

**Follow up to Final Statement by the UK National Contact Point for the
OECD Guidelines for Multinational Enterprises**

Complaint from Survival International against Vedanta Resources plc

1. This Follow Up Statement reflects the parties' responses on the implementation of the recommendations contained in the Final Statement dated 25 September 2009¹ on the complaint from Survival International against Vedanta Resources plc (Vedanta) under the OECD Guidelines for Multinational Enterprises (the Guidelines). In accordance with the published complaint procedure², the UK National Contact Point (NCP) for the Guidelines has summarised (but not carried out an examination of) the information provided by the parties. The publication of this statement is the final stage in this Specific Instance.
2. The UK NCP encourages Vedanta and Survival International to engage with each other in order to achieve a mutually satisfactory outcome.

BACKGROUND

OECD Guidelines for Multinational Enterprises

3. The Guidelines comprise a set of voluntary principles and standards for responsible business conduct, in a variety of areas including disclosure, employment and industrial relations, environment, combating bribery, consumer interests, science and technology, competition, and taxation.
4. 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 wherever they operate, while taking into account the particular circumstances of each host country.
5. The Guidelines are implemented in adhering countries by NCPs which are charged with raising awareness of the Guidelines amongst businesses and civil society. NCPs are also responsible for dealing with complaints that the Guidelines have been breached by multinational enterprises operating in or from their territories.

Follow up to Final Statements by the UK NCP

6. The UK NCP's complaint procedure, together with the UK NCP's Initial Assessments, Final Statements and Follow Up Statements, is published on the UK NCP's website (www.bis.gov.uk/nationalcontactpoint).

¹ <http://www.berr.gov.uk/files/file53117.doc>

² <http://www.berr.gov.uk/files/file53070.pdf>

7. In accordance with paragraph 5.4 of the complaint procedure, where the Final Statement includes recommendations to the company, the UK NCP will specify a date by which both parties are asked to provide the UK NCP with an update on the company's progress towards meeting these recommendations and then publish a follow up statement reflecting the parties' response.

SUMMARY OF THE RECOMMENDATIONS TO THE COMPANY CONTAINED IN THE FINAL STATEMENT

8. In the Final Statement dated 25 September 2009 on the complaint from Survival International against Vedanta, the UK NCP made recommendations to Vedanta with the aim of assisting the company in bringing its practices in line with the Guidelines. These can be summarised as follows:

- 1) Vedanta should immediately and adequately engage with the indigenous group Dongria Kondh seeking, in particular, the Dongria Kondh's views on the construction of the bauxite mine, access to the project affected area, ways to secure the Dongria Kondh's traditional livelihood, and exploring alternative arrangements (other than re-settlement) for the affected families. As a guide to how to pursue the consultation process, Vedanta should refer to the consultation process outlined in the "Akwe: Kon Guidelines"³ produced by the Secretariat of the Convention on Biological Diversity in 2004.

- 2) Vedanta should include a human and indigenous rights impact assessment in its project management process and in doing so should pay particular attention to the creation of an adequate consultation process, prior to the finalisation and execution of the project, with indigenous groups potentially affected by the company's activities. Vedanta should consider implementing John Ruggie's suggested key steps for a basic human rights due diligence process⁴ and may also consider the May 2008 "Position statement on mining and indigenous peoples"⁵ of the London based International Council on Mining and Metals.

9. The UK NCP also stressed that whichever self-regulatory practices Vedanta chooses to follow, it is essential that these are translated into concrete actions on the ground, particularly in relation to the human and indigenous rights impact assessments and consultation with the affected communities.

³ <https://www.cbd.int/doc/publications/akwe-brochure-en.pdf>

⁴ Report of the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, *Protect, Respect and Remedy: a Framework for Business and Human Rights*, United Nations, 7 April 2008, paragraphs 59-64.

⁵ <http://www.icmm.com/page/208/indigenous-peoples>

10. The UK NCP asked both parties to provide an update on the implementation of these recommendations by the company by 29 December 2009. The UK NCP stated that it would then publish a further statement reflecting the parties' responses. The UK NCP has summarised the responses received from the parties below.

