



Tailored capacity building roadmap



Introduction



This document forms part of the Project on Responsible Business in Latin America and the Caribbean ('the project'). The project intends to contribute to the promotion of smart, sustainable and inclusive growth in the EU and Latin America and Caribbean by supporting responsible business conduct (RBC) practices in line with internationally agreed principles set out in the UN, ILO and OECD instruments. The project is funded by the European Union and implemented jointly by the UN, the ILO and the OECD.

The 49 adherents to the OECD Guidelines for Multinational Enterprises (which notably the following LAC countries: Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico, and Peru) are required to establish a National Contact Point (NCP) for RBC. NCPs are agencies established by governments. Their mandate is twofold: to promote the OECD Guidelines for Multinational Enterprises, and related due diligence guidance, and to handle cases (referred to as 'specific instances') as a non-judicial grievance mechanism. Pillar III of the OECD activities under the project ('Strengthening access to remedy – reinforcing NCPs') is dedicated to providing tailored capacity building to LAC NCPs. The capacity building activities to be undertaken by the Brazilian NCP and facilitated by the OECD Secretariat until the end of the project (Dec. 2022) are described in a roadmap of activities agreed between the government of Brazil and the OECD Secretariat. The roadmap covers activities of three different types: activities related to institutional arrangements, activities related to promotion and policy coherence, and activities related to the handling of specific instances.

The activities set out in the roadmap are based on a needs assessment of the Brazilian NCP conducted jointly by the OECD Secretariat. The needs assessment sought to identify strengths and weaknesses of the Brazilian NCP in respect of requirements placed on NCPs by the Guidelines. In particular, while governments have flexibility in how they structure their NCP, it must operate in accordance with the core criteria for functional equivalence: visibility, accessibility, transparency and accountability. NCPs must have sufficient human and financial resources to effectively fulfil their mandate, and must develop and maintain relations with stakeholders to gain and retain their confidence. Finally, NCPs must handle specific instances in a way that is impartial, predictable, equitable and compatible with the Guidelines. The main findings of the needs assessment are summarised below.

Summary of needs assessment



VISIBILITY

The recent integration of the NCP into the Ministry of Economy and the reshuffle of the inter-ministerial working group are opportunities for visibility. However, the NCP structure focused on governmental actors may limit the visibility of the NCP with stakeholders. The NCP has increased its promotion and modernised its website recently. The NCP's promotion has been limited to fairly general themes in recent years, and could be made more specific and targeted.



ACCESSIBILITY

The NCP has strived to be accessible, particularly to submitters of specific instances. The NCP's rules of procedure (RoP) also favour accessibility, except for the time limit set to file cases. Potential submitters in remote regions may however face difficulties in accessing the NCP. The NCP's website is to date only available in Portuguese, which limits accessibility to stakeholders. Finally, the NCP structure focused on governmental actors may also diminish the NCP's accessibility.



TRANSPARENCY

The NCP is transparently set up through clear and public legal instruments, which are available on the website. The NCP also regularly reports to the OECD and to government and publishes its reports on its website. Specific instance statements (including initial assessment statements) are regularly published on the NCP's website. The NCP recently revised its RoP and ran it through a public consultation procedure, showing transparency.



ACCOUNTABILITY

The structure of the NCP has established clear reporting lines. The NCP regularly reports to the OECD and to government, and publishes its reports. The lack of a stakeholder advisory body limits the accountability of the NCP towards stakeholders and the general public. The NCP should prioritise undergoing a peer review.

Summary of needs assessment



Additional requirements

RELATIONS & CONFIDENCE OF SOCIAL PARTNERS, STAKEHOLDERS

The NCP has not been able to maintain consistent relations with key stakeholder groups and retain their confidence in recent years, although the recent reforms show improvement. All stakeholders consulted have called for the creation of a stakeholder advisory body.



RELATIONS WITH OTHER NCPS & THE OECD SECRETARIAT

The Brazilian NCP has regular relations with the OECD Secretariat and with other NCPS. It regularly attends NCP meetings, as well as the meetings of the Regional Network of LAC NCPS.

HUMAN & FINANCIAL RESOURCES (INC. SENIOR STAFF)

The resources situation of the NCP has improved recently since the reform of the NCP, as the NCP now has four full time and one part time staff members, and is planning to increase its promotion in future months and years. A dedicated budget may give the NCP more stability and independence in maintaining a high level of staff and activity in the future.



REPORTING

The NCP diligently reports to the OECD and to government and publishes these reports. It does not report to Parliament.

Summary of needs assessment



IMPARTIALITY

The structure of the NCP as an inter-governmental working group balancing various backgrounds and expertise is an asset for the NCP's perception of impartiality. However, the NCP's Coordination and Secretariat's location in the Ministry of Economy might alter such perception. The creation of a stakeholder advisory body would help in constantly maintaining a perception of impartiality.



PREDICTABILITY

The NCP has recently issued a new set of RoP, which are very detailed and quite sophisticated. However, a few provisions are not fully clear, for example as regards the role of the rapporteur in the handling of cases. Likewise, the handling of a few cases in the recent past could have been more predictable, e.g. in respect of timing.



