OECD Watch

Quarterly Case Update

December 2014 Vol.9 Iss.2 of OECD Guidelines cases filed by civil society

Highlights in this Update

1	Case	BT's facilitation of US drone strikes in Yemen by providing communications infrastructure and services		
	Company/ies	**Date filed**	**Current status**	**Duration (to date)**
	BT Group plc. BT Group plc. BT Group plc.	15 July 2013 19 August 2014 10 October 2014	Rejected, October 2013 Filed Filed	3 Months 3 Months 1 Month
	Complainants	Reprieve		
	National Contact Point(s) concerned	United Kingdom		
	Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies) § 2; Chapter IV (Human rights) § 2, 3, 5, 6		

Issue

Reprieve alleges that BT has contributed to gross human rights violations by providing key communications infrastructure from a US military base in the UK to Camp Lemonnier in Djibouti, which is the covert centre from which armed US drones carry out lethal missions over Yemen.

The complainant furthermore alleges that BT is facilitating the US drone programme by providing the UK Government Communications Headquarters (GCHQ) and the National Security Agency (NSA) with mass surveillance infrastructure through wiretaps and compromised optical fibre networks.

The complaint alleges BT has not shown what human rights due diligence it carried out before entering into the contract with the US government and has not sought to prevent or mitigate human rights abuses.
Reprieve filed the complaint on behalf of a number of affected individuals who have lost relatives in drone strikes or continue to be impacted.

Reprieve requests the NCP to investigate BT's possible contribution to the gross violations of international law and human rights that the use of drones in non-war zones entails.

Developments/Outcome

The UK NCP rejected the complaint filed in 2013 by arguing that Reprieve had not substantiated a link between BT's communication services and the impact of the US' drone operations.

BT argued its services were of a general character and that it is not a party to information about their exact uses. The NCP also accepted BT's evidence, which the NCP said showed a general level of due diligence has been conducted. A separate policy note on due diligence was released in tandem with the NCP decision, flagging the need for the NCP to clarify when a heightened standard of due diligence should apply to a company and recognising that the current standard requiring "proof of a specific link may be beyond the capacity of most complaints".

Reprieve maintains that BT's assertions were taken at face value without any substantiating evidence, and that a greater onus was placed on them to substantiate the complaint. According to Reprieve, the NCP should have asked BT whether it carried out any risk-based due diligence and whether it had mitigated, avoided, or prevented any adverse human rights impacts.

Reprieve notes that civil society should not be relied upon to provide precise links between corporate activities and human rights abuses, especially when a company refuses all cooperation and disclosure.

On 15 May 2014, Reprieve's request for judicial review by the UK Treasury Solicitor's Department was denied. Reprieve was told their only recourse is to use the procedures provided by the NCP.

After the UK NCP rejected Reprieve's initial complaint, journalists assisted in uncovering fresh evidence suggesting BT had constructed the fibre-optic cable with full knowledge that the communications line would utilise Defense Information Systems Network routers and KG-340 encryption devices. These elements of the fibre-optic cable were installed to fit specific NSA requirements to ensure the security necessary to process intelligence data and to issue commands for drones.

Based on this new evidence, Reprieve filed a second complaint with the NCP on 19 August 2014. In this complaint reprieve alleges that both by contracting to provide the fibre-optics infrastructure for the US drone programme and by facilitating mass surveillance by intelligence agencies, BT has failed to respect human rights. Meanwhile, BT continues to ignore evidence of its complicity with the US drone programme.

On 26 September 2014, the NCP asked Reprieve to split its complaint into two separate complaints. This resulted in a third related complaint filed in October 2014 that solely focuses on BT's collaboration with intelligence agencies to implement mass surveillance programmes that have been acknowledged to feed directly into drone targeting.

Reprieve is currently awaiting the UK NCP's initial assessments of the latter two complaints and is advocating for guidance on the issue of due diligence to be published.

2	Case	ANZ's role in displacing and dispossessing the land and productive resources of Cambodian families		
	Company/ies	Date filed	Current status	Duration (to date)
	Australia New Zealand Banking Group (ANZ)	6 October 2014	Filed	2 Months
	Complainants	Inclusive Development International (IDI) and Equitable Cambodia (EC)		
	National Contact Point(s) concerned	Australian National Contact Point		
	Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies), § A1, A2, A10, A11, A12 and A13; Chapter IV (Human Rights) § 1, 2, 5 and 6		

Issue
The complaint was filed on behalf of 681 families who were forcibly displaced and dispossessed of their land, productive resources and in some cases houses, to make way for a Phnom Penh Sugar Co. Ltd. (PPS) sugar plantation and refinery that was partially financed by ANZ. In addition to forced evictions, military-backed land seizures and destruction of crops and property, PPS also allegedly participated in arbitrary arrests and intimidation of villagers, and the widespread use of child labour and dangerous working conditions that have resulted in the death of several workers. Although these abuses occurred between 2010 and 2011, the affected households remain either uncompensated or undercompensated for their losses.

The complaint alleges ANZ breached the OECD Guidelines by contributing to these abuses through their actions and omissions, and failing to take reasonable measures to prevent or remedy them. The complainants have raised the problems associated with the PPS loan with ANZ on numerous occasions since becoming aware of ANZ's role. The case also received much public attention prior to ANZ's loan decision. Despite this controversy, ANZ proceeded with the loan to PPS.

Even though ANZ reportedly ended the financial relationship with PPS in 2014, the complainants believe that ANZ can and should divest itself of the profits that it earned unjustly from the PPS. EC and IDI argue in the complaint that ANZ contributed directly to PPS' illegal actions and profited from those actions, so it has an ongoing responsibility to provide reparations to those affected. The complainants furthermore urge the NCP to recommend that ANZ develop a corporate-level human rights compliant policy on involuntary land acquisition and resettlement, including relevant due diligence procedures, in order to address other similar problems in its portfolio and to ensure that ANZ does not continue to contribute to such human rights violations elsewhere.

Developments/Outcome
The complainants are awaiting the NCP's initial assessment.

3	Case	G4S's contribution to human rights abuses of asylum seekers in Papua New Guinea		
	Company/ies	Date filed	Current status	Duration (to date)
	G4S	23 September 2014	Filed	2 Months
	Complainants	Human Rights Law Centre and RAID (Rights and Accountability in Development)		
	National Contact Point(s) concerned	UK National Contact Point and Australian National Contact Point		
	Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies), § A2, A8, A.10, A.11, A.12; Chapter IV (Human Rights) § 2, 3, 5 and 6		

Issue
The complaint, submitted to both the UK and Australian NCPs, alleges that UK security contractor G4S failed to meet international standards and committed serious human rights violations in relation to the treatment of asylum seekers detained at an off-shore processing centre in Papua New Guinea (PNG).

The Australian Government established the centre in 2001 as an offshore processing centre. By agreement with PNG, asylum seekers arriving in Australia are forcibly transferred to Manus Island where they are mandatorily detained pending consideration of their refugee status. G4S was contracted by the Australian government to oversee management and security at the Manus Island Centre between February 2013 and March 2014. Over this period, the Centre was repeatedly criticised by human rights organisations including the office of the United Nations High Commissioner for Refugees for breaching basic minimum standards of care. The most serious incident occurred on 16-17 February 2014 when outbreaks of violence at the facility resulted in the death of an Iranian asylum seeker and injuries to up to 69 others. The outbreak of violence (in which G4S personnel were directly involved) is the subject of an on-going inquiry by the Australian Senate. Prior to the February violence, a number of other incidents had already raised concerns about detainee safety, such as physical violence, threats or aggression towards detainees by G4S personnel and sexual assaults.

The complainants propose the following recommendations to bring G4S's policies and procedures in line with the OECD Guidelines: commitments with respect to a human rights framework for any future contracts it may enter into, commitments with respect to the payment of financial compensation to the detainees injured by G4S guards and to the family of the Iranian asylum seeker, disclosure of information on the outcomes of any internal investigations and disciplinary actions taken against staff involved in the violence, and disclosure of key documents

which the company has not provided to the Senate Inquiry.

Developments/Outcome
The complainants are awaiting the outcome of the NCPs' initial assessment.

4	Case	G4S's contribution to human rights abuses at Guantánamo Bay		
	Company/ies	**Date filed**	**Current status**	**Duration (to date)**
	G4S plc	27 August 2014	Filed	3 Months
	Complainants	Reprieve		
	National Contact Point(s) concerned	UK National Contact Point		
	Guidelines Chapter(s) & paragraph(s)	Chapter IV (Human Rights) § 1, 2, 3, 5		

Issue
The complaint alleges that G4S – through the janitorial services contract of wholly-owned subsidiary G4S Government Solutions, Inc. – may contribute to the ongoing human rights violations being perpetrated at the Guantánamo Bay detention camp. The prison has been the scene of a large variety of torture techniques: use of dogs during interrogations, forced removal of clothing, hooding, stress positions, isolation, sensory deprivation, threatening detainees with death or severe pain, threatening detainees with harm to their families, and religious & sexual humiliation. Even today, mistreatment and torture continues at Guantánamo Bay.

G4S's contract for the Guantánamo Bay facility includes a wide range of base operating support services, including housing, facility management, facility investment, other (swimming pools), custodial, pest control, integrated solid waste management, grounds maintenance and landscaping, base support vehicles and equipment, electrical, wastewater, water, and limited facilities support functions. The complaint alleges that through providing these services G4S enables the US government to continue inflicting human rights violations upon detainees. Reprieve argues that G4S's services will facilitate the indefinite detention of prisoners, which is a breach of the internationally recognised right to a fair trial, the right to liberty and the protection against torture. According to the complaint, it is crucial that G4S GS clarify the details and extent of its contractual obligations at Guantánamo Bay since "custodial", "facility management", and "base support vehicles and equipment" services could mean the company would be involved (either directly or indirectly) with FCE, force-feeding, and other unlawful and inhumane practices by the US military.

Reprieve insists G4S should cease to provide services under the contract and clarify the nature and scope of the company's work at Guantánamo, detailing specific contractual obligations. Additionally, Reprieve urges G4S to clarify G4S's policy in relation to contracts for support of US counter-terror operations, particularly those related to torture and indefinite detention, including any risk assessment policy with respect to complicity in violations of international law. They further demand documentation on G4S's human rights due diligence carried out prior to entering into the contract and any efforts made to prevent or mitigate the adverse human rights impacts to which G4S contributes.

