Business Diplomacy Competence: A Requirement for Implementing the OECD’s Guidelines for Multinational Enterprises

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Summary

Faced with pressures from governments and civil society, multinational enterprises (MNEs) have increasingly committed themselves to signing codes, charters and guidelines of good conduct developed, for instance, by the United Nations (the UN Global Compact), the Organization for Economic Cooperation and Development (OECD Guidelines for Multinational Enterprises), or multi-stakeholder initiatives such as the Kimberly Process (a joint governmental, industry and civil society initiative to stem the flow of conflict diamonds). The issue of how to implement such commitments requires abilities to engage external counterparts constructively and — equally important — the ability to convince actors within a MNE to agree to implement such codes of conduct. This article discusses the challenges of implementing the OECD Guidelines and proposes that MNEs consider appointing business diplomats, who the authors consider are best qualified to meet these complex but also increasingly important business challenges. Business diplomats are best qualified to nurture such a business culture that supports, leads and cajoles a MNE to orient its business activities towards an overall balance of diverse objectives and respect for obligations. These objectives and obligations are at times in opposition with each other, and at other times coalesce towards achieving a sustained business that is based on publically agreed criteria of good conduct.
Keywords

business diplomacy – OECD Guidelines for MNEs – new diplomacies – corporate reputation capital – business sustainability

Introduction

Since the publication of the first article on business diplomacy fourteen years ago, the global economy has faced severe challenges, the most notable being the financial crisis and ensuing economic recession in 2008, and later the political turmoil in many countries of the Middle East and North Africa region. However, globalization has continued to reach an ever-increasing level of foreign direct investment along supply and value chains, especially involving MNEs from Western Europe, North America, Japan and recently also from the so-called BRICS countries (Brazil, Russia, India, China and South Africa), especially from China and India.

At the same time, civil society’s criticism of how business is being conducted has also increased considerably, as expressed, for instance, through the ‘Occupy Wall Street’ movement, but also through often-violent demonstrations during the meetings of the G8, the Bretton Woods institutions (the International Monetary Fund and World Bank) and the World Economic Forum’s annual meeting in Davos, Switzerland. Civil society organizations have expressed objections to MNEs’ disregard of labour conventions (such as with regard to child labour and the free association of labour), their disproportionate bonus systems, which have resulted in growing gaps between the very well-paid senior management compared to the employees, as well as objections on behalf of MNE workers in industrialized countries, whose salaries have remained stagnant over the last ten years.

In this context, corporate social responsibility (CSR) projects have been developed by MNEs, sometimes for the purpose of cosmetic window-dressing, but sometimes also for more inclusive growth. For instance, some MNEs became engaged in community development in developed and developing countries to ensure political stability, a steady supply of goods and services, and a more constructive partnership with the people in the countries where they operate. Following Harvard Professor Michael Porter’s proposal to aim for...

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‘shared value’, some MNEs are considering sharing a percentage of their project-based revenues to help develop local infrastructures, from schools to hospitals, to roads and energy sources. To be seen as a good corporate citizen has become a strategic policy consideration for an increasing number of MNEs.

MNEs have to ensure a delicate balance between wealth creation and social engagement — in other words moving from ‘business as usual’ to ‘business with ethics’, and from being a corporate ‘raider’ to be a corporate ‘resident’. This is the operational space within which business diplomats can play an important strategic role in establishing a collaborative relationship with the communities where the MNEs’ operations are being conducted. Business diplomats will need to help their respective MNE to navigate between defending the legitimate interests of the MNE, while also helping the MNE to address the legitimate concerns of non-business stakeholders. How to facilitate such a ‘new’ way of conducting international business that is based on a form of social partnership is crucial for the social sustainability of the MNE, but needs to be designed and implemented without jeopardizing the MNE’s business fundamentals or disregarding the equally legitimate expectation for return on investment by investors. This new balancing act requires a new set of competences that are normally not part of the toolbox of a traditional business executive.

Contentious Business-Society Relations

This section presents cases that illustrate how changing social attitudes are affecting the operating landscape of MNEs and resulting in a gradual shift of MNE — society relations, from the MNE being seen as a predatory actor to that of becoming a sustainable partner of the societies and communities in which it is located.

The Case of the Extraction Industry

MNEs that are active in the extraction and mining business have been heavily criticized by local and international non-governmental organizations (NGOs).2 As a result, the following solutions have been proposed by NGOs to MNEs, and by the public at large:

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Joint standard-setting.

