



**HUMAN RIGHTS, ALTERNATIVE DISPUTE RESOLUTION
AND THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES**

**Briefing note for the participants at the Workshop
on Accountability and Dispute Resolution**

*Kennedy School of Government, Harvard University
11-12 April, 2007*

The Secretariat of the Investment Committee has been invited by Harvard's Kennedy School to a workshop on "Accountability and Dispute Resolution" organised in support of work in this area by the Special Representative of the United Nations Secretary-General on Business & Human Rights. This briefing note gives an OECD perspective on alternative dispute resolution based on experiences with the specific instances procedure of the OECD Guidelines for Multinational Enterprises. The note draws on material already available in the Annual Reports on the Guidelines, including the Summary of the 2006 OECD Roundtable on Corporate Responsibility.

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Introduction

1. The Secretariat of the OECD Investment Committee is pleased to submit this briefing note to participants in the Workshop on Accountability and Dispute Resolution being organised by John Ruggie and Jane Nelson of Harvard University's Kennedy School of Government. In doing so, the OECD extends its contribution to the work of the John Ruggie, Special Representative of the UN Secretary General on the issue of human rights and trans-national corporations and other business enterprises.

2. According to the invitation, the goal of the Workshop is "to devise and make recommendations for an effective dispute resolution mechanism that offers viable and legitimate outcomes for those with grievances, as well as for corporations." This briefing note aims to inform the Workshop's participants as to how one such dispute resolution mechanism – the "specific instances" facility available under the OECD Guidelines for Multinational Enterprises – has been used to look at various concrete questions regarding business and human rights in particular investment situations.

The OECD Guidelines – human rights recommendations and implementation

3. The OECD Guidelines for Multinational Enterprises are the most comprehensive and detailed of the major global codes. They make recommendations in such areas as human rights, disclosure of information, anti-corruption, taxation, labour relations, environment, consumer welfare, science and technology and responsible supply chain management. These recommendations draw on and cite the existing framework of international declarations and conventions, many of which are housed in the UN system (e.g. Universal Declaration, ILO Conventions).

4. The Guidelines' human rights recommendations are spread across several of their ten chapters:
- A recommendation in the "General Policies" chapter asks companies to "respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments".
 - All core labour standards are covered in the labour chapter, which was negotiated with ILO participation and is fully ILO compatible.
 - The "Environment" chapter asks companies to maintain contingency plans for preventing, mitigating and controlling serious environmental and health damage from their operations, including accidents and emergencies;
 - The "Consumer Interests" chapter asks companies to "respect consumer privacy".

5. Perhaps the most salient characteristic of the Guidelines is its unique, government-backed implementation procedure. These were established in the June 2000 Council Decision, which is a treaty-like commitment made by the 30 OECD member countries and 9 non-member adhering countries. The Decision: 1) commits adhering countries to promoting the Guidelines; 2) provides for a performance standard in such promotion (“functional equivalence” in visibility, accessibility, transparency and accountability); and 3) gives guidance to governments on how such promotion is to be undertaken.

6. Guidelines implementation takes place mainly in national capitals. The 39 National Contact Points (NCPs) – government offices that are sometimes tri-partite or quadri-partite in structure (that is, their members include government officials and representatives of business, trade unions and NGOs) – are responsible for encouraging observance of the Guidelines in their national contexts and for ensuring that national business communities and other interested parties know of and understand the Guidelines.

“Specific instances” – mediation and conciliation

7. A particularly interesting feature of Guidelines implementation is the so-called “specific instances” procedure – essentially, this procedure creates the only international dispute resolution procedure based on a comprehensive code of conduct for international business.

8. The specific instances procedure is both flexible and formal. The June 2000 Council Decision provides quite lengthy “procedural guidance” on how the 39 governments adhering to the Guidelines are to manage the specific instances procedure. According to this guidance, “the NCP will contribute to the resolution of issues that arise relating to implementation of the Guidelines in specific instances. The NCP will offer a forum for discussion and assist the business community, employee organizations and other parties concerned to deal with the issues raised in an efficient and timely manner and in accordance with applicable law”. If the NCP, after careful consideration, decides that “the issues raised merit further examination” the NCP offers its “good offices to help the parties to resolve the issues.”... Where relevant, the NCP can “offer, and with the agreement of the parties involved, facilitate access to consensual and non-adversarial means, such as conciliation or mediation, to assist in dealing with the issues”.

Examples of specific instances

9. The “specific instance” procedure has been used extensively. Since the 2000 Review, 130 “specific instances” have been raised, concerning company practices in OECD as well as non-OECD countries, in areas that go to the heart of the current debate on globalisation. Of these 130 requests, 96 were actively taken up by NCPs and 43 of these dealt with human rights issues.

10. These 43 cases dealt with some very high profile cases (see Annex for a complete inventory of cases). These include:

- *Private provision of maintenance services at Guantanamo Bay.* In June 2005, an NGO asked the Norwegian NCP to consider a specific instance regarding Aker Kvaerner’s (a Norwegian company) provision of maintenance facilities (via a wholly-owned US subsidiary) to a detention centre run by the US Department of Defence in Guantanamo Bay. The NCP had meetings with Aker Kvaerner and the NGO on 5 September and 26 October, 2005 to discuss the complaint and to assist the parties in reaching agreement on this issue. On November 29, 2005, the NCP issued a statement that *inter alia* urged the company to undertake a thorough assessment of the ethical issues raised by its contractual relationships.
- *Private management of a detention centre for illegal immigrants.* In June 2005, the Australian NCP received a complaint from five NGOs alleging that GSL Australia, which was providing

