OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

MEXICO NCP

REPORT TO THE OECD

June 2014-December 2015
COMMON FRAMEWORK FOR ANNUAL REPORTING BY NATIONAL CONTACT POINTS TO THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

June 2014-December 2015

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

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

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

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

TABLE OF CONTENTS

A. NCP contact information
B. Institutional arrangements
C. Information and promotion
D. Specific instances
E. Proactive Agenda
F. Co-operation and peer learning
G. Impact and future work
A. NCP contact information

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B. Institutional arrangements

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

1. **In which governmental agency (ministry) is the NCP located?**
   
   Secretariat of Economy, Directorate for Foreign Investment

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

3. **Does the NCP include representatives from:**

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

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

   - Increase the relevance of the Guidelines to the ministries/government bodies involved
   - Ensure the independence of the NCP vis-à-vis the government
   - Ensure accessibility of the NCP to stakeholders
   - Involve relevant stakeholders in the NCP
   - Other

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

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

   The NCP is currently administered by the Directorate General for Foreign Investment of the Secretariat of Economy. As such, it has direct access to Multinational Enterprises settled in Mexico and a number of government Ministries that constantly gather at the National Commission of Foreign Investments. To meet the core criteria of visibility, accessibility, transparency and accountability, the structure of the Mexican NCP has allowed it to:

   a) Develop guidelines for the attention of specific instances, which have been submitted to comment of various interested parties such as TUAC, OECD Watch, and non-governmental organizations, trade unions and academics in Mexico;

   b) Increase the awareness of the Mexican Government of the National Contact Point, which has resulted in the development of a new site where the topic of “Responsible Business Conduct” is given the same importance of other topics such as “competitiveness”, “foreign direct investment” or “regulatory improvement” (http://www.gob.mx/se/acciones-y-programas/competitividad-y-normatividad); and,

   c) Create linkages with different interested Parties (governmental bodies, NGOs, Academics, Trade Unions) by bringing them together in an Annual Forum on Responsible Business Conduct, created specifically to analyze topics related to the Guidelines for Multinational Enterprises.

8. How is the NCP funded? (check all that apply)
   - government budget
   - other (please specify)

9. Does the NCP have dedicated staff? Yes/No. If yes:
   - How many full time staff members?
   - How many part time staff members?
   - No dedicated staff members

10. Are the financial and human resources provided to the NCP sufficient for the NCP to carry out its mandate? Yes/No

11. What challenges does the NCP face in fulfilling its mandate? (check all that apply)
   - Lack of financial resources
   - Lack of capacity
• Lack of support from the government
• Difficulties in engaging the business community, worker organisations, other non-governmental organisations, other interested parties.
• Other

12. Please explain these challenges, and elaborate on additional elements that would be needed for the NCP to fulfil its mandate and functions.

For many years, Mexico considered that the promotion of responsible business conduct standards might hinder the ability of the country to attract foreign direct investment. As a result, the NCP was not given any financial support nor capabilities were developed to help it adequately fulfil its tasks. This in turn, damaged the image of the NCP before all interested Parties, who realized that none of the specific instance procedures had gone through the initial statement phase.

In this regard, the main challenges that the Mexican NCP faces are:

a) To raise awareness of its existence among all interested parties (Government, civil society, trade unions, academics); and,

b) To build confidence in its procedures.

13. Does the NCP report to the government on its activities? Yes/No. If yes:

• Through regular meetings
• Through established reporting channels
• In an ad hoc manner
• Other

14. Please specify to whom the NCP reports (ex. Parliament, governmental body, etc.)

The Directorate General for Foreign Investment -where the NCP is ascribed- reports to the Secretariat of Economy (through the Subsecretary of Competitiveness and Business Regulation) the activities and results of the NCP.

From 2016 on, the President of the United States will include the activities of the NCP in its annual report to the Congress.

