



OECD Guidelines for Multinational Enterprises
National Contact Point Peer Reviews
ITALY



ABOUT THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

The OECD Guidelines are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. They provide non-binding principles and standards for responsible business conduct in a global context consistent with applicable laws and internationally recognised standards. The OECD Guidelines are the only multilaterally agreed and comprehensive code of responsible business conduct that governments have committed to promoting.

ABOUT NCP PEER REVIEWS

Adhering governments to the OECD Guidelines for Multinational Enterprises are required to set up a National Contact Point (NCP) that functions in a visible, accessible, transparent and accountable manner. During the 2011 update of the OECD Guidelines for multinational enterprises, NCPs agreed to reinforce their joint peer learning activities and, in particular, those involving voluntary peer reviews. The peer reviews are conducted by representatives of 2 to 4 other NCPs who assess the NCP under review and provide recommendations. The reviews give NCPs a mapping of their strengths and accomplishments, while also identifying opportunities for improvement. More information can be found online at <https://mneguidelines.oecd.org/ncppeerreviews.htm>.

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1. SUMMARY AND KEY FINDINGS

The implementation procedures of the OECD *Guidelines for Multinational Enterprises* (the Guidelines) require OECD National Contact Points (NCPs) to operate in accordance with the core criteria of visibility, accessibility, transparency and accountability. In addition, they recommend that NCPs deal with specific instances in a manner that is impartial, predictable, equitable and compatible with the Guidelines.

This peer review report assesses the conformity of the Italian NCP with the core criteria and with the Procedural Guidance contained in the implementation procedures of the Guidelines. The peer review of the Italian NCP (hereinafter referred to as the NCP) was conducted by a team made up of reviewers from the NCPs of France (lead reviewer), Japan and the United States, along with representatives of the OECD Secretariat. The NCP of Israel participated as an observer to the peer review. The peer review included an on-site visit that took place in Rome on 14 and 15 September 2016.

The NCP was established in 2000 and is located in the Ministry of Economic Development (MED). The peer review found that the NCP observes the core criteria of visibility, transparency, accessibility and impartiality. The NCP is well resourced and well regarded within the government and amongst external stakeholders. Some aspects of the NCP's structure could be improved to strengthen its governance and make it more efficient. The NCP is highly active in promoting the recommendations of the Guidelines through a variety of channels and in providing expertise on responsible business conduct (RBC). The NCP has not had extensive experience in the handling of specific instances; it has received 9 specific instance submissions at the time of the peer review, a relatively low number compared to other G7 countries. Increased promotion of the specific instance mechanism could encourage submission of additional cases. In addition, some modifications to the NCP's rules of procedure could improve its handling of specific instances.

Key Findings

Institutional Arrangements

The NCP is well resourced and the staff of the NCP Secretariat is qualified, competent and committed. The NCP Secretariat is located within the Ministry of Economic Development (MED). This helps to promote the visibility of its work as it puts it in close contact with relevant stakeholders within the government, industry and amongst trade unions or representative organisations of the workers' own choosing (worker organisations). This location has been effective in generating attention to the NCP's work and in developing relationships with Italian enterprises, relevant government agencies and other stakeholders. There may be further opportunities to leverage the NCP's location in the Ministry to promote its visibility. For example, direct communication between the NCP and the office of the Minister of Economic Development could be helpful in further raising the profile of the NCP.

The NCP is supported by an advisory body, known as the NCP Committee, which includes members from various government agencies, business representatives, worker organisations and civil society and provides a platform for broad multi-stakeholder consultation on RBC issues, including in specific instances

Not all members of the NCP Committee are equally active. Some members of the NCP Committee do not have a strong awareness of the activities of the NCP. The NCP should consider reforming the NCP Committee to ensure it is practical and effective. For example, the NCP Committee could reduce its membership to create a more efficient and engaged advisory body. A

smaller yet still representative committee could play a stronger advisory role. Such an advisory body could be more closely involved in the activities of the NCP for example by setting up and participating in sub-committees to work on dedicated subjects (See section on *Handling Specific Instances* for more information). The members of the current NCP Committee could continue to meet and exchange views on responsible business conduct (RBC) biannually or as appropriate.

	Findings	Recommendations
1.1	The NCP's position within the Ministry of Economic Development (MED) has been effective in raising the profile of its work and in developing relationships with Italian enterprises, relevant government agencies and other stakeholders. At the same time there is room to increase visibility of the work of the NCP within the Ministry.	The NCP should consider establishing direct communication channels with the office of the Minister of Economic Development in order to further increase its visibility.
1.2	Not all members of the NCP Committee are equally active. Some members of the NCP Committee do not have a strong awareness of the activities of the NCP.	The NCP should consider reforming the NCP Committee to ensure it is practical and effective. For example, the NCP Committee could reduce its membership to create a more efficient and engaged advisory body. A smaller yet still representative committee could play a stronger advisory role. The members of the current NCP Committee could continue to meet and exchange views on RBC biannually, or as appropriate.

1. Promotion

The NCP Secretariat leads an impressive variety of promotional activities and has established various strategic partnerships with external stakeholders. Through these efforts the NCP is contributing to a shared and widespread understanding of RBC in Italy. The strong promotional activities of the NCP are recognised by a broad range of stakeholders. The NCP is encouraged to continue its strong performance in the context of its promotional activities.

Information about the Guidelines is disseminated through the NCP's website as well as embassies, export credit agencies, and investment promotion agencies. The NCP has also been proactive in leading initiatives on RBC in high risk sectors and on challenging issues, for example with respect to work on the garment and footwear supply chains and the NCP Action Plan for Bangladesh. The NCP develops an annual action plan and organises multiple events annually on relevant themes related to the Guidelines and RBC in Italy. The NCP has made important efforts to mainstream messages around RBC and promote policy coherence by providing technical assistance for development of relevant policy and regulations and engaging closely with regional partners and other strategic partners on RBC.

The NCP has recognised, however, that there is a limit to how much outreach and dissemination can be done by the NCP itself, and that engagement and assistance of partners in this regard is important.

Despite the strong promotional efforts of the NCP, there is a low awareness of the grievance mechanism function of the NCP amongst stakeholders. The NCP should look for more opportunities to promote the function of the NCP as a grievance mechanism within its current promotional activities. To this end it should communicate on the relationship and comparative advantage of the specific instance process to other redress options available in the Italian context.

	Findings	Recommendations
2.1	Despite the strong promotional efforts of the NCP, there is a low awareness of the grievance mechanism function of the NCP amongst stakeholders.	The NCP should look for more opportunities to promote the function of the NCP as a grievance mechanism within its current promotional activities.

Handling of Specific Instances

The NCP has received nine specific instances from its formal establishment in 2000 to the time of writing of this report, and handled seven, a relatively low number compared to other G7 governments.¹ Due to relatively low number of specific instances filed, the NCP is still building its capacity with respect to this function.

The NCP introduced rules of procedure for specific instances in 2012 to reflect the Procedural Guidance added in the 2011 revision of the Guidelines. Certain aspects of the current rules of procedure of the NCP are based upon the NCP's discretion and the current indicative time frame of one month for initial assessments is not sufficient for this phase of the process. In this regard certain aspects of the rules of procedure could be modified so that the specific instance process is as predictable, impartial and equitable as possible.

The NCP Committee is a large body that formally meets twice a year, which could make it challenging to provide feedback on specific instances as they arise. However, if needed the NCP Committee can be consulted via written procedures and ad hoc meetings can be arranged. The NCP could consider developing a more flexible and responsive mechanism for specific instances to provide technical advice and ensure that specific instances are handled in an efficient manner. This can be partially achieved through streamlining the NCP Committee (see Recommendation 2). It can also be promoted by establishing *ad hoc* subcommittee(s) that can provide relevant technical expertise as necessary for diverse specific instances as well as to support promotional activities of the NCP. Subcommittee(s) could be set up on an *ad hoc* basis and be composed of NCP Committee members and external experts where appropriate. Such *ad hoc* subcommittee(s) could provide technical advice and assistance to the NCP Secretariat on challenging substantive issues and facilitate dialogue and good offices with parties to specific instances.

Finally, the NCP could play a more active role, as appropriate, when it acts as a supporting NCP in specific instances by informing the parties of the procedure and relevant developments. In two specific instances where the NCP has been involved in a supporting role Italian parties noted they would have appreciated additional communication from the NCP. This would promote stronger coordination between NCPs and provide an opportunity to further promote the Guidelines. To this end the NCP peer reviewers wish to offer their assistance in sharing their experience as requested.

¹ At the time of writing the number of specific instances handled by other G7 countries were as follows Canada- 16, France – 22, Germany- 26, Japan-7, United Kingdom- 47, United States- 44. Source: OECD Database of Specific Instances. Accessed 9 December 2016. <https://mneguidelines.oecd.org/database/>

	Findings	Recommendations
3.1	The NCP Committee is a large body that formally meets twice a year, which could make it challenging to provide feedback on specific instances as they arise	The NCP should consider developing a more flexible and reactive mechanism to provide technical advice to the NCP Secretariat and ensure that specific instances are handled in an efficient manner, for example by setting up ad hoc subcommittee(s).
3.2	Certain aspects of the current rules of procedure of the NCP are based upon the NCP's discretion and the current indicative time frame of one month for initial assessment is not sufficient for this phase of the process.	The NCP should consider modifying the rules of procedure to ensure that the initial assessment phase is: <ul style="list-style-type: none"> 1) more predictable, by avoiding procedures which rely on the NCP's discretion 2) easier to implement, by extending the one month initial assessment period to three months as provided by the Procedural Guidance of the Guidelines, while retaining the possibility for submitters to reformulate their
3.3	In two specific instances where the NCP has been involved in a supporting role Italian parties noted they would have appreciated additional communication from the NCP.	The NCP could play a more active role when it acts as a supporting NCP by informing the parties of the procedure and relevant developments. This provides an opportunity to further promote the Guidelines.

Italy is invited to report to the Investment Committee within one year of the date of presentation of this report on progress made in implementing the recommendations set out in this report.

2. INTRODUCTION

This document is the peer review report of the Italian National Contact Point (NCP) for the OECD *Guidelines for Multinational Enterprises* (“the Guidelines”).

Background

Italy adhered to the OECD Declaration on International Investment and Multinational Enterprises (Investment Declaration) in 1976. The Guidelines² are part of the Investment Declaration. The Guidelines are recommendations on responsible business conduct (RBC) addressed by governments to multinational enterprises operating in or from adhering countries.³ The Guidelines have been updated five times since 1976; the most recent revision took place in 2011.

Countries that adhere to the Declaration have a legal obligation to establish an NCP. NCPs are set up to further the effectiveness of the Guidelines and adhering countries are required to make human and financial resources available to their NCPs so they can effectively fulfil their responsibilities, taking into account internal budget priorities and practices.⁴ NCPs are “agencies established by adhering governments to promote and implement the Guidelines. The NCPs assist enterprises and their stakeholders to take appropriate measures to further the implementation of the Guidelines. They also provide a mediation and conciliation platform for resolving practical issues that may arise.”⁵

The Procedural Guidance deals with the role and functions of NCPs in four parts: institutional arrangements, information and promotion, implementation in specific instances and reporting. In 2011 the Procedural Guidance was strengthened. In particular, a new provision was added to invite the OECD Investment Committee to facilitate voluntary peer evaluations. In the commentary to the Procedural Guidance, NCPs are encouraged to engage in such evaluations.

