



**TUAC
FACT
SHEET**
OECD GUIDELINES
FOR MULTINATIONAL
ENTERPRISES

Priorities for National Contact Points

■ Governments that adhere to the OECD Guidelines are required to establish National Contact Points (NCPs), which are responsible for promoting the Guidelines and handling cases of violations of the Guidelines. As the major international grievance mechanism available to workers and communities to defend their rights, NCPs have a unique responsibility to carry out their role effectively.

■ In October 2015, G7 Employment and Development Ministers stated that all G7 NCPs would support the OECD peer review process, including by participating in peer review teams, and would complete their own peer review by 2018. Earlier, in June, G7 Leaders had recognised their responsibility to “promote labour rights, decent working conditions and environmental protection in global supply chains”. They committed to strengthening “mechanisms for providing access to remedies, including the National Contact Points...” and encouraged the OECD “to promote peer reviews and peer learning on the functioning and performance of NCPs” while ensuring that their own NCPs “are effective and lead by example”.¹

■ At the 2015 OECD Ministerial Council Meeting (MCM), OECD Ministers had similarly called on the OECD to “continue its efforts to further strengthen the performance” of the National Contact Points including through “peer reviews and exchanges of best practices”.²

■ This unprecedented political context provides a unique opportunity to strengthen the effectiveness of the OECD Guidelines. TUAC recognises that over the past fifteen years some governments have taken appropriate measures to make their NCPs fit for purpose. Others, however, have not. It is essential that all adhering governments meet their binding obligations and that NCPs focus on improving outcomes for those workers and communities who place their trust in the NCP system.

■ TUAC is calling on **Adhering Governments** to:

1 Provide adequate human and financial resources to NCPs.

- **Core principle(s):** visibility, accessibility, transparency, accountability, impartiality, predictability, equitability and compatibility with the Guidelines

2 Have in place an appropriate NCP structure, which involves external stakeholders, addresses potential conflicts of interest, and has adequate oversight.

- **Core principle(s):** transparency, accountability, impartiality, equitability

3 Apply consequences³ where companies refuse to participate in the NCP process or to implement the agreement or NCP recommendations (see box overleaf).

- **Policy coherence**

■ TUAC is calling on **National Contact Points** to:

4 Draw up and implement a strategy to promote the Guidelines at home and abroad, which includes working with the social partners and other stakeholders.

- **Core principle(s):** visibility, accessibility, transparency

5 Publish procedures and comply with the indicative timelines set out in the Procedural Guidance.

- **Core principle(s):** accessibility, accountability, impartiality, predictability

1. Leaders' Declaration, G7 Summit, 7-8 June 2015.

2. Unlocking Investment for Sustainable Growth and Jobs - 2015 Ministerial Council Statement.

3. Compliance with the Guidelines should be promoted through other public policies (trade and investment agreements, private sector development, public procurement, and export credits).

6 Apply a sufficiently low threshold for the acceptance of cases at the initial assessment phase, and do not suspend or reject cases because of parallel proceedings.

- *Core principle(s): accessibility*

7 Maintain transparency in specific instances except during confidential conciliation and mediation proceedings, where complainants are at risk, or parties otherwise agree to keep information confidential. Report nationally as well as to the OECD.

- *Core principle(s): visibility, transparency, accountability, equitability*

8 Support the participation of parties in mediation by providing financial support for travel and/or making use of government embassies/development agencies in host countries.

- *Core principle(s): accessibility, equitability*

9 Conduct an examination of the case including fact-finding, and make a determination of whether there has been a violation of the Guidelines, where mediation is refused or fails.

- *Core principle(s): accountability*

10 Provide for follow-up in NCP Final Statements/Final Reports so that parties' agreements/ NCP recommendations are implemented.

- *Core principle(s): transparency, accountability, predictability*

11 Review failed cases in order to identify the obstacles/challenges that impede successful outcomes and share lessons with other NCPs through peer learning.

- *Core principle(s): accountability*

■ TUAC is calling on the OECD to:

12 Approve a long-term re-allocation of the budget to the OECD secretariat, to support a programme of work aimed at strengthening NCPs.

■ TUAC is calling on the OECD Working Party on Responsible Business Conduct to:

13 Undertake a revision of the Procedural Guidance of the OECD Guidelines so as to strengthen the rules that govern the functioning of NCPs.

14 Strengthen and accelerate the programme of peer review for existing NCPs and introduce transparent and participatory *ex ante* peer review for new adherents to the Guidelines.

15 Take measures against adhering governments that fail to meet their binding obligations to establish an effective NCP, including undertaking fact-finding missions and reporting to the OECD Council.

Canada: Recent Best Practice in Strengthening the OECD Guidelines

In 2014, Canada made a policy commitment to withdraw “economic diplomacy” from companies that refuse NCP-led (and other) dispute resolution processes. The Canadian NCP applied this policy in a case submitted by a Canadian NGO regarding the mining activities of a Canadian multinational enterprise in a non-adhering country. In its Final Statement the Canadian NCP stated that the refusal of the company to participate in the NCP process would be taken into consideration should it apply for “*enhanced advocacy support from the Trade Commissioner Service and/or Export Development Canada (EDC) financial services...*”. The NCP also found that “[I]n the absence of receipt of information from the Company on its operations... and based on the information provided by the Notifier, it is the *prima facie* assessment of the NCP that the Company has not demonstrated that it is operating in a manner that can be considered to be consistent with the voluntary OECD Guidelines for Multinational Enterprises.”.

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