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Case news

BTC case could result in clarifications to key provisions in the Guidelines

As the case submitted against BP's Baku-Tbilisi-Ceyhan (BTC) oil pipeline enters its fourth year, the British NCP has said the UK will consider forwarding a series of recommendations made by the complainants to the OECD's Investment Committee.

NGOs have requested the Investment Committee issue guidance on the legitimate scope of "stabilisation clauses" in investment agreements. Stabilisation clauses are used by companies to obtain exemptions

from existing or future laws. The agreements for the BTC project would have required the governments of Azerbaijan, Georgia and Turkey to compensate the BTC consortium for any losses arising from new human rights and environmental laws over the next 40-60 years. Soon after the BTC complaint was filed in April 2003, BP said it would not challenge future human rights laws, so long as the company did not deem them "rent-seeking".

NGOs are also seeking a clarification on what constitutes an acceptable level of consultation with stakeholders. Consultation should not be seen as a means of "selling

a project”, but rather as part of a wider participatory approach to decision-making aimed at obtaining general public acceptance for a company’s operations.

The UK NCP has stated that he will prepare a document “outlining areas (including those identified by the BTC complainants) of the Guidelines that might be clarified or improved”. The document, which NGOs will have the opportunity to comment on, will then be forwarded to a new Steering Committee that is currently being formed to have oversight of the UK NCP. According to the NCP, “Once the Steering Board has taken a view, the NCP will prepare recommendations for Ministers”. If the Minister approves the document, the NCP will “formally contact the OECD Secretariat to request that the Investment Committee is given an opportunity to discuss suggested amendments to the Guidelines – including implementation guidance”. The NCP adds, “I can confirm that the NCP has already informally advised the OECD Secretariat of such a possible approach from the UK”.

In a separate development concerning the BTC complaint, the UK NCP has released an October 2006 draft statement on the BTC complaint following a Freedom of Information Act request by The Corner House. The draft statement, which is now a public document, exonerates BP. It relies heavily on a BP report which “was not copied to the complainants” at the request of the company. According to the NCP, the BP report responds “to each of the complaints raised by the villagers who spoke to the NCP along the pipeline route during his field visit [in 2006]”. However, the draft statement also records that the villagers had provided evidence that BP had not visited them to investigate their concerns since the NCP’s visit. The UK NCP’s reliance on BP’s undisclosed and uncontested report is of concern. In the Netherlands, NCP statements are based on documents that have been disclosed to all parties.

Global Witness files complaint against Afrimex with UK NCP

In February 2007, Global Witness filed a complaint against Afrimex with the UK NCP. Global Witness has charged that Afrimex’s trade in minerals contributed directly to the brutal conflict and large-scale human rights abuses in the Democratic Republic of Congo (DRC).

The complaint describes how Afrimex traded coltan and cassiterite (tin ore) and made tax payments to the RCD-Goma, an armed rebel group with a well-documented record of carrying out grave human rights abuses, including massacres of civilians, torture and sexual violence. During the DRC’s conflict, the RCD-Goma controlled large parts of the eastern provinces of North and South Kivu where coltan and cassiterite are mined.

The Afrimex case will be considered under the UK NCP’s recently strengthened complaint procedures.

Dutch NCP accepts G-Star supply chain case

The Dutch Clean Clothes Campaign and the India Committee of the Netherlands filed a complaint against G-Star with the Dutch NCP in October 2006. The NGOs claim that G-Star’s Indian suppliers, Fibres and Fabrics International (FFI) and Jeans Knit Pvt. Ltd. (JKPL), have violated numerous workers’ rights from denying freedom of association, the right to collective bargaining and failure to pay a living wage to discrimination, abuse and harassment.

The Dutch NCP’s acceptance of the case in December 2006 reflects the NCP’s acknowledgment that an “investment nexus” exists given the direct and well-established relationship between G-Star and its Indian suppliers.

NGOs have requested the Dutch NCP facilitate a dialogue with G-Star and its Indian suppliers in order to develop a remediation plan to address the rights’ violations. The complainants would also like to see FFI and JKPL engage in a dialogue with local NGOs about the remediation plan.

However, in January 2007, FFI threatened legal action against the Dutch NGOs. FFI has also taken legal action in India to silence local groups. In February, a civil judge in Bangalore imposed a restraining order on five Indian labour organisations. The restraining order is a heavy blow to the fundamental right to freedom of speech and freedom of association in India.

FFI also produces for Ann Taylor, Armani, Gap, Guess, Mexx and RaRe. The Dutch Clean Clothes Campaign has engaged FFI’s clients in a dialogue about their role in resolving FFI’s workers rights violations.

