

## OECD Watch Quarterly Case Update Volume I, Issue 1, March 2006

### Current status of the 47 OECD Guidelines cases presented by NGOs

Status	No. cases
<i>Filed:</i> the NGO has sent the complaint to the NCP	<b>0</b>
<i>Pending:</i> the NCP has confirmed that it is admissible and the specific instance procedure is under way	<b>16</b>
<i>Concluded:</i> the NCP has reached a decision and issued a statement or the case was settled outside the NCP forum	<b>13</b>
<i>Closed:</i> the NCP has started the case but dropped it before issuing a statement	<b>2</b>
<i>Rejected:</i> the NCP has formally rejected the case presented by the NGO	<b>8</b>
<i>Withdrawn:</i> the complainants have decided to close the case	<b>2</b>
<i>Blocked:</i> the NCP is not clear about the status of the case (no formal rejection, but no intention of accepting it as specific instances either).	<b>6</b>

### Number of NGO cases invoking specific chapters of the OECD Guidelines

Chapter of the OECD Guidelines	No. cases
Chapter I - Concepts and Principles	<b>8</b>
Chapter II - General Policies (incl. Human rights and the supply chain)	<b>38</b>
Chapter III - Disclosure	<b>11</b>
Chapter IV - Employment and Industrial Relations	<b>17</b>
Chapter V – Environment	<b>20</b>
Chapter VI - Combating Bribery	<b>9</b>
Chapter VII - Consumer Interests	<b>2</b>
Chapter VIII – Science and Technology	<b>0</b>
Chapter IX – Competition	<b>7</b>
Chapter X – Taxation	<b>3</b>

### NGO cases that are filed, pending or recently concluded

<b>Case</b>	Anvil Mining's role in massacre in Congo	
<b>Company/ies</b>	<b>Status</b>	
Anvil Mining Corporation	Pending	
<b>Complainants</b>	Rights and Democracy, L'Entraide Missionnaire, Rights and Accountability in Development (RAID)	
<b>Date filed</b>	17-06-2005	
<b>NCP(s) concerned</b>	National Contact Point Canada	
<b>Guidelines Chapter(s) &amp; paragraph(s)</b>	Chapter II (General Policies), para 2	
<b>Issue</b>		
In October 2004, Anvil Mining, an Australian/Canadian company provided logistical help to the Congolese military in a massacre killing at least 100 people in the remote town of Kilwa. The complaint is based on the report of the Congolese human rights organisation ASADHO Association Africaine de Défense des Droits de l'Homme (ASADHO-Katanga) "Rapport sur les violations des droits de l'homme commises à Kilwa au mois d'Octobre 2004" on what transpired in Kilwa and the violations of the rights of the local population by both the rebels and the		

Government troops. The fact that Anvil Mining Corporation of Canada provided logistical assistance in the form of air and ground transportation to the Congolese army has been acknowledged by the company in their press releases of June 7 and June 21, 2005.

***Developments/Outcome***

After the filing of the case on June 17, 2005, Anvil issued a press release on June 21 denying the accusations made against it in the complaint. RAID has sent letters to BIAC and to the Minerals Council of Australia urging them to become involved in the matter and to Anvil imploring the company to denounce the intimidation and threats against human rights activists in the DRC. On August 3, the Canadian Ministry of Foreign Affairs invited the NGOs and the company to a meeting at which the Canadian NCP was present.

