

NCP Annual Reporting Questionnaire 2021

STRUCTURE

- A. Contact information
- B. Institutional arrangements
- C. Information and promotion
- D. Specific instances
- E. Peer learning and peer reviews
- F. Policy coherence
- G. Challenges

Annex: NCP promotional activities and Specific instances*

Additional Materials (optional)**

A. CONTACT INFORMATION	
<i>Please provide the contact information of the person filling in the questionnaire.</i>	
Name:	Joseph Donahue
Job title:	Foreign Affairs Officer
Email:	donahuej@state.gov
Telephone number:	+1 (202)-604-3559

B. INSTITUTIONAL ARRANGEMENTS	
(a) Structure, location and composition of the NCP	
1. What is the <u>structure</u> of the NCP?	Single-agency
2. Who are the members of the NCP? <i>Please describe the functions of the members of the NCP and the ministry/agency or stakeholder organisation they represent. No names are required.</i>	The U.S. NCP is a position held by a senior U.S. government official. The Office of the U.S. NCP includes 1 additional part-time officer and an additional open part-time staff position in the process of being filled.
3. If the NCP is not a <u>single-agency NCP</u> , does it have a <u>secretariat</u> ?	Choose an item.
If yes, in which ministry or agency?	U.S. Department of State
If yes, in which department of the ministry or agency?	Bureau of Economic and Business Affairs
4. Has the NCP been established through a legislative, regulatory or administrative instrument (e.g. a statute, a decree, a ministerial resolution)?	No
If yes, please provide the name and date of this instrument, and a link if available	Click here to enter text.
<i>Additional comments on Structure, location and composition of the NCP</i> Click here to enter text.	
(b) Advisory body	
5. Does the NCP have one or several <u>advisory bodies</u> ?	Yes
If the NCP has several advisory bodies, please specify.	Stakeholder Advisory Board (SAB) (until March 21, 2021), and Interagency Working Group

	(IWG)	
If yes, please describe the advisory body(ies)' functions (e.g. advising on promotion, on specific instance handling in general, on individual cases, providing <u>oversight</u> , etc.)	The primary objectives of the SAB were to promote and facilitate the implementation of the OECD Guidelines, and encourage the use of the NCP Specific Instance process as a means to resolve disputes and promote responsible business conduct. The IWG advises the U.S. NCP on a number of issues including providing expertise, agency views, and assistance in promoting the services of the NCP. It does not have a formal oversight function.	
If yes, please list the names of organisations that are represented on the advisory body(ies) and the type of organisation. (e.g. government, business, business organisation, NGO, trade union, academia, consumer organisation, etc.)	IWG: government agencies including the U.S. Departments of Commerce, Labor, Agriculture, Treasury, and Justice, Customs and Border Patrol, Federal Trade Commission, Environmental Protection Agency, Export Import Bank, General Services Administration, Millennium Challenge Corporation, U.S. International Development Finance Corporation, U.S. Agency for International Development, U.S. Trade Representative, and additional State Department bureaus, including the Bureaus of Democracy, Human Rights, and Labor; Energy and Natural Resources; and Oceans, Environment, and Science; and Office of the Legal Adviser	
If yes, please indicate how often the advisory body(ies) meets	N/A	
6. If an advisory body provides oversight, please describe the oversight procedure	N/A	
<i>Additional comments on Advisory body:</i>		
The SAB was discontinued on March 21, 2021. The U.S. NCP is currently considering possible ways to reconstitute or replace it. Neither the SAB nor the IWG formally met as a group in 2021, although the IWG was consulted by email as needed.		
(c) Human and financial resources		
7. Does the NCP have dedicated full-time staff? <i>If yes, please indicate the number.</i>	Yes	1
8. Does the NCP have dedicated part-time staff? <i>If yes, please indicate in the second box the number of part-time staff members and in the third box the percentage of time spent on NCP matters for each part-time staff member.</i>	Yes	1 70
9. Have any full-time or part-time staff members joined the secretariat during the year? <i>If yes, please indicate how many.</i>	Yes, both part-time and full-time staff members	2
10. Have any full-time or part-time staff members left the NCP during the year? <i>If yes, please indicate how many.</i>	Yes, part-time staff member(s)	3
11. Did the NCP have a <u>dedicated budget</u> this year?	Yes	
If no, were financial resources for promotional activities allocated on an ad hoc basis when requested by the NCP?	Choose an item.	
If no, were financial resources for specific instances allocated on an ad hoc basis when requested by the NCP?	Choose an item.	

