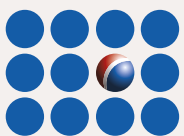
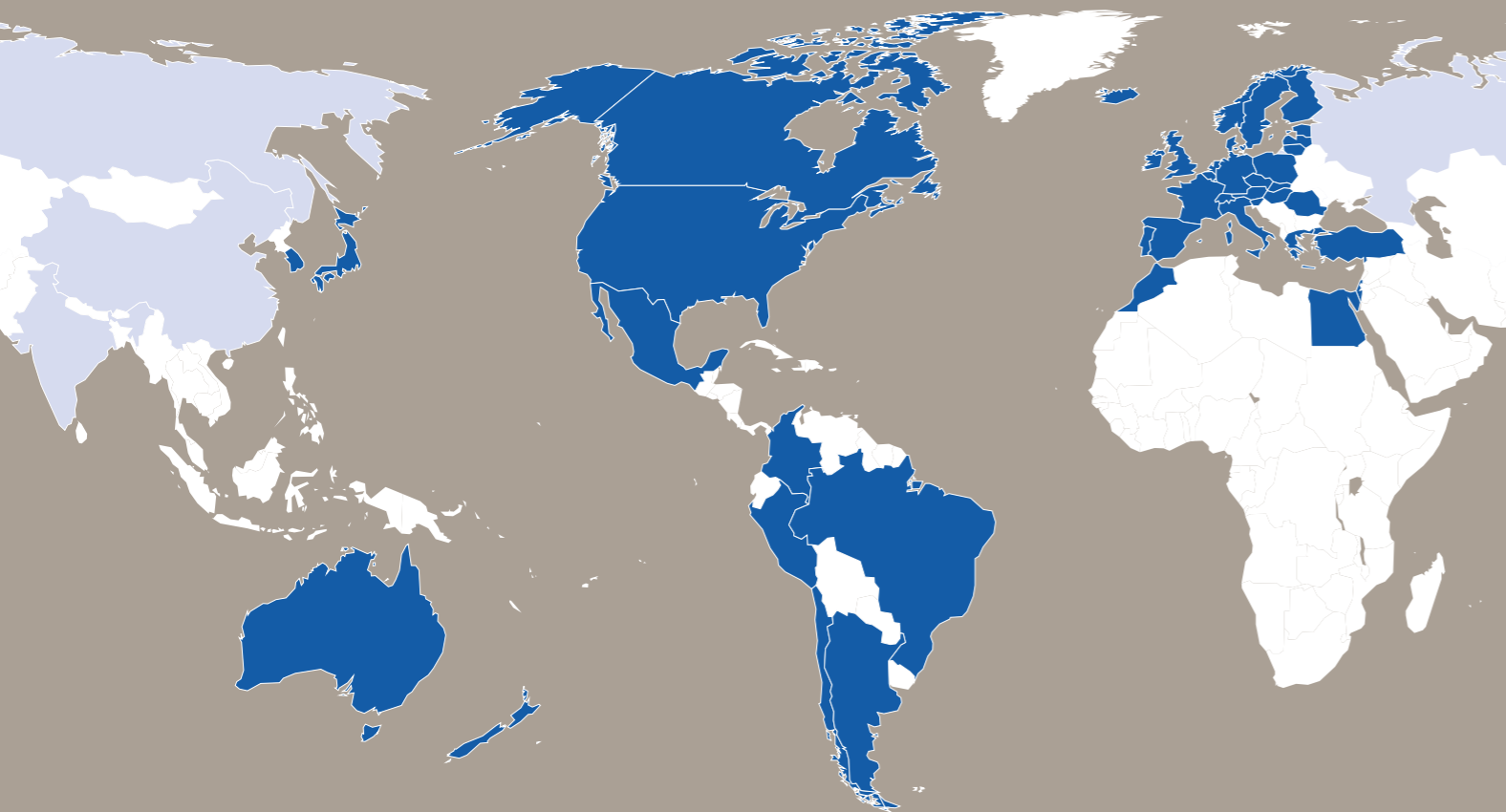




