PRINCIPES DIRECTEURS DE L'OCDE À L'INTENTION DES ENTREPRISES MULTINATIONALES | FRANCE POINT DE CONTACT NATIONAL

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SPECIFIC INSTANCE

"Auplata Mining Group in the Democratic Republic of the Congo"

8 July 2026

Initial Assessment Statement of the French National Contact Point

Following its initial assessment, the NCP will offer its good offices to Auplata Mining Group and to Mr André AMISI RUSHINGWA, Mr Delvaux BWISIBO MUKUNDA and Mr Raymond MINANI MUGANIRA, former SOMINKI employees.

On 9 November 2024, the French National Contact Point (NCP) for Responsible Business Conduct received a specific instance from three former employees (hereinafter "the complainants") of Société Minière et Industrielle du Kivu (SOMINKI) concerning Auplata Mining Group (hereinafter "AMG"), a French company established in French Guiana. The submission concerns AMG's due diligence in relation to allegations that the harm claimed by former SOMINKI employees has not been remedied following SOMINKI's liquidation and the successive transfers of its mining assets in the Democratic Republic of the Congo (hereinafter "DRC").

The NCP specific instance procedure is confidential. The NCP endeavours to complete the initial assessment of a submission within an indicative period of three months after acknowledging receipt, although additional time may be allowed where necessary to gather the information required for an informed decision (Art. 26). It then prepares a statement on the admissibility of the submission (Art. 19). Where the initial assessment is positive, it offers its good offices to the parties in order to help them resolve their differences and examine the specific instance (Art. 27). It endeavours to complete its examination within twelve months of receiving the submission (Art. 31). The NCP publishes a statement announcing its decision on the initial assessment of the case (Art. 21.3), followed by a report or statement at the conclusion of the procedure (Art. 35). It may decide to follow up on its recommendations (Art. 32) and issue a communication on the follow-up.

1. Procedure followed by the NCP under its Rules of Procedure

The complainants submitted the specific instance electronically on 9 November 2024. The NCP Secretariat acknowledged receipt on 15 November 2024 and circulated it to the NCP members on 18 November 2024. The NCP confirmed the formal admissibility of the submission on 14 January 2025 and informed AMG of the specific instance on 4 February 2025. The NCP General Secretariat sent AMG several reminders by email between March and June 2025.

Auplata Mining Group responded to the NCP on 14 July 2025 by sending a letter dated 16 June 2025 and agreed to engage with the NCP.

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The NCP subsequently held separate hearings with the parties by videoconference on 4 November 2025. On 30 January 2026, the NCP instructed its Secretariat to draft the initial assessment statement. The NCP adopted the draft initial assessment statement on 30 April 2026 and then consulted the parties for any comments. The NCP subsequently adopted the initial assessment statement on 8 July 2026 and published it on its website. It then notified the specific instance to the OECD Centre for Responsible Business Conduct for inclusion in the NCP specific instances database.

2. Presentation of the specific instance

2.1 Presentation of the complainants

The specific instance was submitted by three former SOMINKI workers in the DRC, who state that they are acting on behalf of former employees of the company following SOMINKI's liquidation and the alleged non-payment of their final settlements and other social entitlements. They are Mr André Amisi Rushingwa, Mr Delvaux Bwisibo Mukunda and Mr Raymond Minani Muganira, respectively a former trade union representative, former technical secretary and former administrative officer.

2.2 Historical background to the specific instance and previous NCP proceedings

The specific instance follows allegations previously submitted to other NCPs concerning mining assets formerly held by SOMINKI. The complainants contend, in substance, that following SOMINKI's liquidation in 1997, several thousand former employees (5,489) did not receive their final settlements or certain other social entitlements.

By way of background, SOMINKI, which was established in the Republic of Zaire in the mid-1970s, held substantial mining assets in the east of what is now the Democratic Republic of the Congo. In the mid-1990s, the Canadian company Banro acquired a majority interest in SOMINKI. In February 1997, amid the armed rebellion that led to the fall of the Mobutu regime, a mining agreement transferred SOMINKI's gold assets to a new company, SAKIMA, which was majority-owned by Banro, before SOMINKI was liquidated in March 1997.