The objective of peer reviews, as set out in the OECD Core Template for voluntary peer reviews of NCPs⁶ is to assess that the NCP is functioning in accordance with the core criteria set out in the implementation procedures; to identify the NCP’s strengths and possibilities for improvement; to make recommendations for improvement and to serve as a learning tool for all NCPs involved. In the G7 Leader’s Declaration of June 2015, G7 governments committed to strengthen mechanisms for providing access to remedy, including NCPs. Particularly, G7 leaders agreed to lead by example to

² The Implementation Procedures of the OECD Guidelines for Multinational Enterprises include the Decision of the Council on the Guidelines for Multinational Enterprises, as amended in 2011 (hereafter “the Decision”), which also contains the Procedural Guidance, as well as the Commentary on the Implementation Procedures, adopted by the Investment Committee.

³ Current adhering countries are: Argentina (adherence in 1997), Australia (1976), Austria (1976), Belgium (1976), Brazil (1997), Canada (1976), Chile (1997) Colombia (2011), Costa Rica (2013), Czech Republic (1995), Denmark (1976), Egypt (2007), Estonia (2001), Finland (1976), France (1976), Germany (1976), Greece (1976), Hungary (1994), Iceland (1976), Ireland (1976), Israel (2002), Italy (1976), Japan (1976), Jordan (2013), Korea (1996), Latvia (2004), Lithuania (2001), Luxembourg (1976), Mexico (1994), Morocco (2009), Netherlands (1976), New Zealand (1976), Norway (1976), Peru (2008), Poland (1996), Portugal (1976), Romania (2005), Slovak Republic (2000), Slovenia (2002), Spain (1976), Sweden (1976), Switzerland (1976), Tunisia (2012), Turkey (1981), United Kingdom (1976), United States (1976)

⁴ Amendment of the Decision of the Council on the OECD Guidelines for Multinational Enterprises, para I(4)

⁵ OECD Guidelines for Multinational Enterprises (2011), Foreword

⁶ OECD, Core Template For Voluntary Peer Reviews Of National Contact Points (2015), [DAF/INV/RBC\(2014\)12/FINAL](#)

make sure NCPs of G7 countries are effective, and to complete NCP peer reviews by 2018⁷. Likewise the 2015 OECD Ministerial Council statement called on the OECD to continue its efforts to further strengthen the performance of NCPs.⁸ Italy represents the first G7 country to undergo a peer review since these declarations.

This report was prepared based on information provided by the NCP including its responses to the NCP questionnaire set out in the OECD Core Template for voluntary peer reviews of NCPs⁹, as well as responses to requests for additional information. The report also draws on responses to the stakeholder questionnaire included in the template which was completed by 31 organisations representing Italian enterprises, civil society, worker organisations, international organisations, academic institutions and government agencies (see Annex I for complete list of stakeholders who submitted written feedback) and information provided during the on-site visit.

The peer review of the NCP was conducted by a team made up of reviewers from the NCPs of France (lead reviewer), Japan and the United States, along with representatives of the OECD Secretariat. The NCP of Israel participated as an observer to the peer review. The peer review included an on-site visit that took place in Rome on 14 and 15 September 2016, at the Ministry of Economic Development and included interviews with the members of the NCP, other government representatives and relevant stakeholders. A list of organisations that participated in the on-site visit is set out in Annex II. The peer review team warmly thanks the NCP for the quality of the preparation of the peer review and organisation of the on-site visit which enabled them to meet with various stakeholders and to better understand the NCP. The peer review team would also like to highlight the important number of written contributions from the NCP and its stakeholders.

The basis for this peer review is the 2011 version of the Guidelines. Some of the specific instances considered during the peer review date back to 2002, the date of the legal establishment of the NCP. The methodology for the peer review is set out in the OECD Core Template for voluntary peer reviews of NCPs.¹⁰

This report provides recommendations to the NCP which are based on the findings of the peer review team regarding the implementation of the core criteria of visibility, accessibility, transparency and accountability and the NCP's ability to deal with specific instances in a manner that is impartial, predictable, equitable and compatible with the Guidelines.

Economic context

Italy's economy is dominated by the service sector, representing 82% of GDP.¹¹ Italy's primary industries include tourism, machinery, iron and steel, chemicals, food processing, textiles, motor vehicles, clothing, footwear and ceramics.¹² Regarding foreign direct investment (FDI), the inward stock of FDI was USD 337 billion in 2015, equivalent to 19 percent of Italian GDP. The outward stock of FDI was USD 467 billion in 2015, representing 26 percent of Italian GDP.¹³

⁷ See "Action for Fair Production", Meeting of the G7 Employment and Development Ministers, Ministerial Declaration, Berlin, 13 October 2015.

⁸ Ministers called on the OECD "to continue its efforts to further strengthen the performance of MNE National Contact Points, including through voluntary peer reviews and the exchange of best practices." OECD Council of Ministers (2015) [Unlocking Investment for Sustainable Growth and Jobs - 2015 Ministerial Council Statement](#).

⁹ OECD, Core Template For Voluntary Peer Reviews Of National Contact Points (2015), [DAF/INV/RBC\(2014\)12/FINAL](#)

¹⁰ OECD, Core Template For Voluntary Peer Reviews Of National Contact Points (2015), [DAF/INV/RBC\(2014\)12/FINAL](#)

¹¹ OECD National Accounts Database (accessed November, 2016)

¹² CIA World Factbook: Italy (accessed November, 2016)

¹³ OECD Foreign Direct Investment Statistics Database (accessed November, 2016)

The main investors in Italy are from France, United States, United Kingdom, and Luxembourg, and the main inward investment sectors are manufacturing, professional, scientific and technical services, financial and insurance services, wholesale and retail trade, and information and communications. The main destinations for outward investment from Italy are the Netherlands, Germany, Spain, United States, and Austria, and the most important sectors are finance and insurance, manufacturing, construction, and professional, scientific and technical services.¹⁴

Small and medium sized enterprises represent an important component of the private sector in Italy. SMEs represent over 99% of all Italian enterprises in the ‘non-financial business economy.’¹⁵ Furthermore employment by SMEs accounts for 80% of all private sector jobs in the non-financial business economy of Italy and SMEs account for almost 67% of value added by the private sector.¹⁶

3. ITALIAN NCP AT A GLANCE

Established: 2002

Location of the NCP Secretariat: Ministry of Economic Development (MED) – Directorate General for Industrial Policy, Competitiveness and Small and Medium Enterprises.

Structure: Monoagency NCP (Ministry of Economic Development) ‘*plus*’, supported by a multi-stakeholder advisory group (the ‘NCP Committee’). The Monoagency ‘*plus*’ structure means that the NCP Secretariat is located in one Ministry and that other Ministries or stakeholders are involved in the work of the NCP on an advisory basis.

Staffing of the NCP Secretariat: Two full-time staff members and two part-time staff members.

Website (Italian): <http://pcnitalia.mise.gov.it/it>

Website (English): <http://pcnitalia.mise.gov.it/en>

Specific instances: Seven specific instances concluded as lead NCP; supporting NCP for two specific instances.

¹⁴ OECD Foreign Direct Investment Statistics Database (accessed November, 2016) and OECD AMNE Statistics Database (accessed November, 2016)

¹⁵ This includes industry, construction, trade and services but not enterprises in agriculture, forestry and fisheries and largely non-market service sectors such as education and health. European Commission, (2015) 2015 SBA Fact Sheet: Italy

¹⁶ European Commission, (2015) 2015 SBA Fact Sheet: Italy

4. INSTITUTIONAL ARRANGEMENTS

Under the Procedural Guidance of the Guidelines, Section I(A):

“Governments are accorded flexibility in how they organise NCPs provided they meet the “core criteria” of visibility, accessibility, transparency and accountability”

Structure and location

Italy has a Monoagency ‘plus’ structure. A Monoagency ‘plus’ structure means that the NCP Secretariat is located in one Ministry and that other Ministries or stakeholders are involved in the work of the NCP on an advisory basis.¹⁷

The Italian NCP was created in 2002 under article 39 of Law 273/2002 which also included provisions for funding the NCP. Under this law, the NCP was located within the Ministry of Economic Development (MED) – Directorate General for Industrial Policy, Competitiveness and Small and Medium Enterprises¹⁸, where it remains today.

A large number of stakeholders noted that the NCP’s position within MED has been useful for giving RBC issues a high profile within the government. It was likewise noted that this structure has been useful in developing relationships with worker organisations, Italian enterprises, academics and regional government bodies. Some stakeholders reported that they perceive a potential conflict of interest due to the NCP’s positioning within MED. Overall the positioning seems to be more of an advantage than a disadvantage. At the same time further visibility could be accorded to the work of the NCP within the Ministry. This could be achieved through establishing direct communication channels with the office of the Minister of Economic Development.

The Decree of the Minister of Productive Activities (currently MED) of 30 July 2004 implemented article 39 of Law 273/2002 and provided detail on the structure of the NCP.¹⁹ The NCP is composed of the Director General of the NCP, the NCP Secretariat, and NCP Committee. The Decree also sets out the mandate of the NCP and the responsibilities of its different parts.²⁰ The NCP Committee, described in more detail below, serves as an advisory body to the NCP.^{21 22} Two additional ministerial decrees (the Ministerial Decree of 18 March 2011 and the Ministerial Decree of 4 June 2015) enlarged the NCP Committee and changed its composition.

In some instances it appears that responsibilities assigned to one part of the NCP are undertaken by another part in practice. For example, although the Director General is tasked with representing the NCP in all national and international fora and events, it is the staff of the Secretariat who take part in

¹⁷ See OECD (2015) Implementing the OECD Guidelines for Multinational Enterprises: The National Contact Points from 2000 to 2015 <https://mneguidelines.oecd.org/15-years-of-ncps.htm>.

¹⁸ At the time the Ministry was known as the Ministry of Productive Activities and the Directorate was known as Directorate for the Development of Productive Activities and Competitiveness

¹⁹ Ministerial Decree of 30 July 2004 as modified by the Ministerial Decree of 18 March 2011 and by the Ministerial Decree of 4 June 2015

²⁰ See Italian NCP website “NCP Regulations”, <http://pcnitalia.sviluppoeconomico.gov.it/en/about-us/ncp-s-regulations> (Accessed 23 July 2016).

²¹ Governments can establish multi-stakeholder advisory or oversight bodies to assist NCPs in their tasks. See OECD Guidelines for Multinational Enterprises (2011), Commentary on Procedural Guidance, paragraph 11.

²² See Italian NCP website NCP Regulations, <http://pcnitalia.sviluppoeconomico.gov.it/en/about-us/ncp-s-regulations> (Accessed 23 July 2016).

the meetings of the OECD National Contact Points and other external events (e.g. the Global Forum on Responsible Business Conduct, NCP peer learning activities, etc).²³

General rules of public administration such as those governing issues of conflict of interest and confidentiality for government bodies apply to the NCP Secretariat, the Director General and government members of the NCP Committee.

