

## SPECIFIC INSTANCE OF THE FRENCH NCP

**14 Local Watch Committees (“Comités Riverains de Veille”) and Centre of Actions for Life and Earth (“Centre d’Action pour la Vie et la Terre”) v. COPAGEF, SOMDIAA and SOSUCAM in Cameroon**

### Final Statement (17 May 2022)

The French NCP identifies non-compliances with the Guidelines regarding i/ human rights and environment due diligence, ii/ engagement with some stakeholders and iii/ disclosure. It recommends that the

COPAGEF Group and its subsidiary SOMDIAA improve their due diligence with regard to the impacts of SOSUCAM’s activities, review SOSUCAM’s policy of engagement with its stakeholders neighboring its plantations, promptly conduct a new social and environmental impact assessment and review its disclosure.

The NCP will follow up on its recommendations.

**As noted in the Procedural Guidance to the OECD Guidelines for Multinational Enterprises following conclusion of a specific instance and after consultation with the parties involved, the NCP will make the results of the procedure publicly available.**

**As no agreement was reached in this case, the French NCP is issuing the following statement. This statement describes the issues raised, the reasons why the NCP has decided that the issues raised merited further examination, and the actions taken by the NCP to assist the parties. The statement also presents the analysis of the specific instance and addresses the recommendations made by the French NCP to the companies involved on the implementation of the Guidelines. The statement also includes the reasons why it was not possible to reach an agreement between the Parties.**

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### Overview of the French NCP and its role

The French National Contact Point for the Implementation of the OECD Guidelines for Multinational Enterprises (“NCP”) is a State-based tripartite body for the non-jurisdictional grievance mechanism to the implementation of the Guidelines for Multinational Enterprises. Its mission is to ensure the effectiveness of the Guidelines by promoting them and by contributing to the resolution of issues raised in the context of the specific instance procedure through its good offices, mediation and conciliation. It shall endeavour to examine the issues raised as soon as possible, and if possible within 12 months of receipt of the specific instance. It will publish its decisions on its website.

### Executive summary

The French NCP received a specific instance on 23 November 2020 submitted by a group of Cameroonian civil society associations composed of the Centre of Actions for Life and Earth (“Centre d’Actions pour la Vie et la Terre” or “CAVT” here-after) and by 14 Local Watch Committees (“Comité Riverains de Veille” or “CRV” here-after) set up in 2014 in the sugar area in Haute-Sanaga department of the Central Cameroon region. The specific instance concerned the French Groups COPAGEF and SOMDIAA, the “Société d’Organisation, de Management et de Développement des Industries Alimentaires et Agricoles” (“SOMDIAA” here-after) and is about the agro-industry activities of the Sugar Company of Cameroun (“Société Sucrière du Cameroun”) or “SOSUCAM” here-after.

COPAGEF Group is a French multinational Company with several clusters of activities: wine, beverages (beers, soft drinks and water) and agri-food (sugar, flour and eggs). Founded in 1949, Castel Frères was dedicated to traditional wine trading in France and then in Africa, before expanding its activities and buying the wine merchant Company NICOLAS in 1988. Through a strategic investment policy, COPAGEF’s President-Founder, M. Pierre Castel, continued to develop its activities on the African continent in the beer, soft drinks and mineral water sector through the acquisition of Brasseries and Glacières Internationales (BGI) in 1990 and whose subsidiaries are currently located in 10 countries. Finally, the Company’s activities extended to the agri-food industry in 2010 with a majority stake in the Société d’Organisation, de Management et de Développement des Industries Alimentaires et Agricoles (SOMDIAA), which produces and markets sugar and flour, but also eggs and animal feed in 7 countries in Africa and on La Réunion island. COPAGEF publishes the non-financial performance report that includes SOMDIAA Group and its subsidiaries. SOMDIAA has its own vigilance plan. COPAGEF is a member of the United Nations Global Compact.

SOMDIAA Group is a French multinational Company seated in France that expands its activities in sub-Saharan Africa. It has several subsidiaries in Cameroon, including SOSUCAM. The Société Sucrière du Cameroun is a Cameroons’ Company founded in 1964 by SOMDIAA. SOSUCAM is 72.72 % owned by SOMDIAA. The rest of the capital is divided between the Cameroonian State and private shareholders, including SOSUCAM staff. SOSUCAM expanded in 1998 after the acquisition of CAMSUO. SOSUCAM grows 24 604 ha of sugar cane plantations in the Haute-Sanaga department in Central Cameroon and operates two sugar manufacturing plants located at two sugar sites, M’Bandjock and N’Koteng.

In their specific instances, the 14 Village’s Watch Committees (two of which were not officially registered in the public administration<sup>1</sup> at the time of the referral) and the CAVT raise issues relating to compliance with the OECD Guidelines and business responsible conduct within the COPAGEF Group. The referral questions in particular SOMDIAA’s and SOSUCAM’s due diligence with regard to the environmental, social and human rights impacts of agro-industrial activities. The referral also raises issues about SOSUCAM’s engagement with stakeholders representing riparian’s neighboring populations of

<sup>1</sup> “préfecture” in French



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SOSUCAM's plantations and factories in the department of Haute-Sanaga. Finally, the referral concerns Company policy and disclosure of the various companies concerned by the referral.

The NCP carried out the initial assessment of the referral within the indicative 3-month period set by the OECD. SOMDIAA provided the NCP with a detailed file of response to the referral during the initial assessment phase. On 11 February 2021, the French NCP decided to accept the referral. The Parties quickly agreed to participate in the good offices proposed by the NCP which started on 9 March 2021. The NCP conducted mediation between June and October 2021 to negotiate modalities for a future dialogue between the Parties on issues raised in the referral and SOMDIAA's response. The Parties converged on the topics to be discussed and on a calendar of technical meetings. Discussions on the involvement of CRVs, access to information for the complainant and the role of the NCP were more difficult and there was no agreement on the venue where meetings would take place. The Group wanted to bring together all the members of the CRVs in the town halls of the sugar area, which were according to the Company the most representative locations of communities' interests, in order to make available its answers to the referral to the greatest number of people. For its part, the complainant wanted to maintain the same format as for the NCP's mediation meetings (with 7 CRV representatives) and to hold the meetings at the French Embassy. The NCP proposed organising these technical meetings in the framework of its mediation at the French Embassy, what the Group refused. In addition, concomitantly with the NCP mediation, a new organisation called *Association of Indigenous ripadians of Sosucam's sugar area ("Association des Riverains Autochtones du périphère sucrier de la Sosucam")* was created, which complicated the ecosystem surrounding the NCP's work.