Danish NCP accepts DLH case

In March 2006, Danish NGO Nepenthes filed a case against Danish logging company Dalhoff, Larsen & Hornemann (DLH). Nepenthes’ complaint states that DLH buys timber from countries with a high rate of illegal logging and some of DLH’s suppliers have been convicted of forest crimes. DLH does not verify whether the timber it buys is legal and the company has been caught buying illegal timber several times. There is clear evidence that the timber trade has exacerbated conflicts in Cameroon, Burma and Liberia, yet DLH continues to buy timber from these conflict zones.

The Danish NCP has accepted the case. However, it is on hold until the Danish environmental ministry concludes its

work to define what is meant by “sustainable timber” and “legal timber”. The NCP says it will await the environmental ministry’s conclusions before proceeding with the case.

Australian NCP rejects ANZ Bank case

In October 2006, the Australian Conservation Foundation and four community groups filed a complaint in Australia concerning ANZ Bank’s financing of unsustainable logging operations in Papua New Guinea (PNG). The complainants pointed to widespread, documented instances of human rights abuses, environmental damage and illegal conduct by one of the bank’s clients, Malaysian-based logger Rimbunan Hijau.

The NCP rejected the case by arguing that the complainants had not demonstrated a sufficient “investment nexus” between the bank and the logging company. An “investment nexus” means a company needs to exercise a degree of influence over its business partners/suppliers or have investment-like relationships with them.

ANZ conceded in communications to the NCP that it had provided debt financing to the logging company, which is typically considered a form of investment. If debt financing does not reflect an “investment nexus” for purposes of the Guidelines, it is difficult to imagine what would. The NCP’s decision calls into question whether the Guidelines have any practical relevance for the Australian finance sector at all.

The Australian NCP’s decision appears to be out of step with the views of other NCPs. For example, the Belgian NCP accepted a complaint against several banks that have provided financing for the Baku-Tbilisi-Ceyhan pipeline. In November 2006, the Swedish NCP accepted a complaint involving financing of a controversial pulp mill in Uruguay.

The complainants have refocused their efforts on ANZ Bank’s shareholders and customers in an effort to shift the bank’s position on unsustainable logging in PNG. In the complainant’s view, the Australian NCP’s rejection of the complaint was a missed opportunity to resolve the issue in a confidential, structured process, with the result that community groups felt compelled to raise their concerns more publicly. ANZ has since released a draft forestry policy for public comment.

Debunking the First Quantum/Mopani complaint’s success story

In 2001, Oxfam-Canada and Zambian NGO, DECOP, lodged a complaint against Mopani Copper Mines, which at the time was jointly owned by Canada’s First Quantum Minerals

and Switzerland’s Glencore International. The complaint concerned Mopani’s eviction of longstanding squatter communities near the town of Mufulira, Zambia. The evictions were taking place despite the severe economic, social and psychological hardships that such evictions would impose on already vulnerable subsistence farmers.

The outcomes of the complaint seemed promising, and it appeared that the Guidelines for Multinational Enterprises (Guidelines) worked as intended. A successful resolution was reached that included three key assurances: first, all evictions would stop; second, Mopani would cooperate with DECOP and the local council to work towards resettlement of the squatters on land that they could own; and third, there would be continued dialogue between civil society and Mopani.

Over the past five years, the Canadian NCP and the OECD have frequently cited the First Quantum/Mopani case as an example of how the Guidelines are supposed to work and proof that they are having their intended effect.

Unfortunately, the facts on the ground tell a very different story. By July 2006, Mopani had breached every aspect of the resolution. No effort had been undertaken to engage in a continuing dialogue with local NGOs and the affected community. No plans have been made to work towards a long-term, sustainable solution consistent with the Guidelines. Worse and directly contrary to the resolution agreed upon, Mopani resumed evictions in 2006 to make way for the re-opening of one mine-shaft and the construction of another.

Even in areas where eviction has not yet occurred, the situation remains problematic and chronic insecurity remains a paramount concern. The remaining farmers on Mopani land are subject to a land-licensing scheme that serves to perpetuate poverty. Farmers remain subject to eviction at any time. They complain about the inability to invest in themselves, their land or crops. Similarly, NGOs and local governments refuse to invest in “temporary” communities that are subject to destruction at any time. Today, all farmers on Mopani land continue to face hardships, which is clearly contrary to both the spirit and letter of the Guidelines.

These developments are disappointing, because they illustrate another instance where the Guidelines failed to produce a resolution. This case, which has often been cited as a shining example of how the Guidelines are supposed to work, actually demonstrates Mopani’s abject failure to uphold basic human rights.

Cory Wanless, JD Candidate at the University of Toronto, spent time in Zambia working with DECOP in 2006.

