

Unclassified

DAF/INV/NCP/RD(2010)2

Organisation de Coopération et de Développement Économiques
Organisation for Economic Co-operation and Development

22-Jul-2010

English - Or. English

DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS
INVESTMENT COMMITTEE

**Annual Meeting of the National Contact Points for the OECD Guidelines for
Multinational Enterprises**

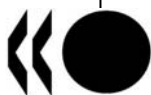
**SPECIFIC INSTANCES UNDER THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES:
Highlights taken from OECD's Annual Reports**

At the request of and for the convenience of delegations as well as the general public's interest, this document is a compilation of requests for handling specific instances and their outcomes, highlighted by National Contact Points for publication in the "OECD Annual Report on the OECD Guidelines for Multinational Enterprises" series.

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JT03286918

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**EXTRACTS FROM THE "OECD ANNUAL REPORT ON THE OECD GUIDELINES FOR
MULTINATIONAL ENTERPRISES" PUBLICATIONS**

2010

Australia – In July 2007, the Australian NCP received a request regarding alleged non-observance with several provisions of the OECD Guidelines by mining company Cerrejon Coal in Colombia. Cerrejon Coal is jointly owned by BHP-Billiton, Anglo-American and Xstrata. The complaint to the Australian NCP related specifically to BHP-Billiton but because of the joint ownership the Australian NCP consulted with the Swiss and UK NCPs to resolve this specific instance. This instance was suspended pending a report commissioned by the mining company's management and shareholders to review the firm's social engagement. The company appointed an independent facilitator in August 2008, and by December 2008, an agreement was reached between the company and the residents of Tabaco in regard to legacy issues and a way forward. The settlement included a package of compensation and sustainable projects. In this context, it was agreed that the issues relating to Tabaco have been satisfactorily resolved. The agreement between Cerrejon and the former residents of Tabaco is a significant, positive outcome that has been welcomed by all parties.

There are several other communities which may need to be resettled and with which formal agreements are still being considered, but the process of consultation is proceeding. As a follow up to the mediation procedures in February 2009, it was confirmed that Cerrejon would agree to engage an independent facilitator to work with individual communities to provide an oversight role where the communities were seeking independent support.

Argentina – The specific instance regarding ACCOR, a corporate services company, was brought to the attention of the Argentinean NCP on 28 November 2007, by National Deputy, Dr. Héctor P. Recalde and his legal representative, Dr. Hugo Wortman Jofre. The instance cited Chapters II (General Policies), IV (Employment and Industrial Relations) and VI (Combating Bribery) of the OECD Guidelines. This specific instance was concluded on 5 March 2009, through cooperative means on behalf of both parties, which the NCP finds mutually satisfactory. The outcome was published in two broadsheet newspapers of nation-wide circulation.

United Kingdom – In 2009, the UK NCP published four final statements. Two of these statements, concerning the activities of UNILEVER PLC in Pakistan, reflect the successful outcome of mediation sponsored by the UK NCP. The alleged breaches of Chapter II (General policies) and Chapter IV (Employment and Industrial Relations) were brought to the OECD, the first instance in October 2008, and the second in March 2009, by a trade union (International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Association (IUF)). The UK NCP accepted the complaints and commenced a conciliation/mediation process between the parties using an independent mediator in an effort to reach a mutually acceptable resolution. The result of the independent conciliation mediation process was an exemplary success as both parties undertook specific commitments with regard to the issues presented.

2009

Australia – In July 2007, the Australian NCP received a request regarding alleged nonobservance with several provisions of the OECD Guidelines by mining company BHP Billiton operating via Cerrejon Coal in Colombia. The Australian NCP consulted with the Swiss and UK NCPs in relation to this specific instance. This instance was suspended pending release of the report commissioned by the mining company's management and shareholders to review the firm's social engagement. The social review has since been released and the company has publicly responded positively to all of the recommendations in the report. The company appointed an independent facilitator in August 2008, and by December 2008 an agreement was reached between the company and the residents of Tabaco in regard to legacy issues and a way forward. There are five other communities for which an agreement is yet to be reached, but the process of consultation is proceeding.

