

Parties reach agreement in POSCO case

Press release | 18 September 2013

The parties have reached agreement in the “POSCO case”. The Dutch National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises states that Dutch pension administrator APG has taken its responsibility as a minority shareholder. Constructive dialogue between POSCO and other stakeholders will be key to improving the situation on the ground.

In its Final Statement on the notification by the NGOs Lok Shakti Abhiyan, KTNC Watch, Fair Green and Global Alliance and ForUM against the Dutch pension fund ABP and its administrator APG, the NCP concludes that investors have a responsibility under the OECD Guidelines even when they are only minority shareholders in a company. This means that investors and other financial institutions have a responsibility to exert influence where possible on companies they invest in to help prevent or mitigate possible adverse impacts of these companies' operations.

This conclusion is one outcome of the notification of the alleged breach of the OECD Guidelines by ABP and APG with regard to their minority interest in the South Korean Pohang Iron and Steel Company (POSCO). The notifying parties simultaneously submitted notifications with the Norwegian NCP against the Norwegian pension fund NBIM and with the South Korean NCP against POSCO itself.

POSCO is under pressure to reconsider its plans to build a steel plant in the Indian state Odisha. There is large-scale local resistance to the plans, which according to several NGOs would involve the forced displacement of more than 22,000 people from their homes. The notification called on ABP and APG to take responsibility as investors in POSCO, even as minority shareholders, to conduct a thorough due diligence investigation (a survey of the risks entailed in a company's operations and supply chain and a determination of how these risks will be addressed) and to help prevent or mitigate adverse impacts as much as possible.

After receiving the notification, the Dutch NCP facilitated a dialogue between the parties concerned to reach a solution of the alleged breach. The NCP concluded in its Final Statement that APG, which manages the investments of ABP and other pension funds, has taken its responsibility as a minority shareholder and acted in accordance with the OECD

Guidelines. APG is applying the OECD Guidelines and using its influence in the framework of its investment policy to prevent or mitigate adverse impacts.

POSCO has also now agreed to an independent investigation of the situation in India and of POSCO's role in it. APG expects its portfolio companies to act in accordance with the principles of the UN Global Compact, and calls them to account if necessary. Acting on behalf of its clients, APG makes choices as to where it exerts influence to press portfolio companies to do business in a socially responsible way. APG is guided in these choices by the gravity of an alleged breach and the scope that APG has as a shareholder to bring about improvements in corporate behaviour.

The NCP shares the parties' concerns about reports of forced land acquisitions. Its Final Statement concluded that a dialogue is needed between POSCO and all the stakeholders. An independent Review and Assessment Mission could help launch such a dialogue. The Dutch NCP is prepared to collaborate actively with the South Korean and Norwegian NCPs to this end.

The NCP also concluded in its Final Statement that where a shareholder has only a minority interest, expectations as to the influence it can exert must be realistic. Financial institutions face the challenge of helping to make clear how their application of the OECD Guidelines fulfils their CSR obligations in practice.

The Final Statement and related documents can be found on the NCP's website:

<http://www.oecdguidelines.nl/ncp/pendingprocedures/>

The OECD Guidelines for Multinational Enterprises make clear what the Dutch government and 43 other governments expect from international businesses in terms of corporate social responsibility (CSR). The guidelines includes pointers for companies on how to deal with issues like supply chain responsibility, human rights, child labour, the environment and corruption. In case of disputes over the application of the guidelines, parties can approach a National Contact Point (NCP). The NCP will then try to assist parties in arriving at a joint, forward-looking solution to the problem. The NCP can help by mediating itself or by enlisting a third party.

If you have any questions concerning this item please contact the NCP by email (ncpoecd@minbuza.nl) or by telephone (+31 (0)70 348 4200).