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## ‘A question of balance’: Addressing the public health impacts of multinational enterprises in the OECD Guidelines for Multinational Enterprises

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The global community is beginning to address non-communicable diseases, but how to increase the accountability of multinational enterprises (MNEs) for the health impacts of their products and practices remains unclear. We examine the Organization for Economic Cooperation and Development’s (OECD) efforts to do so through voluntary MNE guidelines. We developed a historical case study of how the OECD Guidelines for Multinational Enterprises were developed and revised from 1973 to 2000 through an analysis of publicly available archived OECD and tobacco industry documents. The first edition of the Guidelines was a purely economic instrument. Outside pressures and a desire to ward off more stringent regulatory efforts resulted in the addition over time of guidelines related to the environment, consumer interests, sustainable development and human rights. Despite their voluntary nature, the Guidelines can play a role in efforts to help balance the interests of MNEs and public health by providing a starting point for efforts to create binding provisions addressing MNEs’ contributions to disease burden or disease reduction.

**Keywords:** multinational enterprises; OECD; non-communicable diseases; global governance; sustainable development

### Introduction

Non-communicable diseases (NCDs) now account for the majority of global deaths [United Nations (UN) 2011]. Multinational enterprises (MNEs) are a key social determinant of NCDs such as cardiovascular disease, cancer and diabetes (Beaglehole *et al.* 2007, 2011). For example, transnational tobacco companies’ aggressive promotion of deadly and addictive products has contributed to the global rise in tobacco-caused NCDs (Connolly 1992). MNEs’ promotion and marketing of unhealthy foods and other products such as alcohol can also contribute to the development of NCDs (Hastings *et al.* 2003, Harris *et al.* 2009, Smith and Foxcroft 2009, Cairns *et al.* 2012). However, some MNEs’ products and activities may also contribute to preventing, treating and managing NCDs, e.g. pharmaceutical companies that provide low cost medicines, food companies that enhance nutritional content of needed staples, and informational technology that aids in patient care.

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The global community is beginning to address NCDs, as evidenced by the first UN High-Level Meeting on NCDs, held in September 2011. There is also a sense of increasing urgency and momentum. For example, at the urging of civil society, the World Health Organization (WHO) and Member States at the World Health Assembly in May 2012 adopted a goal of reducing NCD mortality by 25% by 2025. Some companies have already begun to respond, for example, by taking steps to reduce salt in food products and address beverage marketing. But how to increase MNEs' accountability for the negative health impacts of their products and practices remains unclear. We examine prior organisational efforts to do so.

The Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises (Guidelines) were first developed in 1976 at a time when concerns were being raised about the growing influence of multinational corporations. Although the Guidelines were not designed to achieve health-related goals and did not incorporate health-related recommendations until 1984, the 2000 version explicitly addressed health in three areas: occupational health and safety, environmental health and consumer protection. The 2011 version added human rights provisions. We analyse the historical evolution of the Guidelines and consider the implications for determining a corporate role in addressing NCDs.

## **Background**

After the Second World War, MNEs grew in size and global reach, particularly in developing countries, where MNEs' private investment made up approximately one-fifth of all resource flows in the 1960s, growing at an annual rate of 9% (UN, Department of Economic and Social Affairs 1973). However, MNEs were seen as threatening the sovereignty of small, poor countries (Jenkins 2005); international regulatory regimes were considered a way to minimise this threat. Over 20 countries enacted legislation controlling MNE activities in the late 1960s and 1970s (Hepple 1999). MNEs and governments in the Global North resisted such efforts (Jenkins 2005), including a proposed UN Code of Conduct on Transnational Corporations.

In the 1980s, conservative governments in the United States of America (USA) and the United Kingdom (UK) advocated minimising state intervention in domestic and global economies (Richter 2001). Developing countries enacted policies to attract rather than regulate MNEs (Jenkins 2005). With reduced interest from states in international regulation, negotiations for the UN Code of Conduct on Transnational Corporations ended in 1992 (Jenkins 2001). In the 1990s and 2000s, increasing public concern over corporate labour and environmental practices led MNEs to adopt voluntary 'responsible' conduct codes (Jenkins 2001, 2005).

