

**NON-OFFICIAL TRANSLATION**

**SPECIFIC INSTANCE**

**“COPAGEF, SOMDIAA AND SOSUCAM IN CAMEROON”**

**12 March 2021**

**Statement from the French National Contact Point**

**At the end of its initial assessment, the NCP accepts the specific instance and begins its good offices with the Parties.**

The French National Contact Point for the Implementation of the OECD Guidelines for Multinational Enterprises (“NCP” here-after) was referred to on 23 November 2020 by a group of Cameroonian civil society associations composed of the “*Centre d’Actions pour la Vie et la Terre*” (Centre of Actions for Life and Earth, or “CAVT” here after) and 14 Local Watch Committees (*Comité Riverains de Veille*” or “CRVs” here-after) in the sugar area of the Haute-Sanaga department of the Central Cameroon region regarding the agro-industrial activities of the Société Sucrière du Cameroon, SOSUCAM.

The specific instance raises issues relating to compliance with the OECD Guidelines, responsible business conduct and due diligence of the agro-industrial activities of the French Group COPAGEF Group about its sugar operations led by the “*Société d’Organisation, de gestion et de Développement des Industries Alimentaires et Agricoles*”, SOMDIAA, and the “*Société Sucrière du Cameroon*”, SOSUCAM. The referral concerns the social, societal and environmental impact of these agro-industrial activities on SOSUCAM’s riparian populations, on corporate CSR policy, engagement with riparian stakeholders and disclosure.

**The NCP recalls that the acceptance of the referral and the offer of its good offices to the parties do not determine whether or not companies have acted in accordance with the OECD Guidelines.**

### **1. Procedure followed by the NCP in accordance with its Bylaws**

The referral procedure to the NCP is confidential. The NCP should endeavour to carry out the initial assessment of a referral within an indicative period of three months after the acknowledgement of receipt. It then prepares a statement on the admissibility of the referral (Article 19). If the initial assessment is positive, the NCP offers its good offices to the parties and examines the referral to help them resolve their disputes. Otherwise, it moves to the conclusion phase of the procedure.

**1.1. Receipt of the referral.** The NCP Secretariat received the specific instance electronically on 12 and 13 November 2020 and by mail on 23 November 2020. It acknowledged receipt of the file on 25 November 2020 and sent information on the procedure to the Complainant.

**1.2. Formal admissibility of the referral.** The NCP discussed the admissibility of the referral at its meeting on 10 December 2020. It validated the formal admissibility of this specific instance on 15 December 2020. The NCP informed the Complainant on 17 December 2020. The NCP informed COPAGEF Group and SOMDIAA Group of the referral by letter on 17 December 2020 and invited them to reply as soon as they received the electronic file. SOMDIAA quickly contacted the NCP. On 4 January 2021, it indicated that it would be the NCP’s interlocutor for this procedure. It indicated its willingness to engage in dialogue with the NCP and to provide the NCP with information for the initial

## NON-OFFICIAL TRANSLATION

assessment of the file. The NCP send the electronic version of the specific instance on 5 January 2021 and SOMDIAA acknowledged receipt on the same day.

**1.3. Initial assessment of the specific instance.** The NCP started the initial assessment on 15 December 2020. The NCP Secretariat proposed to meet separately with the parties in order to present the specific instance procedure to them. These interviews took place by video-conference between France and Cameroon on 17 December 2020 with the Complainant (representative of CAVT and representatives of several CRVs) and on 6 January 2021 with representatives of SOMDIAA and SOSUCAM.

The NCP asked Complainant organisations to provide additional information on their structures and activities in order to clarify the identity of the Complainant organisations and their interest in the case. That additional information was submitted to the NCP on 4 and 15 January 2021. On 21 January 2021, Complainant agreed that most of this information shall be transmitted to SOMDIAA, and this was done on the same day. Furthermore, the Complainant stressed the importance of confidentiality.

The NCP invited SOMDIAA to respond to the referral as off the initial assessment. On 4, 11 and 29 January 2021, SOMDIAA provided the NCP with initial information on the admissibility criteria, confirmed its openness to the dialogue and its intention to forward further elements of response to the referral during the initial assessment phase. On 4 February 2021, SOMDIAA submitted to the NCP a detailed file responding to the allegations of the referral. The file was supplemented with 54 annexes.

The NCP discussed the initial assessment of the referral at its meeting on 12 January 2021. It decided to continue the initial assessment, to finalise it in February and to hear the parties in March 2021. On 11 February 2021, the NCP decided to accept the referral and to propose its good offices to the parties and to invite the representative of the Complainant organisations to sign the agreement to respect confidentiality and secrecy of exchanges. It invited the Parties to submit their replies by 22 February 2021. The Complainant organisations accepted the good offices of the NCP on 19 February 2021. The representative of the Complainant organisations signed the undertaking to respect confidentiality and secrecy of exchanges on 15 February 2021. SOMDIAA accepted the good offices of the NCP on 22 February 2021. The NCP finalised the initial assessment of the referral on 3 March 2021.

