

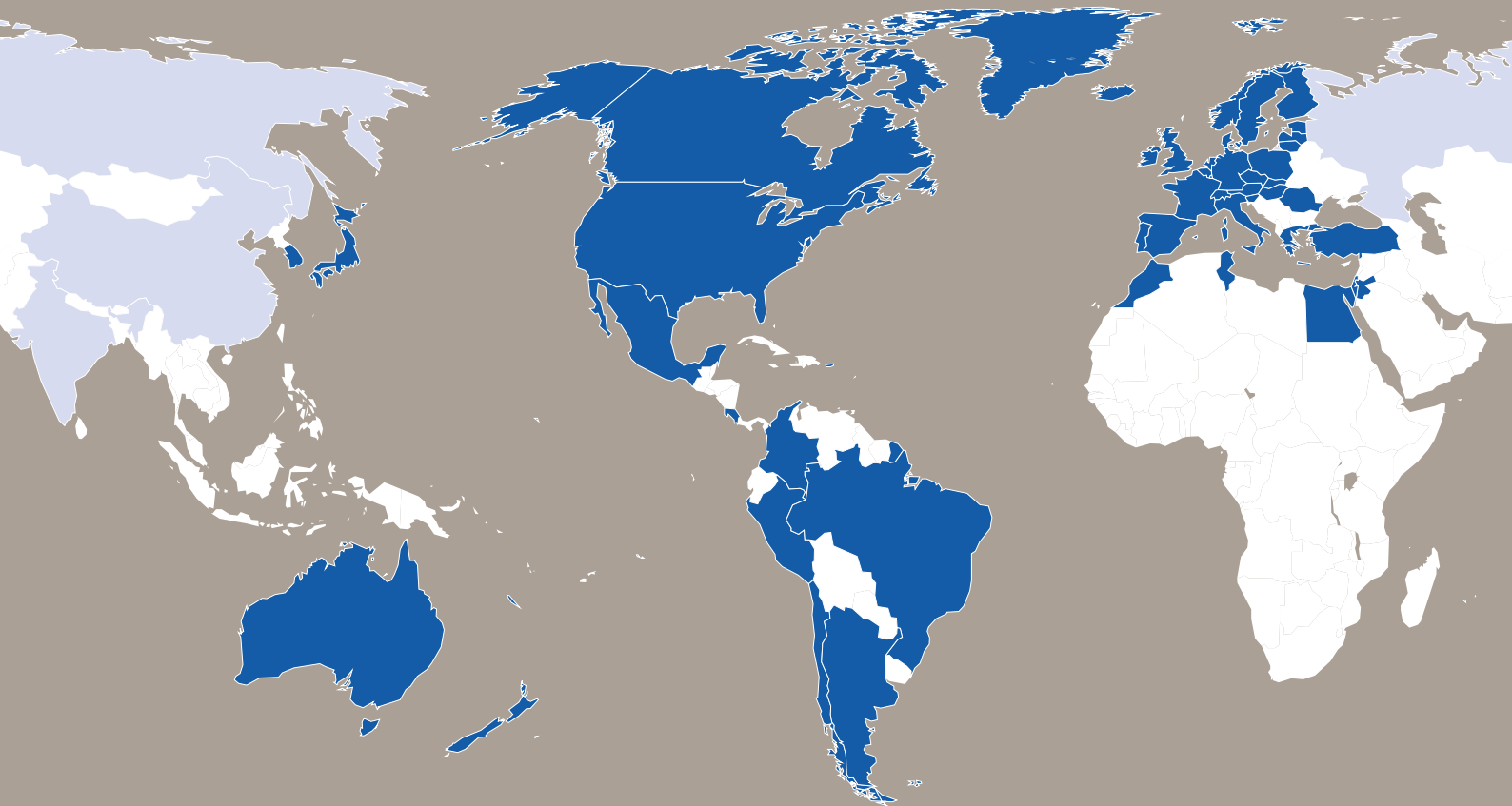


ANNUAL REPORT  
**2013/2014**



OECD **GUIDELINES**  
FOR MULTINATIONAL ENTERPRISES

NATIONAL CONTACT POINT  
NORWAY



46 countries adhere to the OECD Guidelines and are hence required to establish a National Contact Point (NCP)

- **Countries with an NCP:** Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Jordan, Latvia, Lithuania, Luxembourg, Mexico, Morocco, the Netherlands, New Zealand, Norway, Peru, Poland, Portugal, Romania, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Tunisia, Turkey, the UK, and the US
- **Observing Countries:** China, India, and Russia

This map is for illustrative purposes and is without prejudice to the status of or sovereignty over any territory covered by this map.

## OECD

The Organisation for Economic Co-operation and Development (OECD) seeks to promote economic development and world trade, and its 34 member countries are committed to democracy and the market economy. In the past few years, the OECD has acquired several new members. Chile, Estonia, Israel and Slovenia joined in 2010. The OECD is also engaged in extensive collaboration with other countries such as Brazil, India, Indonesia, China, Russia and South Africa.

### The OECD Guidelines

The OECD Guidelines for Multinational Enterprises are government-backed recommendations on responsible business conduct. All enterprises with international operations (including production, commercial and investment activities) from the 46 adhering countries are expected to apply the Guidelines. They provide principles and standards for good business practices in accordance with applicable laws and internationally recognised standards. They cover areas such as human rights, environment, bribery and extortion, labour rights and disclosure of information. The Guidelines have been

negotiated between adhering governments in consultation with trade unions (TUAC), business and industry (BIAC) and civil society (OECD Watch). They were last updated in 2011. See page 4 for more information.

### National Contact Points

All OECD countries and other countries that adhere to the OECD Guidelines are required to establish a National Contact Point (NCP) to promote the Guidelines, deal with enquiries and contribute to the resolution of complaints related to enterprises' observance of the Guidelines. The way in which the NCP is organised is largely left to the discretion of the individual countries, but in order to promote the objective of functional equivalence, the Guidelines contain procedural guidance for the work of the NCPs. This guidance defines four core criteria for NCP activities: visibility, accessibility, transparency and accountability. It also sets out the following principles to be observed by the NCPs in dealing with specific instances: impartiality, predictability, equitability and compatibility with the OECD Guidelines.

# OECD NCP NORWAY

*The NCP shall “provide an effective basis for dealing with the broad range of issues covered by the Guidelines and enable the NCP to operate in an impartial manner while maintaining an adequate level of accountability to the adhering government”.* (PROCEDURAL GUIDANCE, I.A.1)

The countries that have committed to the OECD Guidelines are required to have a National Contact Point (NCP). How the NCP is organised is largely up to the individual countries. The National Contact Point Norway (NCP Norway) has been functionally independent of the Government since 1 March 2011, but administratively is placed under the Ministry of Foreign Affairs. Other countries that have an independent NCP are Denmark, the Netherlands and the UK. NCP Norway consists of a four-member Expert Panel and a Secretariat.

