

Structures and Procedures of National Contact Points for the OECD Guidelines for Multinational Enterprises



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FOREWORD

Governments adhering to the OECD Guidelines for Multinational Enterprises (OECD Guidelines) are required to set up a National Contact Point (NCP). The main role of an NCP is to further the effectiveness of the OECD Guidelines by undertaking promotional activities, handling enquiries, and contributing to the resolution of issues that arise from the alleged non-observance of the OECD Guidelines in specific instances. Governments have flexibility in the way they set up their NCP, provided it meets the core criteria of visibility, accessibility, transparency and accountability.

This report describes how governments have set up their NCP, as part of implementing the OECD Guidelines, and how NCPs operate and make decisions related to the implementation of their mandate. The findings of this work aim to facilitate co-operation among NCPs, and to help stakeholders and the wider public better understand how NCPs work and take decisions.

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INTRODUCTION AND OVERVIEW

The OECD Guidelines for Multinational Enterprises (OECD Guidelines)¹ provide non-binding guidance for responsible business conduct in a global context. All governments adhering to the OECD Declaration on International Investment and Multinational Enterprises (OECD Investment Declaration) are required to set up a National Contact Point (NCP) to promote the OECD Guidelines, handle enquiries and contribute to the resolution of issues that arise relating to the implementation of the OECD Guidelines in specific instances.² Any entity – an individual, organisation or community – may allege in a specific instance that a company has not observed the OECD Guidelines and may submit a formal request to an NCP. Specific instances are not legal cases and NCPs are not judicial bodies. Unless mandated by its government, an NCP cannot impose sanctions, directly provide compensation nor compel parties to participate in the resolution of issues, including but not limited to a mediation process.³ NCPs are required to issue final statements upon concluding specific instance processes which may include recommendations to companies. Some NCPs also make determinations, setting out their own views on whether a company observed the OECD Guidelines or not. This is not required by the OECD Guidelines but is a practice of some NCPs.

The OECD Guidelines provide governments with the flexibility to structure their NCPs as they view appropriate, seeking the active support of social partners, including the business community, workers' organisations, non-governmental organisations, and other interested parties⁴, provided the NCP meets the core criteria for “functional equivalence” which call on NCPs to function in a way that fosters *visibility, accessibility, transparency* and *accountability*⁵. In addition, the OECD Guidelines specify that NCPs should address specific instances in a manner that is *impartial, predictable, equitable*, and *compatible* with the OECD Guidelines.⁶

To mark the 15 year anniversary of the creation of the NCP mechanism, in June 2016 the OECD published a stocktaking report called “Implementing the OECD Guidelines for Multinational Enterprises: The National Contact Points from 2000 to 2015”.⁷ This report documents the successes, outcomes, and achievements of the global NCP mechanism. The report was an opportunity to show that governments have taken different approaches when setting up their NCP in terms of structure and in terms of location, either within or outside the government. Various types of NCP structures and approaches for carrying out

¹ <https://mneguidelines.oecd.org/guidelines/>.

² Decision of the Council on the OECD Guidelines for Multinational Enterprises, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0307>.

³ Implementing the OECD Guidelines for Multinational Enterprises: The National Contact Points from 2000 to 2015, OECD (2016), page 5, <http://mneguidelines.oecd.org/OECD-report-15-years-National-Contact-Points.pdf>.

⁴ OECD Guidelines for Multinational Enterprises (2011). Section I.A of the Procedural Guidance.

⁵ OECD Guidelines for Multinational Enterprises (2011). Section I of the Procedural Guidance.

⁶ OECD Guidelines for Multinational Enterprises (2011). Section I.C of the Procedural Guidance.

⁷ <http://mneguidelines.oecd.org/OECD-report-15-years-National-Contact-Points.pdf>.

their functions are currently in place. The stocktaking report also notes that many NCP structures include various elements and associated bodies (e.g. NCP Secretariats, advisory bodies, oversight bodies, NCP Committees, NCP President, etc.), whose functions and mandates vary between adhering countries.

The Annual Reports on the OECD Guidelines, based on annual reports from NCPs to the OECD Investment Committee, have generally referred to four main categories of NCP structure⁸:

- “Monoagency”: The NCP is composed of one or more representatives from a single Ministry.
- “Interagency”: The NCP is composed of representatives from two or more Ministries.
- “Tripartite/Quadrupartite”: The NCP is composed of representatives from government, business associations, trade unions (tripartite NCP), and in some countries also NGOs (quadrupartite NCP).
- “Independent agency”: The NCP is composed of independent experts.

As the global NCP mechanism is still fairly young there is currently a lack of research on these different structures and the impacts they can have on the way NCPs make decisions and carry out their mandates.

This report describes how governments have set up their NCP, as part of implementing the Guidelines, and how NCPs operate and make decisions related to the implementation of their mandate. The findings of this work aim to facilitate cooperation among NCPs, and to help stakeholders and the wider public better understand how NCPs work and take decisions.

The report provides an in-depth study of the structure, functioning, and decision-making of NCPs in 15 adhering countries: Canada, Chile, Denmark, France, Germany, Hungary, Japan, Korea, Morocco, Netherlands, New Zealand, Norway, Poland, Sweden, and the United States. After an initial selection, these NCPs volunteered to take part in this exercise. These NCPs were selected to ensure variety of 1) NCP structures as presented in Annual Reports on the OECD Guidelines, 2) experience in handling specific instances, and 3) geographical location. Table 1 lists the 15 NCPs in relation to these criteria.

The methodology of this report included desk research, analysis of publicly available material, including NCP websites and NCP peer review reports, as well as interviews with representatives of selected NCPs⁹. Two NCPs chose to provide answers in writing.¹⁰ In addition, interviews were conducted with four officials of the OECD Secretariat, the chair of the OECD Working Party on Responsible Business Conduct as well as representatives from the institutional stakeholders of the OECD.¹¹ Summaries of the organisational structures of the 15 selected NCPs are set out in Annex I and Annex II.

⁸ Annual Reports on the OECD Guidelines for Multinational Enterprises, OECD (2001-2015), <https://mneguidelines.oecd.org/annualreportsontheguidelines.htm>.

⁹ In total 23 representatives from 15 adhering countries were interviewed between October 2016 and February 2017.

¹⁰ The NCPs from Japan and South Korea.

¹¹ Three institutional stakeholders connected to the OECD Guidelines: the Business and Industry Advisory Committee (BIAC), the Trade Union Advisory Committee (TUAC) (the “advisory bodies”) and OECD Watch, an international network of more than 100 civil society organisations. The OECD Investment Committee and the Working Party on Responsible Business Conduct periodically invite these organisations as well as other international partners to express their views on matters covered by the OECD Guidelines.

Table 1. Factors for selecting 15 NCPs for in-depth study

Country	1. NCP Structure reported in 2016*	2. Number of specific instances 2000-2016**	3. Geographical location
Canada	Interagency	13	North America
Chile	Monoagency	11	South America
Denmark	Independent agency	15	Europe
France	Tripartite	22	Europe
Germany	Interagency	28	Europe
Hungary	Monoagency	1	Europe
Japan	Interagency	4	Asia
Korea	Independent agency	10	Asia
Morocco	Interagency	2	Africa
Netherlands	Independent agency	27	Europe
New Zealand	Monoagency	4	Oceania
Norway	Independent agency	13	Europe
Poland	Monoagency	2	Europe
Sweden	Tripartite	6	Europe
United States	Monoagency	45	North America

Sources: * OECD (2016). *Implementing the OECD Guidelines for Multinational Enterprises: The National Contact Points from 2000 to 2015*. ** Reported in the OECD Specific instance database as of July 2017.

Overview of the report

This report is structured as follows:

- **Chapter 1 (Characterising NCP structures)** focuses on structures of NCPs and analyses their composition (“building blocks” or elements that constitute the selected NCPs). The questions guiding the chapter are: what are the different elements of an NCP, what are their respective roles, and how do the elements relate to each other?
- **Chapter 2 (Decision-making processes in NCPs)** focuses on process and analyses core functioning and decision-making processes of the selected NCPs to fulfil their mandate as set out in the OECD Guidelines. The main questions guiding the chapter are: which types of decisions are made by NCPs and what approaches are used for structuring decision-making?
- **Chapter 3 (Conclusion: key findings)** sums up the main findings of the report.
- **Annexes I and II** include summaries of the structures and decision-making processes of the 15 selected NCPs.

CHAPTER 1

CHARACTERISING NCP STRUCTURES

This chapter analyses the structures of the 15 selected National Contact Points (NCPs)¹. The chapter contains two main sections:

1. Introduction to “national contact points” as a common form of public organisation for implementing international instruments. The section also discusses the historical development of the 15 selected NCPs as well as their current national mandate.
2. NCP composition (membership) and different elements of their structure (decision-making body, secretariat, advisory and oversight body).

1.1 National contact points, historical development and mandate

1.1.1 What is a national contact point?

A “national contact point” is an organisational form used in various intergovernmental instruments. The literature on organisation and management normally defines the term “organisation” as an intentional arrangement for decision-making and collective action². The setting up of an organisation to fulfil policy implementation is seen as an attempt to achieve an effective order that differs from the already existing ones.

The Antarctic Treaty, the United Nations Arms Trade Treaty, and the research and innovation programme Horizon 2020 of the European Union are just a few examples of different instruments that include provisions on national contact points. In essence, this form of policy-related organisation is a national structure financed by member governments and associated with a specific international programme. Individual systems, however, can vary from one country to another, from highly centralised to decentralised bodies, including a number of very different actors, from ministries to universities, special agencies to private companies and in some cases also external interest organisations such as business associations and trade unions.

There is no general need for a domestic legal mandate to establish a national contact point in order to implement an international instrument. Instead, the design and operations of a national contact point will

¹ Important works in literature regarding structural elements of organisation are e.g. Mintzberg, H. (1980). Structure in 5's: A Synthesis of the Research on Organization Design. *Management science*, 26(3), 322-341; Ahrne, G., & Brunsson, N. (2011). Organization outside organizations: The significance of partial organization. *Organization*, 18(1), 83-104.

² Important works in the literature are e.g. March, J.G. & Simon, H. (1958), *Organizations*, New York: John Wiley & Sons; Weick, K.E. (1995). *Sensemaking in organizations*. London: Sage; Brunsson, N., & Sahlin-Andersson, K. (2000). Constructing organizations: The example of public sector reform. *Organization studies*, 21(4), 721-746.

depend on the mandate set out in the relevant international instrument. In this respect national contact points have been characterised as “soft enforcement mechanisms” of various international instruments³. The few sources that have analysed the implementation of international policies view national contact points as governmental bodies without further organisational analysis⁴.

The term “national contact point” implies mainly a national implementation mechanism of an international policy set by a treaty, an international convention or an international standard. Indeed, the organisation has both a national and an international identity. This “double-hatted” nature of the national contact point is typically expressed in the mandate given by the international organisation. The members of a national contact point are expected to be experts of both the international policy and national conditions of implementation. For example, according to the UN Development Programme, with respect to the Programme of Action on Small Arms, national contact points should ideally fulfil all of the following criteria:⁵

- Have extensive knowledge of the international agreement and its relevance within the country.
- Fully understand the role, responsibilities and operations of all relevant domestic stakeholders.
- Have enough seniority within the administration to lead or take part in decision-making processes and to communicate on policy issues.
- Be able to gain and maintain trust and confidence among domestic stakeholders.
- Have the ability to represent the adhering state in intergovernmental meetings.

Additionally a national contact point should cooperate with its respective counterparts in other countries adhering to the treaty, international convention or international standard which created the national contact points. For example, the mission of national contact points on the application of patients’ rights in cross-border healthcare includes collaboration across national borders with other national contact points under the control of the European Commission⁶. This type of “multi-level” and intergovernmental cooperation mechanism has lately gained some attention from scholars of public management. It addresses the “horizontal” dimension of co-operation arrangements and knowledge exchanges between competent authorities across national borders.⁷

³ Goldmann, M. (2009), *The Exercise of Public Authority by International Institutions - Advancing International Institutional Law*, Springer Berlin Heidelberg, pp. 661-711.

⁴ E.g. Baccaro, L., & Mele, V. (2011), “For lack of anything better? International organizations and global corporate codes.”, *Public Administration*, 89(2), 451-470. Moreover, within the research field of public management, national contact points have not gained much attention. A search of the term “national contact points” in *JSTOR*, one of the largest digital libraries of academic journals, books, and primary sources, generates only nine results. None of these have the national contact point as the main analytical object.

⁵ Clapham, A., Casey-Maslen, S., Giacca, G., & Parker, S. (Eds.). (2016). *The Arms Trade Treaty: A Commentary*. Oxford University Press, p. 175.

⁶ Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients’ rights in cross-border healthcare states in Article 6.2 that “National contact points [...] shall cooperate closely with each other and with the Commission.”

