

GLOBAL RIGHTS ADVOCACY AND SEATTLE UNIVERSITY SCHOOL OF LAW INTERNATIONAL HUMAN RIGHTS CLINIC AND TERNIUM S.A.

INITIAL ASSESSMENT

13 JULY 2026, LUXEMBOURG

The objective of the initial assessment process under the Implementation Procedures is to determine whether the issues raised in the specific instance warrant further examination. If so, the NCP will offer or facilitate access to consensual and non-adversarial procedures, such as dialogue, mediation or conciliation (e.g. ‘good offices’) to the relevant parties.

The NCP has at this stage made no determination as to whether the company has acted consistently with the OECD Guidelines. As specific instances are not legal cases and NCPs are not judicial bodies, NCPs cannot impose sanctions, directly provide compensation or compel parties to participate in a conciliation or mediation process.

TABLE OF CONTENTS

Executive summary	2
Substance of the submission (facts presented) and the enterprise’s response	2
Summary of the complaint	3
Response from Ternium	5
The proceedings of the NCP to date	7
Initial assessment by the NCP	8
1. <i>The identity of the party concerned and its interest in the matter;</i>	9
2. <i>Whether the issue is material and substantiated?</i>	9
3. <i>Whether the enterprise is covered by the Guidelines?</i>	11
4. <i>Whether there seems to be a link between the enterprise’s activities and the issue raised in the specific instance?</i>	11
5. <i>What is the extent to which applicable law and/or parallel proceedings limit the NCP’s ability to contribute to the resolution of the issue and/or the implementation of the Guidelines?</i>	12
6. <i>Whether the examination of the issues contributes to the purposes and effectiveness of the Guidelines?</i>	12

Conclusion.....	13
Next Steps	14
Annex: Overview of the OECD Guidelines, NCP and its role	15

EXECUTIVE SUMMARY

On 12 May 2025, Global Rights Advocacy and the Seattle University School of Law International Human Rights Clinic submitted a specific instance to the Luxembourg National Contact Point (“LuxNCP” or the “NCP”) and to the United States National Contact Point (“U.S. NCP”) concerning Ternium S.A. under Chapter IV (Human Rights) of the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (“Guidelines”). The complaint concerns Ternium’s mining activities and related business relationships in Aquila, Michoacán, Mexico, in connection with the disappearance of Mr. Ricardo Lagunes Gasca and Mr. Antonio Díaz Valencia.

Following coordination among the Luxembourg, U.S. and Mexican NCPs, the Luxembourg NCP is handling the specific instance as lead NCP, in coordination with the United States and Mexican NCPs.

The complainants allege, in substance, that Ternium contributed to adverse human rights impacts, failed to seek to prevent or mitigate adverse impacts directly linked to its operations or business relationships, failed to carry out human rights due diligence appropriate to a high-risk context, and did not cooperate adequately in remediation-related processes. Ternium rejects those allegations, denies any direct or indirect involvement in the disappearance, states that it has cooperated with the competent authorities, and states that it has acted consistently with the Guidelines.

In accordance with the Implementation Procedures of the OECD Guidelines (“Procedures”), and the LuxNCP’s Rules of Procedure, the NCP assessed whether the issues raised warrant further examination. For the purposes of this initial assessment, the NCP considers that the complainants have identified a legitimate interest in the matter, that the issues raised are material and sufficiently substantiated for further examination, and that Ternium is an enterprise covered by the Guidelines. The NCP also considers that there appears to be a link between the issues raised and Ternium’s activities and related business relationships in Aquila, and that applicable law and related proceedings do not, at this stage, appear to prevent the NCP from offering its good offices. The NCP further considers that further examination could contribute to the purposes and effectiveness of the Guidelines.

On the basis of that assessment, **the NCP considers that the specific instance warrants further examination and accepts it accordingly. Accepting the specific instance does not constitute a finding that Ternium has acted inconsistently with the Guidelines or a determination on the factual accuracy of the parties’ respective submissions.**

The NCP offers its good offices to the parties. Participation in good offices is voluntary. If good offices do not take place or do not result in agreement, the NCP will continue handling the specific instance in accordance with the Procedures. The NCP will conclude the specific instance with a final statement in accordance with its Rules of Procedure.

SUBSTANCE OF THE SUBMISSION (FACTS PRESENTED) AND THE ENTERPRISE’S RESPONSE

On 12 May 2025, Global Rights Advocacy and the Seattle University School of Law International Human Rights Clinic (the “complainants”) submitted a specific instance (the “complaint”) to the Luxembourg National Contact Point (“LuxNCP” or the “NCP”) and the United States National Contact Point (“U.S. NCP”), alleging non-observance by Ternium S.A. (“Ternium” or the “company”) of Chapter IV (Human Rights) of the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (the “Guidelines”). The complaint concerns Ternium’s mining activities and related business relationships in Aquila, Michoacán, Mexico, and the alleged enforced disappearance of Mr. Ricardo Lagunes Gasca and Mr. Antonio Díaz Valencia.