Subsequently, several agreements concluded between Banro and the Congolese State, notably in 2002 and 2009, provided that the former employees' claims would be settled as part of SOMINKI's liquidation, including through a USD 200,000 "goodwill" contribution, which the former employees never received. Following a submission in 2016[1] by former SOMINKI employees, the Canadian NCP issued a final statement in 2017, followed by a follow-up statement in 2019, noting in particular Banro's lack of co-operation.

Following Banro's restructuring in 2018, which notably included an investment by the US fund Gramercy in the company, a new specific instance concerning Gramercy was submitted to the US NCP in 2021. In its statement of 29 August 2023[2], the NCP noted that in January 2023 Banro had transferred the shares of its subsidiaries holding the mining assets in the DRC to another company. As a result of that transaction, Gramercy no longer held any ownership interest or other interest in the mines, and the US NCP therefore decided to close the specific instance.

That same year, the US and Colombian NCP received a new specific instance concerning Strategos Group LLC, a company domiciled in the United States and described by the complainants as the principal purchaser of the mining assets concerned[3]. The NCPs closed the specific instance in August 2024, recommending that Strategos Group LLC

[1] Final statement of the Canadian National Contact Point – Banro Corporation and a group of former employees, 25 May 2017.
[2] US NCP – Final Statement – Gramercy Funds Management.
[3] In its statement of 8 August 2024, the US NCP states that, in support of this allegation, the complainants produced copies of documents addressed to the former mine employees, dated 2 November 2022 and 1 March 2023, announcing that Strategos had acquired a majority interest in Banro's mining assets in the DRC.

enter into dialogue with the complainants, take account of the Canadian NCP's earlier recommendations to Banro and ensure observance of the Guidelines.

2.3 Alleged breaches of the Guidelines

The specific instance refers primarily to the due diligence recommendations in Chapter II (General Policies) of the Guidelines. The complainants contend that, in view in particular of the links they allege between AMG and Strategos Group LLC—which they describe as an AMG subsidiary—as well as other companies connected with the mining assets, AMG should have identified the risks associated with SOMINKI's liquidation, the social liabilities owed to the former employees, and the acquisition or operation of the mining assets in the DRC. They allege that AMG failed to carry out sufficient due diligence or to exercise the leverage available to it to prevent, mitigate or remedy the alleged impacts.

The complainants also invoke Chapter I ("Concepts and Principles"), Chapter III ("Disclosure"), Chapter IV ("Human Rights"), Chapter V ("Employment and Industrial Relations") and Chapter VII ("Combating Bribery and Other Forms of Corruption"). In particular, they raise concerns about the alleged lack of transparency surrounding the relationships and transactions between AMG, Strategos Group LLC and certain entities connected with the mining assets in the DRC; the alleged absence of dialogue with representatives of the former employees; and alleged infringements of several economic and social rights arising from the non-payment of the claims asserted.

The complainants request the French NCP's good offices in order to initiate a dialogue with AMG and contribute to resolving the issues raised in this specific instance.

2.4 The company's response

In its letter and during the formal hearing before the NCP, AMG disputes the allegations made by the complainants.

AMG states that it has never directly acquired shares in SOMINKI or played any role in the liquidation process carried out in 1997. AMG also states that the interests concerned were acquired only in 2025, in the form of strictly minority indirect holdings of less than 5%. AMG therefore considers that it cannot be held responsible for the alleged adverse impacts resulting from SOMINKI's liquidation in 1997, over which it had no influence.

Furthermore, to AMG's knowledge, there are no equity ties between AMG and Strategos Group LLC, and AMG exercises no direct or indirect control over that entity.

