

END OF THE MONITORING OF THE MICHELIN SPECIFIC INSTANCE IN INDIA

NCP STATEMENT OF 29 FEBRUARY 2016

Following a three-year long procedure, the NCP congratulates the Michelin Group for having incorporated due diligence into its corporate strategy

Part I – Background to the NCP's work and decisions since the referral was filed

♦ Review of the context of the Michelin specific instance in India

On 9 July 2012, the National Contact Point (NCP) for the implementation of the OECD Guidelines for Multinational Enterprises received a specific instance from five complainants concerning the Michelin Group's construction of a tyre plant on an industrial park in the State of Tamil Nadu in India, near to the village of Thervoy. The five complainants were two Indian NGOs, the Tamil Nadu Land Rights Federation and the SANGAM¹ residents' association of the village of Thervoy, the French NGO CCFD-Terre Solidaire, the French SHERPA association and the French Confédération Générale du Travail (CGT) trade union.

The referral related to the economic, environmental and social issues surrounding the industrialisation of a rural area. It cited the chapters of the 25 May 2011² version of the OECD Guidelines for Multinational Enterprises on General Policies, Human Rights, the Environment, Employment and Industrial Relations, Combating Bribery, Bribe Solicitation and Extortion, and Taxation. Insofar as the referral was based primarily on facts prior to May 2011, the NCP used the 2000 version to assess circumstances before that month.

♦ The facts preceding filing of the referral in July 2012

In January 2007, the Municipal Council of Thervoy village in the State of Tamil Nadu decided to convert pastureland ("*meikkal poromboke*") into an industrial park; this decision encountered strong opposition from villagers as from March 2007. The change of land use was confirmed on 13 November 2008 by a decision of the administrative authorities of Tamil Nadu under the economic development policy of this State. In May 2009, SIPCOT (a public body tasked with site planning and development) cut down a large section of vegetation at the site and opposition to the site development increased with demonstrations taking place.

A number of legal proceedings were instituted in India. On 27 May 2009, the Madras High Court authorised SIPCOT to continue clearing the site but banned it from cutting down trees and held that 100 acres would be earmarked for a breeding programme. The development of the industrial park meant that 15 families who were occupying the site (encroachment) had to be evicted. On 16 September 2009, the Madras High Court validated the change in land use for the site but found against SIPCOT which had continued to cut down vegetation. The Court ruled that land should be given as a compensatory measure (100 acres for growing animal feed and a further 167.59 hectares within three years). It also requested that the evicted families be rehoused and ordered SIPCOT to

¹ Thervoy Grama Makkal Nala Sanga

² The foreword to the revised Guidelines states that they propose "[a] new and comprehensive approach to due diligence and responsible supply chain management representing significant progress relative to earlier approaches". Among the changes introduced in May 2011 was a new chapter on Human Rights inspired by the Guiding Principles on Business and Human Rights implementing the "Protect, Respect and Remedy" framework established by the United Nations.

obtain specific environmental clearance for the industrial operations to be carried out on the site.

In November 2009, the Michelin Group signed a Memorandum of Understanding (MoU) with the State of Tamil Nadu which outlined its industrial project for the Thervoy site. Then, in December 2009 and again in June 2010, Michelin carried out the impact studies required by Indian legislation, as well as a socio-economic study, and began construction of the plant. The Michelin Group was the first business to set up shop on the site.

As the plant construction works began, local opposition grew. CCFD-Terre Solidaire supported the Indian organisations and began a dialogue with the Michelin Group. As no agreement was reached, a group of NGOs referred the matter to the French NCP in July 2012 to report alleged breaches of human rights and the OECD Guidelines. The complainants requested three inseparable measures: suspending construction of the plant until enforcement of the Madras High Court's decision of 16 September 2009, establishing a multi-stakeholder committee and carrying out a study on the medium- and long-term social and environmental impact of the construction of the plant and of its future operations.

The construction of the plant was completed in 2013 with production starting up in 2014.

◆ Overview of the procedure followed by the French NCP since July 2012

After the case had been referred to it on 9 July 2012, the NCP found the referral admissible on 20 September 2012 and proposed its good offices to the parties which accepted them. The NCP terminated its examination of the referral in July 2013 and prepared a statement which it submitted to the parties in September 2013. As they challenged the NCP's conclusions, the complainants announced publicly on 24 September 2013 that they were withdrawing the specific instance. To keep up the forward momentum for the local communities, the NCP elected to issue its decision as it stood on 27 September 2013³ and to continue following up its recommendations⁴.