Brazil – The Brazilian NCP has received two complaints concerning two banks, Unibanco and ABN-AMRO Real, brought by the Brazilian labour union, "Central Única dos Trabalhadores" (CUT). In both cases, the Brazilian NCP has sent a list of questions in accordance with its specific instance procedures.

Ireland – In August 2008, the Irish NCP received a complaint regarding the operation of a gas project on the west coast of Ireland. The complaint came from a local community group, supported by NGOs, who alleged breaches of the OECD Guidelines, Chapter II (General Policies) and Chapter V (Environment). As the operating company is headquartered in the Netherlands, the Dutch NCP was duly contacted. On the 19th of February 2009, following close work between the Irish and Dutch NCP, the case was deemed to be admissible. However, in an unrelated initiative the Irish Government undertook active mediation with the Community Groups and the concerned Consortium.

The NCPs suspended their process for fear of compromising the mediation but in April 2009, the two NCPs resumed their work on the case as the Ministerial efforts stalled. This ongoing case has thus far involved bilateral meetings with the Consortium, the Complainants and relevant Government departments as well as the co-operation with the US and Norwegian NCPs which have also been closely involved and informed of progressive developments.

United Kingdom – In December 2008, a final statement was published by the UK NCP on the specific instance concerning the activities of G4S in Nepal, Mozambique, Malawi and the Democratic Republic of Congo. The alleged breaches of Chapter II (General policies) and Chapter IV (Employment and Industrial Relations) were brought to the OECD in December 2006 by the trade union representatives of Union Network International. The UK NCP accepted the complaint and commenced mediation between the two parties in an effort to reach a voluntary resolution. The result of the independent mediation was an exemplary success as G4S and UNI undertook specific commitments with regard to the issues presented in Nepal and DRC. In connection with Mozambique and Malawi, the parties have agreed to a process to allow them to work more closely together on a number of particular issues at the national level. The aim of this process is to both protect the rights and interests of G4S employees and to build and strengthen the local relationships between G4S and the unions which represent its employees. The case was covered in an edition of a monthly newsletter that is put together by Business in the Community (BITC) for the All Party Parliamentary Group on Corporate Responsibility. Furthermore, the Trade Union Congress (TUC) published a press release in December 2008 which was circulated to its members. TUAC and UNI also published information/articles following the conclusion of this case on their respective websites. This specific instance shows that the UK NCP provided a high quality mediation service with the aim of assisting the parties to come to their own settlement.

2008

Australia – In July 2007, the Australian NCP received a request regarding alleged nonobservance with several provisions of the OECD guidelines by a mining company operating in South America. The Australian NCP has consulted with the Swiss and UK NCPs in relation to this specific instance. Further deliberation of this instance was suspended pending release of the report commissioned by the mining company's management and shareholders to review the firm's social engagement.

Brazil – In March 2008, the Brazilian NCP issued a final statement on a specific instance concerning Shell Brazil Holding and alleged non-observance of certain provisions of Chapter V (Environment) of the Guidelines. In May 2006, a Brazilian environmental NGO and a labour union representing petroleum by-products workers in the state of Sao Paulo brought the complaint to the NCP. After mediation, and several meetings and discussions with the relevant parties, the Brazilian NCP closed the case and issued its findings.

Germany – The German NCP issued a final statement in August 2007 on a specific instance concerning Bayer CropScience's operations in India. The statement includes a voluntary commitment from Bayer CropScience to take concrete measures against child labour. The case dates to October 2005 when the German NCP received a request from NGOs regarding alleged non-observance of paragraph 1b) "contribute to the abolition of child labour" of Chapter IV (Employment and Industrial Relations) of the Guidelines by one of Bayer CropScience's suppliers in India. The German NCP solicited comprehensive comments from both parties and initiated a series of meetings in November 2006 and January 2007.

Sweden – In January 2008, the Swedish NCP issued a final statement regarding a specific instance involving Scandinavian bank Nordea as partial financier of the Finnish company Botnia's construction of a pulp mill in Uruguay. The case dates to July 2006 when both the Swedish and Norwegian NCPs were contacted by the Norwegian NGO Bellona and the Argentinean NGO Center for Human Rights and Environment (CEDHA) about alleged non-observance of the Guidelines. Since Nordea's legal domicile is Sweden, the Swedish NCP took the lead with the support of the Norwegian NCP in assessing the request. This specific instance revolved around the applicability of the Guidelines to the financial sector and this issue was discussed at the annual NCP meeting in 2007. While the Swedish NCP determined that Nordea was complying with the Guidelines, it also stated that the Guidelines can and should be applied to the financial sector as well as to other multinational enterprises.

