

OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

SWISS NCP

REPORT TO THE OECD

2015

COMMON FRAMEWORK FOR ANNUAL REPORTING BY NATIONAL CONTACT POINTS TO THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

June 2014-December 2015¹

The role of National Contact Points is to further the effectiveness of the OECD Guidelines for Multinational Enterprises (the Guidelines) by undertaking promotional activities, handling enquiries and contributing to the resolution of issues that arise from the alleged non-observance of the Guidelines in specific instances by individual companies. NCPs will operate in accordance with core criteria of visibility, accessibility, transparency and accountability to further the objective of functional equivalence.

National Contact Points must regularly report to the OECD Investment Committee on the nature and results of their activities to further the effectiveness of the Guidelines including implementation activities in specific instances.

This Common Reporting Framework, based on the Implementation Procedures of the Guidelines, assists NCPs in the preparation of these reports. The information provided by NCPs is the basis for the Annual Report to the OECD Council on the Guidelines for Multinational Enterprises. It is also used to produce Annual reports of individual NCPs (NCP Annual reports).

¹ Until 2014, the reporting period for NCPs covered activities undertaken from June to June. From 2015 the reporting period will cover the period from January to December of each year. For practical reasons, the 2015 reporting period will also cover activities between June and December 2014.

COMMON REPORTING FRAMEWORK

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A. NCP contact information

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B. Institutional arrangements

Adhering governments have flexibility in organising their NCPs as long as the institutional arrangements meet the objective of functional equivalence and help further the effectiveness of the Guidelines. NCPs have to seek the active support of social partners, including the business community, worker organisations, NGOs and other interested parties as relevant.

1. In which governmental agency (ministry) is the NCP located?

Federal Department of Economic Affairs, Education and Research EAER; State Secretariat for Economic Affairs (SECO), International Investments and Multinational Enterprises Division

2. In the case of independent NCPs, how has the NCPs been set up?

3. Does the NCP include representatives from:

- Government agencies: Yes/No. If yes, please specify Yes

Specific instances: Whenever a specific instance is raised with the Swiss NCP, an internal ad hoc working group is formed to support the NCP in addressing the issue. The members of the working group are selected according to the issue at hand, i.e. representatives from other relevant government agencies who can contribute the required expertise. Country representatives from the Bilateral Economic Relations Division at SECO and the Swiss embassy or representation in the country concerned are also involved.

Advisory board: Members of Federal Department of Foreign Affairs and members of Federal Department of Economic Affairs, Education and Research plus external stakeholders (see below).

- Non-governmental bodies. Yes/No. If yes, please specify which: Yes
 - business ✓
 - trade unions ✓
 - civil society ✓
 - other ✓ academia

4. What are the main considerations that have determined the current structure of the NCP? (check all that apply).

- Increase the relevance of the Guidelines to the ministries/government bodies involved ✓
- Ensure the independence of the NCP vis-à-vis the government
- Ensure accessibility of the NCP to stakeholders ✓
- Involve relevant stakeholders in the NCP ✓
- Other ✓ ensuring policy coherence and being impartial for treatment of specific instances through involvement of different governmental agencies (“ad hoc groups”)

5. Does the NCP have an advisory body? Please indicate composition and functions. Yes

14 representatives from different stakeholder groups: employer associations, trade unions, business associations, NGOs, academia (each group having 2 representatives in the advisory board), as well as 2 ministries/departments of the Federal Administration: 2 representatives of the Federal Department of Foreign Affairs FDFA (Directorate of Political Affairs, Swiss Agency for Development and Cooperation) and 2 representatives of the Federal Department of Economic Affairs, Education and Research EAER (Labour Directorate, Foreign Economic Affairs Directorate). The advisory board is co-chaired by State Secretary Marie-Gabrielle Ineichen-Fleisch, Director of the State Secretariat for Economic Affairs, and Professor Christine Kaufmann, Chair for Constitutional and Administrative Law and for European and International Law of the University of Zurich.