**1.4. Initial Assessment Statement.** The NCP adopted a draft initial assessment statement on 18 February 2021 and invited the Parties to submit their comments. The NCP reviewed these comments and adopted this statement on 12 March 2021. It forwarded it to the parties prior to its publication on its website. The referral was subsequently notified to the OECD. The NCP recalls that Article 19 of its Bylaws provides that the statement announcing the admissibility of a referral “*specifies the identity of the parties, the country or countries concerned by the referral and includes a summary of its initial assessment*” and that Article 20 provides for the anonymity of the company only where a referral is not admissible.

## 2. Presentation of the specific instance

### 2.1. Overview of the Complainant

The referral is brought by a group of Cameroonian civil society organisations composed of the Centre of Actions for Life and Earth (“*Centre d’Action pour la Vie et la Terre*” or “CAVT” here-after) and 14 organisations from villages neighboring SOSUCAM, formed as 14 Local Watch Committees (“*Comité Riverains de Veille*” or “CRV” here-after).

CAVT is an organisation engaged in watching and monitoring industrial projects. Formed as an association, “*it works to ensure that the rural populations of Cameroon are effectively involved in monitoring the implementation of industrial projects that develop in their neighborhoods*”.

## NON-OFFICIAL TRANSLATION

The referral is also brought by the 14 Local Watch Committees of 14 villages (9 villages and 5 hamlets) in the sugar area of the department of Haute-Sanaga of the Central Region of Cameroon, which are neighboring SOSUCAM's plantations and factories. The majority of the 14 CRVs have been formed in the form of associations since 2015. The purpose of the CRVs is *"to contribute to the promotion of the economic, social and cultural development of the villages, and to the promotion of the defense of the rights and interests of its members"*. The referral indicates that the CAVT contributed to the training of CRVs. The referral indicates that the CRVs participated in the CRVs-SOSUCAM platform for dialogue set up by SOSUCAM between 2014 and 2019.

### 2.2. Allegations of violations of the OECD Guidelines

The allegations underlying the referral are based on several elements. These include SOSUCAM's environmental and social impact assessments study of July 2007 and November 2012 carried out by external consultants, the "Plan to support the development of villages located on the sugar area" carried out in 2015 to follow up the 2012 study, and an environmental and social monitoring report dated May 2017 done by the CAVT. These documents are attached to the referral file. On the other hand, it is about a framework developed by the CRVs in 2014 to monitoring SOSUCAM and a survey that would have been carried out by the CAVT and the CRVs prior to the submission of the referral, which enabled them to complete the data that enabled the elaboration of the referral. This investigation is not attached to the referral. The referral contains in annex many documents dating mainly from 2015-2017 as well as 2020.

According to the referral, COPAGEF Group and Société d'Organisation, de Management et de Développement des Industries Alimentaires et Agricoles Group (SOMDIAA), the agri-food division of COPAGEF's activities, do not properly exercise their due diligence regarding social, societal and environmental impacts caused by SOSUCAM's agro-industrial activities. The referral refers to allegations of negative impacts on the environment and riparian neighboring populations of SOSUCAM's sugar cane plantations and processing plants reported by the CRVs. These impacts would consist of noise and odor negative impacts, social (destruction of crops, metal-plate oxidation, etc.) and sanitary (health) impacts, disturbances and a decrease in wildlife, and air and water pollution. The referral alleges existing conflicts between riparian's and the Company on several topics (local employment, management of space, etc.). According to the referral, the environmental and social management plan and the Company's CSR policy would not correspond to the impacts resulting from the sugar activities and would not be tailored to the local situation in a context, according to the Complaints, of alleged absence of engagement with village' organisations for several months. This would lead to increased local tensions.

The specific instance concludes with allegations of violations of several chapters of the OECD Guidelines (general principles, disclosure, human rights, employment, environment) and several Cameroonian legislations and "violations of rights recognized to neighboring communities" which concern "rights to a healthy environment, health, education, food, water, decent work, fair and equitable compensation, decent housing, participation, culture and leisure".

During the initial assessment, the Group informed the NCP that SOSUCAM has a framework for dialogue with its stakeholders as well as a CSR policy and is deploying several CSR tools. The NCP notes that as part of this referral, the Complainant organisations make several recommendations to remedy what they consider to be breaches of the OECD Guidelines. In the case at hand, the Complainant organisations recommend the establishment of a framework for consultation and dialogue that is more inclusive and broadened to stakeholders in the 14 villages in SOSUCAM neighborhood and having extensive knowledge of the issues underlying this agro-industrial operation. They recommend the development and implementation of a CSR policy and tools that would be appropriate to the situation they report. Finally, they recommend the disclosure of regular information for the attention of local riparian populations.

