

OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

Guide for National Contact Points on Structures and Activities



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1. Introduction

1. The purpose of this paper is to draw together an analysis of National Contact Point (NCP) structures to identify which structures are the most conducive to NCP activity.
2. The analysis presented in this scoping paper may assist adhering countries in making decisions about how to structure an NCP. The paper may also be of assistance for NCPs considering structural reform.

Procedural Guidance language on NCP structure and activity

3. All governments adhering to the OECD Declaration on International Investment and Multinational Enterprises are required to establish an NCP. NCPs are mandated 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 relating to the implementation of the Guidelines in specific instances.
4. The Procedural Guidance indicates that adhering governments have flexibility in how to structure their NCP, so long as they:
 - Seek the active support of social partners;
 - Ensure that the structure enables the NCP to deal with the broad range of issues covered by the Guidelines;
 - Ensure that the structure enables the NCP to operate in an impartial manner;
 - Ensure that the structure enables the NCP to develop and maintain relations with stakeholders.¹

¹ See Procedural Guidance, section I. A., 'Institutional arrangements':

Consistent with the objective of functional equivalence and furthering the effectiveness of the Guidelines, adhering countries have flexibility in organising their NCPs, seeking the active support of social partners, including the business community, worker organisations, other non-governmental organisations, and other interested parties.

Accordingly, the National Contact Points:

1. Will be composed and organised such that they provide an effective basis for dealing with the broad range of issues covered by the Guidelines and enable the NCP to operate in an impartial manner while maintaining an adequate level of accountability to the adhering government.

2. Can use different forms of organisation to meet this objective. An NCP can consist of senior representatives from one or more Ministries, may be a senior government official or a government office headed by a senior official, be an interagency group, or one that contains independent experts. Representatives of the business community, worker organisations and other non-governmental organisations may also be included.

3. Will develop and maintain relations with representatives of the business community, worker organisations and other interested parties that are able to contribute to the effective functioning of the Guidelines.

5. In addition, all NCPs are expected to operate in accordance with the core criteria for functional equivalence of visibility, accessibility, transparency and accountability.² When handling specific instances, the following guiding principles need to be observed: impartiality, predictability, equitability and compatibility with the Guidelines.³ In addition, particular attention should be paid to policy coherence, i.e. ensuring that government agencies are informed of NCP statements and reports when relevant to a specific agency's policies and programmes.⁴

Linking NCP Structures to NCP activity

6. This paper identifies typical organisational elements found in NCPs (the 'components'). The components identified are the following:

- Domestic mandate;
- Decision-making body;
- Advisory bodies;
- Resources;
- Reporting.

7. This paper draws from the report entitled 'Structures and procedures of National Contact Points for the OECD Guidelines for Multinational Enterprises'⁵ (the 'Structures and Procedures Report').

8. The paper takes as its starting point that these components are part of the 'structural toolbox' available to each NCP, but that their implementation across the NCP network varies. The structure of each NCP is therefore characterised by the presence or absence of each of these components. In addition, each of the components varies across NCPs. The paper studies the extent to which different versions of each component may be found across the NCP network and makes general conclusions as to the impact of these components on NCP activity.

² OECD Guidelines for Multinational Enterprises, (2011). Section I of the Commentary: Core Criteria for Functional Equivalence in the Activities of NCPs.

³ OECD Guidelines for Multinational Enterprises, 2011. Procedural Guidance. Section C.

⁴ OECD Guidelines for Multinational Enterprises, (2011). Section I of the Commentary: *Conclusion of the Procedures* (para. 37).

⁵ OECD (2018), *Structures and Procedures of National Contact Points for the OECD Guidelines for Multinational Enterprises* (hereinafter the 'Structures and Procedures Report')

2. Components of NCP structure and impact on NCP activity

Domestic mandate

9. The Council Decision on the Guidelines contains a binding obligation for all adherents to create an NCP, but does not require an additional domestic instrument. Adherent countries have therefore used a variety of domestic methods to set up their NCPs.⁶

Box 1. Legal mandates across the NCP Network

Legislative acts (2)

Denmark, Italy

Governmental decrees (13)

Colombia, Czech Republic, Finland, Greece, Hungary, Kazakhstan, Morocco, Netherlands, Norway, Romania, Slovenia, Switzerland, Ukraine

Ministerial decrees (12)

Argentina, Belgium, Brazil, Canada, Germany, Korea, Lithuania, Peru, Poland, Slovak Republic, Spain

Source: NCP Annual Reports

10. Two out of 46 NCPs surveyed have been set up through a legislative act, i.e. a statute adopted by Parliament establishing the NCP (Denmark, Italy). The Danish Act sets out principles governing the NCP's organisation, composition and functioning, whereas the Italian Law sets up and funds the NCP, leaving it to ministerial decrees to define organisational and procedural details.

11. A legislative mandate might give NCPs a strong degree of stability, ensuring that they cannot easily be revoked or modified. This stability and long-term perspective helps establish the NCP among stakeholders as a reliable partner and source of information. However, this stability and the weight of the legislative process may also make it more difficult to bring needed changes to the NCP structures should the need arise under one of the requirements.

