



OECD Guidelines for Multinational Enterprises
National Contact Point Peer Reviews

FRANCE



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 two to four 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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List of acronyms and abbreviations

ADHRB	Americans for Democracy and Human Rights in Bahrain
AFD	Agence française de développement
Afep	Association française des entreprises privées
Bpifrance	Bpifrance (Public Investment Bank)
BRICS	Brazil, Russia, India, China and South Africa
Bylaw	Bylaw of the French NCP
CFDT	Confédération française démocratique du travail
CFE-CGC	Confédération française de l'encadrement
CFTC	Confédération française des travailleurs chrétiens
CGT	Confédération générale du travail
CNCDH	Commission Nationale Consultative pour les Droits de l'Homme
COFACE	Compagnie française d'assurance pour le commerce extérieur
CSR	Corporate Social Responsibility
EU	European Union
FIDH	Fédération internationale pour les droits de l'homme
FO	Force ouvrière
Guidelines	OECD Guidelines for Multinational Enterprises
ILO	International Labour Office
Investment Declaration	OECD Declaration on International Investment and Multinational Enterprises
MAEDI	Ministère des Affaires étrangères et du Développement international
MEDEF	Mouvement des entreprises de France
NAP	National Action Plan for the Implementation of the UN Guiding Principles on Business and Human Rights

National CSR platform	National platform for promoting global action on Corporate Social Responsibility
NCP	National Contact Point
NGO	Non-governmental Organisation
OECD	Organisation for Economic Co-operation and Development
ORSE	Observatoire sur la Responsabilité Sociétale des Entreprises
Rana Plaza report	NCP report on implementation of the OECD Guidelines in the textile and clothing sector
RBC	Responsible business conduct
RHSF	Ressources Humaines Sans Frontières
RSE-PED	Responsabilité Sociale des Entreprises - dans les pays en développement
UNSA	Union nationale des syndicats autonomes
WWF	World Wide Fund for Nature

1. SUMMARY AND KEY FINDINGS

This document is the peer review report of the French National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises (the Guidelines), also called the NCP for Responsible Business Conduct (RBC). The implementation procedures of the Guidelines require NCPs to operate in accordance with the core criteria of visibility, accessibility, transparency and responsibility. 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.¹

This report assesses the conformity of the French NCP with the core criteria and the Procedural Guidance contained in the Guidelines. The peer review of the French NCP was conducted by a team made up of reviewers from the NCPs of Belgium, Morocco and Canada, along with three representatives of the OECD Secretariat. The on-site visit took place in Paris on 20 and 21 April 2017.

The French NCP is active in responding to its mandate of promoting the Guidelines, responding to requests for information and handling specific instances. It is effective in its activities and responsive when dealing with stakeholders. In addition, the NCP has grown as a result of its experiences and is responsive to lessons learned, as reflected in the amendments to its Bylaw, especially with regard to the procedure for handling specific instances, strengthened dialogue with stakeholders, as well as in the increased specific allocation of human resources to the NCP's work, and the negotiation of partnerships with key actors.

Key findings and recommendations

Institutional arrangements

The French NCP is tripartite, reflecting the structure of the ILO, and more generally, the organisation of social dialogue in France. It is composed of three categories (enterprises, trade unions and government agencies) and supported by a Chair and a Secretariat based in the Directorate-General of the Treasury of the Ministry of Economy and Finance. Stakeholders generally describe the NCP's tripartite structure as being one of its main strengths, as it gives it broad representation and legitimacy in its actions. The current Secretary General is recognised for her expertise on the issues and challenges of responsible business conduct (also called corporate social responsibility (CSR) in France) and for her responsiveness in dealing with stakeholders' demands. The NCP is active in all areas of its mandate: carrying out a large amount of promotional activities, responding to requests for information, and handling specific instances on an annual basis.

Since the Guidelines were revised in 2011, the NCP has made several changes to its Bylaw to translate the changes into its own procedures. In 2012, the NCP revised its Bylaw in order to strengthen its communication capacities, the transparency of its activities and its effectiveness in handling specific instances. In 2012 and 2013, its institutional arrangement

¹ OECD (2011), *OECD Guidelines for Multinational Enterprises*, <https://mneguidelines.oecd.org/guidelines/>.

was strengthened, with the role of Chair assigned to a senior official able to spend more time on the NCP's work, and the creation of a full-time Secretary General position. The Bylaw was revised once again in 2014 in order to include the possibility of issuing a statement about the initial assessment phase of a specific instance, and, during the procedure, of consulting experts and organising an annual information meeting with civil society organisations.

Despite the strong representation provided by the tripartite structure, some stakeholders have noted that the business association MEDEF (*Mouvement des entreprises de France*) is the only business representative in the NCP, whereas worker organisations are represented by six different trade unions and there are four government representatives from different ministries. It is therefore suggested that the NCP take care to ensure a balanced representation to promote diversity of perspectives within its structure.

It is also recommended that a better balance of the respective involvement of the different members of the NCP be established insofar as some NCP members do not play an active role in responding to their mandate. In addition, one NCP member organisation does not advocate using the NCP to settle disputes within the framework of specific instances. All of the NCP members are encouraged to play an active and constructive role in successfully achieving the NCP's mandate.

	Findings	Recommendations
1.	Despite the strong representation provided by the tripartite structure, MEDEF is the only business representative in the NCP, whereas worker organisations are represented by six different trade unions and there are four government representatives from different ministries.	The NCP should ensure a balanced representation to promote diversity of perspectives within its structure.
2.	Some NCP member organisations do not play an active role in achieving the NCP's mandate. In addition, one NCP member organisation does not advocate using the NCP to settle disputes within the framework of specific instances.	All NCP members should be encouraged to play an active and constructive role in successfully achieving the NCP's mandate.
3.	The NCP seems to be lacking the necessary human and financial resources to sustain the high level of its activities and services over the long term, most of which are performed by the Secretariat.	In order to maintain, and even build on, the current high level of activities and services offered by the NCP, the human resources in the NCP's Secretariat should be increased, and the Secretariat should be allocated the financial resources required to ensure the proper functioning and achievement of its objectives.

Given the wide range of activities performed by the NCP, and for the most part by its Secretariat, the NCP seems to be lacking the necessary human and financial resources to

ensure that the latter can continue to provide this level of activity and services over the long term. In order to maintain and even build on the current high level of activities and services offered by the NCP, it is recommended that the human resources in the NCP's Secretariat be increased, and that the Secretariat be allocated the financial resources required to ensure the proper functioning and achievement of its objectives.

Promotion of the Guidelines

The Secretariat of the NCP is very active when it comes to promoting the Guidelines, and Corporate Social Responsibility (CSR) more generally. In 2016, it organised or took part in 72 promotional activities (See Annex 3). In addition, it developed extensive literature explaining its function and publicising its activities, most of which is available in French, and often in English, on the website.

The NCP contributes actively to various national CSR initiatives such as those conducted by the National Consultative Commission on Human Rights (CNCDH), or the National platform for promoting global action on Corporate Social Responsibility (National CSR platform), which illustrates the NCP's commitment to ensuring the coherence of resources deployed at the national level to develop and implement policies to enforce respect of CSR principles, human rights, transparency and due diligence in international supply chains. Also, the NCP has developed partnerships with key actors with a view to promoting the Guidelines, one example of which is the partnership agreement signed on 12 April 2017² between the French NCP and the Human Rights Club of French Network of the UN Global Compact.

The NCP has been, and continues to be, actively involved in all of the OECD's proactive agenda projects, with a focus on work relative to garment and footwear supply chains. *The NCP Report on the Implementation of the OECD Guidelines in the Textile and Clothing Sector*, ("Rana Plaza report"), commissioned by Minister of Foreign Trade Nicole Bricq following the collapse of the Rana Plaza textile factory in April 2013 in Bangladesh, provided an opportunity for wide-ranging consultation of enterprises and other stakeholders active in this sector. The report contains recommendations designed to promote responsible business conduct and traceability in this sector.

The NCP's numerous promotional activities as well as its annual information meeting with stakeholders are opportunities to establish and maintain ties with various stakeholders. The NCP is well known to the enterprises and business associations which took part in the peer review, and has a good reputation among them. The Secretariat is regularly contacted by the private sector to take part in promotional activities and information sessions. That said, civil society organisations, and some NGOs in particular, do not seem very aware of the potential benefits of using the NCP's procedure for specific instances. The 2014 revision of the Bylaw, followed by the adoption of the communication plan in 2015, provided for a specific annual meeting with NGOs, which took place in 2014³, but not in 2015 or 2016. The

² The text of the partnership agreement is available online (in French) at www.tresor.economie.gouv.fr/Ressources/File/436245

³ See the press release of 15 April 2014 : "Le PCN consulte des ONG et renforce la transparence sur ses activités" www.tresor.economie.gouv.fr/Ressources/File/400199

NCP is encouraged to continue its work with NGOs with a view to establishing a regular dialogue so as to improve their confidence in the NCP specific instance mechanism.

Despite the fact that the Secretariat is very active in promoting the Guidelines and the NCP to external stakeholders, they both still appear to be relatively unfamiliar among some NCP member organisations and networks. Some NCP members admitted that additional efforts could be made to make the Guidelines and the NCP better known within their respective organisations and networks. Accordingly, the less active NCP members should be more involved in promoting the Guidelines and the NCP within their respective organisations and networks.

	Findings	Recommendations
4.	Civil society organisations, and NGOs in particular, do not seem very aware of the potential benefits of using the NCP's procedure for specific instances. The 2014 revision of the Bylaw, followed by the adoption of the communication plan in 2015, provided for a specific annual meeting with NGOs. That said, this meeting did not take place in 2015 and 2016.	The NCP is encouraged to continue its work with NGOs with a view to establishing a regular dialogue so as to improve their confidence in the NCP's specific instance mechanism.
5.	Despite the fact that the Secretariat is very active in promoting the Guidelines and the NCP to external stakeholders, they both still appear to be relatively unfamiliar to NCP member organisations and networks.	The less active NCP members should be more involved in promoting the Guidelines and the NCP within their respective organisations and networks.

Handling of specific instances

Since its creation in 2000, the NCP has handled 22 specific instances,^{4,5} 14 of which were accepted for further examination and offered good offices, and eight of which⁶ were not accepted at the initial assessment phase. The NCP's good offices generally include exchange of information, as well as meetings in person or by telephone. These meetings

⁴ At the time of writing, the NCP was handling a specific instance in consultation with the U.S. NCP.

⁵ The NCP has closed 23 specific instances, including a referral from Nicole Bricq, the Minister of Foreign Trade, to review the implementation of the Guidelines in the textile supply chain as a specific instance, which resulted in the Rana Plaza report. For the purpose of this report, the NCP is considered to have closed 22 specific instances; the Rana Plaza report is discussed separately in Section 5.2 - Engagement in the Proactive Agenda.

⁶ Five of these eight specific instances were not accepted on the grounds that they did not respect the formal admissibility criteria of the NCP, and three were not accepted for further examination after the initial assessment.

take place either individually between the parties and the NCP, or on occasion between all the parties together and the NCP.

The Guidelines and the Bylaw (Art. 27) provide that the NCP may propose and facilitate access to consensual and non-adversarial means, such as conciliation or mediation, to assist the parties in resolving their problems. The NCP proposed mediation in four of the specific instances for which good offices were offered, which was accepted by the parties on two occasions. In the end, it was only possible in one case⁷, given the persistent disagreements between the parties in the other case.⁸ The mediation process which was conducted resulted in the negotiation of an action plan between the parties. When mediation is not feasible, the NCP uses various means to try and bring the parties closer and successfully complete the handling of the specific instance.

The Guidelines state that the NCPs shall act as a forum for discussion of all matters relating to the Guidelines.⁹ Out of the 14 specific instances for which good offices were offered, the parties discussed together on two occasions.¹⁰ When a specific instance is accepted for further examination, the NCP is encouraged to facilitate dialogue and exchanges between the parties as early as possible.

The NCP may engage in follow-up on its recommendations if it deems that doing so would promote better implementation of the Guidelines, especially in the event of a disagreement between the parties on aspects of the specific instance, and publish the results thereof. The NCP followed up on its recommendations for five specific instances and in the Rana Plaza report. Stakeholders expressed satisfaction with the fact that the NCP issues recommendations, and can follow up on them and include determinations of an enterprise's compliance with the Guidelines in its final statements and follow-up communiqués, even when it has decided not to offer good offices to the parties. The NCP included determinations in its final statements for 12 specific instances.

The NCP has made significant efforts to improve its procedure for handling specific instances. The amendments to its Bylaw in 2012 and 2014 strengthened the specific instance handling process through including timeframes and now allowing for communication from the NCP during all the phases of the procedure (i.e. in situations where specific instances are not admissible (releasing an anonymous communiqué), after initial assessment and conclusion of the specific instance (releasing a statement or report) and during follow-up).

Nevertheless, the predictability of some aspects of the procedure for handling specific instances for the parties involved could be improved, and these aspects could benefit from clearer communication. For example, the current version of the Bylaw does not indicate when the enterprise is informed of the specific instance and when it can expect to receive a copy of it. The following issues could benefit from clarifications and precisions: 1) if

⁷ Socapalm, Bolloré Group, Socfin in Cameroon, and NGOs (2013)

⁸ Michelin in India, and NGOs and a trade union (2013)

⁹ OECD Guidelines for Multinational Enterprises, Concepts and Principles, Art. 11.

