

National Contact Point of Chile Peer Review: Follow-up Report

This document was prepared by the National Contact Point (NCP) for Responsible Business Conduct of Chile. It presents the actions taken to address recommendations made in the NCP Peer Review Report of Chile (2018).

1. Institutional Arrangements

Table 1. Institutional Arrangements

N°	<i>Peer Review Recommendation</i>	<i>Action Status</i> ✓ or X	<i>Description of NCP Action</i>	<i>Explanation for No Action</i>	<i>Action Achieved by or Expected by:</i>
1.1	The NCP should be made into a distinct unit which is devoted to NCP activities and should be provided with sufficient resources. Specifically, it should have at least one full-time staff member engaged in NCP activities.	✓	<p>In June 2018 the Responsible Business Conduct Department was created, with exclusive dedication to the fulfilment of the objectives of the OECD Guidelines for Multinational Enterprises and its National Contact Point:</p> <p>The RBC Department is in charge of the functions of the National Contact Point, that is, its roles of dissemination and promotion of the Guidelines and related instruments, as well as its non-litigious mediation mechanism. It is also responsible for assuming an active role in governmental coordination and cooperation for the promotion and implementation of the international commitments assumed in this area and participates in the intergovernmental articulation for policy coherence among plans, programs, policies and commitments related to the aforementioned areas.</p>		Chilean NCP
1.2	The NCP should develop systems to facilitate staff transitions such as: a formal system of information management; clarifying and institutionalising processes such as specific instance handling; formal training and handover processes for staff new to the role. In addition, the NCP should	✓	<p>Implementation of a formal information management system: complete digital record of activities and procedures, organised by functions/themes, chronologically.</p> <p>Implementation of a ‘handover method’, through the generation of handover documents and supporting files.</p> <p>New rules of procedure, which clarify each stage of the NCP’s procedures and roles:</p> <p>The new rules of procedure contain specific orientations for the improvement of the conduction of specific instances and the transparency and predictability of the rules,</p>		Chilean NCP

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	consider possible strategies to retain staff in the NCP for longer periods than has been the case in recent years.		procedural conditions and steps to be followed.		
<i>1.3</i>	The NCP should consider the most effective and strategic way to engage across government in carrying out its mandate. Should the NCP change its initial structure, it may wish to rethink the role of the Government Advisory Committee.	✓	<p>Convening of government focal points for the new integration of the inter-ministerial committee^o; first meeting with relevant focal points to present/explain NCP functions; clearer definition of roles for focal points; political coherence first commitments. The NCP presented its first directives for the support roles of the focal points in fulfilling the NCP's functions, namely:</p> <p>Strategic alliance for the dissemination of the guidelines and the promotion of policy coherence convergent with RBC commitments;</p> <p>Expert technical assistance for the review of specific instances, when required by the NCP.</p> <p>At least 3 annual meetings.</p> <p>NCP active participation in the inter-ministerial committee for the implementation of the National Action Plan for Business and Human Rights:</p> <p>This instance has facilitated coordination between focal points called upon to carry out the fulfilment of the actions committed in this NAP for Business and Human Rights, co-working on commitments in businesses and human rights and RBC. Within the framework of this committee meetings, specific commitments to work together to promote due diligence with a human rights perspective have been advanced, among other topics that cross the UN Guiding Principles, the OECD Due Diligence Guidance for RBC and the OECD Guidelines for MNEs.</p>		Chilean NCP and relevant focal points
<i>1.4</i>	The NCP should consider strategically how	✓	Joint working process to strengthen the roles and composition of the civil society committee (mirror committee):		Chilean NCP and the Civil

