
Institutional Non-Performance of Japanese and U.S. NCPs under the OECD Guidelines

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To: OECD Secretariat (Investment Division)

Attn: Responsible Business Conduct (RBC) Team

My name is **Shunsuke Kimura**, a whistleblower. I am writing to you in your capacity as the **institutional duty-bearer** under the **OECD Procedural Guidance** and the **2021 OECD Council Recommendation** on the OECD Guidelines for Multinational Enterprises.

This communication is intended to serve as an **official procedural record**. Consequently, I must state at the outset that a vague or purely formal reply that does not take a clear position on the issues raised here would itself have to be recorded as a case of **institutional non-performance by the OECD Secretariat**.

This email follows the events of 2025, in which I submitted formal **Specific Instances** to the **Japanese** and **U.S. National Contact Points (NCPs)**. In both jurisdictions, these were **not** processed in accordance with the OECD Procedural Guidance: there was no timely acceptance decision, no initial assessment, and no consideration of mediation within the applicable timeframes. The cases were effectively left without any meaningful procedural response.

On that basis, I am now **formally requesting the OECD Secretariat** to carry out an **institutional evaluation of non-performance**—rather than mediation—regarding these NCPs, and to consider appropriate **corrective measures**.

This submission is **not** an attempt to re-open or negotiate a bilateral dispute with the company. Instead, it addresses a **structural problem**: the fact that multiple NCPs have failed to discharge their state-based duties, thereby undermining the system that the OECD itself has created and endorsed.

In my view, **structural non-performance** has occurred at **three levels**—corporate, national, and international—and this case therefore calls into question the **credibility of the OECD Guidelines and their implementation framework as a whole**.

1. Summary of the Case

- A fully documented **Specific Instance** submitted by a whistleblower has been left without proper procedural handling by **both the Japanese and U.S. NCPs**:
 - No timely notification of acceptance or rejection;
 - No effective initial assessment;
 - No consideration of mediation or facilitated dialogue.
- The case concerns **Infroneer Holdings Corporation** (including **Maeda America Inc.**), and the NCP responses (or lack thereof) are in **clear tension** with:
 - **OECD Procedural Guidance, paras. I.C.2 and II.C.3–4** (duties of notification, provision of information, and the possibility of escalation in case of non-performance); and
 - The fact that **no mediation opportunity** has been offered at all.
- The **remedy amount** I have proposed—**JPY 38.75 billion**—is, in light of **OECD Guidelines, Chapter VIII para. 1** and **2021 Council Recommendation para. 20**, intended and presented as a **baseline figure** that reflects the harm arising under conditions in which **no negotiation has been made possible**. I am therefore requesting that this amount be **recorded in any final report** as the **baseline for redress** in this case.

Taken together, these elements mean that this is a case in which the **OECD Secretariat, as the ultimate institutional duty-bearer**, should—on the basis of **Procedural Guidance I.C.2 / II.C.3–4** and **2021 Council Recommendation paras. 16 and 20**—commence:

1. The preparation of a **formal report**; and

2. Purpose and Background

I, **Shunsuke Kimura**, as a whistleblower, have been confronted with a **double collapse**:

1. Corporate violations of the OECD Guidelines; and
2. Systemic failure of the **state-based NCP mechanisms** that were supposed to address those violations.

This is **not** a mere administrative delay. It is a **structural crisis** in which the very opportunity for a whistleblower to be protected by the NCP system has been lost.

It is crucial to distinguish between:

- NCPs, which are **embedded within national governments**; and
- The **OECD Secretariat**, which is expected to act as an **independent institutional steward** of the Guidelines and their procedures.

If the OECD Secretariat, in the name of “neutrality,” **tolerates or ignores clear NCP non-performance**, this creates a serious contradiction: the responsibility for ensuring the integrity of the system becomes blurred or effectively denied.

