



TRADE UNION ADVISORY COMMITTEE
TO THE ORGANISATION FOR ECONOMIC
COOPERATION AND DEVELOPMENT
COMMISSION SYNDICALE CONSULTATIVE
AUPRÈS DE L'ORGANISATION DE COOPÉRATION
ET DE DÉVELOPPEMENT ÉCONOMIQUES

THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES
TUAC SUBMISSION
TO THE OECD ANNUAL MEETING OF NATIONAL CONTACT POINTS

Paris, 29 June 2010

I. Introduction

1. This 2010 Annual Meeting of National Contact Points falls ten years after the 2000 Review of the OECD MNE Guidelines, which created the National Contact Points and the specific instance procedure. It also marks the beginning of the next revision or Update of the Guidelines. TUAC considers this an excellent opportunity to take stock of the experience to date, the lessons learnt and to identify the priorities for the future.

2. TUAC welcomed the decision of the 2009 OECD Ministerial Council Meeting to instruct the OECD to undertake further consultation on the “updating” of the OECD MNE Guidelines in order *to increase their relevance and clarify private sector responsibilities*.¹ TUAC also strongly supports the statement of purpose contained in the Terms of Reference: *“the purpose of the Update will be to ensure their continued role as a leading international instrument for the promotion of responsible business conduct”*.

3. TUAC has already held two internal meetings² with TUAC affiliates, the Global Union Federations (GUFs) and the International Trade Union Confederation (ITUC) to identify trade union priorities for the Update, drawing on the principles and concepts developed by the mandate of the UN Special Rapporteur for Business and Human Rights, Professor John Ruggie. TUAC has already presented its initial positions to the Investment Committee in October 2009 (see *ANNEX 1*). These positions are still evolving – key elements are summarised overleaf (see *TABLES 1* and *2*).

4. It is essential that this Update provides an Upgrade in all respects, so as to ensure that the Guidelines and the NCPs are indeed a *“leading international instrument for the promotion of responsible business conduct”* capable of meeting the governance gaps of today’s global economy. This means, first and foremost, strengthening the Procedural Guidance in order to improve the performance of NCPs across the board. The Update must also make it clear that the Guidelines – together with the specific instance procedure – are applicable to a range of business relationships beyond ownership or investment, which include supply chains and non-direct employment relationships.

¹ OECD Annual Ministerial Council Meeting, 24-25 June 2009.

² Held on 2 September 2009 and 16 February 2010.

5. It is also imperative that the Update incorporate those principles and concepts from the work of the Special Representative on Business and Human Rights that would serve to strengthen the effectiveness of the Guidelines in protecting workers and workers' rights including anchoring the Guidelines in international standards and not just applicable domestic law, including the human rights treaties (see *TABLE 3*).

TABLE 1: PROCEDURAL GUIDANCE

ISSUE	RELATED ISSUES	TRADE UNION POSITION
NATIONAL CONTACT POINTS		
Functional Equivalence	Cross-cutting	Expand the performance criteria to include six criteria of the SRBHR and introduce mandatory and participatory peer review.
Oversight Body	Timescales Parallel legal proceedings	Require NCPs to establish an oversight mechanism.
Right of Appeal		Provide for a right of appeal.
Promotion by NCP	Cross-cutting	Develop a national promotional strategy in conjunction with external stakeholders.
Capacity-building	Training/Burden of proof Resources	Draw up a capacity-building plan.
NCP Cooperation	Parallel legal proceedings Follow-up Consequences	Change the procedures to assign responsibility to the <u>home</u> NCP to provide mediation between the <u>parent company</u> , the <u>affected parties</u> and their <u>international representatives</u> .
Role of the NCP	Consequences Cooperation of the Company	Provide for a two-stage process: first mediation and then, if mediation fails, adjudication (in line with the proposal of OECD Watch).
Confidentiality/ Transparency	Parallel proceedings Cooperation of companies	Include minimum standards of transparency for handling confidential proceedings between parties, as well as for the publication of information including initial/final statements.
Parallel Legal Proceedings	Confidentiality/Cooperation of companies/National law v international standards	Produce guidance that includes the requirement to show prejudice to the proceedings; require the decision to suspend or reject a case to be subject to external oversight.
Timescales	Parallel proceedings Cooperation of companies Resources/Campaigns	Incorporate maximum timescales into the procedural guidance.
Consequences	Cooperation of the company	Provide information on violations of the Guidelines or failure to cooperate in the process to government departments responsible for public subsidies and national pension funds.
Follow-up	Oversight	Require NCPs to follow up their recommendations and publicly report on this follow-up
Reporting		Extend NCP reporting requirements to include resources/core performance indicators.
INVESTMENT COMMITTEE		
Peer Review	Cross-cutting	Conduct mandatory peer review including country visits, in-country consultations with trade unions and other stakeholders and public reports.
Promotion		The OECD Investment Committee should develop and implement a three-year promotional programme.
Capacity		The OECD Investment Committee should establish a central capacity-building fund to i) support NCPs in the start-up phase, ii) provide training in core skills and iii) to support fact-finding.

**TABLE 2: SUBSTANTIVE ISSUES
TRADE UNION PRIORITIES**

ISSUE	RELATED ISSUES	TUAC POSITIONS
Update the Status of the Guidelines	Cross-cutting Corporate Responsibility to Respect	The Guidelines are non-legally enforceable.
Applicable Law vs International Standards	Parallel Proceedings Corporate responsibility to respect	The Guidelines should reference international standards and give guidance on the standards that apply in the event of conflict between national law and international standards.
Supply Chains	Investment Nexus Human Rights Due Diligence Changing Employment Relationships	TUAC supports the inclusion of a human rights chapter, which would strengthen Chapter IV on Employment and Industrial Relations, together with the use of the impact of activities and relationships as a means to strengthen the basis of corporate responsibility including through the supply chain.
Investment Nexus	Supply Chains Due Diligence	TUAC considers it essential that the Update removes the requirement for an investment nexus in line with the UN Framework and the Corporate Responsibility to Respect.
Decent Work	Cross-cutting	Include Decent Work in the text or the commentaries of Chapter II, General Policies, as well as Chapter IV Employment and Industrial Relations.
Changing Employment Relationships	Business relationships Supply Chains Due Diligence	Include new provisions on changing employment relationships in Chapter IV Employment and Industrial Relations, referencing the ILO Employment Relationship Recommendation, 2006 (No. 198).
Living Wage	Changing Employment Relationships Gender	Include new provisions on the Living Wage in Chapter IV Employment and Industrial Relations.

TABLE 3: ADDITIONAL TECHNICAL REFERENCES

KEY STANDARDS	CHAPTER	REFERENCE IN
Universal Declaration of Human Rights (1948)	I. Concepts and General Principles New Chapter Human Rights Chapter IV Employment and Industrial Relations	TEXT
International Covenant on Economic, Social and Cultural Rights	I. Concepts and General Principles New Chapter Human Rights Chapter IV Employment and Industrial Relations	TEXT
International Covenant on Civil and Political Rights	I Concepts and General Principles New Chapter Human Rights Chapter IV Employment and Industrial Relations	TEXT
Declaration on Fundamental Principles and Rights at Work (1998)	I. Concepts and General Principles II General Policies IV Employment and Industrial Relations	TEXT
Protect Respect and Remedy: A Framework for Business and Human Rights	I. Concepts and General Principles II General Policies IV Employment and Industrial Relations	TEXT
OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones	I. Concepts and General Principles II General Policies IV Employment and Industrial Relations	COMMENTARIES
IFC Policy and Performance Environmental and Social Standards (2006)	III Disclosure IV. Employment and Industrial Relations V. Environment	COMMENTARIES
Equator Principles	III Disclosure	COMMENTARIES
UN Principles of Responsible Investment (2005)	III Disclosure	COMMENTARIES
Global Reporting Initiative	III Disclosure	COMMENTARIES
OECD Principles of Corporate Governance (2004)	III Disclosure	COMMENTARIES
Extractive Industries Transparency Initiative	III Disclosure	COMMENTARIES
ILO Employment Relationship Recommendation, 2006	IV Employment and Industrial Relations	COMMENTARIES
2009 Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions (26 November 2009).	VI. Combating Bribery	COMMENTARIES
2006 OECD Council Recommendation on Bribery and Officially Supported Export Credits into the 1997 Revised Recommendation.	VI. Combating Bribery	COMMENTARIES
2009 Recommendation on Tax Measures for Further Combating	VI. Combating Bribery X. Taxation	COMMENTARIES

KEY STANDARDS	CHAPTER	REFERENCE IN
Bribery of Foreign Officials in International Business X. Taxation Transactions		
United Nations Convention against Corruption (2003)	VI. Combating Bribery	COMMENTARIES
OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (2009 edition)	X. Taxation	COMMENTARIES
Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (Third edition, 2001)	IV Employment and Industrial Relations	TEXT
2008 ILO Declaration on Social Justice for a Fair Globalization	IV Employment and Industrial Relations	TEXT
Labour Inspection Convention, 1947	IV Employment and Industrial Relations	COMMENTARIES
Labour Inspection (Agriculture) Convention, 1969 (No. 129)	IV Employment and Industrial Relations	COMMENTARIES
R198 Employment Relationship Recommendation, 2006	IV Employment and Industrial Relations	COMMENTARIES



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THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES 2010 'UPDATE'

TUAC SUBMISSION TO THE OECD INVESTMENT COMMITTEE Paris, 7th October 2009

1. Introduction

1. TUAC welcomes decision of the 2009 OECD Ministerial Council Meeting¹ to instruct the OECD to undertake further consultation on the “updating” of the OECD MNE Guidelines.

2. On the 2nd September 2009, TUAC organised a meeting for trade unionists, held at the OECD, as a first step to formulating a trade union position.

3. The meeting identified a number of issues that impede the effectiveness of the Guidelines and discussed possible options for addressing them. Participants also agreed on the need for TUAC to undertake additional research, particularly regarding the possible implications of the work of the UN Special Representative on Business and Human Rights (SRBHR) on both the Procedural Guidance and the Content of the Guidelines and especially Chapter IV. TUAC will bring forward proposals over the coming weeks and months.

4. This submission therefore presents a *provisional* list of issues to be included in the Update based on the discussions held at the trade union meeting. These are cross-referenced with the OECD secretariat's report on '*Preparing for Consultation on an Update of OECD Guidelines for Multinational Enterprises*'.

5. The remainder of this submission is structured as follows:

- *Section 2* identifies key principles for the review process;
- *Section 3* focuses on the key issues for the procedural guidance;
- *Section 4* identifies key issues for the substantive provisions of the Guidelines.

2. Update: Process - Principles and Modalities

6. First and foremost, it is essential to ensure that the Update is an ‘Upgrade’ in all respects. There must be no weakening of existing provisions and procedures or narrowing of interpretations of the applicability of the Guidelines. The mandate from the Council clearly states that the aim is “*to increase their relevance and clarify private sector responsibilities*”.

1 OECD Annual Ministerial Council Meeting, 24-25 June 2009.

7 It is essential that the Update is conducted in a way that assures credibility, legitimacy and enhanced reputation of the Guidelines process.

8. There is also a need to place the Update in the context of the work being carried out by the UN Special Representative on Business and Human Rights (SRBHR) on the *Protect, Respect and Remedy* framework.

9. Finally, there is a need to use the Update to improve coherence between the OECD MNE Guidelines and other relevant instruments both within and outside the OECD and especially the International Labour Organisation (ILO).

10. TUAC recommends that the Investment Committee takes steps to assure the following:

a) **Upgrade not a downgrade:** Safeguards should be put in place at the outset to ensure that there is no weakening of any of the current provisions or procedures;

b) **Transparent, participatory and inclusive:** The Investment Committee must take steps to ensure that the process for the Update is transparent, participatory and inclusive at international and national level. It should also ensure that trade unions and other key stakeholders are involved throughout the whole process. TUAC recommends that the Investment Committee:

- *OECD* (see *OECD note* §22 and §23):

- . *Establish an Update/Upgrade Group*²: Beyond the regular consultations with TUAC, BIAC and OECD Watch, proposed by the OECD (see §23), TUAC recommends that the Investment Committee establishes an Update Group that involves the key institutional stakeholders, as well as outside experts, including representatives of the ILO and the UN SRBHR;

- . *Liaise with other OECD Committees*: There is a need to ensure policy coordination with other instruments and policies (see *OECD note* §17) including: the *Principles of Corporate Governance*, the *Guidelines for the Corporate Governance of State-owned Enterprises*; the *OECD Export Credit Group*; and the *OECD Anti-bribery Working Group*;

- *Non-adhering Countries*: Provide for the input of non-adhering governments involvement prioritising China, India, Indonesia, South Africa and SouthEast Asia as suggested in the *OECD note* (§22);

- *Adhering Countries*: Provide for national level consultations that involve trade unions and other relevant stakeholders.

- *International Organisations*: Use the Update to enhance cooperation with the ILO Tripartite Declaration on Multinational Enterprises and Social Policy following the joint agreement of the OECD and ILO.

² TUAC understand that the Investment Committee has established a ‘*Friends of the Guidelines*’, which is primarily composed of ‘non-institutional’ members. TUAC considers that it would be necessary to involve the institutional stakeholders in any structure established for the Update.

c) **Integrate work of the UN SRBHR:** It is essential to incorporate key developments and concepts arising from the mandate of the SRBHR in the Update. This requires in-depth study of relevant issues. TUAC recommends that the Investment Committee set up a task team for this purpose.

3. Update: Procedural Guidance

3.1 Key Obstacles

11. **Effectiveness of the NCPs:** TUAC has always contended that improving the effectiveness of the Guidelines depends above all else on improving the effectiveness of the NCPs. The Procedural Guidance sets out the framework for NCP effectiveness. Hence TUAC considers that strengthening the Procedural Guidance should be a key focus of this Update.

12. **Lack of functional equivalence** (*see OECD note §16*): The uneven performance of NCPs is uncontested. The effects of unequal access, unequal treatment of cases, lack of predictability, and thereby loss of confidence and reputation, undermine the Guidelines as a whole. The Procedural Guidance sets out four core criteria on the basis of which NCPs are supposed to achieve functional equivalence: *visibility*; *accessibility*; *transparency*; and *accountability*. These fall short of the six criteria identified by the SRBHR (*see TABLE 1*) who has assessed the NCPs to be failing to meet minimum performance criteria.

TABLE 1: UPGRADING NCP PERFORMANCE CRITERIA

NCP Core Criteria	Related Issues	NCP Core Criteria	UN Special Representative
Visibility		✓	
Legitimacy	Structure		✓
Accessibility	Confidentiality Instrument of last resort	✓	✓
Predictability	Equal performance		✓
Transparency	Confidentiality and legitimacy	✓	✓
Accountability	Legitimacy Structure	✓	
Right-compatible			✓
Equitability	Need for common approaches on parallel proceedings/investment nexus/confidentiality/		✓

13. **Inadequate institutional arrangements** (*see OECD §17*): TUAC has long argued that the structure of many NCPs is inadequate and impedes overall performance. *Section A* of the Procedural Guidance states that “*adhering countries have flexibility in their NCPs, seeking the active support of social partners...*”. Furthermore, the guidance explicitly gives governments the option of establishing NCPs in a single department, failing to address the conflicts of interest that are likely to occur if an NCP is based only in the Ministry for Economy or Trade and Investment (*see OECD §17*). Whilst the Official Commentaries state that the structure put in place should “*provide an effective basis for dealing with the broad range of issues covered by the Guidelines*”, this guidance is insufficient.

14. **Role of the NCP** (see *OECD §17*): TUAC considers that there a need for greater guidance on the role of the NCP. The Procedural Guidance clearly states that the NCP will offer a forum for discussion and facilitate access to conciliation or mediation (see *BOX 1*). Yet, trade unions report a range of practice, with some NCPs being reluctant to offer mediation, whilst others, such as the UK, considering mediation to be its key role³. Moreover, the Dutch NCP⁴ identifies a potential conflict between the role of adjudication – establishing the facts for determining compliance with the Guidelines – and mediation where the focus is on reaching agreement. *“In every SI procedure, an NCP will have to find that fine balance between mediation or offering its good offices to resolve the issue on the one hand, and determining whether the OECD Guidelines have been complied with on the other”*.

BOX 1: ROLE OF THE NCP

The Procedural Guidance sets out the role of the NCP as (*inter alia*):

- “...the NCP will offer a forum for discussion”
- NCPs will “offer, and with the agreement of the parties involved, facilitate access to consensual and non-adversarial, such as conciliation or mediation, to assist in dealing with issues”
- “if the parties involved do not reach agreement on the issues raised, issue a statement and make recommendations”

15. **Confidentiality v transparency:** TUAC considers that there is a need for improved guidance to NCPs on confidentiality that provides for maximum transparency. Transparency is a core principle of the Guidelines and also one of the six performance criteria proposed by the SRBHR (see *TABLE 1*.): “[S]ince human rights are a public good, the outcomes of these grievance processes should rarely, if ever, be purely private transactions. Furthermore, grievance mechanisms grow in their perceived legitimacy and therefore their effectiveness through trust in the process they provide and the outcomes they produce. An adequate level of transparency is therefore essential to a rights compatible mechanism. The Procedural Guidance (see *BOX 2*) offers safeguards on confidentiality, whilst providing that results should be made public. However, NCPs are adopting quite different practices on confidentiality (see *TABLE 2*) both in relation to publishing information their handling of communications between parties. The UK, for example, copies *all* parties on *all* correspondence, managing a highly transparent ‘internal’ process, whilst the Swiss NCP, for example, communicates separately with the different parties.

³ Initial Review of the Operation of the UK National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises – January 2009.

⁴ OECD, 2009.

