



**22 April 2022**

**FINAL STATEMENT:**

**TRADE UNIONS IUF, EFFAT-IUF, SEIU AND UGT VS. NORGES BANK  
INVESTMENT MANAGEMENT (NBIM)**

As stated in the Procedural Guidance of the OECD Guidelines, following conclusion of a Specific Instance and after consultation with the parties involved, the NCP will make the results of the procedures publicly available. This Final Statement concerns the outcome of the Specific Instance concerning the trade unions IUF, EFFAT-IUF, SEIU and UGT vs. Norges Bank Investment Management (NBIM).

On 21 June 2021, the NCP issued its Initial Assessment, where it determined that the issues raised in the submission from the trade unions relating to due diligence and leverage in NBIM merit further consideration. Following the Initial Assessment, the NCP offered its good offices with a view to facilitating dialogue between the Parties. The dialogue took place in Oslo, Norway, on 8 – 9 March 2022 and the parties reached an agreement.

The agreement between the Parties is included as an addendum to this Final Statement.

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## 1 BACKGROUND AND PROCEDURES

### 1.1 THE NCP AND ITS ROLE

The OECD Guidelines for Multinational Enterprises (OECD Guidelines) are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. They provide non-binding principles and standards for responsible business conduct in a global context consistent with applicable laws and internationally recognised standards. The OECD Guidelines are supported by National Contact Points (NCPs), established by adhering governments to promote and implement the Guidelines.

The OECD Guidelines provide Procedural Guidance for implementation in Specific Instances. According to this Guidance, 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 principles and standards of the Guidelines.

Where the issues raised merit further examination, the NCP will offer good offices to help the parties involved to resolve the issues. The NCP will “offer, and with the agreement of the parties involved, facilitate access to consensual and non-adversarial means, such as conciliation or mediation, to assist the parties in dealing with the issues.”<sup>1</sup> Mediation under the auspices of the NCP is a voluntary, non-judicial process based on a process of cooperating in good faith.

The Norwegian NCP consists of four independent experts and is supported by a secretariat. The NCP handles Specific Instances in accordance with the Procedural Guidance of the OECD Guidelines and the Procedural Guidelines for handling specific instances of the Norwegian NCP.<sup>2</sup>

### 1.2 SUBMISSION

On 18 May 2020, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations (IUF), the European Federation of Food, Agriculture and Tourism Trade Unions (EFFAT-IUF), the Service Employees International Union (SEIU) and the União Geral dos Trabalhadores (UGT) submitted a Specific Instance to the Dutch NCP about alleged non-observance of the OECD Guidelines.

The issues raised were gender-based violence and harassment in the global operations of McDonald’s Corporation and related due diligence by two institutional investors: APG Asset Management (APG) and Norges Bank Investment Management (NBIM). The submitters alleged

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<sup>1</sup> OECD (2011), [OECD Guidelines for Multinational Enterprises](#), p. 72.

<sup>2</sup> [Procedural Guidelines for Handling Specific Instances – NCP Norway](#). See also [www.responsiblebusiness.no](http://www.responsiblebusiness.no).

conduct inconsistent with Chapter II (General Policies), IV (Human Rights) and V (Employment and Industrial Relations) of the OECD Guidelines.

The IUF is a global union federation, the EFFAT is the European regional organization of the IUF, the SIEU is a U.S. and Canadian trade union, and the UGT is a Brazilian trade union center. They represent workers in a variety of workplaces, including fast-food restaurants.

### 1.3 COORDINATION AMONG NCPS

The U.S., Dutch and Norwegian NCPs held coordination meetings regarding the handling of the Specific Instance between June and October 2020. It was decided that the issues raised concerning the three companies would be handled separately and in parallel by the three NCPs. The U.S., Dutch and Norwegian NCPs have handled in parallel the parts of the original Specific Instance with respect to McDonald's, APG, and NBIM, respectively.

The Dutch NCP offered mediation to the submitters and APG in its Initial Assessment of 20 May 2021. The Parties reached an agreement on 15 December 2021. The agreement is included as an addendum to the Final Statement from the Dutch NCP of 3 February 2022.<sup>3</sup> The U.S. NCP accepted the Specific Instance for further consideration and offered mediation on the issues raised by the submitters, but mediation could not be established because, following significant preliminary discussions with each party, the company declined to participate in mediation.<sup>4</sup>

The Norwegian NCP has handled the issues raised by the submitters with respect to NBIM. NBIM is the investment management division of the Norwegian central bank and is responsible for investing the assets of the Government Pension Fund Global (GPF).