Throughout these shifts, the OECD has remained influential. Created as the Organization of European Economic Cooperation (OEEC) in 1947 to oversee aspects of the Marshall Plan (OECD 2010), the OEEC was superseded by the OECD in December 1960. Membership in the OECD included the original 18 OEEC members, and the USA and Canada. OECD membership, extended to countries committed to democratic government and market economies, has expanded over time to 34 countries, the four most recent members admitted in 2010 (Table 1). Engagement strategies for non-members extend the OECD's reach to other countries. The OECD, funded by member countries based on economy size,

Table 1. OECD member countries, 2011.

Australia	Hungary	Poland
Austria	Iceland	Portugal
Belgium	Ireland	Slovak Republic
Canada	Israel	Slovenia
Chile	Italy	Spain
Czech Republic	Japan	Sweden
Denmark	Korea	Switzerland
Estonia	Luxembourg	Turkey
Finland	Mexico	UK
France	the Netherlands	USA
Germany	New Zealand	
Greece	Norway	

Source: OECD (2012).

facilitates economic cooperation and growth among Member states, emphasising trade. Member countries are represented on the OECD Council, the organisation's ultimate decision-making body.

## Methods

OECD documents were obtained from OECD's Paris archives. The first author reviewed documents in 2008, finding 665 relevant documents from 1973 to 2000 (the latest date for which documents were available for review). Most were official OECD documents, such as meeting agendas, minutes and reports of the Secretariat and other specialised committees; few were informal notes or personal correspondence.

To gain insight into industry perspectives on the Guidelines, we searched the electronic repository of over 13 million tobacco industry documents archived at the University of California, San Francisco (Legacy Tobacco Documents Library 2011). We searched using the keywords 'OECD' and 'guidelines', using retrieved documents to identify more specific search terms. We identified 35 relevant documents, spanning 1976–2000. Most were from the British American Tobacco's (BAT) collection, and included internal memos, newsletters and reports from business organisations. More detailed information on tobacco industry document archives and search strategies has been previously published (Malone and Balbach 2000, MacKenzie *et al.* 2003).

OECD documents were imported into Atlas.ti, a qualitative data analysis software programme (Atlas.ti Scientific Software 2006) and coded for content. The smaller number of tobacco industry documents were not formally coded but reviewed and annotated. All documents were analysed to develop an historical case study (Yin 2002) of how the OECD Guidelines were developed and revised. During analysis, 38 key OECD documents that were referenced but not obtained during initial data collection were obtained from OECD archivists via email. Searches of OECD and related organisation websites provided additional information on the 2000 and 2011 Guideline reviews.

## Results

### *OECD Guidelines for Multinational Enterprises: origins and rationale*

Beginning in 1973, an OECD Council focus was the commitment of resources to 'strengthened cooperation among Member countries' (OECD 1976a, p. 1) regarding international investment and MNE activities (OECD 1975a, 1976a). To that end, the OECD Council established the Committee on International Investment and Multinational Enterprises (CIME) in January 1975 (OECD 1975a).

CIME first met in March 1975 with representatives from 23 countries, the Commission of the European Communities, and the Secretary General's office (OECD 1975b). At this meeting, 'some [delegates] mentioned...that [MNE standards of behaviour] should be considered a first step in a continuing process leading to harmonization of governmental measures and finally, if possible, to binding international agreements' (OECD 1975b, p. 2). The Committee designated an Informal Drafting Group (including representatives from Belgium, Germany, Japan, the Netherlands, Sweden, the UK, the USA and the Commission of the EEC) to meet in April to draft a Standard of Behavior (OECD 1975c).

The drafting process was cyclical with comments during CIME meetings leading to changes drafted by the Secretariat, which were then sent to the Informal Drafting Group for discussion before being returned to CIME. Throughout, the MNE-related work of specialised OECD bodies was drawn upon. At its second meeting, the Informal Drafting Group agreed that the standards of behaviour instrument should not require quasi-legal obligations or endow quasi-legalistic rights. It was conceived of as a set of recommendations from governments to MNEs, providing 'guidance... for conducting business in harmony with the basic policy objectives of the OECD countries in which they operate' (OECD 1975d, p. 2).