Developments/Outcome
The NCP has received the complaint and forwarded it complaint to G4S for a response. The company argued that it has little control over its subsidiary and made no attempt to address the substantive allegations of the complaint. The complainant is currently awaiting the outcome of the NCP's initial assessment.

5	Case	Rabobank's failure to conduct due diligence on investments in Indonesian palm oil operations		
	Company/ies	**Date filed**	**Current status**	**Duration (to date)**
	Rabobank	26 June 2014	Filed	5 months
	Complainants	Friends of the Earth (FoEE) and Milieudefensie (Friends of the Earth Netherlands)		
	National Contact Point(s) concerned	The Netherlands		
	Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies) § A.10, A.12; Chapter IV (Human Rights) § 5		

Issue
The complaint concerns the activities and conduct of Rabobank in relation to loans it provided to Bumitama Agri Group (BGA) and the adverse environmental impacts at the Bumitama managed GY/GMS palm oil plantation in Kalimantan (Indonesia).

In research published in November 2013, FoEE documents how land for s Bumitama-managed plantation in West Kalimantan was cleared in breach of national laws, without the necessary permits or proper government approval. The research also found that Bumitama has knowingly destroyed forest that is home to endangered orang-utans and is partially uses prohibited deep peat land. Also, the company brought illegally produced palm oil into the supply chain by taking over the management of the GY plantation, which was operating without the right permits. Previously, five complaints against Bumitama had already been filed with the Roundtable on Sustainable Palm Oil (RSPO), but to date none of the complaints have yet been resolved.

This complaint alleges that Rabobank should have known

about the severe environmental, social and legal problems with Bumitama's operations and nevertheless provided significant loans to Bumitama, directly linking the bank to the impacts caused by Bumitama. The complaint further alleges that Rabobank has failed to implement its own palm oil policy and that it has failed to conduct due diligence and seek to prevent and mitigate impacts with which it is directly linked, as is stipulated in the OECD Guidelines.

The complainants request that Rabobank publicly disclose the concrete due diligence procedures and steps it has taken to identify, prevent and mitigate the adverse impacts caused by Bumitama. The complaint also asks Rabobank to exercise its leverage to prevent future adverse impacts by publicly committing to withhold financial services from BGA and to divest from the company until it has resolved problems concerning the legality and sustainability of its operations. Finally, the complainants request that the bank implements its own Environmental, Social and Governance (ESG) policy in a transparent and effective way in the Bumitama case and in future cases.

Developments/Outcome
The NCP has acknowledged receipt of the complaint and is currently conducting an initial assessment.

6

Case	Involvement of UK companies in Formula One Grand Prix in Bahrain despite on-going human rights abuses		
Company/ies	**Date filed**	**Current status**	**Duration (to date)**
Formula One World Championship Ltd. Formula One Management Ltd. Delta 3 (UK) Ltd. Beta D3 Ltd.	31 May 2014 31 May 2014 31 May 2014 31 May 2014	Pending Pending Rejected, October 2014 Rejected, October 2014	6 months 6 months 5 months 5 months
Complainants	Americans for Democracy and Human Rights in Bahrain (ADHRB)		
National Contact Point(s) concerned	United Kingdom		
Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies), § A.2, A.7, A.10, A.11, A.12, A.13, A.14; Chapter IV (Human Rights) §1, 2, 3, 4, 5, 6		

Issue
The complaint questions the human rights compatibility of organising the Formula One (F1) Grand Prix with a global audience in Bahrain, a country widely criticised for its human rights violations. The complaint relates to the F1 Bahrain races in 2012-2014 organised by private UK companies in the midst of on-going human rights violations and in circumstances in which the event itself would give rise to further human rights violations.

The complaint outlines that in 2011 the Bahraini government cancelled the scheduled F1 Grand Prix, citing the instability in the country accompanying the government's crackdown of pro-democracy protests. In 2012 and 2013, however, the Grand Prix returned, but the crackdown remained unabated, resulting in the death of a protester and injuries to hundreds, as well as the arbitrary detention and torture of hundreds more.

The complaint alleges that by failing to suspend the F1 Grand Prix race, the companies involved in the organisation have, inadvertently or otherwise, contributed to further human rights violations in Bahrain and the continuation of impunity for past violations. The complaint contends that the companies have not conducted substantial due diligence and have not mitigated the human rights impacts linked to their operations in Bahrain. The complainant aims to engage the companies involved in a mediated dialogue towards a solution that will not only serve their own corporate interests, but also respect the human rights of the people of Bahrain.

Developments/Outcome
In October 2014, the UK NCP determined that the issues of a lack of meaningful stakeholder engagement and proper due diligence by Formula One World Championship Ltd. and Formula One Management Ltd. merited further review. The NCP decided not to further pursue these issues in relation to Delta 3 UK ltd. and Beta D3 Ltd. on the basis that these companies are not operational companies. The NCP furthermore rejected allegations referring to broad obligations to respect human rights and avoiding or addressing adverse impacts. The NCP is now arranging a mediated dialogue.

7

Case	Andritz' contribution to environmental and human rights impacts of the Xayaburi dam in Laos		
Company/ies	**Date filed**	**Current status**	**Duration (to date)**
Andritz AG	9 April 2014	Pending	7 months
Complainants	Center for Social Research and Development, The Community Resources Center, EarthRights International, ECA Watch Austria, The Fisheries Action Coalition Team of Cambodia, International Rivers, The Law and Policy of Sustainable Development Research Center, The Northeast Community Network of 7 Provinces of the Mekong River Basin, Samreth Law Group		
National Contact Point(s) concerned	Austria		
Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies) § A1, A2, A10, A11; Chapter IV (Human Rights) § 2, 4, 5, 6; Chapter VI (Environment) § 3		

Issue
Austrian engineering giant Andritz supplies key operating technology to the Government of Laos for the Xayaburi dam.

The dam could have serious environmental and human rights impacts for hundreds of thousands of people in Laos, Thailand, Cambodia, and Vietnam. It is the first of 11 planned hydropower projects on the still undammed Lower Mekong River.

The Xayaburi dam is expected to impede fish migration, adversely affect Thai and Cambodian riverine fishing communities, and cause the extinction of species found only in the Mekong River such as the Mekong giant catfish.

The dam will also likely block the flow of nutrient-rich sediment to Vietnam's ecologically fragile Mekong Delta, which supports a thriving rice farming industry.

Fishery and environmental experts have concluded that the Xayaburi dam and other mainstream Mekong dams risk driving many already-impoverished families along the river into poverty and malnutrition.

As the holder of a $300 million contract to supply custom-built parts that will power the dam, Andritz is considered to be contributing to the adverse impacts resulting from the project. The company also has significant leverage to improve the design of the project.

The complaint asks Andritz to conduct impact assessments and to work with the project developer and the Government of Laos to prevent and mitigate impacts, adopt policies to prevent harm in future projects, and help provide an effective remedy for populations affected by the Xayaburi dam.

Developments/Outcome
The Austrian NCP completed its initial assessment on 22 May 2014 and accepted the case for further consideration.

8

Case	Multiple human rights, environment, and disclosure violations at China Gold Resources' Gyama Copper-Polymetallic Mine in Central Tibet		
Company/ies	**Date filed**	**Current status**	**Duration (to date)**
China Gold International Resources Corp. Ltd.	28 January 2014	Filed	10 Months
Complainants	Canada Tibet Committee (CTC)		
National Contact Point(s) concerned	Canada		
Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies) § A.1, A2, A10, A11, A14, B1; Chapter III (Disclosure) § 1, 2f, 2g, 3b, 3c, 5; Chapter IV (Human rights) § 1, 2, 3, 5, 6; Chapter V (Employment and Industrial Relations) § 1e, 5; Chapter VI (Environment) § Preamble, 1a, 2a, 4, 5		

Issue
On 29 March 2013, Chinese state media reported that 83 miners were buried after a major landslide hit part of the Gyama Copper Polymetallic Mine located in the Pulang Valley in Siphug Village of Tashi Gang Town in Central Tibet (Tibet Autonomous Region). There were no survivors. The workers were reportedly asleep in their tents when they were buried by a mass of mud, rocks, and debris that was three kilometres wide and thirty metres deep. The camp where the workers were buried belongs to Tibet Huatailong Mining Development Ltd., a wholly-owned subsidiary of China Gold International Resources.

Although the Chinese government has stated that the landslide was a natural disaster, CTC alleges that there is documented evidence that it was in fact a manmade disaster and that the company had ignored previous warnings and local protests.

In addition, the complaint describes numerous other disputes with local stakeholders that remain unresolved and are indicative of a range of continuing violations of the Guidelines.

The complaint was filed by CTC because members of affected communities are unable to bring forward public complaints for reasons of personal security.

Developments/Outcome
After confirming receipt on 28 January, CTC did not hear from the NCP until 17 April. The NCP informed CTC that China Gold is unwilling to engage in the process and that it is preparing the initial assessment. Though the initial assessment has not yet been issued, the Canadian NCP appears – in both this and the Corriente/CTCC case below – to be inappropriately conflating the initial assessment phase of the specific instance process with the mediation phase.

9

Case	Tax avoidance and disclosure violations by Alliance Boots		
Company/ies	**Date filed**	**Current status**	**Duration**
Alliance Boots	28 November 2013	Rejected, 19 May 2014	6 Months
Complainants	War on Want, Change to Win		
National Contact Point(s) concerned	United Kingdom		
Guidelines Chapter(s) & paragraph(s)	Chapter III (Disclosure) § 1, 2; Chapter XI (Taxation) § 1, 2		

Issue
War on Want and Change to Win's complaint against Alliance Boots alleges that the company has violated the Guidelines' disclosure and taxation provisions. The complaint contends that from 2009 to 2013, Alliance Boots' Executive Chairman Stefano Pessina engaged in a series of transactions with insider-controlled entities trading in the company's debt, which may have significantly enriched those connected with the entities at the expense of the company and taxpayers.

The complaint also alleges that Alliance Boots failed to disclose important information that would allow the public and stakeholders to gauge the fairness and transparency of the terms of the transactions, the appropriateness of the handling of potentially significant conflicts of interest, and the adequacy of its corporate governance policies.

Further, Alliance Boots has allegedly not acted in accordance with the spirit of UK taxation laws by shifting profits to offshore tax havens using complex financial instruments, shell financial companies in Luxembourg, and payments from one party to another to finance the purchase of company debt in a circular manner.