<b>Case</b>	Norwegian company's involvement in Guantánamo prisons	
<b>Company/ies</b>	Aker Kværner ASA	<b>Status</b> Concluded
<b>Complainants</b>	Forum for Environment and Development (ForUM)	
<b>Date filed</b>	20-06-2005	
<b>NCP(s) concerned</b>	National Contact Point Norway	
<b>Guidelines Chapter(s) &amp; paragraph(s)</b>	Chapter II (General Policies), para 2	
<b><i>Issue</i></b>		
<p>ForUM alleges that Aker Kværner, through its subsidiary KPSI, breaches the Guidelines Chapter 2 point 2, by contributing to a prison system that abuses international law and core human rights, and that Aker Kværner ASA and KPSI through their activities do not respect the human rights of the prisoners that are affected by the self same activities.</p> <p>Since 1991, the Norwegian corporation Aker Kværner ASA has, through the agency of its daughter company Kværner Process Services Inc. (KPSI) which it owns 100%, carried out assignments for the American Department of Defence in the area of Guantánamo Bay, Cuba. In 2001 the scope of activities was expanded to include the building and maintenance of facilities for the incarceration of captives taken during military operation in, among other places, Afghanistan.</p>		
<b><i>Developments/Outcome</i></b>		
<p>The NCP held two joint meetings with the NGO and the company on September 5 and October 26, 2005. In addition, there was some correspondence in between the meetings.</p> <p>Aker Kværner has confirmed that they are pulling out of Guantánamo Bay, but the official reasons for pulling out are based on them allegedly losing a bid for a contract. According to the company, they should pull out by the end of 2005. The NGOs are very content with the decision to pull out, and believe that their effort has also played a part, not only the corporate economy.</p> <p>On November 29, 2005, the NCP issued a statement reprimanding the company and noting that "the activities that the company has carried out can be said, at least partly, to have affected the inmates of the prison." The NCP further concluded that "Aker Kværner could have delivered a great deal more documentation without compromising customer confidentiality" and "strongly encouraged" the company to draw up guidelines for ethical behaviour. The complainants are very happy with the outcome. The NCP's statement can be found at <a href="http://www.oecdwatch.org/docs/ForUM_Aker_Kvaerner_NCP_final_statement.pdf">http://www.oecdwatch.org/docs/ForUM_Aker_Kvaerner_NCP_final_statement.pdf</a>.</p>		

<b>Case</b>	Australian company violates human rights in detention centre	
<b>Company/ies</b>		<b>Status</b>

Global Solutions Limited (Australia) Pty Ltd.	Pending
<b>Complainants</b>	Human Rights Council of Australia, ChilOut, International Commission of Jurists, Rights and Accountability in Development (RAID), Brotherhood of St Laurence (BSL)
<b>Date filed</b>	15-06-2005
<b>NCP(s) concerned</b>	National Contact Point Australia, National Contact Point United Kingdom
<b>Guidelines Chapter(s) &amp; paragraph(s)</b>	Chapter II (General Policies), para 2; Chapter VII (Consumer Interests), para 4
<b>Issue</b>	
<p>GSL(Australia) invests in and manages immigration detention centres (IDCs) in Australia where human rights abuses are occurring. GSL is alleged to be in breach of the OECD Guidelines by acquiescing in the detention of children in its immigration detention centres, and failing to remove children from immigration detention following recommendations of health care professionals. GSL is thereby facilitating violations of the Convention on the Rights of the Child.</p> <p>GSL is also in breach of the human rights provision for failing to act on the recommendations of international human rights bodies concerning:</p> <ol style="list-style-type: none"> <li>1. The automatic and indiscriminate character of detention of asylum seekers, in contravention of Article 9 of the International Covenant on Civil and Political Rights.</li> <li>2. The indefinite nature of detention of asylum seekers including those who have failed in their applications for recognition as refugees, in contravention of Article 9 of the International Covenant on Civil and Political Rights.</li> <li>3. The penalising of asylum seekers who enter Australia without valid documentation, in contravention of Article 31 of the Refugee Convention.</li> </ol> <p>Moreover, GSL is violating consumer interest provision by misrepresenting its policies, procedures and practices with regards to human rights. GSL claims to be “committed to promoting best practice in human rights”. A complaint has been filed simultaneously by the same groups with the UK NCP concerning the parent company, Global Solutions Limited.</p>	
<b>Developments/Outcome</b>	
<p>The NGOs raised the complaint at the Annual meeting of NCPs, at the OECD in Paris on June 15, 2005. On June 17, the Australian Government announced that it was going to transfer all families - not just families seeking asylum - from detention centres to community detention. This was seen as a welcome first step by the complainants.</p> <p>The NCP held several meetings with the complainants during its initial assessment, and officially accepted the case on August 1, 2005. There has been a good deal of written, telephone, and email communication between the NCP and the complainants. The NCP has provided the complainants with extensive written material and documentation of correspondence between all parties. The complainants are currently analyzing the information.</p> <p>In general, the complainants are happy with how the NCP has conducted the case to date. There has been a good deal of communication, clear procedural guidelines, and transparency. This is particularly encouraging given the extreme sensitivity of this issue and the public spotlight on related issues.</p>	