2007

Argentina – In November 2006, the Argentine NCP received a request from the Argentine Millers' Labour Union (Unión Obrera Molinera Argentina) regarding an alleged non-observance of the OECD Guidelines (Guidelines Chapter II: General Principles, Chapter III: Disclosure, and Chapter IV: Employment and Industrial Relations) by CARGILL S.A., a multinational operating in the food sector. The NCP has asked the parties to negotiate in good faith to resolve their differences. The results will be transmitted to the Argentine NCP in due course.

Belgium – In July 2006, the Belgian NCP received a request from an international labour union regarding an alleged non-observance of Chapter IV (Employment and Industrial Relations) of the Guidelines by the subsidiary of a Belgian multinational enterprise operating in Montenegro. The Belgian NCP brought both parties together to initiate negotiations. Recently the international labour union withdrew its request after an agreement of principles between both parties was reached.

Finland – In Fall 2006, the Finnish NCP issued two final statements concerning two requests from the Argentine Centre for Human Rights and Environment (CEDHA) regarding the construction of a paper mill factory in Uruguay by Botnia S.A. Metsä-Bonia Oy (reproduced in Annex 4 of this document):

- The first was raised in April 2006 concerning an alleged non-observance by Botnia of Chapter II (General Policies), Chapter III (Disclosure), Chapter V (Environment) and Chapter VI (Bribery). The Finnish NCP offered its good offices to help the parties resolve the issue without success. However, after reviewing the evidence provided, it reached the conclusion in December 2006 that Botnia had not violated the Guidelines in the pulp mill project in Uruguay and issued a statement on the specific instance (CEDHA did not agree with this decision and asked the Investment Committee to reflect upon the Finnish NCP statement).
- The second case was brought against Finnvera Oyj, the Finnish export credit/ investment guarantee agency. The NCP concluded in November 2006 that the request for specific instance did not merit further examination because Finnvera Oyj cannot, in its view, be considered as a multinational enterprise and the OECD Guidelines cannot be considered to refer to a state's export guarantee activities (it notes that Finnvera Oyj's are regulated under special Finnish legislation and that special arrangements exist within the OECD, such as environmental principles approved for export credit agencies). The Finnish NCP cited the "investment nexus" statement made by the Investment Committee in 2003 (see Section VI of the 2003 Annual Report on the OECD Guidelines) in its statement explaining why it did not accept the case.

Hungary – On 14 May 2007, the Hungarian NCP issued a statement on Mr. Imre Horgosi vs Visteon Hungary Ltd case (reproduced in Annex 4 of this report). In 20 April 2006, the Hungarian NCP received a request from a Hungarian environmental lawyer, concerning an alleged non-observance of paragraph 4b) of Chapter IV (Employment and Industrial Relations) of the Guidelines by the foreign-owned car part manufacturer Visteon Hungary Ltd. This request related to a skin irritation suffered by a former worker of this company in March 2002. The Hungarian NCP considered that the request did not qualify as a specific instance, as no irregularity in the operation of the company was found. However, the Hungarian NCP invited the company to reduce health risks by making further improvements in the quality of protective products available and employee training.

Netherlands – In July and again in December 2006, the US NCP requested that the Dutch NCP engage in dialogue with the Dutch parent company of a US-based company. The US NCP was dealing with an instance concerning trade union rights brought by a US trade union. The US NCP wanted to inform itself about the parent company's view of the situation. In March 2007, the Dutch NCP met with the Dutch parent company and sent a report of this meeting to the US NCP. In April 2007, the case was closed after the US company and the local union came to an agreement. The Dutch NCP is currently exploring the possibilities for a mediated solution regarding another instance concerning an alleged violation of trade union rights by a Dutch clothing company operating in India. It has offered its assistance to the NCPs which have taken the lead in three other instances submitted to it during the reporting period.