⁷ E.g. OECD (2010), “Multi-level Governance: A Conceptual Framework”, in *Cities and Climate Change*; Egeberg, M. (Ed.) (2006), *Multilevel union administration: the transformation of executive politics in Europe*. Springer; Djelic, M-L., & Quack, S. (Eds.) (2010), *Transnational communities: Shaping global economic governance*.

In sum, national contact points are generally characterised as implementation structures of international policy, standards and norms set by various forms of intergovernmental instruments. They have a dual mandate for acting both nationally and internationally to further the implementation of the adopted policy, standards and norms. A national contact point is therefore deemed to have extensive knowledge of the international policy, standards and norms related to it as well as an extensive knowledge of the conditions for supporting implementation domestically.

1.1.2 National Contact Points for the OECD Guidelines for Multinational Enterprises

This section looks into the characteristics of the National Contact Points (NCPs) created under the Guidelines to promote and implement the Guidelines. Adhering countries have flexibility in how they organise their NCPs. The Procedural Guidance to the OECD Guidelines states: "Consistent with the objective of functional equivalence and furthering the effectiveness of the *Guidelines*, adhering countries have flexibility in organising their NCPs, seeking the active support of social partners, including the business community, worker organisations, other non-governmental organisations, and other interested parties."⁸

To ensure that all NCPs operate in a comparable way, the concept of "functional equivalence" is used. The Procedural Guidance notes: "NCPs will operate in accordance with core criteria of visibility, accessibility, transparency and accountability to further the objective of functional equivalence."⁹ The core criteria are further explained in paragraph 9 of the Commentary to the Procedural Guidance. In addition, the Procedural Guidance specifies that "[t]he National Contact Point will contribute to the resolution of issues that arise relating to implementation of the Guidelines in specific instances in a manner that is impartial, predictable, equitable and compatible with the principles and standards of the Guidelines"¹⁰. These four guiding principles for specific instances are further explained in paragraph 22 of the Commentary to the Procedural Guidance.

This study shows that NCPs correspond with the characteristics of the national contact points described above (see 1.1.1) as implementation mechanisms of international standards, through their mandate and through the existence of a network enabling NCP coordination. For example, according to the Decision of the OECD Council on the Guidelines, NCPs handle enquiries and contribute to the resolution of issues that arise relating to the implementation of the Guidelines¹¹. The Procedural Guidance states that NCPs will have institutional arrangements to develop and maintain relations with domestic stakeholders of the Guidelines and other interested parties¹². NCPs also meet regularly to share experiences and they are required to report annually on their activities to the OECD Investment Committee¹³.

Cambridge University Press; Jacobsson, B., Pierre, J., & Sundström, G. (2015), *Governing the embedded state: the organizational dimensions of governance*. Oxford University Press.

⁸ OECD Guidelines for Multinational Enterprises (2011). Section I.A of the Procedural Guidance.

⁹ OECD Guidelines for Multinational Enterprises (2011). Section I of the Procedural Guidance.

¹⁰ OECD Guidelines for Multinational Enterprises (2011). Section C of the Procedural Guidance and paragraph 22 of the Commentary.

¹¹ Decision of the Council on the OECD Guidelines for Multinational Enterprises as amended in 2011, para. I.1, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0307>.

¹² OECD Guidelines for Multinational Enterprises (2011). Procedural Guidance, para I.A.3

¹³ Decision of the Council on the OECD Guidelines for Multinational Enterprises as amended in 2011, para. I.3, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0307>.

OECD National Contact Points before 2000

Although not mentioned in the 1976 Decision of the OECD Council on the Guidelines, NCPs were presented as public bodies for implementing the Guidelines in the 1979 review of the Guidelines (C(79)102/Final). A study on the Guidelines published in 1980 sets out that “governments will establish national contact points for handling inquiries on matters relating to the Guidelines”¹⁴, and that the ministry hosting an NCP shall identify where, within national administrations, Guidelines-related issues shall be sent.

In the 1984 revision of the Guidelines, the OECD Council decided that “Member Governments shall set up National Contact Points for undertaking promotional activities, handling enquiries and for discussions with the parties concerned in all matters related to the Guidelines so that they can contribute to the solution of problems which may arise in this connection.”¹⁵ The 1986 version¹⁶ of the Guidelines includes an annex¹⁷ listing the institutional structure of established NCPs in all OECD countries (except Iceland). The list shows that there were different forms of NCP already at that point in time. Most of the NCPs were hosted by the ministry representing the country in the OECD Committee on International Investment and Multinational Enterprises (CIME), the predecessor to the OECD Investment Committee. Some countries established NCPs composed of representatives from several ministries and parts of government (e.g. the Netherlands). Other NCPs included representatives of business and labour organisations (e.g. the Norwegian NCP).

Besides structure, practices also seem to have varied in the early versions of NCPs. The annex to the 1986 version of the Guidelines concludes that “contact points in some countries have been particularly active in promoting discussion with business and worker organisations, whilst in other countries, contact points have rarely been approached, if at all.”¹⁸

Little comparative analysis of different NCP structures and practices was undertaken before the 2000 review of the Guidelines.

OECD National Contact Points from 2000

Although NCPs have been part of the Guidelines since the 1970s, it was the 2000 review that provided detailed Procedural Guidance on the role and functions of NCPs and gave them a stronger role to address all matters relating to the Guidelines. The 2000 OECD Council Decision on the Declaration on International Investment and Multinational Enterprises contains an obligation for adhering countries to set up an NCP and its 2011 amendment strengthened the mechanism.¹⁹ OECD Council decisions regarding an instrument (i.e. the Guidelines) are legally binding for all OECD countries (as well as for non-OECD countries if they adhere to the instrument) provided they do not abstain at the time these Decisions are

¹⁴ Kauzlarich, R. (1980), “The Review of the 1976 OECD declaration on international investments and multinational enterprises”, *The American University Law Review*, Vol. 30:1009-1029, p. 1020.

¹⁵ The 1984 review of the 1976 Declaration and Decisions.

¹⁶ This version includes the Guidelines as amended in 1984. The purpose of this publication, which is addressed to all those in government, business and workers' organisations with an interest in the Guidelines, is to bring together all the relevant material on the Guidelines with a view to increasing awareness and application of the Guidelines.

¹⁷ OECD (1986), *The OECD Guidelines for Multinational Enterprises*. Annex III, pp. 77ff.

¹⁸ *Ibid.*, pp. 52-53.

¹⁹ Decision of the Council on the OECD Guidelines for Multinational Enterprises, as amended <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0307>.

adopted.²⁰ According to the Procedural Guidance of the Guidelines, the NCP should operate on the basis of four core criteria for functional equivalence: visibility, accessibility, transparency and accountability.²¹ Consistent with the core criteria for functional equivalence, in their activities NCPs should deal with specific instances in a manner that is impartial, predictable, equitable and compatible with the Guidelines.²²

The 2011 amended Decision of the OECD Council specifies that adhering countries shall make available human and financial resources to their NCPs so that they can fulfil their responsibilities. NCPs in different countries shall co-operate if such need arises on any matter related to the Guidelines. The Decision of the OECD Council also states the requirement for all NCPs to regularly meet to share experiences and report annually to the OECD Investment Committee.²³

The Investment Committee periodically reports to the OECD Council on matters covered by the Guidelines. In its reports, the Committee takes account of reports by NCPs, the views expressed by the advisory bodies, and the views of other non-governmental organisations and non-adhering countries as appropriate.²⁴ From 2001 onwards the OECD has published annual reports on the Guidelines.

In 2001, there were 28 adhering countries to the Guidelines. The reporting of these countries between 2001 and 2015 shows that the structures in 16 of these countries (57%) remained the same over these 14 years. The majority of NCP structures were decided at the point of creation of the mechanism with the 2000 revision of the Guidelines, or even before. The Canadian NCP, for instance, was reported as an “Interdepartmental Committee on International Investment Policy, Department of External Affairs”²⁵ as early as 1986. The Government of Canada implemented the 2000 OECD Council Decision on the revision of the OECD Guidelines through an “Order in Council” (which is equivalent to a governmental decree). The Order in Council refers to the structure of the Canadian NCP as a multi-ministerial body. The structure is similarly described in the 2015 Annual Report on the Guidelines²⁶.

Since the revision of the Guidelines in 2000, some NCPs were structured as “independent agencies”. NCPs composed of independent experts and usually benefiting from a supporting secretariat attached to a Ministry are normally categorised as independent NCPs. The 2001 summary report of the Annual meeting of the NCPs does not include any reference to independent NCPs. The 2016 Annual Report on the Guidelines notes four such NCPs (Denmark, Lithuania, Netherlands and Norway). The rationale for establishing independent NCPs may vary from country to country. The restructuring of the Norwegian NCP in 2011 was originally discussed in an official governmental report submitted to the Norwegian parliament in 2009, examining different approaches for incorporating social responsibility into business²⁷.

²⁰ <https://www.oecd.org/legal/legal-instruments.htm>

²¹ OECD (2011). *The OECD Guidelines for Multinational Enterprises*. Procedural Guidance. Section I.

²² OECD Guidelines for Multinational Enterprises (2011). Section I.22 in the Commentary on the Implementation Procedures.

²³ Decision of the Council on the OECD Guidelines for Multinational Enterprises, as amended in 2011, para. I.2-I.4., <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0307>.

²⁴ Decision of the Council on the OECD Guidelines for Multinational Enterprises, as amended in 2011, para. II.7, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0307>.

²⁵ OECD (1986), *The OECD Guidelines for Multinational Enterprises*. OECD Publication, p. 78.

²⁶ OECD (2016), *Annual Report on the OECD Guidelines for Multinational Enterprises 2015*, pp. 129.

²⁷ Ministry of Foreign Affairs of Norway (2009), “Corporate social responsibility in a global economy”, Report No. 10 (2008-2009) to the Storting, www.regjeringen.no/en/dokumenter/report-no.-10-to-the-storting-2008-2009/id542966/.

A key point stressed in this report was that the government was going to provide more resources for the Norwegian NCP and encourage the use of independent advisers and experts²⁸.

1.1.3 Domestic mandate of the 15 NCPs

The OECD Council Decision on the Guidelines requires adhering governments to set up an NCP. The Decision, the Guidelines and the Procedural Guidance set out the mandate of an NCP in each adhering country. In some countries the NCP has been established through domestic mandates with varying degrees of authority (e.g. legislation, government decrees and ministerial decisions). A domestic mandate can increase the legitimacy of the NCP. It can also give a national character to NCP operations, and bring about higher levels of trust inside the government and among key stakeholders. On the other hand, it can cause further structural variation among NCPs across adhering countries, since adhering countries have distinctive legislation and administrative traditions.²⁹

Seven of the 15 selected NCPs were established through a legal, regulatory or administrative instrument (see Table 2). The government of Canada implemented the 2000 OECD Council Decision on the revision of the OECD Guidelines through an “Order in Council” (which is equivalent to a governmental decree), which also set out the structure of the NCP. In Germany, the Federal Ministry for Economic Affairs and Energy adopted an “in-office order” in 2016, changing the German NCP into a separate staff unit within the Directorate-General for External Economic Policy. The Moroccan government set up its NCP in 2010 and adopted in 2014 a Ministerial “circular”³⁰, which restructured the NCP as an inter-ministerial body hosted by the Moroccan Investment Development Agency. The circular describes the new structure and functioning of the NCP.

The NCP of Norway was established by a decree adopted by the Foreign Ministry regulating its composition, administration and budget³¹. The decree was adopted in 2011 (and amended in 2014) based on a white paper on corporate social responsibility³² sent by the government to the Norwegian parliament. The Foreign Ministry in Norway is in the process of updating the ministerial decree. The design and composition of the NCP of the Netherlands is set out in a formal “establishment order” adopted in 2014 by the Minister for Foreign Trade and Development Cooperation³³. Every year the NCP must submit a proposed work plan and budget for the coming year to the Minister and Directorate-General for Foreign Economic Relations for approval. Every four years the Minister for Foreign Trade and Development Cooperation sends a report to the Dutch parliament to assess the functioning of the NCP.

²⁸ Ibid., p. 69.

²⁹ As governments adopt national action plans on business and human rights or on responsible business conduct there is often a reference made to the national contact point.

³⁰ Circulaire du Chef du Gouvernement n°9/2014 of 5 September 2014, www.invest.gov.ma/upload/wysiwyg/files/PRES_%20GOUV_0001.pdf.

³¹ Ministry of Foreign Affairs of Norway, “Norges OECD-kontaktpunkt. Mandat.” Adopted 2011, amended in 2014, www.responsiblebusiness.no/ansvarlignaringsliv-no/files/2015/10/140624-Kontaktpunktets-mandat_med-UD-logo1.pdf.