The complainants seek mediation to bring concrete reforms of the company's governance, tax, and disclosure procedures so they are aligned with the Guidelines.

Developments/Outcome
After receiving the complaint, the UK NCP felt it would be more appropriate for the Swiss NCP to handle the case. The UK NCP tried to transfer it to the Swiss NCP, but the Swiss NCP was of the opinion that the issues had arisen in the UK and should therefore be handled by the UK NCP. The UK NCP then conducted an initial assessment on its own. On 11 May 2014, the UK NCP provided the parties with a draft initial assessment for comment and clarification. One week later, on 19 May 2014, the NCP rejected complaint, claiming the allegations were unsubstantiated. This despite the fact that complainants had provided a detailed, evidence-based response to the draft initial assessment. The NCP did not make it clear to the complainants why it was applying such a high threshold for substantiation or even what it would consider such substantiation to entail.

For example, the company told the NCP, without substantiation, that it had made full disclosure of these transactions to shareholders. The complainants pointed to a large class of investors who held collateralized loan obligations of the company and noted that the company did not claim to have made disclosure to these investors. Nevertheless, the NCP relied upon a blanket statement from the company and concluded: "It appears to the UK NCP highly unlikely that the investors were not fully aware of all material information relating to the transactions."

The NCP appears to have also concluded that because the transactions "relate[d] to the underlying financing of the company rather than to its operation or sales" and because the "company's taxable profits (including taxable profits in the UK) increased over the period during which the transactions took place" the violations of the tax chapter were unsubstantiated. Complainants insist that neither of these points support a conclusion that the tax provisions was not violated. Financing, especially debt financing, is often used to shift profits offshore, as is made clear in the OECD's Base Erosion and Profit Shifting (BEPS) Action Plan. Additionally, it is quite possible for a company to increase taxable profits even as it continues to shift profits abroad and undertake a program of tax avoidance. Complainants made both of these points to the NCP in their response to the draft initial assessment, but the NCP continued to rely upon flawed logic in its assessment.

The NCP also relied upon the fact that UK tax authorities had not condemned the company for failing to meet its tax obligations. The complainants note, however, that corporate responsibilities under the OECD Guidelines often go above and beyond the law, and that a lack of state enforcement should in no way be taken to mean that a company is, in fact, in compliance with the Guidelines.

10

Case	Human rights impacts of G4S's security services in Israel and the Occupied Palestinian Territory		
Company/ies	**Date filed**	**Current status**	**Duration (to date)**
G4S plc	27 November 2013	Pending	12 Months
Complainants	Lawyers for Palestinian Human Rights (LPHR)		
National Contact Point(s) concerned	United Kingdom, Israel		
Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies) § 2 Chapter IV (Human rights) § 1, 2, 3, 5		

Issue
G4S and its Israeli subsidiaries provide, install, and maintain equipment that is used in military checkpoints in the Separation Barrier.

The complaint alleges serious human rights abuses, including the detention and imprisonment of children in Israeli prison facilities, during which many allege being subject to torture and/or cruel and degrading treatment.

LPHR requests that G4S provide information about where and how its equipment is used and what due diligence checks have been conducted in providing it. The complaint also asks G4S to stop servicing the equipment, remove it, agree to an independent audit of these actions, and agree to identify ways to compensate the people who have suffered adverse impacts.

LPHR is represented by the London-based law firm Leigh Day.

Developments/ Outcome
On 22 May 2104, the NCP accepted the case; however, it rejected allegations relating to G4S's obligations to avoid causing or contributing to adverse human rights impacts and to conduct human rights due diligence. The NCP argued that G4S's equipment has not been used to commit abuses, and it accepted that the company has undertaken human rights due diligence.

However, the NCP stated that its final statement may refer to aspects of the company's due diligence.

11	Case	Dae Kwang's contribution to human rights violations in Bahrain		
	Company/ies	Date filed	Current status	Duration
	Dae Kwang Chemical Corporation	26 November 2013	Rejected, May 2014	6 Months
	Complainants	Bahrain Watch, Americans for Democracy and Human Rights in Bahrain (ADHRB)		
	National Contact Point(s) concerned	Korea		
	Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies) § A2; Chapter IV (Human rights) § 3		

Issue
Bahrain Watch and ADHRB's complaint concerns an impending large shipment of tear gas to the Government of the Kingdom of Bahrain.

According to the complainants, the shipment raises grave concerns about the potential complicity of Dae Kwang in human rights violations because several recent reports state that the government has systematically deployed tear gas against civilian populations in an excessive and inappropriate manner.

The complaint alleges that the use of tear gas by the Bahraini government has resulted in ongoing multiple violations of internationally recognised human rights, including the right to life; the right to be free from torture and other inhuman, degrading or cruel treatment or punishment; and the right to freedom of expression and assembly.

The complaint also alleges that Dae Kwang has been a significant supplier of tear gas to Bahrain since 2011 and that previous exports are likely to have been used in human rights violations and suppressing pro-democracy protests.

They request that Dae Kwang stop supplying tear gas to Bahrain in order to avoid causing or contributing to future human rights violations.

Developments/Outcome
The complainants only received one communication on 31 December 2013, when the NCP forwarded Dae Kwang's response. They replied on 9 January 2014, but received no further response.

The NCP's initial assessment rejecting the case was received on 22 May 2014. The NCP argued that Dae Kwang is not a multinational enterprise so the Guidelines do not apply. The NCP did not give the complainants an opportunity to comment on a draft initial assessment.

The complainants view the NCP's logic in rejecting the complaint as seriously flawed, and a misrepresentation of the text of the Guidelines. The NCP's statement claims that "The OECD Guidelines *require* that multinational enterprises should be 'companies existing in multiple countries that are mutually connected through ownership or stakes in the company'." But saying that the Guidelines "require" this to be the case is a misrepresentation. What the Guidelines actually say is that MNEs are "usually" companies in multiple countries – that "usually" implies that other constructions are possible. In fact, the text of the Guidelines specifically emphasizes that no fixed definition of 'multinational enterprise' is required for the purposes of the Guidelines. Thus, the Korean NCP's insistence that a strict definition of MNE be met is erroneous. In the end, no matter what the interpretation, the fact is that if the Korean NCP were genuinely committed to the effective implementation of the OECD Guidelines, it could have at least accepted the complaint and try to get the parties together to seek a solution rather than rejecting the case outright at the initial assessment phase.

12	Case	HR violations resulting from failure to resolve earthquake insurance claims and inadequate/incomplete repairs to earthquake-damaged homes		
	Company/ies	Date filed	Current status	Duration (to date)
	Earthquake Commission	11 November 2013	Rejected, February 2014	3 Months
	Southern Response Earthquake Services	11 November 2013	Rejected, February 2014	3 Months
	IAG New Zealand Ltd.	11 November 2013	Filed	12 Months
	Tower Insurance Ltd.	11 November 2013	Filed	12 Months
	Vero Insurance New Zealand Ltd.	11 November 2013	Filed	12 Months
	Fletcher Construction Co. Ltd.	11 November 2013	Filed	12 Months
	Arrow International	17 June 2014	Filed	5 Months
	Complainants	Wider Earthquake Community Action Network (WeCAN)		
	National Contact Point(s) concerned	New Zealand		
	Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies) § A2, A6, A10, A11, A12, A13, A14; Chapter IV (Human Rights) § 1, 2, 3, 4, 5, 6		

Issue
In September 2010, four major earthquakes and an estimated 13,000 aftershocks devastated the Canterbury region, which includes New Zealand's second largest city, Christchurch. The earthquakes resulted in 185 deaths and injured 11,432 people.

Multiple complainants have alleged that the Earthquake Commission, Southern Response, IAG New Zealand, Tower Insurance, and Vero Insurance's failure to resolve insurance claims more than three years after the earthquakes has violated their rights to health and adequate housing in accordance with the International Covenant on Economic, Social, and Cultural Rights. Multiple complainants have also alleged that Fletcher Construction has not started repairs, not completed repairs, or has inadequately repaired earthquake-damaged homes and has thus violated their rights to health and adequate housing as well.

Developments/Outcome
The NCP rejected the complaint against the Earthquake Commission by arguing it is not a multinational enterprise or for-profit entity (using an interpretation/reasoning different than the Korean NCP in the Dae Kwang case above). The NCP also rejected the Southern Response case by arguing it only competes in NZ's domestic market (yet another interpretation of 'MNE'). WeCAN challenged the NCP's decision in a 24 March submission.

The NCP has requested more information about the other cases, which it has acknowledged are subject to the Guidelines. WeCAN is currently compiling the requested evidence.

13

Case	Involvement of 6 UK telecom companies in human rights abuses related to mass and indiscriminate interception of communications		
Company/ies	**Date filed**	**Current status**	**Duration**
BT	5 November 2013	Rejected, October 2014	11 Months
Verizon Enterprise	5 November 2013	Rejected, October 2014	11 Months
Vodafone Cable	5 November 2013	Rejected, October 2014	11 Months
Viatel	5 November 2013	Rejected, October 2014	11 Months
Level 3	5 November 2013	Rejected, October 2014	11 Months
Interoute	5 November 2013	Rejected, October 2014	11 Months
Complainants	Privacy International		
National Contact Point(s) concerned	United Kingdom		
Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies), §A.2, A.10, A.11, A.12, B.1; Chapter IV (Human Rights), § 1, 2, 3, 4, 5, Chapter III – 2000 Guidelines (Disclosure), §5		

Issue
The complaint alleges that the telecom companies facilitated mass interception of internet and telephone traffic by granting the UK's Government Communications Headquarters (GCHQ) access to their fibre optic networks for the Tempora surveillance program. Privacy International argues that by collaborating with GCHQ and providing access to the networks, the companies knowingly enabled the mass and indiscriminate collection of data and interception of communications and thus contributed to the violation of human rights, including the right to privacy and freedom of expression.

Developments/Outcome
The UK NCP forwarded the complaints to the companies named in the complaint for a response. All companies refuted the allegations and insist they are acting in accordance with the law.

In July 2014 the UK NCP rejected the complaint in its entirety, claiming that the complainant had not substantiated the link between the 6 telecom companies and the allegations.

