OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES | NATIONAL CONTACT POINT NORWAY

2. JULY 2015

INITIAL ASSESSMENT – COTTON CAMPAIGN, ANTI-SLAVERY INTERNATIONAL AND KTNC WATCH VS NORGES BANK INVESTMENT MANAGEMENT

CONTENTS

1 SUMMARY

On 3 December 2014, the National Contact Point Norway (NCP) received a complaint from Cotton Campaign, Anti-Slavery International and KTNC Watch against the Korean company Daewoo International, its parent company POSCO and the entity Norges Bank Investment Management (hereinafter referred to as 'NBIM'). The complaint was based on the assumption that Daewoo International and POSCO, domiciled in the Republic of Korea, does not comply with the OECD Guidelines. The complainants ask NBIM to contact the companies with a view to getting them to stop the alleged undesirable activities in the companies, which are stated to include violations of labour rights in the subsidiaries in Uzbekistan.

The complaint to the NCP concerns NBIM's handling, investigations and follow-up of the alleged violations. The specific instance raises questions about what type of due diligence can be expected of a minority shareholder. It also raises questions of principle concerning the application of the OECD Guidelines in relation to financial institutions.

Following the NCP's Final Statement in 2013, work was initiated by the OECD to specify expectations of the financial sector in general, including minority shareholders. In principle, it is not a decisive obstacle to the consideration of a specific instance that a process is ongoing in the OECD. As regards the NCP's consideration of this specific instance, however, the ongoing clarification process in the OECD must nonetheless be seen in connection with the fact that the NCP recently considered the same type of issues that are now being clarified.

In its response to the complaints, NBIM concluded that the specific instance against NBIM in its capacity as one of a large number of minority shareholders must be rejected by the NCP. NBIM states that it believes that all specific instances must first be considered and clarified by the contact point in the company's home country, which, according to NBIM, entails that this specific instance must first be considered by the Korean Contact Point. Nor has the complainant, in NBIM's view, substantiated the link between the alleged violations related to the company and NBIM in particular in its capacity as minority shareholder in the company. NBIM also believes that it is important to await the conclusion of the clarification work that is to be carried out under the auspices of the OECD.

The NCP did not find that the complaint was to be rejected, but, following an overall assessment, it has concluded that a new examination of NBIM so shortly after the last instance will not contribute to the purpose of the OECD Guidelines. The NCP has already made a statement on similar issues in the previous complaint against NBIM, which included recommendations for NBIM relating to implementation of the Guidelines. With reference to the NCP's recommendations for NBIM in section 4.5 of the Final Statement of 27 May 2013 and the fact that the OECD has initiated work to further clarify expectations of enterprises in the financial sector, the NCP finds that there is no basis for taking the complaint against NBIM any further. The specific instance is closed without further consideration.

The NCP also makes reference to the fact that this specific instance has been considered in conjunction with a complaint from United Steel Workers and Birlesik Metal IS vs Crown Holdings Inc. and Norges Bank Investment Management. In the NCP's view, these specific instances concern the same matters of principle and the conclusion is thereby the same.

2 THE CASE

2.1 THE COMPLAINT

On 3 December 2014, the NCP received a complaint from Cotton Campaign, Anti-Slavery International and KTNC Watch against the Korean companies Daewoo International, its parent company POSCO and NBIM. NBIM, a department within Norges Bank, is the Fund manager for the Government Pension Fund Global, which is a minority shareholder in Daewoo International and POSCO. The complainant focuses on NBIM's role in relation to Daewoo International and POSCO, which is domiciled in the Republic of Korea. The complainant asks NBIM to contact the company with a view to getting it to stop the alleged undesirable activities in the companies, which are stated to include violations of labour rights in the subsidiaries in Uzbekistan.

The complaints do not make reference to the OECD Guidelines but the Contact Point sees the relevant paragraphs in the OECD Guidelines as the following:

Chapter II, General Policies, paragraph 12, which states that enterprises should:

'Seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship. This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship.'

Chapter IV, Human Rights, paragraphs 1–6, which state that:

'States have the duty to protect human rights. Enterprises should, within the framework of internationally recognised human rights, the international human rights obligations of the countries in which they operate as well as relevant domestic laws and regulations:

1. Respect human rights, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.
2. Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur.
3. Seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts.
4. Have a policy commitment to respect human rights.
5. Carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts.
6. Provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts.

