

PRELIMINARY STATEMENT

Preliminary report of the Netherlands National Contact Point for the OECD Guidelines for Multinational Enterprises (NCP)

**on the specific instance notified by Lok Shakti Abhiyan, KTNC Watch,
Fair Green and Global Alliance and ForUM**

**about an alleged breach of the OECD Guidelines by
Pohang Iron and Steel Company (POSCO), ABP, All Pension Group (APG) and
Norwegian Bank Investment Management (NBIM)**

The Hague, March 13th, 2013

This report describes the good offices offered by the NCP after receipt of a notification by Lok Shakti Abhiyan, KTNC Watch, Fair Green and Global Alliance and ForUM on 9 October 2012 about an alleged breach of the OECD Guidelines for Multinational Enterprises (hereafter: the Guidelines) by Pohang Iron and Steel Company (POSCO), ABP, All Pension Group (APG) and Norwegian Bank Investment Management (NBIM).

In its initial assessment of 18 January 2013 the Netherlands NCP concludes that the notification merits further consideration by the Netherlands NCP as far as it concerns the alleged breach of the Guidelines by the Dutch pension fund ABP and the Dutch pension fund asset manager APG. The Netherlands NCP has not assessed the specific notifications against POSCO and NBIM, as they are being reviewed by the South Korean and Norwegian NCP.

However, since the dialogue with APG on behalf of its clients including ABP addressed relevant issues concerning activities related to POSCO, parties have expressed the intention that the outcome of the dialogue may result in a positive contribution to the specific instances regarding POSCO and NBIM. Consequently the Netherlands NCP has published its findings in a preliminary form which will serve as input for the Netherlands NCP's Final Statement. The Netherlands NCP will complete its procedure by issuing a public Final Statement in which the results of the issues Parties have agreed upon will be addressed.

The process for the Netherlands NCP was conducted as a dialogue between the Parties Stichting Onderzoek Multinationale Ondernemingen (SOMO), BothENDS and All Pensions Group (APG) on behalf of ABP. The NCP held joint meetings on January 17th, February 12th and February 28th, 2013. Parties jointly set the agenda and terms of reference for the dialogue.

On March 6th, 2013 parties reached a joint agreement on the issues raised in the notification (*ATTACHMENT I*). Parties have agreed upon the appropriate steps to be taken by APG in order to prevent or mitigate any potential negative impacts related to their minority shareholding in POSCO and to further effectuate APG's ongoing efforts in order to influence POSCO. Furthermore Parties agreed upon the Terms of Reference for an independent Review and Assessment of contentious issues in Odisha, India.



The NCP appreciates the constructive way and forward looking approach in which Parties conducted the dialogue. The dialogue between Parties has been one of mutual consent on the main issues raised in the specific instances. The NCP welcomes their joint agreement and finds that it

contributes to the objectives and effectiveness of the Guidelines and their further implementation in a substantial way.

The NCP would like to emphasize that the Guidelines are applicable to financial institutions and to investors, including minority shareholders. The NCP finds that the term "business relationship", as referred to by the Guidelines, is applicable to financial relationships. The examples that are mentioned in the Guidelines are not limitative. The fact that the term "business relationship" is not specifically defined for various types of financial relations does not mean that the Guidelines do not apply to them, all the more since financial relations were covered by the former 'investment nexus' of the 2000 Guidelines. Consequently the NCP does not see why they should be excluded in the new broader terms of the updated 2011 Guidelines.

Throughout the process the Netherlands NCP has consulted with the Norwegian and South Korean NCPs in order to meet the OECD Guidelines requirements of coherence between the NCPs approaches (principle of functional equivalence). The Netherlands NCP will further seek to collaborate with the South Korean and Norwegian NCP prior to completion of the procedures by the individual NCPs.

The Netherlands NCP is of the opinion that an independent Review and Assessment Mission in Odisha, India as stipulated in the joint agreement of parties could contribute to a resolution of the conflict through a meaningful stakeholder consultation between POSCO and all affected stakeholders. In response to the call from Parties, the Netherlands NCP will seek to ensure such Mission is jointly commissioned by the South Korean, Norwegian and Netherlands NCP and Indian authorities are consulted.

The Netherlands NCP observes that the situation regarding the project site of POSCO in Odisha is critical, given the recent land acquisitions and violence. It therefore urges all parties involved in the specific instances to proceed in a prompt and timely manner.