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SPECIFIC INSTANCE

“TELEPERFORMANCE IN FRANCE AND THE WORLD”

26 June 2020

Statement of the French National Contact Point

At the end of its initial assessment, the NCP accepts the specific instance and begins its good offices with the Teleperformance Group, the international trade union UNI Global Union and four of its affiliated trade unions organizations

The French National Contact Point for the Implementation of the OECD Guidelines for Multinational Enterprises (NCP) received on 17 April 2020 a specific instance submitted by the international trade union UNI Global Union and concerning the French multinational company TELEPERFORMANCE. UNI Global Union has submitted this specific instance jointly with four French trade unions affiliated with it: CFDT Fédération Communication Conseil Culture, CGT FAPT, CGT Fédération des Sociétés d'Études, and FO-FEC.

The specific instance raises questions about TELEPERFORMANCE's observance of OECD Guidelines in the context of the COVID-19 epidemic in call centers of the group in France, as well as in Albania, Colombia, the United States, Greece, India, Mexico, the Philippines, Portugal and the United Kingdom. The specific instance deals in particular with corporate due diligence, respect for human rights, health and safety in the workplace and freedom of association and negotiation of workers.

Teleperformance informed the NCP that the Group denies the terms of the specific instance and is prepared to engage a dialogue with the NCP to prove it. The Group expresses its willingness to engage a dialogue with UNI within the framework of this procedure as soon as an impartial and equitable framework will be established.

The acceptance of the referral by the NCP and the acceptance of its good offices by the parties do not determine whether or not the company acted in compliance with the OECD Guidelines.

1. Procedure followed by the NCP in accordance with its bylaws

The NCP referral procedure is confidential. The NCP shall endeavor to carry out the initial assessment of a specific instance within an indicative time frame of three months after the acknowledgement of receipt. It then prepares a statement on admissibility of the specific instance (art. 19). If the initial assessment is positive, the NCP will further examine the referral and offer its good offices to the parties in order to assist them in resolving their disputes. Otherwise, it will proceed to the conclusion phase of the procedure.

1.1. Receipt of the referral. The NCP Secretariat received the specific instance by email on 17 April 2020 and acknowledged receipt of it on 20 April 2020. UNI Global Union and CFDT F3C issued press releases announcing the referral on April 17, 2020. On 23 April 2020, the French NCP informed the

NON-OFFICIAL TRANSLATION

U.S., British, Colombian, Greek, Mexican and Portuguese NCPs of the existence of the referral, with the approval of UNI Global Union (see 3. Coordination of NCPs).

1.2. Formal admissibility of the specific instance. On 29 April 2020, the NCP validated formal admissibility of the referral and adopted a statement. This statement was issued on 12 May 2020. The NCP then began the initial assessment of the referral. The NCP informed parties and supporting NCPs of these decisions on May 5 and 6, 2020. It provided them with the statement and information about the procedure. The Secretariat proposed to meet separately with the parties to present the NCP procedure. The NCP forwarded a copy of the referral to the Teleperformance Group and invited it to respond. The referral was notified to the OECD after the release of the reception statement.

- ▣ **NCP Reception Statement 29 April 2020 issued on 12 May 2020:**
<https://www.tresor.economie.gouv.fr/Articles/c3d96f28-7c6f-4bc6-bf70-ac679fd53f46/files/30b677c4-e7e6-43e2-8af6-f0bfa4b14669>

1.3. Initial assessment of the specific instance. The NCP began the initial assessment as of 29 April 2020. The NCP Secretariat presented the referral procedure to UNI Global Union on 11 May 2020 and to Teleperformance on 13 May 2020 by videoconferences.

