



OECD Guidelines for Multinational Enterprises  
**National Contact Point Peer Reviews**  
**SWEDEN**



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# Foreword

The OECD Guidelines for Multinational Enterprises (the 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.

Governments adhering to the Guidelines are required to set up a National Contact Point (NCP) for Responsible Business Conduct that functions in a visible, accessible, transparent and accountable manner. During the 2011 update of the 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 led 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>.

This report presents the peer review of the Swedish NCP. The peer review report of the Swedish National Contact Point (NCP) was prepared by a team comprising reviewers from the NCPs of France, Brazil and the Slovak Republic, and with the support of the OECD Secretariat. The NCP of France was represented by Maylis Souque and Hocine Boutata. The NCP of Brazil was represented by Hevellyn Menezes Albres. The NCP of the Slovak Republic was represented by Daniela Koladova and Vladimir Hodal. The OECD Centre for Responsible Business Conduct was represented by Nicolas Hachez and Maria Xernou. The report was informed by dialogue between the peer review team, the NCP of Sweden and relevant stakeholders during a virtual visit on 8-9 December 2021. The NCP of Sweden contributed through excellent planning and organisation of the on-site visit, and reactivity in a fast-changing context, which allowed for excellent exchanges. The NCP of Sweden was represented by Cecilia Ekholm, Helmer Broberg and Sara Petersen. This report also benefited from comments by OECD delegations to the Working Party on Responsible Business Conduct and institutional stakeholders to the OECD (BIAC, OECD Watch, TUAC).

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# Key findings

## Institutional arrangements

The Swedish NCP has a tripartite structure. Its members are the Swedish government, represented by two officials from the Department for Trade Promotion, Nation Branding and CSR at the MFA, as well as six trade unions and three business organisations. The two government representatives are part of the Corporate Social Responsibility (CSR) team in that Department and work on NCP matters on a part-time basis. They act as Chair and secretariat of the NCP.

The Chair of the NCP moderates discussions but does not have specific decision-making power, as the NCP's decisions are made by consensus. The six trade union and the three business organisation members are highly representative of workers and companies in Sweden. Civil society is not represented in the NCP's structure.

The NCP's tripartite structure is strongly rooted in the Swedish tradition of social dialogue. Members have a strong sense of ownership of the NCP and trust in the structure. They highlight that the structure ensures accessibility through NCP members and a broad array of affiliated organisations.

However, there is a demand from Swedish civil society organisations (CSOs) and academia engaged in corporate social responsibility (CSR) and responsible business conduct (RBC) for better inclusion in the NCP's activities. These groups are not included in the NCP's structure. All NCP members indicated willingness to reinforce engagement with civil society and academia in their activities.

Additionally, the absence of an official document establishing the NCP or its structure, as well as its location within the CSR team at the MFA creates a number of difficulties to its work. First, as the NCP is not a well-defined unit within the department and its activities are not easily distinguished from those of the CSR Team and of the CSR Ambassador, its visibility, transparency and accessibility are reduced. Even though in practice the autonomy of the NCP is respected, the absence of clear rules may create confusion as to reporting lines inside the Ministry and guarantees of impartiality.

Finally, although the staff resources of the NCP have remained stable in recent years, its workload has increased lately, notably as a result of two new specific instances received in 2021. This scarcity may also explain why promotional activities remained quite low in the past. The NCP has indicated that, in the long term, its current resources may not be sufficient. This is also valid for the stakeholder members of the NCP, who reported not always having sufficient time to devote to NCP matters.

	Finding	Recommendation
1.1	The NCP has a strong tripartite structure, rooted in the Swedish social dialogue culture and trusted by stakeholders. However, the NCP structure is not established by a formal document, and the NCP is not set up as a distinct unit within the MFA. Reporting lines are also not clearly established for NCP functions, rather relying on practice. This may reduce the accessibility, visibility, and transparency of the NCP, as well as make arrangements to guarantee the impartiality of the NCP little understandable for the public.	Sweden should consider ways to lend more visibility, accessibility and transparency to the NCP by formalising its structure, location, mandate and membership, and clarifying the role of the NCP Chair and secretariat in an official document. Sweden could then disseminate the document across government, embassies and stakeholders. Moreover, the NCP could strengthen and better publicise measures taken to foster the impartiality of the NCP. This could, for example, include creating the NCP as a proper unit within the MFA and building a 'firewall' around it, clarifying reporting lines of NCP staff vis-à-vis the hierarchy and what integrity and conflict of interest rules apply to them.
1.2	As the NCP does not include CSOs and academia in its structure, CSOs demand further engagement with the NCP, notably as a way to access expertise on a broader range of issues, and increase the NCP's visibility, accessibility and accountability. The NCP is open to this idea and is considering options to engage on a regular and formal basis with CSOs and academia. In view of interest from CSOs in the NCP's work and the good timing to join forces, it is an optimal time to establish a cooperation framework.	The NCP should consider ways of engaging with CSOs and academia on a regular and formal basis to ensure access to expertise, as well as to increase its visibility, accessibility, transparency and accountability with that stakeholder group. The NCP indicated that it was currently considering establishing a regular meeting routine with a selected group of CSOs.
1.3	The NCP's staff resources have remained stable over the years, though the workload has increased as a result of new specific instances being submitted. The NCP has also experienced near-complete renewal of its members in recent years, including its government representatives. NCP members and stakeholders noted that the current level of resources may therefore not be sufficient in the long term. The need for a handover strategy was also underlined to facilitate turnover.	Staff resources of the NCP should be at least maintained, or ideally reinforced, to provide for example one full-time government member to manage the NCP secretariat. The NCP stakeholder members should further liaise within their trade unions and business organisations to ensure that they allocate the necessary amount of time to deliver the NCP mandate.

## Promotional activities

The current team of the NCP is in the process of increasing its promotional activity after a complete staff turnover and a period of limited promotion, with few promotional materials and events, and a limited webpage. This situation poses a challenge to the NCP's visibility and transparency. The NCP notes in this regard that its level of resources limits its ability to significantly increase promotion.

There are, however, many opportunities to increase promotion without adding new resources by relying on the activities and networks of the NCP's members. In particular, the NCP Chair is very active in promoting RBC in Sweden and abroad in her capacity as the CSR Ambassador, and so is the CSR Team. These activities could be better leveraged to increase the visibility of the NCP and promote the Guidelines. Likewise, the stakeholder members could be more active in promoting the NCP and RBC in their respective networks. Finally, the NCP members are surrounded by many 'multiplier' actors, such as academia, other government agencies, or the soon to be created National Human Rights Institution. Partnering with these actors could represent significant promotional opportunities.

The NCP's website and social media could also become more important tools for promotion. In particular, a makeover of the NCP's website could enhance the NCP's accessibility, visibility, transparency and accountability, besides ensuring better predictability of its procedures. The promotional plan that the NCP intends to create for the coming years will be very useful in enhancing the NCP's promotional efforts, and should be underpinned by a stakeholder mapping to ensure strategic outreach across all stakeholder groups.

On policy coherence, the NCP operates in a context whereby many government agencies are active on RBC. However, its activity and visibility in that community is limited in spite of expressions of interest from other agencies in collaborating with the NCP and disseminating its work.

	Finding	Recommendation
2.1	The visibility and transparency of the NCP is currently low beyond the circle of its members, notably as a result of limited promotional planning and activity. There is, however, a strong demand for better knowledge of the NCP. At the same time, resources currently available to the NCP may not allow to significantly increase promotion and hinder response to requests for information.	The NCP should strategically expand its promotional role, taking account of its existing resources. This could be done through a promotional plan that includes stakeholder mapping, synergies with CSR Team events and materials, better leveraging of the Chair's position as CSR Ambassador and other NCP members' networks, as well as cooperation with key multiplier actors. The NCP should also make itself available to answer inquiries about the OECD Guidelines.
2.2	The NCP's website contains basic information in Swedish and in English, but it could be further expanded to become a comprehensive resource on RBC and a more important tool for the promotion of the Guidelines in Sweden. There are also opportunities to enhance the NCP's visibility, accessibility, transparency and accountability through the website and social media.	The use of the website as a tool for visibility, accessibility, transparency and accountability should be enhanced, e.g. by including a section on promotional events, more information on the Guidelines and due diligence guidance, the specific instance process and the Rules of Procedure; an easily accessible submission form; the promotional materials available; the NCP's structure and membership; and the NCP's annual reports. The NCP should also increase its social media presence.
2.3	The NCP operates in a context where several other parts of government are active in the field of RBC, including the CSR Team, but the NCP itself is little active and visible in that community.	The NCP should position itself more visibly and affirmatively in the broader RBC framework in Sweden to take advantage of existing or emerging policies and initiatives and better promote the Guidelines and the NCP mechanism. The CSR Team and the CSR Ambassador could also play a role in enhancing the profile of the NCP and the Guidelines within government, through their position and network.

## Specific instances

Since its establishment in 2001, the Swedish NCP has received nine specific instances. Seven specific instances have been closed by the NCP with four concluded and three not accepted. Two cases received in 2021 are ongoing, including one that was accepted on 23 September 2021, and the other that is still under initial assessment.<sup>1</sup>

The Rules of Procedure of the NCP (RoP) are available on the NCP's webpage but are very succinct and may not suffice to ensure predictability to the specific instance process. Stakeholders unanimously indicated that a revision of the RoP should be envisaged to notably provide more detail, among other topics, on the process to file a case, the timeline of the specific instance process, steps of the process and potential outcomes. The NCP could also take steps to set clear rules for avoiding and addressing situations of conflict of interest, as a way to bolster its perception of impartiality. Cases handled to date by the NCP have also suffered from delays as a result of a number of factors (including lack of resources), and stakeholders stressed the need to reduce these delays where possible, and in any event to communicate with parties when delays occur.

	Finding	Recommendation
3.1	The current Rules of Procedure are very succinct and may not provide a sufficient basis to ensure predictability and transparency in the handling of specific instances, nor to address situations of conflicts of interest. This has led in the past to situations where the handling of specific instances was arguably not fully in line with the Procedural Guidance, and has prevented a timely handling of situations on which conflicts of interest had been raised.	The NCP should revise its Rules of Procedure in accordance with the Procedural Guidance, to ensure predictability, transparency and impartiality in the specific instance process. The Rules of Procedure should include at least guidance on filing a complaint; initial assessment criteria in line with the Procedural Guidance on the Guidelines; detailed description of the process, potential outcomes, including the possibility of issuing recommendations and engaging in follow-up; as well as applicable provisions on campaigning and confidentiality and access to documents. Clear rules and processes for avoiding and addressing possible conflicts of interest should also be included.
3.2	Indicative timelines are frequently overshot in specific instances handled by the NCP, for a number of reasons, including staff turnover of the NCP secretariat. Additionally, parties in previous specific instances stated that they would value clearer communication on the steps of the process.	The NCP should seek as much as possible to observe the indicative timelines for the handling of specific instances. In any event, it should proactively engage with the parties to inform them about the steps in the process and any delays, as well as provide them with alternative timelines.

<sup>1</sup> At the time of the virtual visit in December 2021.

# Introduction

## The Swedish NCP at a glance

**Established:** 2000

**Structure:** Tripartite structure with representatives from the Swedish government (one Ministry), three business associations, and six trade unions.

**Location:** The NCP is located in the Ministry of Foreign Affairs (MFA).

**Staffing:** Two part-time staff.

**Webpage:** The webpage is available in Swedish and English

<https://www.government.se/government-policy/enterprise-and-industry/national-contact-points/>  
<https://www.regeringen.se/regeringens-politik/handelspolitik-och-framjande/nationella-kontaktpunkten/>

**Specific instances received:** 7 concluded and 2 ongoing, as of end-2021.

The implementation procedures of the OECD Guidelines for Multinational Enterprises (the Guidelines) require that National Contact Points (NCPs) operate in accordance with the core criteria of visibility, accessibility, transparency and accountability. In addition, the guiding principles for specific instances recommend that NCPs deal with specific instances in a manner that is impartial, predictable, equitable and compatible with the Guidelines. This report assesses conformity of the Swedish NCP with the core criteria and with the Procedural Guidance contained in the implementation procedures.