15. Does the NCP coordinate with other domestic government bodies or representatives with regard to activities on responsible business conduct? Yes/No. If yes, please elaborate

On October 2015, Mexican NCP coordinated with the Secretariat of Environment and Natural Resources to organize the Second National Forum on Corporate Social Responsibility. On 2016 we are seeking collaboration of the Secretariat of Labor.
Furthermore, the Mexican NCP is working closely with other government bodies in different initiatives such as the development National Program on Multinational Enterprises and Human Rights.

C. Information and Promotion

16. Does the NCP have a dedicated website or dedicated webpages? If yes, please provide link.
   http://www.gob.mx/se/acciones-y-programas/responsabilidad-social-empresarial

17. Are the Guidelines available online? Yes/No

18. Are the Guidelines available in print? Yes/No

19. Is the NCPs Annual Report available online or in print? Yes/No

20. Does the NCP have a promotional plan on the Guidelines? If yes, please provide details.
The 2014-2015 Annual Program aims to promote the awareness of the Guidelines among stakeholders with a view to contribute to their effective implementation in Mexico, according to the core criteria of visibility, accessibility, transparency and accountability. To this end, during 2015 the Mexican NCP held a number of bilateral meetings with different stakeholders (Embassies, Chambers of Commerce, NGOs, Trade Unions, Academics) in order to engage them in the promotion of the Guidelines.

21. Has the NCP implemented the actions identified in the promotional plan? Why or why not?
On June 2014-december 2015, the Mexican NCP had a different bilateral meeting with Agencies in charge of issues in CSRReort, foreign commerce chambers, international organizations and different Secretariat of government of Mexico.

22. How does the NCP inform investors about the Guidelines and their implementation? Through (check all that apply):
   - Embassies
   - Export credits agency
   - Overseas investment guarantee body
   - Investment promotion agencies
   - Other (please specify) (private agencies)

23. Has the NCP done any studies to assess awareness of enterprises on the Guidelines and the NCP? No
   If yes, through:
   - Survey(s)
• Regular meetings
• Other

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

25. Has the NCP organised any events to promote the Guidelines and their implementation procedure?
   Yes
   • Title/subject of the event: First National Forum on Corporate Social Responsibility
   • Place, date: 9/12/14 Mexico City
   • Organiser(s): Mexican NCP / Secretariat of Economy
   • Number of participants and type of audience (e.g. government, business, worker organisations, NGOs, academia, or other parties): 100 participants. (government, NGO,s Business and academia)
   • Highlights and key outcomes: The event was organized with the aim to create a forum for the analysis and discussion of the different international instruments that promote responsible business practices, and to generate ideas and proposals to further advance in their promotion and adoption.

   • Title/subject of the event: Second National Forum on Corporate Social Responsibility.
   • Place, date: 6/10/15 Mexico City
   • Organiser(s): Secretariat of Economy (NCP) and Secretariat of Environment and Natural Resources
   • Number of participants and type of audience (e.g. government, business, worker organisations, NGOs, academia, or other parties): 150 (government, business, worker organisations, NGOs, academia, or other parties)
   • Highlights and key outcomes: The event was organized with the aim to raise awareness of the standards set up by chapter VI of the Guidelines, though the discussion of the perspectives for CSR in the new global scenario after the adoption of the Sustainable Development Goals.

26. Did the NCP participate in any event organised by stakeholders or other entities to promote the Guidelines and their implementation procedures?
   Yes
   • Title/subject of the event: Mediation and the problem-solving role of national contact a workshop with latin america NCP
   • Place, date: 13-14 November 2014. Santiago, Chile
   • Organiser(s): Chile NCP
   • Number of participants and type of audience (e.g. government, business, worker organisations, NGOs, academia, or other parties): 15 participants (government)
• **Highlights and key outcomes:** The workshop had two objectives: 1) Offer participants greater understanding about mediation and dispute resolution processes in the context of the NCPs and their mandate, and 2) Generate new ideas and strategies for promoting the OECD Guidelines and the NCPs in Latin America.