*See Annex: List of recommendations of the OECD Guidelines referred to in the referral*

## NON-OFFICIAL TRANSLATION

### 2.3. Other Elements considered for the Initial Assessment

The referral concerns activities of the sugar sector of the French Group COPAGEF, a public limited company seated in France, and concerns three entities of the Group: COPAGEF (holding), SOMDIAA (agri-food division in Africa) and SOSUCAM (Cameroon subsidiary of SOMDIAA).

SOMDIAA Group - *Société d'Organisation, de Management et de Développement des Industries Alimentaires et Agricoles* - is a public limited company seated in France that expands its activities in sub-Saharan Africa. SOMDIAA, integrated with COPAGEF since 2010 after it took a majority shareholding, is implementing a societal responsibility and sustainable development approach. Its sustainable development reports<sup>1</sup> and website (here) present its CSR — sustainable development and compliance approach, including the duty of vigilance.

SOSUCAM was created in 1964 by the SOMDIAA Group and expanded in 1998 after the acquisition of CAMSUCO. SOSUCAM is a company governed by Cameroonian law. It is 72.72 % owned by SOMDIAA, the remainder of which is divided between the Cameroonian State and private shareholders, including SOSUCAM's staff. COPAGEF and SOMDIAA are French multinational companies within the meaning of the Guidelines. The French NCP has jurisdiction to handle this referral and interact with the Groups.

The specific instance refers to several Cameroonian legislations relating in particular to environmental management (1996), forests, wildlife and fisheries (1994), water management (1998), noise and olfactory nuisance (2011), phytosanitary protection and fertilizers (2003), environmental impact assessments (2007 and 2012), soil and subsoil management (2011), waste management (2012). The NCP will take into account applicable laws and regulations in this case. It recalled that the mandate of the NCPs is not to examine the conformity of corporate actions with local law or the conformity of local law with the OECD Guidelines.

The NCP took into account the information and elements of response provided by SOMDIAA as of the initial assessment phase. This allows the NCP to have a better understanding of the situation and to be aware of the achievements that would have been undertaken in recent years in the implementation of SOMDIAA Group's Sustainable Development Policy and that of SOSUCAM (see 2.5).

The NCP identified specific instances handled by other NCPs in relation to agro-industrial activities in the sugar sector, including the Bonsucro initiative. The French NCP has already had to examine three specific instances relating to the inclusion of industrial or agro-industrial activities in their local ecosystem and about the issue of engagement with local stakeholders.

Finally, the OECD-FAO Guidance for Responsible Agricultural Supply Chains<sup>2</sup>, developed to help enterprises meet existing standards of responsible business conduct and carry out their due diligence in agricultural sectors to ensure that their activities contribute to sustainable development, can serve as a reference in this specific instance.

### 2.4. Complainants' Request

The Complainant organisations, the CRVs and the CAVT, seek the good offices of the French NCP to engage in a dialogue with SOMDIAA and COPAGEF to find solutions to allegedly difficulties faced by some SOSUCAM's riparian neighboring populations from which the CRVs are coming from and they indicate to represent.

---

<sup>1</sup>Sustainable Development Report 2019

<sup>2</sup> [Guidance here](https://mneguidelines.oecd.org/rbc-agriculture-supply-chains.htm) To learn more: <https://mneguidelines.oecd.org/rbc-agriculture-supply-chains.htm>

## NON-OFFICIAL TRANSLATION

The complainant organisations recommend the establishment and implementation of a CSR policy that addresses the impacts of SOMDIAA's sugar-related activities, includes riparian stakeholders, and complies with the OECD Guidelines.

### 2.5. Company's Response

The NCP notes that SOMDIAA has been proactive and committed to dialogue with the NCP upon receipt of the dossier and during the initial assessment of the dossier. Indeed, on 4 January 2021, SOMDIAA informed the NCP of its wish to access the file and its openness to dialogue in order to understand its content.

At this stage of the procedure, SOMDIAA submits the following elements of response:

*“ In response to the allegations made by the complainant organisations, SOMDIAA provided the French NCP with initial information by letters of 11 and 29 January and then sent it a detailed file on 4 February in which it disputes the elements of the referral.*

*By means of this statement, SOMDIAA states that it regrets that, despite all the information sent to the NCP in its letters of 11 and 29 January, as well as those presented in its file of 4 February, the NCP has, at that stage, focused primarily on the form of the file for acceptance of the specific instance.*

*The SOMDIAA Group's reservations remain unrestricted.*

*First, on the proceedings of the referral and the taking into account of the file, given that, at the time when the NCP decides on the formal admissibility of the referral on 15 December 2020, it does not appear, on the one hand, that it has all the information relating to the CRVs and CAVT and, on the other hand, it appears from the documents in the file that the latter had apparently not yet designated a 'representative'.*

