OECD Guidelines for Multinational Enterprises

National Contact Point Peer Reviews

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Foreword

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

Adhering governments to the Guidelines are required to set up a National Contact Point for Responsible Business Conduct (NCP) that operates in a manner that is visible, accessible, transparent, accountable, impartial and equitable, predictable, and compatible with the Guidelines. During the 2011 update of the Guidelines, NCPs agreed to reinforce their joint peer learning activities, in particular with respect to conducting voluntary peer reviews. The 2023 update of the Guidelines reinforced peer reviews of NCPs by making them mandatory and periodic, subject to modalities to be approved by the Working Party on Responsible Business Conduct (WPRBC). The commitment to undergo this peer review was made by Luxembourg while the 2011 version of the Procedures was in effect. The basis for this peer review is the 2011 version of the Guidelines (including the Implementation Procedures).

The peer reviews are led by representatives of two to four other NCPs who assess the NCP under review and provide recommendations. The reviews give NCPs a mapping of their strengths and accomplishments, while also identifying opportunities for improvement. More information can be found online at https://mneguidelines.oecd.org/ncppeerreviews.htm.

This document is the peer review report of the Luxembourg NCP. This report was prepared by a peer review team consisting of reviewers from the NCPs of Iceland, Latvia and Switzerland, with the support of the OECD Secretariat. The NCP of Iceland was represented by Sigurbjörg Stella Guðmundsdóttir. The NCP of Latvia was represented by Pēteris Pauls Celmiņš. The NCP of Switzerland was represented by Alex Kunze. The OECD Centre for Responsible Business Conduct was represented by Nicolas Hachez and Lena Diesing. The report was informed by dialogue between the peer review team, the NCP of Luxembourg and relevant stakeholders during an in-person fact-finding mission on 20-22 September 2022. The peer review team wishes to acknowledge the NCP for its efforts to ensure broad participation and open exchanges at the on-site visit, and the delivery of the requested material throughout the peer review process. The NCP of Luxembourg was represented by Başak Bağlayan and Christian Schuller. This report also benefited from comments by delegates to the WPRBC and institutional stakeholders (BIAC, OECD Watch, TUAC). It was discussed by the WPRBC at its 19-20 June 2023 meeting and declassified by the Investment Committee on 1st August 2023.

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Key findings and recommendations

Institutional arrangements

The Luxembourg NCP was established in 2000, growing increasingly institutionalised in response to the first specific instances submitted in 2009 and 2011. The Luxembourg NCP has not been established through any legal instrument. The Luxembourg NCP is a single agency NCP located in the Ministry of Economy. At the time of the review, the NCP functions were fulfilled by members of the Cabinet of the Minister of Economy with plans to solidify this administrative location by formalising the location of the NCP in the cabinet as such, responding to the changed institutional environment and requirements presented by the NCP's work since its creation. It does not have a formal or standing advisory body or external oversight body. At the time of the review, the NCP was linked to the Comité de Conjoncture, mostly due to similarity on substance and overlap in staff responsibilities, with limited practical implications.[1]

The relative informality of the NCP's institutional arrangements has had benefits in engaging parties in flexible ways, being able to fulfil its mandate in the given context. However, the lack of a formal, legal basis for the NCP's existence and operations appears to have created some uncertainty about the NCP's work. Regular stakeholder engagement, for example through an advisory body, could enhance perceptions of impartiality in light of the NCP's location in the Ministry of the Economy.

The Luxembourg NCP hired a fulltime staff member, the Secretary General, in May 2022 in an effort to increase the stability and continuity of NCP activities. Previously, two high-level civil servants were tasked with handling NCP activities alongside other responsibilities, each dedicating 50% of their working hours to NCP tasks. These two civil servants are still working on NCP matters. Hiring a new staff with a dedicated, focused task to work exclusively on RBC/NCP has provided a new boost to the NCP, its work and visibility. It reflects the commitment of Luxembourg's government to increase the NCP's standing. Current public reporting is limited.

	Findings	Recommendations
1.1	The NCP's location in the Ministry of Economy is advantageous in engaging companies and provides the NCP with, in principle, unlimited financial resources upon request. Likewise, hiring the new Secretary General with previous experience and networks in RBC is an important development for NCP resources and stakeholder confidence. However, stakeholders at times perceive the NCP to be closer to business interests due to the association with the Ministry of	The NCP should consider different ways to balance stakeholder perceptions that the NCP is closer to business stakeholders linked to the location in the Ministry of the Economy. Actions could include creating regular, formalised stakeholder engagement, as well as transparency about the NCP's activities. The consolidation of the NCP as part of the Ministry's Cabinet should also be carefully managed, in particular by establishing a clear conflict-of-interest policy.

[1] Following the peer review, the NCP indicated that this link had been clarified and removed.

	the Economy. The fact that there is no institutionalised stakeholder engagement might reinforce this impression.	
1.2	The NCP has operated without a legal basis to date, and stakeholders have emphasised that the NCP was a useful addition to the tools available to Luxembourg's citizens to seek remedy for corporate impacts and promote RBC. However, the lack of a legal basis or official document establishing the NCP creates uncertainty about the structure of the NCP, its tasks, role, operations with stakeholders and its function related to policy coherence.	Luxembourg's government should consider setting up its NCP on a firmer legal basis. Such a legal basis, in any form deemed appropriate, could increase the confidence of companies and other stakeholders, increase the NCP's visibility and accountability, and would communicate support by the whole of the government for the NCP's agenda.

Promotional activities

The NCP intensified its promotional events in 2022 – due partly to the hire of a Secretary General of the NCP with strong previous experience of RBC and a dedicated capacity to undertake NCP activities. Prior to the COVID-19 pandemic, the NCP co-organised only a limited number of events directed at government-external stakeholders. The NCP participated widely in meetings of other government institutions.

As evidenced by the increase in promotional events since the Secretary General took office, there is great potential to develop stakeholder engagement. Luxembourg's environment on RBC and the good integration of the NCP's Secretary General with relevant stakeholder networks are fertile grounds for the NCP's promotional work. However, to date, the visibility of the NCP and knowledge about its activities among a large number of stakeholders seems to be rather low – a result of the limited capacity for promotion in previous years.

The NCP can rely on strong foundations for promoting policy coherence on RBC. Government institutions show a general openness to collaborate with the NCP, and the NCP is well embedded in inter-ministerial processes. Luxembourg's successive National Action Plans (NAPs) on Business and Human Rights are strong examples of inter-ministerial co-operation. The NCP has actively contributed to the preparation of the NAPs. They include targets for the NCP as well. The NCP could increase visibility in certain areas of government.

	Findings	Recommendations
2.1	The increase in promotional activities due to enhanced capacity as a result of the newly hired Secretary General is met with ample stakeholder interest in the work of the NCP and a general readiness to collaborate. However, visibility among a large number of stakeholders seems to be rather low (business, trade unions and, to a certain extent CSOs, Academia).	The NCP should increase promotion strategically, for example, through a promotional plan or a stakeholder engagement plan which includes clear priorities for future activities and targets. In doing so, the NCP could consider partnering with multiplier organisations to maximize reach and impact in a resource-efficient way
2.2	The NCP maintains a website with a dediced URL as part of the website of the Comité de Conjoncture[2] , which contains general information about the NCP,	The NCP should update its website with several changes. First, moving it outside of the umbrella of the Comité de Conjoncture's website could enhance visibility; second,

[2] The NCP indicated that the website had been removed from the website of the Comité de Conjoncture since the on-site visit.

	its work and specific instances. However, the website provides limited information and could be more user-friendly. The website does not contain promotional materials for download (flyers, brochure, etc). The NCP has commenced the use of Social Media Platforms.	additional information and materials could enrich the website; third, the available information could be presented in a clearer way to cater to users' needs. The NCP could explore expanding the use of social media to achieve greater reach and impact with targeted stakeholder groups.
2.3	The NCP, well-embedded in inter-ministerial processes, faces fertile ground to expand its role in promoting policy coherence on RBC and has done so on several occasions, such as the development and implementation of the NAP. However, the NCP has not been equally visible across all relevant areas of government.	The NCP should maintain and enhance its position in inter-ministerial processes and consider expanding engagement and exchange in relevant policy areas where engagement is currently lower.

Specific instances

The NCP has received four specific instances. Two specific instances have been concluded by the NCP, two were not accepted, and none are ongoing. Luxembourg's NCP has been able to draw on the advantages of a small NCP, such as flexibility, agility, practicality and good integration in government structures. However, limitations of this informality can be observed as well, such as stakeholder requests for increased transparency of the NCP's operations. Stakeholders encourage clarifying the approach to issues that are likely to emerge in future specific instances given the features of Luxembourg's economy, such as handling of specific instances involving holding companies.

The Rules of Procedure of the Luxembourg NCP, comprising ten short sections, were last updated in 2018. They are published on the NCP website. The Rules of Procedures allow for a comparatively broad scope of work, such as admitting submissions against non-for-profit organizations, investigations and fact-finding, mediation and providing the NCP with a strong role in supervising specific instances. However, advanced Rules of Procedures may be challenging to implement consistently, notably with regards to investigations and supervision. They may also give rise to high expectations that might not be easily met. Other aspects of the specific instance procedure remain less clear, such as timelines. Well-defined procedures and efforts to increase transparency could be helpful to enhance parties' understanding of the NCP's handling of specific instances, clarifying expectations.

	Findings	Recommendations
3.1	The NCP has Rules of Procedure that offer a broad scope for addressing issues related to the implementation of the Guidelines in specific instances. However, parts of the Rules of Procedure might be difficult to implement and aspects of the specific instance procedure remain less clear.	The NCP should revise its Rules of Procedures to increase clarity, practicability and management of expectations.

3.2	The Luxembourg NCP has been able to draw on the advantages of a small and agile structure and to deal with specific Instances in a flexible manner. However, the level of informality has sometimes led to confusion on the process and regarding parties' expectations. Stakeholders voiced concerns about the clarity of how specific instances against holding companies were handled. In most cases, the NCP has not been able to adhere to the timelines indicated in its Rules of Procedures.	The NCP should follow a more formalised case-handling and more inclusive decision-making process in specific instances, to enhance transparency, predictability and perception of impartiality. An enhanced process would enable the NCP to assist parties in resolving issues raised in specific instances with consistency and could also serve to clarify expectations around issues of particular concern to stakeholders in Luxembourg, such as how to handle specific instances against holding companies.

