

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
INVESTMENT COMMITTEE**

Working Party on Responsible Business Conduct

COSTA RICA

NATIONAL CONTACT POINT FOR THE MNE GUIDELINES

2016 REPORT TO THE OECD

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OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

COSTA RICAN NCP

REPORT TO THE OECD

2015

COMMON FRAMEWORK FOR ANNUAL REPORTING BY NATIONAL CONTACT POINTS TO THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

June 2014-December 2015¹

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

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A. NCP contact information

- Contact name(s): María Laura Vargas; Natalia Sanchez
- Address:

Escazú, on the Próspero Fernández Highway, west side of the CIMA Hospital,
Plaza Tempo Complex, Lobby A,
3rd floor. Ministry of Foreign Trade,
San José, Costa Rica.
- Website or webpage:
<http://www.comex.go.cr/OCDE/Lineas%20Directrices/Lineas%20Directrices%20de%20la%20OCDE%20para%20empresas%20Multinacionales.pdf>
- Email: pnc.costarica@comex.go.cr; maria.vargas@comex.go.cr
- Telephone: (506) 2505-4000

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?

Costa Rica has determined that there is an appropriate framework to establish its NCP under the administrative direction and guidance of the Investment Division of the Ministry of Foreign Trade.

2. In the case of independent NCPs, how has the NCPs been set up? N/A

3. Does the NCP include representatives from:

- Government agencies: Yes/No. If yes, please specify. Yes, the NCP includes representatives of the Costa Rica government, specifically from the Ministry of Foreign Trade. Please refer to question 7 for additional details.
- Non-governmental bodies. No, Costa Rica does not have representatives from non-governmental bodies.
 - 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? Please indicate composition and functions. No, the NCP does not have yet an advisory body.

6. Does the NCP have an oversight body? Please indicate composition and functions. No, the NCP does not have yet an oversight body.

In this regard, during the period under consideration for this report, Costa Rica's NCP has carried out an analysis to identify and compare the different structures and frameworks developed by other NPCs, in order to determine the one that fits most appropriately in the country context. This analysis will also help determine in the future whether and how to create in Costa Rica, an advisory body and/or an oversight body in a short-medium term. Nonetheless, Costa Rica recognizes the importance of this type of instances aimed at strengthening the work done by the NCP.

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.

As it was mentioned in question 3, the NCP includes representatives of the Costa Rican government, specifically from the Ministry of Foreign Trade. Moreover, on an ad hoc basis, depending on the topic(s) of concern, the particular guidelines that are referred and specific instances to be submitted in the future, the NCP may call to action relevant government agencies depending on the topic of concern, i.e. Ministry of Environment, Ministry of Labour, among others.

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: Yes

- How many full time staff members? None.
- How many part time staff members? Two 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, at the present stage of our NCP's process, financial and human resources provided to the NCP are sufficient to carry out the mandate, without prejudice of assigning additional resources further on, in order to expand the outreach.

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.

Regarding the response in question number 11, the Costa Rican NCP had previously considered that the limitation of resources (common to many NCPs including our own) was a challenge. However, following our experience throughout the past months, we have determined that, rather than a challenge, the optimization of resources and the strengthening of collaboration with chambers, non-governmental agencies and other organizations to jointly organize and/or participate in events to promote the Guidelines, has been beneficial to our NCP. We consider this strengthened liaison an opportunity to increase our outreach and have been able to nurture our NCP from important feedback from a wide range of stakeholders.

On another matter, we acknowledge that in Costa Rica, there is a solid legal and institutional framework that already addresses many of the areas of the Guidelines and provides a range of mechanisms and legally binding procedures to claim the breach of rights and to obtain compensation for damages. This institutional and legal framework is already used commonly by stakeholders in Costa Rica, and therefore might be preferred over the Guidelines by parts concerned in a future case.

However, this is not a main concern for the Costa Rican NCP, given that the existence of a solid institutional structure, provides an essential role in upholding the Guidelines. We therefore remain positive because the principles contained in the Guidelines are upheld by local legislation, and is therefore not contradictory.

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

- 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 NCP reports directly to the Ministry of Foreign Trade.

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.

Yes, the NCP coordinates with other government bodies or representatives. Given that responsible business conduct (RBC) is a subject dealt with, from the perspective of the internal/local market/economy, the Ministry of Economy, Industry and Commerce has its own work agenda in this regard. One of the main projects that is being developed by the Costa Rican government, and led by the Ministry of Economy, Industry and Commerce is the creation of a National Plan on Responsible Business Conduct. Moreover, the NCP has maintained contact with the National Consultative Council on Social Responsibility (*Consejo Consultivo Nacional de Responsabilidad Social*), which is a multi-stakeholder alliance of public and private entities providing support and guidance for the discussion, validation, implementation and monitoring of national measures promoting corporate social responsibility.