<b>Case</b>	US/Brazilian hydroelectric dam in Barra Grande, Brazil	
<b>Company/ies</b>	<b>Status</b>	
Alcoa Alumínios S.A Grupo Votorantim	Pending Pending	
<b>Complainants</b>	Terra de Direitos, Movimento dos Atingidos por Barragens (MAB)	
<b>Date filed</b>	06-06-2005	

<b>NCP(s) concerned</b>	National Contact Point Brazil
<b>Guidelines Chapter(s) &amp; paragraph(s)</b>	Chapter V (Environment), para 1,3,4; Chapter II (General Policies), para 2,5
<b>Issue</b>	
<p>The corporations Alcoa Alumínios S.A. and the Companhia Brasileira de Alumínio/Grupo Votorantim allegedly violated various human, economic, social, cultural, and environmental rights in the construction of the Barra Grande hydroelectric plant in the states of Santa Catarina and Rio Grande do Sul. The corporations utilized a fraudulent environmental impact assessment conducted by the company Engevix Engenharia S.A. in 1999. Despite being aware of the fraudulent nature of the assessment, the Baesa Consortium went ahead with the exploration and used the flawed assessment to justify its disregard for its commitments to sustainable development.</p>	
<b>Developments/Outcome</b>	
<p>The Brazilian NCP received the case and held a meeting with the NGOs and the nine executive Ministers of the Brazilian NCP, in which they questioned the NGOs about the recommendations of the World Commission of Dams (WCD). In September, 2005, the NGOs met with the head of the NCP, who promised to organize more meetings, but admitted that the current political situation in Brazil would make it difficult to resolve the case. The NGOs have heard from unofficial sources that the NCP plans to close the case do to a lack of evidence about the behavior of the companies, but the NGOs believe that they do have sufficient evidence. The NGOs continue to monitor Baesa's fulfillment of the conditions in the Adjustment of Conduct Terms.</p>	

<b>Case</b>	Canadian mining company in Ecuadorian cloud forest	
<b>Company/ies</b>	<b>Status</b>	
Ascendant Copper Corporation	Withdrawn	
<b>Complainants</b>	Defensa y Conservacion Ecologica de Intag (DECOIN), Les Ami(e)s de la Terre Canada (FoE Canada), MiningWatch Canada	
<b>Date filed</b>	29-05-2005	
<b>NCP(s) concerned</b>	National Contact Point Canada	
<b>Guidelines Chapter(s) &amp; paragraph(s)</b>	Chapter III (Disclosure), para 4,5,1; Chapter I (Concepts and Principles), para 7; Chapter II (General Policies), para 5,2,10; Chapter V (Environment), para 2	
<b>Issue</b>		
<p>The complaint concerns ACC's "Junín" project ("Golden1" and "Golden 2" mining concessions) located in the Junín area of Cotacachi County, Imbabura Province, Ecuador.</p> <p>The complaint states that ACC has not disclosed material information to the public and potential shareholders concerning its Junín project, including information on:</p> <ol style="list-style-type: none"> <li>1. pending legal actions by the Cotacachi County government challenging the legality of the Junín concessions;</li> <li>2. a land ownership dispute that could lead to militarization in the project area; and</li> <li>3. intense opposition from local representatives and government officials to the potential forced relocation of four communities and the proposed mining activities generally.</li> </ol> <p>The complaint requests that the Canadian NCP also assess whether ACC has:</p> <ol style="list-style-type: none"> <li>1. disclosed reliable exploration data regarding mineral reserves;</li> <li>2. engaged in improper political activities to seek an exemption to an environmental regulatory framework;</li> <li>3. violated Ecuador's Constitution and the national mining law for failing to obtain authorization from officials and local communities to conduct exploratory activities;</li> <li>4. addressed allegations of human rights abuses that have been levelled by a prominent Ecuadorian human rights organization.</li> </ol>		

<b>Developments/Outcome</b>
<p>On June 6, 2005, the company sent a letter to the Business and Human Rights Resource Centre denying responsibility in the case. The Complainants responded to Ascendant's letter with their own letter on July 18, 2005.</p> <p>There has been email communication from the NCP, but 10 months after the complaint was filed, no formal response, written or verbal, was received by the complainants confirming their case had been accepted.</p> <p>The complainants also requested that a meeting proposed by Canada's NCP in response to their complaint be treated as non-confidential. The Guidelines provide for information shared in meetings to be non-confidential when the parties to a dispute are amenable. In highly-charged environments such as that in the Junín area, the complainants emphasised that transparency is essential in order to maintain trust. However, the NCP unilaterally rejected the request for greater transparency, including refusing to ask the company if it would be willing to have a transparent dialogue, thereby denying the complainants their procedural rights.</p> <p>Given these concerns, on January 16, 2005, the complainants felt compelled to withdraw the complaint because of the Canadian NCP's failure to properly implement the Guidelines' procedural measures. The press release communicating the withdraw of the complaint can be found at <a href="http://www.oecdwatch.org/docs/DECOIN_Ascendant_withdraw_press_release.pdf">http://www.oecdwatch.org/docs/DECOIN_Ascendant_withdraw_press_release.pdf</a>.</p>