1 Introduction

The Luxembourg NCP at a glance

Established: 2000

Structure: Single agency, Comité de Conjoncture can be called to serve as "ad-hoc' advisory body

Location: Ministry of Economy

Staffing: one full-time, two part-time staff

Webpage: French: https://cdc.gouvernement.lu/fr/service/attributions/point-contact-national-luxembourgeois.html/

Specific instances received as of the dates of the on-site: four total; two concluded and two not accepted; none ongoing.

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 the conformity of the Luxembourg NCP with the core criteria and with the Procedural Guidance contained in the implementation procedures.

An OECD Member since 1961, Luxembourg adhered to the OECD Declaration on International Investment and Multinational Enterprises (Investment Declaration) with its adoption in 1976. 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 adhering governments to multinational enterprises operating in or from their 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.[3]

NCPs are "agencies established by adhering governments to promote and implement the Guidelines. The NCPs assist enterprises and their stakeholders in taking appropriate measures to further the implementation of the Guidelines. They also provide a mediation and conciliation platform for resolving practical issues that may arise."[4]

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

[4] OECD Guidelines for Multinational Enterprises (2011), Foreword.

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 "Revised core template for voluntary peer reviews of NCPs"[5] are to assess that the NCP is functioning and operating in accordance with the core criteria set out in the implementation procedures, to identify the NCP's strengths and possibilities for improvement; to make recommendations for improvement; and to serve as a learning tool for all NCPs involved.

This report was prepared based on information provided by the NCP, and in particular, its responses to the NCP questionnaire set out in the revised core template[6] as well as responses to requests for additional information. The report also draws on responses to the stakeholder questionnaire which was completed by eight organisations representing government agencies, enterprises, trade unions, civil society and academic institutions (see Annex A for a complete list of stakeholders who submitted written feedback).

The peer review of the NCP was conducted by a peer review team made up of reviewers from the NCPs of Iceland, Lithuania and Switzerland, along with representatives of the OECD Secretariat. A fact-finding mission took place from 20 to 22 September 2022. This visit included interviews with the NCP, relevant government representatives and stakeholders. A list of organisations that participated in the visit is set out in Annex B. The peer review team expresses thanks to the NCP for the quality of the preparation of the peer review, the extensive supportive information provided, and the broad participation in the 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 2003. The methodology for the peer review is that set out in the core template.[7]

Economic context

Luxembourg's economy is dominated by the service sector, representing 87% of GDP. Regarding foreign direct investment (FDI), Luxembourg is an extremely open economy with FDI stocks equivalent to multiples of GDP. The inward stock of FDI, which represents the accumulated value of FDI in Luxembourg's economy over time, was USD 1 045 billion in 2021, equivalent to 1 205 per cent of Luxembourg's GDP. The outward stock of FDI was USD 1 327 billion in 2021, representing 1 531 per cent of Luxembourg's GDP. In 2021, Luxembourg's exports of goods were USD 29 billion. Exports of services were USD 149 billion while imports of goods were USD 28 billion, and imports of services were USD 120 billion.

The main investors in Luxembourg are the United States, the United Kingdom, the Netherlands, Ireland and Germany, and the main inward investment sectors are finance and insurance activities. The main destinations for outward investment from Luxembourg are the United Kingdom, the Netherlands, the United States, Switzerland and Ireland. The most important sectors are finance and insurance, followed by professional, scientific and technical activities. The most important partner countries for exports of goods are France, Germany, Belgium, the Netherlands and Italy, while the most important source countries for imports of goods are Germany, Belgium, France, the Netherlands and the United States. The most

[5] OECD, Core Template for Voluntary Peer Reviews of National Contact Points (2019), [DAF/INV/RBC(2019)4/FINAL]

[6] *Ibid.*

[7] OECD (2019), Revised Core Template for Voluntary Peer Reviews of National Contact Points, [DAF/INV/RBC(2019)4/FINAL].

important destinations for exports of services are Germany, the United Kingdom, France, Italy and Switzerland, and the most important sources for imports of services are the United States, Germany, the United Kingdom, France, and Ireland.

As measured by employment at foreign-owned firms in Luxembourg in 2019, the most important investors are France, Germany, Belgium, the United States and the United Kingdom. As measured by employment at the overseas affiliates of Luxembourg's MNEs, the most important destination countries are France, Poland, Germany, the United Kingdom and the People's Republic of China.[8]

[8] Sources: OECD databases and Eurostat. Inward and outward FDI, trade in goods and services, employment at foreign owned firms and at overseas affiliates broken down by partner economies can be subject to confidential restrictions. Main partner economies highlighted in this note were identified from available, non-confidential information.

2 Institutional arrangements

Legal basis

Luxembourg adhered to the OECD Investment Declaration in 1976. The Luxembourg NCP was established in 2000. The NCP became more institutionalised in response to the first specific instances submitted in 2009 and 2011. The Luxembourg NCP has not been established through any legislative, regulatory or administrative instrument. There are Rules of Procedures for specific instances (see section 5), but no written guidelines to define the NCP's activities, structure or decision-making.

Stakeholders commented that the NCP had not been created through a formal legal document. In the opinion of the stakeholders, this lack of legal basis affected their confidence as it may diminish the stability of the NCP in case of a change in government, as well as clarity of the NCP's aims, status and "raison d'etre". Stakeholders also pointed out that some aspects of the NCP's work in specific instances, such as maintaining confidentiality, might require a more formal legal basis. Some stakeholders noted that the informality around the NCP's creation and mandate might dissuade the participation of certain parties in specific instances and that parties might instead look to the court system (as a legally defined institution) to resolve disputes. Stakeholders noted that a formal legal basis for the NCP may create the possibility to create incentives for participation in specific instances, citing examples from other countries that attach consequences to lack of good faith participation in the process. Finally, stakeholders noted that an established legal basis would support awareness raising as it would elevate the status of the NCP within the legal and governmental system in Luxembourg.

NCP Structure and composition

The Luxembourg NCP is organised as single agency NCP. (OECD, 2021[1]). According to the NCP, the NCP follows an "individualised decision-making structure". This means the NCP is located in a single agency (the Ministry of the Economy), without any inter-agency or tripartite structure. The NCP does not have a formal or standing advisory body or external oversight body. The NCP does not regularly liaise with other actors, like stakeholders, as part of its structures or decision-making. The NCP stated that the current structure equipped the NCP with sufficient flexibility, allowing it to function efficiently.

At the time of the review, the Luxembourg NCP was linked to the Ministry of Economy's Comité de Conjoncture. The Comité de Conjoncture is an advisory body to the Council of Government (Conseil de Gouvernement), tasked with ensuring labour market stability. The Comité de Conjoncture supervises economic developments and their implications for the labour market, issuing monthly opinions to the

government.[9] The Comité de Conjoncture includes representatives of different ministries, workers and employers, but not civil society.[10]

At the time of its creation, the NCP was associated with the Comité de Conjoncture for its focus on economic issues and representation of labour and business stakeholders. However, the practical implications of this association between the NCP and the Comité de Conjoncture have been limited. The Comité de Conjoncture focusses on macroeconomic topics that are usually not related to responsible business conduct. The Comité's members set the agenda; to date, no issues related to the NCP have been discussed. According to the National Baseline Assessment for Luxembourg National Action Plan on Business and Human rights (The Government of the Grand Duchy of Luxembourg, 2019[2]), the NCP views the Comité de Conjoncture as a way to involve stakeholders. However, the National Baseline Assessment highlighted that the NCP's attachment to the Comité de Conjoncture did not establish a truly tripartite approach as well. (The Government of the Grand Duchy of Luxembourg, 2019[2])

Stakeholders report that the detailed structure of the NCP was not clear from the website but only from the National Baseline Assessment and the conversations with the NCP held in 2022. These conversations took place during meetings organised by the NCP's newly appointed Secretary General (see section 4 *Promotion*).

Stakeholders highlighted their limited involvement in the NCP's decision-making, structure and operations. Some recommended evaluating whether the single-agency set-up was adequate or whether a broader, more inclusive set up would be beneficial. Others recommended evaluating and strengthening stakeholder engagement by the NCP by considering a more formalised relationship with stakeholders, such as through a multi-stakeholder advisory body.

Stakeholders voiced concerns about the NCP's location in the Ministry of Economy (see questionnaire, as well as (The Government of the Grand Duchy of Luxembourg, 2019[2])). For example, they cited concerns about potential conflicts between the NCP's role and the Ministry's objective to promote business activity. The NCP views the location in the Ministry of the Economy as an asset, equipping the NCP with leverage vis a vis companies, allowing the NCP to engage business effectively.

A specific mechanism overseen by the Ministry of Economy illustrates the potential of using the Ministry's leverage over enterprises to promote RBC. The Ministry's General Directorate for Small and Medium-Sized Enterprises is tasked with upholding companies' honourable behaviour, see Box 1. As highlighted by government stakeholders, even though such a mechanism is not strictly related to RBC, it could be linked to the willingness of a company to engage in good faith with specific instances.

[9] https://cdc.gouvernement.lu/fr/service.html

[10] https://cdc.gouvernement.lu/fr/service/organigramme.html

Box 1. "Professional Integrity" in Luxembourg

In 2011, Luxembourg adopted a law to regulate commercial activities (Loi du 2 septembre 2011 réglementant l'accès aux professions d'artisan, de commerçant, d'industriel ainsi qu'à certaines professions libérales[11]). The law consolidated the concept of "honorabilité professionnelle" (article 3), i.e. professional integrity or that of an "honourable business." The article aims at preserving the profession that a business is active in, as well as the business' clients. Breaches are considered in cases like fraud, misrepresentation, failure to comply with administrative obligations or court convictions.

The General Directorate for Small and Medium-Sized Enterprises, managing business registrations, also oversees the application of this rule. If companies breach the principle of professional integrity, the General Directorate can revoke their commercial licenses. Typical breaches include tax evasion or outstanding social contributions. In most cases, due to the impending threat of losing their commercial license, businesses correct their actions following notification by the General Directorate.

Source: https://guichet.public.lu/en/entreprises/creation-developpement/autorisation-etablissement/autorisation-honorabilite/honorabilite.html
https://legilux.public.lu/eli/etat/leg/loi/2011/09/02/n1/jo#art_2

Luxembourg's government plans to move the NCP to the Cabinet of the Minister of Economy. Since the NCP's creation in the 2000s, this Cabinet has gained importance. It gathers the key advisors to the Minister. Among the considerations for this change are the limited links between the topics discussed in the Comité de Conjoncture and the issues addressed by the NCP, as well as increased visibility for the NCP within the government overall. Such a move might entail an additional need for clarification of the roles and responsibilities of the NCP and with regard to RBC policy, as there is currently no such framework. The closer proximity to the Minister might also raise questions regarding the NCP's impartiality, notably as the NCP is not equipped with a legal basis (see above.)