Finnish NCP dismisses Botnia case

In April 2006, the Center for Human Rights and Environment (CEDHA) filed a complaint with the Finnish NCP concerning Botnia's Orion pulp mill project in Uruguay. The Botnia project is one of two pulp mill projects that are straining diplomatic relations between Argentina and Uruguay. The government of Argentina has sued Uruguay at the International Court of Justice at The Hague for Uruguay's decision to allow construction of the mills in violation of the Uruguay River Treaty.

CEDHA reports that the NCP's decision to dismiss the complaint (after it had decided to handle the case) is largely because the World Bank approved a loan for the project. It is also partly based on the NCP's assumption that the treaty dispute with Argentina will conclude in Uruguay's favour. In its December 2006 statement, the NCP argued that companies must trust that host countries such as Uruguay have complied with international law. The NCP also denied that multinational enterprises had obligations under international law.

CEDHA has sent a letter to the Chair of the OECD's Investment Committee requesting the Botnia case be handled by another NCP while the Swedish NCP deliberates a related complaint concerning Nordea Bank's investment in the project.

German NCP erects multiple roadblocks in Ratiopharm case

In April 2006, Transparency International-Germany (TI) filed a complaint against Ratiopharm, a German-based producer and distributor of generic pharmaceuticals with subsidiaries in 24 countries. The complainant alleged that Ratiopharm was bribing doctors and pharmacists.

The German NCP rejected TI's complaint on the basis that there was no transnational investment. The NCP further added that the Guidelines did not apply when national solutions were available. In a seemingly good will gesture, the German NCP offered its "informal good offices".

In July 2006, TI resubmitted their complaint, this time alleging violations in Belgium, Canada, Spain and Estonia in addition to Germany. The German NCP rejected the case by arguing the complaint should be handled by the NCP in the country where the activities occurred. At the same time, the NCP once again refused to handle the allegations concerning Ratiopharm's activities in Germany and refused to forward TI's complaint to the other relevant NCPs.

In the view of many OECD Watch members, the German NCP's handling of the Ratiopharm case illustrates how some NCPs erect multiple roadblocks to handling

complaints. In justifying its refusal to deal with the Ratiopharm case, the German NCP has gone so far as to claim its "hands are tied".

The NCP's refusal to handle even the German component of TI's case clearly contradicts its argument that issues should be dealt with by the NCP in the country where the alleged activities occurred. It also ignores a provision in Chapter I of the Guidelines that states, "*parent companies (exercising) control over the activities of their subsidiaries... have a responsibility for observance of the Guidelines by those subsidiaries*". Third, the German NCP is ignoring the Investment Committee's recommendation that NCPs, when deciding whether to accept or reject a case, should be flexible and consider what would contribute best towards "*furthering the effectiveness of the Guidelines*".

TI maintains that the alleged misbehaviour emanates from Ratiopharm's German headquarters to other countries. Therefore, the German NCP should take the lead in handling the complaint. In addition, the NCP's refusal to forward the case to the other relevant NCPs inspires little faith in the NCP's offer to assist informally. In the past, the German NCP accepted a case that was referred by the Austrian NCP and it provided its "good offices" on a case involving a German company's operations in Mexico. The manner in which the German NCP has handled the Ratiopharm case contrasts with the handling of these earlier cases and appears inexplicably ineffective. A more detailed account of the German NCP's handling of the Ratiopharm case is available at www.oecdwatch.org.

Special features

Many ECAs are still failing to promote the Guidelines

Export credit agencies (ECAs) are public agencies that provide government-backed loans, guarantees and insurance to corporations from their home country that seek to do business abroad. Most industrialised nations have at least one ECA.

Much in the same way the OECD's Investment Committee plays an oversight role for the Guidelines, the OECD's Export Credit Working Group (ECWG) sets the "rules of the game" for OECD members' ECAs.

Given the fact OECD member governments have an obligation to promote the Guidelines, it follows their ECAs should also promote adherence. Indeed, in April 2003, ECWG members agreed to promote the Guidelines to their clients by providing information.

In 2006, the OECD's Investment Committee reported that 13 out of 28

OECD member ECAs have failed to comply with the April 2003 agreement. The ECA Watch network has since confirmed that as of December 2006, Austria, Belgium, Denmark, Hungary, Italy, Iceland, Ireland, Luxembourg, Mexico, New Zealand, Norway, Portugal and Slovakia "do not in any way link their export credit and other policies to the Guidelines". Simply put, almost half of OECD member ECAs do not promote adherence to the Guidelines

A few ECAs go beyond just the provision of information and, at least on paper, more actively promote adherence. The Dutch government requires applicants to "state that they are aware of the guidelines and that they will endeavour to comply with them". France's ECA requires companies to sign a letter acknowledging they are aware of the Guidelines. The UK's

ECA, the Export Credit Guarantee Department (ECGD), notes: "The UK Government encourages all multinational companies to adopt the recommendations on responsible business conduct contained in the 'OECD Guidelines for Multinational Enterprises'. ECGD's internal procedures will check on the consistency of the operations of its customers (both in the UK and overseas) with these recommendations, and in particular those relating to the environment, employment, combating bribery and transparency".