BOX 2: PROVISIONS FOR CONFIDENTIALITY

The Procedural Guidance states that: “4a) *In order to facilitate resolution of the issues raised, take appropriate steps to protect sensitive business and other information. While the procedures...are underway confidentiality of the proceedings will be maintained. At the conclusion of the procedures, if the parties involved have not agreed on the resolution of the issues raised they are free to communicate about and discuss these issues. However, information and views provided during the proceedings by another party will remain confidential, unless that other party agrees to their disclosure.* 4b) *After consultation with the parties involved, make publicly available the results of these procedures unless preserving confidentiality would be in the best interests of the... implementation of the Guidelines.*”

TABLE 2: CONFIDENTIALITY: NO FUNCTIONAL EQUIVALENCE⁵

Always publish an initial statements	UK, Dutch
Never publish an initial statement	Swiss
Publication of all final statements	Dutch, UK
Publication of names of parties where a case is accepted	UK
It is also made clear to them that a breach of confidence could be treated as a breach of faith in the process and could result in either a refusal to consider a complaint further or an adverse final report.	USA
As provided by the Procedural Guidance outsiders are not, as a general rule, informed about the progress made in considering a case; this is more conducive to confidence-building between the parties more directly concerned.	USA

16. **Cooperation between NCPs:** Trade unions consider that the specific instance procedure should explicitly recognize the responsibility of the parent company and provide for the home NCP to play a role in engaging the parent company in talks with international and affected trade unions. Trade unions have reported a reluctance of the home NCP to become involved in cases involving violations of the Guidelines in adhering countries. The procedural guidance currently provides for NCPs to “2b) *consult the National Contact Point in the other county or countries concerned*”. This guidance should be strengthened.

17. **Burden of proof:** Trade unions also identified the difficulty for an NCP of discharging the burden of proof in complex cases as an obstacle to effectiveness. This clearly relates to the issue of resources, with possible solutions including the use of specialist training and fact-finding missions. The OECD reports that site visits are more the exception than the rule⁶. A number of NCPs have emphasised the value of access to funding to carry out on-site visits.

18. **Resources:** The OECD reports that several NCPs (Brazil, Belgium, Chile, France, Greece, Italy, Mexico, Poland, Romania and Spain) report increased difficulty in meeting the various demands placed on them and acknowledge that with additional resources, they could play a more active role in promoting the Guidelines. It also reports that NCPs acknowledge the need for qualified staff, particularly staff trained in mediation.

⁵ pp. 12.

⁶ pp. 11.

19. **Parallel proceedings** (see *OECD §17*): Parallel proceedings are the most frequently cited reason for turning down or delaying dealing with a specific instance⁷⁸. NCPs have adopted a range of approaches: *accepting the specific instance* regardless of the existence of parallel proceedings (Marks and Spencer, French NCP; Plaid, Dutch NCP; Bayer, German NCP; Nestlé, Swiss and Korean NCPs); providing *guidance so as not to* prejudice parallel legal proceedings (UK); and *automatic rejection* (Japan, US). In many cases an NCP's position on parallel proceedings is determined or affected by that of the employer (see *TABLE 7*). Neither the Procedural Guidance nor the Commentaries provide guidance on how to deal with parallel proceedings. TUAC considers this to be priority issue for the Update.

TABLE 3: NCP APPROACH TO PARALLEL LEGAL PROCEEDINGS

NCP	APPROACH
Brazil	The Brazilian NCP reported that it tried to offer its good office despite parallel legal proceedings, but the parties were unable to identify issues that were not covered by the parallel proceedings (Shell case).
France	The French trade unions report a division with the French NCP, with trade unions pushing the NCP to accept cases that involve parallel proceedings and the employers and the government not wishing to accept such cases.
Italy	Italy called for further guidance from the Investment Committee on this issue.
Japan	The Japanese NCP reports that parallel proceedings are a problem for the Japanese NCP as " <i>the company involved tends to avoid commitment to the operation of the NCP</i> ".
Netherlands	The Dutch NCP reports that it has been confronted with the " <i>unwillingness</i> " of the MNCs to cooperate on the basis of parallel legal procedures.
UK	The UK NCP has prepared guidance on parallel proceedings that means that it will only suspend aspects of proceedings where a party can show that a party is likely to suffer serious prejudice as a result of parallel proceedings should that aspect of the proceeding continue.

⁷ OECD 2008.

⁸ According to 2007 data, around 60 % (94/164) of all cases raised with NCPs involved issues that were also being addressed in parallel proceedings. 27 out of these 94 were concluded meaning that NCPs have accepted 29 % of cases irrespective of the fact of the issues were subject to parallel legal proceedings.

BOX 3: PARALLEL LEGAL PROCEEDINGS

TUAC's past position has been that specific instances should be accepted regardless of the existence of parallel proceedings on the basis that:

- Guidelines are non-judicial and thereby a complementary and separate process;
- Guidelines are stand-alone, not an instrument of last resort;
- the role of the NCPs is to provide mediation and conciliation and to assist the parties involved in trying to reach an agreement;
- the lack of a common approach undermines the functional equivalence of NCPs;
- rejecting or suspending specific instances on the basis of parallel proceedings directly undermines accessibility, which is one of the core criteria.

The French NGO, Sherpa,⁹ similarly argued, in its legal opinion on parallel proceedings, that specific instances should not be suspended due to legal proceedings because the Guidelines are different in their nature, grounds and (sometimes) their object. Sherpa contends that the primary role of the NCP, to provide “*a forum of discussion and mediation*”, is completely different function from the role of a court judge. Sherpa also argues that the dismissal of a specific instance on the grounds of parallel proceedings denies people access and thus violates one of the four core principles of the Guidelines. Furthermore, the object of the Guidelines may be different from that brought before national courts.

20. **National law v international standards:** TUAC considers the assertion of the SRBHR that the corporate responsibility to respect is a ‘near-universal’ social norm that exists independently of variations in national law presents a significant challenge to the Guidelines, which frame the obligations of companies in terms of national law. The SRBHR identifies freedom of association as an area where national law either contradicts or offers lower protection than international standards. The principle of using international standards is further elaborated in a paper on company-based non-judicial grievance mechanisms (see *BOX 4*)¹⁰. This needs to be addressed in the Update.

BOX 4: APPLYING INTERNATIONAL STANDARDS

“Given that the specific legal and political human rights framework will vary by country, causing often unhelpful uncertainty, and that it may fall below the standards of a company’s home state, the approach recommended here is that a company acknowledges the relevance to the grievance process of rights in all core UN human rights treaties³. This is not to say that these documents are legally binding on corporations – they are not. It is to acknowledge that they form the overarching human rights context within which companies and other non-state Actors operate.... Where domestic law is in contradiction to any of these standards, the dialogue process within the grievance mechanism will need to look carefully at options that can fulfill the spirit of the rights to the maximum extent possible without violating domestic law.”

⁹ Sherpa is a member of OECD Watch.

¹⁰ Rights-Compatible Grievance Mechanisms: A Guidance Tool for Companies and their Stakeholders, John F. Kennedy School of Government, Harvard University, January 2008.

¹⁰ p.p. 16.

21. **The lack of cooperation of companies:** The reluctance of companies to participate in the specific instance procedure is reported not only by trade unions, but also by NCPs. It manifests itself in a variety of ways ranging from the participation of junior rather than senior staff at NCP meetings, to reluctance to participate in dialogue, especially if parallel legal proceedings are underway, or refusal to comply with recommendations made by the NCP (e.g., Afrimex in the UK). It affects a host of other issues as NCPs seek to accommodate business concerns. This is a key and cross-cutting obstacle.

3.2 TUAC Recommendations

22. TUAC considers it essential that the Update addresses the following:

- a) **Expand the core/performance criteria:** TUAC considers that the core criteria should be broadened in line with the recommendation of the SRBHR (see *TABLE 4*). The introductory paragraph of the Procedural Guidance should be amended accordingly. Additionally minimum standards should be included providing greater direction on what compliance with these performance standards entails;
- b) **Strengthen guidance on institutional arrangements:** Amend *Section A* of the Procedural Guidance to include minimum standards on what type of institutional arrangements should be put in place, in line with the extended core criteria. The guidance should exclude the possibility of creating a single department NCP that is based solely in a department where there might be a conflict of interest;
- c) **Introduce a mandatory Peer Review process (see OECD §20):** There is a need to go far beyond the current ‘peer learning’ between NCPs and introduce a mandatory peer review mechanism in order to secure improvements in performance across the board. The OECD peer review process is a tried and tested method of review. The peer review process should be rigorous, transparent, participatory and adequately resourced, with published country reports, setting out recommendations. The Investment Committee should further consider whether the provisions for monitoring should be incorporated into the text of the Guidelines themselves, as a specific chapter on Monitoring and Follow-up. An example is provided by the OECD Anti-bribery Convention, the provisions on monitoring for which are contained in Article 12, with a detailed description provided in the Official Commentaries;
- d) **Clarify the role of the NCP (see OECD §17):** TUAC support the proposal made by OECD Watch to amend the Procedural Guidance so as to more clearly delineate the two roles of the NCP and thereby avoid potential conflicts. The NCP should first seek resolution of the specific instance through mediation; if this fails it should then move to the adjudication stage, to give its impartial assessment of the case.
- e) **Improve transparency:** The procedural guidance should be upgraded, so as to set out minimum standards of transparency for handling confidential proceedings between parties drawing on the best practice of some NCPs. It should also set out the standards of transparency required *vis à vis* the publication of information (initial and final statements). TUAC understands that confidentiality may be necessary in the proceedings to ensure the success of mediation. However, there is no need for a case or the outcome of the case to be confidential.

- f) **Set minimum timescales:** The procedural guidance should be amended to set minimum standards on time-scales;
- g) **Support specialist training:** The Investment Committee should establish a central facility for training on core skill areas such as mediation;
- h) **Provide for fact-finding:** Fact-finding missions have been successfully used by some NCPs: e.g., the Swedish NCP. The desirability and feasibility of creating a centralised fact-finding facility was one of the options explored at a brainstorming meeting held at Chatham House in the UK in March 2009. The Investment Committee should consider the feasibility of establishing such as fund;¹¹
- i) **Extend reporting requirements:** The Procedural Guidance should be amended so as to strengthen reporting requirements such that NCPs be required to report back on the level of resources allocated to the NCP and for the provision of staff training;
- j) **Develop guidance on parallel legal proceedings**¹²: The Update should develop guidance on parallel legal proceedings that emphasises the complementary and non-judicial role of NCPs as a forum for problem-solving and mediation. The guidance should prohibit an NCP from automatically rejecting a case on the basis of parallel legal proceedings, requiring instead that it demonstrate prejudice to the proceedings. Any decision to suspend proceedings should be subject to external oversight;
- k). **NCP Cooperation:** The effectiveness of the specific instance procedure would be significantly improved by amending the Procedural Guidance to give the home NCP specific responsibility for liaising with the parent company and offering its good offices for dialogue, even when violations take place in adhering countries;
- l) **National Law v international standards:** This is an important and complex issue. TUAC will bring forward proposals on this issue, drawing on the work of the SRHRB. TUAC recommends that the Investment Committee also assesses its implications;
- m) **Lack of cooperation of employers:** The lack of cooperation of employers in some cases is of increasing concern. The SRBHR explicitly recognises the need for NCP decisions to be given more weight, pointing to the potential for linking NCP decisions to access to government procurement and export credits. The Update must strengthen the hand of the NCP in this regard. This should form part of new Procedural Guidance on follow-up and enforcement.

¹¹ March 2009 meeting held at Chatham House and supported by the Norwegian Government.

¹² TUAC is working on this issue and will elaborate its position over the coming months.

4. Update: Substantive Issues

4.1 Key Obstacles

23. **Supply chain, other business partners and the investment nexus** (see *OECD §8*): TUAC considers it essential that the Update provide clearer guidance on the application of the Guidelines to supply chains and other business partners. It is essential that the applicability of the Guidelines reflects the reality of horizontal business relationships that characterise the global economy. There is a need to remove the requirement for an investment nexus¹³ – which is the second most common reason cited by NCPs for rejecting specific instances¹³ – and which came to the fore after the OECD Investment Committee issued a statement in April 2003 concerning the scope of the Guidelines (see *ANNEX 1*). The statement, which is not a formal decision, on the one hand states that the application of the Guidelines depends on the “*presence of an investment nexus*”, and on the other hand that “*flexibility is required*” in the context of the provisions of the Guidelines (II.10) on the application of the Guidelines to business partners: II. 10 states that enterprises should “*encourage, where practicable, business partners, including suppliers and sub-contractors to apply principles of corporate conduct compatible with the Guidelines*” (see *BOX 5*). Nonetheless, it is clearly the case that many NCPs are rejecting cases due to the lack of an investment nexus (see *BOX 6*). The work of the SRBHR on the need for companies need to undertake due diligence on their human rights impacts across their business relationships (see *BOXES 5 and 7*) highlights the need for anomaly of the investment nexus to be removed.

BOX 5: SUPPLIERS AND BUSINESS PARTNERS

The Commentaries to the Guidelines concerning II.10 and the responsibilities of multinationals *vis a vis* suppliers and other business partners are framed in terms of the level of ‘influence’ companies have in their business relationships. It is worth noting that this concept of the ‘sphere of influence’ has been rejected by the SRBHR in favour of a corporate responsibility to protect and ‘do no harm’. The SRBHR contends that in order to discharge their responsibility, companies need to undertake due diligence on their human rights impacts.

BOX 6: REQUIREMENT FOR AN INVESTMENT NEXUS

GERMAN NCP

In a case concerning the UN Oil for Food Enquiry the German NCP's initial assessment found that the Inquiry related only to supply transactions and that thereby without any reference to investment, the Guidelines did not apply.

DUTCH NCP

A case raised with the Dutch NCP concerning travel agencies promoting tourism in Burma was first considered eligible to be considered under the Guidelines process. Thereafter the NCP changed its opinion on the grounds that the Guidelines were not applicable because of the investment nexus.

¹³ It reports that by the end of 2007 just under 20 % (29/164) of specific instances raised related to the “investment nexus” and involved supply chain responsibilities.

BOX 7: UK NCP - APPLYING DUE DILIGENCE

There is evidence that due diligence is already being applied. The UK NCP used the concept of due diligence in its assessment of two cases, Das Air and Afrimex. In its final statement on the activities of Afrimex in the Democratic Republic of Congo, the UK NCP focused on the level of due diligence applied to the supply chain. The final statement quotes Professor Ruggie's definition of due diligence as a "*process whereby companies not only ensure compliance with national laws but also manage the risk of human rights harm with a view to avoiding it. The scope of human rights-related due diligence is determined by the context in which a company is operating its activities and the relationship associated with those activities*". The NCP found the steps taken by Afrimex *vis a vis* its supplier to be inadequate and concluded that Afrimex had violated Chapters II.1, II.2, IV 1b, IV 1c and IV 4b of the Guidelines. In its recommendations, the NCP drew the company's attention to Professor Ruggie's recommended basic human rights due diligence process, underlining the need for Afrimex to apply due diligence to the supply chain.

The UN Security Council has similarly called on member states to ensure that companies under their jurisdiction perform due diligence on their suppliers of Congolese mineral materials.

24. **Changing employment relationships and precarious work:** A key issue identified in the trade union meeting was how to use the Guidelines to address changing employment relationships and precarious work. TUAC will bring forward proposals on this issue.

4.2 Other Issues

25. **Living wage:** A further issue discussed at the trade union meeting was how to use the Guidelines to encourage the payment of a Living Wage, focusing on possible changes to Chapter IV. This is a priority for TUAC for the Update.

4.3 TUAC Recommendations

26. **Supply chains/business relationships:** Removing the requirement for an investment nexus is a priority. The Update should repeal the 2003 Statement of the Investment Committee on the scope of the Guidelines *vis a vis* the investment nexus. The Investment Committee should also examine how to incorporate the requirements for due diligence, as proposed by the SRHRB, into the Update.

ANNEX 1: INVESTMENT COMMITTEE STATEMENT: INVESTMENT NEXUS

“• First, the Guidelines are an Annex of the OECD Declaration on International Investment and Multinational Enterprises. The fact that they are part of the Declaration and that oversight responsibility for them has been assigned by the Council to the CIME – the body charged with responsibility for the Organisation’s work on investment and multinational enterprises – indicates the investment intent of the drafters of the instrument.

• Second, the Guidelines are a major corporate responsibility instrument that draws on and reinforces an established body of principles dealing with responsible business conduct. These principles reflect common values that underlie a variety of international declarations and conventions as well as the laws and regulations of governments adhering to the Guidelines.

As such, these values are relevant to the activities of multinational enterprises. Thus, as it has already done in a number of areas, the international community may continue to draw on the values underlying the Guidelines in other contexts.

• Third, the Guidelines have been developed in the specific context of international investment by multinational enterprises and their application rests on the presence of an investment nexus.¹⁴

*When considering the application of the Guidelines, **flexibility is required**. This is reflected in Recommendation II.10 and its commentary that deal with relations among suppliers and other business partners. These texts link the issue of scope to the practical ability of enterprises to influence the conduct of their business partners with whom they have an investment like relationship. In considering Recommendation II.10, a case-by-case approach is warranted that takes account of all factors relevant to the nature of the relationship and the degree of influence. The fact that the OECD Declaration does not provide precise definitions of international investment and multinational enterprises allows for flexibility of interpretation and adaptation to particular circumstances.’*

¹⁴ Emphasis added.



TRADE UNION ADVISORY COMMITTEE
TO THE ORGANISATION FOR ECONOMIC
COOPERATION AND DEVELOPMENT
COMMISSION SYNDICALE CONSULTATIVE
AUPRÈS DE L'ORGANISATION DE COOPÉRATION
ET DE DÉVELOPPEMENT ÉCONOMIQUES

**THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES
TRADE UNION CASES RAISED
WITH THE NATIONAL CONTACT POINTS
FEBRUARY 2001-JUNE 2010**

Paris, 29 June 2010

This analysis is based on information provided by TUAC affiliates and partners, as well as the public reports and statements of National Contact Points (NCPs) and companies. TUAC welcomes any additions, modifications or comments that would correct, augment or improve this information.

1. Introduction

1. This report takes stock of the trade union cases raised under the Specific Instance procedure for the OECD Guidelines for Multinational Enterprises since the Review of 2000. It first provides an overview of the trade unions cases before presenting the individual profiles.

2. Overview

2.1 Number of cases


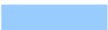




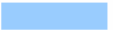

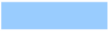

2. Trade unions have raised a total of 120 cases since the 2000 Review of the Guidelines. This represents an average 12.1 cases per year. During this last reporting period May 2009-June 2010, trade unions raised a further 9 cases, with 4 more cases likely to be filed during the coming weeks. The number of annual cases peaked in 2004 with 18 cases raised and was lowest in 2005 and 2008 with 10 cases raised in each (see *FIGURE 1*).

FIGURE 1: CASES BY YEAR

How many trade union cases are there?

