



OECD Guidelines for Multinational Enterprises

National Contact Point Peer Reviews

CHILE



ABOUT THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

The OECD Guidelines are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. They provide non-binding principles and standards for responsible business conduct in a global context consistent with applicable laws and internationally recognised standards. The OECD Guidelines are the only multilaterally agreed and comprehensive code of responsible business conduct that governments have committed to promoting.

ABOUT NCP PEER REVIEWS

Adhering governments to the OECD Guidelines for Multinational Enterprises are required to set up a National Contact Point (NCP) that functions in a visible, accessible, transparent and accountable manner. During the 2011 update of the OECD Guidelines for multinational enterprises, NCPs agreed to reinforce their joint peer learning activities and, in particular, those involving voluntary peer reviews. The peer reviews are conducted by representatives of 2 to 4 other NCPs who assess the NCP under review and provide recommendations. The reviews give NCPs a mapping of their strengths and accomplishments, while also identifying opportunities for improvement. More information can be found online at <https://mneguidelines.oecd.org/ncpeerreviews.htm>.

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TABLE OF CONTENTS

1. SUMMARY AND KEY FINDINGS.....	4
2. INTRODUCTION	7
3. CHILEAN NCP AT A GLANCE	9
4. INSTITUTIONAL ARRANGEMENTS	10
5. PROMOTION OF THE GUIDELINES.....	16
6. HANDLING SPECIFIC INSTANCES.....	20
ANNEX 1: LIST OF ORGANISATIONS WHICH RESPONDED TO THE NCP PEER REVIEW QUESTIONNAIRE.....	28
ANNEX 2: LIST OF ORGANISATIONS WHICH PARTICIPATED IN THE ON-SITE VISIT OF THE PEER REVIEW.....	29
ANNEX 3: PROMOTIONAL EVENTS ORGANISED AND PARTICIPATED IN BY THE NCP OF CHILE IN 2017	31
ANNEX 4: OVERVIEW OF SPECIFIC INSTANCES HANDLED BY THE CHILEAN NCP AS THE LEADING NCP.....	32

1. SUMMARY AND KEY FINDINGS

This document is the peer review report of the Chilean National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises (the Guidelines). The implementation procedures of the Guidelines require NCPs to operate in accordance with the core criteria of visibility, accessibility, transparency and accountability. In addition, they recommend that NCPs deal with specific instances in a manner that is impartial, predictable, equitable and compatible with the Guidelines.

This report assesses conformity of the Chilean NCP (the 'NCP') with the core criteria and with the Procedural Guidance contained in the implementation procedures. The peer review of the NCP was conducted by a peer review team made up of reviewers from the NCPs of Israel, Norway and the United Kingdom, observers from the NCPs of Argentina and Costa Rica, along with representatives of the OECD Secretariat. The peer review included an on-site visit that took place in Santiago, Chile on 2-3 August 2017. The NCP has taken steps to promote the Guidelines and to handle specific instances with a focus on bringing about successful resolution for the parties involved.

The efforts of the NCP have been carried out to date with limited resources and with the challenge of high turnover of staff in the NCP role. In recent months the NCP has been making efforts to strengthen its relationships with external stakeholders. The NCP has re-engaged stakeholders and a wide variety of government agencies and departments by re-invigorating two advisory bodies which have been not been active for some time. This is a welcome development and the NCP should go further and review its strategic approach to engagement in order to maximise its effectiveness.

Key findings and recommendations

Institutional Arrangements

The NCP is located in the General Directorate of International Economic Relations ("DIRECON") in the Ministry for Foreign Affairs and is represented by one senior official and supported by two additional staff members. The senior official responsible for the NCP is also the head of the department which is responsible for following policy developments with respect to the OECD and as a result can only contribute a portion of his time towards NCP activities. Currently none of the staff members devote the entirety or majority of their time to NCP activities. Several stakeholders and members of the government noted that having the same official responsible for NCP activities as well promotion of international trade and investment can create confusion amongst stakeholders. The NCP should be made into a distinct unit which is devoted to NCP activities and should be provided with sufficient resources. Specifically, it should have at least one full-time staff member overseeing NCP activities.

Additionally, there has been frequent turnover of staff at the NCP with five different officials representing the NCP over the past six years. This has created challenges for institutional memory, continuity in developing long-term stakeholder relationships and developing experience and best practice in handling specific instances. The NCP should develop systems to facilitate staff transitions such as: a formal system of information management; clarifying and institutionalising processes such as specific instance handling; formal training and handover processes for staff new to the role.

In 2012, the NCP established two advisory bodies to support its functioning: a Governmental Advisory Committee, ("Consejo Consultivo") and a Civil Society Committee ("Comité Espejo"). However

these committees have not been consistently active since their creation to the present day. Recently the NCP has made efforts to revive these advisory bodies and is considering how they can best be utilised. In particular, the NCP has been called on to strengthen the Civil Society Committee within Chile’s National Action Plan on Business and Human Rights introduced in August 2017. The NCP should work with the Civil Society Committee to define its mandate, taking into account the needs of the NCP as well as the capacity and interest of members to contribute. The NCP should also consider the most effective and strategic way to engage across government in carrying out its mandate. Should the NCP change its initial structure, it may rethink the role of the Government Advisory Committee.

	Findings	Recommendations
1.1	<p>Currently there are no staff members which devote the entirety or majority of their time to NCP activities.</p> <p>Several stakeholders and members of the government noted that having the same official responsible for NCP activities as well promotion of international trade and investment can create confusion amongst stakeholders.</p>	<p>The NCP should be made into a distinct unit which is devoted to NCP activities and should be provided with sufficient resources. Specifically, it should have at least one full-time staff member engaged in NCP activities.</p>
1.2	<p>There has been frequent turnover of staff at the NCP which has adversely impacted the effective functioning of the NCP.</p>	<p>The NCP should develop systems to facilitate staff transitions such as: a formal system of information management; clarifying and institutionalising processes such as specific instance handling; formal training and handover processes for staff new to the role. In addition, the NCP should consider possible strategies to retain staff in the NCP for longer periods than has been the case in recent years.</p>
1.3	<p>The Government Advisory Committee has not been active since its initial creation in 2012.</p>	<p>The NCP should consider the most effective and strategic way to engage across government in carrying out its mandate. Should the NCP change its initial structure, it may wish to rethink the role of the Government Advisory Committee.</p>
1.4	<p>There is no clear mandate for the Civil Society Committee.</p>	<p>The NCP should consider strategically how best to engage effectively with external stakeholders. As part of this work, it might consult the Civil Society Committee to define its mandate, taking into account the needs of the NCP as well as the capacity and interest of members to contribute.</p>

Promotional activities

The NCP has made efforts to promote the Guidelines as well as inform stakeholders of the role of the NCP by participating in promotional events, developing a brochure and reaching out to key stakeholders to explain the role of the NCP. However, many stakeholders participating in the peer review stressed the lack of visibility of the NCP. In order to improve promotional activities, the NCP is encouraged to develop a strategic promotional plan to target particular sectors or stakeholder groups. The NCP should also consider allocating more resources, including staff time, to promotional activities, but equally, the plan should consider promotional activities which can be carried out without significant resources. Identifying synergies with key partners and cooperation with civil society, academia, labour unions and business associations is especially recommended.

	Finding	Recommendations
2.1	The NCP is lacking in visibility within the government and externally.	In order to improve promotional activities, the NCP is encouraged to develop a strategic promotional plan to target particular sectors or stakeholder groups. The NCP should also consider allocating more resources, including staff time, to promotional activities, but equally, the plan should consider promotional activities which can be carried out without significant resources and in cooperation with civil society, academia, labour unions and business associations.