3. Overall Structural Problem

(1) Corporate Level (Root Cause)

At the **corporate level**, the problems include:

- **Formal but non-functional whistleblowing systems** (window dressing without effective operation);
- **Retaliatory discipline and dismissal** of a whistleblower who used those systems;
- **Disregard of administrative corrective orders** and denial of the underlying problems.

The entities involved are:

- **Infroneer Holdings Corporation** (Japan), and
- Its subsidiary **Maeda America Inc.** (United States).

Due to NCP non-performance, **OECD Guidelines Chapter VIII para. 1**—which foresees **access to remedy and redress**—has never been operationalized in this case.

No mediation process has begun, and **no opportunity has been given** to address corporate behaviour or compensation questions within the NCP framework.

For full evidence and structural documentation, please refer to my public website:

- <https://whistleblower-protection.org>
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(2) State Level – Institutional Failure of NCPs

a. Japan NCP (Ministry of Foreign Affairs)

- **15 September 2025**: I submitted a formal Specific Instance to the Japan NCP.
- By **15 October 2025**, there had been **no acceptance notification, no initial assessment, and no proposal of mediation**.

In particular:

- In a reply dated **10 October 2025**, the Japan NCP explicitly stated that **“this does not constitute an acceptance notice”**, suggesting a deliberate refusal to issue any form of acceptance notification.

However, **OECD Procedural Guidance para. II.C.3** states:

“NCPs shall acknowledge receipt and keep parties informed throughout the process.”

In other words, the NCP has a **clearly mandatory duty** (“shall”) to:

- Acknowledge receipt of the submission; and
- Keep the parties informed as the procedure unfolds.

The failure of the Japan NCP to issue a substantive acknowledgement or acceptance notice, and its refusal in practice to inform the complainant, therefore constitutes **procedural abandonment** and violates:

- **Procedural Guidance II.C.3**; and
- **OECD Guidelines, Chapter I para. 4** (effectiveness and credibility of the Guidelines).

Moreover, this behaviour is inconsistent with the basic principles set out in the **2021 OECD Council Recommendation, paras. 16 and 20**, which require NCPs to act with:

- **Transparency**;
- **Accountability**; and
- **Good faith**.

Further details of Japan NCP non-performance are documented on my site at:

- <https://www.whistleblower-protection.org/ncp-japan-nonperformance>
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b. U.S. NCP

- **15 October 2025**: I submitted a Specific Instance to the U.S. NCP.
- **3 November 2025**: I sent a formal follow-up asking for confirmation and procedural clarification.
- **Mid-November 2025**: I received a **purely formal acknowledgement** confirming receipt and explaining the office closure due to a government shutdown.

However:

- By **1 December 2025 (17:00 EST)**, **no decision** on acceptance, no initial assessment, and no indication of mediation or constructive dialogue had been provided.

While I recognize that **budgetary constraints or shutdowns** may have some explanatory value, the whistleblower system is grounded in:

- **UNCAC Article 33** (obligation to protect whistleblowers); and
- **OECD Guidelines Chapter II paras. 2 and 11** (respect for human rights and access to remedy).

In substance, NCP functions under these frameworks should be understood as **non-discretionary**: they are not optional and should not be fully suspended by a temporary administrative shutdown.

From the standpoint of the **OECD Procedural Guidance I.C.2 / II.C.3–4**, the core procedural duties (acceptance decision, initial assessment, consideration of mediation) **cannot be wholly excused** on the basis of a shutdown.

Further details of U.S. NCP non-performance are organized on my site (Evidence Nos. 60 and above):

- <https://www.whistleblower-protection.org/ncp-usa-nonperformance>
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c. Context as G7 Member States

Japan and the United States are both **G7 members** and have played central roles in shaping and promoting the OECD Guidelines and international norms on responsible business conduct.

The fact that, in both countries, the NCP system has **failed to function**—to the point that a fully documented Specific Instance has been effectively ignored—constitutes a **serious institutional credibility problem** for the OECD framework as a whole.