In October 2021, SOMDIAA Group decided to withdraw from the good offices of the NCP. The NCP noted the lack of agreement between the Parties on the modalities of the future dialogue and that the conditions did not allow for further mediation. In particular, the NCP regrets that the Group did not wish to participate in meetings with the Complaints within the premises of the French Embassy. In December 2021, the NCP therefore terminated its good offices and proceeded to the conclusion of the referral, that is to say the preparation of the final statement.

At the end of the procedure, the NCP notes that SOSUCAM does not comply with the Guidelines with regard to due diligence, engagement with stakeholders impacted by its activities and disclosure. SOMDIAA refutes this analysis and considers that its technical file submitted to the NCP and its proposals for exchanges with the CRVs show respect for due diligence and the existence of an adequate societal dialogue.

The NCP makes 5 recommendations to COPAGEF, SOMDIAA and SOSUCAM to deepen their policies and due diligence tools as derived from the Guidelines (cf. Part 6). Risk mapping and human rights due diligence should be strengthened in the face of the evolution of the SOSUCAM's ecosystem. A new assessment of the social and environmental impacts of its agro-industrial activities and of climate change should be carried out quickly, prioritising water-related risks. With regard to engagement with stakeholders, the NCP recommends that SOMDIAA support its subsidiary in the development and implementation of a new action plan to include CRVs and CAVT again among its regular stakeholders in an inclusive and constructive approach to enable mutual information and dialogue on measures to identify social and environmental risks, as well as adequate measures to prevent, mitigate and remedy potential and actual negative impacts that could affect the riparian population of its plantations. COPAGEF and SOMDIAA Groups are encouraged to use the OECD Due Diligence Guidance's to update their corporate policies. Finally, the NCP calls on the Parties to calm down for constructive exchanges.

This statement closes the proceedings. The NCP presents the procedure followed and analyses issues related to the effectiveness of the OECD Guidelines. It addresses recommendations to COPAGEF and SOMDIAA Groups and will follow-up the referral.

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### 1. Substance of the Complaint's submission and Company's response

The [initial assessment statement of 12 March 2021](#) presents the referral and the Company's response.

#### ♦ Presentation of the Complainant (abstract from the Initial Assessment Statement):

The referral is brought by a group of Cameroonian civil society organisations composed of the Centre of Actions for Life and Earth ("Centre d'Action pour la Vie et la Terre" or "CAVT" here-after) and 14 organisations from villages neighboring SOSUCAM, formed as 14 Local Watch Committees ("Comité Riverains de Veille" or "CRV" here-after).

CAVT is an organisation engaged in watching and monitoring industrial projects. Formed as an association, "*it works to ensure that the rural populations of Cameroon are effectively involved in monitoring the implementation of industrial projects that develop in their neighborhoods*". The referral is also brought by the 14 Village's Watch Committees of 14 villages (9 villages and 5 hamlets) in the sugar area of the department of Haute-Sanaga of the Central Region of Cameroon, which are neighboring SOSUCAM's plantations and factories. The majority of the 14 CRVs have been formed in the form of associations since 2014. The purpose of the CRVs is "*to contribute to the promotion of the economic, social and cultural development of the villages, and to the promotion of the defence of the rights and interests of its members*". The referral indicates that the CAVT contributed to the training of CRVs. The referral indicates that the CRVs participated in the CRVs-SOSUCAM platform for dialogue set up by SOSUCAM between 2014 and 2017 but that these meetings have ceased since 2017.

#### ♦ Presentation of the Specific Instance (abstract from the Initial Assessment Statement):

According to the referral, COPAGEF Group and Société d'Organisation, de Management et de Développement des Industries Alimentaires et Agricoles Group<sup>2</sup> (SOMDIAA), the agri-food division of COPAGEF's activities, do not properly exercise their due diligence regarding social, societal and environmental impacts caused by SOSUCAM's agro-industrial activities. The referral refers to allegations of negative impacts on the environment and riparian neighboring populations of SOSUCAM's sugar cane plantations and processing plants reported by the CRVs. These impacts would consist of noise and odor negative impacts, social (destruction of crops, metal-plate oxidation, etc.) and sanitary (health) impacts, disturbances and a decrease in wildlife, and air and water pollution. The referral alleges existing conflicts between riparian's and the Company on several topics (local employment, management of space, etc.). According to the referral, the environmental and social management plan and the Company's CSR policy would not correspond to the impacts resulting from the sugar activities and would not be tailored to the local situation in a context, according to the Complaints, of alleged absence of engagement with village' organisations for several months. This would lead to increased local tensions.

The specific instance concludes with allegations of violations of several chapters of the OECD Guidelines (general principles, disclosure, human rights, employment, environment) and several Cameroonian legislations and "violations of rights recognized to neighboring communities" which concern "rights to a healthy environment, health, education, food, water, decent work, fair and equitable compensation, decent housing, participation, culture and leisure". The [Initial Assessment Statement of 12 March 2021](#) contains in the annex the list of the recommendations of the Guidelines referred to in the specific instance.

#### ♦ The Complainant's Request (abstract from the Initial Assessment Statement):

The complainant organisations, the CRVs and the CAVT, seek the good offices of the French NCP to engage in a dialogue with SOMDIAA and COPAGEF to find solutions to allegedly difficulties faced by

<sup>2</sup> Non-official translation: Company for Organisation, Management and Development of Food and Agriculture Industries

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some SOSUCAM's riparian neighboring populations from which the CRVs are coming from and they indicate to represent.

