



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



## ABOUT THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

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

## ABOUT NCP PEER REVIEWS

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

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# Summary and Key Findings

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

This report assesses conformity of the NCP with the core criteria and with the Procedural Guidance contained in the implementation procedures. The peer review of the NCP was conducted by a team made up of reviewers from the NCPs of Australia, Germany and Switzerland, along with representatives of the OECD Secretariat. The peer review included an on-site visit that took place in Seoul Korea on 17-18 December 2019.

The NCP was first established in 2000, but underwent significant reforms after the Procedural Guidance was introduced in the 2011 version of the Guidelines and feedback on the structure, composition and activities of the NCP was published by the Korean National Human Rights Commission.<sup>1</sup> It appears that daily operations of the NCP are handled in a timely and professional manner. The NCP has also developed quality promotional materials and promoted the Guidelines internationally. Since 2011 the NCP has been more transparent about the outcomes of specific instance processes. In 2019 a specific instance concluded with agreement between the parties for the first time through a mediation led by the NCP.

Although there have been important improvements in the functioning of the NCP, current institutional arrangements could be further enhanced to improve its visibility, accessibility, transparency and accountability. Furthermore, the relationship between parts of the NCP and stakeholder groups, and in particular civil society and trade unions could be strengthened. Strategic planning around promotion and better collaboration across other parts of the Korean government can help raise the visibility of the NCP and help it execute its mandate. In terms of specific instance handling, the NCP can enhance transparency of proceedings by clarifying the roles of different segments of the NCP and enhance outcomes through issuing concrete recommendations in statements, collaborating proactively and effectively with other NCPs on specific instances, and engaging in follow up on specific instances.

## 1.1. Key findings and recommendations

**Table 1.1. Institutional Arrangements**

	<b>Findings</b>	<b>Recommendations</b>
1.1	Civil society and trade union stakeholders raised issue that labour experts did not represent worker interests but, in their opinion, the interests of business and the relationship between representatives from MOTIE and civil society and trade union stakeholders appears to be tenuous. Business representative were also of the opinion that they were not adequately represented by the current composition of the NCP.	The NCP should make more efforts to improve relationships with key stakeholders by integrating stakeholder perspectives into its structures or establishing channels for regular and meaningful engagement with stakeholders.
1.2	The NCP has a publically announced application process for appointment of NCP commissioners and according to the NCP as part of this process they collect recommendations from stakeholders including from trade union and civil society. However some trade union and civil society stakeholders do not trust the integrity of the appointment process of NCP commissioners	The NCP should improve the selection process for NCP commissioners to demonstrate it takes into account stakeholder inputs on candidates.
1.3	Using the KCAB Secretariat as an intermediary body between the NCP commission and key stakeholders (including parties to specific instances and other NCPs) is reducing the visibility and direct contact of stakeholders with decision makers. .	The NCP should provide more opportunities for direct communication between the NCP commission and key stakeholders.

**Table 1.2. Promotional activities**

	<b>Findings</b>	<b>Recommendations</b>
2.1	The NCP makes decisions annually about promotional activities as a function of the budget; it has not developed a separate strategy for promotion.	The NCP should develop a separate strategic promotional plan to help it refine its focus on promotional activities that result in most impact.
2.2	The NCP does not demonstrate having a close and regular relationship with all government agencies with complementary or related mandates or that it regularly promotes policy coherence on responsible business conduct.	The NCP should make additional efforts to engage more regularly and broadly with other relevant parts of government such as the Ministries of Justice, Foreign Affairs as well as the National Human Rights Commission.

**Table 1.3. Specific instance handling**

	<b>Findings</b>	<b>Recommendations</b>
3.1	The separate roles and responsibilities of the Secretariat, NCP commission and Mediation Committee in handling the specific instances could be more clear in the Rules and procedural overview for specific instances provided on the NCP website.	The roles of the responsibilities of different NCP bodies involved in handling specific instances should be further clarified.
3.2	The recommendations provided in final statements are general and do not respond specifically to the issues raised.	The NCP should provide concrete recommendations that respond specifically to the issues in question and as relevant make reference to recommendations of the Guidelines and due diligence guidance. The NCP should also consider undertaking follow up of specific instances where recommendations are issued to assess whether they have been responded to.
3.3	Some NCPs have raised challenges with respect to cooperating with the Korean NCP in specific instance handling.	The NCP should strengthen cooperation with other NCPs in the network with respect to specific instance handling.

## Notes

<sup>1</sup> See National Human Rights Commission of Korea (2018) NHRCK recommended for improvement of OECD NCP,  
<https://www.humanrights.go.kr/site/program/board/basicboard/view?menuid=002002001&pagesize=10&boardtypeid=7003&boardid=7602567>





# Introduction

The implementation procedures of the Guidelines require NCPs to 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 Korean NCP with the core criteria and with the Procedural Guidance contained in the implementation procedures.

Korea adhered to the OECD Declaration on International Investment and Multinational Enterprises (Investment Declaration) in 1996. The OECD Guidelines for Multinational Enterprises (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 National Contact Points (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>1</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>2</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 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 voluntary peer reviews of NCPs<sup>3</sup> are to assess that the NCP is functioning in accordance with the core criteria set out in the implementation procedures; to identify the NCP’s strengths and possibilities for improvement; to make recommendations for improvement and to serve as a learning tool for all NCPs involved.

This report was prepared based on information provided by the NCP and in particular, its responses to the NCP questionnaire set out in the core template<sup>4</sup> as well as responses to requests for additional information. The report also draws on responses to the stakeholder questionnaire which was completed by 14 organisations representing enterprises, civil society, trade unions/representative organisations of the workers’ own choosing (worker organisations), international organisations, academic institutions and government agencies (see Annex A for a complete list of stakeholders who submitted written feedback) and information provided during the on-site visit.

The peer review of the NCP was conducted by a peer review team made up of reviewers from the NCPs of Australia, Germany and Switzerland, along with representatives of the OECD Secretariat. The on-site

visit to Seoul, Korea took place on 17-18 December 2019 and included interviews with the NCP and other relevant government representatives and stakeholders. A list of organisations that participated in the on-site visit is set out in Annex B. The peer review team wishes to acknowledge the NCP for the quality of the preparation of the peer review and organisation of the on-site visit.

The basis for this peer review is the 2011 version of the Guidelines. The specific instances considered during the peer review date back to 2002. The methodology for the peer review is that set out in the revised core template.<sup>5</sup> Not all aspect of the revised methodology were followed during this peer review as the revised Core Template was finalized during the peer review process. Specifically a questionnaire was not sent to the Network of NCPs regarding the NCP (see Annex C of the revised core template). However, some NCPs have submitted feedback to the peer review team regarding their collaboration with the NCP during a specific instance.

## Economic context

Korea's economy is dominated by the service sector, representing 80% of GDP. Regarding foreign direct investment (FDI), the inward stock of FDI, which represents the accumulated value of FDI in the Korean economy over time, was USD 214 billion in 2018, equivalent to 12 percent of Korea's GDP. The outward stock of FDI was USD 384 billion in 2018, representing 22 percent of Korea's GDP.

The main investors in Korea are Japan, the United States, the Netherlands, the United Kingdom and Singapore, and the main inward investment sectors are manufacturing, financial and insurance activities, and wholesale and retail trade. The main destinations for outward investment from Korea are the United States, China, Viet Nam, Cayman Islands and Singapore, and the most important sector is manufacturing, followed by mining and quarrying and professional, scientific and technical activities.

## Notes

<sup>1</sup> Amendment of the Decision of the Council on the OECD Guidelines for Multinational Enterprises, para I(4)

<sup>2</sup> OECD Guidelines for Multinational Enterprises (2011)

<sup>3</sup> OECD, Revised Core Template For Voluntary Peer Reviews Of National Contact Points (2019)

<sup>4</sup> OECD, Revised Core Template For Voluntary Peer Reviews Of National Contact Points (2019)

<sup>5</sup> OECD, Revised Core Template For Voluntary Peer Reviews Of National Contact Points (2019)

# 1. The Korean NCP at a glance

- Established: 2000
- Structure: Inter-ministerial and expert decision-making; the NCP consists of four government commissioners and four non-government commissioners.
- Location: The NCP is located in the Ministry of Trade, Industry and Energy (MOTIE) and the Secretariat is located in the Korea Commercial Arbitration Board
- Staffing: Three full time and one part time members in the Secretariat located in the Korean Commercial Arbitration Board
- Website: <http://www.ncp.or.kr/>
- Specific instances received: 20 concluded; 2 ongoing<sup>1</sup>

## Notes

<sup>1</sup> At the time of the on-site visit in December 2019.

## 2. Institutional arrangements

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

"Since governments are accorded flexibility in the way they organise NCPs, NCPs should function in a visible, accessible, transparent, and accountable manner."

