

## Ireland Palestine Solidarity Campaign

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Richard Burton TD  
Minister of Jobs, Enterprise and Innovation  
23 Kildare Street  
Dublin 2

Re: Inaction by the OECD in Ireland in relation to the IPSC complaint against CRH plc

February 25<sup>th</sup> 2013

Dear Minister,

We are writing to make you aware of the failure by Ireland's OECD National Contact Point (NCP) to adequately deal with a complaint the Ireland-Palestine Solidarity Campaign (IPSC) raised against CRH plc in 2011. As the Minister, in whose department the OECD NCP is located, we are requesting that you seek to have our complaint dealt with in a timely manner in accordance with Procedures set out in the OECD Guidelines for Multinational Enterprises and to facilitate a resolution with respect to the company's operations in Israel and the occupied Palestinian territories.

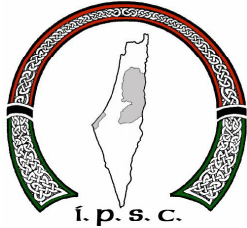
On the 3rd May 2011, The IPSC raised a Specific Instance against the international materials company, CRH plc, with Ireland's OECD National Contact Point due to CRH's ongoing activities in Israel/Palestine. The IPSC consider that CRH plc is guilty of failure to implement good business practices which respect international law. In our complaint we submitted that CRH had failed and neglected to comply with the OECD Guidelines for Multinational Enterprises. These guidelines are the major instruments for monitoring businesses which hold states responsible for monitoring corporations operating both within and from their territory. As a member of the OECD, Ireland is expected to adhere to these guidelines and investigate all company activities both here and abroad.

*The Guidelines provide voluntary principles and standards for responsible business conduct consistent with applicable laws and internationally recognised standards. However, the countries adhering to the Guidelines make a binding commitment to implement them in accordance with the Decision of the OECD Council on the OECD*

*Guidelines for Multinational Enterprises. (Preface to The OECD Guidelines for Multinational Enterprises)*

Ireland's NCP is required to promote the guidelines and investigate any complaints or issues that are raised. The IPSC requested the NCP to:

- investigate whether CRH is complying with the OECD Guidelines for Multinational Enterprises with respect to Palestinian human rights;
- investigate what due diligence measures has CRH undertaken in order to ensure the company adheres to the OECD Guidelines and to the discharge of its corporate responsibility to comply with national and international law to ensure it does not contribute to human rights abuses in countries where it operates;
- to require CRH plc to commit itself to comply scrupulously with the OECD Guidelines and with International Human Rights Laws referred to in the Guidelines



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- failing that to call for CRH to divest from the Israeli company Mashav Initiative and Development Ltd and therefore bring an end to CRH's complicity with Israel's violations of International law.

Twenty two months after raising the complaint Ireland's OECD National Contact Point has yet to even issue a formal assessment. The failure by the NCP in Ireland to effectively mediate or seek to find a resolution to the specific instance raised is in the main contrary to Ireland's responsibilities as an adhering member of the OECD and in the specific to adhere to the Procedures set out in the OECD Guidelines:

*NCPs should operate in accordance with the principles and standards contained in the Guidelines. (Implementation procedures of the OECD Guidelines for Multinational Enterprises)*

When the IPSC filed the complaint on 3<sup>rd</sup> May 2011 Ireland's OECD National Contact Point was Ms. Dymyna Hayes. Over the period of the last two years we have corresponded with the NCP 12 times by way of email and letter along with numerous phone calls. Since January 2012 we have been with corresponding with the current NCP, Mr. Gerard Monks. On each occasion we were assured that a response would be forthcoming however each time no such response would be received.

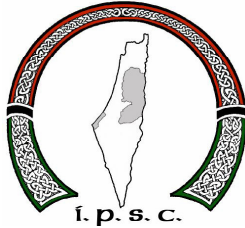
Two years on and there has been no clarity on the status of the complaint or an indicative timeframe for mediation. The NCP is clearly not operating in accordance with the guidelines which state:

*NCPs should ensure predictability by providing clear and publicly available information on their role in the resolution of specific instances, including the provision of good offices, the stages of the specific instance process including indicative timeframes, and the potential role they can play in monitoring the implementation of agreements reached between the parties*

On the 8<sup>th</sup> October 2012 (enclosed) we wrote to the NCP noting that had yet to receive any formal response from the OECD addressing the issues raised in our complaint. We referred to our original submission where we requested that the OECD assess our complaint in a procedurally fair, timely and transparent manner. We asked the NCP to advise what substantive progress has been made with our complaint. We also noted that it would be regrettable if further delays undermined our confidence in the effectiveness of the specific instance procedure. We followed up with a reminders on the 24<sup>th</sup> October.

On 29<sup>th</sup> October 2012 we were given assurance by the NCP that a response was 'in the coming days'. As no response was received we followed up on the 29<sup>th</sup> November 2012 and again on the 14<sup>th</sup> and 21<sup>st</sup> January 2013. These were met with silence.

We wrote again to the NCP on 6<sup>th</sup> February 2013 (enclosed) expressing our deep dissatisfaction with the lack of progress with our complaint and our intention, should we not receive a satisfactory response, to raise it with you as the Minister responsible for the department where the NCP is located. We also noted that we would refer the matter to the OECD Investment Committee. We referred the NCP to the Guidelines and in specific to Section 41 of The Implementation Procedures of the OECD Guidelines which state;



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*'As a general principle, NCPs should strive to conclude the procedure within 12 months from receipt of the specific instance. It is recognised that this timeframe may need to be extended if circumstances warrant it, such as when the issues arise in a non-adhering country.'*

The NCP did not respond and has in effect become inaccessible contrary to the procedures of the guidelines:

*Accessibility. Easy access to NCPs is important to their effective functioning. This includes facilitating access by business, labour, NGOs, and other members of the public....NCPs would respond to all legitimate requests for information, and also undertake to deal with specific issues raised by parties concerned in an efficient and timely manner.*

(Implementation procedures of the OECD Guidelines for Multinational Enterprises)

Through the ongoing failure of the NCP to investigate our complaint Ireland is failing in its responsibility as a member of the OECD to promote and implement the OECD Guidelines for Multinational Enterprises.

In October 2012 the non-government organisation, OECD Watch, who are an international network of civil society organizations promoting corporate accountability, raised queries with Ireland's NCP as to the status of the complaint. However the NCP did not respond to OECD Watch's legitimate enquiries for information on the case contrary to the guidelines which state:

*Another basic activity expected of NCPs is responding to legitimate enquiries. Three groups have been singled out for attention in this regard: i) other NCPs (reflecting a provision in the Decision); ii) the business community, worker organisations, other non-governmental organisations and the public; and iii) governments of non-adhering countries. (Implementation procedures of the OECD Guidelines for Multinational Enterprises)*

Regrettably for Ireland the most recent OECD Watch Quarterly Case Update lists the status of the case as 'Blocked' due to the length of time since the complaint was filed. Of the 29 cases listed in the report Ireland is the only case listed as 'Blocked'.

We request that we are now provided with an indicative timeframe for the process and that our complaint is dealt with in a timely manner in accordance with the OECD Guidelines for Multinational Enterprises. We restate the purpose of our complaint to the OECD in Ireland which is to facilitate a resolution with respect to CRH's operations in Israel and the occupied Palestinian territories.

Yours sincerely,

John Dorman

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Ireland-Palestine Solidarity Campaign

cc OECD Investment Committee, IPSC National Committee