



**NATIONAL CONTACT POINT**

**FOR RESPONSIBLE BUSINESS CONDUCT**

**Case-Handling Procedures for Specific**  
**Instances**

## **1. Introduction**

The Mauritius National Contact Point for Responsible Business Conduct (NCP) provides for a non-judicial grievance platform for specific instances received in relation to the OECD Guidelines for Multinational Enterprises on responsible business conduct ('OECD Guidelines').

This 'Case-Handling Procedure for Specific Instances' provides for the processes to handle specific instances and is issued under Regulation 8(d) of the Economic Development Board (National Contact Point) Regulations 2023 (the '2023 Regulations').

These procedures must be read in conjunction with any applicable laws, regulations or guidelines. Words not defined herein shall have the same meaning as in the 2023 Regulations.

## **2. Obligations of Members of the Expert Panel**

In accordance with the 2023 Regulations, the Expert Panel is responsible for handling specific instances.

The Expert Panel shall, in the discharge of its functions, to adhere to these procedures and shall

- (a) exercise its functions independently and impartially;
- (b) not be subject to the control or direction of any other person or authority;
- (c) adhere to a conflict-of-interest policy; and
- (d) reach a decision by consensus, and, where not possible, by majority voting.

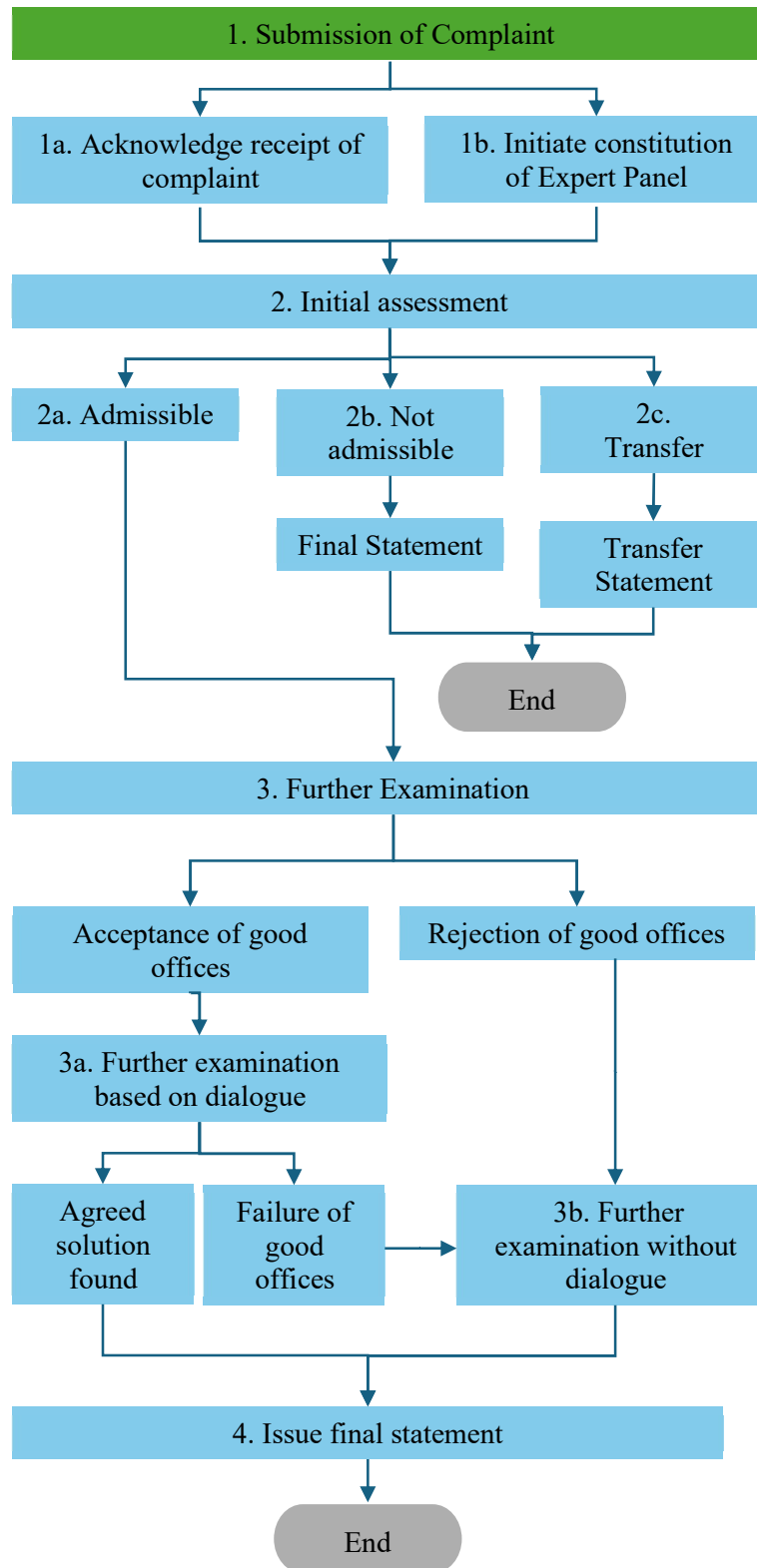
## **3. Specific Instances**

'Specific Instance' means issues that arise in relation to the implementation of the Guidelines and refer specifically to complaints relating to an alleged breach by a Multinational Enterprise of the OECD Guidelines.

## **4. Multinational Enterprise**

A precise definition of multinational enterprise is not provided in the OECD Guidelines. Factors which are taken into account in determining whether an enterprise is a multinational enterprise include the international nature of the enterprise's structure or activities and its commercial form, purpose, or activities. They usually comprise companies or other entities established in more than one country and so linked that they may co-ordinate their operations in various ways. What constitutes a multinational enterprise will be determined on a case-by-case basis by the Expert Panel.

## 5. Steps in the procedure



### *1. Submission of a Complaint*

A notifier may send a complaint relating to an alleged breach by a Multinational Enterprise of the OECD Guidelines to the NCP Secretariat at the following email address: [secretariat@ncpmauritius.mu](mailto:secretariat@ncpmauritius.mu).