The NCP opined that reports based on documents provided by Edward Snowden and published by the *Guardian* and *Süddeutsche Zeitung* do not substantiate a sufficient link between the companies and mass surveillance. The publication of the initial assessment was delayed to October 2014 to await the UK NCP's Steering Board decision on the complainant's request for a review of the NCP's procedure in handling the complaint. The Steering Board declined to review the case and allowed the initial assessment to be made public.

14

Case	Social and environmental violations associated with oil exploration by SOCO in the DRC's Virunga National Park		
Company/ies	**Date filed**	**Current status**	**Duration**
SOCO International plc	7 October 2013	Concluded, June 2014	8 Months
Complainants	WWF International		
National Contact Point(s) concerned	United Kingdom		
Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies), § 5, A14; Chapter IV (Human Rights), § 5; Chapter VI (Environment), § 2a, 2b		

Issue
WWF's complaint alleges SOCO's oil exploration activities in Virunga National Park (Virunga) do not contribute to sustainable development. According to the complaint, SOCO has disregarded the DRC's legal commitment to preserve Virunga as a World Heritage Site. Since June 2008, the World Heritage Committee has been clear that oil exploration and exploitation activities in Virunga are incompatible with the park's World Heritage Site status.

The complaint also alleges that SOCO negotiated a production sharing contract (PSC) with the DRC government that includes a "full freezing" stabilization clause that effectively exempts it from any new laws or regulations, even those aimed at strengthening protections for human rights, the environment, health and safety, or other policies relating to the pursuit of sustainable development in Virunga.

In addition, WWF alleges that SOCO has not provided any evidence that it has conducted appropriate and systematic human rights due diligence and that it has failed to inform the public about the potential environment, health, and safety risks and impacts of its activities. Lastly, the complaint alleges that SOCO's community consultations have not been characterised by meaningful two-way communication, and the its use of state security forces during consultations and as promoters of its project has created a "heightened risk of intimidation"

in which many local residents do not feel safe to express their views or concerns.

WWF estimates that to bring SOCO's operations into line with the Guidelines, it will require the immediate cessation of its activities in and around Virunga.

Developments/Outcome
The UK NCP accepted the majority of the complaint in February 2014, rejecting only the allegation that SOCO had sought or accepted a legal exemption by accepting the company's claim that it did not intend for the stabilisation clause to be applicable to anything beyond the "fiscal regime".

The UK NCP hired an external mediator to mediate between the parties. On 11 June 2014, the mediation resulted in an agreement and joint statement by the parties. As part of the statement, SOCO agreed "not to undertake or commission any exploratory or other drilling within Virunga National Park unless UNESCO and the DRC government agree that such activities are not incompatible with its World Heritage status". SOCO agreed to cease its operations in approximately 30 days.

SOCO also committed never again to jeopardize the value of any other World Heritage Sites anywhere in the world and to undertake environmental impact assessments and human rights due diligence that complies with "international norms and standards and industry best practice, including appropriate levels of community consultation and engagement on the basis of publicly available document".

The WWF-SOCO agreement represents the first time a company has agreed to halt operations during NCP-facilitated mediation. Despite the agreement, however, SOCO has yet to relinquish its operating permits.

15

Case	Human rights abuses at Mirador copper mine in Ecuadorian Amazon		
Company/ies	**Date filed**	**Current status**	**Duration (to date)**
Corriente Resources Inc. CRCC-Tongguan Investment (Canada)	25 July 2013 25 July 2013	Rejected, July 2014 Rejected, July 2014	12 Months 12 Months
Complainants	Residents of the province of Zamora Chinchipe, Ecuador; FIDH; Mining Watch Canada		
National Contact Point(s) concerned	Canada		
Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies), § Chapeau, A10, A11, A12, A14; Chapter IV (Human Rights), § 1, 2, 6; Chapter VI (Environment), § Chapeau, 2a, 2b		

Issue
The complaint concerns the operations of Ecuacorriente S.A., an Ecuadorian subsidiary of Corriente Resources and CRCC-Tongguan Investment (Canada) Co., Ltd., which holds the first contract with the Ecuadorian government for the Mirador project. Both companies are Canadian subsidiaries of the Chinese conglomerate CRCC-Tongguan, which acquired Corriente Resources and all of its holdings in Ecuador in 2010.

The complaint alleges multiple violations, including a lack of adequate environmental evaluation and numerous human rights abuses such as forced displacement and lack of respect for Indigenous People's rights. Local families, both indigenous and campesino, are allegedly being forcibly displaced to make way for the open-pit copper mine.

The consultation process is alleged to have been marred by a lack of full disclosure and transparency, lack of adequate environmental impact studies, and lack of free, prior and informed consent of or consultation with affected communities.

The company has allegedly fuelled division among the affected communities and is complicit in violent state repression of protests against large-scale mining in the area.

The complainants further contend that the likelihood of acid mine drainage and other environmental impacts of the mine in the highly ecologically sensitive area, coupled with the company's lack of human rights due diligence and implementation of remedial measures, poses a serious threat to the local communities' access to water, land, livelihood, and way of life. The complainants call on the NCP to ensure that the Guidelines are being implemented by recommending that the company respect the rights of communities and nature, as enshrined in the Ecuadorian Constitution and other national and international instruments, and ultimately desist from further mining activities in Ecuador.

Developments/Outcome
The NCP confirmed receipt of the complaint on 25 July 2013 and requested translations of certain documents, which were provided within five weeks.

More than a half year later, on 4 April 2014, the NCP said it had received additional information from the company that caused the prolonged delay in publishing its initial assessment. More than a year after the complaint was filed, the Canadian NCP announced it was rejecting the complaint in July 2014. As ground for its decision the NCP argues that the allegations had not been substantiated, although it never requested clarification or further input regarding any of the allegations at any point during the course of the year from the complainants.

Despite the fact that the Mirador Mine is held by EcuaCorriente, a company based in Ecuador, and the project managed by CRCC-Tongguan based in China, the NCP nevertheless indicated it would be willing to admit the complaint because the company has a subsidiary in Canada and neither Ecuador nor China are adherents to the OECD Guidelines. The bigger factor leading the NCP deciding to reject the complaint appears to have been the unwillingness of Corriente Resources to engage in mediation as a factor in reaching its decision.

The complainants are disappointed that the NCP has disregarded the comprehensive

information provided by them and has not provided a detailed explanation of its decision. The complainants furthermore regret that the NCP has inappropriately conflated the initial assessment phase of the specific instance process with the mediation phase.

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Case	Adverse human rights impacts at Kinross Gold Corporation mine in Brazil		
Company/ies	**Date filed**	**Current status**	**Duration (to date)**
Kinross Gold Corporation	18 June 2013	Pending	1 Year, 5 Months
Complainants	Local residents association of the city of Paracatu		
National Contact Point(s) concerned	Brazil		
Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies) § A1, A2, A7, A11, A12 and A15; Chapter IV (Human Rights) § 1, 2, 3, 4, 5 and 6; Chapter VI (Environment) § 3, 4, 5, 6 and 6d		

Issue
The local residents' association of the city of Paracatu in the Brazilian state of Minas Gerais alleges that River Paracatu Mining Company, a subsidiary of Canadian mining company Kinross, has caused incalculable harm to people and the environment around an adjacent gold mine. The complaint is based on a report by the Council for the Defense of Human Rights that determines that the cause of chronic poisoning of the population of Paracatu is the release of arsenic and other toxic substances by open-pit gold mining activity. The complaint further alleges that the company has caused cracks in houses adjacent to the mining site and has caused the isolation of rural properties close to new hydroelectric dams in the region of Machadinho.

Developments/Outcome
After completing its initial assessment in August 2013, the Brazilian NCP accepted the case for further examination. The Brazilian Ministry of Environment is taking the lead in handling the case for the NCP. The company has responded, and the NCP is requesting further information from the parties.

17

Case	Environmental, health and human rights violations by the KPO oil and gas consortium in Kazakhstan		
Company/ies	**Date filed**	**Current status**	**Duration (to date)**
British Gas Group	6 June 2013	Pending	1 Year, 5 Months
Chevron	6 June 2013	Pending	1 Year, 5 Months
ENI	6 June 2013	Pending	1 Year, 5 Months
Complainants	Crude Accountability, Ecological Society Green Salvation, Zhasil Dala		
National Contact Point(s) concerned	United Kingdom (lead), Italy, United States		
Guidelines Chapter(s) & paragraph(s)	Chapter I (Concepts and Principles), § 2; Chapter II (General Policies), § A2, A5 A7, A11, A12, A13, A14; Chapter III (Disclosure), § 4; Chapter IV (Human Rights), § 1, 2, 3, 5, 6; Chapter VI (Environment), § 1a, 1b, 2a, 2b, 4, 5.		

Issue
The complaints concern the Karachaganak Oil and Gas Condensate Field's environmental, health and human rights impacts on residents of Berezovka village in Kazakhstan. They allege that the Karachaganak Petroleum Operating, B.V (KPO) Consortium, comprised of British Gas, ENI, Chevron, Lukoil, and Kazmunaigaz, has abused the human rights of the residents of Berezovka by polluting the air, harming the health of the community, and refusing to relocate residents to a safe, clean environment.

They further allege that KPO has repeatedly violated Kazakhstan's environmental standards by exceeding emissions standards, improperly disposing of toxic waste, and polluting bodies of water. The complainants assert that, given the long history of environmental violations, KPO has not made significant attempts to improve its environmental performance and has failed to implement environmental management systems that are appropriate to the risks of its operations.

The complainants also allege that KPO has failed to disclose relevant non-financial information to stakeholders, failed to conduct appropriate due diligence, and failed to obey domestic Kazakhstani law with regard to the Sanitary Protection Zone, in which no one is allowed to live.

Developments/Outcome
The UK NCP's December 2013 initial assessment narrowed the scope of mediation to those families that are located in the Sanitary Protection Zone with a focus on finding a mediated solution with regard to their relocation to a safe and environmentally clean location.

The NCP rejected the complainants' request to examine relocating Berezovka village because the consortium's obligation to do so had not been substantiated. The NCP also concluded that a link between the KPO's operations and the sinkholes in the village had not been established.

A procedural issue to note is the NCP recommended the complainants bring in a UK partner since meetings will take place in London.

The UK NCP engaged a professional mediator, and mediation is ongoing.