MNEs should participate in the work of standardization bodies, such as the International Organization for Standardization (ISO) committee that is finalizing a new Energy Management System Standard, which would require companies that adopt the standard to establish energy policy goals and to demonstrate continual improvement, based on appropriate indicators. Standards have also been developed for corporate greenhouse gas (GHG) emissions’ inventories, life-cycle analysis, and for quantifying the carbon footprint of products. Corporations are also cooperating under the Asia CFL Quality Charter³ to create an industry-driven standard to improve the quality of compact fluorescent lamps (CFLs), as well as under the International Energy Agency’s (IEA) Implementing Agreement on Efficient Electrical End-Use Equipment.

Implementation of partnerships to reduce greenhouse gas emissions.

MNEs should develop their own multi-stakeholder initiatives by participating in voluntary agreements with governments or by supporting the efforts of others. In some cases, governments have taken the lead in establishing such cooperation frameworks (for example, the Asia-Pacific Partnership on Clean Development and Climate).

R&D collaboration.

MNEs should establish research centres in foreign countries, particularly in emerging markets. The approach to research and development (R&D) varies by sector and company, with some multinationals taking a much more open and collaborative approach to the development of intellectual property than others, which in turn contributes to the sustainable development of the host countries and affected communities.

Community participation and ongoing dialogue.

MNEs should seek membership in traditional trade associations or new associations that specifically address climate issues (such as the World Business Council for Sustainable Development, Institutional Investors’ Group on Climate Change, and the International Emissions Trading

³ Further information is available from http://www.cleanenergyasia.net.
Association), and participate in related multi-stakeholder programmes, ranging from data-sharing, analysis and policy research, to advocacy and joint implementation programmes.

**The Case of the Energy Sector**

Using climate change as an example, MNEs that are active in the energy sector have also been scrutinized in regard to their production of externalities while extracting oil, gas and minerals. They have been criticized about the high level of CO$_2$ and GHG emissions, which are seen as resulting in continued climate warming, threatening the survival of people who are facing the consequences of climate change, such as increasing swings from droughts to violent storms and inundations, jeopardizing food production in many parts of the world. An equally disastrous effect that is in urgent need of being remedied is the contamination of fresh-water resources through the unchecked polluting by industrial production processes, which, if unchecked, could lead to precarious living conditions in many parts of the world.

The energy sector is thus an example of the trend towards greater scrutiny of MNEs and calls for greater control of their business practices. Meanwhile, MNEs in the extraction sector are being asked to increase the transparency of their human rights record, to reduce externalities from their production processes, and to engage in more constructive relations with multi-stakeholder partnerships through co-governance arrangements.

**The Case of the Financial Sector**

With regard to the financial sector, pressure on MNEs has increased because of initiatives by civil society organizations (CSOs), which are taking aim at MNEs’ tax evasion schemes, in which they use financial loopholes in the global financial sector to avoid paying taxes or to minimize their tax liabilities, leading to increasing calls for more transparent accounting. This call for more financial transparency was further strengthened by the OECD’s blacklisting of countries that offer tax evasion and bank secrecy, which permit MNEs and wealthy persons to hide wealth and income, thus making it difficult to ascertain MNEs’ actual profits and related business strategies and practices.

Fund managers of financial investment companies increasingly apply environmental, social and governance criteria as the basis of their investment decisions, thereby exerting considerable pressure on MNEs to show evidence of compliance with environmental, social and good governance criteria. A recent report by the Global Sustainable Investment Alliance states:

The estimated size of the global sustainable investment market as defined by this report and managed in the regions covered is at least
US$ 13.6 trillion as of December 31, 2011, based on data gathered from members of the Global Sustainable Investment Alliance. This represents 21.8 percent of the total assets managed in the regions covered by the report.4

**MNEs’ Responses to the Growing Challenge**

Participation by MNEs in standard-setting institutions and conventions is often sector-specific, since the conflicts between MNEs and the communities where they operate respond to the specific needs of the particular industry. A case in point is participation in the Kimberley Process by MNEs that are active in the extraction industry or the business of refining precious stones. Some MNEs opted to stay away from actively tackling the ‘triple bottom line’ challenge, meaning achieving social, economic and environmental sustainability by engaging in collaborative problem-solving with stakeholders. These MNEs took a traditional ‘industry self-regulation’ approach, participate in their respective industry conventions and stick to a ‘business as usual’ mentality, which has become, however, an increasingly difficult position to uphold, even from purely financial reasons. An increasing number of MNEs understand that staying away from joining conventions that address business ethics and good conduct in regard to human rights is not a sensible long-term strategy.