In conclusion, the practical advantages of the NCP's location within the Ministry of the Economy seem to be well understood but also raise questions. The integration in the Ministry of the Economy has benefits in engaging companies in promoting RBC but also with regards to specific instances. This is due to the Ministry's leverage, credibility and authority with business. However, additional measures are needed to ensure broad stakeholder representation in the NCP's activities and increase the perception of impartiality.

Functions and operations

As indicated above, there are no formal specifications (legal or otherwise) to define the mission or operations of the Luxembourg NCP. NCP staff fulfil their mandate flexibly, depending on demands. Procedures pertaining to specific instances are detailed in the Rules of Procedure of the NCP. According to the NCP, its activities include:

- Managing and maintaining the website of the NCP,
- Processing specific instances,
- Responding to inquiries from the public and local businesses,

[11] https://legilux.public.lu/eli/etat/leg/loi/2011/09/02/n1/jo#art_2

- Sharing and exchanging good practices with other NCPs,
- Reporting annually to the OECD.

In discharging these functions, the NCP has been able to leverage its location within the Ministry of the Economy as necessary. This includes involving additional colleagues when handling specific instances or drawing on the support of the Minister as needed. However, the NCP noted that its staff remains isolated from Ministry activities and has little interaction with other Ministry staff. While the Ministry of the Economy is responsible for trade and investment promotion, the NCP had not been involved in these activities at the time of review.[12]

Overall, the informality of the NCP's functions and operations has had benefits in engaging parties in flexible ways, responding to the needs of specific instances (see section 5, *Specific Instances*). However, from the perspective of external stakeholders, this may, at times, come at the expense of visibility and transparency.

Resources and staffing

The Luxembourg NCP hired a fulltime staff member in May 2022 in an effort to increase the resources and the RBC-specific expertise available to the NCP, as well as the stability and continuity of NCP activities. This role, with the title Secretary General of the NCP, is ranked at a high civil servant status. The Secretary General is tasked with coordinating NCP activities. Until the Secretary General's appointment, NCP activities were handled by two high-level civil servants, each dedicating 50% of their working hours to NCP tasks.

Hiring a new staff with a dedicated task to focus exclusively on NCP tasks provided a new boost to the NCP, its work and visibility. It reflects the commitment of Luxembourg's government to increase the NCP's standing and operations and to RBC in general. Aside from the additional capacity, the profile of the new Secretary General appears particularly impactful. The Secretary General, an expert and former academic in business and human rights with a relevant network enjoys a positive reputation with stakeholders, particularly from civil society. Her recruitment has been viewed as a signal that the Minister of the Economy is willing to invest in promoting responsible business conduct.

All three senior staff of the NCP are members of the Cabinet of the Minister of Economy. According to the NCP, this position in the Minister's Cabinet results in a high degree of visibility and autonomy.

The NCP staff organises their tasks flexibly among themselves, depending on emerging needs (e.g. specific instances). The new Secretary General has been the one dedicating most of her time to outreach and promotional activities.

The NCP does not have a dedicated budget. Its activities are included in the overall budget of the Ministry of Economy. According to the NCP, this arrangement provides sufficient stability and flexibility, as the Ministry's hierarchy has always granted requests for expenses. Examples of sufficient resourcing are highlighted as the recent expansion of the NCP staff (with now one additional fulltime staff member), as well as resources that can be dedicated to specific instances, e.g. to pay for fact-finding missions or external mediators. To date, the specific instance *Friends of the Earth vs. Arcelor Mittal/Mining in Liberia* is an example where Luxembourg conducted two fact-finding missions and hired one external mediator (see section 5, *Specific Instances*).

[12] The NCP indicated that contact had been established with the respective department to discuss promotional activities since the date of the on-site visit.

Reporting

The Luxembourg NCP has regularly submitted its annual report to the OECD during the past years. These annual reports are not available on the NCP's website.

At the national level, the NCP is administratively integrated into the reporting structures of the Ministry of the Economy. The NCP reports to the Minister of Economy. In turn, the Ministry's reporting to parliament includes the NCP's activities.

According to the NCP, members of the Luxembourg Parliament can submit "questions parlementaires" (parliamentary inquiries). In recent years, there has been an increase in the questions concerning responsible business conduct, human rights and due diligence as public attention to these matters in Luxembourg increases. However, none of the questions directly concerned the NCP. The NCP provides regular feedback in responding to those questions, given the NCP's expertise.

Limited reporting is conducted vis-a-vis the public, as highlighted by civil society. As part of general efforts to conduct greater promotion of the Guidelines, the NCP and its activities, the Luxembourg NCP is considering publishing its annual reports. Statements issued by the NCPs as part of specific instances are publicly available, through the NCP's website (see section 5).

	Findings	Recommendations
1.1	The NCP's location in the Ministry of Economy is advantageous in engaging companies and provides the NCP with in principle, unlimited financial resources upon request. Likewise, hiring the new Secretary General with previous experience and networks in RBC is an important development for NCP resources and stakeholder confidence. However, stakeholders at times perceive the NCP to be closer to business interests due to the association with the Ministry of the Economy. The fact that there is no institutionalised stakeholder engagement might reinforce this impression.	The NCP should consider different ways to balance stakeholder perceptions that the NCP is closer to business stakeholders linked to the location in the Ministry of the Economy. Actions could include creating regular, formalised stakeholder engagement, as well as transparency about the NCP's activities. The consolidation of the NCP as part of the Ministry's cabinet should also be carefully managed, in particular by establishing a clear conflict-of-interest policy.
1.2	The NCP has operated without a legal basis to date, and stakeholders have emphasised that the NCP was a useful addition to the tools available to Luxembourg's citizens to seek remedy for corporate impacts and promote RBC. However, the lack of a legal basis or official document establishing the NCP creates uncertainty about the structure of the NCP, its tasks, role, operations with stakeholders and its function related to policy coherence.	Luxembourg's government should consider setting up its NCP on a firmer legal basis. Such a legal basis, in any form deemed appropriate, could increase the confidence of companies and other stakeholders, increase the NCP's visibility and accountability, and would communicate support by the whole of the government for the NCP's agenda.

3 Promotion of the Guidelines

Promotional plan

The Luxembourg NCP does not have a promotional plan but is considering creating one in the future.

Information and promotional materials

The promotional material provided by the NCP consists of one webpage on the website of the Comité de Conjoncture. No additional material, like flyers, reports, videos and other, were identified.

Stakeholders highlighted the opportunity to improve communication tools and the available material and asked to ensure that these materials are easily identifiable by third parties. Stakeholders also emphasised that the use of (digital) communication channels beyond the website could be beneficial. The NCP launched a Twitter account in June 2022.

Promotional events

The intensity of promotional events by the Luxembourg NCP increased in 2022 – due partly to the hire of a Secretary General of the NCP with a dedicated capacity to undertake NCP activities and partly to a hiatus of activities during the COVID-19 pandemic in 2020 and 2021. According to the NCP's submission to the OECD annual report on NCPs, the NCP participated in seven events in 2021 but did not report any event organised by itself. In previous years, the pattern was similar (see Annex C). The NCP participated in around five events organised by other institutions, and co-organised events once per year – for example, with the Chamber of Commerce in 2019.

Most of the events reported by the NCP as part of the OECD annual reports pertained to participation in government-internal meetings and committees (see the section on the promotion of policy coherence). Limited promotional events for an audience *external* to government were organised by the NCP prior to the appointment of the NCP's Secretary General in 2022. Among other events, in October 2019, the NCP, with the Ministry of the Economy, as well as the Luxembourg Employers' Association (Union des Entreprises Luxembourgeoises, UEL) and the National Institute for Sustainable Development and Corporate Social Responsibility (Institut national pour le développement durable et la RSE, INDR), co-organised a conference on Business and Human Rights. Over the course of an afternoon, keynote speeches, panel discussions and presentations explored how companies can respect human rights in their supply chains. The NCP members participated as speakers and panellists.[13]

[13] https://www.uel.lu/en/article/conference-business-and-human-rights/

Following her appointment, the NCP's Secretary General delivered a number of promotional events with various stakeholder groups. These small-scale events took the form of informational meetings and basic trainings about the NCP and its recently increased staffing (see Annex):

- *Businesses and business associations:* The meetings (spring 2022) served to offer support (training, information) about the OECD Guidelines and related Due Diligence Guidance, the role and activities of the NCP and ongoing legislative and political developments relating to RBC issues.
- *CSOs and national human rights institutions (NHRIs):* These meetings (spring 2022) aimed at soliciting input from civil society and providing information about the NCP, offering additional training held in the fall of 2022.
- *Luxembourg's Bar Association ("Barreau"):* A meeting served to raise awareness about the role of lawyers and law firms on RBC as important interlocutors on RBC (October 2022).
- *Academia:* regular meetings have been taking place in 2022 and are planned for 2023.

Stakeholders positively mentioned these outreach activities since the spring of 2022, highlighting that these were the first times that they had been contacted directly by the NCP. However, all stakeholders commented on the limited extent of promotional activities overall. According to the NCP, a number of challenges concerning efficient promotion and outreach emerged during the COVID-19 pandemic. This impacted the NCP's visibility.

Most stakeholders interviewed as part of this review commented that they had not heard from the NCP prior to outreach by the new Secretary General. Overall, awareness of the NCP and its work appeared to be low among stakeholders. However, stakeholders showed high interest in the NCP's work and are generally open to future engagement and collaboration. This included stakeholders across all groups. A particular asset here is the newly hired Secretary-General, who, prior to the appointment at the NCP, has been part of academia and well-integrated into civil society. The Secretary-General can leverage her contacts with various stakeholders towards the work of the NCP.

In conclusion, as mentioned in section 3, *Institutional Arrangements*, hiring a new Secretary General has greatly enhanced the NCP's promotional activities and shows the potential to develop stakeholder engagement. In addition, the environment on RBC and the good integration of the NCP's Secretary General with relevant stakeholder networks evidence a fertile ground for the promotional work of the NCP. However, to date, the visibility of the NCP and knowledge about its activities among a large number of stakeholders seems to be rather low. This is notably the case for business, trade unions and, to a certain extent for civil society and academia. This appears to be the result of a rather low level of promotion in previous years, due to the limited capacity for promotion at the time.