ANNUAL REPORT **NORWEGIAN NCP 2011/2012**



OECD
NCP Norway

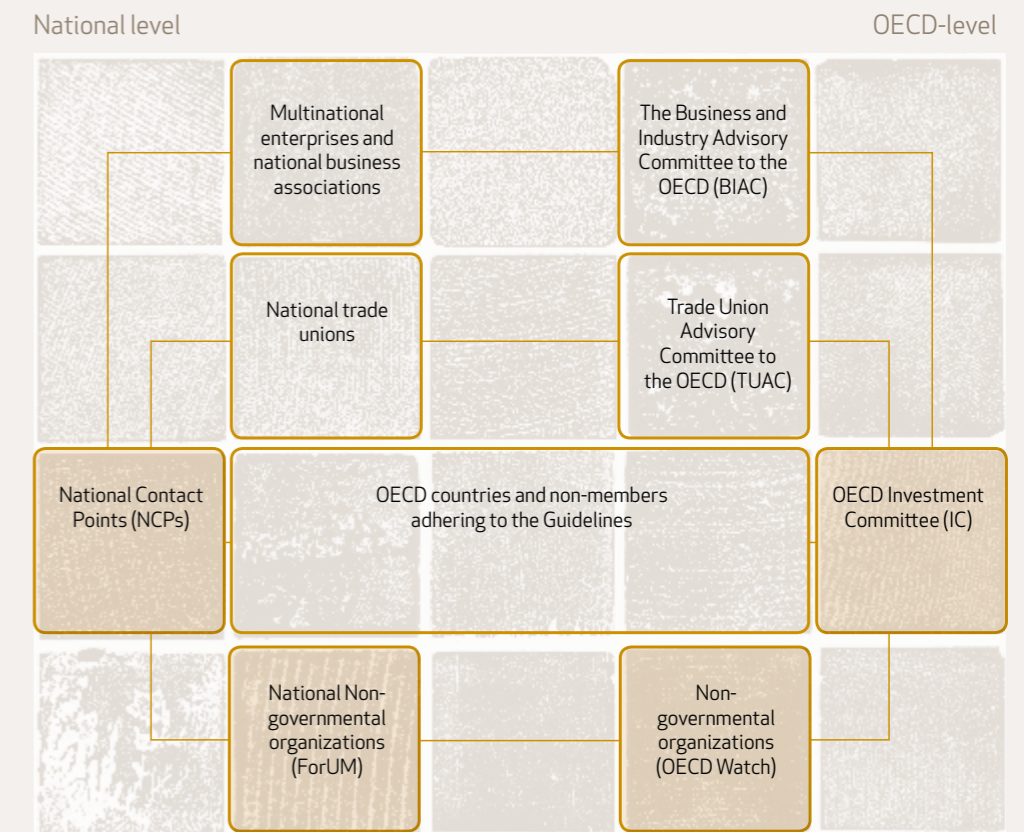


43 countries adhere to the OECD Guidelines and are hence required to establish a National Contact Point (NCP)

● **Countries with an NCP:** Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, Colombia, the Czech Republic, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Mexico, Morocco, the Netherlands, New Zealand, Norway, Peru, Poland, Portugal, Romania, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Turkey, the UK, and the US

● **Observing Countries:** China, India, and Russia

How are the OECD Guidelines implemented?



What is the OECD?

The Organisation for Economic Co-operation and Development (OECD), founded in 1961, comprises 34 countries in five continents. With its member states committed to the principles of democracy and the market economy, the OECD functions as a forum in which countries can work collectively to seek solutions to wider, common problems, share information on effective practices, and coordinate both domestic and international policy.

What are the OECD Guidelines?

The OECD Guidelines for Multinational Enterprises (MNEs) are recommendations by governments to multinational and domestic enterprises with international activities. They provide principles and standards of good practice consistent with applicable laws and internationally recognised standards. The Guidelines cover disclosure, human rights, employment and industrial relations, environment, bribery and extortion, consumer interests, science and technology, competition and taxation.

Countries adhering to the OECD are required to establish a National Contact Point (NCP) to promote the Guidelines, handle enquiries, and contribute to the resolution of complaints related to enterprises' implementation of the Guidelines.

OECD Guidelines in brief

The OECD Guidelines were launched in 1976, and last updated in May 2011. They reflect core international standards, including the 2011 UN Guiding Principles for Business and Human Rights.

General policies. Enterprises should operate in accordance with domestic laws and regulations. They should assess, prevent and mitigate adverse impacts on human rights, workers' rights and the environment, and fight corruption. This applies to companies' own activities and to the supply chain.

Disclosure. Enterprises are expected to regularly disclose information on operations and results, and demonstrate that they are taking responsibility for the themes in the OECD Guidelines in line with the most advanced standards for transparency and reporting.

Human rights. States have the duty to protect and realise human rights. Enterprises should respect human rights and seek ways to prevent or mitigate adverse impacts on human rights through due diligence and remediation processes.

Workers' rights. Enterprises should respect the rights of workers, cooperate with employee representatives, fight discrimination and contribute to the abolition of child labour and forced labour.

Environment. Enterprises should prevent, mitigate and reduce adverse environmental impacts, for instance through environmental management systems. This is a duty, but also a business opportunity.

Bribery and extortion. Enterprises play an important role in combating corruption and bribery through internal controls, ethics and compliance programmes.

Consumer interests. Enterprises should act in accordance with fair marketing and advertising practices and ensure the quality and reliability of the goods and services they provide.

Science and technology. Through the transfer of new technologies between countries, enterprises contribute to economic and social progress. Enterprises play an important role in developing national innovative capacities.

Competition. Enterprises should operate in a manner consistent with all applicable competition laws and regulations, and refrain from anti-competitive activities. This contributes to functioning markets that promote welfare and economic growth.

Taxation. Enterprises should contribute to the public finances of host countries by making timely payment of taxes and avoid inappropriate shifting of profits or losses to reduce the tax burden.

A. INSTITUTIONAL ARRANGEMENTS

The NCP shall “provide an effective basis for dealing with the broad range of issues covered by the Guidelines and enable the NCP to operate in an impartial manner while maintaining an adequate level of accountability to the adhering government”. (PROCEDURAL GUIDANCE, I.A.1)

The Norwegian NCP

The Norwegian NCP was reformed in 2011. As of 1 March 2011, the NCP is now structured as an independent expert body, comprising four individually appointed experts, assisted by a secretariat. The expert members assess complaints based on material prepared by the secretariat. The NCP and the secretariat also conduct promotional activities regarding the Guidelines. All members of the NCP have signed a declaration of transparency, confidentiality, trade restrictions, and impartiality.