A large number of MNEs, especially those headquartered in OECD countries, have taken note of the growing number of countries that have signed up to the OECD Guidelines for Multinational Enterprises. 42 countries have signed these Guidelines and accordingly set up a National Contact Point, whose task is to monitor their respective national MNEs and whether they follow the principles laid out in the OECD Guidelines.

With their many foreign subsidiaries, MNEs have to comply with their specific industry regulations, while at the same time straddling different countries and several cultural and legal environments. In light of the increasing pressure to be more transparent and observant of ethical conduct, it would make sense for MNEs to follow a standard or code that is known and implemented at a universal level. The OECD has thus developed such international guidelines, to which a growing number of industrialized countries are adhering.

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With the increasing popularity of the OECD Guidelines, it has become important for MNEs to closely follow the Guidelines and to ensure adherence and implementation of the Guidelines’ principles. This article will further elaborate what it means for a MNE to organize its business practices along the Guidelines’ principles, as well as how a business diplomat or a business diplomacy unit could best prepare and support a MNE’s compliance with these Guidelines.

Business Diplomacy: Clarification of Terminology

Before discussing the importance and relevance of business diplomacy (BD) for MNEs in the context of the OECD Guidelines, the use of the term ‘business diplomacy’ itself and other terms related to BD needs to be clarified to avoid confusion with other authors’ interpretations of this term, which was originally coined in 2000,5 and further elaborated by Saner and Yiu in 20056 and Saner and Michalun in 2009.7

Based on reviews of past research and publications8 and in view of further research, the following definitions are suggested and applied in this article:

BD’s Domain of Knowledge

BD pertains to the management of interfaces between a MNE and its external non-business counterparts (NGOs, CSOs, international organizations (Ios), national and local governments) that have an impact on the MNE’s reputational capital and its ability to shape and influence its operational environment.

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BD’s Areas of Activities

a) Participating in cross-sector social interactions with local and international NGOs and CSOs (including CSR projects, the UN’s Global Compact, and private-public-social partnerships);

b) Partaking in international negotiations by state and non-state actors to ensure successful inclusion of defensive and offensive MNE business objectives (such as free-trade agreements, regional trade agreements, bilateral investment agreements and multilateral environmental agreements);

c) Influencing standard-setting organizations to ensure inclusion of the MNE’s core business activities (including World Intellectual Property Organization (WIPO) patents and intellectual property (IP), International Labour Organization (ILO) labour standards, the OECD Guidelines for MNEs, and International Monetary Fund (IMF)-Bank for International Settlements (BIS)-OECD tax and financial accounting requirements)

BD’s Function in an Organizational Structure

The function of BD is often retained as a function of the CEO or CEO’s office, or is taken up by staff functions such as public affairs or public relations, or is sometimes decentralized to the subsidiaries at the CEO’s discretion.

BD’s Competences

The distinction is made between individual managerial competence to perform BD successfully and a MNE’s organizational competence to address the increasing demand for establishing appropriate and effective relationships with the non-business stakeholders. The latter requires organizational capacities to provide strategic BD analytics and metrics and systematically to sensitize all MNE managers facing non-business counterparts with BD know-how, thereby ensuring that BD-related awareness and competences are sufficient. The respective MNE can then interact with external counterparts in an effective manner across functional units in a coherent and agile manner.

The only use of business diplomacy preceding the above-mentioned publications was by Manuel London in 1999, whose use and application of BD were limited to a company’s internal relations, particularly pertaining to human resources (HR) and good management practice in regard to leadership,
conflict resolution and the management of employees.9 In other words, BD is used by London as an explanation of good HR practice by a company’s managers.

Another confusion to clarify is the use of the term ‘corporate diplomacy’ (CorpD). Some authors use the term ‘corporate diplomat’ instead of business diplomat,10 albeit covering a similar scope to business diplomat. From the point of view of this article, ‘corporate diplomat’ is a misnomer for three reasons. First, the term ‘corporate’ is mostly used for private-sector companies in Anglo-Saxon countries. Public enterprises, especially large enterprises under governmental supervision — for instance in France and Belgium — are also in need of business diplomats, but not of ‘corporate diplomats’. In addition, business diplomacy is not the sole responsibility of top management or the CEO — as typically alluded to with ‘corporate’ — but should rather be part of the managerial responsibilities of heads of subsidiaries or leading business units of a large MNE.

