

SPECIFIC INSTANCE CASE: MR & MRS G V MNE I – FINAL STATEMENT OF THE NEW ZEALAND NATIONAL CONTACT POINT

Summary of the outcome of the Specific Instance

This Final Statement concludes consideration by the New Zealand National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (the Guidelines) of a Specific Instance filed by an NGO on behalf of Mr and Mrs G concerning alleged conduct towards them by a Multinational Enterprise (MNE) in relation to an insurance claim following the events of the Canterbury earthquakes in 2010 and 2011.

After reviewing the Specific Instance application and consulting the parties, a completed Final Assessment was distributed concluding that the issues raised did not merit further consideration.

Substance of the Specific Instance/Guidelines provisions cited

In June 2015, the New Zealand NCP received an application from the NGO on behalf of Mr and Mrs G alleging that MNE I, via its subsidiary, had breached the human rights provisions of the Guidelines in relation to consideration of earthquake-related damages to their investment/rental property in Christchurch following the events of the 2010 and 2011 Canterbury earthquakes. The matter had also been subject to legal action.

The application referred to Chapter 2 (A.11) and Chapter 4 (S.2) of the Guidelines and stated that the MNE's handling of an insurance claim for damage to Mr and Mrs G's investment/rental property, has caused or contributed to adverse human rights impacts on them and failed to address these once brought to its attention. The application alleged that MNE I had failed to mitigate the action of a third party linked through its business relationship.

Over the course of 2015 and 2016, the NCP considered information provided by Mr and Mrs G and MNE I about the allegations. Progress was slowed because of delays in the provision of comments by MNE I. The NCP also sought the view of Mr and Mrs G, via the NGO, on MNE I's response and finalised its assessment of the application in 2017.

Initial assessment/good offices

The NCP concluded that all issues raised against MNE I had not been substantiated and did not merit further action under the Guidelines. In particular:

- The NCP considered that factors external to MNE I impacted upon their ability to undertake timely and adequate investigations into the repair or replacement of Mr and Mrs G's property.
- The NCP considered that insufficient information was provided to substantiate the allegation of failure to communicate.
- The NCP considered that Mr and Mrs G had not substantiated that MNE I was in a "business relationship" with the third party which was a Crown entity. Even if MNE I was in a business relationship with the Crown entity, it would not have had any commercial leverage or ability to effect change due to the Crown entity operating under its authorising legislation.

Conclusion

The assessment process is to determine whether the issues raised merit further consideration and involvement, not to determine whether an MNE has “breached” the Guidelines. Based on the information supplied by both parties and for the reasons noted above, the NCP did not consider that the core issues raised in the G’s specific instance complaint, alleging breaches of their human rights by MNE I pursuant to the Guidelines, had been substantiated and/or merited further examination. The NCP did, however, consider that it might usefully engage with MNE I over the development of policies or measures to identify and assist vulnerable or at-risk customers.

New Zealand National Contact Point for the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct

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