immigration detention services to the Australian government, was in breach of the OECD MNE Guidelines particularly in relation to human rights. The NCP worked with the parties to define matters that were under the direct control of GSL and ruled out matters that came within the scope of Australian Government policy. Having obtained the agreement of the parties as to the proper scope of the investigation, the NCP then spent considerable effort in building trust between the parties and refining the matters that might be appropriate for mediation. This process entailed the communication and sharing of information on detention procedures and their impacts. Then the NCP convened a formal mediation session in February 2006 at which the parties were represented at a high level (GSL Australia was led by its managing director and the complainants included a former judge of an Australian court and international human rights jurist). With the benefit of extensive information sharing and prior trust building, the parties came to a shared view of the key challenges. The agreed outcomes of the mediation session which took the form of a compact between the parties cover training; access to interpreters; management of particular facilities; handling of removals and deportations and general “quality of life” issues for detainees. GSL Australia also committed itself to an ongoing dialogue with the complainants so that they could monitor and assist GSL Australia's implementation the agreed remedies.

- *Nam Theun 2 hydroelectric project.* On 26 November 2004, the French NCP was asked to consider Electricité de France's (EDF's) conduct in relation to the development and operation of a hydroelectric project in Thailand (called Nam Theun 2). Friends of the Earth's claims concerned, among other things, the human rights recommendation in the “General Policies” chapter of the Guidelines. Based on information collected from NGOs, the consortium in Thailand (of which EDF is the principal shareholder), the World Bank and Asian Development Bank and consultations with experts from COFACE (the French export credit agency) and the French development agency the NCP came to the conclusion that it could not attribute any non-observance of the Guidelines to EDF and that EDF had even taken on commitment that go beyond the recommendations of the Guidelines. The French NCP nevertheless undertook to monitor the company's implementation of its commitments to respect international environmental and social standards and has agreed to hold a series of meetings with the company in order to follow developments.
- *Labour and environmental standards in the Ghanaian gold sector.* In February, 2003, the Swedish NCP was asked by two NGOs to consider the Ghanaian operations of two Swedish companies in relation to the human rights and environmental provisions of the Guidelines. Since the material submitted by the NGOs was incomplete, the NCP collected information from the companies concerned, from the Swedish Metalworkers Union, from the Embassy of Sweden in Nigeria and from a Ghanaian NGO. The NCP held a number of meetings, including separate meetings with the NGOs and the enterprises concerned, as well as a joint information meeting with all parties. The two enterprises and the Swedish Metalworkers Union travelled to the area to investigate. The Swedish NCP concludes that, although environmental and social problems exist in connection with mining in Ghana, the roles played by the two companies in these problems is limited. The NCP finds that the companies “have not failed to comply with the OECD Guidelines in respect of human rights and environmental considerations.” At the same time, the NCP found that the companies' on-site personnel did not have adequate knowledge of their responsibilities under the Guidelines and encouraged the companies “to enhance knowledge of the Guidelines, both internally and externally.”
- *Resettlement of local populations in the Zambian copper belt.* In July 2001, Zambian and Canadian NGOs asked the Canadian NCP to consider the impending removal of local people from a Canadian mining company's lands. The NCP encouraged the company to cooperate with

the NGOs in reconsidering the company's resettlement plan. The NGOs involved in the case have reported that it resulted in the company agreeing to delay resettlement to allow for better evaluation of associated social disruptions and for the Zambian government, with help from the World Bank, to provide alternatives.

- *Child labour in India.* In July 2001, the Netherlands NCP was asked to look into NGO allegations of child labour in a leading sporting goods company's outsourcing operations in India. The NCP found that, even though the issues brought to the NCPs attention probably still exist in the Indian sporting goods industry at large, the company encourages its suppliers to operate in a socially responsible manner.

Evaluating and improving alternative dispute resolution under the Guidelines

11. The OECD bodies in charge of oversight of the Guidelines have agreed to develop the mediation capabilities of NCPs. A Roundtable was held in June 2006 in which professional mediators were invited to provide advice to NCPs. The principal findings of the discussion were as follows:

1. *Form and flexibility.* Mediation is a means of solving disputes that is increasingly used by governments, companies and individuals because it offers an attractive combination of form and flexibility. It is both formal (with mediators and parties having well-defined roles and responsibilities) and flexible (parties are encouraged to find their own solutions to problems). Since no two problems in international business ethics are the same, this combination holds out the prospect of allowing disputes to be resolved at lower cost and with better outcomes. The mediation specialists pointed out that, far from being a soft procedure, mediation can (under favourable conditions) be very "muscular", giving rise to substantial changes in the way people think and act. This is particularly true when the consequences of not reaching a resolution are serious (good mediators will develop a clear view of what these consequences are and will ensure that the parties to the procedure understand them).
2. *Multi-faceted role of NCPs.* Several participants noted the multi-faceted character of NCPs' roles in relation to the specific instance procedure. They asked: are NCPs advocates, an information bureau, arbitrators, and/or direct providers of mediation services? One NCP noted that he played several roles in relation to the Guidelines (advocate of the concepts and principles expressed in the Guidelines, judge as to whether or not a specific instance should be accepted, and mediator once a specific instance is under way).
3. *Qualities of a good mediator.* The mediation experts described mediation as an "active and energetic process" demanding special skills and the right "mental make up". Mediation skills include "effective listening"; dealing with the emotions of the parties of the mediation; gathering and distributing information (so that parties can come to a shared view on why the dispute arose in the first place); framing the problem in new ways; suggesting language and new approaches to the resolution of issues that bring the positions of the parties closer together without taking over their responsibility for reaching agreement. Impartiality was also seen as key to effective mediation. Training would seem to be needed for the acquisition of these skills (but some NCPs have shown that they can provide effective mediation services, even without training).
4. *Importance of building trust in mediators.* Mediators need to have credibility and to earn the trust of the parties to mediation. For NCPs, this implies the acquisition of the skills (as discussed above) and resources needed for successful mediation and the cultivation of a reputation for impartiality and fairness. Participants also discussed the need to create ways of handling the various pressures that might develop within governments (e.g. coming from the interests of other

branches of governments in the outcome of the specific instance) and that might create a perception of conflict of interest or bias.

