

TAILORED CAPACITY BUILDING ROADMAP NCP OF COSTA RICA

INTRODUCTION

This document forms part of the Project on Responsible Business in Latin America and the Caribbean ('the project'). The project¹ intends to contribute to the promotion of smart, sustainable and inclusive growth in the EU and Latin America and Caribbean by supporting responsible business conduct (RBC) practices in line with internationally agreed principles set out in the UN, ILO and OECD instruments. The project is funded by the European Union and implemented jointly by the UN, the ILO and the OECD.

The 49 adherents to the OECD Guidelines for Multinational Enterprises (which notably the following LAC countries: Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico, and Peru) are required to establish a National Contact Point (NCP) for RBC. NCPs are agencies established by governments. Their mandate is twofold: to promote the OECD Guidelines for Multinational Enterprises, and related due diligence guidance, and to handle cases (referred to as 'specific instances') as a non-judicial grievance mechanism.

Pillar III of the OECD activities under the project ('Strengthening access to remedy - reinforcing NCPs') is dedicated to providing tailored capacity building to LAC NCPs. The capacity building activities to be undertaken by the Costa Rican NCP and facilitated by the OECD Secretariat until the end of the project (Dec. 2022) are described in a roadmap of activities agreed between the government of Costa Rica and the OECD Secretariat (see Section 3.). The roadmap covers activities of three different types: activities related to institutional arrangements, activities related to promotion and policy coherence, and activities related to the handling of specific instances.

The activities set out in the roadmap are based on a needs assessment of the Costa Rican NCP conducted jointly by the OECD Secretariat. The needs assessment sought to identify strengths and weaknesses of the Costa Rica NCP in respect of requirements placed on NCPs by the Guidelines. In particular, while governments have flexibility in how they structure their NCP, it must operate in accordance with the core criteria for functional equivalence: visibility, accessibility, transparency and accountability. NCPs must have sufficient human and financial resources to effectively fulfil their mandate, and must develop and maintain relations with stakeholders to gain and retain their confidence. Finally, NCPs must handle specific instances in a way that is impartial, predictable, equitable and compatible with the Guidelines. The main findings of the needs assessment are summarised in Section 2.)

¹<https://mneguidelines.oecd.org/RBC-in-Latin-America-and-the-Caribbean-Fact-Sheet.pdf>

SUMMARY OF NEEDS ASSESSMENT

CORE CRITERIA FOR FUNCTIONAL EQUIVALENCE

VISIBILITY

In the last few years, the NCP has made efforts to increase its visibility, and these efforts should be continued, notably by adopting ambitious promotional plans, increasing the number of promotional events organised per year, continuing to engage other with government departments, further improving the NCP website, and finalising the setting up of the NCP's stakeholder advisory body (Consejo de partes interesadas, CPI).

ACCESSIBILITY

The NCP's user-friendly website is an important tool in the NCP's accessibility. The procedure to submit a specific instance is also simple, and may be conducted electronically via a pre-established form, although given that the NCP has not yet received a specific instance, it may be useful to evaluate whether the NCP is accessible enough to particular groups of potential submitters, for example in more remote regions.

TRANSPRENCY

The NCP reports regularly to the OECD and to Government (which then reports to Parliament about NCP activities), as well as to the general public. These reports are generally published, though the Annual Report Questionnaires to the OECD have not yet been published in the last few years. The Work Plans of the NCP are also made public. The NCP's rules of procedure for handling specific instances (RoP) could be reviewed to ensure transparency, e.g. through publication of initial assessment or a clarification of confidentiality provisions.

ACCOUNTABILITY

As indicated above, the NCP reports annually to the OECD, to the government and to the general public, and these reports are made public. The Work Plans are also published, allowing the public to verify that the objectives they set out were reached in the following year's annual report. The CPI is also entitled to follow up and monitor the implementation of the NCP's mandate. Finalising the setting up of the CPI will therefore enhance the accountability of the NCP.



ADDITIONAL REQUIREMENTS



RELATIONS AND
CONFIDENCE OF
SOCIAL PARTNES
AND
STAKEHOLDERS

The NCP is a recently established NCP, which underwent significant reform in 2018, and there are therefore opportunities to further build relations with social partners and stakeholders, in particular by finalising the setting up of the CPI.