¹⁰ Michelin in India, and NGOs and a trade union (2013), and Socapalm, Bolloré Group, Socfin in Cameroon, and NGOs (2013)

and under what circumstances the enterprise is consulted during the initial assessment phase; 2) the types of processes or support that are proposed under ‘good offices’; and lastly, 3) what does mediation look like and under what circumstances it can be proposed to parties. In order to strengthen the predictability of its procedure for handling specific instances, the NCP is encouraged to specify the different phases in its procedure, including the planned exchanges with the enterprise and the types of processes or support that are envisioned in the offer of good offices and mediation. A diagram to explain the procedure in simple terms could be developed and posted on the NCP’s website. During the on-site visit the NCP made a proactive commitment to implement this recommendation.¹¹

In addition, there may be conflict of interest, or the appearance of conflict of interest when a specific instance is submitted by an NCP member organisation or when a member finds themselves in a situation of conflict of interest. The NCP should formalise the practice of having an NCP member withdraw from the procedure for handling a specific instance when conflict of interest, or the appearance of conflict of interest, arises. In particular, NCP members should declare any conflict of interest, or appearance of conflict of interest, which is likely to impact the handling of a specific instance.

	Findings	Recommendations
6.	The Guidelines and Bylaw (Art. 27) provide that the NCP may propose and facilitate access to consensual and non-adversarial means, such as conciliation or mediation, to assist the parties in resolving their problems. Of the 14 specific instances for which good offices were offered, mediation was successfully undertaken on one occasion, and there was discussion and exchange between the parties on two occasions.	When a specific instance is accepted for further examination, it is recommended that the NCP facilitate discussion and exchange between the parties as early as possible.
7.	Clarity around some aspects of the procedure for handling specific instances could be improved to promote predictability. In particular: <ul style="list-style-type: none"> - If and under what circumstances the enterprise is consulted during the initial assessment phase; - The types of processes or support which are proposed under ‘good offices’; 	In order to strengthen the predictability of communication on the procedure for handling specific instances, the NCP is encouraged to specify the different phases in its procedure, including the planned exchanges with the enterprise and the types of processes or support that are envisioned in the offer of good offices and mediation. A diagram to explain the procedure in simple terms could be developed and posted on the NCP’s website.

¹¹ All the documents and information considered in this report were submitted before or during the on-site visit. Since the on-site visit, the NCP has developed documents aimed at clarifying its procedure. These documents are available on the “Comment saisir le PCN?” page of the NCP website. www.tresor.economie.gouv.fr/Ressources/6373_Que-signifie-la-recevabilite-dune-circonstance-specifique-

	<ul style="list-style-type: none"> - What does mediation look like and under what circumstances it can be proposed to parties 	
8.	<p>There may be conflict of interest, or the appearance of conflict of interest when a specific instance is submitted by an NCP member organisation or when a member finds themselves in a situation of conflict of interest. The NCP does not have formal policies on how to proceed in this situation.</p>	<p>The NCP should formalise the practice of having an NCP member withdraw from the procedure for handling a specific instance when conflict of interest, or the appearance of conflict of interest, arises. In particular, NCP members should declare any conflict of interest, or appearance of conflict of interest, which is likely to impact the handling of a specific instance.</p>

2. INTRODUCTION

Background

The implementation procedures of the Guidelines require NCPs to operate in accordance with the core criteria of visibility, accessibility, transparency and responsibility. 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 French NCP with the core criteria and with the Procedural Guidance contained in the implementation procedures.

France adhered to the OECD Declaration on International Investment and Multinational Enterprises (Investment Declaration) in 1976. The *OECD Guidelines for Multinational Enterprises*¹² (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 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. NCPs are non-judicial grievance mechanisms which handle “specific instances” following alleged non-observance of the Guidelines by an enterprise operating in or from an adhering country.

The Procedural Guidance covers the role and functions of NCPs in four parts: institutional arrangements, information and promotion, implementation in specific instances

¹² The Implementation Procedures of the OECD Guidelines for Multinational Enterprises include the Decision of the Council on the Guidelines for Multinational Enterprises, as amended in 2011 (hereafter “the Decision”), which also contains the Procedural Guidance, as well as the Commentary on the Implementation Procedures, adopted by the Investment Committee.

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.

The objective of peer reviews as set out in the core template for voluntary peer reviews of NCPs¹³ is 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 peer review report of the French NCP was prepared based on information provided by the NCP, in particular in its responses to the NCP questionnaire set out in the OECD Core Template for voluntary peer reviews of NCPs, during the on-site visit and in its responses to requests for additional information prior to the said visit. The report also draws on responses to the stakeholder questionnaire which was completed by 43 organisations representing French enterprises and business federations, civil society, trade unions, international organisations, academic institutions and government agencies (see Annex I for complete list of stakeholders who submitted written feedback) and information provided during the on-site visit.

The peer review of the French NCP was conducted by a peer review team made up of reviewers from the NCPs of Belgium, Morocco and Canada, along with three representatives of the OECD Secretariat. The on-site visit to Paris took place on 20 and 21 April 2017 and included interviews with the NCP, other relevant government representatives and stakeholders. A list of organisations that participated in the review process is set out in Annex II. The peer review team wishes to thank the French NCP for the quality of the preparation of the peer review, its hospitality and the organisation of the on-site visit, which allowed for interviews with a representative panel of the different stakeholders.

The basis for this peer review is the 2011 version of the Guidelines. The specific instances considered during the peer review date back to 2004. The methodology for the peer review is that set out in the OECD Core Template for voluntary peer reviews of NCPs.

Corporate Social Responsibility

France is a leader in corporate social responsibility (CSR). The recent adoption and strengthening of laws in the fields of transparency, anti-corruption, energy transition and due diligence in global supply chains have strengthened the legislative and regulatory framework in this area. Private and public initiatives are being developed, such as the National CSR platform which is a forum for discussion, consultation and building CSR proposals that brings together a wide range of stakeholders (sixty-four members in July 2017¹⁴). Moreover, French civil society organisations, NGOs, associations and unions are

¹³ OECD, Core Template For Voluntary Peer Reviews Of National Contact Points (2015), [DAF/INV/RBC\(2014\)12/FINAL](#).

¹⁴ For the list of members, see "[Les membres de la Plateforme RSE](#)"

heavily involved both in this field and various CSR initiatives. The private sector also plays a role. A study by EcoVadis of the CSR performance of 25,000 companies worldwide between 2012 and 2014. The study, which was published in March 2015, found that France ranked above the average of OECD countries and BRICS countries on environmental and social issues, with 47% of French companies having a CSR management system considered to be effective and exemplary compared to 40% of companies in OECD countries and 15% in BRICS countries.¹⁵

Economic context

The French economy is dominated by the services sector, which accounts for 79% of gross domestic product (GDP). In terms of foreign direct investment (FDI), the stock of inward FDI, which represents the accumulated value of FDI in the French economy over time, was USD 660 billion in 2015, i.e. 27% of French GDP. The stock of outward FDI was USD 1, 199 billion in 2015, i.e. 50% of French GDP.

The main foreign investors in France are the United States, Germany, the United Kingdom, Luxembourg and Switzerland. The main sectors for inward investment are finance and insurance, manufacturing and real estate. The main destinations for outward investment are the United States, Belgium, the United Kingdom, the Netherlands, and Germany, and the most important sectors are manufacturing, and finance and insurance.

3. FRENCH NCP AT A GLANCE

Established: 2000

Structure: A tripartite body comprising 11 member institutions (22 individuals) representing business, trade unions and government

Location: Directorate General of the Treasury in the Ministry of Economy and Finance

Staffing: A Chair (flexible part time, on average 25% to 35%), a Secretary General (full time) and an occasional intern

Website: www.pcn-France.fr and www.tresor.economie.gouv.fr/pcn

Specific instances received: 22

¹⁵ EcoVadis (2015), *Étude EcoVadis-Mediation Inter-Enterprise, Comparatif de la performance RSE des entreprises françaises avec celle des pays de l'OCDE et des BRICS*, 23 March 2015, https://www.economie.gouv.fr/files/files/directions_services/mediateur-des-entreprises/PDF/Etude_Conjointe_EcoVadis_Mediation_InterEntreprises.pdf

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 basis

The NCP was officially established in 2000. Its tripartite structure has remained the same since its creation.

The NCP is governed and structured by a Bylaw, which is publically available in French and English on the NCP's website.¹⁶ It has been revised several times, notably in 2007, July 2012 and March 2014. The revised version of 30 July 2012 contained amendments made in response to the update of the Guidelines in 2011, which helped to strengthen the NCP's communication capacities in order to improve transparency with regard to handling specific instances. For example the update included a description of the specific instance procedure in the Bylaw, and an increase in the number of situations triggering the publication of statements.¹⁷ It also improved communication and transparency with regard to its activities (through an annual information meeting "*reunion annuelle d'information*", publication of an annual report, invitation extended to stakeholders). The revision also strengthened the effectiveness of the handling of specific instances (through introduction of timeframes and phases for handling specific instances, criteria for admissibility and initial assessment, precisions on the procedure for the examination and good offices, including the proposal for conciliation and mediation, the possibility of appointing "*rapporteurs*", the possibility of monitoring the follow-up to recommendations, the systematic publication of statements at the end of the procedure and in the event of non-acceptance). The revision of 17 March 2014 introduced the possibility of publishing an initial assessment statement, the possibility of seeking advice from experts during the handling of a specific instance, and of holding an annual meeting to dialogue with organisations representing civil society.

The Bylaw adopted by the NCP specifies:

- The mandate and operating principles of the NCP, which are to promote the Guidelines, respond to requests for information, respond to issues raised in specific instances, and help settle disputes related to the Guidelines;
- The composition of the NCP;
- The operations of the NCP, including the decision-making process, deliberating, the confidentiality of documents and discussions, the procedure for sharing documents between the Secretariat and NCP members, the minutes of meetings, use of

¹⁶ NCP Bylaw, 17 March 2014, available in [\(FR\)](#) and [\(EN\)](#).

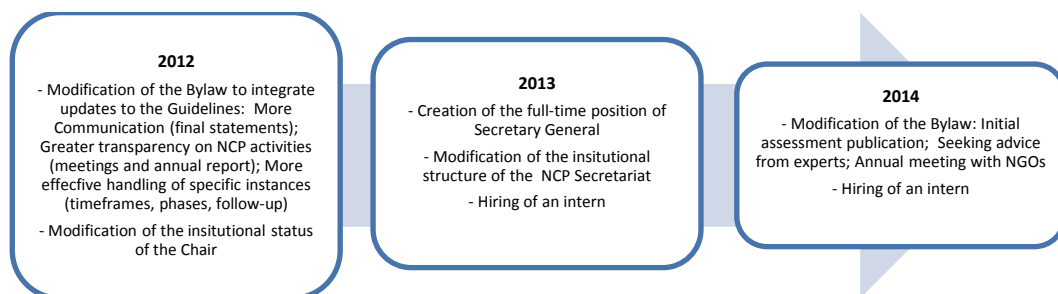
¹⁷ Publication of statements in the event of non-acceptance, systematic publication of final statements and reports, precisions on the content of statements.

“rapporteurs”, consultation with parties and the drafting of the annual activity report;

- The processing of specific instances¹⁸ by the NCP (admissibility and initial assessment, examination and good offices, follow-up to recommendations) including the rules for communicating on the outcome of procedures and protecting confidentiality.

The NCP also underwent institutional reforms in 2012 and 2013, which allowed it to strengthen and expand its activity. In May 2012, the status of NCP Chair was modified and assigned to one of the advisors of the Director-General of the Treasury whereas previously the position was held by the deputy director of the Multilateral Financial Affairs and Development (MULTIFIN) of the Multilateral Affairs, Trade and Development Policies Department (SAMD) of the Director-General. This helped elevate the institutional status of the NCP Chair and entrust the position to a senior official with more availability. At the end of 2013, the position of Secretary General of the NCP was created, which is since that time a full-time position. In addition, the institutional status of the NCP Secretariat was revised to be directly anchored to the Directorate General of the Treasury and to report directly to the NCP Chair and no longer to an officer within the MULTIFIN subdivision.

Figure 1: Institutional structure of the NCP since the revision of the Guidelines (2011)



NCP Structure

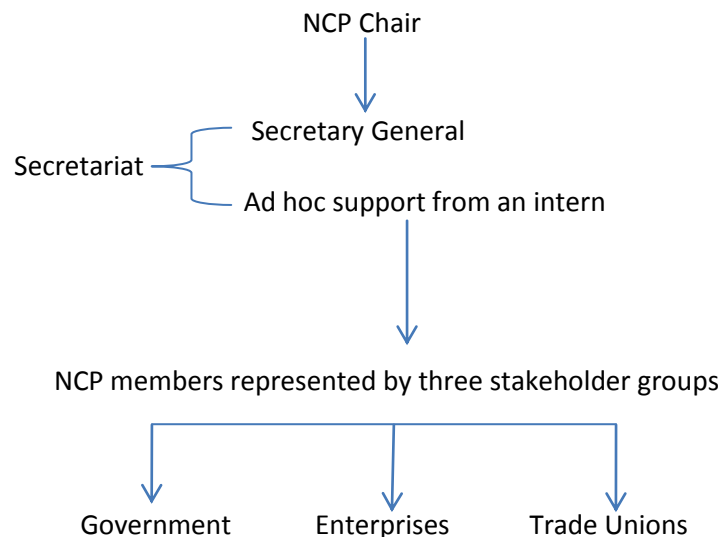
The NCP is a tripartite body comprising four government ministries (represented by different departments depending on the government’s composition), six trade unions and one business association, as provided for in Article 3 of its Bylaw. In total, the NCP has 11 member institutions, and each member institution may appoint two representatives to serve on the NCP on an individual basis.

¹⁸ The NCP uses the terms referral in reference to specific instances.