The mandate of NCP Norway is described in the procedural guidance in the OECD Guidelines, and consists of three parts:

- 1) Assessing allegations that Norwegian enterprises and/or their business partners are not observing the Guidelines,
- 2) Making the OECD Guidelines known, and
- 3) Working in partnership with the OECD and other NCPs to promote the Guidelines and share best practices.

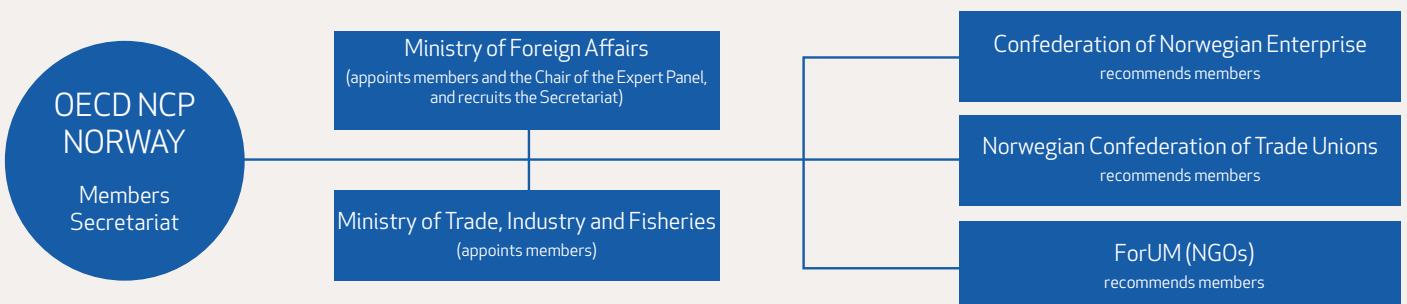
NCP Norway reports annually to the OECD Investment Committee on its organisation, available resources, information activities and handling of specific instances. The NCP also has an annual administrative meeting with the Ministry of Foreign Affairs. As a publicly financed and administered body, the NCP operates in compliance with relevant Norwegian laws and regulations, such as the Freedom of Information Act and the Public Administration Act. All members of the NCP have signed a declaration of transparency, confidentiality, self-imposed restrictions on financial transactions and impartiality. The NCP Secretariat participates in the Norwegian Government’s consultative body for corporate social responsibility, KOMpakt. The NCP also reports to the Norwegian parliament on a voluntary basis through our digital newsletter.

In the past few years, the NCP has received an annual budget of approximately NOK 4 million (EUR 492 000). The budget covers Secretariat staff salaries, remuneration of the Expert Panel, travel,



From left: Chair Hans Petter Graver, Professor and Dean of the Faculty of Law at the University of Oslo, Gro Granden, Special Advisor, Norwegian Confederation of Trade Unions (LO), Elin M. Myrmel-Johansen, Information Director, Storebrand, and Jan Erik Korssjøen, former CEO, Kongsberg Group and lecturer at Buskerud College and the Norwegian University of Life Sciences. The mandate for Ms Granden, Ms Myrmel-Johansen and Mr Korssjøen expired on 1 March 2014, but has been provisionally extended by the Ministry of Foreign Affairs. Photo: Anita Arntzen

consultancy services and fact finding related to Specific Instances, information activities, and administrative costs such as rent. The Chair of the NCP gets an annual remuneration of NOK 120,000, while the other members each receive NOK 75,000 annually. In 2013, 83 per cent of the budget was spent.



Members of NCP Norway are individually appointed by the Ministry of Foreign Affairs and the Ministry of Trade, Industry and Fisheries on the basis of proposals from the Confederation of Norwegian Enterprise (NHO), the Norwegian Confederation of Trade Unions (LO) and the Forum for Environment and Development (ForUM).

# INFORMATION ACTIVITIES

*“NCPs will make the Guidelines known and available by appropriate means (...) raise awareness of the Guidelines and their implementation procedures (...) and (...) respond to enquiries about the Guidelines.”*

(PROCEDURAL GUIDANCE, I. B., 1-3)

## More targeted information activities

NCP Norway’s main target groups are Norwegian enterprises with international operations, other public agencies, civil society organisations and research communities that focus on responsible business conduct. The Secretariat has drawn up an activity plan for 2014/2015 that encompasses a range of information activities. These are based in part on ideas and suggestions provided by Norwegian companies in response to our annual surveys in 2011 – 2013. The number of senior executives who are aware of the Guidelines increased from 1 out of 10 in 2011 to 6 out of 10 in 2013. However, several say they need more guidance on how to observe the Guidelines. The activity plan is also based on recommendations resulting from an OECD peer review conducted in 2013 (see page 14).

## Activities and plans



The website is NCP Norway’s primary channel for providing general information on the OECD Guidelines and the complaint process to all target groups. In 2013/2014, we upgraded and moved the website out of the Government’s general information website to further highlight the role of the NCP as an independent public body. We sent out five digital newsletters to some 400 recipients. In 2014, we also had the commentary on the OECD Guidelines translated into Norwegian. The commentary may be found on our website.

- **Priorities for 2014-2015:** Update the website weekly, issue six newsletters

The OECD Guidelines are intended to ensure that enterprises conduct their business responsibly and contribute to the overarching goal of sustainable development. The Guidelines apply to all Norwegian enterprises with international operations, regardless of sector and of where in the world they operate. The Guidelines were adopted in 1976 and were last updated in 2011. They reflect the ILO core conventions and the United Nations’ Guiding Principles on Business and Human Rights. They are also consistent with other relevant norms such as the United Nations’ Global Compact and ISO 26000. The Guidelines contain the following recommendations:

**General policies.** Enterprises should operate in accordance with domestic laws and regulations. They should assess, prevent and manage any risk of causing, contributing to or through a business relationship being linked to a breach of human or labour rights, adverse environmental impacts or bribery.

**Disclosure.** Enterprises should regularly disclose material information on their operations and results, and demonstrate that they are taking responsibility for the topics covered in the OECD Guidelines in line with the highest standards of transparency and reporting available (such as the Global Reporting Initiative).

**Human rights.** Enterprises should respect human rights regardless of how the Government fulfils its responsibility to protect and enforce human rights. They should identify and prevent the risk of and deal with human rights violations in their own operations and in their supply chain.

**Employment.** Enterprises should respect the rights of workers, collaborate with employee representatives and combat discrimination, child labour and forced labour.

**Environment.** Enterprises should prevent, mitigate and reduce any adverse environmental impacts caused by their operations.

