

2023 Work Plan of the National Contact Point for the OECD Guidelines for Multinational Enterprises

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Foreword

Although in the first half of 2022 the COVID-19 pandemic still loomed large and most meetings and dialogues were conducted online, it was fortunately increasingly possible by the second half of the year to return to meeting in person. In 2022 the National Contact Point (NCP) completed the handling of three notifications by issuing a final statement. For two notifications the NCP published an initial assessment. The six new notifications submitted in 2022 (three of which at the end of the year) speak to the accessibility of the Dutch NCP and the trust it enjoys, while also presenting a challenge because they increase the NCP's workload.

Fortunately, following the arrival of two new members in 2021, there were no changes in 2022 to the team composed of four independent members. It is expected that the composition of the NCP will also remain the same in 2023. This means that a complete and established team, supported by the NCP secretariat, can devote themselves fully to handling the ongoing notifications as best they can. Hopefully this will also lead to outcomes which are acceptable to all parties. The NCP also aims to do more in 2023 to promote awareness about the OECD Guidelines, which is its second core task. This is in part contingent on how quickly the vacancy in the NCP secretariat, which arose in December 2022, can be filled.

In 2023 the NCP will continue to carry out its work against the backdrop of significant change when it comes to responsible business conduct (RBC). Of particular relevance in this regard is the preparation of national and European RBC legislation and, in terms of information and awareness raising, the NCP's relationship with the RBC support office, which was established in September 2022. Concerning these and other relevant developments the NCP is in close contact with the Ministry of Foreign Affairs, which has primary responsibility for implementing RBC policy, and with other ministries involved.

In the year ahead the NCP members and staff will remain fully committed to carrying out the important tasks of the NCP as well as possible, both when it comes to handling the increased number of notifications and to promoting awareness about the OECD Guidelines.

Catelene Passchier

Chairperson of the Netherlands National Contact Point

January 2023

1. The role of the NCP and the OECD Guidelines for Multinational Enterprises

1.1 Purpose of the OECD Guidelines

The OECD Guidelines for Multinational Enterprises clarify what the government expects from companies in terms of responsible business conduct (RBC) when conducting business internationally. They provide guidance for businesses in areas such as supply chain responsibility, human rights, labour relations and the environment. As such, the OECD Guidelines are the starting point for Dutch RBC policy and serve as a basis for future European and national RBC legislation.

All countries that adhere to the OECD Guidelines, including the Netherlands, have set up a National Contact Point (NCP). This is a requirement for OECD adhering countries. The NCP promotes the application of the OECD Guidelines and supports businesses in putting the Guidelines into practice by expanding awareness of the Guidelines and handling notifications of alleged instances of their non-observance. The OECD Guidelines are the only international framework for RBC that includes a grievance mechanism.

1.2 Core tasks and core values of the NCP

The NCP carries out its work on the basis of the NCP Establishment Order 2014, in which its tasks are laid down.

The NCP has two core tasks:

The **first** core task is to deal with notifications of alleged non-observance of the OECD Guidelines submitted by individuals, civil society organisations and/or companies and, if the parties agree, to facilitate dialogue about this. The NCP strives to contribute, through mediation, factual investigations and recommendations, to dispute settlement and to preventing the escalation of differences of opinions between parties. Parties must agree beforehand to mediation by the NCP. Upon request the NCP can also facilitate informal dialogue between parties, separate from a formal notification to the NCP. By handling notifications, the NCP contributes to the non-legal settlement of disputes regarding observance of the Guidelines.

The **second** core task is to promote and interpret the content and meaning of the OECD Guidelines for Multinational Enterprises, so as to encourage enterprises to observe them. The Dutch NCP also carries out this task by answering the questions of businesses, NGOs and other parties about the content and meaning of the Guidelines and their application.

In addition to these two core tasks, at the government's request the Dutch NCP can carry out sector-wide assessments of the application of the OECD Guidelines. In recent years the NCP has carried out one sector-wide assessment, which was of the oil and gas sector. No new sector-wide assessments are currently planned.

The **core values** that the NCP espouses in all of its work are visibility, accessibility, transparency and accountability.