³² Ministry of Foreign Affairs of Norway (2009), “Corporate social responsibility in a global economy”, Report No. 10 (2008-2009) to the Storting, available online www.regjeringen.no/en/dokumenter/report-no.-10-to-the-storting-2008-2009/id542966/.

³³ Order of the Minister for Foreign Trade and Development Cooperation of 1 July 2014, no. MinBuZa.2014.303289, www.oecdguidelines.nl/binaries/oecd-guidelines/documents/publication/2016/5/17/ncp-establishment-order-2014/2016-instellingsbesluit-en.pdf.

A decree formally establishing the NCP of Hungary was adopted by the government and signed by the Prime Minister of Hungary in 2017.³⁴ The decree sets out the mandate and operational organisation of the NCP and provides an overview of procedural guidance for handling specific instances.

Denmark is the only one of the 15 selected countries that adopted legislation to establish the NCP and regulate its composition and operations³⁵. This makes the NCP a formal statutory body under the law in line with other established public authorities in the country. The legislation, adopted in 2012, provides that the Danish Business Authority will adopt more detailed rules for the appointment of the NCP members³⁶ and activities of the NCP³⁷. As a result, an “executive order” was adopted in 2012. The executive order notes that the NCP can perform an “actual investigation of a case”³⁸ if the parties of the mediation do not manage to reach a solution, and that the NCP can raise cases at its own initiative, without a third party submitting a formal specific instance.

In recent years NCPs have been mentioned in other strategic documents implemented by adhering governments. For example, nine of the 15 adhering countries completed a National Action Plan on Business and Human Rights/RBC (NAP) by the end of 2017. All these NAPs include reference to both the Guidelines and NCP mechanism. Such NAPs could be seen as providing a national mandate for the NCP. The NAP can contribute to the visibility of an NCP, give a national character to NCP operations, and bring about higher levels of trust inside the government and among key stakeholders. Additionally five of the selected NCPs reported NAPs in progress.³⁹ (See Table 3)

Table 2. Domestic mandates of the 15 NCPs

Country	Domestic mandate	Formal name	Available online	Legal/regulatory/administrative instrument
Canada	Yes	2000 Order in Council	Not available online	Decree adopted by government
Chile	No			
Denmark	Yes	2012 Act on a Mediation and Complaints-Handling Institution for Responsible Business Conduct	http://businessconduct.dk/file/298159/act-on-mediation.pdf	Legislation adopted by parliament
France	No			
Germany	Yes	2016 in office order of the Federal Ministry for Economic Affairs and Energy	Not available online	Ministerial decision
Hungary	Yes	Government Decree	https://net.jogtar.hu/jogszabaly?docid=A1700245.KO	Decree adopted by

³⁴ Government Decree 245/2017 (VIII.29.) Korm. on the Promulgation of the Decision of the Council on the OECD Guidelines for Multinational Enterprises [https://one.oecd.org/document/C\(2000\)96/REV1/en/pdf](https://one.oecd.org/document/C(2000)96/REV1/en/pdf), as amended on 25 May 2011 and the Establishment of the Hungarian National Contact Point according to the OECD Guidelines.

³⁵ Act no. 546 of 18/06/2012, <http://businessconduct.dk/file/298159/act-on-mediation.pdf>.

³⁶ Ibid. Part 1, section 1.5.

³⁷ Ibid. Part 2, section 9.

³⁸ Danish Government (2012), “Executive Order on a Mediation and Complaints-Handling Institution for Responsible Business Conduct”, unofficial English version, section 2.2, <http://businessconduct.dk/file/298160/executive-order-on-mediation.pdf>

³⁹ OECD (2017), *Annual Report on the OECD Guidelines for Multinational Enterprises 2016*. p. 21-23.

Country	Domestic mandate	Formal name	Available online	Legal/regulatory/administrative instrument
		245/2017	R×hift=fffff4&txrefere=00000001.TXT.	government
Japan	No			
Korea	No			
Morocco	Yes	2014 Circulaire du Chef du Gouvernement n°9/2014	http://www.invest.gov.ma/upload/wysiwyg/files/PRES_%20GOUV_0001.pdf	Circular adopted by government
Netherlands	Yes	2014 NCP Establishment Order	https://www.oecdguidelines.nl/binaries/oecd-guidelines/documents/publication/2016/5/17/ncp-establishment-order-2014/2016-instellingsbesluit-en.pdf	Decree adopted by government
New Zealand	No			
Norway	Yes	2011 Mandate of Norway's OECD contact point	http://www.responsiblebusiness.no/ansvarlignaringsliv-no/files/2015/10/140624-Kontaktpunktets-mandat_med-UD-logo1.pdf	Decree adopted by government
Poland	No			
Sweden	No			
United States	No			

Table 3. National Action Plans on Business and Human Rights

	Status of NAP	Reference to the Guidelines	Reference to NCPs
Canada			
Chile	Completed 2017	Yes	Yes
Denmark	Completed 2014	Yes	Yes
France	Completed 2017	Yes	Yes
Germany	Completed 2016	Yes	Yes
Hungary	In progress	n/a	n/a
Japan	In progress	n/a	n/a
Korea	In progress	n/a	n/a
Morocco	In progress	n/a	n/a
Netherlands	Completed 2013	Yes	Yes
New Zealand			
Norway	Completed 2015	Yes	Yes
Poland	Completed 2017	Yes	Yes
Sweden	Completed 2015	Yes	Yes
United States	Completed 2016	Yes	Yes
Summary	9 NAPs completed and 4 in progress	The 9 completed NAPs make reference to the Guidelines	The 9 completed NAPs make reference to the NCP

1.2 Elements of the NCPs: structure and roles

The Procedural Guidance of the Guidelines states that adhering countries “can use different forms of organisation”⁴⁰, and provides some examples: the NCP “may be a senior government official or a government office headed by a senior official”, or “an interagency group, or one that contains independent experts”. In addition, representatives “of the business community, worker organisations and other non-governmental organisations may also be included.”⁴¹

The 15 selected NCPs are all structured differently: five have non-governmental representatives as members (2 tripartite and 3 expert-based NCPs) and 11 have only government representatives as members either from one ministry, several ministries or public agencies. This section explores how the key “building-blocks” or elements of the 15 selected NCPs are structured and the different roles of these elements. Four elements of the NCPs are included in this analysis:

1. **NCP decision-making body composition and functioning:** NCPs make different forms of decisions regarding promotion and the handling of specific instances. The function of decision-making may be assigned to different entities in an NCP.
2. **NCP secretariat, office or other administrative body:** NCPs also have to co-ordinate operations, handle specific instances and report on NCP decisions and results. The NCP secretariat can be defined as the body in charge of NCP administration.
3. **NCP advisory body:** The Commentary on the Implementation Procedures of the Guidelines (the Commentary) states that NCPs can also establish multi-stakeholder advisory and oversight bodies to assist NCPs in their tasks (Para. 11). The advisory body can advise the NCP on how to resolve issues and make NCP decisions.
4. **NCP oversight body:** The oversight body has the role of ensuring that the NCP follows its own rules.

Table 3 sets out an overview of the presence of the four elements in the 15 selected NCPs. Each element is then analysed in-depth.

⁴⁰ OECD (2011), *OECD Guidelines for Multinational Enterprises*, para. I.A.2.

⁴¹ Ibid.

Table 4. Elements of NCPs

Country	NCP decision-making body			NCP secretariat, office or other administrative body ⁴²	NCP advisory body
	<i>Individual</i>	<i>Collegial body</i>	<i>With non-governmental representatives</i>		
Canada		✓		✓	
Chile	✓			✓	✓
Denmark		✓	✓	✓	
France		✓	✓	✓	
Germany		✓			✓
Hungary	✓				
Japan		✓			✓
Korea		✓		✓	
Morocco		✓		✓	
Netherlands		✓	✓	✓	✓
New Zealand	✓				✓
Norway		✓	✓	✓	
Poland	✓				✓
Sweden		✓	✓		
United States	✓			✓	✓

1.2.1 NCP decision-making body

To fulfil their role NCPs have to take a number of decisions and carry out various functions, for example promotion of the Guidelines, engagement with stakeholders and handling of specific instances. There is a spectrum of decision-making bodies in the 15 NCPs. In five of the 15 NCPs decisions are taken by a senior official: Chile, Hungary, New Zealand, Poland and the United States.

This role as NCP decision-maker can also be combined with other governmental duties. In Chile, the NCP is also head of Chile's formal "OECD unit", in charge of coordinating several inter-ministerial groups to manage Chile's input and positions in several OECD committees and working groups. In New Zealand the NCP representative is a designated senior official who conducts NCP duties as part of a broader range of responsibilities within the Ministry of Business, Innovation and Employment. In the United States, a senior US government official has been designated the NCP role together with other governmental duties. The individual also oversees the office of the NCP.

In the remaining ten NCPs, decisions are made by a collegial decision-making body composed of a group of individuals (officials from different ministries or experts) or a group of different organisations (ministries, trade unions and business associations). This form of collegial decision-making body can

⁴² NCPs without a distinct office or secretariat function still perform such duties in order to ensure good functioning of the NCP.

include members bringing partly overlapping and complementary competences and interests. Decision-making in these ten NCPs is by consensus or majority. There are three main types of such decision-making body, set out in Table 5.

Table 5. Three forms of collegial decision-making body

Form of decision-making body	
1. Decision-making body composed of several government representatives (from more than one ministry/part of government)	Canada
	Germany
	Japan
	Korea
	Morocco
2. Decision-making body composed of non-governmental experts	Denmark
	Netherlands
	Norway
3. Decision-making body composed of representatives from government and non-governmental organisations (trade unions and business associations) ("tripartite")	France
	Sweden

Decision-making bodies composed of representatives from more than one ministry or part of government are established in five of the 15 NCPs. This composition can increase access to the expertise of the government as a whole. The decision-making body also has more direct access to experts from more distanced authorities located in different departments. The number of ministries involved can vary. Seven federal departments are represented on the Canadian NCP, each of which reflects a specific subject area of expertise (e.g. environment, labour, natural resources, indigenous people). The NCP of Germany is located in the Federal Ministry for Economic Affairs and Energy and coordinates all decisions with an inter-ministerial steering group that consists of representatives from seven federal ministries. The Japanese NCP consists of representatives from three different ministries, and the NCP of Korea consists of eight "Commissioners" from different ministries and external public institutions.

The NCP in Morocco consists of members from seven ministries, three public institutions representing competition, corruption and human rights as well as the Moroccan Investment Development Agency, which acts as the chair and the secretariat of the NCP. Each member of the Moroccan NCP provides expertise and technical information and participates in decisions regarding specific instances. The NCPs of France and Sweden also include several ministries as well as having trade unions and business associations as members.

Three of the 15 selected NCPs have a decision-making body composed of non-governmental experts. The structure of such a decision-making body at "arm's length" of the government can be useful in building trust and credibility with key stakeholders. The NCP of Norway, for example, has a four-person "Expert Panel" for decision-making. The members of the panel are appointed by the government based on nominations from one trade union confederation, one business federation, and a forum of NGOs on behalf of civil society. The appointed members are required to act independently from the nominating organisations. The NCP of Denmark has a similar decision-making structure to that of Norway, with a body comprising five members: a chair, an expert member, and three members appointed on the basis of recommendations from a business confederation, a trade union confederation and a network of NGOs.

In the Netherlands, the 2014 establishment order specifies that the NCP consists of non-governmental members who “must offer their knowledge and experience in a personal capacity and must not act as representatives of any specific interest group.”⁴³ The government nominates the NCP members after consulting other relevant ministries and representatives from business and civil society. The Dutch NCP also has four (governmental) advisory members, who act on behalf of other ministries. The Dutch NCP makes decisions in meetings where both the independent NCP members and the governmental advisory members are present. Although the independent NCP members are formally appointed as decision makers, the NCP has adopted a consensus-oriented decision-making structure which also includes the advisory members from government. This decision-making body can therefore be analysed as a combination of external experts and representatives from different parts of government (see Table 4). Officially, the Dutch NCP decision-making body consists only of the independent members. The external members are advisory members and their advice is not binding.

Two of the 15 selected NCPs (Sweden and France) have a decision-making body based upon a tripartite composition of representatives from the government, trade unions and business associations. This type of membership reflects the tripartite setting for social dialogue used by the International Labour Organization. The NCP of Sweden is hosted in the department for promotion, trade and CSR of the Ministry for Foreign Affairs. The NCP consists of five trade union federations, two business associations, and the government represented by a senior official of the hosting ministry who also chairs meetings.