NCP Secretariat and Director General

The NCP Secretariat currently consists of one manager (head of office), who has served in this role since 2012, a full time staff member who has served in this role since 2011 and two part time staff members, who have been in their roles since 2011 and 2016 respectively. All staff members of the NCP are based in Division VI - International policies, promotion of corporate social responsibility and the cooperative movement, of MED. The responsibilities of the NCP Secretariat are listed in the Decree of 30 July 2004:

- a) Preparing the annual report to be sent to the OECD Investment Committee;
- b) Ensuring the operational management of the NCP;
- c) Preparing the promotional program for the Guidelines;
- d) Handling specific instances brought to the NCP;
- e) Responding to enquiries upon approval of the Director General.

Stakeholders noted the commitment and competency of the current staff of the NCP Secretariat. Staff of the NCP Secretariat are described by stakeholders as knowledgeable, helpful and motivated. Specifically, they highlighted that the NCP is known and respected as an agency promoting RBC in Italy and that staff of the NCP are quick to respond to enquiries as well as proactive in providing expertise on RBC. The head of the NCP Secretariat has served as member of the Bureau and Vice Chair of the Working Party on Responsible Business Conduct since 2013.

The Director General of MED for Industrial Policy, Competitiveness and SMEs has responsibility and oversight of the NCP as set out in the Decree of 30 July 2004. The current Director General has been in this role since 2015. Under the Decree the responsibilities of the Director General with respect to the NCP are:

- a) Adopting the decisions of the NCP, taking into account the opinion expressed by the NCP Committee (see below);
- b) Approving the annual report and submitting it to the Investment Committee;
- c) Convening the NCP Committee meetings;
- d) Informing the NCP Committee about the activities of the NCP;
- e) Representing the NCP in all national and international fora and events with other NCPs.

In practice, the Director General acts as the President (Chair) of the Italian NCP.

²³ In case of absence or temporary impediment, the Director General is replaced by the Head of the Secretariat as provided by Ministerial Decree of 30 July 2004

Advisory and oversight:

The NCP is supported by a multi-stakeholder advisory body known as the “NCP Committee”. The NCP Committee is composed of 20 representatives from industry, government institutions, worker organisations and civil society. This composition was modified in 2015 by Ministerial Decree²⁴ in order to include one representative of AOI (Italian Association of NGOs) and representatives of the two major SME associations (CNA and Confcommercio). A complete list of representatives is included in Annex III. The cabinet or equivalent of each member organisation of the NCP Committee nominally designates two representatives (one permanent and one substitute individual) to the NCP Committee. The Minister of MED takes the final decision on appointments to the NCP Committee and can refuse a nomination, however in practice this has never happened. Representatives generally serve as members of the NCP Committee as long as they retain their position in their respective organisations but they can be replaced at will by their respective organisations.

The functions of the NCP Committee listed in the Decree of 30 July 2004 are:

- a) Developing its own program of work;
- b) Proposing specific topics of research or initiatives related to issues of interest to Italian multinational enterprises;
- c) Reviewing findings of examinations in specific instances;
- d) Reviewing and providing feedback on the NCP Secretariat’s programme of work.

Beside the functions listed for the NCP Committee in the Decree of 30 July 2004, since the update of the NCP’s rules of procedure for specific instances in 2012, the NCP Committee is also tasked with providing feedback on specific instances. (This is detailed further in the section on *Handling Specific Instances*).

The NCP Committee meets twice a year under the chairmanship of the Director General and with the presence of the NCP Secretariat. Summary records of these meetings are produced by the NCP Secretariat and shared among the members. The NCP could also consider disclosing key outcomes of the NCP Committee meetings publically.

The NCP Committee represents a large variety of stakeholders and is designed to promote inclusiveness and build broad engagement with respect to the activities of the NCP. Not all members of the NCP Committee are equally active in the work of the NCP. While some are closely involved, other members do not have a strong awareness of the activities of the NCP, including its role as a grievance mechanism. Furthermore, although some members of the NCP Committee promote the activities and the functions of the NCP through their own organisational channels (e.g., through select ministry and organisational websites) and work towards policy coherence around issues related to RBC, others are not active in promoting the activities of the NCP within their own organisations or government bodies.

Streamlining the NCP Committee to reduce its membership could create a more efficient and engaged advisory body to support the daily work of the NCP Secretariat, namely handling specific instances and supporting promotional activities. Such an advisory body should continue to be representative and could be more closely involved in the activities of the NCP for example by setting up and participating in sub-committees to work on dedicated subjects (See section on *Handling Specific Instances* for more information). If such an action were taken, members of NCP Committee

²⁴ Ministerial Decree of [4 June 2015](#) published in the Official Gazette n. 143 of 23 June 2015.

could continue to meet annually or biannually and function as a “stakeholder forum”, rather than an official advisory group, in order to continue to promote inclusivity and broad engagement on RBC across stakeholder groups.

Resources

The NCP is well resourced both in terms of staff and regular government funding. The quality and level of human and financial resources provided to the NCP indicates strong government commitment to the NCP and its activities.

MED provides substantial financial resources to the NCP annually through the national budget law. Article 39 of Law 273 establishing the NCP provides a budget for the NCP in order to fulfil its mandate.²⁵ The provided budget cover NCP activities and logistical costs.²⁶ Staff salaries are covered separately. The NCP Secretariat considers the current funding to be sufficient to carrying out its mandate.

Currently the NCP Secretariat has two staff members dedicating 100% of their time to NCP activities as well as two part time staff members. The NCP cites frequent rotation of staff as a challenge to ensuring continuity and planning around workloads.

Reporting by the NCP

As required under the Procedural Guidance, the NCP reports annually on its activities to the OECD Investment Committee. The NCP provides timely and complete annual reports.

In addition, the NCP Secretariat also reports to the NCP Committee at least twice a year on progress achieved on its annual action plan (See subsection on NCP Annual Action Plan for more information). This reporting occurs during the biannual meetings of the NCP Committee. The NCP Secretariat also provides an update on its activities every three months to MED’s internal evaluation body and provides written reports every six months to the Cabinet of the Minister of MED in which the results of NCP activities are compared against their original targets in the annual action plan. According to Italian regulatory requirements a summary of activities of the NCP should also be reported to the Italian Parliament annually.²⁷

²⁵ Article 39 of Law 273 states that the NCP would be provided with 285,000 euro in 2003 and 720,000 euro from 2004 onward. On average, since 2011 resources amount to 300,000 euro per year.

²⁶ This includes expenses associated with staff missions, IT, development of promotional material, organisation of events, seminars and trainings, staff training, external expertise, including with reference to specific instances, research commissioned by the NCP and funding of specific activities and projects such as this peer review.

²⁷ Articles b35-38 of the Accounting and Public Finance Law no. 196 of 2009 describes annual reporting obligations to Parliament with respect to results of annual activities.

	Findings	Recommendations
4.1	The NCP's position within the Ministry of Economic Development (MED) has been effective in raising the profile of its work and in developing relationships with Italian enterprises, relevant government agencies and other stakeholders. At the same time there is room to increase visibility of the work of the NCP within the Ministry.	The NCP should consider establishing direct communication channels with the office of the Minister of Economic Development in order to further increase its visibility. .
4.2	Not all members of the NCP Committee are equally active. Some members of the NCP Committee do not have a strong awareness of the activities of the NCP.	The NCP should consider reforming the NCP Committee to ensure it is practical and effective. For example, the NCP Committee could reduce its membership to create a more efficient and engaged advisory body. A smaller yet still representative committee could play a stronger advisory role. The members of the current NCP Committee could continue to meet and exchange views on RBC biannually, or as appropriate.

5. PROMOTION OF THE GUIDELINES

Under the Procedural Guidance of the Guidelines, Section I(B), NCPs are mandated to:

1. "Make the *Guidelines* known and available by appropriate means, including through on-line information, and in national languages;
2. Raise awareness of the *Guidelines* and their implementation procedures, including through co-operation, as appropriate, with the business community, worker organisations, other non-governmental organisations, and the interested public;
3. Respond to enquiries about the *Guidelines*."

A. Information about the Guidelines

Information about the Guidelines is disseminated through the NCP website (see below) as well as through international embassies, export credit agencies, and investment promotion agencies. The NCP has also developed a promotional brochure about the Guidelines which includes simplified descriptions of the nature of the Guidelines and their recommendations²⁸.

One challenge noted by the NCP and other stakeholders in raising the visibility of the Guidelines is that the technical nature and length of the Guidelines has made them more difficult to promote relative to other instruments on CSR/RBC which are perceived by some to be easier to understand and implement.

²⁸ "What are the Guidelines?" Website of the Italian NCP. <http://pcnitalia.sviluppoeconomico.gov.it/en/oecd-s-guidelines/introduction> (accessed October 5, 2016). This is also available in Italian on the Italian version of the website.

Website

The NCP has a website available in Italian (<http://pcnitalia.sviluppoeconomico.gov.it/it/>) and English (<http://pcnitalia.mise.gov.it/en/>) which provides information on:

1. The NCP
 - The nature, mandate and legal origins of the NCP;
 - Contact information including a phone number and e-mail address;
 - Annual reports to the OECD Investment Committee and the annual action plan of the NCP;
2. The Guidelines
 - Information about the Guidelines and an Italian version of the Guidelines;
3. Specific instances
 - A summary of the nature and objective of the NCP as a grievance mechanism, a flow chart of procedures and instructions for submission of specific instances;
 - Final statements of specific instances as well as initial assessments for those under examination from 2011 onwards²⁹;
4. NCP initiatives and tools
 - Up-to-date activities of the NCP, specifically on supply chain due diligence, business and human rights, and the Italian National Action Plan on Corporate Social Responsibility (CSR);
 - Resources and tools developed by the NCP for companies including due diligence guidance, surveys and indicators;
5. Other
 - News items relevant to RBC;
 - Webpages targeted specifically to companies, stakeholders, government institutions and the public.

The website of the NCP is up to date, provides key information and a clear overview of the content of the Guidelines and mandate of the NCP. Small improvements could be made to the website to facilitate navigation. For example, pathways to some subpages on the NCP website could be more clearly titled (specifically for final and initial statements of specific instances, information regarding the Italian National Action Plan on CSR and resources available on the “Tools” page), a site map could be included, and a resources page which compiles all available documentation could be added. Furthermore clearly titling of all public documents and avoiding the use of internal OECD classifications in titles would make those resources more accessible.

The NCP keeps a record of the traffic received on its website. From 1 August 2015 to 14 December 2015 the site received 1 503 visitors; 1 781 visits and 80 565 accesses. This averages eleven unique visitors per day.

²⁹ One final statement and one initial assessment have been published to date. See section on *Handling Specific Instances* for further information.

To help further elevate the NCP within MED and promote awareness of the NCP to stakeholders, the institutional site of MED contains a link to the website of the NCP (www.sviluppoeconomico.gov.it/index.php/it/).

Since December 2015 the NCP has also used a twitter account (@PCNItalia).

Requests for information

According to the NCP, requests for information are generally submitted to the NCP by email and the NCP responds in the same manner. The NCP has also noted that at times it provides additional support in response to requests for information or technical support, such as in-person meetings. Stakeholders from a range of sectors have noted that the NCP is responsive and helpful with regard to inquiries.