Specific instances

Since its creation in 1997, the NCP has handled 11 specific instances and acted as a supporting NCP in one other (See Annex 4). These numbers are in general higher than for other NCPs from the Latin American region. Of the 11 specific instances received, five were accepted by the NCP for further examination at the initial assessment stage and mediation was subsequently offered in each of these specific instances. It was accepted by the parties in three of the five specific instances and resulted in a successful outcome in each of these three cases. Most of the parties that have participated in mediation have expressed satisfaction with the handling of the proceedings and enthusiasm for the mechanism.

The NCP's rules of procedure are relatively short and do not provide detailed information on important aspects on the proceedings such as how a submission is assessed during initial assessment, the NCP's policy on confidentiality, what information provided by the parties will be shared amongst the parties and/or publically in the final statement or indicative timelines. In order to improve predictability in the handling of specific instances the NCP should develop complete and consistent rules of procedure as set out in the Procedural Guidance of the OECD Guidelines. In particular, the rules of procedure should provide guidance on initial assessment, confidentiality and transparency issues, how information is shared amongst the parties and publically and indicative timeframes.

In situations where mediation has been refused the NCP has promptly closed the proceeding without undertaking further analysis of the issues. In order to make best use of the specific instance process, where a company chooses not to engage in mediation the NCP should make recommendations

on the implementation of the Guidelines as appropriate. The NCP should make efforts to develop final statements which are as meaningful as possible. This could involve an independent analysis of the issues raised in the submission and relevant recommendations.

	Findings	Recommendations
3.1	The rules of procedure are relatively short and do not provide detailed information on important aspects of the proceedings.	In order to improve predictability in the handling of specific instances the NCP should develop complete and consistent rules of procedure as set out in the Procedural Guidance of the OECD Guidelines. In particular, the rules of procedure should provide guidance on initial assessment, confidentiality and transparency issues, how information is shared amongst the parties and publically and indicative timelines.
3.2	In situations where mediation has been refused the NCP has promptly closed the proceeding without undertaking further analysis of the issues.	In order to make best use of the specific instance process, where a company chooses not to engage in mediation, the NCP should make efforts to develop final statements which are as meaningful as possible. This could involve an independent analysis of the issues raised in the submission and relevant recommendations.

Chile is invited to report to the Working Party on Responsible Business Conduct on follow up to all the recommendations within one year of the date of presentation of this report.

2. INTRODUCTION

Background

The implementation procedures of the Guidelines require NCPs to operate in accordance with the core criteria of visibility, accessibility, transparency and accountability. In addition, the guiding principles for specific instances recommend that NCPs deal with specific instances in a manner that is impartial, predictable, equitable and compatible with the Guidelines. This report assesses conformity of the Chilean NCP with the core criteria and with the Procedural Guidance contained in the implementation procedures.

Chile adhered to the OECD Declaration on International Investment and Multinational Enterprises (Investment Declaration) in 1997. The OECD Guidelines for Multinational Enterprises (the Guidelines) are part of the Investment Declaration. The Guidelines are recommendations on responsible business conduct (RBC) addressed by governments to multinational enterprises operating in or from adhering countries. The Guidelines have been updated five times since 1976; the most recent revision took place in 2011.

Countries that adhere to the Investment Declaration are required to establish National Contact Points (NCPs). NCPs are set up to further the effectiveness of the Guidelines and adhering countries are required to make human and financial resources available to their NCPs so they can effectively fulfil their responsibilities, taking into account internal budget priorities and practices.¹ NCPs are “agencies established by adhering governments to promote and implement the Guidelines. The NCPs assist enterprises and their stakeholders to take appropriate measures to further the implementation of the Guidelines. They also provide a mediation and conciliation platform for resolving practical issues that may arise.”²

The Procedural Guidance covers the role and functions of NCPs in four parts: institutional arrangements, information and promotion, implementation in specific instances and reporting. In 2011 the Procedural Guidance was strengthened. In particular, a new provision was added to invite the OECD Investment Committee to facilitate voluntary peer evaluations. In the commentary to the Procedural Guidance, NCPs are encouraged to engage in such evaluations. Chile is the first Latin American NCP to volunteer to undertake a peer review.

The objectives of peer reviews as set out in the Core Template for voluntary peer reviews of NCPs³ are to assess that the NCP is functioning in accordance with the core criteria set out in the implementation procedures; to identify the NCP’s strengths and possibilities for improvement; to make recommendations for improvement and to serve as a learning tool for all NCPs involved.

This report was prepared based on information provided by the NCP and in particular, its responses to the NCP questionnaire set out in the core template⁴ as well as responses to requests for additional information. The report also draws on responses to the stakeholder questionnaire which was completed by 19 organisations representing Chilean business associations, civil society, trade unions/representative organisations of the workers’ own choosing (worker organisations), international organisations, academic institutions, and government agencies (see Annex I for a complete list of stakeholders who submitted written feedback) and information provided during the on-site visit.

The peer review of the NCP was conducted by a peer review team made up of reviewers from the NCPs of Israel, Norway and the United Kingdom, observers from the NCPs of Argentina and Costa Rica, along with representatives of the OECD Secretariat. The on-site visit to Santiago, Chile took place on 2-3 August 2017 and included interviews with the NCP, other relevant government representatives and stakeholders. A list of organisations that participated in the on-site visit is set out in Annex 2. The peer review team wishes to acknowledge the NCP for the quality of the preparation of the peer review and organisation of the on-site visit.

The basis for this peer review is the 2011 version of the Guidelines. The specific instances considered during the peer review date back to 2002. The methodology for the peer review is that set out in the core template.⁵

¹ Amendment of the Decision of the Council on the OECD Guidelines for Multinational Enterprises, para I(4)

² OECD Guidelines for Multinational Enterprises (2011), Foreword

³ OECD, Core Template For Voluntary Peer Reviews Of National Contact Points (2015), [DAF/INV/RBC\(2014\)12/FINAL](#)

⁴ Id.

⁵ Id.

Economic context

The Chilean economy is dominated by the service sector, representing 64% of GDP, followed by the manufacturing sector (11%), wholesale and retail trade (10%) and mining (10%). Regarding foreign direct investment (FDI), the inward stock of FDI was USD 237 billion in 2016, equivalent to 101 percent of Chilean GDP. The outward stock of FDI was USD 108 billion in 2016, representing 46 percent of Chilean GDP. The main investors in Chile are Spain, the Netherlands, the United States, Canada and the United Kingdom, and the main inward investment sectors are mining and quarrying and financial and insurance. The main destinations for outward investment from Chile are Brazil, Bermuda, Colombia, Argentina and Peru, and the most important sectors are finance and insurance, manufacturing, and mining and quarrying.

3. CHILEAN NCP AT A GLANCE

Established: 1997

Structure: Single Ministry supported by two advisory bodies

Location: General Directorate of International Economic Relations ("DIRECON").

Staffing: 3 part-time staff members (a senior official plus two supporting secretariat staff)

Website: <https://www.direcon.gob.cl/ocde/punto-nacional-de-contacto/> (Spanish);
<https://www.direcon.gob.cl/en/ocde/punto-nacional-de-contacto-pnc/> (English (not maintained))

Specific instances: 11

4. INSTITUTIONAL ARRANGEMENTS

Under the Procedural Guidance of the Guidelines, Section I(A):

"Since governments are accorded flexibility in the way they organise NCPs, NCPs should function in a visible, accessible, transparent, and accountable manner."

Legal/administrative basis

There is no legal basis for the NCP in Chilean domestic law. On 15 April 2015, an internal government memorandum was adopted by the General Directorate of International Economic Relations which states that "the National Contact Point [...] finds its legal basis in the *Convention of the Organization of Economic Cooperation and Development*, from which Chile is Party and, therefore, does not require an express formal act for incorporation into its domestic law." ⁶ (sic.)