The NCP's follow-up of the referral consisted of regular contacts with the Michelin Group including four monitoring meetings (November 2013, June 2014, December 2014 and December 2015), examination of detailed documentation and its consultation on the terms of reference of the two impact studies. The Group kept the NCP apprised of changes to its CSR policy and took part in the NCP's annual information meeting in April 2015, and the OECD Global Forum on Responsible Business Conduct on 18 June 2015.

The NCP issued an initial follow-up statement in May 2014 which noted the launch of the impact studies. Following its meeting on 15 December 2015, the NCP chose to stop monitoring the specific instance. On 12 February 2016, it adopted a draft statement and its appendix providing an analysis of compliance with its recommendations on which the Michelin Group had been consulted.

◆ The French NCP's three decision-making stages in the Michelin specific instance

◆ First stage: The September 2013 decision ended its examination of the case

The NCP noted that the specific instance was complex. It was a sign of the challenges and difficulties of industrialisation in rural areas in India. In its statement terminating the specific instance of 27 September 2013, the NCP confirmed that the Michelin Group had generally respected the 2000 OECD Guidelines as the impact studies and due diligence measures had been carried out. It did, however, note cases of inadequate compliance and issued proposals to remedy this on the basis of the OECD's recommendations as revised in May 2011. This revision provides for additional corporate responsibility, in particular as regards due diligence in respect of its business operations and those of its partners (business relationships).

Certain adverse impacts (particularly the cutting of the vegetation, clamping down on local opposition, the site's socio-economic impact) arose from the decision of the Indian authorities to

³ Statement of 27 September 2013, <http://www.tresor.economie.gouv.fr/File/390708>

⁴ See Article 32 of the Rules of Procedure: "Should it deem it appropriate, once it has concluded its examination of the specific instance, the NCP may follow up on its recommendations".

create and develop the industrial park, and were not attributable to Michelin. The NCP nevertheless cited a number of examples of inadequate compliance with the Guidelines when Michelin set up the plant in Thervoy. These failings concerned due diligence measures, community information and consultation, the lack of an in-depth human rights impact study, the assessment of industrial risks and the possible impact of the plant's operations on the environment and on health and safety, and the information made available to Michelin employees in France.

In September 2013, the NCP made the following recommendations to the Michelin Group:

- ⇒ Continue using its influence over its Indian partners in order to ensure the full implementation of the decision of the Madras High Court of 16 September 2009 regarding the compensation measures for Thervoy villagers
- ⇒ Promptly proceed with the impact study on human rights and the environment, which was considered a priority, after discussions and agreement with renowned experts and with the communities that may be affected by Group activities
- ⇒ Ensure the involvement of local communities in the study follow-up and develop a more formal system to ensure that communities' views are expressed
- ⇒ The NCP also reiterated the Group's commitment *"to respect at its Thervoy plant, employment standards that are consistent with common Indian law, with ILO recommendations, with the OECD Guidelines for Multinational Enterprises, and consistent with its own internal principles as applied in every Group plant, anywhere in the world"*.

 <http://www.tresor.economie.gouv.fr/File/397224>

◆ **Second stage: In May 2014, the NCP noted that the impact studies had been launched**

In its follow-up statement of 14 May 2014, the NCP noted that the Group was complying with its commitments. It was using its influence on its Indian partner SIPCOT to ensure that the latter fulfilled its obligations, it was preparing impact studies on human rights and the environment in consultation with the NCP, and it had undertaken to establish formal channels of communication with local stakeholders. It was also taking measures to prevent environmental hazards and protect the environment, it was using local staff and had repeated its undertaking to apply its employment standards, along with those of the ILO and OECD to its employees in Tamil Nadu. The NCP also noted that the Group had introduced a number of initiatives to improve dialogue with stakeholders.

 <http://www.tresor.economie.gouv.fr/File/401016>

◆ **Third and final stage: In February 2016, the NCP conducted a full review of Michelin's action in respect of its recommendations**

Part II – Review of Michelin's action in respect of the recommendations of the French NCP and the OECD Guidelines (May 2014 – December 2015)

In December 2015, the Thervoy plant was one of the Group's largest factories in its global operations. It began its manufacturing activity with 1,100 employees. It is a state-of-the-art plant where measures are taken to prevent environmental risks (e.g. air and water quality measurements) and to protect the environment, particularly water resources (no discharge of water into the environment, water treatment, water recycling for watering, rain water collection tank, water collection tank for fire-fighting). Michelin is working in conjunction with 13 local and national NGOs to improve the health, safety, education, training and environment of the local communities in the 31 neighbouring villages. The Group reports on CSR issues at the Thervoy plant in the sustainable development report which is part of its annual report.