TOTAL	120	100%	
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In which years were they submitted?

2001	12	10.0%	
2002	13	10.8%	
2003	12	10.0%	
2004	18	15.0%	
2005	10	8.3%	
2006	16	13.3%	
2007	14	11.7%	
2008	10	8.3%	
2009	13	10.8%	
2010	3	2.5%	

What is the average number of cases per year?

12.1 cases

2.2 Chapters and articles cited

3. The vast majority of trade union cases (93.4%) relate to issues covered by *Chapter IV Employment and Industrial Relations*. A small number of trade union cases (7) have not cited *Chapter IV* at all. These have focused on human rights, environment, corruption and consumer issues. Over a quarter of cases raised by trade unions concern *Chapter II, General Policies*. So far none of the trade union cases has used the provisions of *Chapter VIII Science and Technology* or *Chapter X Competition* (see *FIGURE 2*).

4. As regards the articles of Chapter IV, 66.7 % cases concern violations of article IV.1-a) “*respect the right of their employees to be represented by trade unions...*” and 35% concern violations of IV.6, concerning changes to operations including closure and the requirement for notice, information and to engage with employee representatives (see *FIGURE 3*).

FIGURE 2: CASES BY CHAPTER

Which Provisions of the Guidelines have been cited?




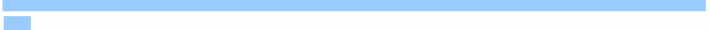






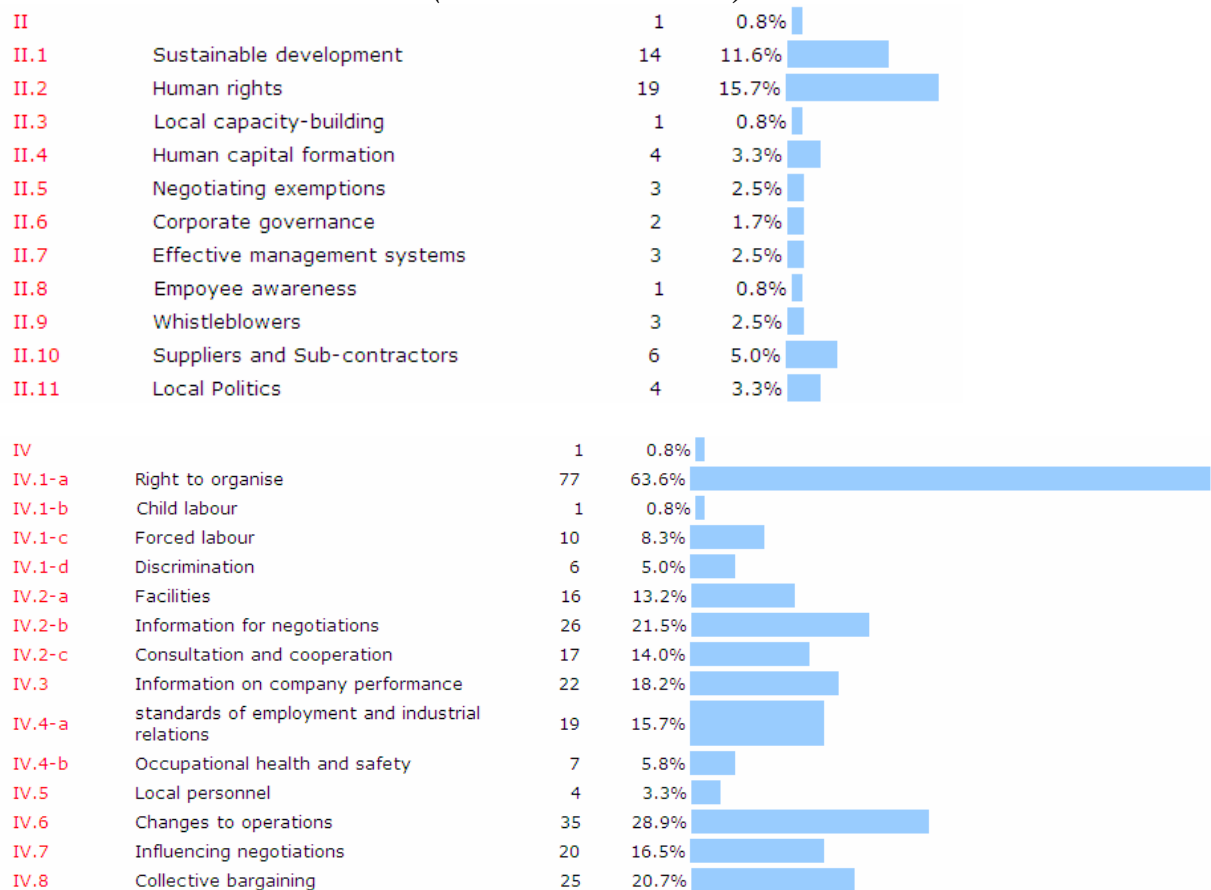
I	Concepts and Principles	8	6.6%	
II	General Policies	34	28.1%	
III	Disclosure	7	5.8%	
IV	Employment and Industrial Relations	113	93.4%	
V	Environment	4	3.3%	
VI	Combating Bribery	4	3.3%	
VII	Consumer Interests	4	3.3%	
VIII	Science and Technology	0	0.0%	
IX	Competition	0	0.0%	
X	Tax	1	0.8%	

FIGURE 3: CASES BY ARTICLES (CHAPTERS II AND IV)

2.3 Cases by Country

5. Just over half (54.2 %) the number of cases raised concerned violations in 20 OECD countries. OECD and non-OECD adhering countries together, account for 68% of cases in 24 countries. Cases in non-adhering countries are similarly spread across 24 countries, but represent a smaller proportion (39.1%) (see *FIGURE 4*).

6. The US is the country with the highest number of cases overall (15 cases concern violations in the US). It is closely followed by Brazil, with 14 cases, which leads the non-OECD adhering country group. Burma has the highest number of cases raised (7 cases) (see *FIGURE 4*) in the group of non-adhering countries.

FIGURE 4: CASES BY COUNTRY

In how many countries?

OECD countries	20	(65 cases: 54.2%)	US (15) South Korea (8) France (6)
Other adhering countries	4	(19 cases: 13.8%)	Brazil (14) Peru (2) Argentina (2)
Non-adhering countries	24	(54 cases: 39.1%)	Burma (7) Philippines (7) Sri Lanka (5)

2.4 Cases by NCP

7. Cases have only been submitted to 25 different NCPs – just 56.8 % of the total number of NCPs. It is consistent that US and Brazil NCPs – both adhering countries with the highest number of host country cases – are the NCPs that have received the highest number of cases. Their profile contrasts with that of the UK, for example, which is the host country for just 3 cases, whereas the UK NCP has received 14 cases.

FIGURE 5: CASES BY NCP

And to how many NCPs?

25 out of 44 (56.8%) NCPs have received cases

Which NCPs have received the highest number of cases?


US NCP	20 cases: 16.7%
Brazil NCP	16 cases: 13.3%
South Korea NCP	15 cases: 12.5%

2.5 Status of Cases

8. For the 120 cases raised to date NCPs have *accepted* 62 cases (51%), *rejected* 26 cases (21.5%) and *suspended* 9 cases (7.4%). There are a further 4 recent cases for which the *decision is pending* and 18 cases for which the NCP has made *no decision* (this includes cases that were withdrawn before there was time for the NCP to make a decision, as well as cases which are several years old). Of the 62 cases that have been *accepted* 72% are closed. On average closed cases have lasted 19 months from the date of submission to the date of closure (see *FIGURE 6* and *FIGURE 7*).

FIGURE 6: CASES BY NCP DECISION


For how many cases is the NCP decision pending?

Currently 4 3.3% 

How many cases have been accepted by the NCP?

Currently 62 51.2% 

How many cases have been rejected by the NCP?

Currently 26 21.5% 

How many cases have been suspended by the NCP?







Currently 9 7.4% 
Initially 12 9.9% 

FIGURE 7: CASES BY CURRENT STATUS

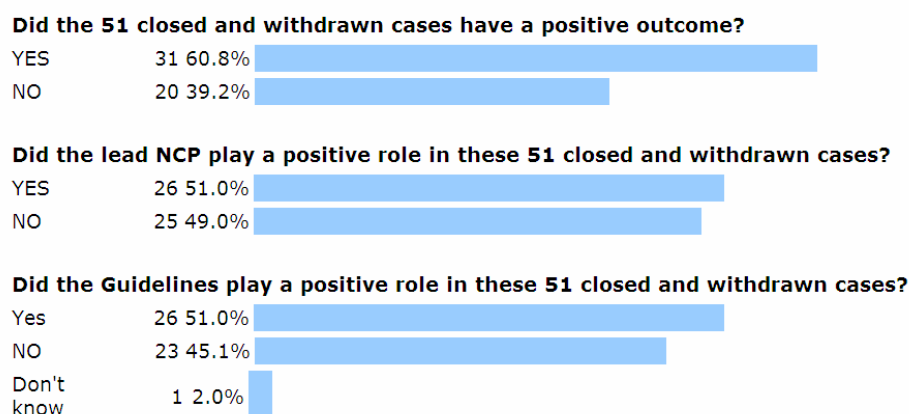
What is the current status of the 62 accepted cases?

Closed	45	72.6%	
Ongoing	7	11.3%	
Suspended	4	6.5%	
Withdrawn	6	9.7%	

2.6 Positive Outcomes

9. Of the 51 cases closed or withdrawn cases accepted by the NCP, 31 (60.8%) resulted in a positive outcome. The lead NCP is considered to have played a positive role in a slightly lower number of cases – 26 cases. Similarly, the Guidelines themselves are considered to have played a positive role in 26 cases. Further disaggregation of the data would show that there are cases where the lead NCP was considered to play a positive role but not the Guidelines and *vice versa*.

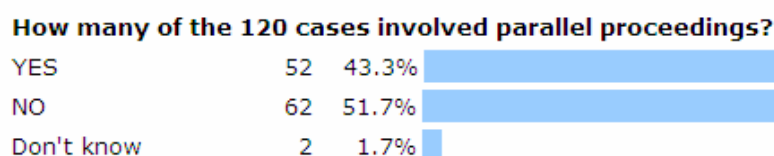
FIGURE 8: POSITIVE OUTCOMES IN CLOSED AND WITHDRAWN CASES



2.7 Cases Involving Parallel Proceedings

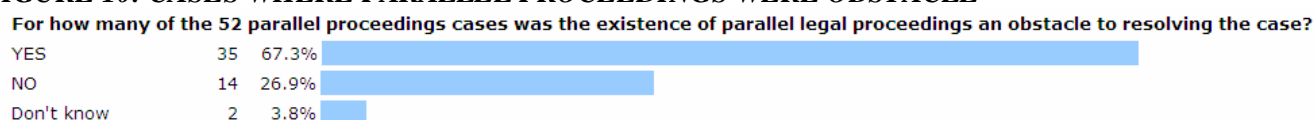
10. Of the 120 cases submitted over the past ten years, 52 (43.3%) have involved matters that were considered by parallel proceedings. Such proceedings could be judicial or administrative in nature, usually involving litigation in court or hearings before labour relations mechanisms.

FIGURE 9: CASES INVOLVING PARALLEL PROCEEDINGS



11. The prevalence of parallel proceedings is very important, as their existence is one of the most frequently cited reasons by NCPs in rejecting specific instances. Of the 52 cases where parallel proceedings were cited, their existence was an obstacle to the resolution of the matter by the NCPs under the Guidelines in 35 cases (67.3%).

FIGURE 10: CASES WHERE PARALLEL PROCEEDINGS WERE OBSTACLE




12. In other words, parallel proceedings were an obstacle to resolving matters through the Guidelines in nearly 3 out of 10 cases brought by trade unions since 2000. This is a priority issue for TUAC in the 2010-2010 Update.

FIGURE 11: TOTAL PROPORTION OF CASES WITH PARALLEL PROCEEDINGS AS OBSTACLE

For how many of the 120 cases was the existence of parallel legal proceedings an obstacle to resolving the case?

Response	Count	Percentage
YES	35	29.2%



3. Case Profiles

Cargill V IUF



Overview	
NCP Decision	Decision Pending
Current Status	
Date Submitted	29/04/2010
Date Closed	
Case Duration	
Host Country	Papua New Guinea (Non-adhering country)
Sector	Food, Agriculture and Tobacco
Issue	Refusal to negotiate with the trade union
Provisions Cited	I.1 I.2 I.7 IV.1-a IV.2-b IV.2-c IV.6
Case Description	<p>In April 2010, the IUF submitted a complaint to the US NCP concerning the activities of a subsidiary of the US company Cargill, CTP Holdings which produces palm oil in Papua New Guinea.</p> <p>The case concerned the refusal of CTP Holdings, since 2007, to negotiate with the trade union the Higaturu Oil Palm Processing Workers' Union (HOPPWU) over a range of issues including: non-payment of overtime pay; failure to implement check off of union dues; refusal to negotiate wages, refusal to provide information and negotiate on continuity of entitlements.</p>
Developments	On 11 May 2010, the US NCP wrote to the IUF stating that it would begin an initial assessment of the complaint.

National Contact Points (NCPs)	
Lead NCP	US NCP : Single Country Industry/Company Body
Companies	
Multinational Company	Cargill (Home country: US)
Subsidiary	CTP Holdings (Home country: Papua New Guinea)
Complainants	
Lead Complainant	IUF - UITA - IUL International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Unions
Affected Party	HOPPWU Higaturu Oil Palm Processing Workers' Union : Local Union

BASF V CUT-BRAZIL and BASF Trade Union Network

Overview	
NCP Decision	Accepted
Current Status	Ongoing
Date Submitted	19/04/2010
Date Closed	
Case Duration	
Host Country	Brazil (Adhering Country)
Sector	Chemicals and Pharmaceuticals
Issue	Right to trade union representation; dismissal of trade unionists
Provisions Cited	IV.1-a
Case Description	In April 2009, CUT Brazil submitted a complaint to the Brazilian NCP concerning the activities of a Brazilian subsidiary of the German multinational BASF. The case concerned interference during a strike in November 2009 and dismissal of a workers' representative without reason.
Developments	On 22 June 2010 the Brazilian NCP accepted the case.

National Contact Points (NCPs)	
Lead NCP	Brazil NCP : Interministerial Body
Companies	
Multinational Company	BASF (Home country: Germany)
Complainants	
Lead Complainant	CUT Brazil : National Centre

TUAC Analysis	
Did the case involve parallel proceedings?	
Was there an ownership or investment relationship between the MNC and the local entity concerned?	
Was the absence of an 'investment nexus' an obstacle?	n/a

Related Documents
Brazil NCP [Publication date: 22/6/2010] 'RELATÓRIO DE ACEITAÇÃO DE RECLAMAÇÃO Caso BASF (22.06.10) Reclamação PCN N° 03/2010' http://www.fazenda.gov.br/sain/pcnmulti/documentos/relatorios/RAR_03_2010.pdf [Date URL accessed: 22/6/2010 Source ID = 16833 FULL DETAILS]

Valeo V Korean Metal Workers' Union (KMWU)

Overview	
NCP Decision	Suspended
Current Status	
Date Submitted	24/03/2010
Date Closed	
Case Duration	
Host Country	South Korea (OECD member)
Sector	Automotive
Issue	Closure of a factory without prior information or consultation and massive lay-offs
Provisions Cited	III.4 IV.1-a IV.4-b IV.6
Case Description	<p>On 24 March 2010, the Korean Metal Workers' Union (KMWU) submitted a complaint to the South Korean National Contact Point concerning a subsidiary of the French multinational company, Valeo. On 26 October 2009, local Valeo management had announced that it would close its factory in Korea, which produced compressors used in final assembly of automobiles. No notice of any kind was provided, nor consultation made with the union or workers, before the closure following a shareholders' meeting. The workers were informed by telephone after they had started their workdays. Requests for documentations related to the meeting and the factory's performance were denied. All plant workers were told of their permanent dismissal. This lack of notice violated Korean labour law as well as the terms of an existing collective bargaining agreement.</p> <p>The complaint also highlighted Valeo's alleged longstanding anti-union behaviour. Throughout 2008, management obfuscated during collective bargaining negotiations, coming to the table only after an order by the Korean Regional Labour Relations Board. During the 2009 process, the company sought to delay the negotiations and then unilaterally withdrew from the employers' group representing firms in the rounds. Finally, the complaint alleges that the company improperly denied facilities for use by the union and filed baseless criminal charges, carrying the possibility of imprisonment, against unionists for simply making reports to workers about negotiations with the company.</p>
Developments	<p>On 16 April 2010, the KMWU met with the Korean NCP. At the meeting the Korean NCP informed the KMWU that it would not be able to offer prompt facilitation to resolve the dispute. First, because it feared that prompt examination of the case might be prejudicial to the outcomes of a 26 February 2010 filing the KMWU had made to the Regional Labour Relations Commission. But secondly, the Korean NCP stated that timely consideration would be difficult because of the requirement to involve several government ministries, thereby delaying any determination on whether the case merits further investigation.</p> <p>On 22 April 2010 the KMWU sent a letter requesting that their case be promptly examined, and then on the 4 May 2010 sent another written request for examination of their urgent case. The union also held a small demonstration in front of the Korean NCP Office in Gwacheon Government Complex to call on the Korean NCP to give prompt consideration to their urgent case.</p> <p>Meanwhile, a group of workers has remained on the factory site, maintaining the</p>

	property and machinery in the hopes that management will return to negotiate. The situation became potentially tense in June 2010, when reports circulated that the company would have essential services like water and electricity cut and possibly have the police forcibly remove the workers. Delegations from the union have now made two trips to Paris, France, in an attempt to meet with the central management of Valeo. So far, no attempt has been made by Valeo to engage the workers, with management demanding that they concede the permanent closure of the plant as a condition for talks. One delegation, in association with several of the French trade unions, arranged a meeting with Mr Michel Doucin, the French Ambassador for Corporate Social responsibility, in early June 2010. In its 2010 Annual Report to the OECD, the Korean NCP reports that an initial assessment by the NCP is underway and that separate deliberations are ongoing at the National Labour Relations Commission.
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National Contact Points (NCPs)	
Lead NCP	South Korea NCP : Interdepartmental Office
Companies	
Multinational Company	Valeo (Home country: France)
Subsidiary	Valeo Compressor Korea (VCK) (Home country: South Korea)
Complainants	
Lead Complainant	Korean Metal Workers' Union