However, the majority of OECD member ECAs only provide information about the Guidelines to prospective clients via an internet link or sometimes through references on application forms. In addition, ECA Watch is not aware of any instance where an ECA sanctioned a client that was in violation of the Guidelines.

The Corner House, Campaign Against Arms Trade initiate legal challenge for UK government's breach of the OECD Anti-bribery Convention

In December 2006, the UK's Serious Fraud Office terminated its corruption investigation into BAE Systems' Al Yamamah military contract with Saudi Arabia. The Corner House and Campaign Against Arms Trade have initiated a legal challenge to the decision, which they argue violates the UK's obligations under the OECD's "Convention on Combating Bribery of Foreign Public Officials in International Business Transactions".

The decision followed months of speculation concerning the impact of the investigation on a future

contract for BAE Systems to supply 72 Eurofighter Typhoon jets to Saudi Arabia, reportedly worth £5.4 billion.

The OECD's Working Group on Bribery has expressed "serious concerns" over the decision. A broad spectrum of opinion from NGOs to investment fund managers view the UK Government's decision as threatening the very future of the OECD's Anti-bribery Convention.

In a letter to OECD Secretary General Angel Gurría dated 6 March, Transparency International Chair

Huguette Labelle states the UK's decision "poses the most significant threat to the success of the OECD Convention since it was adopted in 1997".

The Working Group will meet in mid-March to review the UK government's decision. NGOs are calling on civil society and other interested parties to press their governments to take a strong stand at the meeting by calling for a reinstatement of the investigation. For further information, contact Nicholas Hildyard of The Corner House at nick@fifehead.demon.co.uk.

Philippine Supreme Court orders closure of Shell, Petron and Caltex's Pandacan oil depot

The Philippines' Supreme Court has ordered the City of Manila to uphold Ordinance 8027 and close the Pandacan oil depot, which is owned and operated by Shell, Petron and Caltex. The ordinance aims to protect residents from the health and safety dangers of the dilapidated depot, which is situated in the heart of densely populated Manila.

In 2002, Manila's mayor bowed to pressure from the oil companies and signed a memorandum of understanding allowing a scaled-down depot to continue operations.

In December 2002, Manila residents filed a lawsuit against the mayor for dereliction of duty. In March 2007, the Supreme Court ruled in favour of the residents and ordered the city to enforce the law and remove the depot within six months.

A lawyer acting for the residents stated, "This is a landmark case in the Philippines as far as environmental justice is concerned...the Supreme Court has upheld the general welfare of the people over the private and pecuniary interest of the oil companies. The court has placed paramount

importance on the health and safety of the people".

In May 2006, Fenceline Community for Human Safety and Environmental Protection and Friends of the Earth filed a complaint against Shell concerning the Pandacan oil depot. The Dutch NCP is handling the case, but it is unclear how the Supreme Court's ruling will affect the process.

NCP Developments

Australian NCP evaluates GSL case

In late 2006, the Australian NCP released an evaluation of the Global Solutions Limited (Australia) case. The NCP sought input from all parties to the case, including their recommendations on how the complaint procedures could be improved.

The evaluation found that all parties agreed that the GSL case had elements of best practice such as equitable treatment by the NCP, transparent process and timeframes, opportunities to provide additional information, utilising expert witnesses and a genuine process of mediation, disclosure and dissemination of the outcomes of the case. In addition, the case created ongoing opportunities for dialogue between the parties with respect to GSL's human rights responsibilities.

The evaluation also identified areas where agreement was not reached. For example, NGOs recommended the NCP issue a clear statement on those aspects of the case that reflect breaches of the Guidelines. NGOs cautioned against over emphasising a non-adversarial, "win-win" approach as it could potentially dilute the seriousness of issues raised. NGOs also recommended a follow-up process to ensure companies fulfil their commitments.

(A case study on the GSL complaint is available in OECD Watch's "Guide to the OECD Guidelines for Multinational Enterprises Complaint Procedure – Lessons from Past NGO Complaints".)

