

COMMUNIQUÉ OF THE ARGENTINE NATIONAL CONTACT POINT FOR
RESPONSIBLE BUSINESS CONDUCT
as closing of the specific instance "*Cabariti Mónica and Arca Continental*"

Buenos Aires, Argentina, April 28, 2021

As indicated in the Procedural Guidance of the OECD Guidelines for Multinational Enterprises, following the conclusion of a specific instance and after consultation with the parties involved, the ANCP will make the results of the proceedings publicly available.

As one of the parties was not willing to participate in the proceedings, the Argentine National Contact Point for Responsible Business Conduct (ANCP) is issuing the following statement. This statement describes the issues raised, the reasons why the ANCP decided that the issues raised merited further examination, and the procedures initiated by the ANCP to assist the parties.

Because the specific instances are not legal cases and NCPs are not judicial bodies, NCPs cannot directly order compensation nor compel the parties to participate in a conciliation or mediation process.

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General description of the ANCP and its function

1. The Argentine National Contact Point for Responsible Business Conduct is the scope in which Responsible Business Conduct (RBC) is promoted through the OECD Guidelines for Multinational Enterprises, working in accordance with criteria of visibility, accessibility, transparency and accountability, and performing its functions in an impartial, predictable, equitable manner, consistent with the principles and standards set out in the Guidelines. The OECD Guidelines are recommendations addressed by governments to multinational enterprises operating in, or headquartered in, adhering countries. The Guidelines set out voluntary principles and standards for responsible business conduct consistent with applicable laws and internationally recognized standards.

2. The ANCP has 3 basic functions:

- Disseminate and promote the Guidelines among different stakeholders;
- Provide good offices for complaints involving alleged non-compliance with the Guidelines;
- Prepare reports on its work for the meetings of the OECD Network of NCPs of the Investment Committee. The NCP is under the National Directorate of Multilateral Economic Negotiations of the Ministry of Foreign Affairs, International Trade and Worship.

3. The ANCP is the authority in charge of receiving complaints involving alleged non-observance or non-compliance with the OECD Guidelines for Multinational Enterprises. The ANCP conducts itself in accordance with its updated Procedural Manual and within the framework of the aforementioned Guidelines.

Executive Summary

4. The Final Communiqué is hereby issued with respect to the request for the opening of a specific instance filed on October 21, 2020 by Ms. Mónica Cabariti (hereinafter the complainant), before the Argentine National Contact Point (hereinafter ANCP), with respect to an alleged non-observance of the OECD Guidelines for Multinational Enterprises by the company Arca Continental (hereinafter the company).

5. Arca Continental is the second Coca-Cola bottling company in Latin America. It is a company dedicated to the production, distribution, and sale of non-alcoholic beverages of the brands owned by *The Coca-Cola Company*. It operates specifically in the northwest and northeast of Argentina, with plants in the provinces of Salta, Tucumán, and Formosa.

6. As part of the specific instance, the ANCP held separate and confidential meetings with the complainant and the company. Because the company stated that it declined the specific instance, the ANCP is issuing the present communication.

7. This statement describes the issues raised, the reasons why the ANCP decided that the issues raised merited further examination, and the procedures initiated by the ANCP to assist the parties in finding a path for dialogue. This statement also includes the reasons why an agreement could not be reached.

8. The ANCP for Responsible Business Conduct makes the statement provided for in point C.3.c) of the "Procedural Guidance" included in the Guidelines (hereinafter the Guidelines) for Multinational Enterprises of the Organization for Economic Co-operation and Development (hereinafter the OECD), which applies "when no agreement has been reached or when a party is unwilling to participate in the proceedings".

9. The specific instance named "Mónica Cabariti and ARCA CONTINENTAL" is thus concluded.

Substance of the presentation

10. On October 21, 2020, Ms. Mónica Cabariti, an Argentine citizen, filed a written submission with the Argentine National Contact Point, arguing that the company ARCA CONTINENTAL "does not observe the OECD Guidelines for Multinational Enterprises regarding the environment and the disclosure of information, distorts reality, conceals from the public opinion the environmental and social impact generated by its operations, contradicting the information provided in the company's Code of Ethics". The written submission claims alleged breaches of the following provisions of the OECD Guidelines for Multinational Enterprises by the company ARCA CONTINENTAL:

(a) General Principles.

b) Foreword: for non-compliance with national regulations in relation to environmental issues.

b) Chapter II "General Policies": for not providing timely, reliable and relevant information.

c) Chapter III "Disclosure" and its relation to Chapter V "Environment": for not respecting the application of high quality standards for the disclosure of non-financial information, including environmental and social reports.

c) Chapter V "Environment" - (related to disclosure): for failing to establish and maintain an adequate environmental management system and for failing to provide adequate information to identify, assess and address foreseeable environmental, health and safety impacts related to its activities.