To assess Michelin's actions in light of the NCP's recommendations and the Guidelines, the NCP reviewed the following issues: Michelin's obligation to use its influence regarding land compensation for Thervoy villagers, the conducting of impact studies and communication with stakeholders,

Michelin's CSR strategy in Thervoy, guarantees on employment standards in Thervoy and, lastly, changes to the Group's CSR policy.

At the time of writing, the NCP has noted that:


♦ **1/ The Group has used its influence on its partners to ensure the granting of land compensation to the Thervoy villagers (refer to the appendix)**

The Group has continued using its influence on its partner that was directly responsible for implementing the land compensation measures for the Thervoy villagers as ordered by the Indian courts in 2009. It has fulfilled its commitment vis-à-vis the NCP and complied with the Guidelines.

As far as we are aware, the land compensation measures ordered in 2009 have been implemented. These include making available a plot of land to grow animal feed and other pastureland plots in the region. The Michelin Group and the NCP have not been informed of any fresh complaints having been filed against the authorities in this respect. However, in spite of a number of requests from the Group, the Indian authorities have not provided written confirmation of implementation of the compensation measures.

The Thervoy specific instance underscores the fact that multinational enterprises must pay particular attention to the consent of local communities and to issues related to land or financial compensation following loss of use of a rural area when an industrial project is on the drawing board, or when an enterprise arrives on an industrial park which is being constructed. In particular, enterprises need to obtain all the information concerning the communities' consent so as to avoid problems created by other entities. In addition to the Guidelines, relevant methodologies are put forward in two guides adopted by the OECD in December 2015:

OECD-FAO Guidance for Responsible Agricultural Supply Chains

 <http://mneguidelines.oecd.org/rbc-agriculture-supply-chains.htm>

OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector

 <http://mneguidelines.oecd.org/stakeholder-engagement-extractive-industries.htm>

♦ **2/ By conducting socio-environmental impact assessment studies and opening channels of communication with the stakeholders, Michelin has put in place a CSR policy that is conducive to its integration in the Thervoy ecosystem (refer to the appendix)**

The NCP congratulates the Group on having conducted the human rights impact assessment (HRIA) study in 2014. This was one of the central issues of the referral. Although there was a time lag before the study was conducted, it provides the plant with a suitable roadmap for its short-term integration in Tamil Nadu (to inform its CSR strategy and its relations with its local partners). With an eye to rolling out a "Vision 2025" strategy, it also provides medium and long-term perspectives. Its experiences in India, with assistance from the NCP, mean that Michelin now has a corporate strategy underpinned by robust methodology.

The NCP also congratulates the Group for having rolled out a structured steering system for its CSR policy and for having thereby officialised and bolstered its communication with the numerous stakeholders. The system seems solid enough to support the site's operations. That said, the NCP recommends that Michelin should decide on the conditions for asking representatives of the eight villages which are most affected by the plant to sit on its CSR Board.

The NCP further congratulates the Group for having completed the environmental impact assessment study in February 2016 following the analysis carried out over a full year when the plant was up and running. The NCP encourages Michelin to take a close look at the results of the study on the environmental impact assessment of its operations on the local ecosystem. The NCP also encourages the Group to factor in the study's recommendations and to communicate the results to the stakeholders who are directly affected.

♦ **3/ Michelin's CSR strategy in Thervoy addresses the social and environmental issues connected to the local ecosystem (refer to the appendix)**

The Thervoy plant's CSR strategy was developed following the socio-economic study carried out in 2010. It was updated in light of the human rights impact assessment (HRIA) study of December 2014. It extends for a 5km radius from the plant and takes in 31 villages, 5,774 households in 12 municipalities ("*panchayat*"), eight healthcare centres and 27 primary schools, middle schools and high schools.

The CSR strategy is overseen by the CSR Board (chaired by the plant's manager and whose members are representatives of the authorities, NGOs and the plant's executives) and the CSR Steering Committee. The strategy is implemented by operational teams (project-based approach) and Indian NGOs and partners from the private sector. This multi-party approach involves a large number of clearly identified stakeholders (Fifteen government-funded institutions, four institutes, 13 NGOs and private institutions, two primary / middle schools and five contractors). CSR projects take in eight areas including management of natural resources (water and agriculture, green energy, green belt), employability, education and healthcare.

The NCP believes that the CSR strategy is consistent with recommendations of the OECD, the NCP and the HRIA study. The Group has a forward-looking mindset (discussions on extending the catchment area for its CSR policy and designing a long-term strategy for the period 2015-2025). The Group has therefore corrected the failings noted by the NCP in 2013 and now has a robust due diligence system for the plant.