The complainants allege that Ternium contributed to, and failed to prevent or mitigate, adverse human rights impacts in relation to the disappearance of Mr. Lagunes Gasca and Mr. Díaz Valencia. They further allege, inter alia, that Ternium contributed to divisions within the Aquila community, failed to carry out adequate human rights due diligence in a high-risk context, did not engage appropriately with the families, did not adapt its conduct and practices to the risks raised, and did not cooperate adequately in processes relating to investigation and remedy.

Ternium submitted a written response to the NCP on 3 October 2025, in which it categorically denied any direct or indirect involvement in the disappearance and maintained that it had acted consistently with the Guidelines. Ternium stated that the events occurred in a broader context of criminal violence in the region, emphasised that no criminal charges had been brought against the company or its personnel, and rejected the allegations relating, inter alia, to community division, human rights due diligence, and stakeholder engagement. It further stated that it had cooperated with the competent authorities and had acted within the limits of its role and responsibilities. Ternium also disputed the manner in which the complainants have publicly and institutionally associated the company with the disappearance, an association it considers unfounded and damaging to its reputation.

The following sections summarise the main allegations of the complaint and the company’s response for the purposes of the initial assessment. **At this stage, the LuxNCP does not comment on the factual accuracy of either position. References to allegations, denials, concerns or characterisations made by either party should be understood as summaries of that party’s position and do not constitute findings or endorsement by the NCP.**

SUMMARY OF THE COMPLAINT

FACTUAL AND CONTEXTUAL BACKGROUND AS PRESENTED BY THE COMPLAINANTS

The complainants submit that the enforced disappearance of Mr. Antonio Díaz Valencia and Mr. Ricardo Lagunes Gasca in January 2023 occurred in a context of longstanding violence, internal tensions, and heightened risks for human rights, environmental, and indigenous defenders in Aquila, Michoacán. They describe Mr. Díaz Valencia as a community leader and educator within the indigenous community of San Miguel de Aquila, and Mr. Lagunes Gasca as a human rights lawyer engaged in the defence of indigenous land and governance rights through agrarian law. According to the complainants, both had been involved in legal and advocacy efforts relating to communal governance and had publicly raised concerns regarding environmental and social impacts associated with mining activities. The complainants further state that, prior to their disappearance, Mr. Díaz Valencia and Mr. Lagunes Gasca had raised their concerns with national authorities and indicated that they intended to pursue peaceful protests.

The complainants further describe Ternium's longstanding presence in Aquila through its subsidiary Las Encinas S.A. de C.V. (LESA), and place the complaint in the broader context of reported environmental impacts, alleged community divisions, and violence in the region. They submit that violence against land and environmental defenders in the broader Michoacán-Colima-Jalisco corridor is well documented and relevant to understanding the risks faced by Mr. Díaz Valencia and Mr. Lagunes Gasca at the time of their disappearance.

MAIN ALLEGATIONS UNDER CHAPTER IV OF THE OECD GUIDELINES

The complainants allege non-observance of Chapter IV (Human Rights) of the OECD Guidelines, referring in particular to paragraphs 2, 3, 5 and 6. In substance, they submit that Ternium contributed to adverse human rights impacts, failed to seek to prevent or mitigate adverse human rights impacts directly linked to its operations or business relationships, failed to carry out human rights due diligence appropriate to the context, and did not cooperate adequately in remediation-related processes.

First, the complainants allege that Ternium contributed to adverse human rights impacts by interfering in community governance and exacerbating divisions within the indigenous community. According to the complaint, the company engaged with or recognised actors that the complainants consider not to have held legitimate communal authority under Mexican agrarian law, thereby reinforcing internal conflict in a context already marked by violence and insecurity. The complainants further submit that these tensions intensified in connection with mining expansion and related community and institutional processes, and that Mr. Díaz Valencia and Mr. Lagunes Gasca were targeted in the course of opposing those developments.

Second, the complainants allege that Ternium failed to seek to prevent or mitigate adverse human rights impacts directly linked to its operations and business relationships. They submit that the company operated in a context characterised by organised crime, violence against defenders, and serious security risks, and that it knew or should have known of specific warning signs affecting Mr. Díaz Valencia and Mr. Lagunes Gasca, including alleged threats, tensions raised in meetings involving company representatives, and communications addressed to public authorities. The complainants alleged that, Ternium nevertheless did not adapt its conduct or take reasonable steps to address the heightened risks faced by the two defenders.

Third, the complainants allege that Ternium failed to carry out human rights due diligence appropriate to the severity of the risks present in its operating context. They characterise Aquila and the broader Michoacán-Colima-Jalisco mining corridor as a high-risk environment requiring heightened due diligence, including stronger risk identification, attention to impacts on human rights defenders and indigenous peoples, and meaningful engagement with affected stakeholders. They submit that Ternium did not demonstrate such heightened due diligence, including in relation to site-specific human rights risks, stakeholder engagement, and adaptation of its practices following the disappearance of Mr. Díaz Valencia and Mr. Lagunes Gasca.