5. *Importance of building trust and a spirit of conciliation among parties.* The parties to the specific instance procedure have essential responsibilities in creating the conditions which will allow for successful dispute resolution. These include the responsibility to help create the conditions for building trust and a spirit of conciliation. For the parties, trust is a “fragile commodity” that can easily be damaged or destroyed. For this reason, all parties have a responsibility to take actions (e.g. respecting the “rules of the game” set forth in the Procedural Guidance to the 2000 Council decision described above) and to use language that will be conducive to constructive dialogue and problem solving. A number of participants stressed, in particular, the importance of safeguarding confidentiality as a way of building trust and a cooperative spirit.
6. *Parallel proceedings.* Both mediation specialists noted that every issue takes place in some kind of legal framework and that most issues that have been the subject of mediation have been or could be dealt with someplace else within this framework. Mediation under the Guidelines is no exception – almost half of the mediations already undertaken have been subject to such parallel proceedings (in national courts, other mediation processes, in international organisations). One specialist stated that “ongoing legal processes should be no bar to mediation.”
7. *Managing expectations, properly structuring the agenda and seeking appropriate representation.* The most fundamental task of the mediator is to manage the expectations of the parties – they need to embark upon the mediation process with a realistic view of what can be achieved and what is expected of them. Participants also highlighted the importance of focusing the dialogue under specific instances on issues that are important, about which parties can reach agreement and that are in the control of the company whose activities are the subject of the specific instance. Several participants noted that involving the right representatives in the dialogue is of crucial importance. The tendency of companies to want to name lawyers to represent them was noted. One NCP stated that he goes to considerable length to discourage the use of lawyers as representatives of business for his specific instances.
8. *Committed engagement by NCPs.* Specific instances often involve difficult situations -- parties may have entrenched view; antagonism and distrust may be high; the facts of the case may be subject to controversy and information sources fragmentary. The message sent by Roundtable participants to NCPs is: don’t be too quick to give up and don’t be scared off too easily. Successful resolution of problems often requires long-term commitment. At the same time, participants noted the importance of time pressure and of deadlines in helping the parties to focus on the issues at hand and deal with them effectively and efficiently.

Improving mediation capacities under the Guidelines

12. In the 2006 report on their activities, NCPs identified two principal dimensions for improving mediation capacity under the Guidelines and for following up on the discussion, summarised above, with mediation specialists. These involve improving the mediation capacities: 1) of the NCPs; and 2) of business, NGOs and trade unions who are involved in the process.

- *Building the mediation capacities of NCPs* will involve accumulating expertise and building on experiences of the specific instances process. The need for mediation skills or for improving NCPs' ability to facilitate mediation by third parties could be particularly challenging. In addition, the multi-faceted nature of the NCP's role was highlighted during the discussions – the NCP is asked to assume a range of roles in addition to a possible role as mediator or facilitator. Understanding these multi-faceted roles and developing associated expertise were identified as being important areas for follow up in the 2006-2007 cycle of implementation.
- *Building the mediation capacities of stakeholders.* NCPs also stressed the importance of the role of stakeholders in bringing specific instances to a successful conclusion are as important as those of NCPs. Building a common understanding on some of these responsibilities could help stakeholders and NCP to deal more confidently and effectively with specific instances.

Annex. Specific Instances Considered by National Contact Points as of June 2006

NCP concerned	Issue dealt with	Date of Notification	Host Country	Guidelines Chapter	Status	Final Statement	Comments
Argentina	Argentine subsidiary of a multinational enterprise involving employment relations	Dec 2004	Argentina	II: General Principles IV: . Employment and Industrial Relations	ongoing	n.a	The Argentine subsidiary of the multinational banking corporation subject to last year's claim has been sold to a new owner. No pending issues exist with the new owner. Requests contained in the original presentation have been partially met. Nevertheless some areas of disagreement persist between the original parties of the specific instance reported last year. The final settlement is still pending.
Australia (The Australian NCP assumed carriage following an agreement with the UK NCP in June 2005)	GSL (Australia) Pty Ltd – an Australian incorporated wholly-owned subsidiary of a UK controlled multinational – Global Solutions Limited	June 2005	Australia	II General Principles VII Consumer Interests	Concluded	Yes	The examination was successfully concluded in 8 months from the date that the specific instance was raised. All parties were satisfied with the outcome with a list of 34 agreed outcomes produced. The statement issued is available on the website at www.ausncp.gov.au .
Austria	Mining activities	Nov 2004	Democratic Republic of Congo	Various	Concluded	Yes.	No consensus reached.
Belgium	Marks and Spencer's announcement of closure of its stores in Belgium	May 2001	Belgium	IV. Employment and Industrial Relations	Concluded	Yes	The Belgian NCP issued a press release on 23 December 2001.
Belgium	Speciality Metals Company S.A.	Sept 2003	Democratic Republic of Congo	Not specified in the UN report	Concluded	Yes	The Belgian NCP issued a press release in 2004.
Belgium	Forrest Group	Sept 2003	Democratic Republic of Congo	Not specified in the UN report	Concluded	.Yes	Press release in 2005.