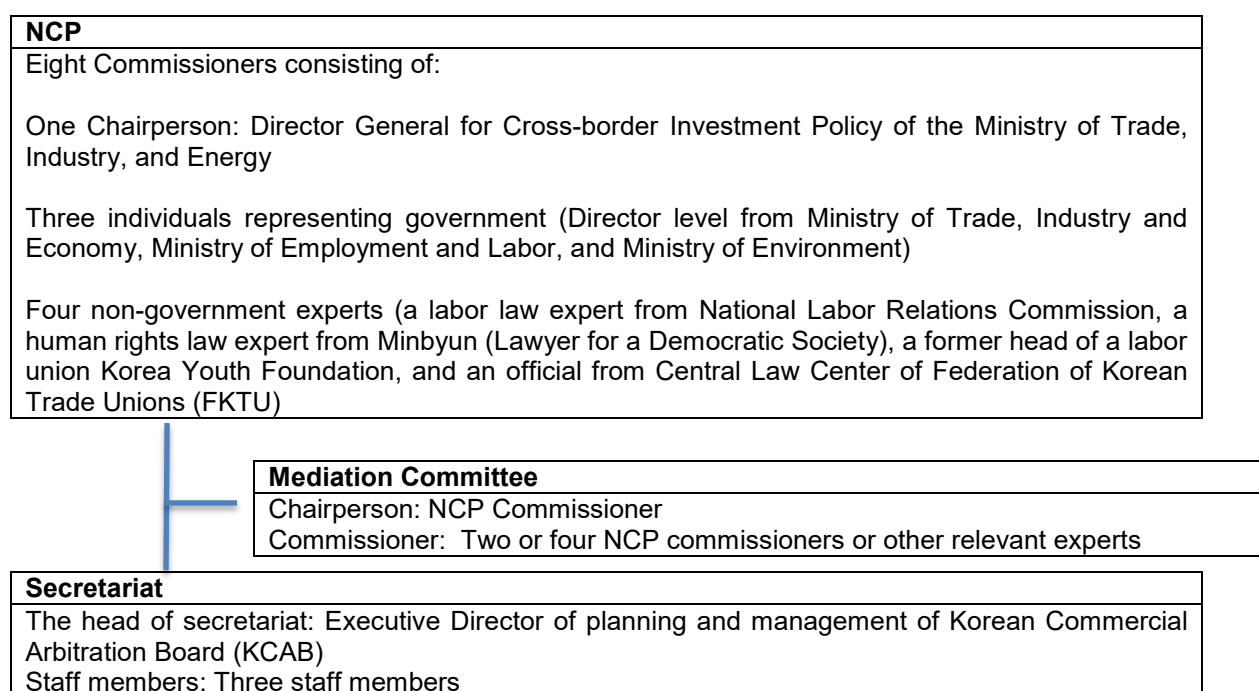
### 2.1. Legal basis

Korea adhered to the OECD Investment Declaration in 1996, however the NCP was formally established in 2000 with the update of the Guidelines. On 12 May 2001, the Ministry of Trade, Industry and Energy (MOTIE) publicly announced the *Rules for the Operation of the National Contact Point to Effectively Implement the OECD Guidelines* ("the Rules"). Article 1 of the Rules provides that "[t]he purpose of the Rules is to decide on requirements for the structure and operation of the Korean National Contact Point[.]"<sup>1</sup> The Rules have been amended several times since 2001, most recently in 2018 and provide the operational basis for the NCP.

### 2.2. NCP Structure

The NCP is composed of a Chairperson and eight or less commissioners. A Secretariat for the NCP is located in the Korean Commercial Arbitration Board (KCAB)<sup>2</sup> and handles the day-to-day operations of the NCP as well as aspects of the specific instance handling process. Furthermore a Mediation Committee, comprising NCP commissioners and in some cases relevant external experts is convened on an ad hoc basis for specific instance handling. See Figure 2.1. and below.

Figure 2.1. Korean NCP Structure



### 2.2.1. NCP members and NCP support staff

As indicated above, the NCP is set up as an inter-ministerial and expert decision-making structure as it has government and non-government members involved in decision-making.

#### 4.2.1.1. National Contact Point Commissioners

According to its Rules the NCP should consist of nine (9) or less non-permanent commissioners, including one Chairperson.<sup>3</sup>

As of December 2019 there are eight commissioners, including the Chairperson and three Commissioners representing government agencies and four Commissioners participating as non-government experts. These include:

1. Chairperson: Director General for Cross-border Investment Policy of the MOTIE
2. Director of the Overseas Investment Division of the MOTIE
3. Director of Development Cooperation Division of the Ministry of Employment and Labor (MOEL)
4. Director of International Cooperation Division of the Ministry of Environment (ME)
5. Labor law expert from National Labor Relations Commission<sup>4</sup>
6. Human rights law expert from Minbyun (Lawyer for a Democratic Society)
7. Former head of a labor union Korea Youth Foundation
8. Official from Central Law Centre of Federation of Korean Trade Unions (FKTU).

Government agencies are represented by senior officials. All Commissioners have separate full time roles and serve as the NCP on a part time basis. Commissioners are not salaried for their participation on the NCP but may be compensated for the time and expenses associated with NCP meetings and mediations.

The Rules were amended in 2013 to allow the NCP to also include non-government commissioners in response to recommendations from the National Human Rights Commission of Korea that the NCP should invite the stakeholders to participate and cooperate in its work.<sup>5</sup>

Additionally, to protect independence, updates to the Rules in 2011 guaranteed the terms of commissioners to three years with maximum one reappointment and noted that they could not be dismissed against their will unless voted by two thirds of the other commissioners or in cases where they were sentenced to imprisonment.<sup>6</sup>

In 2018, the Rules were revised again to include processes for the nomination and appointment of NCP commissioners. The Rules now provide that government commissioners are appointed from among head of division level public officials by the head of the relevant agency at the request of the Minister of MOTIE. Government commissioners are appointed on an ex-officio basis, meaning they represent their ministry or organisation and can be replaced as necessary by another member of their ministry or organisation. Non-governmental commissioners are appointed by the Minister of the MOTIE based on their expert knowledge and abundant experience relevant to the Guidelines.<sup>7</sup> They are not appointed as representatives of specific stakeholder groups. According to the Rules where a vacancy for a non-government commissioner occurs the NCP will announce the vacancy publically, evaluate potential candidates and recommend eligible candidates to the Minister of MOITIE.<sup>8</sup>

Civil society and trade union stakeholders raised issue that labour experts did not represent worker interests but, in their opinion, the interests of business. Business representatives were also of the opinion that they were not adequately represented by the current composition of the NCP.

The NCP should integrate stakeholder perspectives into its structure or establish channels for regular and meaningful engagement with stakeholders. This could be achieved for example through appointing Commissioners who represent the interests of stakeholders including the business community, worker organisations, and other non-government organisations; creating a stakeholder advisory body that meets with and provides input to the NCP on a regular basis, or through organising a regular stakeholder dialogue events. Involving stakeholders and increasing their knowledge about the NCP would also help to increase the visibility of the NCP and create a multiplier effect for its outreach.

In this respect, the NCP has noted that they occasionally participated in meetings with stakeholders, and that they plan to hold regular forums in the future to allow for dialogue with stakeholders.

Additionally some trade union and civil society stakeholders do not trust the integrity of the appointment process of NCP commissioners. They explained that in previous nomination processes they believed their input was not taken into account. The NCP explained the commissioner appointment process happens through a publically announced application process as outlined in their Rules. According to the NCP as part of this process they collect recommendations from stakeholders including from trade union and civil society, and as a result labor experts were appointed as new commissioners twice since 2018. In order to improve trust with stakeholders, the NCP should improve the selection process for NCP commissioners to demonstrate that it takes into account stakeholder inputs on candidates.

The Rules also note that Chairperson shall be the Director General for Cross-Border Investment Policy of MOTIE. The assistant administrator of the NCP shall be the Director of the Overseas Investment Division of MOTIE.<sup>9</sup>

The Chairperson functions as the head of the NCP. According to the Rules “the Chairperson shall represent the NCP, conduct NCP meetings and be responsible for all the office affairs.”<sup>10</sup> They also note that “[e]xcept as otherwise prescribed in the Rules, necessary measures regarding matters including operation of the NCP, Mediation Committee and the Secretariat shall be decided by the Chairperson of the NCP.”<sup>11</sup>

According to the Rules the commission is in charge of:

- promotion and raising awareness of the Guidelines
- interpretation of the Guidelines
- mediation of complaints regarding the Guidelines and cooperation with National Contact Points of other countries

- reporting implementation status of the Guidelines to the OECD Council.
- other matters regarding implementation of the Guidelines.<sup>12</sup>

In practice, the commission delegates the organisation or undertaking of most promotional activities to the Secretariat located in the Korean Commercial Arbitration Board (KCAB)<sup>13</sup> (see below).

Commissioners take decisions as a group. According to the NCP, commissioners meet three to four times annually. In order for a meeting to take place the majority of commissioners need to be present and a majority of meeting participants is needed to reach agreement. Meetings are primarily convened to discuss specific instances.

MOTIE is recognised as the government agency operating the NCP as the leadership positions are assigned to MOTIE staff,<sup>14</sup> the Minister of MOTIE is responsible for selecting commissioners<sup>15</sup> and the NCP reports to MOTIE on its activities<sup>16</sup> and the Rules likewise provide that “[t]he NCP and the Secretariat shall be supervised and supported by the Minister of the MOTIE regarding the operation of the NCP including financial affairs.”<sup>17</sup> MOTIE’s principal areas of responsibility as a Ministry are promoting economic growth and employment through supporting industry creation, export expansion, trade and cooperation, as well as energy security and provision.

Trade union and civil society stakeholders were of the opinion that MOTIE was not committed to implementing the spirit of the Guidelines. In this respect, they noted that outsourcing the functions of the NCP to the KCAB a non-profit organisation, reduced the governments’ ownership of the function (see below). They also expressed a perception that MOTIE’s primary mandate of promoting economic growth and employment may make them partial towards business interests. In this respect the NCP noted that establishing the Secretariat in KCAB as a separate body from MOTIE was done to enhance transparency, visibility, and accessibility and in response to recommendations for operational improvements made by the National Human Rights Commission 2011 (see also above) The NCP also noted that Korean government, as an OECD member, and MOTIE, as part of the government, has committed to implementing the spirit of the Guidelines and that many countries have NCPs located in government ministries or agencies with economic mandates.<sup>18</sup>

There appears to be a tenuous relationship between representatives from MOTIE and civil society and trade union stakeholders. During the onsite visit of the NCP peer review team no representatives from MOTIE were present in the same room to hear feedback from civil society and union representatives despite requests from representatives from civil society and trade unions that they be.

To date the NCP has organised one meeting with trade union and NGO representatives which took place in 2019. Civil society and trade union stakeholders noted that this event was a welcome initiative and that they would welcome additional opportunities to engage with the NCP. The NCP has also participated in several external stakeholder meetings and plans to organize regular forums in the future to allow for dialogue with stakeholders.

The NCP should continue to make efforts to build trust and improve relationships with key stakeholders by establishing channels for regular engagement with stakeholders.

#### *4.2.1.1. Mediation Committee*

When a specific instance is accepted for further examination the NCP convenes an ad hoc Mediation Committee to handle the specific instance. The Mediation Committee function was first established in 2011. According to the Rules the Mediation Committee will consist of one (1) Chairperson, appointed by the Chairperson of the NCP amongst the NCP commissioners and two or four committee members comprising NCP commissioners or other relevant external experts with regard to the issues raised in the submission selected by the NCP by vote.<sup>19</sup> The Chairperson of the Mediation Committee conducts mediation meetings, and the Committee oversees the mediation process. They report back on the proceedings to the NCP (the commission) who make final decisions about the content of the final statement.

