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

木村俊介 <shukku9998@gmail.com>

2025年12月10日 22:10

To: rbc@oecd.org

Cc: info@oecdwatch.org

Dear Secretariat,

Thank you for your reply of 9 December 2025.
I hereby acknowledge receipt of your message.

However, I must formally record that the substance of your response constitutes **a clear instance of institutional non-performance**, in direct contradiction to the obligations set forth in the **OECD Guidelines for Multinational Enterprises**, the **Procedural Guidance**, and the **2021 OECD Council Recommendation**.

To ensure clarity, accuracy, and legal consistency in the international record, I respectfully submit the following points.

▼ [1] This Is Not a Company Case – It Is a Systemic Alert

This notification **does not concern an individual company dispute**.
It concerns the **collapse of the OECD's remedy system** itself:

- Two National Contact Points (NCPs) refused to process a Specific Instance
- No acknowledgment
- No initial assessment
- No acceptance or rejection decision
- No mediation consideration

This is not a request for adjudication against a company.
It is an institutional alert regarding systemic procedural failure within the OECD mechanism.

Your position that the Secretariat “does not intervene in specific cases” **fundamentally mischaracterizes** the nature and scope of this notice.

▼ [2] Referral to the U.S. NCP Is Institutionally Invalid

Your suggestion to “engage with the U.S. NCP” is procedurally untenable.
On **10 December 2025**, the **U.S. NCP formally refused to consider my submission**, and instead **improperly deferred responsibility** to the Japanese NCP — an authority that has remained **entirely unresponsive since September 2025**.

This does not constitute legitimate discretion.
Proper discretion under OECD standards requires:

- A formal acceptance or rejection decision
- An initial assessment
- Screening or evaluation
- A rejection notice with legal justification (if applicable)

The U.S. NCP did **none** of these.
It did not assess, did not decide, did not explain, and did not document.
It simply **displaced responsibility without process or legal basis**. This is not a judgment — it is **procedural evasion**.

Your instruction thus directs a whistleblower to seek remedy from an authority that has already **disclaimed all responsibility**.
This knowingly **perpetuates institutional failure** and directly contradicts your mandate under the OECD system.

▼ [3] The Secretariat Is Bound by Explicit Legal Duties

Under official OECD texts, the Secretariat has **affirmative institutional responsibilities**:

- **Procedural Guidance II.C.3:**
“The Secretariat may consider issues related to the functioning of NCPs upon request.”
- **2021 Council Recommendation ¶16:**
“The Secretariat should ensure the effective operation, coherence, and credibility of the NCP system.”
- **2021 Council Recommendation ¶20:**
“The Secretariat should gather and assess information concerning systemic issues and report them to the Investment Committee.”

The present case — in which **two NCPs have failed to act** and **one has actively disclaimed responsibility** — represents a **textbook example** of systemic failure that **requires institutional engagement**.

To decline engagement would be to render these obligations **void**, and to initiate **structural self-nullification** of the OECD framework.

▼ [4] Your Response Creates a Dangerous Precedent

Your position — that the OECD Secretariat will take **no action** even when two NCPs fail — sets the precedent that:

- **Whistleblower protection is illusory**
- **NCP mandates are optional**
- **OECD Guidelines lack institutional enforceability**

If left uncorrected, this precedent will erode international confidence in the OECD remedy mechanism and expose whistleblowers to unmitigated risk.

▼ [5] This Will Now Be Recorded as Institutional Non-Performance

Your reply will now be formally recorded as:

- Failure to uphold **Chapters I-4, II-2, and VIII-1** of the OECD Guidelines
- Violation of **Paragraphs 16 and 20** of the 2021 Council Recommendation
- Procedural breach under **II.C.3** of the Procedural Guidance

Evidence No.80 – Secretariat’s Procedural Refusal

This documentation will be transparently shared with:

- **OECD Watch**
- **ESG rating agencies** (MSCI, Sustainalytics, FTSE Russell, ISS ESG, S&P Global ESG)
- **International stakeholders**, transparency networks, and media outlets (e.g., Financial Times, Reuters, Responsible Investor)

Unless corrective action is taken, your reply will be recognized internationally as **the first institutional confirmation that the OECD permits NCP impunity without remedy**.

✅ [Final Request and Clarification]

I hereby formally request:

A clear written statement by **2 January 2026** on whether the Secretariat will initiate or consider an institutional review of this dual NCP non-performance.

- **If the Secretariat engages**, it fulfills its oversight mandate.
- **If the Secretariat declines or remains silent**, it confirms that the OECD system has **no enforceable remedy mechanism**, and this will be **documented accordingly**.

Either outcome will be recorded. Only one preserves institutional credibility.

This communication is submitted in **good faith**, based on verified evidence and binding institutional texts. Its purpose is to **uphold – not undermine – the integrity** of the OECD Guidelines.

I strongly urge reconsideration.

Sincerely,
Shunsuke Kimura
Whistleblower (Former Infroneer Group Employee)
<https://www.whistleblower-protection.org>

2025年12月9日(火) 21:26 <rbc@oecd.org>:

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- **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
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