As a publicly funded and administered institution, the NCP complies with Norwegian laws and regulations, such as the Norwegian Freedom of Information Act and the Norwegian Public Administration Act. The NCP is not required to report to the Parliament, but does so on a voluntary basis. Administrative issues are regularly reported to the Ministry of Foreign Affairs and occasionally to the Government’s consultative body for corporate responsibility, KOMPakt.

The NCP has an annual budget of NOK 4 million (EUR 525 000), which covers the salaries of the secretariat, remuneration to the panel members, consultancy/fact finding costs pertaining to specific instances and information activities, as well as administrative costs. Only 75% of the budget was used in the first year of the new NCP. The chair receives approximately EUR 16 000 a year, while each of the remaining three members receives approximately EUR 10 000 a year.

Establishment of a new NCP

Civil society had called for a more efficient and independent grievance mechanism. In 2010, the Government decided that in order to strengthen the NCP it would have to be restructured.

The changes made to the NCP’s composition, administration and budget were based on the Government’s white paper to the Norwegian Parliament (Report to the Parliament nr. 10, 2008-09), entitled “Corporate Social Responsibility in a Global Economy”.

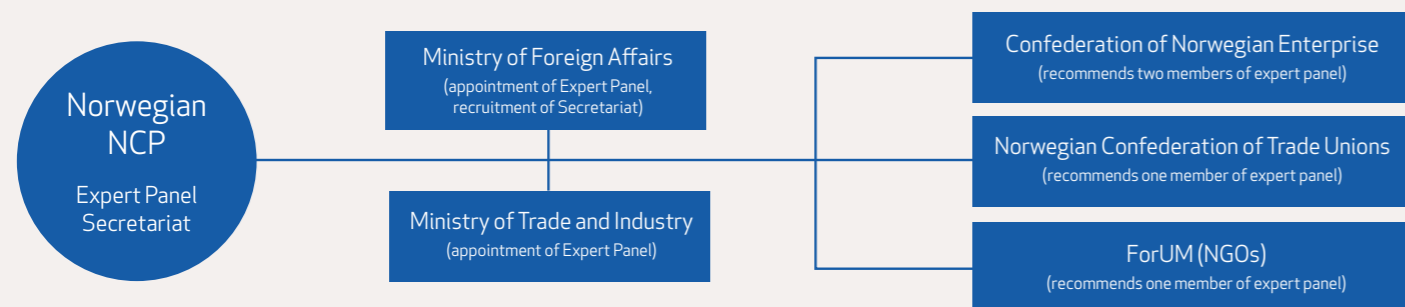
The rationale for the restructuring was that the former model contained many inherent deficiencies, such as the perceived domination



From left: Chair Hans Petter Graver, dean and professor of law at the University of Oslo; Gro Granden, special adviser at the Norwegian Confederation of Trade Unions (LO); Elin M. Myrmel-Johansen, Director Storebrand Life Insurance; and Jan Erik Korssj oen, former CEO Kongsberg Group, and lecturer at Buskerud College and the Norwegian University of Life Sciences. Photo: Anita Arntzen

of government interests, appointment on the basis of position, insufficient financial resources, and the absence of civil society representation.

The transition included an extensive consultation process that sought valuable input from the likes of OECD Watch, the British and Dutch NCPs, as well as the UNSRSG for Business and Human Rights, Professor John Ruggie. Key stakeholders, such as labour organisations, civil society, business, academia and government offices also contributed.



Members of NCP Norway are individually appointed by the Ministry of Foreign Affairs and the Ministry of Trade and Industry on the basis of proposals from the Confederation of Norwegian Enterprise (NHO), the Norwegian Confederation of Trade Unions (LO) and the Forum for Environment and Development (ForUM).

In adhering to the OECD Guidelines for Multinational Enterprises, all NCPs shall seek to:

- fulfil the criteria for grievance mechanisms as set forth by both the OECD and UN
- make the guidelines known and available
- respond to enquiries from companies, labour organisations, civil society and other interested parties
- assess complaints and contribute to resolving cases that arise regarding breaches of the Guidelines, and where dialogue or mediation is not feasible, publish a final statement on the complaint
- report annually to the Investment Committee
- share experience and discuss cases and best practices with NCPs in other countries

OECD Core Criteria for NCPs

Visibility. In conformity with the Decision, adhering governments agree to nominate NCPs, and also to inform the business community, worker organisations and other interested parties, including NGOs, about the availability of facilities associated with NCPs in the implementation of the *Guidelines*. Governments are expected to publish information about their NCPs and to take an active role in promoting the *Guidelines*, which could include hosting seminars and meetings on the instrument. These events could be arranged in cooperation with business, labour, NGOs, and other interested parties, though not necessarily with all groups on each occasion.

Accessibility. Easy access to NCPs is important to their effective functioning. This includes facilitating access by business, labour, NGOs, and other members of the public. Electronic communications can also assist in this regard. NCPs would respond to all legitimate requests for information, and also undertake to deal with specific issues raised by parties concerned in an efficient and timely manner.

Transparency. Transparency is an important criterion with respect to its contribution to the accountability of the NCP and in gaining the confidence of the general public. Thus, as a general principle, the activities of the NCP will be transparent. Nonetheless when the NCP offers its “good offices” in implementing the *Guidelines* in specific instances, it will be in the interests of their effectiveness to take appropriate steps to establish confidentiality of the proceedings. Outcomes will be transparent unless preserving confidentiality is in the best interests of effective implementation of the *Guidelines*.

