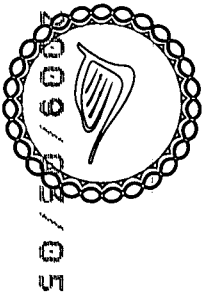


9038888



An Roinn Fiontar, Trádála agus Fostaíochta
Department of Enterprise, Trade and Employment

Dublin, 19 February 2009.

Subject: Admissibility of Specific Instance concerning Corrib Gas Project

Dear Sir/Madam,

On 21st and 22nd of August 2008 respectively, the Irish and the Dutch National Contact Points for the OECD Guidelines for Multinational Enterprises (the NCPs) received a specific instance submitted by Irish organisations Pobal Chill Chomain, Kilcommon, Ballina, Co Mayo, and the French NGO Sherpa (from hereon: Notifiers). The specific instance concerns the exploration of the Corrib Gas field by a consortium of multinational enterprises, comprising of Royal Dutch Shell, Statoil, and Marathon Oil Corporation (from hereon: the Consortium).

A copy of the specific instance deposited by the Notifiers is attached.

In this letter the Irish NCP, being the leading NCP in this specific instance, in cooperation with the Dutch NCP, declares the specific instance merits further consideration and sets out the boundaries in which the NCPs will operate in this procedure.

The Notifiers requested the NCPs:

- "That the present complaint be accepted and processed in all of its terms so that it can be judged, and thus strengthen and promote respect to the OECD Guidelines for Multinational companies in Ireland;
- That compliance with the OECD Guidelines will be strongly recommended to the companies involved, in their present and future endeavours; and
- That a negotiation channel be opened between the companies hereby complained against and the local community of Rossport under supervision of the NCPs in order to find an alternative solution to put a stop to this conflict."

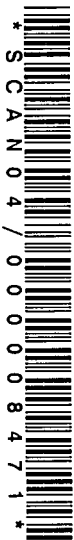
Competence of NCPs with regard to compliance with legal obligations

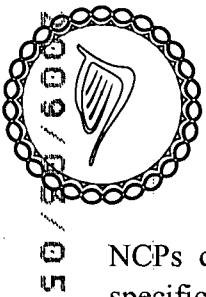
The specific instance as submitted to the NCPs alleges that the Consortium has violated Chapter II (General Policies) paragraphs 2 and 3, and Chapter V (Environment), paragraphs 2 and 3, of the OECD Guidelines. The vast majority of these allegations of non-compliance are based on non-compliance with several EU Directives, the Rio Declaration, and the European Convention for Protection of Human Rights and Fundamental Rights.

The NCPs need to make it clear that NCPs are not in the position to determine whether a private entity or a State has acted in compliance with domestic or international legal obligations.

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NCPs constitute a grievance mechanism where stakeholders of companies' behaviour in specific instances can ask for resolution of conflicts and recommendations on application of the OECD Guidelines. Compliance with legal obligations is, first of all, a competence of the judiciary of the country in which the alleged violations took place, and secondly, the starting point for the field of application of the OECD Guidelines. NCPs can only establish that the OECD Guidelines are contravened vis-à-vis domestic or international legislation once this has been determined by a Court, be that a local Court, or a Court of ultimate jurisdiction, such as the European Court of Justice.

Initial assessment of issues raised

In their initial assessment of whether the issues raised merit further examination, the NCPs found the identity of the parties concerned and their interests in the matter are obvious and their issues material and substantiated [As mentioned in para.14 of the Commentary on the Implementation Procedures of the OECD Guidelines for Multinational enterprises].

The NCPs are aware of the legal proceedings with the Irish High Court that are also related to the Corrib Gas project. The NCPs, as mentioned above, are not in a position to deal with legal questions and must therefore, act within this limitation. Consequently, in dealing with this specific instance, the NCPs, acting in accordance with the OECD Guidelines, are not constrained in examining *all* aspects this specific instance. The NCPs are of the opinion that consideration of this specific instance will contribute to the purpose and effectiveness of the Guidelines in their entirety. Accordingly, the issue raised with the NCPs are considered *bona fide* and relevant to the implementation of the Guidelines.

Bandwidth of operation of the NCPs

With regard to questions of the Consortium's compliance with the OECD Guidelines, the NCPs in this specific procedure will examine whether the Consortium engaged in a meaningful dialogue with the public, as laid down in Chapter V paragraph 2, based on the course of events of the Corrib Gas project. This provision of the Guidelines applies equally when the authorities, when assessing the application for permission of constructing the project, would not require such public participation by law.

Most important, however, is the resolution of the dispute. For that purpose the NCPs wish to offer a platform for discussion at which the Notifiers and the Consortium, under the guidance of the NCPs, have the opportunity to discuss their mutual interests in resolving their differences [As mentioned in para.17 of the Commentary on the Implementation Procedures of the OECD Guidelines for Multinational enterprises].

Final remarks

The fact that the NCPs, in their joint effort, decide to take the specific instance into consideration, in no way constitutes a prejudgment on the allegations made in the originally filed specific instance concerning the Consortium.

In facilitating this process, the NCPs leave it to the discretion of both Notifiers and the Consortium as to which of the organisations within their group will represent them.



An Roinn Fiontar, Trádála agus Fostaíochta
Department of Enterprise, Trade and Employment

The NCPs will invite both parties to separate meetings within the next six weeks.

The Irish National Contact Point,

The Netherlands National Contact Point,

Ms. Anne Webster 19/02/09

Mr. Frans Evers 19/02/09

Cc. The National Contact Points of Norway and of the United States of America.