### 1.4 INITIAL ASSESSMENT

On 21 June 2021, the NCP issued its Initial Assessment, where it determined that the issues raised in the submission relating to due diligence and leverage in NBIM merit further consideration. This decision was taken following an elaboration of the six criteria outlined in the commentary to the OECD Guidelines' Procedural Guidance, para 25, and the Procedural Guidelines for handling specific instances of the Norwegian NCP. The NCP found that an offer of good offices may facilitate a dialogue between the trade unions and NBIM on the expectations and scope of due diligence and thereby contribute to the purpose and effectiveness of the OECD Guidelines. The Initial Assessment and submissions from the Parties are published on the NCP website.<sup>5</sup> The NCP regrets

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<sup>3</sup> [Final Statement of the Dutch NCP.](#)

<sup>4</sup> [Final Statement of the U.S. NCP.](#)

<sup>5</sup> The Initial Assessment and submissions from the Parties are published here.

that the indicative timeline for the Initial Assessment was not met. The indicative timeframe for the good offices phase was met.

## 2 GOOD OFFICES OF THE NCP

Following the Initial Assessment, the NCP offered its good offices with a view to facilitating dialogue between the Parties. Gro Nystuen and Nils-Henrik von der Fehr were approved by the parties and appointed by the NCP to mediate the dialogue. The mediators had introductory meetings with the parties and agreed on a framework for mediation on 21 January 2022. The mediation took place in Oslo, Norway, on 8 – 9 March 2022. The parties reached an agreement on 9 March 2022.

The Parties have agreed to publish the full text of the agreement, which is included as an addendum to this Final Statement.

## 3 CONCLUSION AND FOLLOW-UP

The NCP commends the Parties for engaging in dialogue in good faith and for reaching an agreement. Both Parties participated in the dialogue in an open and constructive manner. The agreement includes a common understanding and a roadmap for further cooperation between the Parties. The Parties agree that GBVH is a material risk that companies in the fast-food restaurant sector need to adequately address in order to create a safe and respectful environment for workers. They agree to make efforts to pay more attention to the issue, including through individual and collective action, as appropriate.

The agreement affirms that NBIM uses its best efforts to implement the due diligence recommendations of the OECD Guidelines. It notes that institutional investors have a role to play in contributing to responsible business conduct by considering associated risks throughout the investment process and to use leverage to influence investee companies to prevent or mitigate adverse impacts. The agreement states that institutional investors should undertake human rights due diligence to identify actual and potential adverse impacts, and, where directly linked to an entity causing or contributing to adverse impacts, seek to prevent and mitigate adverse impacts by using leverage.

The NCP notes NBIM's due diligence approach and finds that the agreement between the Parties aligns with the recommendations of the OECD Guidelines. The NCP recalls that the recommendations on due diligence in the OECD Guidelines apply to the matters covered in Chapter IV (Human Rights) and Chapter V (Employment and Industrial Relations), and other matters. The OECD paper Responsible business conduct for institutional investors (2017) helps institutional investors implement the due diligence recommendations of the OECD Guidelines in order to prevent or address adverse impacts related to human and labour rights, and other

matters, in their investment portfolios.<sup>6</sup> The NCP takes note of the reference in the agreement to the recently adopted ILO Convention no. 190 on elimination of violence and harassment (2019).<sup>7</sup> It is to be read in conjunction with ILO Convention no. 111 on non-discrimination in employment and occupation, one of the core conventions of the ILO. ILO Convention no. 111 is part of the 1998 ILO Declaration on Fundamental Principles and Rights at Work, referenced in Chapters IV and V of the OECD Guidelines.

The NCP invites the Parties to a follow-up meeting six months following this Final Statement. The Parties have agreed to further dialogue and information exchange outside the NCP Specific Instance process.

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<sup>7</sup> Article 1 of Convention no. 190 defines gender-based violence and harassment. Article 9 sets forth that “[e]ach Member shall adopt laws and regulations requiring employers to take appropriate steps commensurate with their degree of control to prevent violence and harassment in the world of work, including gender-based violence and harassment, and in particular [...] to: (a) adopt and implement, in consultation with workers and their representatives, a workplace policy on violence and harassment; [...] (c) identify hazards and assess the risks of violence and harassment, with the participation of workers and their representatives, and take measures to prevent and control them [...].”