Canada reviews mechanisms to hold extractive companies to account

In 2006, the Canadian government held four roundtable discussions to examine how the government can better hold Canadian extractive companies to account for their activities in developing countries. A steering committee, made up of members of eight government departments, and an advisory group, made up of civil society and industry representatives, heard from 156 members of the Canadian public and invited experts such as John Ruggie, UN Special Representative on Business and Human Rights.

The roundtables examined a range of accountability options such as 1) adopting CSR standards, reporting and complaints mechanisms, 2) enhancing legal mechanisms, 3) improving accountability and disclosure through Canada's pension fund and stock exchanges, 4) conditioning financial and political support from government agencies and 5) enhancing host country capacity to hold Canadian companies to account.

The functioning of Canada's NCP was also examined. An earlier parliamentary report asked the government to "clarify, formalize and strengthen the rules and the mandate of the...NCP...and increase the resources available to the NCP to enable it to respond to complaints promptly, to undertake proper investigations and to recommend appropriate measures against companies found to be acting in violation of the OECD Guidelines".

NGOs argued Canada could, as other OECD countries have done, enhance the NCP's role to include fact finding, investigations and dispute resolution as well as enhance public reporting of cases that have been brought before the NCP.

Civil society and industry members of the government's advisory group will release a final report of the findings and recommendations that resulted from the roundtable process in 2007.

Dutch Government revises NCP into a more independent body

In February 2007, the Dutch Minister for Foreign Trade announced new institutional arrangements and procedural policies for the NCP following an extensive multi-stakeholder evaluation. The Dutch NCP will consist of an independent chair plus two or three members with voting powers and four non-voting advisory members representing the ministries of economic affairs, social affairs, development cooperation and environment. While the Dutch NCP is a more independent body, the governmental link is preserved and NCP statements will be accompanied by a ministerial position.

Key reforms focused on the manner in which the Dutch NCP handles complaints. The NCP's first priority will be to clarify and publish its procedures for handling cases. These procedures will include information on admissibility criteria, the various steps that will be taken in the process and indicative timelines for finalising cases. Under the new procedures, the NCP will primarily play the role of mediator.

The Dutch NCP will also "use a broad interpretation of the investment nexus when considering admissibility of specific instances" involving companies' supply chains. The NCP will consider issues such as ownership structure, the level of influence that the Dutch company can exert on its business relations, the extent to which the business partner is commercially dependent on the Dutch company, whether products produced by suppliers are sold as the Dutch company's own branded products and the length and scope of the relations.

The Dutch NCP will also issue a statement when cases are concluded except in instances where preserving confidentiality is in the best interest of effective implementation of the Guidelines. The NCP statement will be sent to the Minister for Foreign Trade who will then issue a position on the statement within a month.

Dutch NGOs have welcomed these changes while cautioning that the credibility of the reforms depends

greatly on the voting members, which will be appointed by the Minister of Foreign Trade. These individuals will need to have support from all stakeholders and hold the relevant knowledge and experience.

Dutch NGOs will also closely monitor the way the NCP handles cases, particularly the cases concerning Shell and jeans maker G-Star to see if recent changes make a difference. Further information is available at www.oecdwatch.org.

German NCP facing calls for reform from multiple stakeholders

In May 2006, German NGOs from the governmental working party on the Guidelines tabled a critique of the German NCP, which concluded the NCP is operating at a sub-standard level. In late 2006, a broad coalition of German NGOs, including Amnesty International, Greenpeace and several major development groups, called on 250 members of Parliament to improve the functioning of the NCP.

The groups are calling for: 1) regular Parliamentary monitoring of the NCP, 2) independent review of controversial cases, 3) greater transparency, 4) better procedures for handling complaints and 5) conditioning export credits and procurement contracts to adherence to the Guidelines. The latter measure is also supported by the German government's advisor on sustainability issues, Nachhaltigkeitsrat.

In January 2007, the Confederation of German Trade Unions also called for strengthening implementation of the Guidelines by creating an inter-ministerial NCP, increasing transparency and handling complaints better, especially supply chain cases.

Members of the German Parliament are taking notice. Walter Riester, a prominent SPD parliamentarian and former minister, held a speech on the Guidelines, the Green Party tabled a motion concerning the Guidelines and the Left Party tabled a large parliamentary questionnaire on corporate accountability. As host of the 2007 meeting of Group of Eight leaders, the German government has placed CSR, including the Guidelines, on the agenda. NGOs have welcomed this development; however, they have stated the German NCP needs to reform significantly before it can claim leadership on promoting the Guidelines.

UK NCP adopts new structure and procedures

Following extensive consultation, the UK's Minister of State and Trade announced in July 2006 new procedures

to increase the effectiveness of the NCP. NGOs have welcomed these changes.