*Secondly, about the notion of the representativity of the complainants and of the interests defended, as the CRVs, according to the information sent to us by the NCP on 20 January, represent a number of 231 persons, or 193 if the two CRVs which did not acquire legal personality status are withdrawn at the time of referral to the NCP, in the absence of a receipt of a declaration in the prefecture. However, the SOSUCAM environment has a much larger population (estimated at at least 45,000 people in 2005) and with which SOSUCAM maintains close relations through administrative and traditional authorities according to a known and shared pattern.*

*Finally, with regard to the fulfilment of the good faith criteria<sup>3</sup> and the significant nature<sup>4</sup> of issues raised, they should be supported by evidence that they are true. A first non-exhaustive review of these allegations made it possible to assess that 76 % of the allegations would be unfounded and that the others would already be dealt with by SOSUCAM either in advance (17 %) or under implementation (7 %). This review details for each item mentioned in the referral what would be the materiality of the impact, its analysis and its consequences, as well as the numerous measures taken by SOSUCAM to respond to them. This review also outlines the procedures, management measures and actions mobilised by SOSUCAM in the context of its environmental and social management plans and its sustainable development policy.*

*SOMDIAA states that, in accordance with its daily commitment to assume its corporate responsibility, it is particularly vigilant that all its subsidiaries are always attentive to their stakeholders, as is the case*

---

<sup>3</sup> See Article 22 of the Bylaws of the French NCP

<sup>4</sup> See Article 23 of the Bylaws of the French NCP

### NON-OFFICIAL TRANSLATION

with SOSUCAM with the complainant organisations CAVT — CRVs, in a shared spirit of “responsible cooperation”.

*In any event, in the event that the NCP rejects or terminates the referral, SOMDIAA committed to receiving the complainants in a CAVT-CRVs-SOSUCAM-SOMDIAA dialogue in order to reassure them of the continued social dialogue that the company has always promoted in order to foster constructive exchanges.*

*Confident in its approach vis-à-vis its stakeholders, SOMDIAA, despite its reservations about the legitimacy of the ongoing referral and given its commitment to “maintain dialogue with its external stakeholders”, informed the NCP on 22 February 2021 that the Group would accept its good offices”.*

### 3. Coordination with foreign NCPs

Cameroon is not adhering to the OECD Guidelines. The French NCP will handle the specific instance alone. It will inform the UK NCPs of the referral after issuing this statement (see.2.3).

### 4. Summary of the Initial Assessment of the Specific Instance

#### 4.1. The referral fulfils the formal admissibility criteria set out in Article 16 of the French NCP’s Rules of Procedure.

It details the Company’s identity, the Complainant’s identity and contact details, the details of the facts alleged against the Company, and the elements of the Guidelines justifying referring to the French NCP.

#### 4.2. The referral fulfils the other admissibility criteria set out in Article 22, 23 of the French NCP’s Bylaws.

**According to the NCP, the referral is sufficiently precise and sufficiently documented to begin its examination and to offer its good offices to the parties (Article 23). The referral appears to be submitted in good faith (art. 22). Complainant organisations are properly identified and have an interest in acting (art. 23).** The Complainant organisations argued the importance of confidentiality for their members. The NCP confirmed the confidentiality of the proceedings (Articles 38, 39 and 40). The Complainant organisations, through their representative, committed on 15 February 2021 to respect confidentiality and secrecy of exchanges. This is an important element to build a climate of trust and serenity that creates favorable conditions for dialogue between the parties and with the NCP.

#### **The referral raises significant issues about the effectiveness of the Guidelines (Articles 18 and 23).**

It questions the contribution to local development, respect for local law, due diligence of companies, companies’ stakeholder engagement, disclosure of information, human rights, environment and social issues. SOMDIAA Group provided many elements of response during the initial assessment that could feed into the dialogue with the Complainants who appear, according to the NCP, not having the same level of information. The referral is therefore fully related with the OECD Guidelines.

#### 4.3. The referral creates an opportunity to contribute positively to the resolution of the issues raised by the specific instance (Article 25).

The complainants request the NCP to establish a channel of dialogue with the Group to discuss its CSR policy with respect to the impacts of the agro-industrial activities of its Cameroonian subsidiary and to discuss the principle and terms of engagement with stakeholders from the 9 villages and 5 riparian hamlets of SOSUCAM that the complainants claim to represent and from which the VRCs originated. SOMDIAA, while recalling SOSUCAM’s commitment and achievements to its local environment, has proactively engaged with the NCP by being open to dialogue. The use of the NCP provides parties with

## NON-OFFICIAL TRANSLATION

a space for shared dialogue. The NCP therefore offers its good offices to the parties to contribute positively to the resolution of the questions raised.