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	✗
Did the lead NCP play a positive role?	✗
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings? Details: National Labour Relations Commission	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications
Parallel legal proceedings making it impossible for the worker to have access to timely remedy

Triumph International V Triumph International Thailand Labour Union, Bagong Pagkakaisa ng mga Manggagawa sa Triumph Int'l. Phils. Inc, Defend Job Philippines Organization Inc. and the Thai Labour Campaign

Overview	
NCP Decision	Accepted
Current Status	Ongoing
Date Submitted	02/12/2009
Host Countries	Philippines (Non-adhering country) Thailand (Non-adhering country)
Sector	Textiles, Leather and Garments
Issue	
Provisions Cited	II.9 IV.1-a IV.2-a IV.2-b IV.2-c IV.3 IV.6 IV.8 VII.4
Case Description	<p>In December 2009, trade unions and NGOs in the Philippines and Thailand - Triumph International Thailand Labour Union, Bagong Pagkakaisa ng mga Manggagawa sa Triumph Int'l. Phils. Inc, Defend Job Philippines Organization Inc. and the Thai Labour Campaign - submitted a case to the Swiss NCP concerning the activities of Triumph International, a leading undergarment manufacturer based in Switzerland, following the sudden retrenchment of 1959 workers (nearly half the total) at a plant in Samut Prakan, Thailand, and the closure of two factories in the Philippines and dismissal of their 1663 workers.</p> <p>Thailand</p> <p>In Thailand, the dismissals began in July 2009, after being announced for the first time on 27 June 2009 without any prior consultation with the unions and in opposition to earlier statements by the company. The company paid out severance pay according to Thai labour law but not according to the terms of its collective bargaining agreement with the TITLU signed in July 2008. Moreover, the layoffs seem to be in violation of article 18 of Thailand's Labour Relations Law. Among the retrenched were many pregnant women (not in itself illegal in Thailand) as well as 13 of 19 union committee and subcommittee members. Meanwhile, Triumph's plant in Nakhon Sawan province, employing about 1000 people but not unionized, was not affected by the layoffs. On 20 July, the workers asked the Swiss Embassy in Bangkok to intervene with Triumph management and oversee fair and open negotiations. (The Swiss Embassy's response is unknown.) The local subsidiary management also commenced court proceedings, resulting in a court ruling on 26 November affirming that the dismissal of the union members was legal.</p> <p>Philippines</p> <p>Two factories, one belonging to Triumph International Philippines (TIPI) and the other to Star Performance, both subsidiaries of Triumph, were closed in July 2009 following a unilateral announcement on 27 June. Previously, the union at TIPI had requested meetings and staged protests when the materials used by the factory suddenly began to be exported to other sites in May 2009. The company offered severance pay but a Triumph lawyer also threatened workers with individual court cases and the loss of benefits if they sought to resist the closure. The union rejected the separation package on the grounds that the company's reasons for closing the sites were unsubstantiated. No evidence or documentation pertinent to the closure</p>

	was produced despite numerous requests. After pickets were established, suspicious individuals, including 15-20 individuals with rifles on one occasion, were spotted near striking workers and the union office. The union has taken action on a number of fronts. It lobbied the embassies of Switzerland and Germany, but was told that the closures were at the discretion of the company. A Congressional inquiry has been requested of the House of Representatives, with no hearing yet set. A mediation process and negotiations have been started through the Department of Labour and Employment (DOLE), but no progress has been made, with the company resolute in its position. Finally, the High Level Mission of the ILO to the Philippines in September 2009 investigating union repression in the country heard a presentation on the situation and issued a general press statement, although without further recommendations.
Developments	In February 2010, the Swiss NCP accepted the case and offered its good offices to solve the issues. In its 2010 Annual Report to the OECD, the Swiss NCP reported that the proceedings were ongoing.

National Contact Points (NCPs)	
Lead NCP	Switzerland NCP : Single Department
Companies	
Multinational Company	Triumph International (Home country: Switzerland)
Subsidiary	Body Fashion Thailand Ltd. (Home country: Thailand)
Subsidiary	Star Performance Incorporated (Home country: Philippines)
Subsidiary	Triumph International (Philippines) (Home country: Philippines)
Complainants	
Lead Complainant	Thai Labour Campaign
Lead Complainant	Defend Job Philippines Organization Inc.
Lead Complainant	Bagong Pagkakaisa ng mga Manggagawa sa Triumph Int'l. Phils. Inc : Single Company Union
Lead Complainant	Triumph International Thailand Labour Union (ITLU) : Single Company Union
Supporting Complainant	TIE Bildungswerk

TUAC Analysis	
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	
Implications	
Triumph owns 60% of the production sites in its supply chains	

Related Documents
Triumph International Labour Movement 'News & Movements of Triumph International

(Thailand) Labour Union' http://triumph-union.blogspot.com/ [Date URL accessed: 22/6/2010 Source ID = 16830 FULL DETAILS]
'New Union of Workers of Triumph Int'l, Philippines' http://www.bpmi-ind.webs.com [Date URL accessed: 22/6/2010 Source ID = 16832 FULL DETAILS]
Defend Job Philippines 'Defend Jobs Philippines' http://defendjobphilippines.webs.com/ [Date URL accessed: 22/6/2010 Source ID = 16831 FULL DETAILS]

Abbott Pharmaceuticals V Korean Confederation of Trade Unions (KCTU)

Overview	
NCP Decision	Decision Pending
Date Submitted	16/10/2009
Host Country	South Korea (OECD member)
Sector	Chemicals and Pharmaceuticals
Issue	
Provisions Cited	II.4 IV.1-a IV.1-c IV.2-a IV.7 IV.8
Case Description	On the 16 October 2009, the Korean Confederation of Trade Unions (KCTU) submitted a complaint to the US NCP concerning the activities of the US based company Abbott Pharmaceuticals.
Developments	As South Korea is an adhering country, the US NCP advised the complainants to submit the case to the South Korean NCP. When the US NCP contacted the Korean NCP, the latter had not received the case.

National Contact Points (NCPs)	
Lead NCP	South Korea NCP : Interdepartmental Office
Supporting NCP	US NCP : Single Country Industry/Company Body
Companies	
Multinational Company	Abbott Pharmaceuticals (Home country: US)
Subsidiary	Abbott Pharmaceuticals South Korea (Home country: South Korea)
Complainants	
Lead Complainant	KCTU- Korea : National Centre

Häagen-Dazs (General Mills) V Korean Confederation of Trade Unions (KCTU)

Overview	
NCP Decision	No Decision
Current Status	Withdrawn
Date Submitted	15/10/2009
Date Closed	15/11/2009
Case Duration	1 month 1 day
Host Country	South Korea (OECD member)
Sector	Food, Agriculture and Tobacco
Issue	
Provisions Cited	II.2 II.10 III.4-a III.4-f IV.1-a IV.7 IV.8
Case Description	On the 15 October 2009 the Korean Confederation of Trade Unions (KCTU) submitted a complaint to the US NCP concerning the activities of the US based company Häagen-Dazs.
Developments	
Outcome	The issue was resolved once the company became aware of the situation and communicated with the union. There was no decision or intervention made by the US NCP.

National Contact Points (NCPs)	
Lead NCP	US NCP : Single Country Industry/Company Body
Companies	
Multinational Company	Häagen-Dazs (Home country: US)
Local Company	Häagen-Dazs Korea (Home country: South Korea)
Complainants	
Lead Complainant	KCTU- Korea : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	<input checked="" type="checkbox"/>

Itaú Unibanco V Sindicato dos Bancários e Financieiros de São Paulo, Osasco e Região V CUT-Brazil

Overview	
NCP Decision	Accepted
Current Status	Ongoing
Date Submitted	22/09/2009
Date Closed	
Case Duration	1 month 1 day

Host Country	Brazil (Adhering Country)
Sector	Financial Services
Issue	Suppressing a strike
Provisions Cited	IV.7 IV.8
Case Description	<p>In September 2009, the Bank Workers Union of Sao Paulo (Sindicato dos Bancários e Financiários de São Paulo, Osasco e Região) and the Central Union of Workers of Brazil (CUT-Brazil) submitted a case to the Brazilian NCP concerning activities undertaken to suppress a strike by the Brazilian multinational bank, Itagui Unibanco. The company's action involved the employers' union Feneban.</p> <p>The unions report that the company sent an email to managers containing guidance on how to ensure that workers continued to work through a strike. The same day, the bank held a meeting with the command of the military police in Sao Paulo in order to plan for the strike.</p>
Developments	On 22 June 2010 the Brazilian NCP accepted the case.
Outcome	

National Contact Points (NCPs)	
Lead NCP	Brazil NCP : Interministerial Body
Companies	
Multinational Company	Itaú Unibanco (Home country: Brazil)
Complainants	
Lead Complainant	CUT Brazil : National Centre
Lead Complainant	Sindicato dos Bancários e Financiários de São Paulo, Osasco e Região
Employer's Union	FENEBAN : Employer's Union ('Yellow' Union)

TUAC Analysis	
Was the absence of an 'investment nexus' an obstacle?	
Implications	
Absence of any international dimension - the case concerned a Brazilian company operating in Brazil	

Related Documents
<p>'RELATÓRIO DE ACEITAÇÃO DE RECLAMAÇÃO Caso Banco Itaú/Unibanco'</p> <p>http://www.fazenda.gov.br/sain/pcnmulti/documentos/relatorios/RAR_01_2010.pdf</p> <p>[Date URL accessed: 22/6/2010 Source ID = 16835 FULL DETAILS]</p>

Santander V Sindicato dos Bancários a Financiários de São Paulo, Osasco e Região V CUT Brazil

Overview	
NCP Decision	Accepted
Current Status	Ongoing
Date Submitted	22/09/2009
Date Closed	
Case Duration	1 month 1 day
Host Country	Brazil (Adhering Country)
Sector	Financial Services
Issue	Right to trade union representation; right to strike
Provisions Cited	I.7 IV.8
Case Description	<p>In September 2009, the Sindicato dos Bancários a Financiários de São Paulo, Osasco e Região (the Bank Workers Union of Sao Paulo) and the Central Union of Workers of Brazil (CUT-Brazil) submitted a case to the Brazilian NCP concerning the anti-union practices of the Spanish multinational bank, Banco Santander.</p> <p>The unions report that Santander won a legal case to allow it to prevent the presence of union members of the Sao Paulo Bank in any one of its branches. The code was designed to prevent appropriation of property but is being misapplied as striking workers are fighting for better wages and working conditions and not the possession of property of the owner.</p> <p>The Constitution of Brazil guarantees the rights of workers to strike.</p>
Developments	On 22 June 2010, the Brazilian NCP accepted the case.
Outcome	

National Contact Points (NCPs)	
Lead NCP	Brazil NCP : Interministerial Body
Companies	
Multinational Company	Banco Santander (Home country: Spain)
Subsidiary	Banco Santander Brasil (Home country: Brazil)
Complainants	
Lead Complainant	Sindicato dos Bancários a Financiários de São Paulo, Osasco e Região
Lead Complainant	CUT Brazil : National Centre

TUAC Analysis

Implications
Conflict between federal law, national law and international standards on the right to strike

Related Documents	
Dutch NCP [Publication date: 14/7/2009] 'Final statement of the Dutch NCP on the Complaint (dated 15 May 2006) on the violations of Pilipinas Shell Petroleum Corporation (PSPC), pursuant to the OECD Guidelines for Multinational Enterprises'" http://www.oesorichtlijnen.nl/wp-content/uploads/final_statement_shell_pandacan_14_july_2009.pdf [Date URL accessed: 26/1/2010 Source ID = 16746 FULL DETAILS]	
[Publication date: 22/6/2010] 'RELATÓRIO DE ACEITAÇÃO DE RECLAMAÇÃO Caso Banco Santander (22.06.10)' [Date URL accessed: 22/6/2010 Source ID = 16834 FULL DETAILS]	

Hochtief V New Zealand Amalgamated Engineering, Printing and Manufacturing Union

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	03/09/2009
Date Closed	16/02/2010
Case Duration	5 months 16 days
Host Country	New Zealand (OECD member)
Sector	
Issue	The use of 'dependent contractors' to undermine freedom of association and ability to bargain collectively in violation of ILO Conventions 87 and 98 and to avoid financial responsibilities
Provisions Cited	I.10 II.2 II.4 IV.1-a IV.1-d IV.2-c IV.4-a IV.4-b IV.5 IV.8 VII.4 X
Case Description	<p>On 3 September 2009, the New Zealand Amalgamated Engineering, Printing & Manufacturing Union Incorporated (EPMU) submitted a case to the New Zealand National Contact Point (NCP) regarding the activities of a subsidiary of the German multinational Hochtief, Visionstream Proprietary Limited (Visionstream), which is based in New Zealand.</p> <p>The issues concerned Visionstream's business model of engaging technicians under service contracts rather than employment agreements. EPMU alleged that by offering such contracts, Visionstream failed in its duty to engage with the EPMU for the purposes of collective bargaining and prevented workers from forming and joining trade unions. EPMU alleged that Visionstream has also thereby failed to provide for human capital formation and has avoided tax liabilities.</p>
Developments	<p>The New Zealand NCP carried out its initial assessment process, which comprised the following steps:</p> <ul style="list-style-type: none"> i) carrying out a desk-based assessment of the complaint ii) meeting separately with the parties to communicate progress and to collect any additional information iii) conducting a final review of all information received v) communicating its decision to the parties.

Outcome	<p>On the 16 February The NCP found that "[T]he issues raised in the EPMU submission do not merit further examination and therefore the NCP has decided not to proceed further with the specific instance".</p> <p>The NCP determined that "dependent contracts" represent a legitimate business model and do not in themselves breach the Guidelines. Moreover, the NCP did not find any evidence of discrimination resulting from the use of such contracts. The NCP also noted that more appropriate mechanisms exist for dealing with some of the specific issues and that, therefore, any mediation on its part would represent unnecessary duplication.</p> <p>In their 2010 Annual reports both the New Zealand NCP and the Australian NCP reported that the specific instance was still on-going with the cooperation of the involved NCPs. The New Zealand NCP wrote "the complaint is in the initial assessment phase".</p>
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National Contact Points (NCPs)	
Lead NCP	New Zealand NCP : Single Department
Supporting NCP	German NCP : Single Department
Supporting NCP	Australia NCP : Single Department
Companies	
Multinational Company	Hochtief (Home country: Germany)
Subsidiary	Visionstream (Home country: New Zealand)
Subsidiary	Leighton Holdings (Home country: Australia)
Complainants	
Lead Complainant	New Zealand Amalgamated Engineering, Printing and Manufacturing Union : National Union

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings? Details: There were no parallel legal proceedings but the NCP determined that some of the issues would be more appropriately dealt with by the legal or other systems	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications
The decision that the Guidelines do not apply to 'dependent contractors'

Nestlé India V IUF

Overview	
NCP Decision	No Decision
Current Status	Withdrawn
Date Submitted	11/05/2009
Date Closed	05/02/2010
Case Duration	9 months 0 days
Host Country	India (OECD Enhanced Engagement)
Sector	Food, Agriculture and Tobacco
Issue	Right to trade union representation and refusal to engage in collective bargaining.
Provisions Cited	IV.1-a
Case Description	On 11 May 2009, the IUF submitted a complaint to the Swiss NCP on behalf of the Federation of All India Nestlé Employees. The breaches concerned the refusal of management to negotiate on wages at five factories producing chocolate, coffee and culinary products. Prior to the submission of the complaint Nestlé management had taken legal action in the civil courts to seek an injunction against the unions and obtained a ban on assembling at the factory gates and holding meetings.
Developments	On the 21 January 2010, the IUF withdrew its complaint on the grounds that the unions in three of the factories had for the first time signed the collective agreement on conditions of employment including wages and benefits. The ban on 'assembling at the gates of the factory' remained in force however.
Outcome	The NCP closed the case on the 5 February 2010. As the initial assessment had not been completed and therefore no decision made on the merits of the case, no final assessment was issued.

National Contact Points (NCPs)	
Lead NCP	Switzerland NCP : Single Department
Companies	
Multinational Company	Nestlé (Home country: Switzerland)
Subsidiary	Nestlé India : Majority-owned subsidiary (Home country: India)
Complainants	
Lead Complainant	IUF - UITA - IUL International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Unions
Affected Party	Federation of All India Nestlé Employees : Single Company Union

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	
Implications	
The Swiss NCP had not completed its initial assessment before the case was withdrawn, but significantly it had not rejected it on the basis of parallel legal proceedings	

Glencore International A.G. V CUT Peru

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	23/03/2009
Date Closed	
Case Duration	9 months 0 days
Host Country	Peru (Adhering Country)
Sector	Mining
Issue	Termination of operations carried out by contracted mining companies without informing or consulting the workers
Provisions Cited	I.7 I.10 II.1 II.9 III.1 III.2 IV.2-b IV.2-c IV.3 IV.6
Case Description	In March 2009, the Central Nacional de la Mujer Minera del Peru and CUT PERU raised a complaint with the Peruvian NCP concerning 47 miners, contracted workers at Perubar S.A.'s Rosaura Mining Unit, which were allegedly illegally dismissed when Perubar decided to suspend operations at its Rosaura unit. The trade unions contend that Perubar terminated operations carried out by contracted mining companies at its mining unit Rosaura, without informing or consulting the workers. Perubar illegally laid off workers, intimidating them into signing resignation letters by threatening not to pay them their due salaries and social benefits. In the weeks preceding their lay off, all of the contracted miners working at the Rosaura unit were subject to harassment. The company reduced production and ordered workers to take forced leave. Furthermore, it failed to make clear the reasons for terminating operations at Rosaura. The case was also filed with the Swiss NCP.
Developments	The Peruvian NCP was extremely slow in responding. Following a number of

	<p>follow-up contacts in Peru, as well as meetings held in Paris, on the 30 April 2010, the Peruvian NCP rejected the case on the grounds of parallel legal proceedings. At the same time, however, it communicated that it would seek to secure mediation with Glencore as part of the legal proceedings.</p> <p>In June 2010, it was confirmed that Glencore had agreed to mediation in the context of the hearings to be convened by the labour court. However, this is likely to be subject to long time delays.</p>
Outcome	<p>The outcome is contradictory. On the one hand the Peruvian NCP has rejected the case. In its 2010 report to the Annual Meeting of the OECD Guidelines for Multinational Enterprises it stated that "[T]he NCP was not able to promote a solution, as far as the claimants have already presented the case to the local courts, alleging the breach of labour laws, asking for the annulment of the agreements signed with the enterprise (for concluding labour relations) and looking for the reposition in their jobs." But on the other hand it has reported to the trade unions in Peru that it was pursuing mediation through the court proceedings.</p>

National Contact Points (NCPs)	
Lead NCP	Peru NCP : Single Department
Supporting NCP	Switzerland NCP : Single Department
Companies	
Multinational Company	Glencore International AG (Home country: Switzerland)
Subsidiary	Minera Perubar S.A. (Home country: Peru)
Complainants	
Lead Complainant	CNMM Peru Central Nacional de la Mujer Minera del Peru : National Union
Lead Complainant	CUT Peru : National Centre
Supporting Complainant	IMF International Metalworkers Federation

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	✗
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings? Details: National Labour Courts	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment

It is highly unusual for an NCP to seek mediation in the context of the court process.