EQUITABILITY

The NCP's approach to mediation may limit the ability of weaker party to have their case heard and their demands clearly expressed to the other party, or their ability to negotiate a favourable outcome if the NCP does not step in to ensure that these demands are being seriously considered. The NCP could also review its approach to requests to keep some information confidential.



COMPATIBILITY WITH THE GUIDELINES

The NCP has recently adopted new RoP, which set out in a detailed manner how the NCP will handle cases. Some provisions slightly deviate from the Guidelines or exceed the requirements of the Guidelines in a way that can reduce accessibility.

Roadmap



1. Reforming the Brazilian NCP legal mandate instrument

Reviewing institutional arrangements of the NCP



LEAD COUNTRY ACTOR

Brazilian NCP
Ministry of Economy



DELIVERY INDICATOR

New Decree published



OECD SUPPORT

Reviewing the instrument to
verify its compatibility with
the Guidelines and the
Procedural



OTHER ACTORS INVOLVED

Stakeholders

Institutional arrangements

Roadmap



2. Writing Terms Of Reference For The NCP's Working Group

Clarifying various roles within the NCP inter-ministerial group, setting rules for conflict of interest matters, among others.



LEAD COUNTRY ACTOR

Brazilian NCP



DELIVERY INDICATOR

Internal regulation published



OECD SUPPORT

- Providing examples of best practices.
- Reviewing the instrument to verify its compatibility with the Guidelines and Procedural Guidance.



OTHER ACTORS INVOLVED

Working group members
Stakeholders

Institutional arrangements

Roadmap



3. Providing training to the Brazilian NCP Working Group

Building capacity of the members of the working group on RBC and the NCP mandate



LEAD COUNTRY ACTOR

Brazilian NCP



DELIVERY INDICATOR

Training events held

Institutional arrangements



OECD SUPPORT

- Assisting in identifying the main points to be addressed.
- Translating relevant OECD documents (e.g. Guides for NCPs)
- Providing training sessions



OTHER ACTORS INVOLVED

N/A

Roadmap



4. Organizing Promotional Events For Businesses, Stakeholders And Key Government Actors Targeting Key Issues

Events on the main themes of the Guidelines raised in specific instances handled by the Brazilian NCP. Guidance documents will be issued on each key issue.

Promotion and policy coherence



LEAD COUNTRY ACTOR

Brazilian NCP



OECD SUPPORT

- Assisting in prioritising issues.
- Acting as speakers for the events.
- Translating relevant OECD documents.



DELIVERY INDICATOR

Promotional events held
Guidance document issued



OTHER ACTORS INVOLVED

Stakeholders
Government departments

Roadmap



5. Organizing promotional events for businesses, stakeholders and key government actors targeting key sectors

Events will focus on the main sectors involved in specific instances handled by the Brazilian NCP and addressed in LAC sector diagnostics.

Guidance documents will be issued for each sector.

Promotion and policy coherence



LEAD COUNTRY ACTOR

Brazilian NCP



OECD SUPPORT

- Assisting in prioritising sectors.
- Acting as speakers for the events.
- Translating relevant OECD documents.



DELIVERY INDICATOR

Promotional events held
Guidance document issued



OTHER ACTORS INVOLVED

Stakeholders
Government departments

Roadmap



6. Launching Guidelines on responsible business conduct for key sectors

Guidelines will provide a comprehensive and yet practical tool for the multiple stakeholders engaged in key sectors.

Promotion and policy coherence



LEAD COUNTRY ACTOR

Brazilian NPC and official institutions representing the specific sectors



OECD SUPPORT

- Assisting in prioritising issues.
- Experts and consultants.
- Translating relevant OECD documents.



DELIVERY INDICATOR

Guidelines issued



OTHER ACTORS INVOLVED

Stakeholders

Roadmap



7. Launching a National Action Plan on Responsible Business Conduct

Consultations with relevant stakeholders, policy analysis and actions for fostering policy coherence for RBC.

Promotion and policy coherence



LEAD COUNTRY ACTOR

Brazilian NCP



OECD SUPPORT

- Sharing information gathered under the RBCLAC project
- Providing input for Action Plan
- Providing feedback on drafts



DELIVERY INDICATOR

National Action Plan launched



OTHER ACTORS INVOLVED

- Members of the National Investment Committee of the Board of Foreign Trade and Investment of the Ministry of Economy
- Stakeholders

Roadmap



8. Reviewing the Brazilian NCP's RoP

Clarifying confidentiality and other issues, as well as correcting some deviations from the Guidelines.



LEAD COUNTRY ACTOR

Brazilian NCP



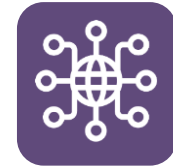
DELIVERY INDICATOR

Revised RoP published



OECD SUPPORT

Reviewing the instrument to verify its compatibility with the Guidelines and Procedural Guidance



OTHER ACTORS INVOLVED

Stakeholders

Specific instances

Roadmap



9. Mediation training

Mediation training for the NCP staff, including its coordination and representatives of the agencies part of the NCP's working group



LEAD COUNTRY ACTOR

Brazilian NCP



DELIVERY INDICATOR

Training events held



OECD SUPPORT

- Providing training and guidance on the best practices regarding mediation procedures under NCPs.
- Identifying mediation institutions familiar with NCP procedures.



OTHER ACTORS INVOLVED

Mediation institutions

Specific instances

