

BIS Ref:01.05.09.07/11P, 01.05.09.07/13P,01.05.09.07/56C, and YRBM/003/00020C  
Your Ref: JB/RS/NCP

Mr Jamie Beagent  
Leigh Day and Co  
Priory House  
25 St John's Lane  
London  
EC1M 4LB

28 August 2009

Dear Mr Beagent

**SUBMISSION TO THE STEERING BOARD OF THE UK NCP ON GENERAL LESSONS ARISING FROM THE BTC SPECIFIC INSTANCE**

I refer to your letter dated 26 February 2009 addressed to Dal Dio on general lessons arising from the BTC Pipeline case.

In his letter to you dated 20 March 2009, Andy Weller provided feedback on two of the issues raised in your letter: the handling of complaints submitted to more than one NCP; and information obtained by the NCP from government departments and agencies. He also explained that the Steering Board of the UK NCP had still to consider fully the remaining points detailed in your letter and that we would write to you again once this had happened.

The Steering Board considered these issues at its meetings in March and June and, with apologies for the delay, I'm now in a position to let you have further comments on the outstanding issues in your letter.

**1. The Guidelines' approach to the content and aim of consultation**

In line with the OECD Guidelines, the UK National Contact Point (UK NCP) encourages multinational enterprises to abide by commonly available standards of corporate company behaviour, including those covering consultation with parties affected by their activities. Where relevant and appropriate, the UK NCP may recommend in its Final Statement particular consultation guidance. However, mindful that the circumstances facing companies will vary, the UK NCP does not on balance consider it appropriate formally to endorse one particular set of consultation standards above others. It is, however, always willing to enter into discussion with companies and complainants on the guidance most adequate to the specific situation.

## **2. Potential conflict of interest where a Government becomes involved in a project subject to a complaint brought under the Guidelines.**

As you are aware, following a consultation with stakeholders in 2005, the Government announced in 2006 that it was revamping the UK NCP to increase its effectiveness in encouraging responsible business activity overseas. The changes made included the establishment of a Steering Board and the introduction of published detailed procedures and a timescale for considering complaints.

The creation of the Steering Board, monitoring the work of the UK NCP and including four external members nominated by the TUC, the CBI, the All Party Parliamentary Group on the Great Lakes Region of Africa, and the NGO community, should help in minimising the risk of a potential conflict of interest should the UK Government become involved in a project subject to a complaint to the UK NCP. It is also important to recognise that the existence of a Specific Instance does not necessarily mean that a company has in fact breached the OECD Guidelines.

The concerns expressed by your clients over the duration of the BTC Pipeline Specific Instance are understandable, and were one of the reasons why the revisions to the NCP procedures introduced in 2006 included a published timescale for considering complaints. Under the new published complaint procedures the UK NCP aims to conclude its action on a Specific Instance within a 12 month timescale. We aim to meet this deadline wherever possible, and where circumstances permit, will always try to complete our consideration sooner. However, it should be recognised that factors outside of the UK NCP's control may occasionally contribute to preventing us from meeting this target on certain complaints. For the same reasons, your clients' suggestion of fast-tracking consideration of a Specific Instance may not always be possible. The UK NCP has a responsibility to handle all complaints in a fair and equal manner and therefore tries to ensure that action taken on one Specific Instance does not have a detrimental impact on the timely conclusion of other Specific Instances. The Steering Board is reflecting further on the broader issue of the relationship between government assistance and the Guidelines

I trust that this letter, in conjunction with Andy Weller's letter dated 20 March, addresses all the issues raised by the complainants to the BTC Pipeline case and detailed in your letter dated 26 February 2009. I would like to thank your clients for what has proved to be a useful exchange of views.

Yours sincerely

Rowland Bass  
UK National Contact Point for  
OECD Guidelines for Multinational Enterprises