Accountability. A more active role with respect to enhancing the profile of the *Guidelines* – and their potential to aid in the management of difficult issues between enterprises and the societies in which they operate – will also put the activities of NCPs in the public eye. Nationally, parliaments could have a role to play. Annual reports and regular meetings of NCPs will provide an opportunity to share experiences and encourage “best practices” with respect to NCPs. The Committee will also hold exchanges of views, where experiences would be exchanged and the effectiveness of the activities of NCPs could be assessed.

UN Guiding Principles’ Effectiveness Criteria for Non-Judicial Grievance Mechanisms

Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;

Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;

Predictable: proving a clear and known procedure with an indicative timeframe for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;

Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;

Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism’s performance to build confidence in its effectiveness and meet any public interest at stake;

Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights;

A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;

Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.

B. INFORMATION AND PROMOTION

“NCPs will make the Guidelines known and available by appropriate means (...) raise awareness of the Guidelines and their implementation procedures (...) and (...) respond to enquiries about the Guidelines.”

(PROCEDURAL GUIDANCE, I. B., 1-3)

Communication Plan

The Norwegian NCP Communication Plan, which was presented in Paris on 8 December 2011, outlines the NCP’s vision, mandate, core criteria, stakeholder groups, key operational goals and key messages.

The aim of the plan is to demonstrate how communication can better help us fulfil our mandate by focusing on three key operational goals:

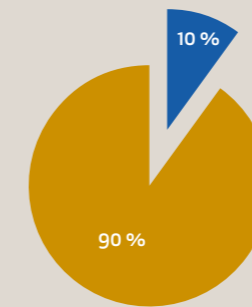
Key operational goal	Key communication output 2011/2012
1. To deal with complaints regarding possible breaches of the OECD Guidelines by Norwegian companies involved in international operations	<ul style="list-style-type: none"> Four assessments concluding specific instances all published with press release Cermaq case presented at seminar in Chile organised by NCP Chile in August and October 2011 Intex case presented at seminar in London co-organised by the Norwegian NCP, the Institute for Human Rights and Business and the International Council for Mining and Metals (ICMM) in London in March 2012
2. To provide information about the OECD Guidelines	<ul style="list-style-type: none"> A new website launched on the OECD Guidelines and the NCP June 2011: www.responsiblebusiness.no Two brochures completed and distributed online and in seminars and meetings. One on the NCP and the Guidelines in Norwegian, Spanish, English and Mandarin. One with additional information on NCP Norway’s procedures and cases in English. PowerPoint presentations and speeches are shared on the web. The Annual Report 2011/2012 will be available in Norwegian, English and Sami Three stakeholder meetings co-organised with key stakeholder groups, two in Oslo and one in London, each counting around 100 participants Intro-film on the OECD Guidelines and Norwegian NCP under production Board game for dilemma training on the Guidelines developed First newsletter sent 30 March 2012 to all stakeholders in Norway Presentations held by NCP members and the secretariat at numerous seminars, including 15 in Norway and two abroad
3. To cooperate with other NCPs and the OECD investment committee with the aim of furthering the effectiveness of the Guidelines and reaching the goal of functional equivalence between NCPs.	<ul style="list-style-type: none"> Seminar co-arranged by the Norwegian NCP, the Institute for Business and Human Rights, and the International Council on Mining and Metals (ICMM) in London on 23 March 2012, with NCPs from Argentina, Germany, the Netherlands, Mexico, Switzerland, the UK, and the US Information and experience exchange with British and Colombian NCPs in London in February 2012. Seminar in Chile in August and October 2011 where the Norwegian NCP-mediated outcome with a fish farming company was presented by the Chilean NCP Information exchange on dealing with specific instances, with the Canadian, Chilean, Dutch and Moroccan NCPs Share all information material produced, including brochures, dilemma training tools, etc. Norwegian NCP asked to lead NCP delegation to Japanese Peer Review in April 2012 Norwegian NCP asked to chair annual NCP meeting in Paris 2012

SURVEY 2011

The Norwegian NCP conducted a survey among 600 companies on corporate awareness of the OECD Guidelines and the NCP complaint mechanism. Of the companies polled, 291 were involved in international business activities, including production, trade and investments. A new and more detailed survey will be carried out in 2012.

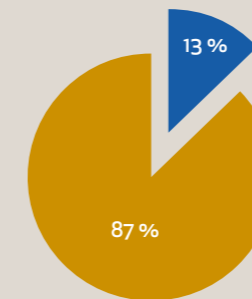
Awareness of the OECD Guidelines

Yes No



Awareness of grievance mechanism

Yes No



Media

The Norwegian NCP issues press releases and works actively to receive press coverage on the conclusion of specific instances.



The conclusions of the Cermaq and Intex cases received extensive coverage by national and foreign media. Above are examples from the Norwegian Broadcasting Corporation (NRK) and Dagens Næringsliv (Norway’s Financial Times).

Outreach

NCP Norway has organised and participated in a number of meetings, seminars and conferences in order to promote and increase awareness of the Guidelines. For more details, see Section D.