12. A more frequent method of setting up NCPs is through an act of the executive, such as a governmental decree, i.e. an executive act adopted jointly by the whole government, or a ministerial decree, i.e. an executive act from a single Minister. Executive acts also carry with them a degree of authority and stability, though to a lesser extent than legislative acts, since they can be modified more easily either by the government or the Minister.

13. In the other cases, NCPs are not set up by a legislative or executive act. In such cases, the creation of the NCP is generally the result of an administrative decision appointing a civil servant or a group of civil servants as the NCP, or setting up an administrative unit in charge of NCP functions. This kind of mandate is highly flexible and

⁶ Structures and Procedures Report, p. 18.

means the structure of the NCP can adapt in accordance with the most current needs, e.g. to create a new function or add staff resources. Since not all these decisions are published or made in writing, data is currently missing to perform a more in-depth analysis of these types of legal mandates.

14. In conclusion, the spectrum of domestic mandates setting up NCPs ranges from the highly formal (legislative act) to the highly informal (administrative practice). In terms of activity levels, it is important for each NCP to be set up in a way which strikes the proper balance between stability and flexibility in its domestic context, so as to enable the NCP to conduct activities in accordance with the Guidelines. Recent examples show that countries frequently modify their NCP's legal mandate to respond to new circumstances. For example, the Governmental Decree (591/2008) governing the Finnish NCP was modified in 2016 in order to streamline the specific instance process and better preserve confidentiality (see examples below). In 2018, the French NCP was set up as a separate unit of the Treasury Department to give it more visibility and autonomy.

Structure of the decision-making body

15. One of the most distinguishing features of NCPs has to do with how they structure decision-making. As already noted in the Structures and Procedures Report,⁷ the mandate given to NCPs by the Guidelines leads them to take a number of decisions such as adopting promotional plans, adopting rules of procedure, or issuing initial assessments and final statements on specific instances.

16. In order to make these decisions, NCPs usually follow four of decision-making structures⁸:

- Individualised decision-making;
- Inter-ministerial decision-making;
- Expert-based decision-making;
- Multipartite decision-making.

17. Below we analyse these various decision-making structures, and assess the opportunities and challenges associated with each of them.

Individualised decision-making

18. Individualised decision-making means decisions are either by one individual in a single ministry, or by a group of individuals belonging to the same service in the same ministry, where the NCP is then said to be 'located'.

⁷ See p. 31.

⁸ *Id.*, p. 35.

Box 2. Overview of NCPs with individualised decision-making

The 20 NCPs with individualised decision-making are the NCPs of Australia, Austria, Chile, Colombia, Estonia, Greece, Iceland, Ireland, Israel, Italy, Kazakhstan, Luxembourg, Mexico, New Zealand, Peru, Poland, Turkey, Ukraine, the United Kingdom and the United States.

The overwhelming majority of NCPs with individualised decision making are located in ministries with an economic portfolio such as the Ministry of economy or economic development (Estonia, Greece, Israel, Italy, Luxembourg, Mexico, Poland, Turkey, Ukraine), trade (Colombia, Costa Rica, UK), industry or enterprise (Austria, Iceland, Ireland, New Zealand), treasury (Australia) or investment (Kazakhstan).

The Jordanian and Peruvian NCPs are located in investment promotion agencies.

The Chilean and US NCPs are located in Ministries of foreign affairs.

Source: NCP Annual Reports

Opportunities

19. This kind of decision-making structure has the advantage of being very streamlined. The identities of the persons or of the administrative units in charge are immediately apparent, as are reporting lines, which can positively impact transparency and accessibility. This can also add value in terms of accountability, since tasks and hierarchy are clearly defined. Such structure also arguably enables quick decision-making.

Challenges

20. Individualised decision-making limits the expertise immediately available to the NCP, especially when no advisory body is in place to provide support (see below, section 2.3). Housing the NCP in a single ministry may also expose it to a perception of a lack of impartiality or disciplinary bias. Countries have responded to such challenges in a number of ways, e.g. by engaging in increased dialogue with stakeholders, or by locating the NCP in autonomous units within the ministry, and letting it operate independently from other services (for instance, the NCP of the United Kingdom).

21. NCPs using individualised decision-making but without an advisory body will also lack structural connection with external stakeholders and other ministries. This is likely to be an obstacle to visibility, as other actors will not have first-hand knowledge of the activities of the NCP. Achieving visibility will require investing more resources in information and awareness-raising. In addition it will limit the expertise available to the NCP and may make it more difficult to gain and retain the confidence of stakeholders.

22. Finally, individualised decision-making can mean the burden of all NCP functions rests on one individual. In situations when the workload becomes heavier, for instance if several new specific instances are received at the same time, this may cause delays. Turnover may also impact more severely the activities of these NCPs, especially if the role is assumed by a single individual, in which case staff transitions may halt the operation of the NCP and part of the NCP's institutional memory may be lost (see below, section 0).⁹

⁹ See OECD, 'Peer review of the OECD National Contact Point of Chile',

Inter-ministerial decision-making

23. Inter-ministerial decision-making means decisions are made by a group of representatives from several ministries or government agencies.

Box 3. Overview of NCPs with inter-ministerial NCP decision-making

The 15 NCPs with inter-ministerial decision-making are the NCPs of Argentina, Brazil, Canada, Costa Rica, Egypt, Germany, Hungary, Japan, Korea, Morocco, Portugal, Romania, Slovenia, Spain and Switzerland.