#### 4.2.1.1. Korean Commercial Arbitration Board

The Korea Commercial Arbitration Board (KCAB) was established as the Secretariat for the NCP in 2013. KCAB is Korea's representative alternative dispute resolution (ADR) institution. Its function as the NCP Secretariat represent just a small portion of its broader activities.

The Secretariat has four members, including one Secretary General. Three members work full time on NCP matters and one works part time.

The Secretariat is mandated to serve as the Secretariat of the NCP and oversee the following tasks<sup>20</sup>:

- General matters of promotion and education of the Guidelines
- Marginal matters related to inquiries about the Guidelines
- Notification regarding the receipt and acceptance of a specific instance submission, preliminary investigation for the initial assessment and issues related to supporting mediation.
- Reporting to MOTIE and the OECD on the NCPs activities.

The Secretariat handles of all of the day-to-day operations of the NCP and serves as the primary interface between the NCP and external stakeholders including parties to specific instances, the OECD Secretariat and other members of the NCP network. In this respect the Secretariat is tasked with organising and facilitating most promotional events under the direction of the commission.

During the handling of the specific instance, the Secretariat will be the primary contact for parties and it will collect information related to specific instances and provide a summary of key points for the commission. The Secretariat will support the commission in drafting the initial and final statements.

The Secretariat plays an important and visible role in the functioning of the NCP.

Many stakeholders noted the high degree of professionalism by staff of the Secretariat in responding to enquiries and handling specific instances. Turnover at KCAB is relatively low and in most cases departing staff usually takes up another position within KCAB. Thus, even when staff working at the Secretariat is replaced, strong institutional knowledge about the NCP remains within KCAB. Additionally the NCP has a strong record keeping mechanism which also supports strong knowledge management and smooth transition of staff.

However, many stakeholders expressed frustration with the difficulty of engaging directly with the commission of the NCP. For example some stakeholders and participants to the specific instance process noted that had never met or spoken with the NCP commission directly, despite requests to do so. It is also generally members of KCAB that represent the NCP at bi-annual NCP meetings at the OECD and that are the main interlocutors with the OECD Secretariat as well as other NCPs from other countries. The NCP has noted that the assistant administrator of the NCP also the head of Foreign Investment Promotion Division of MOTIE normally represents the NCP at these meetings but may assign an alternative representative depending on scheduling issues or the agenda being discussed. In practice, over the past two years this representative has not attended an NCP meeting. Another Commissioner attended one meeting and in the remaining three meetings the NCP was represented by KCAB. This has resulted in challenges with engagement and coordination with the NCP as the Secretariat does not have authority to take decisions on behalf of the NCP (see also section on NCP Coordination). Using the Secretariat as an intermediary body between the NCP commission and key stakeholders including parties to specific instances and other NCPs is reducing the visibility and direct contact of stakeholders with decision makers. The NCP should provide opportunities for direct communication between the commission and key stakeholders.



### 2.2.2. Resources

Human and financial resources for the NCP are allocated by Korea's National Assembly to which MOTIE provides an annual financial report.

The budget is overseen by MOTIE and used primarily towards the salaries of the Secretariat staff at KCAB, promotional events and materials, and any other expenses associated with NCP activities (travel etc.). According to the NCP while the budget is limited it does not prevent it from carrying out its mandate. However the NCP is actively seeking increased funding to further enhance its performance.

In recent years resources for the NCP have been increased. For example the number of staff at the KNCP Secretariat increased from three in 2018 to four in 2019 and the budget went up from 250 million won in 2018 to 300 million won in 2019 (approximately 230 000 euro). Currently MOTIE is requesting that the National Assembly approve an increase in budget to 350 million won for 2020.

### 2.2.3. Reporting

MOTIE, which supervises and supports the NCP through the Chairperson reports to the National Assembly about the KNCP's activities.

Additionally the NCP reports on its activities, including the results of specific instance procedures, to the OECD Secretariat through an annual reporting questionnaire. According to the NCP, information about reporting is explicitly included in the NCP's rules of procedure for specific instances as encouragement to parties to participate actively in the specific instance process.<sup>21</sup>

**Table 2.1. Recommendations: Institutional Arrangements**

	Findings	Recommendations
1.1	Civil society and trade union stakeholders raised issue that labour experts did not represent worker interests but, in their opinion, the interests of business and the relationship between representatives from MOTIE and civil society and trade union stakeholders appears to be tenuous. Business representative were also of the opinion that they were not adequately represented by the current composition of the NCP.	The NCP should make more efforts to improve relationships with key stakeholders by integrating stakeholder perspectives into its structures or establishing channels for regular meaningful engagement with stakeholders.
1.2	The NCP has a publically announced application process for appointment of Commissioners and according to the NCP as part of this process they collect recommendations from stakeholders including from trade union and civil society. However some trade union and civil society stakeholders do not trust the integrity of the appointment process of NCP commissioners	The NCP should improve the selection process for NCP commissioners to demonstrate it takes into account stakeholder inputs on candidates.
1.3	Using the KCAB Secretariat as an intermediary body between the NCP commission and key stakeholders (including parties to specific instances and other NCPs) is reducing the visibility and direct contact of stakeholders with decision makers.	The NCP should provide more opportunities for direct communication between the NCP commission and key stakeholders.

## Notes

<sup>1</sup> MOITIE (2001) *Rules for the Operation of the National Contact Point to Effectively Implement the OECD Guidelines, Article 1.* [http://www.ncp.or.kr/servlet/kcab\\_encp/info/2300](http://www.ncp.or.kr/servlet/kcab_encp/info/2300)

<sup>2</sup> Founded in 1966, the Korean Commercial Arbitration Board is the representative arbitral institution in Korea that is statutorily authorized to settle disputes under the Korean Arbitration Act, under the auspices of the Ministry of Justice. See

[http://www.kcabinternational.or.kr/common/index.do?jpath=/contents/sub0402&CURRENT\\_MENU\\_CODE=MENU0020&TOP\\_MENU\\_CODE=MENU0018](http://www.kcabinternational.or.kr/common/index.do?jpath=/contents/sub0402&CURRENT_MENU_CODE=MENU0020&TOP_MENU_CODE=MENU0018)

<sup>3</sup> Id. Article 4.1

<sup>4</sup> This individual is employed at the Korean Ministry of Labour and Employment but serves as a non-government labour expert in his capacity as an NCP Commissioner.

<sup>5</sup> See National Human Rights Commission of the Republic of Korea (2011), Annual Report 2011. “The Commission recommended the Minister of Knowledge Economy to ensure participation and cooperation in NCP of enterprises, labor groups, civic groups, and international organizations.”  
<https://www.humanrights.go.kr/site/program/board/basicboard/view?menuid=002003003001&pagesize=10&boardtypeid=7017&boardid=7001532>

<sup>6</sup> Id. Article 6 & 7

<sup>7</sup> Id. Article 4.2

<sup>8</sup> Id. Article 6

<sup>9</sup> Id. Article 4.3

<sup>10</sup> Id. Article 5

<sup>11</sup> Id. Article 20

<sup>12</sup> Id. Article 4

<sup>13</sup> Id. Article 12.3

<sup>14</sup> Id. Article 4.2

<sup>15</sup> Id. Article 4

<sup>16</sup> Id. Article 18

<sup>17</sup> Id. Article 19.1

<sup>18</sup> At the time of the peer review 33 NCPs were located in Ministries with an economic portfolio (i.e. Ministries of Economy, Trade, Industry, Investment, Business, etc) See OECD (2019) Annual Report on the OECD Guidelines for Multinational Enterprises 2018

<sup>19</sup> Id. Article 11

<sup>20</sup> Id. Article 12

<sup>21</sup> Submission of the Korean NCP to the questionnaire of the OECD Secretariat for the Peer Review

## **3.** Promotion of the Guidelines

The NCP has made an effort to promote the Guidelines through developing promotional materials, using various media platforms, enhancing its website and organising and attending local and international events. The majority of the budget of the NCP, apart from staff salaries, is committed to promotional activities. Business stakeholder feedback was broadly complimentary of these efforts.

### **3.1. Information and promotional materials**

The NCP has developed a promotional video about the OECD Guidelines and NCP available on the homepage of the NCP's website.<sup>1</sup>

The NCP has translated various OECD materials into Korean and made them available on their website including:

- OECD Guidelines for Multinational Enterprises (2011)
- OECD Due Diligence Guidance for Responsible Business Conduct
- OECD Annual Reports on the Guidelines for Multinational Enterprises (2016, 2017)
- NCP Peer Review Reports of nine countries<sup>2</sup>

It has also sought to increase the visibility of the NCP and the Guidelines through providing information about them in the Korea Economic Daily newspaper, Mail Business newspaper and Korea Trade New online as well as offline editions (in 2016 and 2018). The NCP is also considering developing a newsletter publication which can be distributed through MOTIE and KCAB networks.

The NCP has also developed attractive promotional materials explaining the Guidelines, NCP and due diligence processes in Korean which it makes available at various events.

### **3.2. Website**

The NCP has both Korean and English website.<sup>3</sup> The website is easily identified through international and national online search engines. The NCP's website provides information on:

- The OECD Guidelines including background and key content;
- OECD Due Diligence Guidance for RBC in Korean and English as well as OECD guidances on supply chains in the minerals, garment and footwear sector, agriculture and guidance for institutional investor, and on stakeholder engagement in the extractive sector;
- Annual reports for the OECD Guidelines for Multinational Enterprises since 2013;
- The NCP—including an introduction, overview of the structure, activities, news and operational rules;
- The specific instance process including who can submit a complaint, how to submit a complaint, and overview of the process;
- Initial Assessments and Final statements for some specific instances handled;

- Information on how to submit a general inquiry;
- Links to other relevant resources (e.g. Mediation Procedure Manual for Specific Instances and OECD papers)

Some stakeholders noted that the creation of the website in 2014 and its regular upkeep has considerably improved the visibility and transparency of the NCP and that materials are easy to find.