C. Information and Promotion

16. Does the NCP have a dedicated website or dedicated webpages? If yes, please provide link. No, currently the NPC has not a dedicated website. This is a work in progress, expected to be finalized during the year 2016.

17. Are the Guidelines available online? Yes/No. Yes, the guidelines are available in Spanish

18. Are the Guidelines available in print? Yes/No. Yes, the guidelines are available in Spanish

19. Is the NCPs Annual Report available online or in print? Yes/No. This is in progress and we expect to publish the NCPs Annual Report upon completion of our webpage.

20. Does the NCP have a promotional plan on the Guidelines? If yes, please provide details. Yes, the NCP has a promotional plan developed on a yearly basis. The NCP is already working on the design of the promotional plan for the year 2016.

21. Has the NCP implemented the actions identified in the promotional plan? Why or why not? Yes, it has already implemented actions we identified in the promotional plan for 2015.
22. How does the NCP inform investors about the Guidelines and their implementation? Through (check all that apply):
- Embassies ✓ Through the embassies of the United Kingdom, The Netherlands and the European Union.
 - Export credits agency
 - Overseas investment guarantee body
 - Investment promotion agencies
 - Other (please specify). ✓ Business/industry chambers and NGOs such as the Association of Enterprises for Development (*Asociación Empresarial para el Desarrollo – AED*), which is a membership-based non-profit organization dedicated to the promotion of corporate social responsibility and corporate philanthropy through the development of guidance and tools, capacity building and knowledge-sharing.
23. Has the NCP done any studies to assess awareness of enterprises on the Guidelines and the NCP? If yes, through: Given that the NCP was recently established, it has not yet carried out any studies to assess awareness of enterprises on the Guidelines and the NCP.
- Survey(s)
 - Regular meetings
 - Other
24. What were the results of these studies/surveys? N/A
25. Has the NCP organised any events to promote the Guidelines and their implementation procedure?
- Title/subject of the event: “Las Lineas Directrices para Empresas Multinacionales: experiencia del Punto Nacional de Contacto del Reino Unido” (*The OECD Guidelines for Multinational Enterprises: Experience of the National Contact Point of the United Kingdom*).
 - Place, date: 11 December 2014, Ministry of Foreign Trade Conference Rooms.
 - Organiser(s) UK Embassy in Costa Rica, British-Costa Rican Chamber of Commerce (BritCham) and Ministry of Foreign Trade.
 - Number of participants and type of audience (e.g. government, business, worker organisations, NGOs, academia, or other parties): 40 people, from all of the above sectors.

- Highlights and key outcomes: this public event involved the presentation of the Guidelines by Mr. Danish Chopra from the UK NCP and the participation by Mr. Sebastián Sufán from the Chilean NCP. We had a wide audience from various private and public entities, a great deal of interest in the NCP mechanism, and it was a positive learning experience which aided in the design of our NCP's structure.

26. Did the NCP participate in any event organised by stakeholders or other entities to promote the Guidelines and their implementation procedures?

Event #1

- Title of the event: “Costa Rica: Camino a la OCDE. Líneas Directrices: contribución de las empresas de servicios al progreso económico, medioambiental y social” (*Costa Rica: on the Road to OECD. Guidelines: contribution of services companies to economic, environmental and social progress*)
- Place, date: Santa Ana, Costa Rica
- Organiser(s): Cámara de Servicios Corporativos de Alta Tecnología (Chamber of High Technology Corporate Services - CAMSCAT)
- Number of participants and type of audience (e.g. government, business, worker organisations, NGOs, academia, or other parties): 25-30 people from various multinational and domestic companies related to high-tech services.
- Highlights and key outcomes: this was a positive experience for the NCP, whereby we were able to share the importance of the OECD Guidelines in a strategic sector of the Costa Rican economy.