<b>Case</b>	<b>Bribery in UK Export Credit Program</b>
<b>Company/ies</b>	<b>Status</b>
BAE Systems Airbus S.A.S. Rolls Royce	Pending Pending Pending
<b>Complainants</b>	The Corner House (Corner House)
<b>Date filed</b>	01-04-2005
<b>NCP(s) concerned</b>	National Contact Point United Kingdom, National Contact Point France
<b>Guidelines Chapter(s) &amp; paragraph(s)</b>	Chapter VI (Combating Bribery), para 2
<b>Issue</b>	
The complainant alleges that the refusal of the three companies concerned to provide details of their agents and about agent's commission to the UK Government's Export Credit Guarantee Department represents a violation of the bribery provision of the Guidelines.	
<b>Developments/Outcome</b>	
In May, 2005, the NCP accepted the complaint and forwarded it to the companies concerned for comment.	

<b>Case</b>	<b>Bayer's supply chain includes child labour in India</b>
<b>Company/ies</b>	<b>Status</b>
Bayer	Pending
<b>Complainants</b>	Germanwatch, Coalition Against Bayer Dangers (CBG), Global March Against Child Labour
<b>Date filed</b>	11-10-2004
<b>NCP(s) concerned</b>	National Contact Point Germany
<b>Guidelines Chapter(s) &amp; paragraph(s)</b>	Chapter IV (Employment and Industrial Relations), para 1; Chapter II (General Policies), para 10

<i>Issue</i>
<p>Bayer suppliers in India are alleged to have violated the OECD Guidelines chapter on employment and industrial relations by using child labour.</p> <p>The case is based on a 2003 study entitled “Child Labour and Transnational Seed Companies in Hybrid Cottonseed Production” and a follow up study from 2004. The study found that cottonseed farms, largely in South India, employ children in large numbers, predominantly girls between 6 and 14 years of age. Many of them work in bonded labour and are forced to stay with their employers for several years, their work serving as payment for servicing loans at usurious interest. Because large quantities of pesticides are in constant use, their health conditions are negatively affected all the time. Procurement prices paid for cotton seeds are so low that farmers employ children, who are paid less money, because otherwise they would not make any at all.</p> <p>The study found that around 2,000 children were working for suppliers of Proagro, a subsidiary of the German company Bayer AG. Bayer has failed to address these concerns, which form the basis of the complaint.</p>
<i>Developments/Outcome</i>
<p>On October 26, 2004, Bayer responded to the NGO complaint in a letter to the NCP. Bayer stated that it does enough to deal with the issue of child labour and that the complaint is unfounded. In December 2004, the NGOs responded to Bayer’s comments in another letter to the NCP, and in a January, 2005 letter to the NCP, Bayer reacted to Bayer’s second letter.</p> <p>After having received comprehensive comments by both parties, the German NCP invited all parties involved to a meeting. However, Bayer, objected to the participation of one of the NGO participants, and refused the offer. Nevertheless, Bayer has told the NCP and the public that it has already taken constructive and concrete steps to solve the problems raised. Instead of a joint meeting, the NCP held separate meetings. First there was a meeting between Bayer and the NCP in which the company explained its plan on how to face the problem. The company’s presentation and the minutes of the meeting were communicated to the NGOs. Afterwards, the NCP held a subsequent meeting with the NGOs. The NGOs were concerned about the omission of some comments made during their meeting in the meeting minutes issued by the NCP, but after some arguing with the NCP, finally their points were taken up in a new version of the minutes. In general it was felt that having separate meetings with the complainant and the company can compromise the NCP’s (supposed) independent/objective nature because it puts the NCP into the role of having to present the view and arguments of the company to the NGOs.</p>