Government ministries as referred to in the Bylaw (current services)	<ul style="list-style-type: none"> - Ministry for the economy and finance (Directorate General of the Treasury) - Ministry for labour and employment (General Labour Directorate, European and International Affairs Delegation) - Ministry for foreign affairs (including a special representative for CSR and bioethics) - Ministry for the environment (Commissioner-General for Sustainable Development)
Enterprises	<ul style="list-style-type: none"> - MEDEF (Mouvement des entreprises de France)
Trade unions	<ul style="list-style-type: none"> - CFDT (Confédération française démocratique du travail) - FO (Force ouvrière) - CFE-CGC (Confédération française de l'encadrement) - CFTC (Confédération française des travailleurs chrétiens) - UNSA (Union nationale des syndicats autonomes) - CGT (Confédération générale du travail)

For the most part, participants to the on-site visit described the NCP's tripartite structure as one of its main strengths, due to its broad representation and the legitimacy conferred by consensus decision making among members representing workers, companies and the government (See section below). Despite the strong representation provided by the tripartite structure, some stakeholders noted that the business association MEDEF is the only business representative in the NCP,¹⁹ whereas worker organisations are represented by six different trade unions and there are four government representatives from different ministries. It is suggested that the NCP ensure a balanced representation to promote a diversity of perspectives within its structure.

Figure 2: Structure of the French NCP



¹⁹ MEDEF did not indicate that it saw any drawback to this current situation. www.tresor.economie.gouv.fr/File/404283

Governance

The Directorate-General of the Treasury appoints the NCP's Secretary General and appoints the Chair from senior officials within its hierarchy. The Chair is officially appointed for a three-year term. In practice, however, recent NCP Chairs have remained in office for an average of two years. The appointment of the Chair and the length of the term were called into question by stakeholders during the on-site visit and in the responses to the stakeholder questionnaire. Some would like to see the Chair spend longer in office in order to ensure a certain level of continuity in the experience acquired, without however challenging the method of appointment. Others stated that they would like to rotate the Chair position between NCP member stakeholder groups to ensure better representation thereof. A certain level of dissatisfaction therefore seems to exist among some NCP members and stakeholders regarding the appointment and mandate of the Chair.

Together, the Chair and the Secretariat ensure the governance and operation of the NCP, even if their exact roles and functions are not specified in the Bylaw. On the whole, the Chair presides over meetings and oversees the Secretariat, whereas the Secretariat prepares NCP meetings, draws up the minutes of meetings, organises and/or takes part in most of the promotional activities, receives and responds to requests for information addressed to the NCP, receives specific instances and co-ordinates their handling (dissemination of information between members and parties, preparation of draft forms on the admissibility and initial assessment of specific instances, and of draft statements and reports, and co-ordination with foreign NCPs).

More specifically with regard to the level of their individual involvement:

- a) The Chair presides over NCP meetings and devotes on average 25%-35% of his time to the NCP. However, his involvement in the NCP's work can increase, as was the case with the drafting of the Rana Plaza report, during which the Chair devoted at least 50% of his time to the NCP's work. The current Chair has been with the NCP since January 2017.
- b) Since the reform of the NCP in December 2013, a full-time Secretary General oversees the operation and promotion of the NCP, and the OECD's work on responsible business conduct. He/she reports directly to the NCP Chair. Since May 2012, the Secretary General is also responsible for RBC-OECD matters.²⁰
- c) Since 2013, an intern is regularly hired to help the Secretariat with its external communication.

The NCP Secretariat is recognised by stakeholders for its extensive expertise on RBC matters, including due diligence, as well as for its availability, commitment and responsiveness to stakeholders' requests. The Chair and the Secretariat both have good institutional memory with regard to the NCP and the challenges it has faced since it was established. They are both invested and active in promoting not just the Guidelines but also the various CSR-related topics.

²⁰ In recent years the Secretary General has been the RBC-OECD officer, which means heading the French delegation in the OECD's working group on RBC. The Secretariat is regularly consulted on internal CSR issues (for example due diligence related to the duty of vigilance law for parent companies and subcontractors) and within the framework of international and multilateral negotiations and relations (EU, OECD, ILO, UN, G7, G20, bilateral relations, and others).

The time spent by the other NCP members on NCP meetings, examining specific instances and promotional activities varies, with some devoting as much as one working day a week to NCP activities, and others adjusting the time they invest according to the work underway. Some members also promote the Guidelines within the framework of their participation in different RBC fora, for example the National CSR platform. The involvement of different members of the NCP should be more balanced since some NCP members do not play an active role in responding to its mandate. In addition, one NCP member organisation does not encourage the filing of specific instances with the NCP. All of the NCP members are encouraged to play an active and constructive role in successfully achieving the NCP's mandate.

Role and missions

The NCP Secretariat is the main contact point in the context of work with the OECD (meetings of the NCP network, meetings of the Working Party on Responsible Business Conduct, events organised by the OECD, and sector work on the Proactive Agenda), on which it keeps NCP members updated. Several members of the NCP regularly attend meetings of the NCP network and of the OECD Global Forum on Responsible Business Conduct. Some members are also involved in the work of the Proactive Agenda. The Secretariat is also the main point of contact for promotional matters and for various requests from stakeholders. As mentioned above, the NCP's efficiency and visibility would improve if all the NCP members increased their activity in support of the NCP's mandate.

Operations

The NCP may deliberate only if all three categories of members (government, trade unions and enterprises) are represented (Bylaw, Art. 9). The deliberations are confidential.

The NCP's decisions, including with regard to the management of specific instances and the content of statements and reports, are adopted by consensus. Failing such consensus, the Chair takes the final decision, taking into account the majority view. Where there is no consensus (which has rarely occurred to date), this fact must be indicated in the NCP's statements (Bylaw, Art. 8). This method of decision making was questioned by some stakeholders, who are of the opinion that a final decision which is not based on consensus and which has been taken by the NCP Chair can make the process seem biased. In the past, when a decision was adopted without consensus, the NCP stated so explicitly in its official communication.²¹ In order to strengthen the appearance of impartiality, the NCP is encouraged to continue this practice when circumstances allow.

The NCP does not have an advisory body. However, its Bylaw provides for calling upon external parties in order to seek their advice and expertise on certain issues within the framework of handling specific instances (Art.13). The NCP exercised this option during its work on global textile supply chains which resulted in the Rana Plaza report. In developing the report it carried out extensive consultation with experts, researchers, enterprises and industry associations in the sector, NGOs and trade unions.²² The Bylaw also provides for an annual meeting to dialogue with

²¹ Statements on the specific instance of Michelin in India, and NGOs and a trade union, and the final report of the specific instance of Étienne Lacroix-Alsetex in Bahrain, and American for Democracy and Human Rights in Bahrain (2015).

²² The Rana Plaza report is discussed in more detail in Section 5.2 - Engagement in the Proactive Agenda

organisations representing civil society (Art. 15). That said, this meeting with NGOs was unable to take place in 2015, and in 2016 it had to be cancelled for logistical reasons beyond the control of the NCP.

The NCP does not have an advisory or oversight body. However, since 2012 the Bylaw provides for an annual information meeting ("*reunion annuelle d'information*") where the NCP's activity report is presented and discussed with the different stakeholders. Over one hundred stakeholders generally attend this annual information session.

Resources

The NCP does not have its own budget. The Directorate-General of the Treasury provides the funding the NCP requires for its operations, the Secretariat, the mission expenses of the Chair and the Secretariat, and for the website. The Chair has an autonomous budget financed since 2014 by the appropriations of the Directorate-General of the Treasury. The other NCP members are not paid by the Directorate-General of the Treasury.

The NCP's limited human and financial resources was an issue raised by a large number of stakeholders participating in the peer review. They described the lack of human and financial resources as an obstacle to the proper functioning of the NCP, in particular with regard to maintaining and increasing its capacity to respond to numerous requests for information, and to taking part in promotional and communication activities, along with its ability to handle several specific instances simultaneously, should their number increase significantly. Given the wide range of activities performed by the NCP, and for the most part by its Secretariat, the NCP seems to be lacking the necessary human and financial resources to ensure that the latter can continue to provide this level of activity and services over the long term. In order to maintain and even build on the current high level of activities and services offered by the NCP, it is recommended that the human resources in the NCP's Secretariat be increased, and that the Secretariat be allocated the financial resources required to ensure the proper functioning and achievement of its objectives. As mentioned previously, active engagement by NCP members is also recommended.

The NCP does not use external professional mediators, and has indicated that it does not need a budget for fact-finding research for specific instances. The NCP noted that it has access to the communication resources of the Ministry of Economy and Finance (translation, printing of documents, meeting rooms, use of communication channels, etc.) and of the French embassies of the host countries of parties which have submitted specific instances, when videoconferences need to be organised for example. As for specific instances involving infringements in countries other than France and/or foreign plaintiffs, some civil society actors considered that some situations could warrant the NCP carrying out missions in the field. They also emphasised how important it was that foreign plaintiffs, for example the alleged victims of human rights violations, be interviewed in person by the NCP, which would involve the NCP paying travel expenses. The NCP does however provide parties with digital tools for remote interviews and correspondence (videoconferences, conference calls, email), including through the diplomatic network.

Communication

The NCP informs the Investment Committee of its activities on an annual basis, in accordance with the Procedural Guidance. These annual reports are not made public but the information therein is supplemented and posted by the NCP on its website in the form of annual activity reports which have been published since 2012-2013. Since 2014, the NCP has published a list

twice a year of the promotional activities it has carried out. The NCP publishes the statements and reports on specific instances closed since 2001, an overview of specific instances and a summary of annual meetings with stakeholders organised since 2014. The NCP also informs the public and stakeholders about its activities through an annual information meeting.

The NCP does not submit periodic reports to the government. However, in 2016 it contributed to the government's first Biennial report on the Implementation of the Development Aid Strategy for 2014-2016²³ which will be published in 2017 and in which the NCP and some of its actions are briefly presented. The NCP also contributed to the government's report²⁴ to Parliament on non-financial reporting and the national commitment in favour of corporate social responsibility. In addition to the French government's initiatives to promote RBC, this report also presents the NCP's activities, particularly in connection to the Proactive Agenda and the international promotion of RBC. The NCP's role is also integrated into the National Action Plan on "Business and Human Rights" of April 2017 (See Box 1)

	Findings	Recommendations
1.	Despite the strong representation provided by the tripartite structure, MEDEF is the only business representative in the NCP, whereas worker organisations are represented by six different trade unions and there are four government representatives from different ministries.	The NCP should ensure a balanced representation to promote diversity of perspectives within its structure.
2.	Some NCP member organisations do not play an active role in achieving the NCP's mandate. In addition, one NCP member organisation does not advocate using the NCP to settle disputes within the framework of specific instances.	All NCP members should be encouraged to play an active and constructive role in successfully achieving the NCP's mandate.
3.	The NCP seems to be lacking the necessary human and financial resources to sustain the high level of its activities and services over the long term, most of which are performed by the Secretariat.	In order to maintain, and even build on, the current high level of activities and services offered by the NCP, the human resources in the NCP's Secretariat should be increased, and the Secretariat should be allocated the financial resources required to ensure the proper functioning and achievement of its objectives.

²³ This report is mandatory under [Act No. 2014-773 of 7 July 2014](#) on orientation and programming for development policy and international solidarity.

²⁴ Government report to Parliament on the application by companies of the provisions of Article L.225-102-1 of the French Commercial Code and of the Grenelle 2 decree, www.tresor.economie.gouv.fr/Ressources/15382_rse-rapport-du-gouvernement-au-parlement

5. IMPLEMENTATION OF THE GUIDELINES

5.1 Promotion of the Guidelines

In accordance with the Procedural Guidance of the Guidelines, section I(B), the NCP will:

1. Make the *Guidelines* known and available by appropriate means, including through on-line information, and in national languages. Prospective investors (inward and outward) should be informed about the Guidelines, as appropriate;
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*."

Promotional strategy

The NCP has developed explanatory documents designed to inform the public of how the NCP operates, the procedure for handling a specific instance, and the content of the Guidelines, all of which are available on its website (see the "Website" section below). Other material, both publically available (e.g. brochure on the NCP, annual reports, brochure on NCP decisions in 2016, brochures on annual meetings, summary reports, speeches and outlines of the Rana Plaza report, all NCP decisions with regard to specific instance submissions etc.) and unpublished (speeches and PowerPoint presentations, brochures on CSR for the French diplomatic network, etc.) has also been developed for the purposes of external and internal communication, along with various presentations by the NCP Secretariat. Two articles on responsible business conduct by the NCP Secretary General were published following university conferences, and a third is in the process of being published.²⁵

In May 2015, the NCP reviewed its promotional activities between 2013 and May 2015, and adopted a communication strategy which articulates its actions. The strategy targets stakeholders by organising events around the following three target groups: public sector, private sector, civil society and academia. More specifically, this communication strategy includes regular meetings with the following organisations:

- a) Employer organisations, on an annual basis (MEDEF, Association française des entreprises privées (Afed), Club achats responsables de l'Observatoire de la responsabilité sociétale des entreprises (ORSE), France Network of the UN Global Compact) or depending on demand (e.g. Collège des Directeurs du Développement Durable);

²⁵ "L'effectivité de l'approche environnementale de la RSE : Regards du PCN français dans le cadre des principes directeurs de l'OCDE", 22 October 2015, www.tresor.economie.gouv.fr/Ressources/File/420895;

"La responsabilité sociale des entreprises : le volet environnemental", 14 December 2016 www.tresor.economie.gouv.fr/Ressources/File/429533;

The proceedings of the 2016 SFDI conference are forthcoming, "Illustration du rôle normatif du PCN et de l'effectivité des Principes directeurs de l'OCDE à travers l'examen et le suivi de la circonstance spécifique concernant le Groupe Michelin en Inde".

- b) Public agencies, on a bi-annual basis (French Development Agency (AFD), French export insurance credit (COFACE)²⁶, Business France and Expertise France);
- c) Civil society, on an annual basis (through an annual meeting), or biannually with some NGOs (for example FIDH and WWF), or depending on demand from NGOs, academic institutions and other organisations;
- d) International meetings, especially at the OECD, and participation in the work of international bodies (OECD, G7, G20, European Union (EU), International Labour Office (ILO), etc.).