### 3.3. Promotional plan

Although the NCP makes decisions annually about promotional activities as a function of the budget it has not developed a separate strategy for promotion. The NCP should develop a separate strategic promotional plan to help refine its focus on promotional activities that result in most impact, such as addressing particular topics of Guidelines, targeting specific sectors or smaller and medium-sized enterprises. For example, engaging with key government agencies (see below) or a broader range of industry associations can increase the visibility of the NCP and introduce a multiplier effect for outreach activities. The same goes for promotional activities to civil society organisations and trade unions. A promotional strategy can also consider the objectives of outreach activities, how to measure their impact and take into account how they align with other policy goals or activities.

### 3.4. Promotional events

The NCP and mostly the Secretariat engages in promotional activities through organising relevant domestic and international events and gathering stakeholder inputs.

For example in 2018 they participated in two stakeholder meetings organized by lawmakers and one meeting organized by itself with Business Institute for Sustainable Development (BISD) and the Korea Chamber of Commerce and Industry (KCCI) on *CSR risks and countermeasures for exporting businesses*. In the same year the Secretariat also organised promotional presentations on the Guidelines in Vietnam, Indonesia and two in Seoul. (see Annex A). Outreach in countries where Korean businesses operate can be very valuable to informing international stakeholders about the NCP and the Guidelines. Many stakeholders expressed support for these types of promotional events and suggested that international outreach can be increased. In this respect the NCP could engage more closely with its foreign embassies and Ministry of Foreign Affairs to raise awareness internationally in a resource efficient manner. (See also below).

The stakeholders noted that awareness of the Guidelines and the NCP is still relatively low across Korean businesses and industry associations. Most industry associations participating in the peer review process noted that they were not aware of the NCP prior to being invited to participate in the peer review. As noted above, developing a separate promotional strategy could be helpful to refine the focus on promotional efforts towards activities with the most impact. In this respect engaging with leading Korean businesses, industry associations and chambers of commerce, and working with them to promote awareness across their membership or business relationships could help increase the visibility of the Guidelines and the NCP mechanism.

Business stakeholders also suggested specific materials that could be useful for promotion such as further guidance on how the Guidelines interact with other standards on responsible business conduct as well as case studies demonstrating how due diligence approaches can be implemented in practice and examples of successful outcomes with respect to specific instances handled by the NCPs.

### 3.5. Promotion of policy coherence

The NCP has three ministries represented in its structure, MOTIE, the Ministry of Environment, and the Ministry of Labour and Employment. It can also reach out to other parts of the government for expertise as necessary during the handling of specific instances.

Only government agencies that are part of the structure of the NCP participated in the peer review of the NCP. The NCP does not demonstrate having a close and regular relationship with all government agencies with complementary or related mandates or that it regularly promotes policy coherence on responsible business conduct. For example, the NCP noted that it does not engage closely or regularly with the Ministry of Justice nor the National Human Rights Commission of Korea although both institutions have developed recommendations around the Guidelines and the NCP. However it also mentioned that some government NCP commissioners have participated in meetings with the National Human Rights Commission and the Ministry of Justice to raise awareness of the Guidelines and promote cooperation.

The Ministry of Justice and National Human Rights Commission of Korea hold the mandate for the development and implementation of Korea's National Human Rights Plan of Action (NAP) for 2018~2022 which aims to enhance and raise awareness about human rights and includes recommendations related to business and human rights as well as the NCP itself. Specifically it notes as a goal to:

“Improve the operation of NCP, through:

- Diversifying the composition of organization to make possible for neutral and professional personnel to participate
- Share best practices to enhance the effectiveness of guidelines
- Expand the participation of the persons concerned including NGOs, employer's federation, etc.
- Strengthen consistent promotion on the NCP system including its functions.”<sup>4</sup>

The NCP noted that it has not been involved in the development of the NAP or its implementation. However it noted that government representatives who are also KNCP commissioners were involved.

In August 2018, National Human Rights Commission of Korea (NHRCK) distributed a Human Rights Manual for State Owned Enterprises to 988 national and local public institutions and state owned enterprises (SOE) 30 ministries, 17 local governments. In the manual the NHRCK recommended adoption of 'human rights management assessment index' when evaluating public institutions and SOEs. Several ministries including Ministry of Trade, Industry and Economy and Ministry of the Interior and Safety are seeking to introduce this recommendation. Additionally all public institutions and SOEs in Korea now provide education to incorporate human rights in their structure, and along with education and training on the Guidelines and the role of the NCP.

Additionally the NCP does not engage closely with the Ministry of Foreign Affairs nor international embassies, which may be useful agencies for promoting the Guidelines as well as the NCPs complaints procedures.

That being said the NCP has noted that MOTIE, and the Ministry of Employment and Labor, two ministries represented on its structure, are convening with Ministries of Justice, Foreign Affairs and others to discuss measures to support labor management issues of business in overseas markets. This is in response to the objective of the NCP to prevent human rights violation of local workers by business in overseas market.

The NCP should make additional efforts to engage more regularly and broadly with other relevant parts of government such as the Ministries of Justice, Foreign Affairs as well as the National Human Rights Commission to build synergy and efficiency in promotional efforts, drive policy coherence and enhance the visibility of the NCP.

### 3.6. Proactive agenda

The NCP has seeks to promote and raise awareness about OECD Due Diligence guidance documents, through its website, and during presentations made at promotional events. The NCP's website has both English and Korean versions available of 1) OECD Due Diligence Guidance for Responsible Business Conduct, 2) OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, 3) OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, and 4) Responsible Business Conduct for Institutional Investors. The NCP is also planning to release translations of the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, OECD-FAO Guidance for Responsible Agricultural Supply Chains as well as the paper on Due Diligence for Responsible Corporate Lending and Securities Underwriting.

It has also noted that it plans to organise presentations for stakeholders including relevant business associations to raise awareness of the guidance's and to monitor and assess awareness levels regarding the Guidelines and related due diligence guidances. The OECD Secretariat is developing a questionnaire for adherents on monitoring uptake and implementation of due diligence which can provide the basis of these monitoring efforts.

### 3.7. Requests for information

The NCP has a form for "general enquiries" available on its website. It is the responsibility of the Secretariat to respond to such enquires. According to the NCP the most common enquiries received concern filing of specific instances and the relationship of KCAB to the NCP. The Secretariat makes efforts to respond to all enquires in a prompt manner.

**Table 3.1. Recommendations: Promotional Activities**

	Findings	Recommendations
2.1	The NCP makes decisions annually about promotional activities as a function of the budget it has not developed a separate strategy for promotion.	The NCP should develop a separate strategic promotional plan to help it refine its focus on promotional activities that result in most impact.
2.2	The NCP does not demonstrate having a close and regular relationship with all government agencies with complementary or related mandates or that it regularly promotes policy coherence on responsible business conduct.	The NCP should make additional efforts to engage more regularly and broadly with other relevant parts of government such as the Ministries of Justice, Foreign Affairs as well as the National Human Rights Commission.

### Notes

<sup>1</sup> See: [https://www.youtube.com/watch?time\\_continue=3&v=wVobXu8NKsA&feature=emb\\_logo](https://www.youtube.com/watch?time_continue=3&v=wVobXu8NKsA&feature=emb_logo) (only available in Korean).

<sup>2</sup> Chile, Germany, France, Switzerland, Italy, Belgium, Denmark, Norway and Japan

<sup>3</sup> Korean: [http://www.ncp.or.kr/servlet/kcab\\_ncp/info/2000](http://www.ncp.or.kr/servlet/kcab_ncp/info/2000)) and English: [http://www.ncp.or.kr/jsp/kcab\\_encp/index.jsp](http://www.ncp.or.kr/jsp/kcab_encp/index.jsp)

<sup>4</sup> The 3<sup>rd</sup> National Action Plan (NAP) for the Promotion and Protection of Human Rights Republic of Korea 2018 to 2022, <https://mk0globalnapshvllfq4.kinstacdn.com/wp-content/uploads/2017/11/3rd-hr-nap-of-republic-of-korea-2018-2022-chapter-8-bhr-only-by-khis-2018-11-24.pdf>

# 4. Specific instances

## 4.1. Overview

At the time of the writing of this report 20 specific instances have been closed by the NCP and two were ongoing. Among the closed cases 5 were concluded and 15 cases were not accepted for further examination:

Amongst the 5 concluded cases:

- Two were concluded with agreement between the parties after mediation.<sup>1</sup>
- One was concluded because a resolution was reached by the parties outside of the NCP specific instances process.<sup>2</sup>
- Two cases were concluded after one of the parties no longer agreed to engage in mediation and the parties could not reach an agreement.<sup>3</sup>

Among the 15 cases not accepted for further examination:

- Three cases were not accepted as the NCP concluded that the issues raised were not related to business activity.<sup>4</sup>
- Two cases were not accepted as the NCP concluded that the companies in question were not a multinational.<sup>5</sup>
- Two cases were not accepted due to parallel proceedings.<sup>6</sup>
- Seven cases were not accepted as the issues raised were not considered to be material or substantiated.<sup>7</sup>
- One case was not accepted because there was no relation between the enterprise and the submitter.<sup>8</sup>

An overview of all closed cases handled by the NCP is available in Annex D.

## 4.2. Rules of procedure

The website of the Korean NCP provides brief overview of the procedure followed during handling of specific instances. Additionally procedural rules around specific instance handling are also included in the Rules. The NCP has also developed a 'Mediation Procedure Manual' in 2018, which provides an overview of procedures that should be followed during a mediation, including: opening a meeting, pre-procedure, conducting a mediation meeting and closing the meeting.

Some parties to specific instances expressed confusion about the roles of different bodies in the process and which body was actually handling the cases as they only interfaced with the Secretariat. (See Box 4.1).

The roles and the responsibilities of different NCP bodies involved in handling specific instances should be clarified. This can be done for example by explicitly noting who is handling and making decisions at each stage of the process in the procedural overview or Rules. For example, there could be greater clarity about the fact that the Secretariat will handle the initial review of submission, how initial assessment decisions are reached and who drafts and must decide upon initial assessment and final statements (the Secretariat or commission, where relevant the Mediation Committee).