The second reason why the term ‘corporate diplomacy’ should not be used as an equivalent of the term BD is the fact that corporate diplomacy was coined by Geert Hofstede, who suggested that a corporate diplomat should be in charge of the internal coordination of a MNE operating in different countries and markets. Hofstede developed the concept further by comparing the term ‘corporate diplomat’ with the concept of ‘country business unit manager’. According to Hofstede,11 two organizational roles are of particular importance for the successful internal coordination of a multinational company, namely:

1. **The country business unit manager**: The top person in a business unit in a country. He or she should be able to function in two cultures: the culture of the business unit; and the corporate culture, which is usually heavily affected by the nationality of the global corporation.

2. **The corporate diplomats**: Home country or other nationals who are impregnated with the corporate culture, are multilingual, from various

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occupational backgrounds, and who are experienced in living and functioning in various foreign cultures. They are essential for making multinational structures work, as liaison persons in the various head offices, or as temporary managers for new ventures.

Hofstede’s use of the term ‘corporate diplomat’ is thus pertinent and useful for management scholars in analysing the coordination mechanisms of a MNE’s subsidiaries and business units at global levels.

In contrast, business diplomats focus on a MNE’s relations with non-business partners that are external to a MNE. Such BD competence can help a MNE to collect ‘community and market feedback’, which can help the MNE to realign its business units, which are often spread across continents. Such a feedback function also includes internal consultations within the MNE as part of the supportive information feedback loops that are needed to help a MNE develop and to maintain successful relations with external non-business stakeholders. Such robust feedback loops can also ‘forestall’ and mediate potential operational risks and loss of reputational capital.

The third reason why the term corporate diplomat should not be used as a substitute for business diplomat pertains to the fact that ‘corporate’ is closely linked to large enterprises, particularly to MNEs. Medium-sized enterprises can, however, also be active on an international level, sometimes even on a global level. This is also true for some small enterprises with specialized products or services that permit them to do business in foreign markets. To call such small and medium-sized enterprises’ (SMEs) relations with their environment ‘corporate’ is misleading, since the term ‘corporate’ is rarely used for SMEs, especially for non-Anglo-Saxon SMEs.

Another clarification is required. Some authors use the term ‘commercial diplomacy’ or ‘economic diplomacy’ when discussing MNEs’ activities abroad, instead of the term ‘business diplomacy’. For the sake of role clarification and analytic rigour, it is advisable to use the terms ‘commercial diplomacy’ and ‘economic diplomacy’ for government activities. Commercial diplomats, who are often civil servants working in ministries of commerce, focus on facilitating investment — be this in the form of attracting foreign investment (inward FDI), or supporting home companies that are making successful investments abroad (outward FDI). This also includes helping inward investors cope with possible operational hurdles (such as domestic labour laws, rules regarding the repatriation of profits, and work permits for their own staff), as well as giving support to domestic investors when they face barriers abroad (including discrimination by host governments against foreign investors, local content requirements, and limits to shareholder percentages).
Economic diplomats are mostly civil servants who are working in ministries of economic affairs or ministries with equivalent responsibilities (sometimes departments within a ministry of foreign affairs). The tasks of economic diplomats pertain, for instance, to negotiations at multilateral organizations of economic conventions or agreements such as the World Trade Organization (including the General Agreement on Tariffs and Trade (GATT), General Agreement on Trade in Services (GATS), and Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS)), the IMF, World Bank, OECD, or within governance bodies such as the Council of Ministers of supranational organizations like the European Union or the European Central Bank. The same holds for country membership and substantial negotiations at regional development banks such as the Asian Development Bank, African Development Bank, European Bank for Reconstruction and Development, or the Inter-American Development Bank (for example, with regard to negotiations about replenishing these development banks’ funds, thus necessitating agreement on expanded mandates). Both forms of governmental economic diplomacy are defined and explained in more detail in previous publications by Saner, Yiu and Michalun.12

Additional clarifications are also needed concerning the roles and functions of lobbying, public relations and public diplomacy. Lobbying and public relations are established functions of an enterprise, especially of a MNE. Yet in contrast to a business diplomat, lobbying (which is often out-sourced) and public relations are about promoting an enterprise’s goods and services to obtain more favourable market or production conditions. In other words, they are about an enterprise’s unidirectional influencing tactics. A similar function within government is the units in charge of public diplomacy, particularly within ministries of foreign affairs.

Business diplomacy is — as the word indicates — a two-way flow of interactions. Business diplomats engage in interfacing with stakeholders, not only to sell an enterprise’s services and to bolster the enterprise’s reputation, but also to explore common ground and to identify possible alliances that are not yet known and that need to be developed through diplomatic skills.