At its meeting held on 14 May 2020, the NCP discussed the initial assessment and the referral and made several decisions:

- The French NCP has confirmed its leadership and will coordinate its actions with the 6 supporting NCPs.
- The NCP found that the specific instance has been the subject of significant media coverage since 17 April 2020 notably from UNI. It decided to ask the parties to sign a commitment to respect the confidentiality of the procedure. Confidentiality is essential to building a relationship of trust with the parties and for the serenity of the NCP's action in order to establish a dialogue between the parties.
- The NCP found some confusion as to a possible link between UNI's four co-complainant trade union federations and three trade union confederations that are members of the NCP. The OECD Guidelines require NCPs to handle specific instances in accordance with the principles of predictable, equitable and impartial manner and in compliance with the Guidelines. These principles are recalled in the French NCP's bylaws, in its article 2, and refer to the importance of transparency, impartiality and the prevention of possible conflicts of interest in its article 41. The NCP decided to invite CFDT, CGT and FO trade unions to indicate to it the nature of relations existing or not between their confederations and their federations engaged in this specific instance.
- The NCP decided to continue the initial assessment pending the parties' response elements.

After several discussions with the parties on these issues, the NCP finalized the initial assessment of the referral at its meeting on 4 June 2020. It decided to accept the referral and to offer its good offices to the parties. It informed them of its decision on 10 June 2020 and invited them to respond to its offer of good offices by 19 June 2020. Parties responded to it on 16 and 19 June 2020 and accepted the NCP's good offices. The NCP will begin its good offices on 30 June 2020 with conducting separated hearings of the parties.

The NCP adopted a draft initial assessment statement on 10 June 2020 and then consulted with the complainant trade unions, the Group and the six supporting NCPs. Parties send the NCP their comments on 16 and 19 June 2020. Supporting NCPs validated the draft statement. The NCP took

NON-OFFICIAL TRANSLATION

these comments into account and adopted that said statement on 26 June 2020. The statement was sent to the supporting parties and NCPs prior to its publication on the NCP website.

2. Presentation of the specific instance

2.1. Presentation of the five complainant trade union organizations. The referral is made by a collective of five workers' representative organizations. UNI Global Union is an international trade union federation representing more than 20 million workers in the service sector, including 3 million in the information and communication services sector. UNI regularly takes part in OECD's work on responsible business conduct. UNI is particularly committed to the recognition of trade unions in many countries. Its industry branch, which is engaged in referral, UNI ICTS (UNI Global Information, Communication, Technology and Services Trade Union) represents 330 trade unions and more than 3 million workers worldwide.. The NCP notes that UNI has been campaigning for several months against Teleperformance to open negotiations on social dialogue and Group's workers rights, and to demand safe working conditions for the employees. CFDT Fédération Communication Conseil Culture, CGT-FAPT, CGT Fédération des Sociétés d'Etudes, and FO-FEC are French trade union federations affiliated with UNI Global Union, particularly active in the telecommunications and services sectors. They represent Teleperformance workers in France and participated in the reporting of the alleged facts. UNI indicates that it will be the NCP's interlocutor and that it will inform its co-complainants of the progress of the procedure; these organizations would be heard by the NCP.

2.2. Facts and allegations of violations of the OECD Guidelines. The referral concerns the management of the COVID-19 epidemic by TELEPERFORMANCE in several countries around the world. According to the referral, Teleperformance call centers would, inter alia, perform call-center functions for major global digital corporates as well as governments. One function would consist in operating telephone helplines established during the health crisis on behalf of several governments. The referral is based on Teleperformance's management of the COVID-19 epidemic in call centers of the Group in ten countries: Albania, Colombia, France, Greece, India, Mexico, Philippines, Portugal, United Kingdom and United States. According to the referral, the lack or inadequacy of preventive measures (teleworking, organization of space at the workplace, health protection measures) would have directly endangered workers. The referral also includes allegations of anti-union practices, including allegations of unfair dismissals, and lack of social dialogue.

The complainants organizations deduce from these alleged facts that Teleperformance did not comply with the OECD Guidelines on respect of local law, corporate due diligence, respect for human rights, respect for the health and safety of workers, freedom of association and collective bargaining of workers, public health and safety (Chapter I, IV, V and¹ VI). The complainants organizations also consider that Teleperformance would not have respected the fundamental rights of workers on occupational health and safety recognized by the International Labour Organisation (incorporated in the Guidelines) and would not have followed the WHO recommendations and guidance set out in the context of the COVID-19 epidemic, which are intended to guide the interpretation and application of the above-mentioned international standards.

See annex: List of recommendations of the Guidelines referred to in the referral.