AMG also states that it implemented the compliance and due diligence procedures ordinarily applicable to the transactions concerned, including appropriate checks on the counterparties involved in the proposed transactions. AMG explains that it assessed certain assets on the basis of their specific characteristics, economic potential and the prospects associated with the projects concerned.

3. Coordination with foreign NCPs

During the initial assessment, the French NCP liaised in particular with the US NCP, which had already handled two specific instances concerning the same mining assets, relating successively to Gramercy and Strategos Group LLC. These exchanges enabled the French NCP to take account of contextual information already examined and the difficulties encountered in the earlier proceedings. The French NCP remains the lead NCP for this specific instance because it concerns a company established in France (French Guiana). It will continue to co-ordinate with the US NCP where this is helpful to the proper conduct of the procedure.

4. Summary of the initial assessment of the specific instance (Arts. 16, 22, 23 and 25)

The assessment of a submission's admissibility covers several aspects: are the formal criteria met? Is the submission made in good faith and related to the Guidelines? Is it admissible under the criteria in Article 23? Can the NCP contribute to resolving the dispute?

♦ Article 16: Does the submission meet the formal admissibility criteria?

The submission identifies the company concerned, the complainants, the alleged facts and the recommendations of the Guidelines invoked. In light of the information already gathered during the formal admissibility review, the NCP considers that the formal criteria in Article 16 are met.

♦ Is the submission admissible under the criteria in Article 23?

a. The identity of the party concerned and its interest in the matter

The complainants are identified and have a direct interest in the specific instance as former SOMINKI employees or representatives of the former employees concerned. Their action follows steps already taken before other NCPs in relation to the same factual background. Without prejudging the merits of the allegations, the NCP considers that the submission appears to have been made in good faith and demonstrates a sufficient interest in light of the purpose of the Guidelines.

b. The materiality of the issue and the supporting information provided

The specific instance concerns alleged adverse impacts affecting former SOMINKI employees, whose number is stated in the case file to be as high as 5,489. In this respect, the specific instance raises material questions about the effective implementation of the Guidelines in relation to due diligence and the use of an enterprise's leverage regarding alleged impacts on workers' rights. The case file contains sufficient supporting material for the NCP to continue its examination: the submission itself, the documents provided by the complainants and public documents relating to the Auplata group (annual management reports). This material is supplemented by the statements already published by the Canadian and US NCPs on the same matter.

c. The apparent link between the enterprise's activities and the issue raised in the specific instance

The specific instance raises questions concerning enterprise due diligence. Under the Guidelines, enterprises should "*Carry out risk-based due diligence, for example by incorporating it into their enterprise risk management systems, to identify, prevent and mitigate actual and potential adverse impacts as described in paragraphs 12 and 13, and account for how these impacts are addressed*" (II.A.11), "*Avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur, including through providing for or co-operating in the remediation of adverse impacts*" (II.A.12), and "*Seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship*" (II.A.13).

Under the Guidelines, business relationships are understood broadly and are not limited to equity ties or commercial contracts between enterprises. The OECD Due Diligence Guidance for Responsible Business Conduct states that they include "*all types of business relationships of an enterprise—suppliers, franchisees, licensees, joint ventures, investors, clients, contractors, customers, consultants, financial, legal and other advisers, and any other non-State* *or State entities linked to its business operations, products or services*"[4]. Furthermore, "*The Guidelines also apply to enterprise groups, although boards of subsidiary enterprises may have obligations under the law of their jurisdiction of incorporation*"[5].

The Concepts and Principles chapter of the Guidelines states that "*A precise definition of multinational enterprises is not required for the purposes of the Guidelines (...). They usually comprise companies or other entities established in more than one country and so linked that they may co- ordinate their operations in various ways. While one or more of these entities may be able to exercise a significant influence over the activities of other entities in a group, their degree of autonomy within the group may vary widely from one multinational enterprise to another. Ownership may be private, State, or mixed. The Guidelines are addressed to all the entities within the multinational enterprise (parent companies and/or local entities). According to the actual distribution of responsibilities among them, the different entities are expected to co-operate and to assist one another to facilitate observance of the Guidelines*"[6].

