



OECD Guidelines for Multinational Enterprises
National Contact Point Peer Reviews
AUSTRIA



ABOUT THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

The OECD Guidelines are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. They provide non-binding principles and standards for responsible business conduct in a global context consistent with applicable laws and internationally recognised standards. The OECD Guidelines are the only multilaterally agreed and comprehensive code of responsible business conduct that governments have committed to promoting.

ABOUT NCP PEER REVIEWS

Adhering governments to the OECD Guidelines for Multinational Enterprises are required to set up a National Contact Point (NCP) that functions in a visible, accessible, transparent and accountable manner. During the 2011 update of the OECD Guidelines for multinational enterprises, NCPs agreed to reinforce their joint peer learning activities and, in particular, those involving voluntary peer reviews. The peer reviews are conducted by representatives of 2 to 4 other NCPs who assess the NCP under review and provide recommendations. The reviews give NCPs a mapping of their strengths and accomplishments, while also identifying opportunities for improvement. More information can be found online at <https://mneguidelines.oecd.org/ncppeerreviews.htm>.

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1. Summary and key findings

This document is the peer review report of the Austrian National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises (the Guidelines). The implementation procedures of the Guidelines require NCPs to operate in accordance with the core criteria of visibility, accessibility, transparency and accountability. In addition, they recommend that NCPs deal with specific instances in a manner that is impartial, predictable, equitable and compatible with the Guidelines.

This report assesses conformity of the Austrian NCP (the ‘NCP’) with the core criteria and with the Procedural Guidance contained in the implementation procedures. The peer review of the Austrian NCP was conducted by a team made up of reviewers from the NCPs of Germany, Finland, Sweden and an observer from Poland, along with representatives of the OECD Secretariat. The peer review included an on-site visit which took place in Vienna, Austria on 14-15 December 2017.

The NCP has improved promotional activities and integrated lessons learned and good practice into the handling of specific instances. The efforts of the NCP have been carried out to date with limited resources and with the challenge of high turnover of staff in the NCP role.

Key findings and recommendations

Institutional Arrangements

The NCP is based within a discrete unit in the Federal Ministry for Digital and Economic Affairs,¹ in the Directorate-General for External Trade Policy and European Integration. A full-time staff role is devoted to NCP activities and the individual representing the NCP retains full decision-making power with respect to handling of specific instances, and responsibility for activities undertaken by the NCP.

The current NCP representative is regarded as motivated and knowledgeable by stakeholders. It was noted that there was a continuous level of quality with respect to the work of the NCP as well as ambition to further improve. However, it was also noted that having only one person responsible for all activities and decisions of the NCP was not sufficient with respect to human resources. Necessary human and financial resources should be made available to the NCP.

The NCP is also supported by a multi-stakeholder Steering Committee. The Steering Committee includes five government representatives, representatives of the four social partners (Austrian Chamber of Labour, the Austrian Trade Union Federation, the Austrian Chamber of Agriculture and the Austrian Federal Economic Chamber), one business representative, one civil society representative and one independent expert. Decision-making within the Steering Committee is based on the majority or qualified majority of votes and therefore in practice minority views may not be reflected in the decisions of the Steering Committee. Hence the current voting procedures of the Steering Committee do not lend to an ideally balanced representation of stakeholders. The NCP should create the conditions for

¹ Prior to 8 January, 2018 and at the time of the on-site visit of the peer review the name of this ministry was Federal Ministry of Science, Research and Economy.

the perspectives of all stakeholders to be appropriately and equitably reflected with respect to the Steering Committee. Lastly, the majority of members of the Steering Committee saw their role as primarily advisory, especially with respect to handling of specific instances. The NCP should ensure the Steering Committee is characterised mainly as a consultative body vis-à-vis activities of the NCP.

Some stakeholders noted that they did not always perceive the NCP to be impartial. This perception was based on the fact that the NCP is located in a ministry which is also tasked with investment promotion and that other government agencies and stakeholders only interact with the NCP in an advisory capacity, rather than act as representatives of the NCP. The NCP should take steps to correct this perception and organise and structure itself with the aim of gaining the confidence of a broader group of stakeholders. For example, potential ways of doing so may include communicating on the autonomy of the NCP with respect to its activities and decision-making, including the fact that it is established as a distinct unit. In addition, it could be envisaged to involve other government agencies or stakeholders more actively in the role of the NCP.

Findings	Recommendations
1.1 The NCP has one dedicated full-time mid-career staff member. Many stakeholders participating in the peer review noted that having only one person responsible for all the activities and decisions of the NCP was not sufficient with respect to human resources.	Necessary human and financial resources should be made available to the NCP.
1.2 Some stakeholders noted that they did not always perceive the NCP to be impartial.	The NCP should take steps to correct this perception and organise and structure itself with the aim of gaining the confidence of a broader group of stakeholders.
1.3 The current voting procedures of the Steering Committee do not lend to an ideally balanced representation of stakeholders.	The NCP should create the conditions for the perspectives of all stakeholders to be appropriately and equitably reflected with respect to the Steering Committee.
1.4 The majority of members of the Steering Committee saw their role as primarily advisory, especially with respect to specific instances.	The NCP should ensure the Steering Committee is characterized mainly as a consultative body vis-à-vis activities of the NCP.

Promotion of the Guidelines

The NCP has identified meaningful promotional opportunities and developed useful resources and materials to raise awareness on the Guidelines and the NCP mechanism. For example, every year the NCP develops a detailed promotional plan (‘communications plan’) based on feedback received through surveys of local business representatives. Although it has limited resources, the NCP is active in promoting the Guidelines through events and targeted outreach activities.

Traditionally promotional activities of the NCP have targeted primarily the business community. However, increasingly the promotional plan is targeting a broader range of stakeholders. This past year outreach activities were organised with worker organisations and this is a stakeholder group the NCP plans on continuing engagement with. The NCP should also continue and strengthen the dialogue with civil society to discuss collaboration on promotion and targeting promotional events towards NGOs to improve the perception of the mechanism and promote engagement in the specific instance process.

There is currently no Ministry within the Austrian federal government that has ownership of responsible business conduct issues and there is no formal inter-ministerial agency or platform for coordination on RBC issues. At present the Steering Committee is the only interagency or multi-stakeholder body that exists to discuss issues around those subjects. As

a consequence, it was noted that at meetings of the Steering Committee different issues relating to RBC which sometimes go beyond the remit of the body, are raised. The NCP may consider organising or participating in the organisation of a forum where stakeholders and relevant members of government can exchange on RBC.

2.1	Findings	Recommendations
	Traditionally promotional activities of the NCP targeted primarily the business community. However, increasingly the NCP is engaging with a broader range of stakeholders.	The NCP should continue and strengthen the dialogue with civil society to discuss collaboration on promotion and targeting promotional activities towards NGOs, in addition to worker organisations to improve the perception of the mechanism and promote engagement in the specific instance process.
	At present the Steering Committee is the only interagency or multi-stakeholder body in Austria that exists to discuss RBC. As a consequence, at meetings of the Steering Committee, different issues relating to RBC which sometimes go beyond the remit of the body, are raised.	The NCP may explore the possibility of organising or participating in the organisation of a forum where stakeholders and relevant members of government can exchange on RBC.

Specific instances

The NCP has handled five specific instances since 2004. It was noted during the on-site that one reason for the relatively low number of submissions was that risk-exposure amongst Austrian companies is relatively low. Other stakeholders noted that it may be due to a lack of awareness and unsatisfactory experiences with respect to early users of the NCP specific instance system which has led certain stakeholder groups to stop promoting the mechanism as an option for accessing remedy.

The NCP has applied lessons learned from earlier cases and integrated some good practices into its specific instance procedure. For example, the NCP rules of procedure now provide for publication of the results of the initial assessment, follow-up on specific instances, and the possibility of external mediation. The NCP has also developed templates for specific instance submissions as well as for final statements.

The specific instance procedure is described in the NCP Terms of Reference as well as in a Guidance document developed for promotional purposes. The NCP has noted it plans to update this Guidance subsequent to the peer review. When undertaking the update of the Guidance the NCP should clarify its relationship to the NCP Terms of Reference and ensure that both documents are in line with each other. Additionally, some specific provisions of the Terms of Reference are not fully clear. The NCP should also revise a few specific provisions in their Terms of Reference to provide clarity on appointment of external mediators, costs related to specific instance proceedings, the NCP's position on confidentiality and campaigning, and the fact that the NCP is able to consider issues raised with respect to the conduct of companies operating in or from Austria.

The NCP has demonstrated efforts to overcome logistical and coordination challenges to extend good offices to parties, for example through organising mediation meetings through video-conferences. Additionally it was noted by parties to specific instances that the NCP did a good job coordinating inputs amongst the parties and caucusing with each side to try and encourage resolution of the issues. At the same time, parties noted that the specific instance process could be supported by more technical expertise and by involving independent mediators. The NCP should engage technical experts in the specific instance process as needed and by following up on their intention to engage external mediators more systematically.

Findings	Recommendations
<p>3.1 The specific instance procedure is described in the NCP Terms of Reference as well as in a Guidance document developed for promotional purposes. The NCP has noted it plans to update this Guidance subsequent to the peer review. Additionally some specific provisions of the Terms of Reference are not fully clear.</p>	<p>When undertaking the update of the Guidance the NCP should clarify its relationship to the NCP Terms of Reference and ensure that both documents are in line with each other. It should also revise a few specific provisions in their Terms of Reference to provide clarity on appointment of external mediators, costs related to specific instance proceedings, the NCP's position on confidentiality and campaigning, and the fact that the NCP is able to consider issues raised with respect to the conduct of companies operating in or from Austria.</p>
<p>3.2 The specific instance process could be supported by more technical expertise and by involving independent mediators.</p>	<p>The NCP should engage technical experts in the specific instance process as needed and by following up on their intention to engage external mediators more systematically.</p>

Austria is invited to report to the Working Party on Responsible Business Conduct on follow up to all the recommendations within one year of the date of presentation of this report.

2. Introduction

The implementation procedures of the Guidelines require NCPs to operate in accordance with the core criteria of visibility, accessibility, transparency and accountability. In addition, the guiding principles for specific instances recommend that NCPs deal with specific instances in a manner that is impartial, predictable, equitable and compatible with the Guidelines. This report assesses conformity of the Austrian NCP with the core criteria and with the Procedural Guidance.