Sweden adhered to the OECD Declaration on International Investment and Multinational Enterprises (Investment Declaration) in 1976. The Guidelines 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. The Guidelines have been updated five times since 1976; the most recent revision took place in 2011.

Countries that adhere to the Investment Declaration are required to establish NCPs. 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.<sup>2</sup>

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.”<sup>3</sup>

The Procedural Guidance covers 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

<sup>2</sup> Amendment of the Decision of the Council on the OECD Guidelines for Multinational Enterprises, para I(4)

<sup>3</sup> OECD Guidelines for Multinational Enterprises (2011), Foreword



Committee to facilitate voluntary peer evaluations. In the commentary to the Procedural Guidance, NCPs are encouraged to engage in such evaluations.

The objectives of peer reviews as set out in the Core Template for National Contact Point Peer Reviews<sup>4</sup> are to assess that the NCP is functioning and operating 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.

This report was prepared based on information provided by the NCP and in particular, its responses to the NCP questionnaire set out in the revised core template as well as responses to requests for additional information. The report also draws on responses to the stakeholder questionnaire which was completed by eight organisations representing civil society and government agencies, including one entity co-owned by the State and the private sector (see Annex A for a complete list of stakeholders who submitted written feedback) and information provided during the virtual visit.

The peer review of the NCP was conducted by a peer review team made up of reviewers from the NCPs of France, Brazil and the Slovak Republic, along with representatives of the OECD Secretariat. The on-site visit initially planned was replaced by a virtual visit because of restrictions linked to the COVID-19 pandemic, and took place on 8-9 December 2021. It included interviews with the NCP, other relevant government representatives and stakeholders. A list of organisations that participated in the virtual visit is set out in Annex B. The peer review team wishes to acknowledge the excellent planning and organisation of the on-site visit by the Swedish NCP, and its reactivity in a fast-changing context, which allowed for excellent exchanges.

The basis for this peer review is the 2011 version of the Guidelines. The specific instances considered during the peer review date back to 2003. The cut-off date for reviewing specific instances is the date of the virtual visit. The methodology for the peer review is that set out in the core template.

## Economic context

Sweden's economy is dominated by the service sector, representing 73% of its gross domestic product (GDP). Regarding foreign direct investment (FDI), the inward stock of FDI, which represents the accumulated value of FDI in the Swedish economy over time, was USD 385 billion in 2020, equivalent to 71% of Sweden's GDP. The outward stock of FDI was USD 451 billion in 2020, representing 83% of Sweden's GDP. In 2020, Sweden's exports of goods were USD 174 billion and exports of services were USD 68 billion, while imports of goods were USD 149 billion and imports of services were USD 69 billion.

The main investors in Sweden are Luxembourg, the Netherlands, the United Kingdom, the United States, and Germany, and the main inward investment sectors are manufacturing and finance and insurance followed by wholesale and retail trade and real estate activities. The main destinations for outward investment from Sweden are the United States, the Netherlands, the United Kingdom, Norway and Finland, and the most important sectors are manufacturing, finance and insurance, followed by wholesale and retail trade and real estate activities. The most important partner countries for exports of goods are Norway, Germany, the United States, Denmark and Finland, while the most important source countries for imports of goods are Germany, the Netherlands, Norway, Denmark and China (People's Republic of). The most important destinations for exports of services are Norway, the United Kingdom, the United States, Finland and Germany, and the most important sources for imports of services are the United Kingdom, the United States, Germany, Denmark and Finland.

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<sup>4</sup> OECD (2021), National Contact Point Peer Reviews: Core Template, <http://mneguidelines.oecd.org/national-contact-point-peer-reviews-core-template.pdf>.

# 1. Institutional arrangements

Under the Procedural Guidance of the Guidelines, Section I (A): “Since governments are according flexibility in the way they organise NCPs, NCPs should function in a visible, accessible, transparent and accountable manner.”

## Legal basis

Sweden’s government adhered to the OECD Investment Declaration in 1976. The exact date of the NCP’s establishment is not known, though the NCP has been in existence since the 2000 update of the Guidelines.<sup>5</sup>

The NCP was not established through a separate legal instrument. The Regulation of the Government Office on the Rules of Procedure for the MFA, updated in 2019, provides that the MFA Department for Trade Promotion, Nation Branding and CSR is responsible for the Swedish NCP (Section 20, Regulation 2019:3).

## NCP Structure

The NCP is a ‘multipartite NCP’, meaning the NCP is composed of a group of government officials and stakeholder representatives. More precisely, the NCP is a ‘tripartite’ NCP composed of representatives from government, business associations and trade unions.

### **Composition**

**Overview:** the NCP is composed of two government representatives, six representatives of unions and three representatives of business organisations (see Figure 1). Stakeholders overall indicated a clear understanding of the NCP’s structure.

**Government representation:** the government is represented by two MFA officials. The MFA representatives in the NCP are members of the CSR Team in the Department for Trade Promotion, Nation Branding and CSR of the MFA (see Figure 2). The CSR Team has three staff members: Sweden’s CSR Ambassador and two MFA officials.

The government representatives provide the secretariat and the chair of the NCP. Since 2018, Sweden’s CSR Ambassador is also the NCP Chair.<sup>6</sup> The CSR Ambassador position was established in 2002. The first CSR Ambassador serving as NCP Chair was in office in 2018-2019 and the second in 2019-2020.

<sup>5</sup> There are traces in correspondence between Sweden and the OECD of an early version of the NCP dating back to 1980.

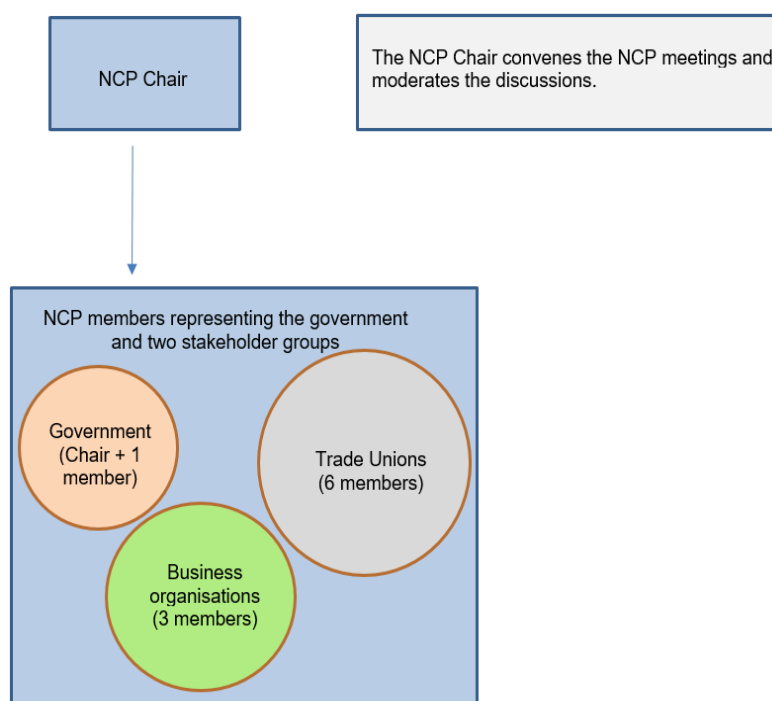
<sup>6</sup> [Government Offices of Sweden \(2019\) Platform for international sustainable business](#), p. 40.

The current Chair took office in January 2021. The second government representative in the NCP is also in charge of other tasks as part of the CSR Team (e.g. Sweden's representation in the OECD Working Group on Bribery). The third member of the CSR Team is in charge of business and human rights issues, represents Sweden in the OECD Working Party on Responsible Business Conduct (WPRBC) and may occasionally assist with NCP work upon request.

The MFA is the sole ministry represented within the NCP. The NCP reported that other ministries could also participate in the NCP's activities on an *ad hoc* basis as required by the matters at hand, for example to seek expertise on specific topics such as human rights, environment, or legal issues. The NCP reported doing that recently in the context of a specific instance. One stakeholder expressed concerns that the possibility to invite representatives of other ministries may shift the balance within the NCP in favour of the government.

The government representatives work part time on NCP matters and full time on corporate social responsibility (CSR). The NCP notes that in 2021, the MFA members of the NCP spent more time on NCP matters than in previous years. The percentage of time would thus currently amount to approximately 60% for the NCP Chair and 70% for the other MFA member. This increase is mainly due to the increased workload on specific instances, preparations related to the peer review and a request for access to official documents on all closed specific instances by an external stakeholder.

Figure 1. NCP Structure



Source: peer review questionnaire for the Swedish NCP (2021)

Note: the questionnaire is provided by the NCP under review during the peer review preparatory phase.

A complete staff turnover in the representation of government within the NCP took place recently. The current team took office in January and April early 2021 respectively. The transition was delayed, notably as the NCP Chair position was vacant for six months before January 2021. The two previous Chairs served for the limited period of approximately one year each and did not handle specific instances as none was

received by the NCP. This situation complicated the handover and highlights the need for institutional memory. The NCP shared that its activities could be impacted by the rotation of staff at the CSR Team, although MFA representatives explain that the new staff has full access to the archives on past specific instances and other NCP documents, a shared on-line workspace, as well as past correspondence. Experience with the current transition points to a need to further strengthen the NCP's institutional memory, notably among government representatives. The NCP shared that it was planning to produce an on-boarding manual for new NCP members to address this situation.

**Stakeholder representation:** Stakeholder membership in the NCP is composed of six Swedish trade unions (together representing more than 70% of the Swedish workforce) and three Swedish business organisations, covering most economic sectors, company sizes and professionals.<sup>7</sup> Some trade unions represented on the NCP are affiliated with each other. Unionen is affiliated to the Swedish Confederation of Professional Employees,<sup>8</sup> IF Metall to the Swedish Trade Union Confederation and the Swedish Association of Graduate Engineers to the Swedish Confederation of Professional Associations.<sup>9</sup> In 2019, the NCP decided to include one representative from the Swedish Federation of Business Owners to increase representation of small and medium-sized enterprises, following a review of the NCP's structure initiated in 2018.

**Table.1. Stakeholder representatives in the NCP**

Stakeholder group	Member organisations
Unions	Swedish Association of Graduate Engineers, Swedish Confederation of Professional Employees, IF Metall, Unionen, Swedish Confederation of Professional Associations, Swedish Trade Union Confederation
Business organisations	Confederation of Swedish Enterprise, Swedish Federation of Business Owners, Swedish Trade Federation

There has also been significant turnover in stakeholder representation within the NCP recently. Besides the new member, two stakeholder member representatives stated that they were new. One stakeholder member with six years of previous experience in the NCP returned earlier this year. Two stakeholder members stated that they joined the NCP three and four years ago with a break in one case. To bring the new membership up to speed on NCP matters, several capacity building activities were organised in 2021, including a half-day learning session for all NCP members.

The Swedish NCP identifies its tripartite structure as one of its most significant strengths. Stakeholders highlighted that the NCP's structure allows it to effectively reach out to government, companies and trade unions, take into consideration different perspectives and count on a solid base for promotional activities.

<sup>7</sup> Regarding trade unions, the Swedish Confederation of Professional Employees covers 1.4 million members and 13 affiliated trade unions, the Swedish Confederation of Professional Associations includes 700 000 members and 21 affiliated unions, for professionals from both the public and private sectors, IF Metall covers 300 000 members for the mineral sector, Unionen covers 700 000 members for civil servants in the private sector and the Swedish Trade Union Confederation 1.4 million members and 14 affiliates. Regarding employer organisations, the Confederation of Swedish Enterprises covers 60 000 member companies, 50 industry and employer organisations and represents 10% of the business organisations in Sweden, the Swedish Federation of Business Owners' members are 60 000 business owners and 240 local associations and the Swedish Trade Federation covers 9 000 retailers, food retailers and wholesalers, mostly small. The latter is also a member of the Confederation of Swedish Enterprises.