Without determining at this stage whether a business relationship exists between AMG and the so-called "former Banro" mining assets in the DRC, or how any such relationship should be legally characterised, the NCP notes that the information brought to its attention reveals a number of converging indications of an apparent link between the enterprise's activities and the issues raised, sufficient to warrant further examination:

1. The NCP first notes the information provided by AMG that its interests in the mining assets concerned were acquired only in 2025, in the form of strictly minority indirect holdings representing less than 5% of the share capital. Without prejudging the exact size of those holdings, the NCP considers that they are relevant to assessing whether a link exists between AMG and the assets covered by the specific instance.

2. The NCP also notes AMG's position that it has no equity ties with Strategos Group LLC. It nevertheless observes that AMG's management reports and public sources refer to Strategos Ventures Ltd, which is presented as a related party of AMG[7] and which granted AMG a shareholder current-account advance in 2022. Although the material in the case file does not establish that Strategos Ventures Ltd and Strategos Group LLC belong to the same group or are legally connected, the NCP notes that certain elements indicate a degree of proximity between the entities. This is apparent in particular from the professional or business connections of Mr Luc Gerard Nyafé, AMG's former Chairman and Chief Executive Officer, whom AMG describes as both the sole shareholder of Strategos Group LLC and a minority shareholder of Strategos Ventures Ltd[8].

3. The NCP further observes that AMG maintained business relationships with Strategos Mining & Exploration Congo (SMX Congo)[9], whose sole shareholder is reported to be Strategos Mining & Exploration Ltd. AMG describes SMX Congo as the operational manager of the mining companies Namoya Mining, Kamituga Mining and Lugushwa Mining, which hold the mining assets in the DRC. These relationships notably included a co-operation agreement for technical assistance services, as well as fees and cash advances provided by AMG to SMX Congo.

[4] See OECD Due Diligence Guidance for Responsible Business Conduct, Table 1, p. 8.
[5] OECD Guidelines for Multinational Enterprises, Chapter II on General Policies, Commentary paragraph 9
[6] OECD Guidelines for Multinational Enterprises, Chapter I on Concepts and Principles, paragraph 4.
[7] https://www.francebourse.com/fiche_news_157085.fb
[8] https://www.actusnews.com/fr/auplata-mining-group/cp/2023/04/14/deploiement-du-programme-de-desendettement
[9] AMG – 2024 Management Report.

4. The NCP also notes that AMG held an indirect interest in Compagnie Minière de Touissit (CMT). This interest was held through the OSEAD fund, all of whose units were owned by AMG. Through OSEAD Maroc Mining, the fund held 37.04% of CMT's share capital[10], making AMG a significant indirect shareholder. In 2023, CMT itself acquired, through its wholly owned subsidiary Touissit International Corporation (TIC)[11], an indirect 9.2% interest in the mining assets located in the DRC. AMG's public documents state that CMT's indirect interest through TIC was subsequently increased to 15.63%. AMG nevertheless states that it no longer holds the CMT asset.

d. The relevance of applicable laws and procedures

The NCP bases its assessment on the national and international normative frameworks relevant to the specific instance. In this case, in light of the information invoked and provided by the complainant in the submission, it considers that the DRC Labour Code, the DRC Mining Code and the mining agreement concluded on 13 February 1997 between the State of Zaire, SOMINKI and Banro are among the applicable instruments. The NCP's role is not, however, to take the place of the competent administrative authorities or courts in interpreting or enforcing local law. Its task is to assess, in light of the Guidelines, whether the conduct of a multinational enterprise and its business relationships raises issues warranting further examination.

e. How similar issues are being, or have been, considered in national or international proceedings

Similar issues have already been considered by the Canadian NCP and subsequently by the US NCP in specific instances concerning Banro, Gramercy and Strategos Group LLC. Those precedents do not exhaust the present specific instance, which concerns a different enterprise, but they shed light on the context and show that the issues raised by the complainants form part of a previously identified set of responsible business conduct concerns. The French NCP will take account of those precedents and the recommendations already made.

f. Can the NCP contribute to resolving the dispute?