12. During the year, did the human and financial resources available to the NCP allow it to:	
Handle specific instances in an efficient and timely manner	Yes
Organise promotional events	Yes
Attend NCP meetings at the OECD	Yes
Attend events organised by other NCPs	No
Attend events organised by stakeholders	Yes
Cover professional mediator fees or in-house mediator fees	Yes
Conduct fact-finding research into specific instances	N/A: The NCP did not need to conduct fact finding research this year
If you answered no to any of the above, please specify	
<i>Additional comments on Human and financial resources: The U.S. NCP does not conduct fact-finding.</i>	
(d) Reporting	
13. Does the NCP <u>report</u> to the executive on its activities?	No
If yes, how often?	N/A
14. Does the NCP report to the legislative body on its activities?	No
If yes, how often?	N/A
15. Please indicate any other relevant transparency requirement (e.g. access to information or disclosure laws) applicable to the NCP in your country	The Freedom of Information Act.
<i>Additional comments on Reporting: Click here to enter text.</i>	

C. INFORMATION AND PROMOTION		
(a) NCP website¹		
16. Does the NCP have a website? If yes, please provide the link in the second box.	Yes	https://www.state.gov/u-s-national-contact-point-for-the-oecd-guidelines-for-multinational-enterprises/
If yes, was the website created/renovated this year?	No	
17. Are the following items available on the NCP website?		
Information about the Guidelines and the role of the NCP		
The text of the Guidelines	Yes	

¹

This includes dedicated NCP webpages as part of the Ministry's website.

A description of the Guidelines	Yes
The OECD Due Diligence Guidance Documents	Yes
Explanatory text about due diligence	Yes
Information on the NCP and its mandate	Yes
The NCP Annual Report submitted to the OECD	Yes
The NCP's Report to the executive and/or legislative (if applicable)	N/A: The NCP does not report to the executive and/or legislative
The NCP's peer review report (if applicable)	Yes
Information about specific instances	
Information on how to submit a specific instance	Yes
An online form to submit a specific instance	Yes
The NCP's rules of procedure	Yes
All final statements since 2011	Yes
Information on promotional activities	
The NCP's promotional plan	No
Information on upcoming events promoting the Guidelines	No
Information on past events promoting the Guidelines	No
Contact information	
Information on how to make an enquiry to the NCP	Yes
A phone number to reach the NCP directly	No
An email address to reach the NCP directly	Yes
<p><i>Additional comments on NCP website:</i> Click here to enter text.</p>	
(b) Promotional activities²	
18. Does the NCP have a promotional plan for the coming year(s)?	Yes
19. Did the NCP organise or co-organise events to promote the Guidelines and/or the NCP during the year? <i>If yes, please provide details in table 1 in Annex 1.</i>	Yes
20. Did the NCP make a presentation to promote the Guidelines and/or the NCP in events organised by others? <i>If yes, please provide details in table 2 in Annex 1.</i>	Yes
21. Did the NCP make use of social media to communicate on NCP promotional activities during the year?	Yes
22. Did the NCP hold a <u>stakeholder meeting</u> during the year?	Yes
23. Did the NCP promote the Guidelines among the business community during the year?	Yes
24. Did the NCP carry out any training on the Guidelines aimed at businesses during the year?	No

² Attendance of NCP meetings held at the OECD and other OECD events such as the Global Forum on Responsible Business Conduct are not considered to be promotional activities.

25. Did the NCP promote the Guidelines among NGOs during the year?	Yes
26. Did the NCP promote the Guidelines among trade unions during the year?	Yes
27. Did the NCP promote the Guidelines among government agencies during the year?	Yes
28. Did the NCP promote the Guidelines among embassies abroad during the year?	No
29. Did the NCP promote the Guidelines to investment promotion agencies during the year?	No
30. Did the NCP focus on any of the following during promotional activities during the year:	
OECD Due Diligence Guidance for Responsible Business Conduct	No
OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector	No
Due Diligence for Responsible Corporate Lending and Securities Underwriting and/or Responsible Business Conduct for Institutional Investors	No
OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas	No
OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector	No
OECD-FAO Guidance for Responsible Agricultural Supply Chains	No
<p><i>Additional comments on the section Promotional activities:</i> Click here to enter text.</p>	

D. SPECIFIC INSTANCES	
(a) NCP rules of procedure for handling specific instances	
31. Does the NCP have rules of procedure describing the handling of specific instances?	Yes
32. Are the rules of procedure available online? <i>If yes, please provide a link in the second box. If no, please upload a copy of the rules of procedure in the Additional Materials section at the end of the online questionnaire</i>	Yes https://www.state.gov/u-s-national-contact-point-for-the-oecd-guidelines-for-multinational-enterprises/specific-instance-process/
33. Were the NCP's rules of procedure modified this year?	No