The NCP Secretariat is particularly active when it comes to promoting the Guidelines and the NCP. A list of promotional activities it has undertaken has been posted on the website on a semi-annual basis since 2014. In 2016, it took part in 72 promotional activities²⁷, especially conferences, workshops and meetings organised by the NCP and its members, the private sector, trade unions, NGOs, academia, and other interested parties. 24 of these activities were organised or co-organised by the Secretariat. A summary of these activities is provided in Annex 3. The exceptional efforts by the NCP Secretariat to raise awareness of the Guidelines and to further promote the CSR principles should be emphasised, in particular recent initiatives aimed at academia (professors, researchers, and students).

NCP members also take part in the promoting the Guidelines and the NCP within their respective organisations and amongst their stakeholders, for example by preparing and publishing guides and notes (such as MEDEF did for professional federations and businesses) and magazine articles²⁸, by attending events with or without the NCP Secretariat, as well as by initiating dialogue with stakeholders, and keeping their networks informed. The members can also organise events about the NCP and RBC. However, it seems that some NCP members have invested little effort in activities to promote and inform their respective networks of the Guidelines and the NCP's operations.

The government members of the NCP organise ad hoc actions for embassies, and take part in inter-ministerial co-ordination on both internal decisions and preparations for international and multilateral initiatives (EU, G7, G20, UN, ILO, Council of Europe, multilateral development banks, bilateral relations, etc.). The French diplomatic network is informed and mobilised by the NCP through several channels: RBC is integrated into the action plans of embassies and economic services on the whole, and in some specific countries (e.g. Bangladesh), a resource document of about thirty pages is available on the website and intranet of the Ministry of Foreign Affairs, circulars are regularly published, as is a specific RBC brochure, events are organised with French enterprises overseas (e.g. in Côte d'Ivoire, Senegal, Colombia), and sometimes attended by government members of NCP. RBC sessions are also organised at the regional and annual meetings of economic services and ambassadors, and there is dissemination of the OECD's work on RBC.

Despite the fact that the Secretariat is very active in promoting the Guidelines and the NCP, they both still appear to be relatively unfamiliar to some NCP member organisations and their networks.

²⁶ COFACE is the French export credit agency. On 31 December 2016, it ceded its State export guarantees activity to the French public investment bank, Bpifrance.

²⁷ The NCP carried out 37 promotional activities in 2015, and 44 in 2014. For more details, see the list of activities to promote the Guidelines and the NCP between April 2014 and December 2015, available at https://www.tresor.economie.gouv.fr/Ressources/9892_J-activite-du-pcn-francais

²⁸ For example, CFE-CGC published an article on the NCP in Fer de Lance magazine, No. 574, July 2013

The less active NCP members should be more involved in promoting both the Guidelines and the NCP within their respective organisations and networks.

Website

The NCP has a website in French which is continuously updated by the Secretariat, and which contains information on the NCP and its activities, and links to the OECD database. All the key documents are also available in English. The main documents on the website are the following:

- Bilingual brochure presenting the NCP in French and English;
- The Bylaw in French and English, factsheet on the admissibility of a specific instance (March 2014), in French and English;
- The activity reports of the NCP since 2013;
- Statements and reports by the NCP with regard to the handling of specific instances, in French and English;
- NCP lists of promotional activities carried out since May 2013. The most recent list of the NCP's promotional activities was published on 30 December 2016;
- Articles in French by the Secretary General published in 2016 and 2015;
- Documents relative to the NCP information annual meeting (agendas, statements, brochures, etc.);
- The NCP's Rana Plaza report dated 2 December 2013, and documents on RBC in the textile and clothing sector, in French and English;
- An overview of specific instances, updated annually;
- Various information on OECD resources for RBC, etc.

The NCP website includes a generic email address (pointdecontactnational-France@dgtresor.gouv.fr) which can be used to contact the NCP Secretariat, in French or in English. The names of the Chair and Secretary General, as well as the NCP's postal address, are also available.

On the whole, stakeholders participating in the peer review praised the amount of information posted on the NCP website. Some suggested that a simplified interface could facilitate browsing. Despite many of the documents published by the NCP being available in English, the fact that the website only has a French interface could reduce accessibility for non-French speaking stakeholders. The NCP could envisage creating an English version of its website, and continue to translate the reference documents into English when resources allow.

Collaboration with the French government on promoting the Guidelines

The NCP works with various government officials, services and agencies to promote the Guidelines. The NCP's initiatives include, among other things:

- The Secretary General's participation in basic training for diplomats, and since 2016 providing an RBC guide to the diplomatic corps which refers to the French NCP and the OECD's actions related to RBC, including the Proactive Agenda;
- Awareness-raising activities for officials in the Directorate-General of the Treasury at various meetings and through the Directorate's internal communication channels;

- In accordance with its communication plan (2015), the organisation of biannual meetings with development agencies, export credit agencies, and agencies encouraging international investment (AFD, Proparco, COFACE, Business France and Expertise France).

The NCP is mentioned in several public reports and notices, in particular the report on the Implementation of the Development Aid Strategy for 2014-2016, and the Government report to Parliament on the application by companies of the provisions of Article L.225-102-1 of the French Commercial Code and of the Grenelle 2 decree. In 2016, the NCP was consulted by the National Consultative Commission on Human Rights (CNCDH) in the context of an opinion on decent work in supply chains ahead of the International Labour Conference (ILO) in June 2016, and by the National CSR platform²⁹. In 2016, the CSR platform submitted its contribution to the draft National CSR plan and the National Action Plan for the Implementation of the UN Guiding Principles on Business and Human Rights (NAP), in which it promoted the NCP. The NAP was published on 26 April 2017 (see Box 1). These different contributions illustrate the NCP's commitment to ensuring the coherence of initiatives deployed at the national level to develop and implement policies to enforce respect of RBC, including with respect to human rights, transparency and due diligence in international supply chains.

Box 1: Proposed actions for the NCP in the French National Action Plan for the Implementation of the UN Guiding Principles on Business and Human Rights (NAP)

The NAP includes a description of the NCP and recognises the NCP's role in the promotion of RBC in the textile and clothing sector, and as a non-judicial grievance mechanism.

“Ongoing actions

- France contributes actively to the OECD's responsible business conduct activities, in particular its work on due diligence (textile, finance) and on strengthening the Guidelines on the occasion of their 40th anniversary (June 2016 and after).
- The NCP should continue with dissemination of the Rana Plaza report, and the monitoring of the implementation of its recommendations by the French textile and clothing sector and mass retail.
- France is aware of the NCPs potential for facilitating access to remediation and promoting responsible business conduct and the OECD Guidelines worldwide, and calls for the OECD to strengthen its support for NCPs in order to facilitate co-ordination between them, ensure functional equivalence, structure exchanges of information, and energise the NCP network.
- In order for the French NCP to continue to be recognised as one of the most effective NCP's in the way it fulfils missions, and to meet new requests, it is recommended that it be granted the operational resources required for the performance of its missions.
- Continue the NCP's commitment to helping other NCPs, and to participating in peer reviews, including the launch of a peer review of the French NCP.

Actions for implementation

- Build on the findings of the NCP's report on the textile and clothing sector and initiate efforts to promote and tailor the application of its recommendations to all sectors of activity.

²⁹ The major topical issues currently covered by the French CSR platform are: the preparation of the National CSR plan; the issue of the extent of corporate responsibility in their international supply chains; the content of the vigilance plan (for more information on this topic, see the duty of care law for parent companies and subcontractors (*'loi relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre'*)).

- France is aware of the NCPs potential for facilitating access to remediation and promoting responsible business conduct and the OECD Guidelines worldwide, and calls for the OECD to strengthen its support for NCPs in order to facilitate co-ordination between them, ensure functional equivalence, structure exchanges of information, and energise the NCP network.

- In order for the French NCP to continue to be recognised as one of the most effective NCP's in the way it fulfils missions, and to meet new requests, it is recommended that it be granted the operational resources required for the performance of its missions.

- Continue the NCP's commitment to helping other NCPs, and to participating in peer reviews, including the launch of a peer review of the French NCP.

- Strengthen the NCP's dialogue structures with civil society by optimising the conditions thereof provided for under the Bylaw (annual information meeting, annual discussion meeting with civil society, recourse to its expertise based on need)."

Source: Proposed actions No. 7 and No. 15 of the National Action Plan for the Implementation of the UN Guiding Principles on Business and Human Rights.

External collaboration on promoting the Guidelines

The NCP Secretariat is involved in organising and taking part in peer learning sessions, in particular at the OECD, and in taking part in experience sharing activities organised by other NCPs. Accordingly, between 2014 and 2016, the NCP Secretariat attended six peer learning events. The French NCP also acted as the lead reviewer for the peer review of the Italian NCP.

The NCP Secretariat is regularly contacted by the private sector, especially in connection with Rana Plaza report and the legislative process surrounding the duty of vigilance law for parent companies and subcontractors (*loi relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre*). Generally, the enterprises consulted during the peer review expressed a high level of confidence in the NCP's expertise in RBC matters, especially with regard to the NCP recommendations for due diligence in the textile and clothing sector (Rana Plaza report). More specifically, the NCP Secretariat has developed relationships, organised and accepted invitations to attend meetings with:

- Specialised CSR units, including within large professional federations (MEDEF, Afep, ORSE, Global Compact France, Initiative Clause Sociale, Collège des Directeurs du Développement Durable);
- Organisations in the textile and clothing sector and mass retail (including Initiative Clause Sociale) in order to disseminate the Rana Plaza report and monitor the implementation of the NCP recommendations which were addressed to enterprises in December 2013;
- Individual enterprises.

On 12 April 2017, the NCP Secretariat signed a partnership with the human rights Club of French Network of the UN Global Compact , which is run by a former NCP member. The main purpose of the partnership is to strengthen promotional initiatives mutually and to formalise use of NCP expertise on the Guidelines within the scope of the Global Compact integrity measures.

The NCP Secretariat takes part in meetings with NGOs when invited to do so. In particular, the Secretary General is involved in training programmes and promotional activities with organisations including *Ressources Humaines Sans Frontières* ("RHSF") and CSR in Developing and Emerging

Countries (RSE-PED), with which the NCP is currently exploring the possibility of partnerships. However, civil society organisations, and NGOs in particular, do not seem very aware of the potential benefits of using the NCP specific instance mechanism. The 2014 revision of the Bylaw, followed by the adoption of the communication plan in 2015, provided for a specific annual meeting with NGOs. That said, this meeting did not take place in 2015 and 2016. The meeting planned for November 2016 had to be cancelled for logistical reasons, and will be rescheduled in 2017. The NCP is encouraged to continue its work with NGOs with a view to establishing a regular dialogue so as to improve their confidence in the NCP specific instance mechanism.

The NCP Secretariat has established a constructive dialogue with academia by attending and contributing to numerous symposiums and conferences, running seminars within the framework of various Masters courses, and by making itself available for interviews with students.³⁰

Requests for information

The NCP Secretariat regularly receives requests for information on implementing the Guidelines and the procedure for submitting and handling specific instances. Responses to requests are not formalised and can be provided in several formats: emails, phone calls, face-to-face meetings, speeches at events, referral to the OECD Secretariat, the transmission of some requests to the NCP Chair and other members, etc. Many requests for information result in the organisation of promotional events. The Secretariat's prompt response to requests for information has been praised, and stakeholders appreciate that their dealings with the Secretariat generally receive a rapid response.

	Findings	Recommendations
4.	Civil society organisations, and NGOs in particular, do not seem very aware of the potential benefits of using the NCP's procedure for specific instances. The 2014 revision of the Bylaw, followed by the adoption of the communication plan in 2015, provided for a specific annual meeting with NGOs. That said, this meeting did not take place in 2015 and 2016.	The NCP is encouraged to continue its work with NGOs with a view to establishing a regular dialogue so as to improve their confidence in the NCP's specific instance mechanism.
5.	Despite the fact that the Secretariat is very active in promoting the Guidelines and the NCP to external stakeholders, they both still appear to be relatively unfamiliar to some NCP member organisations and their networks.	The less active NCP members should be more involved in promoting the Guidelines and the NCP within their respective organisations and networks.

³⁰ Since 2016, the current Secretary General is part of a multidisciplinary research group working on the duty of care for enterprises organised by the Research centre for Law of Paris Dauphine university, with which a partnership is currently being prepared. The Secretary General is also a member of the scientific committee responsible for the university programme created at Paris Dauphine university on non-financial compliance, due diligence and the fight against corruption, and in this role helped prepare a course on the programme. She will also take part in the annual CSR training cycle of the Court of Cassation in order to raise French judges' awareness of RBC issues.

Engagement in the proactive agenda

The Proactive Agenda aims to promote effective compliance with the Guidelines by helping enterprises to identify the risks of negative impacts related to specific products, regions, sectors and activities, and to address these risks. The Proactive Agenda is a new dimension that was added to the Guidelines when they were updated in 2011. NCPs can play a major role in the implementation of the Proactive Agenda through their engagement with social partners and other stakeholders.

The NCP is actively involved in all of the OECD's Proactive Agenda projects. Two members of the NCP (the General Commission for Sustainable Development and the MEDEF employers' association) have held awareness-raising meetings on responsible mineral supply chains with OECD support.

The NCP Secretary-General is a member of advisory groups which support Proactive Agenda projects in the agricultural sector, the garment and footwear sector, stakeholder engagement in the extractive sector, and financial sector. The NCP made an active contribution to the development of the garment and footwear sector project, submitting and presenting its Rana Plaza report to the OECD on 5 December 2013, and inviting it to launch work on this sector under the Proactive Agenda in the wake of the Rana Plaza tragedy and to produce a guide for the textile and clothing sector (see Box 2).