B. NCP Annual Action Plan

Every year the NCP develops an action plan. In developing its annual action plan the NCP considers relevant regulatory and policy frameworks with which the NCP should engage to promote the Guidelines, the OECD proactive agenda³⁰ and emerging issues at the international level as well as proposals from the NCP Committee, and potential partnership proposals. The NCP Committee is consulted on, and approves the annual action plan. It also undertakes a mid-year evaluation to measure performance against the action plan. The 2016 action plan is organised around the following strategic priorities:

- General promotion of the Guidelines and the NCP mechanism among companies;
- Implementation of the Action Plan on Bangladesh;
- National Action Plan on CSR;
- Implementation of the EU Directive on non-financial disclosure;
- Implementation of the “G7 Action for fair production”³¹;
- Engagement with the Italian Foreign Trade Agency (ICE) on supply chain due diligence (see below);
- Participation in national and international initiatives and activities (e.g. Green Public Procurement (GPP), Recommendation of the Council of Europe³²).

³⁰ The proactive agenda represents a pillar of activity under the Guidelines which involves developing proactive tools and policy to respond to challenging issues in the context of RBC. In practice it has represented work to promote RBC in the context of specific commercial sectors or industries. Proactive agenda projects are currently ongoing in the following sectors: extractive, garment and footwear, finance, and agriculture.

³¹ G7 Ministerial Declaration: Action for Fair Production, Meeting of the G7 Employment and Development Ministers Ministerial Declaration, Berlin, October 2015
www.bmz.de/g7/includes/Downloadarchiv/G7_Ministerial_Declaration_Action_for_Fair_Production.pdf.

³² Council of Europe’s “Recommendation of the Committee of Ministers to Member States on Human Rights and Business” 2 March, 2016.
[https://wcd.coe.int/ViewDoc.jsp?p=&Ref=CM/Rec\(2016\)3&Language=lanEnglish&Ver=original&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864&direct=true](https://wcd.coe.int/ViewDoc.jsp?p=&Ref=CM/Rec(2016)3&Language=lanEnglish&Ver=original&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864&direct=true).

C. Proactive engagement in key issues

The NCP participates in a wide range of activities and in several initiatives through which it helps to promote and implement the Guidelines and support the Proactive Agenda at the OECD and in Italy. Additionally the NCP Secretariat itself has spearheaded several initiatives in high-risk sectors (jewellery and garment sector) and is particularly committed to supporting SMEs, a key part of the Italian business sector.

Garment Sector

Several weeks after the Rana Plaza tragedy, in June 2013, the NCP contributed to the adoption of the Statement by the NCPs³³ which welcomed initiatives to try and improve the situation on the ground. In September 2013, the NCP adopted an Action Plan on Bangladesh with the aim of promoting due diligence in the supply chains of Italian textile companies, and within the garment sector more broadly.

In June 2014 as part of its Action Plan on Bangladesh the NCP released the *Report on Responsible business conduct in the textile and garment supply chain*.³⁴ The report was drafted in consultation with various stakeholders and lays out 24 operational recommendations for companies, in line with the Guidelines, aiming to improve responsible management of textile and garment supply chains. The recommendations in this report also align with a report issued by the French NCP in December 2013 on the same theme. Since its publication the NCP has worked to promote the recommendations of the report through public events and meetings, including with relevant companies and stakeholders.

The French and Italian NCP are collaborating to promote due diligence in this sector and also requested the OECD to establish a sector project for the garment and footwear sector. They also encouraged the European Commission to set up a multi-stakeholder initiative for responsible textile and garment supply chains. The NCP is also part of the Advisory Group to the OECD sector project on Responsible Supply Chains in the Garment and Footwear Sector and participates actively in this work.

In the framework of the Action Plan on Bangladesh the NCP also contributed funds to an ILO multi-donor project for the implementation of a national employment injury insurance scheme (EII scheme) for Bangladesh workers of the ready-made garment sector. This funding was used to support a feasibility study for the introduction of the scheme.³⁵

Mineral Supply Chains

The NCP has been active in the promotion of the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict Affected and High-Risk Areas*, in particular through focusing on the gold sector. Relevant activities include undertaking a survey of SME approaches to RBC in the gold supply chain; identifying risks and opportunities for the sector; hosting specialised trainings involving entrepreneurs and other actors; organising awareness raising events

³³ Statement by the National Contact Points for the OECD Guidelines on Multinational Enterprises. Paris, June 2013. Available at: <https://mneguidelines.oecd.org/NCPStatementBangladesh25June2013.pdf>

³⁴ Maria Benedetta Francesconi, Daniele Branchini and Rossella De Rosa (2014) *Report on responsible business conduct in the textile and garment supply chain. Recommendations of the Italian NCP on implementation of the OECD Guidelines for Multinational Enterprises* <http://pcnitalia.mise.gov.it/en/news/item/301-report-on-responsible-business-conduct-in-the-textile-and-garment-supply-chain>.

³⁵ To this end the NCP provided 200 000 euros of its budget to finance this initiative.

involving national and international actors; and developing a toolkit of indicators for responsible supply chain management for SMEs.

SMEs

In 2009 the NCP Secretariat commissioned several studies to develop indicators for SMEs including indicators on how to assess and define RBC and how to measure the impact of RBC on business.

In 2013-2014 the NCP Secretariat created a platform of CSR/RBC indicators, to establish shared language and points of reference on RBC for firms, especially SMEs, and other institutions. In 2015 the NCP tested these indicators with 3 000 SMEs.³⁶

Child labour

The NCP also participates in “Business Lab”, a project launched by UNICEF Italy in 2015 which is aimed at supporting leading Italian companies to take into account children rights in their operations and to implement a process of due diligence in the framework of the Children's Rights and Business Principles.³⁷

Additional materials

The NCP Secretariat has led the development of several tools and resources to facilitate implementation of the Guidelines:

- In 2011, the NCP Secretariat commissioned KPMG to develop *General guidance for supply chain due diligence* to support Italian companies, particularly SMEs in carrying out due diligence.³⁸
- The NCP Secretariat collaborated with Feralpi, a steel manufacturer, and Assofermetto, a national association of trading companies and distributors of steel products, to develop *Guidance for due diligence in the supply chain of the steel industry*.³⁹
- The NCP Secretariat developed an online best practices tool in collaboration with Centromarca-IBC, an industry association of 200 companies producing consumer goods, which allows companies to identify RBC standards and initiatives relevant to their sector and operations.⁴⁰
- The NCP Secretariat worked with an Italian subsidiary of Leroy Merlin to develop a code of conduct on RBC for the enterprise’s suppliers and to train employees in implementing recommendations of the Guidelines. In this process it also consulted with the French Economic Service in Rome.

³⁶ The online platform is available here: <http://rsi.mise.gov.it/> and is also accessible from the homepage of the NCP website.

³⁷ UNICEF (2012) Children’s Rights and Business Principles, available at <http://www.unicef.org/csr/12.htm>

³⁸ This guidance is available in Italian here: <http://pcnitalia.sviluppoeconomico.gov.it/en/are-you-company/4-ncp-s-tools-for-business>

³⁹ This guidance is available in Italian here: <http://pcnitalia.sviluppoeconomico.gov.it/en/are-you-company/4-ncp-s-tools-for-business>

⁴⁰ The tool is available in Italian here: <http://www.ibconline.it/progetti/presentazione/1,292,1>

C. Promoting coherence in RBC policy-making

As part of the process of developing its annual action plan, the NCP Secretariat identifies regulatory processes and policy frameworks with which the NCP can engage to promote the Guidelines. As a result the NCP has been proactive in providing feedback and technical assistance in the context of development of policy and regulations relevant to RBC.

The NCP Secretariat, as representative of MED, participates in the inter-ministerial Committee on Human Rights (ICHR), led by the Ministry of Foreign Affairs. One of the groups of the Committee is leading the development of the Italian National Action Plan on Business and Human Rights and will monitor and coordinate its implementation. The National Action Plan on Business and Human Rights notes the NCP as an important mechanism for accessing non-judicial remedy. In addition, improving awareness of the NCP's specific instances process as well as engaging in a peer review of the NCP are included as planned measures.⁴¹ The plan also notes the role of the NCP in promoting due diligence and responsible supply chain management and provides for specific actions to promote implementation of the recommendations of the Guidelines.⁴²

The NCP Secretariat on behalf of MED, along with the Ministry of Labour and Social Affairs, is co-leading the development and implementation of the National CSR Action Plan. The National CSR Action Plan makes references to promotion of the Guidelines as a leading tool on RBC and supporting initiatives such as ongoing proactive agenda projects. It also describes the role and activities of the NCP and identifies it as a key actor implementing the Guidelines.⁴³

The NCP Secretariat is part of an inter-institutional and inter-regional project aimed at creating and managing a national online platform for CSR involving 16 Italian regions. This involves raising awareness of the Guidelines and organising trainings on the Guidelines adapted to local circumstances across participating regions. The platform of CSR/RBC indicators, described above, is one the outcomes of this project.

Advocating for coherence in regulatory instruments

The NCP, as representative of the MED, is involved in consultations on regulations and initiatives relevant to RBC.

Currently the NCP is promoting policy coherence by:

- Cooperating with the Ministry of the Environment, Land and Sea to define environmental and social indicators for public procurement;
- Cooperating with the Ministry of Economy and Finance and others involved in the local transposition of the EU Directive [2014/95/EU] on non-financial disclosure. In this regard, in 2014-2015 the NCP launched a national working group and organised two meetings on *Due diligence in the supply chain and non-financial reporting* and *Communication of non-financial information – the Directive 2014/95/EU: opportunities and risks*⁴⁴

⁴¹ Italian National Action Plan on Business and Human Rights 2016-2021, www.cidu.esteri.it/NR/rdonlyres/82FBBD9B-EBA5-4056-A45C-281F0D2C9398/48254/NAPBHRENGOpenConsultation.pdf

⁴² Id.

⁴³ National Action Plan on Corporate Social Responsibility 2012-2014, <http://pcnitalia.sviluppoeconomico.gov.it/en/national-actionplan>

⁴⁴ The first meeting was organised in Rome on 23rd July 2014. The second meeting was organised in Rome on 9th March 2015. These meeting brought together leading enterprises to share experiences with respect to the Directive. The NCP

- Advocating that the Guidelines be used as a benchmark for CSR “qualification” for private entities under the Italian law on development cooperation (Law 11 August 2014 n. 125) which provides that enterprises may be eligible for funding under development programs provided they adhere to commonly adopted standards on social responsibility and environmental clauses.

Additionally, in the past the NCP has:

- Provided input to the EU Directorate on International Trade on activities related to the adoption of the proposed EU Regulation on conflict minerals.
- Provided input to the Inter-ministerial Committee for the liability of legal persons in accordance with Legislative Decree No. 231 of 2001, which aims to encourage companies to adopt corporate governance structures and risk prevention systems to stop managers, executives, employees and external collaborators from committing crimes.

These efforts have been essential to raising the profile of the Guidelines and promoting policy coherence with respect to recommendations of the Guidelines. However the NCP Secretariat underlined that stronger involvement of NCP Committee members in the promotion of the Guidelines in relevant policies and programming, would further support these efforts for policy coherence.

D. Establishing strategic partnerships

The NCP Secretariat has been active in developing strategic partnerships with relevant organisations to promote the Guidelines. In 2015 the NCP signed and financed an agreement with the Italian Foreign Trade Agency (ICE) to promote the Guidelines through training seminars dedicated to specific supply chains in textile and garment, food and beverage, and manufacturing sectors within the period of 2016-2017.

The NCP engages with Italian export credit and investment promotion agencies.⁴⁵ In 2016 the NCP signed a three year Memorandum of Understanding (MoU) with SACE, the Italian Export Credit agency with the aim of sharing information about Italian companies subject to SACE export credit coverage and their performance under the Guidelines.

