

FOLLOW-UP TO SPECIFIC INSTANCE: MICHELIN

NCP Statement of 14 May 2014

Michelin: Launch of the Impact Studies Recommended by the NCP

Background

A referral to the National Contact Point for the OECD Guidelines for Multinational Enterprises was submitted on 9 July 2012 by five plaintiffs in respect of the Michelin Group's operations in the Indian state of Tamil Nadu. The five plaintiffs were the Indian NGO Tamil Nadu Land Rights Federation, the residents' association of the village of Thervoy, India (Sangam)¹, the French NGO CCFD-Terre Solidaire, the French association Sherpa and the French trade union Confédération Générale du Travail (CGT).

The referral cited the chapters on General Policies, Human Rights, the Environment, Employment and Industrial Relations, Combating Bribery, Bribe Solicitation and Extortion, and Taxation of the 25 May 2011 version of the OECD Guidelines for Multinational Enterprises. It referred to economic, environmental and social problems arising from industrialisation in rural India. Insofar as the referral was based primarily on facts prior to May 2011, the NCP deemed that the OECD recommendations issued in May 2011² did not apply to prior events.

After investigating this specific instance and proposing its good offices to the parties as from September 2012, the NCP terminated its examination of the referral in July 2013 and then prepared a statement. Upon learning the content of the draft decision, the plaintiffs withdrew the specific instance. In accordance with the Guidelines' Procedural Guidance and the NCP's Rules of Procedure, the NCP decided to publish the decision that it had adopted at the conclusion of its work³. On 27 September 2013, the NCP issued its decision⁴, which was posted on its Internet site.

In its statement, the NCP found that, on the whole, the Michelin Group had complied with the OECD Guidelines, but it cited a number of examples of inadequate compliance with or implementation of certain recommendations of the Guidelines. These failings concerned due diligence measures, community information, the lack of an in-depth human rights impact study, the assessment of industrial risks and the potential environmental impact of the Thervoy factory's operations and the information made available to Michelin employees in France.

¹ Thervoy Grama Makkal Nala Sanga.

² The foreword to the revised Guidelines stated that they proposed “[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.

³ Statement of 24 September 2014: <http://www.tresor.economie.gouv.fr/File/397316>.

⁴ Statement of 27 September 2014: <http://www.tresor.economie.gouv.fr/File/397224>.

The NCP made the following recommendations to the Michelin Group:

- That it continue using its influence on its Indian partners to ensure the full implementation of the Madras High Court decision of 16 September 2009 on compensation measures to be awarded to the Thervoy villagers;
- That it proceed promptly with the launch of the impact study, which was considered a priority, after discussions and agreement with renowned experts and with the communities that may be impacted by Group activities;
- That it ensure the involvement of local communities in the study follow-up and set up a more formal communications system so that the communities' views can be expressed;
- Moreover, the NCP noted the Group's undertaking "to respect at its Thervoy plant, employment standards that are consistent with common Indian law, with ILO recommendations, with OECD Guidelines for Multinational Enterprises, and consistent with its own internal principles as applied in every Group plant, anywhere in the world".

In accordance with its decision and Article 32 of its Rules of Procedure, the NCP considered it necessary to examine the follow-up to its recommendations. The plaintiffs having withdrawn from the procedure, the NCP shall report on actions taken by the company in recent months.

1. Actions taken by the Michelin Group in the wake of the NCP recommendations

The Michelin Group pledged to co-operate with the NCP and to keep it informed regularly of measures taken subsequent to the referral. This subject was brought up regularly at NCP meetings. An initial progress report has been submitted to the NCP.

Today, the NCP notes the following developments:

- **The Group is using its influence on its Indian partner Sipcot so that Sipcot fulfils its obligations.** In this regard, the Group is monitoring implementation of the 2009 decision of the Madras High Court⁵ and is preparing a legal study on land compensation, which will be forwarded to Sipcot. The NCP regrets that Sipcot has still not carried out the last compensation measure decided in 2009. It notes that, according to the information available, it would seem that the local authorities have identified the plots of land and arranged for their transfer between the relevant administrative authorities. The delay is believed to stem from the complexity of the legal and

⁵ Following complaints filed by the Sangam association protesting, *inter alia*, the clearing of vegetation from the Thervoy industrial site and the change in the site's use (from pastoral to industrial), the Madras High Court handed down several rulings in May, August and September 2009. On 16 September 2009, the Madras High Court validated the planned functional transformation to create an industrial park. It ordered the site manager (Sipcot) and the Tamil Nadu authorities to obtain adequate environmental clearance and asked them to carry out three measures to compensate the Thervoy villagers: to re-house 15 persons who, according to the Court, were occupying the site "illegally"; to set aside 40 hectares of the site for the villagers' use; and to grant them 167 hectares outside the site within three years, *i.e.* by September 2012. The first two measures have been implemented. In March 2010 the Supreme Court of India rejected Sangam's appeal of the Madras High Court decision of 16 September 2009.

administrative procedures governing land ownership in India. The NCP would therefore encourage the Group to pursue its due diligence measures so that Sipcot effectively carries out the remedial measures ordered by the Indian courts in 2009.