In this case, the NCP considers that such a contribution remains possible. It acknowledges AMG's position that it was not the source of the alleged historical events relating to SOMINKI's liquidation and the alleged non-payment of the former employees, and that the alleged existence of relationships or interactions between different entities must be distinguished from the question of AMG's actual capacity to exercise influence or the leverage genuinely available to it within the meaning of the OECD Guidelines.

The NCP nevertheless notes that the specific instance raises questions concerning the application of the Guidelines, particularly in relation to due diligence and the potential leverage of a French enterprise that the complainants describe as being directly or indirectly linked to certain entities or assets referred to in the case file. AMG disputes these elements, which will need to be clarified during the procedure. The NCP also notes that the company responded to it in writing and agreed to engage with it. In these circumstances, the offer of good offices may usefully help to clarify the parties' respective positions, examine the complainants' expectations of AMG and assess, in a confidential and non-adversarial framework, any measures that could be discussed in light of the Guidelines.

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[10] AUPLATA MINING GROUP - AMG - RAPPORT FINANCIER 2023, AMG-Rapport-Financier-31.12.2023-2.pdf
[11] COMPAGNIE MINIERE DU TOUISSITE – CMT – COMMUNIQUE DE PRESSE, 31 mars 2024 Dossier-CP-CMT-2023-Annuel-V4-22H48.pdf.

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Lastly, the NCP has not identified any element indicating that such a process would, in itself, prejudice the authority of the courts.

5. Conclusion of the initial assessment (Art. 18)

Pursuant to Article 18 of its Rules of Procedure, the NCP considers that the issues raised by the submission concerning the effective implementation of the Guidelines merit further examination and that it can help the parties resolve their dispute. The NCP has decided to offer its good offices to the parties. In particular, it may propose bringing the parties together at a later stage, in a format to be determined, to examine the scope and feasibility of mediation.

The NCP procedure is confidential. In accordance with its Rules of Procedure and the OECD Procedural Guidance, and in order to foster a climate of trust with the parties, the NCP will take appropriate measures to protect sensitive information, whether commercial or otherwise, and the interests of the other stakeholders involved in this specific instance. Certain information brought to the NCP's attention may also be treated as confidential.

The NCP recalls that accepting the specific instance does not determine whether or not the enterprise acted consistently with the OECD Guidelines.

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Annex:

- Flowchart of the procedure for handling a specific instance
- Extract from the French NCP Rules of Procedure on the initial assessment of a submission (Articles 16, 18, 19, 20, 22, 23, 24, 25, 26 and 31) and on the confidentiality of the procedure (Articles 38, 39 and 40).

NCP website www.pcn-france.fr & NCP news
Email: pointdecontactnational-France@dgtresor.gouv.fr