NCP member Frode Elgesem has not participated in the consideration of the instance because of an underlying conflict of interest related to the law firm Thommessen AS, in which Elgesem is a partner.

2.2 NBIM'S REPLY TO THE COMPLAINT

In an email of 12 December 2014, the NCP asked NBIM to comment on the following questions in particular:[1]

1. Whether the Norwegian NCP is the correct entity to assess the alleged violation.
2. Whether the subject of the complaint is a multinational enterprise.
3. The identity of the party concerned and its interest in the matter.
4. Whether the complaint is material and substantial. The complaint must be significant and concern matters covered by the Guidelines.
5. Whether there seems to be a link between the enterprise's activities and the issue raised in the specific instance.
6. The relevance of applicable laws and procedures, including court rulings.
7. How similar issues have been, or are being, treated in other domestic or international proceedings.
8. Whether the consideration of the specific instance would contribute to the purpose and effectiveness of the Guidelines.

The NCP received a reply from NBIM dated 13. January 2015. NBIM states that it believes that any specific instance under the Guidelines that concerns allegations against a multinational enterprise must first be assessed and clarified by the NCP in the enterprise's home country. This means that this specific instance should first be considered by the US NCP. NBIM makes particular reference to the need for ensuring that the Guidelines are practised in a uniform manner for minority shareholders in the whole OECD area.

In NBIM's view, the complainant has not substantiated the link between the alleged violations related to the company and NBIM in particular in its capacity as minority shareholder in the company. Furthermore, it makes reference to the OECD Principles of Corporate Governance and the need to respect the principles for the division of roles and responsibility that follow from these Principles. It adds that this does not mean that NBIM cannot seek to influence specific instances through dialogue with enterprises, but the division of roles and responsibility must be respected when considering what can be expected of a minority shareholder.

NBIM makes reference to the specific instance considered by the NCP in 2013 concerning NBIM's ownership interest in POSCO (the complaint from ForUM against NBIM). NBIM is of the opinion that this specific instance neither can nor should have a guiding role in relation to whether this or other similar instances should be accepted for consideration by the NCP. In connection with this specific instance, NBIM makes reference to its engagement in the OECD concerning the interpretation of the Guidelines. In NBIM's view, the NCP violated its procedural guidelines when it chose to consider the specific instance

[1] The questions are based on the OECD Guidelines for procedures and factors to be included in the initial assessment of specific instances; see pages 82–83 of the Guidelines.

and draw a conclusion before the case against the company POSCO (in the Republic of Korea) had been decided, and refers to how the Koreas NCP rejected the complaint against POSCO.

Furthermore, NBIM believes that consideration of this specific instance by the Norwegian NCP will not contribute to the purpose and effectiveness of the Guidelines. In NBIM's view, it is important to await the conclusion of the clarification work that is to be carried out under the auspices of the OECD with a view to defining more specific expectations of what, in practice, it is reasonable to expect of different actors in the financial sector. NBIM is concerned with ensuring broad support across OECD countries, as well as the participation of a representative selection of market actors from the financial market, in the work of defining more concrete expectations of different actors in the financial sector.

NBIM concludes that the specific instance against NBIM in its capacity as one of a large number of minority shareholders (NBIM has an ownership interest of 0.28% in Daewoo International and 0.91 % in POSCO) must be rejected by the NCP.

3 THE NCP'S ASSESSMENT

3.1 THE NORWEGIAN NCP'S COMPETENCE TO CONSIDER THE COMPLAINT

The first question that arises is whether the Norwegian NCP is the correct NCP to consider the complaint. In the OECD Guidelines, it is stated in section 23 of the Commentary on the Procedural Guidance that, generally, issues will be dealt with by the NCP of the country in which the issues have arisen. It is also specified in the mandate for the Norwegian NCP issued by the Ministry of Foreign Affairs that: 'In specific instances that concern contact points in several countries, the affected contact points shall seek to agree on which contact point should lead the work on providing advice and guidance. The decision shall be based on the understanding that the contact point in the affected enterprise's home country is the most natural choice.'