• **Title/subject of the event:** Responsible Mexico forum  
• **Place, date:** 12/03/15 Mexico City  
• **Organiser(s):** ResponSable (private agency)  
• **Number of participants and type of audience (e.g. government, business, worker organisations, NGOs, academia, or other parties):** 150 (government, business, worker organisations, NGOs, academia, or other parties)  
• **Highlights and key outcomes:** The Mexican NCP had the opportunity to gather with a small group of NGOs to generate strategies for promoting the OECD Guidelines and the NCPs.

• **Title/subject of the event:** Regional Seminar of Guidelines of OECD  
• **Place, date:** 23-24/ 04/15 . Mexico City  
• **Organiser(s):** Trade Union Advisory Committee (TUAC) and Friedrich Ebert Foundation in Mexico  
• **Number of participants and type of audience (e.g. government, business, worker organisations, NGOs, academia, or other parties):** 20 (worker organisations and NCP of Chile and Mexico)  
• **Highlights and key outcomes:** Highlights and key outcomes: The Mexican NCP had the opportunity to gather with a small group of NGOs to generate strategies for promoting the OECD Guidelines and the NCPs.

• **Title/subject of the event:** Informal peer learning meeting of National Contact Points  
• **Place, date:** 9/10/15. Budapest, Hungary  
• **Organiser(s):** Hungary NCP  
• **Number of participants and type of audience (e.g. government, business, worker organisations, NGOs, academia, or other parties):** 60 (NCPs, business organisations, NGOs)  
• **Highlights and key outcomes:** peer learning

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

• ILO
• UN Global Compact and its local networks  
• UN Office of the High Commissioner on Human Rights
• National Institution for the Protection and Promotion of Human Rights  
• Global Reporting Initiative
• ISO
• Other, please provide details. (private agencies)

28. Did the NCP receive enquiries about the Guidelines and the NCP? From (check all that apply):
   • Business
   • Labour organisations
   • Non-governmental organisations
   • Government agencies
   • Other government (e.g. via embassies)
   • Other (individuals, press, academia)

29. If available please provide web statistics regarding your NCP’s website: No available

30. How many visitors did the website(s) receive in the reporting period? No available

   How many downloads of materials on the NCP website (e.g. the Guidelines, brochures, other materials) occurred during the reporting period? No available

D. Specific instances

According to the Procedural Guidance, NCPs are expected to contribute to the resolution of issues that arise relating to the implementation of the Guidelines in specific instances in a manner that is impartial, predictable, equitable and compatible with the principles and standards of the Guidelines.

31. What are the NCP’s procedures for handling specific instances? Please attach the procedures  

Where applicable please elaborate or note an absence of NCP procedures regarding:
   • Requirements on submitting a complaint in a specific instance
      The request to initiate a specific instance must be in writing and contain at least the following information:
      a) Claimant identity;
      b) Contact data;
      c) Identity of the MNE;
      d) Description of events, acts or omissions allegedly contrary to the text of the Guidelines, briefly narrating them clearly and precisely;
      e) Principles, chapters and paragraphs of the Guidelines that have been reportedly breached;
      f) Description of previous approaches between the claimant and the MNE;
g) Interest of the claimant in the case.
The claimant must attach all documentation supporting the facts related or, if it is the case, indicate the website where it can be consulted. If there is any impediment to submit documentation, the claimant must state the circumstances that prevent its access.

- **Standing requirements for participating in a specific instance (e.g. rules around who is allowed to bring complaints to an NCP mechanism, who is allowed to participate in mediation).**
  Any person, individual or juridical, who has been or may be affected by the performance of a MNE. Civil society organizations that have a legitimate interest in the matter.