United States – The US NCP issued a final statement regarding a specific instance involving Saint-Gobain Abrasives, owned by Company Saint-Gobain, a French company (reproduced in Annex 4 of this document). In June 2003, the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America International Union (UAW), the International Federation of Chemical, Energy, Mine and General Workers Unions (ICEM), and the American Federation of Labour-Congress of Industrial Organisations (AFLCIO) requested the US NCP's assistance in

addressing their concerns over the collective bargaining rights of the workers at a Saint-Gobain Abrasives facility in Worcester, Massachusetts. The US NCP subsequently offered its good offices and encouraged the parties to consider reengaging in a mediation process they had pursued previously. The union responded favourably.

However, the company reiterated its intention to pursue the issues exclusively through processes available under US labour law. The US NCP continued to monitor the matter. In an election requested under US law by employees at the facility, a majority of the employees voted to terminate the union's status as their representative. Following the union's acknowledgment of that result, the US NCP issued a final report concluding its involvement.

2006

Australia – In June 2005, the Australian NCP was asked by 5 NGOs to consider a specific instance concerning Global Solutions Limited, an Australian incorporated, and wholly-owned subsidiary of a UK-controlled multinational enterprise (hereafter “GSL Australia”). The complainants' submission alleged that, through its provision of immigration detention services to the Australian Government, GSL Australia had breached the Human Rights and Consumer Interests provisions of the Guidelines. The Australian NCP made an initial assessment that included fact-finding and separate meetings with the complainants. The NCP agreed to take up the request as a specific instance, but sought to focus the issues to matters related to the conduct of the company that are directly within its control. Following both parties' acceptance of the NCP's invitation to proceed with the specific instance, the NCP circulated a “Preliminary list of issues within GSL Australia's control” to parties in order to facilitate a shared understanding of the issues under consideration. After agreement was reached on the list of issues to be considered, the NCP initiated an information-sharing and dialogue process to ensure that both parties understood the issues involved and the facts of the situation. This involved a significant exchange of written information, including confidential documents such as GSL Australia's internal operational and procedural manuals. Following this exchange of information, the NCP conducted a face-to-face mediation session with both parties in February 2006. This session produced a list of 34 “Agreed Outcomes” (that is, endorsed by both the company and the complainants) which provides a basis for GSL Australia to continue to improve its operations. The Australian NCP released its “Final Statement on the GSL Specific Instance” in April 2006 (this statement appears as Document 2 in the Archive of Documents, Annex I.A4; the statement by the two parties on “Agreed Outcomes of the Mediation Meeting” is attached to the NCP statement). Both parties considered that the mediation session was highly successful. According to the Australia's report, the key features of this specific instance are:

- The NCP's early establishment of rules of engagement promoted a nonadversarial climate conducive to building trust and goodwill between the parties;
- The instance was concluded in 8 months from the date it was raised. The NCP undertook to expedite the proceedings as much as possible without compromising the quality of the review process or a successful resolution of the matter.
- Conducting the mediation session after a considerable exchange of information enabled the parties to adequately prepare for the face-to-face discussions thereby enhancing the value of the mediation session.
- The focus on reaching reasonable resolutions on the issues germane to the specific instance allowed the parties to engage in frank and robust discussions and exploration of potential solutions.

- Both parties participated in good faith and displayed good will towards each other. Both parties also willingly abided by confidentiality requirements during the specific instance process.
- Both parties agreed to represent themselves throughout the entire examination process without involving legal representation at any stage. The non-legal character of this specific instance demonstrated the usefulness and strength of the Guidelines' specific instances procedure.
- Consistent with the Australian NCP's commitment to continuous improvement in its processes, both parties have been invited to suggest ways to improve the handling of future specific instances. The Managing Director of GSL Australia and the Spokesperson for the Complainants shared their experiences of the specific instance at a May 2006 consultation organised by the NCP.
- The complainants have produced a case study of the GSL Australia specific instance for training NGOs that may be involved in future specific instances.

Canada – A coalition of NGOs submitted a complaint to the Canadian NCP in May 2005 concerning the operations of an international mining company incorporated in Canada operating in a non-adhering country. The complaint was submitted on behalf of community groups affected by the company's operations. The NGOs and a representative of the affected communities met with the NCP to present their submission. Following intra-departmental and inter-departmental consultation (including close contact with the Canadian mission in the non-adhering country) the NCP determined that the conclusion is that the company's efforts to share information with employees about its financial situation appeared to be ineffective.

