



July 24, 2019

## Response to the Norwegian NCP

The Complainant has received an email from the Norwegian NCP on June 13, 2019, and submits its response as follows.

1. First, as already clarified in the complaint, the complainants would like to emphasize that a significant amount of the information related to this case is only available to the respondents. Furthermore, we would like to reiterate that the information we are requesting — the Accident Investigation Report produced by the Respondent after the accident, which is closely relevant to the case — would not involve any disclosure of core trade secrets or an excessive cost on the part of the respondents.

Complainants seek information from respondents for the purpose of uncovering the truth about the incident and coming up with measures to prevent its recurrence. While the provision of evidence and information by the respondents is important in itself, the information they share will help the complainants, respondents, and NCPs to approach the truth and arrange prevention measures and remediation for victims. In this sense, the sharing of information and finding a solution are interconnected, and we believe that the mediation provided by the NCP can serve as a significant forum for reaching such a solution.

The establishment of preventive measures based on the information provided will also contribute to the improvement of the outdated industrial safety systems and practices of the shipbuilding industry in South Korea. Given that Respondent 1, Samsung Heavy Industries, is among the top ten shipbuilders in the world, and that four of those ten shipbuilders are based in South Korea, we believe that improvements in the South Korean system can lead to an overall improvement of industrial safety across the global supply chain of the shipbuilding industry.

2. Unofficial victims are a very important part of the complaint. According to the "Samsung Heavy Industries Crane Disaster Trauma Management Project Report" (attachment 1), a report issued under the financial support of the Korea Occupational and Labor Ministry, more than 150 workers have been found to need treatment since the accident. It can be reasonably assumed that even more workers are suffering from trauma, however, because the report only surveyed approximately half of the 1600 people who were working on the construction of the Martin Linge Platform at the time of the accident.

To date, only 14 workers have been officially recognized as suffering from industrial injury caused by trauma from this incident. The unique employment structure in South Korea and the rules and practices of the Industrial Accident Compensation Insurance Act make it very difficult for the trauma of subcontracted workers to be recognized by the government. No traumatized workers other than the 14 have received any official remediation from the government nor any trauma-related compensation or support from the companies. As outlined in the complaint, the victims are still suffering from the trauma. Thus, there is a dire need for multi-faceted rehabilitation and support for their return to social life.

Therefore, the complainants want specific support measures for the victims to be worked out and implemented to provide substantial relief to the affected workers through this NCP complaint.



Specifically, direct medical care for the victims or participation in the formation of a fund for such measures may be considered as practical remedies. The complainants currently provide support for some of the unofficial victims. Where appropriate and necessary, the complainants may promote the direct and indirect participation of the victimized workers in this NCP procedure by arranging interviews or submitting statements.

3. Currently, there is criminal and civil lawsuits in Korean courts in connection with this case. The criminal trial involves charges that Respondent 1, or Samsung Heavy Industries, violated the Industrial Safety and Health Act against the workers regarding the shipyard, the number of watchmen, etc. The trial court found the defendant guilty on some counts and not guilty on others on 2019. 5. 7. A second trial is ongoing after both parties appealed. As for the civil suit, the extremely few workers who have been recognized for industrial accident and receiving support from the state have filed for civil damages for injury and damages exceeding the provided support. The trial is currently underway.

4. In the complaint, the complainants have requested that each NCP actively collaborate and cooperate with each other in order to find out the truth of the case through the collection of evidence and information. We have also suggested that the NCPs share relevant data, translate the data, share acquired information, and conduct field investigations to confirm the facts of the case. In the initial assessment(attachment 2), the South Korean NCP has demonstrated its willingness to cooperate with each country's NCP, stating that "In particular, this case was filed not only with the Korean NCP but simultaneously with the French and Norwegian NCPs. Since the case is being processed in those countries' NCPs, cooperation with them is imperative." Therefore, the complainants request yet again that your NCP and the Korean NCP work closely together. Cooperation to this end will entail the translation of materials, an introduction to the general legal systems and practices of each country (an introduction to laws and practices related to industrial safety in South Korea and Norway), etc. Furthermore, collaboration on this case provides a significant opportunity for our NCPs to establish and demonstrate the functional equivalence between NCPs that the OECD actively encourages.

Sincerely,

**The Samsung Heavy Industries Martin Linge Project Crane Accident Workers Support Team**

- Masan Changwon Geoje Movement Association for Workers' Health and Safety (MCGMAWHS)
- Korean Metal Workers` Union Legal Center
- MINMYN-Lawyers for a Democratic Society KYUNGNAM

**The Korean Transnational Corporations Watch**

- Advocates for Public Interest Law (APIL)
- Corporation for All
- Gong Gam Human Rights Law Foundation
- Korean Confederation of Trade Unions (KCTU)
- Korean Federation for Environmental Movement (KFEM)
- Korean House for International Solidarity (KHIS)
- Korean Lawyers for Public Interest and Human Rights (KLPH)
- MINBYUN-Lawyers for a Democratic Society`s Labor Committee