Webpage

The NCP maintains a website at www.ncp-lux.lu and www.pcn-lux.lu, at the time of this review, embedded in the website of the Comité de Conjoncture, redirecting to an URL accordingly.[14] The website consists of one page with the following information:

- information about the NCP with links to OECD instruments and related information by the Government of Luxembourg,
- contact details of the NCP

[14] The NCP indicated that the website had been removed from the website of the Comité de Conjoncture since the peer review visit.

- the NCP's rules of procedure,
- an ad-hoc form for submitting complaints,
- links to relevant documents from specific instances.

The extent of the website and available information is limited. The website is only available in French. Information about specific instances is limited as well: documents, such as statements, are directly linked in a sidebar on the single page of the NCP website, without further framing. There is no list or overview of the specific instances as such. The information seems to be partly out of date as some case information is presented as an "ongoing case" even if the case has been concluded for several years at the time of this peer review. Information about the OECD, such as the number of countries adhering to the Guidelines, is outdated.

During the on-site visit, the NCP reported plans to revise the website. The aim was to provide additional information on the work of the NCP, RBC and specific instances. In addition, the NCP plans on creating a website outside of the pages of the Comité de Conjoncture, aligning the online structure with plans for the NCP's institutional anchoring.

Stakeholders commented in detail about the website. Stakeholders recommended that the website should be available in English to facilitate access to possible submitters of specific instances not located in Luxembourg. In addition, stakeholders emphasised that the information on specific instances was scarce, limiting the transparency of the NCP's activities. Stakeholders also recommended making the NCP website more accessible, providing more and clearer information on NCP activities and specific instances.

As one of the central and most visible aspects of the NCP's promotional work, a website is an important tool in fulfilling the mandate of promotion, also serving to increase the transparency of the NCP as a whole. In its current version, the website does not fully exploit this potential. Central pieces of information could be added, such as information about the NCP structure, events, or links to social media accounts. Information could be presented in a clearer, more accessible way. Information should be kept current, notably on specific instances and events. In this context, the NCP's plan to remove its website from the umbrella of the Comité de Conjuncture's website may increase the NCP's visibility as an institution.

Promotion of policy coherence

The NCP's Secretary General has taken up promotion of policy coherence on responsible business conduct following her appointment in May 2022. For example, the NCP initiated the organisation of trainings for government officials on RBC and due diligence through the *Institut National de l'Administration Publique*, to commence in 2023. In addition, the NCP met with representatives of different Ministries and government agencies to identify possible areas for collaboration and synergies. Meetings were held with the Ministry of Finance, Ministry of Foreign and European Affairs, Ministry of Environment, Ministry of Justice, Ministry of Digitalisation, Directorate for Small and Medium-Sized Enterprises, and the Directorate for Development Cooperation and Humanitarian Affairs.

According to the NCP, all NCP members participate in several governmental working groups and committees to advance Luxembourg's policies on responsible business conduct, notably business and human rights. These working groups and committees include the Inter-Ministerial Human Rights Committee, the Working Group on Business and Human Rights and the Inter-Ministerial Due Diligence Committee. Frequently, interventions have related to the mandate of the NCP, but NCP members also speak about general matters of RBC on behalf of the Ministry of Economy.

The Inter-Ministerial Human Rights Committee was created in 2015 upon approval by the Council of Government. (Le Gouvernement du Grand-Duché de Luxembourg, 2018[3]) Overseeing the fulfilment of Luxembourg's human rights obligations, this Committee is tasked with furthering inter-agency cooperation

and coordination in the field of human rights, with a view to aligning domestic and external policies of Luxembourg on this issue. The Committee's agenda regularly includes issues related to business and human rights. (Le Gouvernement du Grand-Duché de Luxembourg, 2018[3]) The Committee meets every three months or more often if necessary. It includes representatives from civil society.

The Working Group on Business and Human Rights (the Working Group) is a multi-stakeholder group coordinated by the Ministry of Foreign and European Affairs since 2017. The group's goal is to develop and implement Luxembourg's National Action Plans on Business and Human Rights (NAP) (see below). The Working Group convenes representatives of the public administration, business, national human rights institutions, civil society organizations and academia. The group meets every six weeks. The NCP participated regularly and actively in those meetings.

To date, two NAPs have been adopted for the periods between 2018-2019 (Le Gouvernement du Grand-Duché de Luxembourg, 2018[3]) and 2020-2022 (Le Gouvernement du Grand-Duché de Luxembourg, 2019[4]). The second NAP 2020-2022 includes a specific action point to strengthen links between the NCP and the Working Group. (Le Gouvernement du Grand-Duché de Luxembourg, 2019[4]) Luxembourg's Ambassador at Large for Human Rights is tasked with launching preparations for a follow up action plan. Following the on-site visit, in late 2022, the Working Group agreed to extend the implementation period for the second NAP, delaying the preparation of a new NAP until the remaining points were implemented.

The Inter-Ministerial Due Diligence Committee was created in 2022 and mandated to define the policy direction of Luxembourg's Government regarding due diligence legislation. For example, the Due Diligence Committee considers what should be the most adequate form to regulate due diligence. The Due Diligence Committee leads the work regarding Luxembourg's position in respect of the EU's proposal for a directive on corporate sustainability due diligence.

Similar to government-external stakeholders, other government departments had limited awareness of the NCP and its work. Concrete cooperation with the NCP had been limited to participation in the above-mentioned inter-ministerial committees. However, engagement beyond these committees has greatly increased with the outreach activity by the new Secretary General since the spring of 2022. Overall, the NCP seems to be well-integrated into Luxembourg's government, and most ministries voiced interest in planning further cooperation. An illustration of further potential to enhance collaboration across government towards greater RBC policy coherence is in the relationship with the General Directorate for Small and Medium-Sized Enterprises on Professional Integrity (see section 3, Box 1 .)

Stakeholders highlighted opportunities for greater cooperation between the NCP and other initiatives across the government to realise synergies. Stakeholders also emphasised the role of the NCP in promoting policy coherence and recommended considering the structure and location of the NCP in this light, i.e. consider an "inter- and intra-ministerial position for the NCP for greater policy coherence."

In conclusion, the NCP's role in promoting policy coherence on RBC has strong foundations in the close integration of the NCP in Luxembourg's government in past years. Government institutions show a general openness to collaborate with the NCP. The NCP is well embedded in inter-ministerial processes, including topical working groups and committees. These provide a well-established institutional setting to promote RBC. However, not all government institutions with a relevant portfolio are equally aware of the NCP's work. The NCP could increase visibility in certain areas of government.

Requests for information

The NCP has their contact details listed on the webpage (email and telephone). The NCP has been contacted by general inquiries from journalists and the general public. However, no records have been kept to date.

Cooperation amongst NCPs

The NCP cooperates with and engages other NCPs through several channels. The Luxembourg NCP has been a participant in the meetings of the Network of NCPs coordinated at the OECD. Most cooperation appeared to be part of specific instances (see section 5, "Specific Instances"). At the time of the on-site visit, the Luxembourg NCP was not part of any regional network. The NCP has not yet participated in any peer review but would welcome the opportunity to do so in the future.

	Findings	Recommendations
2.1	The increase in promotional activities due to enhanced capacity as a result of the newly hired Secretary General are met with ample stakeholder interest in the work of the NCP and a general readiness to collaborate. However, visibility among a large number of stakeholders seems to be rather low (business, trade unions and, to a certain extent CSOs, Academia).	The NCP should increase promotion strategically, for example, through a promotional plan or a stakeholder engagement plan which includes clear priorities for future activities and targets. In doing so, the NCP could consider partnering with multiplier organisations to maximize reach and impact in a resource-efficient way.
2.2	The NCP maintains a website with a dedicated URL as part of the website of the Comité de Conjoncture,[15] which contains general information about the NCP, its work and specific instances. However, the website provides limited information and could be more user-friendly. The website does not contain promotional materials for download (flyers, brochure, etc). The NCP has commenced the use of Social Media Platforms.	The NCP should update its website with several changes. First, moving it outside of the umbrella of the Comité de Conjoncture's website could enhance visibility; second, additional information and materials could enrich the website; third, the available information could be presented in a clearer way to cater to users' needs. The NCP could explore expanding the use of social media to achieve greater reach and impact with targeted stakeholder groups.
2.3	The NCP, well-embedded in inter-ministerial processes, faces fertile ground to expand its role on promoting policy coherence on RBC and has done so on several occasions, such as the development and implementation of the NAP. However, the NCP has not been equally visible across all relevant areas of government.	The NCP should maintain and enhance its position in inter-ministerial processes and consider expanding engagement and exchange in relevant policy areas where engagement is currently lower.

[15] The NCP indicated that the website had been removed from the website of the Comité de Conjoncture since the on-site visit.

4 Specific instances

Overview

As of the date of the on-site visit, the NCP had received four specific instances in total (all since 2011). In total, two specific instances have been concluded by the NCP, for which follow-up was conducted, two were not accepted, and none are ongoing.

Among the two concluded cases:

- One was concluded with agreement within the NCP process and recommendations,
- One was concluded with agreement outside the NCP process.

According to the categorisation of the OECD database, the main sector concerned by these specific instances is the *mining and quarrying sector* (two cases). The sectors of *financial and insurance activities*, *human health and social work activities*, *manufacturing and wholesale* and *retail trade* were concerned in one case each. Two cases were submitted by NGOs, one case by a trade union and one by an individual.

The most frequently raised chapter of the Guidelines in cases handled by the NCP is the chapter on General Policies, which contains the recommendations that companies conduct due diligence (Chapter II; three cases). Disclosure (chapter III), Human Rights (chapter IV), Employment and Industrial Relations (Chapter V), and Combating bribery, bribe solicitation and extortion (Chapter VII) were raised in two cases each.

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

Rules of Procedure

The Rules of Procedure of the Luxembourg NCP are published on the NCP website[16]. They comprise ten short sections[17] and were last updated in 2018.[18] The Rules of Procedure have the following sections:

[16] https://cdc.gouvernement.lu/fr/service/attributions/point-contact-national-luxembourgeois/Regles-de-procedure-pour-le-traitement-des-instances-specifiques.html

[17] https://cdc.gouvernement.lu/fr/service/attributions/point-contact-national-luxembourgeois/Regles-de-procedure-pour-le-traitement-des-instances-specifiques.html

[18] The NCP indicated that the Rules of Procedure had been updated since the peer review visit in September 2022. The update includes a number of changes throughout the Rules of Procedure, resulting in changes to both structure and content of the Rules of Procedure. Changes aimed at providing clearer guidance to submitters for specific instances.