Fourth, the complainants allege that Ternium did not provide for, or cooperate through legitimate processes in, remediation. They submit that, after the disappearance, the company did not engage in a manner that adequately supported clarification of the circumstances, efforts to locate Mr. Díaz Valencia and Mr. Lagunes Gasca, or the families' access to remedial processes. They further allege that Ternium did not engage meaningfully with the families and their representatives despite repeated requests, and that certain steps taken by the company in the context of the criminal investigation had what the complainants describe as a discouraging or intimidating effect on families, representatives, and potential witnesses. The complainants also submit that Ternium's public and institutional engagement after the disappearance focused more on

distancing the company from the events and engaging with public authorities and community governance actors than on direct engagement with the families.

The complainants also refer to safety concerns and concerns regarding the effectiveness of domestic processes in Mexico as part of the context for their request that the Luxembourg and United States NCPs handle the specific instance.

The complaint was accompanied by testimonies, public reports, media reports, and other documentation submitted by the complainants.

REMEDIES SOUGHT BY THE COMPLAINANTS

The complainants request that Ternium, among other things, refrain from any reprisals; support efforts aimed at locating Mr. Ricardo Lagunes Gasca and Mr. Antonio Díaz Valencia; ensure accountability and transparency regarding its internal response; carry out a human rights impact assessment focused on disappearances and violence against defenders; strengthen its human rights due diligence processes, particularly with regard to defenders at risk; and refrain from expanding activities in Mexico until the safety and whereabouts of Mr. Ricardo Lagunes Gasca and Mr. Antonio Díaz Valencia are clarified and the human rights concerns raised in the complaint are adequately addressed. The complainants indicate that these remedies are sought through a dialogue-based process, including mediation facilitated by the Luxembourg and United States National Contact Points. The NCP records these requests as part of the complainants' submission and does not take a position, at the initial assessment stage, on whether any of the measures sought are warranted.

RESPONSE FROM TERNIUM

On 3 October 2025, Ternium S.A. submitted a written response to the complaint. In that response, the company set out its position regarding the disappearance of Mr. Ricardo Lagunes Gasca and Mr. Antonio Díaz Valencia, the allegations raised under Chapter IV of the OECD Guidelines, and the specific instance process. Ternium's response was accompanied by company policies and related documents submitted by the company.

TERNIUM'S GENERAL POSITION

Ternium states that, prior to their disappearance, it had maintained a constructive and respectful relationship with both Mr. Ricardo Lagunes Gasca and Mr. Antonio Díaz Valencia, and that it contacted family members shortly thereafter to express condolences and offer cooperation. The company categorically denies any direct or indirect involvement, or any connection of Ternium, Las Encinas S.A. de C.V., or their personnel, with the disappearance or with any other unlawful act. It also rejects allegations of links to violence, organised crime, intimidation, or conduct aimed at creating or exacerbating divisions within the community.

Ternium further states that the disappearance occurred in a broader context of criminal violence and insecurity in Mexico, including in the regions where it operates. It refers to the ongoing criminal investigation conducted by the competent Mexican authorities, states that it has cooperated with that investigation whenever requested, including the Fiscalía General de la República and competent search authorities, and emphasises that neither the company nor its personnel have been charged or indicted in connection with the disappearance. The company also states that investigation, search, and law enforcement fall within the responsibility of the State, and that Ternium, as a private company, does not have and cannot assume police, investigative, or prosecutorial powers.

TERNIUM'S POSITION REGARDING THE ALLEGATIONS

Ternium rejects the complainants' allegations concerning community governance, community division, human rights due diligence, engagement with families, and remediation. It maintains that its operations in Aquila are lawful, governed by formal agreements and oversight mechanisms, and supported by broader group-wide policies on ethics, human rights, compliance, sustainability, and responsible business conduct. It states that its engagement in Aquila has taken place through recognised and legally constituted community structures, that its operations are governed by formal agreements and conducted in accordance with applicable legal and institutional frameworks, and that it neither supported any group lacking legitimate communal authority nor interfered in internal community processes. It further states that it engages only with authorities that are legally and legitimately elected by the Community's General Assembly and whose mandate can be verified under Mexican agrarian law, and that, conversely, it supported the efforts of Mr. Lagunes Gasca and Mr. Díaz Valencia to ensure the lawful and legitimate election of the community's authorities.

Ternium also contests the complainants' allegations regarding deficiencies in human rights due diligence. It refers, in particular, to group-wide policies and codes relating to ethics, human rights, and responsible business conduct, grievance and reporting mechanisms, including anonymous reporting where available or permitted by applicable law. It also refers to measures implemented in Aquila that it characterises as enhanced due diligence, including human rights training, stakeholder mapping, communication channels and grievance mechanisms. Ternium states that these policies and mechanisms are intended to identify, prevent, address, and respond to concerns arising in connection with its operations and stakeholder relationships. The company further disputes the relevance or accuracy of external benchmarking assessments referred to in the complaint, including those of the World Benchmarking Alliance.