- **Visibility:** the NCP attaches great importance to its public information task, which enables it to promote awareness and the applicability of the OECD Guidelines.
- **Accessibility:** the NCP is accessible to parties that wish to submit a notification of a specific instance, to companies and to other interested parties. The NCP is also open to engaging in dialogue with parties and other stakeholders.
- **Transparency:** the NCP strives for transparency in how it handles notifications and mediation. This does not mean that the NCP is transparent about the details of a particular mediation process, given that confidentiality is conducive to its success.
- **Accountability:** the NCP has an active public profile and communicates clearly about its activities, for example by publishing an annual report and by sharing experiences with other NCPs.

This work plan describes how the Dutch NCP plans to carry out its tasks in 2023. The final paragraph sets out the necessary resources (staff capacity and budget) for the successful realisation of this work plan.

2. Core task: notifications

The number of notifications that the NCP handles has systematically increased in recent years. This core task therefore also occupied the greatest part of the NCP's time and staffing capacity in 2022. This is not expected to change in 2023. At the end of 2016 and in 2017 the NCP handled just three notifications. In early 2023 there are 14. In 2023 the NCP will continue to handle these 14 ongoing notifications, six of which were submitted in 2022. The other ongoing notifications were submitted in 2018 (two), 2019 (one), 2020 (two) and 2021 (three). The notifications are in different stages of handling.

The reasons for which the NCP has not yet been able to complete the handling of several notifications that were submitted some time ago are varied. Sometimes the dialogue phase requires much more time than stated in the indicative timeframes provided by the OECD for the handling of notifications. Additional reasons for longer timeframes include the complexity of the subject matter, the amount of time needed to gain the confidence of both parties and the need for coordination between the various NCPs. There may also be practical reasons, such as the time needed to schedule discussions with numerous participants and the available time and capacity of independent NCP members and the NCP secretariat. The fact that many notifications have a longer handling period than the OECD's indicative timeframes means that a large number of cases are increasingly being handled at the same time, which also increases the NCP's workload. In 2023 this will require extra attention and should be a priority. The Dutch NCP, however, does not wish to make any concessions in terms of the quality and care of its handling of notifications. 'Quality over speed' will again be the guiding principle for the NCP in 2023.

In 2022, three notifications were handled to completion, and final statements issued: FNV vs. Chevron (concerning taxes and transparency), Friends of the Earth vs. ING (concerning palm oil) and IUF vs. McDonald's, APG and Norges Bank (concerning gender-based violence and sexual harassment). Several ongoing notifications are expected to be handled to completion in the first half of 2023. In addition, in 2022 evaluations of final statements were conducted with regard to the notifications of UNI Global Union vs. VEON and Obelle vs. SPDC and Shell.

Carrying out an evaluation is an NCP best practice. This usually occurs about one year after the publication of a final statement. The exact form that the evaluation takes varies from one notification to the next. Sometimes parties are asked to provide written input. Sometimes a joint discussion is held under the leadership of the NCP to go over the developments of the previous year and to evaluate the implementation of the agreement and/or the NCP's recommendations.

In addition to handling notifications itself, the NCP provides advice and support regarding the notifications received by other NCPs, if there is a connection with the Netherlands or if the notification is also submitted to the Netherlands but it has jointly been decided that the notification would be handled by another NCP.

To further enhance the quality of the mediation provided by the NCP, the members of the body and the secretariat received in-depth mediation training in 2022.

2023 action points

- The NCP will strive for a shorter processing time in the handling of specific instances and hopes to significantly decrease the currently heavy workload (although this depends in part on the number of new notifications submitted), among other things by publishing several initial assessments, final statements and evaluations.
- In 2023 several members of the secretariat will participate in mediation training provided by the OECD concerning online dispute resolution; the course started in December 2022.

3. Core task: promoting awareness and observance of the OECD Guidelines

The NCP's promotional efforts include giving presentations about the Guidelines, holding or providing input for training sessions, and bringing the Guidelines to the attention of other organisations which regularly interact with the business community. The NCP+ stakeholders (the Confederation of Netherlands Industry and Employers (VNO-NCW), the Royal Association MKB-

Nederland, the Trade Union Confederation FNV, OECD Watch, and the Social and Economic Council (SER) as an observer) and the advisory members from the four most relevant ministries regularly provide a platform for the NCP to highlight the OECD Guidelines and the importance of the NCP's grievance mechanism.