One of the most important interventions was made by the Joint Working Group (JWG), which was convened by the All Party Parliamentary Group on the Great Lakes' Region. The JWG was chaired by a senior judge, Lord Mance, and consisted of Members of Parliament, business and NGOs.

NGOs believe the changes, if properly implemented, should ensure future cases submitted to the UK NCP will be dealt with more effectively than before and in accordance with clear procedures and timelines. Complaints dealing with past breaches of the Guidelines will be admissible if it is perceived that problems could recur. Cases that are subject to other "parallel proceedings" are acceptable except in instances where the issues are identical to those being considered in legal proceedings. The rules on information disclosure have been made clearer and initial assessments will be made public. Crucially, the NCP statement will now make clear if a breach of the Guidelines has occurred when a complaint is concluded.

A Steering Board, chaired by a senior official of the Department of Trade and Industry, is being established to oversee the operations of the UK NCP. Last December, it was agreed between members of the JWG and the Minister that the Steering Board would include suitably qualified independent experts as well as representatives of all government departments. However, after pressure from the Confederation of British Industry, the Government decided that the external experts will represent their constituencies, although they are expected to act "collegially".

NGOs have objected to this reversal, believing it will inevitably lead to deadlock. A key responsibility of the Steering Board will be to help the UK NCP interpret how provisions in the Guidelines should be applied, though it is not empowered to take decisions on complaints. The Steering Board can, however, hear appeals concerning procedural issues. In the interests of transparency, the minutes of the Steering Board will normally be made public. For more information about these and other reforms to the UK NCP, go to www.dti.gov.uk/files/file32038.pdf

OECD Watch News

European Commission funds OECD Watch

The European Commission's Employment and Social Affairs directorate has agreed to fund OECD Watch's "Promoting Convergence of CSR Practices and Tools among European Socially Responsible Investors (SRI) and National Contact Points (NCPs)" project. The project will promote: 1) best practices of European governments in the implementation of the Guidelines through their NCPs and 2) convergence of CSR tools in the SRI community based on the Guidelines. OECD Watch will also work with Paris-based European Social Investment Forum (EUROSIF) to promote the use of the Guidelines among ethical investors and ranking/rating agencies.

OECD Watch is organising three multi-stakeholder meetings in Spain, Finland and Slovakia to present and deliberate NCP best practices during March, April and May. These dialogues will contribute to the development of a "Model European NCP" paper, which will also draw lessons from NGO experiences and recent NCP reforms. The "Model European NCP" paper will make recommendations on institutional arrangements, promotion activities, procedures for engaging with stakeholder and handling of specific instances. The paper will be launched at a European-wide conference in Brussels in June 2007.

OECD Watch will also publish an analysis of the legal status of the Guidelines relative to other internationally agreed guidelines and instruments. In addition, several tools and fact sheets on how the SRI community can better utilise the Guidelines will be produced. For example, how the SRI community can interpret key provisions on human rights and supply chain responsibilities during ethical screening. Together with EUROSIF, two dialogue sessions with SRI agencies will be held to discuss and develop effective tools.

During 2007, OECD Watch will also continue to help build Southern NGOs' capacity through training workshops and providing guidance to groups who may wish to file complaints. These activities are funded through a four-year grant from the Dutch Ministry of Foreign Affairs.

OECD Watch capacity-building in Ghana, Argentina, Pakistan and Kenya

In July 2006, OECD Watch's second inter-regional seminar took place in Accra, Ghana. The seminar, which was co-organised by WACAM and IRENE,

brought together over 55 participants from Africa, Asia, Europe, Latin America and North America. Participants discussed: 1) the Guidelines' role in promoting equity and fairness in the global economy, 2) case studies to draw out lessons from experiences and 3) joint strategies for promoting adherence. OECD Watch's "Guide to the OECD Guidelines for Multinational Enterprises Complaint Procedure – Lessons from Past NGO Complaints" was launched at the seminar.

The seminar concluded with a joint declaration on the impacts of foreign investment in developing countries. The declaration called on governments to make the Guidelines more responsive and reiterated the need for international corporate accountability frameworks.

After the seminar, over 30 participants representing 20 countries took part in a field trip to the Western and Ashanti regions of Ghana where the majority of gold mining takes place. Participants heard how active and abandoned mining sites are affecting people's health, drinking water and livelihoods.

In November 2006, FARN and Fundación SES, in collaboration with the Argentinean NCP, organised a second multi-stakeholder meeting in Buenos Aires. Over 100 participants discussed activities and progress made during 2006 and the outlook for 2007. The publication "Una herramienta de la RSE: líneas directrices de la OCDE" ("A CSR Tool: The OECD Guidelines") was presented and distributed. This new publication was the result of OECD Watch-funded research by FARN and SES. The manual will be useful in promoting the Guidelines as an instrument for implementing CSR, understanding the global and local context, and encouraging the development and filing of cases. The publication and more information about the multi-stakeholder meeting are available at www.farn.org.ar.