**Bribery and extortion.** Enterprises should have employee training programmes and internal controls aimed at preventing and detecting bribery.

**Consumer interests.** Enterprises should act in accordance with fair marketing and advertising practices and ensure that the goods and services provided are safe and of good quality.

**Science and technology.** Enterprises should emphasise the international transfer of new technologies to contribute to economic and social development, and foster innovation.

**Competition.** Enterprises should operate in a manner consistent with all applicable competition laws and regulations and refrain from anti-competitive activities.

**Taxation.** Enterprises should contribute to the public finances of host countries by making timely payment of taxes and avoid shifting revenues from one part of the enterprise group to another to obtain unlawful tax advantages.

## PRESENTATIONS, MEETINGS AND NETWORKS



NCP Chair Hans Petter Graver at the UN Forum on Human Rights and Business 2013.

NCP Norway gives priority to providing information in arenas already frequented by our target groups. In 2013/2014, NCP Norway held presentations at around 20 major events in Norway and abroad. We have also held a number of brief, informal presentations for smaller groups, both Norwegian and foreign. NCP Norway co-hosted two seminars in the UK and Brazil on issues related to specific instances that we have handled. The NCP also participates as an observer in the Government's consultative body for corporate social responsibility, KOMpakt.

- **Priorities in 2014-2015:** *Participation in KOMpakt, co-hosting of 1-2 seminars targeting enterprises, presentations at and participation in other relevant forums, strengthening contacts with relevant networks in Norway, such as the Nordic Global Compact and CSR Norway.*

### Guidance

Several enterprises are uncertain about what is entailed by the Guidelines' expectations that enterprises conduct due diligence. The Secretariat has therefore begun work on addressing this issue in 2013/2014 and will continue these efforts. We have also developed a simple analysis tool to provide enterprises' corporate

responsibility staff with a general overview of the extent to which activities, both planned and implemented, are in accordance with the OECD Guidelines. The Secretariat has also held a workshop for an enterprise on what happens if the NCP receives a complaint relating to its implementation of the Guidelines, describing the NCP's procedures and giving a general account of what the NCP expects from enterprises in such a situation.

- **Priorities in 2014-2015:** *Complete the preparation of and present simple information to enterprises on due diligence. Offer workshops to relevant and interested enterprises.*

### Help from the UN, OECD, etc.

The UN, OECD and EU have developed general and sector-specific guidelines for companies on operating in accordance with the OECD Guidelines and the UN Guiding Principles on Business and Human Rights. See [www.responsiblebusiness.no](http://www.responsiblebusiness.no).

### Collaboration with other public agencies

NCP Norway has initiated cooperation with other public agencies on promoting the Guidelines and plans to intensify these efforts, in line with the recommendations resulting from the voluntary peer review conducted in 2013 (see page 14). The Norwegian Guarantee Institute for Export Credits (GIEK) and Export Credit Norway are two of a number of key institutions with which the NCP is already engaged in a dialogue. GIEK

takes NCP Norway's statements into account when it receives applications from enterprises, in accordance with the OECD guidelines for export credit agencies. Both GIEK and Export Credit Norway inform exporters about the OECD Guidelines.

In 2013/2014, the NCP participated in GIEK's and Export Credit Norway's "Export Conference 2014", which focused on sustainable export growth.



## PROCEDURES IN SPECIFIC INSTANCES

*“The NCP will contribute to the resolution of issues that arise relating to implementation of the Guidelines in specific instances in a manner that is impartial predictable, equitable and compatible with the Guidelines.”*

(PROCEDURAL GUIDANCE I, C)

Although NCPs are not judicial bodies, they may assess whether enterprises have met the expectations expressed in the OECD Guidelines. They may also assist enterprises and other stakeholders to resolve issues that arise in relation to the Guidelines. No other international guidelines for corporate responsibility make provision for a grievance mechanism of this type. NCP Norway deals with issues submitted to it and offers mediation free of charge to the parties involved.

NCP Norway’s procedures are based on the OECD’s Procedural Guidance, which was adopted in 2011. NCPs must seek to ensure that specific instances are dealt with in accordance with the principles of impartiality, predictability, equitability and compatibility with the OECD Guidelines. NCP Norway also takes into account the UN Guiding Principles for Business and Human Rights, which state that a non-judicial grievance mechanism should be legitimate, accessible,

predictable, equitable, transparent, rights-compatible, a source of continuous learning, and based on engagement and dialogue.

NCP Norway acts in compliance with the Norwegian Freedom of Information Act. As a rule, all information will be made public, except when disclosure of the information may adversely affect an individual, reveal business secrets or expose certain details of the mediation process. Decisions on whether or not an issue merits further consideration (initial assessments), final statements, mediation outcomes, press releases and NCP procedures are all accessible on our website.

Our procedures were updated in June 2014, partly in the light of recommendations received after the voluntary peer review carried out in 2013 (see page 14).

### NCP Norway’s handling of Specific Instances:

#### Stage 1:

##### Initial assessment

An assessment of whether an issue merits further consideration on the basis of the complaint, the company’s response and any additional documentation submitted by the parties or other relevant sources

**Timeframe:** *Normally three months.*

#### Stage 2:

##### Mediation or examination

If a case is accepted, the NCP offers conciliation/mediation services to the parties with the aim of reaching an agreement. Should the parties decline the offer or should conciliation/mediation fail, the NCP will examine the case to determine whether it is justified.

**Timeframe:** *Normally six to twelve months.*

#### Stage 3:

##### Final statement

If the parties reach an agreement, the NCP will publish a final statement with relevant details. If mediation is declined or fails, the NCP will publish a final statement on whether it considers the Guidelines to have been observed and, if appropriate, make recommendations to the company regarding future conduct.

**Timeframe:** *Normally three months.*

#### Stage 4:

##### Feedback and follow-up

The NCP invites the parties to provide feedback on their experience of the mediation process. The NCP may also invite parties to attend follow-up meetings to discuss mediated agreements and the follow-up of recommendations made in the NCP’s final statement.