The Business and Industry Advisory Committee to OECD (BIAC) and the Trade Union Advisory Committee to the OECD (TUAC) offered advice during the drafting process. BIAC is an international business association made up of one organisation from each Member state and the individual companies that comprise that organisation. BIAC members in 1977 included Ford Motor Company's (Europe) Director of Government Affairs (Belgium), Sandoz, Ltd.'s chairman (Switzerland), the Director of Royal Dutch Shell (the Netherlands) and a Price Waterhouse & Co. partner (USA) (OECD 1977). Similarly, TUAC is an association of labour organisations made up of one organisation from each Member state and each of its members. TUAC members included the American Federation of Labor and Congress of Industrial Organizations (USA), SAK-Central Organisation of Finnish Trade Unions (Finland), General Federation of Labor Histadrut (Israel) and National Union Bank of Employees (UK) (OECD 1977).

BIAC welcomed a MNE code of conduct, believing that misconceptions about MNE operations and motives could be dispelled by an impartial body like the OECD (Business and Industry Advisory Committee to the OECD 1975). BIAC contended that economic activity across national boundaries should be seen as 'normal modes of operation in a world at peace' (Business and Industry Advisory Committee to the OECD 1975, p. 1). TUAC wanted a 'stringent' instrument with worker protections and sought to work toward 'binding regulations of an enforceable nature' (TUAC 1975, p. 3).

In May 1976, CIME approved the Guidelines as part of the Ministerial Declaration and OECD Council Decisions on International Investment and Multinational Enterprises (OECD 1976b) (Table 2). The OECD Council (with the exception of the Turkish Government, which abstained) unanimously adopted the Declaration during its June 1976 meetings, with a review of the Guidelines set for 1979 (OECD 1979a).

The Guidelines had four significant characteristics: (1) they were voluntary, relying on persuasion to raise MNEs' standards of behaviour; (2) they emphasised the benefits of MNEs to home and host country, and positioned the Guidelines as a means of maintaining these benefits while avoiding conflicts (OECD 1975c); (3) they deferred to national law; and (4) they viewed MNEs as economic entities, with little acknowledgement of their social and environmental impact. The original Guidelines did not address health (Table 3).

MNEs supporting the Guidelines were reportedly pleased with their emphasis on MNEs' 'positive contribution[s]' to society and their 'moderate, free enterprise approach', despite TUAC's calls for 'stringent controls and restrictions' [Confederation of British Industry (CBI) 1981, p. 2]. Several, including the US affiliate of BAT, claimed that their 'own domestic legislation and codes impose such high standards on companies already that compliance with the Guidelines creates no great problem' (Edwards 1982, p. 1). Nonetheless, in the early 1980s BAT ordered its operating companies not to mention these Guidelines in union agreements 'under any circumstances' (BAT 1981, Dunbar 1981, p. 2), perhaps fearing calls for strict adherence to them.

### *Promoting the guidelines*

Member governments, BIAC and TUAC promoted the Guidelines via newspapers and periodicals, speeches by government officials and letters to companies and

Table 2. Timeline of major events.

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1960s: <i>National environmental movements emerged</i>
1970: OECD Environment Committee established
1972: <i>United Nations Conference on the Human Environment (Stockholm)</i>
1975: Committee on International Investment and Multinational Enterprises established
1976: First edition of the Guidelines for Multinational Enterprises
1979: First review of Guidelines
1981: Proposal to include environment chapter in Guidelines
1983: Proposal to include consumer protection chapter in Guidelines
1984: Second review of Guidelines, including an expanded comment on the environment; first inclusion of consumer protection in the General Policies chapter <i>Bhopal disaster</i>
1985: <i>United Nations Guidelines on Consumer Protection</i>
1987: <i>Our Common Future (Brundtland Report)</i>
1990: Third review of Guidelines; new chapter on environment
1992: <i>United Nations Conference on Environment and Development (Rio de Janeiro)</i>
2000: Fourth review of Guidelines; new chapter on consumer protection
2011: Fifth review of Guidelines; new chapter on human rights

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Note: Events in *italics* occurred outside OECD.

Table 3. Selected aspects of OECD Guidelines for Multinational Enterprises, 1976–2011.