In December 2006, Shehri-CBE/Sustainable Initiatives, in collaboration with IRENE, hosted a "Multi-stakeholder Orientation Workshop" on the Guidelines in Karachi, Pakistan. The aim of the workshop was to explore how the Guidelines, as an instrument for implementing CSR, could be better utilised in Pakistan. Participants discussed the Guidelines' relevance in the context of Pakistan and case studies on investments that have adversely impacted local livelihoods and the environment. Participants also discussed the responsibilities of governments, capacity-building, key sectors of concern and a process for greater NGO collaboration.

In January 2007, OECD Watch members participated in several workshops at the World Social Forum in Nairobi, Kenya. OECD Watch members, including WACAM and Germanwatch, gave presentations on: 1) the Guidelines as a tool to promote responsible corporate conduct, 2) NGOs' experiences with filing complaints, and 3) the impacts of OECD-based companies in Africa. It was noted that over 20 NGO complaints from African groups have dealt with Guidelines' violations in the extractive industries. After a special workshop for southern partners of German faith-based organisations, the partners expressed interest in further training in 2007.

OECD Guidelines discussed at 12th International Anti-Corruption Conference

At Transparency International's (TI) 12th International Anti-Corruption Conference in Guatemala in November 2006, TI-Germany hosted a workshop to debate the contribution the Guidelines could make to energize the fight against corruption. Moderated by Hugh Williams, Berlin correspondent for the *Financial Times*, speakers included Willem van der Leeuw, Chairman of the Dutch NCP; Roland Schneider of TUAC; Jermyn Brooks, former Chairman of Pricewaterhouse Coopers; Peter Pennartz of IRENE; and Elena Panfilova of TI-Russia.

The workshop concluded with a number of recommendations for using the Guidelines to combat corruption. Among these, the anti-corruption community should diversify its strategy beyond international conventions and private sector initiatives and play a role in the implementation of the Guidelines. TI groups should use the "specific instance" procedure to test whether the Guidelines can help reduce corruptive, legally not (yet) prohibited behaviour and in cases where the evidence requirements of criminal proceedings cannot be met. TI chapters should also collaborate with other stakeholders to motivate the OECD and relevant national governments to upgrade their NCP's performance. Finally, TI should do more to engage civil society in tackling bribery and corruption in the broader campaign for international environmental, human rights and labour standards. For more information, go to www.12thiacc.org, Day 3, Workshop 5.5

New OECD Watch members

Seven new organisations have joined OECD Watch, bringing the total number of members to 67 organisations representing 37 countries. New members include the following:

Association Sherpa, France

Sherpa has two principal objectives, the first being to investigate and pursue civil and criminal proceedings against enterprises, both holding and subsidiary companies, for human rights abuses and other serious violations of national and international law. Sherpa also provides expertise, analysis, auditing, consultancy and training on aspects of globalisation where its direct or indirect effects are likely to infringe human rights. The Guidelines for Multinationals Enterprises are one of the major “soft law” tools that Sherpa focuses on to support their actions. Through the analysis of OECD complaints and other international instruments for corporate accountability, Sherpa aims to contribute to the evolution of customary international law.

Christian Aid, UK

In 1945, the British and Irish churches created Christian Aid. Sixty years on, the organisation works with church partners, the ecumenical family and sister agencies as well as with alliances of other faiths and secular groups which share our aim to end poverty. Christian Aid hopes to reach into communities to support projects that give men, women and children the power to control the structures and processes in their lives, which keep them poor. Since women and girls are disproportionately affected by poverty, the organisation does everything possible to overturn the injustice, which denies them an equal share of resources and opportunities. www.christianaid.org.uk.