- Foreword
- Introducing a Specific Instance
- Timeframes and information of the parties involved
- Scope
- Transparency and confidentiality
- Assistance to the parties involved
- Initial assessment
- Good offices
- Conclusion of the procedures – Final statement
- Follow-up statement

The *"Foreword"* introduces the OECD Guidelines, specific instances and their purpose, as well as to NCPs in general and the Luxembourg NCP in particular.

The section *"Introducing a Specific Instance"* details the procedure that interested parties have to follow to submit a case to the Luxembourg NCP. Submitters are invited to use an "ad-hoc questionnaire" available on the website[19], but can also send a free-form submission. Submissions can be made via email or postal mail. The specified email address is the personal email address of one of the NCP staff. There is no generic email address for the NCP, which might create challenges in the case of staff changes. This section also specifies that the NCP "shall help the complainant comply with fundamental requirements to meet the criteria of materiality and substantiation of the complaint", without further specifying what this support consists of (see below on assistance to the parties involved). This section also contains the criteria evaluated by the NCP as part of its initial assessment (repeated later in the dedicated section). The section closes with a statement that the submitter may meet the NCP in person as part of the submission process or to substantiate the issues raised.

The section *"Timeframes and information of the parties involved"* addresses the timelines to be followed by the NCP in handling the specific instance process (see the sub-section on timeliness below). In addition, the section highlights that the acknowledgement of receipt contains a disclaimer that the NCP will share all information received with all parties or that this acknowledgement of receipt is not an acceptance of the case. This section also includes other details about the procedure that are not necessarily linked to timelines or information of the parties. For example, the section states that there "will be no recourse against the Luxembourg NCP's decision to dismiss or accept a Specific Instance for further examination." According to an additional explanation by the NCP, this provision was included in the rules of procedure to highlight that a specific instance is not a judicial process. However, the NCP stated that theoretically, an NCP procedure could be challenged in court as the NCP's decisions – as an institution in the public administration – represented administrative decisions that can be challenged in court. This remains a theoretical consideration as none of the NCP's decisions has been challenged in court to date.

The section *"Scope"* defines that the NCP will accept cases from any party "claiming an interest … in an alleged breach of the OCDE Guidelines by a multinational enterprise, including non-for-profit legal entities, operating in or from Luxembourg." The scope was consciously set to include not-for profit entities as defined by Luxembourg law, i.e. a "association sans but lucratif" (ASBL, association without lucrative purpose). According to the NCP, the aim here was to formulate as openly as possible and ensure that submitters can raise grievances located in all types of organisations. To date, no specific instance against

[19] https://cdc.gouvernement.lu/fr/service/attributions/point-contact-national-luxembourgeois/Ad-hoc-form-for-submitting-complaints.html

a not-for-profit organisation has been submitted. The section also states that the NCP will coordinate with other NCPs if necessary and that the NCP may make determinations or recommendations as part of the procedure.

The section *"Transparency and confidentiality"* defines aspects of information shared by parties in the case, notification and information sharing, and procedures to balance transparency and confidentiality (see the dedicated section below for additional details).

According to the rules specified in the section *"Assistance to the parties involved*", the NCP provides support for parties to a specific instance. Submitters can benefit from support towards substantiating the issues raised. To maintain impartiality, the NCP also offers the possibility of support to all parties. This section specifies that the NCP will not provide financial support, and instead may cover costs for activities that serve to resolve the specific instance, notably mediation, supervision, investigation, fact-finding missions or commissioned experts.

The section *"Initial assessment*" details the NCP's procedure to determine whether to accept a case for further examination. In the first paragraph, the section reproduces, verbatim, the provisions of the Commentary to the Procedural Guidance in the Guidelines. This section reiterates rules already detailed in the section "*Timeframes and information"* of the parties involved, such as timelines for the initial assessment, and that there is no recourse against the NCP's decision. The section includes additional details on the process to follow (such as that the NCP may ask for additional information, meetings are possible, and parties will be informed about any meetings, among other information). The section also includes a short paragraph on parallel proceedings (see the specific section below).

In the section "*Good offices*", the Rules of Procedure specify brief details on related timelines and the possible design of the good offices phase. For example, the NCP can offer "mediation, supervision, investigation, fact-finding missions by the Luxembourg NCP or by an expert or any ad-hoc entity commissioned for this task by the Luxembourg NCP, or any other procedure deemed appropriate for helping the resolution of the raised issues." Parties are also able to propose alternative ways to resolve their conflict. According to the Rules of Procedure, the NCP will end the good offices phase towards a final statement "if it appears that the parties cannot be brought together for resolution of the pending issues by any of the means proposed by the Luxembourg NCP or by the parties themselves."

Issues related to the final statement and to timelines are detailed in the section "*Conclusion of the procedures – Final statement"*. The NCP may end the procedure if the parties do not accept good offices through a final statement after the initial assessment. The section reiterates that if the parties agree to good offices, the NCP will follow the procedure and timeframe offered to the parties. This section also foresees that the NCP can make determinations and recommendations. It enables the NCP to "express its views on whether the OECD Guidelines were observed or if an enterprise acted in good faith and had a constructive approach to solving the issues raised, or has a policy consistent with the Guidelines."

The final section, *"Follow-up statement*", contains some details on follow up in case the parties agree to a resolution of the specific instance. According to this provision, the NCP can issue a follow-up statement 12 months later, addressing compliance with the agreement reached by the parties.

As an overarching observation, several points of information are presented several times throughout the Rules of Procedure, such as the criteria by which the NCP evaluates the complaint in its initial assessment (verbatim from the Guidelines), aspects related to information sharing, or information on the procedure related to good offices. This might contribute to confusion about the rules, as highlighted by some stakeholders. They also render the Rules of Procedure less accessible as they require a thorough analysis of different sections against each other to identify applicable processes.

Stakeholders highlighted specific points that were confusing in their view, for example, that submitters may meet the NCP to substantiate the issues raised, though it is unclear whether this was an obligation or not,

and the statement that there would be no recourse to the NCP's decision to accept a case. Stakeholders recommended adding a standard of plausibility or credibility in the initial assessment, as well as consequences for bad faith behaviour. Stakeholders also highlighted that the Rules of Procedure were only available in English, while the website was only available in French, recommending translating both into the respective other language.

In conclusion, the Luxembourg NCP has Rules of Procedures with a very broad scope of work, at times transcending the scope of the Procedural Guidance. For example, the Rules of Procedures allow accepting submissions against non-for-profit organizations, foresee the investigations *and* fact-finding for the NCP, allow for mediation and provide the NCP with a strong role in supervising specific instances. In addition, the NCP's form for submitting specific instances renders the specific instance procedure accessible. In addition, aspects of the specific instance procedure remain unregulated or are presented in a way that might not be easily understood by parties. For example, starting times for timeframes of the steps in a specific instance were not defined; certain aspects of the procedure were detailed in sections that might not seem immediately related to these aspects. Well-defined procedures and steps could be helpful and should be provided transparently to enhance parties' understanding of the NCP's handling of specific instances, clarifying expectations.

Specific Instances in practice

As highlighted above, the Luxembourg NCP has received four specific instances. Out of these, the Luxembourg NCP did not accept two; one accepted case led to agreement and recommendations within the NCP process, and one accepted case was resolved outside of the NCP process. The Luxembourg NCP has not yet made use of the possibility to issue a determination mentioned in its RoP (albeit being asked to do so in the – not accepted – case relating to *Open Secrets & CALS vs. KBL*).[20]

In questionnaires, stakeholders commented that they were unable to evaluate the NCP's performance due to relatively few specific instances received by the NCP. According to stakeholders as well as the National Baseline Assessment, the relatively small number of cases submitted to the Luxembourg NCP may be due to a lack of awareness about the NCP and its work (The Government of the Grand Duchy of Luxembourg, 2019[2]) (see also sub-section on Confidentiality and Transparency below). Stakeholders commended the NCP's accessibility.

Overall, Luxembourg's NCP has been able to draw on the advantages of a small NCP, such as flexibility, agility, pragmatism and good integration in government structures. However, likewise, limitations of this informality can be observed as well, such as stakeholder requests for increased transparency and predictability of the NCP's operations, as well as the increased perception of impartiality.

Non-accepted cases

Since 2011, two out of four specific instances received have not been accepted by the NCP. The two cases in question were *KBC Belgium and KBL European Private Bankers S.A. Luxembourg, and Open Secrets,*

[20] Luxembourg NCP (26 April 2018), *KBC Belgium and KBL European Private Bankers S.A. Luxembourg, and Open Secrets, and CALS*

and CALS [21] (submitted 2018, see Box 2) and *Pharmakina SA, Pharmeg SA, and a group of individuals* [22] (submitted in 2019, see Box 3). In both cases, the NCP published the initial assessments that consider the criteria to evaluate whether to accept the specific instance as foreseen in the NCP's Rules of Procedure and the Guidelines.

Box 2. KBC Belgium and KBL European Private Bankers S.A. Luxembourg, and Open Secrets, and CALS

In *Open Secrets & CALS vs. KBL*[23], the case had been submitted also to the Belgian NCP, making historic claims dating to the late 1980s and early 1990s. The Luxembourg NCP had been requested to provide a determination about the company's conduct during that time – but declined to do so as the NCP did not accept the case.

The lengthy time period towards the initial assessment (one year) was flagged, although this had been mostly due to coordination with the Belgian NCP who received the case as well. The Luxembourg NCP separated its own case and proceeded individually.

Examination of the case revealed that overall procedures in the specific instances were clear. Parties benefitted from guidance received from the OECD institutional stakeholders. However, the handling of the case in practice could have been clearer, as there were misunderstandings on the nature of specific instances according to the OECD Guidelines and the role of the NCP in that. This affected the parties' expectations towards possible outcomes of a specific instance, such as the possibility to appeal decisions by the NCP before the OECD, which is not foreseen under the Guidelines.

Source: OECD NCP Case Database; interviews with the parties and the NCP; files provided by the NCP.