The complainant organisations address several recommendations to remedy what they consider to be breaches of the OECD Guidelines. In the present case, the complainant organisations recommend the establishment of a framework for consultation and dialogue that is more inclusive and extended to stakeholders in the 14 villages neighboring SOSUCAM and having an extensive knowledge of the issues underlying this agro-industrial operation. They recommend the development and implementation of a CSR policy and tools that would be appropriate to the situation they refer to. Finally, they recommend the publication of regular information for the attention of local neighboring populations.

### ♦ The Group's response to the referral during the initial assessment :

**The Group provided the NCP with a detailed file to respond to the referral on 4 February 2021, which is summarized in the Initial Assessment Statement of 12 March 2021<sup>3</sup>. The Group did not wish to transmit it to the complainant.**

The NCP took note of the elements provided by SOMDIAA on SOSUCAM's corporate policy. Thus, SOMDIAA states that "*The Société Sucrière du Cameroun has structured its social responsibility approach in 2012. SOSUCAM's CSR approach has been structured around the SOMDIAA Group's Sustainable Development Policy, which has been adapted to the context of SOSUCAM. Thus, in June 2014, SOSUCAM released its first Sustainable Development Policy with Commitments for Sustainable Development setting a course to be reached by 2018<sup>4</sup>. With this in mind, SOSUCAM renewed its Sustainable Development Policy in 2019 as well as its Sustainable Development Commitments for the period 2019-2023<sup>5</sup>.*" SOSUCAM also has a team dedicated to "CSR and Compliance". The Group informed the NCP that SOSUCAM engages with its stakeholders and is deploying several CSR tools. The Group informed the NCP about SOSUCAM's environmental and social impact assessments conducted in 2007, 2012 and 2016.

The Group stated that it had carried out an "*assessment and classification of the assertions and allegations*" contained in the specific instance. It analysed all the "*impacts, dissatisfactions, violations of rights and breaches*" raised by the complainant. It also analysed the significance of impacts. SOMDIAA notes:

- **"At the general level,** on the whole file, we counted 189 assertions and allegations. According to our assessment, 150 were not proven (76 %). The others are the subject of specific support and treatment by SOSUCAM depending on the context in which it is acting, either at an advanced level (17 %) or under implementation (7 %)."
- **"At the impact level,** we counted 76 assertions and allegations. According to our assessment, 49 were not proven (64 %). As for the others, they are the subject of specific support and treatment by SOSUCAM depending on the context in which it is acting, either in an advanced manner (21 %), or under implementation (15 %)".
- **"As regards the analysis of the significant materiality of the impacts identified by the complainant,** SOMDIAA considers that most of the impacts referred to are "not significant": noise pollution, olfactory nuisances, air pollution, disruption of stream and rives flows, threats to the health of the neighborhood, damage and destruction of crops, and oxidation of metal-plate. SOMDIAA considers that the impact on the pollution of surface and groundwaters is

<sup>3</sup> <https://www.tresor.economie.gouv.fr/Institutionnel/Niveau3/Pages/902fd2b1-7b77-4429-b4a9-feca3c7dbe23/files/596d39f5-0058-438b-b082-9c0cb6a79b1c>

<sup>4</sup> (in French only) Politique de Développement Durable SOSUCAM de 2014 et engagements 2014-2018.

<sup>5</sup> (in French only) Politique de Développement Durable SOSUCAM de 2019 et engagements 2019-2023.

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“significant” compared to the 1965 baseline and states that “SOMDIAA implements a water pollution prevention plan”. SOMDIAA notes that impacts disturbance and decrease of the wildlife and the impact and destruction of multi-use trees and non-timber forest products are “significant” compared to the baseline. SOMDIAA states that these impacts are “significantly reduced by the protection of more than 10,000 hectares of galleries left to the traditional use of populations” and that they are “also a consequence of a political choice in Cameroon to seek autonomy in sugar, a product of primary necessity.”

- **“In terms of dissatisfaction**, we counted 68 assertions and allegations. According to our assessment, 51 were not proven (75 %). As for the others, they are the subject of specific support and treatment by SOSUCAM depending on the context in which it is acting, either in an advanced manner (21 %), or under implementation (4 %).”
- **“In terms of violations of rights**, we counted 18 assertions and allegations. According to our assessment, 15 were not proven (83 %). As for the others, they are the subject of specific support and treatment by SOSUCAM according to the context in which it is acting in an advanced way (17 %”)

### ♦ The Group's response to the referral during the good offices:

**During the various exchanges between the Group and the NCP and during the mediation meetings between the Parties, the Group provided further elements of response to the referral.**

SOMDIAA Group informed the NCP about the economic situation of SOSUCAM.

SOMDIAA stressed the Group's commitment to its CSR policy and the existence of CSR's policy, procedures and tools implemented by SOSUCAM. In response to the NCP, in March 2021, SOMDIAA confirmed that it is a member of the Bonsucro initiative, which issues social and environmental certification of sugar production conditions. SOMDIAA reported that Bonsucro launched in 2020 the revision of its indicators, and this revision was expected to be finalized in 2021<sup>6</sup>. SOMDIAA clarified that SOSUCAM had the objective to realize its assessment in 2020 but that it was not yet achieved. Blank audits planned to take place in 2021 had to be postponed due to the COVID-19 outbreak and to Bonsucro's ongoing review. Beside sugar plantations in Africa would be Bonsucro-certified only in Mauritius Island.

The Group stressed that SOSUCAM maintained a long-lasting and regular dialogue with its local stakeholders. SOSUCAM maintains its relations primarily with the chiefdoms (at 2<sup>nd</sup> and 3<sup>rd</sup> levels) of the sugar area and the public administration, following the Cameroonian administrative and political framework. The Company runs several platforms for dialogue, receives its stakeholders and has a complaints mechanism and another mechanism for handling external complaints. The Group has repeatedly questioned the representativity of the Complaint organisations. SOSUCAM indicated that there is no legal obligation to engage with stakeholders, but that this is a Group practice, in compliance with its Sustainable Development Policy.