<b>Case</b>	<b>UK companies' role in DR Congo conflict</b>
<b>Company/ies</b>	<b>Status</b>
Oryx National Resources	Concluded
Avient Air	Concluded
Dairo Air Services	Pending
Tremalt Ltd	Blocked
Alex Stewart (Assayers) Limited	Blocked
Ridgepoint International Developments Ltd	Blocked
<b>Complainants</b>	Rights and Accountability in Development (RAID)
<b>Date filed</b>	28-06-2004
<b>NCP(s) concerned</b>	National Contact Point United Kingdom
<b>Guidelines Chapter(s) &amp; paragraph(s)</b>	Chapter IX (Competition), para 1; Chapter III (Disclosure), para 3,4; Chapter VI (Combating Bribery), para 1,5; Chapter V (Environment), para 6; Chapter II (General Policies), para 2,11
<i>Issue</i>	
Alleged breaches by companies operating in the DRC include human rights, disclosure, bribery and anti-competition provisions.	

### **Developments/Outcome**

On September 8, 2004, the UK NCP issued a weak statement on the Avient case accepting Avient Ltd's contention that they were working within a contractual arrangement with the officially recognized governments in the area. The NCP also stated that "in future Avient Ltd. should carefully consider the recommendations of the Guidelines particularly, but not exclusively, Chapter 2 before entering into contracts with Governments and businesses in the area." RAID, having been accepted as a complainant, was locked out of the process. Ad hoc procedures were adopted which disregarded due process. The NCP Recommendations merely highlight the existence of a few provisions of the Guidelines but do not declare breaches and offer nothing in the way of specific actions a company is expected to take to remedy the breaches.

In July 2004, the NCP accepted the complaint against Oryx, but RAID was locked out of the negotiation process for one year while the NCP engaged in extensive discussions with Oryx. Most of the complaint was rejected on the grounds (disputed) that a UN panel had resolved the issue. RAID was readmitted in April 2005, under very restrictive and summary procedures. RAID was able to comment on the draft Statement - it was the only part of the process in which the procedures were followed. Nevertheless, the final Statement is highly unsatisfactory and does not incorporate RAID's corrections.

In July 2004, the NCP accepted the complaint against DAS Air, but RAID was locked out of the negotiation process for one year. RAID was readmitted in May 2005, and is now awaiting DAS Air's response. The NCP has declared June 30<sup>th</sup>, 2006, the deadline for concluding all DRC cases.

The cases against Tremalt/Bredenkamp, Alex Stewart (Assayers) Ltd, and Ridgepoint have been blocked by the UK NCP. The NCP claims these cases were 'resolved' by the UN Panel and cannot therefore be 'reopened'.

<b>Case</b>	<b>Belgian company's involvement in Laos hydroelectric dam</b>	
<b>Company/ies</b>		<b>Status</b>
Tractebel Electricity & Gas International		Concluded
<b>Complainants</b>	Proyecto Gato	
<b>Date filed</b>	15-04-2004	
<b>NCP(s) concerned</b>	National Contact Point Belgium	
<b>Guidelines Chapter(s) &amp; paragraph(s)</b>	Chapter II (General Policies), para 1,2; Chapter III (Disclosure), para 1; Chapter V (Environment), para 1	
<b>Issue</b>		
<p>The complaint alleges that the Belgian company, Tractebel, breached the Guidelines in a number of ways including the failure to complete the project Environmental Impact Assessment until two years after the project was started, failure to adequately assess project impacts on endangered species; failure to deal with impacts of logging on indigenous people, and failure to avert negative health, social and economic impacts associated with the forced eviction of 3000 people.</p> <p>Houay Ho is a 150 MW trans-basin diversion scheme. The project diverts water from the Houay Ho stream on the eastern edge of Champassak province of southern Lao PDR and is released into the Xe Kong River. Houay Ho is being built and funded by the Korean company Daewoo Engineering &amp; Construction; Loxley (Thailand) and the state - owned company Electricité du Laos. Construction began in November 1994 and was completed at the end of 1998. All the output is sold to the Electricity Generating Authority of Thailand under an international standard 30 years power purchase agreement, and the project was constructed under a Build-Operate-Transfer Agreement with the Government of Laos. The project considered the first privately financed joint venture BOT hydropower project in Lao PDR.</p> <p>Tractebel and its Thai partner MCL acquired in 2001 a 80% controlling stake in the 150MW</p>		

Houay Ho dam-reservoir hydroelectric project (60% Tractebel and 20% MCL). The total acquisition price, for 80% of the equity and 100% of the debt, amounts to approximately USD 140 million. The remaining 20% of the equity is held by Electricite du Laos. Tractebel and MCL operate under the name of Houay Ho power Limited. Delcredere awarded a political risk insurance. Knight Piesold (consultant firm) made the EIA for Tractebel.