The NCP promotes the OECD's sectoral guides in the run-up to events, in specific instances (see references in NCP statements), through the national CSR platform and the Social Clause Initiative ("*Initiative Clause Sociale*" or "ICS"), etc. Since the publication of the Rana Plaza report, a major awareness-raising operation has been underway among the stakeholders in this sector.

Box 2: French NCP report on the textile and clothing sector—the "Rana Plaza report"

The Rana Plaza report was compiled in response to a request filed by the Minister for Foreign Trade with the NCP on 17 May 2013, inviting the latter to outline the scope of the Guidelines in the light of the collapse of the Rana Plaza building in Bangladesh on 24 April 2013. This report and the research that preceded and followed it provided an opportunity to clarify the extent of the responsibility borne by enterprises in the global textile and garment supply chain. The NCP consultations that were part of this research involved setting up a constructive dialogue with enterprises, other stakeholders and experts. The NCP carried out its own analysis, consulting over sixty people (through approximately 30 consultations).

The Rana Plaza report was published on 2 December 2013. It outlines the main characteristics of the textile and clothing industry, its risks and its complexity. It includes recommendations on responsible business conduct and due diligence for enterprises operating in the textile and clothing supply chains, and observations for the public authorities. The recommendations aim to "encourage companies operating in the textile sector to behave responsibly in line with OECD Guidelines recommendations and to improve traceability within the sector".¹

Since its publication, the NCP has run a campaign to promote and circulate the report in France and elsewhere, and is monitoring progress.² After the G7 Declaration in 2015, France set up its own working group for sustainable textile and clothing supply chains, which is tasked with follow-up of the recommendations of the Rana Plaza report, and with raising awareness of the OECD's research among the stakeholders. The NCP Secretary-General and other members of the NCP are involved in this work, as well as several stakeholders with which the NCP has a relationship. The NAP takes this into account (see Box 1).

The various stakeholders consulted during the peer review confirmed the broadly positive welcome given to the report. The business representatives interviewed, some of whom were interviewed by the NCP in the preparatory work for the report, noted it provided a concrete and useful approach.

Sources:

1. NCP statement of 22 April 2014 on the Rana Plaza report, www.tresor.economie.gouv.fr/File/400279.

2. On this subject, see the NCP statement of 22 April 2014.

5.2 Handling of specific instances

According to the Procedural Guidance of the Guidelines, section I(C):
"The 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

The NCP has closed 23 specific instances, including a request from Nicole Bricq, the Minister for Foreign Trade, to examine the implementation of the Guidelines in the supply chain of the textile sector as a specific instance following the Rana Plaza building collapse in Bangladesh. For the purposes of this report, 22 specific instances will be considered as having been handled by the NCP. The Rana Plaza report is discussed separately in section 5.2 – Engagement in the Proactive Agenda. The specific instances in which the NCP acted in a supporting role are not included in this number. For more details, please refer to the table of specific instances handled by the NCP in Annex 4.

Box 3: Outcomes of specific instances handled by the French NCP

Of the 22 specific instances handled and closed by the NCP before June 2017, 14 were accepted for further examination and received good offices.¹ Eight specific instances were not accepted for further examination after the initial assessment phase, of which:

- Five did not meet the formal criteria for admissibility: in four cases because the allegations made in the request were insufficiently substantiated² and in one case because the issues raised were not covered by the Guidelines.³
- Three were not accepted for further examination after the initial assessment phase. In one case, the conflict was resolved during the initial assessment.⁴ In the other two cases, the NCP had been asked to examine old conflicts that were difficult to assess—in one of these, there was no substantial evidence supporting the complaint, which was largely based on an individual workplace conflict⁵, and the other was not adequately substantiated despite the plaintiffs being given the opportunity to strengthen their case.⁶ Although the NCP did not offer its good offices in these three cases, it did examine the issues raised in relation to the application of the Guidelines. It examined compliance with the Guidelines and acknowledged efforts made by enterprises where appropriate. It also drafted recommendations to enterprises.

Of the 14 specific instances in which good offices were provided, mediation was offered in four, and the parties agreed to it in one instance.⁷ Mediation was turned down by the enterprises concerned in two cases⁸ and could not be implemented in a third because of disagreements between the parties.⁹ In the case in which mediation took place, the NCP facilitated the negotiation and adoption of an action plan to improve living conditions and working conditions for the local population. It appears, however, that the action plan has not yet been implemented.¹⁰

The NCP drafted recommendations to cover 14 specific instances.¹¹ Since 2011, all the NCP's final statements have contained recommendations.

In total, the NCP has followed up on its recommendations in five specific instances:

- Three of these specific instances were covered in one or more follow-up statements in coordination with other NCPs;¹²
- Two other specific instances were monitored but no follow-up statement was published.¹³

Notes:

1. Marks & Spencer and unions (2001); Several enterprises in Myanmar and unions (2002); Aspocomp in France and unions (2003); Local site of a French multinational in Romania and union (2003); EDF and its partners in Laos and Friends of the Earth (2005); Swiss mining sector multinational in France and unions (2008); Accor and IUF/IUTA (Canada and Benin) (2011); Devcot in Uzbekistan and NGOs (2012); Molex in France and unions (2012); Sodexo in the United States and other countries and unions (2012); Socapalm, and the Bolloré and Socfin groups in Cameroon and NGOs (2013); Michelin in India and NGOs and union (2013); UPM Papeterie de Docelles in France and the mayor of Docelles, former workers and others (2015); Alsetex, Etienne Lacroix group in Bahrain and Americans for Democracy and Human Rights in Bahrain (2015);
2. Subsidiary of a Canadian enterprise and unions (2002); Belgian subsidiary of a French enterprise in the transport sector in the DRC (2006); Offshoring of a French enterprise and union (2009); French enterprises in Gabon and Gabonese NGOs (2014).
3. Mining industry multinational in France and union (2003)
4. Eiffage Énergie in France and unions (2014)
5. AFD in Cameroon and Mr Teumagnie (2015)
6. Somadex Bouygues Construction and 216 former workers (2016)
7. Socapalm and the Bolloré and Socfin groups in Cameroon and NGOs (2013)
8. UPM Papeterie de Docelles in France and mayor of Docelles, former workers and others (2015) and Alsetex, Etienne Lacroix group in Bahrain and Americans for Democracy and Human Rights in Bahrain (2015)
9. The first mediation meeting showed that conditions were not right for mediation, Michelin in India and NGO and union (2013)
10. The recommendations of the French and Belgian NCPs are monitored by the three closely co-ordinated NCPs jointly working on this case (Belgium, France and Luxembourg).
11. Several enterprises and unions (Myanmar) (2002); Swiss mining sector enterprise in France and unions (2008); EDF and its partners and Friends of the Earth (2005); Devcot and NGOs (2012); Accor and IUF (2011); Socapalm and NGOs (2013); Sodexo and CGT (2012); Molex and unions (2012); Michelin in India and NGOs and unions (2013); Eiffage Energie group and NGOs (2014); UPM Papeterie de Docelles in France and mayor of Docelles, former workers and others (2015); AFD and Mr Teumagnie (2015); Somadex in Mali and 216 former workers (2016); Alsetex, Étienne Lacroix group in Bahrain and Americans for Democracy and Human Rights in Bahrain (2015)
12. Accor in Canada and Benin and IUF (2012); Socapalm, and the Bolloré and Socfin groups in Cameroon and NGOs (2013); Michelin in India and NGOs and union (2013)
13. EDF and its partners in Laos and Friends of the Earth (2005); Devcot in Uzbekistan and NGOs (2012)

Handling of specific instances

The Bylaw sets out how to manage specific instances. Since the Bylaw was revised in 2012, it has recommended an indicative time limit for the handling of specific instances. The specific instance involving the Michelin group³¹ highlighted the need to issue a statement at the beginning of procedure to declare the opening of good offices. The Bylaw was next revised in 2014 to allow for the publication of the initial assessment statement and for the possibility to issue statements at any moment during the procedure, as well as the option to consult experts during the examination of a specific instance.

From the beginning to the end of a specific instance, all members of the NCP are responsible for handling the specific instance and taking decisions based on the general consensus.

³¹ Michelin in India and NGOs and union (2013)

A factsheet available in English and French on the NCP's website sets out the criteria for admissibility of a specific instance.

The predictability of some aspects of the procedure for handling specific instances for the parties involved could be improved, and these aspects could be describe more clearly, especially: 1) if and under what circumstances the enterprise is consulted during the initial assessment phase; 2) the types of processes or support that are proposed under 'good offices'; and lastly, 3) what does mediation look like and under what circumstances it can be proposed to parties.

In order to strengthen the predictability of its procedure for handling specific instances, the NCP is encouraged to specify the different phases in its procedure, including the planned exchanges with the enterprise and the types of processes or support that are envisioned in the offer of good offices and mediation. A diagram to explain the procedure in simple terms could be developed and posted on the NCP's website. During the on-site visit the NCP made a proactive commitment to implement this recommendation.³²

The potential appearance of conflicts of interest is also not covered in the Bylaw. But conflicts of interest may arise or seem to arise if a specific instance is filed by an organisation which is a member of the NCP. To date, the NCP has not set out clear rules on how to proceed in these circumstances, and situations are dealt with on a case-by-case basis.³³ The NCP should formalise its practice which consists in deciding whether a member of the NCP should withdraw from handling a specific instance when there is or when there seems to be risk of conflict of interest. Most importantly, the members of the NCP should declare any conflict of interest or seeming conflict of interest that is likely to affect the handling of a specific instance.

Initial assessment

On receipt of the specific instance, the NCP notifies the plaintiff of acknowledgment of receipt by post or email, enclosing or attaching the Bylaw and explaining the proceedings. It then sends a copy of all documents received to the members of the NCP (Article 17). After acknowledgment of receipt of the specific instance, the NCP begins the initial assessment.

There are two stages to the initial assessment: (1) the evaluation of formal admissibility, in accordance with the formalities required, and (2) the evaluation of the specific instance in terms of substance. The fact that the initial assessment consists of two separate stages could lead to confusion, since the Procedural Guidance does not draw the distinction.

³² All the documents and information considered in this report were submitted before or during the on-site visit. Since the on-site visit, the NCP has developed documents aimed at clarifying its procedure. These documents are available on the "Comment saisir le PCN?" page of the NCP website. https://www.tresor.economie.gouv.fr/Ressources/6373_Que-signifie-la-recevabilite-dune-circonstance-specifique-

³³ In the case of the specific instance AFD in Cameroon and Mr Teumagnie, for example, in 2015, the Chair of the NCP and a union representative withdrew in order to prevent the risk of a conflict of interest with the entity in question, without this being connected to the referring party.

Analysis of the formal admissibility criteria of the specific instance

The Bylaw sets out the formal criteria required of the specific instance. It must include the following (Article 16):

- The identity of the enterprise concerned;
- The identity and contact details of the submitter;
- Details of the allegations made against the enterprise;
- The provisions of the Guidelines under which the application to the NCP is being made.

The NCP will assess compliance with these criteria.

On receipt of the specific instance, the NCP notifies the plaintiff of acknowledgment such receipt by post or email. It will then send a copy of all documents received to the members of the NCP (Article 17). If it finds that the submission meets the formal criteria for admissibility, the NCP will generally inform the enterprise concerned of the specific instance by post or email, but this step has not yet been officially set down in the Bylaw (see the section below). It will then begin the initial assessment of the specific instance ("Stage 2"). If it finds that the criteria for admissibility have not been met, it will inform the plaintiff and give the latter time to provide the necessary information. If the specific instance still fails to meet the formal criteria for admissibility, the NCP will finalise its analysis of admissibility and reject the specific instance. In this case, it will publish a statement in which it explains the reasons for its decision, without mentioning the name of the enterprise concerned (Article 20). The fact that the NCP gives plaintiffs time to complete their submission should this submission not meet the official formal admissibility criteria is a key factor in the accessibility of the NCP.

Initial assessment of the specific instance

If the specific instance is found to be admissible, the NCP will begin its initial assessment (Articles 21 to 26) to establish the interest in examining issues raised and its ability to contribute to the remediation of the issues raised. The NCP will then take a decision on whether to examine the specific instance and offer its good offices. It will inform the relevant parties of its decision (Articles 18 and 21) and publish a statement on the initial assessment. The criteria for the NCP's initial assessment correspond to those set out in the Procedural Guidance, and are the following:

- The good faith of the specific instance and relevance to the Guidelines (Article 22);
- The identity of the party concerned and its interest in the case;
- The significance of the issue and the supporting items provided;
- The apparent connection between the enterprise's activities and the issue raised in the specific instance;
- The relevance of the applicable laws and procedures, notably jurisdictional proceedings;
- The manner in which similar issues are (or have been) examined at national or international level (Article 23).

The criterion "whether the consideration of the specific issue would contribute to the purposes and effectiveness of the Guidelines" which also appears in the Procedural Guidance, is de facto included in the decision that a specific instance merits further examination.

The NCP also determines whether its good offices can make a positive contribution to resolving the issues raised and whether this may not be prejudicial to one or other of the parties, in the event that the parties are involved in parallel proceedings (Article 25). Good offices contribute to the informal remediation of disputes raised in the specific instance by means of consultation, meetings, , exchanges of information with the NCP and between the parties. Good offices may include access to non-litigious consensual procedures such as mediation. The process involved in good offices is further explained in the section below entitled "Assistance to parties".

At this stage and at the stage of good offices, MEDEF, which is a member of the NCP's enterprise representation, plays an important role in informing enterprises of the role, functioning and process of the NCP, in order to encourage them to engage within the dialogue. Some enterprises have commented on the usefulness of this guidance and explanatory support, which is often provided against a backdrop of mistrust of a mechanism that is unfamiliar to most enterprises.