The SOMDIAA Group reported the history of the relations between the CRVs and SOSUCAM. The SOSUCAM-CRV platform for dialogue was created in 2014. Its meetings stopped in 2017 because the CRVs had not designated the venue for the meeting. In this sense, the Group refutes the assertion that “SOSUCAM unilaterally put an end to the meetings of SOSUCAM/CRV platform” in 2017. SOMDIAA indicated to the NCP and the Complaint its willingness to engage in dialogue and expressed its readiness to immediately restart the dialogue with the CRVs, since according to the Company “the referral seems to be about a communication problem”. In July 2021, SOMDIAA prepared a note to

<sup>6</sup> The Bonsucro initiative revised its certification protocol in December 2021 ([version 6](#)). According to its website, they will enter into force in August 2022. For more information: <https://bonsucro.com/production-standard/>

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resume the meetings of the CRV-CAVT- SOSUCAM platform in order to resume the meetings between SOSUCAM, the CRVs and the CAVT and to reactivate the CRV/SOSUCAM platform for dialogue, "abandoned by the CRVs since the end of 2017" according to SOMDIAA. The proposed timetable consisted of two phases: i) firstly the organisation of three monthly technical meetings to discuss with the Complaint the substance of the referral and then ii) the resumption of the quarterly meetings of the platform for dialogue. The three technical meetings would cover the "*11 impacts*" identified by the Complaint in the referral: "*noise nuisances, olfactory nuisances, disturbance and decrease in wildlife, air pollution, pollution of surface and groundwater, disruption of the water flow regime, threats to the health of riparian neighborhood, destruction of multi-purpose trees and non-timber forest products, damage and destruction of crops and metal-plate oxidation*". Those meetings proposed by SOMDIAA also addressed the "*9 dissatisfactions*" identified by the Complaint in the referral: "*policy for hiring and managing careers, unfulfilled promises, non-respect of the external complaint mechanism, violation of areas dedicated to the activities of local riparian neighborhood, change of name of certain plots, road accidents, refusal to implement the dashboard of the environment and social management plan (or "PGES") developed with the CRVs in 2015, refusal to comply with its commitment to implement the recommendations made after the monitoring of the CAVT and CRVs in 2017, conducting the environmental assessment within the framework of the dam for irrigation of sugar cane plots*". All meetings would be held on the premises of the town halls of the sugar area in order to ensure transparency and publicity of the debates vis-à-vis all members of the CRVs and the population concerned. The NCP would be kept informed of the discussions by sending minutes. This proposal was discussed with the Complaint and the NCP (see below).

SOSUCAM referred to the creation of a new association of the riparians of the sugar area in September 2021. This is the *Association of Indigenous Riparian of Sosucam's sugar area* ("Association des Riverains Autochtones du périmètre sucrier de la Sosucam") or "ARAPSO" here-after. The Group considered that the fact that this association had the same purpose as the CRVs and the CAVT, this raised the issue of CRVs, CAVT and ARAPSO representativity and legitimacy as stakeholders. During a mediation meeting, SOSUCAM "asked the CAVT and the CRVs to express their position on this new organisation" and SOSUCAM called on "the NCP mediation to determine the legitimacy of these organisations" in a "dynamic perspective in order to improve dialogue with its stakeholders".

During the conclusion of the procedure, SOMDIAA wished to highlight points which are important for its perception of the case and SOMDIAA underlined its approach which it considers voluntary and dynamic. SOMDIAA reminded: a) "SOMDIAA's questioning about the representativity of the Complaints"; b) "the transmission of information to the NCP to enable it to better understand the case"; c) the "proposal of a methodology" to resume the societal dialogue with the CRVs and the CAVT; d) "the proposal of meeting venues tailored to the context" according to SOMDIAA; and e) "its compelled decision to withdraw from the mediation process, for failure to be heard and understood". SOMDIAA stated that "it seems that, unfortunately, this approach has not been intentionally perceived at its fair value, which we deplore".

## 2. Initial Assessment by the French NCP

The NCP examined the specific instance in the light of the admissibility criteria laid down in its Rules of Procedure. It took note of the Company's response and willingness to engage in the dialogue. The NCP considered that the issues raised by the referral on risk-based corporate due diligence, the Company's engagement with stakeholders and disclosure merited further examination to contribute to the effectiveness of the Guidelines. It took note of the Complaints' request related notably to the establishment of a framework for dialogue with the companies concerned. The French NCP accepted the specific instance. It offered its good offices to the Parties who accepted them on 19 and 22 February 2021.

The initial assessment resulted in the publication of the [Initial Assessment Statement](#).



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### 3. The proceedings of the French NCP in accordance with its Bylaws

Due to health constraints related to the COVID-19 pandemic, most of the NCP internal meetings and meetings between the NCP and the Parties were held in virtual format. The NCP particularly thanks the economic service of the French Embassy in Cameroon for its logistical support.

#### The referral procedure to the NCP is confidential.

The NCP shall endeavour to carry out the initial assessment of a referral within an indicative period of three months after acknowledging receipt of it (Article 26). Where a specific instance meets the initial assessment criteria (Articles 22 and 23), the NCP accepts it and offers its good offices to the Parties. It carries out the examination of the referral. It helps to assist the Parties in resolving their dispute (Article 25). At the end of its good offices or when one of the Parties no longer wishes to participate, the NCP shall proceed to the conclusion of the procedure and prepare a final statement. In the event of a lack of agreement between the Parties, the NCP shall make recommendations.