(3) OECD Level – Loss of International Credibility

In light of:

- **OECD Guidelines**
 - Chapter I para. 4 (effectiveness and credibility of the system);
 - Chapter II paras. 2 and 11 (human rights and access to remedy);
 - Chapter VIII para. 1 (need for remedy and redress);
- **OECD Procedural Guidance**
 - paras. I.C.2 and II.C.3–4;
- **2021 OECD Council Recommendation**
 - paras. 16 and 20 (transparency, accountability, good faith, follow-up in cases of non-performance);

I must conclude that there are **serious deficiencies** in terms of transparency, accountability, and good-faith engagement at the systemic level.

4. Position of the Whistleblower

I worked for **Maeda Corporation**, a core subsidiary of **Infroneer Holdings** in Japan. I personally experienced:

- **Concealment of occupational accidents;**
- **Accounting manipulations;** and
- **Breakdown of internal reporting mechanisms.**

Despite reporting internally, to administrative bodies, and through international channels, the company proceeded with **retaliatory dismissal**, and the relevant NCPs remained **silent**.

I have sacrificed my **reputation, career, health, and livelihood** in an attempt to restore institutional trust, yet **no protective function** of the system has been activated.

This is not just an individual misfortune; it is a **structural national failure**, and it requires **international scrutiny**.

5. Institutional Basis and the Non-Discretionary Nature of Duties

As noted, **OECD Procedural Guidance II.C.3–4** states:

“NCPs shall acknowledge receipt and keep parties informed throughout the process.”

Here, “shall” clearly signals a **mandatory duty**, not a discretionary option.

Additionally, **Procedural Guidance II.C.4** explicitly provides that, where an NCP fails to act in line with the Guidance, the matter **may be referred to the Investment Committee**.

The **2021 OECD Council Recommendation, paras. 16 and 20**, calls for:

- Ensuring **transparency, accountability, and good-faith handling;** and
- **Oversight and follow-up** by the Investment Committee in cases of non-performance.

In other words, the framework **does not contemplate** leaving NCP non-performance unaddressed.

Key point:

This case concerns **non-performance at a stage prior to any substantive evaluation** of the merits. There has been **no real acceptance decision, no effective initial assessment, and no mediation attempt**. The room for “policy discretion” at the national level is therefore extremely limited.

Accordingly, the silence of both NCPs must be understood as a **renunciation of procedural duties** under:

- Procedural Guidance I.C.2 / II.C.3–4; and
- 2021 Council Recommendation paras. 16 and 20.

Furthermore, if the OECD Secretariat were to explain its inaction by saying, for example, that:

- “NCPs are solely the responsibility of member governments,” or
- “The implementation of the Guidelines is a matter of national discretion and the Secretariat cannot intervene in individual cases,”

such an explanation would be **inherently inconsistent** with the nature of this complaint, which concerns **“institutional collapse of the system itself”**.

If a systemic breakdown is reported, and yet the **institution charged with overseeing the system** declines to evaluate it in the name of neutrality, the system would necessarily be seen as **incapable of self-correction**.

Please also note:

My notifications to the Japan and U.S. NCPs regarding their non-performance are **not** intended to relieve them of their obligations (including the duty to issue final statements). Rather, they are meant to **record the already-occurring non-performance** and to trigger an **institutional evaluation** by the OECD Secretariat.

6. When NCP Non-Performance Was Established

- For the **Japan NCP**, non-performance was established when, by **15 October 2025**, **no acceptance notice, no initial assessment, and no mediation proposal** had been provided.
- For the **U.S. NCP**, non-performance was established when, by **1 December 2025 (17:00 EST)**, there had been **no communication of acceptance or rejection, no initial assessment, and no indication of mediation or constructive dialogue**.

This email therefore proceeds on the basis that **non-performance by both NCPs has already occurred**, and focuses on **how this non-performance should be evaluated, recorded, and addressed** by the OECD Secretariat.