<sup>8</sup> [The TCO Unions.](#)

<sup>9</sup> [Saco: Our 21 unions.](#)

The tripartite structure is strongly rooted in the tradition of social dialogue in Sweden. Stakeholder members show a strong sense of ownership of the NCP and trust in the structure. They highlighted that inclusion of business and trade union stakeholders in the NCP structure increased the visibility of the NCP in the relevant groups and accessibility for their members, thereby ensuring business and trade union stakeholder groups' confidence in the NCP.

Although more than half of the NCP members represent unions (six out of 11 members), the NCP considers that its structure ensures a balance of interests between unions, business organisations and the government. Balance is further ensured by decision-making through consensus on matters related to the NCP's activities, in particular on specific instances (see Figure 2). However, one party to a specific instance noted that the uneven number of representatives for the three component groups of the NCP had affected its perception of meeting dynamics. The NCP Chair indicated being attentive to ensuring that each group is given equivalent speaking time and an opportunity to voice its opinion in meetings. Stakeholders also noted that the current structure of the NCP could be viewed as providing strong expertise on certain issues such as labour, but less on other issues such as human rights or the environment.

Civil society is not represented in the NCP. To ensure effective engagement with civil society, the NCP and/or the CSR Team organise recently activities with civil society organisations (CSOs), including i) two-yearly meetings with the External Reference Group for Sustainable Business, a network of at least five CSOs (CONCORD, Swedwatch, ForumCiv, Amnesty International, Human Rights Watch), unions, business organisations and companies; ii) bilateral and *ad hoc* meetings with CSOs who contact the CSR Team; iii) conferences and workshops with participation of other organisations and stakeholders; iv) cooperation with other MFA departments and in diplomatic missions abroad; v) activities of the Team Sweden Sustainability network;<sup>10</sup> vi) information-sharing through the stakeholder NCP members' own contacts with civil society.

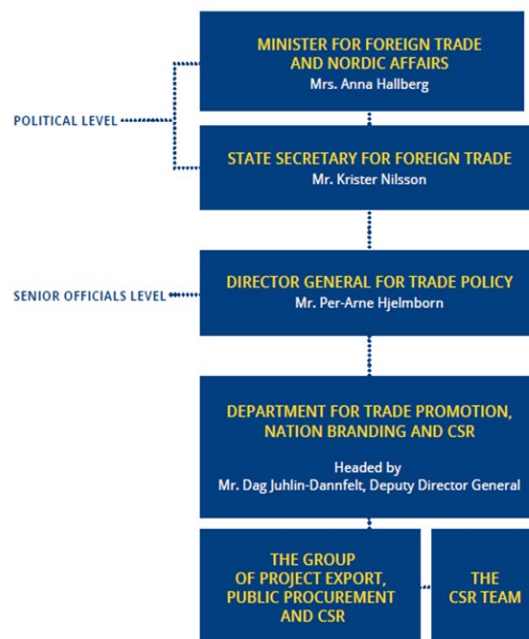
NCP stakeholder members and other stakeholders agree on the need for more structured engagement with civil society in the work of the NCP. CSOs are calling for their inclusion in the NCP's structure, e.g. as permanent NCP members or through an advisory body. To date, a few *ad hoc* and informal meetings with CSOs have taken place. CSO representatives indicated that increased engagement with civil society was an opportunity to strengthen the NCP's access to expertise on certain issues such as human rights or environmental matters, as well as to raise its visibility among stakeholders beyond the current membership.

The NCP recognised the benefits of a regular interaction with CSOs and academia, as well as their important role of in raising awareness on the NCP and providing input on the Guidelines. Accordingly, there is a strong consensus and willingness among NCP members on further engaging with CSOs and academia on a regular basis. Regular and formalised meetings with CSOs and academia would allow the NCP to raise its visibility and access external expertise on a broader range of topics.

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<sup>10</sup> Team Sweden Sustainability is an informal cooperation network of Swedish agencies active on sustainability issues. Its members are the Swedish International Development Cooperation Agency, the Swedish Institute (a public agency active in foreign policy, international aid and development among other issues), Business Sweden (an organisation jointly owned by the Swedish State and the business sector for export and investment support), Swedfund (a state-owned enterprise which provides development financing and is controlled by the Ministry of Enterprise and Innovation), the Swedish Export Credit Agency, the Swedish Export Credit Corporation, the National Board of Trade (a government agency under the MFA responsible for issues related to foreign trade, the internal market and foreign policy) and the Swedish Agency for Economic and Regional Growth (a government agency under the Ministry of Enterprise responsible for issues of entrepreneurship promotion and regional growth).

Figure 2. The CSR Team at the MFA



Source: Peer review questionnaire for the Swedish NCP (2021)

Note: the questionnaire is provided by the NCP under review during the peer review preparatory phase.

### **Functions and operations**

The NCP's functions are described in a number of documents.

The Rules of Procedure for the Swedish National Contact Point<sup>11</sup> (see below) state that 'The Governments of the adhering countries have also undertaken to promote the Guidelines by establishing a National Contact Point to which different stakeholders can report enterprises they consider have breached the Guidelines. The NCP is also required to provide information on and promote the implementation of the Guidelines, and to serve as a forum for dialogue on issues related to their implementation. The NCP cannot review court decisions but can give recommendations and mediate between parties.

The strategy document "Platform for international sustainable business"<sup>12</sup> lists the following functions of the NCP:

- "receive reports from various stakeholders regarding companies that have allegedly not respected the Guidelines, provide recommendations and mediate between the parties;
- provide information on and promote the Guidelines;
- provide a forum for dialogue on matters related to their implementation".

<sup>11</sup> See <https://www.government.se/4ae57a/contentassets/bc07cfd80e404fb38d2325ac56c15403/rules-of-procedure-ncp-003.pdf>

<sup>12</sup> The "Platform for international sustainable business" outlines the Swedish government's strategy on matters related to international sustainable business (see Box 1).

Sweden's National Action Plan for Business and Human Rights (NAP) notes that the "NCP's main task is to promote compliance with the Guidelines and to help resolve problems in individual cases through dialogue and discussion".<sup>13</sup>

NCP meetings take place on *ad hoc* basis. In 2021, at least one meeting took place per month or more often in view of the increased workload generated by two ongoing specific instances. The NCP is currently exploring the possibility of setting up regular monthly meetings to facilitate scheduling. Government members of the NCP act as its Chair and secretariat, and are responsible for representing the NCP internationally. The other NCP members can also represent the NCP in international fora. The stakeholder members of the NCP may represent it in domestic fora.

Acting as NCP secretariat, the government members convene meetings, proposes agendas for meetings and facilitate discussion among NCP members. In the specific instance process, the government members also draft the statements for review and discussion by the NCP members. The Chair convenes meetings and moderates the discussions but does not have additional decision-making power compared to the other members. Stakeholder members of the NCP highlighted that the government members were key to move processes forward within the NCP, and praised their professionalism and reactivity. Dialogue and decision-making in the NCP are tripartite. There are no explicit rules on decision-making, but the practice is to make all decisions, in particular on specific instances, by consensus of all members. The Chair is not required to sign off on decisions.

The functions of the two MFA staff serving as both CSR Team and NCP members are not clearly distinguished. NCP and CSR functions may be similar and the network of relevant stakeholders is common for the two fields. The government representatives in the NCP cited historical reasons for the connection between the NCP and the CSR Team. Besides the NCP, the CSR Team's mandate covers coordination of the government's activities under the Platform for international sustainable business (see Box 1), matters related to the WPRBC and the OECD Working Group on Bribery, as well as support to other public authorities on sustainable business issues.

Visibility of the NCP within the MFA is limited in practice. Much of the activity on RBC in Sweden is carried out by the CSR Team and the CSR Ambassador under those labels. Illustratively, the internal MFA organigram (see Figure 2) only references the CSR Team in the MFA Department for Trade Promotion, Nation Branding and CSR. The CSR Team counts three members of staff, including the two members working part-time on the NCP. Likewise, as indicated above, there is no legal instrument or internal document establishing the NCP and its structure. The NCP is hence not clearly identifiable within the MFA. In this regard, the NCP reported that the NCP was presented as a specific entity in public communications, in events, or through its dedicated webpage. Government agencies and external stakeholders in turn reported often engaging with the CSR Team on RBC issues, as a government actor, but that their interactions with the NCP as such were limited.

The NCP indicated that hosting arrangements in the MFA ensure that the NCP's structure responds to the transparency and accessibility criteria. The NCP's location at the government offices, the availability of reporting channels to public authorities and protection measures for whistleblowers in the public sector, as well as the possibility of accessing the NCP's documents under relevant domestic legislation ensure a high degree of accessibility.

Although, as indicated above, stakeholders reported having a good understanding of the NCP's tripartite structure, they also stressed that more efforts could be made for the NCP to respond to the transparency and accessibility criteria, in particular through more information on the NCP's webpage, and dissemination of information on the NCP's structure and operations to all stakeholders.

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<sup>13</sup> [National Action Plan for Business and Human Rights of Sweden \(2015\)](#) p. 17.

The NCP indicated that its government members rely on common integrity rules applicable to MFA officials to guarantee autonomy and impartiality in NCP activities and decisions. For example, the government members of the NCP noted that information on specific instances is considered confidential and is not shared or discussed beyond NCP members. The NCP has not reported concerns regarding potential conflicts of interest and stakeholders indicated that they fully trusted the impartiality of the NCP staff. The NCP explained that even though the MFA staff of the NCP is part of the Department for Trade Promotion, Nation Branding and CSR, which also for example handles trade and investment promotion, the NCP's autonomy is respected within the MFA.

Although there are no established rules on reporting, the understanding is that the NCP should remain autonomous from the rest of the Department. The NCP explained that the NCP government members inform their hierarchy on specific instances upon receipt of a complaint and prior to the publication of initial assessments and final statements to anticipate questions and reactions from the public. According to the NCP government members, the Department's hierarchy keeps distance with the NCP's work, is not involved in decision-making, and does not question outcomes.

In light of the above, while no issue of lack of impartiality was reported so far, the lack of established rules on reporting and impartiality might make the NCP vulnerable to criticism. Indicatively, some stakeholders reported lacking information and understanding on the reporting lines for the NCP, as well as how government members operate in an impartial manner.

They asked for more information on discussions and decision-making within the NCP. In particular, the lack of clear distinction between the CSR Team (including the CSR Ambassador) and the NCP also makes it difficult to understand reporting lines within the MFA, and how they might relate to the requirement of impartiality. This risk might be compounded by the general lack of information available to the public as to the structure of the NCP.

In this regard, it may be useful for the NCP to strengthen and better publicise measures taken to foster transparency and the impartiality of the NCP, and how this is differentiated from rules applying to the non-NCP related activities of the CSR Team. This could, for example, include creating the NCP as a proper unit within the MFA and building a 'firewall' around it, clarifying reporting lines of NCP staff vis-à-vis the hierarchy and what integrity and conflict of interest rules apply to them.

## **Resources**

The NCP does not have a dedicated budget. The budget of the Department for Trade Promotion, Nation Branding and CSR covers the NCP's expenses, such as staff costs, domestic and international travel (including for NCP Network meetings), translation and other administrative costs. If needed, the NCP may apply for additional financial resources to the MFA's Planning and Budget Department (e.g. for promotional activities).

The NCP's human resources have remained stable over time. The staff resources increased in 2018 with the designation of the first NCP Chair. Since then, the NCP's human resources are two part-time MFA staff: the NCP Chair (who is also Sweden's CSR ambassador) and a member.

Currently, these two members devote 60% and 70% of their time respectively to NCP work. Besides attendance of NCP meetings, participation of stakeholder representatives in NCP-related work varies over time. The NCP reports that its workload has increased significantly during 2021 compared to previous years. Indeed, the NCP received two new specific instances during this year and prepared for the peer review. The NCP further reports that resources have been overall sufficient but sometimes constrained, noting that if its workload continues to increase at the current rate, resources may become insufficient.

