

**Minutes of the Third Stakeholders Meeting of the  
Netherlands National Contact Point for the OECD Guidelines**  
The Hague, 30 March 2009

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### **Opening**

After the meeting was opened by NCP Chairman Frans Evers, the participants briefly introduced themselves, revealing the wide variety of stakeholders. These included representatives of trade unions, civil-society organisations, trade organisations and issue managers, as well as chairmen of central works councils, who together comprised a group of some 55 people.

### **Filing complaints**

The NCP explained the state of affairs per pending complaint, indicating that there are broadly four phases involved in the processing of cases: 1) the declaration of admissibility, 2) the fact-finding process, 3) mediation and 4) the final statement. The NCP discussed the four complaints which it is either currently handling or is currently involved in.

Shell/The Philippines: Since the NCP together with the Rijnmond Central Environmental Management Department (DCMR) visited Manila on a fact-finding mission in November 2008, this case has been in the third phase. The Manila municipal council is currently considering a proposal to completely withdraw the municipal council decision to oblige the oil depot to vacate its current premises. The recent political developments occurring in Manila's municipal council could significantly alter the situation.

SHV Makro/Pakistan: After the declaration of admissibility was issued in December, the NCP held talks with SHV in February. It emerged from those talks that the lawsuit brought against Makro in Karachi, which had been used as an argument to substantiate the alleged breach of the OECD guidelines, had already been declared unfounded by the court before the complaint was filed with the NCP. The court delivered its judgement in the absence of Shehri/CBE, after taking cognisance of Makro-Habib's defence.

SHV also indicated to the NCP that it sold its share in the joint venture with House of Habib to House of Habib. As a result, mediation proved impossible from the outset. Following the talks with SHV, the complainant was asked to respond to a number of points, including as regards the legal procedure. After receiving the complainant's response, the NCP expects to be able to produce a final statement and close the case.

Corrib Gas project/Ireland: The Irish NCP had invited the Dutch NCP to visit, which it did in mid-February. Together, the two NCPs drew up a declaration of admissibility. It is thought that this may have been a factor in the initiative to hold mediation talks taken shortly afterwards by several Irish ministries involved in the matter. The Irish NCP also plans to hold talks with the parties involved in the NCP complaint to discuss several issues, including the role that this procedure and other, parallel procedures play in Ireland with respect to the NCP process.

Shell CAPSA/Argentina: After the declaration of the admissibility of the complaint in September 2008, the Argentinean NCP and the Shell CAPSA management held talks on several occasions. In February, the Argentinean NCP received a letter from Shell CAPSA regarding the latter's position in the NCP procedure, subject to the understanding that a lawsuit had also been brought against the company by the complainant that overlapped the NCP complaint to a large extent. The Argentinean NCP and Shell CAPSA management will hold talks in mid-April, and the Dutch NCP will be consulted regarding the results as soon as possible afterwards.

For more information regarding the nature of the cases, go to:  
[www.oesorichtlijnen.nl/ncp/lopende-meldingen](http://www.oesorichtlijnen.nl/ncp/lopende-meldingen)

### **NCP Peer Review**

During the annual NCP meeting in June 2008 at the OECD headquarters in Paris, the Dutch NCP announced that it was prepared to undergo a peer review. It was decided to schedule the peer review for the second half of this year with a view to overall coordination in the context of the evaluation of the NCP planned for 2010. Preparations have recently begun – for instance, the consultants DHV have been hired to provide consultant support during the project. The aim of the review is not only to evaluate the model employed at the Dutch NCP, but also to formulate recommendations for the OECD regarding the Guidelines and the NCPs in general.

### **Communication**

In 2007-2008, National Contact Point (NCP) communication focused primarily on:

- *Developing* tangible resources (website, texts, presentations, factsheets, practical examples, etc.); and
- *Informing and engaging intermediary organisations* targeting the business community.

The results of these efforts included:

- A popular website ([www.oesorichtlijnen.nl](http://www.oesorichtlijnen.nl)) with a large number of hits;
- Practical tools to implement the guidelines in operations;
- Trained management consultants at the Agency for International Business and Cooperation (EVD) and the Chambers of Commerce;
- OECD Guidelines as a prescriptive framework in the policy of the Ministry of Economic Affairs, the International Corporate Social Responsibility initiative of the Social and Economic Council of the Netherlands (SER), the CSR policy of the EVD, the CSR dossier of the Chamber of Commerce, the Dutch Sustainable Trade Initiative (IDH), foreign tools and several trade organisations.