Event #2

- Title of the event: “La Responsabilidad de las Empresas de respetar los derechos humanos: Implicaciones para los Abogados empresariales” (*Responsibility of Corporations to respect human rights: implications for Corporate lawyers*).
- Place, date: Attorneys Bar Association of Costa Rica, October, 2015.
- Organiser(s): Attorneys Bar Association of Costa Rica, University for Peace and International Bar Association, and Instituto Interamericano de Derechos Humanos.
- Number of participants and type of audience (e.g. government, business, worker organisations, NGOs, academia, or other parties): more than a 100 people.
- Highlights and key outcomes: this was a positive experience for the Costa Rican NCP, whereby we were able to promote the Guidelines to lawyers in various sectors (public, private, and non-governmental). It was particularly relevant given that in the context of the

Costa Rican economy, compliance with the Guidelines is relevant both for multinational enterprises operating in Costa Rica, as for small and medium enterprises participating in their value chains.

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. Yes, the NCP has cooperated with OECD partner organizations and/or other leading organisations working on responsible business conduct.

- ILO
- UN Global Compact and its local networks

Yes, as previously referred, we have a strong relationship with the Association of Enterprises for Development (AED), which is currently the Technical Secretariat of the UN Global Compact in Costa Rica.

- 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.

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: This information is not available at present.

- How many visitors did the website(s) receive in the reporting period?

- How many downloads of materials on the NCP website (e.g. the Guidelines, brochures, other materials) occurred during the reporting period?

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.

30. What are the NCP's procedures for handling specific instances? Please attach the procedures. See Annex II, attached hereto.

Where applicable please elaborate or note an absence of NCP procedures regarding:

- Requirements on submitting a complaint in a specific instance
- 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).
- Confidentiality provisions
- Indicative timeframes for the different steps of the procedure
- Existence of a statute of limitations
- Publication and availability online of initial assessments.

31. How many new specific instance(s) did the NCP receive in the reporting period?

See Annex (template for reporting specific instances) N/A

32. What are the main challenges the NCP encountered in handling specific instances during the reporting period? (check all that apply). N/A

- 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 ✓

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.

33. Does the NCP engage in any of the multi-stakeholder advisory groups under the proactive agenda?
Currently the Costa Rican NCP is not participating, however, we envision participating in the future.
- Responsible Mineral Supply Chains? Yes/No. Please specify.
 - Stakeholder Engagement in the Extractive Industries? Yes/No. Please specify.
 - Responsible Business Conduct in the Financial Sector? Yes/No. Please specify.
 - Responsible Agricultural Supply Chains? Yes/No. Please specify.
 - Responsible Supply Chains in the Textile and Garment Sector? Yes/No. Please specify.
34. 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.

35. 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

36. Did the NCP encounter any difficulties in co-operating with other NCPs? If yes, please elaborate. No. The NCP did not encounter any difficulties in co-operating with other NCPs.
37. Is the NCP interested in volunteering for a peer evaluation? Yes/No. Please indicate semester/year. The NCP is not interested at this time for a peer evaluation. We consider an evaluation would contribute more when more time has passed and there has been more experience for the NCP, both in the promotion of the Guidelines as in the implementation of specific instances.
38. Is the NCP interested in being part of a peer review team? Yes/No. – Please indicate semester/year. Yes, the NCP is interested in being part of a peer review team during the year 2017.
39. Please provide suggestions for themes of future horizontal learning exercises. Not at present.
40. Is the NCP interested in hosting an NCP learning/experience-sharing event? Please indicate semester/year. At this time, the NCP is not interested in hosting an NCP learning/experience-sharing event. However, we could envision it as a possibility in the future.

G. Impact and future work

41. 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.)? Not at present.
 - Do any domestic industry standards refer to the Guidelines? Not that we are aware of.
 - Other?
42. What are the new emerging challenges for enterprises identified by NCPs, notably in developing and emerging economies and sectors?

We consider one of the main challenges for MNEs operating in Costa Rica, and also MNEs operating abroad but sourcing from Costa Rican companies, to more effectively promote the Guidelines both internally and with local suppliers. In particular, a challenge remains in the design and implementation

of company policies that generate a knowledge spillover that is strongly aligned with the Guidelines: contributing to more sustainable smaller and medium enterprises and encouraging better practices even at the employee level.

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

By encouraging all enterprises participating in promotional events, to address these topics and promote the Guidelines both internally as with their supply chains. Additionally, encouraging MNEs to perform adequate due diligence of their procedures and their value chains, and to assist or counsel their suppliers in order to help them comply with the Guidelines.

44. 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: We strongly believe that it is important to strengthen and deepen horizontal work related to RBC in areas that contribute to support policy work geared at attracting sustainable investment – the kind that is most capable of impacting: i) well-being and ii) more broadly shared prosperity. Promoting greater productive linkages between SMEs and MNEs, with a view to achieving more inclusive growth, should be part of this task.
- Other