Stakeholders have shared that they considered the NCP not to have enough resources in light of its mandate, and called for making NCP work a higher priority, more resources and/or full-time staff for the



NCP government members. It was also pointed out that the stakeholder members of the NCP did not always have sufficient time to devote to NCP matters in addition to their regular occupations.

The NCP Chair wrote in 2021 to the heads of stakeholder member organisations to request that their representatives could dedicate more time to this activity. Stakeholders also agreed that more resources are necessary to strengthen the NCP's visibility through promotional activities and proactive communication, noting for example that the number of specific instances received so far by the NCP was not commensurate with Swedish MNE presence and activity worldwide.

More resources may also become necessary to ensure efficient handling of specific instances. In one case handled received jointly by the Swedish and Norwegian NCP and which was led by the Norwegian NCP in 2014, the NCPs engaged an external mediator.<sup>14</sup> The NCP is currently considering hiring professional mediators in future cases. The NCP may examine the possibility concretely in an ongoing specific instance which is currently entering the good offices stage, depending on the will of the parties, although budget to do so still needs to be secured.

### **Reporting**

The NCP has regularly submitted its annual report to the Investment Committee in the past few years. These reports are not published on the NCP's webpage. Stakeholders have indicated that they would appreciate if these reports were made public, as a source of information on the NCP's activities, specific instances received with outcome and reasoning behind the NCP's decision, as well as the NCP's budget. The NCP reported that it could consider making the reports publicly available, possibly with some edits.

There is no legal requirement for the NCP to report its activities to other national legislative or government bodies. The NCP does not report to the Parliament, although parliamentarians may request information on its activities. No such requests have been reported by the NCP. Within government, as indicated above, the NCP reports on its work and sends summaries of specific instances to the Head of the Department for Trade Promotion, Nation Branding and CSR and in some cases to the Director General for Trade Policy, as well as through brief updates to the State Secretary and the Minister.

Investigations can also be conducted by the National Audit Office or the State Office. No such investigations have been reported by the NCP. According to one stakeholder, reports on the NCP's activities are not easily accessible for interested parties. Stakeholders overall agreed that more transparency would be welcome on the NCP's activities. They called for more information on specific instances and publication of annual activity reports in both Swedish and English.

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<sup>14</sup> Specific instance 4 – Jijnjevaerie Sami Village v Statkraft, [Statkraft AS and the Sami reindeer herding collective in Jijnjevaerie Sami Village](#).

	<b>Finding</b>	<b>Recommendation</b>
1.1	The NCP has a strong tripartite structure, rooted in the Swedish social dialogue culture and trusted by stakeholders. However, the NCP structure is not established by a formal document, and the NCP is not set up as a distinct unit within the MFA. Reporting lines are also not clearly established for NCP functions, rather relying on practice. This may reduce the accessibility, visibility, and transparency of the NCP, as well as make arrangements to guarantee the impartiality of the NCP little understandable for the public.	Sweden should consider ways to lend more visibility, accessibility and transparency to the NCP by formalising its structure, location, mandate and membership, and clarifying the role of the NCP Chair and secretariat in an official document. Sweden could then disseminate the document across government, embassies and stakeholders. Moreover, the NCP could strengthen and better publicise measures taken to foster the impartiality of the NCP. This could, for example, include creating the NCP as a proper unit within the MFA and building a 'firewall' around it, clarifying reporting lines of NCP staff vis-à-vis the hierarchy and what integrity and conflict of interest rules apply to them.
1.2	As the NCP does not include CSOs and academia in its structure, CSOs demand further engagement with the NCP, notably as a way to access expertise on a broader range of issues, and increase the NCP's visibility, accessibility and accountability. The NCP is open to this idea and is considering options to engage on a regular and formal basis with CSOs and academia. In view of interest from CSOs in the NCP's work and the good timing to join forces, it is an optimal time to establish a cooperation framework.	The NCP should consider ways of engaging with CSOs and academia on a regular and formal basis to ensure access to expertise, as well as to increase its visibility, accessibility, transparency and accountability with that stakeholder group. The NCP indicated that it was currently considering establishing a regular meeting routine with a selected group of CSOs.
1.3	The NCP's staff resources have remained stable over the years, though the workload has increased as a result of new specific instances being submitted. The NCP has also experienced near-complete renewal of its members in recent years, including its government representatives. NCP members and stakeholders noted that the current level of resources may therefore not be sufficient in the long term. The need for a handover strategy was also underlined to facilitate turnover.	Staff resources of the NCP should be at least maintained, or ideally reinforced, to provide for example one full-time government member to manage the NCP secretariat. The NCP stakeholder members should further liaise within their trade unions and business organisations to ensure that they allocate the necessary amount of time to deliver the NCP mandate.

## 2. Promotion of the Guidelines

### Promotional plan

In its 2020 annual report, the NCP reported that no promotional plan was in place for the next years. The NCP reported planning to issue a promotional plan for the coming years.

Opportunities for further raising the NCP's visibility should be further explored in the upcoming promotional plan. The NCP could seek to be more strategic in leveraging its members and their organisations for promotional purposes. In this regard, it appears that the structure of the NCP offers many opportunities for promotion through the NCP Chair in her capacity as CSR Ambassador, as well as through the networks of the CSR Team, the stakeholder members and the broad spectrum of their affiliates. Another aspect that civil society stakeholders shared could be reinforced is to involve the network of embassies through the MFA in the promotion of the Guidelines to Swedish companies active abroad. Finally, Sweden participates in meetings of the Regional Network of Nordic-Baltic NCPs, which could also be a venue for cooperation on promotion.

The promotional plan should be underpinned by a stakeholder mapping so as to enable strategic outreach to stakeholders beyond the NCP members' network or existing contacts, in particular civil society and academia. Deeper engagement with civil society could be further explored. Stakeholders highlighted that Swedish companies were generally aware of the Guidelines and active on sustainable development issues, although awareness of the Guidelines is lower among smaller companies. Business organisations further noted in this regard that the prospect of mandatory EU due diligence legislation may raise interest in RBC and due diligence in the future. Relatedly, a new National Human Rights Institution (NHRI), the Swedish National Institute for Human Rights, is scheduled to be established in the beginning of 2022.<sup>15</sup> Its establishment could also offer new opportunities for the NCP in terms of visibility and promotion through strategic stakeholder engagement.

In general, collaboration with 'multiplier' organisations could increase the reach of the NCP to new target audiences without requiring significant additional resources.<sup>16</sup> In developing a promotional plan, the NCP could then assess which key sectors, key issues (e.g. human rights and indigenous peoples' rights) and key actors to address in priority. Stakeholders also suggested that the NCP could consider making the plan public to increase its transparency.

### Information and promotional materials

The CSR Team has contributed to publications on the work of the Swedish government in the area of sustainable business. The "Platform for international sustainable business" strategy document (see Box 1) provides a general presentation of the Guidelines, as well as the NCP's structure and mission. The Platform

<sup>15</sup> Raoul Wallenberg Institute (10 June 2021) "[The Swedish National Institute for Human Rights](#)".

<sup>16</sup> For example, through the [Global Compact Network Sweden](#) and the [Global Deal initiative](#).

provides succinct information on the NCP, including reference to specific instances. On past actions to ensure compliance with the Guidelines, the document notes the decision of the Swedish government in autumn 2018 that the NCP Chair be the CSR Ambassador. For planned measures, the document notes the government's wish to reinforce the NCP, including through its peer review.<sup>17</sup>

In the context of the follow-up on the implementation of the strategy document, the CSR Team meets biannually with an inter-ministerial-body. The first two relevant inter-ministerial meetings took place in 2021 following Covid-19 related restrictions in 2020. Promotion of RBC in Sweden is strongly anchored in the strategy document, a major policy document covering all branches of government. There would be opportunities for the NCP to promote the Guidelines more broadly in that context.

### Box 1. The Platform for international sustainable business

The “Platform for international sustainable business” was launched by the Swedish government in December 2019. It aims to promote sustainable business and support Swedish companies in managing risks associated with complex investments, business and markets. The word “platform” refers to “arenas, collaborations, actors, instruments and guidelines” identified by the Swedish government in the field of international sustainable business.

The strategy document on the platform provides an overall account of the government's work in the area of sustainable business and outlines a strategy on matters related to international sustainable business, including international guidelines on sustainable business, anti-corruption, sustainable development under the 2030 Agenda for Sustainable Development, sustainable business in the European Union and climate change-related export opportunities. The document also presents implemented and planned measures of the Swedish government, as well as follow-up measures in 2021-22.

The Guidelines and the Swedish NCP are presented in a subsection of the chapter covering international guidelines for sustainable business, along with the UN Global Compact and the UN Guiding Principles on Business and Human Rights. A separate section covers measures implemented and planned by the government to ensure compliance with the Guidelines.

Source: [Government Offices of Sweden \(2019\) Platform for international sustainable business](#).

Information and promotional materials developed specifically by the NCP are otherwise limited. The NCP's efforts to reach out to different stakeholder groups to inform them about RBC and promote the Guidelines rely largely on its membership, which is broad and strongly representative of social partners in Sweden. The NCP also refers to its meetings with representatives of CSOs (see above) and the dissemination of information by the stakeholder members of the NCP and the NCP Chair through *ad hoc* initiatives. In particular, Sweden provides as a relevant example the dissemination of information through the Ethical Trading Initiative (ETI) which business organisation members of the NCP can access through their member companies. The ETI's work focuses on the promotion of due diligence in global supply chains, with a focus on workers' rights.<sup>18</sup> The ETI provides general information on the NCP in its trainings, and is highly regarded by companies, many of which are members of business organisation members on the NCP. The CSR Team also cooperates with the International Council of Swedish Industry which disseminates information about the Guidelines.<sup>19</sup> The NCP Chair provides information about the Guidelines and the

<sup>17</sup> Raoul Wallenberg Institute (10 June 2021) “[The Swedish National Institute for Human Rights](#)”.  
[\(2019\) Platform for international sustainable business](#), p. 40.

<sup>18</sup> Ethical Trading Initiative Sweden (ETI) [website](#).

<sup>19</sup> International Council of Swedish Industry (NIR) [webpage on membership](#).

NCP's work in workshops and conferences in her role as CSR Ambassador, including a general overview of the NCP. Presentations on the Guidelines and the NCP contain general information about the chapters of the Guidelines and extensive information on the NCP system overall, including findings on the 20 years of NCPs' operation as grievance mechanism, overview of the NCP system's advantages and challenges, NCP peer reviews, a description of the specific instance process and timeline under the Procedural Guidance to the Guidelines. Information is also provided in the context of presentations on the Swedish government's work on international sustainable business.

Trade union, business and academia representatives suggested additional specific materials that could be useful for promotion. Such documents include a two-pager on the NCP explaining in plain language how to submit a case and what to expect, as well as case studies on lessons learnt through specific instances, to display impact of the mechanism. Business organisations highlighted cases which result in agreement as the best publicity for a grievance mechanism.

## Promotional events

The NCP has been little active in recent years when it comes to organising or co-organising promotional events, besides one recent initiative (see below). The NCP Chair recently participated in an internal, global sustainability training and educational programme on the NCP's systems and functions, co-organised with other governmental agencies. The NCP has not reported participation in events organised by others in 2020. Only one government agency reported previous cooperation with the NCP as such in the context of a promotional event on social dialogue abroad with representatives of government, trade unions and business organisations. Stakeholders overall stressed the need for more proactive promotional activities by the NCP. They also generally reported not being aware of promotional activities by the NCP on due diligence and the OECD due diligence guidance. Stakeholders suggested increasing the NCP's promotional activity through i) active information and promotional activities on the Guidelines and relevant tools, ii) more active cooperation with a broader spectrum of stakeholders, including CSOs, iii) use of social media. Stakeholders also suggested that the NCP needed more resources to support such activities.

Overall, stakeholders agree that there is too little publicly available information on the NCP and that there is room for improvement and further efforts in terms of visibility. Stakeholders reported a perceived lack of awareness of the Guidelines by major Swedish companies. As indicated above, they further noted that low awareness on the NCP besides closely involved stakeholders may account for the low rate of specific instances.