Box 3. Pharmakina SA, Pharmeg SA, and a group of individuals

In *Pharmakina SA, Pharmeg SA, and a group of individuals* [24], former workers of Pharmakina SA in the Democratic Republic of the Congo, alleged that the companies violated Guidelines chapters on employment and industrial relations, the environment, human rights, and corruption. The submitters sought compensation of USD 5 million for the dismissed employees, and an additional USD 10 million for all company employees to compensate adverse impacts. The same or similar cases were submitted

[21] Luxembourg NCP (26 April 2018), *KBC Belgium and KBL European Private Bankers S.A. Luxembourg, and Open Secrets, and CALS*

[22] Luxembourg NCP (26 April 2018), *KBC Belgium and KBL European Private Bankers S.A. Luxembourg, and Open Secrets, and CALS*

[23] Luxembourg NCP (26 April 2018), *KBC Belgium and KBL European Private Bankers S.A. Luxembourg, and Open Secrets, and CALS*

[24] Luxembourg NCP (6 May 2019), *Pharmakina SA, Pharmeg SA, and a group of individuals*

to the Belgian, German and Swiss NCPs. The NCPs separated the specific instance to handle separately the claims against Luxembourgish and German companies named in the submission.

Pharmakina SA is a Congolese (DRC) subsidiary of Luxembourg holding company Pharmeg SA. The question of whether to accept this specific instance hinged on the question whether the Luxembourg holding company Pharmeg SA, could be considered a multinational enterprise covered by the Guidelines and whether it had sufficient operations in Luxembourg that justified territorial jurisdiction for the Luxembourg NCP. According to the Luxembourg NCP, the NCP had sought advice on this question from the NCP Network and concluded that it was not the case.

Several stakeholders not involved in the case took issue with the NCP's justification for not accepting the case. Likewise, commenting on this case, the National Baseline Assessment highlighted the need to clarify territoriality in light of the nature of companies registered in Luxembourg. (The Government of the Grand Duchy of Luxembourg, 2019[2]). Similarly, stakeholders highlighted the legally difficult as well as political nature of this question. In that sense, stakeholders noted the high regard for the NCP's independent decisions and the need for consistency and compatibility with the Guidelines across cases.

Source: OECD NCP Case Database; interviews with the parties and the NCP.

Accepted and concluded cases

Since 2011, out of two concluded cases:

- one case was concluded with agreement
- one case was concluded with agreement outside the NCP process.

Friends of the Earth vs. Arcelor Mittal/Mining in Liberia was concluded with an agreement in 2013[25]. The case was originally submitted to the Dutch NCP in 2011. As the company is headquartered in Luxembourg, the NCPs agreed that the Luxembourg NCP would handle the case with support from the Dutch NCP. Submitters alleged that the company had not acted in accordance with Guidelines' Chapter II, General Policies as well as Chapter VII, Combating Bribery, Bribe Solicitation and Extortion. The allegations centred on mining operations close to a nature reserve, a development fund that allegedly did not serve the interest of the local population, donations of vehicles to the Liberian government and missing stakeholder engagement.

As part of the specific instance, the Luxembourg NCP hired an external mediator and conducted two fact-finding missions to Liberia. As highlighted, for example, in the final statement, the specific instance did not focus on any questions related to violation of local law but rather on how to ensure that operations by the company benefitted the local population. The parties agreed that the development fund would be transformed into a more independent body equipped with a more inclusive decision-making structure. In addition, the parties agreed to create a local-level grievance mechanism.

Stakeholders who are aware of the details of this specific instance generally evaluate the Luxembourg NCP's role as positive. Stakeholders, as well as the National Baseline Assessment, highlighted the benefits of the fact-finding missions towards concluding the case with mutual agreement of the parties. They also

[25] Luxembourg NCP (3 January 2011), *Friends of the Earth vs. Arcelor Mittal/Mining in Liberia*

lauded the involvement of an external mediator to further impartiality and effective cooperation with the Dutch NCP. (The Government of the Grand Duchy of Luxembourg, 2019[2])

IndustriALL Global Union, Sitraternium and United Steelworkers vs. Ternium is an example of a specific instance where the NCP supported the parties in reaching an agreement – albeit outside of the NCP mechanism (see Box 4).

Box 4. IndustriALL Global Union, Sitraternium and United Steelworkers & Ternium

In *IndustriALL Global Union, Sitraternium and United Steelworkers vs. Ternium,*[26] the submitters, in 2017, alleged that steel company Ternium had breached fundamental workers' rights. The specific instance was suspended during the Luxembourg NCP's initial assessment. The parties agreed on a solution outside of the NCP process in 2020, and the specific instance was concluded. The submission took place after a year-long, failed exchange between the local union and the company. The submission provided new momentum to the exchanges. While the NCP never formally accepted the case, the NCP acted as an intermediary between the parties. No direct exchanges between the parties took place as part of good offices, but the NCP was able to facilitate an agreement between the parties on conditions towards negotiating an agreement between local unions and the company. Overall, the NCP was able to aptly use its room of manoeuvre.

Examination of the case paints a mixed picture. Rules and procedures were well explained and clear. The NCP was perceived as accessible and independent. However, impressions of partiality emerged, linked to a perceived lack of transparency of the NCP's communication. A closer examination was unable to substantiate the partiality of the NCP. In future specific instances, a greater degree of transparency about activities by the NCP (e.g., proactive communication in case of longer delays, additional and timely details about engagement with each party, etc) could help dispel any allegation of partiality.

The specific instance was marked by long delays attributed to the complexity of the case. In this context, the NCP could take care to maintain proactive communication with both parties at any time, ensuring transparency about the status of the procedure.

Source: OECD NCP Case Database; interviews with the parties and the NCP.

Follow-up

The Rules of Procedure foresee that the NCP issue a follow-up statement 12 months after a specific instance has been concluded with an agreement, "addressing the state of compliance of the settlement agreed upon". The Rules of Procedure do not provide information on any steps to be taken by the NCP to develop such follow-up statement.

The Luxembourg NCP has conducted follow-up in two cases, *IndustriALL Global Union, Sitraternium and United Steelworkers vs. Ternium* and *Socfin Group/Socapalm and Sherpa, concerning operations in Cameroon* led by the French and Belgian NCPs. According to the NCP, no issues have arisen so far.

[26] http://mneguidelines.oecd.org/database/instances/lu0004.htm

In *IndustriALL Global Union, Sitraternium and United Steelworkers vs. Ternium*, the collective bargaining agreement reached outside of the NCP procedure that led to its conclusion has been signed and is being implemented. There appears to have been limited need for follow-up by the NCP, given the public registration of the collective bargaining agreement with the Guatemalan authorities.

Socfin Group/Socapalm and Sherpa concerning operations in Cameroon was originally submitted in December 2010, focusing on Socapalm's operations in palm plantations in Cameroon. The submitters addressed cases to the NCPs of Belgium, France and Luxembourg. The French NCP was designated as the lead NCP and concluded the case in 2013. The parties agreed to a remediation plan. After the first case was concluded, a related specific instance against another entity in Socapalm's holding structure, Socfin Group, emerged. Here, the Luxembourg NCP supported the Belgian NCP. This second case resulted in an action plan, and the company pledges to improve the situation.

Timeliness

The Rules of Procedure address in a detailed manner the timelines to be followed for the key steps in the specific instance procedure. Stakeholders welcome that expectations on timelines are set. The NCP strives to meet these deadlines. The following timelines are defined:

- Acknowledgement of receipt to the complainant(s): within 5 working days by email and/or by mail
- Informing other parties and sharing the complaint: within 5 working days of the receipt of the complaint
- Forwarding written statements or responses from any party with the other parties: within 5 working days of the receipt of the relevant document
- Concluding the initial assessment: within 3 calendar months of the date of the acceptance of the complaint (can be extended if additional requisition of information is needed)
- Offer of good offices (if relevant): within 10 working days of the conclusion of the initial assessment
- Remarks, disagreements or any commentary to the initial assessment or statement of rejection of the case by the parties: within 10 working days as of the date of the initial assessment or the statement of rejection
- Follow-up statement: within 12 months of the conclusion of good offices
    - Remarks, disagreements, or commentary on a draft of this follow-up statement by parties: within 10 working days
- Publication of all statements: within 15 working days of an agreement by the parties

These timelines align with the requirements in the Procedural Guidance. However, the peer review team noted that the Rules of Procedure of Luxembourg's NCP do not clearly define starting times for the specified timeframes.

Looking at actual duration of specific instances, the timelines set in the Rules of Procedure and OECD Guidelines implementation procedures have not been met. The average overall duration of cases concluded by the NCP since 2011 is 1062 days (almost three years). The Procedural Guidance (para. 41) and the Rules of Procedure foresee twelve months. The average duration of non-accepted cases since 2011 is 314 days (almost a year). The Procedural Guidance (para. 41) and the Rules of Procedure foresee three months to conclude the initial assessment.

Stakeholders voiced concerns regarding the timely handling of specific instances (see also (The Government of the Grand Duchy of Luxembourg, 2019[2])). Especially in non-accepted cases, timelines have been four times as long as foreseen. Particular stakeholder concerns relate to a case handled jointly by Luxembourg and Belgium NCPs, *KBC Belgium and KBL European Private Bankers S.A. Luxembourg,*

and Open Secrets, and CALS. The specific instance was rejected following initial assessment and coordination with the Belgian NCP after 14 months in June 2019. According to the Luxembourg NCP, delays related to the need to coordinate and for the Belgian NCP to develop consensus among its stakeholders.

Confidentiality and transparency

The Rules of Procedure include details on confidentiality and transparency in several sections of the document, such as in the dedicated section "Transparency and confidentiality" and "Timeframes and information of the parties involved". These sections contain details on how the NCP should handle information from the parties. For example, the NCP is to share any submission with all parties, as well as information about meetings. Key information about specific instances (such as initial assessments, and final statements) will first be shared in draft form for comments by the parties and shall then be published within 15 working days. Exceptionally, parties can make a case for limiting transparency to maintain confidentiality. According to the Rules of Procedure, confidentiality as part of good offices will be maintained "as deemed appropriate by the parties."

An example of how transparency and confidentiality were handled in practice is *IndustriALL Global Union, Sitraternium and United Steelworkers vs. Ternium*[27]*.* Here, the company requested heightened confidentiality. According to the NCP, the NCP liaised with the submitters on this point. The confidential exchanges, with the NCP as an emissary between the parties, enabled a solution to the case outside of the specific instance. During stakeholder interviews, parties to the specific instance stated that they felt they were insufficiently informed about exchanges between the company and the NCP. However, the collective bargaining agreement concluding this case was registered with the local Ministry of Labour and is therefore considered part of the public domain.

