

FOLLOW-UP TO SOCAPALM SPECIFIC INSTANCE

2 March 2015

Statement from the French National Contact Point

Socapalm: The NCP calls on Socapalm partners to assume their responsibilities

A referral to the French National Contact Point for the implementation of the OECD Guidelines for Multinational Enterprises was submitted on 3 December 2010 by a group of four non-governmental organisations and associations from Cameroon, France and Germany regarding the operations of the Cameroonian company Socapalm (Société Camerounaise de Palmeraies) in that country. The specific instance was referred to the Belgian and Luxembourg NCPs as well. The four complainants in this specific instance were the Cameroon Centre for the Environment and Development (CED Cameroon), the Cameroon Foundation of Rational Actions and Training for the Environment (FOCARFE), the French association Sherpa and the German NGO Misereor. The specific instance cited four companies: French-registered Bolloré SA, Belgian-registered Financière du Champ de Mars and two Luxembourg-registered companies – Socfinal (Société Financière Luxembourgeoise SA) and Intercultures (Compagnie Internationale de Cultures SA). In January 2011, the two Luxembourg-registered companies changed their names: Socfinal became Socfin (Société Financière de Caoutchouc SA) and Intercultures became Socfinaf SA. The referral related to the chapters on General Policies, Disclosure, Employment and Industrial Relations and the Environment of the 27 June 2000 version of the OECD Guidelines for Multinational Enterprises.

Following the publication of its Report on 3 June 2013, the NCP published a follow-up statement on 17 March 2014. The NCP has taken forward its follow-up and hereby reports on the actions taken by the parties (see Art. 32 of the NCP Bylaw).

1. NCP background and procedure

The French NCP was tasked with leadership of the referral to dialogue with the Bolloré Group, which has business relationships with Socapalm and the three other financial companies (holdings) cited. The Bolloré Group accepted the NCP's good offices in June 2012. This opened talks with the complainants, represented by Sherpa. In its Report of 3 June 2013,¹ the NCP found certain violations of the Guidelines, especially at the time the referral was submitted in 2010. Nevertheless, it noted a clear improvement in the situation, which held out prospects for enhancing the living conditions of both Socapalm's employees and the communities living adjacent to the plantations. The Bolloré Group stated it was willing to use the influence it has with its partners, in its business relationships with Socapalm and Socfin, to end the violations. As majority shareholder of Socapalm,² Socfin is an important partner of the Bolloré Group. The Socfin Group supervises the Quality, Health, Safety and Environment strategy and the ISO 14001 certification for its plantations in Cameroon, and also in Sierra Leone, Liberia, Côte d'Ivoire and Cambodia. Following the NCP referral, Socapalm launched a certification policy for its plantations and a QHSE policy as an indirect, and welcome, outcome of the NCP's action (see 2012 and 2013 Socfin Report, and 2013 Socapalm Report).

The NCP also mediated between the Bolloré Group and Sherpa, culminating in the negotiation of a roadmap for Socapalm presented to the NCP on 3 September 2013. The parties to the mediation process also agreed on a roadmap operationalisation and monitoring mechanism involving two independent bodies in France and Cameroon. The NCP published a follow-up statement on 17 March 2014³ to present the roadmap and, "strongly encourage all stakeholders to make a full contribution towards implementing the roadmap."

¹ <http://www.tresor.economie.gouv.fr/File/397225> (FR) <http://www.tresor.economie.gouv.fr/File/397319> (EN)

² The Socfin Group holds 64% of Socfinaf (cited by the NCP referral), which holds 100% of Palmcam, which holds 65% of Socapalm. The Bolloré Group holds 9.35% of Socapalm. The Socfin Group is listed on the Luxembourg Stock Exchange. It is majority owned by the Bolloré Group (38.75%) and by Geselfina (23.05%), Afico SA and Twosun.