Implications

Need for provision of capacity-building for newly-established NCPs so as to accelerate start-up; need for common guidance on handling cases involving parallel legal proceedings

Global Hyatt V IUF 0

Overview	
NCP Decision	Decision Pending
Current Status	
Date Submitted	23/03/2009
Date Closed	
Case Duration	9 months 0 days
Host Country	Philippines (Non-adhering country)
Sector	Hotel, Restaurant and Catering
Issue	Replacement of permanent workers with agency and casual workers and refusal to engage in collective bargaining; right to trade union representation; lack of consultation and failure to give notice
Provisions Cited	IV.1-a IV.2-b IV.2-c IV.3 IV.6
Case Description	<p>In March 2009, the IUF submitted a complaint to the US NCP on behalf of its affiliate, in the Philippines, the National Union of Workers, in Hotel Restaurant and Allied Industries (NUWHRAIN) concerning the activities of Global Hyatt. NUWHRAIN has been the officially registered exclusive collective bargaining agent for workers at the Hyatt Regency Manila since 1996 . The IUF contends that since 2001, Hyatt management has committed a serious of violations of provisions under Chapter IV of the Guidelines aimed at undermining the union: replacing 40% of workers with temporary and casual hires to do the same jobs; refusal to bargain in good faith; harassment and intimidation, sometimes violent, of union members; and abuse of legal measures to cause financial and reputational hardship to the union. Finally, the site was closed down by management in May 2007, with severance packages being made conditional to employees' dropping their claim of reservation to an awaited decision by the Supreme Court.</p>
Developments	On 11 September 2009, the US NCP responded to the IUF by letter, requesting clarification on what role the US NCP could play in the matter. On the 9 November 2009, the IUF reiterated its request for the US NCP to offer its good offices to facilitate a dialogue with Hyatt.
Outcome	

National Contact Points (NCPs)	
Lead NCP	US NCP : Single Country Industry/Company Body
Companies	

Multinational Company	Global Hyatt (Home country: US)
Local Company	Hyatt Regency Manila (Home country: Philippines)
Complainants	
Lead Complainant	IUF - UITA - IUL International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Unions
Supporting Home Country Trade Union	National Union of Workers in Hotel Restaurant and Allied Industries (NUWHRAIN)

Nestlé V IUF (Korea)



Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	18/03/2009
Date Closed	30/09/2009
Case Duration	6 months 16 days
Host Country	South Korea (OECD member)
Sector	Food, Agriculture and Tobacco
Issue	Refusal to disclose information in the context of collective bargaining concerning changes in industrial set-up including changes in ownership.
Provisions Cited	IV.2-b IV.3 IV.6
Case Description	<p>In March 2009, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) raised a case regarding the failure of Nestlé Korea to disclose information on negotiations concerning a possible change of ownership.</p> <p>The case was raised with both the Korean and the Swiss NCPs.</p>
Developments	After consultation it was decided that the Korean NCP should act as the lead NCP with the Swiss NCP stating in the May 2009 report to the OECD that it was fully available "to assist with information or contacts here in Switzerland if need arise".
Outcome	<p>In May 2009, the Korea NCP rejected the complaint on the basis that the negotiations on changes in ownership had been discontinued.</p> <p>On 22nd June 2009, the IUF submitted the complaint to the Swiss NCP which replied on the 1st July stating that it could not accept a case that has been rejected by the South Korean NCP.</p> <p>In its 2010 Annual Report to the OECD, the Swiss NCP wrote with regard to the rejection of the case by the South Korean NCP that "the Swiss NCP came to the conclusion that it was not the competent instance to question and review the decision of the Korean NCP and refused to further consider the submission".</p>

National Contact Points (NCPs)

Lead NCP	South Korea NCP : Interdepartmental Office
Supporting NCP	Switzerland NCP : Single Department
Companies	
Multinational Company	Nestlé (Home country: Switzerland)
Subsidiary	Nestlé Korea (Home country: South Korea)
Complainants	
Lead Complainant	IUF - UITA - IUL International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Unions
Affected Party	Nestlé Korea Labour Union : Single Company Union

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	✗
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications
NCP cooperation: the home NCP was initially willing to provide support, but once the case was rejected by the Korean NCP it was unable to intervene further.

Related Documents
OECD [Publication date: 21/11/2003] 'SWISS CONTACT POINT WELCOMES KOREAN TRADE UNION DELEGATION' http://www.oecd.org/dataoecd/5/15/38033610.pdf [Date URL accessed: 4/8/2009 Source ID = 16694 FULL DETAILS]

Unilever Plc V IUF (Khanewal, Pakistan)

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	06/03/2009
Date Closed	20/11/2009

Case Duration	8 months 19 days
Host Country	Pakistan (Non-adhering country)
Sector	Food, Agriculture and Tobacco
Issue	Elimination of direct employment and extensive use of temporary employment contracts thus undermining the right to freedom of association and collective bargaining
Provisions Cited	II.1 II.4 II.9 IV.1-a
Case Description	In March 2009, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) raised a case against Unilever concerning workers at a factory owned by Unilever which employed over 700 workers of which only 22 were directly employed by Unilever and therefore eligible to be collective bargaining with Unilever. The submission argued that precarious employment was deliberately employed as means to deny rights to freedom of association and collective bargaining with the real employer - i.e. Unilever.
Developments	The UK accepted the case. It invited both parties to accept the UK NCP sponsored conciliation/mediation process. Both parties accepted the offer. The NCP appointed ACAS2 arbitrator and mediator John Mulholland to serve as conciliator-mediator. An initial conciliation meeting took place on 15 October 2009 in London and a second conciliation on 21 October 2009. The meetings were chaired by Mr Mulholland.
Outcome	No mediation was required as the parties agreed a mutually acceptable solution to the complaint through conciliation. The IUF and Unilever agreed that there would be change in the model of employment based on a combination of directly employed permanent labour and contract agency workers. Unilever also agreed to create 200 permanent positions. The Action Committee members agreed to withdraw all court petitions. The full text of the agreement reached by the parties is attached as an Annex to the UK NCP's Final Statement.

National Contact Points (NCPs)	
Lead NCP	UK NCP : Bipartite
Companies	
Multinational Company	Unilever PLC (Home country: UK, Netherlands)
Subsidiary	Unilever Pakistan Ltd. (Home country: Pakistan)
Complainants	
Lead Complainant	IUF - UITA - IUL International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Unions
Affected Party	National Federation of Food, Beverage and Tobacco Workers of Pakistan : National Union

TUAC Analysis

Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	✗
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✓
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓

TUAC Assessment

This is a highly positive outcome. As a result of the process the number of workers in direct employment was raised from 22 to 222, thus widening the basis for union membership and establishing the principle that the use of precarious employment undermines freedom of association and the right to bargain collectively was legitimate grounds for a case.

Implications

This is a landmark in that the NCP accepted a case built on the argument that the use of precarious employment constitutes a fundamental attack on workers' rights to freedom of association and to bargain collectively

Related Documents

UK NCP [Publication date: 20/11/2009] 'Complaint from the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations against Unilever plc on Pakistan's Khanewal factory'

<http://www.bis.gov.uk/files/file53915.pdf>

[Date URL accessed: 17/4/2010 | Source ID = 16812 FULL DETAILS]

Vale do Rio Doce SA V CUT Brazil

Overview	
NCP Decision	No Decision
Current Status	Withdrawn
Date Submitted	05/03/2009
Date Closed	
Case Duration	8 months 19 days
Host Country	Brazil (Adhering Country)
Sector	Mining
Issue	Failure to consult with trade union on laying off workers and breaching the

	collective bargaining agreement
Provisions Cited	IV.6
Case Description	In March 2009, CUT Brazil raised a complaint with the Brazilian NCP against Vale do Rio Doce SA for having laid off 1,300 workers during December 2008 and January 2009. CUT alleges that Vale had entered into an illegal emergency agreement with trade union representatives regarding a salary reduction of 50%, which CUT maintains contravenes Law No. 4923/1965, which provides that: reductions in salary can only take place after 3 months; that the remuneration, employment and bonuses for managers and executives should be reduced in the same proportion as that of employees; and that conclusion of such agreements and collective agreements should be subject to prior and clear documentary evidence.
Developments	
Outcome	The trade unions resolved the issues before the NCP reached any decision.

National Contact Points (NCPs)	
Lead NCP	Brazil NCP : Interministerial Body
Companies	
Multinational Company	Vale do Rio Doce SA (Home country: Brazil)
Complainants	
Lead Complainant	CUT Brazil : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications
This is a Brazilian multinational operating in the Brazilian market

EMBRAER S.A. V CUT BRAZIL

Overview	
NCP Decision	No Decision
Current Status	Withdrawn
Date Submitted	26/02/2009
Date Closed	
Case Duration	8 months 19 days
Host Country	Brazil (Adhering Country)
Sector	Aerospace
Issue	Failure to consult with trade unions on lay-offs
Provisions Cited	IV.6
Case Description	CUT Brazil, on behalf of the National Confederation of Metalworkers (CNM / CUT) and the Union of Employees in Aerospace Industries raised a case with the Brazilian NCP against the Brazilian company EMBRAER for laying off four thousand two hundred and seventy workers without consulting the trade union. CUT Brazil has called on the NCP to use its good offices to request that start the process of negotiation.
Developments	
Outcome	The trade unions resolved the issues before the NCP responded.

National Contact Points (NCPs)	
Lead NCP	Brazil NCP : Interministerial Body
Companies	
Multinational Company	EMBRAER (Home country: Brazil)
Complainants	
Lead Complainant	CUT Brazil : National Centre
Affected Party	National Confederation of Metalworkers (CNM CUT) : National Union
Affected Party	Union of Employees in Aerospace Industries : National Union

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications

This is a Brazilian multinational operating in the Brazilian market.

Unilever Plc V International Transport Federation (Turkey)

Overview	
NCP Decision	Decision Pending
Current Status	
Date Submitted	24/11/2008
Date Closed	
Case Duration	8 months 19 days
Host Country	Turkey (OECD member)
Sector	Transport
Issue	Illegal dismissal of workers and the right to collective bargaining
Provisions Cited	IV.1-a
Case Description	In November 2008, the International Transport Federation (ITF) raised a case with the UK NCP against a Turkish subsidiary of Unilever Plc for the dismissal of trade union members at two warehouse subcontractors in Turkey: Çipa and Simsek in April and May 2008. Both subcontracting companies were created to work for Unilever exclusively and Unilever management is involved in the management of their operations and employment. TÜMTIS, which is the authorised trade union for collective bargaining with Cipa management (not Simsek), has brought a law suit for the illegal dismissal of 83 workers. The courts have called for a reinstatement of some of the workers, which so far has not been respected. On the 11th September 2008, the ITF wrote to Unilever's CEO proposing a high level meeting, but this meeting was declined on the basis that it would interfere with the ongoing court case. However, the court case is only looking at whether the dismissal of the workers was illegal and should not prevent Unilever from recognising TÜMTIS and engaging in collective bargaining in line with Chapter IV a of the Guidelines.
Developments	The complaint was subsequently passed to the Turkish NCP, but so far there has been no response from the Turkish NCP. The Turkish 2009 NCP report states that the complaint is pending and at the initial assessment stage. The case is not contained in the 2009 report of the UK NCP.
Outcome	

National Contact Points (NCPs)	
Lead NCP	Turkey NCP : Single Department
Supporting NCP	UK NCP : Bipartite
Companies	
Multinational Company	Unilever PLC (Home country: UK, Netherlands)
Subsidiary	Unilever PLC (Home country: UK, Netherlands)
Subcontractor	Simsek (Home country: Turkey)
Subcontractor	Cipa (Home country: Turkey)

Complainants	
Lead Complainant	ITF International Transport Workers' Federation
Affected Party	TÜMTIS : Local Union

Nestlé SA V International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (Indonesia)

Overview	
NCP Decision	Accepted
Current Status	Ongoing
Date Submitted	10/11/2008
Date Closed	20/06/2010
Case Duration	19 months 17 days
Host Country	Indonesia (OECD Enhanced Engagement)
Sector	Food, Agriculture and Tobacco
Issue	Refusal to negotiate wages in Violation of ILO Conventions 87 and 98 Attacks on bona fide trade union workers Yellow union
Provisions Cited	IV.1-a IV.2-b IV.2-c
Case Description	In November 2008, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) raised a case against Nestlé Indonesia with the Swiss NCP regarding the right to be represented by a trade union and to engage in collective bargaining on wages and other working conditions.
Developments	The Swiss NCP accepted the complaint on the 5th January 2009. The Swiss NCP has offered its good offices for the purposes of solving the issue. Over the following meetings the NCP convened joint and separate meetings with the parties on the 28th and 29th August 2010. A later meeting with the IUF on the 16th August involved representative of the workers from Indonesia.
Outcome	It is expected that the NCP is to close the specific instance on the grounds that there was agreement that the Union of Nestlé Indonesia Panjang Workers would be the party for collective bargaining. The IUF did not agree that the case should be closed.

National Contact Points (NCPs)	
Lead NCP	Switzerland NCP : Single Department
Companies	
Multinational Company	Nestlé (Home country: Switzerland)
Subsidiary	PT Nestlé Indonesia : Wholly-owned subsidiary (Home country: Indonesia)
Complainants	
Lead Complainant	IUF - UITA - IUL International Union of Food, Agricultural, Hotel,

	Restaurant, Catering, Tobacco and Allied Workers Unions
Affected Party	Union of Nestlé Indonesia Panjang Workers

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✓
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications
Constraints on NCP role due to evidentiary standards

Related Documents
IUF [Publication date: 28/11/2003] 'Negotiated Agreement Ends Lengthy Conflict at Nestlé Korea' http://www.iuf.org/cgi-bin/dbman/db.cgi?db=default&uid=default&ID=1193&view_records=1&ww=1&en=1 [Date URL accessed: 7/6/2010 Source ID = 16828 FULL DETAILS]
IUF [Publication date: 24/11/2003] 'Korean Labour Relations Commission Finds Nestlé Guilty of "Unfair and Illegal Labour Practices"' http://www.iuf.org/cgi-bin/dbman/db.cgi?db=default&uid=default&ID=1184&view_records=1&ww=1&en=1 [Date URL accessed: 7/6/2010 Source ID = 16829 FULL DETAILS]

Daewoo and Korea Gas Corporation V Shwe Gas Campaign

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	29/10/2008
Date Closed	27/11/2008
Case Duration	29 days
Host Country	Burma (Non-adhering country)
Sector	Oil and Gas
Issue	Forced Labour in Burma
Provisions	II.1 II.2 III.1 IV.1-c V.2-a V.2-b V.3

Cited	
Case Description	In October 2008, a coalition of NGOs, together with the two Korean trade union confederations KCTU and KFTU, contacted the Korean NCP in October 2008 with regards to human rights, including labour rights, abuses in Burma related to the activities of Daewoo International and the Korea Gas Corporation (KOGAS) and the Shwe natural gas project, located on the west coast of Burma.
Developments	
Outcome	The Korean NCP rejected the case on the basis that several of the alleged impacts were potential rather than actual and on acceptance at face value of contradictory information provided by the companies involved.

National Contact Points (NCPs)	
Lead NCP	South Korea NCP : Interdepartmental Office
Companies	
Multinational Company	Korea Gas Corporation (Home country: South Korea)
Multinational Company	Daewoo (Home country: South Korea)
Complainants	
Lead Complainant	Earthrights International : Environmental
Lead Complainant	KFTU Korean Federation of Trade Unions : National Centre
Lead Complainant	KCTU- Korea : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
Both the process and the outcome are wholly unsatisfactory. The decision of the Korean NCP runs counter to previous commitments made by the OECD with regard to Burma and reflects a pattern of decision-making that raises a question over the performance of the Korean NCP.
Implications
Decision undermines the use of the Guidelines to contribute to the elimination of forced labour in Burma.