Norway – In June 2005, an NGO asked the Norwegian NCP to consider a specific instance regarding Aker Kvaerner's (a Norwegian company) provision of maintenance facilities (via a wholly-owned US subsidiary) to a detention centre run by the US Department of Defence in Guantanamo Bay.⁶ The NCP had meetings with Aker Kvaerner and the NGO on 5 September and 26 October, 2005 to discuss the complaint and to assist the parties in reaching agreement on this issue. On November 29, 2005, the NCP issued a statement that inter alia urged the company to undertake a thorough assessment of the ethical issues raised by its contractual relationships (this statement appears as Document 4 in the Archive of Documents, Annex I.A4).

Romania – The Romanian NCP considered a request to take up a specific instance in relation to a steel company's management of relations with two trade unions. The NCP decided not to take up the case because: 1) it doubted, because of the adversarial relationship between the parties that it could effectively provide good offices; 2) it felt that it would have little value added relative to a parallel legal proceeding because of the greater resources and information available to the parallel proceeding; 3) it had doubts about the legality under Romanian law of its accepting such a request.

2005

Argentina – In December 2004, the Argentine NCP received a request from a trade union regarding the Argentine subsidiary of a multinational enterprise. The submission cited Chapter II (General Policies) and Chapter IV (Employment and Industrial Relations). The NCP accepted this request and discussed this issue at several meetings. The NCP is currently working in cooperation with officials from the Ministry of Labor on this specific instance.

Austria – Companies request consideration of specific instances. Austria has received what appears to be the first of two requests to consider specific instances that have been brought by companies. The Austrian report notes that both of these cases concern business behaviour in non-adhering countries and both involve several Guidelines chapters. One of the cases was “ceded... by mutual agreement” to the NCP where the company was headquartered while the other was not pursued because it dealt with activities that did not have “the necessary character of an investment relation”.

Canada – Canadian mining operation in Myanmar. The Canadian NCP received a complaint in November 2002 from a Canadian labour union regarding the operations of a Canadian mining company in Myanmar which it has been pursuing as a specific instance. The complaint alleged non-observance of the Guidelines recommendations regarding forced labour and the right to organise. The union claimed that there were demonstrable links between the company’s joint mining venture with the Myanmar government and the mass conscription of forced labour. The company strongly denied these allegations in letters to the NCP in 2003 and 2004. While the NCP held a number of discussion and meetings with each party, separately, and offered to facilitate a dialogue between the two sides, it was unsuccessful in bringing them together to discuss their differences. The NCP has informed the parties that it has decided to discontinue its efforts to facilitate a dialogue between them. A letter will be sent to the union and the company indicating that the NCP is bringing the specific instance procedure to a close.

Chile – Further dialogue on Marine Harvest. The 2004 Annual Report contains extensive information about this Chilean specific instance (which concerned labour and environmental management in aquaculture). This year, Chile reports: “The case had an important impact on the country and above all on the regions where the units of the enterprise are established. The case concluded [in August 2004] with a dialogue involving participation of the parties to the instance and other actors. The parties agreed with the procedure adopted by the NCP as well as most of the recommendations contained in the report of the NCP5. The OECD Environmental Policy Report on Chile cites this specific instance in a positive way.”

Denmark – Malaysian employees of a Danish owned enterprises. In February 2002, a trade union organisation asked the Danish NCP to consider whether a company, Unomedical, had observed recommendation of Chapter IV, paragraph 1.a). The same question had been brought before the Malaysian courts, where it had been under consideration for “a very long time”. This had an impact on the NCPs consideration of the instance. Subsequently, the enterprise informed the NCP that it would adhere to the ruling of the Malaysian Supreme Court (which identified the trade union as the bona fide workers’ representative) and that it had begun negotiations on a collective agreement with the trade union. The NCP concluded its consideration of this matter in May 2005 when it informed the trade union of this result in a letter which was also sent to the company.

Denmark’s report on this specific instance notes that it “illustrates the difficulties NCPs face when specific instances are considered in non-adhering countries, especially when there is a pending court case in this non-adhering country concerning the issue in question. In countries with a legal system which differs substantially from the OECD country in question this raises even more difficulties”.