#### **Since the reception of the referral, the NCP has undertaken the following actions:**

Date	Action undertaken
Nov 2020 to March 2021	<b>1<sup>st</sup> phase: Admissibility and initial assessment of the referral</b>
23 Nov 2020	The Complainant sends the complete file of the specific instance.
25 Nov 2020	The NCP Secretariat acknowledges receipt of the complete file and provides the Complainant with information about the procedure to handle specific instances.
15 Dec 2020	The NCP finds that the specific instance is formally admissible (Article 16) and begins the initial assessment of the specific instance (Arts 18, 19, 20, 22, 23, 24, 25, 26, 31).
17 Dec 2020	The NCP informs COPAGEF and SOMDIAA of the referral by mail and invites them to reply upon receipt of the complete electronic file.
5 January 2021	The NCP forwards the electronic version of the complete file to SOMDIAA, who acknowledges receipt on the same day. SOMDIAA indicates that it is the NCP's interlocutor for the referral.
4, 11 and 29 Jan. 2021	SOMDIAA provides the NCP with first written information on its interpretation of the admissibility of the referral. The Panel reserves these elements to the NCP.
4 February 2021	SOMDIAA sends to the NCP a detailed response file to the allegations of the referral, accompanied by 54 annexes. The Group reserves these elements to the NCP.
11 Feb. 2021	The NCP finds that the issues raised by the referral merit further examination to contribute to the effectiveness of the OECD Guidelines. It accepts the specific instance and offers his good offices to the Parties.
15 Feb. 2021	The representative of the complainant organisations shall sign the undertaking to respect confidentiality and the confidentiality of exchanges of proceedings.
18 February 2021	The NCP adopts a draft initial assessment statement and invites the Parties to submit their comments on the draft.
19 Feb. 2021	The Complaint accepts the good offices of the NCP.
22 Feb. 2021	The Group, represented by SOMDIAA, accepts the good offices of the NCP.



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3 March 2021	The NCP finalizes the initial assessment of the specific instance.
12 March 2021	The NCP adopts the initial assessment statement which announces acceptance of the referral and the opening of the good offices. It forwards the statement to the Parties for information and then publish it on its website before notifying the referral to the OECD.
<b>March 2021 to Jan. 2022</b>	<b>2<sup>nd</sup> phase: Good offices and mediation of the French NCP</b>
9 March 2021	<b>NCP Meeting:</b> The NCP interviewed the Complainant, i.e. the representatives of the 14 Village's Watch Committees (CRVs) and the Centre d'Actions pour la Vie et la Terre (CAVT) by video-conference between France and Cameroon (the Complainant's premises).
9 March 2021	<b>NCP Meeting:</b> The NCP interviewed the Group, represented by SOMDIAA and SOSUCAM, by video-conference between France and Cameroon (Companies' premises).
4 June 2021	<b>NCP Meeting:</b> The NCP organises a first mediation meeting between the Parties in the form of a video-conference between the NCP, the Group (SOMDIAA and SOSUCAM) and representatives of the 14 CRVs and the CAVT. For logistical reasons (Internet connection), the Complaint was welcomed at the premises of the French Embassy in Yaoundé. After a presentation of the different positions, the discussion focused on defining the modalities of mediation. The Parties agree to continue their discussion under the auspices of the NCP.
6 July 2021	SOMDIAA forwards to the NCP and the Complainant a proposal to resume the SOSUCAM-CRV/CAVT dialogue, including a draft agenda, a timetable and the modalities of the meetings in order to hold three technical meetings in July, August and September 2021 to address the issues raised by the referral and reactivate the SOSUCAM-CRV platform for dialogue.
7 July 2021	The NCP adopted the minutes of the mediation meeting of 4 June 2021 after consulting the Parties.
July to Sept 2021	There are several exchanges between the NCP Secretariat and the Parties to prepare for further dialogue between the Parties. Difficulties in agreeing on the venue of the meetings, the role of the NCP and information sharing with the Complainant are confirmed. The NCP proposes that the Parties meet at the French Embassy. The Group rejects this proposal and proposes to hold a meeting in a town hall in the sugar area.
11 Oct 2021	<b>NCP Meeting:</b> The NCP organises a second mediation meeting between the Parties in the form of a video-conference between the NCP, the Group (SOMDIAA and SOSUCAM) and representatives of the 14 CRVs and the CAVT. The Complaint is gathered at the French Embassy in Yaoundé. SOSUCAM refused to go there. The Group was connected from its premises. The NCP notes that Parties agree in principle to continue mediation but that they disagree on its modalities persists. SOSUCAM refers to the existence of a new organisation of the neighborhood of the sugar area. The NCP notes that therefore tensions between the Parties are exacerbated. The Complainant refers to threats against members of the CRVs. The NCP asks the Complainant to provide proof of this.
14 Oct 2021	<b>NCP Meeting:</b> The NCP decides to continue its good offices and to try to organise the first technical meeting between the Parties at the French Embassy.



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15 Oct 2021	The NCP Secretariat invites the Parties to participate in the first technical meeting at the French Embassy in Yaoundé in November with the presence of the NCP by video-conference.
15 October 2021	The Complainant agrees and renews its request for access to SOMDIAA's written response.
19 October 2021	The Group indicates on confidential basis and by letter to NCP Management that it withdraws from the good offices and is awaiting the final statement.
27 October 2021	Following the agreement of the Group, the NCP Secretariat informs the NCP on a confidential basis of SOMDIAA's decision to withdraw from the good offices. The Group does not wish the Complainant to be informed of this decision.
8 November 2021	The Group on the one hand and the Complainant on the other hand inform the NCP of an article published by Cameroonian press which mentions the referral.
8 November 2021	The Complainant informs the NCP on a confidential basis that CRVs members would continue to face verbal threats from local actors; these threats would be directly linked to the referral to the French NCP.
16 Dec 2021	<b>NCP Meeting:</b> The NCP notes the withdrawal of the Groupe from its good offices and considers necessary to inform the Complainant accordingly. The NCP notes that its mediation cannot continue. It decides to terminate its good offices and proceed to the conclusion phase of the procedure. It instructs the NCP Secretariat to draft a message to the Parties to inform them about this decision and to launch the preparation of the final statement. Exceptionally, the NCP decides to inform the French Embassy about the closure of the good offices.
17 Jan. 2022	The NCP validates the message to the Parties explaining the reasons to move to the conclusion phase.
19 Jan. 2022	The Secretariat transmits to the Parties the NCP message on the transition to the conclusion phase of the procedure.
<b>Jan. to May 2022</b>	<b>3<sup>rd</sup> phase: Conclusion of the specific instance</b>
18 February 2022	The NCP adopts the minutes of the mediation meeting of 11 October 2021 after consulting the Parties.
5 April 2022	The NCP adopts the draft final statement and invites the Parties to submit their comments. It also consults the French Embassy in Cameroon.
17 May 2022	The NCP adopts the final statement and sends it to the Parties and the French Embassy for their information. Afterwards the NCP publishes the statement and notifies it to the OECD.