Being tripartite, the NCP of France consists of three groups (“collèges”) of member organisations: one business association, six trade unions and four different ministries⁴⁴ (which can consist of 6 to 8 services). Each member organisation and government administration is responsible for appointing one representative and one alternate. The French NCP therefore consists of approximately 22 individual members representing these groups, plus one Chair and a Secretary General who are both senior officials of the Directorate-General of the Treasury of the Ministry for the Economy and Finance. According to the rules of procedure (“NCP bylaw”), decisions of the French NCP are adopted by consensus amongst its members. Failing such consensus, the decision reverts to the Chair for final consideration and will be explained in the final statement⁴⁵. The French NCP has reached consensus in most instances with a few exceptions. In such cases the official communication explicitly states the diversity of opinions.

In both France and Sweden the member organisations have devoted resources to organise their own events and publish reports of NCP work and implementation of the Guidelines.

Members of the tripartite NCPs act on behalf of their organisations. While members commit to not share information on specific instances with their own organisations, they may have to report back and forth with their own organisations to prepare the position to be taken at the NCP. But it is not systematically the case as several members of tripartite NCPs work independently.

In sum, the analysis of decision-making elements in 15 of the established NCP indicates a large variety. A more detailed account of the different decision-making procedures is presented in Chapter 2 of the report.

⁴³ Netherlands Government (2014), “Order of the Minister for Foreign Trade and Development Cooperation of 1 July 2014, no. MinBuZa.2014.303289”.

⁴⁴ Ministry for the economy and finance; Ministry for labour and employment; Ministry for foreign affairs; Ministry for the environment.

⁴⁵ French government (2014), “NCP bylaw”, www.tresor.economie.gouv.fr/File/404282

Box 1. NCP decision-making bodies

- NCPs have adopted different structures which are directly reflected in the decision-making processes.
- NCP decisions are made by a senior official in five of the 15 NCPs.
- Ten NCPs have collegial decision-making bodies with consensus-based or majority-based decision-making made up of:
 - representatives from several ministries or different parts of government, or
 - nominated experts that act and make decisions independently, or
 - representatives from external organisations (trade unions and business associations) and different parts of government, reflecting a tripartite structure.

1.2.2 NCP secretariat, office or other administrative body

While all NCPs perform secretariat functions in some way, nine of the 15 selected NCPs have specifically created some sort of formal NCP office responsible for NCP administration. The remaining NCPs have integrated the secretariat functions and duties into already existing activities. The term “secretariat” is used in most cases to designate this office, although the term is not mentioned in the Guidelines. In OECD Annual Reports on the Guidelines over the last five years, the term has been used with reference to NCP structures in Canada⁴⁶, France⁴⁷, Netherlands⁴⁸, and Norway⁴⁹, without any definition attached. Not all of the nine NCPs use the term “secretariat” in official reporting, however. For example, the NCP of the United States is structured with an “NCP Office” with administrative functions. The Chilean government has assigned the role of “Executive secretary” to an official of the ministry that hosts the NCP.

None of the secretariats of the NCPs in the study have a mandate to fulfil the role of the NCP alone. Rather secretariats are an NCP element that supports operations of the decision-making body. Administrative NCP units can help improve institutional and organisational memory of operations by recording and sorting decisions and operational results. In this way permanent administrative bodies can help increase the degree of structure, predictability and visibility of the NCP. Staff of the NCP secretariat can also help maintain stability and continuity of case management and operations during periods of organisational change.

Six of the nine NCP secretariats in the study are hosted by one ministry. In the other three NCPs the secretariats are located in established public authorities which have a wider regulatory mandate. In Korea the government has outsourced the NCP secretariat to the Korean Commercial Arbitration Board, an independent arbitration institution made up of experts in commercial arbitration and mediation. Here the NCP secretariat is responsible for handling general enquiries relative to the Guidelines, conducting preliminary investigations for mediation/arbitration of specific instances as well as for reporting to the NCP Commissioners and to the OECD on the NCP’s operations and decisions.

In Morocco, the Moroccan Investment Development Agency acts as the secretariat of the NCP. The secretariat is responsible for preparing the annual promotion and communication plan for the Guidelines, annual reporting of activities and meetings of the NCP. The secretariat also receives specific instances,

⁴⁶ OECD (2012), Annual Report on the OECD Guidelines for Multinational Enterprises 2011, p. 62.

⁴⁷ OECD (2016), Annual Report on the OECD Guidelines for Multinational Enterprises 2015, p. 68.

⁴⁸ OECD (2012), Annual Report on the OECD Guidelines for Multinational Enterprises 2011, p. 303.

⁴⁹ OECD (2013), Annual report on the OECD Guidelines for Multinational Enterprises 2012, p. 79-80.

prepares the initial assessment, provides a draft of the statement/report and submits it for discussion and approval by the other NCP members. In Denmark, the Danish Business Authority hosts the NCP secretariat. All NCP decisions are prepared by the secretariat before being discussed and adopted by NCP members.

Not all of the 15 selected NCPs are structured with a formal NCP secretariat or other administrative body. In these NCPs, the administration is integrated into existing ministerial units. In Hungary, for example, the NCP administration is part of a ministerial unit with a wider scope of activities. In Germany the NCP used to be part of a division of the Federal Ministry for Economic Affairs and Energy but was changed into a separate staff unit in 2016.

1.2.3 NCP advisory and oversight bodies

The Commentary to the Procedural Guidance states that NCPs “can also establish multi-stakeholder advisory or oversight bodies to assist NCPs in their tasks.”⁵⁰ The Guidelines however do not further define these two bodies. For the purpose of this report advisory bodies are categorised as NCP elements for reaching recommendations on how to make decisions and resolve issues, while oversight bodies have a control function. In this sense and provided their mandate allows for this, advisory bodies can influence decisions before they are made, whereas oversight bodies evaluate and confirm NCP operations to ensure that the NCP follows its own rules. The oversight body has the role of ensuring that the NCP follows its own rules. Softer practices of oversight exist with regular meetings with stakeholders.

Types of advisory body

Seven of the 15 NCPs have a formal advisory body. These advisory bodies fall into two main categories: 1) bodies that are composed of members representing different parts of government and 2) bodies that represent external interests and organisations here categorised as “external stakeholders”. In some of the selected NCPs these two forms of advisory body are combined or closely interlinked. In other NCPs they are separate and have different tasks. Some of the NCPs that do not have an advisory body have included various stakeholders and governmental officials as members of the NCP, notably the two tripartite NCPs. An overview is provided in Table 6.

⁵⁰ Paragraph I.11.

Table 6. Advisory bodies in selected NCPs

	Advisory body with governmental officials	Advisory body with external stakeholders (chaired by the NCP)	Advisory body with both government officials and stakeholders	No advisory body
Canada				✓
Chile	✓	✓		
Denmark				✓*
France				✓*
Germany			✓	
Hungary				✓
Japan			✓	
Korea				✓
Morocco				✓
Netherlands	✓	✓		
New Zealand			✓	
Norway				✓*
Poland			✓	
Sweden				✓*
United States	✓	✓		

* Various stakeholders and governmental officials are included as members of the NCP.

Four of the 15 NCPs have advisory bodies with both government officials and external stakeholders as members. These advisory bodies are often used for informing members on events and decisions made by the NCPs, as well as notifying of strategies for future promotional activities. In New Zealand, for example, the NCP has a “joint advisory liaison group”. It is made up of representatives from organisations including trade unions and employer organisations, as well as from relevant government departments. The members of the group are consulted on general matters relevant to the NCP and notified when specific instances have been submitted or accepted for further examination. The NCP has previously sought comments on specific instances from members of the advisory body where the subject matter of those cases fell within portfolios not covered by the NCP’s home ministry, but more recently this has not occurred due to the number and nature of specific instances received. Currently the advisory body convenes annually and “acts as an informal check and balance, as well as enabling a broader range of experiences and perspectives”, according to a representative of the NCP.

The advisory body in the German NCP is a “Working Group” with both ministry representatives and external stakeholders. The Working Group provides a forum for discussions about current issues related to the Guidelines. The members of the Working Group are consulted on all general matters relevant to the NCP and notified whenever a specific instance has been submitted or accepted for further examination.

The Ministry of Economic Development in Poland has a Corporate Social Responsibility (CSR) Advisory Board. The task of the CSR board is to advise the ministry in general and not only regarding NCP issues. It consists of members from public institutions, trade unions, business associations, NGOs, academia, and governmental ministries. The CSR board meets four times a year, and information from the NCP is on the agenda at each meeting. Members of the CSR board can give comments on the NCP action plan and promotional strategies. Specific instances are not discussed in the CSR board. According to representatives

from the Polish NCP the CSR board provides a forum for discussions on general issues related to the NCP as well as the Guidelines.

The advisory body for the NCP of Japan is called the “NCP Committee”. It includes representatives of three different ministries, the Japanese Business Federation “Keidanren” and the Trade Union Confederation “Rengo”. The NCP Committee meets regularly to share information about OECD meetings and the specific instances the Japanese NCP is dealing with⁵¹.

The Chilean NCP has two advisory bodies: one civil society committee and one governmental committee. The civil society committee includes representatives from major business associations, trade unions and NGOs, the Chilean Human Rights Institute (which is an independent public organisation) as well as CSR experts from various Chilean universities. According to a representative from the Chilean NCP this advisory group is mainly used to promote the Guidelines.

The NCP of the United States also has two different advisory bodies. The US Interagency Working Group (IWG) is an intergovernmental body made up of representatives from several governmental agencies and occasionally officers at US missions abroad brought in for their respective country expertise. Some of the IWG members have other OECD commitments such as serving as delegates to other OECD bodies. The Stakeholder Advisory Board (SAB) was established in 2012 and has the objectives of advising on promoting and facilitating the implementation of the Guidelines and encouraging the use of the NCP specific instance process as a means to resolve disputes and promote responsible business conduct. The SAB consists of representatives from companies, labour organisations, academia and civil society organisations.

Both advisory bodies of the NCP of the United States are consulted separately approximately four times per year. Only the IWG, however, provides input on specific instances handled by the NCP. According to the US NCP Guide for the handling of specific instances, the US NCP consults with the IWG to see if the issue raised is pending in any other proceeding involving the government, and “to solicit questions and reactions to the Specific Instance.”⁵²

The NCP of the Netherlands has four (governmental) advisory members, who act on behalf of different ministries. These advisory members participate in the monthly NCP meeting (together with the independent NCP members) to discuss strategies and specific instances. The advisory members of the Dutch NCP are in this respect very involved in NCP decisions on both promotion and specific instances. The NCP of the Netherlands has also another advisory body called “NCP plus”, made up of external stakeholders from business associations, trade unions and NGOs. The NCP plus meets once every three months.

The NCP of Canada does not have an advisory body. Instead it has three official non-governmental “social partners”: the Canadian Chamber of Commerce, the Canadian Labour Congress and the Confédération des syndicats nationaux. These social partners are informed of NCP activities and share their views with the NCP. The NCP consults with its social partners for their advice and expertise in advancing promotional outreach, as well as on NCP procedures and processes related to the handling of specific instances as appropriate (e.g. when the NCP contemplates an update to such procedures as part of a review process).

⁵¹ Information on specific instances is shared in general terms and the names of the parties are not provided.

⁵² US Government (2016), “The USNCP Specific Instance Process Flowcharts”, p.3, www.state.gov/documents/organization/249397.pdf

The examination of the established advisory bodies in the 15 selected NCPs indicates that those made up of external stakeholders are mainly involved in promotional strategies. Whereas advisory bodies made up of governmental representatives (only or in addition to external stakeholders) normally have a consultative role with more direct influence over the NCP handling of specific instances.

Types of oversight body

The Hungarian NCP is the only one of the 15 selected NCPs that has reported having an oversight body with the responsibility of overseeing the effectiveness of NCP operations. However this body oversees all activities of the Hungarian government related to the OECD, not only NCP operations.

For most of the 15 NCPs there are also “softer” approaches to oversight, for example through periodic meetings with government representatives and stakeholders. At such meetings, the NCP presents results of operations as well as strategies for future activities. Arranging annual meetings with either representatives from different parts of government or with external stakeholders of the NCP is one method to open up the NCP organisation for “informal” review and promotion. Many of the 15 NCPs with an advisory body also use this form of open hearing. The participants of the meetings have the possibility to raise concerns. For example, the French NCP organises an Annual Information Meeting, as set out in its bylaw, to present its activities and have an open dialogue with its stakeholders (government, public agencies, private sector, non-governmental organisations, corporate social responsibility associations, experts, academics, international organisations, etc.).

CHAPTER 2

DECISION-MAKING PROCESSES IN NCPS

The previous chapter examined structural elements in the 15 NCPs. This chapter looks more closely at established decision-making processes in the NCPs. The NCP mandate set out by the Guidelines involves a number of decisions to be made within NCPs. Both strategic goals and operational methods for promoting the Guidelines need to be decided or agreed upon. The handling of specific instances also requires decisions, for example regarding initial assessments to determine if the issues raised merit further examination. To contribute to a better understanding of decision-making processes in NCPs, this chapter is made up of two sections as follows:

- 1) Different types of decisions made to fulfil the NCP mandate, and
- 2) Description and analysis of the four main decision orders in the 15 NCPs.