SUMMARY OF THE SUBMISSION FROM SURVIVAL INTERNATIONAL

11. On 23 December 2009 (with supplementary comments on 22 February 2010), the UK NCP received Survival International's update on Vedanta's implementation of the recommendations outlined above. This can be summarised as follows.
12. According to Survival International's submission, Survival International's team (the team) visited Orissa from 3 to 11 December 2009. The team reported that access to the area affected by the project was obstructed by people allegedly paid by Vedanta to prevent the team from meeting the Dongria Kondh and this meant that the team had to access the area using another route. The team visited Muniguda, Trilochanapur and three Dongria Kondh's villages closest to the mine site: Phuladumer, Palaberi, and Lakhpadar.
13. According to Survival International's submission, the team reported that residents of Phuladumer, Palaberi and Konakadu (the latter is another Dongria Kondh's village not visited by the team) had been served with notices stating that the state authorities would be acquiring the land for "public purposes". The team then visited Trilochanapur where it reported that one of its guides had their motorcycle vandalised and that a heated exchange took place between the guides and some of the villagers who claimed to object to the team's presence there and had allegedly been paid by Vedanta. Survival International reported that Vedanta had allegedly warned the local police authorities and press about Survival International's and other foreign NGOs' movements in Orissa with the aim of creating unrest.
14. According to Survival International's submission, the team held informal interviews with members of the Dongria Kondh whilst in Orissa and reported that Vedanta's representatives had not made any recent visits to the villages of Phuladumer, Palaberi, Lakhpadar, Konakadu, Gorta or Golagola (or, to their knowledge, any of the other villages) and that nobody from the company had been in contact to explain the basic facts about the mining project (such as its precise location and the impact it would have on the local population) or to seek their views. The team reported that it had spoken to several NGOs who were active in the area and that none of them were aware of any initiatives from Vedanta to discuss the project with the Dongria Kondh. The team also reported that it was informed that the village of Lakhpadar had been visited by two men, allegedly sent by Vedanta, who promised the head of the village that wells and roads would be constructed and other

useful work carried out if the village supported the construction of the mine.

15. Survival International's conclusion is that Vedanta has declined to alter its conduct in any way following the recommendations made by the UK NCP in the Final Statement. Survival International stated that Vedanta has not yet commissioned a human and indigenous rights impact assessment and has made no attempt to engage with the Dongria Kondh. According to Survival International, the Dongria Kondh they visited and many others living in close proximity to the site of the proposed mine, will be immediately and detrimentally affected by any mining operations that are allowed to take place there.

SUMMARY OF THE SUBMISSION FROM VEDANTA

16. On 29 December 2009 (with supplementary comments on 26 February 2010), the UK NCP received Vedanta's response on its implementation of the recommendations outlined at paragraph 8 above. This can be summarised as follows.
17. According to Vedanta's submission, there will be no displacement from the proposed mining project as there is no inhabitation at the proposed mining site.
18. According to Vedanta's submission, the construction of the bauxite mine is being progressed in compliance with Indian law and regulations, in joint venture with the Government of Orissa and with the approval of the Supreme Court of India and central government. Vedanta reported that a "Special Purpose Vehicle" had been set up to deliver the project, as instructed by the Supreme Court of India, to ensure that some resources generated go towards developing local infrastructures. Vedanta also highlighted the development opportunities provided by the project, including the creation of new jobs and local infrastructure.
19. According to Vedanta's submission, the company has in place a policy for engaging with local communities and is already engaging with the Dongria Kondh through the Orissa-Government-sponsored Dongria Kondh Development Agency (DKDA) and will continue this relationship. Vedanta reported that the DKDA has developed a five-year plan to facilitate the Indian government's objectives to improve the resources of the Dongria Kondh (including through access to educational and medical facilities), following consultation with 62 Dongria Kondh villages, local NGOs and anthropologists. Vedanta reported that it is working with the DKDA to facilitate the delivery of its development objectives. Vedanta stated that the consultation process which the Indian authorities and Vedanta's subsidiary carried out as part of the regulatory approval process with the local communities was advertised in the local vernacular (in accordance with Indian law).

20. Vedanta concluded that its consultation processes comply fully with Indian legal requirements and are already in line with the UK NCP's recommendations contained in the Final Statement of 25 September 2009.

21. Vedanta denied that it has paid local villagers to obstruct Survival International's activities or to object to their presence in Orissa. Vedanta also denied that it has made any promises in return for the villagers' support of the mining project.

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UK National Contact Point for the OECD Guidelines for Multinational Enterprises

**Rowland Bass,
Dal Dio,
Sergio Moreno**

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