<p><i>Additional comments on the section Rules of procedure: Click here to enter text.</i></p>	
<p>(b) Specific instance practicalities</p>	
<p>34. Does the NCP confirm receipt of a specific instance submission?</p>	<p>Yes</p>
<p>35. Does the NCP request feedback from the parties on the procedure following the conclusion of a specific instance?</p>	<p>Yes</p>
<p>36. Has the NCP staff undergone training in dispute resolution or problem solving (e.g. mediation)?</p>	<p>No</p>
<p>37. Did the NCP engage professional mediators during the year?</p>	<p>Yes</p>
<p>38. Did the NCP staff or members conduct mediation this year?</p>	<p>No</p>
<p>If yes, or no: was mediation conducted by an external mediator?</p>	
<p><i>Additional comments on the section Specific instance practicalities: Click here to enter text.</i></p>	
<p>(c) Reporting specific instances</p>	
<p>39. Did the NCP receive new specific instance submissions during the year? <i>If yes, please also provide details in Annex 2 of the NCP Annual Reporting Annex document to be uploaded at the end of the online questionnaire</i></p>	<p>Yes</p>
<p>40. Did the NCP close specific instances during the year? <i>If yes, please also provide details in Annex 2 of the NCP Annual Reporting Annex document to be uploaded at the end of the online questionnaire</i></p>	<p>Yes</p>
<p>41. Of the specific instances that were already in progress at the start of the year, are there any that are still ongoing at the end of the year? <i>If yes, please also provide details in Annex 2 of the NCP Annual Reporting Annex document to be uploaded at the end of the online questionnaire</i></p>	<p>Yes</p>
<p>42. Did the NCP follow up on a case during the year? <i>If yes, please also provide details in Annex 2 of the NCP Annual Reporting Annex document to be uploaded at the end of the online questionnaire</i></p>	<p>Yes</p>
<p>43. Is the OECD case database accurate and up to date with regard to cases handled by the NCP? If not, please provide details (missing cases, out of date entries, broken links, etc.) in the additional comments section below.</p>	<p>No</p>

Additional comments on the section *Reporting specific instances*:

The most recent Final Statement from the U.S. NCP in the OECD database is from 2017. The OECD database is missing four Final Statements issued by the U.S. NCP since then, in 2017, 2018, 2020, and 2021. Those (and one Final Statement from 2017 that is in the OECD database) are available at <https://www.state.gov/u-s-national-contact-point-for-the-oecd-guidelines-for-multinational-enterprises/specific-instance-final-statements/>

E. PEER LEARNING AND PEER REVIEWS	
44. Did the NCP take part in the following activities with other NCPs during the year:	
Host a peer learning activity	No
Participate in peer learning activities hosted by other NCPs	No
Co-operate with other NCPs in handling specific instances	Yes
Provide mentoring/capacity building to another NCP	No
45. Is the NCP interested in hosting an NCP learning/experience-sharing event in 2022?	Yes
46. Which topic would the NCP consider to be a priority to cover in a peer learning event?	Cooperation among multiple NCPs in complex cases.
47. Is the NCP interested in participating in developing tools for use by NCPs?	Yes
48. Is the NCP interested in acting as a peer reviewer in the future?	Yes
If yes, please specify the semester and the year	As needed.
<p>Additional comments on the section <i>Peer-learning and peer reviews</i>: Click here to enter text.</p>	

F. POLICY COHERENCE³	
49. Have the Guidelines been referred to in relevant national legislation/regulations/policies adopted during the year? (e.g. on responsible business conduct; non-financial reporting, export credits regulation, public procurement)	Yes
If yes, please provide a short summary and a link to the legislation. <i>If a link is not available, please upload a copy of the legislation in the Additional Materials section at the end of the online questionnaire</i>	Secretary of State Blinken noted the Guidelines in announcing U.S. plans to update and revitalize the NAP, on June 16, 2021. https://www.state.gov/10th-anniversary-of-the-un-guiding-principles-on-business-and-human-rights/ See also https://www.state.gov/responsible-

³ Paragraph 37 of the Commentary on the Implementation Procedures of the OECD Guidelines for Multinational Enterprises: “Statements and reports on the results of the proceedings made publicly available by the NCPs could be relevant to the administration of government programmes and policies. In order to foster policy coherence, NCPs are encouraged to inform these government agencies of their statements and reports when they are known by the NCP to be relevant to a specific agency’s policies and programmes [...]”