¹Chapters I, IV, V, VI, respectively, relate to concepts and principles, human rights, employment and the environment.

NON-OFFICIAL TRANSLATION

2.3. Other elements reviewed for the initial assessment. The referral indicates that Teleperformance is subject to the French law on the duty of vigilance and refers to its vigilance plan updated in March 2020. The referral refers to several local actions, decisions and administrative procedures. The referral refers to petitions launched by workers in Mexico, Portugal and the United States and a letter from British MPs to Teleperformance on the basis of testimonies allegedly collected from workers. The referral also refers to administrative decisions allegedly taken in connection with the health crisis of COVID-19 in France (observatory by the labour inspectorate of Haute-Garonne concerning Teleperformance site in Blagnac) and in Portugal (a decision by the Portuguese health authorities to temporarily close a call center in Lisbon). The NCP notes that these procedures are parallel to its referral; other procedures may be in progress or may be initiated in the future. The NCP is also informed that UNI Global Union and the SHERPA association, have notified Teleperformance Group under the Duty of Vigilance Act in July 2019.

2.4. Complainants' requests.

UNI and its affiliated organizations indicate that they referred to the French NCP in order “to seek remedy of the issues described in the specific instance. They referred to the urgency of securing the remedies to ensure the immediate implementation of adequate health measures in contact centers in the face of Covid 19. In addition, they would like to secure the implementation of longer term remedies proposed in the specific instance to prevent risk of workers' health and safety, to establish social dialogue within the Group and to protect the exercise of freedom of association of the Group's workers”.

2.5 Teleperformance Response

The Group informs the NCP “that it denies – with the utmost firmness – all the allegations made by UNI Global and its affiliated trade union organizations in the specific instance. It intends to provide evidence to the NCP of the unfounded nature of these allegations and of its long history of respect for the values that inspire the OECD Guidelines”.

“It also expresses its indignation at accusations that are as serious and as unfounded. It expresses its impatience towards UNI, which has already sought to put pressure on it by practicing false defamation campaigns”.

The Group indicated that it was open to dialogue with the NCP. It also stated that it was not opposed to a dialogue with UNI under the auspices of the French NCP once a balanced, impartial and equitable framework is established and that UNI will cease its campaigns against Teleperformance.

3. Coordination with foreign NCPs

UNI Global Union submitted the referral to the French NCP. The French NCP considered necessary to inform NCPs potentially concerned as the referral refers to events that have occurred in seven States that adhere to the Guidelines: Colombia, the United States, France, Greece, Mexico, Portugal and the United Kingdom. This coordination is in line with its practice and [the OECD guide on NCP coordination](#)². The French NCP sent them a copy of the referral on 23 April after obtaining UNI's approval. It informed them of the formal admissibility of the referral and transmitted the reception statement on 6 May 2020.

²“The2 NCPs [and the OECD](#)”, [www @-@ pcn @-@ France.fr](#)

NON-OFFICIAL TRANSLATION

The NCP Secretariat organized a coordination meeting of the 7 NCPs on 11 May 2020 to identify a lead NCP and determine how to coordinate. They agreed that the French NCP would lead the referral for several reasons: Teleperformance Group headquarter is located in France, the referral has been submitted to the French NCP only, co-complainant trade unions are French trade union organizations, and facts occurring in France are particularly detailed. The remaining six NCPs are named supportive NCPs. They confirmed their willingness to support the French NCP. The NCP thanks them for this support. They were consulted on the draft initial assessment statement.

4. Summary of the initial assessment of the specific instance

The referral fulfils formal admissibility criteria laid down in article 16 of the NCP's bylaws (see [statement of 29 April 2020](#) published on 12 May 2020).

4.1. The referral fulfils admissibility criteria laid down in Articles 22 and 23 of the bylaws of the French NCP.

The referral is sufficiently precise and documented for the NCP to begin its review (Article 23). It is composed of a 18-pages note and numerous documents cited as footnotes (press articles, petitions launched by workers, recommendations from the WHO, vigilance plan and annual reports of Teleperformance). The biggest part of the supporting documents is in English or French.