RELATIONS WITH
OTHER NCPs AND
THE OECD
SECRETARY

The NCP regularly participates in the meetings of the WPRBC and NCP network. The RBC LAC project represents an opportunity to further engage with other NCPs from the LAC region.



HUMAN AND
FINANCIAL
RESOURCES
(INC. SENIOR STAFF)

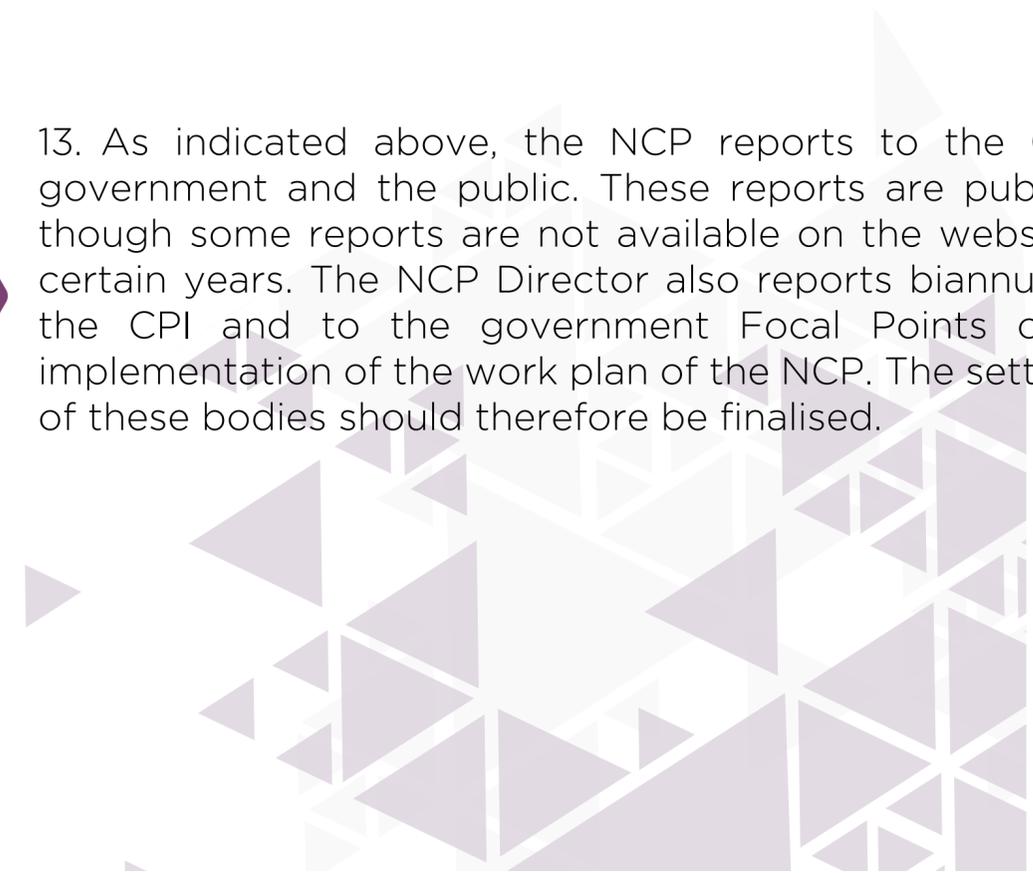
The NCP's Technical Secretariat currently has two part-time staff members, has had two part-time staff since 2016, spending about 50% of their time on NCP matters, as well as a Director and Focal Points from relevant ministries active intermittently on NCP matters. The NCP has recently experienced significant turnover, and should ensure that this does not negatively impact its work.

The financial resources of the NCP are set in advance through a dedicated budget and may prove to be insufficient in case one or several specific instances would be submitted.



REPORTING

13. As indicated above, the NCP reports to the OECD, government and the public. These reports are published, though some reports are not available on the website for certain years. The NCP Director also reports biannually to the CPI and to the government Focal Points on the implementation of the work plan of the NCP. The setting up of these bodies should therefore be finalised.