Mr. Erik Solheim, then-Minister of International Development, with Ms. Caroline Rees, Shift, from “Business in Development: From Conflict to Collaboration”, a full day symposium co-hosted by the Norwegian NCP and the Norwegian Peace Research Institute Oslo (PRIO) on 17 October 2011. YouTube link: <http://www.youtube.com/watch?v=-I9-uEuQfe0>



Head of Secretariat Hege Rottingen discussed “Responsible Business in Rough Places” with Nobel and Rafto Laureates, including Shirin Ebadi, on 3 November 2011, at a seminar organised by the Rafto Foundation and the Norwegian School of Economics and Business Administration.



NCP member Jan Erik KorssjØen with president of the Norwegian Confederation of Trade Unions, Roar Flåthen, at an open meeting to all stakeholders launching the updated Guidelines in Norway on 15 June 2011. The event was co-organised by the Norwegian NCP with the Confederation of Norwegian Enterprise, the Confederation of Trade Unions, and ForUM.



C. IMPLEMENTATION IN SPECIFIC INSTANCES

“The NCP will contribute to the resolution of issues that arise relating to implementation of the Guidelines in specific instances in a manner that is impartial, predictable, equitable and compatible with the Guidelines.”

(PROCEDURAL GUIDANCE I, C)

General Information on NCP Procedures

“NCPs should provide information (...) on the information that is necessary to raise a specific instance, the requirements for parties participating in specific instances, including confidentiality, and the processes and indicative timeframes that will be followed.” (Procedural Guidance, Commentary, I.15)

Although NCPs are not legal bodies, they may assess whether or not enterprises have breached the OECD Guidelines, and also assist companies and other stakeholders in resolving issues that arise in relation to the Guidelines. No other international guidelines for corporate responsibility have such a complaint mechanism. Mediation by the

Norwegian NCP is offered free of charge to the parties involved.

Norwegian NCP procedures are updated according to the Procedural Guidelines adopted at the OECD Ministerial Meeting on 25 May 2011. In addition to the transparency requirements of the Guidelines, the Norwegian NCP complies with the Norwegian Freedom of Information Act. All information will be made public, except when information may cause harm to individuals, reveal business secrets or expose certain details of the mediation process. Initial assessments, final statements, mediated outcomes, press releases and the Norwegian NCP procedures are fully explained and accessible on our website.

The Norwegian NCP complaint process is divided into the following key stages:

Stage 1: Initial Assessment

A desk-based analysis of the complaint, the company's response and any additional information provided by the parties. The NCP uses this information to decide whether further consideration of a complaint is warranted.

Normally three months

Stage 2: Mediation OR examination

If a case is accepted, the NCP offers conciliation/mediation to both parties with the aim of reaching a settlement agreeable to both. Should conciliation/mediation fail to achieve a resolution or should the parties decline the offer, the NCP will examine the complaint in order to assess whether it is justified.

Normally six to 12 months

Stage 3: Final statement

If a mediated settlement is reached, the NCP will publish a final statement with details of the agreement. If mediation is refused or fails, the NCP will examine the complaint and publish a final statement on whether the Guidelines have been breached and, if appropriate, make recommendations to the company for future conduct.

Normally within three months after the conclusion of the procedure

GUIDING PRINCIPLES FOR SPECIFIC INSTANCES

Consistent with the core criteria for functional equivalence, in their activities NCPs should deal with specific instances in a manner which is:

Impartial: NCPs should ensure impartiality in the resolution of specific instances.

Predictable: NCPs should ensure predictability by providing clear and publicly available information on their role in the resolution of specific instances, including the provision of good offices, the stages

of the specific instance process including indicative timeframes, and the potential role they can play in monitoring the implementation of agreements reached between the parties.

Equitable: NCPs should ensure that the parties can engage in the process on fair and equitable terms, for example by providing reasonable access to sources of information relevant to the procedure.

Compatible with the Guidelines: NCPs should operate in accordance with the principles and standards contained in the Guidelines.

Future In Our Hands (FIOH) vs. INTEX

NICKEL MINING IN THE PHILIPPINES			
Date Filed: 26 January 2009	Status: Concluded 30 November 2011		
Company/ies	Intex Resources ASA	Industry concerned:	Mining and Quarrying
Complainant(s)	Future in Our Hands (NGO)		
Lead National Contact Point	NCP Norway	Secondary National Contact Point(s):	None
Relevant Chapter(s) and Paragraph(s) of the Guidelines ¹	Chapter II (General Policies), Chapter V (Environment), Chapter VI (Combating Bribery)		
Concluded by	Final Statement on breaches of the OECD Guidelines		

The complaint claimed that Intex conducted flawed consultations with indigenous populations and engaged in bribery and corruption, and that there was potential for serious environmental damage if the project continued.

The Norwegian NCP concluded in a 50 page report including 233 footnotes that the OECD Guidelines are applicable to enterprises that are still at a planning or exploratory stage of their operations. Abiding by national law in itself is not sufficient for compliance with the Guidelines.

Human rights

The NCP concluded that the company was in breach of the human rights provisions of the Guidelines because it had not consulted broadly enough with the indigenous peoples affected by the project and associated infrastructure.

The company was unable to provide a clear, proactive stakeholder strategy and thus rendered itself vulnerable to criticism from groups that are affected, but do not see themselves as able to benefit from the project.

Bribery

The NCP did not find evidence that the company had been involved in bribery or corruption, but recommended that the company establish a sound managerial system to manage such risks, particularly since the operations were in a country figuring at the lower part of international corruption indexes. Nor did the NCP find that Intex had violated the Guidelines by supporting a community development project. However, Intex did not have a transparent, publicly disclosed system for allocating development funds. If a company commences a community project prior to gaining social acceptance, this may raise doubts as to whether the company is undertaking such a project in order to secure an endorsement.