#### *1a. Acknowledgement of Receipt*

Upon receiving a complaint, the NCP Secretariat shall, within seven working days –

1. send an acknowledgement of receipt to the notifier;
2. notify the enterprise concerned about the submission; and
3. forward a copy of the submission to the enterprise.

#### *1b. Initiate constitution of Expert Panel*

Upon receiving a complaint, the NCP Secretariat shall, within seven working days, initiate the process for the constitution of the Expert Panel. Once the Expert Panel is constituted, the NCP Secretariat shall transmit the specific instance to the Expert Panel.

### *2. Initial Assessment*

The Expert Panel shall conduct an initial assessment to determine whether a complaint should be accepted (2a.), rejected (2b.) or transferred to another NCP (2c.).

The Expert Panel shall make an initial assessment of whether the issue raised warrants further examination by taking into account -

- (i) the identity of the party concerned and its interest in the matter;
- (ii) whether the issue is material and substantiated;  
(i.e. is the issue relevant to the implementation of the OECD Guidelines and is it supported by sufficient and credible information?)
- (iii) whether the enterprise is covered by the OECD Guidelines;
- (iv) whether there is any apparent link between the enterprise's activities and the issue raised in the specific instance;
- (v) the extent to which applicable law and/or parallel proceedings restrict the ability of the NCP to contribute towards the determination of the issue; and
- (vi) whether consideration of the issue would contribute to the purposes and effectiveness of the OECD Guidelines.

At the initial assessment stage, the Expert Panel shall not comment on whether the information provided by the parties is correct or whether the enterprise has observed the OECD Guidelines.

The Expert Panel shall, after the initial assessment, either accept, reject or transfer the complaint. The Expert Panel shall draft a statement – a final statement in case the complaint is rejected and a transfer statement in the case the complaint is transferred - and the NCP Secretariat shall transmit same to the Parties.

### *3. Further examination*

If in its initial assessment the Expert Panel determines that the case is admissible, the Expert Panel will offer its good offices to the parties. If its ‘good offices’ are accepted, a further examination based on a dialogue (3a) that is to be initiated between the parties shall follow. If its good offices are rejected or the dialogue fails, further examination without dialogue (3b) shall follow. In either case, the Expert Panel shall draw up a final statement (4).