2.1 Types of decisions made

For the purpose of this analysis three types of decisions made to fulfil the NCP's dual mandate of promoting the Guidelines and responding to issues through handling specific instances are considered: 1) decisions on promotional strategies, 2) decisions on rules of procedure for handling specific instances, and 3) decisions of the NCP on specific instances. Not all adhering countries structure their NCPs with the capacity to make all these decisions. However, in order to give a general account of decisions being made across NCPs, all three types of decisions are discussed below.

2.1.1 Decisions on promotional strategy

Ten of the 15 NCPs adopted promotional plans for the year 2017. The NCP secretariat, office or other administrative body often has an important role in planning the promotion of the Guidelines. In Morocco, for instance, the secretariat prepares the annual action and promotional plan and discusses it with the other NCP members. All decisions regarding action and promotional plans are prepared by the secretariat and submitted for discussion and approval by the other ten members of the NCP, who represent different ministries and public institutions. In Germany, the NCP is located in the Federal Ministry for Economic Affairs and Energy. The officials working on NCP matters in the ministry are involved in preparing all core NCP strategies and decisions to be adopted in an inter-ministerial steering group composed of seven ministries. This means that formal decisions on promotional strategies, initial assessments and final statements for specific instances, as well as on rules of procedure are made in this inter-ministerial group which meets at least twice a year. In between those meetings the NCP prepares materials to support the decisions to be made.

Sometimes promotional decisions are made by the NCP secretariat without the involvement of the decision-making body. In Korea, the NCP secretariat located in the Korean Commercial Arbitration Board is responsible for general matters of promotion of the Guidelines.

In Sweden, the NCP is made up of representatives of seven member organisations (5 trade unions and 2 business associations) and the government, represented by a senior official of the Ministry for Foreign

Affairs who also chairs the NCP meetings. The Swedish NCP did not adopt a promotional plan for 2017. NCP meetings however include discussions regarding promotional activities conducted by the Ministry for Foreign Affairs as well as the external member organisations. The decisions regarding promotion are not made in the NCP as such, but instead individually by the government and member organisations. In France, the NCP promotional strategy is adopted by the tripartite NCP.

2.1.2 Decisions on rules of procedure for handling specific instances

This section focuses on how rules of procedure are developed by the 15 NCPs and on their content. It is important to underline that the Guidelines include Procedural Guidance for NCPs which set out how to deal with specific instances.

All 15 NCPs except the NCP of Sweden have adopted public rules of procedure which set out the process for the handling of specific instances. The Danish NCP draws its domestic mandate from a law adopted in parliament (see 1.3 above). The legislation includes detailed specifications on how the NCP should handle specific instances. The NCP is for example required to conduct an assessment of a specific instance when the parties do not succeed in finding a solution themselves¹. Moreover, there are specifications on the structure and location of the NCP meetings, as well as rules for assessing “legal disqualification”² of NCP members in cases of impartiality. The Danish NCP has also adopted rules of procedure for handling specific instances³ based on the legislation. It includes an indicative timeframe for the different steps of the process (e.g. initial assessment, mediation and final assessment). Any changes to the rules of procedure must be approved by a majority of the members, including the member chairing the NCP⁴.

Rules of procedure may include details on the objectives of NCPs, the scope of their mandate and the process they follow. They can also include process flowcharts setting out steps of the specific instance handling. In addition, rules of procedure can include follow-up and other monitoring activities. Some NCP rules of procedure include rules around confidentiality during the mediation process. The German NCP for example adopted rules of procedure emphasising that both parties during mediation must demonstrate “goodwill” and “uphold confidentiality and refrain from campaigning against the other party and/or using the media for any such purpose.”⁵

The French NCP’s rules of procedure are called the “NCP bylaw”⁶ (“règlement intérieur”), available on the NCP website in French and English. These rules of procedure were developed and adopted by the NCP (i.e. by all NCP members) and refer explicitly to the Guidelines and the Procedural Guidance. The bylaw

¹ Danish Act no. 546 of 18/06/2012, section 7.2 (non-official English version), <http://businessconduct.dk/file/298159/act-on-mediation.pdf>

² The Mediation and Complaints-Handling Institution for Responsible Business Conduct (2012), “Rules of Procedure”, November 2012, para. 6.3 states that a member may not take part in the consideration of a specific instances “if there are concrete circumstances that may be of a nature that can give rise to doubt concerning the impartiality of the person concerned.”

³ The Mediation and Complaints-Handling Institution for Responsible Business Conduct (2012), “Rules of Procedure”, November 2012.

⁴ Ibid. p. 5.

⁵ German Federal Ministry for Economic Affairs and Energy (2017), “Procedural Notes for Specific Instances (“Complaints”) of the German National Contact Point for the OECD Guidelines for Multinational Enterprises, www.bmwi.de/Redaktion/EN/Downloads/oeacd-procedural-notes-for-specific-instances-complaints.pdf?__blob=publicationFile&v=1

⁶ <https://www.tresor.economie.gouv.fr/File/404282>

covers specific instance procedures (criteria, steps, timelines, content of the statements, communication, confidentiality, and the possibility to make recommendations, determinations and possible follow up on specific instances) as well as organisational structures. The bylaw has no formal legal status, but provides guidance for NCP members, parties to a specific instance and external stakeholders on NCP activities. In addition it works as a detailed reference instrument for the NCP when responding to questions and issues and when handling specific instances. The Japanese NCP, composed of three ministries, developed and adopted the procedural rules jointly across the three ministries.

NCP rules of procedure can also include criteria for decision-making, to clarify expectations of all parties involved in specific instances. The US NCP, for instance, has adopted procedures that set out the criteria for accepting specific instances⁷. The rules of procedure note that the NCP should draw on four sources of information: the submitter, the company, the inter-ministerial working group of the NCP, and other relevant NCPs in the home/host countries.

In 2016 the Polish NCP was reallocated to the Ministry of Economic Development and its CSR and Stakeholder Cooperation unit (the NCP was previously based in the Polish Investment Promotion Agency). One of the first tasks of the NCP was to update and revise its rules of procedure. These are currently structured as Frequently Asked Questions (FAQs) and were developed by the head of the NCP, a government official⁸.

The Dutch NCP has adopted rules which make recommendations a core activity of the NCP. The 2014 Establishment order notes that the NCP “serves to clarify and interpret the Guidelines for a particular situation or sector and is intended to provide recommendations to prevent abuses in the future.”⁹ Hence the NCP can issue recommendations not only for individual companies as parties of a specific instance, but for all companies in specific sectors. The NCP of the United States has adopted procedural guidance stating that the final statement could also include any recommendation on the implementation of the Guidelines the NCP may consider appropriate.

2.1.3 Decisions of the NCP when handling specific instances

The specific instance mechanism has been part of the Guidelines since the 2000 review. Once a specific instance has been submitted, there are potentially four steps which follow, all of which include NCP decisions:

- **Initial assessment:** to determine if the issues raised merit further examination and meet the criteria as set out in the procedural guidance. If the criteria set out in the procedural guidance are met, the Commentary to the Guidelines specifies that “the NCP would discuss the issue further with parties involved and offer ‘good offices’ in an effort to contribute informally to the resolution of issues”¹⁰. NCPs can also issue a statement based on the initial assessment.

⁷ "A Guide to the U.S. National Contact Point for the OECD Guidelines for Multinational Enterprises" www.state.gov/documents/organization/273797.pdf.

⁸ Polish government (2017), “FAQ concerning OECD Guidelines and NCPs”, www.mr.gov.pl/media/28828/FAQ_10112016.pdf.

⁹ Netherlands Government (2014), “Order of the Minister for Foreign Trade and Development Cooperation of 1 July 2014, no. MinBuZa.2014.303289”, p.5.

¹⁰ Para. 28.

- **Offer of good offices to examine the issues raised:** to facilitate access to consensual and non-adversarial dialogue to assist parties in reaching a mutual agreement on the resolution of the issues raised. Good offices can also include mediation, conducted either by the NCP or by professional mediators.
- **Conclusion:** to issue final statements or reports, including recommendations to the parties. At the point of closure of a specific instance, if the parties have reached an agreement, the NCP will make the results publically available.¹¹ If the parties have failed to reach an agreement, the NCP will issue a statement and make recommendations as appropriate¹². In addition, if the NCP makes recommendations, the Commentary notes the NCP can follow-up on its recommendation within the timeframe indicated in the final statement.¹³
- **Follow-up:** to determine if the NCP recommendations were followed. The NCP can issue a statement based on the follow-up conducted.

The legislation in Denmark regulating the NCP sets out an additional preliminary step, namely to offer the parties the opportunity to resolve the issue between themselves without NCP involvement. If the parties accept this alternative they are given two months to reach an agreement. If an agreement is reached, the NCP checks that it is in line with the Guidelines. If the parties do not reach agreement, the NCP will commence an initial assessment.

NCP secretariats or offices can fill a central role in the initial assessment phase. In Korea, for example, the government outsourced the NCP secretariat services to the Korean Commercial Arbitration Board, an independent arbitration institution made of experts in commercial arbitration and mediation, and this body is in charge of the preliminary investigation and decisions on initial assessments.

Some NCPs have decided to involve professional mediators in some of their mediations once the parties have agreed to enter mediation. Six of the 15 selected NCPs (Canada, Denmark, Korea, Netherlands, Norway and United States) have contracted professional mediators at least once.

The NCP of the United States has engaged mediators from the quasi-governmental agency FMCS (Federal Mediation and Conciliation Service), specialised in the handling of labour disputes. The NCP has a “memorandum of understanding” with the FMCS and has also trained multiple FMCS staff on the Guidelines. The NCP normally participates in the mediation to observe and clarify polices, as well as to provide substance for any NCP decisions that need to be made during mediation.

The Executive order of the NCP of Denmark sets out that the Chairman of the NCP shall, as far as possible, have mediation experience and “personal integrity”¹⁴. During some of its mediation processes the Chair has requested an external professional mediator to assist.

¹¹ Para. 34

¹² Ibid., para. 36.

¹³ OECD (2011), “Commentary on the Implementation Procedures of the OECD Guidelines for Multinational Enterprises”, in *OECD Guidelines for Multinational Enterprises*, para 36.

¹⁴ Danish Government (2012), “Executive Order on a Mediation and Complaints-Handling Institution for Responsible Business Conduct”, unofficial English version, section 2.2, <http://businessconduct.dk/file/298160/executive-order-on-mediation.pdf>

The Dutch NCP regularly chooses to use two of the expert NCP members to mediate in specific instances. In 2016, the Dutch NCP used an external mediator for the first time to handle a case. The company in this case requested a mediator who was familiar with the local context.

2.2 The four main decision orders

This section examines the involvement of individuals and organisations in NCP decision-making. Compared to the discussion in section 2.1 of Chapter 1 above this section focuses on procedures of decision-making. For the purpose of the analysis, four types of decision orders¹⁵ are considered:

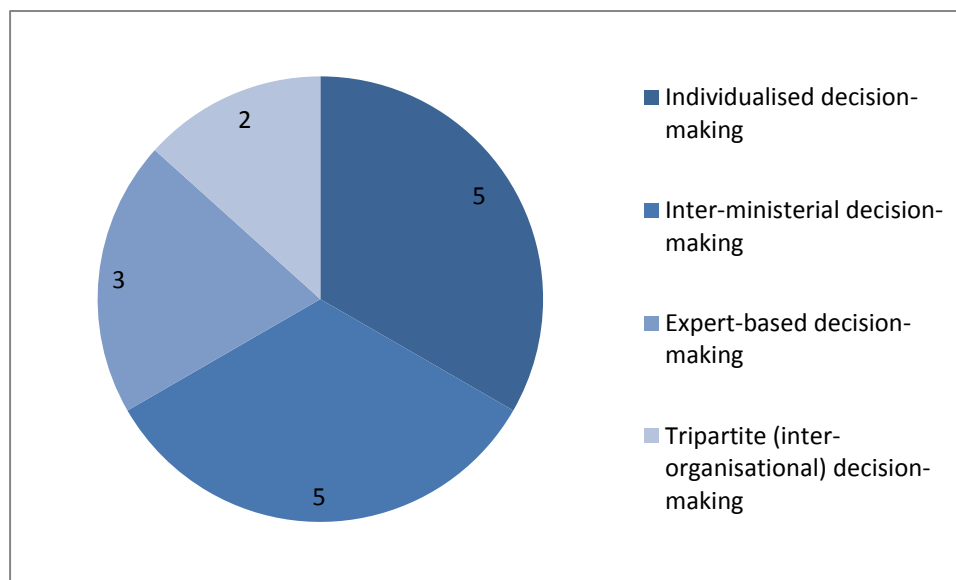
1. **Individualised decision-making:** the role of making decisions is assigned to a person or formal position.
2. **Inter-ministerial decision-making:** the role of making decisions is assigned to a body consisting of representatives from several ministries.
3. **Expert-based decision-making:** the role of making decisions is assigned to experts independent of government and stakeholder preferences.
4. **Tripartite (seen as inter-organisational) decision-making:** the role of making decisions is assigned to representatives from ministries and external organisations

Expert-based (independent) NCPs and those that are structured as tripartite bodies (inter-organisational) have one main aspect in common. They have integrated external, diverse and potentially contrasting interests as elements of the NCP decision-making body. There is however one fundamental difference between the expert-based NCP and all other forms of NCP organisation. Expert-based NCPs consist of members who make decisions as individuals and are not required to follow stakeholder preferences. All other NCPs are composed of representatives of one or more different ministries and external stakeholders. Such representatives may be required to represent the position of their respective organisations.