In the present case, the complaint was submitted to the NCP in Norway, which is the home country of NBIM, the party against which the complaint was filed. The way the complaint is worded, it primarily concerns NBIM's internal guidelines, due diligence and follow-up of investments and ownership. These are allegations that concern NBIM as a Norwegian fund manager of a Norwegian government pension fund. Based on this, it seems natural that the complaint should be considered by the Norwegian NCP. However, the complaint is also based on assumed non-compliance with the OECD Guidelines by the Korean companies Daewoo International and POSCO and its subsidiaries in Uzbekistan. If, as part of the case, an assessment shall be carried out of the underlying assumption of non-compliance on the part of Daewoo International and POSCO, this may raise other questions about which NCP is the closest to lead the consideration of the specific instance.

In its assessment of whether the Norwegian NCP is the correct NCP to consider the complaint, the NCP makes reference to the consideration of the specific instance in 2013, filed by Lok Shakti Abhiyan, KTNC Watch, Fair Green and Global Alliance and ForUM. In this case, the complaint was submitted to the national OECD contact point in Korea, Norway and the Netherlands. The complaint concerning alleged non-compliance with the OECD Guidelines was directed at the Korean company Pohang Iron and Steel

Enterprise (POSCO) and two of the company's shareholders, the Dutch pension fund ABP and its investment manager APG, and the Government Pension Fund Global represented by NBIM.

The Norwegian NCP accepted the complaint for consideration. The NCP found that it was the correct entity to consider the alleged violation. In its assessment, it emphasised that the issue to be considered was not the complaint against the company in which the Government Pension Fund Global was a minority shareholder, but the complainant's claim that NBIM had violated the OECD Guidelines, which meant that the complaint fell under the Norwegian NCP. The complaint is hereinafter referred to as 'ForUM vs NBIM'.

Based on this, the NCP has concluded that it is the correct entity to consider the complaint. Decisive in the assessment, has been that the complaint is directed at a Norwegian company's internal guidelines, due diligence and follow-up of ownership.

3.2 THE NCP'S FINAL STATEMENT IN FORUM VS NBIM OF MAY 2013

In its Final Statement in ForUM vs NBIM dated 27 May 2013, the NCP concluded that NBIM had violated the OECD Guidelines both through lack of cooperation with the NCP and by not having a strategy for identifying and handling possible human rights violations in the companies that the Government Pension Fund Global invests in. The NCP made reference to how NBIM had argued that the OECD Guidelines did not apply to minority shareholders and that NBIM accordingly had refused to answer written questions.

The NCP recommended that NBIM, in order to act in accordance with the OECD Guidelines, should:

- Cooperate with the NCP Norway by responding to the NCP's questions and accepting the NCP's offer to facilitate dialogue/mediation. Be more transparent in showing how NBIM acts as a responsible investor in the POSCO case.
- Expand its human rights due diligence to address the whole range of human rights, not just child labour.
- Identify which human rights risks are prevalent in the various sectors or types of investments and develop a strategy to address these. NBIM is encouraged to work with other investors to increase leverage.
- Include in the strategy work with other investors to encourage selected companies with particular risks to establish an operational-level grievance mechanism.
- Publicise the strategy on human rights due diligence. Disclosure will make NBIM less vulnerable to criticism that NBIM addresses human rights risks randomly.

The NCP also makes reference to the mandate issued by the Ministry of Foreign of Affairs of June 2014, which specifies that compliance with the OECD Guidelines is voluntary, and that the term 'breach' is not used about non-compliance with the Guidelines. At the same time, the mandate specifies that there is a clear expectation on the part of the authorities that enterprises implement the Guidelines.

3.3 DEVELOPMENTS AFTER THE NCP'S CONSIDERATION OF THE COMPLAINT OF 2013

In the time after the specific instance against NBIM was considered in 2013, the OECD Guidelines and their application in the financial sector has been the subject of consideration by the OECD Investment Committee and the associated Working Party on Responsible Business Conduct (hereinafter called WPRBC).

In June 2013, NBIM wrote to the OECD and asked for a clarification of the expectations to the financial sector. In the letter, NBIM wrote that it believed that the OECD Guidelines did not apply to minority shareholders. On 25 June 2014, the Ministry of Foreign Affairs sent a letter to the OECD, requesting that the OECD start clarifying expectations to the financial sector.

During this period, the WPRBC carried out extensive consultation, both internally with members and with experts outside the OECD. It published several documents and reports dealing with topics such as financial institutions, government pension funds and minority shareholders.