Around 3000 people, from 12 villages, were forcibly evicted to make way for the Houay Ho dam because they lived in the watershed area. Construction began in October 1993. The feasibility study was finished in 1994 and the EIA is 1996.

**Developments/Outcome**

An initial meeting with between Proyecto Gato and the Belgian NCP was held on 11 June. Proyecto Gato then had an official meeting with the Laotian minister of Industry on September 8, 2004. The minister recognized the problems, he asked for a copy of the complaint and said that extra measures should be taken. On October 29, 2004 the Belgian NCP held a meeting with Proyecto Gato and Tractebel. Tractebel objected to the allegations made by Proyecto Gato. A second meeting was held on February 10, 2005. Tractebel refused to allow the complainants access to the documents it had submitted to the NCP, including the environmental impact assessment and a copy of its presentation to the NCP. In September 2005, the NCP issued a statement that no breaches of the Guidelines could be attributed to Tractebel.

Proyecto Gato and several civil society groups argue that the NCP has failed to appear to be treating their complaint seriously and in accordance with OECD rules. The NGOs sent a letter to the OECD requesting clarification on the interpretation of the Guidelines. The OECD sent a copy of the letter to all NCPs, but maintains that “Under the Procedural Guidance for the Guidelines, the Investment Committee is not mandated to act as an appellate body on individual NCPs’ decisions, nor is it asked to accept requests for clarification and submissions on an NCPs handling of specific instances from parties other than advisory bodies (see the text in parts II.3.c and b in the Procedural Guidance to the 2000 Council Decision). However, in addressing generic issues before the committee that may have been revealed by individual specific instances, the authority in II.4 of the procedural guidance provides that the Committee may seek expert advice in relation to its work on the Guidelines and the Committee has sought such advice in the past.”

Proyecto Gato also filed a complaint against the NCP with the federal ombudsman. Proyecto Gato claim that the NCP fails to communicate its interpretation of the Guidelines and the closure of the instance. The ombudsman accepted the complaint and the procedure is still pending.

<b>Case</b>	<b>Toyota's anti-trade union practices in the Philippines</b>	
<b>Company/ies</b>		<b>Status</b>
Toyota Motor Corporation		Pending
<b>Complainants</b>	Protest Toyota Campaign (PTC), Toyota Motor Philippines Corporation Workers' Association (TMPCWA)	
<b>Date filed</b>	04-03-2004	
<b>NCP(s) concerned</b>	National Contact Point Japan	
<b>Guidelines Chapter(s) &amp; paragraph(s)</b>	Chapter IV (Employment and Industrial Relations), para 1,6,7,8; Chapter II (General Policies), para 2	
<b>Issue</b>		
Toyota Motor Corporation Philippines (TMCP) refuses to recognize the existence of the TMPCWA, an independent trade union. Not only is it doing everything in its power to hinder the right to association and collective bargaining, it also represses unionists, 227 of whom have been sacked illegally.		
To protest against the dismissals and support their colleagues deprived of an income, the		



workers organized a picket line outside the two Toyota production sites. But the firm obtained the intervention of the police who, with private vigilantes, violently dispersed the protestors.

***Developments/Outcome***

More than 8 months after the filing of the complaint, the Japanese NCP finally responded with a letter on December 13, 2004, stating that it would take no action on the case until a related case in a Philippine court of appeals was resolved. In a letter dated December 16, 2004, the complainants expressed their disappointment with the NCPs (non)handling of the case. The Protest Toyota Campaign met with the NCP on February 14, 2005. At the meeting, only the foreign and labour ministries were present. The Ministry of Economy was not present, nor was any representative from Toyota present or invited. The NCP maintained that it will not take any action or work toward resolution in Japan until the court case in the Philippines is finalized. The Protest Toyota Campaign has met with Toyota's PR department 3 times outside the NCP forum at Toyota's headquarters in Tokyo, but there has been no movement on the issues.