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	best to engage effectively with external stakeholders. As part of this work, it might consult the Civil Society Committee to define its mandate, taking into account the needs of the NCP as well as the capacity and interest of members to contribute.		<p>process to be completed this month (March 2019).</p> <p>Links with key actors were reactivated and membership enlarged to new members. At present, the work is mainly oriented towards defining the structure and roles of this Committee. It was agreed to strengthen the composition of the committee, mainly strengthening the representation of relevant sectors of business, indigenous peoples and civil society.</p> <p>During this process, new main roles of the CSC completed to date (among others):</p> <p>Co-proposer and co-decision-maker in the development of the NCP's Annual Promotional Plan: the CSC, together with the NCP prepares the Annual Promotional Plan, defining priority areas for the period's work and committing reciprocal participation and collaboration.</p> <p>Monitoring NCP functions: At the close of every annual work period, the CSC will present a public compliance report and recommendations on the NCP's commitments.</p> <p>Frequency of meetings and convening faculties: 4 ordinary meetings per year (one per quarter), the committee entitled to convene extraordinary sessions.</p>		Society Committee

Box 1. Further commentary on action taken on recommendation(s) regarding Institutional Arrangements:

GOVERNMENT ADVISORY COMMITTEE:

Proactive coordination and cooperation with relevant governmental focal points:

Ministry of Mining

- Joint efforts are being made to carry out dissemination/training activities within the framework of the commitments of the National Action Plan for Business and Human Rights. First commitments with the Mining Council (private mining) and, in preparation, supply chain industries in mining.
- Technical support for evaluation process and development of non-metallic mineral projects, from a due diligence perspective (proposal in preparation).
- Coordination for the implementation of the sectorial guidelines (OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas; OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector).

Ministry of Energy

Their goal for this year is to build a guide for the implementation of the Guiding Principles on Business and Human Rights in the Energy sector, with a focus on the implementation of Due Diligence. The NCP has been asked for support/feedback.

National Consumer Service (SERNAC)

- Interest in generating diffusion support networks (cross diffusion).
- March 2019, entry into force new law reforming SERNAC's attributions: inspection competencies, creation of regional offices, increase in fines for companies, extenuating circumstances (SERNAC compliance plan, evaluation of preventive measures).
- Generate training activities for SERNAC officials.
- Assist in the process of designing preventive policies, with a focus on suppliers (due diligence).

Ministry of Agriculture (ODEPA)

Focal point for the OECD-FAO Responsible Agricultural Supply Chains Project. The proposal is to generate joint due diligence dissemination activities for the Food Export Council of the Sustainability Group.

In addition, the NCP was invited to join the National Steering Committee of the project "Improving capacities to manage information from corporate sustainability reports in Latin American countries", with the support of 'UN Environment', and with an active participation of the national private sector.

PROCHILE (Export Promotion Agency)

The NCP supports the review and improvement of the processes of SME public convocations and export promotion programmes, for the incorporation of sustainability

criteria more related to specific activities and towards the strengthening of these standards. It has been agreed continued involvement of the NCP in the PROCHILE's Sustainability newsletter, and has committed to generate joint dissemination activities, prioritizing regions.

CIVIL SOCIETY COMMITTEE:

Impulse and pro-activeness of the members of the CSC reflects in a more continuous and propositional participation in the meetings convene by the NCP.

The proposal to merge this committee with the multi-stakeholder advisory group for the National Action Plan for Business and Human Rights could not be achieved. From January of this year, the Subsecretariat of Human Rights has taken over the implementation of this NAP, and it was agreed between the authorities of the Ministry of Foreign Affairs and the aforementioned Subsecretariat, to create a new committee, separate from the NCP's mirror committee. Although, committee members continue to actively participate in and propose actions to the NCP. This year they will play a key role in the development of the NCP's first Annual Promotional Plan. The 'Plan' will be concluded this month, and will have as an innovation the prioritization of sectors and the inclusion of previously unaddressed issues (such as corruption and consumers).