**Timeframe:** *Normally within one year of publication of the NCP’s final statement.*

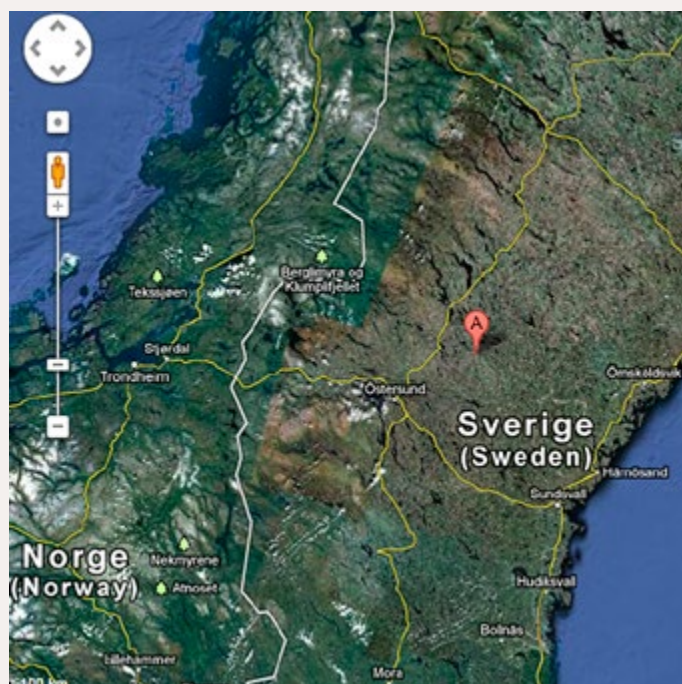
# ONGOING SPECIFIC INSTANCES

## Jijnjevaerie Sami Village vs. Statkraft AS

WIND POWER PROJECT IN REINDEER HERDING AREA			
Date filed: October 2012	Status: Mediation with external mediator in progress		
Company/ies	Statkraft AS/Statkraft SCA Vind AB	Industry concerned	Energy
Complainant(s)	Jijnjevaerie Sami Village		
Lead National Contact Point	Sweden	Secondary National Contact Point(s)	Norway
Relevant chapters of the Guidelines	II (General Policies), IV (Human Rights) and VI (Environment)		
Documents available online	Initial Assessment, Complaint, Preliminary response from the company		

Mediation is of June 2014 in progress after the Norwegian and Swedish OECD NCPs accepted a complaint of an issue raised by the Sami reindeer herding collective Jijnjevaerie Sami Village against the Norwegian state-owned company Statkraft AS. The complaint concerns Statkraft AS's alleged failure to observe the OECD Guidelines in its wind farm projects in the counties of Jämtland and Västernorrland, Sweden. The projects are operated by the joint venture Statkraft SCA Vind AB, of which Statkraft owns 60 per cent. Jijnjevaerie Sami Village claims that it has not been adequately consulted about the parts of the projects that affect their reindeer herding, and that Statkraft AS risks failing to fulfil the Guidelines provisions to respect human rights if they do not engage in meaningful consultations. The Sami Village requested that the NCP facilitate a dialogue with Statkraft.

The way in which a multinational enterprise engages with relevant stakeholders and respects the internationally recognised human rights of those affected by their activities, including indigenous peoples, falls within the scope of the Guidelines. The NCPs also find that the complainant has a legitimate interest in the matter, that the claims concerning stakeholder engagement are material and substantiated, and that there is a link between the enterprise's activities and the issue raised. Statkraft has, after a judicial process in Sweden, been granted a licence to operate wind power plants in the above-mentioned areas. The NCPs have no authority to act as an appeal body for decisions taken by courts of law, but may consider topics covered by the OECD Guidelines. The fact that the complaint was accepted does not necessarily mean that the company has acted inconsistently with the Guidelines. The NCPs do however find that there is reason to examine the matter. A bilateral dialogue between the parties was resumed after the complaint was submitted, and the NCPs therefore deferred the matter to allow



Google Maps

the parties to find a mutually acceptable solution. Furthermore, the NCPs agreed to consider the issue if one of the parties were to request it. In September 2013, the NCPs were contacted by the Sami Village with a request for mediation in order to facilitate a dialogue between the parties. The NCPs conducted a stakeholder analysis and contracted an external mediator who is trying to bring the parties to an agreement by mid-July.

# CONCLUDED SPECIFIC INSTANCES 2011–2014

## The Norwegian Support Committee for Western Sahara vs. Sjøvik AS

FISHERIES OFF THE COAST OF WESTERN SAHARA			
Date filed: 5 December 2011	Status: Concluded by mediated joint statement on 2 July 2013		
Company(ies)	Sjøvik AS	Industry concerned	Fishery
Complainant(s)	The Norwegian Support Committee for Western Sahara (NSCWS) (NGO)		
Lead National Contact Point	Norway	Secondary National Contact Point(s)	Morocco
Relevant chapter(s) of the Guidelines	Chapter IV (Human Rights)		
Documents available online	Initial Assessment, Complaint, Joint Statement, Final Statement, Agenda from the follow-up meeting, the Secretariat's memorandum, Press release, Media coverage		

The complainant claimed that Sjøvik AS, which operates a fishing vessel and a fish processing plant in the Non-Self-Governing territory of Western Sahara through a joint venture, failed to respect the Saharawi right to self-determination, and thereby did not operate in accordance with the Guidelines' human rights provisions. NSCWS stated that the operations should be discontinued. Sjøvik AS denied that it had failed to respect the human rights provisions of the Guidelines, emphasised that the complaint seemed to be politically motivated, and maintained that its investment benefits the Saharawis.

### Joint Statement

After the initial assessment where NCP Norway found the complaint to be substantiated and sufficiently linked to the Guidelines to be admissible, both parties initially rejected the NCP's offer to facilitate mediation. However, they reverted on 27 May 2012 to accept the offer. The parties reached an agreement after mediation conducted by former Supreme Court judge and former director of the Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime, Lars Oftedal Broch, on behalf of OECD NCP Norway. The Board chairmen signed the joint statement on 2 July 2013 in Molde, Norway, at which time NSCWS withdrew its complaint.

The joint statement refers to the parties' disagreement on whether Sjøvik AS should operate in Western Sahara. However the parties agree to request Norwegian authorities to give unambiguous advice to enterprises operating in conflict areas. They also agree that Sjøvik AS is to carry out environmental and social impact assessments for its activities based on the principles set out in the OECD Guidelines and UN Guiding Principles on Business and Human Rights, and publish the report in accordance with Chapter III (Disclosure) of the OECD Guidelines. Sjøvik will also publish its code of conduct and make sure that its internal grievance mechanism meets the Guidelines' requirements.



Photo: OECD NCP Norway

### Recommendations and follow-up

Since the mediation was successful, NCP Norway did not examine the merits of the claims in the complaint, and consequently has not adopted any position on the issue of operations in Western Sahara. The NCP nevertheless underscored on a general basis that a heightened due diligence requirement in relation to human rights violations is recommended for enterprises operating in or from areas in conflict. The NCP also encouraged the company to draw on human rights expertise on how to conduct human rights impact assessments for Sjøvik's activities in Western Sahara. The NCP further recommended that the parties continue their dialogue, and invited both parties to a follow-up meeting in May 2014. On that occasion, the NCP commended the parties for having adopted a constructive approach and for their cooperative participation in dialogue. The case has now been concluded.



