Confidentiality / campaigning

Business at OECD (BIAC) supports the effective implementation of the OECD MNE Guidelines and stresses the importance of a common understanding among all stakeholders of the nature of the NCP specific instance procedure. To encourage proactive business involvement, it is essential to establish trust and build confidence in the NCP procedure. Stakeholders should agree that the NCP procedure is a consensual and non-adversarial mediation platform and need to ensure respect of the provisions of the procedural guidance, including those related to confidentiality and transparency. In this context, it is important for business that NCPs ensure that the parties involved in a specific instance procedure engage on fair and equitable terms, with due respect of the confidentiality of sensitive information. NCPs themselves must respect the confidentiality provisions of the MNE Guidelines. Confidentiality of the proceedings, including oral statements, and all written materials shared throughout the duration of the process must be maintained. When confidentiality is being violated, or when the NCP procedure is being misused for political purposes, the NCP should intervene and ensure that the procedural guidance is being respected by all parties.

Business underlines that public campaigning during the NCP procedure is not compatible with the nature of the procedure and infringes the principles of good faith and confidentiality, which are core elements of the Guidelines. NCPs should clearly communicate at the outset of an instance that all parties must approach the process in good faith with a willingness to move towards mediation, dialogue and problem solving and to work constructively towards a future-oriented solution that is in the interest of all parties involved. Public campaigning leads to antagonising parties instead of bringing them together in a constructive attitude. It is therefore not compatible with a specific instance procedure, which is designed to be constructive and consensus-building, and is counter-productive to building broad-based trust in the process.