GUIDING PRINCIPLES FOR THE HANDLING OF SPECIFIC INSTANCES

IMPARTIALITY

The fact that the NCP is located in the Investment Directorate of COMEX, in charge of investment promotion, may alter the stakeholders' perception of the NCP's impartiality, although the fact that Focal Points from other ministries are also members of the NCP and are involved in specific instances is an opportunity in this regard. The NCP should therefore clearly distinguish the NCP function of handling specific instances from the trade and investment promotion functions within the directorate and effectively communicate to stakeholders about these arrangements.

PREDICTABILITY

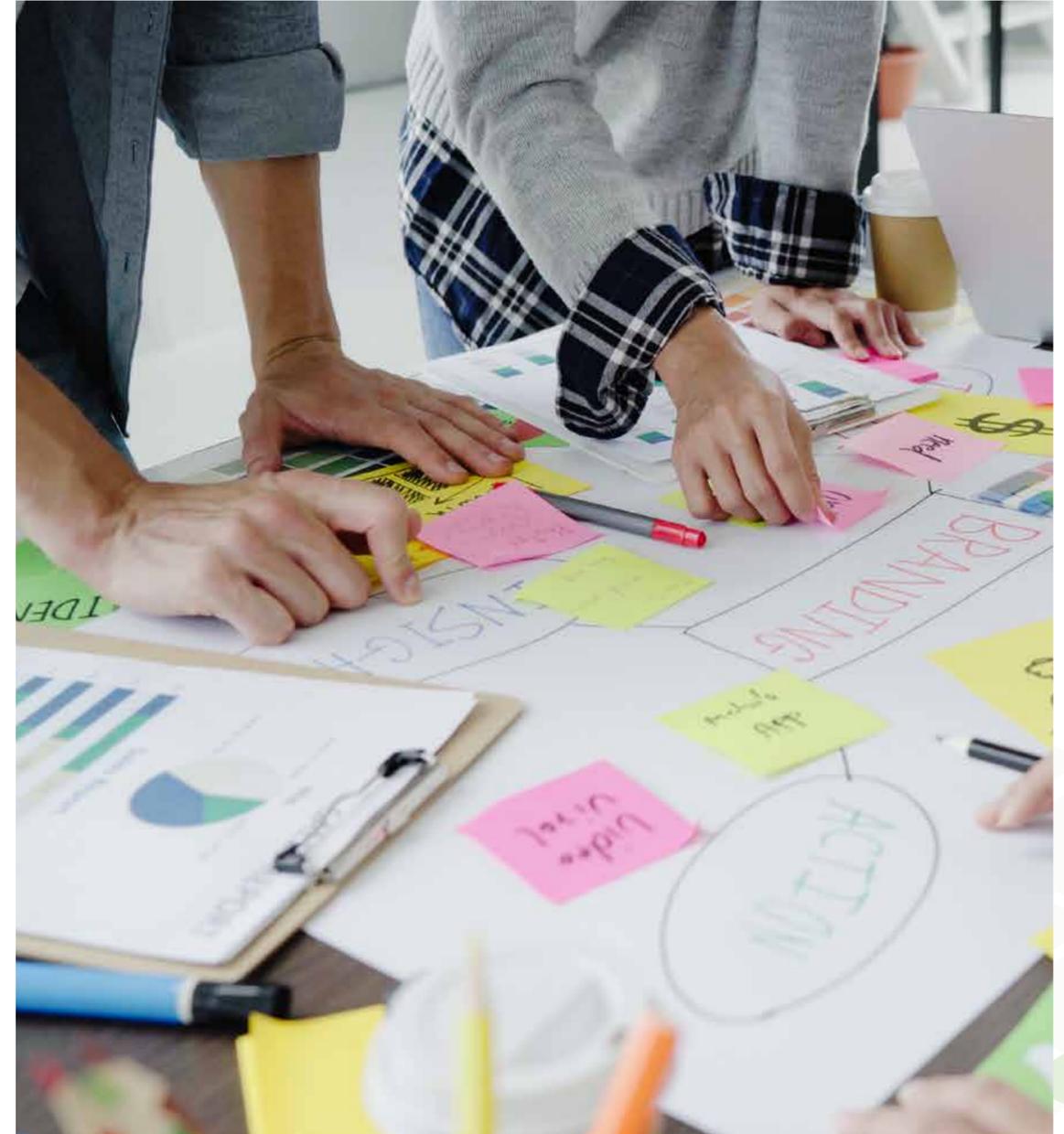
The NCP has a detailed set of rules of procedures for the handling of specific instances, which was recently revised. This is conducive to predictability for parties to specific instances. However, certain aspects could be further clarified to enhance predictability for parties to future specific instances.