As regards the period following the disappearance, Ternium states that it contacted family members shortly after the disappearance, cooperated with the criminal investigation and related requests from the authorities, and did not obstruct investigative or search efforts. Ternium also emphasises that the investigation, search, and administration of justice are matters for the competent Mexican authorities, and that the company's role is limited to cooperating with those authorities within its legal and practical capacity. It further states that it temporarily suspended operations in Aquila following the disappearance and resumed them only after approval from the community and the competent authorities. With regard to allegations of intimidation or reprisals, Ternium states that a complaint it submitted to the authorities concerning public accusations made by two community members, which Ternium disputed, was a legitimate exercise of its right to defend its reputation and did not constitute intimidation or reprisal.

TERNIUM'S POSITION REGARDING THE SPECIFIC INSTANCE PROCESS

Ternium states that there are no grounds for filing a specific instance under the OECD Guidelines. It further states that it has no intention of meeting or participating in any mediation process with the complainants, which it considers unfruitful, while maintaining that it has not encountered impediments to direct contact with family members. Ternium also disputes the role and conduct of the complainants in relation to the case, including whether they represent all relevant family members, and has expressed serious concerns regarding their good faith engagement in the specific instance process. It also contests the independence and reliability of certain materials on which the complaint relies, including on the basis that, according to Ternium, some of those materials were produced or promoted by the complainants or organisations associated with them.

THE PROCEEDINGS OF THE NCP TO DATE

Since receipt of the submission, the NCP has undertaken the following actions:

Date	Action
6 May 2025	Meeting held with the complainants. During that meeting, the NCP received a hard copy of the complaint.
12 May 2025	The complainants submitted a digital version of the complaint to the Luxembourg and United States NCPs.
13 May 2025	Acknowledgement of receipt sent to the complainants.
14 May 2025	Complaint shared with Ternium.
20 May 2025	Coordination call between the Luxembourg and United States NCPs. It was agreed to contact the Mexican NCP.
3 June 2025	Coordination call between the Luxembourg, United States, and Mexican NCPs. It was agreed that the Luxembourg NCP would take the lead, with support from the United States and Mexican NCPs.
12 June 2025	The parties were informed of the coordination arrangements between the NCPs.
28 July 2025	Informational meeting held with representatives of Ternium.
8 August 2025	The complainants were informed of the informational meeting held with Ternium and that the company intended to submit a written response.
3 October 2025	Ternium submitted a written response, together with supporting documents.
7 October 2025	The NCP shared Ternium's response and accompanying documents with the complainants.
3 March 2026	The complainants submitted observations on Ternium's response and requested a meeting with the NCP.
11 March 2026	Call held with the complainants. During that exchange, the complainants requested that their observations not be shared with Ternium. They stated that this request was based on safety concerns and fear of reprisals. The NCP informed the complainants that, in those circumstances, the observations would not be taken into account for the purposes of the initial assessment.
16 March 2026	The NCP informed Ternium that observations had been received from the complainants but, at their request, would not be shared with the company and would therefore not be taken into account for the purposes of the initial assessment.
24 April 2026	The NCP finalised the draft initial assessment and shared it with the United States and Mexican NCPs for their input.
28 April 2026	The NCP held a call with representatives of Ternium concerning the forthcoming communication of the draft initial assessment to both parties and the next steps in the procedure.
30 April 2026	The NCP shared the draft initial assessment with both parties for comments within 15 working days.
4 May 2026	The NCP held a meeting with the representatives of Ternium to discuss the further steps in the procedure.

11 May 2026	The NCP held a meeting with the complainants to discuss the further steps in the procedure.
22 May 2026	Ternium submitted comments on the draft initial assessment and a separate statement.
1 June 2026	The complainants submitted observations on the draft initial assessment.
10 June 2026	Coordination call held between the Luxembourg, United States, and Mexican NCPs concerning the comments received from the parties on the draft initial assessment.
13 July 2026	The NCP shared the final initial assessment with the parties.

Due to the initial coordination among the involved NCPs and the time required for the parties' written submissions, the indicative timeframe for the initial assessment could not be met.

INITIAL ASSESSMENT BY THE NCP

The objective of the initial assessment process under the Implementation Procedures of the OECD Guidelines ("Procedures") is to determine whether the issues raised warrant further examination.¹ For the purposes of this initial assessment, the NCP has reviewed the complaint, Ternium's written response, and the supporting documentation submitted by the parties.

In the initial assessment phase, the NCP assesses whether the issues raised are *bona fide*, in other words real or authentic, and relevant to the implementation of the Guidelines, in other words whether they fall within the scope of the Guidelines. In carrying out that assessment, the NCP does not determine criminal or civil liability and does not assume the role of the authorities responsible for search, investigation, or adjudication.

In the present case, the assessment concerns issues raised under Chapter IV of the OECD Guidelines in relation to Ternium's mining activities and related business relationships in Aquila, Michoacán, including the company's alleged contribution to adverse human rights impacts, its alleged failure to seek to prevent or mitigate adverse impacts directly linked to its operations or business relationships, the adequacy of its human rights due diligence in a high-risk context, its engagement with affected stakeholders and their representatives, and its cooperation in possible remediation-related processes.