The number of entities represented on inter-ministerial decision-making bodies ranges from two (Portugal) to 12 (Brazil).

The ministries most often represented in inter-ministerial decision-making are: economy/trade/investment/finance/industry (19 times), labour/employment/social affairs (12 times), foreign affairs (10 times); environment (9 times), and justice (5 times). Other ministries such as agriculture, research, and science and technology are also represented, though more rarely.

Opportunities

24. Inter-ministerial decision-making offers several opportunities. First, it increases the expertise and perspectives directly available to the NCP, which in turn may lead to better-informed decisions without the need to consult externally. In order to strengthen this aspect, certain NCP's inter-ministerial decision-making bodies have been composed so as to cover all Guidelines chapters (e.g. Morocco, Switzerland).

25. Second, inter-ministerial decision-making positively impacts awareness, information and cooperation across government, since several branches of government are involved in promoting the Guidelines. This may consequently foster policy coherence.

26. Finally, the collegial and multidisciplinary nature of inter-ministerial decision-making may also reduce the risk that the NCP will be perceived as lacking impartiality or as having a disciplinary bias.

Challenges

27. When no advisory board is in place, NCPs with inter-ministerial decision-making may experience the same challenges as those with individualised decision-making regarding absence of structural connection with external stakeholders. It might also make it more difficult to establish relations with stakeholders, to seek their support, and to retain their confidence.

28. Secondly, inter-ministerial decision-making bodies may become unwieldy when they comprise many representatives.¹⁰ The scheduling of meetings or the search for consensus may slow down the work of the NCP. Countries have responded to this challenge in a number of ways. For example, the ministries represented may only be involved in certain decisions based on the expertise needed. For instance, individual ministries are

¹⁰ OECD, Peer Review of the OECD National Contact Point of Switzerland, [DAF/INV/RBC\(2017\)8](#), p. 26 (hereafter 'the Swiss NCP peer review report').

involved in the Swiss NCP's decisions on specific instances to the extent the case is relevant to their portfolio.

Expert-based decision making

29. Expert-based decision-making means decisions are made by experts who are external to governments. NCPs with expert-based decision-making are generally set up as entities independent of the government, although they are dependent upon the government for funding and for appointment of the experts.¹¹ Experts may be required to act in a personal capacity and not to represent particular interests (Netherlands), or on the contrary may represent the views of the organisations that nominated them (Denmark).

¹¹ See OECD, Norway National Contact Point Peer Review Report, [DAF/INV/NCP/RD\(2014\)2](#), p. 6 (hereafter 'Norwegian NCP peer review report').

Box 4. Overview of NCPs with expert-based decision-making

Danish NCP

Composition: One chair, one expert member and three organisation representatives.

Method of appointment: The members are appointed by the Minister for Business and Growth on the basis of recommendations from a business confederation, a trade union confederation and a network of NGOs.

Dutch NCP

Composition: One chair and maximum four other members.

Method of appointment: The members are appointed by the Minister of Foreign Trade and Development Cooperation after consultation with the other ministers concerned and with representatives of enterprises and civil society organisations, on the basis of their expertise in the area of the OECD Guidelines for Multinational Enterprises, their mediation skills and their knowledge and experience of society.

Lithuanian NCP

Composition: One chair and four to ten independent experts.

Method of appointment: The members are appointed by the Minister of Economy based on the recommendations of a Commission composed of civil servants and employees of the Ministry of Economy and representatives of other relevant organisations. Candidates apply for the role based on a vacancy published on the Ministry's website and notified in writing to organisations of employees, associated business structures, other non-governmental organisations and representatives of educational and scientific organisations.

Norwegian NCP

Composition: The Norwegian NCP's expert panel comprises four independent experts.

Method of appointment: The expert panel is appointed by the Ministry of Foreign Affairs and the Ministry of Trade, Industry and Fisheries on the basis of recommendations from business, trade unions and civil society organisations.

Opportunities

30. This type of decision-making presents several opportunities. Members of these NCPs are generally selected for their particular expertise on issues dealt with by the NCP. A balanced selection of experts may thus provide an effective basis for dealing with the broad range of issues covered by the Guidelines, and help the NCP handle specific instances.¹² Likewise, when experts are independent, stakeholders may readily perceive the decision-making body to be impartial and lend it confidence.¹³

¹² See Peer Review of Dutch National Contact Point, [DAF/INV/WP/RD\(2010\)1](#), p. 11 (hereafter 'Dutch NCP peer review report').

¹³ See OECD, 'Denmark National Contact Point Peer Review Report', p. 8; Norwegian NCP peer review report, p. 19.

31. The standing of NCP members as experts, i.e. as authorities in the field of responsible business conduct, may also improve visibility of the NCP.¹⁴ Likewise, since experts involved in NCPs often belong to professional or academic networks in the field of responsible business conduct, this may also help the NCP inform stakeholders, raise awareness and cooperate with various actors.