In these documents, the WPRBC concluded that there is a shared understanding that the key question is not who the Guidelines apply to. The Guidelines are voluntary recommendations, and authorities are obliged to promote compliance with the Guidelines to the greatest possible extent. It has been clarified that, in principle, minority shareholdings are a type of business relationship, in the sense used in the OECD Guidelines. The OECD's Working Party WPRBC thereby confirmed that the OECD Guidelines apply to all business relationships, without exception, and that the question is more about how the Guidelines shall be applied.

3.3.1 NBIM'S REFERENCES TO THE OECD GUIDELINES IN STRATEGIES AND PLANS

In February 2015, NBIM issued a report on its work on responsible investments.[2] The report points out that the OECD Guidelines is included in the management mandate given by the Ministry of Finance and that the OECD Guidelines is being used as a basis for their work on responsible business conduct.

The report contains a text box on the OECD, which describes the Guidelines as follows:

'The principles and standards published by the OECD and the UN are voluntary, non-statutory recommendations that express expectations for good corporate governance and sound business practices when it comes to environmental and social issues.

The OECD Guidelines for Multinational Enterprises are a set of government-endorsed recommendations for companies that operate internationally. The aim is to support sustainable development through responsible business conduct, trade and investment. The voluntary nature of the guidelines means that compliance cannot be legally enforced, but there is an expectation that companies will apply the

[2] http://www.nbim.no/en/responsibility/#responsibleinvestmentreport

guidelines to the extent that they are relevant to their business. Companies themselves are to assess how this can best be achieved.' (p. 16 of the report).

In the report, NBIM also refers to how it supports the ongoing development of international standards and that in 2014, it focused especially on the OECD Guidelines for Multinational Enterprises and their relevance to the financial sector.

3.3.2 REQUIREMENTS FOR HUMAN RIGHTS DUE DILIGENCE IN THE OECD GUIDELINES

The complainant refers to the OECD Guidelines, which it interprets to recommend that all actors use their leverage to reduce and mitigate adverse impacts as a result of non-compliance with the Guidelines[3] by companies in which the actor has ownership interests.The Guidelines recommend that enterprises, also in the financial sector, carry out human rights due diligence reviews of their investments.[4]

During the Global Forum on Responsible Business on 26–27 June 2014, two important documents were presented that discuss the financial sector's role and responsibility. The document 'Scope and application of "business relationships" in the financial sector under the OECD Guidelines for Multinational Enterprises' is approved by the WPRBC, while the document 'Due diligence in the financial sector – adverse impacts directly linked to financial sector operations, products or services by a business relationship' has been published, but not approved by the WPRBC.

In the approved memo 'Scope and application of business relationships in the financial sector', it is stated that the scope of the Guidelines is not limited by sector or to certain kinds of business relationships. A minority shareholding can therefore in principle be seen as a business relationship under the Guidelines, even if this is not spelled out in the text of the Guidelines itself. Although observance of the Guidelines by enterprises is voluntary and not legally enforceable, this does not reduce the expectations that the Guidelines should be observed. Financial institutions should consider the appropriate manner in which observance of the Guidelines could successfully be implemented in their business strategies.[5]

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[3] The OECD Guidelines, Commentary on Chapter VI, Human Rights, paragraph 43

[4] The OECD Guidelines, Chapter VI, Human Rights, paragraph 4

[5] OECD: Scope and application of 'business relationships' in the financial sector under the OECD Guidelines for Multinational Enterprises, 26 June 2014: The Guidelines contain an expansive description of the term 'business relationships'. Since the Guidelines operate with non-exhaustive descriptions of key terms, their possible use or 'scope' is not limited by sector, to certain kinds of enterprises or to certain kinds of business relationships. A minority shareholding can therefore in principle be seen as a business relationship under the Guidelines, even if this is not spelled out in the text of the Guidelines itself. Although observance of the Guidelines by enterprises is voluntary and not legally enforceable, this does not reduce the expectations that the Guidelines should be

In the document 'Due diligence in the financial sector' (which is not approved by WPRBC), it is stated that a lack of leverage does not mean that it is not relevant for an enterprise to carry out due diligence. The document recommends that enterprises carry out due diligence precisely to find out what degree of leverage they have.[6] The document refers to how the OECD Guidelines recognise that there can be practical limitations on the ability of enterprises to effect change further down the value chain. Enterprises are nonetheless expected to exercise leverage through inter alia contractual arrangements and cooperation with other enterprises with which they share a common supplier.[7] It is stated here that the Guidelines refer to value chains and suppliers, and that no reference is made in the text to investors, minority shareholders etc. The NCP expects the ongoing process in the OECD to clarify how this provision shall be applied to the financial sector.

