



Canada's National Contact Point - Draft Final Statement

Bruno Manser Fund (BMF) and Sakto Corporation et. al. (Sakto)

On January 11, 2016, the Canadian National Contact Point (the "NCP"), for the OECD Guidelines for Multinational Enterprises (the "Guidelines"), received a Request for Review (RfR), from BMF, entitled "*Complaint against the Sakto Group, Ottawa*".

The RfR alleged that the "Sakto Group", comprised of a number of corporations operating in Canada and in foreign jurisdictions, failed to act in accordance with the disclosure provisions contained in the OECD Guidelines (Chapter III: Disclosure, paragraphs 2 and 4 (pages 27 and 28 of the 2011 Edition)).

The NCP assesses requests for review according to the Canadian NCP Procedures Guide (http://www.international.gc.ca/trade-agreements-accords-commerciaux/ncp-pcn/procedures_guide_de_procedure.aspx?lang=eng) and the Procedural Guidance provisions of the OECD Guidelines (<http://www.oecd.org/daf/inv/mne/48004323.pdf>). The NCP does not make determinations about whether companies have observed the Guidelines. The NCP process is a voluntary, alternative grievance mechanism through which the NCP can offer good offices to the parties if it is deemed appropriate.

Both the Procedural Guidance provisions of the OECD Guidelines (section C, paragraph 3, page 73), and the Canadian NCP Procedures Guide (sections 3.4 and 11.8), require the NCP to make the results of its procedures publicly available. Specifically, these same provisions in both the Procedural Guidance provisions of the OECD Guidelines and the Canadian NCP Procedures Guide, require the NCP to issue a public final statement.

The NCP met with the parties and carefully examined their respective submissions. In determining whether the allegations contained in the RfR merited further examination, the NCP considered the following factors in accordance with the Canadian NCP Procedures Guide (section 11.4):

- *the identity of the party concerned and its interest in the matter;*
- *whether the issues are material and substantiated;*
- *whether there seems to be a link between the enterprise's activities and the issue raised in the specific instance;*
- *the relevance of applicable law and procedures, including court rulings;*
- *how similar issues have been, or are being, treated in other domestic or international proceedings; and*

- *whether the consideration of the specific issue would contribute to the purposes and effectiveness of the Guidelines.*

The NCP has concluded that an offer of good offices to the parties (i.e. dialogue facilitation) would not contribute to the purposes and effectiveness of the Guidelines. With the publication of this Final Statement, the Canadian NCP considers this specific instance to be closed.