Challenges

32. This mode of decision-making may on the other hand result in a number of challenges. First, expert-based decision-making requires a careful selection of experts. Imbalance in the expertise might impact the NCP's ability to handle the broad range of issues covered in the Guidelines. A lack of transparency in selection may also impact the confidence of stakeholders.¹⁵

33. Second, independent experts are isolated from government,¹⁶ which may limit the available expertise, as well as the possibilities of informing, raising awareness of, and cooperating with, government, notably for policy coherence purposes, e.g. by circulating final statements or promotional plans through the usual governmental communication channels. Countries have found ways to address these challenges, e.g. by adjoining a governmental advisory body to the expert-based decision-making body (Dutch NCP, see below, section 0). The Australian NCP was also recently restructured to respond to an independent review conducted in 2017. As of early 2019, an Independent Expert Examiner will be in charge of specific instance case work, including decision-making. Other NCP duties will continue to be performed by an individual official from Treasury, assisted by an advisory board, thereby ensuring a structural connection between the Independent Expert Examiner and the government.¹⁷

Multipartite decision-making

34. Multipartite decision-making means decisions are taken by a group composed of members of governments and stakeholders. Tripartite decision-making involves government, business and trade unions (Belgium, France, Latvia, Sweden). Quadripartite decision-making also includes civil society (Czech Republic, Finland, Slovak Republic). In this configuration, the non-governmental members of the decision-making groups are not expected to be independent but may represent the interests of their organisations. In the case of Finland, however, the Governmental Decree governing the NCP was amended in 2016 to specify that the non-governmental NCP members act in their personal capacity and with personal responsibility for the legality of their actions. In practice this means that the non-governmental members of the NCP cannot consult their supporting organisations and have to make their own judgements when dealing with specific instances. This change was introduced due to concerns related to confidentiality issues.

¹⁴ See Norwegian NCP peer review report, p. 35. However, high level independent experts may also be less directly accessible: see Dutch NCP peer review report, p. 12.

¹⁵ See Dutch NCP peer review report, p. 11.

¹⁶ See Norwegian NCP peer review report, pp. 16-17.

¹⁷ See <https://ausncp.gov.au/contactpoint/2017-review/2017-review-response/>.

Box 5. Overview of NCPs with multipartite decision-making

There are seven NCPs with multipartite decision-making. Four are tripartite, i.e. they include representatives of government, business and trade unions (Belgium, France, Latvia and Sweden). The Latvian NCP also includes two independent expert members. Three are quadripartite, i.e. they additionally include representatives of CSOs.

Government representation

Multipartite decision-making bodies are composed of five to 11 members representing ministries. The Chair (often granted special decision-making powers) and Secretariat of these NCPs are all located in ministries.

Ministries or bodies with an economic portfolio (e.g. Economy, Finance, National Bank) are represented 13 times across the seven multipartite decision-making bodies. Ministries of social affairs and labour and ministries of foreign affairs are each represented seven times; ministries of environment and/or health are represented five times. Other ministries such as the prime minister's office or the ministries of agriculture or education are also represented though more rarely.

Stakeholder representation

Representatives from business, trade unions and civil society are generally less numerous than government representatives on multipartite decision-making bodies (between one and six members). The number of representatives is not necessarily the same for all stakeholder categories.

For a full overview of the composition of NCP multipartite decision-making bodies, see Table 2. Composition of multipartite decision-making bodies in the Annex.

Opportunities

35. By adding stakeholder representatives to an inter-ministerial decision-making structure, multipartite decision-making offers several opportunities.

36. In particular, this structure directly connects the NCP with a diverse range of expertise from government and stakeholders, but also anchors the NCP's decision-making in the existing structures of social dialogue of the country. This ensures visibility both across government and amongst the stakeholder groups involved. This approach should also ensure stakeholder support for the NCP and may help the NCP gain and retain the confidence of stakeholders.¹⁸ The bringing together of opinions from government and

¹⁸ See OECD, Peer Review of the OECD National Contact Point of France, [DAF/INV/RBC\(2017\)14/FINAL](#), p. 33 (hereafter 'French NCP peer review report'): '[A]t the stage of good offices, MEDEF, which is a member of the NCP's enterprise representation, plays an important role in informing enterprises of the role, functioning and process of the NCP, in order to encourage them to engage within the dialogue. Some enterprises have commented on the usefulness of this guidance and explanatory support, which is often provided against a backdrop of mistrust of a mechanism that is unfamiliar to most enterprises.'

stakeholder representatives to make decisions may also positively influence the perception of impartiality and equitability with which the NCP will handle specific instances.¹⁹

37. Another benefit is that the NCP will be able to count on already existing effective channels to inform, raise awareness of, and cooperate with both government and stakeholders regarding promotion of the Guidelines.²⁰ For instance, the tripartite French NCP reported that its members organised or participated in 79 promotional events in 2017, the highest number of all NCPs. Structural connection to government also represents an added value for policy coherence.

Challenges

38. Involving stakeholders directly in NCP decisions may also present challenges. = Giving stakeholders a decision-making role brings opportunities but is also likely to raise issues around representation. The benefits of this structure may be reduced if the inclusion of stakeholders is ‘incomplete’, i.e. if some stakeholder groups are represented while others are not, or ‘imbalanced’, i.e. if some stakeholder groups are better represented than others.²¹

39. Additionally, while NCPs of all structures have at times not been able to respect the indicative timelines for handling specific instances,²² the organisational challenges associated with the potentially large size of inclusive decision-making bodies may contribute to delays if a large number of decision makers have to review each decision and meet several times in order to build consensus. This issue has however been dealt with in a number of ways by NCPs. For example, Finland amended the Government Decree governing the NCP to allow the latter to appoint representative sub-groups of its members, based on expertise, to handle specific instances.