Austria adhered to the OECD Declaration on International Investment and Multinational Enterprises (Investment Declaration) in 1976. The OECD Guidelines for Multinational Enterprises (the Guidelines) are part of the Investment Declaration. The Guidelines are recommendations on responsible business conduct (RBC) addressed by governments to multinational enterprises operating in or from adhering countries. The Guidelines have been updated five times since 1976; the most recent revision took place in 2011.

Countries that adhere to the Investment Declaration are required to establish National Contact Points (NCPs). NCPs are set up to further the effectiveness of the Guidelines and adhering countries are required to make human and financial resources available to their NCPs so they can effectively fulfil their responsibilities, taking into account internal budget priorities and practices.²

NCPs are “agencies established by adhering governments to promote and implement the Guidelines. The NCPs assist enterprises and their stakeholders to take appropriate measures to further the implementation of the Guidelines. They also provide a mediation and conciliation platform for resolving practical issues that may arise.”³

The Procedural Guidance covers the role and functions of NCPs in four parts: institutional arrangements, information and promotion, implementation in specific instances and reporting. In 2011, the Procedural Guidance was strengthened. In particular, a new provision was added to invite the OECD Investment Committee to facilitate voluntary peer evaluations. In the commentary to the Procedural Guidance, NCPs are encouraged to engage in such evaluations.

The objectives of peer reviews as set out in the Core Template for voluntary peer reviews of NCPs⁴ are to assess that the NCP is functioning in accordance with the core criteria set out in the implementation procedures; to identify the NCP’s strengths and possibilities for improvement; to make recommendations for improvement and to serve as a learning tool for all NCPs involved.

This report was prepared based on information provided by the NCP and in particular, its responses to the NCP questionnaire set out in the OECD’s core template for voluntary peer reviews of NCPs as well as responses to requests for additional information. The report also draws on responses to the stakeholder questionnaire which was completed by 26

² Amendment of the Decision of the Council on the OECD Guidelines for Multinational Enterprises, para I(4).

³ OECD Guidelines for Multinational Enterprises (2011), Foreword.

⁴ Core Template for Voluntary Peer Reviews of National Contact Points (OECD, 2015), [https://one.oecd.org/document/DAF/INV/RBC\(2014\)12/FINAL/en/pdf](https://one.oecd.org/document/DAF/INV/RBC(2014)12/FINAL/en/pdf).

organisations representing enterprises, civil society, trade unions/representative organisations of the workers' own choosing (hereinafter worker organisations), academic institutions and government agencies (see Annex A for complete list of stakeholders who submitted written feedback) and information provided during the on-site visit.

The peer review of the NCP was conducted by a peer review team made up of reviewers from the NCPs of Germany, Finland and Sweden, an observer from the NCP of Poland along with representatives of the OECD Secretariat. The on-site visit to Vienna Austria took place on 14-15 December 2017 and included interviews with the NCP, other relevant government representatives and stakeholders. (A list of organisations that participated in the review process is set out in Annex B). The peer review team wishes to acknowledge the NCP for the quality of the preparation of the peer review and organisation of the on-site visit.

The basis for this peer review is the 2011 version of the Guidelines. The specific instances considered during the peer review date back to 2004. The methodology for the peer review is that set out in the OECD's core template for voluntary peer reviews of NCPs.⁵

Economic context

Austria's economy is dominated by the service sector, representing 59% of GDP. Regarding foreign direct investment (FDI), the inward stock of FDI, which represents the accumulated value of FDI in the Austrian economy over time, was USD 154 billion in 2016, equivalent to 40 percent of Austria's GDP. The outward stock of FDI was USD 206 billion in 2016, representing 53 percent of Austria's GDP. The main investors in Austria are Germany, the Russian Federation, the United States, Italy and Switzerland, and the main inward investment sectors are by far professional, scientific and technical activities (53%). The main destinations for outward investment from Austria are Germany, the Netherlands, the Czech Republic, Luxembourg and the United States, and the most important sector is finance and insurance followed by manufacturing; professional, scientific and technical activities; and wholesale and retail trade. As measured by employment at foreign-owned firms in Austria in 2014, the most important investors are Germany, Switzerland, the United States, the United Kingdom and the Netherlands. As measured by employment at the overseas affiliates of Austrian MNEs, the most important destination countries are Germany, the Czech Republic, Romania, Hungary and the Slovak Republic.⁶

⁵ Core Template for Voluntary Peer Reviews of National Contact Points (OECD, 2015), [https://one.oecd.org/document/DAF/INV/RBC\(2014\)12/FINAL/en/pdf](https://one.oecd.org/document/DAF/INV/RBC(2014)12/FINAL/en/pdf).

⁶ OECD foreign direct investment statistics database, <http://www.oecd.org/investment/statistics.htm>.

3. Austrian NCP at a glance

Established: 2000

Structure: Discrete government unit supported by a multi-stakeholder Steering Committee

Location: Federal Ministry for Digital and Economic Affairs⁷, in the Directorate-General for External Trade Policy and European Integration

Staffing: 1 full time staff member

Website: www.oecd-leitsaetze.at

Specific instances received: 5

⁷ Prior to January 8, 2018 the ministry was known as the Federal Ministry of Science, Research and Economy

4. Institutional arrangements

The Commentary to the Procedural Guidance of the Guidelines provides:

“Since governments are accorded flexibility in the way they organise NCPs, NCPs should function in a visible, accessible, transparent, and accountable manner.”

Legal basis

The NCP has its legal basis in a Ministerial decree which created a new unit through an amendment of the Ministry’s organisational structure in 2012 following the latest update to the Guidelines.

Additionally Terms of Reference for the NCP were published in 2012 and amended in 2017 which set out the mandate of the NCP and provide a high level overview of specific instance handling procedures. Terms of Reference outlining the organisation and tasks of the NCP Steering Committee were likewise introduced in 2012 and updated in 2017.

NCP Structure

NCP

The NCP is represented by one full-time staff member and is based within a discrete unit in the Federal Ministry for Digital and Economic Affairs, in the Directorate-General for External Trade Policy and European Integration. According to the website of the Federal Ministry for Digital and Economic Affairs (BMDW) its role is to further enhance the positive development of the Austrian business location, to actively take advantage of the opportunities offered by the digitalisation of business and society and to strengthen entrepreneurship.⁸ This structure was established in March 2012 following the 2011 update of the Guidelines. A consultation process with various stakeholders was undertaken to collect input on the restructuring. During the consultation process some NGO stakeholders noted preferences for an independent structure whereas trade union stakeholders had called for a tripartiate structure. Due to resource limitations and in anticipation that the NCP would not receive a large amount of specific instances these structures were not deemed to be possible or necessary and the structure decided upon was made purposefully lean.

Before the reorganisation, the tasks of the NCP were carried out by the Department for Export and Investment Policy. After the restructuring the NCP was made a discrete unit within the department for EU coordination and NCP. The separation from the Department for Export and Investment Policy was undertaken to ensure impartiality in its function. The NCP remains based in the Ministry of Digital and Economic Affairs.

⁸ Federal Ministry for Digital and Economic Affairs (BMDW) Website (accessed 18 October, 2018) <https://www.en.bmdw.gv.at/Ministry/Seiten/TheMinistry.aspx>

Until 2016 the NCP only had staff responsible for its activities on a part-time basis. A full-time staff role devoted to NCP activities was established in 2016 to ensure additional resources for the NCP. However the individual representing the NCP retains full decision-making power with respect to handling of specific instances, and responsibility for activities undertaken by the NCP.

Some stakeholders noted that they did not always perceive the NCP to be impartial. This perception was based on the fact that the NCP is located in a ministry which is also tasked with investment promotion and that other government agencies and stakeholders only interact with the NCP in an advisory capacity (see below), rather than act as representatives of the NCP. The NCP should take steps to correct this perception and organise and structure itself with the aim of gaining the confidence of a broader group of stakeholders. For example, potential ways of doing so may include communicating on the autonomy of the NCP with respect to its activities and decision-making, including the fact that it is established as a separate unit. In addition it could be envisaged to involve other government agencies or stakeholders more actively in the activities of the NCP.

The current NCP representative is regarded as motivated and knowledgeable by stakeholders. It was noted that there was a continuous level of quality with respect to the work of the NCP as well as ambition to improve. However many stakeholders participating in the peer review noted that having only one person responsible for all activities and decisions of the NCP was not sufficient with respect to human resources.

There has been significant turnover with respect to staff of the NCP. Since 2012, the NCP has had three different NCP heads, plus an interim NCP. Some continuity has been ensured through the head of department for EU coordination and NCP who served as interim NCP in case of staff turnover. This has helped to ensure against disruptions due to turnover in case handling and other activities.

The NCP is also supported by a multi-stakeholder Steering Committee (see below).

NCP advisory bodies

The Steering Committee was established in 2012 as part of the restructuring of the NCP described above. It is chaired by a senior official of Federal Ministry for Digital and Economic Affairs and includes representatives from:

- the Federal Chancellery;
- the Federal Ministry of Labour, Social Affairs, Health and Consumer Protection⁹;
- the Federal Ministry for Europe, Integration and Foreign Affairs;
- the Federal Ministry of Finance;
- the Austrian Federal Chamber of Labour;
- the Austrian Chamber of Agriculture;
- the Austrian Trade Union Federation;
- the Federation of Austrian Industries;

⁹ Prior to January 8, 2018 this Ministry was known as the Federal Ministry of Labour, Social Affairs and Consumer Protection.

- the Austrian Federal Economic Chamber;
- an Austrian-based member organisation of OECD Watch; and
- one external expert in the field of extrajudicial dispute resolution.

The Steering Committee was composed of stakeholders that expressed interest in being involved at the time it was being formed as well as other relevant stakeholders. The Steering Committee includes five government representatives, representatives of the four social partners (Austrian Chamber of Labour, the Austrian Trade Union Federation, the Austrian Chamber of Agriculture and the Austrian Federal Economic Chamber), one business representative, one civil society representative and one independent expert. Civil society and trade union stakeholders noted during the onsite visit that this representation was not balanced and that there should be additional representation from their sides. Other Steering Committee members noted that there is a balanced representation of the relevant stakeholders on the Steering Committee.