NCP concerned	Issue dealt with	Date of Notification	Host Country	Guidelines Chapter	Status	Final Statement	Comments
Belgium	Forrest Group	Nov 2004	Democratic Republic of Congo	II. General Policies III. Disclosure IV. Employment V. Environment IX. Competition	Concluded	Yes	Press release in 2005.
Belgium	Tractebel-Suez	April 2004	Laos	II. General Policies III. Disclosure V. Environment	Concluded	Yes	Press release in 2005.
Belgium	KBC/DEXIA/ING	Mai 2004	Azerbaijan, Georgia and Turkey	I Concepts and Principles II. General Policies III. Disclosure V. Environment	Concluded		UK NCP.
Belgium	Cogecom	Nov 2004	RD Congo	I Concepts and Principles II. General Policies IV. Employment	Ongoing	n.a.	Under consideration. There is a parallel legal proceeding.
Belgium	Belgolaise	Nov 2004	RD Congo	II. General Policies	Ongoing	n.a.	Under consideration. There is a parallel legal proceeding.
Belgium	Nami Gems	Nov 2004	RD Congo	I Concepts and Principles II. General Policies X. Taxation	Ongoing	n.a.	Press release in preparation
Belgium	GP Garments	June 2005	Sri Lanka	III. Disclosure IV. Employment	Ongoing	n.a.	A meeting organised by the NCP, in the presence of both parties took place in September 2005.
Brazil	Workers representation in labour unions	26 Sept 2002	Brazil	Article 1, Chapter IV	ongoing	No	
Brazil	Dismissal of workers	Nov 2003	Brazil	Article 6, Chapter IV	ongoing	No	
Brazil	Construction of a dam that affected the environment and dislodged local populations.	2004	Brazil	Article V	ongoing	No	
Brazil	Environment and workers' health issues.	8 May 2006	Brazil	Chapter V, article 1 and Chapter V, article 3.	ongoing	No	
Brazil	Dismissal of workers	26 Sept 2006	Brazil	Chapter IV, article 6.	Concluded	Yes	

NCP concerned	Issue dealt with	Date of Notification	Host Country	Guidelines Chapter	Status	Final Statement	Comments
Canada, Switzerland	The impending removal of local farmers from the land of a Zambian copper mining company owned jointly by one Canadian and one Swiss company	July 2001	Zambia	II. General Policies V. Environment	Concluded	No	With the Canadian NCP acting as a communications facilitator, a resolution was reached after the company met with groups from the affected communities. The Canadian NCP sent a final communication to the Canadian company [www.ncp-pcn.gc.ca/annual_2002-en.asp]. The Swiss company was kept informed of developments
Canada	Follow-up to allegations made in UN Experts Report on DRC	December 2002	Democratic Republic of Congo	Not specified in UN Report	Concluded	n.a.	The NCP accepted the conclusions of the UN Panel's final report and has made enquiries with the one Canadian company identified for follow-up.
Canada	Complaint from a Canadian labour organization about Canadian business activity in a non-adhering country.	Nov 2002	Myanmar	Employment and Industrial Relations; Environment	Concluded	Yes	The NCP was unsuccessful in its attempts to bring the parties together for a dialogue.
Canada	Complaint from a coalition of NGOs concerning Canadian business activity in a non-adhering country	May 2005	Ecuador	I. Concepts and Principles II. General Policies III. Disclosure V. Environment	Concluded	Yes	Following extensive consultation and arrangements for setting up the dialogue, the NGOs withdrew their complaint in January 2005 in disagreement over the set terms of reference for the meeting.
Chile	Marine Harvest, Chile, a subsidiary of the multinational enterprise NUTRECO was accused of not observing certain environmental and labour recommendations. The NGOs Ecoceanos of Chile and Friends of the Earth of the Netherlands asked the Chilean NCP to take up the specific instance.	Oct 2002	Chile	IV. Employment and Industrial Relations; V. Environment	Concluded August 2004	Yes	The case had an important impact on the country and above all on the regions where the units of the enterprise are established. The case concluded with a dialogue process in which the parties to the instance and other actors participated. The parties accepted the procedure adopted by the NCP as well as most of the recommendations contained in the report of the NCP. The OECD Environmental Policy Report on