Summary of findings

40. The overview shows that all decision-making structures are associated with opportunities and challenges in relation to NCP activity. Examples also show that several NCPs have over time adapted their decision-making structure in order to seize opportunities and respond to challenges.

41. Table 1 presents a summary of the challenges and opportunities associated with each decision-making structure.

¹⁹ French NCP peer review report, p. 17.

²⁰ See Belgium National Contact Point Peer Review Report, [DAF/INV/NCP\(2016\)2/FINAL](#), p. 14 (hereafter ‘Belgian NCP peer review report’); French NCP peer review report, p. 23.

²¹ See Belgian peer review report p. 24; French NCP peer review report, p. 17.

²² OECD (2015), *Implementing the OECD Guidelines for Multinational Enterprises: The National Contact Points from 2000 to 2015*, pp. 52-53.

Table 1. Summary of challenges and opportunities across NCP decision-making structures

Individualised decision making		
Opportunities	Challenges	NCPs (21)
Streamlined decision-making process	Only one type of expertise available at decision-making level	Advisory body: Austria, Chile, Colombia, Italy, Kazakhstan, Luxembourg, New Zealand, Poland, Ukraine, United Kingdom, United States No advisory body: Australia, Costa Rica, Estonia, Greece, Iceland, Ireland, Israel, Mexico, Peru, Turkey
Clarity of structure	No connection to external stakeholders and other ministries (if no advisory body) Workload and institutional memory depend on one person or small group of persons	
Inter-ministerial decision making		
Opportunities	Challenges	NCPs (14)
Several types of expertise available	No connection to external stakeholders (if no advisory body)	Advisory body: Argentina, Canada, Germany, Japan, Korea, Morocco, Romania, Spain, Switzerland No advisory body: Brazil, Egypt, Hungary, Portugal, Slovenia
Policy coherence across government departments involved	Size and organisational burden	
Disciplinary balance		
Expert-based decision making		
Opportunities	Challenges	NCPs (4)
Demonstrated expertise in RBC matters	Risk of imbalance in NCP member selection	Denmark, Lithuania, Netherlands, Norway
Independence of NCP members	Isolation from government (if no advisory body)	
Standing and network of NCP members		
Multipartite decision-making		
Opportunities	Challenges	NCPs (7)
Several types of expertise available	Risks associated with representativeness	Tripartite: Belgium, France, Latvia, Sweden Quadripartite: Czech Republic, Finland, Slovak Republic
NCP mirrors social dialogue processes	Size and organisational burden	
Direct channels to disseminate NCP activity to government and stakeholders		

Advisory bodies

42. Many NCPs are supported by an ‘advisory body’, as suggested in the Commentary to the Procedural Guidance.²³ Advisory bodies serve a double purpose: they provide NCPs with additional expertise, and they ensure a stronger connection to relevant actors in government or in society.

43. Some advisory bodies are composed of government representatives, others are composed of ‘external’ stakeholders, and some are composed of both government and stakeholders. Certain NCPs also include other actors such as National Human Rights Institutions (NHRIs) (Chile) or ‘unaffiliated’ independent experts (UK) in their advisory board.

²³ Para. 11.

44. As shown in Box 6 below, advisory bodies also vary in terms of size, in terms of the frequency with which they meet (monthly to yearly), and in terms of the substance of the issues on which they can provide advice (general matters, promotion, rules of procedure, specific instances, etc.).

45. The majority of advisory bodies are standing bodies whose status, composition and functioning is formalised in terms of reference, such as in the United Kingdom, Italy, or Switzerland. In other NCPs, advisory relations with stakeholders are more *ad hoc*. France for instance organises periodic meetings with various groups of stakeholders representing over a hundred participants. These meetings, which are provided for in the NCP's bylaw, take the form of exchanges of views, in which the NCP presents its work and activity and receives feedback from stakeholders.²⁴

46. Whether or not advisory bodies are consulted on specific instances and if so, to what extent, varies considerable between NCPs. Some advisory bodies are informed when a case is received or accepted for further examination (Germany), others receive regular updates on case progress on an anonymous basis (UK), others will be asked for advice on cases without being involved in its actual resolution (Italy, Switzerland).

47. As already noted in the Structures and Procedures Report, advisory bodies involving government representatives only are more likely to be closely involved in specific instances.²⁵ In certain cases, only certain members of the advisory body will be involved in the resolution of specific instance, in case they hold certain useful expertise, as is the case with the New Zealand NCP.

48. Some advisory bodies' functions go beyond a pure advisory role and come close to decision-making in certain situations. For instance, the UK NCP Steering Board has a particular role in relation to the UK NCP's rules of procedures. It must agree any change of rules, and may review decisions of the UK NCP on specific instances in relation to procedural issues. The Dutch NCP developed a practice of deciding matters by consensus between its expert-based decision-making body and its government-based advisory body. The Belgian NCP can include members of its advisory body in committees in charge of handling and deciding on specific instances, based on expertise needs.