Functions: the advisory board advises the NCP on its strategic orientation as well as on the implementation of the OECD Guidelines and the Procedural Guidelines of the NCP according to the core criteria of visibility, accessibility, transparency and accountability. The advisory board also promotes the dialogue between stakeholder groups and contributes to the effective implementation of the OECD Guidelines. The advisory board advises the NCP on procedural issues, such as the cooperation with other NCPs and with stakeholders. The advisory board is also consulted on issues such as modifications of the published procedural guidelines of the NCP, changes of the mandate of the internal working groups of the Federal Administration that handle specific instances, the selection of external mediators, the annual report of the Swiss NCP and promotional activities of the NCP. The advisory board is informed about the handling of specific instances by the NCP (state of the proceedings, appointment of an internal ad hoc working group for a specific instances, etc.). However, the advisory board is not directly involved in the handling of specific instances.

6. Does the NCP have an oversight body? Please indicate composition and functions. No

7. Please provide any other information on how its structure enables the NCP to operate in accordance with the core criteria of visibility, accessibility, transparency and accountability.

All government offices of the Swiss Federal Administration concerned by a specific instance are participating in the work of the Swiss NCP if a specific instance is raised. The appointment of a multi-stakeholder advisory board moreover enables to address general issues related to the functioning of the NCP (such as its efficiency) with selected representatives of all stakeholder groups.

8. How is the NCP funded? (check all that apply)
- government budget ✓
 - other (please specify)
9. Does the NCP have dedicated staff? Yes/No. If yes: Yes
- How many full time staff members?
 - How many part time staff members? 3
 - No dedicated staff members
10. Are the financial and human resources provided to the NCP sufficient for the NCP to carry out its mandate? Yes/No Yes
11. What challenges does the NCP face in fulfilling its mandate? (check all that apply)
- Lack of financial resources
 - Lack of capacity
 - Lack of support from the government
 - Difficulties in engaging the business community, worker organisations, other non-governmental organisations, other interested parties.
 - Other ✓ meeting deadlines of procedure due to complexity of cases
12. Please explain these challenges, and elaborate on additional elements that would be needed for the NCP to fulfil its mandate and functions.
- Meeting deadlines: according to complexity of cases, deadlines should be handled with flexibility
13. Does the NCP report to the government on its activities? Yes/No. If yes: Yes
- Through regular meetings
 - Through established reporting channels ✓
 - In an ad hoc manner
 - Other

14. Please specify to whom the NCP reports (ex. Parliament, governmental body, etc.)
- a. Annual reporting to advisory board and the public
 - b. Reporting to Parliament through the annual Foreign Economic Policy Report
 - c. Within the report on the implementation of the CSR Position Paper and Action Plan (2015–2019), NCP activities will be reported to the government (Federal Council) in 2017.
15. Does the NCP coordinate with other domestic government bodies or representatives with regard to activities on responsible business conduct? Yes/No. If yes, please elaborate Yes

Yes, the unit in the State Secretariat for Economic Affairs (SECO), where the NCP is located, is also responsible for CSR policy, such as the coordination of the implementation of the CSR Position Paper and Action Plan 2015–2019 adopted by the government (Federal Council) in 2015. In its function as focal point for general questions regarding responsible business conduct, this unit regularly coordinates with other governmental offices on CSR matters. This includes amongst others regular cooperation with the units responsible for business and human rights.

C. Information and Promotion

16. Does the NCP have a dedicated website or dedicated webpages? If yes, please provide link.
- Yes: www.seco.admin.ch/ncp
17. Are the Guidelines available online? Yes/No Yes
18. Are the Guidelines available in print? Yes/No No
19. Is the NCPs Annual Report available online or in print? Yes/No Yes
20. Does the NCP have a promotional plan on the Guidelines? If yes, please provide details. Yes

The NCP avails itself of all appropriate possibilities to promote the awareness about the OECD Guidelines, such as through references in government policies and publications, inclusion in trade missions organised by the Swiss government, participation in international and national conferences, presentations to selected audiences, press releases, etc.

Since 2010, the NCP is distributing a flyer intended for multinational companies and other stakeholders summarising the OECD Guidelines as well as the functioning of the Swiss NCP. This flyer has been updated following the adoption of the updated OECD Guidelines and is distributed at conferences, meetings and other events involving the NCP. The flyer is available in three official languages of Switzerland as well as in English (www.seco.admin.ch/ncp). The OECD Guidelines are a central part of the general CSR Promotional Plan elaborated in 2015 within the CSR Position Paper and Action Plan 2015–2019 adopted by the government (Federal Council) in 2015.

21. Has the NCP implemented the actions identified in the promotional plan? Why or why not? Yes

The implementation of the CSR Promotional Plan is in execution.