## Forum for Environment and Development (ForUM) vs. Norges Bank Investment Management

DUE DILIGENCE IN THE FINANCIAL SECTOR			
Date Filed: 17 October 2012	Status: Concluded by the NCP's Final Statement of 27 May 2013 regarding non-observance of the Guidelines		
Company(ies)	Norges Bank Investment Management	Industry concerned	Financial sector
Complainant(s)	Forum for Environment and Development (NGO)		
Lead National Contact Point	Norway	Secondary National Contact Point(s)	The Netherlands, South Korea
Relevant chapters of the Guidelines	II (General Policies), III (Disclosure), IV (Human Rights), [VI (Environment)]		
Documents available online	Initial Assessment, Complaint, Attachment to complaint, Questions to the company, Final Statement, Statement by the UN High Commissioner for Human Rights, Press release, Media coverage		

On 9 October 2012, the Norwegian, Dutch and South Korean NCPs received a complaint of an issue raised by the four non-governmental organisations Lok Shakti Abhiyan (India), KTNC Watch (South Korea), Fair Green and Global Alliance (the Netherlands) and the Forum for Environment and Development (Norway). The complaint concerned the alleged non-observance of the Guidelines by the South Korean company Pohang Iron and Steel Enterprises (POSCO) through its subsidiary POSCO India Private Limited. The complaint was related to POSCO's plans to build a large steel plant in India, a project that is strongly opposed by parts of the local population. The complaint also targeted two of POSCO's investors: Norges Bank Investment Management (NBIM), administrator of the Norwegian Government Pension Fund Global, and the All Pensions Group (APG) Netherlands, which administers the Dutch pension fund ABP.

The three NCPs coordinated their efforts with regard to the complaint, but each NCP assessed the allegations submitted against the enterprise registered in its respective country.

NBIM owned just under 1 per cent of POSCO. The complainants' main demand was that NBIM should use its influence as representative of one of the world's largest funds to prompt POSCO to stop, and reduce the risk of, violations of human rights and adverse environmental impacts in India. NCP Norway found that this case could shed light on how minority shareholders with many small shareholdings can observe the OECD Guidelines, and accepted the case. The NCP also offered to facilitate a dialogue. In the Netherlands, APG entered into a dialogue with the Dutch NCP and reached an agreement with the complainant on a joint statement. NBIM chose a written assessment, which effectively means that the NCP examines the issue. NBIM met with the NCP and provided general information on its activity. However, NBIM chose not to answer the NCP's written questions. The NCP did not have sufficient information to assess how NBIM manages its investment in POSCO. Therefore, the NCP examined information available on NBIM's human rights

strategy and systems to reduce the risk that the fund might be linked to offenses through companies in its portfolio.

The NCP further limited its assessment to cover 1) cooperation with the NCP, 2) respect for human rights and 3) disclosure.

### Recommendations

NCP Norway concluded that NBIM, by refraining from responding in detail to the NCP's specific questions, failed to observe the OECD Guidelines. As far as promoting human rights as a fund manager is concerned, the NCP found that NBIM has communicated its strategy for managing risk related to child labour, which it is an example of good practice. The NCP criticised NBIM for not communicating any strategy on how to react if it learns of a risk of other human rights breaches associated with companies in which it has invested. Due to the inadequate information provided by NBIM, it was difficult to conclude whether NBIM had acted in accordance with Chapter III (Disclosure) of the Guidelines. The NCP emphasised that there may be legitimate reasons why NBIM is not always able to provide detailed information about its dialogue with a specific company, but found that there are possibilities for greater transparency which NBIM ought to have used to provide better information, both to the NCP and to the general public.

### Follow-up

NCP Norway made recommendations to NBIM and has made itself available for dialogue with NBIM, also after the final statement was published. The case has attracted considerable attention in Norway and abroad, including in the OECD. There is now consensus in the OECD that the Guidelines set expectations for minority shareholder conduct. There are plans for an OECD project that will examine several aspects related to the financial sector, including good examples of how minority shareholders can apply the Guidelines in practice. NCP Norway will participate in this project.

## Future In Our Hands (FIOH) vs. INTEX

NICKEL PROJECT IN THE PHILIPPINES			
Date Filed: 26 January 2009	Status: Concluded by Final Statement on non-observance of the Guidelines on 30 November 2011		
Company/ies	Intex Resources ASA	Industry concerned	Mining and Quarrying
Complainant(s)	Future in Our Hands (NGO)		
Lead National Contact Point	Norway	Secondary National Contact Point(s)	None
Relevant Chapter(s) of the Guidelines <sup>1</sup>	Chapter II (General Policies), Chapter V (Environment), Chapter VI (Combating Bribery)		
Documents available online	Complaint, Questions to the company, Fact finding reports, Final Statement, Press Release		

The complaint claimed that Intex conducted flawed consultations with indigenous populations, engaged in bribery and corruption, and that there was potential for serious environmental damage if the project continued.

The Norwegian NCP concluded in a 50 page report including 233 footnotes that the OECD Guidelines are applicable to enterprises that are still at the planning or exploratory stages of their operations. Abiding by national law in itself is not sufficient for compliance with the Guidelines. On 24 September 2012, the NCP and Intex Resources met in a follow-up meeting requested by the company. Intex Resources presented a report commissioned to assess the NCP's conclusions. The NCP took note of the report, and underscored that the NCP report was final. The NCP recommends the company to follow the NCP recommendations in the report.

### Human rights

The NCP concluded that the company did not fully observe the human rights provisions of the Guidelines because it had not consulted broadly enough with the indigenous peoples affected by the project and associated infrastructure.

The company was unable to provide a clear, proactive stakeholder strategy, and thus rendered itself vulnerable to criticism from groups that are affected, but do not see themselves as able to benefit from the project.

### Bribery

The NCP did not find evidence that the company had been involved in bribery or corruption, but recommended that the company establish a sound managerial system to manage such risks, particularly since the operations were in a country figuring at the lower part of international corruption indexes. Nor did the NCP find that Intex had not observed the Guidelines by supporting a community development project. However, Intex did not have a transparent, publicly disclosed system for allocating development funds. If a company commences a community project prior to gaining social acceptance, this may raise doubts as to whether the company is undertaking such a project in order to secure an endorsement.

<sup>1</sup> 2000 version of the OECD Guidelines

### Environment

Local populations were worried that mining could exacerbate flood problems, pollute rice fields, impact biodiversity, water quality, agriculture and tourism potential. The NCP found that Intex had conducted a detailed Environmental Impact Assessment (EIA), but did not sufficiently distinguish between significant and less significant risks. The EIA had not been disseminated as required by Philippine legislation; nor did it provide adequate information about a number of important aspects of the project or sufficient baseline studies.