EQUITABILITY

The RoP seek to establish balance between the positions of the submitter and the company and ensure that they can participate in the proceedings on an equal footing. However, certain aspects such as provisions on confidentiality or the resources available to parties could be evaluated to enhance equitability in the handling of future specific instances.

COMPATIBILITY WITH THE GUIDELINES

It would also be appropriate for the Technical Secretariat staff to follow regular training and peer learning to ensure that they build further capacity on key RBC issues in Costa Rica and remain informed of the latest developments regarding the Guidelines and the general or sectoral due diligence guidance.



ROADMAP

1 Undertake administrative steps to set up of NCP as a distinct unit of COMEX in the long term

The NCP is currently part of the Investment Directorate of COMEX. Setting the NCP up as a dedicated unit within COMEX will increase its visibility, reduce staff turnover, and facilitate obtaining a dedicated budget.

End date: December 2021



INSTITUTIONAL ARRANGEMENTS



DELIVERY INDICATOR

Amendment of Executive Decree and setting up of NCP unit



LEAD COUNTRY ACTOR

Ministry of Economic Planning



OTHER ACTORS INVOLVED

NCP, COMEX



OECD SUPPORT

Research and advice on practices across NCP network regarding NCP setup and on drafting of legal instrument



GUIDELINES CRITERIA IMPACTED

Visibility, Accessibility, Resources

ROADMAP

2 Adjustments to the Advisory Body

The Costa Rican NCP' Advisory Body a sub-body of the government-wide Consejo Asesor de Responsabilidad Social. This causes constraints in the setting up and operation of the NCP's own stakeholder advisory board (e.g. for designating representatives, scheduling meetings). The NCP will assess ways to set up its Advisory Body in a more bespoke manner.

End date: December 2020

INSTITUTIONAL ARRANGEMENTS



DELIVERY INDICATOR

Consultation of stakeholders on new format of Advisory Body and amendment of Executive Decree



LEAD COUNTRY ACTOR

NCP



OTHER ACTORS INVOLVED

COMEX, stakeholders



OECD SUPPORT

Research and advice on practices across NCP network regarding Advisory Body composition and functioning and on drafting of legal instrument



GUIDELINES CRITERIA IMPACTED

Visibility, Accessibility, Transparency, Accountability, SH confidence

ROADMAP

3 Visibility and awareness surveys

The effectiveness of the NCP's promotional activities will be increased by conducting surveys with businesses and other stakeholders on NCP visibility and Guidelines awareness.

End date: March 2021

PROMOTION AND COHERENCE



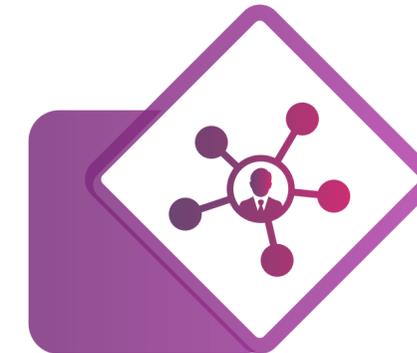
DELIVERY INDICATOR

Adoption of methodology and conduct of the surveys



LEAD COUNTRY ACTOR

NCP



OTHER ACTORS INVOLVED

Government agencies, stakeholders



OECD SUPPORT

Research and advice on methodology for visibility and awareness surveys with business and other stakeholders. Facilitation of peer learning opportunities with NCPs having conducted such surveys (e.g. Switzerland)



GUIDELINES CRITERIA IMPACTED

Visibility, Transparency, SH confidence,

4 Promotional plan

The impact of the NCP's promotional activities will be increased by developing a detailed promotional plan based on the visibility and awareness surveys, and focusing on key challenges (e.g. outreach in more remote regions of the country, outreach to key sectors, promotion of case-handling function)