49. Finally, certain advisory bodies also have oversight functions, i.e. they verify that the NCP is functioning properly. This role can either be explicit (UK) or implicit, as the NCP reports to stakeholders assembled in its advisory body, seeks their feedback and responds to their concerns.²⁶

²⁴ French NCP peer review report, p. 19 and French NCP Bylaw, para. 15.

²⁵ p. 29

²⁶ *Ibid.*

Box 6. Overview of NCP Advisory Bodies

For a comprehensive overview, please refer to Table 3. Characteristics of advisory bodies across NCPs, in the Annex.

Prevalence

There are 23 advisory bodies across the NCP network. 17 NCPs have one standing advisory body. Three NCPs have two standing advisory bodies, one composed of government representatives, one composed of external stakeholders.

Composition

Businesses are represented in 20 advisory bodies; trade unions are represented in 18 advisory bodies; NGOs are represented in 16 advisory bodies; representatives of other government departments are represented in 13 advisory bodies; members of academia are represented in 8 advisory bodies; NHRIs are represented in two advisory bodies.

Size (in terms of types of organisations represented, not individual members)

One advisory bodies comprises seven types of organisations; two advisory bodies comprise two types of organisations; four advisory bodies comprise five types of organisations; four advisory bodies comprise three types of organisations; four advisory bodies comprise one type of organisation; eight advisory bodies comprise four types of organisations.

Substance of advice

16 advisory bodies advise on general matters (NCP strategy and programme of work); 16 NCPs advise on specific instance matters; 14 advisory bodies advise on promotion; three advisory bodies have oversight functions.

Frequency of meetings

One advisory body meets yearly; eight advisory bodies meet biannually; three advisory bodies meet quarterly; one advisory body meets three times a year; five advisory bodies meet quarterly to monthly; one advisory body meets monthly. Four NCPs did not report the frequency with which their advisory body meets.

Opportunities

50. Advisory bodies, as indicated above, may provide important expertise to NCPs and broaden their perspectives. They also provide opportunities to build relations with other actors among government and stakeholders, seek support and retain confidence of stakeholders.

51. Alongside their advisory function, members of advisory bodies can also act as useful relays for the NCP's activities by spreading information to their networks, thereby increasing the visibility of the NCP.²⁷ As is apparent from Table 3, assisting with promotion of the Guidelines is a recurrent task of a majority of advisory bodies.

²⁷ Swiss NCP peer review report, p. 19; Chilean NCP peer review report p. 18.

52. Finally, advisory bodies' explicit or implicit oversight functions also increase the transparency and the accountability of NCPs by helping to clarify and, if necessary, improve performance.

Challenges

53. If not properly considered, certain aspects of advisory bodies may also create challenges. First, as already indicated, in order for the advisory body to add value in terms of expertise, confidence of stakeholders and impartiality, its membership must represent all relevant interests and competences. Second, its exact functions should be defined in clear terms of reference, so as not to create confusion with those of the decision-making body.²⁸

54. The involvement of advisory body members in specific instances, although it may help make available the required expertise, may affect the predictability of the specific instance process if the role and weight of the advisory body in examining cases is not precisely defined and presented to parties.

Resources

55. As stated in the Council Decision on the OECD Guidelines, '[a]dhering countries shall make available human and financial resources to their National Contact Points so that they can effectively fulfil their responsibilities, taking into account internal budget priorities and practices.'²⁹ The structure of the NCP must therefore reflect, taking into account the domestic context, a sufficient level of resources so that the NCP can promote the Guidelines, respond to enquiries and handle specific instances in a way that is compatible with the Guidelines.

56. The Decision mentions two types of resources: human and financial.

Human resources

57. The Guidelines only set one requirement as regards human resources: that of seniority of staff. Namely, an NCP 'can consist of senior representatives from one or more Ministries, may be a senior government official or a government office headed by a senior official, be an interagency group, or one that contains independent experts. Representatives of the business community, worker organisations and other non-governmental organisations can also be included.'

²⁸ See Belgian NCP peer review report, p 12: 'There was some confusion regarding the various roles of members of the NCP and the expert network, this is something which could be clarified.' Swiss NCP peer review report, p. 14: 'The Advisory Board's role is formally only advisory, and therefore the Advisory Board does not have formal decision making power in the context of specific instances or in other areas. In practice the NCP accepts the Board's advice as binding on it, but during the on-site visit members of the Advisory Board noted they do not regard their advice as binding on the NCP. The role of the Advisory Board is still being developed and the status of its advice with respect to the activities of the NCP is not fully clear.'

²⁹ Section I.4.

58. The Guidelines therefore consider that, in order to fulfil effectively the responsibilities placed on NCPs by the Guidelines, as well as to gain and retain the confidence of stakeholders, the presence of senior persons is necessary.³⁰

59. The Guidelines do not set any precise requirement in terms of number of staff, and this indeed is part of the flexibility afforded to each government, depending on circumstances such as the number of stakeholders, the caseload, etc. In practice, in 2017, eight NCPs reported having less than one staff member.

60. NCP staff may work either full-time or part-time on NCP issues. Among the staff members reported by NCPs in 2017, 71% (110/156) are part-time staff. Some NCPs only have full-time or part-time staff, whereas other NCPs have both full-time and part-time staff.