#### **Box 4.1. Daewoo International, KOMSCO and KNTC Watch et. al. concerning forced labour in the cotton sector in Uzbekistan (2014)**

In December 2014, the Korean NCP received a submission by the NGOs Korean Trans National Corporations Watch (KTNC Watch), Cotton Campaign, and Anti-Slavery International, alleging that Daewoo International, Korea Minting, Security Printing & ID Card Operating Cooperation (KOMSCO) and companies which had invested to Daewoo International had breached the human rights provisions of the Guidelines in Uzbekistan. More specifically the NGOs alleged that the companies had breached the Guidelines by continuing to purchase cotton produced in Uzbekistan through Daewoo Textile Fergana and Bukhara (two wholly owned and operated subsidiaries of Daewoo International), despite their awareness of on-going state-sponsored forced labour in the country.

The NCP undertook an initial assessment of the specific instance and concluded that it did not merit further consideration. While acknowledging the link between the enterprises' activity and the issue of forced labour, the NCP did not consider that the enterprises breached due diligence duties or contributed to forced labour. The NCP also concluded that the companies were not in a position to use leverage vis-a-vis the Uzbekistan government.

One party to this specific instance noted that the process was very well explained and that participation in the specific instance helped to clarify the expectations of the Guidelines. The other party noted it was difficult to understand who was actually handling and deciding the case and to meet directly with NCP commissioners. It noted that it disagreed with the reasoning of the NCP in its initial assessment and that the NCP failed to consider in detail whether the company conducted adequate due diligence, the primary issue raised in the submission. The NCP noted that based on its records the party did have one meeting with a commissioner.

#### **4.2.1. Submission**

The NCP website includes information on who can submit a complaint and instructions on how to submit a complaint. It notes that '[a]ny stakeholder who may be concerned with the Guidelines such as multinational enterprises, workers and NGOs can submit a complaint against activities of multinational enterprises.'<sup>9</sup>

It also notes that anyone wishing to submit a complaint should provide the following information to the NCP: "1) Identity information (name, resident registration number, address, contact information, occupation etc.), 2) Name of multinational enterprise, specific activities and supporting evidence, 3) Relevant articles and activities considered to be in breach of the Guidelines, 4) Interests related to the breach of the Guidelines, and 5) Other references related to the issue."<sup>10</sup>

#### **4.2.2. Initial assessment**

The Rules describe a two-stage initial assessment process. They note that when a complaint is received the NCP will notify the parties of its decision to accept or refuse the complaint for further consideration normally within 30 days<sup>11</sup>.

According to the Secretariat this decision is based on whether all the necessary information has been provided and whether the submission falls within the scope of the Guidelines. Where information is missing the Secretariat will invite parties to submit the required information.

This stage is a preliminary administrative check of the submission. If the submission is refused the Secretariat will communicate the reasons for the rejection<sup>12</sup>. According to the NCP when a complaint is



accepted the Secretariat arranges a call or in-person meeting to provide information about the specific instance procedure.

After the Secretariat undertakes an initial check of the submission and accepts it, the NCP commissioners undertake an initial assessment of whether the issues raised merit further examination. The Rules note that this will be done within 90 days of the receipt of the submission. During this time the Secretariat will collect the information regarding the case, develop summaries of the main issues and send the information to the NCP commissioners to review.

According to the Rules, the NCP or the Secretariat shall hear opinions from both parties before making a decision to carry out further procedures<sup>13</sup>.

According to the NCP, this means that the NCP will engage in fact finding which can include collecting information and exchanging opinions between with parties at least twice, meeting with both parties and consulting with other stakeholders as relevant.

Submitters of specific instances which did not reach mediation have noted that they never met directly with NCP commissioners while their specific instance was being considered and did not understand who was making decisions about their submission. As such they did not feel sufficiently heard by decision makers during the initial assessment process.

The Rules note that the NCP will inform the parties of its decision of whether to proceed and also publish its decision on its website.<sup>14</sup>

According to the Rules the NCP assesses whether to accept a specific instance for further examination based on the six factors in the procedural guidance:

1. the identity of the party concerned and its interest in the matter
2. whether the issue is material and substantiated
3. whether there seems to be a link between the enterprise's activities and the issue raised in the specific instance
4. the relevance of applicable law and procedures, including court rulings
5. how similar issues have been, or are being, treated in other domestic or international proceedings
6. whether the consideration of the specific issue would contribute to the purposes and effectiveness of the Guidelines.<sup>15</sup>

In practice the NCP has reported accepting 5 (25%) of the specific instances which were closed at the date of drafting this report<sup>16</sup> It has not accepted 15(75%) of closed specific instances.<sup>17</sup> Some specific instances were closed due to parallel proceedings, interpretations of the meaning of "multinational enterprise" and where the alleged impacts in question were linked to government activity (see summary above).

#### Box 4.2. KEXIM, Daewoo E&C and JRPM, PSPD, KTNC WATCH (2018)

On 24 October, 2018, the Jalaur River for the People's Movement (JRPM), the People's Solidarity for Participatory Democracy (PSPD) and the Korean Transnational Corporations Watch (KTNC Watch) submitted a specific instance to the Korean NCP alleging that the Export-Import Bank of Korea (KEXIM) and Daewoo Engineering and Construction Co., Ltd (Daewoo E&C), did not observe the Guidelines with regards to the Jalaur River MultiPurpose Project II in the Philippines.

The submitters alleged that the respondents were aware of the violations of the indigenous people's human rights as a result of the project. More specifically, the submitters asserted that the Philippine government did not mitigate the risks of a potential earthquake and an involuntary resettlement plan. Additionally, the government allegedly did not provide adequate compensation for lost farmland and cemeteries and violated the Free, Prior and Informed Consent (FPIC) process.

On 18 January 2019, the Korean NCP undertook an initial assessment in which it concluded the specific instance does not merit further examination as the project was developed by the Philippine government and the loan provided by KEXIM did not qualify as a commercial activity as it was classified as a non-commercial project.

One party to the case noted that the NCP was professional, responsive and timely in its handling of the specific instance. It also noted that additional outreach to developing countries where Korean companies operate would be useful in preventing future issues. It also noted that having more detailed instructions around confidentiality could make the process more efficient. The other party noted that it had difficulties in arranging meetings with the NCP commissioners and that they felt the interpretation of the Guidelines in the initial assessment was overly narrow.

#### 4.2.3. Good offices

Under the Rules the NCP will offer good offices to help the parties involved to resolve the issue when a submission is approved for further examination. In these situations a Mediation Committee will be convened.<sup>18</sup> According to the NCP external experts can be involved as member of the mediation committee<sup>19</sup> and the Rules state that "[i]f deemed necessary for mediation, the NCP may seek investigation or research from those including the business community, labor group, non-governmental organization and experts in the related field."<sup>20</sup>

In 2018 the NCP developed a Mediation Manual. It provides an overview of the procedure to be followed during a mediation such as welcoming participants, introducing the Mediation Committee, checking attendance of the parties, explaining the procedure and process to date. It also includes guidance on etiquette to be followed, for example promoting fairness by giving the parties opportunities to speak one after the other, or intervening if the tone or length of interventions is inappropriate.<sup>21</sup> Additionally it describes the role of the Committee as making every effort to resolve disagreements between the parties. It notes "[w]here the disagreement between the parties is not resolved, the Committee will make proper recommendations and ask whether the parties agree on the recommendations. The Committee shall avoid the coercive attitude of agreeing to the recommendations and ensure sufficient time through holding the next meeting if the parties ask time to review the recommendations."<sup>22</sup>

According to the NCP it has not experienced a problem with parties refusing to participate from the beginning of the process or share information. However the NCP has reported concluding two cases because parties refused to participate in mediation after initial meetings.<sup>23</sup> The NCP has concluded two specific instances with agreement between the parties upon mediation. In one case, the Swiss NCP led the mediation.<sup>24</sup> The second case, Corning Inc. and Worker's Union of Corning Inc. (2017) represents the first case resulting in an agreement through mediation led by the NCP. (see box below).

### Box 4.3. Corning Inc. and Worker's Union of Corning Inc. (2017)

On 17 August 2017, Workers' Union of Corning Inc. submitted a specific instance to the Korean NCP alleging that Corning Inc. did not observe the Guidelines. The submitter claimed that the company failed to provide a time and place for collective bargaining.

The NCP accepted the case for further examination and on 17 July 2018, the Mediation Committee and both parties participated in a meeting held at KCAB.

Subsequently, the parties reached a substantial agreement on the issues raised which consist of: the deduction of union dues, the retroactive application of wage increases, the "Time-off system" and space for a union office.

One of the parties to the case participated in the peer review and noted that the process was more flexible and conducive to dialogue than other mechanisms. They also noted that the mediators had a great deal of expertise on the topic and that they were satisfied with the outcome. The other party did not participate in the peer review process.

#### 4.2.4. Reporting on specific instances

According to the Rules the NCP will publish its decision of whether to proceed with a specific instance on its website<sup>25</sup>. According to the Rules when no agreement is reached, the NCP will make publicly available the details of the complaint, the mediation procedures, the parties' arguments related to the implementation of the Guidelines and where necessary, make appropriate recommendations to the parties by a vote at a NCP meeting.<sup>26</sup>

Final statements have been published for three concluded specific instances<sup>27</sup> The NCP has not published statements for two concluded specific instances.<sup>28</sup> It has also published statements for six cases which were not accepted.<sup>29</sup> The 9 specific instances were not accepted for examination and for which no statement exists were and filed prior to 2011 during which time NCPs were not obligated to share public statements regarding non-accepted cases.

The NCP has included recommendations in four of its published statements.<sup>30</sup> In all of these, the recommendation was that the company continue to monitor the situation and engage in dialogue with the relevant actors. For example in Daewoo International and KNTC Watch the KNCP recommended that 'the respondents should continue to monitor the situation and respond actively to relevant issues by means of dialogue and cooperation with the government of Uzbekistan, state-owned companies, related international organizations, NGOs and local communities.'<sup>31</sup> In Asahi Glass Co and Asahi Glass Co Trade Union, the KNCP recommended that 'the respondents keep communication channels open and continue to engage in dialogue concerning the issues raised by the complainant.'<sup>32</sup>

The recommendations provided in published statements are general and do not respond specifically to the issues raised. The NCP should provide concrete recommendations that respond specifically to the issues in question and, as relevant, make reference to recommendations of the Guidelines and due diligence guidance. The NCP should also consider undertaking follow up of specific instances where recommendations are issued to assess whether they have been responded to.<sup>33</sup>

### 4.3. Feedback

The NCP has not indicated whether it requests feedback from the parties after the conclusion of a specific instance.

