

Memo

From

T.D. van Hoolwerff

Date

13-12-2008

To

Shehri - CBE, Pakistan;
and
SHV Holding BV, Netherlands

Memo number

BEB/HPG /

Subject

Admissibility of Specific Instance concerning SHV Holding's Pakistani Subsidiary Makro-Habib Ltd.

Formal admissibility

The Netherlands National Contact Point hereby declares that the specific instance brought by Shehri-CBE concerning SHV Holding's Pakistani subsidiary Makro-Habib Ltd. is admissible and merits further consideration for the following reasons.

The Commentaries to the OECD Guidelines for Multinational Enterprises (the Guidelines) provide for a set characteristics of the specific instance that have to be taken into account when assessing its admissibility, which are:

1. whether the issue is bona fide and relevant to the implementation of the Guidelines;
2. the identity of the party concerned and its interest in the matter;
3. whether the issue is material and substantiated;
4. the relevance of applicable law and procedures;
5. how similar issues have been, or are being, treated in other domestic or international proceedings;
6. whether the consideration of the specific issue would contribute to the purposes and effectiveness of the Guidelines.

The specific instance relating to Makro-Habib meets the requirements mentioned under 1, 3 and 6. The environmental and human rights concerns raised in this specific instance are material, substantiated and seem *prima facie* in violation of the Guidelines.

As for the second parameter, Shehri-CBE appears to be a properly established and registered organisation, and the type of issue raised here seems bona fide and fits within the general area of interest of Shehri-CBE.

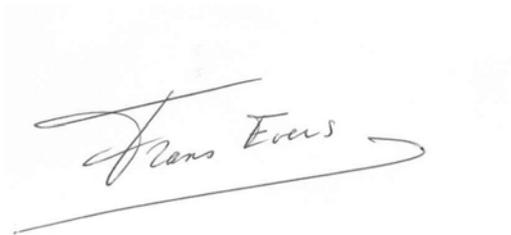
The relevance of applicable law and procedures, i.e. the status quo order, show that there seems to be a difference in legal opinions between local and national authorities. The NCP considers a discussion with SHV Holding about how it took this disagreement into account of possible added value to the effective implementation of the Guidelines in practice.

The NCP procedure: next steps

The NCP (Mrs. Bunders and Mr. De Waal) will shortly contact both parties to engage into separate discussions on the issue and to explore opportunities for a mediated result. The NCP assumes that both parties are willing to cooperate in this process.

Next, the NCP will propose an agenda for a mediatory attempt, of which (local) fact finding could form part. After closing an agreement or failure thereof, the NCP will publish a statement on the proceedings and outcome of this specific instance under the OECD Guidelines.

According to its own procedural guidance, the NCP intends to conduct a final discussion with both parties ultimately within six months. Under special circumstances, such as (local) fact finding, this term may be extended to nine months.

A handwritten signature in black ink that reads "Frans Evers". The signature is written in a cursive style and is positioned above a horizontal line that extends to the right.

Mr. F.W.R. Evers
Netherlands NCP