The exploratory nature of BD is similar to the job of a political diplomat, who engages in similar functions on behalf of a government.

Another clarification is needed in regard to public affairs. MNEs often have such units or functions. In general, the role of public affairs is mostly concerned with relations towards governments — whether the home government of a MNE’s headquarters or the governments where a MNE has set up subsidiaries. Public affairs’ experts often interact with governmental commercial diplomats and economic diplomats, but rarely do they interact with non-business partners or stakeholders. They are comparable to the legal departments of governmental ministries, and are indeed often concerned with legal disputes that they either solve by legal process through a third party (such as through arbitration, mediation, or through legal process in court). For that reason, public affairs departments are often staffed by lawyers who serve as legal counsels to a MNE.

Case studies of business diplomacy that has been applied by MNEs are available. They include Anglo-Dutch Shell in Nigeria; Swiss pharmaceutical MNEs; privately owned US universities; US-based Alcoa Ltd. in Brazil; the US pharmaceutical company Abbot in Thailand; as well as BD by Dutch MNEs that specialize in different sectors.

Positioning the Case Example

In view of the fact that business diplomacy is not yet an established business function, such as marketing, operational management or distribution for instance, this article proposes taking the OECD Guidelines as a case in point to illustrate how implementation of the OECD Guidelines requires business diplomacy competences.

Before introducing the OECD Guidelines and discussing the relevance of business diplomacy for the success of such a business decision, the article needs to clarify an ethical aspect of business diplomacy.

16 Raymond Saner and Jordis Grimm, Umweltpolitik und Nachhaltigkeit in Lateinamerika (Stuttgart: Südwestdeutscher Verlag, 2010), pp. 143-165.
All of the cases presented in the authors’ previous publications relate to a constructive and positive use of business diplomacy. Cases where MNEs use business diplomacy to further goals that many would consider unethical have not been analysed. Cases in point are, for instance, tobacco companies’ aims to prevent implementation of the World Health Organization’s (WHO) conventions against the use of tobacco products, or MNEs that are involved in the extraction business using unethical behaviour to circumvent regulatory requirements that prohibit the use of child labour, or the use of gangs to beat up or frighten labour unions and NGOs from protesting and organizing themselves against unethical and sometimes even criminal actions. MNEs that are intent on applying unethical business practices might also use business diplomacy to pursue their illicit goals, thereby diluting — and indeed instrumentalising — business diplomacy towards non-ethical aims.

The above considerations take on strategic importance when put into the larger geopolitical landscape of global competitiveness. OECD member countries have gradually agreed to include ethical standards, for instance in their development aid programmes, and have added further guidelines to ensure good governance standards, for example in regard to tax evasion and money laundering. The MNEs of emerging countries, such as the BRIC (Brazil, Russia, India, China) countries, are not bound by such guidelines, which can create competitive disadvantages for OECD-based MNEs. Being aware of such potential imbalances, the OECD has engaged China to adhere to its principles. Initial joint conferences have been held, and the dialogue with emerging-country MNEs shows promising signs of their gradual alignment with the OECD’s ethical standards.

While acknowledging that diplomacy and business diplomacy can, and sometimes are, used for destructive aims and that the current lack of adherence to OECD standards by emerging countries’ MNEs could cause competitive disadvantages, this article nevertheless highlights the constructive and ethical use of business diplomacy. For this reason, the case of the OECD’s Guidelines is used to reflect on how MNEs can implement them, rather than sabotage or neutralize the Guidelines.

*The OECD’s Guidelines for Multinational Enterprises*

The OECD Guidelines for Multinational Enterprises are a unique, government-backed, international corporate-accountability mechanism that is aimed at encouraging responsible business behaviour around the world. The Guidelines define standards for socially and environmentally responsible corporate behaviour and proscribe procedures for resolving disputes between

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corporations and the communities or individuals that are negatively affected by corporate activities. In May 2011, the OECD and non-OECD adhering governments updated the Guidelines, introducing substantial new provisions in areas such as human rights, due diligence and supply-chain responsibility.19

While they are not legally binding on companies, OECD and signatory governments are required to ensure that the Guidelines are implemented and observed. What distinguishes the OECD Guidelines from other corporate-responsibility instruments and mechanisms is their international nature, the fact that they are government-backed standards, and that they have a dispute-resolution mechanism for resolving conflicts regarding alleged corporate misconduct.20

The 'specific instance' procedure — as the Guidelines' complaint process is officially called — is focused on resolving disputes, primarily through mediation and conciliation, but also through other means. Importantly, it can be used by anyone who can demonstrate an ‘interest’ (broadly defined) in the alleged violation. NGOs and trade unions from around the world have used the complaint process to address adverse social and environmental impacts that have been caused by corporate misconduct.