¹⁵ Decision order is commonly defined as predetermined structures in organisations of who participates and gets priority in decision-making processes, see March, J.G. & Simon, H. (1958), *Organizations*, New York: John Wiley & Sons.

Figure 1 outlines how the 15 NCPs use the different decision orders.

Figure 1. Main decision orders in the 15 NCPs



2.2.1 Individualised decision-making

Five of the 15 adhering countries have chosen to designate a senior official as the NCP (see Figure 1). These individuals are in charge of the decisions that are made in the NCP. The role includes analysing the various alternatives as well as justifying the decision made.

Individualised decision-making can be associated with a high degree of responsibility in the NCP. In the United States, the NCP is a role designated to a senior U.S. government official in the Department of State. Between 2000 and 2011, the NCP role was assigned to a director at the State Department and carried out on a part-time basis. With the objective of increasing impartiality and ensuring institutional memory, the NCP was reformed into a full-time civil service position with the capacity to make independent decisions. NCP decisions on promotional plans, rules of procedure and specific instances are made by the designated official. Both of the NCP advisory bodies to the US NCP are advisory and consultative. The NCP official signs NCP final statements under her own name to symbolise independence.

In Chile and Poland the responsibility for making NCP decisions is assigned to a senior official who has a complementary role as the director of a larger ministry unit. In New Zealand, the NCP is also structured as a function for a ministry official. The NCP official belongs to the Ministry of Business, Innovation and Employment. The appointment of the NCP is not based on any formal governmental decision. Rather the function is seen as administrative in the sense that it is based on political decisions made by the government when adhering to the OECD Investment Declaration. The NCP in New Zealand seeks approval from the ministry for funds for promotional activities. According to the rules of procedure for handling specific instances, the official submits all initial assessments for internal review to colleagues in the ministry. The senior official has the authority to make administrative decisions. Decisions regarding organisational structure and rules of procedure are, on the other hand, made by other more senior officials.

Box 2. Five NCPs with individualised decision-making

Chile: The NCP is a senior official in the Ministry for Foreign Affairs, who also heads the country's formal OECD unit.

Hungary: The NCP is hosted by the Ministry of Finance. Two officials are assigned to prepare NCP matters. NCP decisions are made by a senior government official within the ministry.

New Zealand: The NCP is a senior official in the Ministry of Business, Innovation and Employment who conducts NCP activities as part of a broader range of duties.

Poland: The NCP is a senior official of the Ministry of Economic Development who also has a broader range of duties. The official is also the director of the CSR unit in the same ministry.

United States: The NCP is a senior official within the State Department, also in charge of the NCP office and Responsible Business Conduct/CSR policy with additional personnel.

2.2.2 Inter-ministerial decision-making

Another five of the 15 adhering countries involve several ministries in NCP decision-making. The NCP of Canada has adopted a “whole-of-government” approach to implementing the Guidelines. The institutional design in Canada requires the NCP to work across various portfolios to achieve shared goals of the Guidelines and to provide joint responses to issues that arise with regard to the Guidelines. The NCP is composed of a seven department interagency committee with support from an NCP secretariat which does not have a decision-making mandate. The NCP makes decisions by consensus. Where consensus cannot be reached, the majority shall prevail according to the NCP's terms of reference¹⁶. The NCP secretariat was described in interviews as the “core production function” of the NCP. The secretariat coordinates promotional activities as well as the handling of specific instances and informs the rest of the NCP. The Canadian NCP forms a Working Group to work on each specific instance, made up of a sub-set of its membership and the secretariat. The Working Group makes a recommendation to the whole NCP committee on each specific instance. Decisions rest with the whole NCP.

The NCP of Japan consists of three ministries that cooperate with each other. To fulfil the NCP role effectively Japan has adopted a “division of labour” between the ministries. The Ministry of Foreign Affairs is generally in charge of relations with the OECD and NCPs in other countries. The Ministry of Health, Labour and Welfare takes the lead on labour related issues, and the Ministry of Economy, Trade and Industry handles issues of multinational enterprises. Decisions are made by consensus by representatives of the three ministries. The NCP also has an advisory committee consisting of a business federation and a trade union confederation. The NCP shares information on OECD meetings related to the Guidelines and specific instances the NCP is dealing with (anonymising the names of the parties).

The German NCP, which is located in the Federal Ministry for Economic Affairs and Energy, closely cooperates and coordinates its decisions with the “Interministerial Steering Group on the OECD Guidelines”. The inter-ministerial steering group consists of representatives from seven different ministries and makes decisions by consensus on specific instances and rules of procedure. The decision-making body of the NCP

¹⁶ Canadian Government (2016), “Terms of Reference for Canada’s National Contact Point for the OECD Guidelines for Multinational Enterprises”, www.international.gc.ca/trade-agreements-accords-commerciaux/ncp-pcn/terms_of_ref-mandat.aspx?lang=eng.

is also responsible for agreeing on promotional strategies; it meets twice a year and additionally as required.

The Korean NCP has two decision-making bodies. Firstly, the eight Commissioners of the NCP (see 2.1.1). This inter-ministerial decision body is in charge of promotion and raising awareness of the Guidelines, interpretation of the Guidelines, decision-making related to specific instances and cooperation with NCPs in other countries. Secondly, the NCP secretariat is outsourced to the Korean Commercial Arbitration Board. The NCP secretariat is charged with the handling of general enquiries, initial assessments of specific instances, reporting, as well as providing an established “Arbitration Committee”, which mediates between parties related to specific instances.

In Morocco, several types of decisions are initially prepared by the secretariat before being discussed and adopted by members of the NCP. The Moroccan government has nominated a senior official as NCP President and designated seven ministries and another three public bodies as formal members of the NCP. The NCP President is also Director General of the Moroccan Investment Agency. Decisions on specific instances are made in meetings with all members. These NCP decisions are taken by majority vote when at least half of the members are present. In the event of a tied vote, the President will cast the deciding vote.

Box 3. Five NCPs with inter-ministerial decision-making

Canada: The NCP is composed of a seven department interagency committee with support from an NCP secretariat. In the NCP decisions are made by consensus.

Germany: The NCP is located in the Federal Ministry for Economic Affairs and Energy and coordinates all decisions with an Inter-ministerial Steering Group that consists of representatives from seven federal ministries.

Japan: The NCP consists of three ministries that cooperate with each other. Decisions are made by consensus by representatives of the three ministries.

Korea: The NCP is made up of eight “Commissioners” who are organised into one chairman, who is a senior governmental official, three representatives from different ministries and four representatives from public agencies. The Commissioners are responsible for planning promotional events, interpreting the Guidelines and formal NCP decisions related to specific instances. Decisions on initial assessments are taken by the NCP secretariat, which is outsourced to the Korean Commercial Arbitration Board.

Morocco: The NCP is composed of seven ministries and three public institutions in addition to the Moroccan Investment Development Agency, which is the body in charge of the secretariat and presidency of the NCP. All NCP decisions including strategic and promotional decisions and decisions related to specific instances are prepared by the secretariat before their approval by majority vote of the members. In case of a tied vote, the President shall cast the deciding vote.

2.2.3 Expert-based decision-making

Three of the 15 NCPs are structured with an expert-based decision-making process. The NCP of the Netherlands is formally located in the Ministry for Foreign Affairs. It consists of a chairperson and up to four independent members. The Minister nominates the members after consultations with ministries concerned with the Guidelines and with representatives from enterprises and civil society organisations. The 2014 Establishment order of the Dutch NCP provides that the members are appointed by the Minister on the basis of their expertise in particular chapters of the Guidelines, their mediation skills and their

knowledge and experience of society. It further states that the “members must offer their knowledge and experience in a personal capacity and must not act as representatives of any specific interest group.”¹⁷ On the other hand, the NCP also has at least four “advisory members”, also referred to as “civil-service” representatives. They come from ministries inside the government. The NCP members and advisory members meet monthly to discuss promotional activities and the handling of specific instances, and generally take decisions by consensus.

In Norway, the NCP is made up of an expert panel with four independent members¹⁸. Three of the members are appointed by the Ministry of Foreign Affairs in consultation with external stakeholders (see 2.1). The fourth member, who also chairs the NCP, is appointed by the Ministry, but should have strong legal expertise and not be employed by the government. All members of the expert panel make decisions independently and not based on instructions from any stakeholders. NCP decisions are made by consensus.

The Danish NCP is structured as an independent body within the public administration consisting of five individual members appointed by the government. The set-up represents a mix of expert-based decision-makers and an inter-organisational decision structure, since three of the members represent external stakeholders (see 2.2.4 below). NCP decisions are prepared by the NCP secretariat before being discussed and adopted by NCP members. The 2012 Executive order¹⁹ specifies that NCP members should decide matters related to the handling of specific instances by a simple majority vote. The NCP chair has the deciding vote in the event where there is no majority.

Box 4. Three NCPs with expert-based decision-making

Denmark: The NCP consists of independent experts and representatives from external stakeholders. The NCP represents a mix of expert-based decision-makers and an inter-organisational decision structure. Decisions are made by a simple majority.

Netherlands: The NCP is made up of four members (three independent members plus the chair). Decisions are made by consensus together with governmental advisory members representing different ministries.

Norway: The NCP is made up of four independent members. Three are appointed by government based on proposals from external stakeholders. The fourth member, also the chair, is appointed by the hosting ministry. Members take decisions independently from stakeholders. NCP decisions are made by consensus.

2.2.4 Tripartite (inter-organisational) decision-making

Two of the 15 adhering countries have structured their NCPs according to a tripartite model, seen as an “inter-organisational model” of decision-making for this study, where several representatives of

¹⁷ Netherlands Government (2014), “Order of the Minister for Foreign Trade and Development Cooperation of 1 July 2014, no. MinBuZa.2014.303289”.

¹⁸ NCP Norway (2011), “The road to a more effective Norwegian NCP”, <http://nettsteder.regjeringen.no/ansvarlignaringsliv-en/files/2013/11/Norwegian-NCP-Model.pdf>

¹⁹ Danish Government (2012), “Executive Order on a Mediation and Complaints-Handling Institution for Responsible Business Conduct”, unofficial English version, section 2.2, <http://businessconduct.dk/file/298160/executive-order-on-mediation.pdf>

government, trade unions and business associations participate in the NCP. The NCP of France gathers representatives from one business organisation, six trade unions and four ministries. Each of the three groups (“collège”) must be represented in order for the NCP to meet. Decision-making is by consensus and in the event of not reaching consensus, the decision will revert to the chair of the NCP, who will take all opinions expressed into account and make a decision. When there is no consensus, NCP statements will mention this explicitly. From time to time, outside experts known for their technical expertise (e.g. on corporate social responsibility, human rights or the environment) may be called on. Any such additional participation must be approved by the NCP members. When examining specific instances the French NCP may call upon individual members as “rapporteurs” designated by the NCP Chair after consultation with NCP members. To handle larger issues the NCP may occasionally set up a dedicated tripartite working group within the NCP, also referred to as “limited NCP”.

The NCP of Sweden is hosted by the Ministry for Foreign Affairs and its department for promotion, trade and CSR. The members of the Swedish NCP are five trade unions, two business associations, and the government is represented by a senior official of the Ministry who also acts as chair of the meetings. The NCP meets approximately four or five times per year, and can meet more frequently depending on the number of specific instances. The NCP promotes dialogue among its members with the aim of reaching consensus.

Box 5. Two NCPs with tripartite (inter-organisational) decision-making

France: The NCP of France is tripartite. It is made up of one business association, six trade unions and four ministries (and several services). Decisions are made by consensus. In the event of not reaching consensus, the decision shall revert to the NCP Chair, who will take the diversity of all opinions expressed into account and make a decision.