Related Documents

The Irawaddy [Publication date: 4/8/2009] 'Total Chief: Critics Can 'Go to Hell''
http://www.irrawaddy.org/article.php?art_id=16479

[Date URL accessed: 6/8/2009 | Source ID = 16697 FULL DETAILS]

Earthrights International [Publication date: 15/6/2009] 'Korean Government Fails to Investigate Korean Corporations' Involvement in Abuses in Burma'
<http://www.earthrights.org/content/view/679/114/>

[Date URL accessed: 7/8/2009 | Source ID = 16702 FULL DETAILS]

Earthrights International [Publication date: 15/6/2009] 'A Governance Gap: The Failure of the Korean Government to hold Korean Corporations Accountable to the OECD Guidelines for Multinational Enterprises Regarding Violations in Burma'

<http://www.earthrights.org/files/Reports/A-Governance-Gap-Report.pdf#>

[Date URL accessed: 7/8/2009 | Source ID = 16704 FULL DETAILS]

Unilever PLC - Pakistan (Rahim Yar Kahn II) V International Union of

Food, IUF



Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	27/10/2008
Date Closed	13/08/2009
Case Duration	9 months 20 days
Host Country	Pakistan (Non-adhering country)
Sector	Food, Agriculture and Tobacco
Issue	The use of precarious work to undermine freedom of association and the ability to bargain collectively in violation of ILO Conventions 87 and 98
Provisions Cited	II.1 IV.1-a
Case Description	On 27th October 2008, the IUF re-submitted a case which had been accepted by the UK NCP at the beginning of April 2008, after which a group of the dismissed temporary workers founded the Action Committee for the Dismissed Workers of Unilever Rahim Yar Kahn supported by the IUF. Therefore the IUF re-submitted the case on the part of this new group of workers.
Developments	On 15 December 2008, the UK NCP published its Initial Assessment in which it accepted the case. It invited parties to confirm whether they were willing to accept the UK NCP sponsored conciliation/mediation process. At this point, both parties asked for time to reach agreement through bilateral meetings outside the UK NCP complaint process. On 3rd May 2009, due to a lack of progress in the bilateral meetings, the IUF asked the UK NCP to arrange and facilitate conciliation/mediation. The UK NCP appointed an external Arbitrator and Mediator, John Mulholland, to serve as conciliator-mediator. Conciliation/mediation meetings took place on 29 April 2009, 26 May and 24 June 2009 in London. The meetings were chaired by Mr Mulholland. In the end no mediation was required as the parties agreed a mutually acceptable

	solution to the complaint through conciliation.
Outcome	In August 2009, the case was closed following a settlement that required Unilever to create 120 new permanent positions at the plant, effective from June 24 2009, and that all Action Committee members should be appointed to these positions. According to the agreement, these workers should suffer no discrimination at the factory, and the company should pledge to abstain from interference in the work of the union in which they will now be members. For the small number of Action Committee members who do not currently meet the education requirements, Unilever will provide a scholarship of up to two years equivalent to the monthly permanent wage, plus medical insurance. During this time, permanent positions are to be held open. The dismissed former temporary staff who do not receive new positions are to receive a lump sum payment equivalent to just under three years of their previous monthly wage. Those appointed to permanent jobs will receive a smaller lump sum payment. It was agreed that implementation of the agreement was to be monitored by the IUF and Unilever at local and international level. Due to the successful conclusion of the conciliation process and the agreement reached by the parties, the UK NCP did not make any examination on the allegations contained in the complaint.

National Contact Points (NCPs)	
Lead NCP	UK NCP : Bipartite
Companies	
Multinational Company	Unilever PLC (Home country: UK, Netherlands)
Subsidiary	Unilever Rahim Yar Kahn Pakistan (Home country: Pakistan)
Complainants	
Lead Complainant	IUF - UITA - IUL International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Unions
Supporting Complainant	National Federation of Food, Beverage and Tobacco Workers : National Union
Affected Party	Action Committee for the Dismissed Workers of Unilever Rahim Yar Khan : Local Union

Implications
According to the IUF this case "constitutes an important union victory in the fight against disposable jobs and Unilever's strategy of reducing bargaining power by radically the shrinking the number of permanent employees eligible for union membership and inclusion in the collective bargaining unit."

Fine Corporation V ITGLWF

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	22/09/2008
Date Closed	
Case Duration	9 months 20 days
Host Country	Sri Lanka (Non-adhering country)
Sector	Textiles, Leather and Garments
Issue	A multinational failing to take responsibility for its subsidiary's unpaid liabilities - the wages of unfairly dismissed workers
Provisions Cited	IV.1-a
Case Description	<p>In September 2008, the Global Union Federation (GUF), the International Textile, Garment and Leather Workers' Federation (ITGLWF) submitted a letter to the Korean NCP that reported unpaid liabilities owed by Fine Lanka Luggage (Pvt) Ltd, a subsidiary of the Korean company, the Fine Corporation.</p> <p>In 2000, the ITGLWF contends that the Fine Lanka plant in Sri Lanka was closed with the purpose of removing the trade union. It later re-opened, but refused to re-employ many of the union members. In April 2006, the arbitrator in Sri Lanka ruled that the company should reimburse the salaries and allowances of 388 workers corresponding to the period 2000-2006. However, by this time the owners of the subsidiary had left Sri Lanka. The Fine Corporation has yet to cover its subsidiary's legal liabilities in accordance with the arbitration ruling.</p>
Developments	
Outcome	<p>In December 2008, the Korean NCP stating that the Korean company had ceased to operate. In January 2009, the ITGLWF wrote back asking if the Korean NCP could take steps to trace the company. The Korean NCP did not respond.</p> <p>The ITGLWF wrote again after the Sri Lankan courts ordered the company to appear in court in October 2009 to ask if the Korean NCP could find the company owners and give them a copy of the court summons. To date the Korean NCP has not replied.</p>

National Contact Points (NCPs)	
Lead NCP	South Korea NCP : Interdepartmental Office
Companies	
Multinational Company	Fine Corporation (Home country: South Korea)
Subsidiary	Fine Lanka Luggage (Pvt) Ltd (Home country: Sri Lanka)
Complainants	
Lead Complainant	ITGLWF International Textile, Garment and Leather Workers Federation
Affected Party	Free Trade Zones and General Services Employees Union : Local Union

Was the absence of an 'investment nexus' an obstacle?

Implications

Reluctance of the NCP to act where a company has left the country

Delta Airlines V Association of Flight Attendants

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	10/09/2008
Date Closed	08/01/2009
Case Duration	4 months 0 days
Host Country	US (OECD member)
Sector	Transport
Issue	Interference with the right to organise
Provisions Cited	IV.1-a IV.6
Case Description	<p>In September 2008, the Association of Flight Attendants (AFA-CWA) submitted a complaint to the US NCP concerning the activities of Delta Airlines.</p> <p>The complaint concerns an election that was held at the end of May 2008, to determine whether flight attendants should be represented by the AFA-CWA. During the election period, Delta Airlines conducted an aggressive anti-union campaign, which led to the turn out in the election being below the required level. The company produced a DVD that was sent to every flight attendant's home stating that union representation would harm the relationship between Delta Airlines and its employees.</p> <p>The company dismissed 207 out of 826 workers without consultation and in violation of the collective agreement. A further 100 workers were dismissed including 13 members of the Trade Union's Executive Committee.</p>
Developments	<p>On the 8 January 2009, the US National Contact Point sent a letter rejecting the case. The grounds for rejection included the absence of an international investment context, as well as the existence of parallel legal proceedings.</p> <p>The Association of Flight Attendants (AFA-CWA) wrote again to the US NCP highlighting that the domestic conduct has strong implications for conduct in its international operations and emphasising that the OECD MNE Guidelines provide stand-alone, best practice recommendations for responsible business behaviour worldwide, consistent with applicable laws. The specific instance procedure should be invoked on the basis of the merits of the case vis a vis the provisions of the Guidelines and irrespective of other proceedings.</p>
Outcome	The case was rejected.

National Contact Points (NCPs)

Lead NCP	US NCP : Single Country Industry/Company Body
Companies	
Multinational Company	Delta Airlines (Home country: US)
Complainants	
Lead Complainant	Association of Flight Attendants : Single Country Industry/Company Body
Supporting Complainant	AFLCIO

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings? Details: ILO Complaint Committee on Freedom of Association; National Mediation Board	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✗
Was the absence of an 'investment nexus' an obstacle?	✓

TUAC Assessment
The fact that the grounds for rejection included the absence of an international investment context mirrors a decision taken in 2005 by the Swiss NCP.
Implications
No international investment dimension: the allegations concerned a U.S. multinational operating in the U.S.; parallel legal proceedings

Kongsberg Automotive V Norwegian United Federation of Trade

Unions (Fellesforbundet)



Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	25/08/2008
Date Closed	28/05/2009
Case Duration	9 months 6 days
Host Country	US (OECD member)
Sector	Automotive
Issue	The use of lockout in combination with hired labour
Provisions Cited	IV.1-a IV.2-a IV.2-b IV.3
Case Description	<p>In August 2008, the Norwegian United Federation of Trade Unions(Fellesforbundet) submitted a case to the Norwegian NCP concerning the use of lockout in combination with hired labour by a subsidiary of the Norwegian company Kongsberg. Kongsberg Automotive acquired the company Van Wert Facility in Ohio in 2007-2008. The factory produces gearshift system components for the U.S. automobile industry. At the time, there were ongoing negotiations at the factory concerning employment conditions and pay. The negotiations then deteriorated, leading to a labour dispute. In April 2008, Kongsberg Driveline Systems – Van Wert Facility locked out its employees. During the lockout, the factory hired temporary labour in order to continue production. It was subsequently decided that production at the Van Wert Facility was to be moved to Mexico from August 2009.</p> <p>Fellesforbundet argued that the parent company Kongsberg Automotive's acceptance of the use of hired labour during a lockout represented a breach of the OECD Guidelines. Fellesforbundet argued that the employees at the production plant have no remedies at their disposal if the enterprise can continue its operations during a lockout without this having consequences for production. In Fellesforbundet's view, this practice is therefore in breach of the right to collective bargaining, and thus also of core ILO conventions (ILO Conventions Nos. 87 and 98). Since Kongsberg Automotive's corporate management in Norway accepts responsibility for this situation, it is Fellesforbundet's view that the corporate management could also have contributed to achieving a different outcome.</p>
Developments	<p>The NCP communicated by letter with Kongsberg Automotive and Fellesforbundet, and held a meeting with both parties on 25 March 2009 to discuss the complaint and assist the parties in resolving the issue.</p> <p>Kongsberg Automotive refuted all of Fellesforbundet's allegations and submits that the use of hired labour during a lockout is neither a breach of the OECD Guidelines, nor contrary to Norwegian law.</p> <p>Many of the claims and arguments were also submitted to the US NLRB and were rejected on 31 July 2008. The ruling was appealed to the Office of Appeals General Counsel of the NLRB, which rejected the appeal.</p>

Outcome	<p>There are in effect two final statements: of the majority of the NCP (government and business) and the minority (the trade unions).</p> <p>The final statement of the majority argues that complaint should have been dealt with by the US NCP. The US NCP did not, however, reply to the Norwegian NCP.</p> <p>On the issue of the use of lockout combined with hired labour, the NCP found that both practices would be legal in US and Norway and had been found to be legal in the court proceedings in the US. The Guidelines do not specifically address the issue of lockout. It also found that there was no breach of ILO Conventions. However, it concluded that "as it has become part of Norwegian parent companies' corporate social responsibility to encourage their foreign subsidiaries to observe Norwegian labour traditions insofar as is practicable. In Norway, using hired labour during a labour dispute would not be in keeping with Norwegian practices and traditions. The Norwegian NCP recommends that Kongsberg Automotive takes such considerations into account should a similar situation arise in the future."</p> <p>The minority NCP view (the trade unions) stated that the case should have been handled by the Norwegian NCP and that the existence of parallel legal proceedings in the US should not have affected the decision of the Norwegian NCP as the US has not ratified ILO Conventions Nos. 87 and 98, which are fundamental to the complaint. It also argued that "the use of hired labour in connection with a lockout is incompatible with the rules governing Norwegian labour relations, and this has been the case since the early 1930s".</p>
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National Contact Points (NCPs)	
Lead NCP	Norway NCP : Tripartite with several Ministries
Companies	
Multinational Company	Kongsberg (Home country: Norway)
Subsidiary	Kongsberg Driveline System - (Home country: US)
Complainants	
Lead Complainant	Norwegian United Federation of Trade Unions(Fellesforbundet)

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings? Details: National Labour Relations Board	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	✗

Implications

NCP cooperation: this case is unusual in that it was dealt with by the home country NCP, rather than the host country NCP as a result of the host NCP's failure to respond; the weight of a split decision in the NCP

Grupo Modelo V Frente Autentico del Trabajo and Union Nacional de Trabajadores

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	30/06/2008
Date Closed	13/01/2010
Case Duration	18 months 22 days
Host Country	Mexico (OECD member)
Sector	Food, Agriculture and Tobacco
Issue	Right to trade union representation; dismissal of trade union workers; employment protection contracts, whereby the company paid off the union leaders who in turn protected the company against union activity
Provisions Cited	IV.1-a IV.8
Case Description	<p>In June 2008, two Mexican trade unions and a trade union research organisation Trade Union of Workers of Industrial Vidriera del Potosí (Sindicato Único de Trabajadores de la Empresa Industria Vidriera del Potosí S.A. de C.V.(SUTEIVP), Union Nacional de Trabajadores (UNT), Frente Auténtico del Trabajo (FAT) and Labour Research and the Trade Union Consulting Centre (CILAS) organisation raised a case with the Mexican NCP concerning Industria Vidriera del Potosí, a subsidiary of the Mexican-US beer company Grupo Modelo. The case was supported by the International Campaign against Employer Protection Contracts.</p> <p>On 26 January 2008, the company dismissed 826 workers in violation of the collective bargaining agreement. It then dismissed a further 100 workers including 13 members of the Trade Union's Executive Committee. The unions reported that these dismissals were carried out without any prior information or consultation. The company later negotiated the entry of a new trade union.</p> <p>The Industria Vidriera del Potosí S.A. produces glass bottles.</p>
Developments	<p>In May 2009, in its Annual Report to the OECD, the NCP reported that it was still at the stage of initial assessment and that it had requested further information from all the involved parties, as well as the Ministry of Labour and Social Welfare. It reported that to date it had only received information from the Ministry of Labour. In 2009, the NCP requested information including the status of related legal proceedings.</p> <p>In its 2010 Annual Report to the OECD, the Mexican NCP reported that it had "met with representatives of both parties on several occasions in order to get a better understanding of the situation" and that it had circulated a questionnaire. It also met with the Ministry of Labour in Mexico, which it stated had also met with both parties.</p>

Outcome	In January 2010 the Mexican NCP rejected the case on the basis of insufficient specific evidence.
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National Contact Points (NCPs)	
Lead NCP	Mexico NCP : Single Department
Companies	
Multinational Company	Grupo Modelo (Home country: Mexico, US)
Subsidiary	Industria Vidriera del Potosi (Home country: Mexico)
Complainants	
Lead Complainant	Labour Research and the Trade Union Consulting Centre (CILAS)
Lead Complainant	SUTEIVP Trade Union of Workers of Industrial Vidriera del Potosi : Single Company Union
Lead Complainant	Union Nacional de Trabajadores (UNT) : National Centre
Lead Complainant	Frente Autentico del Trabajo : National Union

Implications
Timescales - the NCP has not made any decision on the case after 48 months

Nestlé V IUF (Russia)

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	11/02/2008
Date Closed	29/09/2008
Case Duration	7 months 21 days
Host Country	Russia (OECD Accession Country)
Sector	Food, Agriculture and Tobacco
Issue	Refusal to engage in collective bargaining on wages
Provisions Cited	II.2 IV.1-a IV.2-a IV.2-b IV.7
Case Description	<p>In February 2008, the IUF submitted a case to the Swiss NCP concerning a subsidiary of Nestlé in Russia, Nestlé Perm, and the right for workers to be represented by trade unions, the requirement to provide the information needed for meaningful negotiations and threats to transfer production in the context of an industrial dispute.</p> <p>When the Nestlé Perm Workers Union requested the management of the confectionary plant in Perm in Russia to enter into wage negotiations in August 2007, the company refused asserting that it was standard Nestlé policy not to negotiate on wage issues. This led to a collective labour dispute being declared under Russian law obliging the parties to participate in a conciliation committee.</p>

	Following a legal picket in December 2007 and initial meetings of the conciliation committee, management began to pressure workers to withdraw their support for the union. Management threatened to transfer production if workers continued to support the union's request for wage negotiations. Furthermore, a questionnaire was distributed at the plant seeking workers' views on political parties, confidence in trade unions etc. The survey was stopped at the union's request, but it clearly interfered with fundamental principles and rights at work.
Developments	On 11 February 2002, the Swiss NCP acknowledged receipt of the submission. It then met separately with both parties in May 2008. On 11 June 2008, union and management signed an agreement that wages would be part of the collective bargaining process, which was to be conducted annually starting in September 2008. The case was consequently closed in September 2008.
Outcome	

National Contact Points (NCPs)

Lead NCP	Switzerland NCP : Single Department
Companies	
Multinational Company	Nestlé (Home country: Switzerland)
Subsidiary	Nestlé Perm (Home country: Russia)
Complainants	
Lead Complainant	IUF - UITA - IUL International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Unions
Affected Party	Nestlé Perm Workers Union : Local Union

TUAC Analysis

Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications

The refusal to engage in collective bargaining on wages on the grounds that wages are a commercial secret and therefore outside the scope of collective is in fact common practice in many parts of the world

Novartis V Austrian Union of Salaried Private Sector Employees

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	05/02/2008
Date Closed	01/07/2009
Case Duration	17 months 2 days
Host Country	Austria (OECD member)
Sector	Chemicals and Pharmaceuticals
Issue	Lack of prior information and consultation on closure
Provisions Cited	IV.3 IV.6
Case Description	In February 2008, the Austrian Union of Salaried Private Sector Employees (GPA) submitted a case to the Austrian NCP in February 2008 concerning the operations of Novartis. The headquarter of Novartis in Switzerland made the decision to close down the Austrian research center "Novartis Institutes for BioMedical Research GmbH & Co.KG", which employed 240 people as researchers. Information concerning the future evaluation of the research centres of Novartis was announced on the 18 December 2007. Six days later the headquarters made the video announcement, that the Austrian Novartis Institute was to be closed. The company informed its employees of the closure of its research centre in Vienna without any prior consultation.
Developments	The NCP carried out consultations with the two parties and found that the Austrian management had similarly not been informed at an early stage. Hence, the responsibility for the breach of the Guidelines lay with the CEO of the headquarters in Switzerland.
Outcome	<p>The final statement was assessed by trade unions to be much weaker than an earlier draft statement. It explained that although the company had failed to give the Works Council sufficient information and notice, as required under Chapter IV of the Guidelines, Novartis had set up a social plan for laid off employees, which was deemed to be a readiness to mitigate harmful effects.</p> <p>The NCP did not accept the trade union argument that this social plan had only come about as a result of the trade unions using a parallel complaint procedure in the same Ministry for solving conflicts in Industrial Relation matters, which had forced Novartis to negotiate a social plan.</p>

National Contact Points (NCPs)	
Lead NCP	Austria NCP : Single Department
Companies	
Multinational Company	Novartis (Home country: Switzerland)
Complainants	
Lead Complainant	Austrian Union of Salaried Private Sector Employees

TUAC Assessment

In its 2010 Annual Report, the Austrian NCP reported that "[F]ollowing extensive consultations, both parties expressed their support for the final statement issued by the NCP". TUAC understands that in fact the trade unions concerned were disappointed by the outcome, which they considered to be very business-friendly.