3.3.3 FURTHER WORK IN THE OECD AND THE PROJECT 'RESPONSIBLE BUSINESS CONDUCT IN THE FINANCIAL SECTOR'

A process is ongoing in the OECD to develop clearer guidelines for the financial sector in general and minority shareholders in particular on how they can use due diligence to ensure responsible business conduct. The OECD's Working Party on Responsible Business Conduct (WPRBC) presented terms of reference for this project on 20 March this year.[8] The terms of reference set out a tentative timeline that stipulates completion of the project in the fall of 2016. The project aims to support multinational enterprises in the financial sector in applying the OECD Guidelines. The project will seek to elaborate practical approaches to how financial institutions can meaningfully integrate the provisions of the Guidelines into their due diligence practices, in a manner that builds on their existing practices. The guidance shall reflect the practical challenges, the degree of leverage and be adapted to the unique characteristics of the financial sector.

The terms of reference for the project 'Responsible Business Conduct in the Financial Sector' refer to how detailed guidance on the application of the OECD Guidelines to specific financial instruments is lacking. The project will build on existing initiatives such as the Equator Principles, the UNEP Finance Initiative

observed. Financial institutions should consider the appropriate manner in which observance of the Guidelines could successfully be implemented in their business strategies.

[6] OECD: Due diligence in the financial sector, 26 June 2014: However, a lack of leverage does not imply that an enterprise should not apply the recommendations of Guidelines. The degree of leverage it has over its business relationship the entity causing the adverse impact is useful in considering what it can do to persuade that entity to take action, but is not relevant to considering whether it should carry out due diligence and exercise any leverage it may have. It should.

[7] The OECD Guidelines, Commentary on Chapter II: General Policies, paragraphs 21 and 23

[8] Terms of Reference for the Proactive Agenda Project on Responsible Business Conduct in the Financial Sector – DAF/INV/RBC(2015)6 –

etc.[9] The goal is to build on and further develop these initiatives and involve the relevant institutions and organisations in the work.

The terms of reference require extensive consultation with multi-party processes, in which stakeholders participate in an Advisory Group consisting of authorities, companies, the above-mentioned initiatives and other international organisations. NBIM is one of 11 representatives from the financial sector in the Advisory Group, together with ABN Amro, the Dutch pension fund APG, Credit Suisse etc. The project places great emphasis on involving key players in the financial sector to help to foster ownership of the results and thereby also facilitate cooperation and exchange of experience in the follow-up work.

There are also plans to prepare concrete examples as the basis for considering each of the main categories of financial services, such as:

- asset based and project finance
- corporate lending (beyond asset based finance)
- capital markets (debt and equity transactions)
- investments, including minority shareholdings, e.g. pension funds, institutional investors, passive and active investment strategies, index trading etc.
- other financial services of products, as determined necessary by the Advisory Group (e.g. retail banking, insurance, etc.).

The goal is to review the financial sector's complex portfolios and highlight how due diligence is expected to be carried out. What tools and methods can be used, how to balance priorities and the degree of involvement. Concrete recommendations shall be provided here on ways to identify, prevent and reduce actual and potential adverse impacts and, if relevant, implement mitigating measures.

In June 2015, the OECD held this year's 'Global Forum on Responsible Business Conduct', and the financial sector was a topic on this year's programme, as it has been before.

The ongoing process in the OECD to clarify how the Guidelines apply to the financial sector will be useful in specifying how the above-mentioned documents are intended to apply to financial sector actors. The process in the OECD is scheduled to be completed in the fall of 2016.

4 THE NCP'S DECISION

As regards NBIM, the complaint from the Cotton Campaign, Anti-Slavery International and KTNV Watch based on the assumption that Daewoo International and POSCO based in the Rebublic of Koreadoes not comply with the OECD Guidelines. The complaint concerns NBIM's handling, investigations and follow-up of the alleged violations, however. The NCP has concluded above that it deems the Norwegian NCP to be

[9] www.Equator-principles.com

www.Unepfi.org

the correct entity to consider the complaint, because the complaint is directed at the Norwegian entity NBIM's guidelines, due diligence and ownership follow-up.