Topic	Year	Primary location in Guidelines	Example text
Environment	1976	General policies	MNEs should ‘give due consideration to [Member] countries’ aims and priorities with regard to economic and social progress, including industrial and regional development, the protection of the environment, the creation of employment opportunities, and promotion of innovation and the transfer of technology’ (OECD 1976c).
	1984	General policies & commentary	‘Recognizing the importance of environmental issues, and their relationship to [MNEs], . . . the General Policies chapter provides room to accommodate further relevant questions that might arise. . . The Committee intends to address these important issues in its future work’ (OECD 1986, p. 22).
	1990	Chapter	MNEs should ‘avoid creating environmentally related health problems . . . assess, and take into account . . . foreseeable environmental and environmentally related health consequences . . . provide adequate and timely information regarding potential impacts on the environment and environmentally related health aspects’ of all their activities and ‘minimize the risk of accidents and damage to health and the environment’ (OECD 1993, p. 40).
	2000	Chapter (expanded)	MNEs should, ‘[c]onsistent 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’ (OECD 2008, p. 20).
	2011	Chapter (expanded slightly)	MNEs should ‘continually seek to improve corporate environmental performance, at the level of the enterprise and, where appropriate, of its supply chain, by . . . encouraging such activities as development and provision of products or services that . . . reduce greenhouse gas emissions’ (OECD 2011, p. 43).
Consumer interests	1976	None	
	1984	General policies & commentary	MNEs should ‘give due consideration to [Member] countries’ aims and priorities with regard to economic and social progress, including industrial and regional development, the protection of the environment and consumer interests, the creation of employment opportunities, and promotion of innovation and the transfer of technology’ (OECD 1986).
	1990	General policies & commentary	No changes from 1984 text.



Table 3 (Continued)

Topic	Year	Primary location in Guidelines	Example text
Sustainable development	2000	Chapter	'When dealing with consumers, [MNEs] should . . . 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 information labels . . . [and] cooperate 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' (OECD 2000a).
	2011	Chapter (expanded)	MNEs should 'cooperate fully with public authorities to prevent and combat deceptive marketing practices' (OECD 2011, p. 51).
	1976	None	
	1984	None	
	1990	None	
	2000	Preface, General Policies & Environment chapters	MNEs should '[c]ontribute to economic, social and environmental progress with a view to achieving sustainable development' (General Policies) (OECD 2008, p. 14).
Human rights	2011	Preface, General Policies, Environment, & Science and Technology chapters	'The <i>Guidelines</i> aim to ensure that [MNE] operations . . . 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 [MNEs]' (Preface) (OECD 2011, p. 9).
	1976	None	
	1984	None	
	1990	None	
	2000	General Policies	MNEs should 'respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments' (OECD 2008, p. 14).
	2011	Chapter	MNEs should 'respect human rights, . . . avoid causing or contributing to adverse human rights impacts, . . . seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services, . . . [and] provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts' (OECD 2011, p. 33).

business and labour organisations (OECD 1978, 1979b). For example, 14,000 copies of the Guidelines were distributed to businesses in Belgium, and 6,000 to businesses in Switzerland (OECD 1978). US, Swedish, Dutch and Australian governments reported using the Guidelines to inform national policy (OECD 1978).

In the 1979 Review of the Guidelines (during which no textual or substantive changes were made), CIME requested from MNEs public statements of support for the Guidelines. BIAC reported that several large MNEs had responded, including companies from Canada (Alcan, IBM, Ford, Philips Electronics and the Royal Bank), Germany (Hoechst, BASF, Siemens), the Netherlands (Unilever, Shell and Philips), the UK (BAT, British Petroleum, British Steel, Lloyd's Bank, Unilever and others) and the USA (Exxon, Citicorp, Bank of America and others) (Business and Industry Advisory Committee to the OECD 1978). A 1979 CBI member newsletter offered insight into why some MNEs supported the Guidelines. CBI member and BAT chairman Peter Macadam pointed out:

The voluntary and flexible nature of the OECD guidelines means that they are far preferable to the alternatives being discussed in other international fora such as the UN, where many of the proposals put forward would have serious implications for the operation of MNEs. Widespread support for the Guidelines will serve as a potential moderating force on the[se] deliberations. (CBI 1979, p. 3)

However, some Member states had no supportive MNEs (OECD 1981a). Thus, in the 1979 Review, member governments were asked to 'provide facilities for handling [Guideline-related] inquiries' (OECD 1983a, p. 12). These facilities became National Contact Points, which: (1) disseminated, promoted and explained the Guidelines; (2) gathered information on experiences with the Guidelines; and (3) provided a forum for discussions with businesses and trade unions on problems with the Guidelines (OECD 1981b).

