

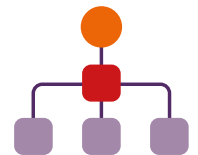
Civil society guide to influencing the OECD accession process

To join the OECD, a state must align its domestic laws, policies and regulations in a wide range of governance areas with OECD policies and standards. This generally requires significant domestic reforms, for which the OECD sets up a rigorous **roadmap**. This guide explains the opaque, technical and political accession process and guides civil society organisations (CSOs) on how to leverage it to secure meaningful social and environmental reforms in prospective member states.



WHAT IS THE OECD: The Organisation for Economic Cooperation and Development (OECD) is an intergovernmental organization focused on promoting free trade and open markets around the world. Its members are democratic states. As of 2021, the OECD has 37 members. Other states have adhered to various of the OECD's legal instruments.

How the OECD works: All vital decisions are made by the OECD Ministerial Council, which is the highest political body chaired by an elected Secretary-General and composed of ambassadors from all the member states. The Secretary-General leads the OECD's secretariat, which carries out the OECD's research and policymaking in close coordination with the OECD's committees. In total, the OECD has over 300 committees, subcommittees and working parties. Each committee is responsible for policy development on different issues.



Why CSOs should care about the OECD accession process: The OECD focuses on investment and open markets, but also has high standards for human rights and environmental protection. Each accession gives an opportunity to leverage social justice and environment reform in the acceding state. Joining the OECD brings a state various benefits such as improved reputation as an economically developed democracy and greater access to economic partnership with other OECD countries. But to join, states must align their legislation, policies and practices with the OECD's standards and declarations on areas such as human rights, labour rights and the environment. CSOs can help ensure states earn their membership by truly living up to standards of equality and sustainability.

OECD COMMITTEES: Many of the OECD committees are relevant to issues of concern to civil society, such as the:



- Agriculture Committee
- Environmental Policy Committee
- Development Assistance Committee
- Public Governance Committee
- Investment Committee (which focuses on responsible business conduct)
- Labour and Social Affairs Committee

About one third of the OECD's 245 legal instruments (declarations, recommendations, and conventions) relate to the environment

KEY TERMS:

- **Adhere/adherence:** Adherence is a legal process involving aligning with some or all of the OECD's legal instruments. States can adhere to an OECD instrument without being full OECD members.
- **Accede/accession:** Accession is a legal process to join the OECD as a member. In order to be allowed to accede to the OECD, states are expected to adhere to the OECD's instruments and policies.

When first exploring alignment with the OECD, states may be invited by the OECD to participate in or observe the work of individual OECD committees. Even before accession is under discussion, states often first adhere to one or more of the OECD's instruments.



CSO leverage moment: If a state claims to adhere to a particular OECD instrument, civil society can issue a statement to the relevant OECD committee assessing whether or not the state actually seems in compliance with the goals of the instrument.

The road to accession

The Ministerial Council alone has the authority to initiate the process of accession for a prospective member state. The process is complex and involves several steps that can be divided into three phases.

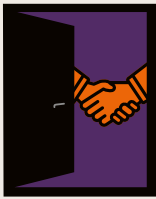
PHASE 1 → Pre-Accession

PHASE 2 → Accession

PHASE 3 → Post-Accession

PHASE 1: Pre-Accession

 DURATION:
UNDETERMINED



Pre-accession political wrangling:

The pre-accession period involves opaque political debate over whether, and in what order, prospective member states will be invited to accede. Discussion can begin either when:

- Prospective member states seek permission to accede, or
- The Ministerial Council proposes that a state begin an accession process.

In recent decades, the OECD has primarily focused on inviting European and Latin American countries to accede, maintaining a balance from each region. It is unclear, however, whether the OECD will continue this trend going forward.

IDENTIFYING POLITICAL ALLIES:

The OECD prefers that the committee review period be non-politicized. However, if deemed helpful, civil society can identify potential allies among member states and ask politically powerful policy-makers there to direct their states' OECD representatives to advocate strong accession requirements for the prospective member.