On the other hand, the CSR Team, and especially the CSR Ambassador, have been more active in 2021 in organising and participating in promotional events. A recent initiative to promote the Guidelines developed by the CSR team as part of its work on sustainable development, is the launch of a virtual awareness raising activity for regional Chambers of Commerce. The virtual roadshow is conducted by the CSR Team together with two other governmental agencies (Swedish Export Credit Agency, Swedish Export Credit Corporation), Business Sweden (a company co-owned by the state and private sector) and the CSO Swedish Anti-Corruption Institute. The first roadshow was organised in June 2021 and was attended by approximately 50 business representatives. A second roadshow took place in November 2021 with approximately 25 business representatives. The roadshow covered issues related to Swedish legislation applicable on companies operating abroad regarding risk assessment and corporate sustainability, EU-level discussions on sustainable corporate governance legislation, and specific issues of interest for small and medium-sized enterprises. The CSR Ambassador covered in particular issues related to EU legislation on entrepreneurship and human rights. The NCP system is mentioned in her presentation under international guidelines on international sustainable business. More activities are scheduled for the following months. Stakeholders noted one joint initiative to raise awareness on business and human rights within the network of governmental agencies and companies that work to promote Swedish exports. They further highlighted the close cooperation between the CSR Team and the CSR

Centre at the Swedish Embassy to the People's Republic of China for information and training provided to companies on related issues.

However, the CSR Ambassador's parallel role as NCP Chair is not always visible in practice. Stakeholders and government agencies note that cooperation in promotional events took place almost exclusively on non-NCP matters, including sustainable development and discussions on a mandatory due diligence EU framework. These topics receive more interest than NCP-related matters from external stakeholders. The NCP Chair notes that in engaging within her network as CSR Ambassador, she includes references to the NCP in her presentations. Nonetheless, most stakeholders or government representatives beyond the NCP's membership reported low awareness of the NCP, its mandate and activities so far.

In light of the above, the role of the CSR Ambassador and her access to a broad range of relevant actors in Sweden and abroad could be further leveraged to raise the visibility of the NCP. The NCP Ambassador could examine the possibility of accepting invitations to promotional events under her double role of CSR Ambassador and NCP Chair. More emphasis could also be given to the NCP mandate and the Guidelines in such events.

The NCP is also encouraged to launch promotional activities that focus specifically on the NCP. Several promotional opportunities and synergies with the activities of the CSR Team and the CSR Ambassador overlap with those of the NCP. However, most of the promotional activity on RBC in Sweden is done by the CSR Team and/or the CSR Ambassador, with limited references to the NCP despite the overlap between mandates and staff between the two. Government agencies also reported cooperating with the CSR Team and its staff, but not in their capacity as NCP government representatives. When information is provided in events led by the CSR Team or the CSR Ambassador on the NCP's operations, the process of submitting a complaint, as well as the potential outcomes of the specific instance process, it tends to stay at a general level, based on presentations used for those events.

## Webpage

The NCP's webpage is available in both Swedish<sup>20</sup> and English<sup>21</sup> in the Swedish government's website. It is easily identified through online search engines.

Information available on the webpage of the NCP covers:

- a general description of the OECD Guidelines in both English and Swedish and related instruments, including the UN Global Compact, the UN Guiding Principles on Business and Human Rights and the ILO Core Conventions. The text of the Guidelines is available on the Swedish webpage. The MFA is currently processing a translation of the OECD Due Diligence Guidance for RBC to be included on the webpage. Stakeholders noted that the links to the Guidelines and related instruments have been useful, although more comprehensive information could be provided;
- a general presentation of the NCP's tripartite structure, with the names of trade union and business organisation NCP members;
- a short description of the NCP's mandate as a non-judicial grievance mechanism;
- the NCP's Rules of Procedure;
- Contact details (email and telephone);
- a section entitled "current topics" which includes i) the names of the parties and date of submission for the ongoing specific instances, as well as the initial assessment where issued, and ii) short descriptions of the concluded and not accepted cases. Regarding statements, the webpage in Swedish provides the initial assessments and final statements for all accepted specific instances.

<sup>20</sup> [NCP webpage in Swedish.](#)

<sup>21</sup> [NCP webpage in English.](#)

The webpage in English does not provide the statements in three accepted specific instances. One stakeholder noted that the webpage in Swedish covers six specific instances whereas the webpage in English covers seven. According to civil society stakeholders, the webpage shows some final statements but not all.<sup>22</sup>

Stakeholders overall agree and stress that information available on the website could be expanded. They note inconsistencies and lack of information regarding the specific instance process and the cases handled by the NCP. They further suggest that i) for older specific instances, initial assessments be published, ii) records of specific instances be complete, iii) a distinction be made between ongoing and closed specific instances, and iv) the final statements be published for all specific instances. Positive actions recently put in place include the publication of the titles and succinct description, including the identity of the parties, of all specific instances received by the NCP along with the NCP's statements, as well as the recent alignment of the Swedish and English versions of the webpage which ensures consistency of information.

The NCP acknowledged that it needs to enhance its visibility through more information online. The NCP's webpage does not include the following information:

- more detailed information about RBC, the Guidelines and the due diligence guidance;
- more detailed information on the specific instance process, as well as an online form for submitting a specific instance (including guidance on what information is required for the submission), although an email address and phone number are provided. The NCP reported plans to introduce an online form to facilitate submissions, which was supported by civil society stakeholders;
- other useful OECD material, such as the OECD Flyer on Specific Instances and due diligence guidance;
- the annual reports of the NCP to the OECD;
- an agenda of promotional events;
- the NCP's postal and email address.

Stakeholders further noted that the NCP webpage does not include information on the NCP's budget and expenses. The website also does not have a dedicated space to advertise promotional events.

The NCP reports that the development of its website is constrained by the fact that it is part of the governmental webpage. Stakeholders overall agreed that more and more easily accessible information could be included on the NCP's webpage. They highlighted that the current webpage is especially useful for users with previous knowledge of the NCP's work that visit it with a clear purpose. They suggested that the NCP benchmark its webpage based on best practices in the NCP Network and that more easily accessible brochures be uploaded.

The NCP does not have active social media accounts as the relevant hyperlinks on the webpage were inactive at the time of writing. The NCP Chair promotes the NCP through the professional twitter account. The government members of the NCP noted that strengthening the NCP's presence in social media is included in their planned activities.

## Promotion of policy coherence

Sweden published a National Action Plan on Business and Human Rights (NAP) in 2015, being the sixth country in the world to do so.<sup>23</sup> Its implementation was evaluated in 2018 by the State Office of Sweden. Follow-up recommendations were integrated in the Platform for International Sustainable Business. The NAP was developed by the government, but the NCP was not involved and does not have a role in its

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<sup>22</sup> [OECD Watch, NCP Sweden](#).

<sup>23</sup> Swedish NAP, see also footnote 9.

implementation. The NAP Chapter on Access to Remedy however includes a reference to the NCP and its structure and a summary of its mandate, noting the NCP's roles in promoting compliance with the Guidelines and addressing problems in specific cases through dialogue and discussion. The reference to the NCP follows the section on the Swedish Ombudsman and precedes text on corporate redress mechanisms. Under the NAP's implementation, the MFA is competent to examine the possibility of strengthening the NCP. The NAP states that the NCP "is also intended to increase contacts and collaboration with NCPs in non-OECD member countries."

There is no human rights due diligence legislation in force or in development in Sweden. In 2018, the Swedish Agency for Public Management recommended to the government to examine relevant options.<sup>24</sup> Sweden however supports the efforts at EU level to develop a mandatory human rights, social and environmental due diligence legislation.<sup>25</sup> Although it is not their primary responsibility, NCP members of the CSR Team contribute to consultations within the MFA on the due diligence aspects.

Various parts of government in Sweden are active in areas related to RBC. Accordingly, the CSR Team cooperates on promoting RBC with relevant agencies, such as the Swedish Export Credit Agency and the Swedish Export Credit Corporation, as well as Business Sweden and the Swedish Anti-Corruption Institute to promote RBC. An example is the virtual roadshow for regional Chambers of Commerce (see above). The CSR Team also cooperates with government agencies to foster policy coherence through i) regular updates with other MFA departments, including the Global Agenda Department and the Department for UN Policy, Conflict and Humanitarian Affairs, as well as with diplomatic missions abroad; ii) bi-annual meetings with an inter-ministerial body to follow up on the strategy document "Platform for international sustainable business" (see Box 1); iii) regular contacts through the informal co-operation network Team Sweden Sustainability with the participation of other Swedish agencies (e.g. Swedish International Development Cooperation Agency, Swedish Export Credit Agency, Swedish Export Credit Corporation, National Board of Trade). The NCP also reported that, as the CSR Ambassador, its Chair provides lectures within regular training programmes to diplomatic staff both in the MFA offices in Stockholm and officials posted abroad.

It appears that most efforts to foster policy coherence are being conducted under the banner of the CSR Team and the CSR Ambassador, or by other agencies. Therefore, the NCP is little engaged in policy coherence issues within government and among public agencies. Illustratively, the NCP did not report providing policy inputs related to the Guidelines to other parts of the government, and other governmental agencies that operate a grievance mechanism (e.g. Swedfund) have not exchanged experiences with the NCP. Other parts of the government that provided input for the peer review overall noted that the NCP's role in their broader areas of work is difficult to distinguish from that of the CSR Team. The NCP Chair further noted the need for a strong signal by hierarchy of other government authorities on the importance of engaging with the NCP.

In the current context, there are many opportunities for the NCP to increase its visibility across government in Sweden and play a role to foster policy coherence for RBC. The prospect of a possible EU mandatory due diligence legislation was mentioned above, and stakeholders raised the issue that the framework of access to remedy could be further strengthened. One governmental agency expressed interest in cooperating with the NCP to disseminate lessons on specific instances regarding key economic sectors across central and local governments. Given its current low visibility within government, the NCP could be more proactive in taking the initiative of seeking cooperation with other agencies, and position itself more affirmatively in the broader RBC framework in Sweden to seek alignment of existing or emerging policies and initiatives with of the Guidelines, due diligence guidance and the NCP mechanism.

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<sup>24</sup> Statskontoret (2018) "[FN:s vägledande principer för företag och mänskliga rättigheter – utmaningar i statens arbete](#)".

<sup>25</sup> [Response of the Swedish government to the public consultation on the Proposal for an Initiative on Sustainable Corporate Governance, 8 February 2021.](#)



## Requests for information

The contact details of the NCP are listed on its webpage (email and telephone). It does not invite users to contact for any enquiries. The NCP did not report receiving phone calls or email enquiries relating to its work and the Guidelines. Early in 2021 the NCP received one request for access to all official documents concerning closed specific instances (see below). Stakeholders reported no requests for information to the NCP. The NCP has not been very active in this role in practice due to lack of resources.

## Cooperation amongst NCPs

The NCP reports no participation in meetings and events organised by other NCPs in 2020. For previous years, the NCP reported participation in such events, notably in the Nordic-Baltic regional meetings of NCPs.

	Finding	Recommendation
2.1	The visibility and transparency of the NCP is currently low beyond the circle of its members, notably as a result of limited promotional planning and activity. There is, however, a strong demand for better knowledge of the NCP. At the same time, resources currently available to the NCP may not allow to significantly increase promotion and hinder response to requests for information.	The NCP should strategically expand its promotional role, taking account of its existing resources. This could be done through a promotional plan that includes stakeholder mapping, synergies with CSR Team events and materials, better leveraging of the Chair's position as CSR Ambassador and other NCP members' networks, as well as cooperation with key multiplier actors. The NCP should also make itself available to answer inquiries about the OECD Guidelines.
2.2	The NCP's website contains basic information in Swedish and in English, but it could be further expanded to become a comprehensive resource on RBC and a more important tool for the promotion of the Guidelines in Sweden. There are also opportunities to enhance the NCP's visibility, accessibility, transparency and accountability through the website and social media.	The use of the website as a tool for visibility, accessibility, transparency and accountability should be enhanced, e.g. by including a section on promotional events, more information on the Guidelines and due diligence guidance, the specific instance process and the Rules of Procedure; an easily accessible submission form; the promotional materials available; the NCP's structure and membership; and the NCP's annual reports. The NCP should also increase its social media presence.
2.3	The NCP operates in a context where several other parts of government are active in the field of RBC, including the CSR Team, but the NCP itself is little active and visible in that community.	The NCP should position itself more visibly and affirmatively in the broader RBC framework in Sweden to take advantage of existing or emerging policies and initiatives and better promote the Guidelines and the NCP mechanism. The CSR Team and the CSR Ambassador could also play a role in enhancing the profile of the NCP and the Guidelines within government, through their position and network.