### 5. Conclusion of the Initial Assessment

**In accordance with Article 18 of the Bylaws, the NCP considers that the issues raised by the referral on the effectiveness of the Guidelines merit further examination. The NCP recalls that acceptance of the referral does not determine whether COPAGEF, SOMDIAA Group and its subsidiary acted in compliance with the OECD Guidelines.**

The NCP has decided to offer its good offices to the Parties who have accepted them. In accordance with its Bylaws, the NCP is now entering the good offices and examination phase of the referral. Its good offices will begin with separate interviews with the Parties. The NCP may propose a mediation to the parties. It will issue a final statement or report at the end of the procedure.

The NCP procedure is confidential. In accordance with its Bylaws and the OECD Procedural Guidance and in order to build trust with the Parties, the NCP will take appropriate measures to protect sensitive commercial or other information, as well as the interests of other stakeholders involved in this specific instance. Certain elements brought to the attention of the NCP by each Party may be subject to confidentiality.

The NCP recalls that on 13 March 2020, the OECD Working Group on Responsible Business Conduct expressed its deep concern at alleged incidents of undue pressure on those submitting cases to National Contact Points for Responsible Business Conduct (read the [Declaration](#))<sup>5</sup>.

\*\*\*

#### In the Annex:

- Recommendations of the 2011 Guidelines referred to in the referral.
- Diagram of the procedure for handling a specific instance by the French NCP.
- Extract from the French NCP Bylaws on the initial assessment of a referral (Articles 18, 19, 20, 22, 23, 24, 25, 26, 31) and on the examination of specific circumstances (Articles 27, 28, 31, 38, 39 and 40).

Website: <https://www.pcn-france.fr>

E-mail : [pointdecontactnational-France@dgtresor.gouv.fr](mailto:pointdecontactnational-France@dgtresor.gouv.fr)

<sup>5</sup> [National Contact Points - Organisation for Economic Co-operation and Development \(oecd.org\)](https://www.oecd.org/ncp/)

## NON-OFFICIAL TRANSLATION

### Appendix: List of recommendations of the OECD Guidelines subject to the referral:

#### OECD Guidelines for Multinational Enterprises 2011 Edition

<http://www.oecd.org/daf/inv/mne/48004323.pdf>

#### Chapter II on General Policies

Enterprises should take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders. In this regard:

##### A. Enterprises should:

1. Contribute to economic, environmental and social progress with a view to achieving sustainable development.
2. Respect the internationally recognised human rights of those affected by their activities.
3. Encourage local capacity building through close co-operation with the local community, including business interests, as well as developing the enterprise's activities in domestic and foreign markets, consistent with the need for sound commercial practice.
4. Encourage human capital formation, in particular by creating employment opportunities and facilitating training opportunities for employees
5. Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to human rights, environmental, health, safety, labour, taxation, financial incentives, or other issues.
7. Develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate.
8. Promote awareness of and compliance by workers employed by multinational enterprises with respect to company policies through appropriate dissemination of these policies, including through training programmes.
10. Carry out risk-based due diligence, for example by incorporating it into their enterprise risk management systems, to identify, prevent and mitigate actual and potential adverse impacts as described in paragraphs 11 and 12, and account for how these impacts are addressed. The nature and extent of due diligence depend on the circumstances of a particular situation.
11. Avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur.
13. In addition to addressing adverse impacts in relation to matters covered by the Guidelines, encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of responsible business conduct compatible with the Guidelines.
14. Engage with relevant stakeholders in order to provide meaningful opportunities for their views to be taken into account in relation to planning and decision making for projects or other activities that may significantly impact local communities.

#### Chapter III on Disclosure

1. Enterprises should ensure that timely and accurate information is disclosed on all material matters regarding their activities, structure, financial situation, performance, ownership and governance. This information should be disclosed for the enterprise as a whole, and, where appropriate, along business lines or geographic areas. Disclosure policies of enterprises should be tailored to the nature, size and location of the enterprise, with due regard taken of costs, business confidentiality and other competitive concerns.
2. Disclosure policies of enterprises should include, but not be limited to, material information on:  
a) the financial and operating results of the enterprise; 2b) enterprise objectives; 2c) major share ownership and voting rights, including the structure of a group of enterprises and intra-group relations, as well as control enhancing mechanisms; 2d) remuneration policy for members of the board and key executives, and information about board members, including qualifications, the selection process, other enterprise directorships and whether each board member is regarded as independent by the board; 2e) related party transactions; 2f) foreseeable risk factors; 2g) issues regarding workers and other stakeholders; 2h) governance structures and policies, in particular, the content of any corporate governance code or policy and its implementation process.
4. Enterprises should apply high quality standards for accounting, and financial as well as non-financial disclosure, including environmental and social reporting where they exist. The standards or policies under which information is compiled and published should be reported. An annual audit should be conducted by an independent, competent and qualified auditor in order to provide an external and objective assurance to the board and shareholders that the financial statements fairly represent the financial position and performance of the enterprise in all material respects.

