: The Future of Work and Women: <http://www.oecd.org/employment/Going-Digital-the-Future-of-Work-for-Women.pdf> (2017)
- Gender and Competition Policy: <https://oecdonthellevel.com/2018/03/02/whats-gender-got-to-do-with-competition-policy/>

Other resources

United Nations (2019), *Gender dimensions of the Guiding Principles on Business and Human Rights: Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises*, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/146/08/PDF/G1914608.pdf?OpenElement>

ANNEX 1: Chapters of the OECD Guidelines for Multinational Enterprises

I. Concepts and Principles: The first chapter of the Guidelines sets out concepts and principles that put into context all of the recommendations in the subsequent chapters. These concepts and principles (e.g. obeying domestic law is the first obligation of enterprises) are the backbone of the Guidelines and underline the fundamental ideas behind the Guidelines.

II. General Policies: This chapter is the first to contain specific recommendations to enterprises in the form of general policies that set the tone and establish a framework of common principles for the subsequent chapters. It includes important provisions such as implementing due diligence, addressing adverse impacts, engaging stakeholders, and others.

III. Disclosure: Clear and complete information on the enterprise is important to a variety of users. This chapter calls on enterprises to be transparent in their operations and responsive to increasingly sophisticated public demands for information.

IV. Human Rights: Enterprises can have an impact on virtually the entire spectrum of internationally recognised human rights. As such, it is important that they meet their

responsibilities. This new chapter of the Guidelines draws on and is aligned with the UN “Protect, Respect and Remedy” Framework and the Guiding Principles on Business and Human Rights that operationalise that framework.

V. Employment and Industrial Relations: The ILO is the competent body to set and deal with international labour standards and to promote fundamental rights at work as recognised in the ILO 1998 Declaration on Fundamental Principles and Rights at Work. This chapter focuses on the role the Guidelines have in promoting observance among MNEs of the international labour standards developed by the ILO.

VI. Environment: The environment chapter provides a set of recommendations for MNEs to raise their environmental performance and help maximise their contribution to environmental protection through improved internal management and better planning. It broadly reflects the principles and objectives of the Rio Declaration on Environment and Development and Agenda 21.

VII. Combating Bribery, Bribe Solicitations and Extortion: Bribery and corruption are damaging to democratic institutions and the governance of corporations. Enterprises have an important role to play in combating these practices. The OECD is leading global efforts to level the playing field for international businesses by fighting to eliminate bribery. The recommendations in the Guidelines are based on the extensive work the OECD has already done in this field.

VIII. Consumer Interests: The Guidelines call on enterprises to apply fair business, marketing, and advertising practices and to ensure the quality and reliability of the products that they provide. This chapter draws on the work of the OECD Committee on Consumer Policy and the Committee on Financial Markets, and of other international organisations, including the International Chamber of Commerce, the International Organisation for Standardization and the UN

IX. Science and technology: This chapter recognises that MNEs are the main conduit of technology transfer across borders. It aims to promote technology transfer to host countries and contribution to their innovative capacities.

X. Competition: This chapter focuses on the importance of MNEs carrying out their activities in a manner consistent with all applicable competition laws and regulations, taking into account the competition laws of all jurisdictions in which their activities may have anti-competitive effects. Enterprises need to refrain from anti-competitive agreements, which undermine the efficient operation of both domestic and international markets.

Taxation The Guidelines are the first international corporate responsibility instrument to cover taxation, contributing to and drawing upon a significant body of work on taxation, most notably the OECD Model Tax Convention and the UN Model Double Taxation Convention between Developed and Developing Countries. This important chapter covers fundamental taxation recommendations.

For more information visit: <https://mneguidelines.oecd.org/>