18	Case	Human rights abuses associated with ENRC mines in the DRC		
	Company/ies	Date filed	Current status	Duration (to date)
	Eurasian Natural Resources Corporation (ENRC)	13 May 2013	Pending	1 Year, 2 Months
	Complainants	Rights and Accountability in Development (RAID)		
	National Contact Point(s) concerned	United Kingdom		
	Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies), § A1, A2, A3, A11, A12, A13; Chapter IV (Human Rights), § 1, 2, 3		

Issue
The complaint – filed by the law firm Russell-Cooke LLP acting on behalf of RAID – concerns mining assets controlled by companies associated with ENRC in the DRC, including the Canadian company Africa Resources.

The complaint alleges human rights impacts affecting the impoverished populations of Kisankala and Lenge villages, which are located on two adjacent mining concessions in the province of Katanga. Specifically, the complaint alleges that Kisankala village's only clean water system has been in disrepair for over 10 months following a clash between local security guards and artisanal miners based at Kisankala. In addition, the complaint addresses underlying problems the communities face, including claims concerning resettlement and compensation, the alleged absence of environmental and social monitoring, particularly for Lenge village, and the alleged misbehaviour of private security guards.

Developments/Outcome
The UK NCP accepted the case in October 2013, but it refused to examine resettling Kisankala village and environmental and social monitoring in Lenge village, arguing there was "insufficient evidence".

ENRC has denied all the allegations, but has indicated its willingness to enter into mediation.

The UK NCP engaged a professional mediator, and mediation is ongoing.

19	Case	Role of C&A, KiK and Karl Rieker in textile factory fire in Bangladesh		
	Company/ies	Date filed	Current status	Duration (to date)
	C&A	13 May 2013	Pending	1 Year, 2 Months
	KiK	13 May 2013	Concluded, November 2014	1 Year, 2 Months
	Karl Rieker	13 May 2013	Concluded, November 2014	1 Year, 2 Months
	Complainants	Uwe Kekeritz (German Parliamentarian - Alliance 90/Greens), European Center for Constitutional and Human Rights (ECCHR), Medico International		
	National Contact Point(s) concerned	Germany, Brazil		
	Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies), § A10, A11, A12; Chapter IV (Human Rights), § 2, 3, 5		

Issue
The complaint concerns the (partial) responsibility of three German garment retail companies for the Tazreen factory fire in Bangladesh in November 2012, which caused 112 deaths and injured 300. The high number of casualties was exacerbated by poor fire safety and a lack of emergency exits.

The complainants allege that as customers of the textiles produced in the Tazreen factory, the companies are partly responsible for the poor safety and working conditions that exist. They argue that the companies are not fulfilling their obligations towards workers within their global supply chain and that the remedial measures taken by the companies after the fire are insufficient.

The complainants call on the companies to ensure that their suppliers improve fire protection and pay compensation to families of the victims and others affected. Furthermore, the complainants call on the companies to pay fair wages, enter into dialogue with trade unions, and conduct due diligence in their supply chains.

Developments/Outcome
The German NCP accepted the complaints against Karl Rieker and KiK and forwarded the C&A case to the Brazilian NCP. The Brazilian NCP still has not issued an initial assessment.

In May 2013, Karl Rieker and KiK submitted responses to the Business and Human Rights Resource Centre (BHRRC). C&A declined to respond, citing the confidentiality requirements of the specific instance process.

The German NCP accepted the complaints against Karl Rieker and KiK with regard to companies' due diligence requirements to ensure the safety of workers at the Tazreen factory. As the C&A entity doing business with Tazreen is registered in Brazil, the German NCP forwarded the case to the Brazilian NCP, which accepted the case in October 2013.

In May 2013, Karl Rieker and KiK submitted responses to the complaint. The companies highlighted measures they had taken after the case had been filed. C&A declined to publically respond, citing the confidentiality requirements of the specific instance process.

Beginning in January 2014, the Germany NCP facilitated mediation between the parties. The NCP's November 2014 final statement includes an agreement between the complainant and Karl Rieker expressing satisfaction with the precautionary measures taken by Karl Rieker to improve fire protection and safety standards of its suppliers in Bangladesh. The complainant was not satisfied that KiK had fulfilled its due diligence requirements so no agreement was signed. The C&A case is still pending at the Brazilian NCP.

20	Case	Gamma & Trovicor's role in Bahraini human rights abuses		
	Company/ies	Date filed	Current status	Duration (to date)
	Gamma International Trovicor GmbH	1 February 2013 1 February 2013	Pending Concluded, May 2014	1 Year, 9 Months 1 Year, 4 Months
	Complainants	Privacy International, Bahrain Center for Human Rights, Bahrain Watch, European Center for Constitutional and Human Rights (ECCHR), Reporters Without Borders		
	National Contact Point(s) concerned	Germany and United Kingdom		
	Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies), § A2; Chapter IV (Human Rights), § 1		

Issue
The complaint alleges that Gamma and Trovicor are selling intrusive surveillance technology and training to the Bahraini government where this technology is allegedly used to target human rights activists. By doing so, and by continuing to maintain the technologies, Gamma and Trovicor are alleged to be aiding and abetting the Bahraini government in its perpetration of human rights abuses, including violations of the right to privacy, freedom of expression and freedom of association, as well as arbitrary arrest and torture.

Developments/Outcome
In November 2013, the German NCP offered to mediate a discussion about Trovicor's management system, but it would not consider the company's role in human rights abuses in Bahrain. The NCP argued that the allegations were not substantiated.

The complainants disputed the NCP's decision and argued that they had provided sufficient evidence about Trovicor's business relationship with the Bahraini government.

After the NCP refused to change its stance, the complainants refused mediation on 30 January 2014. The NCP issued its final statement "terminating" the case on 21 May 2014.

The Gamma case was accepted by the UK NCP on 24 June 2013 even though the NCP found that direct evidence about the company's supply of surveillance technology and training had not been provided by the complainants.

While the UK NCP appointed an external mediator, the process had several flaws. The parties did not have an agreed agenda before they met, and information about who would represent the company was not provided.

Gamma was represented by an external lawyer who was not authorised to take decisions and did not have knowledge of the relevant technical issues. The complainants were prepared to discuss the substance of their complaint while the Gamma representative only wanted to agree to additional dates for mediation.

After one meeting, the process entailed written statements by the parties to come to an agreement.

Given the costs involved for complainants to attend mediation, the parties note that the NCP should ensure mediation is conducted effectively.

The NCP is preparing the final statement.

21	Case	Human rights violations at GCM's Phulbari coal mine in Bangladesh		
	Company/ies	Date filed	Current status	Duration
	GCM Resources plc	19 December 2012	Concluded	2 years
	Complainants	International Accountability Project, World Development Movement		
	National Contact Point(s) concerned	United Kingdom		
	Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies), § A2, A7; Chapter III (Disclosure), § 2e; Chapter IV (Human Rights), § 1, 2, 3, 4, 5		

Issue
Communities in the Bangladeshi sub-districts of Phulbari, Birampur, Nababganj and Parbatipur – including villages of indigenous households who are considered to be the oldest inhabitants of the South Asian sub-continent – have been fighting to halt a proposed open-pit coal mine known as the Phulbari Coal Mine Project for over seven years.

The complaint – filed on behalf of the communities – alleges that GCM Resources plc, the company that has full management responsibility for the mine, has abused the human rights of the communities, failed to properly consult them, and failed to disclose relevant information in their local languages.

The number of people that would be displaced should the project proceed is contested. At the lowest end of the spectrum, GCM states that it would displace 49,487 people. However, an Expert Committee formed by the government of Bangladesh to assess the project concluded that it threatens the water sources of 220,000 people, with unknown displacement impacts over time. According to GCM, the project would displace 2,328 indigenous peoples. However, Bangladesh's National Indigenous Union, Jatiya Adivasi Parishad, estimates it would displace and/or impoverish 50,000 indigenous people. GCM also states that their project would acquire 14,660 acres of land, 80% of which is fertile and productive agricultural land. Although 80% of the affected households currently have land-based livelihoods, GCM's draft Resettlement Plan clearly states there will be no land-for-land compensation and "most households will become landless".

The UN Special Rapporteur on the Rights of Indigenous People, James Anaya, has twice commented in the UN record on GCM's failure to seek or secure the free, prior, and informed

consent (FPIC) of indigenous people who would be affected by the project. This is an ongoing violation of the right to FPIC that now spans more than seven years. GCM cannot avoid these forced evictions if its project is implemented. This means that violations of the human rights of tens of thousands of people are, indeed, inevitable if GCM's project is implemented.

Developments/Outcome
The UK accepted the complaint in June 2013. However, the NCP said the allegations that GCM had failed to disclose information about risks and failed to prevent or mitigate human rights impacts were "not substantiated" because the complainants had not shown that the impacts were happening or occurring on or after 1 September 2011 when the revised Guidelines' took effect. Instead, the NCP accepted GCM Resources' claim that it will avoid and mitigate the impacts of relocating the estimated 54,000 people should the project proceed.

The NCP has only allowed examination of issues regarding violation of the rights of affected communities that have been shown to be inevitable, the alleged failure by GCM to follow its own self-regulatory standards, and whether the company's review of its plans in the period between September 2011 (when Chapter IV provisions were added to the Guidelines) and December 2012 (when the complaint was filed) included appropriate human rights due diligence.

The NCP's refusal to consider potential human rights impacts has outraged the complainants, particularly in light of the fact that seven of the United Nation's Special Rapporteurs took coordinated action in February of 2012 to issue a joint UN press release calling for an immediate halt to GCM's proposed project on the grounds that it threatens the fundamental human rights of tens of thousands of people, including the rights to food, water, adequate housing, freedom from extreme poverty and the rights of indigenous people.

In addition, Miloon Kothari, the former UN Special Rapporteur on the Right to Adequate Housing and author of the UN Principle and Guidelines on Development-based Evictions and Displacement wrote to the UK NCP to on 19 October 2013 to notify it that the massive displacement that GCM intends to carry out constitutes "forced evictions," as defined in international law, and as such is a violation of human rights in itself.

When the NCP offered to facilitate mediation between the parties, GCM denied the allegations and urged the NCP not to accept the case. As the parties could not agree on terms for mediation, the NCP moved to conduct an examination of the allegations in the complaint and issue a final statement. The NCP sent a draft final statement to the parties, but publication was delayed because the complainants requested that the UK NCP's Steering Board review the NCP's handling of the case.