NCP concerned	Issue dealt with	Date of Notification	Host Country	Guidelines Chapter	Status	Final Statement	Comments
							Chile cites this specific instance in a positive way.
Chile	La Centrale Unitaire de Travailleurs (CUT) dans le cas de Unilever	June 2005	Chile	IV. Employment and Industrial Relations; V. Environment	Concluded November 2005	Yes	The parties accepted the procedure and conclusions of the NCP. See website for final report.
Czech Republic	The right to trade union representation in the Czech subsidiary of a German-owned multinational enterprise.	2001	Czech Republic	IV. Employment and Industrial Relations	Concluded	No	The parties reached agreement soon after entering into the negotiations.
Czech Republic	The labour management practices of the Czech subsidiary of a German-owned multinational enterprise	2001	Czech Republic	IV. Employment and Industrial Relations	Concluded	No	Four meetings organised by the NCP took place. At the fourth meeting it was declared that a constructive social dialogue had been launched in the company and there was no more conflict between the parties.
Czech Republic	A Swiss-owned multinational enterprise's labour management practices	April 2003	Czech Republic	IV. Employment and Industrial Relations	Concluded	No	The parties reached an agreement during the second meeting in February 2004
Czech Republic	The right to trade union representation in the Czech subsidiary of a multinational enterprise.	Jan 2004	Czech Republic	IV. Employment and Industrial Relations	Closed	n.a.	An agreement between employees and the retail chain store has been reached and union contract signed.
Czech Republic	The right to trade union representation in the Czech subsidiary of a multinational enterprise.	Feb 2004	Czech Republic	IV. Employment and Industrial Relations	Closed	Yes	The Czech NCP closed the specific instance at the trade union's (submitter's) request, August 2004
Denmark	Trade union representation in Danish owned enterprise in Malaysia	Feb 2002	Malaysia	IV. Employment and Industrial Relations	Concluded	n.a.	
Denmark	Trade union representation in plantations in Latin America	April 2003	Ecuador and Belize	IV. Employment and Industrial Relations	Concluded	n.a.	Connection of entity to Denmark could not be established
Denmark	Several questions in relation to logging and trading of wood by a Danish enterprise in Cameroon, Liberia and Burma	Mar 2006	Cameroon, Liberia and Burma	Several chapters (e. g. II, IV, V and IX)	Ongoing	Not relevant at this stage	Specific instance initially assessed, specific instance raised by NGO (Nepenthes)
France	Forced Labour in Myanmar and ways to address this issue for	Jan 2001	Myanmar	IV. Employment and Industrial Relations	Concluded	Yes	Adoption of recommendations for enterprises operating in Myanmar.

NCP concerned	Issue dealt with	Date of Notification	Host Country	Guidelines Chapter	Status	Final Statement	Comments
	French multinational enterprises investing in this country						The French NCP issued a press release in March 2002, see www.minefi.gouv.fr/directions_services/dgtpe/pcn/compcn280302.htm
France	Closing of Aspocomp, a subsidiary of OYJ (Finland) in a way that did not observe the Guidelines recommendations relating to informing employees about the company's situation.	April 2002	France	III.4 Disclosure	Concluded	Yes	A press release was published in October 2003 (see Documents archive). www.minefi.gouv.fr/directions_services/dgtpe/pcn/compcn131103.htm
France	Marks and Spencer's announcement of closure of its stores in France	April 2001	France	IV. Employment and Industrial Relations	Concluded	Yes	The French NCP issued a press release on 13 December 2001 www.minefi.gouv.fr/directions_services/dgtpe/pcn/compcn131201.htm
France	Accusation of non-observance of Guidelines recommendations on the environment, informing employees and social relations.	Feb 2003	France	V. Environment plus chapeau; III. Information and disclosure; IV. Employment and Industrial Relations	Ongoing	n.a.	Currently being considered; there is a parallel legal proceeding.
France	Dacia – conflict in a subsidiary of Group Renault on salary increases and about disclosure of economic and financial information needed for negotiating process.	Feb 2003	Romania	IV. Employment and Industrial Relations	Concluded	No	A solution was found between the parties and the collective labour agreement was finalised on 12 March 2003.
France	Accusation of non-observance of the Guidelines in the areas of environment, "contractual" and respect of human rights by a consortium in which three French companies participate in a project involving the construction and operation of an oil pipeline.	Oct 2003	Turkey, Azerbaijan and Georgia	II. General Principles	Ongoing	n.a.	In consultation with parties

NCP concerned	Issue dealt with	Date of Notification	Host Country	Guidelines Chapter	Status	Final Statement	Comments
France	DRC/SDV Transami – Report by the expert Panel of the United Nations. Violation of the Guidelines by this transport company in the Congo, named in the third report as not having responded to the Panel's requests for information.	Oct 2003	Democratic Republic of Congo	Not specified in information supplied by Panel	Concluded	No	
France	EDF – Alleged non-observance of the Guidelines in the areas of environment and respect of human rights by the NTPC (in which EDF is leader) in a hydroelectric project in Nam-Theun River, Laos.	Nov 2004	Laos	II. General policies V. Environment IX. Competition	Concluded	Yes	The French NCP issued a press release on 31 March 2005 www.minefi.gouv.fr/directions_services/dgtpe/pcn/compcn010405.htm
France	Alleged non-observance of the Guidelines in the context of negotiations on employment conditions in which threats of transfer of some or all of the business unit had been made.	Feb 2005	France	IV. Employment and Industrial Relations	Ongoing		
Germany	Labour conditions in a manufacturing supplier of Adidas	Sept 2002	Indonesia	II. General Policies IV. Employment and Industrial Relations	Concluded	Yes	The German NCP has closed the specific instance and issued a statement on 24 May 2004 www.bmwi.de/BMWi/Navigation/Aussenwirtschaft/Aussenwirtschaftsfoerderung/instrumente-der-aussenwirtschaftsfoerderung,did=20608.html (see Documents Archive).
Germany	Employment and industrial relations in the branch of a German multinational enterprise	June 2003	Philippines	IV. Employment and Industrial Relations	Ongoing	n.a.	In consultation with parties. The German NCP has produced a draft Statement and is still waiting for the necessary further information and clarification by the party that brought the original complaint.