#### *3a. Further examination based on dialogue*

The good offices stage provides the Expert Panel with the mandate to facilitate the exchange of information and dialogue between the parties to a complaint. This exchange and dialogue can include conciliation, mediation or facilitated discussions with the objective of resolving the dispute in the interests of all parties. At the outset of the dialogue, the Expert Panel will encourage agreements between the parties concerned about the subsequent steps in the procedure, including addressing the desired goal, scope, timetable, dialogue participants, confidentiality and public comments.

This phase ends when the parties arrive at an agreed solution, when one of the parties decides to withdraw from the dialogue, or when the Expert Panel concludes that it will not be possible to arrive at an agreed solution within a reasonable period of time. In case of an agreed solution, the Expert Panel will proceed to step 4. In case of a failure of the good offices, the Expert Panel will proceed to step 3b.

#### *3b. Further examination following rejection of good offices or failure of dialogue*

If the good offices are rejected or if the dialogue fails, the Expert Panel shall undertake further examination to determine whether the enterprise concerned failed to observe the OECD Guidelines on the grounds put forward in the submission. The outcome of the examination by the Expert Panel is shared with the parties by means of the draft final statement.

If the Expert Panel decides not to examine the case further, it shall, through the NCP Secretariat, inform the parties and provide reasons.

#### *4. Conclusion of the proceedings / Final statement*

The Expert Panel shall, at the conclusion of the complaint process, draft a final statement where:

- (i) the parties have rejected the good offices or have not reached agreement on a resolution of the issues
- (ii) an agreement is reached by parties to a complaint in good offices

The text of the agreement, or a summary of it, is appended to the final statement, unless one of the parties objects. If the parties have rejected the good offices of the NCP or have not reached agreement on a resolution of the issues concerned, the NCP describes the process in the final statement. If the complaint has been examined further by the Expert Panel, the outcome of this examination will be included in the final statement.

The parties will have two weeks to respond to the draft version of the final statement before it is published. It is within the Expert Panel's discretion to decide whether to change the draft final statement in response to the comments from the Parties. The completed final statement shall be provided to the parties.

#### ***Follow up on the final statement***

The Expert Panel will carry out a follow up on agreements they facilitate or recommendations they make, where relevant. Follow ups may, for example, not be relevant in situations where parties decline such follow up or agree that the issues have been fully resolved.

The Expert Panel may draft follow-up statements after any follow ups which may be provided to both parties for comment. It is within the Expert Panel's discretion to decide whether to change the draft follow up statement in response to the comments from the Parties.

## 6. Indicative timeframes

Stage	Step	Indicative timeframe
1	Submission of Complaint	
1a and 1b	Acknowledge receipt of complaint and initiate constitution of Expert Panel	Seven working days
2	Conclusion of Initial Assessment	Three months after receipt of complaint
3	Conclusion of Further examination	Six months after conclusion of the Initial Assessment
4	Conclusion of procedure/ final statement	Three months after conclusion of Further Examination and assistance to the parties
	Follow up on final statement	One year after publication of the final statement

## 7. NCP Secretariat

The NCP Secretariat shall provide such administrative assistance as may be required to the Expert Panel. The Expert Panel shall submit its decision on the specific instances received to the NCP Secretariat for such administrative follow-up, including record keeping, reporting, and publication, as may be required by the OECD Guidelines.

To ensure consistency in the way Expert Panels handle specific instances, the NCP Secretariat shall act as a repository of decisions taken by the Expert Panel with respect to specific instances.

## 8. Confidentiality, transparency and conflicts of interest

Transparency is one of the core criteria by which the NCP operates. At the same time, it is important for the parties to ensure utmost confidentiality in the handling of information that is provided to NCP. In accordance with the 2023 Regulations, no person shall, during or after the tenure of his office, directly or indirectly, use or disclose any information which has come to his knowledge in the performance of his duties under the 2023 Regulations, except for the purpose of administering the Economic Development Board Act and the 2023 Regulations.

## **9. Matters not covered in this Procedure**

The Expert Panel may have regard to the Implementation Procedures set out in the OECD Guidelines for any matters which are not covered herein.

## **10. Review of procedures**

These procedures will be reviewed as and when required.