The Chair of the Steering Committee also serves as the Chair of the OECD Investment Committee. This ensures high-level representation associated with the NCP and expertise on responsible business conduct issues. It also ensures the Steering Committee is well informed of key developments and issues at the level of the OECD.

The composition of the Steering Committee as well as its principle tasks are set out in the Terms of Reference for the Steering Committee.

The stated tasks included in the Terms of Reference for the Steering Committee are as follows:

- Consulting the NCP in all matters regarding the implementation of the Guidelines, including the handling of notifications in specific instances;
- Supporting and consulting the NCP during the implementation of the pro-active agenda;
- Participation in the preparation of the annual report of the NCP to the OECD Investment Committee;
- Promotion of a broad dialogue on the Guidelines with stakeholders;
- Proposals for the further development of the NCP;
- Suggestion to refer a matter to the OECD Investment Committee in case of doubts regarding the interpretation of the Guidelines;
- Evaluation of the activities of the NCP, in particular with regard to the compliance with the Terms of Reference and the implementation of the key criteria pursuant to Item I of the Procedural Guidance of the Guidelines.

The Terms of Reference for the NCP which include rules of procedure for handling of specific instances provide that:

“The Austrian NCP shall immediately inform the Steering Committee on the essential steps in the course of the handling of the notifications received. These steps are, in particular, the following:

- a. The receipt of a specific instance;

- b. The order for amendment of the notification in specific instances by the Austrian NCP;
- c. The rejection of a specific instance due to the incompetence of the Austrian NCP;
- d. The result of the initial assessment and the commencement of the closer revision;
- e. The interruption or resumption of the proceedings;
- f. The assignment of a mediator;
- g. The contacting of other National Contact Points within the scope of a pending proceeding;
- h. The referral to the OECD Investment Committee within the scope of a pending proceeding;
- i. The result with regard to the outcome of a proceeding.”

The amount and type of information that is shared with the Steering Committee is decided on a case-by-case basis and depends on the agreement of the parties. Due to confidentiality rules agreed by the parties in the ANDRITZ HYDRO specific instance, information provided by parties in the course of specific instance proceedings could not be shared with the Steering Committee, and therefore, some members noted, the updates provided by the NCP on the process were general in nature. Although the NCP makes all decisions with respect to the specific instance, it was noted by some stakeholders that the role of the Steering Committee with respect to specific instances, whether it is advisory, or authoritative in any way, was not clear from the Terms of Reference.

The Terms of Reference of the NCP additionally provide that the NCP is entitled to ask the Steering Committee for advice in all matters regarding the implementation and disclosure of the Guidelines.

Lastly, while according to its Terms of Reference, the Steering Committee can take formal decisions on its own of tasks the majority of members of the Steering Committee saw their role as primarily advisory, especially with respect to the handling of specific instances. The NCP should ensure the Steering Committee is characterised mainly as a consultative body vis-à-vis activities of the NCP.

The Steering Committee meets at least twice a year for discussion and consultation with the NCP on related recent OECD developments, on-going specific instances and promotional activities.¹⁰ If necessary, external experts can be consulted for the meetings.¹¹ Meetings are called by the Chair of the Steering Committee but additional meetings can also be requested by members. The agenda is set by the Chair of the Steering Committee and approved at the beginning of each meeting by members. Additionally, each agenda includes a section for “other business” where members can raise additional questions. It was noted that generally the meetings of the Steering Committee are very well attended. High participation is also ensured by the fact that representatives to the Steering Committee each have alternate representative that can attend meetings when the primary representative is not available.

The head of the NCP takes part in the meetings of the Steering Committee in an advisory capacity and is in charge of keeping minutes, but has no right to vote. Meeting minutes record

¹⁰ Section 4.1. of the Terms of Reference of the Steering Committee

¹¹ Section 4.3. of the Terms of Reference of the Steering Committee

whether resolutions have been adopted unanimously or by majority. Minority opinions are also recorded upon request. In order to ensure transparency of the work of the Steering Committee, a short and anonymised version of the minutes of every meeting is published on the website of the NCP (in German).

The Steering Committee has the power to vote-in changes to the Terms of Reference for the Steering Committee.¹² Any changes to the ToR require the vote of a qualified majority of the Steering Committee (nine of the twelve represented organisations). All other decisions (those not related to amendment of the Terms of Reference) are decided by majority vote and are not binding on the NCP. Abstentions from voting are admissible and in the event of a tie vote, the deciding vote is cast by the Chair of the Steering Committee.

NGO and trade union members, who represent two of the twelve members of the Steering Committee noted that their inputs are regularly not taken into account and that the current voting procedures of the Steering Committee does not lend to an ideally balanced representation of stakeholders. Other Steering Committee members expressed that they believe there is a balanced representation of stakeholders. The NCP should create the conditions for the perspectives of all stakeholders to be appropriately and equitably reflected with respect to the Steering Committee.

In 2015, the NCP conducted a survey among the Steering Committee members with regards to their satisfaction with the work of the NCP. The work of the NCP was rated by an average score of 2,05 (on a scale from 1-4 with 1 being the best score). The results of the survey also revealed a need for an update and improvement of the NCP's website. The NCP has sought to respond to these recommendations. A new survey is currently being prepared which will seek to collect feedback and lessons learned with respect the Austrian NCP's handling of specific instances (see section on *Handling of Specific Instances*).

Resources

The NCP has one dedicated full-time staff member. The NCP can also consult with additional experts in the Directorate-General for External Trade Policy and European Integration as necessary.

Many stakeholders participating in the peer review noted that having only one person responsible for all of the activities and decision making of the NCP was not sufficient with respect to human resources. Necessary human and financial resources should be made available to the NCP.¹³

The NCP has a dedicated annual budget for special promotional activities. Since 2012, the NCP has concluded yearly service contracts with external organisations to manage the logistics of promotional activities organised by the NCP.

¹² The Steering Committee does not have the power to vote-in changes to the Terms of Reference of the NCP.

¹³ “An NCP can consist of senior representatives from one or more Ministries, may be a senior government official or a government office headed by a senior official, be an interagency group, or one that contains independent experts.” OECD Guidelines for Multinational Enterprises (2011), Procedural Guidance, I.A (2)

The NCP also disposes of a dedicated annual special budget for covering the costs of activities related to specific instances, which could be used for professional mediators and for the travel costs of parties in exceptional circumstances.

Reporting

Under its Terms of Reference the NCP has the following explicit reporting obligations:

- a. Annual reports to the OECD Investment Committee;
- b. Within the scope of the OECD annual meetings of the National Contact Points;
- c. Towards the OECD Secretariat with regard to pending cases, in particular on their commencement of proceedings and on the type and point of time of the conclusion of proceedings;
- d. Towards the OECD Secretariat with regard to possible organisational modifications of the Austrian NCP.

In order to ensure transparency, the NCP reports annually to the OECD Investment Committee and publishes the reports on its website.

The NCP also regularly reports to its Steering Committee on recent developments with regards to promotional activities, specific instances, relevant developments at the OECD as well as on general questions on the implementation of the Guidelines.

The activities of the NCP are inter alia also subject of the annual economic report by the Federal Ministry for Digital and Economic Affairs and the annual report on external relations by the Ministry for Europe, Integration and Foreign Affairs. Both reports are presented to the Austrian Parliament.

As an entity within the federal government, the NCP is subject to parliamentary control by the Austrian parliament. Members of Parliament have the right to make requests to the NCP via the competent Minister. The last time the Minister for Digital and Economic Affairs received a parliamentary request with regard to the activities of the NCP was in November 2015. The inquiry was accordingly answered in January 2016.

	Findings	Recommendations
1.1	The NCP has one dedicated full-time mid-career staff member. Many stakeholders participating in the peer review noted that having only one person responsible for all the activities and decisions of the NCP was not sufficient with respect to human resources.	Necessary human and financial resources should be made available to the NCP.
1.2	Some stakeholders noted that they did not always perceive the NCP to be impartial.	The NCP should take steps to correct this perception and organise and structure itself with the aim of gaining the confidence of a broader group of stakeholders.
1.3	The current voting procedures of the Steering Committee do not lend to an ideally balanced representation of stakeholders.	The NCP should create the conditions for the perspectives of all stakeholders to be appropriately and equitably reflected with respect to the Steering Committee.
1.4	The majority of members of the Steering Committee saw their role as primarily advisory, especially with respect to specific instances.	The NCP should ensure the Steering Committee is characterized mainly as a consultative body vis-à-vis activities of the NCP.

5. Promotion of the guidelines

The NCP has identified meaningful promotional opportunities and developed useful resources and materials to raise awareness on the Guidelines and the NCP mechanism. Although it has limited resources, the NCP is active in promoting the Guidelines through events and targeted outreach activities.

Information and promotional materials

The NCP develops a detailed communication plan annually to maximize the impact of promotional activities. See Annex C for 2017 communications plan. The NCP conducts an annual survey among around 400 business representatives regarding the awareness level of the Guidelines and the activities of the NCP the answers of which help to shape the communications plan. It plans to extend the survey to other stakeholders as well. The results of the survey are discussed with the Steering Committee. Based on the results of the survey, the annual promotional activities of the Austrian NCP with focus on different stakeholder groups are developed. Some stakeholders have noted that publishing the promotional plan on the NCP website would contribute to promoting transparency.

In the 2017 survey, to which 30 companies responded, 84% of the respondents stated that they are familiar with the Guidelines, 75% of the respondents indicated that they know the Austrian NCP.

Traditionally promotional activities of the NCP have targeted primarily the business community. However, increasingly the promotional plan is targeting a broader range of stakeholders. This past year outreach activities were organised with worker organisations and this is a stakeholder group the NCP plans on continuing engagement with. The NCP should continue and strengthen the dialogue with civil society to discuss collaboration on promotion and targeting promotional activities towards NGOs, in addition to trade unions, to improve the perception of the mechanism and promote engagement in the specific instance process.

The NCP has also developed a wide range of promotional materials including the following:

- Leaflet on the OECD Guidelines (available as print and online PDF document in German and English)
- Guidance on the Specific Instance Proceedings before the Austrian NCP (available as print and online PDF document in German and English)¹⁴
- Brochure on Responsible Supply Chains (available as print document in German)

The promotional materials of the NCP are distributed at events of the NCP and at events organised by relevant stakeholders. The materials of the NCP are also regularly distributed at Austrian embassies, permanent representations and consulates as well as offices of “Advantage Austria” (former Austrian Trade Commissions). The NCP also regularly issues newsletters about upcoming events and strives for media coverage on the Guidelines and the NCP in relevant magazines.