This assessment is based on the six criteria set out in the Procedures, which are also reflected in the Rules of Procedure of the LuxNCP:

1. the identity of the party concerned and its interest in the matter;
2. whether the issue is material, i.e. relevant to the implementation of the Guidelines, and substantiated, i.e. supported by sufficient and credible information;
3. whether the enterprise is covered by the Guidelines;
4. whether there seems to be a link between the enterprise's activities and the issue raised in the specific instance;
5. the extent to which applicable law and/or parallel proceedings limit the NCP's ability to contribute to the resolution of the issue and/or the implementation of the Guidelines;

¹ OECD (2023), OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, OECD Publishing, Paris, <https://doi.org/10.1787/81f92357-en> ("OECD Guidelines"), C(2).

6. whether the examination of the issue would contribute to the purposes and effectiveness of the Guidelines.

The NCP's assessment of each criterion is set out below, followed by its conclusion and next steps.

1. THE IDENTITY OF THE PARTY CONCERNED AND ITS INTEREST IN THE MATTER;

According to the OECD Guide for NCPs on the initial assessment of specific instances, an NCP may take into account both the mandate of an organisation and its stated objectives in determining whether it has a legitimate interest in the matter. The same Guide indicates that organisations representing affected individuals or communities may also have such an interest.²

Global Rights Advocacy ("GRA") is described in the complaint as an organisation that provides victims with access to international human rights mechanisms through advocacy. The complaint further states that its Executive Director initiated programmes focused on representing human rights defenders at risk, and that this work includes drafting reports, issuing urgent actions, and submitting complaints to international human rights bodies. The Seattle University School of Law International Human Rights Clinic is described in the complaint as a programme that defends and promotes human rights internationally and that, through direct representation and other forms of advocacy, has worked on cases involving arbitrary detention, discrimination, and enforced disappearance. The complaint further states that the Clinic has a special interest in human rights defenders and Indigenous communities.

The complaint further states that these two organisations serve as human rights counsel for the families of Mr. Ricardo Lagunes Gasca and Mr. Antonio Díaz Valencia and that, since the disappearance of the two defenders, they have pursued advocacy and proceedings before a number of international mechanisms, including the Inter-American Commission on Human Rights and United Nations bodies and Special Procedures.

Ternium disputes the role and conduct of the complainants in relation to the case and whether they represent all family members. The NCP has taken note of that position. For the purposes of this criterion, however, the relevant question is whether the organisations bringing the complaint have mandates and stated objectives that are relevant to the subject matter of the specific instance, and a sufficient connection to the issues raised.

On the information before it, including the complainants' stated mandates and objectives and the complaint's presentation of them as human rights counsel for the families, the NCP considers that this threshold is met. It is not necessary for the purposes of this initial assessment to determine whether the complainants hold a formal mandate from every family member who may be affected by the issues raised.

The LuxNCP therefore considers that the complainants have a sufficient connection to the issues raised and a legitimate interest in the matter.

2. WHETHER THE ISSUE IS MATERIAL AND SUBSTANTIATED?

The NCP assesses materiality and substantiation as follows. An issue is material if it is relevant to the implementation of the Guidelines, that is, if it concerns conduct that falls within the scope of the Guidelines.

² Guide for National Contact Points for Responsible Business Conduct on the initial assessment of specific instances ("OECD Initial Assessment Guide") (May 2024), para. 10.

An issue is substantiated if it is supported by sufficient and credible information for the purposes of the initial assessment. The objective at this stage is to determine whether the issues raised warrant further examination, not to undertake fact-finding or to assess the merits of the parties' competing submissions. The threshold is therefore not whether the allegations are proven or otherwise established, but whether, on the basis of the information submitted, the issues raised are plausible and relevant to the application of the Guidelines.

The complaint is material because it alleges non-observance of Chapter IV of the OECD Guidelines, in particular paragraphs 2, 3, 5 and 6, in relation to Ternium's mining activities and related business relationships in Aquila, Michoacán. More specifically, the complaint raises issues concerning the company's alleged contribution to adverse human rights impacts, its alleged failure to seek to prevent or mitigate adverse impacts directly linked to its operations or business relationships, its alleged failure to carry out human rights due diligence appropriate to a high-risk context, and its alleged failure to cooperate in remediation-related processes. The complaint also raises issues that engage the Commentary to Chapter IV. These include the need to pay particular attention to adverse impacts on individuals who may be at heightened risk, such as human rights defenders and indigenous peoples, as well as the expectation of due diligence adapted to a high-risk context.

As to substantiation, the complaint is accompanied by testimonies, public reports, media reports, and other documentation submitted in support of the allegations, which Ternium contests. The complaint also sets out a sufficiently concrete factual account for the purposes of initial assessment, covering the operating context in Aquila, the roles of Mr. Ricardo Lagunes Gasca and Mr. Antonio Díaz Valencia, Ternium's operations and relationship with the indigenous community of San Miguel de Aquila, the risks and warning signs alleged to have been present prior to the disappearance, and the complainants' allegations concerning Ternium's conduct and engagement following the disappearance. The NCP also notes that certain contextual elements referred to in the complaint, including the broader insecurity in the region and the existence of an ongoing criminal investigation, are reflected in public sources or are not disputed in general terms by Ternium in its response. Taken together, the information before the NCP provides a sufficient basis for further examination of the issues raised.