³ *Socapalm: A Concerted Roadmap for Enhancing Living and Working Conditions for Plantation Employees and Local Populations* <http://www.tresor.economie.gouv.fr/File/399334> (FR) and <http://www.tresor.economie.gouv.fr/File/402624> (EN)

The Socapalm case was presented to the NCPs at the OECD on 25 June 2014 in the presence of representatives of Sherpa, the Cameroonian body in charge of follow-up, the “National Service for Justice and Peace” (SNJP), the Bolloré Group, Socfin and Socapalm.

The NCP held a meeting with the Bolloré Group, Sherpa and the independent French body on 8 October 2014. They informed the NCP of the delay with the operationalisation of the roadmap, which had been divided into two parts to separate out the actions that Socapalm is to take directly and initially (industrial pollution, jobs and working conditions, communication, safety, and transparency) from the actions also involving other stakeholders and studies and taking more time to implement (compensation, local development and consultation). The French NGO tasked with monitoring was due to go to Cameroon in November 2014 to visit the plantations and meet the Cameroonian partner NGO, SNJP, to set up the roadmap monitoring mechanism.

In December 2014, the NCP was informed of the apparent hold-up with implementing the roadmap and the cancellation of the monitoring body’s mission. The Bolloré Group reported that it has had problems implementing the roadmap with its business partner, the Socfin Group. In association with the parties, the NCP informed its counterparts to coordinate their information and their actions. Meeting on 5 February 2015, the NCP decided to publish a follow-up statement. The draft statement was presented to the Bolloré Group, Sherpa and the NCPs before being published on its website.

2. The NCP’s decision and recommendations

1. The NCP reiterates its support for the roadmap for Socapalm

As stated in its statement of 17 March 2014, the NCP reiterates its support for this roadmap that can provide suitable solutions for the Socapalm workers and the communities living adjacent to the plantations and includes an independent monitoring mechanism. The roadmap, co-formulated by the complainants and the Bolloré Group following their pledge to do so, meets the NCP’s expectations by identifying courses of action to improve Socapalm’s social and environmental conditions.

2. The NCP takes note of the Socapalm roadmap operationalisation difficulties

The Bolloré Group used the influence it has in its business relationships by negotiating the roadmap in liaison with Socfin. The Group went to Cameroon with Socfin in March 2014 to present the roadmap to the Socapalm teams. The Group also held discussions with the representatives of associations of populations living adjacent to the Socfin plantations, which culminated in a meeting of representatives of Cameroon, Sierra Leone, Côte d’Ivoire, Liberia and Cambodia in Paris on 24 October 2014. The Bolloré Group, acting as dialogue facilitator, conveyed their demands to the Socfin Group.

Despite these efforts, the NCP hereby takes note of a hold-up with the actual implementation of the roadmap, which some players attribute to an apparent disengagement by the Socfin Group, the Bolloré Group’s main partner in Socapalm. This hold-up could sign the demise of the roadmap that the Bolloré Group pledged to the NCP following its mediation. This situation could be especially damaging since the roadmap should have been deployed in tandem with the QHSE strategy launched by Socapalm.

3. The NCP therefore calls on the parties concerned to resume all efforts to improve the situation of the Socapalm workers and the communities living to the plantations in compliance with the OECD Guidelines.

1. The NCP calls on the Bolloré Group to use its influence in its business relationships to implement the objectives identified in the Socapalm roadmap that it negotiated with Sherpa in order to meet its commitments. Failing the operationalisation of this roadmap, the NCP asks the Bolloré Group to reconsider the terms of its relationship with the Socfin Group and to remain vigilant in its business dealings.
2. The French NCP calls on its counterparts to take forward their efforts to engage in talks with the Socfin Group to facilitate the implementation of the roadmap for Socapalm. The French NCP remains at its counterparts’ disposal for any cooperation required.
3. The NCP calls on Socapalm to cooperate with all stakeholders to achieve the identified goals. The NCP will convey its decisions to the Chairman of its Board.