- **The NCP welcomes the fact that impact studies are being prepared.** It has noted that because of the inability to locate a single service provider, the impact study has ended up having to be split into two components, focusing respectively on the environment and human rights. The NCP was consulted regarding terms of reference for the studies. The NCP then recommended that the Group add to the specifications so that the study would factor in the particular circumstances surrounding the project, the project's special features and impacts stemming from the factory's operations. The study should also stipulate, in respect of each environment-related topic: the main challenges and impacts, as well as avoidance, reduction and compensation measures in the event of any notable detrimental residual impact. Provision should also be made for the study to make arrangements to monitor implementation of the measures proposed, along with a mechanism for tracking and checking their effectiveness (procedures, governance, cost, etc.). The environmental impact study should be launched by July 2014. The NCP is being consulted in connection with the first phase of the human rights impact study, along with the other stakeholders. The Group has confirmed that it would forward copies of the studies to the NCP.
- **The NCP notes that the Group has undertaken to establish formal channels of communication with local stakeholders.** In order to improve the information provided to them, it has been bolstering existing mechanisms by scheduling inspections, holding regular meetings and selecting topics of discussion that cover the populations' concerns over employment, environmental hazards and the establishment of regional infrastructure. To enhance the consultation process, representatives of local stakeholders are to be incorporated into the site's executive bureau for corporate social responsibility (CSR). The NCP stresses the importance of these measures, which address its recommendations for better information and consultation of the site's neighbouring populations.
- **The NCP has noted the Group's repeated undertaking to apply its employment standards, along with those of the ILO and the OECD,** to its employees in Tamil Nadu and to those working for its subcontractors on a fixed or occasional basis.
- **The NCP has been advised of statistics on local direct and indirect employment in Tamil Nadu, as well as at the Thervoy site:** 95% of the people are from India and 70% from Tamil Nadu; of the 800 persons currently employed at the Thervoy site, 68% are from the 31 surrounding villages and 24% from Thervoy.
- **The NCP has learnt of the environmental measures taken at the end of 2013 to prevent environmental hazards and protect the environment.** It has received detailed information about water resource management and air quality monitoring. The Group has indicated that its internal standards in the realms of the environment, health and safety were being applied in Thervoy, as at all of its other sites.

2. Other Michelin Group initiatives to improve dialogue with stakeholders

In addition to its actual monitoring of the specific instance, the NCP has noted measures taken by the Michelin Group in the realm of CSR: at headquarters, institution of a Director of Relations with NGOs; formulation of a Group policy vis-à-vis NGOs and a group policy vis-à-vis stakeholders in order to do a

better job of factoring in civil society's expectations before carrying out its projects, in line with the revised Guidelines. A new Group directive, *Relations with NGOs*, and a methodology handbook were adopted and distributed; a second Group directive, *Relations with Stakeholders*, and a second methodology handbook are being prepared. Internal training sessions have already been carried out on the new instruments. A programme of dialogue with its stakeholders has been established on a worldwide level. The NCP can only note this with satisfaction.

Lastly, the NCP notes that it will be informed of the application of these new instruments at the Thervoy site and that it will receive copies of the 2013 Sustainable Development Report, the 2013 Reference Document and the 2010-2013 India CSR Report.

In all, seven months after the publication of its statement terminating the specific instance, the NCP notes that the Michelin Group has taken a whole series of measures to implement its recommendations, on which it reports regularly. The NCP therefore thanks the Group for its co-operation and for the transparency it has shown us. The establishment of formal channels of communication with local stakeholders at the Thervoy site and consultations with them in connection with performance of the impact studies should contribute to constructive dialogue with all neighbouring population groups. The impact studies will then provide crucial input for the formulation of the Group's CSR strategy for the site.

The NCP is also pleased that its action has enabled these positive developments in the wake of its recommendations. It strongly encourages the Group to pursue its actions along these lines.

The NCP will continue to monitor implementation of its recommendations, in compliance with Article 32 of its Rules of Procedure.

This statement reflects a consensus of the NCP, except for one trade union organisation.

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