The Steering Board issued its review in October 2014 and noted that, as it considers the human rights abuses at issue in the case to be prospective, the NCP made a procedural error not to apply the 2011 Guidelines to the complaint and noted that the 2011 Guidelines clearly apply to prospective human rights abuses. The review committee recommended that the complaint should be re-examined in light of this concern and the NCP should issue a new final statement reflecting the re-examination.

Despite the recommendation of the Steering Board's review panel, there appears to have been no re-examination of the complaint. Instead, the original final statement was published on 20 November 2014 with as only change the addition of a short footnote stating that the review had taken place and that the 2011 Guidelines had been applied. In its final statement the NCP concluded that it only found GCM in partial breach of its obligations to develop trusted self-regulatory practices and management systems, but not in breach of other human rights provisions.

IAP and WDM are deeply concerned by a number of short-comings of the complaint process, most notably the failure of the NCP to consider the (inevitable) human rights impacts of the project if it goes ahead. In addition, the complainants are concerned about on-going violations of free prior and informed consent of affected indigenous people, restrictions on civil and political rights of opponents of the project and high risk of violence if the company persists in pushing the project forward.

22

Case	Statkraft's wind power operations in breach of indigenous rights in Sweden		
Company/ies	**Date filed**	**Current status**	**Duration (to date)**
Statkraft SCA AB	29 October 2012	Pending	2 Year, 1 Month
Complainants	Jijnjevaerie Saami village		
National Contact Point(s) concerned	Norway (lead) and Sweden		
Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies), § 1, 2, 14; Chapter IV (Human Rights), § 1, 2, 5; Chapter VI (Environment), § 2a, 2b		

Issue
Statkraft is currently building a 360-turbine wind farm in the municipality of Jämtland, Sweden on the traditional lands of the indigenous reindeer-herding collective of Jijnjevaerie Saami village. Much of these lands serve as migration routes and winter herding pastures.

If the project proceeds as planned, it will severely restrict the community's ability to pursue reindeer husbandry, which is the basis of their economic and cultural survival. The project will force Jijnjevaerie Saami village members to abandon their herding practices and forcefully dislocate them from the environment that provides them with their cultural identity.

The complaint alleges that Statkraft has failed to meaningfully engage with the Jijnjevaerie Saami village and that the consultations, which have taken place have been flawed. The complaint further alleges that Statkraft has failed to take

adequate steps to prevent adverse impacts from the wind farm.

Jijnjevaerie Saami village has demanded that Statkraft engage in meaningful consultations on all developments affecting them and that all appropriate steps to prevent adverse impacts on the environment and their reindeer herding practices be taken.

Developments/Outcome
On 14 February 2013, the Swedish and Norwegian NCPs finalised their initial assessment and accepted the case with Norway taking the lead.

After the complaint was filed, the parties renewed their dialogue. The NCPs decided to defer the case to allow the parties to find a mutually acceptable solution.

In May 2013, an informal meeting between the parties was held with the Swedish NCP to discuss a set of proposals made by the Jijnjevaerie Saami village on how to mitigate the damage from the wind farm. After the dialogue failed to produce an agreement, the Norwegian NCP resumed its lead role in handling the case.

It hosted the first official meeting between the parties in November 2013 to discuss the terms of reference for mediation. The mediation facilitated by the NCP did not result in a negotiated agreement between the parties, and the Norwegian NCP is currently drafting a final statement on the case.

23

Case	Environmental pollution at Barrick Gold's mines in Argentina		
Company/ies	**Date filed**	**Current status**	**Duration (to date)**
Barrick Exploraciones Argentinas S.A. Exploraciones Mineras S.A	9 June 2011 9 June 2011	Blocked Blocked	3 Years, 5 Months 3 Years, 5 Months
Complainants	Citizen Participation Forum for Justice and Human Rights (FOCO), Asociación Ecologista Inti Chuteh, Asamblea Popular por el Agua, Asamblea Permanente por los Derechos Humanos de La Matanza; Bienaventurados los Pobres, Conciencia Solidaria al Cuidado del Medio Ambiente, el Equilibrio ecológico y los derechos humanos Asociación Civil, National Deputy Victoria Donda, National Deputy Miguel Bonasso; the Frente Cívico por la Vida, Nora Cortiñas, Organización de Naciones y Pueblos Indígenas en Argentina and the Inter-American Platform for Human Rights, Democracy and Development		
National Contact Point(s) concerned	Argentina		
Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies), Chapter III (Disclosure), Chapter VI (Environment)		

Issue
The complaint alleges that Barrick Gold Corporation has violated Guidelines' provisions on disclosure, environment and general policies at the company's Veladero and Pascua Lama gold mines in the Argentine San Juan province.

The complaint alleges that Barrick has systematically polluted groundwater, air, soil, and glaciers and has caused a loss of biodiversity around the mines.

The complainants also highlight the company's negative impact on the local population's health and the deteriorating regional economy resulting from the destruction of natural landscapes and restrictions on access to land and water resources.

Moreover, the case alleges that Barrick has violated the right to information, has been improperly involved in local political decision-making, and has used violence against social and environmental organisations.

The complainants call on Barrick to actively engage and consult with affected communities, conduct an interdisciplinary environmental analysis, and initiate medical studies to investigate negative impacts on the local people's health.

Developments/Outcome
After not hearing back from the NCP for more than a month, FOCO wrote to the NCP on 22 July 2011 requesting information about the status of their case.

On 2 August 2011, the NCP met with the complainants and requested additional documentation of the alleged violations and more details regarding the parallel legal proceedings against Barrick.

On 6 October 2011, FOCO provided additional information and asked the NCP to move quickly to finalise the initial assessment and forward the complaint to the company.

On 2 November 2011, the NCP asked the complainants to specify whether the complaint is primarily directed against the parent company, against Barrick's Argentine subsidiaries, or both.

In December 2011, FOCO clarified its complaint is against Barrick Exploraciones Argentinas S.A. and Exploraciones Mineras S.A and submitted additional information.

More administrative delays ensued, partly due to multiple changes in the NCP's personnel.

Following repeated requests by the complainants, the NCP finally invited the complainants to an "informal" meeting on 10 August 2012.

The complainants are still open to engage in mediation, but as of November 2014, no further action has been taken by the NCP since it accepted the case in May 2013.

24				
Case	Xstrata's negative impacts on glaciers in Argentina			
Company/ies	Date filed	Current status	Duration (to date)	
GlencoreXstrata	1 June 2011	Concluded, October 2014	3 Years, 4 Months	
Complainants	The Center for Human Rights and Environment (CEDHA), supported by Fundación Ciudadanos Independientes and Asamblea El Algarrobo			
National Contact Point(s) concerned	Argentina (lead), Australia			
Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies), § 1, 6, 7; Chapter III (Disclosure), § 1, 2, 4, 5; Chapter VI (Environment) , §1, 3, 4, 5, 6, 8			

Issue

CEDHA has alleged that Australia based Xstrata Copper (now GlencoreXstrata) is affecting glaciers and permafrost in two of its operations in Argentina, the El Pachón and Filo Colorado projects.

The complaint, filed at the Australian NCP, is based on two CEDHA reports that revealed extensive environmental impacts by the El Pachón and Filo Colorado projects to glacier environments.

According to the complaint, a map produced by the consulting firm URS for Xstrata Copper revealed the presence of over 200 rock glaciers and 20% permafrost in El Pachón's vicinity. Impacts at Filo Colorado can be easily seen in satellite imagery of the area that is available publicly on programs such as Google Earth. A recent official site visit by the local authority and the National Glacier Institute also affirmed CEDHA's claims.

Xstrata, however, has refused to admit to the presence of any glaciers at either of the project sites.

Following the passage of Argentina's National Glacier Protection Act, Xstrata filed an injunction request to the federal courts in Argentina, requesting that the Act be declared unconstitutional.

The complainants allege that if the El Pachón project moves forward, as planned in 2013, the pit area will destroy rock glaciers and permafrost. Projected waste pile sites also include rock glaciers and permafrost zones.

The complaint also points to the poor scientific quality of Xstrata's impact assessment as well as the company's unwillingness to engage in a solution.

CEDHA requests that the case be dealt with by the Australian NCP, in lieu of the Argentine NCP, and that the Australian NCP use its good offices to ensure that Xstrata repairs damage to glaciers and avoids all future damage.

Developments/Outcome

After consulting with the Argentine NCP, the Australian NCP decided (based on the location of the actors involved, the place of operations, and the language of operations) that it would be best to engage the Argentine NCP. The Australian NCP said it would stay involved and continue to offer its good offices.

After conducting an initial assessment that involved meetings with both CEDHA and Xstrata Copper, the Argentine NCP accepted the case on 25 October 2011. Since then, the case has suffered innumerable delays, largely due to Xstrata's ambivalence as to whether it would engage in NCP-facilitated mediation.

The parties were scheduled to meet to discuss logistics, timeframe and expected outcomes, including CEDHA's proposal to work collaboratively on drafting a Protocol for Mining Activity in Glacier Territory. This idea moved forward until Xstrata's legal team obtained victory in federal courts regarding the temporary suspension of parts of the National Glacier Act. Xstrata subsequently stalled engagement in the NCP process. The federal court decision was reversed in 2012, placing Xstrata once again in contravention of Argentina's glacier law, which is fundamental to this case. The Argentine NCP has changed key NCP personnel several times since accepting the case, complicating matters. This has been exacerbated by internal delays in maintaining continuity with administrative responsibilities of the NCP.

After more than two years passed with little action from the NCP, in October 2013, the Argentine NCP finally held a meeting with GlencoreXstrata representatives. The NCP then requested a meeting with CEDHA, at which time it presented the case information to the new NCP members (a repeat of the original meeting in 2011).

In a September 2013 letter, CEDHA urged the company once again to address glacier impacts at its El Pachón and Filo Colorado projects. CEDHA also requested that the UK, Swiss and Australian NCPs use their power of good offices to engage GlencoreXstrata at the headquarters level and encourage them to consider mediation. The NCPs declined to do so, but did contact the Argentine NCP to offer their assistance in dealing with the case. The Argentine NCP declined their offer, and the UK, Swiss and Australian NCPs took no further action.

