

Danish NCP follow-up to OECD peer review recommendations

Revised version June 2018

The Danish NCP undertook an OECD peer review in the March 2015. The peer review team was led by the former chairman of the Norwegian NCP, Hans Petter Graver and consisted of representatives from the German, British and US NCPs and the OECD secretariat. The process was facilitated with assistance from consultants from Shift, and involved a large number of the Danish NCP's stakeholders, including members of the Danish Council for Corporate Responsibility, representatives of business organisations, trade unions, NGOs and parties to specific instances.

Overall, the peer review concluded that the Danish NCP is functioning well. The NCP's stakeholders describe the institution as responsible, reliable, open and well-balanced. The peer review recommendations to and requests of the NCP are summarized below.

Key findings	Recommendation	Purpose	NCP action	Follow-up
1. Institutional Structures				
Confirm the Promotion Mandate with Stakeholders	The Peer Review Team encourages the NCP to proactively seek opportunities to clarify and confirm its promotion mandate with key stakeholders in its promotion and awareness-raising activities	Clarifying the mandate can help to ensure that Danish stakeholders understand the full scope of responsibility of the MKI as Denmark's NCP, build greater legitimacy for the NCP's promotion activities, and ensure that the NCP is evaluated on the full scope of its functions, rather than its case-handling function alone.	The Danish NCP will follow the recommendation in its future information and promotion work and in the review and update of the NCP website.	On-going action
Raise the profile of the OECD Guidelines within the mandate	As part of clarifying its mandate, the Peer Review Team encourages the Denmark NCP to seek opportunities to raise the	Connecting the MKI's mandate more clearly to the OECD Guidelines would help to provide the NCP with a distinctive focus and	The Danish NCP will strategically follow the recommendation in its future information and promotion work by	On-going action

	profile of the OECD Guidelines within its mandate (including speaking engagements, website, and publications).	purpose within the broader CSR landscape in Denmark, helping to differentiate its role and expertise from other CSR actors.	providing information on the content of the requirements in the OECD Guidelines and the practical implementation. Action: Conference on Non-financial Due Diligence in Copenhagen, 25 November 2015.	
Reconcile Inconsistencies	Most noteworthy inconsistency: The 5-year statute of limitations. This limitation excludes the applicability of the Guidelines to complaints that would otherwise be admissible under the Guidelines and their implementation procedures.	Complaints involving environmental harm often take more than five years to develop, due to the nature of the harm.	The 5 year limitation is laid down in the Danish law on the NCP and has not been revised. Thus, the Danish NCP is not able to follow this recommendation. The 5-year statute of limitation excludes complaints where the negative impact was ceased more than 5 years ago, but there are exceptions e.g. in cases involving environmental issues. The NCP is not prevented from dealing with cases involving pollution, which ceased more than five years ago.	
Criteria for using the authority to initiate claims	The NCP may wish to review the criteria for initiating complaints to ensure that they can effectively help the NCP to	The Peer Review Team recognizes that domestic civil society stakeholders perceive the NCP's authority to initiate	The Danish NCP will review its criteria for initiating complaints in 2016. The revised criteria will be given a more prominent	Has been thoroughly described in the Case-Handling-Manual of the Danish NCP and on the NCP website.

	navigate and govern the use of this authority. The NCP should publicize these criterias.	complaints as central to the legitimacy of the institution, and therefore relevant.	place on the revised NCP website.	
2. Recommendations Related to Promotion of the Guidelines and Handling Enquiries				
Focus on implementation in practice	The NCP's promotion activities should focus more on how companies are implementing the OECD Guidelines in practice and creating dialogue around that implementation.	Multi-stakeholder initiatives and industry associations mentioned wanting to ensure that the guidance they provide to their business members is aligned with the OECD Guidelines, while other stakeholders also encouraged focus on practical implementation.	<p>In the future the NCP will focus on OECD Guidelines requirements and implementation in practice in the NCP's information and promotion activities.</p> <p>Actions: Conference on Non-financial Due Diligence in Copenhagen, 25 November 2015.</p> <p>The Danish NCP are currently preparing a Master Class with the Danish Institute for Human Rights on Due Diligence where companies will be invited to get a more thorough knowledge of the requirements. Workshops planned for September 2016.</p>	<p>The Danish NCP has conducted workshops on:</p> <ul style="list-style-type: none"> • due diligence in the textile sector in 2016 and • due diligence in the construction sector in 2017. <p>The Danish NCP are planning to host a conference on responsible investments in late autumn 2018.</p> <p>Moreover, the Danish NCP are planning several sector specific initiatives throughout 2018. The initiatives are focused on the Financial sector, the Shipping and logistics sector and within public procurement.</p>