#### Chapter IV on Human Rights

States have the duty to protect human rights. Enterprises should, within the framework of internationally recognised human rights, the international human rights obligations of the countries in which they operate as well as relevant domestic laws and regulations:

1. Respect human rights, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.
2. Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur.
3. Seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts.
4. Have a policy commitment to respect human rights.

## NON-OFFICIAL TRANSLATION

6. Provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts

### **Commentary on human rights**

§ 46. When enterprises identify through their human rights due diligence process or other means that they have caused or contributed to an adverse impact, the Guidelines recommend that enterprises have processes in place to enable remediation. Some situations require co-operation with judicial or State-based non-judicial mechanisms. In others, operational-level grievance mechanisms for those potentially impacted by enterprises' activities can be an effective means of providing for such processes when they meet the core criteria of: legitimacy, accessibility, predictability, equitability, compatibility with the Guidelines and transparency, and are based on dialogue and engagement with a view to seeking agreed solutions. Such mechanisms can be administered by an enterprise alone or in collaboration with other stakeholders and can be a source of continuous learning. Operational-level grievance mechanisms should not be used to undermine the role of trade unions in addressing labour-related disputes, nor should such mechanisms preclude access to judicial or non-judicial grievance mechanisms, including the National Contact Points under the Guidelines.

### **Chapter V on employment and industrial relations**

Companies should, within the framework of applicable laws and regulations and current employment and labour relations practices and applicable international labour standards:

1e. Be guided throughout their operations by the principle of equality of opportunity and treatment in employment and not discriminate against their workers with respect to employment or occupation on such grounds as race, colour, sex, religion, political opinion, national extraction or social origin, or other status, unless selectivity concerning worker characteristics furthers established governmental policies which specifically promote greater equality of employment opportunity or relates to the inherent requirements of a job.

### **Chapter VI on the Environment**

Enterprises should, within the framework of laws, regulations and administrative practices in the countries in which they operate, and in consideration of relevant international agreements, principles, objectives, and standards, take due account of the need to protect the environment, public health and safety, and generally to conduct their activities in a manner contributing to the wider goal of sustainable development. In particular, enterprises should:

1. Establish and maintain a system of environmental management appropriate to the enterprise, including:

a) collection and evaluation of adequate and timely information regarding the environmental, health, and safety impacts of their activities; b) establishment of measurable objectives and, where appropriate, targets for improved environmental performance and resource utilisation, including periodically reviewing the continuing relevance of these objectives; where appropriate, targets should be consistent with relevant national policies and international environmental commitments; and c) regular monitoring and verification of progress toward environmental, health, and safety objectives or targets.

2. Taking into account concerns about cost, business confidentiality, and the protection of intellectual property rights: a) provide the public and workers with adequate, measurable and verifiable (where applicable) and timely information on the potential environmental, health and safety impacts of the activities of the enterprise, which could include reporting on progress in improving environmental performance; and (...).

3. Assess, and address in decision-making, the foreseeable environmental, health, and safety-related impacts associated with the processes, goods and services of the enterprise over their full life cycle with a view to avoiding or, when unavoidable, mitigating them. Where these proposed activities may have significant environmental, health, or safety impacts, and where they are subject to a decision of a competent authority, prepare an appropriate environmental impact assessment.

4. Consistent with the scientific and technical understanding of the risks, where there are threats of serious damage to the environment, taking also into account human health and safety, not use the lack of full scientific certainty as a reason for postponing cost-effective measures to prevent or minimise such damage.

5. Maintain contingency plans for preventing, mitigating, and controlling serious environmental and health damage from their operations, including accidents and emergencies; and mechanisms for immediate reporting to the competent authorities.

6. Continually seek to improve corporate environmental performance, at the level of the enterprise and, where appropriate, of its supply chain, by encouraging such activities as:

a) adoption of technologies and operating procedures in all parts of the enterprise that reflect standards concerning environmental performance in the best performing part of the enterprise;

b) development and provision of products or services that have no undue environmental impacts; are safe in their intended use; reduce greenhouse gas emissions; are efficient in their consumption of energy and natural resources; can be reused, recycled, or disposed of safely;

c) promoting higher levels of awareness among customers of the environmental implications of using the products and services of the enterprise, including, by providing accurate information on their products (for example, on greenhouse gas emissions, biodiversity, resource efficiency, or other environmental issues); and

d) exploring and assessing ways of improving the environmental performance of the enterprise over the longer term, for instance by developing strategies for emission reduction, efficient resource utilisation and recycling, substitution or reduction of use of toxic substances, or strategies on biodiversity.

7. Provide adequate education and training to workers in environmental health and safety matters, including the handling of hazardous materials and the prevention of environmental accidents, as well as more general environmental management areas, such as environmental impact assessment procedures, public relations, and environmental technologies.