#### 4.4. Timeliness

The Rules note that the NCP will make an initial assessment of a submission and publish its decision on its website within 90 days from the receiving date.

In seven specific instances the initial assessment was conducted within 90 days.<sup>34</sup> In eleven specific instances handled by the NCP initial assessment processes exceeded 90 days.<sup>35</sup> In four of these seven cases they exceeded one year.<sup>36</sup> For the remaining 2 specific instances, both filed prior to 2011, information on the length of proceedings has not been reported.<sup>37</sup> The NCP noted that difficulties concluding initial assessments within indicative time periods in part stem from responsiveness of the parties. Some parties to specific instances also noted that they felt that the timelines for providing responses to submissions during the initial assessment process was too short and in some instances asked for an extension.

Several stakeholders participating in the peer review discussed one of these cases, Phis Jeon, which was submitted in 2007 and on which the NCP did not provide further information on until 2014, at that stage noting the submission had been closed in 2012. Stakeholders noted that the handling of this case illustrated the inactivity of the NCP prior to its restructuring in 2013 and that since then, communication and timeliness around handling of specific instances has improved.

The Rules indicate that “[t]he NCP shall terminate mediation proceedings regarding the complaint within one (1) year from the date of receipt of the complaint and that the time period may be extended if the complaint was raised from a non-adherent country.<sup>38</sup> Among 5 specific instance accepted and concluded by the NCP, two were concluded within a year<sup>39</sup> and for the remaining three proceedings took over one year to conclude.<sup>40</sup>

#### 4.5. Confidentiality and Campaigning

The Rules note that the mediation shall be closed to the public, unless the parties agree otherwise or the Chairperson of the Mediation Committee decides that disclosure is necessary.<sup>41</sup> They also note that before making public final statements with information about a case, the NCP shall give opportunity to the parties to present their opinion, and shall not make public the trade secret of the multinational enterprises submitted during the proceeding without the parties’ consent.<sup>42</sup>

No mention is made of campaigning in the Rules, procedure or Mediation Manual. However the Mediation Manual notes that “[t]he manner of the meeting process shall be determined by the members of the Mediation Committee in advance, and shall use their best judgement for ensuring due process,”<sup>43</sup> which may include policies around confidentiality.

According to the NCP they consider the rules of other countries and the *Guide for NCPs on Confidentiality and Campaigning when Handling Specific Instances* developed by the OECD Secretariat in how they handle specific instances. According to the NCP it has not experienced breach of confidentiality policy by the parties. One stakeholder noted that clarification of confidentiality policies could make the process more efficient however parties to specific instances did not express dissatisfaction with the NCP’s approach to confidentiality.

#### 4.6. Parallel proceedings

Neither the Rules nor procedures of the NCP include explicit guidance around parallel proceedings. According to the NCP, they follow the provisions regarding parallel proceedings included in the Procedural Guidance of the Guidelines.<sup>44</sup> However, such information in the NCP’s own procedural documents would help to increase the transparency of the process. The NCP has not accepted specific instance for further examination based on parallel proceedings on two occasions. According to the NCP in one instance they

were asked to postpone the handling of a specific instance due to ongoing court proceedings. They encouraged the respondent to engage in mediation, explaining that the procedures of the NCP and the court lawsuit can proceed in parallel on independent tracks. However in another case the NCP did not accept a specific instance for further examination due to the existence of parallel proceedings.<sup>45</sup>

#### 4.7. Cooperation with other NCPs

The website of the NCP provides that “[t]he NCP will co-operate with other NCPs to resolve the issues raised.”<sup>46</sup> In its instructions to potential submitters of specific instances it also notes that “[g]enerally, a complaint is submitted to the NCP of the country in which the issues have arisen. But, in the event that Guidelines-related issues arise in a non-adhering country where a NCP has not been established, a complaint could be submitted to NCP of the respondent’s home country.”

The NCP has had a supporting NCP in least three specific instances.<sup>47</sup> Some NCPs have raised challenges with respect to cooperating with the Korean NCP in specific instance handling in the context of exchanging on related specific instances, organising joint mediations and in facilitating engagement with Korean companies.

The NCP should strengthen cooperation with other NCPs in the network with respect to specific instance handling. In this respect the NCP should consult guidance developed by the OECD on good practice for NCP coordination during specific instance handling. The guidance recommends that where NCPs determine it is necessary to identify a lead NCP, to the extent possible, the relevant NCPs should seek to come to an agreement by consensus on which NCP will lead.

If agreement cannot be reached they should consult the Chair of the OECD Working Party on Responsible Business Conduct or members of the OECD Secretariat for advice. Where NCPs are considering related issues, raised against different enterprises in parallel, and an issue of interpretation of the Guidelines arises it is important that the consult with other relevant NCPs.

Where there is uncertainty, they may request clarification from the Investment Committee, to ensure consistent interpretation of the Guidelines.<sup>48</sup> Furthermore, where a foreign NCP is handling a case involving a Korean company, the NCP should provide support to foreign NCP the extent possible.

#### 4.8. Requests for clarification

In relation to the specific instance involving Dae Kwang Chemical Corporation’s sales to Bahrain 2013, the KNCP has asked the Investment Committee for clarification in relation to paragraph 5 of the Chapter I (Concepts and Principles) of the OECD Guidelines which states, “multinational and domestic enterprises are subject to the same expectations in respect of their conduct whenever the Guidelines are relevant to both.”

**Table 4.1. Recommendations: Specific Instance Handling**

	<b>Findings</b>	<b>Recommendations</b>
3.1	The separate roles and responsibilities of the Secretariat, NCP commission and Mediation Committee in handling the specific instances could be more clear in the Rules and procedural overview for specific instances provided on the NCP website.	The roles of the responsibilities of different NCP bodies involved in handling specific instances should be further clarified.
3.2	The recommendations provided in final statements are general and do not respond specifically to the issues raised.	<p>The NCP should provide concrete recommendations that respond specifically to the issues in question and as relevant make reference to recommendations of the Guidelines and due diligence guidance.</p> <p>The NCP should also consider undertaking follow up of specific instances where recommendations are issued to assess whether they have been responded to.</p>

3.3	Some NCPs have raised challenges with respect to cooperating with the Korean NCP in specific instance handling.	The NCP should strengthen cooperation with other NCPs in the network with respect to specific instance handling.
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## Notes

<sup>1</sup> Nestle and Trade Union (2003); Corning Inc. and Workers' Union of Corning Inc. (2017)

<sup>2</sup> ChoiShin, CIMA Textiles and ITGLWF\_(2002)

<sup>3</sup> Hydys Technologies Co., Ltd., E Ink Holdings, Inc., and Yuen Foon Yu, Inc. and Korean Metal Workers Union et al. (2015); Asahi Glass Co. Ltd. and Asahi Glass Fine Techno Korea Co., Ltd. and In-house trade union of the company Asahi Glass Fine Techno Korea (2015)

<sup>4</sup> Pohang Iron and Steel Enterprise (POSCO) and Lok Shanti Abhiyan (India), Korean Transnational Corporation Watch (South Korea), Fair Green Global Alliance (Netherlands), and ForUM (Norway (2012) and Daewoo Textile Fergana and Bukhara and KNTC Watch, Cotton Campaign, and Anti-Slavery International (2014) and Export-Import Bank of Korea (KEXIM) and Daewoo Engineering and Construction Co., Ltd and Jalaur River for the People's Movement, the People's Solidarity for Participatory Democracy and the Korean Transnational Corporations Watch (2019)

<sup>5</sup> Dae Kwang Chemical and Bahrain Watch and Americans for Democracy and Human Rights in Bahrain (ADHRB) (2013) and Miru Systems co., ltd. And Samy Badibanga Ntita (2018)

<sup>6</sup> Adeka Korea and Korean Chemical and Textile Workers Union (KCTWU) (2012) and SC Bank(2011)

<sup>7</sup> KISWIRE SDN BHD (2003); Korea EPZ Association (2004); Tetrapak (2007); Phis Jeon (2007); Nestle (2009); Valeo Korea (2009); Daewoo International KOGAS (2010)

<sup>8</sup> Raphas (2006)

<sup>9</sup> [http://www.ncp.or.kr/servlet/kcab\\_encp/info/1300](http://www.ncp.or.kr/servlet/kcab_encp/info/1300)

<sup>10</sup> Id.

<sup>11</sup> In exceptional circumstances such as in the occasion where issues are complicated and an investigation is required to identify facts, or an authoritative interpretation of the OECD is required the response might take longer (Rules, At. 13.4 and 5)

<sup>12</sup> Rules. Article 14.3

<sup>13</sup> Rules, Article 15.2

<sup>14</sup> Rules, Article 15.1

<sup>15</sup> Id. Article 15 and OECD Guidelines Procedural Guidance (2011), Commentary on Procedural Guidance, para 25

<sup>16</sup> ChoiShin CIMA Textiles (2002); Nestle and Trade Union (2003); Corning Inc. and Workers' Union of Corning Inc. (2017); Hydys Technologies Co., Ltd., E Ink Holdings, Inc., and Yuen Foon Yu, Inc. and Korean Metal Workers Union et al. (2015); Asahi Glass Co. Ltd. and Asahi Glass Fine Techno Korea Co., Ltd. and In-house trade union of the company Asahi Glass Fine Techno Korea (2015).