On 21 August 2017 Chile launched a National Action Plan on Business and Human Rights (NAP) which includes references to the NCP. Specifically the NAP calls for coherent dissemination of the UN Guiding Principles and OECD Guidelines for Multinational Enterprises and for strengthening the NCP mechanism through closer collaboration with the National Institute of Human Rights (See *Policy coherence*) and reinvigoration of the Civil Society Committee (See *NCP Advisory bodies*).

NCP Structure

The NCP is located in the General Directorate of International Economic Relations ("DIRECON") in the Ministry for Foreign Affairs. DIRECON is charged with economic relations abroad, including with respect to Chile's export development, promoting foreign trade missions, promoting and negotiating economic international treaties and agreements and designing proposals for the public and private sector to ensure the optimal use of international markets.

The NCP is represented by a senior official in DIRECON. The senior official responsible for the NCP is also the head of the department which is responsible for following policy developments with respect to the OECD, specifically in the context of trade and investment policy. Officials which are rotated into the NCP role are generally technical experts on trade and investment policy issues, and do not necessarily have a background working on RBC issues. Several stakeholders and members of the government noted that the having the same official responsible for NCP activities as well promotion of international trade and investment can create confusion amongst stakeholders and may create a perception of impartiality. Others noted that the NCP's position in DIRECON provided it with credibility with businesses operating in Chile. Further institutionalising the NCP to make it a discrete unit devoted to NCP activities, may address some of these issues.

⁶ Ministerio de Relaciones Exteriores, Memorandum N. DIJUR 1296/201 (Publico), 15, April, 2015

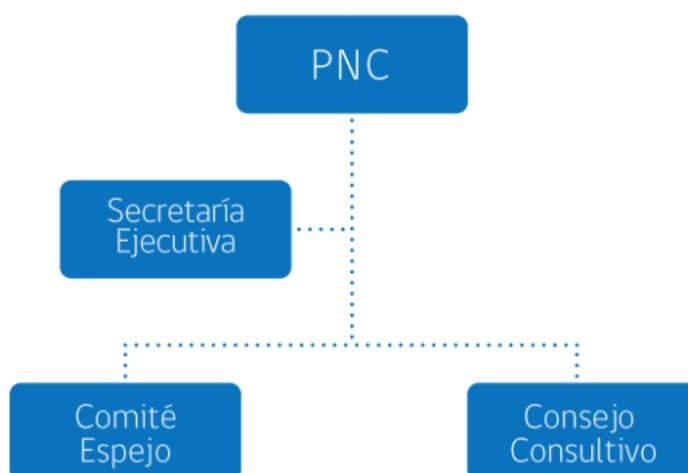
According to its website the mission of the NCP is to:

- Disseminate and promote the Guidelines;
- Improve the knowledge of the Guidelines and their implementation procedures;
- Respond to enquiries about the Guidelines by:
 - Other NCPs
 - Industry, trade union organisations, other non-governmental organisations and the general public
 - The public authorities of countries that have not signed the Guidelines
- Conduct initial assessments of submitted specific instances to determine whether they merit further examination;
- Attempt to reach agreement between the parties to a specific instance through mediation; and
- Report to the OECD Investment Committee on the activities undertaken.⁷

The senior official representing the NCP is supported by an Executive Secretariat, composed of two staff, one technical and one administrative, who are charged with supporting the NCP in carrying out its activities. Staff of the NCP Secretariat are also based in DIRECON.

In 2012 the NCP established two advisory bodies to support its functioning: a Governmental Advisory Committee, ("Consejo Consultivo") and a Civil Society Committee ("Comité Espejo"). However these committees have not been consistently active since their establishment to present day. Recently the NCP has made efforts to revive these bodies (see *NCP Advisory Bodies*).

Diagram 1: Initial structure of the Chilean NCP



⁷ Author's translation. See <https://www.direcon.gob.cl/ocde/punto-nacional-de-contacto/>

NCP and Executive Secretariat

As noted above, the NCP and Executive Secretariat are located in DIRECON in the department responsible for following OECD issues. Thus the official responsible for overseeing the NCP also manages a broad portfolio of issues, specifically those related to trade and investment issues at the OECD. Due to the broad scope of responsibility associated with this role, the official responsible for the NCP devotes only a portion of their time to NCP activities (approximately 40%). Staff of the Executive Secretariat are also based in DIRECON and similarly tasked with multiple responsibilities. As such, there are no staff members which devote the entirety or majority of their time to NCP activities.

The current senior official representing the NCP has been in the role since December 2016. The two individuals who make up the Executive Secretariat have been supporting the NCP since January and July 2017, respectively.

There has been frequent turnover of staff at the NCP; over the past six years five different officials have represented the NCP. Currently there are no pre-established mechanisms to ensure knowledge transfer and to protect institutional memory within the NCP. This has created challenges for new staff joining the NCP and significant time is required for new staff to learn about and adjust to their role.

In order to ensure effective functioning of the NCP there is a need for greater stability and continuity with respect to the roles of the NCP and Executive Secretariat. This may be achieved through making the NCP a discrete unit, as noted above. The NCP should consider finding ways to retain staff for longer periods than it has in recent years, in order to benefit from the enhanced experience, greater knowledge and deeper stakeholder relationships which continuity in staffing brings. Developing systems to facilitate staff transition can also be helpful. This may involve developing a formal system of information management to ensure that relevant information is easily located for new staff. It may also involve clarifying and institutionalising processes such as specific instance handling. Additionally the NCP may also considering developing formal training and handover processes for staff new to the role.

NCP Advisory bodies

In 2012, the NCP established two advisory bodies to support its functioning: a Governmental Advisory Committee, ("Consejo Consultivo") and Civil Society Committee ("Comité Espejo).

When originally established, the Governmental Advisory Committee was intended to provide technical advice as relevant in the handling of specific instances. The following departments were identified as potential relevant representatives for this Committee:

- the Public Prosecutor's office;
- Ministry of Labour and Social Welfare;
- Internal Revenue Service;
- National Economic Prosecutor;
- Ministry of Economy;
- National Consumer Service;
- Ministry of Environment;
- Ministry of Foreign Affairs (Human Rights Division).

In practice, the Government Advisory Committee has not been active since its initial creation. On occasion, government representatives external to the NCP have provided technical advice with respect to specific instances but to date, this has been done on an ad hoc basis. The current NCP has made efforts to revive the Government Advisory Committee through reaching out to potential government departments whose expertise may be relevant in the context of specific instances handled by the NCP. Nevertheless, the NCP has faced a challenge in engaging all departments. The NCP should consider the most effective and strategic way to engage with other parts of the government in carrying out its mandate. Should the NCP change its initial structure, it may rethink the role of the Government Advisory Committee.

The second advisory body is the Civil Society Committee, a multi-stakeholder body composed of representatives from business associations, trade unions, civil society, academia and other experts on RBC. According to the NCP the primary function of the Civil Society Committee is to advise the NCP on awareness-raising and promotional activities and to provide a direct communication channel to external stakeholders.

As with the Government Advisory Committee, the Civil Society Committee has not been consistently active since its creation in 2012. Some of the original members of the Civil Society Committee noted that the Committee had several meetings when it was first established however there was dissatisfaction with the level of dialogue at these meetings. These same members reported that the Civil Society Committee had not been active for the past two years since no meetings or communications occurred. In the past few months the NCP has made an effort to revive the NCP Committee as well as to expand its membership to make it more robust and representative of civil society in Chile. Chile's National Action Plan on Business and Human Rights also calls on the NCP to revive and strengthen the Civil Society Committee.