3.1 NCP themed meeting

Themed meetings, which the NCP usually organises once a year, are intended to bring together representatives of business, NGOs and other organisations with an interest in RBC and the OECD Guidelines, to share knowledge and to discuss dilemmas associated with implementing the Guidelines, sometimes with an emphasis on certain sectors or themes.

2023 action point

- In 2023 the NCP will organise a themed meeting to which stakeholders will also be invited. A possible theme is a clear delineation between the NCP and the new supervisory authority in the context of the RBC legislation being prepared at national and European level.

3.2 Promoting the OECD Guidelines for Multinational Enterprises

An interim survey from early 2021 showed that only 35% of the some 700 large companies in the Netherlands explicitly use the OECD Guidelines and the UN Guiding Principles as frames of reference for their international activities. In the light of this, the NCP sees sufficient reason to continue bringing the OECD Guidelines to the attention of Dutch companies operating internationally.

The RBC support office, which was launched in September 2022, is meant to serve as a 'one-stop shop' for RBC matters, supporting companies in performing their due diligence. With regard to its cooperation with the RBC support office, the NCP takes the view that its own task is – and will continue to be – to interpret and apply the OECD Guidelines in the context of NCP procedures and that it must also be able to properly carry out its awareness-raising task.

2023 action points

- In collaboration with the RBC cluster at the Ministry of Foreign Affairs and the RBC support office, the NCP will initiate and conduct new awareness-raising activities. Account will be taken in this regard of both the NCP's capacity and of the different tasks and mandates of the NCP and the RBC support office respectively.
- The organisation (or co-organisation) of events, training activities and workshops regarding the application of the OECD Guidelines.
- Presentations about the work of the NCP and the OECD Guidelines, in particular where NCP's target groups are concerned.

3.3 Contributing to the objectives of central government RBC policy

The NCP's activities contribute to the objectives of government-wide RBC policy. They do so by calling attention to responsible business conduct with the OECD Guidelines as a framework, explaining the relationship between the OECD Guidelines and the Sustainable Development Goals (SDGs), making connections with RBC, the NCP reinforces this policy where possible. The NCP's policy contribution is based on its unique perspective and mandate. For their part the advisory members call attention to the NCP's work in their policy contacts and in presentations as and when appropriate.

In addition, as an advisory member of the RBC Committee of the Social and Economic Council (SER), the NCP will continue to stress the importance of effective dialogue between employers and employees on RBC issues.

The NCP also provides advice about the conformity of draft texts of agreements on international responsible business conduct with OECD Guidelines and will continue to do so in 2023 for Next Generation and new-style agreements.

2023 action points

- Provide input with regard to preparations for RBC legislation at both national and European levels, in particular where the legislation touches on the tasks and mandate of the NCP.
- Provide input in the context of targeted updates of the OECD Guidelines (see also point 5).

3.4 The NCP online

Online information provided by the NCP on its website and on social media has played an increasingly important role in reaching target groups and providing information to them, especially in recent years, given that from March 2020 the COVID-19 pandemic made organising in-person meetings difficult if not impossible. The NCP regularly receives questions about the Guidelines (and the application thereof), notifications and its activities. These questions are usually received through the NCP website. Notifications that have been successfully concluded and declarations of admissibility of new notifications regularly receive media attention. This has a positive effect on awareness about the work of the NCP and the OECD Guidelines, but there is scope for increasing this awareness even further. It is therefore vital that the website and social media pages are accurate, active and up-to-date. This is an ongoing process that will require time and effort in 2023 as well. The implementation of these activities is in part dependent on the current vacancy at the NCP secretariat being filled soon (see also point 5).

2023 action points

To reach the NCP's target groups as effectively as possible in 2023 as in previous years, we will be updating the websites www.oesorichtlijnen.nl and www.oecdguidelines.nl and publishing easy-to-read, up-to-date texts. With that in mind, initial assessments and final statements are published in English and Dutch. High quality online communication and information provision by the NCP secretariat will again be the aim in 2023. Ongoing activities include:

- Proactive participation by NCP members and/or the NCP secretariat in events that focus on the OECD Guidelines, including activities and training events organised by the SER.
- Be available to answer questions and respond promptly and appropriately to requests for information from businesses and civil society organisations, including prior to a formal notification if necessary.
- Develop, update and distribute literature about the OECD Guidelines (factsheets, brochures, etc.) as needed.
- Manage and update the NCP website, including by actively publishing news items and information about upcoming events.
- Maintain all social media pages and the activity calendar.