## 3. Specific instances

As of end-December 2021, the NCP had received nine specific instances. Seven specific instances have been closed by the NCP (four concluded and three not accepted), and two are ongoing. More specifically, among the closed cases:

- One case was concluded with subsequent agreement outside the NCP process. The NCP made recommendations to the enterprise; this specific instance was examined in cooperation with the Norwegian NCP;<sup>26</sup>
- Three cases were concluded without agreement;<sup>27</sup>
- Two cases launched by the same association were not accepted based on ongoing dialogue or settlement reached outside the specific instance process;<sup>28</sup>
- One case was not accepted and no statement published as this was not required for non-accepted cases under the previous version of the Guidelines. In the context of this peer review, the NCP reported that the case was not accepted due to formal review of the case by competent national authorities. The NCP determined that it could not contribute to the resolution of the issues.<sup>29</sup>

Of the two ongoing specific instances, one was accepted on 23 September 2021,<sup>30</sup> and the other one is still under initial assessment.<sup>31</sup>

An overview of all cases handled by the NCP is available in Annex D. Stakeholders having knowledge of the process welcomed the NCP's current efforts to handle specific instances in an efficient and timely manner, but reported less positive and time consuming experiences in relation to older complaints, often noting that the process had not allowed to address the issues.

### Rules of Procedure

The Rules of Procedure (RoP) of the NCP are available on the NCP's webpage<sup>32</sup> and were published in 2018. The RoP are short and divided into two sections:

- organisation and tasks;

<sup>26</sup> Specific instance 4 - [Statkraft AS and the Sami reindeer herding collective in Jijnjevaerie Sami Village](#).

<sup>27</sup> Specific instance 1 - [Gold mining in Ghana](#), specific instance 2 - [Financing of a pulp mill project in Uruguay](#), specific instance 7 - [Lumière Synergie Développement and Takkom Jerry & Nykomb Synergetics Development AB](#).

<sup>28</sup> Specific instance 5 - [Employment and industrial relations in Thailand](#), specific instance 6 - [Employment and industrial relations in Thailand](#).

<sup>29</sup> Specific instance 3 - [Financing of a wind park project in Sweden](#).

<sup>30</sup> Specific instance 8 - [Turkish Metal Workers Union, BİRLESİK METAL-İŞ & Systemair AB](#).

<sup>31</sup> Specific instance 9 - [Iranian Center for International Criminal Law & Mölnlycke Health Care](#). The initial assessment was issued on 15 November 2021 and made publicly available in December 2021, after the virtual visit.

<sup>32</sup> [NCP webpage in Swedish](#), [NCP webpage in English](#).

- how to file a complaint. This section also includes brief information on the initial assessment, good offices, conclusion and follow-up stages.

The second section of the RoP sets out the process for submitting a specific instance in four paragraphs.

The first paragraph specifies that a complaint is eligible when:

- it is substantiated;
- it explains the submitter's interest in the matter;
- it is made in good faith and
- there is a link between the Guidelines and the issues raised in the case.

These criteria do not exactly align with para. 25 of the Commentary to the Procedural Guidance and are not further specified by the RoP.

The RoP note that the “NCP expects both parties to be constructive in the process” but do not contain guidance to submitters on other relevant elements such as:

- who can file a complaint, since the text refers in general to “the party filing the complaint”;
- the content of the complaint and supporting documents to be provided;
- how a complaint can be filed (though it includes the email and telephone number of the NCP);
- the stages of the specific instance process and indicative timeframes;
- the process to prepare a statement, its publication, and the eventual issuance of recommendations and/or determinations;
- follow-up on agreements reached and recommendations issued.

The RoP provide that, upon receipt of a complaint, the NCP will acknowledge receipt, inform the respondent and request relevant information.<sup>33</sup> The NCP reported that in practice further explanations on the process were provided to case submitters, including a file number, an update on publicly available information and webpage reference. Additional information is also provided through the NCP's stakeholder members. Stakeholders stressed that information on how to file a complaint should be distributed widely, including through the webpage.

The RoP state that an initial assessment is conducted to determine if the case merits further examination, but do not provide further detail on this process (RoP, section on How to file a complaint, para. 3). In particular, alongside the ‘eligibility criteria’ above, the RoP do not address the role of the other criteria listed in para. 25 of the Commentary to the Procedural Guidance:

- whether there seems to be a link between the enterprise's activities and the issue raised in the specific instance;
- the relevance of applicable law and procedures, including court rulings;
- how similar issues have been, or are being, treated in other domestic or international proceedings.

Information in the RoP on the good offices stage reads as follows: “The NCP should collect information about the case and consult with the parties. If needed the NCP should try to mediate a solution. Confidentiality shall be observed in consultations and meetings” (RoP, section on How to file a complaint, para. 3).

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<sup>33</sup> The statement in specific instance 2 – Financing of a pulp mill project in Uruguay, mentions that the NCP offered the parties the opportunity to provide additional information through written questions.

In one case jointly submitted to the Swedish and Norwegian NCP and led by the Norwegian NCP in 2014, the NCPs engaged an external mediator (see also Box 2).<sup>34</sup> The slate of mediators presented by the NCPs was refused by one party, and another mediator was thus appointed. One party to this case considered mediation rules to be clearly laid out by the mediator and was satisfied by the mediation. This party further noted that the specific instance process brought the parties closer to identifying the issues and allowed discussion to move to another level following publication of the final statement, covering substantive issues, e.g. land use, methods of ensuring access to food for reindeers, and was therefore instrumental in reaching the subsequent agreement. However, the parties also noted challenges, notably regarding predictability of the process, information on the cooperation between the two NCPs and timeline.

The NCP is open to learning from relevant similar experiences of NCP members. As mentioned above, the NCP also indicated that it could call upon government experts for their expertise on specific issues, although this possibility is not included in the RoP. Some stakeholders suggested that the NCP should be enabled to conduct its own on-site fact-finding activities.

The RoP note that “[a]t the end of the process the NCP should publish a final statement and consult with the parties” (RoP, section on How to file a complaint, para. 4). The NCP has made recommendations in two cases regarding the observance of the Guidelines by the enterprises.<sup>35</sup> In one case, the NCP invited the company, a financial institution, to practice transparency and foster freedom of information to the extent possible and to consider the increasing requests for information from the public in line with Chapters II and III of the Guidelines.<sup>36</sup> In the other case, the Swedish and Norwegian NCPs made detailed recommendations to the company and one recommendation to both parties.<sup>37</sup> Parties to this case reported lack of clarity on the outcome and absence of consultations on the final statement.

Stakeholders noted that the RoP are vague and not detailed enough, which may create confusion regarding the process (see also Box 2, Box 3). Stakeholders note for example that the RoP do not address the timeline.<sup>38</sup> Stakeholders further stressed that RoP should be available in both Swedish and English. Elements to be added to the RoP, according to stakeholders, include i) clarification of the grounds for confidentiality and the timeline of the specific instance process, ii) the possibility of issuing recommendations and/or determinations and engaging in follow-up, iii) recommended consequences for companies that do not engage in good faith or do not implement recommendations or agreements reached and iv) a user-friendly Q&A document. The NCP updated the RoP in 2021 to notably reflect the change in membership, but stakeholders called for a thorough review of the RoP through an inclusive consultation process. The review would enhance the predictability of the specific instance process and build trust with stakeholders and potential interested parties. The NCP acknowledged the need to strengthen the RoP and indicated that it was working on this aspect.

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<sup>34</sup> Specific instance 4 – Jijnjevaerie Sami Village v Statkraft, Statkraft AS and the Sami reindeer herding collective in Jijnjevaerie Sami Village.

<sup>35</sup> Specific instance 2 - Financing of a pulp mill project in Uruguay, specific instance 4 - Statkraft AS and the Sami reindeer herding collective in Jijnjevaerie Sami Village.

<sup>36</sup> Specific instance 2 - Financing of a pulp mill project in Uruguay.

<sup>37</sup> On recommendations in the final statement in specific instance 4 - Statkraft AS and the Sami reindeer herding collective in Jijnjevaerie Sami Village, see the section on *Final statements*.

<sup>38</sup> [OECD Watch, NCP-Sweden](#).

### Box 2. Statkraft AS and the Sami reindeer herding collective in Jijnjevaerie Sami Village

On 29 October 2012, the Norway and Sweden NCPs received a specific instance from the Jijnjevaerie Saami village, an indigenous reindeer-herding collective community located in the north-west of Sweden, alleging that wind power development activities of the Norwegian state-owned enterprise Statkraft AS and its Swedish subsidiary Statskraft SCA Vind AB (known together as Statskraft) in the area would be in conflict with Chapter II (General Policies), Chapter IV (Human Rights) and Chapter VI (Environment) of the Guidelines and could severely impact human rights and their way of life leading to displacement from the area that forms part of their cultural identity. Statskraft requested that the complaint be rejected based on previous consideration by the Swedish court system and due diligence measures allegedly taken by the company.

In their initial assessment on 14 February 2013, the NCPs decided to accept the case and appoint a professional mediator. The mediation costs were covered by the Norway NCP. Mediation did not result in agreement under the specific instance process. In their final statement on 9 February 2016, the NCPs made a determination that the Guidelines were observed. The NCPs also made extensive recommendations to the company, as well as a recommendation to both parties to continue dialogue. Subsequently, an agreement was reached between the parties outside the specific instance process following the publication of the final statement.

The parties shared positive experiences in the accessibility of both NCPs, though they indicated being mostly in contact with the Norway NCP. The parties welcomed the specific instance process as an opportunity to communicate openly. Challenges were however identified, notably regarding predictability of the process, information on the cooperation between the two NCPs and timeline, lack of clarity on the outcome and absence of consultations on the final statement.

In terms of predictability, and cooperation between the NCPs, it was unclear to the parties what arrangements were made by the NCPs regarding the lead, and what role they respectively played. However, it became clear that the case was eventually led by the Norway NCP, who notably held the pen on the statements. Finally, a conflict of interests was raised regarding one Norwegian NCP member who did not participate in the final stage.

## Reporting on specific instances

### *Initial assessments*

The RoP do not specify whether the NCP publishes initial assessments, but in practice, the NCP indicated that it aims to publish initial assessments irrespective of its decision to accept the case or not. The NCP also reported that draft statements are prepared by the government members, and then shared with the stakeholder NCP members for comments. The draft initial assessment is then shared with the parties for factual corrections. If other NCPs are involved, the draft is also shared with them.

Three<sup>39</sup> out of nine specific instances have not been accepted so far by the NCP. In accepted cases, initial assessments were published in two specific instances in webpages in Swedish and in English.<sup>40</sup> Initial

<sup>39</sup> Specific instance 3 - Financing of a wind park project in Sweden, Specific instance 5 - Employment and industrial relations in Thailand, specific instance 6 - Employment and industrial relations in Thailand.

<sup>40</sup> Specific instance 4 - Statkraft AS and the Sami reindeer herding collective in Jijnjevaerie Sami Village, specific instance 7 – Lumière Synergie Développement and Takkom Jerry & Nykomb Synergetics Development AB.

assessments were not published for two specific instances<sup>41</sup> concluded prior to the 2011 update of the Guidelines which invites NCPs to make publicly available initial assessments in non-accepted specific instances.<sup>42</sup> In non-accepted cases, initial assessments were published in two<sup>43</sup> out of three non-accepted specific instances in the Swedish version, and none in the English version. Stakeholders also noted that the Swedish version provides more information than the English which only shows a short summary of specific instances.