## 4. Outcome the French NCP's good offices

The NCP mediation quickly led to the development by SOMDIAA of a draft roadmap for resuming the dialogue between its subsidiary SOSUCAM, the 14 Village's Watch Committees and the CAVT. The draft roadmap was shared with the Complainant. This roadmap has been the subject of discussions between the Parties:

- The Parties quickly validated the agendas of the 3 technical meetings proposed by SOMDIAA to discuss the issues raised by the referral.
- The Parties were able to agree on the participants in the technical meetings. The Group wanted to organise the technical meetings in the town halls with all the members of the 14 CRVs in order to give transparency and publicity to the debates vis-à-vis all members of the

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CRVs and interested populations. The Complainant wanted the discussions on the referral to bring together 7 representatives of the 14 CRVs in a confidential framework provided by the NCP rather than in a public venue in the town halls of the area. The Parties agreed to continue discussions on this format.

- **The Parties failed to agree on access to information by the Complainant.** The Complainant wished to know about SOMDIAA's response to the referral in advance of the technical meetings. The NCP has repeatedly encouraged the Group to share all or part of its written response with the Complainant as part of the procedure in order to prepare these meetings. The Group did not wish to transmit any documents to the Complainant. However, it indicated that the presence of SOSUCAM experts at the technical meetings would help to answer the Complainant's questions. While recalling its request for information, the Complainant was ready to attend the first technical meeting.
- **The Parties failed to agree on the venue of the meetings.** SOMDIAA wanted to organise the technical meetings in the Cameroonian town halls of the area. This request by SOMDIAA was not accepted by the Complainant. In keeping with its practice and by seeking compromise, the NCP proposed to organise the meetings at the French Embassy. The Group has repeatedly expressed its refusal to participate in NCP's mediation meetings at the French Embassy. It challenged the neutrality of the Embassy and considered more appropriate to hold these meetings in the town halls which are neutral and public places in order to give priority to transparency and publicity of the debates. The NCP noted the disagreement.

**Therefore, the technical discussions on the Group's responses to the referral could not take place in the absence of an agreement between the Parties on the venue where to continue the mediation.** The substantive dialogue between SOMDIAA, SOSUCAM, the CRVs of the 14 villages neighboring the plantations and the CAVT on the issues raised by the referral could not take place. The strong disagreements between the Parties on the modalities of this dialogue could not be overcome. SOMDIAA's decision to withdraw from the good offices, sent by mail to the NCP, put an end to the NCP mediation.

**The NCP notes that the mediation meetings have revealed underlying tensions between the Parties.** The recurrent questioning by the Group of the "legitimacy" and "representativity" of the Complainant organisations contributed to this. These tensions have been aggravated by the creation, concomitantly with the mediation of the NCP, of a new organisation of local neighborhood of the sugar area. According to the Complainant, "this organisation would come from the Group". The Complainant referred to allegations of "verbal threats" and "risks of retaliation" against CRVs members that would be related to submitting the referral and the creation of this new organisation. SOSUCAM, astonished and considering this to be serious, strongly refuted these points, which it described as "slander", and said it had never received an alert about it. It asked the Complainant to provide evidence (not provided to the NCP as of the date of publication of this statement).

## 5. Examination and conclusions of the French NCP

### ♦ About stakeholder engagement:

The specific instance relates to several dimensions of the Guidelines. It relates in particular to the engagement of the Group and its Cameroonian subsidiary with an external stakeholder who is one of the local actors exercising a mission to represent the interests of riparian populations neighboring SOSUCAM's plantation and located in the sugar area. This issue is particularly important for agro-industrial and extractive activities because of risks associated with land use, human rights and the socio-economic and environmental issues stirring up by the integration of agricultural or industrial projects into a local ecosystem. Several NCP's specific instances address this issue. The OECD pays particular attention to this in various sector guidance's.

In the case at hand, the NCP notes that SOMDIAA's 2020 vigilance plan includes the item "human rights and fundamental freedoms" but does not mention the engagement or dialogue of its subsidiaries with their external stakeholders. It notes that SOMDIAA's 2019 vigilance plan refers to engagement

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with external stakeholders as policy/procedures and measures to mitigate risks related to cultural heritage<sup>7</sup> within the human rights and fundamental freedoms item.

The NCP notes that the part dedicated to "Societal Responsibility" in COPAGEF 2021's non-financial performance report for 2020<sup>8</sup> includes elements on the "Stakeholder Dialogue". Among policies and procedures implemented for the food division operated by SOMDIAA<sup>9</sup>, COPAGEF's NFRD notably states that: *"The Company is committed to strengthening dialogue with its stakeholders and this commitment is enshrined in its sustainable development policy. The subsidiaries SUCAF CI, SOSUCAM and SARIS Congo have established defined moments for exchange with the traditional and administrative authorities. At determined frequencies, these meetings enable to inform external stakeholders about entities' updates, schedules for sugar campaigns, recruitment opportunities and to gather external stakeholders concerns and expectations. These meetings also provide an opportunity to present planned projects for communities living close to agro-industrial establishments<sup>10</sup>.* These elements are not included in SOMDIAA's 2020 vigilance plan. SOMDIAA explains that "the vigilance plan is not intended to cover all the actions carried out on all the subjects of the duty of vigilance. It is not because a CSR practice is not mentioned in a corporate report that it does not exist, on the ground".