The referral appears to be raised in good faith (art. 22) and complainants are properly identified and have an interest in taking action (art. 23). However, the NCP wished to clarify two elements during the initial evaluation: confidentiality of procedure (art. 38, 39 and 40) on the one hand and the impartiality of the NCP and the prevention of possible conflicts of interest on the other hand (art. 41).

- **Following the NCP meeting on 14 May 2020**, several exchanges took place between the parties and the NCP (Secretariat and then Chair) to explain the scope of the confidentiality of the procedure, to listen to the parties' concerns and to answer their questions. The parties promptly agreed to sign the commitment to respect the confidentiality of the procedure. Teleperformance transmitted its commitment on 1 June 2020 and UNI on 3 June 2020. Commitments of the four French trade union federations were received subsequently. UNI expressed its readiness to refrain from engaging in public campaigning regarding the issues raised in the specific instance for a period of time as part of the French NCP's good offices in order to quickly enter into discussions with Teleperformance under the auspices of the NCP. The NCP emphasizes that in the face of UNI's campaign against the Group over the past several weeks and media coverage of the issues raised by the referral, this commitment taken by both parties is an important element in building a climate of trust and serenity that creates favorable conditions for dialogue between the parties and with the NCP. This in turn allows to the NCP to offer his good offices to the parties.
- **Regarding impartiality and fairness of the NCP and the prevention of possible conflicts of interest within it**, the NCP invited the trade union confederations CGT, CFDT and FO, members of the NCP, to precise the nature of their relations with sector federations who referred to the NCP together with UNI in order to confirm the autonomy of these federations in their activities with regard to their participation in this referral.

➔ The NCP believes that all of these elements and responses received from the trade union members of the NCP are likely to provide guarantees on the good faith of the referral and enable

NON-OFFICIAL TRANSLATION

to perform its mission in accordance with the principles of impartiality, fairness and confidentiality necessary for its action. It will remain vigilant on these aspects during the procedure.

The referral raises significant questions about the effectiveness of the Guidelines in the face of the COVID-19 epidemic (arts. 18 and 23). In particular, it questions the Group's due diligence, human and workers' rights, health and safety in the workplace, public health and safety, the freedom of association of workers and social dialogue in the context of the COVID-19 epidemic. As such, it is relevant to the Guidelines (arts. 22 and 23). This does not prejudice the existence or not of breaches of these Guidelines on the part of Teleperformance.

4.2. The referral creates an opportunity to contribute positively to the resolution of issues raised (art? 25). On 1 June 2020, Teleperformance confirmed that it would engage in a dialogue with the NCP and, if applicable, with UNI as long as the conditions of impartiality, fairness and confidentiality would be guaranteed by the NCP and UNI. On 2 June 2020, UNI confirmed its wish to enter into discussions with Teleperformance under the auspices of the NCP on issues raised by the referral. On 16 June 2020, UNI confirmed, should this dialogue open, to be willing to refrain from engaging in public campaigning regarding the issues raised in the specific instance for a period of time to allow for the NCP-facilitated dialogue to advance. On 19 June 2020, Teleperformance stated it wishes UNI to suspend its campaign as long as the NCP procedure will last as, according to the Group, this would be inappropriate to pursue the good offices if one party turns out to keep conducting actions against the other. This is an important question. It will be taken into account by the NCP to assess the feasibility of a mediation among the parties. The NCP reminds that its action provides a forum for dialogue for the parties to conduct discussions on the effectiveness of the Guidelines. It will ensure the maintenance of a climate of trust with the parties, reflected in their signature of the commitment to respect the confidentiality of the procedure and talks.

5. Conclusion of the initial assessment

In accordance with article 18 of the bylaws, the NCP considers that the issues raised by the referral on the effectiveness of the Guidelines merit in-depth consideration. The NCP has offered its good offices to the parties who have accepted them. The NCP begins its good offices. Given the urgency of issues related to the management and prevention of COVID-19, it will quickly held hearing of UNI and Teleperformance separately. If it considers appropriate, it will organize a first mediation meeting between UNI and Teleperformance as soon as possible in order to assess the feasibility of a mediation. The NCP hopes to contribute to the resolution of the issues raised by the referral.