Finland/France – NCP exchanges of views on specific instances. The Finnish and French NCPs have been discussing the handling of the Aspocomp SAS – Evreux case (see 2004 Annual Report on the Guidelines for more information about this specific instance).

France – Nam Theun 2 hydroelectric project. On 26 November 2004, the French NCP was asked to consider Electricité de France’s (EDF’s) conduct in relations to the development and operation of a hydroelectric project in Thailand (called Nam Theun 2). Friends of the Earth’s request concerned

Chapter II recommendations on sustainable development and human rights, chapter V (Environment) and Chapter IX (Competition). While the NCP rejected the last part of the request (on competition), it decided to enlarge its consideration of the issue to include collected from NGOs, the consortium in Thailand (of which EDF is the principal shareholder), the World Bank and Asian Development Bank and consultations with experts from COFACE (the French export credit agency) and the French Development Agency, the NCP came to the conclusion that it could not attribute any non-observance of the Guidelines to EDF and that EDF had even taken on commitments that go beyond the recommendations of the Guidelines. The French NCP has nevertheless undertaken to monitor the company's implementation of its commitments to respect international environmental and social standards and has agreed to hold a series of meetings with the company in order to follow developments. The NCPs public statement on this specific instance appears in Annex A.4 as Archive Document 3.

Germany/Mexico – Conclusion of German/Mexican specific instance. The Mexican and German reports describe the conclusion of a specific instance dealing with the labour management practices of the Mexican subsidiary (Eukzadi) of a German tire manufacturer (Continental Tire). The specific instance was brought by a German NGO on behalf of a Mexican labour union. The Mexican NCP had lead responsibility for this specific instance. It met with representatives from the trade union as well as representatives of the company. It also contacted the Ministry of Labour in order to exchange views regarding the application of Mexican labour law and its interaction with the Guidelines. The German NCP notes that, in trying to offer its “good services” on this case, it provided several occasions for talks between the Mexican trade unionists, representatives of the German company and Mexico's ambassador in Berlin. The trade union and the company reached an agreement in December 2004. According to that agreement, the Company sold the El Salto plant to Grupo Industrial El Salto, a 50/50 joint venture company formed by the trade union and a company, Llanty Systems. The Company agreed to provide technical assistance for a period of 6 months and raw material required for the manufacturing process. In addition, the Company agreed to buy 500 000 tires annually from that plant. The trade union agreed to withdraw all lawsuits and claims against the company and release Continental and Eukzadi from any liabilities related to the plant's closure.

United States – Lack of an international dimension. The United States NCP was asked to consider a specific instance whose circumstances bore on issues resembling those raised in the Swiss request for clarification (see next section of this report).

The US report says: “After completing its initial assessment, the US NCP concluded... that the circumstances did not warrant further involvement by the US NCP. This instance, involved the provisions of Chapter IV on Employment and Industrial Relations, the issues raised related to the actions of a US-owned firm in the United States. The US-owned firm was acknowledged by the party raising the issue to be providing services exclusively within the United States and did not appear to be a multinational enterprise.”

2004

Brazil – The Brazilian NCP has discussed an Italian multinational enterprise's labour relations practices with the company's management and with Brazilian trade unions. Tensions had arisen during the company's relocation of its agri-food activities in Brazil. The NCP found that the company had offered compensation to the affected workers that was above the level required by Brazilian law, but that it could have consulted more extensively with its workers prior to taking the decision. At the same time, the Brazilian NCP recognised that the company has the right to make plant closure decisions. In June 2003, the NCP encouraged the company to seek more actively the participation of

affected parties when making future decisions that might adversely affect the communities in which it operates.

Chile – In September 2002, the Chilean NCP received a request from Dutch and Chilean NGOs to consider a specific instance involving the labour and environmental management practices of a Dutch fisheries and aquaculture company, Marine Harvest S.A., operating in the vicinity of Puerto Montt, Chile.