	business-conduct-national-action-plan/ (website on NAP, noting the Guidelines). The Guidelines were noted in the revised Xinjiang Supply Chain Business Advisory, published July 13, 2021: https://www.state.gov/wp-content/uploads/2021/07/Xinjiang-Business-Advisory-13July2021-1.pdf	
50. Did your country adopt a National Action Plan (NAP) this year? <i>If yes, please indicate which type of NAP.</i>	No	Choose an item.
If yes, please provide a link.	Click here to enter text.	
If yes, does the NAP make reference to the Guidelines?	Choose an item.	
If yes, does the NAP make reference to the NCP?	Choose an item.	
51. Was a NAP in development this year? <i>If yes, please indicate which NAP.</i>	Yes	NAP on Responsible Business Conduct
If yes, did the NCP participate in the development of the National Action Plan?	Yes	
52. Did the NCP inform officials responsible for trade missions of its relevant statements and reports?	Yes	
53. Did the NCP inform officials responsible for foreign trade and investment incentives of its relevant statements and reports?	Yes	
54. Did the NCP inform officials responsible for public procurement of its relevant statements and reports?	Yes	
55. Does your national legislation or policy on public procurement refer to the Guidelines and/or OECD due diligence instruments and/or to the NCP process? <i>If yes, please provide a link to the legislation. If a link is not available, please upload a copy of the legislation in the Additional Materials section at the end of the online questionnaire</i>	No	Click to enter text.
56. Have public procurement officials/practitioners consulted the NCP on the Guidelines and OECD due diligence instruments or involved the NCP in specific public procurement opportunities?	No	
57. Were public procurement officials involved in any of your training/outreach activities?	No	
58. What tools or activities does the NCP develop to support public procurement practitioners on RBC and OECD due diligence?	Public procurement official in Interagency Working Group	
59. Please identify any specific initiatives/good practices involving public procurement and RBC in your country.	Click to enter text.	
60. Please include any other examples of policy coherence activities.	Click to enter text.	
<i>Additional comments on Policy Coherence:</i> Click here to enter text.		

G. CHALLENGES	
61. Has the NCP faced any particular challenge(s) it would like to highlight this year?	<p>Delays in mediation due to pandemic. Outreach was hindered due to pandemic.</p> <p>Complete turnover of NCP staff, including appointment of new U.S. NCP in late November 2021.</p>
<p><i>Additional comments on Challenges:</i> Click here to enter text.</p>	

Annex

This document is to provide detailed information on **NCP promotional activities (Part 1 below)** and on **specific instances (Part 2 below)**.

STRUCTURE

- Part 1: NCP PROMOTIONAL ACTIVITIES**
- Part 2: SPECIFIC INSTANCES**

Please enter country name of NCP: United States of America

PART 1: NCP PROMOTIONAL ACTIVITIES

Please provide information on the events organised or co-organised by the NCP (Table 1), and events in which the NCP has participated to promote the Guidelines (Table 2). Please select the event type, size and type of audience as well as the theme from the dropdown menus for each event. Please add additional lines if needed.

TABLE 1

NCP-organised and co-organised events to promote the Guidelines and/or the NCP

Title	Date (dd/mm/yyyy)	Location	Type of event	Size of audience	Organised or co-organised?	Targeted audience <i>e.g. Business representatives, NGOs, Trade unions, Academia, General public, Government representatives, etc.</i>	Theme <i>e.g. the OECD Guidelines, the NCP activities on sector due diligence guidance documents, etc.</i>
Produced e-learning segment (video) for OECD training on DD for RBC	23-Apr-2021	Virtual	Other	10-50	Organised	People who want to learn about due diligence, RBC, and NCPs.	
Virtual roundtable with civil society stakeholders	04-May-2021	Virtual	Meeting	10-50	Co-organised	Representatives of U.S. civil society organizations	Planned staffing/organizational changes, exchange of views
"Meet the NCP" session at Global Forum	16-Jun-2021	Virtual	Other	>100	Organised	Global Forum participants	Background on U.S. NCP
Virtual roundtable with civil society stakeholders	30-Jun-2021	Virtual	Meeting	10-50	Co-organised	Representatives of U.S. civil society organizations	Exchange of views
Introductory meeting with labor stakeholders	02-Dec-2021	Virtual	Meeting	10-50	Co-organised	U.S. labor union representatives	Introduction of new U.S. NCP
Introductory meeting with business stakeholders	03-Dec-2021	Virtual	Meeting	10-50	Co-organised	U.S. business representatives	Introduction of new U.S. NCP
Introductory meeting with civil society stakeholders	06-Dec-2021	Virtual	Meeting	10-50	Co-organised	Representatives of U.S. civil society organizations	Introduction of new U.S. NCP