No issue related to confidentiality with regard to the NCP's operations has been identified. As highlighted above, the National Baseline Assessment, as well as stakeholders responding to the questionnaire, identified a lack of visibility and transparency as one of the reasons why the NCP had received relatively few specific instances. (The Government of the Grand Duchy of Luxembourg, 2019[2]) According to some stakeholders, transparently providing additional details about specific instances and generally following a more formal and transparent process might reinforce the perception that NCPs can help resolve RBC issues and facilitate access to remedy. Stakeholders commented that the Rules of Procedure included "confidentiality" in the title of a subsection alongside "transparency". Stakeholders noted that this would overly elevate the importance of "confidentiality", as it was now on the same level as one of the core criteria for functional equivalence of NCPs in the procedural guidance.

Impartiality in the handling of specific instances

The Rules of Procedure of the Luxembourg NCP include a commitment to impartiality in the handling of specific instances. Limited information was provided on the steps taken by the NCP to ensure impartiality in practice, particularly regarding conflict-of-interest policy. One aspect to further the impartiality of the NCP is laws requiring civil servants to adhere to a certain standard of conduct. This standard also applies to the work of the NCP.

[27] http://mneguidelines.oecd.org/database/instances/lu0004.htm

The Rules of Procedure allow drawing on external experts. However, there is relatively little meaningful involvement of stakeholders in the work and decision-making of the NCP, which is likely to influence the handling of specific instances. In *Friends of the Earth vs. Arcelor Mittal*, the NCP involved an external mediator in the specific instances, which stakeholders have commented was a strong guarantee of impartiality.

The National Baseline Assessment also addressed this question (in 2018) and concluded that, at the time, too few cases had been submitted to the NCP to assess the NCP's impartiality in handling specific instances. (The Government of the Grand Duchy of Luxembourg, 2019[2]) Stakeholders generally agreed with that finding. As indicated above, some see the location of the NCP in the Ministry of Economy as a potential source of conflicts of interest in specific instances. Several stakeholders highlighted that the perception of impartiality could be increased by involving stakeholders and experts more frequently, formally and more meaningfully in the work of the NCP (see section 3 on Institutional Arrangements). In line with these general concerns, observers shared a perception that the NCP was more attuned to the interests of business in specific instances (see section "specific instances in practice"). This was founded in a lack of transparency about the NCP's exchanges with companies in cases, as well as in the non-acceptance of cases. The peer review team was unable to substantiate specific claims of lack of impartiality on the part of the NCP. In future cases, the NCP could increase transparency and communication efforts to address these perceptions.

Parallel proceedings

The Rules of Procedure, in their section "Initial Assessment", include a reference to parallel proceedings. In line with the Guidelines, the NCP commits to "not dismiss outright" a specific instance when there is a parallel proceeding. To date, one accepted case led to an agreement through a parallel collective bargaining process, during which the NCP suspended the specific instance. Stakeholders commented on the Rules of Procedure, stating that the Rules of Procedure would "invite" parallel proceedings by admitting that these would influence the Luxembourg NCP. In the eyes of the stakeholders, the formulation of the Rules of Procedures created the impression that starting parallel proceedings was a legitimate way for companies to block the acceptance or further examination of a specific instance. Stakeholders recommended the Rules of Procedure say that the NCP take parallel proceedings into account but not create further expectations.

Cooperation with other NCPs

Two NCPs provided feedback on their cooperation with the Luxembourg NCP. The NCPs had cooperated with the NCP in the context of specific instances as the lead. The NCPs commended the cooperating with Luxembourg NCP's, notably the coordination between the three involved NCPs to deliver a number of statements and join meetings between the parties. The commenting NCPs encouraged the Luxembourg NCP to engage the general public more widely (notably with a view to create scrutiny and an incentive for companies to act in good faith). In addition, the NCPs recommended the Luxembourg NCP to consider ways of integrating stakeholder views.

The NCP participates regularly in the meetings of the NCP network. The Rules of Procedure of the Luxembourg NCP reference coordination with other NCPs in the section "Scope", in cases where more than one country might be involved.

The Luxembourg NCP acted as supporting NCP in four cases and coordinated with others also for the cases where the Luxembourg NCP was the lead, as detailed in Table 4.1.

Table 4.1. Specific instances where the Luxembourg NCP has coordinated with other NCPs

Case linkages	Specific instance	Lead NCP	Supporting NCPs	Year submitted
Same submission to several NCPs	German company and individuals concerning employment and environmental issues in the Democratic Republic of Congo	Germany	Belgium, Luxembourg, United States	2019
	Pharmakina SA, Pharmeg SA, and a group of individuals	Luxembourg	Belgium, Switzerland	2019
Same submission to several NCPs	Specific instance alleging a non-observance of the Guidelines by the banks, KBL European Private Bankers S.A. and KBC Belgium	Belgium	Luxembourg	2018
	KBC Belgium and KBL European Private Bankers S.A. Luxembourg, and Open Secrets, and CALS	Luxembourg	Belgium	2018
	Sitraterium Guatemala / IndustriAll Union against Ternium Guatemala and Ternium Luxembourg SA	Luxembourg	Netherlands	2017
	Alleged human rights violations via satellite services provided to US	Germany	Luxembourg, United States	2015
	Friends of the Earth vs. Arcelor Mittal/Mining in Liberia	Luxembourg	Netherlands	2011
Same submission to several NCPs	Socfin Group/Socapalm and Sherpa concerning operations in Cameroon	Belgium	France, Luxembourg	2012
	Agro-industrial sector in Cameroon	France	Belgium, Luxembourg	2010

Source: OECD NCP Database (2022)

Request for clarification

To date, the NCP has not submitted requests for clarification to the Investment Committee or the Working Party on Responsible Business Conduct.

	Findings	Recommendations
3.1	The NCP has Rules of Procedure that offer a broad scope for addressing issues related to the implementation of the Guidelines in specific instances. However, parts of the Rules of Procedure might be difficult to implement, and aspects of the specific instance procedure remain less clear.	The NCP should revise its Rules of Procedures to increase clarity, practicability and management of expectations.
3.2	The Luxembourg NCP has been able to draw on the advantages of a small and agile structure and to deal with specific Instances in a flexible manner. However, the level of informality has sometimes led to confusion on the process and regarding parties' expectations. Stakeholders voiced concerns about the clarity of how specific instances against holding companies were handled. In most cases, the NCP has not been able to adhere to the timelines indicated in its Rules of Procedures.	The NCP should follow a more formalised case-handling and more inclusive decision-making process in specific instances to enhance transparency, predictability and perception of impartiality. An enhanced process would enable the NCP to assist parties in resolving issues raised in specific instances with consistency and could also serve to clarify expectations around issues of particular concern to stakeholders in Luxembourg, such as how to handle specific instances against holding companies.

5 Annex Documents

A. List of organisations submitting responses to the NCP peer review questionnaire
B. List of organisations that participated in the NCP peer review on-site visit
C. Promotional events
D. Overview of specific instances handled by the NCP as the leading NCP

Annex A. List of organisations that submitted a response to the NCP peer review questionnaire

- Association Luxembourgeoise des Fonds d'Investissement (ALFI)
- Commission Consultative des Droits de l'Homme (CCDH)
- Inspiring More Sustainability (IMS)
- L'Initiative pour un devoir de vigilance (IDV)
- OECD Trade Union Advisory Committee (TUAC)
- OECD Watch
- The Centre for Equal Treatment (CET)
- UNESCO Chair in Human Rights, University of Luxembourg: Professor Robert Harmsen, with the assistance of Mr. Alexandre Mortelette

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

- Amazon
- ArcelorMittal
- Association of the Luxembourg Fund Industry (Association luxembourgeoise des Fonds d'Investissements, ALFI)
- BGL BNPParibas
- Cactus
- Cargolux
- Cercle de Coopération des ONGD du Luxembourg
- Chamber of Commerce
- Christian Trade Union Luxembourg (Confédération luxembourgeoise des syndicats chrétiens, LCGB)
- Employee Chamber (Chambre des Salariés, CSL)
- FEDIL – representative of BIAC in Luxembourg
- G4S
- General Directorate for mid-sized companies (Direction générale des Classes moyennes)
- Independent Trade Union Luxembourg (Confédération syndicale indépendante du Luxembourg, OGBL)
- IndustriALL
- Initiative for Due Diligence Luxembourg (L'Initiative pour un devoir de vigilance au Luxembourg)1
- Inspiring More Sustainability (IMS)
- KBL European Private Bankers
- LuxAir
- LuxDev
- Ministry of Finance (Ministère des Finances, MFIN)
- Ministry of Foreign and European Affairs (Ministère des Affaires étrangères et européennes, MAEE)
- Ministry of Justice (Ministère de la Justice, MJUST)
- Ministry of Labour, Employment and the Social and Solidarity Economy (Ministère du Travail, de l'Emploi et de l'Économie sociale et solidaire, MTEESS)
- Ministry of State
- Ministry of the Environment, Climate and Sustainable Development (Ministère de l'Environnement, du Climat et du Développement durable, MECDD)
- OECD Trade Union Advisory Committee (TUAC)

- OECD Watch
- OpenSecrets
- SES
- Ternium
- TK Elevator
- Directorate for Development Cooperation and Humanitarian Affairs

[1] L'Initiative pour un devoir de vigilance au Luxembourg brings together the following 17 organizations to promote a legal framework for mandatory due diligence.