Environment

Local populations were worried that mining could exacerbate flood problems, pollute rice fields, and impact biodiversity, water quality, agriculture, and tourism potential. The NCP found that Intex had conducted a detailed Environmental Impact Assessment (EIA), but did not sufficiently distinguish between significant and less significant risks. The EIA had not been disseminated as required by Philippine legislation; nor did it provide adequate information about a number

of important aspects of the project or sufficient baseline studies.

The extraction of minerals and metals requires careful assessment and disclosure of potential direct and indirect environmental impacts. Sharing information and engaging in consultations about environmental and health and safety consequences with the local community and indigenous peoples is of particular importance for projects with large and potentially lasting impacts for the environment and people.

The Norwegian NCP recommended that the company:

- Conduct due diligence in relation to the entire project impact area
- Engage in consultations with all impacted indigenous peoples in an understandable language and form
- Establish a transparent system for deciding community spending and disclose systematic information on criteria for planned and implemented projects
- Develop disclosure and reporting plans and systems in accordance with the IFC Performance Standards and the Global Reporting Initiative (GRI)
- Prepare a revised Environmental and Social Impact Assessment (ESIA or EIA) that provides a comprehensive and detailed analysis of all the environmental and social implications of all components of the project, including details on waste emissions, potential for marine pollution, implications of related infrastructure, and transport routes
- Finalise the environmental and social impact assessment in dialogue with all relevant groups directly affected by the company's operations and ensure a review by an independent third party
- Establish a grievance management system to cover the range of possible grievances, including environmental health and safety, labour rights, and community grievances by impacted groups and indigenous peoples



Photo: Plan Norway

Friends of the Earth Norway, Forum for Environment and Development (ForUM) vs. Cermaq ASA

SALMON FARMING IN CHILE AND CANADA			
Date Filed: 19 May 2009	Status: Concluded 10 August 2011		
Company/ies	Cermaq ASA	Industry concerned:	Fishing
Complainant(s)	Friends of the Earth Norway and Forum for Environment Development (NGOs)		
Lead National Contact Point	NCP Norway	Secondary National Contact Point(s):	NCP Chile, NCP Canada
Relevant Chapter(s) and Paragraph(s) of the Guidelines ²	Chapter II (General Policies), Chapter IV (Employment and Industrial Relations), Chapter V (Environment)		
Concluded by	Mediation: Joint Statement with commitments by all parties to the agreement		

The complaint maintained that Cermaq had acted in violation of the Guidelines, claiming it did not take adequate account of indigenous peoples' rights, that it engaged in discriminating trade union practices, and that it conducted flawed environmental due diligence. Cermaq rejected these claims. The Norwegian NCP offered to mediate. In August 2011 the parties agreed on a joint statement.

By engaging in mediation, the parties regained influence over the outcome, rather than leaving it solely to the NCP to determine whether or not the Guidelines had been breached. The parties' willingness to engage with one another has demonstrated to the public that they were able to achieve concrete results on the implementation of CSR practices through constructive dialogue.

Joint Statement

The agreement describes how Cermaq will operate according to the precautionary principle, indigenous peoples' rights, human rights, labour rights and reporting on sustainability. The Joint Statement also acknowledges that Cermaq, after major outbreaks of the virus infectious salmon anemia (ISA) in Chile, has contributed to knowledge development to make the industry more sustainable.

– We acknowledge that aquaculture in Chile, including Cermaq's farming activities, was not sustainable in the manner it was done prior to the fish health crisis in 2007. We have learned from the Chilean collapse, and followed through on a number of concrete improvements, says Bård Mikkelsen, Chair of the Cermaq Board.

– We are very pleased that this process concluded with constructive dialogue which both parties are set to continue, he underscores.

Friends of the Earth Norway and ForUM acknowledge that Cermaq has learned from the crisis in Chile.

– We see that Cermaq has undertaken positive changes in their routines to prevent fish disease both in Chile and in Cermaq's global business, says Lars Haltbrekken, Chair of Friends of the Earth Norway's board.

Chair of ForUM's board, Andrew P. Kroglund, emphasises the significance of the agreement.

– We are also very pleased that Cermaq through the Joint Statement commits to respecting the rights of indigenous peoples in all areas where they operate, he says.

The parties agree there are accusations in the complaint that have been refuted. The parties also agree that contact should be based on mutual trust and clarification of facts.

NCP Norway will facilitate a follow-up meeting in May 2012.



Photo: NCP Norway

Norwegian Climate Network and Concerned Scientists Norway vs. Statoil ASA

OIL SANDS EXTRACTION IN CANADA			
Date Filed: 28 November 2011	Status: Concluded 13 March 2012		
Company/ies	Statoil ASA	Industry concerned:	Mining and Quarrying
Complainant(s)	Norwegian Climate Network and Concerned Scientists Norway (NGOs)		
Lead National Contact Point	NCP Norway	Secondary National Contact Point(s):	NCP Canada
Relevant Chapter(s) and Paragraph(s) of the Guidelines	Chapter V (Environment)		
Concluded by	Rejected as complaint directed towards national policies rather than company policies		

The complaint claimed that Statoil's oil sands operations contributed to Canada's violation of its international obligations to reduce greenhouse gas emissions in the period 2008–2012. NCP Norway decided to reject the case on formal grounds, while underscoring the challenges that oil sands operations may pose to the climate and the environment.