Website: <http://www.pcn-france.fr>

e-mail: pointdecontactnational-France@dgtresor.gouv.fr

© Point de contact national français de l’OCDE

Statement from the French National Contact Point for the OECD

Guidelines for Multinational Enterprises

7 October 2013

On 9 July 2012, five claimants (four Indian and French Non-governmental organisations and associations and a French trade union) referred a specific instance to the National Contact Point (NCP) concerning Michelin's construction of a tyre plant in the State of Tamil Nadu in India. At the end of the NCP's work, the claimants decided to withdraw their referral and made public statement, in particular through a document issued by the three French claimants entitled "dysfunctioning of the OECD National Contact Point in France". For details on the substance of the case, the NCP refers the reader to its final statement issued on 27 September 2013 - <http://www.tresor.economie.gouv.fr/File/397224>

1. The French NCP is an independent and collegial body

Formed in accordance with the OECD Guidelines, the French NCP is a collegial, tripartite and independent body. It is made up of members from various government departments (economy and finance, labour and employment, foreign affairs and ecology), six French trade unions (CGT, CFDT, FO, CFE-CGC, CFTC and UNSA), and MEDEF, representing enterprises. The NCP's tripartite structure is unique amongst NCPs worldwide (the majority of which only have members from government departments) and ensures impartial decisions.

The NCP does not receive instructions from any other body. Although the Directorate General of the Treasury provides its operating resources, appoints its chair and hosts its website, it is not involved in the NCP's assessment and decision-making process. Discussions within the NCP are free and confidential. Decisions are taken by consensus following these discussions. When in exceptional circumstances there is no consensus, the decision is taken by the chair; and this will be set out in the statement or report issued at the end of the procedure.

Reaching consensus doesn't mean compromising with the Guidelines, which the NCP is bound to respect. It, involves assessing circumstances and facts -that cannot always be checked - in light of the Guidelines which as principles are obviously open to interpretation. Reaching a consensus also means attempting to contribute to help find solutions, as detailed below.

The bylaw of the French NCP were revised in July 2012 to reflect the May 2011 OECD Guidelines Update and to improve its institutional arrangement, particularly by strengthening transparency and visibility of its work and the scope and effectiveness of its decisions (<http://www.tresor.economie.gouv.fr/File/374625>).

2. The NCP reiterates that the spirit and goals of the OECD's NCPs are to contribute to resolve issues relating to the corporate social responsibility of multinational enterprises

The May 2011 update of the Guidelines made conciliation and mediation central to the work of NCPs by the “resolution of issues that arise relating to the implementation of the Guidelines”. In contrast, establishing potential violation is merely optional.

The NCP's bylaws state that “the NCP should evaluate whether an offer of good offices could make a positive contribution to the resolution of the issues raised (...) It may then decide to accept or abandon the specific instance procedure” (Art. 25).

The NCP has entire discretion to assess the feasibility of a mediation procedure but may not, under any circumstances, force the parties to take part. When one of the parties refuses its good offices, rejects mediation under the aegis of the NCP or imposes conditions unacceptable to the other party, mediation becomes more difficult or even impossible.

The French NCP always strives to offer the stakeholders a mediation option. In the “Michelin” case, the NCP attempted to start a mediation procedure based on the measures requested by the claimants but noted that the disagreements between the parties made this impossible.

With the mission to contribute to conflict resolution pursuant to the OECD Guidelines, the NCP reiterates that all stakeholders have specific responsibilities as regards specific instance, especially concerning confidentiality.

3. The NCP conducts its procedures according to the guiding principles and core criteria set forth in the procedural guidance of the OECD Guidelines and fully assumes its responsibilities

When handling the “Michelin” specific instance, as well as with the other cases referred to the NCP¹, the procedure was conducted in compliance with the guiding principles of impartiality, predictability, equitability and compatibility with the Guidelines as well as with the core criteria of visibility, accessibility, transparency and accountability as set forth in the bylaw (Art. 2) and in the procedural guidance of the Guidelines.