2. Promotion of the Guidelines

Table 2. Promotion of the Guidelines

N°	Peer Review Recommendation	Action Status ✓ or X	Description of NCP Action	Explanation for No Action	Action Achieved by or Expected by:
1.1	In order to improve promotional activities, the NCP is encouraged to develop a strategic promotional plan to target particular sectors or stakeholder groups. The NCP should also consider allocating more resources, including staff time, to promotional activities, but equally, the plan should consider promotional activities which can be carried out without significant resources and in cooperation with civil society, academia, labour unions and business associations.	✓	<p>Promotional plan</p> <ul style="list-style-type: none"> . With the support of the Civil Society Committee, the NCP has developed an Annual Promotional Plan, which identifies priority sectors and guidelines topics for the period's work. Engages committee members in collaboration for its implementation. . With support of the focal points of the Ministries of Mining, Energy and Agriculture, the NCP is currently advancing and contributing to the implementation processes of sectorial guidelines. . It is planned to coordinate work planning on sectoral guidelines (currently, on mining and agriculture) between public and private sectors, according to the priorities defined in the Annual Promotional Plan and in linkage with the NAP for Business and Human Rights. <p>Promotional materials</p> <ul style="list-style-type: none"> . Two promotional materials were developed: a brochure for dissemination of the OECD Due Diligence Guidance, oriented to private sector; a general information NCP booklet, which contains orientations about the Guidelines main objectives, contents and procedures, and guidance on how to submit a case. . USB storage device with relevant NCP materials: Guidelines, submission form, rules of procedure, introductory material. . Translation of the Due Diligence Guidance: with the support of the Translation Office of the Ministry of Foreign Affairs, the document was translated and shared for revision and subsequent circulation among Spanish-speaking countries (currently in the process of final revision for approval by the Secretariat). <p>Website</p> <p>Redesign of the website: step-by-step information is incorporated for the submission of a specific instance; more access channels are provided for the submission of a specific instance; contact information for greater accessibility for requests for information or consultation; publication of OECD recommendations; specific platform for the promotion of the Due Diligence Guidance, among other advances.</p> <p>Web site link: https://www.direcon.gob.cl/minisito/punto-nacional-de-contacto-pnc/</p>		Chilean NCP

N°	Peer Review Recommendation	Action Status ✓ or X	Description of NCP Action	Explanation for No Action	Action Achieved by or Expected by:
1.1			<p>Promotional events and policy coherence</p> <ul style="list-style-type: none"> . Synergies with relevant stakeholders from the CSC and government focal points for promotional activities: . Joint dissemination activities in regions with the National Institute for Human Rights; . Participation in activities organized by members of the mirror committee, such as the Central Association of Workers; . With government focal points: co-organization of a seminar on Business and HR/RBC with the Human Rights Directorate (Ministry of Foreign Affairs) oriented to multi-stakeholders (government, private sector, civil society, academia, labour unions); participation in a seminar organized by the Sub-secretariat of Human Rights; participation in the activity 'Capacity Building on Human Rights and Business' (NAP) with the Mining Council, organized by the Ministry of Mining; among others. . Co-organization with academia experts on the NCP mediation process (Conflict Resolution and Mediation Program, University of Alberto Hurtado). <p>Engagement with the Proactive Agenda</p> <ul style="list-style-type: none"> . The NCP plays a relevant role in the process of implementation of the NAP on Business and Human Rights, in the Inter-ministerial Committee. . The NCP is coordinated with the focal point of the Ministry of Agriculture for the OECD-FAO Responsible Agricultural Supply Chains Project. The first co-work proposal is to generate joint due diligence dissemination activities for the Food Export Council of the Sustainability Group. . The NCP and PROCHILE are working on a joint dissemination plan, integrating government commitments for the promotion of sustainability and RBC criteria in business projects with technical or economic support from this export promotion agency and/or to incorporate stronger criteria in the processes of application for such support. . The NCP and the Ministry of Mining have begun efforts to implement the OECD sectoral guidelines. In a first stage, it is expected to generate awareness aimed at public officials in charge of linking processes with mining companies in the private and public sectors. <p>Cooperation with other NCPs</p> <ul style="list-style-type: none"> . Translation of the Due Diligence Guidance: The Chilean NCP translated the Guide and submitted it to the Secretariat, in coordination with the Spanish-speaking NCPs, for review and subsequent approval (ongoing process). The final revision of the corrected version by the Secretariat was adjusted and edited by the Chilean, Spanish and Colombian NCPs. . Participation in the next peer review processes: the Chilean NCP committed to participate as an evaluator in one of the next 2019 peer review processes. 		Chilean NCP