22. How does the NCP inform investors about the Guidelines and their implementation?

Through (check all that apply):

- Embassies ✓
- Export credits agency ✓
- Overseas investment guarantee body
- Investment promotion agencies ✓
- Other (please specify)

23. Has the NCP done any studies to assess awareness of enterprises on the Guidelines and the NCP?

If yes, through: No

- Survey(s)
- Regular meetings
- Other

24. What were the results of these studies/surveys?

25. Has the NCP organised any events to promote the Guidelines and their implementation procedure? No

26. Did the NCP participate in any event organised by stakeholders or other entities to promote the Guidelines and their implementation procedures? Yes

Title of the event: CSR standards in a changing world

- **Place, date:** Basel/Switzerland, 17 June 2014
- **Organiser(s):** Lionsclub Basel St. Jakob
- **Number of participants and type of audience (e.g. government, business, worker organisations, NGOs, academia, or other parties) :** 20-30 business members
- **Highlights and key outcomes:** awareness raising about the OECD guidelines an enabling a discussion about CSR

Title of the event: Responsible Management Education Research Conference

- **Place, date:** Chur/Switzerland: 30 October 2014
- **Organiser(s):** Principles of Responsible Management Education (PRME), DACH Chapter
- **Number of participants and type of audience (e.g. government, business, worker organisations, NGOs, academia, or other parties):** 200 (academia, business, government)
- **Highlights and key outcomes:** positioning of OECD guidelines as important instrument of CSR position paper (Swiss CSR Policy) of public administration.

Title of the event: Participation in stakeholder dialogue processes of 3 companies (IKEA, Holcim, Richemont)

- **Place, date:** different places and telephone conferences, September 2014 – December 2015
- **Organiser(s):** IKEA, Holcim, Richemont
- **Number of participants and type of audience (e.g. government, business, worker organisations, NGOs, academia, or other parties):** in total 40-50 organisations from NGO, academia, business
- **Highlights and key outcomes:** awareness raising about OECD Guidelines in view of integration in CSR strategy and reporting activities of companies

Title of the event: My Brand, my supply chain and human rights

- **Place, date:** Bellevue/Switzerland, 10 December 2014
- **Organiser(s) :** UNGC / Richemont
- **Number of participants and type of audience (e.g. government, business, worker organisations, NGOs, academia, or other parties):** 80-100, multi-stakeholder
- **Highlights and key outcomes:** awareness raising about the OECD Guidelines as an important instrument of the Swiss Federal CSR strategy (CSR Position Paper and Action Plan)

Title of the event: Corporate Social Responsibility – what’s next?

- **Place, date:** Berne/Switzerland: 19 January 2015
- **Organiser(s):** SwissHoldings, Swiss business federation representing the interests of Swiss based multinational enterprises from the manufacturing and service sectors
- **Number of participants and type of audience (e.g. government, business, worker organisations, NGOs, academia, or other parties):** 100 (Parliament, business, NGOs and government)
- **Highlights and key outcomes:** Policy discussion on CSR instruments, including OECD Guidelines (practice and outlook)

Title of the event: Migration Partnership with Nigeria

- **Place, date Berne/Switzerland:** 27 May 2015
- **Organiser(s):** Federal Department of Foreign Affairs
- **Number of participants and type of audience (e.g. government, business, worker organisations, NGOs, academia, or other parties):** Nigerian Diplomats (4)
- **Highlights and key outcomes:** awareness raising about the OECD Guidelines

Title of the event: Trade Unions and CSR

- **Place, date:** Berne, 7 September 2015
- **Organiser(s)** UNIA (biggest Swiss Trade Union)
- **Number of participants and type of audience (e.g. government, business, worker organisations, NGOs, academia, or other parties):** 15 members of Board and sectors of UNIA
- **Highlights and key outcomes:** awareness raising about OECD Guidelines, the NCP and CSR in general

27. Does the NCP cooperate with OECD partner organisations and/or other leading organisations working on responsible business conduct? Please check all that apply and provide further details on the nature of the cooperation.