¹⁴ According to the NCP the Guidance on the Specific Instance Proceedings before the Austrian NCP will be republished after publication of the peer review report and after the next amendment of the NCP Terms of Reference.

Additionally since 2015 the NCP has prepared and disseminated annual reports in plain language (in German and English) to inform stakeholders about NCP activities and raise their interest in participating in upcoming events of the NCP. The reports include summaries of past events and other promotional activities.

Website

The NCP has a dedicated website (www.oecd-leitsaetze.at) which provides a comprehensive overview on the Guidelines and NCP facilities. The content of the website of the NCP is regularly updated and is available in German and English.

The following information is available on the website of the Austrian NCP:

Information on the Guidelines and the role of the NCP, including:

- Contact details of the Austrian NCP (postal address, e-mail address, telephone number)
- Text of the OECD Guidelines
- Objective and content of the OECD Guidelines
- Information brochures on the OECD Guidelines
- Terms of Reference of the Austrian NCP
- Information on the Austrian NCP and its mandate
- Tasks, activities and structure of the Steering Committee; Terms of Reference of the Steering Committee; minutes of the meetings of the Steering Committee (in German)
- Annual reports of the Austrian NCP

Information on specific instances, including:

- Information on specific instance proceedings before the Austrian NCP
- Guidance on the Specific Instance Proceedings before the Austrian NCP ¹⁵
- Template for the submission of a specific instance (also see template attached to questionnaire)
- Information on all completed cases

Information on promotional activities, including:

- Upcoming promotional activities
- Past events promoting the OECD Guidelines

A direct quick link at the bottom of the front page of the Federal Ministry for Digital and Economic Affairs's website leads directly to the website of the NCP. There is also a direct link from the Ministry's external trade website to the NCP website. In addition, the NCP placed a teaser on current NCP topics and activities (e.g. conclusion of specific instance proceedings, upcoming and past events, stakeholder survey) on the front page of the Ministry's website. The teaser leads directly to the relevant topic on the website of the NCP.

¹⁵ According to the NCP this will be republished after publication of the peer review report and after the next amendment of the ToR.

Prominently including these links on the homepage of the ministry contributes to increasing the visibility of the NCP within the government and potentially with external stakeholders.

All documents that are published on the website of the Austrian NCP are also accessible for visually impaired users.

Many of the improvements to the website aimed at increasing visibility and accessibility respond to recommendations from the Steering Committee raised in their first survey of the NCP.

Promotional events

The NCP hosts at least two expert talks and one larger discussion forum annually to inform stakeholders about the Guidelines and the functioning of the NCP mechanism. A list of all promotional events hosted by the NCP since 2015 is included in Annex D. In 2017 the NCP hosted four events with stakeholders which focused on providing guidance on due diligence processes as well as explaining the NCP specific instance procedure. The themes of the promotional events were identified based on feedback shared in surveys from the business community.

During the peer review some stakeholder also suggested that the NCP could engage with institutions responsible for incoming investment in Austria and those responsible for providing public finance as another mechanism of promoting the Guidelines. It was also suggested that promotional activities abroad in countries where Austrian companies operate would be welcome.

The Steering Committee members as well as other stakeholders also assist the NCP in promotional activities (by e.g. promoting the events of the NCP in the newsletter of Advantage Austria of the Austrian Federal Economic Chamber). The Austrian Federal Economic Chamber and the Federal Ministry for Europe, Integration and Foreign Affairs also distributed informational brochures of the NCP at Austrian embassies and the offices of Advantage Austria of the Austrian Federal Economic Chamber.

The Austrian Federal Chamber of Labour and the Federal Chancellery include a link to the NCP website on their own pages and regularly promote the NCP mechanism at different forums. Südwind and the Federation of Austrian Enterprises also noted that they make efforts to inform their members about the Guidelines and NCP through the organisation of events or seminars. However, one trade union representative noted that they are no longer active in promoting the NCP as a remedy mechanism due to disappointments with the procedure some years ago (See section on *Handling Specific Instances*).

Promotion of policy coherence

The NCP also raises awareness of the Guidelines and the NCP mechanism through providing inputs on RBC issues to reports of the Austrian government (as relevant), answering questions from parliament or making reference to the NCP in speeches of high-ranking officials.

In 2017 the NCP held meetings with the Austrian Federal Economic Chamber, the Austrian Export Credit Agency, the Austrian Development Bank, the Federation of Austrian Industries. In these meetings potential future cooperation activities were discussed, including joint events and how to promote policy coherence. Some of these agencies already have strong linkages to the Guidelines. For example, application forms for investment guarantees

from the Austrian Export Credit Agency include a reference to the Guidelines. Companies applying for export credit support have to acknowledge that they are aware of the Guidelines and make an effort to implement them. The Austrian Development Agency notes that when it partners with private actors, performance against the Guidelines is considered in the application and the Guidelines are referenced in contracts with private partners.

Austria has developed a coordinated approach for implementing the Sustainable Development Goals (SDGs) which involves intergovernmental cooperation as well as engagement with external stakeholders. The NCP has been involved in this process as a member of an intergovernmental steering group dedicated to considering implementation of the Sustainable Development Goals (SDGs).

There is currently no Ministry within the Austrian federal government that has ownership of responsible business conduct issues and there is no formal inter-ministerial agency or platform for coordination on RBC issues. At present the Steering Committee is the only interagency or multi-stakeholder body that exists to discuss issues around those subjects. As a consequence, it was noted that at meetings of the Steering Committee different issues relating to RBC which sometimes go beyond the remit of the body, are raised. The NCP may explore the possibility of organising or participating in the organisation of a forum where stakeholders and relevant members of government can exchange on RBC issues. For example, some NCPs organise annual forums with stakeholders for this purpose.

Austria is in the process of developing a National Action Plan on Human Rights (NAP), however finalization and publication of the plan has been delayed. As part of the process of developing a NAP on Human Rights, proposals for strengthening the role of the NCP with regards to the implementation of the UN Guiding Principles have been introduced.

Proactive agenda

A link to the OECD due diligence guidances for the different sectors (i.e. mineral sector, agricultural sector, extractive sector, garment sector, financial sector) and an explanation of the guidances is available on the website of the NCP.

The NCP also includes information on issues of the proactive agenda in its various promotional activities. For example, in 2015 it hosted an event on due diligence in the financial sector in and it plans to host a roundtable on responsible finance in March/April 2018.¹⁶

Collaboration with other NCPs

After the 2011 update of the Guidelines the NCP together with the German and Swiss NCP initiated and coordinated the translation of the Guidelines into German. Subsequently a peer learning platform with regular events, open for regional NCPs at first and then for all interested NCPs, was introduced by the Austrian, German and Swiss NCPs.

The NCP organised special peer learning events on mediation in 2012 (Salzburg) and 2015 (Vienna). Both workshops were held in cooperation with the Consensus Building Institute (CBI) and focused on the improvement of mediation capabilities. The 2015 workshop was attended by 22 NCP representatives. The NCP announced it is considering hosting a follow-up mediation workshop in 2019.

¹⁶ This Roundtable took place in Vienna in May of 2018.

The NCP also regularly participates in OECD wide peer learning and capacity building events (e.g. 2015 in London and Budapest, 2016 in Rome and 2017 in Washington D.C.).

Requests for information

Stakeholders participating in the peer review noted that the NCP is available to answer questions and responds to request for information as they arise in a timely manner.

	Findings	Recommendations
2.1	Traditionally promotional activities of the NCP targeted primarily the business community. However, increasingly the NCP is engaging with a broader range of stakeholders.	The NCP should continue and strengthen the dialogue with civil society to discuss collaboration on promotion and targeting promotional activities towards NGOs, in addition to worker organisations to improve the perception of the mechanism and promote engagement in the specific instance process.
2.2	At present the Steering Committee is the only interagency or multi-stakeholder body in Austria that exists to discuss RBC. As a consequence, at meetings of the Steering Committee different issues relating to RBC which sometimes go beyond the remit of the body, are raised.	The NCP may explore the possibility of organising or participating in the organisation of a forum where stakeholders and relevant members of government can exchange on RBC.

6. Specific instances

Overview

The NCP has handled five specific instances since 2004.

- One specific instance was concluded with agreement between the parties after mediation led by the NCP.¹⁷
- One specific instance was concluded with partial agreement between the parties.¹⁸
- One specific instance was withdrawn soon after completion of initial assessment as a resolution of the issues was reached between the parties.¹⁹
- One specific instance was concluded with finding that local management complied with the Guidelines and prompting an internal assessment of the company.²⁰
- One specific instance was closed without mediation or a final statement as the situation on the ground (in the Democratic Republic of the Congo) did not allow for an assessment of the issues raised.²¹

See Annex E for an overview of all specific instances handled by the NCP.

The NCP has received a relatively low number of specific instances. It was noted during the on-site that one reason for this may be that a large amount of Austrian commerce is focused on export to low-risk destinations and that generally risk-exposure amongst Austrian companies is relatively low. Other stakeholders noted that this may be due to a lack of awareness and unsatisfactory experiences with respect to early users of the NCP specific instance system which has led certain stakeholder groups to stop promoting the mechanism as an option for accessing remedy. Additional engagement with civil society, as recommended above, could be a useful way to highlight positive changes made to the mechanism and encouraging additional engagement.

Rules of procedure

The rules of procedure for specific instance are included in the Terms of Reference for the NCP. These are available on the website of the NCP. The Terms of Reference were redrafted in 2017 to reflect lessons learned from the specific instance involving ANDRITZ HYDRO GmbH and Finance and Trade Watch. (See Box 2). Some important changes include publication of the results of the initial assessment, clear guidance on information sharing between the parties, provisions on follow-up and noting the availability of an external mediator. While the modifications of the Terms of Reference represent an important

¹⁷ ANDRITZ HYDRO GmbH and Finance and Trade Watch Austria et. al. (2014)

¹⁸ Global Sports Lanka/GST and ITBLAV (2006)

¹⁹ KBA-Mödling AG and GPA-DJP and PRO-GE (2014)

²⁰ Novartis and GPA-DJP (2008)

²¹ Mineral supplier and NGO (2004)

improvement, some specific provisions of the Terms of Reference are not fully clear. These are discussed in more detail below.