End date: January 2021

PROMOTION AND COHERENCE



DELIVERY INDICATOR

Adoption of promotion plan



LEAD COUNTRY ACTOR

NCP



OTHER ACTORS INVOLVED

Stakeholders



OECD SUPPORT

Research and advice on practices across NCP network regarding promotional plans. Facilitation of peer learning opportunities with NCPs having detailed promotional plan



GUIDELINES CRITERIA IMPACTED

Visibility, Transparency, SH confidence,

ROADMAP

5 Training on promotion and toolkit of best practices on NCP promotion

The NCP's promotional activities and the effectiveness of its handover process in case of staff turnover will be increased by following dedicated training in promotion and developing a toolkit of best practices on promoting the NCP and the Guidelines

End date: January 2023

PROMOTION AND COHERENCE



DELIVERY INDICATOR

Development of the toolkit and training programme completion



LEAD COUNTRY ACTOR

NCP



OTHER ACTORS INVOLVED

Government agencies, Stakeholders



OECD SUPPORT

Research and advice on best practices for promotion of NCP and Guidelines (events, promotional materials, social media), organisation of training and feedback on draft toolkit document



GUIDELINES CRITERIA IMPACTED

Visibility, Accessibility, Transparency

6 Website

A redesign of the Costa Rican NCP's website, including the addition of a section on inquiries to the NCP, will make it more informative, interactive and transparent.

End date: July-August 2021

PROMOTION AND COHERENCE



DELIVERY INDICATOR

Redesign of the NCP website



LEAD COUNTRY ACTOR

NCP



OTHER ACTORS INVOLVED

COMEX



OECD SUPPORT

Research on best practices across the NCP network regarding website design and technical advice on draft redesign project



GUIDELINES CRITERIA IMPACTED

Visibility, Accessibility, Transparency, Accountability

ROADMAP

7 Rules of Procedure (RoP) and templates

The Costa Rican NCP's already solid RoP will be further strengthened by clarifying certain aspects, and by complementing them with templates

End date: December 2021

SPECIFIC INSTANCES



DELIVERY INDICATOR

Revision of RoP and addition of Templates



LEAD COUNTRY ACTOR NCP



OTHER ACTORS INVOLVED

Focal points



OECD SUPPORT

Advice on draft RoP amendments and templates and facilitation of peer learning opportunities with relevant NCPs



GUIDELINES CRITERIA IMPACTED

Impartiality, Equitability, Predictability, Compatibility with Guidelines, SH confidence

ROADMAP

8 Training on handling specific instances and mediation

The Costa Rican NCP has not yet received a case. Training the NCP staff and NCP government focal points on how to handle specific instances, with a focus on mediation, will ensure that the NCP is ready to handle cases

End date: December 2021

SPECIFIC INSTANCES



DELIVERY INDICATOR

Setting up of training programme and programme completion



LEAD COUNTRY ACTOR

NCP



OTHER ACTORS INVOLVED

NCP Focal Points



OECD SUPPORT

Organisation of training programme, preparation of training materials, and facilitation of peer review opportunities with experienced NCPs



GUIDELINES CRITERIA IMPACTED

Impartiality, Equitability, Predictability, SH confidence

ROADMAP

9 Training on Guidelines and due diligence

Training the staff and NCP government focal points on substantive aspects of the Guidelines and due diligence guidance will ensure that the NCP is ready to handle cases in the future in the future

End date: December 2022

SPECIFIC INSTANCES



DELIVERY INDICATOR

Setting up of training programme and programme completion



LEAD COUNTRY ACTOR

NCP Focal Points, Advisory Body



OTHER ACTORS INVOLVED

NCP Focal Points



OECD SUPPORT

Organisation of training programme, preparation of training materials, and facilitation of peer review opportunities with experienced NCPs



GUIDELINES CRITERIA IMPACTED

Compatibility with Guidelines



NCP

National Contact Point
Costa Rica

OECD Guidelines for Responsible Business Conduct



EUROPEAN UNION