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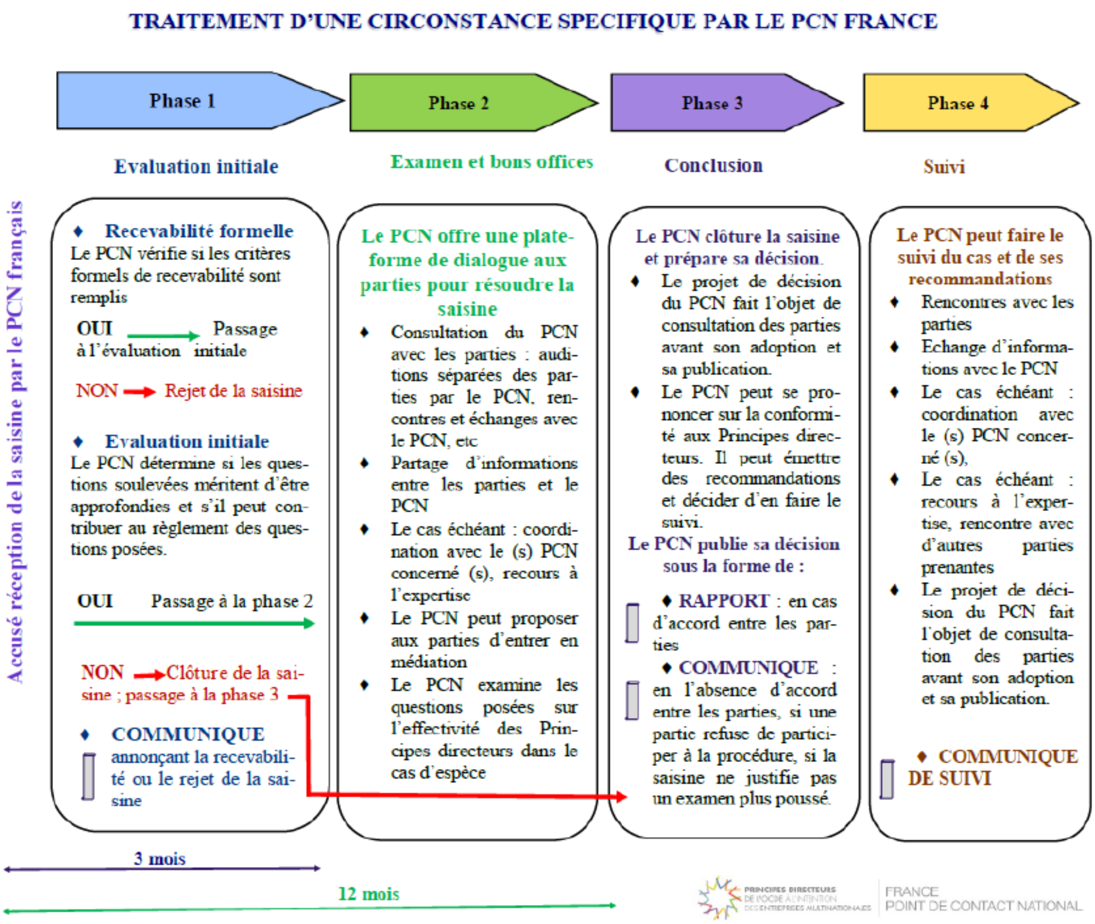
ANNEX: Flowchart of the procedure for handling a specific instance



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Extracts from the French NCP Rules of Procedure

IV – SUBMISSION TO THE NCP – INITIAL ASSESSMENT

- ***Article 16.*** *A submission to the NCP for RBC must be precise. It must therefore specify: the identity of the enterprise concerned; the identity and contact details of the applicant; details of the facts alleged against the enterprise; and the provisions of the OECD Guidelines for Multinational Enterprises under which the submission is made to the NCP for RBC.*
- ***Article 18.*** *When examining the admissibility of a submission, the NCP for RBC first reviews the formal admissibility criteria provided for in Article 16 and then conducts an initial assessment in order to determine whether the issues raised merit further examination, as provided for in Articles 22, 23 and 25. The NCP for RBC engages with the parties and may ask them to provide additional information in order to complete the initial assessment.*
- ***Article 19.*** *Following its initial assessment, the NCP for RBC communicates its response to the parties concerned. The NCP for RBC publishes a statement announcing the admissibility of the specific instance, identifying the parties and the country or countries concerned and summarising its initial assessment. Subject to the confidentiality requirements applicable to the NCP for RBC, the complainant may inform the person or persons it represents of the NCP for RBC's admissibility decision.*
- ***Article 26.*** *The NCP for RBC endeavours to complete the initial assessment within three months after acknowledging receipt of the issue, although additional time may be allowed where necessary to gather the information required for an informed decision.*
- ***Article 31.*** *The NCP for RBC will endeavour to examine the issues raised as promptly as possible, preferably within twelve months of receiving the submission concerning a specific instance. This period may, however, be extended where circumstances so require, for example where the issue arises in a country that has not adhered to the Guidelines or where parallel proceedings are under way.*