In 2015 the NCP signed a MoU with the Italian Committee of the United Nations Children's Emergency Fund (UNICEF) to cooperate in the promotion of the initiative “UNICEF Business Lab” a discussion platform for companies from the Information and Communication Technologies (ICT) sector, institutions, media and academia on business and human rights with a focus on children rights. Activities will include participation in workshops, seminars and meetings to raise awareness and in studies on the impact of business on children’s rights.

The NCP has signed MoUs with regional governments across Italy to strengthen the outreach of the Guidelines at regional levels. Since 2004 MoUs have been signed with Lombardia, Emilia Romagna, Veneto, Friuli Venezia Giulia, Lazio, Toscana, Liguria, Puglia. These MoUs focus on dissemination to, and practical implementation of the Guidelines by companies in specific sectors.

also presented on this issue during two events organized by ENEL s.p.a on 28th November 2014 and 23rd January 2015, during the “CSR and social innovation fair” organised by the Bocconi University, on 7th October 2015 and during the 2014 and 2015 Annual Forum on CSR organised by ABI (Association of Italian Bankers)

⁴⁵ These include 1) the Italian Foreign Trade Agency (ICE), 2) Società italiana per le imprese all'estero) (SIMEST) a private organisation which promotes foreign investment by Italian companies and provides technical and financial support for investment projects, 3) SACE, Italy’s export credit agency and, 4) Invitalia, National Agency for inward investment and economic development.

Activities envisioned under these MoUs involve regional communication strategies to raise awareness of the Guidelines and implement joint training activities on RBC customised to local regions.

The NCP has been innovative in forming strategic partnerships to create synergies to promote the Guidelines amongst relevant governmental agencies, Italian regions or with external and international organisations which has been helpful to enhancing promotion of the Guidelines.

Recent NCP-led promotional events

The NCP is highly active with respect to its promotion functions. In the last reporting period (June 2014 – December 2015) the NCP organised 16 events relevant to the promotion of the Guidelines, about 14% of all events organised by NCPs reported during that period. (See Annex IV for a list of activities organised in 2014-2015). The NCP also participated in an additional 19 events organised externally to promote the Guidelines.

Throughout 2015 the NCP organised a series of seminars across Italy’s different regions which offered information and training on RBC and the Guidelines for companies and government institutions. The seminars also covered measures to promote RBC such as regional incentives and national requirements (See section on Policy coherence above for more information). Each seminar was attended by 60-70 participants representing companies, trade unions and civil society.

- The NCP organised two workshops on sustainable supply chain management in the Fashion Industry in June and July 2015 in Prato. Each workshop was attended by 40-50 people representing enterprises, trade unions and other institutions.
- The NCP organised an information stand and delivered several seminars on the Guidelines in March – April 2015 at the Forum on CSR – Space for responsibility (Spazio alla Responsabilità).

E. Challenges with respect to promotion

As evidenced by the wealth of activities described in this section, the NCP is highly active in promoting the recommendations of the Guidelines through a variety of channels (e.g., proactively engaging on key issues, forming strategic partnerships, and providing technical assistance and consultation to promote policy coherence). The NCP Secretariat has noted, however, that it is currently reaching the limit of its capacity for outreach and finds requests for additional initiatives on the part of the NCP stakeholders difficult to manage, including from a financial perspective.

Furthermore, despite the strong promotion efforts of the NCP, there is a low awareness of the grievance mechanism function of the NCP amongst stakeholders. The NCP should look for more opportunities to promote the function of the NCP as a grievance mechanism within its current promotional activities. This could help to increase usage of the specific instance mechanism in Italy. Specifically the NCP should clearly explain the relationship of the NCP specific instance procedure to other grievance mechanisms available in the Italian context and highlight its comparative advantages (accessibility, extra-territorial reach, low-cost, solution oriented etc.) This is discussed in more detail in the following section on *Handling Specific Instances*.

	Findings	Recommendations
5.1	Despite the strong promotional efforts of the NCP, there is a low awareness of the grievance mechanism function of the NCP amongst stakeholders.	The NCP should look for more opportunities to promote the function of the NCP as a grievance mechanism within its current promotional activities.

6. HANDLING SPECIFIC INSTANCES

Under the Procedural Guidance of the Guidelines, Section I (C):

“[t]he National Contact Point will contribute to the resolution of issues that arise relating to 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*.”

Specific Instances Received

The NCP has received 9 specific instances. Out of these cases, it has handled seven specific instances and served as a supporting NCP in two others, both led by the UK NCP (for summaries of all specific instances see Annex V). Box 1 below provides an overview of the outcomes of these specific instances.

This number of specific instances is, on average, lower than several other OECD governments with similar-sized economies. However the number of specific instances received is not, in and of itself, necessarily a positive or negative reflection on the NCP.

According to the NCP, the low number of specific instances is due to the fact that the private sector in Italy consists of many SMEs operating in Italy and few large MNEs operating abroad. Furthermore as noted above, the vast majority of outward FDI is directed towards other adhering countries, which also have NCPs, and therefore issues related to the operations of Italian enterprises abroad can be raised before an NCP present in the host country. Additionally in Italy there is a strong history of industrial relations and social dialogue and thus worker organisations generally use other venues to resolve grievances. This point was echoed by some stakeholders. Furthermore, the NCP noted a lack of advocacy-driven civil society organisations in Italy, and thus fewer organisations to make submissions to the mechanism.

The relationship and comparative advantage of the specific instance procedure relative to other grievance processes available in Italy does not seem to be clear to potential users of the system. For example, another grievance procedure (the “crisis table”) exists within MED for negotiation of labour issues related to company shutdowns or restructuring. Some stakeholders noted that they were confused about the relationship of the specific instance procedure to the crisis table, as both are located in MED.

As noted above, further promotion of the grievance mechanism function of the NCP as well as clarifying the relationship of the specific instance mechanism and its comparative advantages relative to alternative grievance processes could be useful in enabling increased usage of the system.

Box 1. Outcomes of Specific Instances Handled by the NCP of Italy

Three of the nine specific instances submitted to the NCP were accepted for further examination and resulted in agreement between the parties outside the NCP process (See also Annex V) :

1. "Siemens AG and RSU Nuova Magrini" (2007)
2. "Fibres & Fabrics and CGIL et al." (2007):
3. "Eaton SRL and FIOM-CGIL" (2013): The NCP issued a final statement on 14 March 2013.

Four of the nine specific instances submitted to the NCP were not accepted for further examination for the following reasons (See also Annex V):

1. "De Coro Industrial Co. Ltd. and CGIL. et. al." (2005): The company in the specific instance was not operating in or from Italy.
2. "Fiat- group (Tata motors) and FIM-CISL" (2007): There was no link between the conduct of the company implicated in the specific instance and the issues raised.
3. "Monte dei Paschi di Siena S.P.A, and Individual" (2011): In the same specific instance, the U.S. NCP had found that the issues raised did not merit further examination. Additionally, the dispute had been treated several times in civil and criminal courts in the United States.
4. "ENI SPA and individual" (2015): The issues raised (dating back to 2001) had been settled by national courts of Brazil in 2004. The specific instance had not been accepted for further examination by the NCP of Brazil in 2013.

For two of the nine specific instances submitted, it was agreed that the UK NCP would lead the handling of the specific instance :

1. NGOs Mani Tese and BTC Corporation (2003)
2. NGOs Crude Accountability et al. and B.V. Consortium KPO (2013)

Box 2. Challenges identified by the NCP in handling specific instances

The Secretariat of the NCP has identified the following principal challenges in handling specific instances:

- Finding the right contacts within a company, especially when it is established in a non-adhering country;
- Persuading the company to engage in the process;
- Direct dialogue with the company (when the company is represented by a lawyer) and access to the board in dealing with the specific instance;
- Campaigning by NGOs during the process;
- Explaining to the submitter the scope of the Guidelines and the responsibilities of companies (when compared to the responsibilities of other actors such as representatives of foreign governments);
- A lack of clarity about the process amongst the parties (e.g., viewing it as a judicial process);
- Conducting fact-finding, especially when the alleged facts took place in a non-adhering country.

Role of NCP Secretariat, Director General and NCP Committee in handling Specific Instances

Under the Decree of 30 July 2004 the NCP Secretariat is tasked with handling specific instances. In this respect the Secretariat acts as the principal interlocutor with respect to communication with parties to a specific instance, provides or facilitates good offices or provision of mediation, and drafts all initial and final statements.

According to the NCP Secretariat, when a specific instance is resolved with the agreement of the parties, the NCP Committee is informed of this outcome. In the absence of agreement between the parties, the NCP Secretariat reports the facts of the specific instance to the NCP Committee and provides the relevant information it has taken into account in developing its final statement. The NCP Committee then provides its advice on the specific instance and on final statements to the Secretariat and the Director General. However the NCP Committee has no decision-making power with respect to specific instances. The Director General takes into account the advice of the NCP Committee and issues all final statements. The Director General has final decision-making power in the context of specific instance statements. Where the Director General takes a final decision that differs from the NCP Committee's opinion, the reasons for the divergence must be explicitly explained.

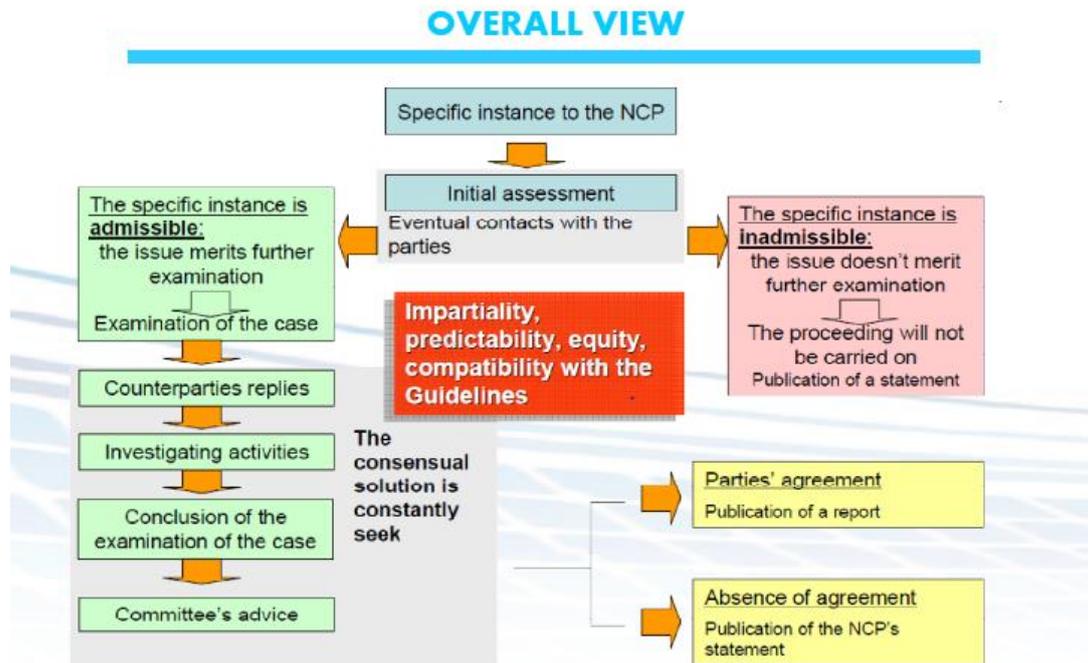
The NCP Committee is a large body that formally meets twice a year, which could make it challenging to provide feedback on specific instances as they arise. However, if needed the NCP Committee can be consulted via written procedures and ad hoc meetings can be arranged. The NCP could also consider developing a more flexible and responsive mechanism for specific instances to provide technical advice and ensure that specific instances are handled in an efficient manner. This can be partially achieved through streamlining the NCP Committee (See Recommendation 2). It can also be promoted by establishing *ad hoc* subcommittee(s) that can provide relevant technical expertise as necessary for diverse specific instances as well as to support promotional activities of the NCP. Sub-committee(s) could be set up on an *ad hoc* basis and be composed of NCP Committee members and external experts where appropriate. Such *ad hoc* subcommittee(s) could provide technical advice and assistance to the NCP Secretariat on challenging substantive issues and facilitate dialogue and good offices with parties to specific instances.