<sup>17</sup> KISWIRE SDN BHD (2003); Korea EPZ Association (2004); Tetrapak (2007); Raphas (2006); Phis Jeon (2007); Nestle (2009); Valeo Korea (2009); Daewoo International KOGAS (2010) SC Bank (2011) Adeka Korea and Korean Chemical and Textile Workers Union (KCTWU) (2012) Pohang Iron and Steel Enterprise (POSCO) and Lok Shanti Abhiyan (India), Korean Transnational Corporation Watch (South Korea), Fair Green Global Alliance (Netherlands), and ForUM (Norway (2012) and Daewoo Textile Fergana and Bukhara and KNTC Watch, Cotton Campaign, and Anti-Slavery International (2014); Dae Kwang Chemical and Bahrain Watch and Americans for Democracy and Human Rights in Bahrain (ADHRB) (2013) and Miru Systems co., Ltd. And Samy Badibanga Ntita (2018) and Export-Import Bank of Korea (KEXIM) and Daewoo Engineering and Construction Co., Ltd and Jalaur River for the People's Movement, the People's Solidarity for Participatory Democracy and the Korean Transnational Corporations Watch (2019)

<sup>18</sup> Article 16.1

<sup>19</sup> See Article 12. KCAB has a list where more than 1000 mediators are listed based on their occupation, expertise, nationality, etc.

<sup>20</sup> See Article 16.3.

<sup>21</sup> Korean NCP (2018) Mediation Procedure Manual for Specific Instances

<sup>22</sup> Id.

<sup>23</sup> Hydys Technologies Co., Ltd., E Ink Holdings, Inc., and Yuen Foon Yu, Inc. and Korean Metal Workers Union et al. (2015) and Asahi Glass Co. Ltd. and Asahi Glass Fine Techno Korea Co., Ltd. and In-house trade union of the company Asahi Glass Fine Techno Korea (2015)

<sup>24</sup> Nestle and Trade Union (2003)

<sup>25</sup> Rules, Article 15.1

<sup>26</sup> Rules, Article 17.2

<sup>27</sup> Corning Inc. and Workers' Union of Corning Inc. (2017); Hydys Technologies Co., Ltd., E Ink Holdings, Inc., and Yuen Foon Yu, Inc. and Korean Metal Workers Union et al. (2015); Asahi Glass Co. Ltd. and Asahi Glass Fine Techno Korea Co., Ltd. and In-house trade union of the company Asahi Glass Fine Techno Korea (2015);

<sup>28</sup> Choishin (2002) and Nestle (2003)

<sup>29</sup> Pohang Iron and Steel Enterprise (POSCO) and Lok Shanti Abhiyan (India), Korean Transnational Corporation Watch (South Korea), Fair Green Global Alliance (Netherlands), and ForUM (Norway (2012); Adeka (2012) Dae Kwang Chemical and Bahrain Watch and Americans for Democracy and Human Rights in Bahrain (ADHRB) (2015); Daewoo Textile Fergana and Bukhara and KNTC Watch, Cotton Campaign, and Anti-Slavery International (2014); Miru systems (2018) Export-Import Bank of Korea (KEXIM) and Daewoo Engineering and Construction Co., Ltd and Jalaur River for the People's Movement, the People's Solidarity for Participatory Democracy and the Korean Transnational Corporations Watch (2019);

<sup>30</sup> Daewoo Textile Fergana and Bukhara and KNTC Watch, Cotton Campaign, and Anti-Slavery International (2014); Hydys Technologies Co., Ltd., E Ink Holdings, Inc., and Yuen Foon Yu, Inc. and Korean Metal Workers Union et al. (2015) and Asahi Glass Co. Ltd. and Asahi Glass Fine Techno Korea Co., Ltd. and In-house trade union of the company Asahi Glass Fine Techno Korea (2015); and Export-

Import Bank of Korea (KEXIM) and Daewoo Engineering and Construction Co., Ltd and Jalaur River for the People's Movement, the People's Solidarity for Participatory Democracy and the Korean Transnational Corporations Watch (2019)

<sup>31</sup> Daewoo Textile Fergana and Bukhara and KNTC Watch, Cotton Campaign, and Anti-Slavery International (2014)

<sup>32</sup> Asahi Glass Co. Ltd. and Asahi Glass Fine Techno Korea Co., Ltd. and In-house trade union of the company Asahi Glass Fine Techno Korea (2015)

<sup>33</sup> The OECD has published guidance on good practices for follow up in specific instances. See OECD (2019), Guide for National Contact Points on Follow Up to Specific Instances, OECD Guidelines for Multinational Enterprises

<sup>34</sup> Korea EPZ association (2004); Daewoo International KOGAS (2008); Nestle (2009); SC Bank (2011) Export-Import Bank of Korea (KEXIM) and Daewoo Engineering and Construction Co., Ltd and Jalaur River for the People's Movement, the People's Solidarity for Participatory Democracy and the Korean Transnational Corporations Watch (2019) and MiruSystems and Samy Badibanga Ntita (2018); Corning Inc. and Workers' Union of Corning Inc. (2017);

<sup>35</sup> KISWIRE (2003); Raphas (2006) Tetrapak (2007); Phis Jeon (2007); Valeo (2010); Hydix Technologies Co., Ltd., E Ink Holdings, Inc., and Yuen Foon Yu, Inc. and Korean Metal Workers Union et al. (2015); Dae Kwang Chemical and Bahrain Watch and Americans for Democracy and Human Rights in Bahrain (ADHRB) (2015); Asahi Glass Co. Ltd. and Asahi Glass Fine Techno Korea Co., Ltd. and In-house trade union of the company Asahi Glass Fine Techno Korea (2015); Daewoo Textile Fergana and Bukhara and KNTC Watch, Cotton Campaign, and Anti-Slavery International (2014); Pohang Iron and Steel Enterprise (POSCO) and Lok Shakti Abhiyan (India), Korean Trans National Corporation Watch (South Korea), Fair Green Global Alliance (Netherlands), and ForUM (2012); Adeka Korea Korean Chemical and Textile Workers' Union (KCTWU) (2012)

<sup>36</sup> KISWIRE (2003); Raphas (2006) Hydix Technologies Co., Ltd., E Ink Holdings, Inc., and Yuen Foon Yu, Inc. Korean Metal Workers Union et al. (2015); Asahi Glass Co. Ltd. and Asahi Glass Fine Techno Korea Co., Ltd. and In-house trade union of the company Asahi Glass Fine Techno Korea (2015)

<sup>37</sup> ChoiShin (2002) and Nestle (2003)

<sup>38</sup> Rules, Article 16

<sup>39</sup> Nestle(2003); Corning(2017))

<sup>40</sup> ChoiShin(2002); Asahi Glass(2015); Hidix(2015)

<sup>41</sup> Rules, Article 16.2

<sup>42</sup> Rules. Article 17.4

<sup>43</sup> Mediation Manual, para 2.

<sup>44</sup> See OECD Guidelines, Commentary on Procedural Guidance, para 26

<sup>45</sup> Adeka Korea and Korean Chemical and Textile Workers Union (KCTWU) (2012)



<sup>46</sup> [http://www.ncp.or.kr/servlet/kcab\\_encp/info/1300](http://www.ncp.or.kr/servlet/kcab_encp/info/1300)

<sup>47</sup> Korean Multinational and Trade Union (2002); Nestle and Trade Union (2003); Pohng Iron and Steel Enterprise (POSCO) and Lok Shanti Abhiyan (India), Korean Transnational Corporation Watch (South Korea), Fair Green Global Alliance (Netherlands), and ForUM (Norway (2012).

<sup>48</sup> See OECD (2019), Guide for National Contact Points on Coordination when handling Specific Instances, OECD Guidelines for Multinational Enterprises



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

Dong-A University	Academia
Hongik University	Academia
JB Park Law Firm	Business
Samsung	Business
Korea Chamber of Commerce and Industry (KCCI)	Business
Corning Inc.	Business
Korea International Trade Association (KITA)	Business
Korea Enterprise Federation (KEF)	Business
BIAC	Business
Korea Export Import Bank (KEXIM)	Business
Korean Trade-Investment Promotion Agency (KOTRA)	Government
Korean House of International Solidarity, a OECD Watch member organisation, on behalf of Korea Transnational Corporation (KNTC) Watch and Task Force Group to Reform the Korean NCP	NGO
TUAC	Trade union



## Annexe B. List of organisations that participated in the NCP peer review on-site visit

POSCO International	Business
The Federation of Korean Industries (FKI)/BIAC member	Business
Korea Chamber of Commerce and Industry (KCCI)	Business
Korea Enterprises Federation (KEF)	Business
LG Chemicals	Business
JB Park law firm	Business
Export-Import Bank of Korea (KEXIM)	Business
Ministry of Trade, Industry and Economy (MOTIE)	KNCP
Korean Commercial Arbitration Board	KNCP
Daejeon University	KNCP
Ministry of Environment (ME)	KNCP
Ministry of Employment and Labor	KNCP
Korea Polytechnic University (KPU)	KNCP
MINBYN (Lawyers for Democratic Society)	KNCP
Korea Youth Foundation (KYF)	KNCP
Central Law Institute of the Federation of Korean Trade Union	KNCP
Korea House for International Solidarity	NGO
APIL (Advocates for Public Interest Law))	NGO
GongGam (Human Rights Law Foundation)	NGO
KNTC Watch/OECD Watch member	NGO
Hope and Law (Korean Lawyers for Public Interest and Human Rights)	NGO
TUAC	Trade Union
Korean Confederation of Trade Unions	Trade Union
Federation of Korean Trade Unions (FKTU)	Trade Union

## Annexe C. Promotional events 2018-2019

**Table C.1. Promotional activities in 2019 organised by the NCP**

Title	Date	Location	Size of audience	Organised or co-organised	Targeted audience
CSR trends and business strategies	19/02/2019	Seoul	50-100	Co-organisedCo-organised	Business representatives, NGOs, Trade unions, Academia, General public, Government representatives, etc
Stakeholder meeting	28/02/2019	Seoul	<10	Organised	NGOs, Trade unions
Business strategies on CSR risks	25/04/2019	Hanoi	50-100	Co-organisedCo-organised	Business representatives

### Events in 2019 participated in by the NCP

**Table C.2. Events in 2019 participated in by the NCP**

Title	Date	Location	Size of audience	Targeted audience
CSR trends and business strategies	19/02/2019	Seoul	50-100	Business representatives, NGOs, Trade unions, Academia, General public, Government representatives, etc
Business strategies on CSR risks	25/04/2019	Hanoi	50-100	Business representatives
Invest Korea Week	05/11/2019	Seoul	>100	Business representatives, Government representatives, etc