Earthjustice International, US

Earthjustice is a non-profit public interest law firm dedicated to protecting the natural resources and wildlife of this earth as well as defending the right of all people to a healthy environment. Earthjustice enforces and strengthens environmental laws on behalf of hundreds of organizations and communities. The International program at Earthjustice helps citizens defend the right to a healthy environment, prevents trade rules from undermining public health and environmental protections and holds corporations and governments responsible for environmental harm. Earthjustice is investigating the most effective manner in which to hold a U.S.-based company operating in Peru accountable for activities that systematically violate Guidelines. www.earthjustice.org

Nepenthes, Denmark

Nepenthes is a Danish NGO working to promote conservation and sustainable use of the world’s forests as well as promoting respect for forest dependant communities. Nepenthes works on corporate accountability to prevent trade in illegal and other kinds of non-sustainable timber and supports binding regulation of multinationals. Through the Danish umbrella organisation, the Danish 92 Group, Nepenthes also works to raise awareness of the Guidelines. www.nepenthes.dk

Observatorio de RSC – Red Puentes España, Spain

The Observatorio de RSC is a network of Spanish NGO’s, trade unions and consumer associations. The Observatorio works as a platform to investigate cases, generate opinion and to increase society’s awareness of Corporate Social Responsibility (CSR). It promotes participation and collaboration between social organisations that are working on CSR. The aim is to create an independent institution to balance corporate activities by collaborating with the private sector and, at the same time, working on CSR issues in Spain. The Observatorio facilitates civil society organisations to join efforts and take advantage of synergies with each one contributing their specific knowledge and experience. www.observatoriorsc.org

Save My Future Foundation, Liberia

The Save My Future Foundation (SAMFU) monitors the activities of multinational enterprises, especially in the extractive industries. The organisation was founded in June 1987, but was dormant for most of the 1990s due to the civil war. By 1999, SAMFU was operational again. During 1999-2000, SAMFU researched areas of intervention in line with its mission. This research led to the initiation of the Liberian Forest and Human Rights Campaign, the Liberia Sea Turtle Project and the pilot scheme of the Community Development Initiative. www.samfu.org

The Corner House, UK

The Corner House is a research and solidarity group focusing on human rights, environment and development. It works closely with communities affected by UK investment and corporate activities overseas. It has submitted two cases under the Guidelines for Multinational Enterprises: the first concerning BP’s Baku-Tbilisi-Ceyhan oil pipeline and the second concerning BAE Systems. It is also working with other UK groups to press for improvements to the UK NCP’s handling of specific instances under the Guidelines. www.thecornerhouse.org.uk



ACKNOWLEDGEMENTS

OECD Watch is an international network of 67 members from 37 different countries promoting corporate accountability. The purpose of OECD Watch is to test the effectiveness of the OECD Guidelines for Multinational Enterprises and to inform the wider NGO community about the policies and activities of the OECD's Investment Committee.

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OECD Watch appreciates guest contributions by Bob Thompson, ECA Watch ("Many ECAs are still failing to promote the OECD Guidelines"), Cory Wanless, Umuchinshi Initiative and JD Candidate at the University of Toronto ("Debunking the First Quantum/Mopani complaint's success story"). and Catherine Coumans, MiningWatch Canada ("Canada reviews mechanisms to hold extractive companies to account").

We also appreciate translation provided by Tamara Slowik (Spanish) and Emmanuel Prinnet (French).

The following OECD Watch members contributed to this newsletter: Charles Berger (Australian Conservation Foundation), Serena Lillywhite (Brotherhood of St. Laurence), David Barnden (CEDHA), María Fabiana Oliver (FARN), Cornelia Heydenreich (Germanwatch), Peter Pennartz (IRENE), Farhan Anwar (Shehri-CBE/ Sustainable Initiatives), Patricia Feeney (RAID), Joris Oldenziel (SOMO), Joseph Wilde (SOMO), Nick Hildyard (The Corner House) and Shirley van Buiren (Transparency International-Germany).

This publication has been made possible through funding from the European Commission, DG Employment and Social Affairs, the Dutch Ministry of Foreign Affairs, Oxfam Novib, MISEREOR and EED (Germany).

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CALENDAR OF EVENTS

MARCH

- **March 26**
OECD Watch's Regional Roundtable for Southern Europe, Madrid, Spain
- **March 28**
OECD Watch Coordination Committee meeting, Paris, France
- **March 29**
Consultation with OECD Investment Committee, Paris, France
- **March 30**
OECD Watch/EUROSIF dialogue with European socially responsible investors, Paris, France

APRIL

- **April 27**
OECD Watch's Regional Roundtable for Northern Europe, Helsinki, Finland

MAY

- **May 23/24**
OECD Watch's Regional Roundtable for Eastern Europe, Bratislava, Slovakia

JUNE

- **June 15**
OECD Watch European-wide conference, Brussels, Belgium
- **June 18**
OECD Annual Roundtable on Corporate Responsibility, Paris, France
- **June 19/20**
Annual Meeting of National Contact Points, Paris, France
- **June 19**
Consultation with OECD Investment Committee, Paris, France

OCTOBER

- **Week 40 (October 1-5)**
Second OECD Watch/EUROSIF dialogue with European socially responsible investors
- **Week 44 (October 29 – November 2)**
OECD Watch Interregional seminar, Bangalore, India