NCP rules of procedure for Specific Instances

The NCP introduced rules of procedure for specific instances in 2012 to align with the Procedural Guidance added to the revised version of the Guidelines in 2011. These are presented in graphic form below and accessible on the NCP's website.

Six out of the seven specific instances handled the NCP mechanism were filed before the 2011 update of the Guidelines and the NCP's introduction of rules of procedure. One early user, who submitted a specific instance in 2002 reported disappointment with the experience at that time due to lack of predictability of the process, long delays, and lack of results.

Figure 1. Flowchart for the specific instance procedure in practice:



Source: Procedure followed by NCP <http://pcnitalia.sviluppoeconomico.gov.it/en/ncp-s-activities/instances>.

Submission of specific instances

The NCP website provides clear instructions for the submission of specific instances including information on who can submit a specific instance and a template submission form indicating the required information. (See Annex VI)

The NCP's rules of procedure list the initial assessment criteria set by the Procedural Guidance⁴⁶ to determine whether the issues raised merit further examination.

Timelines

The NCP rules of procedure provide indicative timelines for each step of the specific instance process:

- Within 7 days of receipt of a submission the NCP provides written confirmation of receipt to the submitter.
- Within 30 days of receipt of a submission the NCP communicates the result of the initial assessment to the parties.
 - If not accepted for further examination, submitters have 20 days to provide remarks and the NCP then has 20 days to respond to those remarks.
 - If accepted, companies have 30 days (with a potential extension of 30 days) to respond.

⁴⁶ OECD Guidelines for Multinational Enterprises (2011), Procedural Guidance, Paragraph 25 of the Commentary

- The specific instance is concluded within 12 months of the beginning of the examination of the case (after completion of the initial assessment and acceptance of a case for further examination) unless an extension is granted.

According to the rules of procedure, any exceptional delay in the handling of a specific instance must be communicated by the NCP to the parties and justified.

In one specific instance concluded with agreement between the parties, the process (from date of submission to publication of the final statement) took over two years due to parallel ongoing negotiation and judicial proceedings.⁴⁷ The NCP has not always completed initial assessments within the 30 day limit included in its rules of procedure. In the first specific instance handled by the NCP, initial assessment took over two years.⁴⁸ In another specific instance that was not accepted for further examination, an initial assessment was published approximately two months after the submission of the specific instance, although the decision was communicated to parties within 30 days and allowed them some time to provide comments.⁴⁹

Initial assessment

The criteria used by the NCP in deciding whether submissions merit further examination are those set out in the Procedural Guidance.

To date, the initial assessment process has functioned as a “preliminary quick review” to check whether submissions are plausible and relevant. The NCP is considering reforming its rules of procedure to allow for more substantive analysis of submissions at the initial assessment stage, which could involve more in-depth analysis of submissions and consultation with the NCP Committee and other relevant actors.

The NCP’s rules of procedure provide for an extension of 30 days for the initial assessment during which the NCP may request additional documentation from the submitter which they then have 30 days to provide. An extension to the 30 days may be granted in certain cases. During the initial assessment, the NCP may also inform the counterparty (the enterprise) about the specific instance and request information prior to deciding whether the specific instance is admissible.

According to the NCP’s rules of procedure, when an initial assessment is completed, the findings are communicated to the parties. If the specific instance is not accepted for further examination the submitter may comment on the NCP’s decision within 20 days. If the specific instance is accepted for further examination the company can provide a response to the NCP’s decision within 30 days. Depending on its decision, the NCP will issue a public statement (*see Statements below*).

Assistance to parties and use of good offices

According to the NCP’s rules of procedure: When a specific instance is accepted for further examination it undergoes further investigation by the NCP Secretariat which involves:

- Consulting all parties involved in specific instances (the party/ies submitting the complaint and the companies/other parties against whom the complaint is brought);
- Examining any supporting evidence submitted by the parties and;
- Requesting any additional information required.

⁴⁷ EATON s.r.l. and FIOM-CGIL (2011)

⁴⁸ De Coro Industrial Co. Ltd .and CGI et. al (2005);

⁴⁹ Eni S.P.A. and Individual (2015)

The rules of procedure state that the NCP Secretariat can also consult with the NCP Committee, the OECD Investment Committee, other interested NCPs or other authorities as necessary. In parallel to the examination of the specific instance, the NCP will offer to organise conciliation or mediation between the parties which may take place over a series of meetings.

The NCP can provide mediation itself or may rely on external experts and mediators in these processes. In practice, mediation has been offered and conducted by the NCP in one specific instance. In this case the NCP Secretariat itself presided over the meetings between the parties.⁵⁰ In 2016 the NCP signed a Memorandum of Understanding (MoU) with the Institute of International Law Studies (ISGI) to cooperate on specific instances through mediation support and research on the Guidelines and issues of international law.

Monitoring and follow-up of Specific Instances

The rules of procedure of the NCP provide that for specific instances that result in agreement between the parties the NCP may engage in follow-up where agreed by the parties. For specific instances that do not result in agreement the NCP may decide to follow-up on recommendations provided in final statements. To date, one specific instance was concluded with recommendations⁵¹ and no follow up has been conducted.

Statements, recommendations and determination

The 2012 rules of procedure of the NCP set out situations where the NCP will make a public statement:

- If the specific instance is not accepted for further examination, a statement is published describing the issues raised and the reason for the NCP's decision.
- If the specific instance is accepted for further examination, publication of the initial assessment is optional under the Procedural Guidance. According to the NCP the decision of whether to publish an initial assessment will be dependent on whether this could have a negative impact on mediation or engagement between the parties.
- Where agreement is not reached between the parties a final statement is published describing the issues raised, the assistance that the NCP provided to the parties, the reasons why agreement wasn't reached, recommendations from the NCP and, where relevant, reasons for disagreement with the NCP Committee's advice.
- Where agreement is reached between the parties a final statement is published describing the issues raised, the assistance the NCP provided to the parties, when the agreement was reached and the content of the agreement to the extent that the parties allow.

The rules of procedure provide that, before final reports or statements are published, the NCP consults with the parties on its contents.

Reporting requirements regarding specific instances were introduced in the 2011 version of the Procedural Guidance and as such there was no requirement prior to 2011. Of the three specific instances submitted after 2011:

⁵⁰EATON S.R.L. and FIOM-CGIL (2011)

⁵¹EATON s.r.l. and FIOM-CGIL (2011)

- 1) One final statement with recommendations was published.⁵²
- 2) One initial assessment explaining the reasons why the specific instance was not accepted was published.⁵³
- 3) One specific instance was closed with no published statement.⁵⁴

In order to observe the recommendations of the Procedural Guidance the NCP should ensure that all final statements for specific instances submitted after 2011 are published.

NCPs have the possibility to provide recommendations to promote better implementation of the Guidelines and make determinations on whether, in their view, an enterprise observed the Guidelines or not. The NCP's capacity to provide determinations is not included in its rules of procedure and no determinations have been made by the NCP to date. However, the NCP reported that it would make determinations in final statements unless this would impede reaching an agreement between the parties. The rules of procedure provide that recommendations by the NCP may be included in final statements as appropriate. The one specific instance which was concluded with a published final statement included recommendations by the NCP.⁵⁵

Confidentiality

The NCP's position on confidentiality is noted on the NCP's website and states "[t]ransparency is a general principle of conduct of the NCP in dealing with the public. However, there are circumstances in which confidentiality must be protected. The NCP shall take appropriate measures to protect sensitive information of companies. Similarly, other information, such as the identity of the individuals involved in the proceedings, remain confidential. During the proceedings, the nature of the works, including the facts and arguments of the parties is kept confidential. However, their outcomes are, as a rule, transparent."⁵⁶

According to the 2014-15 annual report of the NCP to the OECD Investment Committee both parties may indicate to the NCP what information they would like to be considered strictly confidential and not shared with the opposing party nor disclosed publicly. The NCP then reserves the right to make its own assessment of these indications, and duly inform the requesting party.

Parallel proceedings

As part of the 2011 revision of the Guidelines, procedures were clarified for how NCPs should handle specific instances when the issues raised were also being addressed in other venues. The NCP asks submitters to report on whether there are ongoing parallel proceedings with regard to the issues raised in their submissions. According to the NCP, as a general rule parallel proceedings are not a barrier for the NCP to accept a case.

Two specific instances were not accepted by the NCP for further examination because the issues had been definitively settled by one (or more) court(s), the specific instances were not accepted for further examination by other NCPs (the U.S. and Brazilian NCP respectively) and the NCP concluded that there was no further room for negotiation or mediation.⁵⁷ Two additional specific

⁵² EATON s.r.l.and FIOM-CGIL (2011)

⁵³ Eni S.P.A. and Individual (2015)

⁵⁴ Monte dei Paschi di Siena S.P.A, and Individual (2011)

⁵⁵ EATON s.r.l. and FIOM-CGIL (2011)

⁵⁶ Italian NCP Website: "What it means" (<http://pcnitalia.sviluppoeconomico.gov.it/en/what-it-means>)

⁵⁷ 1) Monte dei Paschi di Siena S.P.A and Individual (2011) and 2) Eni S.P.A. and Individual (2015)

instances submitted to the NCP⁵⁸ were undergoing a parallel proceeding at the ‘crisis table’ of MED at the time of their submission to the NCP. In both cases an agreement was reached through the parallel process, although in one specific instance the NCP offered its good offices, which the parties accepted, for discussion of additional issues not addressed in the agreement reached.⁵⁹

Cooperation with other NCPs

The rules of procedure of the NCP state that it will consult with other NCPs as relevant during the examination of a specific instance.

The NCP received two specific instances involving Italian enterprises which were part of a consortium. In both cases, specific instances were brought in parallel to the UK NCP involving the UK enterprises of the consortium and it was decided that the UK NCP should lead the handling of the specific instance. One of these specific instances is still ongoing.⁶⁰

During the on-site visit the Italy-based submitters and Italian company involved in one of these specific instances noted that they would have appreciated additional communication from the NCP. Given the importance of coordination among NCPs when they deal with specific instances involving a consortium or several countries and enterprises, the NCP could take advantage of the opportunity to consider playing a more active role in these situations, as appropriate. For example, the NCP could communicate with the Italian parties to ensure they are informed of updates and important decisions taken during the specific instance proceeding. In addition to enhancing cooperation between NCPs, this also provides an opportunity to further promote the Guidelines and strengthen relationships with local stakeholders.