When examining the specific instances referred to it, the NCP didn't give priority to a particular case. On the contrary, in 2012 and 2013, the NCP worked on a very sustained tempo, was much higher than in previous years, in order to meet the target it had set as timeframes for handling specific instances. The NCP takes the time needed to move each case forward taking into account its particular features.

The NCP and its secretariat are systematically and always available to answer all enquiries from claimants in the form of work meetings, telephone conversations, e-mails or NCP meetings.

It should be mentioned that the admissibility of a referral is established on the basis of the core formal criteria set forth in the Guidelines (p. 89). Under no circumstances does admissibility mean a “prejudgment” on the merits.

At their request, all the French and Indian claimants were interviewed within a short delay, before the enterprise was. The NCP understands that it may be difficult for Indian claimants to appear before a French body which they themselves referred to. However, in respect of arranging interviews, translations and interpreting, the NCP handles all the specific instances referred to it equitably and uses the same methodology

¹ The NCP has handed down seven decisions in the last eighteen months.

The parties sent several thousand pages of documentation to the NCP. In compliance with the core principal of transparency, the documentation was sent to both parties and to the NCP members. The claimants exercised their right of response on several occasions in compliance with the core principals of accessibility and of fair and equitable treatments. The NCP verified that one of the French claimants was relaying information back to its Indian co-claimants. The fact that there was no mediation did not prevent the NCP from carrying out its examination which led to issuing a public statement on 27 September containing a certain number of reasoned assessments of the specific instance. There is no doubt that the NCP fully assumed its responsibilities.

The NCP attaches great importance to changing enterprises' practices by underscoring the key concepts of the Guidelines such as "business relationship" and "due diligence process". This is borne out by its work over the previous months; which also shows that it is able to fully assume its responsibilities. Out of the seven decisions handed down in recent months, two noted that the parties had concluded an agreement ("**Sodexo**" and "**Roquette Frères**") and two established a violation of the Guidelines ("**Molex**" and "**Accor**"). Another decision caused a company to commit not to resume purchasing cotton from Uzbekistan as child labour was being used ("**Devcot**"). In this case, in which four NCPs were involved, one of the claimant NGOs, the European Centre for Constitutional and Human Rights (ECCHR)², acknowledged that only the French NCP clearly held that child labour and forced labour constitute a flagrant violation of the Guidelines.

Special mention should be given to the "**Socapalm-Cameroun**" case in which the Bolloré Group, amongst others, was involved. The NCP's action led to the Bolloré Group acknowledging its responsibility vis-à-vis this company in which it is not a majority shareholder. During mediation under the aegis of the NCP, the parties established a joint action plan to improve corporate social responsibility in the Socapalm palm oil plantations. The plan was approved by the Bolloré Group and the SHERPA association. Moreover, Bolloré Group's partners are considering duplicating this approach it in other plantations worldwide.

Lastly, we should stress that the NCP is currently working intensively to handle out the referral from the French Minister for Foreign Trade in the wake of the Rana Plaza disaster. The NCP has to define the scope of the notion of "business relationship" in the the textile industry supply chain and to pinpoint the due diligence measures recommended by the Guidelines in such a case (<http://www.tresor.economie.gouv.fr/File/400758/File/400759>).

Overall, the French NCP wishes to reassert its independence and its determination to make change the behaviour of multinational enterprises in compliance with the OECD Guidelines. It doesn't ignore that there is still room for improvement in its working methods and it will be dedicated to addressing this in the near future.

A consensus was reached on this statement within the NCP, with the exception of one member of the trade union group.

Website: <http://www.pcn-france.fr>

Email: pointdecontactnational-France@dgtresor.gouv.fr

© Point de contact national français de l'OCDE

² http://www.ecchr.de/index.php/home_en.html