<b>Case</b>	<b>Belgian companies' role in Congo</b>
<b>Company/ies</b>	<b>Status</b>
George Forrest International Nami Gems Cogecom Belgolaise	Concluded Pending Rejected Rejected
<b>Complainants</b>	Vlaamse Noord-Zuid beweging (11.11.11: Flemish North-South Movement), Rights and Accountability in Development (RAID), Proyecto Gato, Groupe de Recherche pour une Stratégie économique alternative (GRESEA)
<b>Date filed</b>	24-11-2004
<b>NCP(s) concerned</b>	National Contact Point Belgium
<b>Guidelines Chapter(s) &amp; paragraph(s)</b>	Chapter II (General Policies), para 1,2,3,4,6,7,11; Chapter III (Disclosure), para 1,2,4,5; Chapter IV (Employment and Industrial Relations), para 4; Chapter V (Environment), para 1,2,3,7; Chapter IX (Competition), para 2
<b>Issue</b>	
<p>George Forrest International SA is alleged to have:</p> <ol style="list-style-type: none"> <li>1. benefited from the new contractual arrangements with Gecamines while George Forrest was Chairman of Gécamines and the Forrest Group of companies</li> <li>2. not taken steps to ensure occupational health and safety in their operations processing radioactive minerals in its plant in Lubumbashi;</li> <li>3. failed to disclose timely, regular, reliable and relevant information regarding its companies' activities, structure, financial situation and performance</li> <li>4. failed to publish environmental and social performance reports.</li> </ol> <p>Accounts of the Congolese state owned diamond mining company, MIBA, held by Belgolaise Bank were, according to the UN Panel, used to transfer MIBA funds to high-level government officials for their personal benefit or for the purchase of weapons. Through a network of correspondent banks, Belgolaise Bank facilitates financial transactions for the elite networks of Uganda and Rwanda that are also engaged in the exploitation of natural resources and other forms of wealth of the Democratic Republic of Congo (DRC).</p> <p>Cogecom imported coltan and cassiterites from the DRC into Belgium via Rwanda. The Belgian Senate stated that an analysis of the transactions and movements of capital appear to confirm the direct participation of Cogecom in the financing of the rebel movement of RCD-Goma. The company does not observe applicable national and international laws nor does it take into account the views of all stakeholders.</p>	

Nami Gems, according to the UN Panel, allegedly worked with La Societe Victoria, a company run by a Ugandan elite network. A Ugandan judicial commission of inquiry also implicated Nami Gems in the smuggling of diamonds from foreign and rebel controlled north-eastern DRC. Nami Gems is also alleged to have:

1. evaded taxes; hidden revenues and failed to provide to the relevant authorities the information necessary for the correct determination of taxes by smuggling of diamonds from DRC through Uganda to Belgium;
2. provided, by evading taxes, unfair competition to legitimate buyers that legally value and declare their merchandise, and must therefore pay sales and export taxes.
3. failed to apply good corporate governance practices;
4. failed to encourage their business partner to apply principles of corporate conduct compatible with the Guidelines
5. violated the existing Congolese regulations and provided financial resources to MLC rebels.

#### ***Developments/Outcome***

The case against George Forrest International was accepted by the Belgian NCP. The NCP issued a statement that the OECD Guidelines are respected “within the matter of possibility”. In the statement, the NCP also demands more transparency from Forrest.

The Nami Gems case has been accepted and is currently pending.

The cases against Cogecom and Belgolaise were not accepted due to the existence of ongoing legal procedures (a court case is pending). However, it should be noted that the decisions to accept or reject the cases was never formally communicated to the complainants. The complainants learned about the decision from the annual OECD report, which was released on June 15, 2005.

<b>Case</b>	<b>BP's role in the Baku-Tbilisi-Ceyhan oil pipeline</b>
<b>Company/ies</b>	<b>Status</b>
BP p.l.c.	Pending
<b>Complainants</b>	Campagna per la Riforma della Banca Mondiale (CRBM), FERN, Friends of the Earth France (FOE France), Friends of the Earth United States of America (FOE US), FoE Netherlands (Milieudefensie), PLATFORM, urgewald e.V. (urgewald), World Economy, Ecology & Development (Weed), Germanwatch, Friends of the Earth Germany (BUND), Friends of the Earth England, Wales and Northern Ireland (FOE EWNI), The Corner House (Corner House)
<b>Date filed</b>	29-04-2003
<b>NCP(s) concerned</b>	National Contact Point United Kingdom, National Contact Point France, National Contact Point Germany, National Contact Point Italy, National Contact Point United States of America
<b>Guidelines Chapter(s) &amp; paragraph(s)</b>	Chapter I (Concepts and Principles), para 7; Chapter II (General Policies), para 5; Chapter V (Environment), para 1,2,4; Chapter III (Disclosure), para 1