In one case, the NCP did not accept the specific instance due to ongoing dialogue between the parties. The NCP encouraged the parties to continue the dialogue and noted that it was primarily up to the social partners to resolve the conflict (see also Box 3).<sup>44</sup> Both parties to the specific instance appreciated the opportunity to discuss about the issues. They further stated that communication with the NCP was good. They appreciated the availability of the NCP for exchanges. However, both parties also identified a number of challenges in relation to the handling of the case by the NCP. Challenges concern lack of predictability of the process due to lack of clarity on the steps and potential outcome, as well as lack of clear communication on the final steps, including the reasons to not accept the case.

In another case submitted by the same CSO, the NCP did not accept the case based on agreement reached between the workers and the company and ongoing social dialogue between the corporate management and the local branch of the trade union. Two trade unions which were members of the NCP at the time had facilitated this dialogue.<sup>45</sup>

### **Final statements**

Under the Procedural Guidance, at the conclusion of a specific instance process, the NCP will make the results of the procedure publicly available through a report or a statement.<sup>46</sup> Out of the seven cases closed by the NCP, four were concluded with the publication of a final statement.<sup>47</sup> The final statements are now available in both the Swedish and English versions of the webpage. The final statements provide the following information:

- in one case, the NCP found that the role of the enterprises was limited, without specifying whether the Guidelines were observed.<sup>48</sup> Information was collected by the NCP from the submitters, the two involved companies and a Ghanaian CSO. In this case, the NCP held five meetings with the parties and separate meetings with each one, as well as joint information meetings. The NCP recommended that the two companies involved enhance their knowledge of the Guidelines internally and externally in light of inadequate knowledge of the Guidelines by their personnel on the concerned site without specifying a Chapter or specific issue;
- in a second case, the NCP did not identify indications to support the complaint against the enterprise and did not specify whether the Guidelines were observed.<sup>49</sup> The NCP based its findings on meetings held with the parties in cooperation with the Norwegian NCP, written

<sup>41</sup> Specific instance 1 - Gold mining in Ghana, specific instance 2 - Financing of a pulp mill project in Uruguay.

<sup>42</sup> Implementation Procedures of the Guidelines, Commentary on the Implementation Procedures, Chapter I, para. 32.

<sup>43</sup> Specific instance 5 - Employment and industrial relations in Thailand, specific instance 6 - Employment and industrial relations in Thailand.

<sup>44</sup> Specific instance 5 - Employment and industrial relations in Thailand.

<sup>45</sup> Specific instance 6 - Employment and industrial relations in Thailand.

<sup>46</sup> Procedural Guidance to the Guidelines, Section I.C.3.

<sup>47</sup> Specific instance 1 - Gold mining in Ghana, specific instance 2 - Financing of a pulp mill project in Uruguay, Specific instance 4 - Statkraft AS and the Sami reindeer herding collective in Jijnjevaerie Sami Village, specific instance 7 – Lumière Synergie Développement and Takkom Jerry & Nykomb Synergetics Development AB.

<sup>48</sup> Specific instance 1 - Gold mining in Ghana.

<sup>49</sup> Specific instance 2 - Financing of a pulp mill project in Uruguay.

exchanges with the parties and information collection from Swedish governmental authorities and embassies. The complaint concerned the provision by a financial institution of part-financing of a pulp mill project in Uruguay to a company which allegedly violated the Guidelines with respect to environmental impact assessment procedures and communication. The NCP encouraged the company to foster transparency and freedom of information to the extent possible under Chapter 2 of the Guidelines, in particular regarding its project and risk analysis;

- in another specific instance, the NCP held consultations with the parties.<sup>50</sup> Consultations also took place between the parties in Senegal. In the final statement, the NCP noted the outcome of two complaints filed by the submitters to the African Development Bank (AfDB) and the Dutch Development Bank (FMO) grievance mechanisms. The final statement notes that the AfDB's management prepared a mitigation action plan which would be monitored by the Independent Review Mechanism. The statement also notes that the Independent Complaint Mechanism of the FMO found six non-compliances with its environmental and social safeguard policies which were consequently monitored. The NCP noted efforts and progress from the enterprise to improve the situation, without further details. The NCP did not make recommendations.
- one specific instance (see Box 2) was concluded with the publication of a detailed joint final statement of the Norwegian and Swedish NCP and a press release.<sup>51</sup> In this specific instance, subsequent agreement was reached between the parties six months after the final statement was released and outside the specific instance process. Following mediation which did not result in agreement under the specific instance process, the Swedish and Norwegian NCPs made a determination that the Guidelines were observed. The NCPs did not find any grounds for concluding that there had been any non-compliance with the Guidelines but pointed to areas for improvement. The NCPs also made recommendations for how the company could work in a manner that promotes more clearly indigenous people's rights and the implementation of the Guidelines. The complaint concerned the Swedish subsidiary of a Norwegian state-owned company active in wind power development which planned a wind power project which could allegedly affect traditional reindeer herding by a Saami local community. Since part of the facts had taken place before 2011, the NCPs applied the version of the Guidelines prior to its latest revision. The Norwegian and Swedish NCPs made recommendations to the company to work in a manner that clearly promotes indigenous peoples' rights, notably through active use of the corporate code of conduct and an independent third party assisting the process for future wind power projects.

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<sup>50</sup> Specific instance 7 – [Lumière Synergie Développement and Takkom Jerry & Nykomb Synergetics Development AB](#).

<sup>51</sup> Specific instance 4 - Statkraft AS and the Sami reindeer herding collective in Jijnjevaerie Sami Village.

### Box 3. Employment and industrial relations in Thailand - Specific instance notified by the CSO Swedwatch regarding the activities of a subsidiary of Electrolux

On 9 April 2013, the NCP received a specific instance from the CSO Swedwatch alleging that of the company Electrolux, in its factories in Thailand, had dismissed and suspended workers and trade union members following allegedly illegal strikes, in contradiction with Chapter V of the Guidelines (Employment and Industrial Relations). The company denied the allegations, noting that it was cooperating with two trade unions, IndustriALL and IF Metall, to solve the issues, ensured that all employees concerned were offered re-employment and agreed to conduct joint training activities for the local management and local union representatives.

The final statement published on 23 September 2013 is very succinct. In the statement, the NCP noted the measures taken by the company and decided not to accept the specific instance in view of ongoing dialogue on the issues between the company and the trade unions. The NCP further noted that one of the two unions participating in the social dialogue established by the company was an NCP member.

The NCP decided to keep following-up on the dialogue despite not accepting the case. It requested a report from the company in the following months on relevant developments through dialogue. According to the current NCP team, the company provided a report to the NCP at the time. The decision of the NCP to follow-up on a specific instance without accepting it is also arguably not in line with the Procedural Guidance on the Guidelines (Commentary, para. 36). Follow-up was not made public.

#### **Case follow-up**

The RoP do not mention the possibility for the NCP to follow up on cases. However, in two specific instances that were not accepted by the NCP,<sup>52</sup> the NCP invited the enterprises to provide a report in the months following the NCP statement (see also Box 3). The NCP reports that the information was provided by the involved enterprises but it did not publish the outcome of these follow-ups. Additionally, the decision of the NCP to follow up on non-accepted specific instances is also not foreseen by the Procedural Guidance (Commentary, para. 36).

#### **Timeliness**

The NCP reports that in the two ongoing specific instances, the initial assessment process took longer than three months. In one case, the NCP reported that delays were due to coordination with another NCP and the decease of a representative of one of the parties. Stakeholders note that the indicative timeline for the specific instance process are usually not respected.<sup>53</sup> Stakeholders highlighted the need for information and transparency around timelines.

<sup>52</sup> Specific instance 5 - Employment and industrial relations in Thailand, specific instance 6 - Employment and industrial relations in Thailand.

<sup>53</sup> [OECD Watch – NCP Sweden](#).



The initial assessment did not respect the indicative timeline of three months in cases so far. In four cases, it took between three and six months.<sup>54</sup> In three cases, it took longer.<sup>55</sup> In one concluded case, the entire process took less than 12 months.<sup>56</sup> In other concluded cases, the entire process took one and a half years,<sup>57</sup> almost three years,<sup>58</sup> and five years.<sup>59</sup>

Details on delays are available regarding two specific instances:

- in one specific instance,<sup>60</sup> after a first round of dialogue between the parties, the case was deferred until a second round was requested. The mediation was concluded without results. Parties to this case highlighted long timelines, including a period of one year and a half during which they were not kept informed of the progress of the case. One party questioned reasons for delays as well as the mediator's designation process. More than one-and-a-half-year elapsed until the final statement of the NCPs was issued. The final statement mentions that in the meantime many members of the Norwegian NCP staff, which was cooperating in this case, had been replaced. An issue of conflict of interests was raised regarding one Norwegian NCP member who did not participate in the final stage.
- in a recent specific instance,<sup>61</sup> the reception of the complaint was acknowledged after four days and the company was notified 15 days after the date of submission. Meetings with the parties took place in April and May 2021. The Swedish NCP sent a list of questions and asked for the support of the Turkish NCP to clarify certain issues on 19 April 2021 and got a reply on 13 May 2021. The company submitted material on 1 June 2021. The initial assessment was shared with the Turkish NCP on 18 June 2021 and the parties for comments on 23 June 2021, and the final version was shared with the Turkish NCP and the parties on 23 September 2021. NCP members stated that deviation from the indicative timeline was due to the complicated nature of the case, as well as issues raised by one of the parties on conflicts of interest. They further noted that, as a new team, it took extra time to ensure a thorough examination of the information. At the time of finalising this report, the NCP further noted that delays were also due to the decease of a party representative.

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<sup>54</sup> In specific instance 2 - Financing of a pulp mill project in Uruguay, the case was submitted on 12 July 2006 and the initial assessment was issued four months later on 15 November 2006; in specific instance 4 - Statkraft AS and the Sami reindeer herding collective in Jijnjevaerie Sami Village, the case was submitted on 29 October 2012. The initial assessment was issued approximately four months later, on 9 March 2013; in specific instance 5 - Employment and industrial relations in Thailand, the case was submitted on 9 April 2013 and the initial assessment was issued five months later, on 23 September 2013; the same timeline applies to specific instance 6 - Employment and industrial relations in Thailand.

<sup>55</sup> Specific instance 7 – tLumière Synergie Développement and Takkom Jerry & Nykomb Synergetics Development AB, was submitted on 7 May 2015 and the initial assessment was issued after seven months, on 3 December 2015; in specific instance 8 - Turkish Metal Workers Union, BİRLESİK METAL-İŞ & Systemair AB, the case was submitted on 11 January 2021 and the initial assessment was issued after eight months on 23 September 2021; in specific instance 9 - Iranian Center for International Criminal Law & Mölnlycke Health Care, the case was submitted on 15 May 2021. No initial assessment has been issued yet, i.e. six months later.

<sup>56</sup> In specific instance 1 - Gold mining in Ghana, the case was submitted on 17 February 2003 and the final statement was issued four months later, in June 2003.

<sup>57</sup> In specific instance 2 - Financing of a pulp mill project in Uruguay, the case was submitted on 12 July 2006 and the final assessment was issued on 24 January 2008. No initial assessment was issued, as the case was concluded prior to 2011.

<sup>58</sup> In specific instance 4 - Statkraft AS and the Sami reindeer herding collective in Jijnjevaerie Sami Village, the final statement was issued on 8 February 2016.

<sup>59</sup> In specific instance 7 – Lumière Synergie Développement and Takkom Jerry & Nykomb Synergetics Development AB, the case was submitted on 7 May 2015 and the final assessment was issued on 14 May 2020, i.e. five years later.

<sup>60</sup> Specific instance 4 - Statkraft AS and the Sami reindeer herding collective in Jijnjevaerie Sami Village.

<sup>61</sup> Specific instance 8 - Turkish Metal Workers Union, BİRLESİK METAL-İŞ & Systemair AB.