### *The 1984 review*

For the 1984 Guidelines review, CIME considered adding environmental and consumer protection recommendations.

### *Environmental protection*

The Environment Committee, an OECD standing committee, was created in 1970 in response to Member State concerns. In 1983, the Committee developed an Environmental Aspects of Multinational Investment project because 'much of [foreign investment] has been associated with unnecessary heavy inroads on exhaustive resources and avoidable [environmental] damage' (OECD 1982, p. 16). The Environment Committee and CIME were influenced by the UN's Economic and Social Council, which was developing text on environmental protection for the proposed UN Code of Conduct on Transnational Corporations (OECD 1982). However, a discussion of the Environment Committee in the International Organizations Monitoring Service February 1984 bulletin suggested that it took a conservative approach. The bulletin noted OECD's 'careful cost/benefit analysis of regulating environmental protection', such that 'many governments bring their issues

here to counterbalance less realistic proposals' elsewhere (International Organizations Monitoring Service 1984, p. 8).

At its first meeting in July 1983 to discuss the 1984 review, the Working Group on the Guidelines (Working Group) discussed adding an environmental protection section (OECD 1983b). The Canadian delegation suggested draft language based on a draft of the UN Code of Conduct on Transnational Corporations, but received no support. Concerns

were expressed about the need for such a Guideline, especially as environmental protection is already mentioned in paragraph 2 of the General Policies Chapter. ... [A] new Guideline or a lengthy addition to an existing one ... could result in a question of balance. (OECD 1983b, p. 7)

The Working Group decided instead to add a comment to the Review Report on text in the General Policies chapter that addressed environmental protection. It acknowledged growing public concern over environmental protection and recognised environmental issues as potentially bilateral, regional and global, but only committed to address them in 'future work' (OECD 1986, p. 20) (Table 3). In March 1984, CIME approved the Review Report.

#### *Consumer protection*

The Working Group recognised that consumer protection was a 'gap' in OECD's Guidelines (OECD 1983c, p. 10). It agreed that consumer protection should be mentioned to harmonise with the UN's proposed Code of Conduct on Transnational Corporations—which did address consumer protection—and to reflect the work of OECD's Committee on Consumer Protection. The 1984 Review also coincided with heavy UN lobbying by the International Organization of Consumers' Unions, calling for a statement on consumer protection (leading to the UN Guidelines on Consumer Protection in 1985) (Hilton 2009). Instead of more lengthy, specific proposals offered by the Canadian delegation and the Secretariat, the Working Group adopted the US Delegation's proposal to add the term 'consumer interests' to the economic and social considerations of MNEs listed in the General Policies chapter (OECD 1983c, p. 10) (Table 3). Available documents do not indicate why.

Despite these apparent victories for BIAC and its continued advocacy of Guideline stability, a 1984 BAT memo asserted that 'there has been evidence recently of a less sympathetic approach by the OECD to MNEs, and it will be important that this trend is reversed' (BAT 1984, p. 15).

#### *The 1990 review*

##### *Environment*

In March 1985, the Environment Committee proposed including an environmental protection chapter (OECD 1985a). CIME discussed it in May 1985 (OECD 1985b); soon after the Secretariat circulated information about the UN International Labor Organization responding to the Union Carbide disaster in Bhopal, India (OECD 1985c). BIAC opposed an entire chapter on environmental protection on the grounds of non-discrimination—the notion that MNEs should not be singled out relative to

domestic companies—and Guideline ‘stability’, (OECD 1985c, p. 3) which it considered essential to effective Guideline promotion. It also argued that the International Chamber of Commerce’s Environmental Guidelines for World Industry rendered a chapter unnecessary (OECD 1985d). By contrast, TUAC supported an environment chapter, but was concerned that the proposed chapter inadequately addressed health and safety and lacked clear implementation and enforcement procedures (OECD 1985e).

The 1987 publication of ‘Our Common Future’ (known as the Brundtland Report) by the UN’s World Commission on Environment and Development resulted in additional OECD dialogue concerning the environment. In March 1988, the Working Group endorsed many of the report’s conclusions, including its ‘sustainable development’ objective (OECD 1988a, p. 2). The Environment Committee’s Secretariat informed the Working Group that, in light of the Brundtland Report, it would resume discussions on developing MNE environmental guidelines (OECD 1988b). The Environment Committee’s Group of Economic Experts, meeting in June 1988, supported inclusion of a new environment chapter that addressed ‘significant health and environmental consequences’ (OECD 1988c, p. 4).

