

WHAT DOES THE INITIAL ASSESSMENT OF A SPECIFIC INSTANCE MEAN ?

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Guidance Note from the French NCP for the OECD Guidelines for Multinational Enterprises

The National Contact Point (NCP) contributes to the implementation of the OECD Guidelines for Multinational Enterprises notably by examining issues, called “specific instances” it receives from associations, non-governmental organisations or trade unions. The NCP is asked to form an opinion on the compliance of activities carried out by French multinational enterprises abroad or by multinational enterprises in France with the OECD Guidelines. **Examination of a specific instance by the NCP begins with the assessment of its admissibility and its initial assessment.** Then the NCP realises a good offices mission between the parties, with the aim of helping them to bring closer their positions or if possible to reach an agreement. The NCP reports on this procedure by issuing a report or a statement posted on its website. **The NCP is not a jurisdiction.**

Criteria set up for admissibility and initial assessment of a specific instance are the following:

Firstly, the specific instance must comply with formal criteria outlined in point 16 of the NCP’s Bylaw¹. The referral must stipulate the name of the enterprise(s) concerned (exact name of the enterprise and contact details) as well as the name and contact details of the plaintiff(s). It must also explain in details the facts of which the enterprise is accused by the plaintiff and refer to OECD Guidelines. The NCP verifies whether or not the aforementioned criteria have been formally complied with.

Secondly, the NCP shall ascertain whether the issue is raised *bona fide* and if the referral is really in accordance to the OECD Guidelines. Finally, it determines if it could contribute positively to resolving the issues by offering its good offices.

Admitting admissibility does not mean that the Guidelines have been violated

Evaluation of admissibility and the initial assessment of a referral do not correspond to an examination of the merits of the case. The NCP does not issue an opinion on the violations alleged in the case. The decision on admissibility of a referral does not at all presume what the final outcome would be.

Admissibility formally kicks off NCP’s good offices

At the end of this initial assessment, the NCP shall decide whether it offers its good offices to the parties (plaintiff(s) and multinational enterprise(s)). The decision on admissibility does not necessarily mean that the NCP will successfully resolve the issue(s) or contribute to settle conflicts.

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¹ The NCP Bylaw was revised on 17th March 2014 and posted on the NCP website