The specific instance raises questions about what type of guidelines, due diligence, investigations and ownership follow-up can be expected of a minority shareholder. It also raises questions of principle concerning expectations to financial institutions and application of the OECD Guidelines in relation to financial institutions.

The same matters of principle that arise in the present complaint were considered by the NCP in its Final Statement of 27 May 2013, in the case in which ForUM had filed a complaint against NBIM. The NCP's assessments in this specific instance are described above. In its Final Statement on this specific instance, the NCP issued several recommendations for NBIM.

At the same time, following the NCP's Final Statement in 2013, work was initiated by the OECD to clarify and specify expectations to the financial sector in general, including minority shareholders. Further clarification and guidance is deemed to be needed on how the OECD Guidelines shall be applied in the financial sector.

Based on this, the NCP has considered whether the present complaint against NBIM merits further consideration as the situation now stands. In the Commentary on the Procedural Guidance in the OECD Guidelines, factors are specified that the NCP needs to take into account in this consideration. Among other things, emphasis shall be placed on how similar issues have been, or are being, treated in other domestic or international proceedings, and whether the consideration of the specific issue would contribute to the purposes and effectiveness of the Guidelines.

The matters of principle that arise in the present complaint against NBIM are currently being considered by the OECD for the purpose of clarification. In other words, an international clarification process is currently ongoing on the same issues. In principle, the NCP does not think that this is a decisive obstacle to the consideration of a specific instance. The opposite view can entail long postponements and may prevent the purpose of the OECD Guidelines from being fulfilled.

For the specific instance at hand, the ongoing clarification process in the OECD must nonetheless be seen in connection with the fact that the Norwegian NCP recently considered the same type of issues that are now being clarified. The complaint was filed against the same party, and this concrete case is also part of the reason why the OECD has initiated a process for further clarification.

Based on an overall assessment, the NCP has concluded that a new examination of NBIM so shortly after the last case will not contribute to the purpose or effectiveness of the OECD Guidelines. Statements have already been made on the same issues as the specific instance raises, and recommendations have been issued to NBIM relating to the implementation of the Guidelines.

With reference to the NCP's recommendations for NBIM in section 4.5 of the Final Statement of 27 May 2013 and the fact that the OECD has initiated work to further clarify expectations to enterprises in the financial sector, the NCP finds that the issues raised do not merit further consideration.. The specific instance is closed without further consideration.

APPENDICES

1) Information about the NCP's consideration of the specific instance
2) Information about the parties
3) Information about the NCP Norway for the OECD Guidelines and the procedures for handling complaints
4) The complaint and the company's response to the complaint

APPENDIX 1: INFORMATION ABOUT THE NCP'S CONSIDERATION OF THE SPECIFIC INSTANCE

The NCP received the complaint on 3 December 2014.

The complaint was forwarded to NBIM on 5 December 2014 and NBIM was invited to comment on the complaint. Given that NBIM was familiar with the NCP's procedures for the consideration of specific instances, it was agreed by telephone and email between the NCP Secretariat and NBIM to send the complaint without holding a preliminary information meeting. It was agreed to hold an information meeting on 12 December 2014. The meeting was later postponed by NBIM.

In an email from the NCP to NBIM of 12 December, the NCP asked for input to and comments on the specific instance, setting the deadline for responding to 15 January 2015.

NBIM sent its response to the complaint on 14 January 2015, with comments on and input to the specific instance and the NCP's consideration of this.

On 16 February 2015, the NCP sent a new letter to NBIM, reiterating the invitation to engage in dialogue and proposed dates.

NBIM replied on 25 February. It made reference to how the Ministry of Foreign Affairs had appointed new members to the NCP on 19 February and asked for the meeting to be postponed until the new NCP had been formally established.

Over and above this, the NCP has had e-mail exchanges with the complainants (Cotton Campaign, Anti-Slavery International and KTNC Watch) and kept it up-to-date about developments in the case. The NCP has also had contact with the Korean NCP, which is considering the complaint against Daewoo International and POSCO with the view to exchange information about the case.

NCP member Frode Elgesem has not participated in the consideration of the instance because of an underlying conflict of interest related to the law firm Thommessen AS, in which Elgesem is a partner.

