

Annex4: U.S. NCP Submission – ESG Downgrade Triggered by Mediation Refusal

■ 1. Background and Purpose

This case concerns a **systemic and cross-institutional violation** of the OECD Guidelines for Multinational Enterprises (2023 revision), characterized by whistleblower retaliation, concealment of industrial accidents, and a sustained refusal to engage in any remediation process.

Such refusal or silence in response to mediation under the OECD framework is **not a procedural matter alone** — it triggers a **predictable chain of international consequences**, including:

- ESG rating downgrades (e.g., MSCI, Sustainalytics)
 - Institutional investor withdrawal and index exclusion
 - Legal risk at shareholder meetings (IR, litigation)
 - Final Statement record as official non-compliance
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■ 2. Chain of ESG Downgrade (Causal Flow)

OECD mediation refusal



Recorded in Final Statement (§26)



ESG rating reassessment (MSCI / FTSE / Sustainalytics)



Downgrade from “AA” to “BBB or below”



Index exclusion → institutional investor withdrawal



IR risk, mandatory disclosures to shareholders



Shareholder meeting challenges, litigation exposure

■ 3. Shareholder Responsibilities Arising from ESG Deterioration

Entity	Responsibility Triggered	Basis
Japanese HQ	Governance disclosure in securities filings	FIEA, CG Code
U.S. Subsidiary	SEC disclosure duties to U.S. investors	SEC rules, OECD monitoring flags
IR / ESG teams	Communication with ESG raters, pension funds	TCFD, PRI, OECD §II.20

■ 4. Global Precedents (for Reference)

Company	Country	Consequence	ESG Rating Shift
POSCO	Korea	OECD mediation refusal → NGO pressure	BB → B (MSCI)
ENI	Italy	NCP refusal → investor flight	BBB → BB (Sustainalytics)
Japan (anon)	Japan	Case ignored → OECD HQ spotlight	A → B (practice level)
Infroneer (this case)	Japan (w/ U.S. entity)	Rejection, retaliation, defamation	AA → BBB or lower (projected)

This case presents multiple layered violations (workplace safety, due diligence, retaliation, ESG non-disclosure), qualifying as a “Red Flag Tier” under most ESG frameworks.

■ 5. OECD Procedural Foundations

- Procedural Guidance §25–26:
“NCPs must respond to all submissions with clear, public reasoning...”
- Council Recommendation §II.20:
“NCP decisions should protect public confidence in the Guidelines.”

Given that:

- The whistleblower has submitted legal analysis, documentation, and structural harm models,
- Mediation has been formally and repeatedly requested,
- ESG risk is both documented and foreseeable,
→ A silent rejection would contradict OECD principles and expose the NCP to international review (e.g., §II.16 peer monitoring).

■ 6. Conclusion and Request

- Refusing mediation here would amount to **institutional self-disqualification** under OECD norms, triggering score downgrades, investor backlash, and reputational loss.
- The U.S. NCP is urged to treat this as a **symbolic and institutional case**, suitable for joint mediation and broader international monitoring.
- Early notification to ESG rating agencies (MSCI, Sustainalytics) may be warranted as part of remedy coordination.

◆ Failure to engage in mediation would also be recorded in future OECD peer-review cycles as evidence of institutional non-responsiveness, reinforcing the basis for an international monitoring or downgrade review under §II.16 and §II.20 of the Council Recommendations.

Supporting Documents & Structural Evidence:

Available at: <https://www.whistleblower-protection.org/>