The current composition of the Civil Society Committee includes 16 members including two observers (See Table 1). Seven of these members have recently been invited to join the Committee to further expand its membership. The new members include: the Multitudes Foundation, the National Institute of Human Rights, Transparency Council, SONAMI, Environmental Law Center, University of Chile, International Studies Center, Catholic University and Central Autonomous Workers Union (CAT). The NCP is also planning to add additional members to the Civil Society Committee.

During the on-site visit, members of the Civil Society Committee noted the mandate of the Civil Society Committee was unclear. For example, one member noted that different members could play different roles in supporting the activities of the NCP (i.e. promotion, training, specific instance handling). Others noted that while there is scope to assist the NCP with promotion of the Guidelines and the NCP specific instance mechanism, they are hesitant to do so without a political commitment to ensuring the functioning of the NCP and assurance that the NCP is sufficiently able handle specific instances. The NCP should work with the Civil Society Committee to clearly define their mandate taking into account the needs of the NCP as well as the capacity and interest of members to contribute.

Table 1. Civil Society Committee Representatives

	NGOs/Civil Society
1	Action Companies (Acción Empresas)
2	Prohumanas
3	Terram Foundation (Fundación Terram)
4	Multitudes Foundation (Fundación Multitudes) (new)
5	National Institute of Human Rights (Instituto Nacional de Derechos Humanos (INDH)) (Observer (new))
6	Council for Transparency (Consejo para la Transparencia) (new)
	Business/Industry
7	National Chamber of Commerce (Cámara Nacional de Comercio (CNC))
8	Chilean Federation of Industry (Federation Gremial de la Industria (SOFOFA))
9	Chilean Chamber of Construction (Cámara Chilena de la Construcción (CCHC))
10	National Mining Society (Sociedad Nacional de Minería (SONAMI)) (new)
	Academia
11	Environmental Law Center (Centro Derecho Ambiental UCHILE) (new)
12	International Studies Center (Centro Estudios Internacionales PUC) (new)
13	Vincular
	Trade Union
14	Central Workers Union (Central Unitaria de Trabajadores (CUT))
15	Central Autonomous Workers Union (Central Autónoma de Trabajadores (CAT)) (new)

Resources

The NCP is resourced through a budget which covers all activities of the department charged with OECD relations. There is not a separate or distinct budget for NCP staff or activities. A principle point of feedback underscored during this peer review was that the lack of adequate staffing and financial resources presented a significant obstacle to the functioning of the NCP. Specifically, the lack of staff devoted to NCP activities full-time is an important capacity constraint and is perceived by many as an indication of lack of political commitment to the NCP.

The NCP should be provided with sufficient resources. Specifically, it should have at least one full-time staff member overseeing NCP activities. Additional resources (beyond staff) could be useful to improving communications and promotion on the Guidelines and increasing visibility (See section on *Promotion of the Guidelines*).

Reporting

The NCP reports on an annual basis to the OECD Investment Committee in accordance with the Procedural Guidance and attends biannual meetings of the OECD National Contact Points. Some stakeholders have noted that publication of annual reports online can be useful for increasing transparency and visibility of NCP activities.

	Findings	Recommendations
1.1	<p>Currently there are no staff members which devote the entirety or majority of their time to NCP activities.</p> <p>Several stakeholders and members of the government noted that having the same official responsible for NCP activities as well promotion of international trade and investment can create confusion amongst stakeholders.</p>	<p>The NCP should be made into a distinct unit which is devoted to NCP activities and should be provided with sufficient resources. Specifically, it should have at least one full-time staff member engaged in NCP activities.</p>
1.2	<p>There has been frequent turnover of staff at the NCP which has adversely impacted the effective functioning of the NCP.</p>	<p>The NCP should develop systems to facilitate staff transitions such as: a formal system of information management; clarifying and institutionalising processes such as specific instance handling; formal training and handover processes for staff new to the role. In addition, the NCP should consider possible strategies to retain staff in the NCP for longer periods than has been the case in recent years.</p>
1.3	<p>The Government Advisory Committee has not been active since its initial creation in 2012.</p>	<p>The NCP should consider the most effective and strategic way to engage across government in carrying out its mandate. Should the NCP change its initial structure, it may wish to rethink the role of the Government Advisory Committee.</p>
1.4	<p>There is no clear mandate for the Civil Society Committee.</p>	<p>The NCP should consider strategically how best to engage effectively with external stakeholders. As part of this work, it might consult the Civil Society Committee to define its mandate, taking into account the needs of the NCP as well as the capacity and interest of members to contribute.</p>

5. PROMOTION OF THE GUIDELINES

Under the Procedural Guidance of the Guidelines, Section I(B), NCPs are mandated to:

1. “Make the *Guidelines* known and available by appropriate means, including through on-line information, and in national languages;
2. Raise awareness of the *Guidelines* and their implementation procedures, including through co-operation, as appropriate, with the business community, worker organisations, other non-governmental organisations, and the interested public;
3. Respond to enquiries about the *Guidelines*.”

Information and Promotion materials

Promotional plan

In its 2016 annual report to the OECD Investment Committee, the NCP reported that it has a promotional plan in place that targets four primary audiences:

- Chilean Trade Unions, NGOs, and Business;
- Other Latin American NCP's;
- Academia;
- And enterprises related to the OECD Proactive Agenda

The NCP has made efforts to promote the Guidelines as well as inform stakeholders of the role of the NCP by participating in promotional events, developing a brochure and contacting key stakeholders. However, most stakeholders participating in the peer review stressed the lack of visibility of the NCP.

In order to optimise promotion, the NCP is encouraged to develop a strategic promotional plan to target particular sectors or stakeholder groups and focus on operationalising the recommendations of the Guidelines. Chile has a significant extractive sector as well as several important primarily product sectors (such as fisheries). Promotion of sector-specific OECD guidance such as the OECD Due Diligence Guidance on Meaningful Stakeholder Engagement in the Extractive Sector as well as the OECD-FAO Guidance for Responsible Agricultural Supply Chains can be useful outreach tools to facilitate engagement with these key sectors or stakeholder groups impacted by these sectors.

In addition the strategy should consider promotional activities which can be executed without significant resources. For example, updates to the website (see *Website*) and identifying synergies for promotional activities with key partners (see *Promotional events*) and highlighting successful outcomes of specific instances (see *Promotional materials*) may be useful for increasing the visibility of the NCP without requiring significant resources.

Promotional materials

In 2015 the NCP developed a brochure that provides easy to access information about the OECD, the Guidelines, the NCP, and the specific instance process. Several stakeholders noted that this brochure is useful to disseminating information about the Guidelines and the NCP. The brochure is available online in Spanish (<https://www.direcon.gob.cl/wp-content/uploads/2015/11/PNC-2015.pdf>). While useful the brochure includes contact information for NCP staff which is currently out of date. Given the frequent turnover of the NCP staff, the brochure should be updated to provide generic contact information for the NCP.

The NCP could also consider featuring successful outcomes from specific instance proceedings within promotional materials or on its website to promote its function as a grievance mechanism. Several specific instances handled by the NCP have resulted in meaningful outcomes (See Boxes 1-3), however these successes are not highly visible.

Website

The NCP has a main website (<https://www.direcon.gob.cl/ocde/punto-nacional-de-contacto/>) in Spanish. In addition there is an English version of the website available which is outdated and not maintained (<https://www.direcon.gob.cl/en/ocde/punto-nacional-de-contacto-pnc/>).

