

UK NATIONAL CONTACT POINT FOR THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES ADOPTS NEW PROCEDURES AND STRUCTURE

Summary of Outcomes

March 2007

In July 2006, following extensive consultation, the UK's Minister for State and Trade announced new procedures to increase the effectiveness of the UK's National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises (Guidelines).

If properly implemented, the changes should ensure future cases submitted to the UK NCP will be dealt with more effectively than before and in accordance with clear procedures and timelines. For example, complaints dealing with past breaches of the Guidelines will be admissible if it is perceived that problems could recur. Cases that are subject to other "parallel proceedings" are acceptable except in instances where the issues are identical to those being considered in legal proceedings. The rules on information disclosure have been made clearer and initial assessments will be made public. Crucially, the NCP statement will now make clear if a breach of the Guidelines has occurred when a complaint is concluded.

A Steering Board, chaired by a senior official of the Department of Trade and Industry, is being established to oversee the operations of the UK NCP. A key responsibility will be to help the NCP interpret how provisions in the Guidelines should be applied, though it is not empowered to take decisions on complaints. The Steering Board will not make decisions on the substance of particular cases, although it will consider appeals concerning procedural issues in the NCP's handling of a case. In other words, the Board can take decisions on a case, but only procedural ones. In the interests of transparency, the minutes of the Steering Board will normally be made public.

The following summarises the new procedures and NCP structure. For more information about these and other reforms to the UK NCP, go to www.dti.gov.uk/files/file32038.pdf.

HIGHLIGHTS OF AGREED CHANGES

- The new structure will involve other branches of government, including the Department for Trade & Industry, Department for International Development and Foreign & Commonwealth Office.
- Senior officials will be engaged in NCP activities.
- Greater promotion of the Guidelines, including improvements to the NCP's website.
- Creation of a Steering Board to oversee the operation of the NCP, which will consider issues of "both general and specific application of the Guidelines".
- Anyone can present a complaint.
- Past breaches admissible if problems might recur.
- Initial assessments will be made public.
- Interim (procedural) statements while a complaint is pending.
- Complaints subject to "parallel proceedings" are acceptable unless identical to issues in legal proceedings.

- Improved timescales with a target of concluding the case within 12 months.
- Enhanced mediation efforts on the part of the NCP.
- The NCP to investigate and seek additional information from inside and outside government.
- A failure to meet timescale may not prevent the NCP from issuing a statement.
- Clearer rules on disclosure of information from both parties and the NCP.
- Final determination on compliance with the Guidelines to be made in the NCP's statement.
- Improved NCP statements, including commenting on whether all parties engaged constructively.
- The Government has confirmed that the Guidelines “are already a factor in the Export Credits Guarantee Department's (ECGD) assessment of requests for cover. If ECGD had concerns, including in relation to a complaint made under the Guidelines, these would feature in discussions with the applicant company, and if doubts remained, ECGD could refuse the request. The Government also anticipates that the Steering Board may consider issues of both general and specific application where they arise”.

ISSUES FOR THE STEERING BOARD

- The Steering Board will approve the NCP's awareness raising strategy.
- The NCP will refer contentious issues to the Steering Board.
- Appeals on procedural grounds can be made to the Steering Board.
- The Steering Board will be consulted on issues related to field visits and non-adhering countries.
- The Steering Board will be consulted on issues of complainants' “standing” where local impacts alleged.

ISSUES TO BE DISCUSSED FURTHER WITH THE OECD

- Whether the Guidelines' confidentiality rule should be extended to all phases of the procedure.
- Whether the complaint procedure should take into account a broader range of corporate responsibility standards.

HIGHLIGHTS OF REJECTED PROPOSALS

- NGOs proposed that the NCP be made an independent body.
- A joint working group of policy-makers, NGOs and business representatives proposed an appeals mechanism and proposed an independent “assessor”.
- Business proposed that complainants be disqualified for breaches of confidentiality or ulterior motives in filing a complaint.
- Business proposed that a prior dialogue with the company be a precondition for filing a complaint.
- Business proposed extending the confidentiality rule to all phases of the complaint procedure.
- Business proposed no adjudication on compliance to the Guidelines and instead the NCP would only function in a “forward looking” capacity.

Contact:
 Patricia Feeney, RAID
tricia.feeney@raid-uk.org