In addition the NCP also developed a document on the Austrian NCP grievance procedures ('Guidance'). This Guidance explains the specific instance process in plain language, and was developed as a promotional tool for the specific instance mechanism. It is more detailed than the rules of procedure included in the NCP Terms of Reference.

The specific instance procedure is described in the NCP Terms of Reference as well as in a Guidance document developed for promotional purposes. The NCP has noted it plans to update this Guidance subsequent to this peer review. When undertaking the update of the Guidance the NCP should clarify its relationship to the NCP Terms of Reference and ensure that both documents are in line with each other.

Submission

The NCP provides a template for the submission of a specific instance in German, English and French. The template was modelled after the form of the U.K. NCP and the template in Annex D of the OECD document "*Detailed Outline - Manual for NCPs New to the Role*" ([DAF/INV/NCP\(2017\)2](#)). It was created to facilitate filing of specific instances and to provide clear guidance on which materials and facts have to be provided for submitting a complete notification.

The Terms of Reference of the NCP provide that notification to the NCP is complete if the following information and data are stated in the notification:

- a. Name, address, an e-mail address and telephone number, if necessary, of the notifier;
- b. Name, address, an e-mail address and phone number, if necessary, of the respondent;
- c. Designation of the determination of the Guidelines, the violation of which is alleged;
- d. Statement of, in particular, the facts, through which the provision of the Guidelines referred to has been violated;
- e. In case a responsibility of the respondent is alleged within the scope of the supply chain, also data regarding the respondent's relationship to the company having violated the provisions of the Guidelines designated.

Some stakeholders noted that the requirement "e" (data regarding the respondent's relationship to the company having violated the provisions of the Guidelines designated) may cause confusion amongst submitters, specifically those without technical expertise on the Guidelines or global supply chains.

The Terms of Reference of the NCP (3.13) further provide that "authentication of their statements resides with the parties. The Austrian NCP, however, endeavors, according to its resources, to contribute to the clarification of the facts."

Initial assessment

The Terms of Reference of the NCP do not outline criteria considered during initial assessment.

The Guidance provides that during initial assessment the following criteria will be considered:

- The complaint must be directed at a multinational enterprise, i.e. an enterprise operating cross-border.
- There must be a link between the claimed wrongdoing and the worldwide activity of the respondent or its business partners including suppliers and subcontractors.
- Whether the same facts have already been assessed by local procedures or are currently being legally treated, and whether a mediation process may help resolve the issue raised and is not expected to have any negative impact on other procedures.

The NCP Terms of Reference and the Guidance also explicitly note that parallel proceedings which concern the issue raised will not (alone) constitute a compelling reason to not accept a submission for further examination (See below section on parallel proceedings).

The Guidance notes that if the NCP decides to further examine a complaint, the respondent should not consider this to be an accusation of having disregarded the Guidelines.

The NCP Terms of Reference (3.8.) provide that the NCP shall forward the notification (i.e. submission) to the respondent asking him for his statement. In the event of an order for amendment addressed to the complainant by the Austrian NCP, the notification shall be forwarded to the respondent upon receipt of the amended notification. The Austrian NCP informs the parties on the proceedings before the Austrian NCP as well as the further procedure.

All five cases submitted to the NCP were accepted for further examination. It was noted that generally the NCP has made efforts to be accessible and has not applied initial assessment criteria restrictively, with a view to providing good offices whenever possible.

Good offices

According to the Guidance the NCP offers all the parties involved in a specific instance individual or joint meetings in order to explain the procedure in greater detail. The NCP will also encourage the parties to seek agreement outside the formal NCP specific instance process. Parties to specific instances participating in the peer review noted that the NCP did a good job of explaining the process upfront and encouraging parties to participate.

The NCP Terms of Reference (3.12) note that the NCP shall try its best to encourage the respondent to participate in good faith during the procedure. The Guidance states that no one is obliged to participate in the grievance procedure and that the procedure should be understood as a source of learning. It also notes that mediation procedures are not intended to result in sanctions for alleged contraventions in the past. Rather, they seek to address the issue and find a solution that is satisfactory to both sides and sustainable for the future.

The Guidance also notes that the results of the specific instance procedure can have major consequences, e.g. for the reputation of an enterprise or for public procurement and funding systems. For instance, as noted, official export credit agencies in Austria are urged to consider the concluding statements of NCPs in their decision-making processes.

The Guidance explains mediation as “‘assisted negotiations’ where an impartial third party – a representative of or a mediator commissioned by the NCP – assists the parties involved in the conflict to reach an agreement that meets the needs and interests of both sides. The primary objective is to bring together all the parties, clarify the underlying issue in joint talks, assess the issue according to the OECD Guidelines and discuss possible steps for resolving

this issue.” It further notes that the mediation process can take on any form which is suitable for resolving the issue and agreed on by the parties and the NCP. The Guidance notes that in the case of an external mediator, the NCP will be informed on the progress of mediation on a regular basis.

The current version of the NCP Terms of Reference notes that where mediation is offered and accepted the NCP may conduct the mediation itself or appoint an external intermediary or mediator. The NCP also disposes of a dedicated annual special budget for covering the costs of activities related to specific instances, which could be used for professional mediators.

The NCP has stated that in future specific instances external mediation will be provided when requested by parties. This development is welcomed by the peer review team. Clarifying in the rules of procedure when and how an external mediator will be appointed would improve the predictability of the process.

Out of the five specific instances which were accepted for further examination mediation was undertaken in one of them.²² In this case an agreement was reached between the parties. To date mediation has been conducted by the NCP and external mediators have not been engaged.

During the on-site visit parties to the specific instance process noted that the specific instance process could be improved if there was more technical expertise to be called upon in the process with respect to the issues raised. Submitters of the specific instance also noted that in order to avoid any doubts about impartiality an external, neutral mediator could be employed. However, it was noted that the NCP did a good job coordinating inputs amongst the parties and caucusing with each side to try and encourage a resolution of the issues.

Another challenge raised by the submitters was the fact that the NCP was not familiar with all the issues on the ground and that they perceived that the NCP did not have a consistent policy on fact-finding. At the same time, according to the company there was no easy solution to this problem as a site visit organised by the company would have created doubts about the impartiality of the NCP. The Terms of Reference (3.13) provide that the “NCP endeavours, according to its resources, to contribute to the clarification of the facts. For this purpose, it can, if necessary, make use of the Austrian representation authorities abroad.” According to the NCP, currently some budget is accounted for fact-finding and the NCP may use this where relevant.

The NCP has made efforts to overcome geographic barriers where specific instances involve issues arising internationally. In the specific instance involving ANDRITZ HYDRO GmbH and Finance and Trade Watch the NCP organised seven mediation sessions. It also consulted with the Austrian embassy in Bangkok to obtain information on the issues raised in the submission. The Austrian Export Credit Agency was also consulted in the beginning of the proceedings to obtain information regarding eventual applications for export credits by the involved company. The NCP also organised video conferencing for certain mediation meetings to facilitate engagement of the submitter organisation based in Thailand.

Lastly the Terms of Reference provide that “The costs of the proceedings shall be basically borne by the contracting parties.” (para 3.11). Some stakeholders noted that this provision may create confusion and deter potential submitters from filing specific instances. For example, it could imply that the parties are responsible for the costs associated with hiring a

²² ANDRITZ HYDRO GmbH and Finance and Trade Watch et. al. (2014).

mediator. At the same time, the Terms of Reference state that “the referral to the Austrian NCP is free of charge“ (para 3.1). The NCP should provide clearer guidance on what services may or may not be offered by the NCP in the course of good offices.

Reporting on specific instances

Under the amended Terms of Reference the publication of the results of initial assessment is foreseen. Prior to this amendment initial assessments were not published. It is further noted that the result of the initial assessment shall be forwarded to the parties and shall be published on the website of the Austrian NCP. (para 3.9)

With respect to final statements the Terms of Reference note that the “NCP strives for closing the proceedings with a joint statement by the contracting parties. In the event that it cannot be reached despite all endeavours, the Austrian NCP reserves the right to issue a unilateral statement. Such a declaration can contain estimations and recommendations.” (para 3.14)

Out of the five specific instances accepted for further examination final statements are available for three. Two of the final statements include recommendations²³ and one final statement includes determinations of the enterprises conduct with respect to the issues raised.²⁴

The NCP has noted for future specific instances they will preference publication of recommendations instead of determinations due to the primary goal of finding solutions and creating positive future impacts. It noted however that issuing determinations may still be possible where appropriate.

The NCP has also developed a template for the drafting of final statements which provides an overview of key information to be included in the drafting of a final statement.

Box 1. Challenges highlighted by the NCP with respect to handling specific instances

The NCP has highlighted the following challenges in handling specific instances:

- Determining the competence of the NCP to handle a specific instance.
- Determining the legitimacy of a party to submit a complaint.
- Bringing all parties to the table. To this end the NCP seeks to highlight the advantages of the procedure.
- Managing expectations of the parties. To this end the NCP seeks to clarify the expectations of the parties at the beginning of a proceeding and explain the limits of the proceedings before the NCP.
- Meeting deadlines of specific instance proceedings due to complexity of cases.
- Ensuring successful communication channels with parties that are located in other countries, in particular in non-adhering countries.

²³ ANDRITZ HYDRO GmbH and Finance and Trade Watch et. al. (2014); Global Sports Lanka/GST and ITBLAV (2006)

²⁴ Novartis and GPA-DJP (2008)

Follow-up

The Terms of Reference note that in consultation with the parties, specific follow-up activities between the parties can be carried out upon conclusion of the proceedings, which will be accompanied by the NCP.

In the recently closed specific instance involving ANDRITZ HYDRO GmbH and Finance and Trade Watch the NCP and the parties agreed to issue follow-up statements on recent developments to the NCP twelve months after closing of the proceedings. The parties agreed that the follow-up statements will be published on the websites of the NCP and of the OECD and NCP agreed to provide good offices for a follow-up meeting.

According to the NCP and the parties the commitment to follow-up on the specific instance was useful in reaching a conclusion to the mediation. The NCP has noted that it will continue to propose follow-up activities to parties upon the conclusion of a specific instance as a matter of course.