By October 1988, a ‘clear majority of Delegations’ in the Working Group favoured a new chapter on environmental protection (OECD 1988d, p. 2). A new version of the Guidelines, with an Environment chapter, was agreed upon in March 1990 (OECD 1989) (Table 3).

### *The 2000 review*

The Working Group on Investment Policy and Guidelines (IPG), which had replaced the Working Group for the Guidelines, was responsible for drafting the 2000 review, beginning in November 1998. One key issue was comprehensiveness (OECD 1998). Much had changed over 20 years, including international norms regarding environmental protection [e.g. the Rio Earth Summit and Agenda 21 (Caldwell 1996)], workers’ rights (e.g. the ILO Declaration on Fundamental Principles and Rights of Workers), human rights (e.g. the Vienna Declaration) and sustainable development (e.g. the Brundtland Report). The Chairman noted that the Review needed to address some of these issues (OECD 1999a).

The 2000 Review included consultations with BIAC, TUAC and NGOs such as Friends of the Earth and Oxfam (OECD 1999b). The BIAC chairman, Bruno Lamborghini, stated that BIAC was ‘ready to contemplate modernizing the text where necessary’ but was cautious about suggestions that might ‘undermine business support and cooperation’ (OECD 1999b, p. 2). He suggested making the Guidelines a ‘flexible and positive instrument that business interests... would find useful to follow and use’ (OECD 1999b, p. 3). TUAC felt that the Guidelines were ‘no longer used and little known’ and supported ‘a higher profile for labour and environmental issues’ (OECD 1999b, p. 4).

### *Sustainable development*

Disagreement existed on how best to incorporate sustainable development into the Guidelines; however, CIME considered it important to include references to it (OECD 1999c) given OECD ministers’ work on sustainable development (OECD

1999d). The IPG referenced the Brundtland Report's definition of sustainable development: 'development that meets the needs of the present without compromising the ability of future generations to meet their own needs' (OECD 2008, p. 54). Its inclusion in the Preface and Environment chapter (Table 3) positioned sustainable development as a key concern for governments; its inclusion in the General Policies chapter signalled to MNEs that it should be one of their goals (OECD 1999c).

### *Consumer protection*

An OECD review of 233 corporate codes of conduct found that consumer protection was the third most common issue addressed after environmental stewardship and labour relations (OECD 1999e). The Secretariat noted that the Guidelines could include consumer safety and health (OECD 1999c). Thus, the IPG added a new chapter on consumer interests (OECD 1999f, 1999g). The final text was drawn from the OECD's Committee on Consumer Policy, private corporate codes and UN Guidelines on Consumer Protection, and addressed 'prevention or removal of serious threats to public health and safety deriving from the consumption or use' of MNEs' products (OECD 2000a, p. 34) (Table 3). Consumer health and safety were not, however, ends in themselves but means to facilitate trade and foreign investment, as made clear by a comment in the new chapter noting that incorporating consumer interests in business practices was 'essential to help build trust that encourages consumer participation and market growth' (OECD 2000a, p. 35).

According to a 2000 BAT document, BIAC was unhappy with several proposed changes, including 'how the precautionary approach is expressed in the environment section' (Anon 2000, p. 1) (Table 3). However, rejecting the revised Guidelines posed a greater threat than accepting them 'in their current imperfect form', as BIAC's action could result in negative publicity and the creation of more onerous codes by governments or the UN (Anon 2000, p. 2).

In an OECD-sponsored information meeting with non-Members to explain the Guidelines post-adoption, TUAC described the new Guidelines as 'significant and positive' despite concerns that they 'could have been better and stronger in some areas' (OECD 2000b, p. 5). NGO representatives were more critical; they sought a binding instrument, expressing 'scepticism about the political will to implement these guidelines' (OECD 2000b, p. 6). Nonetheless, NGOs involved in the review acknowledged the Guidelines' importance and pledged to publicise them.