The Norwegian NCP concluded that the complaint, while concerning some of today's most pressing issues, is directed towards Canada's policy of allowing oil sands development than towards the manner in which Statoil has operated in the context of this policy. The complaint does not concern the issue of whether Statoil, in its activities, has in

fact breached the Guidelines. In order for the NCP to be mandated to process a complaint, it must concern specified violations of the Guidelines that can be attributable to the company in question.

In highlighting the risks associated with oil sands development, the NCP called particular attention to valid concerns about the current monitoring regime, that land reclamation is not keeping pace with land disturbance, as well as the long-term and cumulative regional effects on groundwater and air quality.

All parties cooperated and engaged positively in the NCP process by readily providing information and comments to the NCP."

129 Roma Refugees vs. Norwegian Church Aid

HAZARDOUS CONDITIONS AT REFUGEE CAMP IN KOSOVO			
Date Filed: 22 June 2011	Status: Concluded 27 September 2011		
Company/ies	Norwegian Church Aid	Industry concerned:	Not Applicable
Complainant(s)	Dianne Post, representing 129 Roma refugees		
Lead National Contact Point	NCP Norway	Secondary National Contact Point(s):	Not Applicable
Relevant Chapter(s) and Paragraph(s) of the Guidelines	Chapter IV (Human Rights), Chapter VI (Environment)		
Concluded by	Rejected as Norwegian Church Aid was not acting as an MNE in this instance		

The complaint claimed that Norwegian Church Aid had not performed adequate due diligence in seeking to end or mitigate human rights violations at refugee camps in Kosovo. The complainants claimed that Norwegian Church Aid should be viewed as a Multinational Enterprise (MNE) on the grounds that it receives nearly half of its income from public funds and operates internationally. The complaint against Norwegian Church Aid was rejected by the Norwegian NCP, which concluded that the complaint is not against a "company" as understood by the OECD Guidelines for Multinational Enterprises."

The complaint alleged that, following the 1999 NATO bombing of Kosovo, Roma who did not flee Kosovo were placed in camps for internally displaced persons (IDPs). The camps were allegedly located on land contaminated with lead or land that was used as

a toxic waste dump site. As a result, the inhabitants of the camps experienced severe health problems.

Although NCA did not set up the camps itself, it managed one camp in the region on behalf of the United Nations Interim Administration Mission in Kosovo (UNMIK) and later on behalf of the local government. Since NCA managed the camp, the complainants hold the organisation responsible for alleged negative health impacts caused by exposure to lead poisoning as well as the lack of basic hygiene and sufficient food.

The Norwegian NCP consulted with the OECD Investment Committee, which supported the view that Norwegian Church Aid did not qualify as an MNE. The case, therefore, falls beyond the range of the Guidelines and the mandate of the NCP.

² 2000 version of the OECD Guidelines

D. OTHER IMPLEMENTATION ISSUES

Norwegian Support Committee for Western Sahara vs. Sjøvik AS

FISHERIES OFF THE COAST OF WESTERN SAHARA			
Date Filed: 5 December 2011	Status: Accepted 8 March 2012		
Company/ies	Sjøvik AS	Industry concerned:	Fishing
Complainant(s)	Norwegian Support Committee for Western Sahara (NSCWS) (NGO)		
Lead National Contact Point	NCP Norway	Secondary National Contact Point(s):	NCP Morocco
Relevant Chapter(s) and Paragraph(s) of the Guidelines	Chapter IV (Human Rights)		
Concluded by	Accepted to be dealt with by the Norwegian NCP with the aim to be completed by December 2012.		

The complaint claims that Sjøvik AS, which fishes and operates a fish processing plant in the Non-Self-Governing territory of Western Sahara through its subsidiaries Sjøvik Africa AS and Sjøvik Morocco S.A, has failed to respect the Sahrawi right to self-determination, thereby violating the human rights provisions of the Guidelines.

Sjøvik denies that the human rights provisions of the Guidelines are being violated, and accentuates that the complaint seems to be politically motivated. Furthermore, Sjøvik contends that the complaint lacks basis in local circumstances within the area of responsibility of Sjøvik AS.

The Norwegian NCP found that the complaint was substantiated and sufficiently enough linked to the Guidelines to accept the case. The fact that Norway has accepted the case does not necessarily mean that the company in question has acted in violation of the Guidelines. The NCP has invited the company and the complainant to a meeting to explore opportunities for dialogue or mediation. If mediation is rejected or unsuccessful, the NCP will publish a final statement on whether the company has violated the Guidelines. If so, the NCP will provide recommendations as to how the company can better operate in accordance with the OECD Guidelines in the future.