7. OECD Secretariat: Options and Evaluation Framework

In light of **Procedural Guidance I.C.2 / II.C.3–4** and **2021 Council Recommendation paras. 16 and 20**, I understand the OECD Secretariat’s practical options in this case to fall broadly into two categories:

A. Institutional Compliance

By approximately **16 January 2026** (30–45 days from submission), the Secretariat would provide a **written communication** containing at least the following elements:

1. A clear indication of **which institutional framework** will handle this case (e.g., Investment Committee, WPRBC, NCP Peer Review or another appropriate mechanism);
2. An outline of the **procedural steps** to be taken (such as review, fact-finding, hearings, evaluation, and preparation of a final report), together with an indicative **timeline**;
3. A description of how and how often the Secretariat will **inform the Japan and U.S. NCPs and the complainant**;
4. A preliminary indication of **how the Secretariat intends to treat the harm and remedy amount** in any final report, in line with **OECD Guidelines Chapter VIII para. 1** and **Procedural Guidance I.C.2**.

B. Institutional Non-Performance

If, by that same target date:

- No such specific written response is provided; or
- The Secretariat responds only with generic statements such as:
 - “NCPs are exclusively the responsibility of member states, and the Secretariat cannot become involved,” or
 - “Implementation of the Guidelines is left to national discretion and the Secretariat merely plays a supporting role,”

and thereby **avoids treating this case as one to which Procedural Guidance I.C.2 / II.C.3–4 and Council Recommendation paras. 16 and 20 should concretely apply**,

then this case will have to be recorded as a **specific instance of institutional non-performance by the OECD Secretariat itself**.

In other words, through this case the Secretariat must choose whether to:

1. **Apply its own rules (Procedural Guidance I.C.2 and II.C.3–4, and Council Recommendation paras. 16 and 20) to a case involving its own system**, and thus demonstrate institutional compliance; or
2. **Decline to apply those rules in practice**, relying instead on general statements about national responsibility, and thereby **abandon the practical application of its own provisions**.

In the latter scenario, this case would stand as **a documented example of the Secretariat explicitly tolerating its own normative framework being violated**, and would be recorded internationally as such.

8. Relation to Separate Notice to the U.S. NCP (14-Day Request)

Separately, I intend to send the U.S. NCP a notice:

- Recognizing that non-performance has already occurred; but
- Offering a **14-day opportunity** to explain, in writing, whether there exist any **specific grounds for non-acceptance** beyond those generic grounds that were pre-emptively analyzed and excluded in **Annex 0**.

This is **not** intended to suspend or neutralize the existing evaluation of non-performance. It merely provides the U.S. NCP with an opportunity to **articulate its own legal and institutional reasoning**, if any.

Therefore, the existence of that separate notice **does not in any way suspend or diminish** the OECD Secretariat's duty to evaluate and address this case.

The Secretariat is requested to conduct its institutional assessment **based on the record currently available**—the submissions, deadlines, absence of responses, and Annexes 0–7—**without depending on any additional reply** that may or may not be forthcoming from the U.S. NCP.

9. Formal Requests to the OECD Secretariat

I hereby **formally request** that the OECD Secretariat:

1. Undertake an **independent examination** of the procedural non-performance by the Japan and U.S. NCPs (violations of Procedural Guidance I.C.2 and II.C.3–4), and prepare a **written report** on its findings;
 2. Assess and record the conduct of **Infroneer Holdings** and **Maeda America Inc.** in light of **OECD Guidelines Chapters II and VIII**—in particular the **denial of the system** and the **retaliatory response** to whistleblowing;
 3. Recommend measures to all NCPs to **strengthen institutional obligations** and clarify **follow-up mechanisms** under the Procedural Guidance and **2021 Council Recommendation paras. 16 and 20**, in order to prevent similar instances of non-performance in the future.
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10. Structural Collapse and the Pressure of Redress

The NCP system is meant to serve as a **trusted non-judicial remedy mechanism**, consistent with:

- **UNCAC Article 33**; and
- **UNGP Principles 29 and 31**.