Box 2. ANDRITZ HYDRO GmbH and Finance and Trade Watch (2014)

In April 2014 the Austrian NCP received a submission from nine NGOs alleging that ANDRITZ HYDRO GmbH had not observed the Guidelines. The submission regarded the company's supply of hydropower-turbines and its role in the construction and operation of the Xayaburi hydropower project in Lao People's Democratic Republic. The parties accepted the offer of good offices by the Austrian NCP and seven mediation meetings were held between 2014 and 2017, all chaired by the Austrian NCP.

A confidentiality agreement was signed by the parties. On 21 May 2015, the NGO International Rivers left the group of submitters and the specific instance procedure stating that the confidentiality agreement did not meet its standards. In February and March 2017, six of the submitting organisations left the process, stating that it was no longer productive to discuss the responsibility for the Xayaburi hydropower project's cross-border impacts within the mediation.

The NGOs EarthRights International, Finance & Trade Watch Austria and the company ANDRITZ HYDRO GmbH remained in the proceedings and in June 2017, signed a joint statement which was also signed by the Austrian NCP. The Austrian NCP also issued a final statement.

The joint statement foresees the continuation of the efforts of both parties for improving the situation of the local communities in the Mekong region. The company acknowledges its obligation to respect international human rights and environmental standards, as laid down in particular in the Guidelines, and to carry out due diligence procedures for all future projects.

ANDRITZ HYDRO GmbH also committed to develop its policies and procedures in relation to the implementation of human rights and environmental standards in accordance with internationally recognised principles, such as the Guidelines. In the course of the adaptation of its policies, ANDRITZ HYDRO GmbH will exchange information and involve relevant stakeholder groups, including the remaining complainants.

The parties agreed to issue a follow-up statement on recent developments to the Austrian NCP twelve months from the date of issuing the joint statement. After reception of the follow-up statements, the Austrian NCP is willing to provide its good offices for a follow-up meeting. The follow-up statements will be made available publically by the Austrian NCP.

The parties to the specific instances noted that the NCP was clear about explaining the nature of the specific instance process and was effective in coordinating with the parties. One party noted that some aspects of the process were not predictable. For example, one party claimed that information provided by the other party was routinely not shared with them, that they perceived the NCP to have varying positions on fact-finding based on who was in the role at the time, and that they were not given sufficient time to review the final statement. However according to the other party to the specific instance there was no easy solution to this problem as a site visit organised by the company would have created doubts about the impartiality of the NCP. The NCP noted that all information forwarded to the Austrian NCP by one party was forwarded to all other parties, unless there was a compelling reason against forwarding it.

Both parties noted that the process could have been improved through a stronger understanding of the issues on the ground and better technical expertise. The submitters would have preferred employing a professional, independent mediator. Some disappointment was expressed by the submitters that many of the substantive issues raised in the specific instance were not handled through the process, which ultimately led to six of the original submitters abandoning the process. The remaining parties agreed on the issues that would be discussed during the process.

The NCP is developing a document on key learnings from this specific instance and has already introduced some of these learnings into its Terms of Reference. Additionally the NCP will be undertaking a second evaluation survey with the Steering Committee to collect feedback on the handling of this specific instance.

Feedback

The Terms of Reference for the NCP (3.15) provide that the NCP shall collect feedback from the parties on the sequence of the proceedings. The NCP requested feedback from the parties in the recently completed specific instance involving ANDRITZ HYDRO GmbH and Finance and Trade Watch. The results of the feedback will be evaluated and included in an internal manual on key learnings of past specific instance proceedings. Additionally, the next survey of the Steering Committee evaluating the NCP will focus on handling of specific instances, and specifically on the handling of the ANDRITZ specific instance.

Timeliness

According to the Terms of Reference, upon receipt of a specific instance, the NCP informs the parties about the indicative timeframes and the different phases of the proceedings. In line with the Procedural Guidance the NCP strives to conclude the initial assessment phase within three months and to conclude specific instance proceedings within 12 months.

The Guidance further provides that as rule, grievance procedures concerning issues raised in a non-adhering country take longer. Therefore timeframes are to provide orientation rather than set rigid deadlines. However parties will be informed about any departure from the planned timeframe and the reasons why.

Out of the five specific instances handled by the NCP initial assessment was completed within one month for one,²⁵ two months for one²⁶, five months for one²⁷ and nine months for one.²⁸ Information is not available for the remaining specific instance.²⁹

Out of the five specific instances handled by the NCP the proceedings were concluded in three years and three months in one case,³⁰ in one year and six months in one case,³¹ and in three years and four months in another case.³² One specific instance was closed after one month because the parties reached an agreement on a social plan.³³ Information is not available for the remaining specific instance.³⁴

In the specific instance involving ANDRITZ HYDRO GmbH and Finance and Trade Watch the parties requested sufficient time for internal coordination and for obtaining relevant information (e.g. from the local population) and timeline extensions were agreed to by all parties. It was noted by the parties to this case that the NCP managed coordination of this specific instance to the best of its ability, and the delays in process were largely outside of its control. According to the submitter of the specific instance, they would have appreciated additional time to continue discussions with the company, although the specific instance had been ongoing for nearly three years.

Confidentiality and transparency

The Terms of Reference of NCP provide that confidentiality shall be observed during the entire duration of the proceeding. It notes that the NCP takes the necessary measures for the protection of sensitive data and information. For reasons of procedural transparency, data and information forwarded by one party to the NCP shall be forwarded by the NCP to the other involved parties, unless there is a compelling reason (such as, the protection of life and limb, the preservation of trade and business secrets) against forwarding them. The provision on exchange of information was added in the revised version of the Terms of Reference to contribute towards impartiality of process.

In the most recent case before the NCP involving ANDRITZ HYDRO GmbH and Finance and Trade Watch a confidentiality agreement was used. The NCP consulted with a legal expert (a member of the Steering Committee) in connection with the confidentiality agreement.

Under the confidentiality agreement the submitters agreed that they would not publish or share externally any information that the company provided to the complainants without the prior authorisation by the company. Most submitting organisations also agreed that they

²⁵ KBA Mödling AG and GPA-DJP and PRO-GE (2014)

²⁶ ANDRITZ HYDRO GmbH and Finance and Trade Watch et. al. (2014).

²⁷ Novartis and GPA-DJP (2008)

²⁸ Global Sports Lanka/GST and ITBLAV (2006)

²⁹ Mineral supplier and NGO (2004)

³⁰ ANDRITZ HYDRO GmbH and Finance and Trade Watch et. al. (2014)

³¹ Novartis and GPA-DJP (2008)

³² Global Sports Lanka/GST and ITBLAV (2006)

³³ KBA Mödling AG and GPA-DJP and PRO-GE (2014)

³⁴ Mineral supplier and NGO (2004)

would not publish any press release or conduct any public campaigns that specifically name the company for the duration of the specific instance mediation. One submitting organisation only agreed that it would not conduct any public campaigns relating to the activities of ANDRITZ HYDRO GmbH in connection with the Xayaburi dam project. The parties agreed that the existence of the mediation was not a secret, but the content of the discussions should not be disclosed outside the parties to the complaint.

One of the original submitters of the specific instance decided not to participate in the proceedings because the confidentiality agreement did not allow for enough transparency. The submitters of the specific instance perceived the confidentiality agreement to be the initiative of the NCP, however the company involved in the specific instance noted it was generated at their request.

The Procedural Guidance of the Guidelines notes the importance of transparency as a core criterion for functional equivalence of NCPs. With regard to confidentiality, specific types of information are identified which may need to be kept confidential during certain times in the specific instance proceedings. Generally confidentiality provisions should be designed to reflect the least restrictive approach in terms of limits on transparency.

Campaigning

The Guidance notes that a possible agreement primarily depends on the good will of both sides – all parties need to act in good faith. This also means that the complainant abstains from negative campaigning against the respondent during the procedure and from using public media for this purpose. It notes in addition, that the NCP may discontinue the procedure at any time if one or several parties show(s) insufficient readiness to engage in the mediation process in a constructive manner. Campaigning is not mentioned in the Terms of Reference of the NCP. The Procedural Guidance of the Guidelines for Multinational Enterprises includes no explicit mention of campaigning.

As noted above, a provision against campaigning was also included in a proposed confidentiality agreement in the specific instance involving ANDRITZ HYDRO GmbH and Finance and Trade Watch, which prompted one of the parties to leave the process.

In practice the NCP has never discontinued a specific instance process due to campaigning.

In revising its Guidance the NCP should clarify its policy on campaigning, ensuring that it is predictable, equitable (meaning the preferences and needs of both parties should be taken into account), and promotes transparency to the greatest extent possible.

Parallel proceedings

The Terms of Reference provide that the NCP cannot reject the handling of a specific instance solely because parallel proceedings have been conducted, are under way or are available to the parties concerned. Furthermore, it has no right to interrupt an already pending case for this sole reason, unless this is the mutual desire of all parties involved.

In only one specific instance handled by the NCP did parallel proceedings exist.³⁵ The NCP accepted the specific instance but declined to issue a determination as it noted it did not have sufficient information to make reliable statements on whether there had been a breach of the

³⁵ Global Sports Lanka and ITBLAV (2006)

Guidelines and that only the result of the pending court proceedings in Sri Lanka would provide more accurate information.

Cooperation with other NCPs

According to the Terms of Reference should the NCP come to the conclusion that it is not competent for a particular specific instance, it forwards the specific instance to the competent NCP and informs the party that has raised the specific instance. It will also offer its support to the competent party. The NCP forwarded one specific instance to the German NCP in 2002 concerning issues against Adidas. Additionally the NCP acted as a supporting NCP in one specific instance handled by the U.S. NCP.³⁶

The Terms of Reference also provide that the NCP is responsible for specific instances against companies headquartered in Austria. This should be modified to note that it is responsible for specific instances against companies *operating in* or headquartered in Austria to align with the Guidelines.

Requests for clarification

The NCP has not officially asked the Investment Committee, the Working Party on Responsible Business Conduct or the Secretariat for assistance or clarifications in specific instances. However, there have been several informal exchanges with members of the Investment Committee, the Working Party on Responsible Business Conduct and the OECD Secretariat on ongoing specific instances.