Additional comments:

Total number of events:

7

TABLE 2

Presentations by the NCP to promote the Guidelines and/or the NCP in events organised by others

Title	Date <i>(dd/mm/yyyy)</i>	Location	Type of event	Size of audience	Targeted audience <i>e.g. Business representatives, NGOs, Trade unions, Academia, General public, Government representatives, etc.</i>	Organiser(s)	Theme of the intervention
Meeting with civil society of informal interagency working group to monitor violence against environmental defenders	22-Jan-2021	Virtual	Meeting	50-100	Civil society	Joint, government-civil society	NCP role in protection of environmental defenders.
Meeting with civil society of informal interagency working group to monitor violence against environmental defenders	07-May-2021	Virtual	Meeting	50-100	Civil society	Joint, government-civil society	NCP role in protection of environmental defenders.
Meeting with civil society of informal interagency working group to monitor violence against environmental defenders	14-Jun-2021	Virtual	Meeting	50-100	Civil society	Joint, government-civil society	NCP role in protection of environmental defenders.
Meeting with UN Global Contact Network USA	19-Nov-2021	Virtual	Meeting	50-100	Civil society	Joint, government-civil society	UN Global Compact.

Additional comments:	
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Total number of events:	4
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PART 2: SPECIFIC INSTANCES

Please provide details of the following in the table below:

1. Specific instances **in progress** during the year (specific instances received and pending initial assessment, or found to merit further examination after the initial assessment and under consideration by the NCP).
2. Specific instances **concluded** during the year (specific instances that the NCP found to merit further examination after the initial assessment and that have subsequently been closed).
3. Specific instances **not accepted** during the year (specific instances that the NCP found not to merit further examination after initial assessment).
4. Specific instances for which **follow up** was performed during the year (the NCP monitored whether the agreement reached by the parties or its recommendations to the parties have been implemented)

Please add additional lines if needed.

We encourage all NCPs to inform the OECD Secretariat on received specific instances and to provide a final statement as soon as it becomes available, in order to keep the OECD database updated at all times. For all specific instances that have not yet been reported to the OECD Secretariat, please complete and send this [form](mailto:ncp-specific-instances@oecd.org) to ncp-specific-instances@oecd.org⁴.

For all specific instances that are currently IN PROGRESS:

Names of parties	Date received (dd/mm/yyyy)	Is the initial assessment publicly available?	Link to OECD database if available	Did the NCP co-operate with other NCPs during the handling of this specific instance? If yes, please describe.
		Choose an item.	Click here to enter text.	Click here to enter text. Per U.S. NCP procedures, the NCP does not publish information about ongoing Specific Instances.

Additional comments:	
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Total number of specific instances:	6
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⁴ According to paragraph 42 of the Commentary on the Implementation Procedures of the OECD Guidelines for Multinational Enterprises, “[...] NCPs will report to the Investment Committee in order to include in the Annual Report on the OECD Guidelines information on all specific instances that have been initiated by parties, including those that are in the process of an initial assessment, those for which offers of good offices have been extended and discussions are in progress, and those in which the NCP has decided not to extend an offer of good offices after an initial assessment”.

text.	enter a date.		
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Additional comments:	Credit Suisse case was not accepted, but is included in the previous chart.
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Total number of specific instances:	0
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For all specific instances for which FOLLOW UP was performed during the year:

Title	Date concluded <i>(dd/mm/yyyy)</i>	Date of follow up <i>(dd/mm/yyyy)</i>	Was a public follow up statement issued?	Link to the follow up statement, if applicable
Click here to enter text.	Click here to enter a date.	Click here to enter a date.	Choose an item.	Click here to enter text.
Click here to enter text.	Click here to enter a date.	Click here to enter a date.	Choose an item.	Click here to enter text.
Click here to enter text.	Click here to enter a date.	Click here to enter a date.	Choose an item.	Click here to enter text.
Click here to enter text.	Click here to enter a date.	Click here to enter a date.	Choose an item.	Click here to enter text.
Click here to enter text.	Click here to enter a date.	Click here to enter a date.	Choose an item.	Click here to enter text.
Click here to enter text.	Click here to enter a date.	Click here to enter a date.	Choose an item.	Click here to enter text.

Additional comments:	
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Total number of specific instances:	0
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