#### ***Issue***

The Baku-Tbilisi-Ceyhan (BTC) oil pipeline is a proposed pipeline that would span 1,760 kilometres from the Azerbaijan capital of Baku, through Tbilisi Georgia, ending in the Mediterranean city of Ceyhan, Turkey. A gas pipeline is also said to follow the same route. British Petroleum (BP) is the lead sponsor; there are nine other participants in the consortium. The BTC consortium is seeking the political and financial support of their countries' export credit agencies, the European Bank for Reconstruction and Development and the International Finance Corporation of the World Bank Group. The consortium is accused of seeking tax and law exemptions and undue influencing of governments in construction of Pipeline in Georgia and Turkey.

The complainants argued that the consortium had:

1. exerted undue influence on the regulatory framework for the project
2. sought or accepted exemptions related to social, labour, tax and environmental laws
3. pressured the Georgian environment minister to approve the Environmental Impact Assessment despite the minister's protests that it violated Georgian law (the minister actually wrote a letter to BP, dated 26 November 2002, where he confirmed that BP representatives were requesting the Georgian government to violate their own environmental legislation), and
4. undermined the host government's ability to mitigate serious threats to the environment, human health and safety by, among other actions, negotiating agreements that free the pipeline project from any environmental, public health or other laws that the three host countries might adopt in the future when constructing a Pipeline in Azerbaijan, Georgia and Turkey. Concerns were also expressed over failure to adequately consult with project-affected communities and failure to operate in a manner contributing to goals of sustainable development.

***Developments/Outcome***

The complaint was declared eligible by the UK NCP in August 2003. In March 2004, almost 1 year after the filing of the complaint, BP responded to the complaint, stating that they thought the project complied with the OECD Guidelines. The fact that a funding package has been approved, which makes the UK government a financial stakeholder in the BTC, led the NGOs to doubt the impartiality of the NCP. There were also concerns about the NCP's delays in dealing with the case. On October 24, 2004, the NGOs sent a letter to the NCP, expressing concern about the ECGD's statement that the BTC project complied with the OECD Guidelines and its decision to support the project. The NCP has recently offered to facilitate a dialogue between the parties. Despite the length of time that has ensued, the NCP has failed to follow agreed procedures and produce an initial assessment of the complaint.

The UK NCP recently visited with affected community members and NGOs in Azerbaijan, Georgia and Turkey. Notably, the NCP organized his trip in close collaboration with both the complainants and BP to ensure all parties were satisfied with the terms of reference.

<b>Case</b>	<b>Anglo American mining activities in Zambia</b>
<b>Company/ies</b>	<b>Status</b>
Anglo American Plc	Pending
<b>Complainants</b>	Rights and Accountability in Development (RAID), Afronet, Citizens for a Better Environment (CBE)
<b>Date filed</b>	27-02-2002
<b>NCP(s) concerned</b>	National Contact Point United Kingdom
<b>Guidelines Chapter(s) &amp; paragraph(s)</b>	Chapter II (General Policies), para 1,2; Chapter IX (Competition), para 1,3; Chapter V (Environment), para 0,2; Chapter III (Disclosure), para 2

***Issue***

This case concerns unfair conduct during the privatisation of Zambia's copper mines, ZCCM. Main areas of concern detailed in the submission include:

1. Manipulation of the privatisation regime
2. Anti-competitive practices during negotiations
3. Tabling of extraordinary tax concessions
4. Withdrawal from social provision
5. Environmental deregulation
6. Inadequate disclosure and accountability
7. In early 2002, Anglo American plc withdrew from Zambia in order to concentrate its investments in Latin America.

***Developments/Outcome***

For almost a year after the filing of the complaint, the UK NCP refused to take any action on the case; another year was wasted when the company questioned the NCP's jurisdiction and

the scope of the Guidelines. The matter had to be referred to the Investment Committee for a ruling which found in favour of the case continuing. The NGOs submitted their final response to the company on 10 April 2005, and are awaiting the company's decision on how to conclude the matter: i.e. will Anglo American respond in writing or agree to enter into a dialogue to resolve the case.