APPENDIX 2: INFORMATION ABOUT THE PARTIES

THE COMPANY

Norges Bank (the central bank) is responsible for the management of the Government Pension Fund Global. The Board of Norges Bank has delegated the management task of the Fund to Norges Bank Investment Management (NBIM), a department within the central bank. NBIM also manages parts of the Norwegian foreign exchange reserves.

The Government Pension Fund Global was established by law in 1990 as a finance policy instrument to ensure a long-term perspective for the use of the state's petroleum revenues. The Fund is invested in companies outside Norway, based on the investment strategy.

The Government Pension Fund Global is managed under a mandate set by the Ministry of Finance. The mandate defines inter alia the investment universe, the benchmark index and limits to risk exposure. The strategy implies that the Fund is to be invested in international stock markets and bond markets on a wide basis to secure the highest possible return measured in international purchasing power. Through its

management and ownership, Norges Bank seeks to safeguard the financial interests of Norway's future generations. Norges Bank is the formal owner of the securities the Fund is invested in.

The Ministry of Finance has established guidelines for observation and exclusion of companies from the Government Pension Fund Global. The guidelines imply that companies shall be excluded if they produce certain products or if they sell weapons to specific states. Companies may also be excluded if there is an unacceptable risk that the companies contribute to or are responsible for serious unethical conduct. The Council on Ethics within the Government Pension Fund Global issues recommendations to Norges Bank on exclusion and observation of companies. Norges Bank makes the final decision in these cases.

THE COMPLAINANT

The complaint was submitted by Cotton Campaign, Anti-Slavery International and KTNC Watch.

KTNC Watch is a network of NGOs based in the Republic of Korea working in various fields ranging from human rights and corporate social responsibility to energy/climate policy and labour rights. The network aims to monitor transnational corporations registered in the Republic of Korea and address issues arising from their operations.

The Cotton Campaign is a coalition of human rights organisations, trade unions, socially responsible investors and business organizations who are working together to end forced labour of children and adults in the cotton industry in Uzbekistan.

Anti-Slavery International are working at local, national and international level to eliminate all forms of slavery around the world.

APPENDIX 3: INFORMATION ABOUT THE NORWEGIAN NCP FOR THE OECD GUIDELINES AND THE COMPLAINT PROCEDURES

The initial assessment is based on the 2011 version of the Guidelines as the complaint was submitted after the updated OECD Guidelines for Responsible Business Conduct. The Guidelines comprise a set of principles and standards for general policies, human rights, disclosure, employment and industrial relations, environment, combating bribery, consumer interests, science and technology, competition and taxation. The Guidelines are not legally binding. However, OECD governments and a number of non-OECD members are committed to encouraging multinational enterprises operating in or from their territories to observe the Guidelines, while taking into account the particular circumstances of each host country.

The Guidelines are implemented in adhering countries by OECD National Contact Points (NCPs), which are charged with raising awareness of the Guidelines amongst businesses and civil society. NCPs are also responsible for dealing with complaints concerning allegations that multinational enterprises operating in or from their territories have failed to observe the Guidelines.

The NCP Norway is established as an independent expert advisory body, and comprises four independent experts and a secretariat. The NCP shall raise awareness about the OECD guidelines and provide advice and guidance in specific instances of alleged non-compliance of the Guidelines. The NCP Norway Procedural Guidelines can be found on the NCP webpage:

http://www.responsiblebusiness.no/files/2013/12/NCP-Norway-Procedural-Guidelines.pdf

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

1. *Initial assessment* – This consists of 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 the complaint warrants further consideration.
2. *Conciliation/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. The NCP may commission fact-finding or other services to support the processing of the case if deemed necessary.
3. *Final statement* – If a mediated solution has been reached, the NCP will publish a final statement with details of the agreement and on the procedure followed. If conciliation/mediation is refused or fails to achieve an agreement, the NCP will examine the complaint and publish a final statement on whether or not the Guidelines have been observed and, if appropriate, recommendations to the company for future conduct.
4. *Follow*-up - If a mediated solution has been reached, the "parties may agree to seek the assistance of the NCP in the following-up on the implementation of the agreement and the NC may do so on terms agreed between the parties and the NCP[10]".

APPENDIX 4: THE COMPLAINT AND THE RESPONSE FROM THE COMPANY

The Complaint and the response from the company can be found on the NCP Norway website:

http://www.responsiblebusiness.no/en/assessment-of-complaints/specific-instances/