

Aanalysis of the Nutreco/Marine Harvest case by Centre Ecoceanos (Chile)
October 2004

Dr. Juan Carlos Cárdenas
Executive Director
Centro Ecoceanos

In order to have a clearer picture, the Nutreco/Marine Harvest case, was the first experience in Chile of using the OECD Guidelines. This inedit process was jointly carried out by Milieudefensie (The Netherlands), Centro Ecoceanos (Chile), the Regional Federation of Fish-workers, the Union of workers of the Marine Harvest's fish-processing plants, artisinal fishers organisations and sportive fishers groups, all from the X Region (Los Lagos District), the very heart of the salmon-farm industry in Chile.

The Nutreco/Marine Harvest case had two main phases: (a) from August 2002 to November 2003. In this part the complaint was submitted to the consideration of the NCP in the Netherlands, was negotiated in between the Parties and a Final Report to the OECD was generated wich included several recomendations.

At the beginning of this 15 month process there were different kind of difficulties, which included concerns of the NCP in Chile to accepting this complaint, misunderstandings in the communication process between the Parties, lack of confidence, political and corporate pressure and difficulties to accept "Centro Ecoceanos" as a valid counterpart in Chile.

After an active work of cordination in between the Parties that launched this complaint, a campaign of public information and pressure, the relationship with the NCP in Chile became more transparent and equilibrated, which caused that the first phase of this process finished with a Final Report that opened the spaces for the multinational company Nutreco/Marine Harvest accepted to start a process of direct dialogue with the stakeholders, with the participation of the national and regional authorities and the surveillance of the NCP. Most of the points included at the complaint were solved during the process with the exception of two.

This first phase finished on October 2003 with the NCP Final Report that included recommendations to Nutreco/ Marine Harvest to generate a round table which should be formed by the Multinational company representatives, different governmental agencies (Ministry of Foreign Aaffairs, Under-secretary of Fisheries, Ministry of Labour and the Chilean Navy) and the following stakeholders Centro Ecoceanos, Marine Harvest's Unions and Regional Sportive Fishers Organisations.

(b) The second phase of this process started on December the 17th 2003, with the constitution of the Coordination Commission / Round Table as requested in the NCP Final Report. During all this process the NCP played a crucial role to create the political will to make the dialogue between the Parties possible as well as to keep the process functioning along the time.

During this second phase, which was carried out in Puerto Montt, X region, Centro Ecoceanos produced two briefing documents in Spanish to disseminate the information of this process to the stakeholders and to the general public. Titles of those documents are "OECD Guidelines For Multinational

Enterprises: A tool for campaigns in Defense of the Environment and the Rights of Citizens, Workers, Local Communities and Consumers" and "Evaluation of the First Experience with the Use of the OECD Guidelines by the Chilean Society: A Critical Toolkit" (Please see references of those documents at: www.ecoceanos.cl or www.parlamentodelmar.cl).

Also a seminar was carried out in Castro, Chiloe Island, "Corporate Responsibility, Salmon Industry and the Workers and Coastal Communities Rights in Chile" (16, april, 2004) which was attended by the different

stakeholders (processor plants and salmon farms unions, coastal communities, fishers , etc) governmental authorities from Puerto Montt and Chiloe, representatives of the Huilliches people, Environmental NGOs, Representatives of Veterinary Without Borders from Catalonia, Spain, professors and students of the local University, consumers and the NCP representative in Chile.

On 2nd of August, 2004 we successfully finished the common work of the Coordination Commission / Round Table composed by the Government (Ministry of Labour / Ministry of Foreign Affairs/ NCP / Undersecretary of Fisheries / Regional Environmental Commission / Chilean Navy) , Nutreco/Marine Harvest Chile , three Marine Harvest's Unions ; regional sportive fishers federation and Centro Ecoceanos. During seven months the two key points left were discussed, negotiated and finally reached to an agreement, successful to all Parties. These points were the following:

a) The first conflict was the dispute between Marine Harvest facilities and regional sportive fishers for the access and use of the Llanquihue lake, one of the most important recreational / aquaculture areas in Southern Chile.

In order to solve this conflict, which lasted more than three years, four working meetings were carried out in the Llanquihue lake, between the Undersecretariat of Fisheries, National Commission of Environmental Affairs (CONAMA regional branch), the Chilean Navy, National Direction of Maritime Territory (Directemar) and the Regional Sportive Federation. Finally, as a consequence of the complaint and negotiations, the company retired their facilities illegally placed at the lake, allowing again its use by sportive fishers.

b) The second conflict was Nutreco's responsibility with its workers regarding security and hygienic conditions. Under the policy of this company there were two different kind of workers, one group with the "normal rights" under the Chilean law, and another one, working to Nutreco but hired by external companies (subcontract / outsourcing) and not given the same rights. The complaint then was based on the fact that the company was not responsible for the working conditions in all the supply chain.

This was one of the key points contained at the complaint. In order to solve it seven meetings were carried out between Ministry of Labour,

Regional Labour Department, Marine Harvest and the three Unions of this company (two from processing plants (Chamiza and El Teniente, in Puerto Montt) and another one from the fish-farm facilities in Achao, Chiloe Island).

As a consequence of this process, Marine Harvest drafted an internal regulation to deal with Health, Security, Environment and Quality, HSEQ, and make it binding for all the external companies (subcontractors) working for them. Provisions contained in this draft document were then approved by the three previously mentioned Unions and also by the Coordinator Committee of the round table.

This is the first opportunity that explicitly a company assumes its responsibility with the supply chain. The Ministry of Labour / Regional Labour Department will use this document (HSEQ) as a "model" to be implemented by the Chilean industry of farmed salmon as a whole.

Also during the 4th annual meeting of the OECD carried out last June in Paris, it was acknowledged the process followed by the NCP in Chile, highlighting the non-compliance of the OECD Guidelines by the Dutch Company Nutreco Marine Harvest. In a letter written by the Chilean Ambassador in France (Mr. Marcelo Schilling) it is also recognized the importance of the Chilean case as a reference to different countries. This analysis was carried out by the OECD group which was working in Paris on Corporate Government.

As a corollary, some important lessons to be taken into account regarding this process are the following:

- 1.- This is the first case in Chile of using the OECD Guidelines with a Multinational Company.
- 2.- This is an inedit way of solving problems between all Parties (Government, citizens/stakeholders, company), generating a precedent on this matter and also serving as a model for future reference.
- 3.- In spite of the restrictions of the OECD Guidelines (voluntary application), it is still a potentially useful tool, to the Environmental, labour and rights of local communities defense.
- 4.- The Chilean National Contact Point and its ngos consultive group played a key and proactive role in this process. The NCP being both visible and accesible, because actively participated of different activities / seminar and workshops in Santiago de Chile and Chiloe Island) organized by Centro Ecoceanos in order to disseminate the information contained at the OECD Guidelines, also helping identifying points of agreement and disagreement and finally maintaining the ongoing process.
- 5.- Despite the initial attitudes of the Marine Harvest Chile, it is also important to acknowledging the change made by it and accepting the suggestion made to participate of the round table.