³⁶ Adidas and Nike and Clean Clothes Campaign (2002)

Annex A. List of organisations which responded to the NCP peer review questionnaire

Government
Federal Ministry of Labour, Social Affairs, Health and Consumer Protection
Federal Ministry for Europe, Integration and Foreign Affairs
Federal Chancellery
Austrian Development Bank
Austrian Federal Economic Chamber
Federal Ministry of Finance
Austrian Development Agency
Federal Ministry of Digital and Economic Affairs
Austria's Export Credit Agency
NGO
OECD Watch
Südwind, Clean Clothes, OECD-Watch Austria
AG Globale Verantwortung/Global Responsibility
Dreikönigsaktion
Finance & Trade Watch
Worker organisations
Austrian Chamber of Labour
Former chairman of the workers' council of RHI
PRO-GE, Production Trade Union
Austrian Trade Union Federation
Industry organizations
Federation auf Austrian Industries
respACT
Austrian Federal Economic Chamber, Crafts and Trades Division
EVN AG
PORR AG
ANDRITZ HYDRO GmbH
Austrian Federal Economic Chamber, Advantage Austria
VAMED Engineering GmbH

Annex B. List of organisations participating in the on-site visit

Government
Federal Ministry of Labour, Social Affairs, Health and Consumer Protection
Federal Chancellery
Austrian Development Bank
Austrian Federal Economic Chamber
Federal Ministry of Finance
Austrian Development Agency
Federal Ministry of Digital and Economic Affairs
Austria's Export Credit Agency
Austrian Chamber of Agriculture
Federal Ministry for Europe, Integration and Foreign Affairs
NGO
Südwind, Clean Clothes, OECD-Watch Austria
AG Globale Verantwortung/Global Responsibility
Finance & Trade Watch
OECD Watch
Transparency International Austrian Chapter
Earth Rights International
Worker organisations
Austrian Federal Chamber of Labour
Former chairman of the workers' council of RHI
TUAC
Austrian Trade Union Federation
Industry organisations
Federation auf Austrian Industries
Austrian Federal Economic Chamber
Corporate Sustainability Officer at Wienerberger
VAMED Engineering GmbH
ANDRITZ HYDRO GmbH
Other
Expert in the field of extrajudicial dispute resolution

Annex C. promotional events organised by the NCP

2015:

02 March 2015: Evening event “Pathway to Mutual Benefits” hosted in cooperation with the Federation of Austrian Industries with Bernadette Marianne Gierlinger (Vice-Minister for External Trade Policy and European Integration at the Federal Ministry of Science, Research and Economy), Christian Friesl (Director of Education and Society, Federation of Austrian Industries), Roel Nieuwenkamp (Chair OECD Working Party on Responsible Business Conduct), David Plumb (Consensus Building Institute), Barbara Coudenhove-Kalergi (Federation of Austrian Industries), Danish Chopra (UK NCP) and Sonja Böhme (Head of Corporate Sustainability at OMV)

03-04 March 2015: Mediation Workshop for NCPs “Creating Shared Knowledge on mediation and crucial processes for NCPs” held by the Consensus Building Institute for 22 NCP representatives

20 March 2015: Breakfast event “Responsible Finance – Due Diligence in the Financial Sector” with Sabine Döbeli (CEO Swiss Sustainable Finance) and Katharina Muner-Sammer (Austrian Society for Environment and Technology)

14 April 2015: Lunch event “Human Rights in a corporate context” with Malte Hauschild (German NCP) and Markus Scholz (Head of the Centre for Corporate Governance & Business Ethics at the University of Applied Sciences for Management & Communication)

16 June 2015: Webinar hosted in cooperation with Advantage Austria of the Austrian Federal Economic Chamber “Combating Bribery” with Bettina Knötzl (Lawyer and President of the Advisory Board of Transparency International - Austrian Chapter) and Peter Koller (CSR and Compliance Officer Gebrüder Weiss)

2016:

06 April 2016: Expert talk hosted in cooperation with the Federal Association of Materials Management, Purchasing and Logistics “Taking Responsibility in Global Supply Chains” with Liz Napier (UK NCP) and Silke Sorger (Head of Purchasing Infineon Technologies Austria)

28 June 2016: Expert talk “Due Diligence in International Business Transactions” with Tamar Zijlstra (NEN) and Wolfgang Kraus (IPIECA)

24 October 2016: Discussion Forum: “Part of the Business - Reality Check: 40 Years OECD Guidelines for Multinational Enterprises” in cooperation with the Federation of Austrian Industries with Bernadette Marianne Gierlinger (Vice-Minister for External Trade Policy and European Integration at the Federal Ministry of Science, Research and Economy), Christian Friesl (Director of Education and Society, Federation of Austrian Industries), Roel Nieuwenkamp (Chair OECD Working Party on Responsible Business Conduct), Denise Laufer (BIAC), Kirstine Drew (TUAC), Manfred Schekulin (Head of Department for Export and Investment Policy at the Federal Ministry of Science, Research and Economy and Chair OECD Investment Committee) and Hannes Roither (Head of Investor Relations Palfinger AG)

2017:

24 April 2017: Expert talk and interactive workshop in cooperation with Advantage Austria of the Austrian Federal Economic Chamber: “Managing Global Responsibility: Due Diligence in the OECD Guidelines for Multinational Enterprises” with Tyler Gillard (Head of Sector Projects, OECD Responsible Business Conduct Unit) and Beatrix Praeceptor (Chief Procurement Officer at Mondi Group)

30 May 2017: Expert talk: “Dialogue with Strong Impact: The Complaint Procedure within the Framework of the OECD Guidelines for Multinational Enterprises” with Alex Kunze (Swiss NCP) and Kirstine Drew (TUAC)

30 May 2017: Dialogue with Austrian Employee Representatives (employee representatives on the Supervisory Board of stock-listed Austrian companies) on the OECD Guidelines and the Austrian National Contact Point with Kirstine Drew (TUAC) and Rolf Beyerler (Swiss Trade Union Federation)

2 October 2017: Discussion Forum: “Responsibility in International Business. Responsible Business Management between Theory and Practice“ hosted in cooperation with the Federation of Austrian Industries with Bernadette Marianne Gierlinger (Vice-Minister for External Trade Policy and European Integration at the Federal Ministry of Science, Research and Economy), Christian Friesl (Director of Education and Society, Federation of Austrian Industries), Matthias Leisinger (twentyfifty consulting), Tabea Siebertz (German Council for Sustainable Development), Christine Vieira Paschoalique (Corporate Sustainability Officer Wienerberger), Manfred Schekulin (Head of Department for Export and Investment Policy at the Federal Ministry of Science, Research and Economy and Chair OECD Investment Committee) and Sylvia Tuin (Senior Policy Advisor at the Dutch NCP)

The NCP also regularly participates in events organised by other stakeholders to inform stakeholders on the OECD Guidelines and the Austrian NCP. In 2017, the Austrian NCP participated in the following events:

9 May 2017: Event Multilogue on Managing Global Responsibility, organised by ICEP in Linz at the voestalpine AG with Wolfram Heger (Senior Manager for Corporate Responsibility Management Daimler AG), Peter Fleischer (Head of Investor Relations voestalpine AG), Claudia Korntner (Head of CSR, voestalpine AG) and Iris Hammerschmid (Austrian NCP)

15 May 2017: Event Globalised Economy, Globalised Responsibility on Human Rights Due Diligence, organised by Network Social Responsibility (platform of 20 organisations in the field of NGOs and trade unions) in the Federal Ministry of Justice with Danielle Auroi (French National Assembly), Florian Wettstein (Swiss Coalition for Corporate Justice), Remo Klinger (Co-author German legislative proposal for a human rights due diligence law), Georg Kathrein (Federal Ministry of Justice), Theresa Pribasnik (Federal Ministry of Labour, Social Affairs and Consumer Protection) and Iris Hammerschmid (Austrian NCP)

6 July 2017: Visit of a high-level delegation/trade mission from Georgia to the Federal Ministry of Science, Research and Economy: presentation by the Austrian NCP on the OECD Guidelines and the functioning of the NCP mechanism

29 September 2017: Degree programme Academic CSR-Manager at University of Applied Sciences of the BFI Vienna: lecture by the Austrian NCP on the OECD Guidelines and the functioning of the NCP mechanism

Annex D. 2017 promotional plan of the NCP³⁷

Communication Plan Austrian National Contact Point 2017/2018

1. Activities by the Austrian NCP

The Austrian NCP is regularly engaged in promotional activities. The main focus lies on the promotion of the OECD Guidelines and the NCP mechanism among internationally operating Austrian companies. The Austrian NCP informs the business community and other relevant stakeholders about the NCP facilities through – inter alia - conferences, workshops, events, brochures, annual reports, stakeholder engagement activities, newsletters as well as its website. The Austrian NCP has the necessary funding in accordance with relevant budgetary principles for conducting all regular promotional activities, for attending stakeholder and NCP meetings, for attending peer learning events and international conferences (see activities below). The Austrian NCP also has a dedicated annual budget for special promotional activities in cooperation with an external partner (please see II below for further information) and for specific instances (please refer to 1.9. below for further information).

1.1 Web presence

1.1.1 Update of the website

Installation of a direct quick link at the bottom of the front page of the Ministry's website to the website of the Austrian NCP (06/2017)

Design of a promotional teaser for the front page of the Ministry's website for presenting recent activities of the NCP (06/2017)

Creation of a direct link from the Ministry's external trade website to the website of the Austrian NCP (06/2017)

Enabling direct registration for future events through the website of the Austrian NCP (2018)

Implementation of the latest accessibility standards for all content published through the website of the Austrian NCP (throughout 2017 and 2018)

1.1.2 Social media

Promotion of the activities of the NCP through the Ministry's Facebook page (2018)

1.2 Participation and/or presentation of the Austrian National Contact Point at events of other relevant stakeholders

1.2.1 Presentation of the Austrian NCP and the newest OECD developments (e.g. new final statements; new Sector Guidance Reports) at:

Events hosted by the Austrian National Bank (2018)

Events hosted by the **Austrian Development Agency** (2018)

Events hosted by the **Austrian Federal Economic Chamber** (2017 and 2018)

Presentation of the Austrian NCP in the event “**Multilogue on Managing Global Responsibility**” organised by ICEP in Linz at the voestalpine AG (9 May 2017)

1.2.2 Presentation of the Austrian NCP at the University of Applied Sciences of the BFI Vienna (29 September 2017)

³⁷ This is the promotional plan of the Austrian NCP as submitted in October 2017.