This case, however, demonstrates that **even a fully substantiated, named, and legally grounded whistleblower submission can be ignored**. The harm I have suffered—loss of reputation, career, health, and livelihood—constitutes **systemic damage** caused by the non-functioning of the institutional framework itself.

Documenting this damage in a formal report would help create a form of **“pressure of redress”**, encouraging the system and relevant actors to acknowledge and repair it.

Given that the NCP mechanism forms part of the **international non-judicial remedy architecture**, invoking “national discretion” to avoid dealing with this case would contradict:

- **UNCAC Article 33**;
- **UNGP Principles 29 and 31**; and
- The **OECD Procedural Guidance's principle of normative coherence**.

11. An Institutional Stress Test

This case is, in effect, an **institutional stress test**:

- A single whistleblower has, alone, carried out the legal analysis, evidence compilation, international comparison, and deadline management required to use the NCP system as designed.

If this effort is ignored, it will show that the system is **unable to withstand the engagement of an active citizen, even when that engagement fully respects its own rules**.

12. Legitimacy of Recording the Remedy Amount in the Final Report

In this case, no mediation has taken place and **no negotiation opportunity** has been provided to either side.

Accordingly, the compensation amount I have proposed—**JPY 38.75 billion (approximately USD 256 million)**—should be recorded as a **“baseline for redress under conditions of non-negotiability”**.

There are solid institutional grounds for including this amount in any final report:

- **Procedural Guidance I.C.2:**
“NCPs will make the results of their procedures publicly available.”
Where a settlement includes monetary components, these are part of the “results” and should be recorded.
- The same provision continues:
“...including where it decides that the issues raised do not merit further consideration.”
Even where a case is not accepted or is closed, recording the reasoning and the magnitude of harm is part of the institutional duty.
- **OECD Watch (2021) practice interpretation:**
“If a company refuses engagement, the complainant can request that the NCP’s final statement includes proposed remedy.”
Where a company or NCP refuses mediation, the complainant retains the right to have the proposed remedy amount recorded in the final statement.
- **2021 Council Recommendation para. 20:**
Encourages the recording of non-performance and remedial efforts, including comprehensive documentation of harm (which naturally includes quantified damage).

Therefore:

- The **JPY 38.75 billion** figure represents the **minimum baseline** for redress under circumstances where the whistleblower has borne all losses in the absence of any functioning process.
- Failure to record this amount would effectively **deny the whistleblower even the right to quantify the harm**, amounting to **secondary silencing**.

From the perspective of restoring trust in the OECD system and ensuring effective whistleblower protection, including this amount and its breakdown in the report is **indispensable**.

13. Collapse of the Remedy Hierarchy and Institutional Abdication

If:

- the **company** denies the validity of the whistleblower system;
- the **NCPs** remain silent; and
- the **OECD Secretariat** fails to respond;

then there is **no functioning layer of protection at any level of the institutional hierarchy**.

This represents a **collapse of the remedy hierarchy**, undermining the fundamental purpose of the OECD’s “effective non-judicial mechanism”.

At the same time, this case illustrates the risk that, if the OECD NCP system **does not respond to either external or internal signals**, it may lose its **institutional identity** as a meaningful mechanism.

If the Secretariat fails to evaluate this case, it would amount to a form of **institutional abdication**, with potentially serious negative effects on the behaviour of other NCPs.

14. Submission Format and Timeline

- **Submitted materials:** Evidence Nos. 00–75 and Annexes 0–7 (covering timeline, structural analysis, cost breakdown, and international comparisons);
- **Submission format:** via the website links below;
- **Submission date:** 2 December 2025 (JST);
- **Requested timeframe:** approximately **30–45 days** from submission (target date: **16 January 2026**)

By around that date, I respectfully request a written response falling under **Option A** above (“Institutional Compliance”), setting out:

- How the Secretariat will frame this case institutionally;
- The concrete steps to be taken; and
- The indicative timeline.