Requests for clarification

In one specific instance (the case of the BTC Pipeline (2004-2008))⁶¹ the NCP asked for assistance from the Investment Committee in identifying the lead NCP for the case as well as for substantive guidance around the legitimacy of stabilisation clauses in international investment agreements and their compatibility with the Guidelines.

⁵⁸ 1) Siemens AG and RSU Nuova Magrini (2007) and 2) EATON s.r.l. and FIOM-CGIL (2011)

⁵⁹ EATON s.r.l. and FIOM-CGIL (2011)

⁶⁰ 1) BTC Corporation (including ENI S.P.A and BP Exploration (Caspian sea) Ltd.) and Mani Tese (and Friends of the Earth to the UK NCP) (2003) and 2) Karachaganak Petroleum Operating (KPO) BV Consortium and Crude Accountability, et al. (2013)

⁶¹ BTC Corporation (including ENI S.P.A and BP Exploration (Caspian sea) Ltd.)

	Findings	Recommendations
6.1	The NCP Committee is a large body that formally meets twice a year, which could make it challenging to provide feedback on specific instances as they arise.	The NCP should consider developing a more flexible and reactive mechanism to provide technical advice to the NCP Secretariat and ensure that specific instances are handled in an efficient manner, for example by setting up ad hoc subcommittee(s).
6.2	Certain aspects of the current rules of procedure of the NCP are based upon the NCP's discretion and the current indicative time frame of one month for initial assessment is not sufficient for this phase of the process.	The NCP should consider modifying the rules of procedure to ensure that the initial assessment phase is: <ul style="list-style-type: none"> 1) more predictable, by avoiding procedures which rely on the NCP's discretion 2) easier to implement, by extending the one month initial assessment period to three months as provided by the Procedural Guidance of the Guidelines, while retaining the possibility for submitters to reformulate their submissions as necessary.
6.3	In two specific instances where the NCP has been involved in a supporting role Italian parties noted they would have appreciated additional communication from the NCP.	The NCP could play a more active role when it acts as a supporting NCP by informing the parties of the procedure and relevant developments. This provides an opportunity to further promote the Guidelines.

ANNEXES

Annex 1: List of stakeholders that submitted a questionnaire about the NCP

COMMITTEE OF THE NCP
BUSINESS ASSOCIATIONS AND ORGANISATIONS
Confindustria (Italian Industry Association)
ABI (Italian Banker's Association)
Unioncamere
TRADE UNIONS
CGIL
CISL
UIL
NGOS AND CIVIL SOCIETY
CNCU (National Council of Consumers and Users)
AOI (Association of the Italian Organisations of International Solidarity and Cooperation)
INTERNATIONAL ORGANISATIONS
Global Compact Italia
ILO Italy
Unicef Italia
NGOS
LINK 2007
Clean Clothes Campaign
Actionaid - Italy
OECD Watch
COMPANIES
Enel
ENI
Gruppo Coin
Leroy Merlin
TRADE UNIONS
FEMCA CISL
FILCTEM CGIL
UILTEC
UNIVERSITIES
Università di Bologna- research center Phylantropy
Università degli studi di Genova
Scuola Superiore Sant'Anna di Pisa
BUSINESS ASSOCIATIONS AND NETWORKS
Confindustria Federorafi (also submitting on behalf of BIAC)
CSR Manager Network
Sodalitas network (member of CSR Europe)
SPECIAL WITNESSES
Representative of Italian Regions
Representative of Emilia Romagna
Former trade union member of the NCP Committee
Former head of the NCP Secretariat and Director General of the NCP
Former Director General of the Ministry of Labour and Social Policies

Annex 2: List of stakeholders present at on-site Peer Review 14-15 September 2016

Institution/ Organisation	Title/Function
Ministries and Government Institutions	
Ministry of Economic Development	Directorate General International Trade Policy Directorate General for Internationalization Policies and the Promotion of Exchanges Representatives of the NCP Committee
Ministry of Agricultural and Forestry Policies	Council for Agricultural Research and Agricultural Economy Analysis (CREA) Researcher in the Bioeconomy and Policies Representative of the NCP Committee
Ministry for the Environment and the Protection of Land and Sea	Directorate General for Sustainable Development, Climate and Energy Head of Division I - Sustainability, Environmental Damage, Legal and Management issues. Representative of the NCP Committee
Ministry for Foreign Affairs and International Cooperation	General Directorate for Globalisation Vice Central Director, Global issues and G7/G8/G20 Representative of the NCP Committee
Conference of Italian Regions	Directorate General of the Productive Activities of the Emilia Romagna Region - Conference of Italian Regions and Emilia Romagna Region. Regions – Director general Representative of Italian Regions in the Committee
Agency for Territorial Cohesion	Director of the Agency, former President of the Italian NCP and former head of the NCP Secretariat
Export and FDI Promotion Agencies	
Invitalia (Investment Promotion Agency)	Expert – International unit
SACE (Export Credit Agency)	Head of Environmental Analysis - International Large Business
ICE (Italian Trade Promotion Agency)	Director responsible of marketing coordination
Business associations and single companies	
Sodalitas (CSR Enterprises Network)	Expert
CNA (SMEs business association)	Quality Manager Representative in the NCP Committee
Leroy Merlin Italy	CSR Manager
Confindustria	President, Confindustria Technical Group on CSR
Confindustria	Official, Labour and Welfare Representative of the NCP Committee
ENEL SpA	Manager, Sustainability Innovation and Stakeholder Engagement
Unioncamere (Union of Chambers of Commerce)	CSR Manager. Representative in the NCP Committee

Institution/ Organisation	Title/Function
SMI – Sistema Moda Italia - Fashion and Textile Business Association	Environment and Technology Area Manager
CSR Manager Network	General Secretary
ENI S.p.A.	ENI Vice President - Sustainability Projects and Strategic Relations Manager
Trade Unions	
TUAC	Senior Policy Adviser
CGIL	International Department Representatives in the NCP Committee
CISL	Department of Economic Democracy Representative of the NCP Committee
UIL	Department of Economic Democracy Representative of the NCP Committee
Femca Cisl (textile sector)	Chief of the National Secretariat - Femca Cisl
FIOM	CGIL for Massa Carrara section
ILO - International Labour Organization	Public Finance, Actuarial Services and Statistics, Social Protection Department Chief officer
UNICEF Italia	Corporate Partnerships & CSR Comitato Italiano per l'UNICEF Onlus Officialm Coordinator of the Business Lab Project
Global Compact Italy	General Secretary
NGOs/Civil Society	
Amnesty International - Italian section	Policy and Lobby Office Manager
AOI - Association of the Italian Organisations of International Solidarity and Cooperation	Communication and CSR Manager Representative of the NCP Committee
Action Aid Italia	Head of Policy Lobby Unit
Adiconsum/CNCU	Expert
Link2007	President CISP (Organisation of Link 2007)
Re-Common (former Mani Tese)	Coordinator

Annex 3. Representatives of Italian NCP Committee

10 Government representatives	<ul style="list-style-type: none"> • Ministry of Economic Development (MED) (Including the Director General and NCP Secretariat) • Ministry of Agriculture, Food and Forestry Policies • Ministry of Environment, and the Protection of Land and Sea • Ministry of Economy and Finance • Ministry of Foreign Affairs and International Cooperation • Ministry of Health • Ministry of Justice • Ministry of Labour and Social Policies • Conference of Italian regions
5 Business representatives	<ul style="list-style-type: none"> • ABI (Italian Banking Association). • CNA (Italian Confederation of Small and Medium Industry); • CONFCOMMERCIO (Italian General Confederation of Enterprises, Professional Activities and Self-Employment); • CONFINDUSTRIA (Italian General Confederation of Industry) • UNIONCAMERE (Italian Union of Chambers of Commerce)
3 Worker organisation representatives	<ul style="list-style-type: none"> • CGIL (Italian General Confederation of Labour); • CISL (Italian Confederation of Workers' Trade Unions); • UIL (Italian Labour Union).
2 Civil society representatives	<ul style="list-style-type: none"> • AOI (Italian Association of Organisations of International Cooperation and Solidarity); • CNCU (National Council of Consumers and Users).

Annex 4. Promotional Events Organized by the Italian NCP from June 2014-December 2015

- Seminars at regional level to promote the Guidelines and RBC:
 - 09-Apr-15, Modena, Italy
 - 11-May-15, Piacenza, Italy
 - 29-May-15, Ravenna, Italy
 - 16-Jul-15, Bologna, Italy
 - 11-Mar-15, Napoli, Italy
 - 26-Mar-15, Napoli, Italy
 - 20-Feb-15, Salerno, Italy
 - 20-Feb-15, San Miniato, Italy
 - 19-May-15, Firenze, Italy
 - 06-May-15, Perugia, Italy
 - 13-May-15, Milano, Italy
 - 04-Jun-15, Ancona, Italy
 - 11-Jun-15, Bari, Italy
- 4 Seminars in Friuli Venezia Giulia in the second half of 2015
- 11-Jun-15 Workshops on sustainable supply chain management in the Fashion Industry – pilot project for the Implementation of the Action plan on Bangladesh, Prato, Italy
- 08-Jul-15 Workshops on sustainable supply chain management in the Fashion Industry – pilot project for the Implementation of the Action plan on Bangladesh, Prato, Italy
- Mar-Apr-15 information point within the Forum on CSR – Space for responsibility, Naples, Italy

Annex 5. Summary of Specific instances

Italian NCP as lead NCP					
Date of submission-date of closure	Guidelines chapter	Company	Host country(ies)	Submitter	Outcome
11 July 2005- 27 July 2007	Employment and industrial relations	De Coro Industrial Co. Ltd.	China (People's Republic of)	CGIL; CISL; UIL; FILLEA CGIL; FILCA CISL; FENEAL UIL	Not accepted: the company was not operating in or from Italy.
15 February 2007- unknown	Environment, general policies	Fiat-group (Tata motors)	India	FIM-CISL	Not accepted: there was no link between the conduct of the company and the issues raised
01 April 2007- April 2008	Competition, employment and industrial relations	Siemens AG-Gruppo Nuova Margini Galielo S.P.A	Italy	RSU Nuova Magrini SPA; FIM CISL Padova; FIOM CGIL Padova; UILM UIL Padova	Concluded with agreement reached outside the NCP
10-October 2007-31 January 2008	Employment and industrial relations	Fibres & Fabrics International; Jeans Knit PVT Ltd.; Armani; RA-Re; Tintoria astico	India, Italy	CGIL; CISL; UIL; FILTEA; FEMCA;UILTA	Concluded with agreement reached through mediation outside the NCP
24 February 2011- 14 March 2013	Employment and industrial relations	Eaton S.R.L.	Italy	FIOM-CGIL Massa carrara	Concluded with agreement reached outside the NCP
NCP Final Statement issued 14 March 2013					
30 October 2011- 9 December 2011	Consumer interests, general policies, human rights	Monte dei Paschi di Siena S.P.A; Intesa san Paolo S.P.A; Google Italia	Italy	2 Individuals and Dualca Servizi Internet SAS	Not accepted: the issues had been settled by national courts and not accepted for further examination by the US NCP.
No NCP statement					
17 June2015- 3 August 2015	General policies, disclosure, human rights	ENI S.P.A.	Brazil	Individual	Not accepted: the issues had been settled by national courts and not accepted for further examination by the NCP of Brazil.
NCP Initial Statement issued 3 August 2015					

Italian NCP as supporting NCP						
Lead NCP	Date of submission – date of closure	Guidelines chapter	Company	Host country⁶²	Submitter (e.g. worker organisation, NGO, Individual, other)	Outcome
UK	29 April 2003- 22 February 2011	Disclosure, environment, general policies	BTC Corporation (including ENI S.P.A and BP Exploration (Caspian sea) Ltd.)	Azerbaijan, Georgia, Turkey	NGOs Mani Tese (and Friends of the Earth to the UK NCP)	Concluded: the NCP reached a determination and provided recommendations and engaged in follow up to assess progress against the recommendations.
UK	17 June 2013- in progress	General policies, human rights	Karachaganak Petroleum Operating, B.V. Consortium KPO, including UK, US and Italian enterprises	Kazakhstan	NGOs Crude Accountability and other environmental NGOs	In progress; the NCP has conducted an initial assessment and concluded that the specific instance merits further examination.