Implications

Questions over the independence of the process

British American Tobacco (BAT) V Malaysian Trades Union Congress (MTUC)

Overview	
NCP Decision	Accepted
Current Status	Suspended
Date Submitted	11/12/2007
Date Closed	
Case Duration	17 months 2 days
Host Country	Malaysia (Non-adhering country)
Sector	Food, Agriculture and Tobacco
Issue	Right to trade union representation
Provisions Cited	IV.1-a IV.4-a IV.7 IV.8
Case Description	<p>In December 2007, the Malaysian Trades Union Congress (MTUC) submitted a complaint against British American Tobacco (BAT) concerning the denial of the right of workers to organise. In August 2006, the company began to transform company posts at its Malaysian facility into management positions that could not be held by trade union members. The MTUC asserted that this represented an attempt by BAT to destroy the British American Tobacco Employees Union (BATEU).</p> <p>The workers had to carry out the same tasks as before, such as operating machines, but by redefining the post as management, it cannot, according to Malaysian law, be filled by a worker that is a trade union member. Workers who did not accept the new designation were forced to leave the company. Consequently, the BATEU has now lost most of its members.</p>
Developments	<p>In March 2008, the UK NCP issued an initial assessment in which it accepted most of the issues raised in the case. The UK CP did not however accept for consideration the allegation raised under Chapter IV paragraph 7, due to a lack of evidence.</p> <p>The NCP suspended the case in April 2008 because of parallel proceedings. This decision pre-dated the UK NCP's guidance on parallel proceedings, which was introduced in September 2009. The decision to suspend will now be re-assessed in the light of this guidance.</p>
Outcome	

National Contact Points (NCPs)	
Lead NCP	UK NCP : Bipartite
Companies	
Multinational Company	British American Tobacco (Home country: UK)
Local Company	Union of Myanmar Economic Holding Co. (Home country: Burma)
Subsidiary	Rothmans International
Complainants	

Lead Complainant	MTUC- Malaysia : National Centre
Affected Party	British American Tobacco Employees Union : International industry/company body

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications
Stopped due to parallel legal proceedings in the host country

Unilever PLC V IUF (Rahim Yar Kahn I, Pakistan)



Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	21/11/2007
Date Closed	27/10/2008
Case Duration	11 months 11 days
Host Country	Pakistan (Non-adhering country)
Sector	Food, Agriculture and Tobacco
Issue	Precarious work that undermines freedom of association and the right to bargain collectively in violation of ILO Conventions 87 and 98
Provisions Cited	II.1 IV.1-a
Case Description	<p>On 21st November 2007, the international trade union body the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) submitted a complaint to the UK NCP concerning alleged breaches of the guidelines by a Unilever subsidiary, Unilever Pakistan Ltd.</p> <p>At the end of September 2007, the union at the company's factory in Rahim Yar Kahn, Pakistan decided to open membership to temporary workers. This was followed by individual petitions in the labour court, in order to obtain permanent</p>

	<p>employment status as those that had worked for more than nine months of continuous service were entitled to permanent contracts. In response, management issued termination letters to all 292 temporary workers on the 20th October 2007. They were then gathered into a meeting room with armed police and forced to sign the letters. Five workers nevertheless refused. The rest of the workers were immediately replaced by casual agency workers.</p> <p>The IUF contended that these events were part of the company's strategy to reduce systematically the permanent staff - only 509 remain out of some 8000 employees. The Rahim Yar Khan plant had 1200 permanent workers in 1970. In 2007, there were only 250.</p>
Developments	<p>The UK NCP accepted the case at the beginning of April 2008. By then, a group of the dismissed temporary workers had founded the Action Committee for the Dismissed Workers of Unilever Rahim Yar Kahn supported by the IUF.</p> <p>On 27th October 2008, the IUF submitted a new case on behalf of those workers in October 2008.</p>
Outcome	

National Contact Points (NCPs)	
Lead NCP	UK NCP : Bipartite
Companies	
Multinational Company	Unilever PLC (Home country: UK, Netherlands)
Subsidiary	Unilever Rahim Yar Kahn Pakistan (Home country: Pakistan)
Subsidiary	Unilever Pakistan Ltd. (Home country: Pakistan)
Complainants	
Lead Complainant	IUF - UITA - IUL International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Unions

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✓
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications
According to the IUF this settlement "constitutes an important union victory in the fight against disposable jobs

and Unilever's strategy of reducing bargaining power by radically the shrinking the number of permanent employees eligible for union membership and inclusion in the collective bargaining unit."

Related Documents

IUF [Publication date: 1/7/2009] 'Settlement Secures Permanent Jobs for Dismissed Temps at Unilever Pakistan Rahim Yar Khan'

http://www.iuf.org/cgi-bin/dbman/db.cgi?db=default&uid=default&ID=6016&view_records=1&ww=1&en=1

[Date URL accessed: 5/7/2009 | Source ID = 16664 FULL DETAILS]

UK NCP [Publication date: 13/8/2009] 'Final Statement by the UK National Contact Point for the OECD Guidelines for Multinational Enterprises: Complaint from the IUF against Unilever plc on Pakistan's Rahim Yar Khan factory'

<http://www.bis.gov.uk/files/file52704.doc>

[Date URL accessed: 17/4/2010 | Source ID = 16816 FULL DETAILS]

Unilever PLC, India (Doom Dooma) V IUF

Overview	
NCP Decision	Accepted
Current Status	Ongoing
Date Submitted	01/10/2007
Date Closed	
Case Duration	11 months 11 days
Host Country	India (OECD Enhanced Engagement)
Sector	Food, Agriculture and Tobacco
Issue	Use of precarious work to deny workers the right to freedom of association and to collectively bargaining in violations of ILO Conventions 87 and 98
Provisions Cited	IV.1-a IV.7
Case Description	<p>In October 2007, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) submitted a complaint to the UK NCP against Hindustan Unilever Limited.</p> <p>The workers were locked out of the company's plant in the Doom Dooma Industrial Estate in the Indian state of Assam from 15th July to 3rd September 2007 because of a dispute over salaries. According to the 2004 collective agreement, the workers were entitled to a monthly settlement implementation allowance from 1 April 2007, which the company refused to pay.</p> <p>In order to end the lockout, management requested the workers to leave the HLWU union and to join a new 'yellow' union (HUSS) that it had itself created. Workers were visited at their homes by the HUSS and threatened with the loss of their jobs and/or closure of the plant if they did not terminate their union membership. Furthermore, one worker was attacked and beaten while collecting signatures in</p>

	<p>support of the locked-out workers.</p> <p>When the lockout was lifted on 3rd September, only those workers that agreed to sign a printed form renouncing their union membership and joining the new union were allowed to enter the factory.</p>
Developments	<p>In April 2008, the case was accepted by the UK NCP in April 2008, but then suspended due to parallel proceedings in the host country India. Throughout 2008, the threats and harassment of workers continued. Management appeared to be working with local police and politicians to harass the HLWU and prevent it from exercising its rights under Indian and international law. When the president of the HLWU - after being threatened and physically assaulted - wanted to file a complaint, the local police refused to accept his deposition. Hindustan Unilever managers and police together tried to force workers to attend a HUSS meeting by visiting them in their homes. When the workers refused, they were again threatened.</p> <p>On 5 March 2010, the UK NCP lifted its suspension following the application of its guidance on parallel legal proceedings, introduced in September 2009. In applying its guidance, the UK NCP gave both parties the opportunity to comment on the application of the guidance to this complaint and/or to request that the complaint be suspended in line with the criteria set out in the guidance. The UK NCP concluded that the case should be progressed in accordance with the UK NCP's complaint procedure. It then offered professional conciliation/mediation to the parties. This was accepted by the parties.</p> <p>The case was before the courts in India until February 2010, when the court ruled that it had 'no jurisdiction'.</p>
Outcome	There is no outcome as yet.

National Contact Points (NCPs)	
Lead NCP	UK NCP : Bipartite
Companies	
Multinational Company	Unilever PLC (Home country: UK, Netherlands)
Subsidiary	Hindustan Unilever (Home country: India)
Complainants	
Lead Complainant	IUF - UITA - IUL International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Unions

TUAC Analysis	
Did the case result in a positive outcome?	
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✓
Did the guidelines play a positive role?	
Did the case involve parallel proceedings?	✓
Details: The case was initially suspended but the suspension was lifted following the	

application of the UK's guidance on parallel legal proceedings	
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications

The UK NCP applied its guidance on parallel legal proceedings and as result accepted the case following its initial suspension

Chong Won Trading V Korean Confederation of Trade Unions (KCTU) and Chongwon Union (Philippines)

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	03/09/2007
Date Closed	
Case Duration	11 months 11 days
Host Country	Philippines (Non-adhering country)
Sector	Textiles, Leather and Garments
Issue	Threat to close down the factory should the union be formed: right to trade union representation; bribery
Provisions Cited	I.7 IV.1-a IV.2-a IV.2-b IV.7 VI.1
Case Description	<p>In September 2007, the Korean Confederation of Trade Unions (KCTU), together with NGOs and the Chongwon Union in the Philippines, submitted a case to the Korean NCP concerning Chongwon Fashion, a subsidiary of the Korean company Chong Won Trading based in the Philippines. This was the first case to be submitted to the Korean NCP.</p> <p>In 2001, the workers sought to establish a trade union at the Chongwon Fashion plant in the Philippines, whereupon the management threatened to close down should the union be formed. As a result, the union lost the election.</p> <p>In 2004, a new election was held, which the union won. Nevertheless, the company continued to question the election result by filing several court petitions, each of which they lost.</p> <p>The management tried to make the union leaders resign through various threats. This, together with other harassments, lead to a strike in August 2006. The workers were violently dispersed by police and security guards. New strikes were held the following month. Workers, most of them women, were then beaten by police and security guards. In addition, the management decided to dismiss 71 of the workers on strike. But the strikes continued and in June 2007 workers received death threats if they did not stop the strikes.</p>

	<p>In February 2007, the Philippine Department of Labour and Employment (DOLE) declared that the union did no longer represent the workers. The union believed that the company offered a bribe. It also brought charges against the mediator of the National Relations Commission for taking bribes.</p> <p>In June 2007, the company filed for bankruptcy.</p>
Developments	
Outcome	The Korean NCP rejected the case on the grounds that bankruptcy made "arbitration needless".

National Contact Points (NCPs)	
Lead NCP	South Korea NCP : Interdepartmental Office
Companies	
Multinational Company	Chong Won Trading (Home country: South Korea)
Subsidiary	Chong Won Fashion (Home country: Philippines)
Complainants	
Lead Complainant	Chongwon Union (Philippines) : Local Union
Lead Complainant	KCTU- Korea : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	✓

Implications
The decision not take up cases where the company involved has filed for bankruptcy

Il-Kyoung Co Ltd. V Korean Confederation of Trade Unions, Korean House for International Solidarity and Workers Assistance Center

Overview	
NCP Decision	Suspended
Current Status	
Date Submitted	03/09/2007

Date Closed	
Case Duration	11 months 11 days
Host Country	Philippines (Non-adhering country)
Sector	Textiles, Leather and Garments
Issue	Right to trade union representation, anti-union activities, sex discrimination, violence, bribery
Provisions Cited	I.7 II.2 IV.1-a IV.7 VI.1
Case Description	<p>In September 2007, the Korean Confederation of Trade Unions (KCTU), together with the Phils. Jeon Union company union and an NGO, raised a case with the Korean NCP concerning the activities of a Phils. Jeon Garments Inc., a subsidiary of the Korean textiles multinational company, Il-Kyoung Co Ltd..</p> <p>The trade unions contended that the management tried to prevent workers from organising by delaying the union election and threatening to close the factory should the union win.</p> <p>In August 2004, after the union won the vote, the management questioned the result in a petition it presented to the Department of Labour and Employment (DOLE). The petition was dismissed as were the following appeals.</p> <p>In August 2006, the union president was discharged. Shortly afterwards, another 63 union members were fired allegedly due to there being sufficient work. However, contract workers were brought into replace those workers that had been forced to leave the company.</p> <p>In September 2007, the workers went on strike, despite being warned by management that they would be dismissed. The strike was dispersed by police and security guards who attacked the workers causing 25 workers to be injured.</p> <p>In February 2007, the DOLE withdrew its previous decision to recognise the union. The union believes that the DOLE was bribed by the company. Furthermore, on 6 August 2007, two women workers sleeping in front of the factory were attacked by masked men, abducted and thrown on to a road close to the Philippine Economic Zone Authority.</p> <p>The Supreme Court in the Philippines determined that the workers were not prevented from establishing a trade union and that the company, therefore, had no reason to reject negotiations over a collective bargaining agreement.</p>
Developments	<p>The Korean NCP reported in a memo (10 April 2009) to the Korean Confederation of Trade Unions and the Korean House for International Solidarity that it had organised different meetings including with the parent company Il-Kyoung Co.. It had also in November 2008, contacted the Philippine Department of Labour to ask for information on the legal proceedings in the Philippines.</p> <p>In a memo (11 May 2009) to the Korean Confederation of Trade Unions and the Korean House for International Solidarity, the Korean NCP reported that the Philippine Department of Labour had responded on the 23 April 2009. It stated that the legal dispute between Phils Geon and the trade union was under way in the Philippines Labour Committee.</p>

	In the memo, the Korean NCP stated its intention to "additionally investigate" the case as well as following developments in the Philippines.
Outcome	

National Contact Points (NCPs)	
Lead NCP	South Korea NCP : Interdepartmental Office
Companies	
Multinational Company	Il-Kyoung Co Ltd (Home country: South Korea)
Subsidiary	Phils. Jeon Garments Inc (Home country: Philippines)
Complainants	
Lead Complainant	Phils. Jeon Union : Single Company Union
Lead Complainant	Workers Assistance Center
Lead Complainant	Korean House for International Solidarity
Lead Complainant	KCTU- Korea : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Philips V CUT Brazil

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	06/08/2007
Date Closed	01/10/2007
Case Duration	1 month 26 days
Host Country	Brazil (Adhering Country)
Sector	Electrical and Electronics
Issue	Improper involvement in local politics in Brazil
Provisions Cited	II.11

Case Description	In August 2007 the Brazilian trade union confederation CUT, raised a case with the Brazilian and Dutch NCPs concerning Philip's improper involvement in local politics in Brazil. CUT alleges that Philips actively supported a movement called 'Cansei' meaning 'I am done', publishing front page newspaper articles calling on its employees, suppliers and customers to join the movement. The movement is political and run by an economic elite. According to the CUT, it appears that the purpose of the movement was to overthrow the government. Philips has allegedly funded newspaper advertisements asking people to support the movement.
Developments	
Outcome	In October 2007 the Brazilian NCP rejected the case.

National Contact Points (NCPs)	
Lead NCP	Brazil NCP : Interministerial Body
Supporting NCP	Netherlands NCP : Bi-ministerial plus Multistakeholder Independent Board
Companies	
Multinational Company	Philips (Home country: Netherlands)
Subsidiary	Philips do Brasil (Home country: Brazil)
Complainants	
Lead Complainant	CUT Brazil : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Tetra Pak V Korean Confederation of Trade Unions (KCTU)

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	01/07/2007
Date Closed	01/11/2007
Case Duration	4 months 3 days

Host Country	South Korea (OECD member)
Sector	Other
Issue	Failure to negotiate and disclose information on closure of plant
Provisions Cited	IV.1-a IV.3 IV.6
Case Description	<p>In July 2007, the Korean Confederation of Trade Unions (KCTU) filed a case with the Korean, Swedish and Swiss NCPs regarding the activities of Tetra Pak. Tetra Paki is registered in Sweden, but its headquarters are located in Switzerland.</p> <p>The Tetra Pak Korea Trade Union had repeatedly requested the company to disclose information about its financial and operational performance, as well as ownership and governance, but without success. In March 2007, the company announced that the Yeo Ju factory was to be closed. When the union requested financial information regarding the closure of the factory, the company refused. The same month workers received a letter from management stating that they would be fired as of 9 May 2007 if they did not hand in their resignation.</p> <p>In an interview with the Press, the President of Tetra Pak Korea said that that they were closing the factory because the union was strong and demanded too high wages.</p>
Developments	<p>At the beginning of September 2007, the trade union sent additional material to the Korean NCP that included a transcript of a discussion between the company management and the union, where, again, the company admitted that the closure of the factory was due to trade union activities.</p> <p>The same month, the Swiss NCP met with a Korean trade union delegation during its stay in Switzerland to discuss the case. The NCP also organised a tripartite meeting with the Swiss management in the beginning of October. Shortly after, two members of the delegation went on hunger strike.</p> <p>Negotiations conducted by the Economic Department of the Vaud Canton in Switzerland broke down in mid-November after the union refused the offer made by Tetra Pak.</p>
Outcome	The Korean NCP rejected the case.

National Contact Points (NCPs)	
Lead NCP	South Korea NCP : Interdepartmental Office
Supporting NCP	Switzerland NCP : Single Department
Supporting NCP	Sweden NCP : Tripartite with several Ministries
Companies	
Multinational Company	Tetra Pak
Subsidiary	Tetra Pak Korea - Yeo Ju factory (Home country: South Korea)
Complainants	
Lead Complainant	KCTU- Korea : National Centre
Affected Party	Tetra Pak Korea Trade Union : Local Union

TUAC Analysis

Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	✓
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment

The Swiss

Implications

NCP cooperation: example of home country NCP playing a positive role where the host country NCP did not

Banco del Trabajo V Confederation of Bank Trade Unions of Chile

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	25/04/2007
Date Closed	
Case Duration	4 months 3 days
Host Countries	Chile (OECD member) Peru (Adhering Country)
Sector	Financial Services
Issue	Refusal to recognise union and engage in collective bargaining; dismissal and transfer of trade union leaders
Provisions Cited	II.2 IV.1-a IV.2-a IV.2-b IV.8
Case Description	<p>In April 2007, the Confederation of Bank Trade Unions of Chile, the General Workers' Confederation of Peru (CGTP), the Cenda Foundation and the NGO Plades submitted a case to the Chilean NCP concerning the activities of the Peruvian Banco del Trabajo. The bank has branches in Chile, Ecuador, Guatemala, Costa Rica, Dominican Republic, Panama and Peru, but the shareholders are linked to investors in Chile through the Cummins Group.</p> <p>The bank is refusing to recognise the two trade unions Sutrabantra and Sudebantra that were established by the workers in March 2004 and April 2005 respectively. The bank also refused to engage in collective bargaining with the unions. Moreover, the bank dismissed the leaders of Sutrabantra, while other trade union representatives have been transferred to other locations. The Labour Court in Peru ruled in favour of the unions and ordered the bank to reinstate the dismissed</p>

	workers. Yet, the bank has at each instance sought another appeal.
Developments	<p>The Chilean NCP accepted the case in May 2007. But the bank was then taken over by Scotiabank, which is headquartered in Canada. The case was therefore raised with the Canadian NCP. Peru then adopted the Guidelines in July 2008 making it eligible to handle the case.</p> <p>The Canadian NCP reported in its 2009 annual submission to the OECD, that following discussions with the Peruvian NCP, it had agreed that the Peruvian NCP would take the lead "on the resolution of any specific instance that it would receive relating to this matter".</p>
Outcome	The case has been closed because the bank would not accept the role of the NCP, according to the NCP's 2009 report to the OECD.