♦ **4/ Guaranteeing employment standards in the Thervoy plant (refer to the appendix)**

The NCP has noted Michelin's repeated undertaking to apply its standards along with those of the ILO and OECD to its professional relations within the plant. It encourages it to continue with its work to foster employees' freedom of association.

♦ **5/ At the same time as the referral, the NCP has noted that the Michelin Group has adopted a due diligence strategy that complies with the OECD's recommendations**

After having been obliged to take stock after the referral and during the NCP procedure, in 2014 and 2015, the Michelin Group drove its CSR strategy forward, drawing on permanent dialogue with the NCP and its experience in Tamil Nadu. By establishing a network comprising the Group's senior management, which is highly attentive to CSR, and both geographic and cross-cutting industrial managers (public affairs, legal affairs, procurement), the strategy's pillars are:

- A Group directive and a methodology handbook on relations with stakeholders
- A Group directive and a methodology handbook on relations with NGOs
- Methodology for assessing social and environmental impacts, directly inspired by the NCP referral and the OECD Guidelines. The methodology is currently being used for two new projects in Indonesia and Mexico.
- A human rights guide is in the process of being completed. It will compile the Group's current systems and practices in light of OECD and UN standards.
- Carbon footprint methodology for plant construction is currently being drafted
- Michelin procurement principles for its sourcing of natural rubber which epitomise its due diligence in this area. In March 2015, the Group incorporated its corporate responsibility vis-à-vis its supply chains by formalising its "sustainable rubber commitment". The NCP welcomes this ground-breaking approach in the rubber sector as Michelin is advocating both the concept of obtaining free, prior and informed consent (FPIC) of communities and a target of zero deforestation. The NCP congratulates Michelin which is trialling this approach in Indonesia with the WWF⁵ and through its joint venture with the Barito Pacific Group for the

⁵ http://www.wwf.fr/vous_informer/?4860/WWF-et-le-Groupe-Michelin-partenaires-pour-un-marche-du-caoutchouc-naturel-responsable

sustainable use of 88,000 hectares ravaged by uncontrolled deforestation. On half of these areas, rubber trees will be planted to produce natural rubber and the other half will be earmarked for re-creating a natural environment and community crops.

Having taken environmental and social issues on board, the Group is now looking to persuade its peers to adopt the approach.

- Creating a position of manager of Relations with NGOs and the civil society in the Public Affairs Department. This person ensures the consistency of the approaches and various procedures and has regular dialogue with the NCP.

This outcome is satisfactory for the NCP as the Michelin Group now has a global and cross-cutting approach to its CSR that complies with OECD standards.

Part III – Completion of the monitoring of the Michelin referral by the French NCP (February 2016)

The NCP notes that all its recommendation have been implemented. The NCP would like to thank the Michelin Group for its constructive cooperation, its openness and for the progress made. After fruitful dialogue that has lasted 26 months, the NCP is ending the monitoring of the specific instance.

In addition to having corrected the failings reported to the NCP, the Michelin Group has entirely overhauled its CSR approach, has set up a suitable due diligence system as recommended by the OECD and has made a solid commitment in respect of its supply chain for agricultural commodities. It is a textbook case for the French NCP and for NCPs everywhere.

As a result, the members of the French NCP are very satisfied with the outcome of this referral and would like to make two general comments:

- The Michelin case demonstrates how the NCP can act to give impetus to communities to change the behaviour of enterprises that violate the Guidelines and to initiate a successful approach. The NCP has fostered the introduction of a due diligence methodology by the enterprise buttressed by bilateral dialogue. Its initial decision on the merits of the referral and its follow-up enabled the responsibility of the various stakeholders in the value chain, and the direct and indirect responsibility of the players, to be identified (i.e. between the company and its business relationships, including those that may have violated the Guidelines) therefore echoing the complexity of such international industrial projects.
- The case also highlights the company's high ethical standards in its approach. After initial confrontation with the complainants, Michelin learned from its failings, as flagged up by the NCP, and shaped a true commitment for progress fuelled by its dialogue with the NCP. The NCP would like to thank the company for its cooperation in this respect.

All these conclusions are without prejudice to information to the contrary that has not been provided. As a result, the NCP regrets the fact that the complainants elected to withdraw their referral thereby severing the possibility of dialogue offered to them and the monitoring capacity that they could have provided to it.

This statement was issued on 29 February 2016 and published on the NCP's website. The statement reflects a consensus of the NCP, except for one trade union organisation.

Website: <http://www.pcn-france.fr>

Email: pointdecontactnational-France@dgtresor.gouv.fr

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