## Confidentiality and transparency

The RoP provide that confidentiality is observed in consultations and meetings during good offices (RoP, section on How to file a complaint, para. 3). They do not further specify how the NCP strikes a balance between the principle of transparency with concerns of confidentiality in the rest of the proceedings, e.g. when a party requests to withhold information from the other in the course of the proceedings. All statements specify the identity of the company and the submitter. Stakeholders have noted the lack of explicit provision allowing to withhold the submitters' identity from the other party for safety reasons.<sup>62</sup>

The NCP reported that, in practice, it strived to be transparent and publish information about its operations. The right of public access to official documents is enshrined in the Freedom of the Press Act. Under the Public Access to Information and Secrecy Act, the right of access to documents held by public authorities is restricted in two ways: the public may only access official documents and some information contained in official documents can be classified as secret. The NCP stated that it had clarified with the relevant authorities that the secrecy provisions under applicable legislation apply to documents submitted in the specific instance process. Most recently, the NCP received a request for access to all official documents on closed specific instances. The NCP reports that almost all information was provided, without specifying which documents were considered as official.

The NCP has to date not reported having to deal with breaches of confidentiality by parties in specific instances.

## Impartiality in the handling of specific instances

The RoP do not explicitly address impartiality, conflict of interest or the appearance of conflict of interest that NCP members may face in specific cases. As indicated above, the usual rules applicable to civil servants do apply to the government members of the NCP.<sup>63</sup> It remains unclear whether the same rules apply to stakeholder members of the NCP. The NCP reported liaising in 2021 with the MFA's Legal Department on this question and that it will keep investigating the issue.

With respect to stakeholder members of the NCP, a situation of conflict of interest may for example be raised when a specific instance is submitted by an organisation that is represented on the NCP, or when an NCP member has a personal interest in the outcome of a case. In the absence of clear applicable rules, dialogue is favoured to reach a pragmatic solution, although this may lead to some delays in the handling of the case (see above).

In a recent specific instance, two members of the NCP were replaced by other representatives of their organisations following concerns of conflict of interest raised by one of the parties.

The NCP should take steps to include clear rules and processes for avoiding and addressing potential situations of conflict of interest as it revises its RoP, as a way to bolster its perception of impartiality.

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<sup>62</sup> OECD Watch, NCP-Sweden.

<sup>63</sup> Regulations on conflicts of interest for public officials in Sweden are found in the Administrative Procedure Act which covers the processing of matters by administrative authorities (Section 1, [Administrative Procedure Act \(2017:900\)](#)). Accordingly, public officials that perceive a potential conflict of interest should voluntarily disclose it or raise the issue for discussion in case of uncertainty (Ministry of Finance, Swedish Association of Local Authorities and Regions, [On bribery and conflicts of interest: guidelines for public sector employees](#), p. 10.).

## Campaigning

The NCP has not reported particular issues linked to campaigning, and has not established a procedure to deal with issues related to campaigning and confidentiality, although this is an issue some NCP members have indicated should be more closely scrutinised.

## Cooperation with other NCPs

To date the NCP has cooperated in at least 4 cases with other NCPs. The NCP also reported cooperating in at least two cases led by other NCPs and that the experience was positive. In one specific instance, the NCP noted developments regarding a complaint before the Finnish NCP by the same complainant on related facts.<sup>64</sup>

One NCP reported that the Swedish NCP had responded quickly and positively in the context of exchange in 2021 regarding a specific instance led by the other NCP. The Swedish NCP offered its assistance in this specific instance which involves a Swedish company and this response was described as professional and cooperative. The NCP also coordinated with the competent ministry at domestic level regarding information on a Swedish company involved in a specific instance examined by another NCP.

**Table 2. Specific instances where the Swedish NCP has cooperated with other NCPs**

Specific instance	Lead NCP	Supporting NCPs
specific instance 2 - CEDHA v Nordea	Sweden	Norway
specific instance 3 – NGO Saami Council regarding the activities of the German bank KfW IPEX-Bank in Sweden	Sweden	Germany
specific instance 4 – Jijnjevaerie Sami Village v Statkraft	Sweden	Norway
specific instance 8 - - Turkish Metal Workers Union, BİRLESİK METAL-İŞ vs Systemair AB	Sweden	Turkey

Source: OECD NCP Database as of end-2021 <https://mneguidelines.oecd.org/database/>.

## Request for clarification

The NCP did not file any requests to the Investment Committee or the Working Party on RBC for clarification or assistance in dealing with a specific instance.

<sup>64</sup> Specific instance 2 - Financing of a pulp mill project in Uruguay.

	<b>Finding</b>	<b>Recommendation</b>
3.1	The current Rules of Procedure are very succinct and may not provide a sufficient basis to ensure predictability and transparency in the handling of specific instances, nor to address situations of conflicts of interest. This has led in the past to situations where the handling of specific instances was arguably not fully in line with the Procedural Guidance, and has prevented a timely handling of situations on which conflicts of interest had been raised.	The NCP should revise its Rules of Procedure in accordance with the Procedural Guidance, to ensure predictability, transparency and impartiality in the specific instance process. The Rules of Procedure should include at least guidance on filing a complaint; initial assessment criteria in line with the Procedural Guidance on the Guidelines; detailed description of the process, potential outcomes, including the possibility of issuing recommendations and engaging in follow-up; as well as applicable provisions on campaigning and confidentiality and access to documents. Clear rules and processes for avoiding and addressing possible conflicts of interest should also be included.
3.2	Indicative timelines are frequently overshot in specific instances handled by the NCP, for a number of reasons, including staff turnover of the NCP secretariat. Additionally, parties in previous specific instances stated that they would value clearer communication on the steps of the process.	The NCP should seek as much as possible to observe the indicative timelines for the handling of specific instances. In any event, it should proactively engage with the parties to inform them about the steps in the process and any delays, as well as provide them with alternative timelines.

## Annex A. List of organisations submitting responses to the NCP peer review questionnaire

<b>Government</b>
Business Sweden (co-owned by the State and the business sector)
Swedish Export Credit Agency
<b>Civil society</b>
Amnesty International
ForumCiv
Human Rights Watch
Swedwatch
The Swedish Anti-Corruption Institute
Diakonia
<b>NCPs</b>
France
Netherlands

## Annex B. List of organisations that participated in the NCP peer review virtual visit

Organisation	Sector
CSR Team, Ministry of Foreign Affairs (MFA)	NCP
Swedish Association of Graduate Engineers	Trade Union, NCP
Swedish Confederation of Professional Employees	Trade Union, NCP
IF Metall	Trade Union, NCP
Unionen	Trade Union, NCP
Swedish Trade Union Confederation	Trade Union, NCP
Confederation of Swedish Enterprise	Business organisation, NCP
Swedish Federation of Business Owners	Business organisation, NCP
Swedish Trade Federation	Business organisation, NCP
International Council of Swedish Industry	Association, business sector
Statkraft Vind	Business
Electrolux	Business
Ministry of Justice, Criminal Law Unit	Government
Ministry of Enterprise and Innovation, Department of State-Owned Enterprises	Government
Swedish Export Credit Agency	Government
Business Sweden	Government-private sector
Stockholm Region	Regional Government
Swedfund	Government
Department for Global Agenda, MFA	Government
Legal Department, MFA	Government
Department for Trade Promotion, Nation Branding and CSR, MFA	Government
Swedwatch/ OECD Watch Member	CSO
Human Rights Watch	CSO
Amnesty International	CSO
Diakonia	CSO
Jijnjevaerie Sami Village	CSO
Raoul Wallenberg Institute	Academia
Business at OECD (BIAC)	Institutional stakeholder
Trade Union Advisory Committee to the OECD (TUAC)	Institutional stakeholder

## Annex C. Promotional events

**Table 1. Promotional activities in 2021 organised by the NCP**

Title	Date	Location	Size of Audience	Organised or co-organised	Targeted audience
Road Show	16/06/2021	Digital	50-100	Co-organised	Members (=companies) of the Regional Chambers of Commerce of Southern Sweden and of the Jönköping County.
Road Show	30/11/2021	Digital	10-50	Co-organised	Members (=companies) of the Regional Chambers of Commerce of Mälardalen Region and of Eastern Sweden.
Meeting 1 with the Government's network "External Reference Group for Sustainable Business	25/01/2021	Digital	10-50	Organised	NGO:s, business and trade union organisations
Meeting 2 with the Government's network "External Reference Group for Sustainable Business	16/11/2021	Digital	10-50	Organised	NGO:s, business and trade union organisations

Source: National Contact Point Reporting Questionnaire (2021)

**Table.2. Events in 2021 participated in by the NCP**

Title	Date	Location	Size of Audience	Targeted audience
Seminar with The Swedish Trade Union Confederation LO	08/09/2021	Digital	10-50	Affiliated trade unions, international secretary, and ombudsman
Seminar with The International Council of Swedish Industry	25/03/2021	Digital	10-50	The International Council of Swedish Industry

Source: National Contact Point Reporting Questionnaire (2021)

## Annex D. Overview of specific instances handled by the Swedish NCP as the leading NCP

Enterprise	Submitter	Host Country	Chapter(s) of the Guidelines	Date of Submission	Date of Initial Assessment	Date of Conclusion	Outcome	Description	Follow-up	Review
<b>Sandvik, Atlas Copco</b>	Two CSOs Attac Sweden, Friends of the Earth Sweden	Ghana	General Policies (II), Disclosure (III), Environment (V)	17/02/03	N/A	June 2003	Concluded with statement	The NCP assessed that the role of the enterprises in the cases was limited. The NCP encouraged both enterprises to enhance their knowledge of the Guidelines.	No	N/A
<b>Nordea</b>	One Argentinian CSO Center for Human Rights and Environment (CEDHA)	Papua New Guinea	General Policies (II), Disclosure (III), Environment (VI)	12/07/06	N/A	24/01/2008	Concluded with statement	The NCP found no indications to support the complaints against the enterprise.	No	N/A
<b>KfW IPEX-Bank</b>	One CSO Saami Council	Sweden	General Policies (II),	16/04/10	N/A	N/A	Not accepted	The reason for not accepting the case was a concluded formal review of the case by competent national authorities. The NCP's contribution was assessed as not necessarily of added value concerning the investigation.	No	N/A
<b>Statkraft AS</b>	Jijnjevaerie Sami Village	Sweden	General Policies (II), Human Rights (IV), Environment (VI)	29/10/12	14/02/13	08/02/16	Concluded, with statement	The Norwegian and Swedish NCPs found no grounds to conclude that the enterprise failed to comply with the Guidelines and made recommendations to the company on promoting indigenous rights	No	N/A
<b>Electrolux</b>	One association	Thailand	Employment and	09/04/13	N/A	23/09/13	Not accepted	The NCP decided to not formally take	Unclear	N/A



	Swedwatch		Industrial relations (V)					on the specific instance due to independent dialogue launched between the enterprise and the trade unions		
<b>Mölnlycke</b>	One association Swedwatch	Thailand	Employment and Industrial relations (V)	09/04/13	N/A	23/09/13	Not accepted	The NCP decided that the dispute was over following an independent statement reached by the workers and the dialogue launched between the enterprise and the trade union.	Unclear	N/A
<b>Nykomb Synergetics Development AB</b>	Two CSOs Takkom Jerry, Lumier Synergie Developpement	Senegal	General Policies (II), Human Rights (IV), Environment (VI)	07/05/15	03/12/15	14/05/2020	Concluded with final statement	The NCP noted that the banks had made an assessment before financing the project in question and noted efforts from the enterprise to improve the situation in Senegal	N/A	N/A
<b>Systemair AB</b>	One trade union Turkish Metal Workers Union (BİRLESİK METAL-İŞ)	Turkey	General Policies (II), Human Rights (IV), Employment and Industrial relations (V)	11/01/21	23/09/21	Ongoing	Ongoing			
<b>Mölnlycke Health Care</b>	One CSO Iranian Center for International Criminal Law	Sweden, Iran	General Policies (II), Human Rights (IV)	15/05/21	Ongoing		Ongoing			

## National Contact Point Peer Reviews: Sweden

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 Swedish NCP, mapping its strengths and accomplishments and also identifying opportunities for improvement.