CSO leverage moment: The pre-accession debates occur behind closed doors and are highly political, so it is difficult for civil society to influence them. However, if CSOs learn a state is under consideration for accession, they can try to encourage the Secretary General or ally OECD member states to:



- Postpone accession until the prospective state is “ready” in the view of civil society. This is worth attempting if discussions are still at an early or tentative state regarding accession, and if social or environmental conditions in the state are severe in the view of civil society; or



- Only allow accession if strong requirements are placed upon the state in order to join. This approach is more feasible if the state is already further down the political path towards accession.




Information on prospective states: To help the Ministerial Council consider a potential state's accession, the OECD's Global Relations Division provides the Council with comprehensive information on the prospective member.



CSO leverage moment: Civil society can write the Global Relations Division and ally member states sharing input about conditions relevant to accession in the prospective state.

PHASE 2: Accession

 DURATION: APPROXIMATELY 2-3 YEARS
(TO DATE, THE LONGEST ACCESSION
PHASE (COLOMBIA) HAS BEEN 7 YEARS)

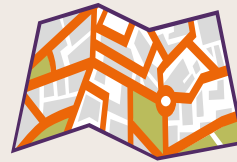
- 1 Launch of accession discussions:** Accession begins when the Ministerial Council formally decides to open accession discussions with a prospective member state. This usually occurs during one of the Council's regular bi-annual meetings.



CSO leverage moment: Civil society can send letters to policy makers, hold a press event, and/or publish statements at the moment the accession process is announced urging the OECD to take a particular action or approach regarding a prospective member's accession. Civil society can also request permission from the OECD to attend and be part of any accession launch event.

OECD decision-making is based on consensus, which means all current members on the Ministerial Council have to agree to invite a prospective member to accede. This effectively gives each member a veto on all major accession decisions.

- 2 Accession roadmap:** Next, the Secretary-General prepares an **Accession Roadmap** for the prospective member detailing the terms, conditions and process for accession, for adoption by the Ministerial Council. Because OECD members must adhere to the same legal instruments and standards, all prospective states' accession roadmaps look very similar.



- 3 Initial memorandum:** After accession discussions are officially opened, the prospective member publishes an "initial memorandum" setting out its current alignment with the OECD legal instruments. The relevant parts of this memorandum will be submitted to the technical committees reviewing the candidate country.



CSO leverage moment: Civil society can issue a statement assessing and critiquing the prospective state's self-evaluation in its initial memorandum.

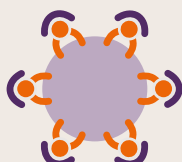


While all the committees relevant to the prospective state are involved in accession and develop part of the state's accession roadmap, typically some committees' reviews are more important for the particular prospective member state, given the issues relevant in that country. Most accession processes will involve the following committees: "investment, anti-bribery, corporate governance, financial markets, insurance and private pensions, competition, taxation, environment, chemicals management, public governance, regulatory policy, regional development, statistics, economic and development review, education, employment, labour and social affairs, health, trade, agriculture, science and technology, digital economy and consumer policy."

- 4 Accession coordination:** Next, the OECD prepares for the accession process. Because the process is quite technical, legal, and process-oriented, the Legal Division takes a coordinating and liaising role between the committees, the Ministerial Council, and the prospective member state.

- 5 Committee review:** Next, each committee begins its review. The committee review period is the **MOST IMPORTANT PART** of the accession process, from a CSO perspective.

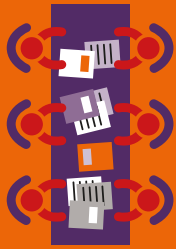
The committee reviews are a technical, as opposed to political, process. The secretariat of each committee prepares facts and analysis about the candidate country's legislation, policies and practices in a broad range of policy areas that the committee members (state representatives) will consider. Committees typically meet two or three times a year. During their first couple meetings, committees will consider the state of affairs in the prospective member state. By the second or third meeting, members will start discussing the specific requirements – such as passing certain laws, funding certain initiatives, or adopting certain policies – they will ask the state to undertake to be deemed eligible to accede.



- Committees often undertake fact-finding missions to the prospective member state to investigate conditions on the ground and meet with press and stakeholders including civil society.
- The discussion and analysis are iterative as the prospective state takes recommended actions and the committee members re-assess.