- **Confidentiality provisions**
  1. The development of specific instances and the results will be transparent. However, the NCP and the Parties are obliged to take the necessary measures so as to maintain the reserves or confidentiality of information, as applicable, pursuant to the applicable legislation.
  2. For the purposes of the paragraph above, when the Parties submit information that has reserved or confidential status, they must indicate so to the NCP and, when appropriate, authorize this information to be shared with the other Party and those who prove to have a legitimate interest in the matter. In any case, the NCP shall grant the appropriate treatment to such information in accordance with the provisions of Articles 18 and 19 of the LFTAIPG.²

- **Indicative timeframes for the different steps of the procedure**
  1. Three months counted since receipt of the application
  2. Six months counted since the end of the first stage
  3. Three months since the end of the second stage

- **Existence of a statute of limitations**
  None

- **Publication and availability online of initial assessments**
  Yes

32. **How many new specific instance(s) did the NCP receive in the reporting period?** None.
   See Annex (template for reporting specific instances)

33. **What are the main challenges the NCP encountered in handling specific instances during the reporting period? (check all that apply).**

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² Article 18 of the LFTAIPG. Confidential information shall be considered as:
I. Information given as such by individuals to obliged parties, in accordance with the provisions of Article 19, and
II. The personal data that requires the consent of individuals for its dissemination, distribution or marketing in terms of this Act.

It shall not be considered as confidential, the information found in public records or publicly available sources.

Article 19 of the LFTAIPG. When individuals deliver the obliged parties the information referred to in Section I of the preceding article, they must indicate which documents contain confidential, classified or commercial information, provided that they have the right to reserve the information, in accordance to the applicable provisions. In the case that there is an access request that includes confidential information, the obliged parties will communicate it provided that they obtain the express consent of the individual owner of the confidential information.
• Parallel legal proceedings
• Parallel public campaigning by complainant
• Unrealistic expectations regarding possible outcomes
• Unwillingness of the company to engage
• Unwillingness of the complainant(s) to engage
• Other (please elaborate)
• No specific instances

Most of the specific instances initiated before the Mexican NCP have not gone through the initial assessment phase due to parallel legal proceedings initiated long time before the submission of the claim.

E. Proactive Agenda

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

34. Does the NCP engage in any of the multi-stakeholder advisory groups under the proactive agenda?
   • Responsible Agricultural Supply Chains? Yes/No. Please specify.
   • Responsible Supply Chains in the Textile and Garment Sector? Yes/No. Please specify.

35. How does the NCP use and rely on guidance developed as part of the proactive agenda projects mentioned above? (check all that apply).
   • Promotion and awareness raising activities
   • Dealing with specific instances
   • Handling enquiries
   • Developing guidance at the national level
   • Other
F. Co-operation and peer learning

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

36. How did the NCP engage in co-operation and experience sharing with other NCPs during the reporting period? Check all that apply:
   - Horizontal learning activities
   - Co-hosting events
   - Co-operation in handling specific instances
   - Mentoring/capacity building events
   - Other
   - No co-operation

37. Did the NCP encounter any difficulties in co-operating with other NCPs? No If yes, please elaborate.

38. Is the NCP interested in volunteering for a peer evaluation? Yes/No. Please indicate semester/year.

39. Is the NCP interested in being part of a peer review team? Yes/No. – Please indicate semester/year.
   Second semester of 2016 and 2017

40. Please provide suggestions for themes of future horizontal learning exercises.
   Cooperation between NCPs. Possibility to participate as observers in specific instances.

41. Is the NCP interested in hosting an NCP learning/experience-sharing event? Please indicate semester/year.
   Yes. in second semester of 2016

G. Impact and future work

42. Have there been any measurable impacts of the Guidelines and/or the efforts of the NCP in the past implementation cycle? For example:
   - Have the Guidelines been referred to in national legislation (e.g. on non-financial reporting, export credits regulation etc.)? No
43. What are the new emerging challenges for enterprises identified by NCPs, notably in developing and emerging economies and sectors? There is still an urgent need to discriminate between Responsible Business Conduct standards and philanthropy.

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

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

- Areas for which additional proactive agenda projects would be valuable
- Areas where additional research or analytical support would be helpful
- Areas which would benefit from additional policy dialogue
- Other