As mentioned above, there is a certain amount of lingering confusion over the process of the initial assessment. This confusion chiefly concerns the point of communication with the enterprise at the stage of the initial assessment. One enterprise that was consulted during the on-site visit stated that it was advised of the existence of a specific instance only when the said specific instance had already been accepted for further examination by the NCP. The NCP explained that it had already consulted with the enterprises during the initial assessment of specific instances which raised complex issues connected with, for example, the country in which the breach of the Guidelines was alleged to have taken place or with the choice of the NCP competent to handle the specific instance.

It would be advisable to clarify, especially in the Bylaw, at exactly which moment of the initial assessment the enterprise can expect to be informed by the NCP of the filing of a specific instance and whether, and how, it may provide its responses, additional information and/or documentation at the determination of formal admissibility or during the initial assessment.

Box 4: Alsetex, Etienne Lacroix group in Bahrain and Americans for Democracy and Human Rights in Bahrain (2015)

On 19 August 2015, a specific instance was filed with the NCP by the NGO Americans for Democracy and Human Rights in Bahrain, alleging that Alsetex had failed to apply the recommendations of the Guidelines with respect to the chapters on General Policies and Human Rights in the context of the sale of teargas to Bahrain, which were supposed to have been used by the security forces to break up demonstrations in 2011. After consulting the parties, the NCP published a statement on 16 November 2015 (the initial assessment) in which it offered its good offices.

Good offices were provided in 2015 and 2016, and consisted of meetings and dialogue between the NCP and each of the parties separately. Mediation was offered, but refused by the enterprise.

The parties were consulted on both the NCP's draft statements (initial assessment statement and final report). They expressed their agreement with the findings of the NCP.

Assistance to parties

The NCP strives to facilitate dialogue between the parties. To this end, its Bylaw provides for "access to consensual and non-adversarial means, such as conciliation or mediation, to assist the

parties in resolving the problems" (Article 27). More precisely, the Bylaw states that the examination of a specific instance takes the form of a series of consultations between the parties concerned and the members of the NCP. The members of the NCP may provide additional information during these consultations, to supplement those already submitted by the parties (Article 29).

These consultations take the form of separate individual meetings between the enterprise and the members of the NCP on the one hand, and the party or parties having filed the specific instance and the members of the NCP on the other hand. The members of the NCP may provide additional information during these consultations, to supplement that already submitted by the parties (Article 29).

To date, the NCP has not used professional mediation or a conciliation service, and it provides good offices itself, and mediation in cases in which mediation is possible. By good offices, the NCP means the exchange of information, telephone conferences or meetings between each of the parties individually and the NCP and, more rarely, meetings between the parties with the NCP also present. Good offices are generally conducted without direct communication or meetings between the parties. According to the provisions of its Bylaw, the NCP may consult other parties (representatives from business or civil society or experts, etc.), the NCP of the other country concerned or other NCPs, or the OECD's Investment Committee for any help that it may need (Article 27).

The NCP has accepted 14 specific instances for further examination, and offered good offices in these cases. All enterprises agreed to engage with the NCP and took part in the dialogue, both during the initial assessment and the good offices phases, which took the form of meetings, generally between the NCP and each party individually, hearings and/or the transmission of information. Of this number, the parties met and exchanged directly in two instances. Mediation was offered in four specific instances and took place on one occasion. In the ten other specific instances, which predated the revision of the Bylaw in 2012, no mediation took place. When mediation is not possible, the NCP uses various means to try and bring the parties closer and successfully complete the handling of the specific instance.

Under the NCP's Guidelines and Bylaw (Article 27), the NCP can propose and facilitate access to consensual and non-adversarial means to assist the parties in resolving the problems. These means include conciliation and mediation. The Guidelines also note that the NCPs act as forums for discussion of all matters relating to the Guidelines.³⁴ The parties exchanged or talked to each other directly in two specific instances. Facilitating a dialogue between the parties in the presence of a neutral arbitrator or mediator can generate positive results in the resolution of disagreements, if the parties so agree, the arbitrator or mediator may be a member of the NCP. If a specific instance is accepted for further examination, the NCP is advised to facilitate dialogue and discussion between the parties at the earliest possible opportunity.

Box 5: Socapalm and the Bolloré and Socfin groups in Cameroon and NGOs (2013)

In December 2010, the French NCP received a specific instance from four Cameroonian, French and German NGOs, claiming that the Cameroonian enterprise Socapalm had not adhered to the following chapters of the Guidelines in their activities in the palm oil industry in Cameroon: General Policies, Disclosure, Employment and

³⁴ Guidelines, Concepts and principles, Article 11.

Industrial Relations, and Environment. These allegations concerned four enterprises governed by French, Belgian or Luxembourg law, including the Bolloré group in France (minority shareholder) and the Socfin group in Belgium and Luxembourg (previously known as Socfinal, majority shareholder and parent company). The plaintiff NGOs claimed that these enterprises had not used their influence to end the social and environmental adverse impacts caused by Socapalm's activities in Cameroon. After consultation between the relevant NCPs, the decision was taken to entrust the French NCP to lead handling and co-ordinating this specific instance.

The French NCP offered its good offices to the parties in 2011; the French enterprise initially refused them. In June 2012, the Bolloré group accepted the NCP's offer of good offices and the parties agreed to enter mediation in February 2013, while the NCP was finalising the examination of the specific instance. After jointly adopting terms of reference for the mediation, a series of meetings took place under the auspices of the NCP between the parties at the Ministry for the Economy and Finance, several attended neither by the NCP nor by an external mediator. As agreed, the parties reported regularly to the NCP on the progress made during these discussions. On 3 June 2013, the NCP published a final statement (Report) announcing the closure of the specific instance in which the NCP identified breaches of the Guidelines, acknowledged the action undertaken by Socapalm and announced that an action plan was being negotiated between the parties that had entered mediation. On 17 March 2014, the NCP issued a follow up statement in which it announced the finalisation of the action plan which would be implemented over two to three years and would be monitored by an independent body.

In a follow up statement released on 2 March 2015, the NCP reported difficulties in implementing the action plan, owing largely to obstruction by the Socfin group, and it asked Socapalm's business partners, the Bolloré and Socfin groups, to act more responsibly and pursue their best efforts to improve the situation on the ground. On 18 May 2016, the NCP issued another follow up statement which recorded mixed results for this specific instance: although the Bolloré group did exert its influence with its business relationships, the action plan it negotiated with the plaintiffs has yet to be implemented. The NCP did recognise, however, that Socapalm had incorporated the action plan's objectives into its CSR policy and that the Socfin group had made some CSR commitments. In 2016, leadership of the specific instance was transferred to the Belgian NCP so that that the latter would interact with the Socfin group. At the time of writing, the Belgian NCP was providing good offices in co-ordination with the French and Luxembourg NCPs.

In this specific instance, mediation took the form of a series of meetings between the Bolloré group and Sherpa, one of the plaintiff NGOs, with intervention by the NCP at the beginning and at the end, with neither the NCP nor a mediator present for the negotiation of the action plan. Prior to these negotiations, the parties and the NCP had agreed the terms of reference for mediation, setting targets, drawing up a timetable and determining logistical details. As agreed, the parties reported regularly on progress to the NCP.

Follow-up to recommendations

The Bylaw provides for follow-up to recommendations included in final statements (Article 32), which is a good practice. The NCP monitors responses to its recommendations, commitments undertaken by the enterprises and the implementation of agreements between the parties in relation to remediation actions. The NCP may also engage in follow-up activities in cases when the parties failed to reach an agreement during the good offices, as was the case in the specific instances of Accor and UITA (2012) and Michelin and NGOs and union (2013) (see Box 6). Follow-up may take place over several years in order to monitor the implementation of the recommendations made and commitments undertaken, as it was the case for Accor and UITA (2012), Socapalm, the Bolloré and Sofin groups in Cameroon and NGOs (2013) and Michelin in India and NGOs and union (2013). This follow-up, which is reported on in follow-up statements, has at times identified additional positive results such as the unionisation of hotels (Accor and UITA (2012)) and the implementation of a due diligence policy or CSR policy (Michelin in India and NGOs and union (2013)).

In addition to the five specific instances that were followed up by the NCP³⁵, the NCP has also followed up on the recommendations set out in the Rana Plaza report, and published a follow-up statement.

Box 6: Michelin in India and NGOs and union (2013)

In July 2012, two French NGOs, two Indian NGOs and a French trade union filed a specific instance with the NCP concerning Michelin's activities in India. The allegations consisted of non-compliance with several recommendations of the Guidelines (2000 and 2011 editions) included in the General Policies, Human Rights, Combating Bribery, Environment, Employment and Industrial Relations and Taxation chapters. The NCP offered its good offices, which were accepted by the parties.

In 2012 and 2013, the NCP provided its good offices and offered mediation, but persistent disagreements between the parties prevented the latter. The specific instance was closed on 2 July 2013, and then the NCP prepared a statement which it submitted to the parties for their opinion. The enterprise accepted the findings of the NCP but on 23 September 2013, the plaintiffs decided to withdraw the case from the NCP, making a public announcement.

In response, on 27 September 2013, the NCP decided to publish its statement as issued to the parties, in which it stressed failings with regard to the Guidelines, but observed that the enterprise had committed no breach of human rights. The NCP made recommendations to the company, which committed to their implementation. The recommendations were followed up by the NCP, which released two follow up statements in March 2014 and February 2016, containing a detailed breakdown of the actions taken by the enterprise to operationalise them.

The parties to this specific instance presented different versions of events; the enterprise reported that it was satisfied overall with the NCP's process and the outcome of this specific instance, which gave it the opportunity to develop its CSR strategy and its approach to stakeholder consultation. It has been regularly invited since then to share its experience with enterprises and other private sector entities. Conversely, the plaintiffs were disappointed that the NCP's proceedings did not lead to mediation and the signing of an agreement.

Statements and reports published by the NCP

The conditions governing the publication of statements are identical to those set out by the Procedural Guidance. The decision to prepare a statement is taken collectively by the members of the NCP, which task the Secretariat with drafting the text. There are five stages to the process: (1) the drafting and adoption of the statement (or report) by the NCP and any necessary consultation of the partner NCP(s), (2) submission to the parties for consultation, (3) rewording and adoption of the final text by the NCP, (4) submission of the final text to the parties and if required to the partner NCP(s), and (5) publication on the NCP's website.

Initial assessments

Prior to the 2012 revision of the Bylaw, the NCP did not release a statement when a specific instance was rejected nor was an initial assessment published. It is now the case (Articles 19 and 20). Indeed, since 2012, in the event that a specific instance is rejected because the criteria for formal admissibility have not been met (official non-admissibility), the NCP posts a statement on its website. In this case, the statement will not reveal the name of the enterprise, but will present the issues raised and give reasons for the NCP's rejection decision. Since March 2014, the NCP publishes

³⁵ EDF and its partners in Laos and Friends of the Earth (2005); Accor in Canada and Benin and IUF (2012); Devcot in Uzbekistan and NGOs (2012); Socapalm, and the Bolloré and Socfin groups in Cameroon and NGOs (2013); Michelin in India and NGOs and union (2013)

initial assessment statements, which must identify the parties and/or countries concerned, and include a summary of the initial evaluation.

Final statements and reports

As set out in the Bylaw (Article 35) at the end of the examination of a specific instance the NCP issues:

- A report, when the parties have reached agreement on the issues raised. The report should describe the issues raised, the action taken by the NCP and the date when the agreement was reached. Information on the content of the agreement is included in the report only if the parties involved have so agreed.
- A statement, when no agreement has been reached or when a party is unwilling to participate in proceedings. The statement describes the issues raised, the reasons why the issues merited further examination and the action taken by the NCP to assist the parties. The NCP makes relevant recommendations, which should be included in the statement. Where appropriate, the statement can also include the reasons why an agreement could not be reached. The NCP may also publish an interim statement during the course of its examination.

The NCP may include a determination decision about compliance with the Guidelines in any statement if it has decided that this will promote the effectiveness of the Guidelines, even when it has decided not to offer its good offices. The NCP included determinations in its final statements as early as 2001, and has done so in a total of twelve specific instances³⁶ and in the case of the Rana Plaza report. Since 2011, the NCP has included determination decisions in the final statement of all specific instances found to merit further examination. Adopting a position on compliance or non-compliance with the Guidelines sends stakeholders a clear message about the reach and materiality of the Guidelines.

Article 35 of the Bylaw provides for including recommendations in final statements, particularly if the parties fail to reach agreement. The NCP has made recommendations in the statements of 14 specific instances³⁷ and in the case of the Rana Plaza report. Since 2011, all of the NCP's final

³⁶ Marks & Spencer and unions (2001); Aspocomp and unions (2003); Devcot in Uzbekistan and NGOs (2012); Accor in Canada and Benin and IUF (2011); Socapalm, and the Bolloré and Socfin groups and NGOs (2013); Molex in France and unions (2012); Michelin in India and NGOs and union (2013); Eiffage Énergie in France and NGOs (2014); UPM Papeterie de Docelles in France and the mayor of Docelles, former workers and others (2015); AFD in Cameroon and Mr Teumagnie (2015); Somadex in Mali and 216 former workers (2016); Alsetex, Étienne Lacroix group in Bahrain and Americans for Democracy and Human Rights in Bahrain (2015)

³⁷ Several enterprises and unions (Myanmar) (2002); Swiss mining enterprise in France and unions (2008); EDF and its partners and Friends of the Earth (2005); Devcot and NGOs (2012); Accor and IUF (2011); Socapalm and NGOs (2013); Sodexo and CGT (2012); Molex and unions (2012); Michelin in India and NGOs and union (2013); Eiffage Energie group and NGOs (2014); UPM Papeterie de Docelles in France and mayor of Docelles, former workers and others (2015); AFD and Mr Teumagnie (2015); Somadex in Mali and 216 former workers (2016); Alsetex, Étienne Lacroix group in Bahrain and Americans for Democracy and Human Rights in Bahrain (2015)

statements have included recommendations, even when the specific instance was not accepted for further examination.