NGOs have also used the complaint process to raise awareness about the fact that enterprises are expected to uphold internationally recognized standards, contribute to sustainable development and, at a very minimum, ‘do no harm’ wherever they operate.

From the labour union’s perspective,21 the Guidelines are not optional. The labour union’s position is that as long as the MNE is headquartered in a country that has signed the Guidelines, the Guidelines apply. The Guidelines are an example of a ‘soft law’ instrument. This means that they are neither strictly legally binding in nature, nor completely lacking in legal significance. As they are not ‘hard’ law, the Guidelines cannot be enforced through the courts.


Yet because 44 governments have made a legal commitment to implement the Guidelines, MNEs are expected to comply with the Guidelines.

Regarding their relevance for the labour unions, a statement has been made that the Guidelines are relevant for them. Around 20 per cent of agreements negotiated between global union federations and MNEs make reference to the OECD Guidelines and trade unions have reported using the Guidelines in their negotiations.

According to the OECD, the Guidelines were first adopted in 1976 and have been reviewed five times since then to ensure that they remain a leading tool to promote responsible business conduct in the changing landscape of the global economy. The 2011 review took place with the active participation of business, labour, NGOs, non-adhering countries and international organizations.

Governments that sign the Guidelines are required to set up national contact points (NCPS) to promote and implement the Guidelines, including handling cases concerning alleged breaches of the Guidelines. This government-backed complaint mechanism through NCPS is a unique characteristic of the Guidelines. The NCPS are located in the countries that have signed the Guidelines and all of them are government-backed. Most are located within government, either as a single departmental body, an inter-departmental body, or a body involving government representatives and external stakeholders. A small but growing number of NCPS operate independently of government.

John Ruggie, (then) Special Representative of the United Nations Secretary-General in charge of human rights and transnational corporations and other business enterprises, was invited to discuss the OECD Guidelines’ updating process of 2011. His final report is publically available. In his report, he welcomes the decision of the 42 governments adhering to the Guidelines to update it and also welcomes the support for it expressed by all stakeholder groups.

This overview served to present the essentials of the Guidelines. While there are plenty of individual enterprise CSR projects and different forms of partnership agreements, the OECD Guidelines offer a mechanism of good

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conduct that is an overarching multi-stakeholder agreement including govern-
ments, MNEs, labour unions and civil society organizations. The fact that the
Guidelines were updated in 2011 and that more countries joined is an indica-
tion that the Guidelines serve a perceived need. They are, of course, not string-
gent (but remain ‘soft law’), but they do add pressure on MNEs to improve
business practice along the lines of good business behaviour, while aiming at
fulfilling the key goals, namely respect and the implementation of environ-
mental, social and good governance behaviour.

In order to achieve full or partial compliance with the OECD Guidelines, a
system-wide transformation of a MNE’s business practices might be necessary,
depending on how far the company has been able to go in implementing its
csr programme. An internal champion — for instance, in the role of a busi-
ness diplomat — may better drive and coordinate the consensus-making pro-
cess within the MNE and establish new shared standards of operational
practice. Adherence to the OECD Guidelines does not, however, have to be to
the detriment of a MNE’s commercial interest. An internal champion — a
business diplomat — is also necessary to represent, explain and discuss a
MNE’s actions vis-à-vis shareholders and external stakeholders, in order to
identify shared expectations for good business conduct that is aligned with the
framework of the OECD Guidelines. These shared understandings could be
translated into action matrices and other related performance instruments.

General Policies of the OECD Guidelines that Require BD
Competence

The General Policies of the Guidelines are the core guiding principles of the
OECD Guidelines and are listed under section II of the Guidelines.25 In total
there are seventeen General Policies that MNEs should take fully into account
in the countries in which they operate and where they should also consider the
views of other stakeholders. Of the seventeen general polices, there are fifteen
‘should’ (mandatory) and two ‘encouraged’ (optional) policies.26 Seen from the
BD perspective, eleven of these seventeen policies fall very much within the
domain of business diplomacy competence. In the original order and number-
ing, these relevant policies are shown in Table 1.