4. Activities related to the OECD Guidelines

The OECD Guidelines for Multinational Enterprises were last updated in 2011. After having taken stock of possible changes in 2021, which resulted in a report published in early 2022, much of the remainder of 2022 was focused on the discussion of targeted changes. The NCP regularly offered input for the Dutch contribution. Changes to the Guidelines and to the implementation procedures for NCPs are expected to be completed in June 2023, following public consultation earlier in the year. The NCP will remain involved until the process of amending the Guidelines is complete.

The Dutch NCP also actively contributes in various ways to the implementation of the OECD Action Plan to Strengthen National Contact Points for Responsible Business Conduct 2022-2024. The Action Plan is an element of the proactive agenda of the OECD Working Party on Responsible Business Conduct (WP RBC).

The four main points of the Action Plan are:

- Peer review and capacity building
- Building functional equivalence: peer learning, issues and challenges for NCPs, skill sharing, information and promotion

- Building and improving tools: document templates, online training courses for new NCP members and the NCP Secretariat
- Promoting policy coherence (in relation to the OECD Guidelines).

2023 action points

- One of the objectives of the Action Plan is having all NCPs peer reviewed by 2023. In 2022 the Dutch NCP was part of the team involved in peer reviewing the Spanish NCP. The NCP has offered to again participate in a peer review of another NCP in the second half of 2023, should the OECD so request.
- As usual the NCP will actively participate in the NCP network meetings in June and November/December 2023 in Paris.
- Since November 2022 the Dutch NCP has been part of a regional network for NCPs, which comprises Belgium, France, Luxembourg and the Netherlands. The NCPs have agreed to share knowledge and information about awareness-raising activities and contribute to each other's activities if desired. The next meeting of the regional network will be held in Paris in June during the NCP network meeting.
- In 2023 the NCP will also participate in peer learning events organised by other NCPs, which may take the form of a presentation or a panel discussion for example. The Dutch NCP, which is well known internationally, considers it important to contribute in this way to the development of NCPs worldwide. This builds on similar activities in previous years.
- Providing information about the Guidelines and the role of the NCPs to government organisations and other units and departments at the Ministry of Foreign Affairs is also a task of the NCP. To this end, the NCP will give a number of presentations about its work at the Ministry of Foreign Affairs and for staff of the RBC support office, for example.

5. Organisation and resources

To implement the above plans and for the NCP to operate effectively, it needs sufficient capacity in terms of its secretariat and independent members. Attention has been paid to this issue in recent years. Due in part to staffing problems, the NCP is taking longer than it would like to process complaints, and it does not have enough time for its awareness-raising tasks either. These issues will require the organisation's attention in 2023 as well. This is all the more challenging considering the vacancy that has arisen within the secretariat in December 2022 and which will hopefully be filled as soon as possible in 2023.

The NCP currently consists of four members, including the chairperson. In 2023, no changes are foreseen in the composition of the (independent members of the) NCP.

The NCP has its own budget, which it can use for tasks and activities set down in its work plan. The budget falls within the purview of the Ministry of Foreign Affairs and is earmarked for the NCP. The NCP draws up a budget every year, and it is accountable to the Ministry on how the funds are spent.

Appendix: composition of the NCP as of January 2023

Members:

- Catelene Passchier, chairperson
- Liesbeth Enneking
- Fred van Haasteren
- Joris Oldenziel

Advisory members:

- Dai Forterre, Ministry of Economic Affairs and Climate Policy
- Conny Olde Olthof, Ministry of Social Affairs and Employment
- Ilse Pauwels, Ministry of Infrastructure and Water Management
- Hannah Tijmes, Ministry of Foreign Affairs

NCP+ members:

- Marhijn Visser, Confederation of Netherlands Industry and Employers (VNO-NCW)/Royal Association MKB-Nederland
- Lucia van Westerlaak, Trade Union Confederation FNV
- Joseph Wilde, OECD Watch
- Seljan Verdiyeva-Smeets, Social and Economic Council (SER) (observer)

NCP secretariat:

- Kamala Laghate
- Sylvia Tuin
- André Westerink
- Vacancy