Sweden: The NCP of Sweden is tripartite and consists of five trade unions and two business associations. The government is represented by a senior official who also acts as chair of the meetings. The NCP promotes dialogue among its members with the aim of reaching consensus.

CHAPTER 3

CONCLUSION: KEY FINDINGS

- This report describes how governments have set up their NCP, as part of implementing the Guidelines, and how NCPs operate and make decisions related to the implementation of their mandate. The report provides an in-depth study of the structure, functioning, and decision-making bodies of NCPs in 15 adhering countries: Canada, Chile, Denmark, France, Germany, Hungary, Japan, Korea, Morocco, Netherlands, New Zealand, Norway, Poland, Sweden, and the United States.

NCP structures have remained consistent over time

- The report shows that the structure of NCPs has remained relatively consistent over time in many of the 15 countries. There are two main categories of NCPs: government-led NCPs (2/3) and NCPs led by non-governmental representatives (1/3). Different kinds of structures enable NCPs to engage with external stakeholders: expert-based NCPs, tripartite NCPs, advisory bodies, oversight bodies and regular meetings with stakeholders.
- The structuring of NCPs as “independent agencies” has occurred since 2000. These are NCPs which are composed of independent experts and usually have a supporting secretariat attached to a Ministry.

Domestic mandate for 7 of the 15 NCPs

- The OECD Council Decision on the Guidelines requires adhering governments to set up an NCP. The Decision, the Guidelines and the Procedural Guidance set out the mandate of an NCP in each adhering country. Seven of the 15 selected NCPs were established through a legal, regulatory or administrative national instrument (e.g. legislation, government decrees and ministerial decisions). Some of the domestic mandates provide details on how the NCP is structured, its role and functioning.

Structure of the NCP decision-making body

- In five of the NCPs, decisions are made by a senior government official.
- In ten of the NCPs, decisions are made by a collegial decision-making body, by consensus or majority. There are three main types of such decision-making bodies:
 1. A decision-making body composed of several government representatives (from more than one ministry/part of government)
 2. A decision-making body composed of non-governmental experts
 3. A tripartite decision-making body (with government, trade unions and business associations representatives)

NCP secretariat or office

- Nine of the 15 NCPs have a formal secretariat, office or other form of administration unit. This element complements the decision-making body. NCP secretariats can help improve the “institutional and organisational memory” and thus help increase the degree of structure, predictability and visibility of the NCP. In most cases, the NCP secretariat or office is located in a single ministry. In three of the 15 NCPs the secretariats are integrated into already existing public agencies with a wider regulatory mandate.

Advisory and oversight bodies, and “softer” approaches to oversight

- Seven of the 15 NCPs have a formal advisory body. Advisory bodies fall into two main categories: 1) government-based and 2) bodies representing external stakeholders.
- The role of advisory bodies in NCP decision-making depends on their composition. Advisory bodies made up of external stakeholders are mainly involved in promotional strategies, whereas advisory bodies made up of governmental representatives only or in addition to external stakeholders normally have a consultative role with more direct involvement in the handling of specific instances.
- Amongst the 15 NCPs, there is no oversight body strictly dedicated to an NCP. In most countries, this function is part of pre-existing government oversight. For most of the 15 NCPs there are also “softer” approaches to oversight, for example through regular meetings with government representatives and stakeholders where the NCP presents its decisions and outcomes and engages with its stakeholders.

Types of decisions made in the 15 NCPs

- The report focuses on three types of NCP decision-making:
 1. **Decision-making on promotional strategy:** NCP secretariats often have an important role in planning the promotion of the Guidelines and can take decisions on promotion without the involvement of the decision-making body. In NCPs with non-governmental organisations as members, decisions on promotion can also be made by individual members.
 2. **Decision-making on rules of procedure:** 14 of the 15 NCPs have adopted and published rules of procedure to handle specific instances. The rules of procedure can include additional aspects like processes for follow-up and monitoring activities, and recommendations on confidentiality during the mediation process.
 3. **Decision-making on specific instances:** All of the 15 NCPs have handled specific instances. The consideration of specific instances is composed of the following phases: 1) Initial assessment (to determine if the issues raised merit further examination), 2) Offer of good offices, 3) Conclusion (final statements or reports), 4) Possibility for follow up (to assess whether the NCPs' recommendations were followed). Some NCP secretariats have a central role in the phase of the initial assessment. When offering good offices some of the NCPs regularly decide to involve professional mediators. Six of the 15 NCPs have contracted professional mediators at least once.

Procedures of decision-making in the 15 NCPs

- The report considers four types of decision orders regarding who participates in NCP decision-making on specific instances.

1. **Individualised decision-making:** In 5 of the 15 selected NCPs a senior official is in charge of decisions made by the NCP.
 2. **Inter-ministerial decision-making:** Another 5 of the 15 selected NCPs involve several ministries in making NCP decisions by consensus or majority.
 3. **Expert-based decision-making:** 3 of the 15 NCPs are composed of independent experts which make decisions by consensus or majority.
 4. **Tripartite (inter-organisational) decision-making:** 2 of the 15 NCPs follow a tripartite model (or “inter-organisational model”) where representatives from government, trade unions and business associations make decisions by consensus.
- Expert-based (independent) NCPs and those that are structured as a tripartite body (inter-organisational) have one main aspect in common. They have integrated external, diverse and potentially contrasting interests as elements of the NCP decision-making body.
 - Expert-based NCPs consist of members who make decisions as individuals and are not required to follow stakeholder preferences. All other NCPs are composed of representatives of one or more ministries and some also include representatives from external stakeholders, all of whom may be required to represent the position of their respective organisations.

ANNEX I

SUMMARY OF STRUCTURES AND DECISION-MAKING PROCEDURES
OF SELECTED NCPS**Canada**

- **Legal mandate:** The Government of Canada implemented the 2000 OECD Council Decision on the revision of the OECD Guidelines through a governmental decree. The decree refers to the structure of the NCP as a multi-ministerial body.
- **Structure and composition:** The Canadian NCP is composed of members from seven federal departments. A senior official of Global Affairs Canada (GAC) chairs the Committee. The department also provides an NCP secretariat that helps manage operations, communication and reporting. Each of the Committee members has specific expertise in relevant areas of RBC with respect to the Guidelines. The Canadian NCP has three “social partners” for enhanced outreach and promotion: the Canadian Chamber of Commerce, the Canadian Labour Congress, and la Confédération des syndicats nationaux.
- **Decision-making:** The NCP Committee makes strategic decisions on the promotion of the Guidelines as well as on all decisions regarding specific instances. At least 4 of the 7 permanent members of the main Committee are required for an NCP meeting to take place and make decisions. The NCP’s “Terms of reference”, last modified in 2016, determine the composition of the Canadian NCP and the procedures for making decisions. The Terms of reference are available on the NCP’s website. NCP decisions are made by consensus. Where a consensus cannot be reached, the majority shall prevail.

Chile

- **Legal mandate:** The NCP of Chile was not established through a legal, regulatory or administrative instrument.
- **Structure and composition:** The Chilean government has appointed one senior official of the Ministry for Foreign Affairs for the NCP role. The current NCP is also assigned the role of head of Chile’s formal “OECD unit”, in charge of coordinating several inter-ministerial groups to manage Chile’s input and positions in several OECD committees and working groups. This OECD unit is also staffed with an executive secretary, assisting the NCP/head of unit to fulfil duties. The NCP has two advisory bodies: 1) the Civil Society Committee (also known as the “Mirror committee”/Comité Espejo) composed of representatives from business associations, trade unions, NGOs and CSR experts from universities to help promote the Guidelines more effectively, and 2) the Governmental advisory committee (Consejo Consultivo) composed of representatives from several ministries to advise on the promotion of the Guidelines as well as on handling specific instances.
- **Decision-making:** Decisions on promotional plans and on the handling of specific instances are prepared in the Chilean OECD unit. The appointed NCP makes all decisions related to the

implementation of the OECD Guidelines, regarding both promotion and specific instances. The NCP adopted formal rules of procedure for handling specific instances which are available on the government website.

Denmark

- **Legal mandate:** The NCP of Denmark was established through an Executive order adopted by parliament in 2012. This legislation provides for the NCP to be structured as an “independent body” within the public administration. It includes both rules on the structure of the NCP and comprehensive instructions on the handling of specific instances. The Danish Business Authority, a public authority which promotes economic growth in Denmark, is authorised by the legislation to lay down more detailed rules on how to organise the NCP.
- **Structure and composition:** The Danish NCP consists of five individuals appointed by the government: one chair, one expert and representatives from three organisations (Denmark’s main trade union federation, business association and NGO conglomerate). The Danish Business Authority hosts an NCP secretariat, but the Authority does not have any right to overview or control any of the NCP decisions and operations. The NCP has a set budget. The NCP members are subject to the rules of the Danish Public Administration Act with regard to accountability and “legal disqualification”, meaning that NCP members must disclose any conflicts of interest regarding specific instances. The Danish NCP underwent a peer review in 2015, which concluded that it is “generally perceived across stakeholder groups as a highly credible institution that is visible, accessible, transparent, impartial and accountable.”¹ Based on the peer review recommendations, the NCP upgraded the procedures for promotion and information handling.
- **Decision-making:** NCP decisions are prepared by the NCP secretariat before being discussed and adopted by NCP members. The 2012 Executive order specifies that NCP members should decide matters related to the handling of specific instances by a simple majority vote. The NCP chair has the overriding vote in the event where there is no majority. If the chair is disqualified from participating in voting due to a conflict of interest, the expert member has the overriding vote². In practice, nevertheless, the NCP members aim to reach consensus. Final statements issued by the NCP to conclude specific instances are subject to follow-up one year after date of the agreement. The NCP adopted formal rules of procedure for handling specific instances which are available on the NCP’s website.

France

- **Legal mandate:** The NCP of France was not established through a legal, regulatory or administrative instrument.
- **Structure and composition:** The NCP is tripartite and therefore has an inter-organisational structure. It is made up of six trade unions, one business federation and four different ministries (representing 6 to 7 services). Each organisation and ministry nominates one individual and one replacement individual to the NCP. The NCP is chaired by a senior official of the

¹ OECD (2015), “Denmark National Contact Point peer review report”, presented in June 2015, <https://mneguidelines.oecd.org/ncppeerreviews.htm>

² Danish Government (2012), “Executive Order on a Mediation and Complaints-Handling Institution for Responsible Business Conduct”, unofficial English version, section 6.2, <http://businessconduct.dk/file/298160/executive-order-on-mediation.pdf>

Directorate-General of the Treasury in the Ministry for the Economy and Finance. One official within the Treasury is appointed as Secretary-General to provide administrative services. Both represent the NCP in meetings at the OECD and with external actors.

- **Decision-making:** The NCP acts as a collective group on a consensus basis. Documents that are submitted to the NCP are distributed to all members by the NCP Secretariat. Members commit to not disclose any information relative to specific instances, including within their own organisations. The French NCP adopted formal rules of procedure called the “NCP bylaw”. These set out the composition of the NCP, its activities and procedures for handling specific instances (including communication and confidentiality provisions). These require that decisions in the NCP shall be reached by consensus among NCP members. If the NCP does not succeed in reaching consensus, the decision shall revert to the NCP Chair, who shall take the diversity of all opinions expressed into account and make a decision; when this happens it has to be mentioned in the NCP statement. The NCP may also call upon individual members as “rapporteurs” designated by the NCP Chair after consultation with NCP members when considering specific instances. To handle larger projects the NCP may occasionally set up a dedicated tripartite working group within the NCP, also referred to as a “limited NCP”. External experts known for their technical expertise may be called on by the NCP. Since 2012, the NCP organises an annual information meeting to meet with external stakeholders and report back on its activities.

Germany

- **Legal mandate:** Originally, the NCP of Germany was part of the Federal Ministry for Economic Affairs’ foreign investment division. In December 2016, by an in-office order adopted by the Ministry, the German NCP was changed into a separate staff unit directly attached to the Director-General for external economic policy.
- **Structure and composition:** The NCP closely co-operates and coordinates its decisions with the “Inter-ministerial Steering Group on the OECD Guidelines” which is composed of representatives from seven federal ministries with a specific interest in the Guidelines (Foreign Affairs, Justice, Finance, Labour and Social Affairs, Agriculture, Environment, Economic Cooperation). In addition, the NCP relies on a “Working Group on the OECD Guidelines” which includes representatives of the federal ministries, social partners, business associations and non-governmental organisations. The Working Group usually meets twice a year to provide a forum for discussions on issues related to the Guidelines and general matters relevant to the NCP. The members of the Working Group are notified whenever a specific instance has been submitted and accepted for further examination.
- **Decision-making:** Governmental officials working on NCP matters in the Federal Ministry for Economic Affairs and Energy prepare NCP strategies and decisions. The Inter-ministerial Steering Group adopts formal decisions on specific instances and rules of procedure. It meets on a regular basis at least twice per year as well as on an ad hoc-basis as required by specific instances or other needs. The NCP adopted formal rules of procedure for handling specific instances which are available on its website.