The Spanish website includes information about:

- The NCP
 - Contact details of the NCP;
 - Information on the NCP structure;
- The Guidelines
 - Links to the Guidelines (in Spanish) and FAQs;
 - Links to other resource documents (Sector specific guidance, Annual Reports of the OECD Guidelines for Multinational Enterprises);
- Specific Instances
 - Summaries and links to statements for specific instances handled by the NCP;
 - A template submission form for submitting a specific instance;
 - Rules of procedure for handling of specific instances (see section on Handling Specific instances for more information);
- A list of promotional activities organized in 2014, 2015 and 2016; and
- Recent news and announcements

The interface of the NCP website is easy to navigate and includes useful information on the NCP. However some of the information on the website is out of date such as the contact information for NCP staff as well as recent news, announcements and promotional activities. The English website is not maintained and is thus out of date. Additionally, some discrepancies exist between the English and Spanish websites, notably the available descriptions of the specific instances procedure.

The NCP websites (both English and Spanish) should be updated to include the most up to date information, particularly with respect to contact information of NCP staff. Additional useful resources could be shared on the website such as the sector specific due diligence guidance reports developed by the OECD, annual reports of the NCP, announcements of upcoming promotional activities etc.

Promotional events

The NCP has organised several promotional events and actively participates in external events. For example the NCP participated in seven promotional events in 2016 and 18 promotional events in 2015 (See Annex 3 [NCP of Chile to provide]).

Recently, in an effort to revive its Civil Society Committee the NCP has been working to engage with key stakeholders to promote awareness of the Guidelines and the specific instance mechanism. For example in 2017 the NCP participated in seven outreach events to business, worker organizations and other stakeholders (see Annex 4).

The NCP's capacity to engage in promotional events and outreach in general is limited by human and financial resource constraints. To this end the NCP has been making efforts to identify strategic partners to assist with promotional activities both amongst members of the Civil Society Committee and beyond. Some stakeholders including industry associations and trade unions attending the on-site visit noted a willingness to engage with the NCP to promote the Guidelines and NCP mechanism through existing trainings and events they undertake with their members. Additionally, trade unions noted that it would be useful to have the NCP partner with the Labour Inspectorate, which is often the first point of contact for disputes between trade unions and employers, to disseminate information and promote the NCP as an alternative dispute resolution mechanism. In order to strengthen the promotion of the Guidelines in Chile cooperation with civil society, academia, labour unions and business associations is especially recommended.

Policy Coherence

Chile developed a National Action Plan on Business and Human Rights which was launched on 21 August 2017. The NCP was part of the inter-ministerial team working on developing the plan. The NCP is also discussing the possibility of participating as a member of the Social Responsibility Council for Sustainable Development, a multi-stakeholder body tied the Ministry of the Economy whose purpose is to promote the UN Guiding Principles on Business and Human Rights and advise the Minister of the Economy on these issues.

Additionally the NCP has finalised a formal agreement with National Institute for Business and Human Rights. The objective of the cooperation will be to take advantage of technical expertise of these bodies in handling specific instances and to identify synergies with respect to promotional activities.

Although at present the NCP is not well-known by the various government agencies participating in the on-site visit, many expressed an interest in collaborating more closely with the NCP and on responsible business conduct issues.

Cooperation with other NCPs

The NCP of Chile has been active in the past in contributing to the capacity building of other Latin American NCPs and promotion in the regional context. For example in November 2014 the Chilean NCP hosted a peer learning and capacity building workshop for Latin American NCPs. The event was attended by all Latin American NCPs, a representative of the OECD Secretariat and two members of Consensus Building Institute. Points of discussion included: providing mediation in resolving specific instances; balancing transparency and confidentiality and considering parallel proceedings.

The NCP has also participated in various peer learning events organised by other NCPs and participated as a reviewer in the Peer Review of Switzerland.

Engagement with the Proactive Agenda

A member of the Governmental Advisory Committee also took part in the Advisory group for the development of the FAO-OECD Due Diligence Guidance on Responsible Supply Chains in the Agricultural Sector and provided regular comments in input to various revisions of the draft.

Additionally the NCP was active in the development of the OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector. Specifically, the NCP, DIRECON, and the Ministry of Mining, conducted a public consultation process to gather concerns and comments on the drafts of the guidance.

Requests for information

The website of the NCPs notes that part of its mission is to respond to enquiries about the Guidelines. Under Chilean law,⁸ the NCP is also legally obliged to deliver information when it is requested except when it is subject to specific exclusionary conditions.

The NCP should clearly advertise its availability to respond to inquiries on its website, for example through providing a contact for such inquiries. Specifically it may note its availability to provide information and support to parties interested in submitting a specific instance, a service that was requested by several stakeholders which participated in the on-site visit.

	Finding	Recommendations
2.1	The NCP is lacking in visibility within the government and externally.	In order to improve promotional activities, the NCP is encouraged to develop a strategic promotional plan to target particular sectors or stakeholder groups. The NCP should also consider allocating more resources, including staff time, to promotional activities, but equally, the plan should consider promotional activities which can be carried out without significant resources and in cooperation with civils society, academia, labour unions and business associations.

⁸ Transparency Law – access to public information, Law N° 20.285

6. HANDLING SPECIFIC INSTANCES

Under the Procedural Guidance of the Guidelines, Section I (C):

“[t]he National Contact Point will contribute to the resolution of issues that arise relating to implementation of the *Guidelines* in specific instances in a manner that is impartial, predictable, equitable and compatible with the principles and standards of the *Guidelines*.”

Implementation in Specific Instances

Since 2007, the NCP has handled 11 specific instances and acted as a supporting NCP in one other (See Annex 4). These numbers are in general higher than for other NCPs from the Latin American region. Parties that participated in mediation noted satisfaction with how the NCP handled the specific instance. Specifically, most parties at the peer review noted that the NCP was professional, impartial, and effective in mediating the disputes. All parties at the peer review noted they would use the mechanism again and many, as a result of their positive experience, have been active in promoting the NCP mechanism amongst their networks. The outcomes of mediated specific instances indicate the potential for strong performance of the NCP in handling specific instances.

NCP Rules of Procedure

The NCP's rules of procedure were first developed in 2013 with input from then members of the Civil Society Committee. They were further updated in 2015 to reflect the current version in use. The NCP provides its rules of procedure on its website however there are discrepancies between the English and Spanish versions of the website.

Submission of specific instances

The rules of procedure of the NCP of Chile provide that "any person (natural or legal) that is currently affected by the breach of the OECD Guidelines for Multinational Enterprises will be able to submit a claim before the National Contact Point (NCP) of Chile" and requires submission of all information noted in the template submission form, which is hyperlinked within the rules of procedure. The term "currently affected" suggests the adverse impact needs to be continuous however during the peer review, the NCP clarified that this phrase is not designed in any way to limit the mandate of the NCP.

The template submission form asks submitters to provide:

- The identity of the complainant, the contact person, name of the organisation and contact details.
- Grounds for the submission and name of the organisation or group (s) participating in the submission (e.g. on behalf of a local union or community), where relevant.
- The name and location of the multinational company.
- Name of the company representative.
- The provisions of the Guidelines allegedly not-observed by the multinational company.

- All available information to support the submission for example: documents, reports, studies, articles, witness statements may be considered.
- Background information on the link between the legal or natural person presenting the case and the company reported.
- Actions the submitter would like the company to take to resolve the issue.

The template submission form also informs the submitter that:

- All information provided to the NCP will be shared with the company in question and any requests to keep information confidential must be justified;
- The objective of the NCP is to facilitate conciliation / mediation between the submitter and the company, in order to reach a positive agreement for both parties;
- And that the NCP will issue final statements, including in cases where the parties do not undergo mediation and or where they fail to reach an agreement.