The NCP recalls that acceptance of the referral and its good offices does not prejudice whether or not the company acted in accordance with the OECD Guidelines.

The NCP procedure is confidential. In accordance with its Bylaws and the Procedure Guidelines established by the OECD and in order to build a climate of confidence with the Parties, the NCP will take appropriate measures to protect sensitive, commercial or other information, as well as the interests of other stakeholders involved in this specific instance. Finally, certain elements brought to the attention of the NCP and its members may be subject to confidentiality.

In the Annex:

- Recommendations of the 2011 Guidelines referred to in the specific instance.
- Outline of the procedure for handling a specific instance of the French PCN.
- Extract from the bylaws of the French NCP on the initial assessment of a referral (Articles 18, 19, 26, 31) and on the examination of specific instances (Articles 27, 28, 38, 39, 40 and 41).



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Recommendations of the 2011 Guidelines referred to in the specific instance

Chapter I on Concepts and Principles

2. Obeying domestic laws is the first obligation of enterprises.(...).

Chapter IV on Human Rights

States have the duty to protect human rights. Enterprises should, within the framework of internationally recognised human rights, the international human rights obligations of the countries in which they operate as well as relevant domestic laws and regulations:

1. Respect human rights, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved

2. Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur.

4. Have a policy commitment to respect human rights.

5. Carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts.

6. Provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts.

Comment 39. In all cases and irrespective of the country or specific context of enterprises' operations, reference should be made at a minimum to the internationally recognised human rights expressed in the International Bill of Human Rights, consisting of the Universal Declaration of Human Rights and the main instruments through which it has been codified: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and to the principles concerning fundamental rights set out in the 1998 International Labour Organisation Declaration on Fundamental Principles and Rights at Work.

Chapter V on Employment and Industrial Relations

Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices and applicable international labour standards:

4.(c). Take adequate steps to ensure occupational health and safety in their operations.

Comment 48. The International Labour Organisation (ILO) is the competent body to set and deal with international labour standards, and to promote fundamental rights at work as recognised in its 1998 Declaration on Fundamental Principles and Rights at Work. The Guidelines, as a nonbinding instrument, have a role to play in promoting observance of these standards and principles among multinational enterprises. The provisions of the Guidelines chapter echo relevant provisions of the 1998 Declaration, as well as the 1977 ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, last revised in 2006 (the ILO MNE Declaration). The ILO MNE Declaration sets out principles in the fields of employment, training, working conditions, and industrial relations, while the OECD Guidelines cover all major aspects of corporate behaviour. The OECD Guidelines and the ILO MNE Declaration refer to the behaviour expected from enterprises and are intended to parallel and not conflict with each other. The ILO MNE Declaration can therefore be of use in understanding the Guidelines to the extent that it is of a greater degree of elaboration. However, the responsibilities for the follow-up procedures under the ILO MNE Declaration and the Guidelines are institutionally separate.

Chapter VI on Environment

Enterprises should, within the framework of laws, regulations and administrative practices in the countries in which they operate, and in consideration of relevant international agreements, principles, objectives, and standards, take due account of the need to protect the environment, public health and safety (...).