Box 2.1. Further commentary on action taken on recommendation(s) regarding Promotion of the Guidelines:

ANNUAL PROMOTIONAL PLAN DESIGN AND APPROVAL PROCESS (ongoing process):

The NCP provided Civil Society Committee members with a questionnaire drawn up on the basis of the preliminary conclusions of the Committee's technical working meetings. In this questionnaire, members must select priorities for annual work, propose themes or sectors to be prioritized (that are not considered or duly identified), propose specific joint activities to disseminate the prioritized themes, and finally, propose new members for the selection process (strengthening of membership). The deadline for the submission of these questionnaires is March 4. The NCP will then deliver a consolidated document with the results and the first version of the Annual Promotional Plan at the committee's first regular annual meeting (second half of March).

NEW TEMPLATE SUBMISSION FORM:

On the occasion of the re-design of the web for the improvement of its contents, a new version of the template submission form was elaborated. This form can be sent from the same web platform or it can be downloaded in Pdf and completed for its subsequent sending to the generic mail account of the NCP (pnc@direcon.gob.cl). The information requirements were clarified and better organized to facilitate understanding and use of the future interested Party. It is also designed to facilitate the NCP's first examination at the initial assessment stage. For reformulation, documents from other NCPs were kept in view.

3. Handling of Specific Instances

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N°	Peer Recommendation	Review	Action Status ✓ or X	Description of NCP Action	Explanation for Action	No	Action Achieved by or Expected by:
1.1	In order to improve predictability in the handling of specific instances the NCP should develop complete and consistent rules of procedure as set out in the Procedural Guidance of the OECD Guidelines. In particular, the rules of procedure should provide guidance on initial assessment, confidentiality and transparency issues, how information is shared amongst the parties and publically and indicative timelines.		✓	<p>Rules of Procedure</p> <p>In these 'new rules', the structural, conceptual and technical peer review recommendations have been fulfilled: to verify NCP's mandate for the initial assessment; to identify more clearly the elements that make up the initial assessment stage; to make explicit the admissibility criteria, as indicated in the Guidelines; procedural improvements for the timely notification of the company required in the specific instance; fuller and clearer rules for follow up procedures; timeliness regulation; parallel procedures; confidentiality and transparency procedural conditions; among other improvements: A paragraph was incorporated for special protection situations for the solicitant, for retaliation risks: the NCP should actively assess and address the risks of retaliation, asking complainants to report on perceived risks and what actions the NCP could reasonably take to address those risks.</p> <p>Cooperation with other NCPs</p> <p>The NCP implemented as standard practice for the initial assessment, the notification of the NCP of the company's country origin, where applicable.</p> <p>The experience to date is evaluated as successful. The Chilean NCP has obtained information, guidance and exchange of analysis with collaborating NCPs in the development of specific instances.</p>			Chilean NCP
1.2	In order to make best use of the specific instance process, where a company chooses not to engage in mediation, the NCP should make efforts to develop final statements which are as meaningful as possible. This could involve an independent analysis of the issues raised in the submission and relevant recommendations.		✓	<p>Procedural improvements (reflected in the new rules of procedure):</p> <p>The NCP is committed to develop final statements for the conclusion of all processes, regardless the result:</p> <p>The NCP is currently working on the final statement for an ongoing specific instance in which the company declined to the offering of good offices. This final statement will include recommendations.</p>			Chilean NCP

Box 3. Further Commentary on Action Taken on Recommendation(s) regarding Handling of Specific Instances:

EXTERNAL EXPERT ASSISTANCE FOR MEDIATION PROCESSES

Alternatives for technical assistance to NCP mediation processes are currently being evaluated. Results and implementation are expected within this first semester.