61. Having staff working full-time on NCP issues presents a number of opportunities. It may signal strong political commitment towards RBC.³¹ It may also incentivise NCP staff to be proactive, since their NCP activities will not be limited by the exercise of other duties.³²

62. A general challenge associated with staff is the high turnover that NCPs may experience. Turnover damages institutional memory and transitions between staff members take time away from core NCP activities.³³ In particular, inducting new staff members requires to train them on NCP matters and procedures, and to re-build connections with stakeholders.

Financial resources

63. The Guidelines do not provide further details on the financial resources to be allocated to the NCP. They must allow the NCP to effectively fulfil its responsibilities and take into account 'internal budget priorities and practices'. There is no comprehensive data on the actual financial resources allocated to the different NCPs, but the practice is that NCPs either fund their activities from the overall budget of the department they belong to, or they are allocated a dedicated budget which can be managed independently.

Reporting

64. The Guidelines state that NCPs shall report annually to the Investment Committee on the nature of results of their activities, including implementation activities in specific instances.³⁴

³⁰ See Swiss NCP peer review report, p. 12.

³¹ See Chilean NCP peer review report, p. 14.

³² See e.g. OECD, Peer Review of the OECD National Contact Point of the United States, [DAF/INV/RBC\(2018\)14](#), p. 12.

³³ See Chilean NCP peer review report, p. 12; OECD, Peer Review of the OECD National Contact Point of Germany, [DAF/INV/RBC\(2018\)1/FINAL](#), p. 11 (hereafter 'German NCP peer review report').

³⁴ See Council Decision on the Guidelines, Section I., para. 3; and Procedural Guidance, Section I., D., 1.

65. The Procedural Guidance states that NCPs must ‘maintain [...] an adequate level of accountability to the adhering government’, although it does not specify the ways in which this accountability relationship should be formalized.

66. In practice, according to the 2017 Annual Reports of NCPs, 10 NCPs report to Parliament, generally once a year and 29 NCPs report to government, with variable frequency (from less than once a year to more than once every three months). Reporting has several advantages. It ensures that NCPs are accountable to government and/or parliament, but also that NCP activity is regularly disseminated across relevant institutions. A number of NCPs also choose to make their reports public and present it to their stakeholders, which enhances the transparency of the NCP.³⁵

³⁵ See German NCP peer review report, p. 13.

3. Conclusion

67. This paper analysed the following components of NCP structures: domestic mandate, decision-making, advisory bodies, resources and reporting. These components compose the ‘structural toolbox’ available to NCPs.

68. The analysis shows that there is a wide variety in the NCP network in terms of inclusion of these components into NCP structures. The analysis further sought to identify opportunities and challenges associated with each of these structural components, though much will depend on the NCP’s own context. A number of general conclusions can be drawn from this analysis.

69. First, the presence of a structural connection – at decision-making or advisory level – between the NCP, other government departments and stakeholders, increases opportunities and limits challenges. Such structure increases the expertise available to the NCP and its ability to ‘provide an effective basis for dealing with the broad range of issues covered by the *Guidelines*’, as mandated by the Procedural Guidance.³⁶ The involvement of stakeholders furthermore opens avenues to ‘seek [...] the active support of social partners,’³⁷ while the involvement of other government departments fosters policy coherence.

70. Second, the advantages of such inclusiveness however come at an organisational cost, since they increase the number of participants in NCP activities, the frequency and size of meetings, or the amount of time needed to reach consensus. In order to limit these costs, NCPs have implemented creative solutions to make the NCP more agile in discharging its various tasks.

71. Third, securing sufficient human and financial resources to effectively fulfil their responsibilities³⁸ remains a challenge for NCPs. Scarce resources, particularly staff resources, limit the amount of promotion which an NCP can conduct,³⁹ and can make it more difficult for NCPs to handle specific instances ‘in an efficient and timely manner’.⁴⁰ In particular, staff assigned to NCP duties for part of their time face need to balance NCP activities with their other duties.

³⁶ See Section I.A.1.

³⁷ *Id.*, Section I.A.

³⁸ See Council Decision on the OECD Guidelines, Section I.4.

³⁹ In 2017, 41 NCPs collectively organised 487 events. However, there are important disparities in how these events are distributed across the network. For instance, 21 NCPs reported five events or less, while four NCPs reported more than 20 events and two NCPs reported more than 50 events. It therefore seems that only a small number of NCPs have the capacity to organise or participate to a large number of promotional events (although other factors such as the size of the country or the presence of active stakeholders will also affect the number of possible events).

⁴⁰ See Procedural Guidance, Section C. and Commentary to the Procedural Guidance, paras. 40 and 41.