Key CSO leverage period: The committee review period is the most important time period for leverage by civil society. Civil society can encourage the committee secretariat and the member states to adopt the most ambitious interpretation possible of the roadmap terms. Civil society can also help shape the committees' consideration of the prospective member by sharing information on policy gaps relevant to that committee and suggesting solutions the committee should require of the state. Civil society should:



- Give each relevant committee and target member states research exposing governance gaps in the prospective state that are relevant to that committee;
- Explain how those gaps show non-compliance with the policy standards and goals of that committee;
- Propose domestic reforms the committee should require the prospective member to adopt in order to be allowed to accede; and
- Attend in-person consultations with the OECD during any fact-finding missions.



CSO leverage moment: Civil society should also engage with the prospective member itself to help strengthen and shape its accession alignment efforts.

Unfortunately, to date, the review process of each committee has been confidential: neither the documents involved nor the meetings are open to the public.



CSO leverage moment: Civil society should urge each relevant committee to increase the transparency of their review process.



STANDARD OF REVIEW: The OECD member states do not require full compliance with the OECD's legal instruments before accession. Instead, they evaluate the candidate country's 1) willingness and ability to implement OECD legal instruments within the committee's competence, and 2) policies and practices as compared to OECD best policies and practices in the relevant area.

- 6 Committee approval:** Each committee must give a formal opinion evaluating the two elements of review mentioned above. Because states can accede before they are fully aligned with OECD instruments and standards, each committee may, along with its formal approval, give a list of expectations the country must meet after accession.

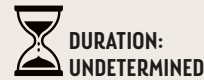


CSO leverage moment: If civil society feels a state is being granted accession before it has adequately aligned with OECD standards, it should urge committees to set rigorous post-accession requirements for the new member to meet.



- 7 Accession granted:** Once all committees involved in the process have given their formal opinion, the Ministerial Council makes a final decision on inviting the country to become a Member based on the evaluations of the technical committees and other relevant considerations. When the invitation is given, the prospective member must follow its own internal ratification or accession procedure, which may involve passage of a law in the country's parliament, to approve the accession domestically. The process concludes with the signature of an accession agreement between the country and the OECD and the deposit at the OECD of an instrument of accession to the OECD Convention.

PHASE 3: Post-Accession



Post-accession review: If any committee gave the prospective member state post-accession requirements, the new member must accomplish those requirements and report back to the committee. There are two guiding rules:

- The new member must pay for the monitoring (reports, travel, expert evaluators) itself, and
- The monitoring report must be published.



CSO leverage moment: Civil society should track the state's progress on these final requirements and continue to provide input to the committee and ally member states about the new member's (lack of) progress. Civil society can suggest steps the new member should take to bring itself into alignment.



Who can help civil society engage with the
OECD accession process to promote reforms on human rights,
labour rights, and environmental protection?
OECD Watch!

If you are interested in leveraging reforms
via an upcoming accession at the OECD, please email
info@oecdwatch.org.

About:

OECD Watch

OECD Watch is a global civil society network with over 130 member organisations in more than 50 countries. Founded in 2003, OECD Watch is the official representative of civil society to the OECD Investment Committee, which covers issues related to business and human rights. OECD Watch's primary aim is to help CSOs engage with relevant OECD processes and legal instruments to promote responsible business conduct. OECD Watch members consist of a diverse range of civil society organisations – from human rights to environmental and development organisations, from grassroots groups to large, international NGOs – that are committed to ensuring that business activity contributes to sustainable development and poverty eradication, and that corporations are held accountable for their adverse impacts around the globe. For more information, please visit www.oecdwatch.org.

Conectas

Conectas exists to preserve, implement and extend human rights. More than a non-governmental organisation, we are part of a lively and global movement that continues in the fight for equal rights. Connected via a broad network of partners, spread across Brazil and around the world, we are always available, and we participate in various decision-making debates that advance the path of human rights from the Global South perspective. We work to secure and extend the rights of all, especially the most vulnerable. We propose solutions, avert setbacks, and denounce violations to create transformations.

FIDH

FIDH (International Federation for Human Rights) is an international human rights NGO federating 192 organisations from 117 countries. Since 1922, FIDH has been defending all civil, political, economic, social and cultural rights as set out in the Universal Declaration of Human Rights. FIDH acts at national, regional and international levels in support of its member and partner organisations to address human rights abuses, including ensuring corporate accountability and improve victims' access to justice through documentation, advocacy and litigation.