Initial evaluation by the NCP

11. The ANCP was of the opinion that this specific instance merited a more detailed analysis, considering that, prima facie, the complainant's submission met the formal requirements in accordance with the Guidelines and the "Argentine National Contact Point Procedure", and therefore it was appropriate to declare it partially admissible as detailed below. Notwithstanding the foregoing, it should be noted that the formal admissibility does not prejudice about the substantive issues that were opened for consideration at the instance.

12. The claimant's request in relation to convene a meeting with the company and to use the capacity and influence of the ANCP to promote the Guidelines was granted.

13. In this context, the ANCP offered its good offices to facilitate dialogue between the parties involved, formally consulting both parties if they were willing to participate in a conciliatory process with the objective of agreeing on how the problems identified could be successfully addressed. The company was given the opportunity to provide a written response on the alleged breaches of the Guidelines that are part of the complaint and that were admitted by the ANCP. In view of the non-binding nature of the specific instance, the company was notified of the possibility of expressing its opinion, in writing and duly communicating it to the ANCP, with regard to its acceptance or rejection of the ANCP's Good Offices within the following sixty (60) days.

14. The conclusions reached by the ANCP in the formal admission are based on the information received. The ANCP did not pronounce on their veracity nor on their possible impact on the issues raised in the specific instance. It is important to highlight the active participation of both parties, who, through their timely and proper actions, enabled the development of an agile and substantive process. The acceptance of the use of the Internet by the parties was a tool that provided immediacy to the dialogues and to the process in general.

15. In accordance with the above considerations, the ANCP partially accepted the submission and offered its good offices to the parties.

NCP procedures

16. Since receipt of the submission, the NCP has taken the following actions:

Date	Action taken
October 21, 2020	Receipt of Ms. Monica Cabariti's request to open a specific instance in the NCP's email inbox.
October 21, 2020	The ANCP confirmed electronically to the complainant the receipt of the request.
December 30, 2020	After telephone contacts, the company was formally notified that a request to open a specific instance, made by the complainant, was recently received for alleged non-observance of the OECD Guidelines for Multinational Enterprises by Arca Continental.
January 7, 2021	The company expressed no objection to held conversations.
January 13, 2021	A meeting was held with the company, in which it was informed of the purpose of the mechanism, whose main articulators are the NCPs.
January 14, 2021	A meeting with the complainant was requested in order to make the corresponding transfer of her presentation to the company Arca Continental.
January 21, 2021	The ANCP issued the formal admissibility of the specific instance, considering that <i>prima facie</i> the complaint submitted complied with

	the formal requirements established in the Guidelines, as stipulated in Part II Procedures for the Implementation of the OECD Guidelines for Multinational Enterprises and Article 8 of the ANCP Procedures Manual.
January 21, 2021	The Formal Admissibility Opinion of the Argentine National Contact Point (ANCP), initiating the specific instance procedure established in the OECD Guidelines, was sent to both parties.
February 17, 2021	The ANCP, by email to the parties, reiterated its offer of good offices, striving to facilitate the resolution of the issue in a timely manner.
February 18, 2021	The company expressed to be working on the corresponding response to the complaint.
March 18, 2021	The company sent an e-mail, indicating that it had decided to decline the instance before the ANCP. The company also thanked the ANCP for its good offices and for the opportunity given to the company to make the proper discharge.
April 28, 2021	Conclusion of the specific instance because the company declined to participate in the instance as it informed in writing, in an email sent to the ANCP. Issuing of the Final Communiqué.

17. The ANCP held virtual meetings with the parties, in which the characteristics of the specific instance procedure, as stipulated in the Guidelines, were explained.

Both parties submitted documentation on which they based their allegations, to support their positions. It should be noted that both parties have responded in due time and form to the requirements of this ANCP during the course of this specific instance.

Presentation/declination of specific instance by ARCA CONTINENTAL

18. ARCA CONTINENTAL expressed by electronic notification, on March 18, 2021, that it decided to decline the instance before the National Contact Point. Nevertheless, it thanked the good offices and the opportunity given to the company to make the proper discharge, respond to the complaint and prove, as it indicated, in a sufficient manner, the strict compliance with all legal and regulatory provisions related to environmental management.