Presentation of the work of the Austrian NCP and joint elaboration of a case study for students in the degree programme **Academic CSR Manager**

1.2.3 Presentation of the Austrian NCP at the Vienna University of Economics and Business (2018)

Contact Prof. André Martinuzzi, Head of the Institute for Managing Sustainability

Bilateral conversations on how to best integrate RBC topics into the curricula of business universities

1.2.4 Participation in outreach activities for the academic sector (2017 and 2018)

Outreach activities with regards to China and South Korea, headed by Prof. Wolfgang Mazal, Head of the Institute for Labour and Social Law, University of Vienna

1.2.5 Participation in outreach activities for the business and government sector

Outreach activities for business partners of Advantage Austria (Foreign Trade Division of Federal Economic Chamber; 2017 and 2018)

Presentation of the OECD Guidelines and the work of the NCP to a bilateral trade mission from Georgia (07/2017)

1.2.6 Participation in events/meetings hosted by the OECD, the UN and other NCPs

Participation in the regular meetings of the NCP Network at the OECD (2017 and 2018)

Participation in the UN Global Forum on Business and Human Rights (11/2017)

1.3. Cooperation with stakeholders

1.3.1 Intensifying relations with businesses, trade unions etc. (2017 and 2018)

Invitation of stakeholders to the Ministry

Presentation of the Guidelines, the Austrian NCP, OECD Sector Guidances and Final Statements

Exchange with employee representatives

1.3.2 Intensifying relations with NGOs

Invitation of NGOs to the Ministry for discussion of future cooperation options (2017 and 2018)

Presentation of the Austrian NCP in the event: “**Globalised Economy, Globalised Responsibility**” organised by the Network Social Responsibility (platform of 20 organisations in the field of NGOs and trade Unions), 05/2017

1.3.3 Cooperation with the academic sector

Event on human rights in cooperation with the University of Vienna (Prof. Wolfgang Mazal, Head of the Institute for Labour and Social Law) (2018)

1.4. Cooperation with the Steering Committee

1.4.1. Intensifying relations with Members of the Steering Committee

Bilateral meetings with members of the Steering Committee (throughout 2017 and 2018)

1.4.2. Regular briefings for Members of the Steering Committee

Covering the work of the Austrian NCP, recent developments at the OECD level and final statements published by other NCPs (throughout 2017 and 2018)

1.5. Interministerial and interinstitutional cooperation (2017 and 2018)

1.5.1. Participation in promotional events held at various Ministries

e.g. Ministry for Europe, Integration and Foreign Affairs, Federal Chancellery, Federal Ministry of Finance

1.5.2. Exchange of information with the Constitutional Service/Federal Chancellery and the Office of International Law/Federal Ministry for Europe/Integration and Foreign Affairs

Regular briefings on recent developments (e.g. new Due Diligence Guidance) and final statements of other NCPs

1.5.3. Bilateral meetings with the Austrian Export Credit Agency, the Austrian Development Agency and the Austrian Development Bank**1.5.4. References of OECD Guidelines and Austrian NCP in government policies and publications****1.6. Embassies and offices of Advantage Austria of the Federal Economic Chamber**

Distribution of brochures and other promotional material at Austrian embassies, permanent representations and consulates as well as the offices of Advantage Austria (2017 and 2018)

1.7. Information activities within the Federal Ministry of Science, Research and Economy (2017 and 2018)

Regular updates on recent developments at the OECD level and relevant final statements

Knowledge sharing with units in frequent contact with trading partners

1.8. Cooperation with other NCPs

Intensifying regional peer learning initiative between Austria, Germany and Switzerland as well as other regional and interested NCPs, such as the Czech Republic, Slovakia, Slovenia and Italy (2017 and 2018)

Participation in peer learning events hosted by other NCPs (e.g. Washington D.C. in 2017)

Organisation of a peer learning event for other NCPs (beginning of 2019)

1.9. Specific instances (2017 and 2018)

The Austrian NCP places particular importance on continuous improvement, quality management and training in handling of specific instances. The Austrian NCP also has a dedicated annual special budget for covering the costs of activities related to specific instances, which could e.g. be used for professional mediators and for the travel costs of parties in exceptional circumstances.

1.9.1. Collecting feedback from parties

Collecting feedback from all parties involved in a specific instance (*Xayaburi* case: second half of 2017)

Evaluating feedback, focusing on possible improvements of procedural elements

1.9.2. Drafting a strategy for handling of future specific instances (2018)

e.g. working with external mediators

1.10. Peer review (2017)

Exchange with other NCPs on their experiences with the peer review process

Observer in peer review of the German NCP in Berlin (21-23.06.2017)

1.11. Other activities

Leaflet on the OECD Guidelines: Translation into English (07/2017)

Brochure on the Complaint Procedure: Translation into English (07/2017)

Continuation of Knowledge Management (2017 and 2018)

Design of a manual for new staff members (2017)

2. Activities in cooperation with an external partner

The Austrian NCP has a dedicated annual budget for special promotional activities (approx. EUR 30,000-35,000/year). Since 2012, the Austrian NCP has concluded yearly service contracts with external partner organisations to promote the OECD Guidelines and the work of the Austrian NCP. The Austrian NCP has also entered into a service contract with an external partner organisation for the preparation of the peer review of the Austrian NCP.

2.1 Events

2.1.1 Expert Talk (24 April 2017)

“Managing Global Responsibility: Due Diligence in the OECD Guidelines for Multinational Enterprises”

Subject: Due Diligence Guidance for Responsible Business Conduct

Workshop with Keynote Speeches by Tyler Gillard (Head of Sector Projects OECD Responsible Business Conduct Unit) and Beatrix Praeceptor (Chief Procurement Officer at Mondi Group)

Short booklet on Due Diligence Guidance

Hosted in cooperation with the Austrian Federal Economic Chamber

2.1.2 Expert Talk (30 May 2017)

“Dialogue with Strong Impact: The Complaint Procedure within the Framework of the OECD Guidelines for Multinational Enterprises”

Subject: Outlining the specific instance procedure

Keynote speeches by Alex Kunze (Swiss NCP) and Kirstine Drew (TUAC)

2.1.3 Dialogue with Employee Representatives on the OECD Guidelines (30 May 2017)

Subject: Informing employee representatives on the Supervisory Board of stock-listed Austrian companies on the OECD Guidelines and the Austrian National Contact Point

Keynote speeches by Kirstine Drew (TUAC) and Rolf Beyerler (Swiss Trade Union Federation)

2.1.4 Discussion Forum (2 October 2017)

“Responsibility in International Business. Responsible Business Management between Theory and Practice”

Subject: How can businesses integrate different RBC and reporting standards and stakeholder requirements into one rigorous and successful sustainability strategy?

Keynote speeches by Matthias Leisinger (twentyfifty consulting) and Tabea Siebertz (German Council for Sustainable Development)

Discussion with Matthias Leisinger (twentyfifty consulting), Tabea Siebertz (German Council for Sustainable Development), Christine Vieira Paschoalique (Corporate Sustainability Officer Wienerberger), Manfred Schekulin (Head of Department for Export and Investment Policy at the Federal Ministry of Science, Research and Economy and Chair OECD Investment Committee) and Sylvia Tuin (Senior Policy Advisor at the Dutch NCP)

Hosted in cooperation with the Federation of Austrian Industries

2.1.5 Roundtable (March/April 2018)

Subject: Responsible Finance

2.1.6 Discussion Forum (June 2018)**2.1.7 Expert Talk (October 2018)****2.2 Other promotional activities**

Conduct of a survey among the business community (June-September 2017)

Publication of newsletters (03/2017, 04/2017, 09/2017, 03/2018, 05/2018, 09/2018)

Publication of the annual report on the activities of the Austrian NCP (04/2017; 04/2018)

Newly designed NCP folders and notepads (02/2017)

2.3 Specific instances (2017)

Implementation of a self-evaluation process on past specific instances: defining lessons learned for future improvement

Internal manual on key learnings of past specific instances

2.4 Peer review

Preparation of the peer review (2017)

Annex E. Overview of specific instances handled by the Austrian NCP as the leading NCP

No.	Enterprise(s)	Submitter (s)	Host Country	Chapter of the Guidelines	Date of Submission	Date of Closure	Outcome
1	ANDRITZ HYDRO GmbH	Group of NGOs under the lead of Finance & Trade Watch Austria	Lao People's Democratic Republic	Environment, Human Rights, General Policies	9 April 2014	27 June 2017	Concluded upon mediation. Several of the original parties withdrew from the case as they were unable to find agreement. A joint statement was developed among the remaining parties.
2	KBA-Mödling AG	Gewerkschaft der Privatangestellten Druck – Journalismus – Papier (Union of Private Sector Employees – Print, Journalism and Paper, GPA-DJP) and Produktionsgewerkschaft (Production Union - PRO-GE)	Austria	Employment and Industrial Relations	21 January 2014	--	Withdrawn shortly after completion of the initial assessment as agreement was reached between the parties.
3	Novartis Austria	Gewerkschaft der Privatangestellten Druck – Journalismus – Papier (Union of Private Employees – Print, Journalism and Paper, GPA-DJP)	Austria	Employment and Industrial Relations	5 February 2008	17 July 2009	Concluded with finding that local management complied with the Guidelines and instigating an internal assessment of Novartis' decision-taking.
4	Global Sports Lanka/The GST holding company	International Textile, Clothing and Leather Workers Association (ITBLAV)	Sri Lanka	Employment and Industrial Relations	27 March 2006	17 July 2009	Concluded with partial agreement between the parties.
5	Mineral supplier	NGO	Democratic Republic of the Congo	Combating Bribery, Employment, Industrial Relations, Environment, Human Rights	18 November 2004	--	Concluded without agreement or final statement as situation in the Democratic Republic of the Congo did not allow for assessment of the issues raised.

National Contact Point Peer Reviews: Austria

Adhering governments to the OECD Guidelines for Multinational Enterprises are required to set up a National Contact Point (NCP) that functions in a visible, accessible, transparent and accountable manner.

This report contains a peer review of the Austrian NCP, mapping its strengths and accomplishments and also identifying opportunities for improvement.

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