The request raised a broad range of issues, including legal compliance, freedom of association, right to collective bargaining, protection of artisanal fishing rights and protection of the environment. The NCP met several times with the parties and requested information from the Dutch NCP. It visited the company's facilities, interviewed trade union leaders and met with representatives of local associations. The NCP also asked for expert advice on environmental issues in the fisheries sector and requested a report from Chile's National Labour Directorate. After concluding its consideration of this matter, the NCP made a public statement (Archive document 9) and published a detailed report containing recommendations designed to reduce tensions and to improve compliance with fisheries and aquaculture regulations and to improve the company's local suppliers' compliance with labour regulations. The report proposes that an ongoing dialogue be initiated between the company, the NGOs and various local associations. The NCP's report states that the constructive dialogue established by its consideration of the instance created positive results for all the interested parties.

Czech Republic – In October 2003, a trade union raised a specific instance regarding a Swiss-owned multinational enterprise with operations in the Czech machinery maintenance sector. The submission cited the labour and industrial relations chapter of the Guidelines. Two negotiating sessions were held to find a solution acceptable to all parties. The results were made publicly available through the Ministry of Finance's press service. The Czech NCP report states that "all the parties involved appreciated the procedure and expressed their satisfaction with the solution itself". The Czech NCP presented its handling of this instance to the OECD Investment Committee as part of its exchange of views on NCP procedures.

France – A French trade union asked the NCP to look into the declaration of bankruptcy by the French subsidiary of the Finnish company ASPOCOMP Oyj, despite the signing of a redundancy scheme (a plan for mitigating the impacts of a mass redundancy) with its French employees. The French NCP contacted all parties to this specific instance as well as the Finnish NCP in order to obtain the information about what headquarters knew about the financial difficulties of its subsidiary at the time the redundancy scheme was signed. Based on the information it was able to collect and on the chronology of events, the NCP decided that, if headquarters knew about the subsidiary's financial condition and still let the subsidiary commit to a redundancy scheme, then this would not be compatible with recommendation 6 of the Employment and Industrial Relations Chapter. It also concluded that the subsidiary did not inform employees of its problems even though its auditor had initiated a warning procedure (which warns of serious financial difficulties) at about the same time. See Archive document 7 for the final statement on this specific instance.

Germany – In September 2002, the German NCP received a request by the Clean Clothes Campaign (CCC) to consider a specific instance against a German manufacturer of sports equipment. Based on a report by Oxfam, the CCC claimed that the Indonesian suppliers of the German manufacturer in Indonesia had not observed the recommendations in Chapter II (General Policies) and Chapter IV (Employment and Industrial Relations). After numerous conciliation proceedings and a constructive dialogue, the NCP closed the specific instance in May 2004 and issued a public statement which was posted on the Ministerial homepage of the German NCP (see Archive document 10). The statement notes that there are ongoing disagreements on the basic facts of the case (despite efforts by both the

company and the NGO to clarify the situation in Indonesia). The parties have agreed to exchange information and to promote further improvements of labour conditions in Indonesia.

Netherlands – Two labour unions asked the Dutch NCP to consider the behaviour of an engineering and construction company with operations in Myanmar. In a tripartite meeting, the trade unions and the company agreed that they would look for ways to contribute to improving the situation in Burma. One of the actions that resulted from these discussions was the decision by the company to visit the Ambassador of Myanmar in London (a union representative was also present). During the meeting, the company expressed its concern about human rights violations and about use of forced labour in Myanmar (see www.oesorichtlijnen.nl for more information).

2003

Denmark – The Danish NCP has received two requests to consider specific instances. In February 2002, a trade union federation raised a specific instance relating to the situation of Malaysian workers in a Danish owned enterprise. An appeals case on the same matter is pending in the Malaysian Supreme Court. In April 2003, a workers' organisation raised another specific instance involving the situation of workers in Danish-owned banana plantations in Ecuador and Belize. The Danish NCP has not concluded its consideration of these specific instances yet.

Germany – One specific instance raised with the German NCP concerned business operations in another adhering country and has been referred to the NCP of that country. The German NCP is supporting the other NCP (e.g. by providing assistance with conciliatory talks). With respect to another instance – this one in a non-adhering country – the NCPs initial assessment was that the Guidelines were not directly applicable due to lack of an “investment nexus”. Nevertheless, in view of the specifics of the case, the German NCP has facilitated conciliatory talks. The NCP reports that, so far, these seem to have aided the parties involved to view the matter in a more objective way and to have created an atmosphere that may lead to further cooperation of the parties concerned. The German NCP also refers to a recent specific instance directed at a bank for its financing of a large infrastructure. This project is in a non-adhering country. The instance raises the more general issue of the applicability of the Guidelines to financial service providers (other NCPs also expressed an interest in this issue during the meetings).