NCP concerned	Issue dealt with	Date of Notification	Host Country	Guidelines Chapter	Status	Final Statement	Comments
Germany	Child labour in supply chain	Oct 2004	India	II. General Policies IV. Employment and Industrial Relations	Ongoing	n.a.	MNE was unable to join the meeting due to a question of principle based on a management-decision with regard to a categorical (non-) cooperation with one of the NGOs involved. Notwithstanding that, the MNE has notified the NCP in detail that it has already taken constructive and concrete steps to solve the problems raised. Thus, the German NCP has conducted with both parties separate, detailed meetings in Autumn 2005; further concluding talks will take place in due course.
Hungary	Visteon Hungary Ltd. Caused personal injury. Charge injury arising out of negligence.	June 2006	Hungary	IV Employment and Industrial Relations	Ongoing	n.a.	Under consideration – parallel legal proceedings are underway. NCP is waiting for additional information from Visteon Hungary, Ltd.
Israel	UN Expert Panel Report – DRC	2003	Democratic Republic of Congo	Not specified in Report	Concluded	No	Following an enquiry by the NCP, the accused company stopped illegitimate sourcing from DRC
Italy	Accusation of non-observance of Guidelines recommendations on human and labour rights, environment	2004	Turkey, Azerbaijan, Georgia	I. Concepts and Principles II. General Policies III. Disclosure IV. Employment and Industrial Relations V. Environment	Ongoing	n.a.	In consultation with parties
Japan	Industrial relations of an Indonesian subsidiary of a Japanese company	Feb 2003	Indonesia	IV. Employment and Industrial Relations	Concluded	No	Being the labour dispute ceased in compliance with the decision of High Court in Indonesia, the NCPs do not see any necessity to take further action.
Japan	Industrial relations of a Malaysian subsidiary of a Japanese company	March 2003	Malaysia	IV. Employment and Industrial Relations	Ongoing	n.a.	Under consideration - there is a parallel legal proceeding.

NCP concerned	Issue dealt with	Date of Notification	Host Country	Guidelines Chapter	Status	Final Statement	Comments
Japan	Industrial relations of a Philippines subsidiary of a Japanese company	March 2004	Philippines	II. General Policies IV. Employment and Industrial Relations	Ongoing	n.a.	Under consideration -There is a parallel legal proceeding.
Japan	Industrial relations of an Indonesian subsidiary of a Japanese company	May 2005	Indonesia	II. General Policies IV. Employment and Industrial Relations	Ongoing	n.a.	Under consideration - there is a parallel legal proceeding.
Japan	Industrial relations of a Japanese subsidiary of a Swiss-owned multinational company	May 2006	Japan	II. General Policies III. Disclosure IV. Employment and Industrial Relations	Ongoing	n.a.	Under consideration - there is a parallel legal proceeding.
Korea (consulting with US NCP)	Korean company's business relations in Guatemala's Textile and Garment Sector	2002	Guatemala	IV. Employment and Industrial Relations	Concluded	No	A resolution was reached after the management and trade union made a collective agreement on July 2003.
Korea (consulting with Switzerland)	A Swiss-owned multinational enterprises' labour relations	2003	Korea	IV. Employment and Industrial Relations	Concluded	No	This was concluded by common consent between the interested parties in November 2003. The Swiss NCP issued an intermediate press statement: http://www.seco.admin.ch/news/00197/index.html?lang=en
Korea	Korean company's business relations in Malaysia's wire rope manufacturing sector	2003	Malaysia	IV. Employment and Industrial Relations	Concluded	n.a.	* Korea's NCP is engaged in Guidelines promotion and Specific Instances implementation in accordance with the rule for Korea's NCP, which was established in May 2001.

NCP concerned	Issue dealt with	Date of Notification	Host Country	Guidelines Chapter	Status	Final Statement	Comments
Mexico (consulting with the German NCP)	Closing of a plant	2002	Mexico	IV. Employment and Industrial relations	Concluded	n.a.	The conflict was settled on 17 Jan 2005: The at that time closed Mexican subsidiary was taken over by a joint venture between the Mexican <i>Llanti Systems</i> and a cooperative of former workers and was re-named "Corporación de Occidente". The workers have received a total of 50% in shares of the tyre factory and <i>Llanti Systems</i> bought for estimated USD 40 Mio. The other half of the factory. The German MNE will support it as technical adviser for the production. At first there are 600 jobs; this figure shall be increased after one year to up to 1000 jobs.
Netherlands	Adidas' outsourcing of footballs in India	July 2001	India	II. General Policies IV. Employment and Industrial Relations	Concluded	Yes	A resolution was negotiated and a joint statement was issued by the NCP, Adidas and the India Committee of the Netherlands on 12 December 2002 www.oecd.org/dataoecd/33/43/2489243.pdf
Netherlands	Dutch trading company selling footballs from India	July 2001	India	II. General Policies IV. Employment and Industrial Relations	Concluded	No investment nexus	After the explanation of the CIME on investment nexus it was decided that the issue did not merit further examination under the NCP.
Netherlands	IHC CALAND's activities in Myanmar to contribute to abolition of forced labour and address human rights issues	July 2001	Myanmar	IV Employment and Industrial Relations	Concluded	Yes	After several tripartite meetings parties agreed on common activities and a joint statement. Parties visited the ambassador of Myanmar in London. Statement can be found in English on www.oesorichtlijnen.nl .
Netherlands	Closure of an affiliate of a Finnish company in the Netherlands	December 2001	Netherlands	IV. Employment and Industrial Relations	Concluded	No	Labour unions withdraw their instance after successful negotiations of a social plan.