**♦ In the case at hand, at the end of the procedure, on the basis of documents provided by the Parties and their exchanges with the French NCP, the NCP concludes:**

- The contradictory discussion between the Parties on the substance of the alleged negative impacts of SOSUCAM activities on human rights, the environment (water, air, fauna, flora) and the health of neighborhood populations could not take place. SOMDIAA provided the NCP with an analysis of these allegations and a presentation of the responses provided by SOSUCAM. The Complainant was not aware of these answers. Therefore, in the absence of dialogue between the Parties, the NCP can only find that there is no agreement between the Parties on these issues;
- The referral raises in particular significant issues about the quality of surface water, groundwater and the health situation due to the Company's use of chemicals and fertilisers. SOSUCAM commissioned a social and environmental impact assessment in 2007, one in 2012 and one in 2016. The file contains a certificate of environmental compliance dating from 2009 and another from 2012 which was awarded by the Ministry of the Environment. SOMDIAA reports that an environmental and social management plan has been developed as a result of these studies and that actions have been and are being implemented to manage identified impacts. SOMDIAA reported that it had identified these impacts<sup>11</sup> and that it takes actions with respect to spreading (information of riparian's), access to water for riparian's (constructions of wells), and an 2021-2026 action plan to achieve compliance for effluents of Nkoteng plant. SOMDIAA reported that the Group's and SOSUCAM's sustainable development policy also relies on further developing reasoned agriculture in order to reduce the use of chemicals since 2014. Given the actual and potential impacts of agro-industrial activity and climate change, the assessment of environmental and health risks and the quality of surface and groundwater should be more frequent. The conduct of these studies and their results should be transparent in order to inform potentially affected and impacted stakeholders in their living conditions and activities, starting with riparian populations;
- The Complainant considers that the COPAGEF and SOMDIAA Groups do not disclose sufficient information regarding SOSUCAM in the light of the Guidelines expectations on disclosure and the environment (see Chapters III and VI). The NCP consulted SOMDIAA's websites (which includes some

<sup>7</sup> (in French only) Page 16 : « Risque de profanation des lieux à haute valeur culturelle ou patrimoniale par les travailleurs ou travailleurs des sociétés sous-traitantes ». Source : [Plan de vigilance SOMDIAA 2019 digital.pdf](#)

<sup>8</sup> (in French only) See [COPAGEF Non-Financial Performance Report 2021 covering the year 2020](#)

<sup>9</sup> Sugar, cereals, animal feed and poultry farming

<sup>10</sup> (in French only) See p. 42, [COPAGEF Non-Financial Performance Report 2021 covering year 2020](#)

<sup>11</sup> Non-official translation: Abstract from the 2012 environmental and social impact assessment *"it should be noted in the light of the size of the plantations, the quantities of phytosanitary products to be used per plot and the duration of the project of 99 years, river water, groundwater and soil will hardly escape pollution/degradation"*.



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information on SOSUCAM)<sup>12</sup> and COPAGEF's NFPRs<sup>13</sup>. It notes that it does not include financial, non-financial and governance information about SOSUCAM as foreseen by the OECD;

- The French NCP notes that this is the first time since its creation in 2000 that a French multinational company, which states that it accepts the principle to meet with the complainant, refuses to meet him at the premises of a French Embassy. SOMDIAA proposed to meet the Complainant outside the premises of the French Embassy in a venue that the Group considers "more relevant and appropriate in view of the nature of the issues raised". The NCP considers that the refusal of SOMDIAA Group to come to the French Embassy is unacceptable.

- The French NCP notes that this is also the first time that a French multinational company has decided to withdraw from the good offices of the French NCP. For its part, SOMDIAA states that it was "constrained to withdraw from the good offices of the French NCP because it was not understood and heard". The French NCP does not agree with this.

- The Group questions the representativity of the stakeholders of one of its subsidiaries and their legitimacy in this specific instance. However, it reiterates its readiness to engage with all its stakeholders. NCPs are not mandated to determine the representativity of a company's stakeholders. The French NCP believes that the company must engage with all its stakeholders. A majority of the members of the NCP thinks that the Company did not wish to engage with Complainant organisations as demonstrated by its insistence on holding meetings in the town halls;

- Allegations of pressure on Complainants are of concern to the NCP and must be taken seriously as the OECD stated in March 2020<sup>14</sup> (see above). Evidence is expected on this point. The creation of a new local organisation that appears to be pursuing the same objectives as the CRVs that have existed since 2014 is likely to exacerbate local tensions underlying to the referral.

### In conclusion:

The NCP recalls its role as facilitator, its commitment to dialogue and to the reduction of tensions. It calls on the Parties to ensure that local issues can be the subject of consensus-building and that the resolution of disputes is calm and respectful of each other's positions.

The NCP notes non-compliances with the Guidelines on the Due Diligence of the Panel with regard to the risks of adverse impacts of SOSUCAM's activities on human rights and the environment, engagement with stakeholders and disclosure. It addresses recommendations to COPAGEF and SOMDIAA Groups to improve their corporate policy and duty of vigilance vis-à-vis SOSUCAM (see part 6).

The NCP instructs its Secretariat to transmit this final statement to the French Embassy in Cameroon, after its publication, as well as to public bodies supporting the internationalisation of the COPAGEF and SOMDIAA Groups.

## 6. Recommendations of the French NCP

⇒ **Next pages**

<sup>12</sup> (in French) See SOSUCAM [page](#) of the SOMDIAA's website as well as the SOMDIAA vigilance plans for [2020](#) and [2019](#) and SOMDIAA's sustainable development reports for [2019](#) and [2017](#) available on its website at: [Rapports RSE - Somdiaa](#). There seems to be no SOSUCAM's website. Last consultation: 21 February 2022 and 17 May 2022.

<sup>13</sup> [COPAGEF's 2021 Non-Financial Performance Report covering 2020](#) - Last viewed: 21 February 2022

<sup>14</sup> [National Contact Points - Organisation for Economic Co-operation and Development \(oecd.org\)](#)



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### 6. Recommendations of the French NCP

**At the end of the procedure, the NCP reminds COPAGEF, SOMDIAA and SOSUCAM in particular Recommendations, 2, 10, 11 and 14 of Chapter II of the Guidelines on the General Policies, which provide that:**

Enterprises should take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders. In this regard:

**A.** Enterprises should:

**2.** Respect the internationally recognised human rights of those affected by their activities.

**10.** Carry out risk-based due diligence, for example by incorporating it into their enterprise risk management systems, to identify, prevent and mitigate actual and potential adverse impacts as described in paragraphs 11 and 12, and account for how these impacts are addressed. The nature and extent of due diligence depend on the circumstances of a particular situation.

