



*Ministerio de Relaciones Exteriores,
Comercio Internacional y Culto*

EVALUATION ON FORMAL ADMISSIBILITY

ARGENTINE NATIONAL CONTACT POINT FOR THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

I- Background

On May 28th, 2008, the INPADE (standing for Institute for Participation and Development in Argentina), represented by Jorge Carpio, Executive Director, AND the Amigos de la Tierra Argentina Foundation, represented by Eduardo Sanchez, President, filed a submission with the Argentine and Dutch National Contact Points (ANCP and DNCP, respectively) concerning certain violations of the OECD Guidelines for Multinational Enterprises by the Shell CAPSA company.

II- Complainants

FOCO was created in 1999 under the initiative of the international network SAPRIN. It was conceived as a converging space for a wide range of social organizations seeking to promote participation of the citizenry in public policies, as a necessary condition for them to serve common good and welfare for the whole population.

FOCO members created the INPADE with the aim of institutionalizing their work, assuring continuity of their multiple activities and taking on legal representation to formally act with and before national and international bodies and institutions related to their activities. Since this creation, FOCO has turned into a specific INPADE Program, acting as its legal representative.

Amigos de la Tierra Foundation is an environmental organization seeking to work from and for the development of Sustainable Societies. By promoting participation from different social sectors and by fostering network among different groups, it carries out activities and campaigns framed within institutional programs and strategies in national legal contexts and according to the international commitments adopted by the States, where they carry out their task of strong ecological control.

Amigos de la Tierra Foundation is a member of Friends of the Earth International Federation, a big network of ecologist groups gathering 70 national groups and about 5000 local associations of activists from all the continents.

ATI gathers more than two million members and collaborators all around the world, who carry out campaigns on social and environmental issues. International policies are nourished and strengthened by the work they carry out jointly with Indigenous Peoples, rural movements, labor unions and human right organizations, among others.



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The Dutch company SHELL is the second oldest oil firm in Argentina. It has done business in the country since 1914. SHELL CAPSA refinery Buenos Aires –the only refinery settled by the SHELL Group in South America- started to work in 1931. It is placed in Avellaneda, an administrative area of the Province of Buenos Aires. The premises belong to the Dutch/Shell Group and it operates with a transnational British and Dutch capital.

III- Subject Matter

The organizations submitting the complaint requested the Argentine and Dutch NPCs' good offices in order to examine the breach of Guidelines by Shell Company in what refers to the principles settled in the Guidelines Protocol as well as in Chapter II on General Policies, Chapter III on Disclosure and Chapter V on Environment.

The DNCP and ANCP, after consulting –in accordance with its own rules and regulations- with some Argentinian authorities and other interested parties, will assess which of the requests of complainants will be dealt with in this procedure.

V- The ANCP and DNCP Evaluation

Prima Facie, both NCPs agree that the complaint submitted before Argentine and Dutch National Contact Points by the INPADE and the Amigos de la Tierra Foundation against the Multinational Shell Company fulfills all the legal formalities provided for in the Procedural Guidance for the submission of complaints in cases of alleged violations of the OECD Guidelines for Multinational Enterprises. This is supported by the fact that a great deal of their arguments is based on precautionary measures against pollution and its effects, according to the levels registered by the national body of control.

Prima Facie, there are no legal nor procedural impediments rendering invalid this submission. Therefore, both NCPs consider that conditions are fulfilled to implement the **Specific Instance**. Nevertheless, **formal admissibility** does not prejudice over the questions of law that shall be examined in this instance.

The Argentinian and the Dutch NCP will deal with this specific instance in a joint manner. However, given the fact that Shell CAPSA is an Argentinian company and the circumstances addressed in the requests of complainants occurred in Argentina, the ANCP will act as the leading NCP in this procedure.

Mr. F.W.R. Evers
Chairman NCP Netherlands

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