

National Contact Point of Latvia

Final Statement on the Specific Instance submitted by an individual regarding the activities of SIA OMNIVA

Riga, 3 February 2023

Introduction to the OECD Guidelines for Multinational Enterprises and the NCP Process

The OECD Guidelines for Multinational Enterprises (*henceforth referred to as “OECD Guidelines”*) are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. They provide voluntary principles and standards for responsible business conduct (in areas such as employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation) in a global context consistent with applicable laws and internationally recognized standards.

National Contact Points (*henceforth referred to as “NCP”*) are a voluntary, non-judicial dialogue facilitation mechanism. Established through countries’ adherence to the OECD Investment Declaration, they are mandated to: (a) promote the adoption of the OECD Guidelines for Multinational Enterprises on responsible business conduct by companies, as guiding principles in their day-to-day operations, and (b) facilitate dialogue between companies and affected parties, when specific issues related to a Company’s operations fall within the scope of the OECD Guidelines.

Following the receipt of a request for review, the NCP conducts an initial assessment with an aim to determine whether the issue raised merit further examination. If the NCP establishes that a facilitated dialogue could potentially address the issue raised, the NCP can offer to the Company and those making the claim to participate in a facilitated dialogue or mediation on a voluntary and good faith basis. The objective of a dialogue is to establish a better understanding of the issue and identify a path forward to the concerns identified in the submission to the NCP. The Latvian NCP is not required by the OECD to render a finding of “breach” to the OECD Guidelines, but it can do so, at its sole and entire discretion. It is not the role of the LVNCP to provide the remedy. The NCP offers a neutral forum for a facilitated dialogue or mediation to find solutions together, when there is reason to believe that such dialogue can help find agreeable solutions, while advancing the implementation of the OECD Guidelines by companies.

Whether the NCP offers its “good offices” to the parties or not, and whether there is any agreement or not between the parties, the Procedures require the NCP to make the results of its proceedings publicly available by publishing a final statement on the OECD and the NCP’s web site. It is important to note that the OECD Guidelines are not laws. Similarly, NCPs are not law enforcement agencies or courts. The primary value-added of NCPs is the facilitation of dialogue for purposes of resolving disputes.

Request for Review Process for the Specific Instance

On 9 July 2021, the Estonian NCP received a submission from a private individual (*henceforth referred to as “submitter”*), residing in Latvia, alleging that SIA OMNIVA (*henceforth referred to as “SIA OMNIVA” or “the Company”*), a logistics subsidiary Latvian company owned by an Estonian parent company, is not observing OECD Guidelines. The submitter stated that the Company fails to conform with responsible business conduct standards pointing to repeated instances where courier van drivers had parked their vehicle in a mixed residential and offices based commercial area next to children`s play area at the ‘no parking’ yellow line and leave it unattended with engine running while delivering parcels to OMNIVA customers. According to the submitter such practice poses threat to public health, safety and the environment, including both air and noise pollution.

The submitter first voiced his concerns in a correspondence with SIA OMNIVA but due to company`s inconclusive approach to the matter, partly based on the incomplete citation to the Traffic Law, the submitter addresses his grievances to the Estonian NCP. Later, given the fact that the Specific Instance originated from actions of SIA OMNIVA in Riga, the case was taken over by the Latvian NCP.

The submitter requested that company changed its practice by instructing its courier van drivers to perform as follows:

1. Switch off the engine when the vehicle is stationary and also when the driver leaves the vehicle;
2. Lock the vehicle when the driver leaves it;

The submitter also insisted that SIA OMNIVA has regular audits to ensure that this protocol is actually complied with.

Reviewing the Specific Instance in light of the OECD Guidelines Latvian NCP also solicited opinion of two government institutions – "Road Traffic Safety Directorate" (CSDD) and Ministry of Environment Protection and Regional Development.

Both institutions emphasised that engine idling is harmful to environment and does not reflect an understanding of sustainability issues and green thinking. Vehicle exhaust emissions contain carbon dioxide, nitric oxides, carbon monoxide, sulfur dioxide and particulate matter – all of that leading to the formation of photochemical smog and acid rain. Components of photochemical smog act as powerful irritant to the eyes and lungs.