Examination and conclusions:

19. Within the framework of the specific instance, the ANCP offered a space for dialogue between the parties that could not be developed because it was not accepted by both parties. The ANCP considered that the treatment of this specific instance might contribute to the purpose and effectiveness of the Guidelines by allowing for an effective dialogue, in the event that both parties consented, the result of which might lead to a better understanding and implementation of the Guidelines.

20. The ANCP has paid due attention to the considerations expressed by the parties involved and has acted within the framework of the competencies and functions assigned to it by the Guidelines.

21. In this sense, during all this time the case has remained open with the intention of trying to bring the parties to the negotiating table, reiterating the offers of good offices to the company. With the intention of serving as a platform for interaction and dialogue between both parties, seeking to comply with the role assigned to the ANCP by the Guidelines.

22. The ANCP has always taken into account provision 40.2 of the Commentary on the Implementation Procedures for the OECD Guidelines for Multinational Enterprises, 2011 Revision, which states: "If an NCP decides to offer its good offices, it should strive to facilitate the resolution of the issue in a timely manner. Recognizing that progress through good offices, including mediation and conciliation, ultimately depends on the parties involved, the NCP should, after consultation with the parties, set a reasonable timeframe for discussion between the parties to resolve the issues raised. If they fail to reach agreement within this timeframe, the NCP should consult with the parties on the value of continuing its assistance to the parties; if the NCP concludes that further proceedings are unlikely to be productive, it should terminate the process and proceed to prepare a statement."

23. In the same vein, it should be noted that the term established in Article 20 of the NCP's Specific Instance Rules, which states "The ANCP shall take all necessary steps to ensure that the Company accepts its Good Offices and agrees to enter into a dialogue with the complainant, with or without the participation of the NCP. If the Company does not accept the ANCP's Good Offices within sixty (60) days of the declaration of "Formal Admissibility" of the complaint despite the steps taken by the ANCP, the ANCP will conclude the Specific Instance and issue a report for submission to the relevant OECD subsidiary body." In accordance with the aforementioned regulations, this ANCP proceeded to issue this communication.

24. In accordance with the principle of transparency governing NCP functions, the final statements are published on the NCP website and are reported and sent to the OECD Working Party on Responsible Business Conduct, which publishes them on the OECD website.

25. Before issuing a final statement, the parties were given the opportunity to comment on the draft statement, as set out in point 36 of the "Procedural Guidance" included in the Guidelines, 2011 Revision, which states "The NCP should provide an opportunity for the parties to comment on the draft statement". However, the statement is made by the Argentine NCP and it will be up to the NCP to modify or not the draft statement in response to comments that the parties involved may make.

Comments and recommendations

26. The social isolation due to the COVID-19 pandemic has generated different changes not only in the daily routine, mobility or social interactions, but also in the relationship with technology and the different digital tools that have been necessary to continue the

activities related to the activity of this NCP. This was the first procedure carried out entirely remotely or virtually, since both the request for the opening of a specific instance and each of the different stages were carried out using the Internet. The meetings were coordinated by e-mail and the meetings took place through video conference applications. This was a human and technical challenge for this ANCP.

27. The good offices of the ANCP have been offered on several occasions with the objective of engaging the parties in a constructive dialogue, without achieving the minimum prerequisite of acceptance by the company and subsequent intervention of both parties in a dialogue process, which would allow the conditions to reach an agreement in a specific instance.

28. Without prejudice to the foregoing, the ANCP encourages the parties to consider how to generate the necessary conditions to engage in dialogue and work constructively towards the resolution of the issues brought for consideration in this instance.

29. In the same sense, the ANCP reiterates the call to all multinational companies to adopt a conduct that implies a broad and responsible vision of the risks involved in business, knowing that they must identify, prevent, mitigate and respond to the negative consequences of their actions as a company.

30. Finally, taking into account that, according to the OECD Guidelines for Multinational Enterprises, the National Contact Point shall "raise awareness of the Guidelines and the procedures for their implementation, including through cooperation, as appropriate, with the business sector, workers' organizations, other non-governmental organizations and concerned citizens." and "Respond to queries about the Guidelines raised by: (...) (b) the business sector, workers' organizations, other non-governmental organizations and the public; (...), the National Contact Point of Argentina remains at the disposal of both parties to respond to any queries related to the Guidelines, for the purpose indicated above.

Argentine National Contact Point (ANCP) for Responsible Business Conduct
Ministry Of Foreign Affairs, International Trade And Worship