If, by that time:

- No such written response is provided; and
- Nor is there any legally reasoned explanation, with specific references to relevant provisions (Procedural Guidance / Council Recommendation), as to **why this case would fall outside their scope**,

then this case will have to be recorded as one in which the OECD Secretariat has **de facto endorsed a state of non-compliance with its own rules** (Procedural Guidance I.C.2 and II.C.3–4; 2021 Council Recommendation paras. 16 and 20), and has **chosen institutional non-performance**.

In that event, the next steps will include:

- Reporting the case to the **Investment Committee** and **WPRBC**;
 - Notifying **Permanent Representations**, particularly those of the EU and other neutral states; and
 - Sharing the case with **international media, civil society, and academic institutions**, as a documented example of the OECD Secretariat **tolerating violations of its own framework**.
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15. Request for a Clear Yes / No Response

Accordingly, I formally request that the OECD Secretariat **explicitly answer one of the following**:

1. **The case does *not* constitute institutional non-performance**
 - In that event, please explain **why**, identifying the specific provisions (Procedural Guidance, Council Recommendation, etc.) and the concrete facts on which this conclusion is based.
2. **The case *does* constitute institutional non-performance**, and the Secretariat intends to begin an examination or the preparation of a report
 - In that event, please indicate the **framework** under which it will proceed (Investment Committee, WPRBC, Peer Review, or another mechanism) and the **approximate timeline**.

If, after being presented with these two options, the Secretariat **clearly chooses neither**—that is, if it declines to answer in either direction—this will have to be understood as a **renunciation of procedural accountability** and an act that **damages the institutional credibility** of the OECD, making the Secretariat itself an object of international institutional scrutiny.

16. Transparency and Accountability toward Rating Agencies

This case will also be shared, as a matter of **transparency and institutional accountability**, with **MSCI and other ESG rating agencies**, to ensure that they do not provide the market with an **inaccurate picture of institutional reliability**.

Because the effectiveness of the OECD Guidelines and the NCP system directly affects **ESG ratings and index construction**, the handling of this case by the Secretariat will be an important **reference point for future evaluation practice**.

17. Conclusion

This case goes beyond the misconduct of a single company. It raises the possibility that the OECD system, while existing **formally**, may be **non-functional in practice**.

The fact that NCP mechanisms have failed in **two G7 countries (Japan and the United States)**—countries that have themselves promoted the OECD Guidelines as an international model—is a profound challenge to the credibility of the entire framework.

With both NCPs now silent, the OECD Secretariat, as the **ultimate institutional duty-bearer**, is the **only remaining actor** that can:

- Provide any form of remedy to the whistleblower; and
- Restore trust in the system it oversees.

I hope that this case can serve as a starting point for **rebuilding institutional trust** and strengthening the foundations for future **whistleblower protection**.

Thank you very much for your consideration.

Shunsuke Kimura

Whistleblower

Former employee, Maeda Corporation

(100% subsidiary of Infroneer Holdings Co., Ltd.)

Osaka, Japan

2 December 2025 (JST)

Email: shukku9998@gmail.com

Explanatory Note on Recipients and Transparency

For the sake of transparency and record-keeping, this case will also be shared with:

- **MSCI ESG Client Service**; and
- **OECD Watch**,

so that institutions monitoring corporate conduct and NCP performance receive **accurate, fact-based information**.

The Japan and U.S. NCPs will be included in **BCC** purely for the purposes of **institutional notification and record preservation**. This is not intended as pressure, but simply as a way of ensuring that they are **formally aware** of the escalation to the OECD Secretariat.

This recipient structure is designed—consistent with **OECD Guidelines Chapter I para. 4** and **2021 Council Recommendation para. 20**—to uphold **accountability, good faith, and effectiveness**, while avoiding an adversarial tone.