Stakeholders have noted that this template submission form is useful to helping them structure their submissions.

Initial assessment

The rules of procedure published on the Spanish webpage do not clearly identify an initial assessment phase.⁹ They provide that the NCP may request additional background information or an explanation of one or more points in the submission. They also note that the NCP may also request authorisation from the submitters to share the submission with the company whose conduct is in question.

The rules of procedure state that based on the information provided, the NCP will make a decision on whether the specific instance merits further examination but they do not identify what criteria is relied upon in reaching this decision.

Where the NCP decides that the instance merits further examination, the rules of procedure note that the NCP will share all the submitted materials with the company in question and make an offer of good offices. The company is asked to respond to the allegations in the submission as well as to indicate whether it accepts an offer of good offices according to a certain deadline.

The practice of contacting a company after the process of initial assessment has led to confusion in some instances. For example, in one case the company learned that a specific instance had been filed against them in the media three months before they were contacted by the NCP.¹⁰ Many NCPs systemically reach out to companies named in specific instances during the initial assessment phase to

⁹ The English webpage clearly notes the different stages of the specific instance proceeding, including the initial assessment stage: " **Stage 1:** Initial evaluation. It is a documental analysis of the complaint, the answer of the company and any additional information presented by the parties. Chilean PNC will use this information to decide whether it is necessary to continue investigating the case and thus accept or reject the claim."

¹⁰ Starbucks and CUT (2014)

inform them of the specific instance and to provide an opportunity for them to respond. The NCP could consider adopting such a practice.

While the NCP's rules of procedure do not set out the criteria used to decide whether to accept a specific instance; detailed reasoning is often included in the final statements of the NCP. Five¹¹ out of the six specific instances filed since 2011 include such reasoning. These specific instances have set out the NCP position on what constitutes a multinational enterprise, the relationship of the Guidelines to national law and parallel proceedings. Setting out this analysis in the rules of procedure would increase transparency and predictability of the process.

The NCP does not systematically publish initial assessments. However an initial assessment was published for one specific instance.¹²

Out of the 11 specific instances handled by the Chilean NCP five were accepted for further examination upon initial assessment.¹³

Four were not accepted for further examination after initial assessment:

- One because the case dealt with an employment contract signed 40 years prior and because a specific legal remedy was requested.¹⁴
- One because the issues raised were legal questions and determined to be outside of the scope of activity of the NCP.¹⁵
- One which dealt with a question outside the scope of the Guidelines. In this case the NCP still offered mediation.¹⁶
- One because the submitter did not formally submit a case to the NCP.¹⁷

The remaining two specific instances did not reach the initial assessment. One because the applicant notified the NCP that they and the multinational enterprise were negotiating an agreement on the matter, after which the proceedings were concluded.¹⁸ The second because the submitter of the complaint did not take further action on the submission.¹⁹

¹¹ Paulinia and Individual (2015); Electricity supplier and Family Business (2014); Starbucks and CUT (2014); Ripley and CUT (2014); Minera Escondida and Escapes Santander (2011)

¹² Minera Escondida and Escapes Santander (2011)

¹³ Starbucks and CUT (2014); Ripley and CUT (2014); Peruvian Banco del Trabajo Confederation of Bank Unions of Chile et. al (2007); Unilver and CUT (2005); Marine Harvest and Milieudefensie (2002)

¹⁴ Paulinia and Individual (2015)

¹⁵ Electricity supplier and Family Business (2014)

¹⁶ Minera Escondida and Escapes Santander (2011) The question dealt with an intellectual property dispute between companies.

¹⁷ Enterprise Zaldivar and Trade Union (2007)

¹⁸ Mining Enterprise and Municipality (2014)

¹⁹ ISS Facility Services and CUT (2007)

Use of good offices

The rules of procedure note that once a response is received from the company, the NCP together with its Executive Secretariat will evaluate the relevance of carrying out a mediation or conciliation process as part of the offer of good offices. In making this assessment the NCP may request more information or further explanation from the company with respect to its submitted response.

According to the NCP it has not yet used professional mediators but is planning to do so for specific instances in the future. In addition, different government experts on matters covered by the Guidelines may be invited to provide their advice on specific cases. This has occurred on a few occasions. The NCP is currently exploring ways in which government experts can be further involved in the handling of specific instances (see *NCP Advisory Bodies and Policy Coherence*).

The rules of procedure do not provide further detail around processes during provision of good offices, or mediation proceedings.

Out of the five cases accepted for further examination the NCP provided mediation in three specific instances²⁰ and offered it in the remaining two, where it was not accepted by one or more of the parties.²¹ In situations where mediation has been refused the NCP has promptly closed the proceeding without undertaking further analysis of the issues. In order to make best use of the specific instance process, where a company chooses not to engage in mediation the NCP should make efforts to develop final statements which are as meaningful as possible. This could involve including an independent analysis of the issues raised in the submission and relevant recommendations.

Box 1. Marine Harvest and Milieudéfense et. al.:

In October 2002 the NCP received a submission from the NGOs Ecoceanos (Chile) and Friends of the Earth (Netherlands) alleging that Marine Harvest failed to allow workers enough freedom to unionize and to collectively bargain and that the company was responsible for negative environmental impacts.

This was the first specific instance handled by the NCP of Chile and as a result there were no existing rules of procedure or precedent to follow in the handling of the specific instance at the time. The NCP provided mediation and developed a detailed set of recommendations and action plan to address the impacts at issue. The action plan involved the parties to the specific instance in addition to other stakeholders and government actors such as the National Fisheries Service and regional government representatives.

It was noted that the NCP played an active and professional role in reaching a resolution in this specific instance and also noted that as a result of this specific instance civil society and indigenous populations were recognized for the first time as relevant stakeholders in the context of the salmon fishing industry. One party to the specific instance noted that based on their previous experience they would use the NCP mechanism again.

²⁰ Starbucks and CUT (2014); Unilever and CUT (2005); and Marine Harvest and Milieudéfense (2002)

²¹ Ripley Group and UNI Global (2014) (In this case Ripley Group did not accept the offer of mediation); Minera Escondida Limitada and Escapes Santander (2011) (In this case Minera/BHP Billion stated that it would not engage in the NCP-facilitated process due to parallel legal proceedings).

In all three specific instances where mediation was offered and accepted, a positive outcome was reached (See Boxes 1- 3). As noted above, all parties that engaged in mediation in the context of the NCP were enthusiastic about the process and outcomes and spoke favourably of the NCP's role in mediating the issues.

Reports and statements

According to the NCP's rules of procedure a final report is published at the closure of proceedings. The final statement should include (where relevant):

- The agreements and commitments adopted by the parties;
- Deadlines and actions for the follow-up of commitments;
- Where relevant, the reasons why the parties could not reach agreement and the recommendations and actions proposed by the NCP;
- Where relevant, indication of a lack of acceptance of good offices from the NCP by one or more of the parties.

Under the Procedural Guidance, where there is no agreement and one (or more parties) refused the good offices of the NCP, "the NCP will make recommendations on the implementation of the Guidelines as appropriate, which should be included in the statement".²² The procedure also makes it clear that an NCP will issue a statement, even if it feels that a specific recommendation is not called for. Thus, the final statements should additionally identify the "parties concerned, the issues involved, the date on which the issues were raised with the NCP, any recommendations by the NCP."²³

Both the initial and final statements are shared with parties to the specific instance for comment. Parties are given a short deadline (not more than five days) to provide their comments. The NCP communicates to the parties that it will decide to what extent to integrate their comments into final published statements.