In 2009-2010, the emphasis will shift towards:

- Approaching businesses more directly (SMEs, multinational enterprises (MNE) and central works councils) via, for instance, direct mailing and business-oriented media;
- Creating a higher media profile for the NCP, particularly with respect to the possibility of filing a complaint;
- Implementing a strategy of continued learning based on NCP cases, in which the problems and dilemmas associated with mediation are also considered.

During the discussion about the coherence of the codes (see below) the stakeholders made suggestions that affect the communication strategy. For instance, it is advisable to give businesses more information about the interrelationships between the OECD Guidelines, ISO

26000, Global Compact and other initiatives. The NCP is currently considering assuming a leading role in this respect.

### **Coherence of international CSR codes<sup>1</sup>**

The discussion of the relationship between the various CSR codes currently in use formed an important part of the stakeholders meeting. This subject was covered for several reasons: as well as the Minister for Foreign Trade Frank Heemskerk having stated in the government's view of CSR that he would organise a debate on this subject, greater clarity was also called for during the Lower House committee meeting with the government regarding CSR on 4 March 2009. The wide range of codes, guidelines and hallmarks in use are often referred to as having a 'spaghetti bowl' effect. Coherence is also under discussion at the international level, not just in the Netherlands.

By way of preparation, the participants received a copy of an OECD study on this subject, which, above all, clarified the interrelationships between the CSR codes instituted by governments. The meeting invitation contained several statements and questions to serve as starting points for the discussion.

#### *Differences of opinion*

There were differences of opinion during the discussion itself as regards how easy/difficult the range of codes is to use and to what degree this interferes with a business' ability to implement CSR. Unclear organisation making the codes difficult to use is, in part, a logical consequence of the wide variety of activities undertaken by businesses, but another reason for the numerous business-specific or sector-specific codes of conduct is that each business or sector has a tendency to develop a code using its own language. These codes developed by the business or sectors themselves are more likely to appeal to and inspire people than codes imposed by an outside source and they have a greater tendency to elicit a sense of 'ownership'. According to one of the stakeholders, one can modify the wording of a business or sector's own codes to match that of existing external codes, but then the code no longer seems like the business or sector's own policy. Differences in wording sometimes make it appear as if businesses do not follow certain CSR guidelines, even in cases where they actually do.

There are also differences of opinion regarding what place a code of conduct has in a business' CSR policy. Previously, it was primarily the codes themselves that were sacrosanct, whereas now, the focus is often on the (improvement) process and the dialogue with stakeholders. Several of the chairmen of central works councils indicated that internal discussions about CSR are often more effective because people feel more involved, as opposed to discussions between a company's management and external stakeholders. The CSR process can begin to conflict with the standards it is designed to implement. The Sustainable Trade Initiative, in which stakeholders try to collectively formulate tangible CSR initiatives in the production chain, could be helpful in this respect.

#### *Suggested solutions*

It was suggested that overall clarity across the various CSR codes could be created by providing a general and open 'depot' for the codes, without attaching any further value judgements to them. The stakeholders disagreed as to whether the task of maintaining such a depot should be assigned to the government or civil-society organisations. With respect to business activities, it was suggested that a decision tree could be a useful tool, which nearly

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<sup>1</sup> This account of the discussion is intended to provide an overall impression and is not necessarily chronological, nor were all phrases spoken word-for-word as reported in these minutes.

all stakeholders thought was a good idea. A decision tree would enable a distinction to be made between *normative* codes and *practical* ('shop-floor') codes, which are often based on the normative codes. With respect to normative codes, the Dutch government views the OECD guidelines as a point of departure for businesses. Of course, there are other normative guidelines, which are never at odds with each other as regards their substance – they actually reinforce each other, despite their differences as regards breadth, depth and origin. Therefore, the NCP believes that the ISO 26000 guidance standard to be introduced for CSR will reinforce the applicability of the OECD guidelines, with the addition of practical tips. The NCP will pass on the ideas regarding a 'depot' and a 'decision tree' to the Ministry of Economic Affairs as an option for following up on the promise by Minister Heemskerk in the government's view of CSR to clarify the interrelationships between the various CSR codes .

*TvH/MvY*