UN Cartographic Section

“NCPs should maintain regular contact, including meetings and with social partners and other stakeholders (...).” (PROCEDURAL GUIDANCE, COMMENTARY, I.18)

Proactive Agenda

The NCP co-organised three open meetings and was invited to speak at 15 seminars and conferences, including:

Conferences co-hosted by the Norwegian NCP:

- Launch of the new OECD Guidelines, Oslo, Norway, 15 June 2011 (co-hosted with the Confederation of Norwegian Enterprise, the Norwegian Confederation of Trade Unions and the Forum for Environment and Development)
- “Business in Development: From Conflict to Collaboration”, Oslo, Norway, 17 October 2011 (co-hosted with the Peace Research Institute Oslo and the Business for Peace Foundation)
- “NCPs and Extractive Sector”, London 23 March 2012 (co-hosted with the Institute for Human Rights and Business (IHRB) and the International Council for Mining and Minerals (ICMM))

Seminars where the NCP held presentations included:

- Indigenous Peoples’ Forum, Tromsø, Norway 12 October 2011
- NIMA CSR conference for purchasers Oslo, Norway, 20 October, 2011
- “Responsible Business in Rough Places”, Rafto Foundation and the Norwegian School of Economics and Business Administration (NHH), Bergen, Norway, 3 November 2011
- Global Compact Nordic, Oslo, Norway, 07 November 2011
- Lecture at the Norwegian School of Management (BI), Executive MBA programme, 24 November 24 2011
- Seminar on Indigenous Peoples in Kirkenes, Norway, 9 February 2012
- Japan Peer Review, 16–20 April 2012
- Expert Conference on Business & Human Rights organised by the Danish Presidency of the Council of the European Union, Denmark, 7–8 May 2012

In addition to the listed seminars and conferences, the Norwegian NCP also organised and attended 15-20 meetings with key stakeholders including (NGOs) ForUM, Friends of the Earth Norway, Norwegian People’s Aid, the International Commission of Jurists Norway, the Norwegian Burma Committee, Ethical Trading Initiative-Norway and Amnesty International Norway; (trade unions) The Norwegian United Federation of Trade Unions; (business associations) the Confederation of Norwegian Enterprise; (companies) Storebrand; (public pension funds) KLP and the Government Pension Fund Norway; (public institutions/ministries) representatives of the Ministry of Finance, the Guarantee Institute for Export Credits (GIEK), the Ministry of Foreign Affairs (i.e. the Section for Human Rights and Democracy, and the Section for Economic and Commercial Affairs), the Norwegian Agency for Development Cooperation (Norad), and Innovation Norway.



NCP member Elin Myrnel-Johansen moderated the “Business in Development” seminar 17 October 2011, co-hosted by the Norwegian NCP and the Peace Research Institute Oslo. Photo: NCP Norway

E. WEAK GOVERNANCE ZONES AND CONFLICT-AFFECTED AND HIGH-RISK AREAS

Peer Learning

“In addition to contributing to the Committee’s work to enhance the effectiveness of the Guidelines, NCPs are encouraged to engage in peer learning/ review activities. Such peer learning can be carried out through meetings at the OECD or through direct co-operation between NCPs.” (Procedural Guidance, Commentary, I.19)

If National Contact Points are to properly operate as intended, it is crucial that we achieve functional equivalence amongst NCPs. Norway contributes to the development of similar practice by sharing all information material it produces. For transparency and accountability reasons, the Norwegian NCP publishes all of its final assessments and mediated outcomes in full, including the factual basis, reasoning, and assessment, each substantiated with footnotes to provide access to the specific sources on which the assessment is built.

The Norwegian NCP cooperates closely with relevant NCPs in specific instances. In the complaints handled in 2011/2012, the Norwegian NCP discussed and shared drafts with the Chilean, Canadian, US, and Moroccan NCPs.

Important in ensuring functional equivalence are the biannual NCP meetings in June and December at the OECD in Paris, to which all NCPs report on their annual activity. The Norwegian NCP has been asked to chair the annual NCP meeting in 2012, which will focus on the subject of mediation.

Peer Review

“Peer Review” provides another important opportunity for NCPs to collaborate and find room for improvement. In 2012, the Japanese NCP volunteered for Peer Review. Norway was asked to head the delegation of NCPs, which consisted of the British, Dutch, German, and Mexican NCPs, in addition to the OECD Secretariat. The Norwegian NCP has volunteered to undergo Peer Review in 2013.



Norway chaired the delegation of NCPs that participated at the Japanese peer review in 2012.

Mediation Manual

The British, Dutch, and Norwegian NCPs have all successfully concluded specific instances by mediation. In order to improve operational performance and share experiences with other NCPs, the three NCPs have funded and developed a manual on mediation to be launched at the annual meeting in Paris.

Mediation, in the Norwegian NCP’s view, is the most effective tool at the NCP’s disposal. Participation in mediation is voluntary, but NCPs may be able to bring parties into dialogue by outlining the benefits of such a decision:

- engaging in the process will allow all parties greater influence over the outcome that would otherwise have been forfeited
- a more proactive stance on behalf of the company towards good CSR practices can contribute to their branding and “good name”
- complainants may be able to procure a more concrete commitment to future implementation of the Guidelines from the company
- a mediated conclusion is the preferred outcome for the Norwegian NCP

OECD TOOLS FOR DUE DILIGENCE

The OECD has several tools supplementing the Guidelines to help companies implement responsible business procedures. The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and the OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones are both available on the Norwegian NCP website and have been distributed to key stakeholder groups in our Newsletter.



Red Flags for Human Rights Abuses



In addition to OECD risk assessment tools, the Norwegian NCP endorses the Red Flags pamphlet and website, developed by International Alert and Fafo, the Norwegian Institute for Applied International Studies. “The Red Flags are an indispensable tool alerting companies to risks that may contribute to serious human rights abuses – enabling them to change their plans before harm occurs,” says Professor John Ruggie, UN SRSG for Business and Human Rights.

www.redflags.info





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