- ILO ✓
- UN Global Compact and its local networks ✓
- UN Office of the High Commissioner on Human Rights ✓
- National Institution for the Protection and Promotion of Human Rights ✓
- Global Reporting Initiative
- ISO ✓
- Other: The Swiss NCP maintains close contact to the Swiss UN Global Compact Network. In 2015, a new public private partnership including business and governmental representatives (including a representative of the NCP) was launched in order to strengthen the network. The NCP is moreover in contact with the International Labour Organisation (ILO) through the responsible government unit and follows its activities in the fields of CSR. The NCP also closely follows the activities of the UN and in particular of the Working Group on the issue of human rights and transnational corporations and other business enterprises. In this context, the NCP is participating actively in the follow-up work in Switzerland (elaboration of a National Action Plan on Business and Human Rights), following the adoption of the Guiding Principles on Business and Human Rights. The NCP is as well in contact with the relevant units in the State Secretariat for Economic Affairs dealing with ISO 26000 and the Global Reporting Initiative.

28. Did the NCP receive enquiries about the Guidelines and the NCP? From (check all that apply):

- Business ✓ 30
- Labour organisations ✓ 5
- Non-governmental organisations ✓ 10
- Government agencies ✓ 100
- Other government (e.g. via embassies) ✓ 10
- Other (individuals, press, academia) ✓ 30

29. If available please provide web statistics regarding your NCP's website:

- How many visitors did the website(s) receive in the reporting period? *Technically not possible*
- How many downloads of materials on the NCP website (e.g. the Guidelines, brochures, other materials) occurred during the reporting period? *Technically not possible*

D. Specific instances

According to the Procedural Guidance, NCPs are expected to contribute to the resolution of issues that arise relating to the 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.

30. What are the NCP's procedures for handling specific instances? Please attach the procedures

Specific instance Procedure of Swiss NCP is attached and can be downloaded here:

https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/NKP/organisation-und-kontaktaufnahme.html

Where applicable please elaborate or note an absence of NCP procedures regarding:

- Requirements on submitting a complaint in a specific instance

When raising specific instances with the NCP, the written submission should provide details of the party raising the issues and of the multinational enterprise concerned. It should name the relevant chapter of the OECD Guidelines and explain why, in the opinion of the party raising the specific instance, the multinational enterprise has breached the OECD Guidelines. If a submission is incomplete, the NCP can return it for revision (see Specific Instance Procedure of Swiss NCP, 3.4.)

- Standing requirements for participating in a specific instance (e.g. rules around who is allowed to bring complaints to an NCP mechanism, who is allowed to participate in mediation).

The website of the NCP informs, that both individuals and any interest groups may address the NCP if they wish to raise a company behaviour which might be inconsistent with the Guidelines (see https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/NKP.html). According to the Specific Instance Procedure of the Swiss NCP (3.4.), the party raising the specific instance is required to disclose its identity and its legitimate interest in the issue at hand.

- Confidentiality provisions

According to the Specific Instance Procedure of the Swiss NCP (3.5.) procedures remain confidential during the mediation process. The parties involved must also respect this confidentiality and may not make public any information during proceedings. If no agreement on the issues raised is reached between the parties at the end of the proceedings, they may comment publicly on these issues. However, any information or opinions expressed by a party during the NCP proceedings remains confidential, unless that party expressly states that it may be made public. At the start of the proceedings, the NCP draws the attention of the parties involved to the need for confidentiality expressed in the OECD Guidelines. It informs the parties that it reserves the right to stop the proceedings if one or other of the parties does not respect this confidentiality. The NCP recommends that the parties involved restrict their communication as much as possible. The Swiss NCP and other representatives of the Swiss federal authorities do not provide any information on ongoing proceedings.

In addition, the Terms of References for Dialogue, which have to be agreed by both parties before mediation talks start, specify in detail the confidentiality rules.

- Indicative timeframes for the different steps of the procedure

According to the Specific Instance Procedure of Swiss NCP, the phase of the Initial Assessment should be concluded within 3 months. Timeframes for the mediation talks until conclusion of a specific instance can be part of the Terms of References of Dialogue.

- Existence of a statute of limitations: No
- Publication and availability online of initial assessments

The Swiss NCP changed its procedure regarding this point during the reporting period. Initial Assessments are now published on the website of the NCP.

31. How many new specific instance(s) did the NCP receive in the reporting period? 3
32. What are the main challenges the NCP encountered in handling specific instances during the reporting period? (check all that apply).
- Parallel legal proceedings ✓
 - Parallel public campaigning by complainant ✓
 - Unrealistic expectations regarding possible outcomes ✓
 - Unwillingness of the company to engage
 - Unwillingness of the complainant(s) to engage
 - Other (please elaborate)
 - No specific instances

E. Proactive Agenda

In accordance with the Investment Committee's proactive agenda, NCPs should maintain regular contact, including meetings, with social partners and other stakeholders in order to: a) consider new developments and emerging practices concerning responsible business conduct; b) support the positive contributions enterprises can make to identify and respond to risks of adverse impacts associated with particular products, regions, sectors or industries.