Unable to get GlencoreXstrata to come to the table, the Argentine NCP finally issued a final statement closing the case in October 2014. In its statement, the NCP laments GlencoreXstrata's refusal to engage in mediation. The case highlights the weakness of NCPs that refuse to make determinations in cases or use other tools at their disposal (such as fact-finding) to contribute to dispute resolution. The Argentine NCP's refusal to accept the offer of assistance from other NCPs once again raises concerns about cooperation among NCPs and highlights the need for more active home-country NCP involvement.

25

Case	CRH's construction activities in the Occupied Palestine Territories		
Company/ies	**Date filed**	**Current status**	**Duration (to date)**
CRH plc.	3 May 2011	Blocked	3 Years, 6 Months
Complainants	Ireland Palestine Solidarity campaign (IPSC)		
National Contact Point(s) concerned	Ireland		
Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies), §1, 2, 3, 6, 11		

Issue
The Ireland-Palestine Solidarity Campaign's complaint alleges that CRH, through its jointly owned subsidiary Nesher Cement Enterprises, has violated provisions related to sustainable development and respect for human rights. CRH is the largest company in Ireland and politically very influential.

Through its subsidiary, CRH supplies cement for the Separation Wall, which restricts the movement of the Palestinian people, destroys property, trees and agricultural land and cuts off access to water in the West Bank and East Jerusalem. The Wall also cuts communities and families off from each other, separates people from vital services such as health care and educational facilities, and hinders Palestinian access to employment.

CRH also provides cement for building illegal settlements in the West Bank.

Developments/Outcome
As part of its initial assessment, the Irish NCP contacted the company for a response.

CRH did not respond to the content of the complaint, but it did raise questions regarding legal and procedural matters of the specific instance procedure. The Irish and Israeli NCPs also initially collaborated on the case.

In February 2013, IPSC sent a letter to the Irish Minister of Jobs, Enterprise, and Innovation in an attempt to move the case forward. The letter urged the Minister to engage directly with the NCP to take the case forward.

After the letter was sent, the Irish NCP met with IPSC and declared its determination to "unblock" the case. The NCP contacted the company, but CRH again responded with procedural queries.

IPSC followed up in January 2014 expressing extreme dismay with the NCP's lack of communication and action on the case. IPSC has requested that the NCP make a determination as to whether CRH have violated the Guidelines and issue a final statement with recommendations to the company to end the activities that are in breach.

The Irish Attorney General was asked in the spring of 2014 to assess whether the NCP would be the appropriate institution to investigate the complaint. No progress has been made on the case since.

26

Case	Human rights abuses at Barrick Gold's Porgera Mine in Papua New Guinea		
Company/ies	**Date filed**	**Current status**	**Duration**
Barrick Gold Corporation	1 March 2011	Concluded, January 2014	2 Years, 11 Months
Complainants	Akali Tange Association, Porgera SML Landowners Association, MiningWatch Canada		
National Contact Point(s) concerned	Canada		
Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies), § 1, 2, 5, 6, 7, 8, 11; Chapter III (Disclosure), § 1, 5; Chapter VI (Environment), § 1a, 2a, 4		

Issue
The complaint, filed by MiningWatch Canada and two local organizations, and supported by RAID and ERI, alleges that Canadian mining company Barrick Gold Corporation has violated the Guidelines at its operations at the Porgera Joint Venture (PJV) gold mine in the Porgera valley, a remote region in the Enga Province in the highlands of Papua New Guinea (PNG). Barrick has co-owned (95%) and operated the mine since 2006. The other 5% is owned by Mineral Resources Enga (MRE).

The complainants contend that Barrick/PJV has violated sustainable development and environmental provisions of the Guidelines and abused the human rights of the local community in a number ways.

Over the past two decades, there have been consistent and widespread allegations of human rights abuses committed by PJV security personnel in and around the mine site, including killings and beatings of local Ipili men and beatings and rapes, including gang rape, of Ipili women. Additionally, the complainants assert that the living conditions of people within the PJV mine's Special Mine Lease Area are incompatible with human health and safety standards and the Guidelines provision on sustainable development.

Moreover, in 2009 troops from the PNG Defense Force forcefully evicted local landowners near the Porgera gold mine by burning down houses to allegedly restore law and order in the district. There has never been an investigation of these gross violations of human rights, but the troops remain housed at the mine site and are supplied with food and fuel by the mine.
In addition, the complaint states the PJV mine disposes approximately 6.05 million tons of tailings and 12.5 million tons of suspended sediment from erodible waste dumps annually into the downstream Porgera, Lagaip, and Strickland river systems, thereby polluting the river and endangering public health and safety of communities along the shores.
The complainants further allege that Barrick/PJV has violated the Guidelines with regard to good governance, promoting employee awareness of and compliance with

company policies, and disclosure of information.

Developments/Outcome
The NCP accepted the case and offered to facilitate mediation at meetings to be held in Australia and to be led by an external mediator. Before the first mediation meeting, Barrick engaged in consultations to create a non-judicial project-level grievance process to handle claims from women who had been raped by PJV security guards. Although the issue of rape by security guards was raised in the Guidelines complaint, Barrick did not consult with the complainants or their advisors when establishing the grievance mechanism.

At the time of the first meeting in November 2012, Barrick's complaints procedure for rape victims was in place. Based on information obtained outside the mediation, the complainants were deeply concerned about potential harm being done by the grievance procedure, particularly as Barrick requested the rape victims sign legal waivers if they accepted an individual remedy package.

Mindful of the Mediation Agreement that had been signed, and following consultation with the mediator, MiningWatch Canada and the two advisors—Rights and Accountability in Development (RAID) and EarthRights International (ERI)—issued a press release in January 2013, explicitly excluding confidential information. Nonetheless, removal of the press release and related documents was a condition that Barrick placed on their continuation in the mediation process.

Furthermore, even though ERI had not posted any materials to its web site, and ERI and RAID were advisors to all of the complainants, Barrick insisted they be removed from the process. In order to assure continuation of the process for the local complainants, MiningWatch Canada, ERI, and RAID withdrew from the process after the first face-to-face mediation.

Mediation between the local complainants and Barrick ended in April 2013 after two face-to-face meetings. The mediator provided the NCP with his final report in June. The Canadian NCP published a final statement on 14 January 2014.

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Case	Environmental and labour rights breaches at Cameroonian palm oil plantations		
Company/ies	**Date filed**	**Current status**	**Duration**
Bolloré	7 December 2010	Concluded, June 2013	2 Years, 6 Months
Financière du Champ de Mars SA	7 December 2010	Concluded, June 2013	2 Years, 6 Months
SOCFINAL	7 December 2010	Concluded, June 2013	2 Years, 6 Months
Intercultures	7 December 2010	Concluded, June 2013	2 Years, 6 Months
Complainants	Association Sherpa, Centre pour l'Environement et le Développement, Fondation Camerounaise d'Actions Rationalisées et de Formation sur l'Environnement, MISEREOR		
National Contact Point(s) concerned	Belgium, France, Luxembourg		
Guidelines Chapter(s) & paragraph(s)	Chapter II (General Policies), § 1, 2, 3, 4, 6, 7, 10; Chapter III (Disclosure, § 2, 3, 4, 5; Chapter V (Employment), § 1a, 2, 4b, 5, 8; Chapter VI (Environment), § 1, 2, 3, 6d, 7, 8		

Issue
Sherpa, CED, FOCARFE and MISEREOR allege that the Société Camerounaise de Palmeraies's (SOCAPALM), a Cameroonian producer of palm oil, has negatively affected the traditional livelihoods of local communities and plantation workers.

The expansion of SOCAPALM's operations has allegedly diminished the size of local communities and the availability of public services and natural resources, and the company has not contributed to local development, thereby violating its contract with the Government of Cameroon.

The complaint alleges that water and air pollution are not adequately treated, causing problems for both the communities and the environment.

Local villagers also have reported physical abuse by SOCAPALM's security agent Africa Security.

The complainants also allege that SOCAPALM's treatment of plantation workers constituted a breach of the Guidelines. They claim that precarious work is rampant and freedom of association is limited.

Additionally, the housing facilities are deplorable and dividends promised to employees when SOCAPALM was privatised in 2000 were never paid.

The complaint also contends that SOCAPALM has breached the Guidelines' Disclosure Chapter by failing to properly disclose relevant information about the company and potential environmental risks.

The French, Belgian and Luxembourgian holding companies Bolloré, Financière du Champ de Mars, SOCFINAL and Intercultures exert joint control over SOCAPALM's operations in Cameroon through complex financial investments.

The complainants allege that these companies have breached the Guidelines by failing to take action to prevent SOCAPALM's negative impact on the environment, local communities, and workers.

Developments/Outcome
The French NCP declared all four cases admissible.

After refusing to cooperate for almost two years, Bolloré indicated a willingness to solve the issues and bring SOCAPALM's operations in line with the Guidelines. Sherpa and Bolloré accepted the NCP's offer of mediation in February 2013.

The NCP's June 2013 final statement concluded that through

their business relations with SOCAPALM, all four holding companies violated the Guidelines.

The NCP found that SOCAPALM had breached certain Guidelines relating to general policies, employment and industrial relations, and the environment. The NCP said the companies were not respecting recommendations on information disclosure.

The NCP recommended that the companies find a remedy to the violations, and that they rely on the action plan prepared during the mediation to do so. The action plan covers a range of issues, including community dialogue, reduction of environmental nuisances, public services, local development, workers' rights and conditions of work, transparency, and compensation of local communities for their loss of resources and lands.

A procedural issue to note is the complainants insisted on obtaining the NCP's final statement before the end of the mediation, so they could concentrate on the action plan rather than discussing the alleged violations. This approach aimed to clearly differentiate mediation from the process of agreeing to a final statement.

The complainants were pleased that the NCP's statement pointed out the violations, including reviewing each chapter of the Guidelines in relation to these.

In March 2014, the NCP announced in a follow-up statement that the action plan was adopted in September 2013 and that an independent organisation has been selected to monitor its implementation. The NCP's follow-up statement also notes that it should be informed annually about the action plan's implementation.

In a follow-up meeting convened by the NCP in October 2014, the parties informed the NCP about their progress with developing the evaluation methodology of the follow-up plan. The parties also again expressed their willingness to initiate a conversation with the NCP on improving the NCP's process of handling complaints, based on their experience in this case. The NCP appears not to be interested in the offer.