⁶² The country in which the issues in question in the specific instance arose.

Annex 6: Template Form for Specific Instance Submissions

SPECIFIC INSTANCE TO THE NATIONAL CONTACT POINT FOR THE CORRECT IMPLEMENTATION OF THE “OECD GUIDELINES FOR THE MULTINATIONAL ENTERPRISES”

1) Identity of the complainant/s

The complainant/s Please provide first name, family name, domicile and telephone number of who is presenting the instance	On behalf of If the instance is presented on behalf of someone else – physical persons, bodies, groups, associations, etc.- please provide the data necessary to identify them	By virtue of Please specify the relation justifying the presentation of the instance on behalf of someone else

2) Identity of individual/firm held responsible of the alleged violation of the Guidelines

Please provide all the data useful to identify and contact the entity (individual/firm) held responsible of alleged violation of the

3) Identity of third parties the NCP is asked to consult or convoke to obtain information

Please provide all the data useful to identify and contact those third parties

4) Description of the case for which the instance is submitted

(a) Please mark one or more areas of the Guidelines affected by the case (the specification is suggestive only)

Disclosure
Human Rights
Employment and Industrial Relations
Environment
Combating Bribery; Bribe Solicitation and Extortion
Consumer Interests
Science and Technology
Competition
Taxation
Other

(b) Specify the Country/ies in whose territory the facts under dispute took place

(c) Please describe the case (the facts under dispute and, eventually, the reasons why they are considered in contrast with the Guidelines)

Has the question already been pointed out to the parties indicated in point 2?

Yes

No

If so, please report the answer and/or the reaction of those parties

5) Acquisition of further elements

Please specify further elements (facts, places, details, etc....) that the NCP is asked to acquire/verify/examine in support of the instance

6) Parallel proceedings

(a) To the complainant/s knowledge, is there any other national/international, public/private authority (judicial court, governmental safety body, arbitration court, etc.) involved in the matter under dispute or in a correlated one?

Si
No

(b) If so which is the concerned authority? (only indicate the institutional role, e.g.: Tribunal, Court of Appeal, Prefect, Authority, Arbitration Court, etc. and, eventually, the nationality) When did the procedure with the specified authority start?

(c) Is the parallel proceeding in progress?

Yes
No

To the complainant/s knowledge, are there other NCPs involved in the question under dispute, also on third parties' initiative?

Yes
No

If so please specify the concerned NCPs

7) Confidentiality

(a) Having read the Privacy note, the complainant/s authorise the handling of its/their personal data pursuant to the Personal Data Protection Code – Legislative Decree n. 196/2003.

Yes

No

The complainant/s, nevertheless, ask that the following data be kept confidential:

In particular, the complainant/s ask the NCP not to communicate to anyone, including the parties indicated in points 2 and 3, the following data:

--

(8) Documents

Please provide the numbered list of the (copies of the) documents enclosed in support of the instance

Date and Signature

.....

Annex 7: Legal basis for the NCP

DECREE ESTABLISHING THE OECD NATIONAL CONTACT POINT

Unofficial consolidated English version of Ministerial Decree of 30 July 2004 as modified by the Ministerial Decree of 18 March 2011 and by the Ministerial Decree of 4 June 2015 March 2011⁶³

The Minister of Economic Development,

Having regard to the Paris Convention on the Organization for Economic Co-operation and Development of 14 December 1960, and, in particular, Article 5;

Having regard to the OECD Declaration on International Investment and Multinational Enterprises of 27 June 2000, in which the Governments of adhering countries jointly recommend to multinational enterprises operating in or from their territories the observance of Guidelines for Multinational Enterprises;

Having regard to the consequent OECD Council Decision, that adhering countries shall set up National Contact Points for undertaking promotional activities, handling inquiries and for discussions with the parties concerned on all matters covered by the Guidelines so that they can contribute to the solution of problems which may arise in this connection, if necessary, in cooperation with each other;

Having regard to the D.P.R. (Decree of the President of the Republic) No 175 of 26 March 2001 concerning “Organisational Regulation of the Ministry for the Productive Activities”;

Having regard to Article 39 of Law No 273 of 12 December 2002 on “Measure to encourage the private initiative and the development of competition”;

Having regard to the Legislative Decree No 34 of the 22 January 2004 “modifying and integrating the Legislative Decree No 300 of the 30 July 1999, concerning the structure and the organization of the Ministry of the Productive Activities, according to Article 1 of Law No 137 of 6 July 2000;

⁶³ This is an unofficial consolidated English version of Ministerial Decree of 30 July 2004 (establishing the Italian NCP) as modified by the Ministerial Decree of 18 March 2011 and by the Ministerial Decree of 4 June 2015 March 2011. Consolidation and translation in English have been prepared for the NCP’s Peer Review only.

Essentially, the two decrees lastly mentioned aimed to enlarge the composition of the Committee, strengthening the presence of trade unions, trade associations and institutions responsible for the internationalization of enterprises, and extending it to territorial institutions, SMEs and NGOs

THE MINISTER HEREBY DECREES

Art.1

(NCP functions)

1. The OECD National Contact Point (thereof “NCP”) issuing from the OECD Council Decision of 27 June 2000, is set up within the Directorate General of Industrial Policy, Competitiveness and SMEs of the Ministry of Economic Development.

2. The NCP’s main role is to:
 - a) Further the effectiveness of the Guidelines in accordance with the criteria of visibility, accessibility, transparency and accountability;
 - b) Promote and make the Guidelines known among economic operators and legal practitioners (companies, business associations, trade unions, non-governmental organization, civil society, universities, research institutes, foundations) and to the general public;
 - c) Undertake awareness raising actions on the Guidelines, if necessary in cooperation with entrepreneurs and business circles, trade unions , non-governmental organisations and other interested parties;
 - d) Contribute to the resolution of issues that arise from the alleged non-observance of the Guidelines, through the consultation of the interested parties;
 - e) Handle enquiries submitted by other National Contact Points, business community, trade unions, other non-governmental organisations and any other interested party;
 - f) Cooperate with National Contact Points of Countries adhering to the OECD Declaration and participate to the annual meeting of the representatives of the existing National Contact Points;
 - g) Prepare the annual report for the OECD Investment Committee;
 - h) Participate to national and international meetings related to subjects under its competence and to the cooperation within different NCPs;
 - i) Promote and deal with corporate social responsibility and ethics within the framework of rising global economy, assessing the pertinence of the existing regulation;
 - l) Disseminate information about the NCP’s activity through any useful and appropriate mean, including on-line information.

Art.2

(NCP structure)

1. The NCP bodies are:
 - a) The Director General of the Directorate General of Industrial Policy, Competitiveness and SMEs;
 - b) The Secretariat, consisting of the Executive Manager of the Division VI of the Directorate General of Industrial Policy and ,Competitiveness and SMEs in charge of its

coordination and presidency, the internal staff of the Ministry for the Economic Development assigned to the Division VI and personnel who might be seconded by other Administrations;

c) The NCP Committee.

2. The Committee is composed by:

- a) The Director General of Industrial Policy, Competitiveness and SMEs;
- b) The Head of the Division VI of the Directorate general of Industrial Policy, Competitiveness and SMEs
- c) One representative from the Ministry of Foreign Affairs and International Cooperation;
- d) One representative from the Ministry of the Environment and the Protection of Land and Sea;
- e) One representative from the Ministry of the Economy and Finance;
- f) One representative from the Ministry of Justice;
- g) One representative from the Ministry of Labour and Social Policy;
- h) One representative from the Ministry of Agricultural and Forestry Policies;
- i) One representative from the Ministry of Health;
- l) Two representatives from the Ministry of Economic Development, one from the General Directorate of Trade Promotion and Internationalisation Policy and one from the General Directorate of International Trade Policy;
- m) One representative from Confindustria (General Confederation of Italian Industry);
- n) One representative from each of the two major SMEs business associations at national level;
- o) One representative for each most representative Trade Unions at national level;
- p) One representative from ABI (Italian Banks Association);
- q) One representative from the Italian Regions' Conference;
- r) One representative from Unioncamere (the Italian Union of the Chambers of Commerce);
- s) One representative from the National Council of Consumers and Users (CNCU);
- t) One representative of the Association of the Italian Organisations of International Solidarity and Cooperation (AOI).

3. Other interested parties can eventually participate to the Committee's meetings upon invitation by the competent bodies.

Art.3
(Committee's
Functions)

1. The NCP's Committee meets twice a year and is responsible for:

- a) Defining its own activity programme;
- b) Proposing studies and research on problems related to the activities of the Italian companies investing in Italy and abroad;
- c) Analysing and discussing instances duly investigated by the Secretariat and brought to its attention, giving its opinion;
- d) Giving its opinion on the NCP activity programme.

Art. 4

(Secretariat's Functions)

1. The NCP Secretariat, set up within the Division VI of the Directorate General of Industrial Policy, Competitiveness and SMEs, is responsible for:
 - a) Writing the Annual Report to be sent to the OCDE Investment Committee;
 - b) Ensuring the operational management of the NCP;
 - c) Preparing the promotional programme for disseminating and informing about the Guidelines;
 - d) Duly investigating the issues brought to the attention of the NCP which will be submitted to the Committee;
 - e) Ensuring the collection of all the issues brought to its attention and answer to inquiries upon approval of the Director General;
 - f) Ensuring the preparation of the annual report to be sent to the Investment Committee.
2. In order to execute its functions, the Secretariat may recur to external experts.

Art. 5

(The Director General)

1. The Director General of the Directorate General of Industrial Policy, Competitiveness and SMEs is responsible for:
 - a) Adopting the final acts of the NCP, taking into account the opinion expressed by the Committee;
 - b) Approving the annual report and present it to the Investment Committee;
 - c) Convening the NCP's Committee meetings;
 - d) Informing the Committee about the National Contact Point's activities;
 - e) Representing the NCP in all national and international forums and before other NCPs.
2. In case of absence or temporary impediment, the Director General of the Directorate General Industrial Policy, Competitiveness and SMEs will be replaced by the Head of the Secretariat

Art. 6

1. In accordance with the current laws, this Decree will be submitted to the competent control authorities.

Rome, 30 July 2004

National Contact Point Peer Reviews: Italy

Governments adhering to the OECD Guidelines for Multinational Enterprises are required to set up a National Contact Point (NCP) that functions in a visible, accessible, transparent and accountable manner.

This report contains a peer review of the Italian NCP, mapping its strengths and accomplishments and also identifying opportunities for improvement.