The extraction of minerals and metals requires careful assessment and disclosure of potential direct and indirect environmental impacts. Sharing information and engaging in consultations about environmental and health and safety consequences with the local community, including indigenous peoples, is of particular importance for projects with large and potentially lasting impacts for the environment and people.

The Norwegian NCP recommended that the company:

- Conduct due diligence in relation to the entire project impact area
- Engage in consultations with all impacted indigenous peoples in an understandable language and form
- Establish a transparent system for deciding community spending and disclose systematic information on criteria for planned and implemented projects
- Develop disclosure and reporting plans and systems in accordance with the IFC Performance Standards and the Global Reporting Initiative (GRI)
- Prepare a revised Environmental and Social Impact Assessment (ESIA or EIA) that provides a comprehensive and detailed analysis of all the environmental and social implications of all components of the project, including details on waste emissions, potential for marine pollution, implications of related infrastructure and transport routes
- Finalise the environmental and social impact assessment in dialogue with all relevant groups directly affected by the company's operations, and ensure a review by an independent third party
- Establish a grievance management system to cover the range of possible concerns, including environmental health and safety, labour rights and community grievances by impacted groups and indigenous peoples

## Friends of the Earth Norway, Forum for Environment and Development (ForUM) vs. Cermaq ASA

SALMON FARMING IN CHILE AND CANADA			
Date Filed: 19 May 2009	Status: Concluded by mediated Joint Statement 10 August 2011		
Company/ies	Cermaq ASA	Industry concerned	Fishing
Complainant(s)	Friends of the Earth Norway and Forum for Environment Development (NGOs)		
Lead National Contact Point	Norway	Secondary National Contact Point(s)	Chile, Canada
Relevant Chapter(s) of the Guidelines	Chapter II (General Policies), Chapter IV (Employment and Industrial Relations), Chapter VI (Environment)		
Documents available online	Complaint, Joint Statement, Final Statement, Press release, Minutes from follow up meeting,		

The complaint maintained that Cermaq had failed to observe the Guidelines, claiming it did not take adequate account of indigenous peoples' rights, that it engaged in discriminating trade union practices, and that it conducted flawed environmental due diligence. Cermaq rejected these claims. The Norwegian NCP offered to mediate. In August 2011 the parties agreed on a joint statement.

By engaging in mediation, the parties regained influence over the outcome, rather than leaving it solely to the NCP to determine whether or not the Guidelines had been observed. The parties' willingness to engage with one another has demonstrated to the public that they were able to achieve concrete results on the implementation of CSR practices through constructive dialogue.

### Joint Statement

The agreement describes how Cermaq will operate according to the precautionary principle, indigenous peoples' rights, human rights, labour rights and reporting on sustainability. The Joint Statement also acknowledges that Cermaq, after major outbreaks of the virus infectious salmon anaemia (ISA) in Chile, has contributed to knowledge development to make the industry more sustainable.

– We acknowledge that aquaculture in Chile, including Cermaq's farming activities, was not sustainable in the manner it was done prior to the fish health crisis in 2007. We have learned from the Chilean collapse, and followed through on a number of concrete improvements, says Baard Mikkelsen, Chair of the Cermaq Board.

– We are very pleased that this process concluded with constructive dialogue which both parties are set to continue, he underscores. Friends of the Earth Norway and ForUM acknowledge that Cermaq has learned from the crisis in Chile.

– We see that Cermaq has undertaken positive changes in their routines to prevent fish disease both in Chile and in Cermaq's global business, says Lars Haltbrekken, Chair of Friends of the Earth Norway's board.

Chair of ForUM's board, Andrew P. Kroglund, emphasises the significance of the agreement.

– We are also very pleased that Cermaq through the Joint Statement commits to respecting the rights of indigenous peoples in all areas where they operate, he says.

The parties agree there are accusations in the complaint that have been refuted. The parties also agree that contact should be based on mutual trust and clarification of facts. That Cermaq's CEO participated and that Chair of the Board signed the joint statement clearly demonstrated the company's engagement in the process. The joint statement was a result of concessions from both parties, and they all deserve honour for participating. The complainants have entrusted the company to follow up on the joint statement in practice.

In accordance with the NCP final statement about the process, NCP Norway facilitated a follow-up meeting in May 2012 and then closed the case. By invitation from the NCP, both the NGOs and the company presented the joint statement at the Annual NCP meeting in Paris in June 2012, and in a meeting co-organised by NCP Norway and NCP Chile together with the business association SOFOFA in Santiago de Chile.



Photo: NCP Norway

# REJECTED SPECIFIC INSTANCES

## Anonymous complainant vs. a Norwegian multinational company

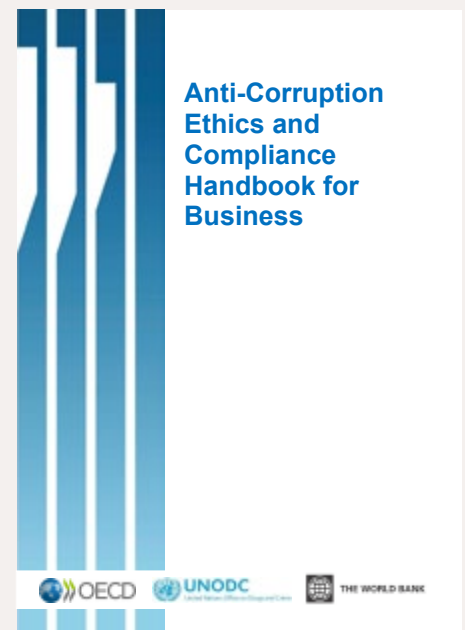
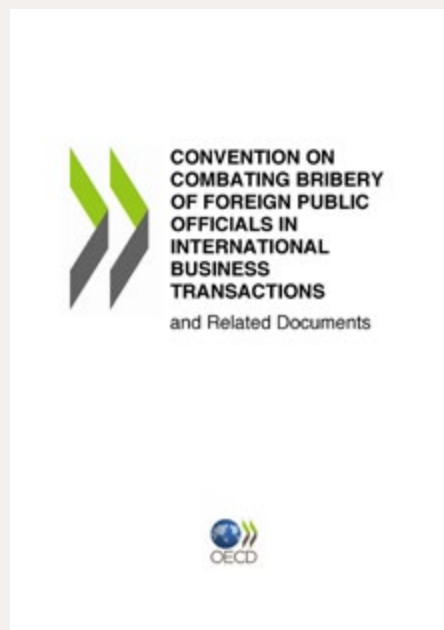
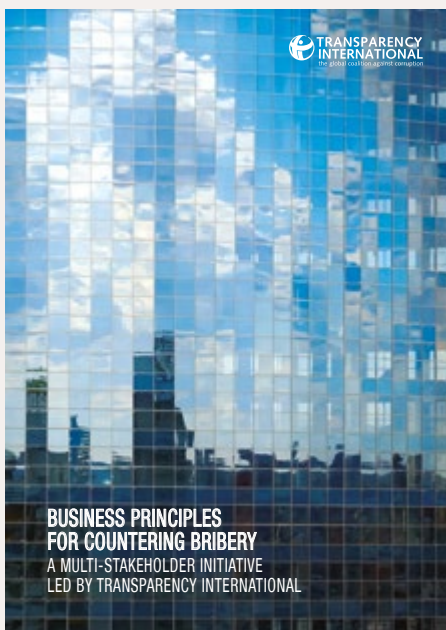
BRIBERY			
Date filed: 7 March 2014	Status: Rejected		
Company(ies)	Withheld	Industry concerned	Withheld
Complainant(s)	Anonymous		
Lead National Contact Point:	Norway	Secondary National Contact Point(s)	None
Relevant chapters of the Guidelines	Bribery		
Documents available online	Initial Assessment, Press release		