25 OECD, ‘OECD Guidelines for Multinational Enterprises’, pp. 19-26, available online at
### Table 1  

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<tr>
<th>General Policies</th>
<th>Business Diplomacy Competences Required</th>
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<tr>
<td>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,</td>
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<tr>
<td><strong>A. Enterprises should:</strong></td>
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<tr>
<td>1. Contribute to economic, environmental and social progress with a view to achieving sustainable development.</td>
<td>✓</td>
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<tr>
<td>2. Respect the internationally recognized human rights of those affected by their activities.</td>
<td>✓</td>
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<tr>
<td>3. Encourage local capacity-building through close cooperation 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.</td>
<td>✓</td>
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<td>4. Encourage human capital formation, in particular by creating employment opportunities and facilitating training opportunities for employees.</td>
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<tr>
<td>5. Refrain from seeking or accepting exemptions that are not contemplated in the statutory or regulatory framework related to human rights, environmental, health, safety, labour, taxation, financial incentives, or other issues.</td>
<td>✓</td>
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<tr>
<td>6. Support and uphold good corporate governance principles and develop and apply good corporate governance practices, including throughout enterprise groups.</td>
<td>✓</td>
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<tr>
<td>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.</td>
<td>✓</td>
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<td>8. Promote awareness of and compliance by workers employed by multinational enterprises with respect to company policies, through appropriate dissemination of these policies, including through training programmes.</td>
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<td>9. Refrain from discriminatory or disciplinary action against workers who make <em>bona fide</em> reports to management or, as appropriate, to the competent public authorities, on practices that contravene the law, the Guidelines, or the enterprise's policies.</td>
<td>✓</td>
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<td>10. Carry out risk-based due diligence, for example by incorporating it into their enterprise risk-management systems, to</td>
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identify, prevent and mitigate actual and potential adverse impacts as described in paragraphs 11 and 12, and account for how these impacts are addressed. The nature and extent of due diligence depend on the circumstances of a particular situation.

11. Avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur.

12. Seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship. This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship.

13. In addition to addressing adverse impacts in relation to matters covered by the Guidelines, encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of responsible business conduct that are compatible with the Guidelines.

14. Engage with relevant stakeholders in order to provide meaningful opportunities for their views to be taken into account in relation to planning and decision-making for projects or other activities that may significantly impact local communities.

15. Abstain from any improper involvement in local political activities.

B. Enterprises are encouraged to:

1. Support, as appropriate to their circumstances, cooperative efforts in the appropriate forums to promote Internet Freedom through respect of freedom of expression, assembly and association online.

2. Engage in or support, where appropriate, private or multi-stakeholder initiatives and social dialogue on responsible supply-chain management, while ensuring that these initiatives take due account of their social and economic effects on developing countries and of existing internationally recognized standards.

Table 1 (cont.)
It would be unwise to expect a MNE’s traditional managers to be able to help their respective enterprise achieve compliance with these eleven policies. Instead of delegating the task of compliance with these eleven general policies to corporate lawyers, public relations experts, lobbyists or public affairs staff, it would be wiser to identify or recruit experts in business diplomacy. They can better deal with the multitude of internal and external stakeholders. Managing these interfaces effectively and efficiently will require effort and ingenuity to search for collaborative and sustainable solutions in a coherent manner across all business units. It is no longer possible today to go for country-specific solutions only. MNEs are expected to respect certain fundamental values and norms of good conduct and to implement them with the least exceptions possible.

The April 2013 Rana Plaza disaster of Bangladesh’s garment industry resulted in a backlash of consumer action, expressed through social media and street protests, leading to the US government’s decision to suspend its Generalized System of Preferences (GSP) for Bangladesh. The negative impact of this suspension was high for textile companies, especially in the fashion and clothing industry, resulting in the creation of a legally binding five-year agreement called the ‘Accord on Fire and Building Safety in Bangladesh’. By August 2013, 82 companies had signed up to the agreement. The fact that an industry’s voluntary agreement was discussed and negotiated is a positive trend, yet a proactive BD approach might have avoided the so-called ‘slave trade for growth’ approach that was maintained by the Bangladeshi government’s silent consent of such bad business practices, which resulted in more than 1,000 fatalities and ruined families. The workplace hazards and conditions of the outsourced suppliers in Bangladesh were known to the US and European buyers, but safety standards were not implemented, nor were the Bangladeshi textile factories adequately supervised by the Bangladeshi government.

Competence Requisites of Business Diplomacy at Individual and Management Levels

Should a MNE not have the necessary business diplomacy competence, options exist to ensure availability of such competence by either recruiting BD compatible experts (retired foreign service personnel), or conversely by training existing staff. Concerning the latter option, key competences are listed in Table 2.