Ternium disputes both the allegations and the materials on which the complaint relies. It states, inter alia, that there is no credible evidence linking the company or its personnel to the disappearance, that it maintained a respectful and collaborative relationship with Mr. Lagunes Gasca and Mr. Díaz Valencia, that it cooperated with the Mexican authorities, and that the complaint relies on materials that Ternium considers false, biased, manipulated, or non-independent. It also refers to the absence of charges or indictments against the company or its personnel and to the contact it states it made with family members shortly after the disappearance. The NCP has taken note of those arguments. The NCP is not required at the initial assessment stage to determine the factual accuracy of the materials submitted or to resolve disputed questions of fact. Its assessment is limited to whether the information submitted is sufficient and credible for the purposes of initial assessment and whether it supports the plausibility of the issues raised. Nor is the absence of criminal charges or indictments determinative in that regard: the NCP does not assess criminal liability, and the applicable threshold is whether the issues raised under the Guidelines are plausible, not whether criminal responsibility has been established. On the basis of the information before it, the NCP considers that threshold to be met.

On the basis of the above, and without determining whether the allegations are established, the NCP considers that the issues raised in the complaint are material and sufficiently substantiated to warrant further examination under the OECD Guidelines.

3. *WHETHER THE ENTERPRISE IS COVERED BY THE GUIDELINES?*

The OECD Guidelines do not provide a precise definition of what constitutes a multinational enterprise, but indicate that relevant considerations include the commercial nature of the enterprise's activities and the international character of its structure or operations. The Guidelines apply to multinational enterprises operating in or from the territories of adhering countries.

Ternium S.A. is incorporated in Luxembourg. Its materials describe it as an integrated steel company whose activities range from mining operations to the manufacture of finished steel products, and the complaint describes it as operating across several countries in the Americas, with part of its shares publicly traded on the New York Stock Exchange.

In light of its commercial activities, its cross-border structure, the international scope of its operations, and its incorporation in Luxembourg, the NCP considers that Ternium S.A. is covered by the OECD Guidelines.

4. *WHETHER THERE SEEMS TO BE A LINK BETWEEN THE ENTERPRISE'S ACTIVITIES AND THE ISSUE RAISED IN THE SPECIFIC INSTANCE?*

This criterion concerns whether the enterprise's activities are linked to the issues raised in a way that is covered by the Guidelines. As the wording "seems to be" indicates, the NCP is not required at this stage to pass a definitive judgment on the existence or precise nature of such a link. Under the Guidelines and the OECD Due Diligence Guidance for Responsible Business Conduct, an enterprise may be linked to impacts covered by the Guidelines where it has caused them, contributed to them, or is directly linked to them through its operations, products or services by a business relationship. It is not necessary at this stage to determine whether the enterprise has caused, contributed to, or been directly linked to the alleged impacts in question. It is sufficient that the issues raised appear capable of engaging one or more of those forms of linkage.

In the present case, the complaint concerns Ternium's mining activities and related business relationships in Aquila, Michoacán, including the operation of the Aquila mine through Las Encinas S.A. de C.V. ("LESA"), the company's arrangements and ongoing engagement with the indigenous community of San Miguel de Aquila, the alleged risks to human rights defenders and the due diligence issues raised in that operating context, and the company's engagement and response following the disappearance of Mr. Ricardo Lagunes Gasca and Mr. Antonio Díaz Valencia.

Ternium's own response states that the Aquila mine is operated through LESA, that the mine forms part of Ternium's integrated production system, and that the company maintains an ongoing relationship with the community in connection with its mining activities. These operational facts are not in dispute. For the purposes of this criterion, they support the conclusion that the issues raised are not detached from Ternium's operations and business relationships in Aquila. Ternium also addressed in its response the complainants' allegations concerning community governance, community relations, human rights due diligence, contact with family members, cooperation with the authorities, and the company's conduct following the disappearance..

On the basis of the above, and without determining whether the allegations are established or which mode of linkage, if any, may apply under the Guidelines, the NCP considers that there seems to be a sufficient link between Ternium's activities and the issues raised in this specific instance to warrant further examination.

5. *TO WHAT EXTENT DO APPLICABLE LAW AND/OR PARALLEL PROCEEDINGS LIMIT THE NCP'S ABILITY TO CONTRIBUTE TO THE RESOLUTION OF THE ISSUES AND/OR THE IMPLEMENTATION OF THE GUIDELINES?*

This criterion concerns whether applicable law or parallel proceedings limit the NCP's ability to make a positive contribution to the resolution of the issues raised or to the implementation of the Guidelines. Under the OECD Guidelines and the NCP's Rules of Procedure, the existence of applicable law and/or parallel proceedings does not, in itself, preclude an NCP from offering good offices. The relevant question is whether such law or proceedings limit the NCP's ability to make such a positive contribution, and whether an offer of good offices would create serious prejudice for either party or give rise to a contempt of court situation.