### *The 2011 review*

Major changes in 2011 included a new chapter on human rights, references to the need for MNEs to reduce greenhouse gas emissions and the application of the Guidelines to MNEs' suppliers and business partners (Table 3). The Guidelines' approach to human rights was consistent with the UN's 2011 Framework for Business and Human Rights ('protect, respect, and remedy') (UN 2010a). Although 'the new text increases the expectations' of MNEs, BIAC endorsed the revised Guidelines and, in the interests of a 'global level playing field', urged the OECD to increase its promotion efforts (Business and Industry Advisory Committee to the OECD 2011, p. 1). TUAC endorsed the new Guidelines for their greater 'relevance' and 'potential to raise the standard of responsible business conduct' globally, but

called for improvements in National Contact Points' performance (TUAC 2011, p. 1). The NGO coalition OECD Watch noted a lost opportunity to make the Guidelines enforceable, observing that 'civil society organizations cannot rely on [the Guidelines] for guaranteeing responsible business conduct and effective remedies' (OECD Watch 2011, p. 4).

## Discussion

The Guidelines' evolution from a purely economic policy instrument to one that encompasses health and environmental concerns is instructive for efforts to define MNEs' role in reducing NCDs globally. Our analysis suggests that in order to maintain 'balance' and stability for MNEs, the OECD responded primarily to outside pressure and a desire to ward off more direct regulatory action which could prove disruptive to business. For example, the environment chapter was strongly influenced by environmental disasters and the work of the UN, while the consumer interests chapter reflected the growth in voluntary corporate codes during the 1990s as nascent anti-corporate movements drew increasing attention to MNEs' activities (Richter 2001). The human rights chapter in the 2011 revision was a response to the evolving standards embodied in the UN 'Protect, Respect and Remedy' Framework (UN 2010b). The considerable changes in the 2011 version may reflect a reaction to growing global anti-corporate sentiment and the increased effectiveness of the NGO community in shaping global public health measures, such as the WHO Framework Convention on Tobacco Control (FCTC) (WHO 2003), that also address corporate practices. This suggests that effectively addressing NCDs requires stronger civil society organisations or movements aimed at holding MNEs accountable for their contributions to illness. The Framework Convention Alliance, a global coalition of NGOs that has worked to promote a strong FCTC and monitored implementation, has an initiative aimed at integrating tobacco into development agendas, and may also serve as a model for advocacy work in other health arenas (Framework Convention Alliance 2012).

Despite their voluntary nature, the Guidelines can play a role in efforts to help balance the interests of MNEs and public health. The inclusion of health in the Guidelines legitimises the global discourse on MNEs' impact on health. The consumer interests chapter is an explicit statement from governments to MNEs to 'ensure the safety and quality of the goods and services they provide' (OECD 2008, p. 22). It is especially significant that these recommendations are made by the OECD, a respected, market-oriented organisation. By evolving to include health impacts of MNEs, the Guidelines moved the relationship between MNEs and health into the economic and business sectors, communicating the link between MNEs and public health to stakeholders who would not necessarily be moved or persuaded by actors from the health sector. The Guidelines now serve as an entry point for the international health community to engage MNEs.

The Guidelines also tie the health impacts of MNEs to a broader sustainable development agenda. NCDs inhibit economic growth through premature death of working age individuals, lost worker productivity and increased poverty. The rising prevalence of NCDs worldwide suggests that MNEs in the tobacco, food, beverage and alcohol industries have products and engage in business practices that are inconsistent with sustainable development (Collin 2012). Thus, they are in violation

of the Guidelines and should be held accountable. At the same time, some MNEs may contribute to health by preventing or treating NCDs through their products or practices, and these should be recognised, rewarded and encouraged to support stronger Guidelines and standards for all companies.

The goal of maintaining flexibility within the Guidelines has permitted ambiguity in the definition of terms, scope of applicability and identification of activities which constitute Guideline violations. This vagueness provides opportunities to negotiate how recommendations are implemented and enforced. The Guidelines, therefore, should be seen as setting the stage for further efforts to highlight MNEs' effects on population health.

## Conclusion

As efforts to address NCDs continue within the UN and other international fora, and within the context of increasing global anti-corporate sentiment, there may be opportunities to negotiate with governments stronger, binding provisions addressing MNEs' contributions to disease burden or disease reduction. The Guidelines provide a starting point for such discussions.

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