- Action Solidarité Tiers Monde
- Aide à l'enfance en Inde et au Népal
- Amnesty International Luxembourg
- Association luxembourgeoise pour les Nations Unies
- Caritas Luxembourg
- Cercle de coopération des ONGD
- Comité pour une Paix juste au Proche-Orient
- Commission luxembourgeoise Paix et Justice
- Etika
- Fairtrade Lëtzebuerg
- Fncttfel - Landesverband
- Frères des Hommes Luxembourg
- Greenpeace Luxembourg
- OGBL
- OGBL Solidarité syndicale
- Partage.lu
- SOS Faim Luxembourg

Annex C. Promotional events

Promotional activities in 2022 organised by the NCP

Title	Date	Location	Size of audience	Organised or co-organised?	Targeted audience	Theme
Directorate for Development Cooperation and Humanitarian Action	06-May-2022	Ministry of Foreign and European Affairs	<10	Organised	Government Agencies	RBC promotion in development co-operation partner countries, policy coherence
Commission nationale pour la protection des données (CNPD)	12-May-2022	Ministry of Economy	<10	Organised	Administrative Agencies	Introductory meeting on the role and functions of the NCP, exploiting potential synergies between the NCP and CNPD
Association of the Luxembourg Fund Industry (ALFI)	18-May-2022	Virtual	<10	Organised	Private Sector	Introductory meeting, brainstorming how to promote RBC in Financial Sector, OECD RBC Guidance for Financial Sector
Centre pour l'égalité de traitement (CET)	01-Jun-2022	Maison Menschenrechte	<10	Organised	National Human Rights Institution	OECD Guidelines, the role and the functions of the NCP, specific instance procedure
La Commission consultative des Droits de l'Homme (CCDH)	01-Jun-2022	Maison Menschenrechte	<10	Organised	National Human Rights Institution	OECD Guidelines, the role and the functions of the NCP, specific instance procedure
Outreach to academia	02-Jun-2022	Ministry of Economy	<10	Organised	Academia	OECD Guidelines, the role and the functions of the NCP
Inspiring More Sustainability (IMS)	02-Jun-2022	Ministry of Economy	<10	Organised	National CSR Institution	Responsible Business Conduct, national BHR developments, NCP peer-review
Fédération des industriels luxembourgeois (FEDIL)	07-Jun-2022	Ministry of Economy	<10	Organised	Private Sector	Proposed EU CSDDD, due diligence, the business case for Hrs
L'Initiative pour un devoir de vigilance au Luxembourg	08-Jun-2022	Ministry of Economy	<10	Organised	CSOs	OECD Guidelines, the role and the functions of the NCP, specific instance procedure, NCP peer-review
Bar Association, Luxembourg	08-Jun-2022	Ministry of Economy	<10	Organised	Legal professionals	Potential trainings for legal professionals on the OECD Guidelines, OECD due diligence guidance, domestic and

						regional legal and policy developments
Ministry of Finance Sustainability Unit	10-Jun-2022	Virtual	<10	Organised	Government Representatives	OECD Guidelines, due diligence guidance on the financial sector, the role and the functions of the NCP
Institut National de l'Administration Publique (INAP)	14-Jun-2022	Virtual	<10	Organised	Public service & government agency	OECD Guidelines, the role and functions of the NCP, due diligence, trainings to be offered by the NCP to public agents on RBC issues
Lux-Development S.A.	15-Jun-2022	LuxDev	<10	Organised	Luxembourg Agency for Development Cooperation - SOE	RBC due diligence, DD obligations of SOEs, proposed EU CSDDD, OECD Guidelines, and the roles and functions of the NCP
Ministry of Environment	01-Jul-2022	Virtual	<10	Organised	Government Representatives	OECD Guidelines, the role and the functions of the NCP, specific instance procedure
Institut national pour le développement durable et la RSE (INDR)	08-Jul-2022	Ministry of Economy	<10	Organised	National CSR Institution	RBC developments in Luxembourg, upcoming NCP Peer review
Access to remedy and the role of the OECD National Contact Points	15-Jul-2022	Virtual	10-50	Co-organised	Private sector	Training session on access to remedies with the focus on the NCPs, co-organized with the IMS, addressed to their member companeis
OECD Guidelines and the NCPs for RBC	07-Sep-2022	Virtual	10-50	Co-organised	Development and Humanitarian NGOs	OECD Guidelines, NCPs, SI procedure and examples, NCP peer review
OECD Guidelines and the NCPs for RBC	14-Sep-2022	Maison Menschenrechte	10-50	Co-organised	National Human Rights Institutions, Bar association	OECD Guidelines, the role and the functions of the NCP, specific instance procedure, NCP peer-review

Events in which the NCP participated in 2022

Title	Date	Location	Type of event	Size of audience	Targeted audience	Organiser(s)	Theme of the intervention
Comité interministériel Devoir de diligence (CIDdD)	02-May-2022	Virtual	Meeting	10-50	Ministries	Ministry of Foreign Affairs (MFA)	HREDD legislation
CIDdD	19-May-2022	Virtual	Meeting	10-50	Ministries	MFA	HREDD legislation
CIDdD	01-Jun-2022	Virtual	Meeting	<10	Ministries	MFA	HREDD Legislation
Groupe de Travail	16-Jun-	Virtual	Meeting	10-50	Multi-stakeholder	MFA	National Pact on Business

Entreprises et droits de l'homme	2022						and Human Rights
CIDdD	17-Jun-2022	Virtual	Meeting	10-50	Ministries	MFA	HREDD legislation
CIDdD	20-Jun-2022	Virtual	Meeting	10-50	Ministries	MFA	HREDD Legislation
Children's Rights Summer School	22-Jul-2022	Chambre de Salaire	Conference	50-100	General Public	Ombudsman fir Kanner a Jugendlecher (OKAJU)	Children's Rights and Responsible Business Conduct
Examen CESCR	6-7-Oct-2022	UN Geneva	Other	50 -100	Government - UN Experts - CSOs	UN CESCR	RBC in Luxembourg
CIDdD	20-Oct-2022	MFA	Meeting	<10	Ministries	MFA	HREDD Legislation
Le Devoir de Vigilance des Entreprises en Matiére de Durabilité	24-Nov-2022	Forum Da Vinci	Conference	10-50	General Public	Larcier & Jurisnews Droit de l'Environnemen	OECD Guidelines and Due Diligence Guidance
CIDdD	15-Dec-2022	MFA	Meeting	<10	Ministries	MFA	HREDD Legislation

Promotional activities in 2021 organised by the NCP

None

Events in which the NCP participated in 2021

Title	Date	Location	Size of audience	Targeted audience	Organiser(s)	Theme of the intervention
Working Party Enterprises and Human Rights	22-Apr-2021	Ministry for Foreign and European Affairs	10-50	Ministries, government agencies, and ONG's, civil society	Ambassador at large for Human Rights	Business and Human Rights, NAP, NCP, UN, EU, OECD
Working Party Enterprises and Human Rights	08-Dec-2021	Ministry for Foreign and European Affairs	10-50	Ministries, government agencies, and ONG's, civil society	Ambassador at large for Human Rights	Business and Human Rights, NAP, NCP, UN, EU, OECD
Interministerial Comitee for due diligence	18-Jun-2021	Ministry for Foreign and European Affairs	10-50	Ministries	Ambassador at large for Human Rights	Due diligence legislation
Interministerial Comitee for due diligence	14-Jul-2021	Ministry for Foreign and European Affairs	10-50	Ministries	Ambassador at large for Human Rights	Due diligence legislation
Meeting with the Minister of the Economy, NCP and Head of Luxembourg's	26-Apr-2021	Ministry of the Economy	<10	Institutional actors	Commission for Human Rights	Broad discussion on all Human Rights topic and due diligence legislation

Commission for Human Rights						
Meeting with Minister of the Economy and representatives from INDR	Click here to enter a date.	Ministry of the Economy	<10	Enterprises	Minister of the Economy	Presentation of INDR (Institut National pour le Développement Durable) RBC Guide and label
Interministerial Comitee for due diligence	21-Dec-2021	Ministry for Foreign and European Affairs	10-50	Ministries	Ambassador at large for Human Rights	Due diligence legislation

Promotional activities in 2020 organised by the NCP

None

Events in which the NCP participated in 2020

Title	Date	Location	Type of event	Size of audience	Targeted audience	Organiser(s)	Type of intervention	Theme of the intervention
Working party Enterprises and human rights	23-Jan-2020	Ministry for Foreign and European Affairs	Conference	10-50	Ministries, government agencies and ONG's, civil society	Ministry for Foreign and European Affairs – Ambassador at large for Human Rights	Roundtable	Business and Human Rights, NAP, NCP, UN, EU
Working party Enterprises and human rights	25-Nov-2020	Ministry for Foreign and European Affairs	Webinar	10-50	Ministries, government agencies and ONG's, civil society	Ministry for Foreign and European Affairs – Ambassador at large for Human Rights	Roundtable	Business and Human Rights, NAP, NCP, UN, EU
Meeting with the Minister-NCP	17-Jun-2020	Ministry of the Economy	Meeting	<10	Government, Labour Union, NGO's	Ministry of the Economy - PCN	Negotiation	Due diligence clause in Government grants and subsidies
Click here to enter text.	20-Oct-2020	Ministry of the Economy	Meeting	<10	Government, Labour Union NGO's	Ministry of the Economy - PCN	Negotiation	Due diligence clause in Government grants and subsidies-follow up

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

Enterprise	Submitter	Host Country	Chapter(s) of the Guidelines	Date of Submission	Date of Acceptance	Date of Conclusion	Outcome	Description	Follow-up
Ternium Guatemala and Ternium Luxembourg SA	Sitraterium Guatemala/IndustriAll Union	Guatemala	Human Rights (IV), Employment & Industrial Relations (V)	15 September 2017	n/a	10 November 2020	Concluded with an agreement outside the NCP procedure	Specific instance submitted by three trade unions concerning an alleged non-observance of the OECD Guidelines by Ternium International Guatemala SA, a company manufacturing steel products established in Guatemala and headquartered in Luxembourg.[28]	No
Pharmakina SA, Pharmeg SA,	Individuals	Democratic republic of the Congo	Concepts & Principles (I), General Policies (II), Disclosure (III), Human Rights (IV), Employment & Industrial Relations (V), Environment (VI), Combating bribery, bribe solicitation and extortion	6 May 2019	21 November 2019	21 November 2019	Not accepted	Specific instance submitted by a group of individuals concerning an alleged non-observance of the Guidelines by Pharmakina SA and Pharmeg SA[29]	No

[28] http://mneguidelines.oecd.org/database/instances/lu0004.htm

[29] http://mneguidelines.oecd.org/database/instances/lu0003.htm

			(VII)						
KBC and KBL	Open Secrets and the Centre for Applied Legal Studies (CALS)	South Africa	General Policies (II), Disclosure (III)	26 April 2018	28 June 2019	28 June 2019	Not accepted	Specific instance alleging a non-observance of the Guidelines by the banks, KBL European Private Bankers S.A. and KBC Belgium.[30]	No
ArcelorMittal	Friends of the Earth (FoE) Europe and Liberia-based Sustainable Development Institute (SDI)/FoE Liberia	Liberia	General Policies (II), Combating bribery, bribe solicitation and extortion (VII)	3 January 2011	1 October 2011	1 September 2013	Concluded with statement	Specific instance notified by the NGOs Friends of the Earth (FoE) Europe and Liberia-based Sustainable Development Institute (SDI)/FoE Liberia regarding the activities of ArcelorMittal operating in Liberia.[31]	No

[30] http://mneguidelines.oecd.org/database/instances/lu0002.htm

[31] http://mneguidelines.oecd.org/database/instances/lu0001.htm

National Contact Point Peer Reviews: Luxembourg

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