In the present case, the NCP notes that there is an ongoing criminal investigation in Mexico concerning the disappearance of Mr. Ricardo Lagunes Gasca and Mr. Antonio Díaz Valencia. The complaint also refers to related international processes, including proceedings or engagement before the Inter-American Commission on Human Rights, United Nations treaty bodies and Special Procedures. Ternium likewise refers to the ongoing criminal investigation and to its cooperation with the competent authorities.

The NCP has considered whether these proceedings and processes, as well as the applicable domestic legal context, limit its ability to contribute to the resolution of the issues raised. The criminal investigation concerns, in particular, the disappearance, the identification of those responsible for it, and related matters falling within the remit of the competent authorities. The related international processes have their own mandates.

By contrast, the specific instance procedure raises issues under the OECD Guidelines concerning Ternium's human rights due diligence in a high-risk context, its engagement with affected stakeholders and, where relevant, their representatives, and its response following the disappearance, including remediation-related issues where applicable under the Guidelines. These issues are distinct from determinations of criminal responsibility or findings on the causes or circumstances of the disappearance, which fall outside the NCP's mandate.

On the information before it, the NCP does not consider that accepting the specific instance for further examination and offering good offices would create serious prejudice for either party or give rise to a contempt of court situation. The NCP therefore considers that applicable law and the related proceedings identified do not, at this stage, limit its ability, through its handling of this specific instance, to contribute to the resolution of the issues raised or to the implementation of the Guidelines.

6. *WHETHER THE EXAMINATION OF THE ISSUES WOULD CONTRIBUTE TO THE PURPOSES AND EFFECTIVENESS OF THE GUIDELINES?*

The purpose of the Guidelines is to enhance the business contribution to sustainable development and to address adverse impacts associated with business activities on people, planet and society. They aim to encourage positive contributions by enterprises to economic, environmental and social progress while minimising adverse impacts associated with their operations, products and services. Their effectiveness is furthered where NCPs can contribute to the resolution of issues related to their implementation, whether by facilitating exchanges between the parties, discussing the expectations of the Guidelines with the enterprise

concerned, or, where appropriate, making recommendations. OECD guidance also makes clear that an unwillingness by one party to engage should not, in itself, be a reason not to pursue a specific instance.

In the present case, the issues raised concern alleged adverse human rights impacts in a high-risk context, including issues relating to human rights due diligence, stakeholder engagement, and the company's response following the disappearance of Mr. Ricardo Lagunes Gasca and Mr. Antonio Díaz Valencia. These are matters that fall within the scope of Chapter IV of the Guidelines and on which further examination may contribute to the purposes and effectiveness of the Guidelines. The NCP considers that such a contribution would be distinct from the domestic and international processes referred to above, which concern, in particular, the investigation of the disappearance and the determination of criminal responsibility or other matters falling within the remit of competent authorities. The specific instance procedure can provide a framework for addressing issues under the Guidelines through dialogue between the parties, should this prove possible, or otherwise through the NCP's further handling of the specific instance, including recommendations where appropriate in accordance with the NCP's Rules of Procedure.

The NCP has also considered Ternium's stated position regarding participation in good offices. Participation in good offices is voluntary, and the NCP does not consider that the position expressed by one party at the initial assessment stage prevents further examination from contributing to the purposes and effectiveness of the Guidelines.

On the basis of the above, the NCP considers that examination of the issues raised would contribute to the purposes and effectiveness of the OECD Guidelines.

COMMENTS ON THE DRAFT INITIAL ASSESSMENT

Following transmission of the draft initial assessment, the NCP received comments from Ternium, including proposed edits to the draft and a separate statement, and observations from the complainants.

The NCP reviewed the comments and observations received before finalising the initial assessment. It made revisions where it considered appropriate, including to improve factual accuracy and procedural clarity and to ensure that the parties' positions were fairly and accurately reflected. The comments received on the draft initial assessment were not exchanged between the parties.

The parties' comments, observations, and separate submissions are not reproduced or annexed to this initial assessment. They were considered for the purpose of finalising this document. The NCP takes no position in this initial assessment on contested matters raised in those submissions. The comments and observations do not expand the scope of the specific instance, which remains limited to the issues accepted for further examination. Matters relevant to those issues may be considered, as appropriate, in any further phase of the procedure.

CONCLUSION

On the basis of the six criteria set out above, the NCP considers that the issues raised in the specific instance warrant further examination under Chapter IV of the OECD Guidelines and offers its good offices to the parties.

Any further phase of the procedure, including any good offices, will be confined to the issues accepted for further examination under Chapter IV of the Guidelines, in relation to Ternium's mining activities and related business relationships in Aquila, Michoacán. These issues concern the alleged adverse human rights impacts

connected with those activities and relationships; Ternium's human rights due diligence in a high-risk context, including questions concerning whether it identified and sought to prevent or mitigate actual and potential adverse human rights impacts alleged in the specific instance; its engagement with affected stakeholders and, where relevant, their representatives; and its response following the disappearance, including remediation-related issues where applicable under the Guidelines. Examination of these issues will be conducted by reference to the expectations of Chapter IV of the Guidelines.

