

## Course of action of the Complaints and Disputes Committee after the Dutch Agreement on Sustainable Garments and Textile

### End of Agreement

The Dutch Agreement on Sustainable Garments and Textile (AGT) will end on 31 December 2021. The Steering Group has decided that ongoing complaints may also be settled after 31 December 2021.

### Compliance

The parties are expected to comply with the decision of the Complaints and Disputes Committee (CDC) based on their commitment to the Agreement and to the Rules of Procedure of the Complaints and Dispute Mechanism.

After the Agreement ends, there will be no body to monitor compliance with a CDC decision. The current Agreement stipulates that the AGT Secretariat shall monitor compliance with a CDC decision. When the Agreement ends, the AGT Secretariat will also cease to exist. This means that once the current Agreement has ended, the AGT Secretariat will no longer play any role in monitoring.

### *Possible follow-up pursuant to the Agreement*

Should one or more parties fail to comply with a CDC decision, a number of sanctions may be imposed pursuant to the Agreement. The table below indicates whether the parties may continue to impose the relevant sanction after the Agreement ends on 31 December 2021.

<b>Sanction</b>	<b>Situation after the Agreement ends</b>
If an Enterprise has failed to comply with a binding decision by the Committee concerning a Complaint, or has failed to do so within the time limit set by the Committee, the Secretariat will report this to the Steering Group.	Will expire. The Secretariat will cease to exist after 31 December 2021.
If compliance with the Committee's decision involves influencing a supplier who cannot be induced to cooperate, and a possible joint approach by the Enterprises involved in the Agreement does not lead to a desired result, the Steering Group may decide to place the supplier(s) on a list of companies from whom participating Enterprises may no longer purchase.	Will expire. The AGT will cease to exist after 31 December 2021.
In the case of 'culpable non-compliance' <sup>1</sup> the parties concerned and the parties to the Agreement are free to publish substantive information about the Complaint and their opinion on the failure to comply with the Committee's binding decision.	Remains in effect. The parties concerned have the option of disclosing substantive information. <sup>2</sup>
Parties to the Agreement may nominate the Enterprise for expulsion.	Will expire. The AGT will cease to exist after 31 December 2021.

<sup>1</sup> 'Culpable non-compliance' is when the non-compliance is attributable to the party that does not comply. When (external) factors make compliance impossible, there is no culpable non-compliance.

<sup>2</sup> Article 41 of the AGT Rules of Procedure state that Parties to a dispute or complaint are bound by confidentiality in respect of all information presented to them in the course of the procedure and which has not been made public during the procedure. After the end of the Agreement, the duty of confidentiality will continue to apply.

### *Legal steps*

Finally, the parties have the option of initiating proceedings before the court. The court may:

- be asked by either of the parties to the proceedings to review the CDC's decision. The substance of the Committee's decision is not reviewed in these proceedings; the review is non-substantive in nature, with the court only ascertaining whether there has been a violation of fundamental principles of due process. This means that the court does not review the substance of the decision itself but only whether it was arrived at properly.
- be asked by either of the parties to the proceedings to enforce compliance. The court does not review the substance of the CDC's decision in that case. The court will only ascertain whether the decision has been complied with. The parties to these proceedings must comply with the obligations under the CDC decision (the binding recommendations). If they refuse to comply with the binding recommendations or fail to comply with them on time, the recommendations are legally enforceable. The court may, for example, impose a financial penalty to ensure compliance. In that case, a penalty is imposed on the non-complying party for each day of 'non-compliance'. If compliance is sought, the parties once again have an obligation to furnish facts and burden of proof. The party asserting the claim must specify which aspects of the decision have not been complied with. It is then up to the other party to prove that it did comply with the decision.

### **Procedure before the National Contact Point OECD Guidelines (NCP)**

A CDC procedure does not exclude the possibility of a procedure before the NCP. Parties may initiate new proceedings before the NCP if they so wish.

The NCP offers the possibility of mediation between parties in the event of a report or problem, subject to the agreement of the parties concerned. The NCP's consideration of a specific instance is not a judicial procedure. For more information about the procedure, see [www.oesorichtlijnen.nl/meldingen](http://www.oesorichtlijnen.nl/meldingen).

*Note: the NCP cannot be asked to enforce compliance with a CDC decision.*