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Swedish National Contact Point initial statement – Takkom Jerry and Lumiere Synergie Developpement’s complaint against Nykomb Synergetics Development AB

The NCP:s assessment

The Swedish National Contact Point has decided that the issues raised in the notification merit further examination and has accepted the complaint. That the notification is accepted does not mean that the NCP considers that the company has acted inconsistently with the guidelines. The NCP has only considered whether the notification could merit further consideration, and not the substance of the claims.

The complaint

On 7 May 2015, Takkom Jerry and Lumiere Synergie Developpement filed a complaint against Nykomb Synergetics Development with the Swedish National Contact Point.

Nykomb Synergetics Development AB (Nykomb) is an investment company based in Stockholm that develops electrical power plant projects. In 2006 Nykomb led a consortium of companies which responded to a request for a proposal for 2 x 125 MW coal-fired electrical power plants on the basis of BOO (“Build, Own & Operate”), launched internationally by the tender board of Senegal on behalf of the state-owned electricity company Senelec. In 2007 the tender board declared Nykomb’s consortium the winning bidder of this tender process. Partly due to lack of additional funds the project was delayed until November 2013.

Compagnie d' Electricite de Senegal, CES, was formed in order to develop and operate the so-called Sendou power plant located in the village of Bargny, 32 km from the city of Dakar.

According to the NGO:s the project has human and environmental impacts. They claim that Nykomb has not engaged meaningfully with local communities and that community members that have been impacted by the project and resettled have not been compensated.

In the complaint, the two NGO:s claim that Nykomb has not complied with the following provisions of the OECD Guidelines:

- Chapter II General Policies, §10, §11, §14, which state that enterprises should carry out risk-based due diligence, avoid causing or contributing to adverse impacts on matters covered by the guidelines and engage with relevant stakeholders
- Chapter IV Human rights, §2, §5, which state that enterprises should avoid causing or contributing to adverse human rights impacts and address such impacts when they occur and carry out human rights due diligence
- Chapter VI, Environment §1, §2 and §3 which state that enterprises should establish and maintain a system of environmental management in order to protect the environment, public health and safety as well as engage in consultation with communities affected by the policies of the enterprise

The complainants ask that the Swedish NCP use its good offices to facilitate a dialogue between the parties. The complainants also suggest that Nykomb relocates its power plant.

The company's response

According to the company the 29 hectares site for the power plant project is located in an industrial zone of 5020 hectares and part of it was earmarked by the Government of Senegal for electricity production. In April 2010 Compagnie d'Electricite du Senegal (CES) purchased the site from the Government after the public had been informed in the press about the sale. The site is surrounded by a 500

meters wide security zone in which no activity is allowed in conformity with the environmental norms.

The project is financed at 70 % by loans provided by African Development Bank (the lead arranger and senior lender), West African Development Bank and Netherlands Development Finance Company.

An impact assessment was made by the African Development Bank in 2009.

The NCP:s conclusion

In accordance with the OECD guidelines for handling complaints the Swedish NCP has assessed that the complaint fulfills the criteria for further consideration.

Background: National Contact Point

All countries adhering to the OECD Guidelines for Multinational Enterprises undertake to support and promote the Guidelines by setting up National Contact Points. The Swedish NCP is a three-party cooperation between the State, the business sector and employee organisations. The State is represented by several ministries at the Government Offices. The Ministry for Foreign Affairs is the chair. The business sector is represented by the Confederation of Swedish Enterprise and the Swedish Trade Federation, and employee organisations by the Swedish Trade Union Confederation, the Swedish Confederation of Professional Associations, the Confederation of Professional Employees, Unionen and IF Metall.

The NCP cannot reconsider court decisions, has no legal authority and cannot impose sanctions. The main task of the Contact Point is to promote company compliance with the Guidelines and to contribute to solving problems in individual cases through dialogue and discussion.