33. Does the NCP engage in any of the multi-stakeholder advisory groups under the proactive agenda?

- Responsible Mineral Supply Chains? Yes/No. Please specify. Yes

A representative of the NCP participated in the multi-stakeholder advisory group during the elaboration of the guidance and attended meetings of the multi-stakeholder group with regard to the implementation of the guidance.

- Stakeholder Engagement in the Extractive Industries? Yes/No. Please specify. No
- Responsible Business Conduct in the Financial Sector? Yes/No. Please specify. Yes

Yes, a representative of the NCP and a member of the NCP Advisory Board are participating in the advisory group.

- Responsible Agricultural Supply Chains? Yes/No. Please specify. No

However, the NCP closely collaborates with the representative of the Federal Office for Agriculture who participated in the advisory group.

- Responsible Supply Chains in the Textile and Garment Sector? Yes/No. Please specify. No

However, Switzerland has participated at the OECD Roundtable on Due Diligence in the Garment and Footwear Supply Chain on October 12, 2015, in Paris and has sent written proposals and comments to the OECD.

34. How does the NCP use and rely on guidance developed as part of the proactive agenda projects mentioned above? (check all that apply).

- Promotion and awareness raising activities ✓
- Dealing with specific instances ✓
- Handling enquiries ✓
- Developing guidance at the national level ✓
- Other

F. Co-operation and peer learning

In addition to contributing to the Committee's work to enhance the effectiveness of the Guidelines, NCPs are encouraged to cooperate and engage in horizontal, thematic peer reviews and voluntary peer evaluations. Cooperation and experience sharing can be carried out through meetings at the OECD or hosted by a government and can include mentoring and coaching, direct co-operation between individual NCP on specific issues, etc.

35. How did the NCP engage in co-operation and experience sharing with other NCPs during the reporting period? Check all that apply:
- Horizontal learning activities ✓
 - Co-hosting events
 - Co-operation in handling specific instances ✓
 - Mentoring/capacity building events ✓
 - Other
 - No co-operation
36. Did the NCP encounter any difficulties in co-operating with other NCPs? If yes, please elaborate. No
37. Is the NCP interested in volunteering for a peer evaluation? Yes/No. Please indicate semester/year.
Yes: 2nd semester 2016
38. Is the NCP interested in being part of a peer review team? Yes/No. – Please indicate semester/year.
Yes: 2016
39. Please provide suggestions for themes of future horizontal learning exercises.
- NCP was part of peer review of Belgium NCP in November 2015 and is interested in being part of a peer review team in 2016.
40. Is the NCP interested in hosting an NCP learning/experience-sharing event? Please indicate semester/year. No

G. Impact and future work

41. Have there been any measurable impacts of the Guidelines and/or the efforts of the NCP in the past implementation cycle? For example:

- Have the Guidelines been referred to in national legislation (e.g. on non-financial reporting, export credits regulation etc.)?
- Do any domestic industry standards refer to the Guidelines? Yes

The publication on CSR “Responsabilité sociale des entreprises: le point de vue des entreprises” of two major Swiss industry associations (economiesuisse and Swissholdings, both member of BIAC) refers to the Guidelines.

- Other?

42. What are the new emerging challenges for enterprises identified by NCPs, notably in developing and emerging economies and sectors?

In our view, it is important that companies effectively implement existing OECD due diligence guidance (like OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and FAO/OECD Guidance for Responsible Agricultural Supply Chains) and which are currently under development (Guidance for the Financial Sector, Guidance on Garment and Footwear).

43. How has the NCP helped enterprises address these challenges?

Promotion of the OECD guidance (cf. C “Information and Promotion”).

44. What issues might deserve particular attention during the 2016 implementation cycle of the Guidelines? For example:

- Areas for which additional proactive agenda projects would be valuable
- Areas where additional research or analytical support would be helpful

Different forms and approaches of remedy.

- Areas which would benefit from additional policy dialogue

Coherence with UNGP on Business and Human Rights.

- Other