In addition to the agreement reached in the specific instance involving Socapalm, the Bolloré and Socfin groups and NGOs (2013), in three other specific instances³⁸ parties also agreed with the determinations and recommendations included in the final statements developed by the NCP, and in an additional two specific instances with the conclusions of the follow-up conducted by the NCP.³⁹ The NCP has classified these five specific instances as having given rise to agreement, but these were not formal agreements negotiated between the parties, however, since the parties either never met or did not jointly take part in discussions during the NCP's proceedings. In order to dispel any uncertainty surrounding the nature of these agreements or understandings, the NCP has therefore been advised to better distinguish in its public communication between those agreements that have been directly negotiated by the parties in mediation on the one hand, and the agreements by parties with respect to conclusions reached by the NCP on the other.

Since 2005, the NCP has published statements or final reports on all specific instances, and since 2014, it has also published initial assessment statements and follow-up statements. The NCP did not issue a statement in six specific instances filed between 2001 and 2005: four that were found to be inadmissible⁴⁰ and two, received in February 2003, for which it offered its good offices.⁴¹

Information concerning all the specific instances handled by the NCP since 2001—including these—appears on its website in the form of an overview table. This overview table was created in July 2014 and is updated annually.

Time taken to handle specific instances

In line with the Procedural Guidance and the Bylaw, the NCP aims to carry out the initial assessment within three months of acknowledging receipt of the specific instance. Extra time may be allocated, however, if it is felt that this will contribute to an informed decision (Article 26). The Bylaw states that the NCP shall conclude the examination of specific instances within twelve months of acknowledging receipt, although this may be extended if circumstances so warrant (Article 31).

The NCP and the parties to the specific instances are reminded of the times limits given above. The dates of the NCP's meetings and the hearings of the parties are set according to this timetable.

³⁸ Local site of a subsidiary of a French automobile enterprise in Romania and union (2003); Sodexo in the United States and other countries and unions (2012); Alsetex, Etienne Lacroix group in Bahrain and Americans for Democracy and Human Rights in Bahrain (2015)

³⁹ Devcot in Uzbekistan and NGOs (2012); Accor in Canada and Benin and IUF (2012)

⁴⁰ Subsidiary of a Canadian enterprise in France and unions (2002), inadmissible for lack of evidence; Mining-sector multinational in France and union (2003), inadmissible for lack of relevance to the Guidelines; Belgian subsidiary of a French multinational in RDC and UN (panel) (2006), inadmissible for lack of evidence in support of the allegations; Relocation of a French enterprise and union (2009), inadmissible for lack of evidence in support of the allegations.

⁴¹ Swiss mining multinational in France and union (2008), in which recommendations were made to the enterprise; Local site of French multinational in Romania and union (2008), in which an agreement was found between the parties outside of the NCP proceedings.

Of the eight specific instances received by the NCP since 2011, four were not subject to further examination and four received good offices. Of those that were not accepted for examination, the three-month deadline for the initial assessment was not met in three cases, owing to the complexity of the cases and, in two cases, the considerable time elapsed since the events of the case, which necessitated interviews and lengthy exchanges with the parties.⁴² For the four other specific instances, which received good offices, the twelve-month deadline was met in all cases but one⁴³, in which the enterprise had gone into liquidation. The time taken to complete this specific instance was 19 months.

Confidentiality and transparency

The Bylaw provides that the outcomes of proceedings published in the NCP's statements should take account of the need to protect sensitive information about the parties (Article 33). The parties are, moreover, consulted prior to the publication of these statements.

Article 39 restates the confidential nature of the information exchanged between the parties during the process of the specific instance. If so required for the handling of the case, the NCP may request the signing of a confidentiality agreement. This option was used for one specific instance and is mentioned in the NCP's report.⁴⁴

The importance of confidential dialogue has been restated on many occasions by the enterprises consulted for the peer review. At the same time, it is also recalled that transparency, especially about the existence of a specific instance, allows NGOs to exert a certain amount of pressure on enterprises to ensure that they take part in the NCP's proceedings. It is therefore important to strike a balance between transparency and confidentiality in the context of specific instances.

Parallel proceedings

The NCP strives not to interfere with current legal or administrative proceedings, and only pursues its examination if its intervention is likely to add real value to such proceedings (Article 30 of the Bylaw). The NCP also notes that in almost all the specific instances it handles there are generally legal or administrative proceedings dealing with the same dispute.

To date, on only one occasion, in 2003, has the NCP not accepted a specific instance for further examination due to parallel proceedings.⁴⁵ In another case, also in 2003⁴⁶, parallel proceedings led to delays in the specific instance proceedings, which took five years.

⁴² Eiffage Énergie in France and unions (2014), concerning a labour dispute which had ended by the date of the specific instance; AFD in Cameroon and Mr Teumagnie (2015), concerning a professional and personal dispute dating back to between 2001 and 2005); Somadex and 216 former workers (2016), concerning a labour dispute in 2005.

⁴³ Molex in France and unions (2012)

⁴⁴ Alsetex and ADHRB (2016)

⁴⁵ Mining sector multinational in France and union (2003)

⁴⁶ Swiss mining sector enterprise in France and unions (2008)

Co-operation with other NCPs

In accordance with its Bylaw, the NCP consults the NCP(s) of the other country or countries concerned with the specific instance (Article 27). The Secretariat of the NCP contacts the NCP(s) concerned and then reports on the answers received to the NCP members. The Secretariat informs the other NCP(s) of the progress of a specific instance and the decisions of the French NCP, and submits the draft statements and final statements to them for comment. Co-operation may involve the exchange of information regarding a specific instance. Several stakeholders have stressed the importance of good co-ordination between the NCPs in achieving the functional equivalence of the NCP system.

The NCP has handled nine specific instances with input from other NCPs (three of these cases were found to be inadmissible).⁴⁷ On other occasions, the French NCP has given its input to other NCPs.⁴⁸

⁴⁷ AFD in Cameroon and Mr Teumagnie (2015); UPM Papeterie de Docelles in France and mayor of Docelles, former workers and others (2015); Socapalm, and the Bolloré and Socfin groups in Cameroon and NGOs (2013); Accor in Canada and Benin and IUF (2011); Sodexo and CGT (2012); Belgian subsidiary of a French enterprise in RDC and UN (panel) (2006); Swiss mining sector enterprise in France and unions (2008); Aspocomp and unions (2003); Subsidiary of a Canadian enterprise in France and unions (2002)

⁴⁸ In particular: Foreign enterprises in French retail and union (2003) (handled by the US NCP); International consortium in Turkey, Azerbaijan and Georgia and NGOs (2007) (handled by the British NCP); Roquette Frères and IUF (2012) (handled by the US NCP); Nissan North America and UAW (2015) (handled by the US NCP). In one specific instance, the NCP provided input for a case led by the US NCP, and also published a statement setting out the key points of the case and noting the signing of an agreement between the parties (Roquette Frères and Uniting Food, Farm and Hotel Workers World-Wide (IUF) (2011)).

	Findings	Recommendations
6.	<p>The Guidelines and Bylaw (Art. 27) provide that the NCP may propose and facilitate access to consensual and non-adversarial means, such as conciliation or mediation, to assist the parties in resolving their problems. Of the 14 specific instances for which good offices were offered, mediation was successfully undertaken on one occasion, and there was discussion and exchange between the parties on two occasions.</p>	<p>When a specific instance is accepted for further examination, it is recommended that the NCP facilitate discussion and exchange between the parties as early as possible.</p>
7.	<p>Clarity around some aspects of the procedure for handling specific instances could be improved to promote predictability. In particular:</p> <ul style="list-style-type: none"> - If and under what circumstances the enterprise is consulted during the initial assessment phase; - The types of processes or support which are proposed under 'good offices'; - What does mediation look like and under what circumstances it can be proposed to parties 	<p>In order to strengthen the predictability of communication on the procedure for handling specific instances, the NCP is encouraged to specify the different phases in its procedure, including the planned exchanges with the enterprise and the types of processes or support that are envisioned in the offer of good offices and mediation. A diagram to explain the procedure in simple terms could be developed and posted on the NCP's website.</p>
8.	<p>There may be conflict of interest, or the appearance of conflict of interest when a specific instance is submitted by an NCP member organisation or when a member organisation finds themselves in a situation of conflict of interest. The NCP does not have formal policies on how to proceed in this situation.</p>	<p>The NCP should formalise the practice of having an NCP member withdraw from the procedure for handling a specific instance when conflict of interest, or the appearance of conflict of interest, arises. In particular, NCP members should declare any conflict of interest, or appearance of conflict of interest, which is likely to impact the handling of a specific instance.</p>

ANNEX 1: LIST OF THE NCP'S STAKEHOLDERS HAVING RESPONDED TO THE STAKEHOLDER QUESTIONNAIRE

Enterprises

BIAC (Business and Industry Advisory Committee to the OECD)
Caisse des Dépôts et Consignations (CDC)
Carrefour
Décathlon
Entreprise française de l'habillement
Étienne Lacroix
Former NCP member representing industry (MEDEF)
Global Compact France Network
Initiative Clause Sociale (ICS)
MEDEF - Mouvement des entreprises de France
Michelin
Pernod Ricard
Pimkie
Total
Vinci

Government

DAEI Travail (delegation to European and International affairs)
Direction générale du Trésor (Directorate-General for the Treasury), former NCP chair
Ministère des Affaires étrangères et du Développement international (Ministry for Foreign Affairs and International Development—MAEDI)

Academia

Paris I Panthéon Sorbonne
Science Po Lille
Université Paris VIII
Université Paris Dauphine

NGOs

Fédération internationale pour les droits de l'homme (International Federation for Human Rights—FIDH)
OECD Watch
Ressources humaines sans frontières (Human Resources without Borders—RHSF)
Responsabilité Sociale des Entreprises - dans les pays en développement (Corporate Social Responsibility in Developing Countries—RSE-PED)
SHERPA
YAMANA

Submitters of specific instances

Americans for Democracy and Human Rights in Bahrain (ADHRB)
Service National Justice et Paix (National Service for Justice and Peace—Cameroonian NGO)
Édouard Teumagnie
Yacouba Traoré

Trade Unions

Confédération française démocratique du travail (CFDT)
Confédération française de l'encadrement CGC (CFE-CGC)
Confédération générale du travail (CGT)
Force ouvrière (FO)
Former member of the NCP's union category (CFDT)
Union internationale des travailleurs de l'alimentation, de l'agriculture, de l'hôtellerie-restauration, du tabac et des branches connexes (UITA)
Union nationale des syndicats autonomes (UNSA)

Other organisations

AFNOR (French standardisation association)
National Consultative Commission on Human Rights (CNCDH)
Plateforme nationale d'actions globales pour la Responsabilité sociétale des entreprises (National CSR platform)
Vigeo Eiris

ANNEX 2: LIST OF THE NCP STAKEHOLDERS WHO TOOK PART IN THE ON-SITE VISIT

Enterprises

Association française des entreprises privées (Afed)
Alsetex, Étienne Lacroix group
BIAC (Business and Industry Advisory Committee to the OECD)
Caisse des Dépôts et Consignations (CDC)
Carrefour
Global Compact France
Initiative Clause Sociale (ICS)
Mouvement des entreprises de France (MEDEF)
Michelin
Observatoire RSE (ORSE)
Vinci

Government

Agence française de développement (French Development Agency—AFD)
Banque Publique d'Investissement (Public Investment Bank—BPI France)
Direction générale du Trésor (Directorate-General for the Treasury) (several representatives):
Deputy Director-General, International Financial and Development Affairs (MULTIFIN), Business Affairs (MULTICOM), International Business Finance (FININTER), Corporate Governance (FINENT)
Ministère des Affaires étrangères et du Développement international (Ministry for Foreign Affairs and International Development—MAEDI)
Ministère des Affaires sociales et de la Santé: Délégation aux Affaires Européennes et Internationales, Direction Générale du Travail (Ministry for Social Affairs and Health, Delegation to European and International Affairs, Directorate-General for Labour)
Proparco⁴⁹

Academia

Paris I Panthéon Sorbonne
Université Paris VIII
Université Paris Dauphine

NGOs

Clean Clothes Campaign
Fédération internationale pour les droits de l'homme (FIDH) GRET
Ressources humaines sans frontières (RHSF)
SHERPA
YAMANA

⁴⁹ Proparco is a subsidiary of AFD, dedicated to the private sector, which finances and supports businesses and financial institutions in developing and emerging countries.

Trade Unions

Confédération française démocratique du travail (CFDT)

Confédération française de l'encadrement CGC (CFE-CGC)

Confédération générale du travail (CGT)

Trade Union Advisory Committee to the OECD (TUAC)

Union internationale des travailleurs de l'alimentation, de l'agriculture, de l'hôtellerie-restauration, du tabac et des branches connexes (UITA)

Union nationale des syndicats autonomes (UNSA)

Other organisations

Commission nationale consultative des droits de l'homme (CNCDH)

International Labour Office (ILO)

OECD, Chair, Working Party on Responsible Business Conduct

Plateforme nationale d'actions globales pour la Responsabilité sociétale des entreprises (National CSR platform)

ANNEX 3: PROMOTIONAL ACTIVITIES ORGANISED BY OR ATTENDED BY THE FRENCH NCP IN 2016

The NCP organised and/or took part in 72 promotional activities in 2016, which include events (conferences, symposia, seminars, etc.), meetings and interviews, and the NCP's participation in research groups, working groups and academic classes or seminars. The following list includes only speeches/input by the NCP's Secretariat and Chair in conferences, symposia and seminars organised by or with NCP partners.