Hungary

- **Legal mandate:** The NCP of Hungary adopted a Government Decree creating a national mandate for the NCP in 2017.
- **Structure and composition:** The Hungarian NCP is located in the EU and International Finance Department of the Ministry of Finance). NCP decisions on promotion, enquiries,

reporting and the handling of specific instances are planned and made in this department. The NCP is not structured with any formal advisory body with external stakeholders although it normally invites stakeholders to participate in national conferences. Hungary has established the OECD National Council to oversee all domestic OECD-related activities, including that of the Hungarian NCP. This oversight board consists of representatives from all ministries, a number of authorities and the National Bank of Hungary and convenes three times per year. According to the new Government Decree the NCP will consist of members from several Ministries. It also foresees the creation of a secretariat and an advisory body for the NCP.

- **Decision-making:** Ministerial officials of the EU and International Finance Department prepare all NCP matters. Senior officials within the Ministry make formal decisions of the NCP. According to the new Government Decree the decision making body will remain individual but based on the proposal of an Inter-ministerial collegial body.

Japan

- **Legal mandate:** The NCP of Japan was not established through a legal, regulatory or administrative instrument.
- **Structure and composition:** The Japanese NCP consists of representatives from three different ministries. Seven officials from these ministries conduct NCP duties as part of a broader range of responsibilities in each ministry. The NCP Committee serves as the NCP's advisory body. It consists of one business federation and one confederation of trade unions and is chaired by the NCP. The Committee meets regularly and the NCP shares information about OECD meetings and the specific instances the Japanese NCP is dealing with (anonymously). In the promotion of the Guidelines the NCP sometimes makes presentations about its work and the Guidelines for actors of the business community, external experts and representatives of civil society organisations.
- **Decision-making:** Decisions are made by consensus among the representatives of the NCP. The Japanese NCP underwent a peer review in 2012 which, among other topics, discussed the benefits of including more ministries as members due to the wide scope of the Guidelines³. The NCP adopted formal rules of procedure for handling specific instances which are available on the government website.

Korea

- **Legal mandate:** The NCP of Korea was not established through a legal, regulatory or administrative instrument.
- **Structure and composition:** The NCP consists of eight "Commissioners": a chairman (the Director General for Cross-border investments of the Ministry for Trade, Industry and Energy), three representatives from different ministries and four representatives from external institutions (the Institute for Industrial Policy Studies, the Korean Standards Association, and professors). The Korean government outsourced the NCP secretariat services to the Korean Commercial Arbitration Board, an independent arbitration institution made up of experts in commercial arbitration and mediation.

³ OECD (2012), "Japanese NCP: Peer learning and review", p. 14, www.oecd.org/daf/inv/mne/JapaneseNCPReview.pdf

- **Decision-making:** The NCP secretariat is responsible for general matters of promotion of the Guidelines, handling enquiries relative to the Guidelines, conducting preliminary investigations for mediation/arbitration of specific instances as well as reporting to the NCP Commissioners and to the OECD on the NCP's operations and decisions. The NCP Commissioners are responsible for planning the promotion of the Guidelines, interpreting the Guidelines and for making formal NCP decisions related to specific instances. The NCP adopted formal rules of procedure for handling specific instances which are available on the government website.

Morocco

- **Legal mandate:** The NCP of Morocco was initially not established through a legal, regulatory or administrative instrument. In 2014, the Moroccan government adopted a circular ("Circulaire du Chef du Gouvernement") regarding the structure and the functioning of the NCP.
- **Structure and composition:** The NCP is hosted by the Moroccan Investment Development Agency (AMDI) which acts as the president and the secretariat of the NCP. The NCP also consists of representatives from seven different ministries and three constitutional institutions. The NCP is not structured with a formal advisory board. Nevertheless, the NCP works closely with key stakeholders including business federations, trade unions, civil society and other public institutions and departments.
- **Decision-making:** All NCP decisions are prepared by the secretariat before being discussed and adopted by the majority vote of other members. The NCP secretariat is responsible for preparing meetings, the annual action plan for promotion and communication of the Guidelines and annual reporting of activities. The secretariat also handles specific instances by preparing the initial assessment and a draft of the final statement. The role of the NCP members is to provide expertise and technical input in response to enquiries submitted to the NCP and in handling specific instances. The NCP has adopted formal rules of procedure for handling specific instances which are available on the AMDI website.

Netherlands

- **Legal mandate:** In the Netherlands, an establishment order specifies that the members of the NCP are appointed by the Minister for Foreign Trade and Development Cooperation, based on their expertise in the area of Guidelines, their mediation skills and their knowledge and experience of key aspects of responsible business conduct. It further states that the "members must offer their knowledge and experience in a personal capacity and must not act as representatives of any specific interest group."⁴
- **Structure and composition:** The NCP can consist of up to five independent members, but usually consists of four members. The Minister for Foreign Trade and Development Cooperation nominates all members after consulting other relevant ministries and representatives from enterprises and civil society. One of the members is nominated as chair by the other members. The NCP also has four (governmental) advisory members, who act on behalf of other ministries. The NCP secretariat consists of officials of the hosting Ministry. The NCP is supplemented by another advisory body called "NCP plus", made up of external

⁴ Netherlands Government (2014), "Order of the Minister for Foreign Trade and Development Cooperation of 1 July 2014, no. MinBuZa.2014.303289"

stakeholders from business associations, trade unions and NGOs. The NCP Plus is invited for meetings with the NCP every three months.

- **Decision-making:** The NCP makes decisions in meetings where both the independent NCP members and the governmental advisory members are present. The independent NCP members are formally responsible for making the decisions. However, the NCP has adopted a consensus-oriented decision structure which also includes the advisory members from government. The NCP can also conduct a sector-wide assessment if it is asked to do so by the Dutch government. The Dutch NCP was asked to do so for the first time in 2016. The Dutch NCP was the first adhering country to volunteer for an NCP peer review in 2009⁵. The NCP has adopted formal rules of procedure for handling specific instances which are available on the NCP website.

New Zealand

- **Legal mandate:** The NCP of New Zealand was not established through a legal, regulatory or administrative instrument.
- **Structure and composition:** The NCP representative is a designated senior official of the Ministry of Business, Innovation and Employment. This representative carries out NCP duties as part of a broader range of responsibilities within the Ministry. The NCP includes an advisory group to promote the Guidelines. This advisory group consists of representatives from external organisations with an interest in the Guidelines including the central trade union and employer organisations, as well as relevant government departments.
- **Decision-making:** The NCP makes decisions on promotion and specific instances after internal reviews in the Ministry. Consultations with relevant governmental bodies also occur in relation to the handling of specific instances under the Guidelines. The NCP advisory liaison group convenes periodically. The NCP adopted formal rules of procedure for handling specific instances which are available on the government website.

Norway

- **Legal mandate:** The Norwegian NCP is established by a decree adopted by the Ministry for Foreign Affairs. It states that the NCP is structured as a professional independent advisory body to assist the Norwegian government and authorities in promoting the Guidelines and provide mediation and guidance in the handling of specific instances⁶. The decree notes that the NCP procedure set out in the Guidelines forms the basis for carrying out this work.
- **Structure and composition:** The NCP is made up of an “Expert Panel” with four members. These members are appointed by the Ministry of Foreign Affairs in consultation with the Ministry of Trade and Industry based on nominations from one trade union confederation, one business federation, and a forum of NGOs on behalf of civil society. The appointed members however act independently from the organisations that nominated them. The NCP consists of a formal secretariat hosted by the Ministry of Foreign Affairs. The secretariat reports to the

⁵ Report of the NCP Peer Review Team, “Dutch National Contact Point: Aspirations and Expectations Met?”, www.oecdguidelines.nl/ncp/documents/report/2014/12/16/final-report-peer-review-nl-ncp

⁶ Norway Ministry of Foreign Affairs (2014), Norges OECD-kontaktpunkt. Mandat. www.responsiblebusiness.no/ansvarlignaringsliv-no/files/2015/10/140624-Kontaktpunktets-mandat_med-UD-logo1.pdf

Expert Panel, prepares draft statements for approval, and plans and carries out promotion of the Guidelines. It is also responsible for drafting official reports in Norway as well as to the OECD. The NCP has a set budget provided annually by the Ministry of Foreign Affairs, and the secretariat can draw on other government resources when needed.

- **Decision-making:** The independent NCP members make decisions by consensus based on proposals from the secretariat. The NCP of Norway conducted a peer review in 2013 which concluded that “stakeholder groups conveyed a strong sense of ownership of the NCP, which is a testament to its credibility and importance among Norwegian efforts to promote responsible business conduct.”⁷

Poland

- **Legal mandate:** The NCP of Poland was not established through a legal, regulatory or administrative instrument.
- **Structure and composition:** The NCP is currently located in the CSR and stakeholder cooperation unit of the Ministry of Economic Development. The NCP representative is a designated senior official who exercises the NCP role as part of broader governmental duties. For instance, the current NCP official chairs a wider “CSR advisory board”. This multi-stakeholder body, which includes permanent members from public institutions, trade unions, business associations, NGOs, academia, and other ministries, advises the Ministry on CSR matters, without making formal decisions. The board convenes four times per year. Working groups for specific CSR and responsible business conduct-related matters are sometimes organised in-between the board meetings. The CSR board is informed of NCP operations and updates regarding the Guidelines, it is not used not for matters relating to the handling of specific instances.
- **Decision-making:** The designated NCP representative makes formal decisions. The Polish NCP was moved from the Foreign Investment and Information Agency (PAIIZ) to the Ministry of Economic Development in 2016.

Sweden

- **Legal mandate:** The NCP of Sweden was not established through a legal, regulatory or administrative instrument.
- **Structure and composition:** The Swedish NCP is hosted in the department for promotion, trade and CSR of the Ministry for Foreign Affairs. The NCP consists of five trade union confederations, two business associations, and the government represented by a senior official of the hosting Ministry who also chairs meetings. The NCP convenes four to five times per year, or more frequently if needed.
- **Decision-making:** Decisions are made by the NCP members. The NCP does not have any formal rules of procedure for handling specific instances. However, the NCP promotes dialogue among its members with the aim of reaching consensus.

⁷ Norway Government (2014), Report of the Peer Review Delegation, “Norway National Contact Point: Peer Review Process”, p. 1, www.responsiblebusiness.no/files/2014/02/Peer-review-report-NCP-Norway.pdf

United States

- **Legal mandate:** The NCP of the United States was not established through a legal, regulatory or administrative instrument.
- **Structure and composition:** The NCP is housed within the US Department of State. A senior US government official is designated the NCP role as part of a broader range of governmental responsibilities on Responsible Business Conduct. The NCP is in charge of an “NCP office” with additional personnel to staff the NCP and Responsible Business Conduct work streams. It has two advisory bodies: The Interagency Working Group (IWG), an inter-governmental body which includes representatives from several governmental bodies and the Stakeholder Advisory Board (SAB). The SAB is a sub-committee of the Advisory Committee on International Economic Policy. The SAB is chaired by the U.S. NCP with two vice chairs – one representing business and one representing civil society. Both advisory bodies are consultative and meet approximately four times per year. The SAB and the IWG advise on promotional strategies and execution. The IWG also gives advice on specific instances.
- **Decision-making:** All decisions are made and signed by the senior US government official. The NCP adopted formal rules of procedure for handling specific instances that are publicly available online.

ANNEX II

SUMMARY OF STRUCTURES OF THE 15 SELECTED NCPS

	Domestic mandate	NCP decision-making body				Additional NCP elements		NCP decision order			
	The NCP is instituted through a legal, regulatory or administrative instrument	Individual	With representatives from more than one ministry/ part of government	With non-government experts	With representatives from government and external stakeholders	NCP secretariat (or other administrative body)	NCP advisory body	Individualised decision-making	Inter-ministerial decision-making	Expert based decision-making	Inter-organisational decision-making
Canada	✓		✓			✓			✓		
Chile		✓				✓	✓	✓			
Denmark	✓			✓		✓				✓	
France			✓		✓	✓					✓
Germany	✓		✓				✓		✓		
Hungary	✓	✓						✓			
Japan			✓				✓		✓		
Korea			✓			✓			✓		
Morocco	✓		✓			✓			✓		
Netherlands	✓			✓		✓	✓			✓	
New Zealand	✓	✓					✓	✓			
Norway		✓		✓		✓				✓	
Poland							✓	✓			
Sweden					✓						✓
United States		✓	✓			✓	✓	✓			
Total:	7	5	7	3	2	9	7	5	5	3	2

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