Korea – The Korean NCP report provided details of a specific instance in Sri Lanka. It concerns a Sri Lanka/Korean joint venture – 50% owned by the Korean company – which fired four workers for their union organisation activities. Although the joint venture contract states that the Sri Lankan partner is in charge of labour-management, the Korean NCP recommended that the Korean company share “the responsibility as co-manager” and that the company “conform to the OECD Guidelines and resolve its labour disputes”.

Mexico – The Mexican NCP has been asked to consider a German company's closing of a production site in the state of Jalisco. Trade unions argue that the closure is in breach of Mexican law and is not in conformity with the employment and industrial relations chapter of the Guidelines. They assert that it was carried out without prior notification or consultation with the workers. The company argues that the closure was in conformity with Mexican law. The legality of strike activity related to the closure is currently under consideration in Mexican courts. The NCP has met with representatives from the trade union as well as with representatives from the company in order to hear their points of view. It has also contacted the Ministry of Labour in order to exchange opinions regarding the application of Mexican labour law and the law's interaction with the Guidelines. The Mexican NCP hopes “these efforts will be useful to clarify the facts surrounding the closure of the plant”.

Netherlands – The Netherlands NCP looked into NGO allegations of child labour in a leading sporting goods company’s outsourcing operations in India. The NCP found that, even though the issues brought to its attention probably still exist in the Indian sporting goods industry at large, the company encourages its suppliers to act in a socially responsible manner. The parties to the specific instance agreed to continue the dialogue on monitoring systems for the company’s codes of conduct. See the Archive of Communications, document 3, for the full text of the joint statement by the Dutch NCP, the company and the NGO.

Norway – In 2002, a trade union federation raised a specific instance involving a Norwegian maritime insurance company (P&I club) in the Philippines and Indonesia. The federation had received complaints that in personal injury and death cases, the company refused “to pay contractual benefits to Seafarers in the absence of the Seafarer or his family granting a complete and full release, not only for contractual benefits, but for any causes of action at law”. In addition, complaints had been received that the Norwegian company had refused to honour the vessels owner’s obligation to provide basic health care benefits for injured Seafarers. In October 2002, the NCP focused on making an initial assessment of whether the issues raised by the federation merited further examination. The NCP concluded that the Norwegian company had not been in contradiction with the Guidelines and that the issue did not merit further examination.

Poland – The Polish NCP report notes two specific instances, both involving the “Employment and Industrial Relations” Chapter. In the first, the NCP started mediation through correspondence, but this turned out not to be sufficient. The NCP is in constant contact with both sides and has also contacted the German NCP with request for help in contacting the German owner of the Polish company, (hoping that its influence on the Polish Board of Directors could convince both sides to co-operate). In the letter from the German owner, it was claimed that there is no conflict in the company. Another issue – this time in relation to observance of Chapter IV by a construction company – was raised by a trade union from the construction sector. Correspondence has been started and the board was informed about the Guidelines. Since the NCP has not received more specific information on the complaint, no further steps have been taken.

Sweden – In February, 2003, the Swedish NCP was asked by two NGOs to consider the operations of two Swedish companies in Ghana in relation to the human rights and environmental provisions of the Guidelines. Since the material submitted by the NGOs was incomplete, the NCP collected information from the companies concerned, from the Swedish Metalworkers Union, from the Embassy of Sweden in Nigeria and from a Ghanaian NGO. The NCP held a number of meetings, including separate meetings with the NGOs and the enterprises concerned, as well as a joint information meeting with all parties. The two enterprises and the Swedish Metalworkers Union travelled to the area to investigate. The Swedish NCP concludes that, although environmental and social problems exist in connection with mining in Ghana, the roles played by the two companies in these problems is limited. The NCP finds that the companies “have not failed to comply with the OECD Guidelines in respect of human rights and environmental considerations”. At the same time, the NCP found that the companies’ on-site personnel did not have adequate knowledge of their responsibilities under the Guidelines and encouraged the companies “to enhance knowledge of the Guidelines, both internally and externally”. The full text of the Swedish NCP statement is available in the Archive of Communications, document 4.