There have been a number of studies that have shown that idling engines can produce up to twice the amount of emissions of an engine in motion. For instance, London Idling Action`s¹ 2020 research study with UK Transport Research Laboratory found that idling for just 30

¹ Idling Action is a multi-year London Mayor's Air Quality Fund project with 30 local authorities and the City Corporation working together to tackle engine idling as a source of avoidable air pollution. The project offers virtual and in-person education and targeted behaviour change interventions for schools, businesses, local authorities, hospitals and other organisations.

seconds produces twice as much pollution and wastes more fuel than switching off and restarting your engine.

The Latvian NCP in its Initial Assessment concluded that the given Specific Instance merited further examination and the settlement of the submitter's grievances could have wider implications on SIA OMNIVA's sustainability policy creating beneficial results not only to the Company but to the transport industry and society as a whole.

Actions taken by SIA OMNIVA

The review of the Specific Instance was conducted using the 2011 edition of the OECD Guidelines for Multinational Enterprises. Pursuant to the process outlined in the OECD Guidelines, the Latvian NCP offered its "good offices" to facilitate informal mediation between the Parties.

Offer of "good offices" was accepted by SIA OMNIVA during the meeting with the Latvian NCP on 10 May.

In the course of the informal mediation procedure SIA OMNIVA stated that that it has adopted a number of measures to improve its performance with the relevance to the Specific Instance. Specifically, these measures are the following:

- On 1 September 2022, the Company issued new Guidelines to courier drivers emphasising the requirement to switch off the engine and lock the van when leaving the vehicle.
- The Company closely monitors unjustified engine idling by using capabilities of the company's fleet management system software. The system gathers data about vehicles' and drivers' movements and issues reports and alerts allowing fleet managers to detect shortcomings, including engine idling, and improve performance. If breach of rules detected, the management calls to account the particular employee.
- The Company tries to reduce engine idling through training and coaching courier drivers. Courier drivers undergo regular safe driving training in collaboration with Safe Driving School (SDS). The fleet managers discuss with individual drivers any deviations from the norm and make recommendations for improvements. Guidelines for safe and economical driving are regularly communicated to courier drivers.
- The company has introduced a motivation system with monthly prizes for courier drivers with the best results in fuel economy indicators.

The abovementioned measures combined have resulted in a decrease in the average fuel consumption (in liters per km) of the entire company's fleet by 12%. The measurement is made against the previous year by calculating the average liters of fuel consumed by one transport unit per 100 km travelled.

- The company has undertaken to use the Air Freight and Logistics Sustainability Accounting Standards Board (2018).

Recommendations to the Company

- The LVNCP welcomes SIA OMNIVA's updated internal policies and procedures regarding its environmental and safety activities. The LVNCP invites the Company to introduce risk-based due diligence and a system of environmental management based on accurate and truthful data and to do regular monitoring of its activities in light of its environmental and social objectives.
- Even though the Air Freight and Logistics Sustainability Accounting Standards primarily looks at "sustainability" from the business perspective, namely as the company's ability to create value over the long term, their methods are not so dissimilar to the approach advocated in the OECD Due Diligence Guidance for Responsible Business Conduct. These Standards are also about minimising damage to the environment, employees and wider community, setting targets and measuring progress towards those targets, embedding due diligence sustainability risk management in the company's governance and internal procedures. The LNCP looks forward to get acquainted with the Company' plans and reports drafted in accordance with the Air Freight and Logistics Sustainability Accounting Standards, especially those associated with carbon dioxide (CO₂) and oxides of nitrogen (NO_x).
- The LVNCP recommends to make the documents related to risk-based due diligence, including targets related to risk prevention and mitigation as well rate of success achieving those targets, available on the company's website.
- The LVNC recommends SIA OMNIVA to reevaluate its communication with external stakeholders and ensure that the information provided to them is comprehensive and legally correct. Failure to do so jeopardises chances of settlement of issues raised by the relevant stake holder. As the OECD Due Diligence Guidance for Responsible Business Conduct puts it: *"For human rights impacts that the enterprise causes or contributes to, be prepared to communicate with impacted or potentially impacted rights holders in timely, culturally sensitive and acceptable manner, the information above that is specifically relevant to them, in particular when relevant concerns are raised by them or on their behalf."*

Follow-up

- 12 months after issuing the final statement, the LVNCP will conduct an on-site visit to SIA OMNIVA Latvia to determine whether the commitments made by the company are being pursued.