V – EXAMINATION OF SPECIFIC INSTANCES

- ***Article 27:*** *Where the issues raised warrant further examination, the NCP for RBC offers its good offices to help the parties concerned resolve them by providing a platform for dialogue. In the course of its good offices and examination of the specific instance, the NCP for RBC consults the parties and, where relevant in the case concerned, it:*
    - *seeks the views of competent authorities and/or representatives of the business community, organisations representing workers, other non-governmental organisations and experts. Any expert, regardless of which party requested their involvement, must have a direct connection with the subject matter of the specific instance and be approved by the NCP for RBC, which assesses the relevance of and conditions for any involvement in the procedure.*
    - *where appropriate, consults the NCP for RBC of the other country concerned, or the other countries concerned, including on draft statements where the foreign NCP for RBC is mentioned;*
    - *seeks the opinion of the OECD Investment Committee where it has doubts about the interpretation of the Guidelines in the case concerned;*
    - *offers, and with the agreement of the parties concerned facilitates access to, consensual and non-adversarial means, such as conciliation or mediation, in order to help the parties resolve the issues.*
- ***Article 28:***

  1. The examination of a specific instance takes the form of a series of consultations between the enterprise concerned, the party or parties that submitted the specific instance to the NCP for RBC, and all members of the NCP for RBC. These consultations must enable the party or parties that submitted the specific instance to explain the grounds for the submission in detail and the enterprise concerned to respond. The NCP for RBC's good offices may take the form of regular exchanges between the NCP for RBC and the parties (meetings, hearings, telephone conversations,

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videoconferences and exchanges of letters or emails). Subject to the confidentiality requirements applicable to the procedure, the NCP for RBC Secretariat facilitates the exchange of information between the complainant and the enterprise, on the one hand, and between the parties and the NCP for RBC, on the other. The NCP for RBC may propose that the parties meet from the outset of the good offices and may renew that proposal during the procedure. It may offer mediation or conciliation, which it may conduct directly. The NCP for RBC regularly informs the parties of the progress of its discussions and may put questions to them.

2. To ensure fairness between the parties and transparency in the NCP for RBC's actions, the NCP for RBC Secretariat informs each party of procedural decisions taken by the other party concerning the acceptance, refusal and, where applicable, withdrawal from the good offices during the procedure.

Confidentiality

- ***Article 38:*** *In accordance with Article 40, participation by members of the NCP for RBC in the examination of a specific instance constitutes an undertaking to respect the confidentiality of discussions, hearings and documents exchanged. NCP for RBC members must respect the confidentiality of the examination of a submission until it has been completed. Where required for the handling of a specific instance, certain documents may be provided at the meeting to NCP for RBC members, who formally acknowledge receipt.*
- ***Article 39:*** *In order to facilitate resolution of the issues raised, the NCP for RBC takes appropriate measures to protect sensitive information, whether commercial or otherwise, and the interests of other stakeholders involved in specific instances.*

Article 40: *At the conclusion of the proceedings, where the parties concerned have not reached agreement on a resolution of the issues raised, they are free to express themselves and discuss those issues. However, information and views put forward during the proceedings by another party concerned remain confidential for the parties and the members of the NCP for RBC, unless that party agrees to their disclosure or such confidentiality would be contrary to national law.*

Transparency, impartiality and prevention of potential conflicts of interest

- ***Article 41:*** *Impartiality is one of the criteria governing the handling of specific instances established by the Procedural Guidance to the Guidelines for RBC (see Article 2). A member concerned, or any other member of the NCP for RBC, reports on a case-by-case basis any appearance of a conflict of interest or any actual conflict of interest that could result in a lack of impartiality affecting the handling of a specific instance. The member concerned assesses whether their presence could prejudice the impartial handling of the specific instance or whether they should recuse themselves. The Chair of the NCP for RBC may organise a discussion of apparent conflicts of interest where the circumstances so require.*