Accepting the specific instance for further examination does not constitute a finding that Ternium has acted inconsistently with the Guidelines, does not determine the accuracy of contested allegations, and does not determine whether, or how, Ternium may be linked to the alleged impacts under the Guidelines. The NCP does not make findings on the causes or circumstances of the disappearance or on matters of criminal responsibility, which fall outside its mandate and remain with the competent domestic authorities. The NCP's handling of the specific instance will be conducted without prejudice to ongoing domestic proceedings and in a manner that avoids interference with them.

NEXT STEPS

The NCP will contact both parties to discuss whether, and in what form, good offices may take place within the scope of the issues accepted for further examination.

During the initial assessment stage, Ternium stated in writing that it did not intend to participate in any good offices involving the complainants, for reasons set out in its submissions concerning the complainants' conduct and engagement in the procedure. The NCP has taken note of that position and takes no position on those concerns at this stage. Ternium's position does not prevent the NCP from offering its good offices or from continuing its handling of the specific instance. The NCP remains available to facilitate dialogue between the parties should the parties wish to engage.

Good offices are voluntary and non-adversarial. They may include joint or separate meetings, written exchanges through the NCP, or other formats agreed with the parties, including mediation or conciliation. If good offices take place, the NCP will facilitate them in accordance with the Implementation Procedures of the OECD Guidelines and its Rules of Procedure. Practical arrangements, including confidentiality arrangements and indicative timelines, would be addressed with the parties at the outset.

If good offices do not take place, or do not resolve the issues raised, the NCP will continue its examination of the issues accepted for further examination, in accordance with the applicable procedures. As per the NCP's Rules of Procedure, the NCP may, if relevant, issue recommendations to the enterprise on how to improve its conduct in accordance with the Guidelines, or make determinations on its observance of the Guidelines. In all cases, the specific instance will conclude with a final statement, which will be shared with the OECD Secretariat and published on the NCP's website. Throughout its handling of the specific instance, the NCP will continue to coordinate, as appropriate, with the NCPs of the United States and Mexico.

Consistent with its Rules of Procedure, the NCP expects both parties and all participants to refrain from any retaliation, intimidation, threats, pressure or interference in connection with the procedure. This applies to conduct directed at any person or organisation involved in the specific instance, including affected persons, their representatives, human rights defenders, company representatives, and others participating in the procedure.

The NCP recalls that all participants are expected to engage in good faith throughout the procedure, including through timely communication, respect for applicable confidentiality arrangements, and refraining from misrepresenting the process or its outcomes.

ANNEX: OVERVIEW OF THE OECD GUIDELINES, NCP AND ITS ROLE

OECD GUIDELINES FOR MNES ON RBC

The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (the “Guidelines”) are recommendations provided by governments to multinational enterprises.³ The primary aim of the Guidelines is to encourage enterprises to contribute positively to economic, environmental, and social progress while minimising adverse impacts associated with their operations, products, and services.

Since their introduction in 1976, the Guidelines have been regularly updated to address societal challenges and the evolving context of international business. Most recently updated in June 2023, the Guidelines cover key areas of business responsibility, including human rights, labour rights, environment, bribery and corruption, consumer interests, disclosure, science and technology, competition, and taxation. The Guidelines apply to multinational enterprises operating in and from the territories of the Adherents, which currently includes 52 countries, including Luxembourg.

NCPS FOR RBC AND LUXNCP

The OECD Guidelines are supported by a unique implementation mechanism: the National Contact Point for Responsible Business Conduct (“NCP”). NCPs are established by adhering governments to ensure the effectiveness of the Guidelines. The NCP of Luxembourg (“LuxNCP” or the “NCP”) operates within the Ministry of the Economy. In fulfilling its tasks, the LuxNCP adheres to the OECD’s core effectiveness criteria, including visibility, accessibility, transparency, accountability, impartiality and equitability, predictability, and compatibility with the OECD Guidelines. The primary responsibilities of NCPs include:

- I. Promote awareness and uptake of the Guidelines: NCPs work to increase awareness of the Guidelines among businesses, trade unions, and other stakeholders through outreach activities, training sessions, and guidance on implementation.
- II. Contribute to the resolution of issues that arise in relation to the implementation of the Guidelines in specific instances: NCPs serve as a non-judicial grievance mechanism, offering a forum for discussion and expertise to help parties resolve issues efficiently and in accordance with applicable law and the Guidelines.

In addition, NCPs may coordinate with relevant government agencies to support efforts by their governments to develop, implement, and foster coherence of policies to promote responsible business conduct.

KEY ROLES OF NCPS IN HANDLING SPECIFIC INSTANCES

When issues arise related to the implementation of the Guidelines in specific instances, NCPs are expected to assist in resolving them. This assistance may include supporting constructive dialogue, facilitating agreements between the parties and issuing recommendations. The aim of such assistance is to further the

³ OECD Guidelines (2023).

implementation of the Guidelines in the future and/or addressing adverse impacts in a way consistent with the Guidelines.