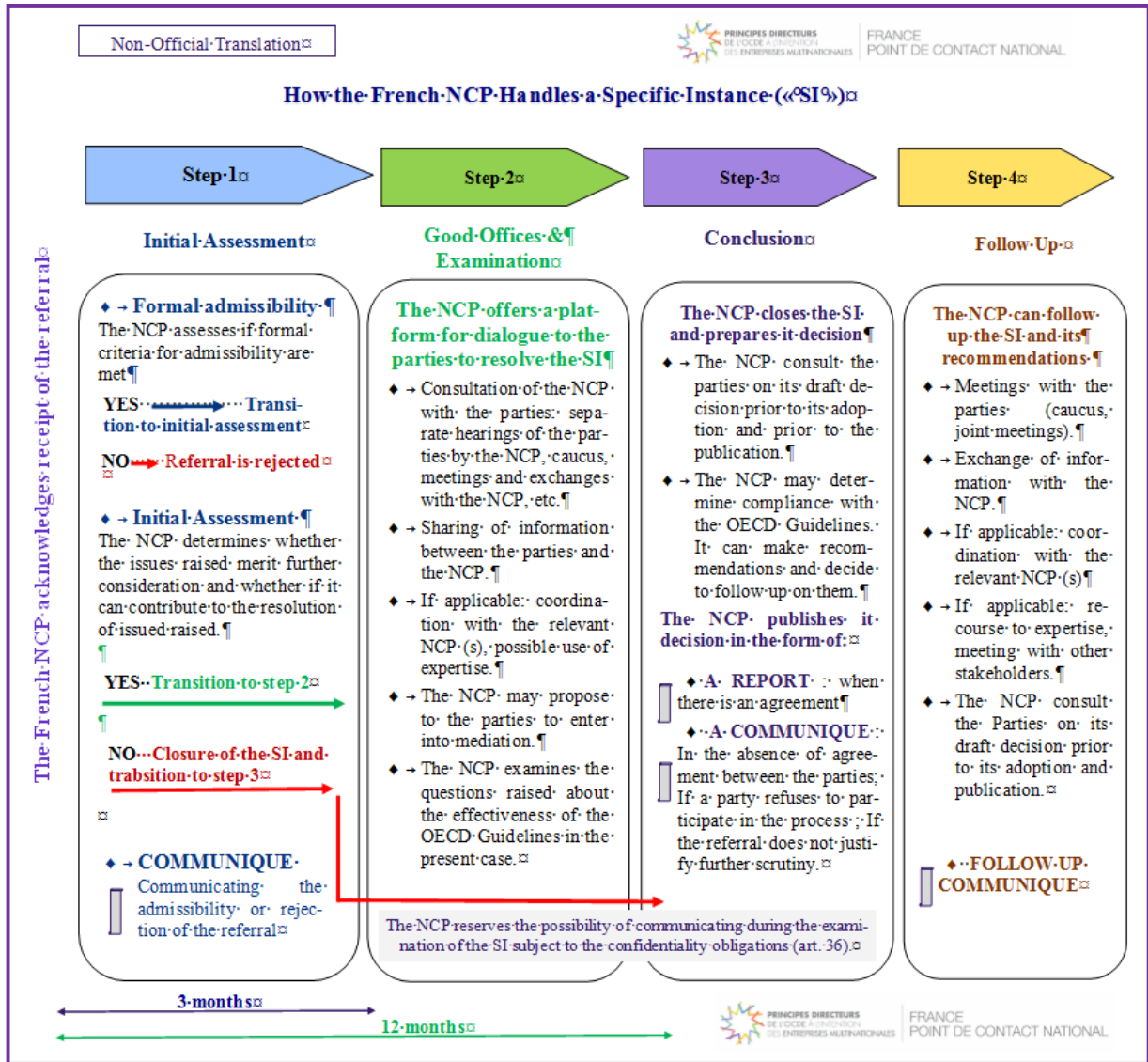
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Extracts from the French NCP's bylaws

IV – NCP referral – Initial Assessment

- **Article 18.** *In examining the admissibility of a referral, the NCP shall begin by analysing the formal admissibility provided for by Article 16 and then carry out the initial assessment in order to assess the importance of the issues raised to ascertain whether they merit further examination as provided for in Articles 22, 23 and 25. The NCP shall contact the parties and may ask them for further information so as to finalise its initial assessment.*
- **Article 19.** *Following its initial assessment, the NCP conveys its response to the parties involved. The NCP shall issue a statement announcing the admissibility of the specific instance, which shall stipulate the identity of the parties, the country or countries concerned by the referral and a summary of its initial assessment. With due regard to the confidentiality incumbent on the NCP, the complainant may inform its principal(s) of the decision taken by the NCP with regard to admissibility.*
- **Article 22.** *The NCP shall also ascertain whether the issue in question has been raised in good faith and in accordance with the Guidelines.*
- **Article 23.** *In assessing the admissibility of a referral to it, the NCP shall consider:*
 - *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;*
 - *How similar issues are being (or have been) examined at national or international level.*
- **Article 24.** *A referral submitted by any NCP member shall be presumed admissible if it meets the above conditions.*
- **Article 25.** *The NCP shall strive to ascertain whether, in making an offer of good offices, it could make a positive contribution to the resolution of the issues raised and if this would not create serious prejudice for either of the parties involved in other proceedings, or cause a contempt-of-court situation. It may then decide either to pursue or to renounce its consideration of the specific instance.*
- **Article 26.** *The NCP shall endeavour to conclude an initial assessment within three months of acknowledging receipt of the referral, although additional time may be granted, if need be, in order to collect essential information necessary for an informed decision*