NCP concerned	Issue dealt with	Date of Notification	Host Country	Guidelines Chapter	Status	Final Statement	Comments
Netherlands	Labour unions requested the attention of the NCP due to a link of government aid to Dutch labour unions to help labour unions in Guatemala	March 2002	Guatemala/ Korea	IV. Employment and Industrial Relations	Concluded	Not by Dutch NCP	The specific instance was about a Korean company, the Korean NCP was already dealing with the instance. The Dutch NCP concluded by deciding that it did not merit further examination under the Dutch NCP.
Netherlands	Labour unions requested the attention of the NCP on a closure of a French affiliate in the U.S.A.	July 2002	United States	IV. Employment and Industrial Relations	Concluded	Not by Dutch NCP	The link that the labour unions made was the fact that another affiliate of this French company in the Netherlands could use the supply chain paragraph to address labour issues. The Dutch NCP concluded by deciding that the specific instance was not of concern of the Dutch NCP and did not merit further examination.
Netherlands	Treatment of employees of an affiliate of an American company in the process of the financial closure of a company	Aug 2002	Netherlands	IV. Employment and Industrial Relations	Concluded	Yes	As the Dutch affiliate went bankrupt and the management went elsewhere neither a tripartite meeting nor a joint statement could be realised. The NCP decided to draw a conclusion, based on the information gathered from bilateral consultations and courts' rulings (www.oesorichtlijnen.nl).
Netherlands (consulting with Chile)	On the effects of fish farming	Aug2002	Chile	V. Environment	Concluded	Not by Dutch NCP	The specific instance was dealt with by the Chilean NCP. The Dutch NCP acted merely as a mediator between the Dutch NGO and the Chilean NCP.
Netherlands	Chemie Pharmacie Holland BV and activities in the DRC.	July 2003	Democratic Republic of Congo	II.10. Supply chain IV Employment and Industrial Relations	Concluded	Yes	Despite the lack of an investment nexus, the NCP decided to publicise a statement on lessons learned. (www.oesorichtlijnen.nl)
Netherlands	Closure of an affiliate of an American company in the Netherlands	Sept 2003	Netherlands	IV Employment and Industrial Relations	Concluded	No	Labour unions withdraw their instance after successful negotiations of a social plan.

NCP concerned	Issue dealt with	Date of Notification	Host Country	Guidelines Chapter	Status	Final Statement	Comments
Netherlands	Through supply chain provision address an employment issue between an American company and its trade union	Aug 2004-April 2005	United States	IV Employment and Industrial Relations	Concluded	Not by Dutch NCP	The link that the labour unions made was that a Dutch company, through its American affiliate, could use the supply chain recommendation to address labour issues. The Dutch NCP discussed the matter with the Dutch company involved. Shortly thereafter the underlying issue between the American company and its trade union was solved.
Netherlands	Travel agencies organising tours to Myanmar	2003-2004	Netherlands	IV Employment and Industrial Relations	Concluded	Yes	Although not investment nexus, NCP decided to make a statement about discouraging policy on travel to Myanmar, see www.oesorichtlijnen.nl (in Dutch).
Netherlands	Treatment of the employees of an Irish company in the Netherlands	Oct 2004	Netherlands	IV Employment and Industrial Relations	Concluded	No	The NCP decided that the specific instance, raised by a Dutch labour union, did not merit further examination, because of the absence of a subsidiary of a multinational company from another OECD country in the Netherlands.
Netherlands	Introduction of a 40 hrs working week in an affiliate in the Netherlands of an American company	Oct 2004	Netherlands	IV Employment and Industrial Relations	Concluded	No	Legal proceedings took care of labour union's concerns.
Netherlands	Treatment of employees and trade unions in a subsidiary of a Dutch company in Chile	July 2005	Chile	IV Employment and Industrial Relations	Concluded	Not by Dutch NCP	Labour Union requested the Dutch NCP to inquire after the follow up of a Interim report of the ILO Committee on Freedom of Association on the complaint against the Government of Chile.
Norway	Contractual obligations of a Norwegian maritime insurance company following personal injury and death cases	2002	Philippines, Indonesia	IV. Employment and Industrial Relations	Concluded	n.a.	An initial assessment by the NCP concluded that the company had not violated the Guidelines and that the issue did not merit further examination.

NCP concerned	Issue dealt with	Date of Notification	Host Country	Guidelines Chapter	Status	Final Statement	Comments
Norway	Human rights in relation to provision of maintenance services to a detention facility in Guantanamo Bay	2005	United States	II.2 Human Rights	Concluded	Yes	The NCP noted that provision of goods or services in such situations requires particular vigilance and urged the company to undertake a thorough assessment of the ethical issues raised by its contractual relationships.
Poland	Violation of workers' rights in a subsidiary of a multinational enterprise	2004	Poland	IV. Employment and Industrial Relations	Ongoing	n.a.	In contact with representatives of parties involved.
Poland	Violation of workers' rights in a subsidiary of a multinational enterprise	2002	Poland	IV. Employment and Industrial Relations	Resumed	n.a.	In contact with representatives of parties involved.
Poland	Violation of women and workers' rights in a subsidiary of a multinational enterprise	2006	Poland	IV. Employment and Industrial Relations	Ongoing	n.a.	In contact with representatives of parties involved.
Portugal	Closing of a factory	2004	Portugal	IV. Employment and Industrial Relations	Concluded	No	After an initial assessment by the NCP, no grounds to invoke violation of the Guidelines were found so the process was closed in 2 months with the agreement of all parties involved.
Spain	Labour management practices in a Spanish owned company.	May 2004	Venezuela	IV. Employment and Industrial Relations	Concluded		
Spain	Conflict in a Spanish owned company on different salary levels.	Dec 2004	Peru	IV. Employment and Industrial Relations	Concluded		
Sweden	Two Swedish companies' (Sandvik and Atlas Copco) business relations in Ghana's gold mining sector	May 2003	Ghana	IV. Employment and Industrial Relations V. Environment	Concluded	Yes	The Swedish NCP issued a statement in June 2003 www.oecd.org/dataoecd/16/34/15595948.pdf
Switzerland (consulting with Canada)	Impending removal of local farmers from the land of a Zambian copper mining company owned jointly by one Canadian and one Swiss company	2001	Zambia	II. General Policies V. Environment	Concluded	No	The specific instance was dealt with by the Canadian NCP (see information there). The Swiss company was kept informed of developments.