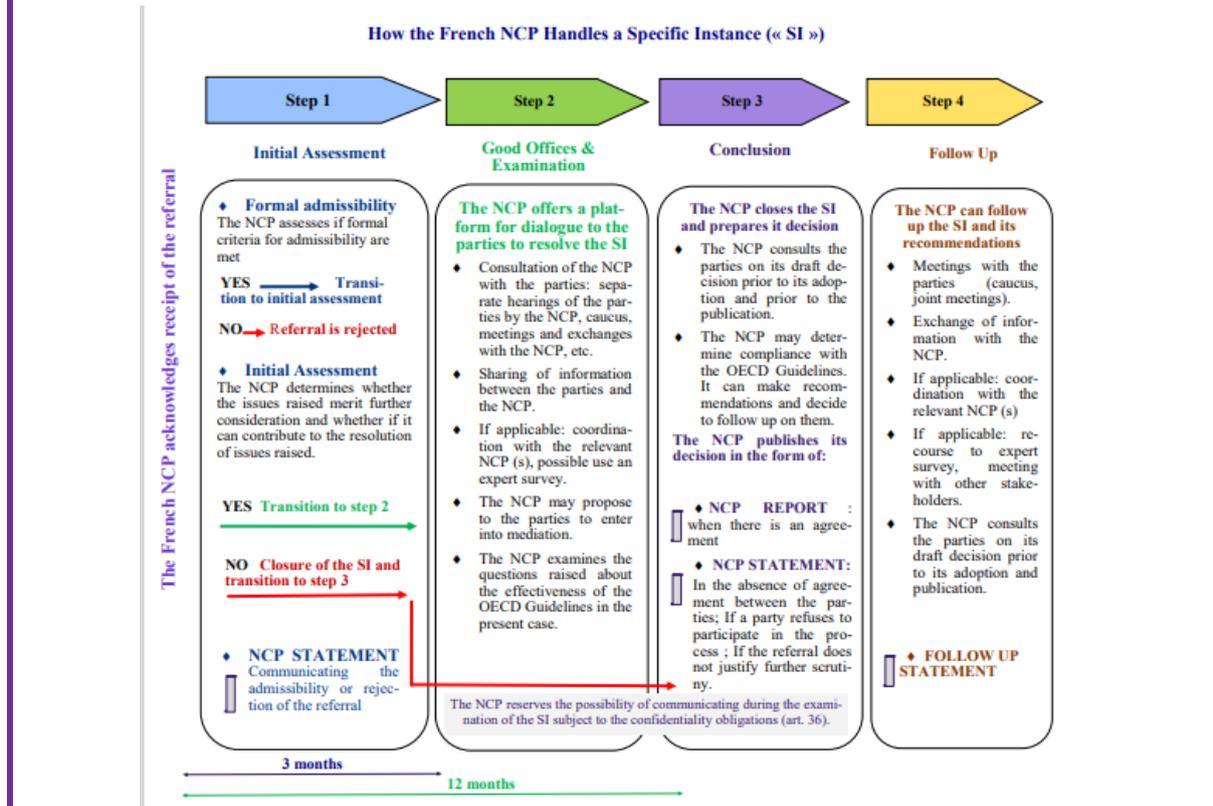
8. Contribute to the development of environmentally meaningful and economically efficient public policy, for example, by means of partnerships or initiatives that will enhance environmental awareness and protection.



**NON-OFFICIAL TRANSLATION**

**Annex**

**Outline of the procedure for dealing with a specific circumstance of the French NCP ([here](#))**



Website: <https://www.pcn-france.fr>

E-mail : [pointdecontactnational-France@dgtresor.gouv.fr](mailto:pointdecontactnational-France@dgtresor.gouv.fr)

## NON-OFFICIAL TRANSLATION

### Annex

#### **FRENCH NCP BYLAWS – Abstract (version 5 February 2019)**

The purpose of these bylaws is to specify the role and operations of the French National Contact Point established in compliance with the Implementation Procedures of the OECD Guidelines for Multinational Enterprises.

The National Contact Point and its operating rules have been established with reference to the procedural guidance annexed to the Decision of the OECD Council on the Guidelines for Multinational Enterprises<sup>6</sup>.

#### **IV- REFERRAL TO THE NCP— INITIAL ASSESSMENT**

**18.** In examining the admissibility of a referral, the NCP shall begin by analysing the formal admissibility provided for by Article 16 and then carry out the initial assessment in order to assess the importance of the issues raised to ascertain whether they merit further examination as provided for in Articles 22, 23 and 25. The NCP shall contact the parties and may ask them for further information so as to finalise its initial assessment.