V – EXAMINATION OF SPECIFIC INSTANCES

- **Article 27.** *Where the issues raised merit further examination, the NCP shall offer its good offices to help the parties involved to resolve them by providing a forum for dialogue. During its good offices and the examination of the specific instance, the NCP shall consult with these parties and, where appropriate, according to the cases examined, the NCP shall:*
 - *Seek advice from competent authorities, and/or representatives of the business community, worker organisations, other non-governmental organisations, and experts;*
 - *Consult the NCP(s) in the other country or countries concerned, including in respect of draft statements if the foreign NCP is mentioned;*
 - *Seek the opinion of the OECD Investment Committee if it has doubts about the interpretation of the Guidelines in the particular circumstances;*
 - *Propose, and with the agreement of the parties involved, facilitate access to consensual and non-adversarial means, such as conciliation or mediation, to assist the parties in resolving the problems.*
- **Article 28.** *The examination of a specific instance shall take the form of a series of consultations between the enterprise involved, the party or parties having made the referral to the NCP and all NCP members. These consultations shall enable the referring party or*



NON-OFFICIAL TRANSLATION

parties to set forth the grounds for the referral in detail and allow the enterprise concerned to respond thereto. The NCP's good offices may represent regular exchanges between the NCP and the parties (meetings, interviews, telephone conversations, videoconferencing, letters/emails). Subject to respecting the confidentiality which applies to the procedure, the NCP Secretariat manages the exchange of information between the complainant and the enterprise, on one hand, and the parties and the NCP, on the other. As from the start of its good offices, the NCP may suggest to the parties that they meet and this proposal may be reiterated during the procedure. It may also offer them mediation or conciliation which it can manage directly. The NCP shall keep the parties regularly informed of the progress of its discussions and may ask them questions.

- **Article 31.** The NCP shall strive to examine the issues raised within the best timeframe, if possible within 12 months of receipt of a specific instance, it being understood that this timeframe may be extended if circumstances so warrant, e.g. if the issue raised involves a country that has not adhered to the Guidelines, or in the event of parallel procedures

Confidentiality

- **Article 38.** In compliance with the provisions of Article 40, NCP members' involvement in examining a specific instance carries with it their commitment to respect the confidentiality of the discussions, interviews and documents exchanged. NCP members are bound to respect the confidentiality of a referral while its examination is not closed. When required for the handling of a specific instance, certain documents may be provided at meetings to NCP members who shall formally acknowledge receipt thereof.
- **Article 39.** In order to facilitate resolution of the issues raised, the NCP shall take appropriate measures to protect sensitive business and other information and the interests of other stakeholders involved in the specific instance.
- **Article 40.** When closing the procedures, if the parties involved have not agreed on the resolution of the issues raised, they shall be free to communicate about and discuss these issues. However, information and opinions provided during the procedures by another party involved shall remain confidential, for the parties and for the NCP members, unless that other party agrees to their disclosure or this would be contrary to the provisions of national law

Transparency, impartiality and prevention of potential conflicts of interest

- **Article 41.** Impartiality is one of the criteria for handling specific instances which are set by the procedural guidance of the Guidelines (refer to Article 2). A member concerned or any other NCP member shall report, on a case-by-case basis, any perceived conflict of interest or actual conflict of interest which may lead to a lack of impartiality that could have an effect on the handling of the specific instance. The member concerned shall assess whether his/her presence is likely to be detrimental to the impartial handling of the specific instance or whether he/she should stand down. Should he/she see fit, the NCP Chair may arrange for a discussion of cases of perceived conflicts of interest.

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