- Conference: "*De la conformité à la compétitivité : Nouveaux cadres de gouvernance et stratégies internationales des entreprises françaises*" (Paris, 6 January 2016) organised by the Chair of the NCP for the Directorate-General for the Treasury with the business associations MEDEF and CNCCEF
- Seminar: *Capitalisme philanthropique*, held by the GRET (Professionals for Fair Development) (Paris, 9 March 2016): presentation of specific instances by the Chair of the NCP
- Symposium held by Sciences Po Paris: "*Responsabilité sociale des entreprises est-elle une nouvelle forme de régulation ?*" (Paris, 15 March 2016): speech by the NCP's Secretary-General
- Conference on the Guidelines and NCPs, held by the Israeli NCP (Jerusalem, 21 and 22 March 2016): attended by the Chair of the NCP and several NCP members
- *Produrable* event (Paris, 31 March 2016): Speech by the Secretary-General of the NCP for the session on CSR in the retail sector—"Spécial Distribution : exemples de démarches RSE sectorielles"—which presented the work of the NCP and the due diligence principles for supply chain management
- High-level EU conference on Responsible Management of Supply Chains in the Garment Sector (Brussels, 25 April 2016), attended by the NCP (Secretariat and representative of the Labour Ministry)
- Symposium on international law held by the Société française de Droit international: "*L'entreprise multinationale et le droit international*" (Paris, 19-21 May 2016): speech by the NCP's Secretary-General on the influence of international law on multinational enterprises through the Guidelines, and on the influence of the French NCP's work through the handling of specific instances
- Global Compact France workshop: "*Droits de l'homme et entreprises : Maîtriser les risques*" (Paris, 24 May 2016): attended by the NCP's Secretary-General

- ILO International Labour Conference (Geneva, 1-15 June 2016): attended by several members of the NCP
- High-level round table discussion between RBC decision-makers, held by the OECD to coincide with the Global Forum on RBC (7-9 June 2016): attended by the NCP's Secretary-General; the Global Forum attended by the Secretary-General and several NCP members
- Vigeo Eiris conference: "*Gestion responsable de la chaîne d'approvisionnement : État de l'art*": speech by the Chair of the NCP and summary by the Minister for the Economy, Industry and Digital Sector
- Symposium: "Business and the Bar : Lawyers, Rights and Remedies", held by the American Bar Association, *Conseil national des barreaux français* and the UN High Commission for Human Rights (Geneva, 27-28 June 2016): speech by the Chair of the NCP in the session: Non-judicial Remedies at the Operational and Company Level
- Symposium: "*Entreprise responsable : Environnement et changement climatique*" held by the Moroccan NCP in the lead up to COP22 (Rabat, 21 September 2016): speech by the NCP's Secretary-General
- Symposium: "Environment, new threats, new challenges" at the Forum de Nîmes (12 October 2016): speech by the NCP's Secretary-General during the session on "Compliance and environmental crime, environmental liability" (<https://nimesforum.fr/>)
- Symposium: "*Chaînes d'approvisionnement en minerais et métaux : comment être un acteur responsable*", held by MEDEF and the French NCP, attended by the OECD and the Directorate-General for the Treasury (Paris, 19 October 2016): introductory speech by the NCP's Secretary-General discussing due diligence, and round table discussion: "*Identifier, évaluer et prévenir les risques : exemples de pratiques opérationnelles sectorielles*"
- Fourth annual NCP information meeting: "*La conduite responsable des entreprises : un au-delà du droit?*", held in partnership with the centre Droit at Université Paris Dauphine (Paris, 15 November 2016): speech by the Chair and Secretary-General of the NCP, the MEDEF Director-General and a representative of the CFE-CFC, presenting a summary of the NCP's activities, recent decisions and its contribution to RBC
- Multi-location connected event: "*Devoir de vigilance, Chaînes de production responsables, Quelles solutions des acteurs*", held by the RSE & PED association and under the patronage of the *Organisation internationale de la francophonie* (OIF)

(Paris, 18 November 2016): speech by the NCP's Secretary-General during the session: "*Révolutionner le textile pour un mode responsable, Quelles propositions?*" presenting the lessons learned and the follow-up to the Rana Plaza report (<http://www.rse-et-ped.info/evenements/presentations-journee-connectee-multi-lieux-devoir-de-vigilance-pour-des-chaines-de-production-responsables-queelles-solutions-des-acteurs/>)

- Second conference on responsible business conduct and the Guidelines held by the Hungarian NCP (Budapest, 16-18 November 2016): introductory speech by the Chair of the NCP presenting the French approach to CSR, and attendance by the NCPs of the round table discussions
- AEF sustainable development event on "*Droits humains et chaînes d'approvisionnement*" (Paris, 1 December 2016): NCP speaker, referring to the OECD's work during the discussions
- Symposium: "*Indépendance juridique de la personne morale versus dépendance économique*" held by the *Centre de droit civil des affaires et du contentieux économique* and the *Centre d'études juridiques et européennes et comparées* at Université Paris Ouest Nanterre La Défense (Paris, 8 December 2016): speaker from the Secretariat of the NCP
- Roundtable on "40 years of the OECD Guidelines for Multinational Enterprises" held by the OECD, the *Association française de droit international* and the International Law Association (Paris, 19 December 2016): Speech by the NCP's Secretary-General at the session on NCPs (<http://mneguidelines.oecd.org/roundtable-40-years-of-the-guidelines.htm>)

ANNEX 4: OVERVIEW OF THE SPECIFIC INSTANCES HANDLED BY THE FRENCH NCP AS LEAD NCP

	Enterprise(s)	Submitter(s)	Host country	Chapter(s) of the Guidelines	Dates of submission and closure		Outcome
1	Several enterprises	Trade Unions	Myanmar	Employment and Industrial Relations	1 January 2001	28 March 2002	Closed without agreement between the parties; recommendations issued by the NCP
2	Marks & Spencer	Trade Unions	France	Employment and Industrial Relations	March 2001	31 December 2001	Closed without agreement between the parties; the NCP offered its good offices and recorded non-conformity with the Guidelines
3	Subsidiary of a Canadian enterprise in France	Trade Unions	France	General Policies; Employment and Industrial Relations	6 June 2001	2001-2002	Inadmissible due to lack of evidence
4	ASPOCOMP	Trade Unions	France	Employment and Industrial Relations	January 2002	November 2003	Closed without agreement between the parties; the NCP recorded non-conformity with the Guidelines
5	Swiss mining sector enterprise in France	Trade Union	France	Employment and Industrial Relations; Environment	4 February 2003	June 2008	Closed without agreement between the parties; the NCP offered its good offices and reminded the enterprise concerned of the tenets of French law
6	Local site of a French automobile multinational enterprise in Romania	Trade Union	Romania	Employment and Industrial Relations	18 February 2003	7 July 2003	Closed; the NCP offered its good offices; an understanding was reached between the parties over the collective bargaining agreement outside of the NCP proceedings
7	Mining sector multinational in France	Trade Union	France	Employment and Industrial Relations	3 March 2003	2003	Inadmissible: not covered by the Guidelines
8	Belgian subsidiary of a French enterprise, domiciled in RDC	UN Panel of Experts	Democratic Republic of the Congo (RDC)	General Policies	1 October 2003	2006	Inadmissible owing to lack of evidence in support of allegations
9	EDF and its partners in Laos	Friends of the Earth (NGO)	Laos	General Policies; Environment; Employment and Industrial Relations; Competition	26 November 2004	26 May 2005	Closed without agreement between the parties; the NCP offered its good offices; it found that on the basis of the information available, the enterprise could not be shown to have violated the Guidelines and made recommendations; follow-up from 2005 to 2009
10	Relocation of a French enterprise	Trade Union	France	Employment and Industrial Relations	9 February 2005	2009	Inadmissible due to lack of evidence in support of the allegations
11	SODEXO	Confédération générale du travail (CGT)	United States, Dominican Republic, Morocco and Colombia	Employment and Industrial Relations	4 August 2010	20 September 2012	Closed after the parties reached an understanding outside of the NCP proceedings

	Enterprise(s)	Submitter(s)	Host country	Chapter(s) of the Guidelines	Dates of submission and closure		Outcome
12	Devcot in Uzbekistan	SHERPA (France) and European Centre for Constitutional and Human Rights (Germany)	Uzbekistan	General Policies; Employment and Industrial Relations	22 October 2010	21 September 2012	Closed without agreement between the parties; the NCP offered its good offices; it made recommendations to the enterprise and received commitments in return; followed up in 2014
13	Accor in Canada and Benin	International Union of Food (IUF)	Benin and Canada	Employment and Industrial Relations	8 November 2010	11 December 2012	Closed without agreement between the parties; the NCP offered its good offices; it found non-conformity with the Guidelines and made recommendations. The NCP followed up between 2013 and 2015. A follow-up statement was released on 2 April 2015, confirming conformity with the NCP's recommendations
14	Socapalm and the Bolloré and Socfin groups in Cameroon	Development Centre (Cameroon), Fondation Camerounaise d'Actions Rationalisées et Formation sur l'Environnement, SHERPA (France), and MISEREOR (Germany)	Cameroon	General Policies; Disclosure; Employment and Industrial Relations; Environment	3 December 2010	3 June 2013	Closed after agreement reached between the parties; the NCP provided its good offices, including a mediation process. The NCP has followed up on its recommendations since 2013; it has issued three follow-up statements, on 17 March 2014, 2 March 2015 and 18 May 2016. In 2016, the Belgian NCP took the lead for this specific instance; the NCP continues to provide input
15	Molex Automotive SARL in France	Fédération des Travailleurs de la Métallurgie CGT (FTM-CGT), FGMM-CFDT, CFE-CGC métallurgie, FO métaux and the International Metalworkers' Federation (IMF)	France	Employment and Industrial Relations	28 February 2011	20 September 2012	Closed without agreement between the parties; the NCP found non-conformity with the Guidelines.
16	Michelin in India	Tamil Nadu Land Rights Federation (India), the SANGNAM residents' association of the village of Thervoy, (India), CCFD-Terre Solidaire (France), SHERPA (France) and Confédération Générale du Travail (France).	India	General Policies; Combating Bribery; Human Rights; Employment and Industrial Relations; Environment	10 July 2012	21 September 2013	Closed without agreement between the parties after the provision of good offices of the NCP which recorded failings with regard to the Guidelines and made recommendations to the enterprise; the plaintiffs withdrew their submission after reading the draft final statement; as decided before, the NCP monitored the case. The NCP followed up its recommendations from 2013 to 2016 and issued two follow-up statements on 14 May 2014 and 29 February 2016 observing the implementation of the recommendations
17	Eiffage Énergie group in France	Fédération Nationale des Salariés de la Construction et du Bois de la CGT,	France	General Policies; Employment and Industrial Relations	11 October 2013	11 June 2014	Does not merit further examination; the subject of the dispute giving rise to the specific instance no longer

	Enterprise(s)	Submitter(s)	Host country	Chapter(s) of the Guidelines	Dates of submission and closure		Outcome
		Fédération Nationale Construction Bois de la CFDT and the CFE-CGC BTP union					exists; the NCP found non-conformity with the Guidelines and made recommendations
18	French multinational in Gabon	TIME, SOS Consommateurs and Association Jeunesse Sans Frontières (Gabonese NGOs)	Gabon	Competition	14 April 2014	18 July 2014	Inadmissible due to lack of evidence in support of allegations and non-solicitation of the NCP's good offices
19	UPM Papeterie de Docelles in France	Mayor of the town of Docelles, the <i>Sauver la Papeterie Docelles</i> association, 56 former workers and the <i>Union régionale des SCOP de Lorraine</i>	France	Employment and Industrial Relations	30 April 2014	24 February 2015	Closed without agreement between the parties; the NCP offered its good offices (accepted by the parties), then offered mediation, refused by the enterprise The NCP observed non-compliance with the Guidelines and made recommendations
20	French development agency in Cameroon	Mr Teumagnie (Cameroonian national)	Cameroon	General Policies; Human Rights (version 2000 – dispute dating from 2001-2005)	9 September 2014	25 March 2015	Does not merit further examination, the NCP found conformity with the Guidelines and made recommendations
21	Bouygues Construction subsidiary Somadex	216 former Somadex workers	Mali	General Policies; Employment and Industrial Relations (version 2000)	4 May 2015	13 June 2016	Does not merit further examination, but the NCP examined the issues raised by the application of the Guidelines in the light of the seriousness of the social dispute in 2005; it acknowledged the efforts made by the enterprise and made recommendations
22	Etienne Lacroix group subsidiary Alsetex	Americans for Democracy and Human Rights in Bahrain	Bahrain	General Policies; Human Rights	19 August 2015	4 July 2016	The NCP offered its good offices to the parties, which accepted them, and mediation, which was refused by the enterprise; the parties reached an agreement over the findings of the NCP which issued determination and made recommendations

ANNEX 5. THE ROLE AND OPERATIONS OF THE FRENCH NCP



NCP BYLAW OF 17 MARCH 2014

The purpose of the present bylaw is to specify the role and operations of the French National Contact Point established in compliance with the Implementation Procedures of the OECD Guidelines for Multinational Enterprises.

The National Contact Point and its operating rules have been established with reference to the procedural guidance annexed to the Decision of the OECD Council on the Guidelines for Multinational Enterprises.

➡ Read the full text of the bylaw on the website of the French NCP
<https://www.tresor.economie.gouv.fr/Ressources/File/404282>

National Contact Point Peer Reviews:

France

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 French NCP, mapping its strengths and accomplishments and also identifying opportunities for improvement.