In March 2014 NCP Norway received an anonymous complaint about conditions at a subsidiary of a Norwegian company in a non-OECD country. The complainant claimed that the local management has been involved in bribery and that the parent company has not responded to a complaint via the company’s own whistleblower channel. NCP Norway was asked to investigate the matter with a view to punish the local management.

NCP Norway rejected the case, partly because of the complainant’s hidden identity. We recognize that there may be legitimate reasons to be anonymous, but that makes it difficult for the NCP to assess whether the person has a legitimate interest in the matter. That is one of the conditions that must be met in order for a case to be considered. Anonymity also makes it impossible to conduct a meaningful dialogue between the parties. NCP Norway suggested to the complainant that he/she could be represented by a third

party, but this was not accepted. Another matter that the NCP is to take into account when considering if the issue merits further consideration is if the complaint is substantiated. In this case, the complainant put forward allegations but said that NCP Norway should investigate the matter for more information. We explained that we do not have investigative authority and that we are not a judicial body. We are a non-judicial complaint mechanism set up to facilitate dialogue between the parties. The complainant was not interested in such a dialogue. The NCP has therefore rejected the complaint.

Even though, the case is rejected, NCP Norway has in its Initial assessment given some recommendations and observations to the company to identify, prevent, mitigate and manage risks associated with bribery. We have among others, referred to guidance from the OECD and Transparency International.



There are several guides for countering bribery, including these from Transparency International and the OECD.

## Norwegian Climate Network and Concerned Scientists Norway vs. Statoil ASA

OIL SANDS EXTRACTION IN CANADA			
Date Filed: 28 November 2011	Status: Rejected		
Company/ies	Statoil ASA	Industry concerned	Mining and Quarrying
Complainant(s)	Norwegian Climate Network and Concerned Scientists Norway (NGOs)		
Lead National Contact Point	Norway	Secondary National Contact Point(s)	Canada
Relevant Chapter(s) of the Guidelines	Chapter VI (Environment)		
Documents available online	Initial Assessment, Complaint, Press release		

The complainants claimed that Statoil's oil sands operations contributed to Canada's violation of its international obligations to reduce greenhouse gas emissions in the period 2008–2012. NCP Norway decided to reject the case on formal grounds, while underscoring the challenges that oil sands operations may pose to the climate and the environment.

The Norwegian NCP stated that the complaint, while concerning some of today's most pressing issues, is directed towards Canada's policy of allowing oil sands development rather than towards the manner in which Statoil has operated in the context of this policy. The complaint does not concern the issue of whether Statoil, in its activities, has in fact failed to observe the Guidelines. In order for

the NCP to be mandated to process a complaint, it must concern specified violations of the Guidelines that can be attributable to the company in question.

In highlighting the risks associated with oil sands development, the NCP called particular attention to valid concerns about the current monitoring regime and that land reclamation is not keeping pace with land disturbance, as well as the long-term and cumulative regional effects on groundwater and air quality.

All parties cooperated and engaged positively in the NCP process by readily providing information and comments to the NCP.

## 129 Roma Refugees vs. Norwegian Church Aid

HAZARDOUS CONDITIONS AT REFUGEE CAMP IN KOSOVO			
Date Filed: 22 June 2011	Status: Rejected		
Company/ies	Norwegian Church Aid	Industry concerned	NGO
Complainant(s)	Dianne Post, representing 129 Roma refugees		
Lead National Contact Point	Norway	Secondary National Contact Point(s)	None
Relevant Chapter(s) of the Guidelines	IV (Human Rights), VI (Environment)		
Documents available online	Initial Assessment, Complaint, Press release		

The complainants claimed that Norwegian Church Aid had not performed adequate due diligence in seeking to end or mitigate human rights violations at refugee camps in Kosovo. The complainants claimed that Norwegian Church Aid should be viewed as a Multinational Enterprise (MNE) on the grounds that it receives nearly half of its income from public funds and operates internationally. The complaint against Norwegian Church Aid was rejected by the Norwegian NCP, which concluded that the complaint is not against a "company" as understood by the OECD Guidelines for Multinational Enterprises.

The complaint alleged that, following the 1999 NATO bombing of Kosovo, Roma who did not flee Kosovo were placed in camps for internally displaced persons (IDPs). The camps were allegedly located on land contaminated with lead or land that was used as

a toxic waste dump site. As a result, the inhabitants of the camps experienced severe health problems.

Although NCA did not set up the camps itself, it managed one camp in the region on behalf of the United Nations Interim Administration Mission in Kosovo (UNMIK), and later on behalf of the local government. Since NCA managed the camp, the complainants hold the organisation responsible for alleged negative health impacts caused by exposure to lead poisoning, as well as the lack of basic hygiene and sufficient food.

The Norwegian NCP consulted with the OECD Investment Committee, which supported the view that Norwegian Church Aid, in this specific instance, did not qualify as an MNE. The case, therefore, falls beyond the range of the Guidelines and the mandate of the NCP.

## COOPERATION WITH THE OECD AND OTHER NCPs

*“In addition to contributing to the Committee’s work to enhance the effectiveness of the Guidelines, NCPs will engage in joint peer learning activities. In particular, they are encouraged to engage in horizontal, thematic peer reviews and voluntary NCP peer evaluations. Such peer learning can be carried out through meetings at the OECD or through direct co-operation between NCPs.”* COMMENTARY TO THE IMPLEMENTATION PROCEDURES, PARA. 19, OF THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES).