Annex

Table 2. Composition of multipartite decision-making bodies

Country	Government representatives	Business representatives	Trade Union representatives	NGO representatives
Belgium (tripartite)	Ministry of the Economy ; Ministry of Finance; Ministry of Labour; Ministry of Justice; Ministry of Foreign Affairs; Ministry of Health and Environment; Flanders Region; Walloon Region; Brussels-Capital Region (9)	FEB, Comeos, Agoria (3)	FGTB, CSC, GGSLB (3)	N/A
France (tripartite)	Ministry of Economy and Finance ; Ministry of Social Affairs and Health; Ministry of Labour, Employment and Social Dialogue; Ministry of Foreign Affairs and International Development; Ministry of Ecology, Sustainable Development and Energy (5)	MEDEF (1)	CFDT; CGT; FO; CFE-CGC; CFTC; UNSA (6)	N/A
Latvia (tripartite, also includes two independent experts)	Ministry of Foreign Affairs ; Ministry of Economics; Ministry of Finance; Ministry of Justice; Ministry of Education and Science; Latvia's State Chancellery; Cross-Sectoral Co-ordination Centre	Employers' Confederation of Latvia; Latvian Chamber of Commerce and Industry (2)	Free Trade Union Confederation of Latvia (1)	N/A
Sweden (tripartite)	Ministry of Foreign Affairs ; other Ministries invited depending on the NCP agenda and specific instances filed	Confederation of Swedish Enterprise; Swedish Trade Federation (2)	Swedish Trade Union Confederation; Swedish Confederation of Professional Associations; Confederation of Professional Employees; Unionen; IF Metall (5)	
Czech Republic (quadrupartite)	Ministry of Industry and Trade ; Ministry of Finance; Ministry of Labour and Social Affairs; Ministry of Foreign Affairs; Ministry of Environment; Ministry of Justice; Czech National Bank (7)	Confederation of Industry (1)	Bohemian-Moravian Confederation of Trade Unions (1)	Frank Bold (1)
Finland (quadrupartite)	Ministry of Economic Affairs and Employment (chair and secretariat); Committee on Social and Corporate Responsibility (secretariat); Ministry for Foreign Affairs; Ministry of the Environment; Prime Minister's Office; Ministry of Social Affairs and Health (6)	Confederation of Finnish Industries (EK); Federation of Finnish Enterprises; Finnish Section of the International Chamber of Commerce (3)	Central Organisation of Finnish Trade Unions (SAK); Finnish Confederation of Professionals (STTK); AKAVA- Confederation of Unions for Professionals and Managerial Staff (3)	Evangelical Lutheran Church of Finland; Finnish Business and Society ry; Finnish Consumer's Association; Finnwatch ry; Finnish Development NGOs – Fingo ry; Finnish Association for Nature Conservation (5)
Slovak Republic (quadrupartite)	Ministry of Economy ; Ministry of Foreign and European Affairs; Ministry of Finance; Ministry of Labour, Social Affairs and Family; Ministry of Justice; Ministry of Environment; Ministry of Interior; Ministry of Agriculture and Rural Development; Ministry of Education, Science, Research and Sport; National Bank; Export-Import Bank (11)	National Union of Employers; Central European Corporate Governance Association (2)	Confederation of the Trade Unions (1)	Chamber of NGOs of the SK Government Council for NGOs (1)

Note: Ministries where the NCP secretariat and the Chair of the decision-making body are located are indicated in bold

Source: NCP annual reports and websites

Table 3. Characteristics of advisory bodies across NCPs

NCP	Composition	Substance of advice	Frequency of meetings
Argentina	Business Trade unions NGOs Academia	Specific instances Promotion	Biannually
Austria	Government Business Trade union NGOs Academia	General matters Promotion Dialogue with stakeholders Specific instances Annual report Oversight	Biannually
Belgium	Government Business NGOs Academia	Promotion Specific instances	Yearly
Canada	Business Trade unions	General matters (Revised ToRs in development)	Quarterly
Chile (1)	Government	Specific instances	Quarterly to monthly
Chile (2)	Business Trade Unions NGOs Academia RBC Experts NHRI Council for transparency	Dissemination Promotion	Quarterly to monthly
Colombia	Business Trade unions NGOs Academia	General matters Specific instances Promotion Oversight	3 times a year
Germany	Government Business Trade union NGOs	General matters Specific instances Promotion	Biannually
Italy	Government Business Trade unions NGOs	General matters Specific instances	Biannually
Japan	Business Trade unions	General matters Specific instances Promotion	Biannually

NCP	Composition	Substance of advice	Frequency of meetings
Kazakhstan	Government Business Trade unions NGOs	Specific instances	Unreported
Luxembourg	Government Business Trade unions	General matters	Does not meet on a regular basis
Netherlands	Government	All NCP matters	Monthly
Netherlands	Business Trade unions NGOs	General matters Promotion	Quarterly
New Zealand	Government Business Trade union NGO NHRI	General matters Specific instances OECD meetings Promotion	Biannually
Poland	Government Business Trade unions NGOs Academia	General matters Specific instances	Quarterly to monthly
Romania	Business	Unreported	Unreported
Spain	Business Trade unions NGOs	General matters Promotion Rules of procedure	Biannually
Switzerland	Government Business Trade unions NGOs Academia	General matters Specific instances Rules of procedure	Biannually
Ukraine	Business Trade unions NGOs	Unreported	Unreported
United Kingdom	Government Business Trade unions NGOs	General matters Specific instances Promotion Rules of procedure Oversight	Quarterly to monthly
United States (1)	Government	General matters Specific instances Promotion	Quarterly
United States (2)	Business Trade unions NGOs Academia	General matters Specific instances Promotion	Quarterly to monthly

Source: NCP Annual Reports 2017

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