

February 2010

The Danish Contact Point has decided to close the complaint against DLH Ltd., which Nepenthes has referred to the Contact Point, with the following opinion:

### **Opinion**

In March 2006 Nepenthes brought a complaint against Dalhoff Larsen & Hornemann Ltd. (DLH Ltd.) before the Danish Contact Point. The complaint which was accompanied by an extensive range of annexes concerned alleged breaches of the OECD Guidelines for Multinational Enterprises in Brazil, Burma, Cameroon and Liberia. On Burma, the complaint concerned the fact that DLH Ltd. received any timber at all from the country while the complaint concerning Cameroon and Liberia regarded DLH Ltd.'s behavior in the period until 2003.

At a meeting on 25th of April 2006 the Danish Contact Point decided to treat Nepenthes' complaint in relation to DLH Ltd's behavior in Burma, Cameroon and Liberia. The parts of the complaint concerning the situation in Brazil could however not be treated by the Danish Contact Point, since the Brazilian national contact point was the appropriate body for this.

The Danish Contact Point was of the opinion that the thorough and extensive material which was included in Nepenthes' complaint to the Danish contact point showed that it might be appropriate to consider and elaborate how the OECD Guidelines for Multinational Enterprises should be applied to the timber trade. On this basis the Danish Contact Point sought to establish a dialogue between Nepenthes and DLH Ltd. on how best to ensure that the guidelines are followed in relation to the timber trade, among other things through establishment of "best practice" in relation to verification and use of subcontractors.

By email of 3rd of April 2007 to the Danish Contact Point Secretariat DLH Ltd. informed that they had decided to end the purchase of teak from Burma and completely phase it out by 2011 unless conditions in Burma had not changed on a range of crucial issues prior to this date.

After the Danish Contact Point had held separate meetings with both parties, a tripartite meeting was held in March 2008 between Nepenthes, DLH Ltd. and the Danish Contact Point. At this meeting it was agreed that DLH Ltd. and Nepenthes each was to submit a description of their wishes and expectations for the further proceedings and how the case could be closed and the guidelines ensured. DLH Ltd. sent their inputs on 31st of March 2008, while Nepenthes sent their inputs on 12th of March 2009.

In Nepenthes input of 12th of March 2009 it is suggested that DLH Ltd's business practices be subjected to independent and professional evaluation (eg by Proforest). In addition, Nepenthes states that "if it is not possible to conduct an independent and professional evaluation of DLH's business practices and contractors, Nepenthes does not find it realistic that the Contact Point can

consider DLH's business practices and how these can be aligned with the Guidelines. As such, the process at the Contact Point cannot lead to a durable and constructive outcome."

On 28th of April 2009 DLH Ltd. commented on Nepenthes' input from 12th of March 2009. DLH Ltd. expressed that the company did not consider that there is a need for an independent inquiry as proposed by Nepenthes.

Against this background it is the Danish Contact Point's **assessment** that there is no basis for continuing to hear the case. The Danish Contact Point has no possibility to impose on DLH Ltd. to undergo an evaluation as proposed by Nepenthes and does not consider that the Guidelines include anything more than the possibility for the Contact Point to recommend that DLH Ltd. adheres to the Guidelines when trading in timber on the international market.

A concrete positioning on the facts identified by Nepenthes in their request to the Danish Contact Point in relation to the Guidelines would imply that the Danish Contact Point not only assess the exhibited conduct in Cameroon and Liberia in the period up to 2003, but that the Contact Point also assess what DLH Ltd. at that time knew or should have known could happen as a result of their conduct.

The Danish Contact Point does not find that the Contact Point has the necessary facts for stating such a position. The Danish Contact Point has no basis for concluding that DLH Ltd. does not at present adhere to the OECD Guidelines for Multinational Enterprises. In addition, the Contact Point is not a court, but solely works to promote adherence to the Guidelines.

In continuation thereof, the Danish Contact Point notes that DLH Ltd. has drawn up internal guidelines since exhibiting the behavior that Nepenthes' complaint is concerned with, which the Contact Point considers as an expression of its efforts to ensure that DLH Ltd. henceforth acts in accordance with fundamental principles of good corporate behavior. In this context the Contact Point encourages DLH Ltd. to make publicly visible, how and to what extent it ensures that internal guidelines are observed and DLH Ltd.'s position regarding internationally recognized standards in the field.

Finally, the Danish Contact Point regrets that it has not been possible to establish the dialogue on "best practice" in relation to the timber trade, which in the view of the Contact Point could lead to a valuable specification on the use of the OECD Guidelines in this area.

The Danish Contact Point