**11.** Avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur.

**14.** Engage with relevant stakeholders in order to provide meaningful opportunities for their views to be taken into account in relation to planning and decision making for projects or other activities that may significantly impact local communities.

**At the end of the procedure, the NCP reminds COPAGEF, SOMDIAA and SOSUCAM that on 13 March 2020, the OECD Working Group on Responsible Business Conduct expressed its deep concern at alleged incidents of undue pressure on those submitting cases to the National Contact Points for Responsible Business Conduct (read [the Declaration here](#))<sup>15</sup>.**

The NCP notes that COPAGEF, SOMDIAA and SOSUCAM do not fully comply with several recommendations of the OECD Guidelines. To facilitate the implementation of the Guidelines in the future, the NCP address the following recommendations to the COPAGEF and SOMDIAA Groups vis-à-vis their subsidiary SOSUCAM:

**RECOMMENDATION 1:** According to due diligence and in accordance with recommendations II.A.10, 11, 12 and 13 and IV.1, 2, 3 and 6, in the face of the changing social and societal ecosystem of SOSUCAM, COPAGEF and SOMDIAA Groups shall ensure that their human rights risk mapping is updated and that they take and provide adequate measures to prevent, mitigate and remedy so as to prevent possible tensions.

**RECOMMENDATION 2:** SOSUCAM's last social and environmental impact assessment dates back from 2012 and 2017 for an irrigation project. In line with recommendations 1, 2, 3, 4, 5 and 8 of Chapter VI, in light of the actual and potential impacts of SOSUCAM's agro-industrial activity and challenges linked to climate change on its environment, the NCP recommends that a new impact assessment study be carried out promptly, taking due reference to the OECD Guidelines and Guides. In response to pollution risks, the NCP recommends that a study of to analyse the quality of surface and groundwater be carried out on a regular basis and should not be limited to the prevention plan for water used by the Nkoteng plant. The conduct and results of these studies shall be transparent to stakeholders impacted in their living conditions and activities. Health authorities shall also be consulted and informed. The lessons learned from these studies and analyses shall be integrated into the enterprise's sustainable development policy (commitment, monitoring indicators, action plan).

<sup>15</sup>[National Contact Points - Organisation for Economic Co-operation and Development \(oecd.org\)](#)

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**RECOMMENDATION 3:** As part of stakeholder engagement and in accordance with recommendations I.2 and II.A.14, COPAGEF and SOMDIAA Groups should ensure the development of a new action plan for SOSUCAM's engagement with all its stakeholders, beyond administrative stakeholders and traditional (chiefdoms) stakeholders provided for by local regulations. SOMDIAA underlines that SOSUCAM has a mapping of all its stakeholders (administrative and traditional authorities and other organisations interested in its activities) and that SOSUCAM "is open to dialogue with all its stakeholders". The NCP recommends that the Group work towards the reactivation of the SOSUCAM - CRVs/CAVT platform for dialogue so as to allow for mutual information and constructive dialogue with CRVs and the CAVT on measures to identify social and environmental risks, as well as on appropriate measures to prevent, mitigate and remedy potential and actual negative incidences that could affect the riparian populations of its plantations.

Responsible Business Conduct leads indeed to go beyond law. For the successful integration of the Company into its local ecosystem, it is important to find operational and specific modalities to engage with all organisations representing the riparian populations neighboring SOSUCAM's plantations and activities, including the CRVs and the CAVT. Thus, SOSUCAM could set up a long-lasting "CSR committee" which shall include its external stakeholders and would be different from the platforms for dialogue. This is a delicate exercise. For this reason, the NCP strongly encourages COPAGEF, SOMDIAA and SOSUCAM to build on the [OECD Due Diligence Guidance on for Meaningful Stakeholder Engagement in the Extractive Sector](#)<sup>16</sup> as similar issues exist in stakeholder engagement.

**RECOMMENDATION 4:** In accordance with recommendations on Due Diligence A.10, 11, 12 of Chapter II, the NCP recommends that COPAGEF and SOMDIAA enrich their corporate policy and its implementation by SOSUCAM, drawing on the [OECD Due Diligence Guidance for Responsible Business Conduct](#)<sup>17</sup>, the [OECD-FAO Guidance for Responsible Agricultural Supply Chains](#)<sup>18</sup>, and [OECD's work on agricultural supply chains](#)<sup>19</sup>.

**RECOMMENDATION 5:** In accordance with recommendations 1, 2, 3 and 4 of Chapter III, the NCP recommends that the COPAGEF and SOMDIAA Groups improve their disclosure on SOSUCAM.

## 7. Follow up of the specific instance

In accordance with its Bylaws, the NCP will follow up on this specific instance. It invites the Parties to provide follow-up information within 12 months.

It remains available to the Parties if they wished to resume mediation.

The results of the follow-up procedure may be made public.

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**With this final statement, the NCP closes the specific instance.**

<sup>16</sup> Learn more [Guidelines for MNEs - Organisation for Economic Co-operation and Development \(oecd.org\)](#)

<sup>17</sup> Learn more "Due Diligence" [Due Diligence - Organisation for Economic Co-operation and Development \(oecd.org\)](#) & "OECD Due Diligence Policy Hub" <https://mneguidelines.oecd.org/due-diligence-policy-hub.htm>

<sup>18</sup> [https://www.oecd-ilibrary.org/agriculture-and-food/guide-ocde-fao-pour-des-filières-agricoles-responsables\\_9789264264038-fr](https://www.oecd-ilibrary.org/agriculture-and-food/guide-ocde-fao-pour-des-filières-agricoles-responsables_9789264264038-fr)

<sup>19</sup> Learn more <https://mneguidelines.oecd.org/rbc-agriculture-supply-chains.htm>