**Table C.3. Events organised by the National Contact Point in 2018**

<b>Title</b>	<b>Date</b>	<b>Location</b>	<b>Size of audience</b>	<b>Organised or co-organised?</b>	<b>Targeted audience</b>
Briefing for the academia of trade	23/04/2018	Daegu, Korea	10-50	Organised	Academia
Briefing for the local companies	27/06/2018	Vietnam, Hanoi	50-100	Co-organised	Business representatives
Briefing for the local companies	18/10/2018	Jakarta, Indonesia	50-100	Co-organised	Business representatives
Briefing for the academia of trade	06/11/2018	Seoul, Korea	10-50	Organised	Academia
Seminar on CSR risks and response strategy	19/11/2018	Seoul, Korea	10-50	Co-organised	Business representatives, General public
Briefing for the academia of trade	07/12/2018	Daegu, Korea	10-50	Co-organised	Academia
Stakeholder meeting	19/12/2018	Seoul, Korea	<10	Organised	Business representatives, Government representatives

Table C.4. Events participated in by the National Contact Point in 2018

Title	Date	Location	Size of audience	Targeted audience	Organiser(s)	Type of intervention
The annual meeting of Korean In-house Counsel	24/01/2018	Seoul, Korea	50-100	Business representatives, lawyers	Korean In-house Counsel Association	Setting up a booth & Distribution of books(The OECD Guidelines)
Global Leadership Summit	07/03/2018	Seoul, Korea	>100	Business representatives, General public, etc,	UN Global Compact	participation
Briefing for the academia of trade	23/04/2018	Daegu, Korea	10-50	Academia	KNCP	Presentation & Distribution of books(The OECD Guidelines)
Briefing for the local companies	27/06/2018	Vietnam, Hanoi	50-100	Business representatives	KNCP, KORCHAM, MOTIE	Presentation & Distribution of books(The OECD Guidelines)
IHCF Jeju Forum	01/09/2018	Jeju, Korea	50-100	Lawyer	IHCF	Setting up a booth & Distribution of books(The OECD Guidelines)
Briefing for the local companies	18/10/2018	Jakarta, Indonesia	50-100/50-100	Business representatives	KNCP, MOJ	Presentation & Distribution of books(The OECD Guidelines)
Invest Korea Week	06/11/2018	Seoul, Korea	>100>100	Business representatives, General public, Government representatives	MOTIE, KOTRA	Setting up a booth & Distribution of books(The OECD Guidelines)
Briefing for the academia of trade	06/11/2018	Seoul, Korea	50-100	Academia	KNCP	Presentation & Distribution of books(The OECD Guidelines)
Seminar on CSR risks and response strategy	19/11/2018	Seoul, Korea	50-100	Business representatives, General public	KNCP, KORCHAM	Presentation & Distribution of books(The OECD Guidelines)
Briefing for the academia of trade	07/12/2018	Daegu, Korea	10-50	Academia	KNCP, KNU	Presentation & Distribution of books(The OECD Guidelines)
Stakeholder meeting	19/12/2018	Seoul, Korea	<10	Business representatives, Government representatives	KNCP	Presentation



## Annexe D. Overview of closed specific instances handled by the Korean NCP as the leading NCP

Enterprise(s)	Submitter(s)	Host country	Chapter of the Guidelines	Date of submission	Date of closure	Outcome
ChoiShin CIMA Textiles	International Textile, Garment and Leather Workers' Federation (ITGLWF)	Guatemala	Employment and industrial relations	February, 2002	1 July 2003	Concluded. A resolution was reached between the parties in July 2003 and the Korean NCP subsequently concluded the specific instance.
KISWIRE SDN.BHD	MTUC	Malaysia	Employment and industrial relations	May, 2003	June 2006	Not accepted. According to the NCP it closed the specific instance when a ruling was reach on the issue by a Malaysian court. According to the NCP the company was respecting industrial relations and they considered the issue resolved.
Nestle	Trade Union	Korea	Employment and industrial relations	26 September 2003	28 November 2003	Concluded. The specific instance underwent mediation in collaboration with the Swiss NCP and was concluded by mutual consent between the parties in November 2003.
Korea EPZ Association	International Textile, Garment and Leather Workers' Federation (ITGLWF)	Bangladesh	Employment and industrial relations	20 April 2004	19 May 2004	Not accepted. According to the Korean NCP, the company had not denied freedom of association or violated the Guidelines. No public information is available about this case.
Raphas	Korean Chemistry & Textile Federation of Unions	Korea	General Policies, Employment and industrial	November 2006	February 2007	Not accepted. According to the NCP Raphas was not the employer of the

Enterprise(s)	Submitter(s)	Host country	Chapter of the Guidelines	Date of submission	Date of closure	Outcome
			relations			affected worker. No public information is available about this case.
Tetrapak	Korean Chemistry & Textile Federation of Unions	Korea	Employment and Industrial Relations	14 June, 2007	29 November, 2007	Not accepted. According to the NCP it did not consider the exercise of collective bargaining rights and the right to organize were being undermined through a factory closure. No public information is available about this case.
Phis Jeon	Korean House for International Solidarity (KHIS), Korean Confederation of Trade Union, Phis Jeon Trade Union, Worker Assistance Centre	Philippines	General Policies, Employment and industrial relations, combatting bribery	3 September, 2007	January 2012	Not accepted. According to the NCP it decided not to accept the case, as the charges made by the Philippines labor committee against the employer were dismissed. No public information is available about this case.
Daewoo International KOGAS	EarthRights International, Korean House for International Solidarity (KHIS)	Myanmar	General Policies, Disclosure, Employment and Industrial Relations, Human Rights, Environment	8 October 2008	27 November 2008	Not accepted with a positive determination in favour of the enterprise. No public information is available about this case.
Nestle	IUF	Korea	Employment and Industrial Relations	28 March 2009	29 May 2009	Not accepted as the issue was not deemed to be material or substantiated. The parties continued to engage on the issues subsequent to the case. No public information is available about this case.
Valeo Korea	Individuals	Korea	Disclosure, Employment and Industrial Relations	24 March 2010	27 August 2010	Not accepted. The parties continued to engage on the issues subsequent to the case. No public information is available about this

Enterprise(s)	Submitter(s)	Host country	Chapter of the Guidelines	Date of submission	Date of closure	Outcome
						case.
SC Bank	UNI Global Union, Korea Financial Industry Union	Korea	Employment and Industrial Relations	23 September 2011	13 December 2011	Not accepted due to parallel proceedings. The parties continued to engage on the issues subsequent to the case. No public information is available about this case.
Adeka Korea	Korean Chemical and Textile Workers' Union (KCTWU)	India	Employment and industrial relations, Human rights	24 August 2012	15 February 2013	Not accepted. Since collective bargaining and legal proceedings were under way at the time the specific instance was submitted, the Korean NCP found its intervention would be confusing and not help to resolve the case.
Pohang Iron and Steel Enterprise (POSCO)	Lok Shakti Abhiyan (India), Korean Trans National Corporation Watch (South Korea), Fair Green Global Alliance (Netherlands), and ForUM (Norway)	India	General Policies, Human Rights	18 October 2012	10 June 2013	Not accepted. The NCP did not accept the case for further consideration because it considered the allegations to be related to the administrative activities of the provincial government of India rather than the business activities of Posco India
Dae Kwang Chemical	Bahrain Watch and Americans for Democracy and Human Rights in Bahrain (ADHRB)	Bahrain	General Policies, Human Rights	27 November 2013	15 May 2014	Not accepted. The NCP did not accept the submission for further examination after deciding that the company was not a multinational enterprise and therefore that Guidelines did not apply.
Daewoo Textile Fergana and Bukhara (two wholly-owned and operated subsidiaries of Daewoo International)	Korean Trans National Corporations Watch(KTNC Watch), Cotton Campaign, and Anti-Slavery International	Uzbekistan	General Policies, Human Rights	03 December 2014	07 July 2015	Not accepted. The NCP did not accept the submission for further examination the enterprises did not breached due diligence duties or contributed to forced

Enterprise(s)	Submitter(s)	Host country	Chapter of the Guidelines	Date of submission	Date of closure	Outcome
						labour. The NCP also considered that the companies were not in a position to use leverage vis-a-vis the Uzbekistan government.
Hydis Technologies Co., Ltd., E Ink Holdings, Inc., and Yuen Foon Yu, Inc.	Korean Metal Workers Union et al.	Korea	General policies, Disclosure, Human rights, Employment and industrial relations, Science and technology	23 July 2015	08 December 2016	Concluded. The NCP concluded the specific instance after attempting to organize a mediation because 1) the companies refused to participate in further mediation work and 2) parties could not reach an agreement. It recommended that the companies continue to engage in dialogue with the submitters.
Asahi Glass Co. Ltd. and Asahi Glass Fine Techno Korea Co., Ltd.	In-house trade union of the company Asahi Glass Fine Techno Korea	Korea	General policies, Human rights, Employment and industrial relations	05 August 2015	08 December 2016	Concluded. The NCP concluded the specific instance after attempting to organize a mediation because the companies refused to participate in further mediation work and the parties could not reach an agreement. It recommended that the companies continue to engage in dialogue with the submitters.
Corning Inc.	Workers' Union of Corning Inc.	Korea	Employment and industrial relations	17 August 2017	16 August 2018	Concluded. Following the mediation process facilitated by the KNCP, the parties reached a substantial agreement on the issues raised.
Miru Systems co., ltd.	Samy Badibanga Ntita	DR Congo	Human Rights and Employment and industrial relations	19 July 2018	12 October 2018	Not accepted. The NCP did not accept the case for further examination because Miru is not subject to the application of the Guidelines as it would export its products

Enterprise(s)	Submitter(s)	Host country	Chapter of the Guidelines	Date of submission	Date of closure	Outcome
						without any subsidiary or branch overseas.
Export-Import Bank of Korea (KEXIM) and Daewoo Engineering and Construction Co., Ltd	Jalaur River for the People's Movement, the People's Solidarity for Participatory Democracy and the Korean Transnational Corporations Watch	Philippines	General policies, Human rights, Environment	24 October 2018	18 January 2019	Not accepted. The NCP did not accept the case for further examination because the project in question was developed by the Philippine government, the loan provided by KEXIM did not qualify as a commercial activity as it was classified as a non-commercial project.

## National Contact Point Peer Reviews: Korea

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