Statements have been published for eight of the 11 specific instances handled by the NCP and for all cases filed since 2011. The three specific instances for which no statements exist were deemed not to merit further examination and filed prior to 2011, at which time there was no obligation to publish a statement for non-accepted cases.²⁴

Many of the statements published by the NCP are very thorough and informative. For example, most statements of specific instances accepted for further examination include a detailed explanation of the issues raised, the positions of both parties on issues raised and a description of the mediation processes provided. In some cases they also include an analysis of the issues by the NCP as well as a description of outcomes or recommendations as necessary. Published statements for specific instances not accepted for further examination commonly also include a detailed description of the issues raised

²² OECD Guidelines for Multinational Enterprises (2011), Procedural Guidance, Part I, C, 3, c.

²³ See OECD Guidelines for Multinational Enterprises (2011), Commentary on Procedural Guidance, para 36.

²⁴ Statements were not published for *Entreprise Zaldivar and Trade Union (2007)*; *Peruvian Banco del Trabajo and Confederation of Bank Unions of Chile (2007)*; *ISS Facility Services and Chilean Trade Union Confederation (CUT) (2007)*

and a detailed explanation of the reasoning behind the decision not to accept the specific instance for further information.

The NCP could consider developing a template for final statements to ensure the high quality of final statements continues despite high staff turnover.

Follow up

The rules of procedure provide that once a final statement is published, the NCP will develop a schedule for follow up to assess whether the parties have complied with the actions set out in the final statement. To date the NCP has not engaged in follow up on the implementation of recommendations or agreements. However in one specific instance the NCP noted that it would be willing to collaborate in the development and implementation of an action plan for remediation identified in its final statement.²⁵ A party to another specific instance noted that follow up activity by the NCP would be useful to ensuring agreements reached through the specific instance mechanisms are implemented and also to assess their continued relevance. (See Box 2)

Box 2. Unilever and CUT

In November 2005 the NCP received a submission from the Chilean Trade Union Confederation (CUT) alleging that Unilever had breached the employment and industrial relations, and environment provisions of the Guidelines through the closure of its plants in Chile. The NCP accepted the specific instance for further examination and offered its mediation services which were accepted by both parties.

Mediation included a series of monthly meetings (bi-monthly during negotiation of the final agreement) overseen by the NCP. Both parties noted that the NCP handled the process competently and fairly.

The specific instance was concluded with a mediated agreement. Specifically parties agreed to separate the collective bargaining procedure from the restructuring procedure leading to the closure of three plants. It was also agreed that all the workers laid off would be compensated. In addition, the workers were to share an ongoing annual bonus of 14 million Chilean pesos. The provisions of this agreement are still in place today and annual reports on implementation of this agreement were developed by Unilever up until 2012.

It was noted that the procedure contributed to positively changing the relationship between Unilever and the union and that the parties would recommend participating in a specific instance mechanism to others. It was also noted that follow-up activity by the NCP which could serve to evaluate the relevance of agreements after significant time has passed, would be welcomed

Timeliness

The NCP's rules of procedure do not include information about timelines. However on its website it notes that generally cases can take between 9 and 18 months to be completed and that the indicative timeframe provided for in the Procedural Guidance is one year. According to the NCP it aims to conclude specific instance proceedings in under 12 months. In practice the NCP has concluded proceedings within a year, in line with the Procedural Guidance, in five specific instances.²⁶ In one

²⁵ Marine Harvest and Milieudéfensie et. al. (2002)

²⁶ Paulina and Individual (2015); Starbucks Coffee and CUT (2014); Ripley Group and UNI Global; Unilever and CUT (2005);=Marine Harvest and Milieudéfensie (2002)

specific instance an initial assessment took 11 months, which goes beyond the suggested timeframe of three months provided in the Procedural Guidance.²⁷ Information on the length of proceedings is unknown in another five specific instances.²⁸

Confidentiality and Transparency

The NCP's rules of procedure do not include information about confidentiality or transparency. However the NCP outlined its confidentiality policy in detail in a final statement for the specific instance involving Starbucks and CUT (2014). In this specific instance problems arose when the submitter discussed the specific instance at an event with external participants. The company viewed this as a breach of the confidentiality policy for the proceedings and suggested that the NCP had acted impartially in allowing this presentation.

In the final statement the NCP quotes the language of the Procedural Guidance pertaining to confidentiality and good faith and then states that the obligation of confidentiality does not extend to the fact that the specific instance exists or the reasons that the good offices of the NCP have been sought. It further notes that "parties are free to make public statements about the case provided that information raised and discussed during mediation is safeguarded."²⁹

In order to improve predictability of the process the NCP should clarify its policy on confidentiality within its rules of procedure. In doing so it may draw from the robust explanation provided within the final statement for Starbucks and CUT (2014).

Box 3. Starbucks and CUT

In May 2014, the NCP received a submission from two trade unions alleging that Starbucks Coffee Chile S.A. had breached the employment and industrial relations, and human rights provisions of the Guidelines through anti-union policies. The NCP provided mediation which both parties accepted and which involved a series of meetings on pre-agreed to issues. Unfortunately after facilitating one mediation meeting among the parties the NCP ended the specific instance process in response to statements made by the company that the submitting party had breached confidentiality provisions and that the NCP had acted impartially.

Despite this, it was noted that the NCP was professional in handling of the specific instance and excellent in mediation of the issues. The parties managed to reach an agreement with one another upon the issuance of a final statement which provided an analysis of the issues raised in the submission and the process to date. This agreement represented an important step towards recognition and engagement of Starbucks Coffee Chile S.A. with the company union, something which had previously not been possible despite several legal proceedings on this issue between the trade union and company. This achievement was attributed to the NCP led mediation and publication of the final statement. One party to the specific instance noted it would use the NCP mechanism again and has promoted its use amongst other organisations.

²⁷ Electricity Supplier and Family Business (2014)

²⁸ Mining Enterprise and Municipality (2014); Minera Escondida and Escapes Santander (2011); Empresa Zaldívar and Trade Union (2007); Peruvian Banco del Trabajo and Confederation of Bank Unions of Chile (2007); ISS Facility Services and CUT (2007);

²⁹ Id.

Parallel proceedings

The NCP's rules of procedure do not include information about parallel proceedings. However the NCP has described its position on parallel proceedings in several final statements. For instance, the NCP has noted that "the existence of pending lawsuits facing Specific Instances (non-judicial and non-contentious instance) cannot be considered by the NCP as an excuse to not rule on complaints that have been filed and fall within the scope of their competence."³⁰ The NCP has never refused a specific instance on the basis of parallel proceedings.

Cooperation with other NCPs

The NCP has cooperated with other NCPs in the handling of specific instances on several occasions. Five specific instances handled by the NCP involved companies and issues which implicated several jurisdictions.³¹ In these cases the Chilean NCP notified the other relevant NCPs and involved them in the handling of the specific instance. The Chilean NCP has also served as a supporting NCP in a case handled by the Norwegian NCP which concerned the alleged non-observance of the Guidelines in the salmon farming industry in Canada and Chile.³²

	Findings	Recommendations
3.1	The rules of procedure are relatively short and do not provide detailed information on important aspects of the proceedings.	In order to improve predictability in the handling of specific instances the NCP should develop complete and consistent rules of procedure as set out in the Procedural Guidance of the OECD Guidelines. In particular, the rules of procedure should provide guidance on initial assessment, confidentiality and transparency issues, how information is shared amongst the parties and publically and indicative timelines.
3.2	In situations where mediation has been refused the NCP has promptly closed the proceeding without undertaking further analysis of the issues.	In order to make best use of the specific instance process, where a company chooses not to engage in mediation, the NCP should make efforts to develop final statements which are as meaningful as possible. This could involve an independent analysis of the issues raised in the submission and relevant recommendations.

³⁰ Id.