28

Case	Shell's environmental and human health violations in Argentina		
Company/ies	**Date filed**	**Current status**	**Duration (to date)**
Shell Capsa	1 June 2008	Blocked	6 Years, 5 Months
Complainants	Citizen Forum of participation for Justice and Human Rights (FOCO) , Friends of the Earth (FoE) Argentina		
National Contact Point(s) concerned	Argentina (lead), Netherlands		
Guidelines Chapter(s) & paragraph(s)	Preface; Chapter II (General Policies), § 1, 2, 5; Chapter III (Disclosure), § 1, 2, 4e, 5b; Chapter VI (Environment), § 0-8		

Issue
FOCO and FoE Argentina filed a complaint against Royal Dutch Shell's Argentine subsidiary, Shell Capsa, for violating domestic law and ignoring the Argentinean government's sustainable development campaigns and policies. The complaint alleges that the irresponsible actions at the company's oil refinery in the Dock Sud industrial area have put the health and safety of neighbouring residents in danger.

The affected community, called Villa Inflamable, is home to about 1,300 families who live in extreme poverty and lack access to basic sanitation, clean water and other essential utilities. Many of these problems stem from the socio-economic vulnerability of the inhabitants of the area. For decades, they have been living with the toxic fumes produced by Shell Capsa's oil refinery. The complaint notes that the refinery was closed for seven days in August 2007 after Argentina's national environmental authority found multiple violations to national environmental law.

Developments/Outcome
The case was filed simultaneously with the Argentine and the Dutch NCPs because the complainants believed the violations are a systemic problem in the global operations of Shell.

Despite the existence of parallel legal proceedings, in September 2008 the Argentine and Dutch NCPs accepted the case (with the former taking the lead). The Argentine NCP prepared a list of "considerations" and asked the parties to respond; both complied.

In April 2009, three members of the NCP visited Villa Inflamable to interview residents and to see the conditions.

However, Shell Capsa refused to participate in the process or even recognize the NCP as the appropriate body for addressing the concerns

In May 2009, the NCP indicated that it may close the case, but offered the parties the possibility of participating in a roundtable meeting outside the specific instance process. The complainants indicated that they would be open to such a meeting.

In November 2009, the Argentine NCP announced it would close the case and publish its findings, including the fact that the company refused to cooperate.

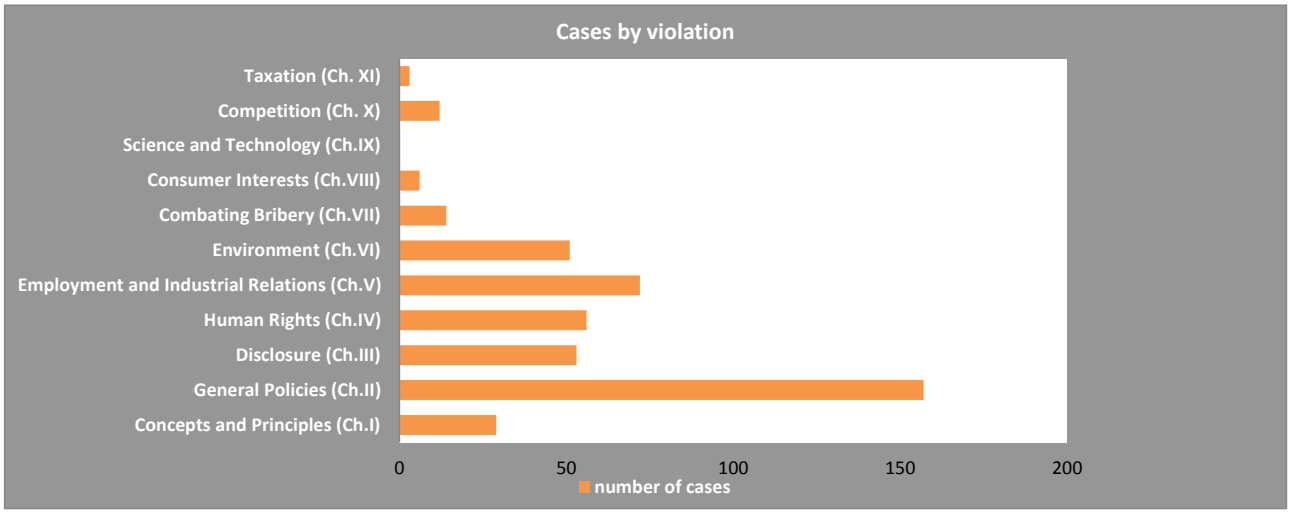
However, the case remained pending and Shell Capsa refused to respond to the complaint until the court case against it is closed.

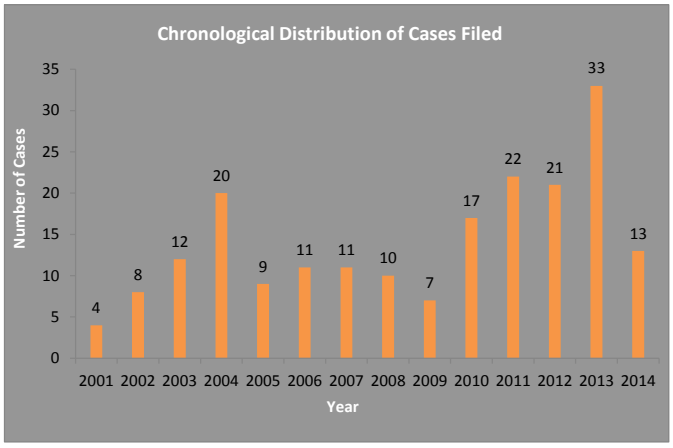
In June 2012, the NCP again requested that Shell Capsa provide information about the actions it has taken in relation to the allegations and an update on the parallel court case.

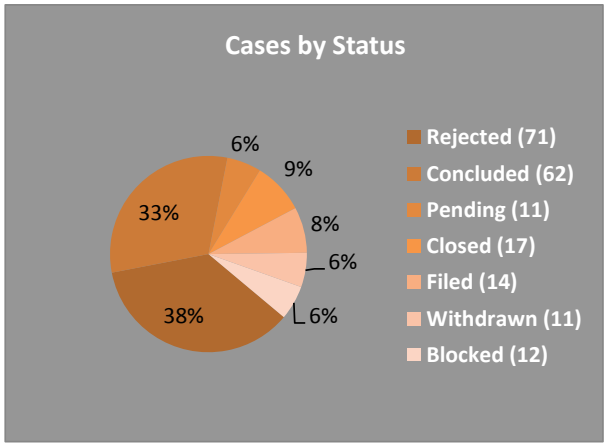
The complainants have repeatedly asked the NCP to make a determination on the allegations and issue a final statement.

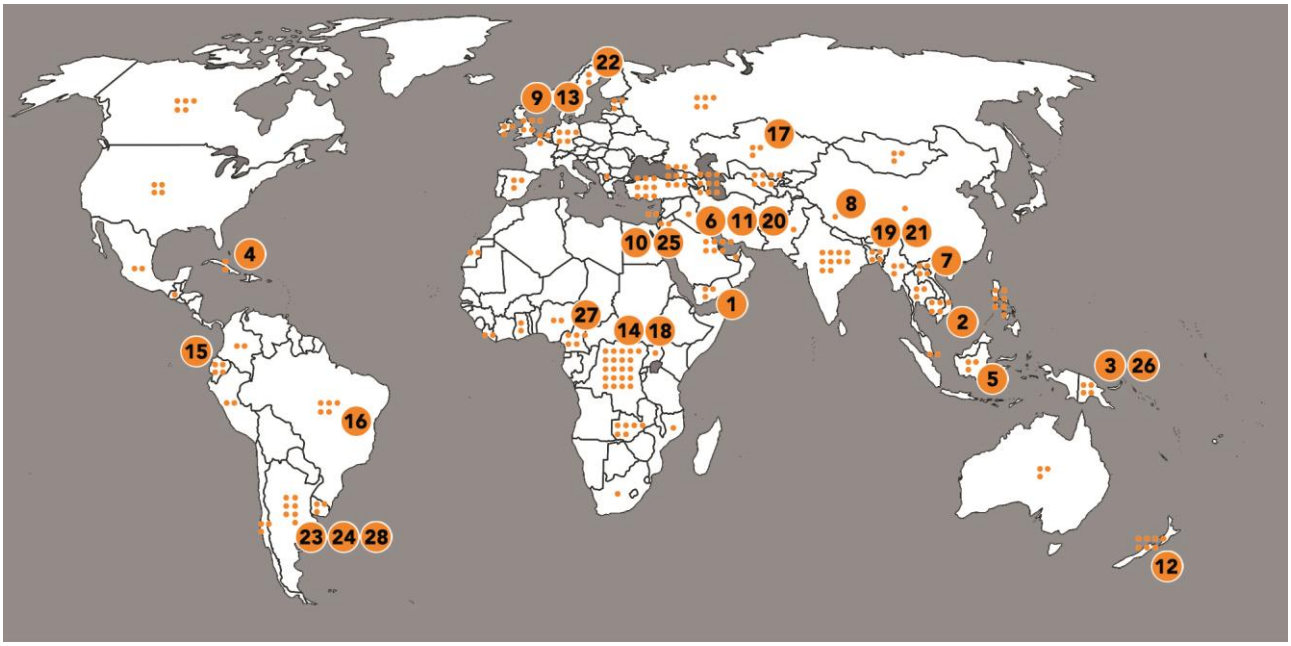
As of April 2014, no action has been taken in this regard.

As of December 2014, 195 OECD Guidelines cases have been filed by civil society organisations, 2 cases by individuals and 1 by a small business.









OECD Watch is an international network of civil society organizations promoting corporate accountability. The Quarterly Case Update aims to document the views and experiences of NGOs involved in NCP/OECD Guidelines procedures.

This Quarterly Case Update has been compiled and edited by Joseph Wilde-Ramsing, Virginia Sandjojo and Ilona Hartlief, Centre for Research on Multinational Corporations (SOMO). OECD Watch strives to ensure that the information in this case update is accurate, but does not independently verify the information provided to it by the complainants, NCPs, and the companies involved in the various cases. The publication of this Quarterly Case Update has been made possible through funding from the Dutch Ministry of Foreign Affairs.

For more information on these and all OECD Guidelines cases filed by civil society, visit www.oecdwatch.org/cases or contact the OECD Watch secretariat at Sarphatistraat 30, 1018 GL Amsterdam, The Netherlands, info@oecdwatch.org, www.oecdwatch.org, +31 20 639 1291.