<table>
<thead>
<tr>
<th>Knowledge Competences</th>
<th>Representation Competences</th>
<th>Monitoring Competences</th>
<th>Influencing Competences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Knowledge of diplomatic instruments</td>
<td>Capacity to intervene on behalf of the company at international conferences</td>
<td>Monitoring the interplay between economics, politics and culture by region or country</td>
<td>Influencing standard-setting processes at key international organizations (e.g. the WTO, ILO, UNEP, WIPO and OECD)</td>
</tr>
<tr>
<td>Knowledge of key international business-related legal standards</td>
<td>Capacity to interact with supranational organizations through direct or indirect means</td>
<td>Monitoring decision-making process of supranational organizations (e.g. the UN, EU, NAFTA and ASEAN)</td>
<td>Conducting political risk analysis regarding key stakeholders of public-private partnerships (PPP) and social investment projects</td>
</tr>
<tr>
<td>Knowledge of the functioning of international law and arbitration</td>
<td>Capacity to promote a proactive perspective in the region using business diplomacy</td>
<td>Using a business diplomacy information system that supports strategic planning regarding stakeholder management</td>
<td>Influencing international negotiations (bilateral, multilateral and plurilateral)</td>
</tr>
<tr>
<td>Knowledge of international NGOs and cross-sector network and alliances</td>
<td>Mastering public speaking and the media (keynote speeches, television interviews, press conferences, etc.)</td>
<td>Monitoring international crises and response by key actors such as governments, competitors, NGOs and opinion-leaders</td>
<td>Informing and coordinating internal constituencies of the MNE’s strategy regarding external constituencies</td>
</tr>
</tbody>
</table>
MNEs can better implement their global strategies and preserve their reputational capital by ensuring an adequate supply of diplomatic know-how. This could be done through in-house training, through partnerships with diplomatic academies and business schools. In regard to developing BD competence in the implementation of OECD Guidelines, it could also be useful to cooperate with the OECD’s department in charge of the Guidelines.

Future Research

Regarding future research, this article suggests the following themes. The OECD Guidelines require member countries to designate a contact point within their central government. The office in charge of this responsibility is designated to ensure that MNEs that are domiciled in the respective country are supposed to respect and implement the Guidelines. In light of the fact that the Guidelines are ‘soft law’ (not legally binding), how does the national contact point fulfil his or her tasks and responsibilities if it becomes apparent that a MNE domiciled in the country is in violation of the Guidelines’ principles? What kind of meditation, negotiations, persuasion, incentives and disincentives are used by the member countries to ensure that their MNEs comply with the OECD Guidelines?

Related to this question, what could be done to deepen adherence and application of the Guidelines’ principles by member countries? How could the institution — that is, the OECD Guideline Agreement — strengthen implementation of the Guidelines across its membership to reduce the likelihood that a member country might be too lenient with one of its MNEs out of concerns for its competitiveness and successful performance in foreign markets?

Additional research could help to identify the practices of MNEs of OECD and BRICS countries, and emerging countries that have not yet signed up to the OECD Guidelines. What benefit do they get from not signing up to the Guidelines in the short and long term, especially those MNEs that are active in difficult industries (such as mining) and risky countries (for example, where there is civil war, hostage-taking, theft and other forms of criminal activities)? An additional research question could explore the conditions required to make the current ‘soft law’-based Guidelines into a ‘hard law’ — that is, a legally binding intergovernmental convention with membership possibilities for MNEs, coupled with sanction power for MNEs that violate their commitments to the Guidelines.

A final point for future research regards the interactions between business diplomats and their governmental counterparts in their home countries (the
commercial and economic diplomats). Building on Sidibé and Saner’s work, how do MNEs generally interact with their home-country governments when planning an important investment in strategic sectors such as energy or strategic metals in countries that are experiencing political instability?

Conclusions

This article aimed to select a concrete and contemporary challenge of MNEs where business diplomacy competence is needed to meet and successfully overcome the challenge. The concrete example chosen was the OECD Guidelines for Multinational Enterprises. The article started with an overview of the many pressures and challenges that MNEs have to face now and in the future. After clarifying definitional issues pertaining to the concept of business diplomacy, the article looked in more detail at the requirements (general policies) of the OECD Guidelines, suggesting that successful implementation of the majority of these general policies requires core competences that are very much linked to the core competences of a business diplomat, as already discussed in the literature. Future research is needed to observe closely how MNEs implement the OECD Guidelines and how BD know-how and skills have been used or developed to ensure sustainable implementation of the OECD Guidelines.

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