NCP concerned	Issue dealt with	Date of Notification	Host Country	Guidelines Chapter	Status	Final Statement	Comments
Switzerland (consulting with Korea)	Swiss multinational Nestlé's labour relations in a Korean subsidiary	2003	Korea	IV. Employment and Industrial Relations	Concluded	No	The specific instance was dealt with by the Korean NCP (see information there). The Swiss NCP acted as a mediator between trade unions, the enterprise and the Korean NCP. The Swiss NCP issued an intermediate press statement: http://www.seco.admin.ch/news/00197/index.html?lang=en
Switzerland	Swiss multinational's labour relations in a Swiss subsidiary	2004	Switzerland	IV. Employment and Industrial Relations	Concluded	No	In the absence of an international investment context, the Swiss NCP requested a clarification from the Investment Committee. Based on that clarification (see 2005 Annual Meeting of the NCPs, Report by the Chair, p. 16 and 66), the Swiss NCP did not follow up on the request under the specific instances procedure. However, it offered its good services outside that context, and the issue was solved between the company and the trade union.
Switzerland (consulting with Austria and Germany)	Logistical support to mining operations in a conflict region	2005	Democratic Republic of Congo	Several chapters, including: II. General Policies III. Disclosure IV. Employment	Concluded	No	The Swiss NCP concluded that the issues raised were not in any relevant way related to a Swiss-based enterprise.
United Kingdom	Activities of Avient Ltd alleged in a UN Expert Panel report.	2003	Democratic Republic of Congo	This was not specified in the UN Panel report	Concluded	Yes	The U.K. NCP issued a statement in September 2004: www.dti.gov.uk/europeandtrade/trade-policy/oecd-multinat-guidelines/NCP%20Statements/page23595.html .
United Kingdom	Activities of Oryx Minerals alleged in a UN Expert Panel Report	2003	Democratic of Congo	This was not specified in the Panel Report	Concluded	Yes	
United Kingdom	Activities of Alfred Knight	2004	Democratic of Congo	Various	Ongoing	N/A	In contact with complainant.

NCP concerned	Issue dealt with	Date of Notification	Host Country	Guidelines Chapter	Status	Final Statement	Comments
United Kingdom	Activities Anglo American	2005	Zambia	Various	Ongoing	N/A	In contact with both parties
United Kingdom	Activities of National Grid/Transco/	2004	Democratic Republic of Congo	Various	Concluded	Yes	The UK NCP issued a statement in July 2005: www.dti.gov.uk/europeandtrade/trade-policy/oecd-multinat-guidelines/NCP%20Statements/page23595.html
United Kingdom	Activities of DAS Air alleged in a UN Expert Panel Report	2003	Democratic Republic of Congo	This was not specified in the UN Panel Report	Ongoing	N/A	In contact with parties.
United Kingdom (in contact with US NCP)	Freedom of association and collective bargaining.	2006	United States	IV. Employment and Industrial Relations.	Ongoing	N/A	In contact with parties.
United Kingdom	Freedom of association and collective bargaining.	2006	Bangladesh	IV. Employment and Industrial Relations.	Ongoing	N/A	In contact with parties.
United Kingdom	BTC; activities of consortium led by British Petroleum	2004	Azerbaijan, Georgia, Turkey	II.5 Exemption from Regulation, III.I disclosure, V.I environmental management, V.2a information on environmental health/safety V.2b community consultation, V.4 postponement of environmental protection measures	Ongoing	N/A	In contact with parties.
United States (consulting with French NCP)	Employment and Industrial Relations - Freedom of Association and Collective Bargaining	July 2002	United States	IV. Employment and Industrial Relations	Concluded	No	Parties reached settlement
United States (consulting with French NCP)	Employee representation	June 2000	United States	IV. Employment and Industrial Relations	Concluded	No	Parties reached agreement

NCP concerned	Issue dealt with	Date of Notification	Host Country	Guidelines Chapter	Status	Final Statement	Comments
United States included among numerous NCPs and the Investment Committee, working with the UN	Conducting business in conflict zones and illegal exploitation of natural resources	October 2002	Democratic Republic of the Congo (DRC)	Numerous	Concluded	No	UN Panel Report concluded all outstanding issues with the U.S.-based firms cited in the initial report were resolved. US NCP concluded its facilitation of communications between the UN Panel and the U.S. companies
United States (consulting with Austrian and German NCPs)	Employee relations in global manufacturing operations	November 2002	Global, with focus on Vietnam and Indonesia	IV. Employment and Industrial Relations	Concluded	No	USNCP concluded that the issues raised were being adequately addressed through other means.
United States	Employee representation	February 2001	United States	IV. Employment and Industrial Relations	Concluded	No	Parties reached agreement
United States	Investigate the conduct of an international ship registry	November 2001	Liberia	II. General Policies III. Information and Disclosure VI. Combating Bribery	Concluded	No	US NCP concluded in its preliminary assessment that the specific conduct which was the basis of the concerns raised was being effectively addressed through other appropriate means, including through a United Nations Security Resolution
United States consulting with the French NCP	Employment and industrial relations, collective bargaining	June 2003	United States	IV. Employment and Industrial Relations	Ongoing	n.a.	In consultation with parties
United States consulting with the German NCP	Employment and industrial relations, representation and collective bargaining	June 2003	United States	IV. Employment and Industrial Relations	Ongoing	n.a.	In consultation with parties

Note: n.a. = not applicable