**19.** Following its initial assessment, the NCP conveys its response to the parties involved. The NCP shall issue a statement announcing the admissibility of the specific instance, which shall stipulate the identity of the parties, the country or countries concerned by the referral and a summary of its initial assessment. With due regard to the confidentiality incumbent on the NCP, the complainant may inform its principal(s) of the decision taken by the NCP with regard to admissibility.

**22.** The NCP shall also ascertain whether the issue in question has been raised in good faith and in accordance with the Guidelines.

**23.** In assessing the admissibility of a referral to it, the NCP shall consider: The identity of the party concerned and its interest in the case; The significance of the issue and the supporting items provided; The apparent connection between the enterprise's activities and the issue raised in the specific instance; The relevance of the applicable laws and procedures, notably jurisdictional proceedings; How similar issues are being (or have been) examined at national or international level.

**25.** The NCP shall strive to ascertain whether, in making an offer of good offices, it could make a positive contribution to the resolution of the issues raised and if this would not create serious prejudice for either of the parties involved in other proceedings, or cause a contempt-of-court situation. It may then decide either to pursue or to renounce its consideration of the specific instance.

**26.** The NCP shall endeavour to conclude an initial assessment within three months of acknowledging receipt of the referral, although additional time may be granted, if need be, in order to collect essential information necessary for an informed decision.

#### **V — EXAMINATION OF SPECIFIC INSTANCE**

For further information, refer to the diagram and to the factsheet on the specific instance processing procedure, the factsheet on the admissibility of a specific instance<sup>7</sup>.

**27.** Where the issues raised merit further examination, the NCP shall offer its good offices to help the parties involved to resolve them by providing a forum for dialogue. During its good offices and the examination of the specific instance, the NCP shall consult with these parties and, where appropriate, according to the cases examined, the NCP shall: Seek advice from competent authorities, and/or representatives of the business community, worker organisations, other non-governmental organisations, and experts; Consult the NCP(s) in the other country or countries concerned, including in respect of draft statements if the foreign NCP is mentioned; Seek the opinion of the OECD Investment Committee if it has doubts about the interpretation of the Guidelines in the particular circumstances; Propose, and with the agreement of the parties involved, facilitate access to consensual and non-adversarial means, such as conciliation or mediation, to assist the parties in resolving the problems.

**28.** The examination of a specific instance shall take the form of a series of consultations between the enterprise involved, the party or parties having made the referral to the NCP and all NCP members. These consultations shall enable the referring party or parties to set forth the grounds for the referral in detail and allow the enterprise concerned to respond thereto. The NCP's good offices may represent regular exchanges between the NCP and the parties (meetings, interviews, telephone conversations, videoconferencing, letters/emails). Subject to respecting the confidentiality which applies to the procedure, the NCP Secretariat manages the exchange of information between the complainant and the enterprise, on one hand, and the parties and the NCP, on the other. As from the start of its good offices, the NCP may suggest to the parties that they meet and this proposal may be reiterated during the procedure. It may also offer them mediation or conciliation which it can manage directly. The NCP shall keep the parties regularly informed of the progress of its discussions and may ask them questions.

**31.** *The NCP shall strive to examine the issues raised within the best timeframe, if possible within 12 months of receipt of a specific instance, it being understood that this timeframe may be extended if circumstances so warrant, e.g. if the issue raised involves a country that has not adhered to the Guidelines, or in the event of parallel procedures.*

#### **Confidentiality**

**38.** In compliance with the provisions of Article 40, NCP members' involvement in examining a specific instance carries with it their commitment to respect the confidentiality of the discussions, interviews and documents exchanged. NCP

<sup>6</sup> The Guidelines may be found in Annex 1 to the Declaration on International Investment and Multinational Enterprises, as amended on 25 May 2011.

<sup>7</sup> [https://www.tresor.economie.gouv.fr/Ressources/6373\\_Que-signifie-la-recevabilite-dune-circonstance-specifique-](https://www.tresor.economie.gouv.fr/Ressources/6373_Que-signifie-la-recevabilite-dune-circonstance-specifique-)

### NON-OFFICIAL TRANSLATION

members are bound to respect the confidentiality of a referral while its examination is not closed. When required for the handling of a specific instance, certain documents may be provided at meetings to NCP members who shall formally acknowledge receipt thereof.

**39.** In order to facilitate resolution of the issues raised, the NCP shall take appropriate measures to protect sensitive business and other information and the interests of other stakeholders involved in the specific instance.

**40.** When closing the procedures, if the parties involved have not agreed on the resolution of the issues raised, they shall be free to communicate about and discuss these issues. However, information and opinions provided during the procedures by another party involved shall remain confidential, for the parties and for the NCP members, unless that other party agrees to their disclosure or this would be contrary to the provisions of national law.

*Website:* <https://www.pcn-france.fr>

*E-mail :* [pointdecontactnational-France@dgtresor.gouv.fr](mailto:pointdecontactnational-France@dgtresor.gouv.fr)