³¹ Paulinia and Individual (2015); Ripley Group and UNI Global (2014); Minera Escondida Limitada and Escapes Santander (2011); Peruvian Banco del Trabajo and Confederation of Bank Unions of Chile (2007) Marine Harvest and Milieudéfensie et. al. (2002)

³² See Norwegian Society for the Conservation of Nature and ForUM regarding the activities of Cermaq (2011) <https://mneguidelines.oecd.org/database/instances/no0005.htm>

ANNEX 1: LIST OF ORGANISATIONS WHICH RESPONDED TO THE NCP PEER REVIEW QUESTIONNAIRE

Academia	
1	International Studies Center (Centro de Estudios Internacionales UC)
2	Executive Director of the Vincular Center of the Pontifical Catholic University of Valparaiso
3	Universidad de Chile
Business	
4	Confederation of Production and Trade (Confederación de la Producción y del Comercio (CPC))
5	Fomento Fabril Association (Sociedad de Fomento Fabril)
6	National Mining Society (Sociedad Nacional de Minería)
NGO/Civil Society	
7	Action Companies (Acción Empresas)
8	Center Eco Oceans (Centro Ecoceanos)
9	House of Peace Foundation (Fundación Casa de la Paz)
10	National Institute of Human Rights (Instituto Nacional de Derechos Humanos)
11	Multitude Foundtaion (Fundación Multitudes)
12	Global Compact (Pacto Global)
13	Human Rights Center
14	OECD Watch
15	Terram Foundation (Fundación Terram)
Trade Union	
16	Central Workers Union (Central Unitaria de Trabajadores (CUT)(Vicepresidencia Internacional)
17	National Federation of Unilever Unions
18	TUAC
19	Starbucks Coffee Chile Trade Union

ANNEX 2: LIST OF ORGANISATIONS WHICH PARTICIPATED IN THE ON-SITE VISIT OF THE PEER REVIEW

Government Representatives
Ministry of Trade
Ministry of Environment
Ministry of Labor
Ministry of Treasury
General Secretariat of Presidency
Directorate of Human Rights, Ministry of Foreign Affairs
PROCHILE (Chile Trade Commission)
CORFO (Production Promotion Corporation)
INVESTCHILE
Corporate Responsibility Council for Sustainable Development
Ministry of Justice, Undersecretariat of Human Rights
Foundation of Agricultural Innovation, FIA
Ministry of Mining
Consumers National Service, SERNAC
Business Network (SEP Chile) Ministry of Economy)
Ministry of Energy
Business Representatives
Sociedad Nacional de Minería (SONAMI)
SOFOFA (manufacturing association)
UNILEVER
Starbucks
National Chamber of Commerce (CNC)

NGO/Civil Society Representatives
Multitudes Foundation
Transparency Council
Human Rights National Institute
Global Compact
Ecoceanos
Trade Union representatives
Central Autónoma de Trabajadores de Chile (CAT)
Central Workers Trade Union (CUT)
UNILEVER Trade Union
Starbucks Trade Union
Unión Nacional de Trabajadores de Chile (UNT)
Academic Representatives
Human Rights Center, University Diego Portales
Environmental Law Center, University of Chile
Vincular Center. Catholic University of Valparaiso

ANNEX 3: PROMOTIONAL EVENTS ORGANISED AND PARTICIPATED IN BY THE NCP OF CHILE IN 2017

Date	Title	Organisations (participants or co-organizing)	Meeting objectives
14 JUN	Presentation in the Seminar “Human Rights and Firms. Standards for Best Practices and Risks Management”	Carey & Cía. Law Firm	To introduce the Guidelines and the NCP functions.
5 JUL	Presentation in the International Committee	National Chamber of Commerce, (CNC).	General presentation of the NCP functions, objectives and challenges; introduction to the main contents of the OECD Guidelines.
4 AUG	National Contact Points (NCP) with the OECD. Non-Judicial State Remediation Mechanism for MNEs.	Vincular Center of the Pontifical Catholic University of Valparaiso, (PUCV), CEPAL	To share experiences of peer countries and Chilean NCP perspective after the peer review process.
2-3 OCT	Regional Seminar: OECD Guidelines for MNEs	TUAC – FES Central Workers Union (CUT)	Orientation – capacity building for national trade unions.
12 OCT	Presentation in the Sustainability Committee	Chamber of Commerce of Santiago	To introduce the Guidelines and the NCP functions.
12 OCT	NCP informative meeting	Autonomous Central of Workers (CAT)	To introduce the Guidelines and the NCP functions.
25 OCT	NCP informative meeting	National Mining Association (SONAMI)	To introduce the Guidelines and the NCP functions.

ANNEX 4: OVERVIEW OF SPECIFIC INSTANCES HANDLED BY THE CHILEAN NCP AS THE LEADING NCP

No.	Enterprise	Submitter	Host Country	Chapter of the Guidelines	Date of submission	Date of closure	Outcome
1	Paulinia	Individual	Brazil, Chile, Venezuela	Employment and industrial relations, Human rights	15 May 2015	11 August 2015	Not accepted as the case dealt with an employment contract signed 40 years ago and asked for specific remedy.
2	Mining Enterprise	Municipality	Chile	Environment	06 November 2014	9 December 2014	Concluded after applicant notified the NCP that they and the multinational enterprise were negotiating an agreement on the matter.
3	Electricity supplier	Family Business	Chile	Environment	20 May 2014	15 April 2015	Not accepted as the issue dealt with legal questions.
4	Starbucks Coffee	Chilean Trade Union Confederation (CUT)	Chile	Employment and industrial relations, Human rights	29 May 2014	01 June 2015	Concluded with agreement between the parties and changes to company policies.
5	Ripley Group	UNI Global Union and UNI Americas on behalf of the Ripely Group SA Peru (SUTRAGRISA)	Peru	Employment and industrial relations, Human rights	03 June 2014	09 December 2014	Concluded after company would not accept offer of mediation.
6	Minera Escondida Limitada	Escapes Santander (Business)	Chile	Consumer interests, Employment and industrial relations, General policies, Human rights, Science and technology	19 December 2011	Unknown	Not accepted but mediation offered which was refused by the company

No.	Enterprise	Submitter	Host Country	Chapter of the Guidelines	Date of submission	Date of closure	Outcome
7	Entreprise Zaldivar	Trade Union	Chile	Employment and industrial relations, Environment	02 July 2007	Unknown	Not accepted due to the fact that the trade union did not file a formal submission.
8	Peruvian Banco del Trabajo	Confederation of Bank Unions of Chile, the General Workers' Confederation of Peru (CGTP), the Cenda Foundation, Places	Peru	Employment and industrial relations	01 July 2007	Unknown	Accepted but subsequently transferred to the NCP of Canada as the bank at issue was bought by a Canadian MNE.
9	ISS Facility Services	Chilean Trade Union Confederation (CUT)	Argentina	Employment and industrial relations	09 April 2007	Unknown	Concluded due to lack of action from the trade union parties.
10	Unilever	Chilean Trade Union Confederation (CUT)	Chile	Employment and industrial relations, Environment	08 June 2005	01 November 2005	Concluded with agreement between the parties including compensation.
11	Marine Harvest Chile S. A.	Milieudedefensie and Ecocéanos	Chile	Employment and industrial relations, Environment	September 2002	October 2003	Concluded with recommendations and action plan.

National Contact Point Peer Reviews: Chile

Adhering governments to the OECD Guidelines for Multinational Enterprises are required to set up a National Contact Point (NCP) that functions in a visible, accessible, transparent and accountable manner.

This report contains a peer review of the Chilean NCP, mapping its strengths and accomplishments and also identifying opportunities for improvement.