In specific instances involving several countries, cooperation between National Contact Points is important to foster functional equivalence and non-discriminatory treatment of enterprises and affected parties.

In 2013/2014, NCP Norway has worked particularly closely with the Swedish NCP on promoting mediation in the case of *Jijnjevaerie Sameby v. Statkraft AS* (see page 7). We have also engaged in dialogue with the Dutch and South Korean NCPs on the possible follow-up of the specific instance involving *Posco/ABP-APG/NBIM* (see page 9).

Cooperation between the NCPs and the OECD Secretariat and peer learning are also important in terms of creating greater awareness of the Guidelines. NCP Norway therefore consults regularly with the OECD Secretariat and other NCPs on good practices, and actively shares our information material, procedures and documents published in specific instances.

In 2013/2014, the NCP has:

- Undergone a voluntary peer review
- Hosted a mediation workshop
- Continued collaboration with the Brazilian and British NCP on raising awareness of the OECD Guidelines in business organisations and the financial sector by co-hosting two seminars in Sao Paulo, Brazil.

### Mediation workshop

Mediation, conflict resolution and dialogue are key aspects of NCPs’ mandate and activities. There is often disagreement on how to observe the OECD Guidelines, and we seek solutions that are acceptable to different parties. This is a challenging task, and we work continuously to improve our performance. What can the NCP do if an enterprise involved in a specific instance refuses to engage in a dialogue? How can we pave the way for parties to concur on non-judicial agreements? How can the need for confidentiality be balanced with the need for disclosure in the process? What is required to ensure that the parties at a later stage concur that the agreements were implemented in good faith? These and other issues were addressed at a mediation workshop arranged by NCP Norway on 1-2 April 2014. A total of 12 participants from the NCPs in Sweden, Denmark, Finland, Norway, Belgium, the Netherlands and the OECD Secretariat received theoretical and practical input from two experts from Shift and the Consensus Building Institute (CBI). The experts based their presentations on the Mediation Manual for National Contact Points, which was launched in 2012. Since several of the participants had taken part in mediation processes, the sessions were very interactive. The workshop was funded by the Nordic Council of Ministers.

### Peer Review

NCP Norway underwent a voluntary peer review in October 2013. The purpose of this exercise was to identify best practices and make recommendations to the NCP to improve its performance, as well as to highlight practices from which other NCPs could also learn. The Canadian NCP chaired the peer review team, supported by colleagues from Belgium, Colombia, the Netherlands and the UK. The Secretariat of the OECD’s Investment Committee and observers from Hungary and Mexico also participated. NCP Norway engaged Shift,



The team and the Norwegian NCP in Oslo, October 2013.

a non-profit centre for business and human rights, to assist in the peer review process. During the team’s visit, the members met with representatives from Norwegian government, civil society, trade unions, business and industry, KOMpakt, academia and NCP Norway.

The main conclusions of the peer review report were that:

- The Norwegian system of an independent National Contact Point has created a strong sense of ownership among key stakeholder groups and appears to function very well, particularly in light of the high proportion of State-owned companies.
- However, the NCP’s independence from public authorities must not result in the government disclaiming its share of responsibility for supplementing the efforts of the NCP to raise awareness of the expectations set out in the OECD Guidelines.
- NCP Norway was commended for its extensive information activities, but was recommended to target its efforts more towards small and medium-sized enterprises and government actors.

## ACCOUNTS 2013

NCP Norway invited Norwegian stakeholders to a follow-up meeting on 26 February 2014 to go through the report and to invite input for the NCP's follow-up plan. Many of the recommendations have been included in the Secretariat's activity plan for 2014. The peer review report, the response of NCP Norway and the follow-up plan were presented to the other NCPs at a meeting in Paris on 20 March.



Hans Petter Graver held a presentation at a meeting for financial institutions in the Brazilian Central Bank January 2014. Photo: NCP Brazil

### Proactive agenda

In the OECD, responsibility for work related to the Guidelines and the National Contact Points lies with the Investment Committee and its Working Party on Responsible Business Conduct (WPRBC). The Committee also has a proactive agenda which aims at highlighting examples of best practice and assisting enterprises in meeting the expectations reflected in the Guidelines. Priority issues in recent years have been the development of guidance for stakeholder engagement in oil, gas and mining, examination of conditions in the agriculture and the textile sectors, and closer focus on due diligence in the financial sector. Efforts are also being made to increase awareness of the Guidelines in countries that are not members of the OECD, but which themselves have or attract substantial direct foreign investments. It is important that business and industry in these countries know what the expectations of the Guidelines entail. Myanmar, among other countries, has been a priority focus in 2013/2014.

NCP Norway has given priority to meetings and activities related to ongoing or concluded special instances, and to processes of particular interest to Norwegian business and industry, civil society and trade unions. In 2013/2014, the NCP/Secretariat has, among other things:

- Participated in joint meetings of the OECD Working Party on Responsible Business Conduct and the National Contact Points in Paris
- At the invitation of the OECD held presentations in Myanmar together with the OECD Secretariat and the British and Italian NCPs
- Participated in the OECD's Advisory Group on Stakeholder Engagement in Extractive Industries

The NCP spent 83% of the 4 million NOK budget in 2013.

WHAT	HOW MUCH
Remuneration to the NCP	345 000 NOK (42 394 EURO)
Salaries, including overtime	1 318 728 NOK (162 046 EURO)
Travel expenses	382 560 NOK (47 009 EURO)
Consultancy services, specific instances and information	857 976 NOK (105 428 EURO)
Meetings, information and promoting	201 584 NOK (24 771 EURO)
Translation	108 930 NOK (13 385 EURO)
Representation	55 532 NOK (6802 EURO)
Stationary/office supplies	40 448 NOK (4970 EURO)
Printing of information materials etc.	79 141 NOK (9725 EURO)
Various administrative costs	600 NOK (74 EURO)
Support from Nordic Council of Ministers	- 64 733 NOK (- 7954 EURO)
<b>TOTAL</b>	<b>3 325 586 NOK (408 649 EURO)</b>



Dialogue with stakeholders, including indigenous peoples, is a key issue on the OECD's proactive agenda. Photo: Plan Norge

- Participated in a panel on the role of the NCPs in the extractive industry at a seminar organised by the Institute for Human Rights and Business (IHRB) and the UK NCP in March 2014.
- At the invitation of Kepler-Cheuvreux and the think tank Affectio Mutandi presented the NCP's experiences with the NBIM case to investors in France and the UK.
- At the invitation of the Thun Group of Banks in Switzerland participated in discussions on topics including banks' due diligence procedures



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For further details, see our annual report to the OECD at [www.responsiblebusiness.no/en](http://www.responsiblebusiness.no/en)