Continue to take forward the initiative to develop the strategic approach to promotion	The Peer Review Team encourages the NCP to share learning and results from its consultative initiative to develop a strategic focus for its promotional activities with other NCPs as well as to develop a stakeholder outreach strategy.	The purpose is to target its promotion activities and ensure maximum impact.	The Danish NCP has initiated two strategic work streams: The textile sector and the financial sector. The NCP will organize dialogue meetings with the business organizations from the two sectors in order to inform about the OECD Guidelines and identify challenges in the sectors.	The Danish NCP has conducted dialogue-meetings on: <ul style="list-style-type: none"> • OECD Due Diligence Guidance for Responsible Supply Chains in the textile sector in December 2016 • Responsible business conduct in the financial sector in May 2017.
Reconcile translations of the Guidelines	The Peer Review Team encourages the NCP to review these translations and clarify any inconsistencies.	Several stakeholders noted significant nuances of language in the Danish translations of the OECD Guidelines	The NCP secretariat is currently in collaboration with Global CSR reviewing the Danish translation of the OECD Guidelines. A revised Danish edition will be published at the website of the NCP in summer 2016.	The Danish NCP finished the review the Danish translation of the OECD Guidelines in 2016, which is published on the website.
3. Recommendations Related to Specific Instances				
Clarify Expectations Around Confidentiality	The NCP should clarify how the identity of parties is handled in practice in terms of confidentiality.	This exiting misalignment of expectations can challenge the legitimacy of the NCP procedure.	The confidentiality issue will be described more detailed and given a more prominent place on the revised NCP website.	NCP website has been revised.

Clarify expectations concerning documentation	The NCP should make particular efforts in its argumentation of rejected complaints due to insufficient documentation	The NCP Procedures provide guidance on the types of documentation that may be relevant in substantiating a claim. Nevertheless, stakeholders expressed confusion and a lack of clarity over how that standard is applied in practice.	The Danish NCP will follow the recommendation by 1. Reviewing its guidance on submitting a case and publish on the revised website, 2. Provide more information on what constitute sufficient documentation, when a complaint is being rejected.	NCP website has been revised.
Consider Requiring Complainants to Identify Relevant Aspects of the OECD Guidelines	The Danish NCP should consider requiring complainants to identify as part of their complaints the relevant chapters of the OECD Guidelines.	This is likely to have the effect of lowering the high percentage of complaints filed with the NCP that are not relevant to the Guidelines.	The Danish NCP already encourages complainants to make reference to the relevant parts of the OECD Guidelines. The NCP is reluctant to make it a specific requirement to make exact reference to the precise provisions in order to file a complaint as it might be regarded as a barrier for filing a complaint.	When the NCP receives a complaint and relevant references to the OECD Guidelines are not included, the NCP identifies the relevant principles during the case-handlings-process.
Assess needs of SMEs as Respondents	Given the large percentage of small and medium-sized enterprises in the Danish economic context, the Peer Review Team recommends that the NCP assess the specific needs of SMEs	There may be useful adaptations to the NCP's procedures or additional resources that would support the experience of SMEs in the NCP complaints-handling procedure.	The NCP will have a discussion on how the specific needs of SME's can be accommodated.	The NCP has decided to invite complainants (e.g. individuals or NGOs) and the company to an information meeting at the NCP. The purpose is share information with the parties (also the company

	involved in a specific instance.			no matter the size) of the NCP system and the OECD Guidelines on international Enterprises.
Leverage Learning from Complaints.	The NCP should leverage learning from rejected complaints to further clarify for stakeholders the scope and procedures of the NCP.	One of the primary values of specific instance complaints is to leverage learning from complaints.	The NCP will discuss the learnings from each case both when the case is processed and when the case is rejected and include the outcome in its case handling procedure.	On-going action
Feedback from Parties to Specific Instances.	The NCP may more systematically receive feedback from parties to specific instances on perceptions about the procedure.	Feedback could be particularly useful to the Danish NCP, given that the NCP is still testing the application of its procedures in practice.	The NCP will develop a form of systemic and comprehensive evaluation and feedback from the parties to a specific instance when finalizing the case. Action: Will be implemented when the current specific instance is closed.	When specific instances have been closed and a final statement is issued, the NCP conduct a survey among the parties in order to get input to improve the process.
4. Proactive agenda				
Seek Opportunities to Engage Danish Business in the Proactive Agenda.	The Peer Review Team encourages the Danish NCP to seek relevant opportunities and encourage participation from Danish businesses in various initiatives under the Proactive Agenda.	Danish businesses may have interesting practical experiences to contribute to various initiatives under the Proactive Agenda, and their involvement can have the added benefit of raising the profile of the	The NCP will seek to actively promote the OECD work under the proactive agenda to Danish Businesses. In 2016 the efforts was focused on the Financial sector. In 2017 focus was on textile and	On-going action Initiatives has been taken specifically regarding <ul style="list-style-type: none"> • The Textile sector • The Financial sector

		OECD Guidelines in Denmark and improving understanding of implementation in practice.	construction sector as well as public procurement.	<ul style="list-style-type: none">• The Shipping and logistics Sector• General Due diligence• Public procurement
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