National Contact Points (NCPs)	
Lead NCP	Peru NCP : Single Department
Lead NCP	Chile NCP : Single Department
Supporting NCP	Canada NCP : Interdepartmental Office
Companies	
Multinational Company	Banco del Trabajo (Home country: Peru)
Complainants	
Lead Complainant	PLADES : Labour Standards
Lead Complainant	Fundación Centro de Estudios Nacionales de Desarrollo Alternativo : Human Rights
Lead Complainant	General Workers' Confederation of Peru : National Union
Lead Complainant	Confederation of Bank Trade Union of Chile : National Union

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings? Details: There were legal proceedings that preceded the case	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications
Company cooperation in the NCP process; role of the home NCP; the need for better guidance on how to handle cases where the companies involved have been subject to take-over

ABN Amro Bank V Confederación de Trabajadores del Sector Financier

Overview	
NCP Decision	No Decision
Current Status	
Date Submitted	19/04/2007
Date Closed	
Case Duration	4 months 3 days
Host Country	Brazil (Adhering Country)
Sector	Financial Services
Issue	Failure to engage in collective bargaining; failure; refusal to disclose information
Provisions Cited	IV.1-a IV.1-d IV.2-a IV.2-b IV.2-c IV.3 IV.4-a IV.6
Case Description	<p>In April 2007, the Confederación de Trabajadores del Sector Financier submitted a complaint to the Brazilian NCP concerning the activities of the Dutch multinational bank, ABN Amro Bank. The trade unions allege the bank refused to disclose information and engage in meaningful negotiations with the trade union.</p> <p>Specific issues concerned the failure to disclose the agenda of and other information for meetings with controlling banks Real, Paraiban, Bandepe and Sudameris ABN; the lack of progress in completing negotiations on issues of employment, outsourcing, wages and health; and the failure to provide basic information on the Profit Sharing Plan (RPP) and to provide workers' representatives, with appropriate notice and information on changes of health plan following the Banks' integration with Sudameris Real ABN.</p>
Developments	In May 2009, the Brazilian NCP reported that it had carried out an initial analysis and sent out a list of questions to the parties. In its 2010 report to the OECD it stated that it had focused on dealing with new cases and that it expected to take some time to clear the backlog of old cases.
Outcome	

National Contact Points (NCPs)	
Lead NCP	Brazil NCP : Interministerial Body
Companies	
Financier	ABN Amro Bank (Home country: Netherlands)
Complainants	
Lead Complainant	CONTRAF-CUT

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗

If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

ISS Facility Services SA V CUT Chile

Overview	
NCP Decision	Blocked
Current Status	
Date Submitted	16/04/2007
Date Closed	
Case Duration	4 months 3 days
Host Country	Chile (OECD member)
Sector	Security
Issue	Outsourcing and failure to recognise collective bargaining agreement
Provisions Cited	IV.1-a
Case Description	The Chilean NCP received in April 2007 a submission from the Chilean trade union confederation CUT regarding the behaviour of the Danish company ISS Facility Services. Shell outsourced its security operations to ISS in October 2006 and transferred its staff to ISS. ISS did not recognise the collective bargaining agreement and pressurised the workers to accept working conditions below the legal norm and to leave the union.
Developments	The case has been delayed due to the lack of action on the side of the trade union parties.
Outcome	

National Contact Points (NCPs)	
Lead NCP	Chile NCP : Single Department
Companies	
Multinational Company	ISS Facility Services SA (Home country: Denmark)
Subsidiary	Dinamarca (Home country: Chile)
Complainants	
Lead Complainant	CUT Chile : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	
Was there cooperation between NCPs?	

Did the lead NCP play a positive role?	
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	
Did the case involve parallel proceedings?	
Was there an ownership or investment relationship between the MNC and the local entity concerned?	
Was the absence of an 'investment nexus' an obstacle?	

Unibanco V CONTRAF-CUT Brazil and Federación de Trabajadores Bancarios y Afines, Paraguay

Overview	
NCP Decision	No Decision
Current Status	
Date Submitted	21/02/2007
Date Closed	
Case Duration	4 months 3 days
Host Country	Paraguay (Non-adhering country)
Sector	
Issue	Dismissal and harassment of trade unionists
Provisions Cited	II.2 IV.1-a IV.1-d
Case Description	A case concerning the Brazilian bank Unibanco's operations in Paraguay was brought to the attention of the Brazilian NCP by the Brazilian trade union confederation CUT in February 2007. The bank is alleged to have violated workers' rights including the dismissal of one employee after ten years of service. The employee was the leader of the trade union. She was also pregnant. She was later reinstated as a result of a court order, but continues to be harassed by her employer.
Developments	In May 2009 the Brazilian NCP reported that it had sent out a list of questions to the lead complainant, CUT. In its 2010 Annual report to the OECD, the Brazilian NCP stated that it was focusing on dealing with new cases and that it expected to take some time to clear the backlog of old cases.
Outcome	

National Contact Points (NCPs)	
Lead NCP	Brazil NCP : Interministerial Body
Companies	
Multinational Company	Unibanco
Subsidiary	Interbanco (Home country: Paraguay)
Complainants	

Lead Complainant	CONTRAF-CUT
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TUAC Analysis	
Did the case result in a positive outcome?	
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	
If different, did the home NCP play a positive role?	✗
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	
Did the case involve parallel proceedings?	
Was there an ownership or investment relationship between the MNC and the local entity concerned?	
Was the absence of an 'investment nexus' an obstacle?	

Fiat V CISL and FIM-CISL

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	01/02/2007
Date Closed	
Case Duration	4 months 3 days
Host Country	India (OECD Enhanced Engagement)
Sector	Automotive
Issue	Land Dispute: human rights, contribution to host country's progress and environment.
Provisions Cited	II.1 II.2 V.2-b
Case Description	In February 2007, the Italian trade union organisations CISL and FIM-CISL wrote to the Italian NCP concerning the construction of a car manufacturing plant in Bengali in India. The plant was a joint project between Fiat Auto and the Indian company Tata Motors and is heavily opposed by thousands of farmers that have protested against the expropriation of land. The trade unions requested that the NCP use its good offices to facilitate a dialogue with Fiat.
Developments	
Outcome	The case was rejected by the Italian NCP after conducting an initial assessment. The NCP concluded that that was no involvement of Fiat in the part of the project to which the allegations were made.

National Contact Points (NCPs)

Lead NCP	Italy NCP : Single Department
Companies	
Multinational	Tata Motors (Home country: India)

Company	
Multinational Company	Fiat (Home country: Italy)
Joint Venture	Fiat/Tata Joint Venture (Bengal) (Home country: India)
Complainants	
Lead Complainant	FIM-CISL Federazione Italiana Metalmeccanici : National Union
Lead Complainant	CISL Confederazione Italiana Sindacati Lavoratori Italian : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✗
Was the absence of an 'investment nexus' an obstacle?	

C&A V CUT BRAZIL and CONTRACTS

Overview	
NCP Decision	Accepted
Current Status	Ongoing
Date Submitted	01/01/2007
Date Closed	
Case Duration	4 months 3 days
Host Country	Brazil (Adhering Country)
Sector	Textiles, Leather and Garments
Issue	Failure to negotiate on profit sharing for workers
Provisions Cited	IV.1-a IV.2-a IV.2-b IV.2-c IV.3 IV.8
Case Description	In 2007, the trade unions CUT-Brazil and CONTRACTS submitted a case to the Brazilian NCP concerning the activities of the Dutch multinational retailer C&A regarding their failure to provide information and negotiate with on profit share.
Developments	On the 5 November 2007, the Brazilian NCP accepted the case. In May 2009, in its Annual report to the OECD, the Brazilian NCP reported that it had carried out an initial analysis and sent out a list of questions to the parties. In its 2010 Annual report to the OECD, the Brazilian NCP stated that it was focusing on dealing with new cases and that it expected to take some time to clear the backlog of old cases.
Outcome	

National Contact Points (NCPs)	
Lead NCP	Brazil NCP : Interministerial Body
Companies	
Multinational Company	C&A (Home country: Netherlands)
Complainants	
Lead Complainant	CONTRACTS
Lead Complainant	CUT Brazil : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	
Was there cooperation between NCPs?	✗
Did the lead NCP play a positive role?	
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

DeCoro V CGIL, CISL and UIL



Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	01/01/2007
Date Closed	
Case Duration	4 months 3 days
Host Country	China (OECD Enhanced Engagement)
Sector	Other
Issue	Harassment: violence against workers
Provisions Cited	IV.1-a IV.4-a
Case Description	<p>The Italian trade union confederations CGIL, CISL and UIL submitted a case to the Italian NCP in January 2007 regarding alleged infringements of the Guidelines by the Italian furniture company DeCoro, at its plant in Shenzhen in China.</p> <p>On 3 January 2007, workers were savagely beaten by security guards after attending a meeting in which management tried to force 75 workers to accept</p>

	dismissal indemnities well below the legal requirement. Most of the workers managed to escape, but three were hospitalised and one fell into a coma.
Developments	In its initial assessment, the Italian NCP found that although the company's owner was an Italian national, the company itself was not registered in Italy.
Outcome	The Italian NCP rejected on the grounds that it had no mandate handle the case because the company was not registered in Italy.

National Contact Points (NCPs)	
Lead NCP	Italy NCP : Single Department
Companies	
Multinational Company	DeCoro (Home country: Italy)
Subsidiary	DeCoro Shenzhen (Home country: China)
Complainants	
Lead Complainant	UIL Unione Italiana del Lavoro : National Centre
Lead Complainant	CGIL Confederazione Generale Italiana del Lavoro Italian : National Centre
Lead Complainant	CISL Confederazione Italiana Sindacati Lavoratori Italian : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications
Ownership - the company is owned by an Italian national, but is not registered in Italy

Laurens van der Kroft Textiel

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	04/12/2006

Date Closed	03/05/2007
Case Duration	5 months 0 days
Host Country	Turkey (OECD member)
Sector	Textiles, Leather and Garments
Issue	Forced resignation of union members and relocation without consultation with union members
Provisions Cited	IV.1-a IV.6
Case Description	The International Textile, Garment and Leather Workers' Federation (ITGLWF) registered a case with the Turkish NCP in December 2006 concerning the actions of Guidelines by the Turkish textile company Metraco. Since the majority shareholder of Metraco was a Dutch company, Laurens van der Kroft Textiel, the case was also raised with the Dutch NCP. This was the first case raised with the Turkish NCP. Metraco is alleged to have suppressed workers' efforts to organise. When workers started joining the union in February 2006, 16 union members were forced to resign. In November 2006, the company announced that it was going to relocate its production, but it did not inform the union. The Dutch trade union confederation FNV also wrote to the Dutch NCP requesting it to investigate the case and to contact the Turkish NCP.
Developments	In May 2007, the Turkish NCP replied that it had closed the case. It claimed that Turkish law prevented it from handling the case where there were parallel legal proceedings.
Outcome	In September 2007, despite the lack of action by the Turkish NCP, an agreement was reached. It , however, which stipulated that Metraco İthalat İhracat ve Ticaret Ltd would reinstate the 12 members of the Disk/Tekstil İscileri Sendikası and whose labour contracts were terminated on or around the period from February, 2006 to April, 2006 with immediate effect and with average earnings since the date of their dismissal. Any of these workers who have already accepted severance payments or other compensation and who wish to return will be required to repay all such sums received. The dismissed workers that had already accepted severance pay would have to return the compensation in order to be reinstated. In the agreement, Metraco acknowledged the union and agreed to begin negotiations over a collective bargaining agreement.

National Contact Points (NCPs)	
Lead NCP	Netherlands NCP : Bi-ministerial plus Multistakeholder Independent Board
Lead NCP	Turkey NCP : Single Department
Companies	
Multinational Company	Laurens van der Kroft Textiel (Home country: Netherlands)
Subsidiary	Metraco (Home country: Turkey)
Complainants	
Lead Complainant	ITGLWF International Textile, Garment and Leather Workers Federation
Affected Party	Tekstil/Disk

TUAC Analysis

Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	✗
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment

The trade unions considered that neither the Turkish nor the Dutch NCPs acted to support the case. For example, the Dutch NCP stated that it was unable to track down the Dutch co-owner, whereas the Dutch trade unions were able to do this. The trade unions consider that pressure from the company's customers was important in achieving this result, which resulted from the campaigning work of trade unions and NGOs.

Implications

Parallel legal proceedings: the Turkish NCOP states that Turkish Law prohibits it from taking action where there are parallel legal proceedings

NCP cooperation: the Dutch NCP was involved though it did not play a positive role.

Confidentiality/campaigns: the unions considered that pressure from the company's customers was an important success factor as well as the campaign work carried out by the unions and NGOs.

Related Documents

[Publication date: 24/9/2007] 'AGREEMENT BETWEEN METRACO ITHALAT IHRACAT VE TICARET LTD AND DISK/TEKSTIL ISCILERI SENDIKASI REACHED ON MONDAY 24 SEPTEMBER 2007.'

[Date URL accessed: 7/8/2009 | Source ID = 16707 FULL DETAILS]

Group 4 Securicor V Union Network International (UNI)



Overview

NCP Decision	Accepted
Current Status	Closed
Date Submitted	01/12/2006
Date Closed	12/12/2008
Case Duration	24 months 22 days
Host Countries	Democratic Republic of Congo (Non-adhering country) Germany (OECD member) Greece (OECD member) Israel (OECD member) Malawi (Non-adhering country) Mozambique (Non-adhering country) Nepal (Non-adhering country) Panama (Non-adhering country) Uganda (Non-adhering country) US (OECD member)
Sector	Security
Issue	Unpaid wages; working conditions; right to be represented by a trade union
Provisions Cited	II.1 IV.1-a
Case Description	<p>Union Network International (UNI) submitted a case to the UK NCP concerning the activities of Group 4 Securicor (G4S) in the Democratic Republic of Congo, Greece, Israel, Malawi, Mozambique, Nepal, Uganda and the US. The NCPs in Greece, Israel and the US were also informed.</p> <p>As these violations constituted a systematic lack of respect not only for workers' rights, but for national law, UNI suggested that they should be dealt with by the NCP of the home country.</p> <p>In several countries, G4S is trying to prevent workers from organising. G4S has also refused to pay workers the legally established minimum wage. In June 2006, the Israeli Labour Ministry terminated the contract with the G4S subsidiary because of repeated violations of the labour law. The trade unions report that it had considered evoking the company's license to operate.</p>
Developments	<p>In January 2007, after meeting with the NCP, UNI provided further information on breaches of the Guidelines by G4S in Germany, Panama and Uruguay. Meanwhile, the problem in Uganda was resolved as the company agreed to recognise the union.</p> <p>In February 2007, TUAC participated in a meeting organised by UNI to discuss G4S with its affiliates. Workers from Africa, Asia, Central America, Europe and North America testified to the anti-union behaviour of G4S. In Panama, workers had even been threatened at gunpoint. The NCP was invited to attend a meeting to discuss these issues with the workers directly concerned, but declined.</p> <p>In October 2007, the case was postponed to allow the parties to reach a solution. However, as the negotiations failed to resolve all the issues, the NCP resumed its examination of parts of the case in January 2008. An external mediator was appointed during the Spring.</p>
Outcome	On the 11th December 2008, the UK NCP announced that the UNI/G4S case had been successfully resolved after the UK NCP appointed an external mediator to manage a formal mediation and conciliation process. The arbitrator brought the

	<p>parties together in a series of meetings, which resulted in a voluntary settlement.</p> <p>On the 16th December, 2008 UNI and G4s signed a Global Framework Agreement. The agreement included commitments to conduct union elections in the Democratic Republic of Congo and in Mozambique to clarify issues regarding statutory workers' rights. In Malawi it was agreed that overtime payment should increase from 50% to at least 100% of normal wages.</p>
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National Contact Points (NCPs)	
Lead NCP	UK NCP : Bipartite
Supporting NCP	US NCP : Single Country Industry/Company Body
Supporting NCP	Greece NCP : Single Department
Supporting NCP	Israel NCP : Single Department
Companies	
Multinational Company	Group 4 Securicor (Home country: UK)
Complainants	
Lead Complainant	UNI : Global Union Federation

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✓
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
<p>The use of an external mediator by the UK NCP was highly effective. UNI noted that a further key factor in delivering success was the requirement by the NCP that the mediator had the authority to recommend a settlement that the parties should consider 'sympathetically'. UNI considered this commitment to be an important part of the process.</p> <p>The UK NCP considers that this case sends a strong message to companies that the UK NCP will "provide a high quality mediation service with the aim of assisting companies to come to their own settlement".</p>
Implications
This is a landmark case that demonstrates first the value of

mediation carried out by external mediators, but also the effectiveness of using the Guidelines as part of a coordinated campaign.

Related Documents

Trades Union Congress [Publication date: 16/9/2009] 'Human rights at work and British business' by Owen Tudor

<http://www.touchstoneblog.org.uk/2009/12/human-rights-at-work-and-british-business/>

[Date URL accessed: 17/12/2009 | Source ID = 16717 FULL DETAILS]

UK NCP [Publication date: 12/12/2008] 'G4S AND UNION NETWORK INTERNATIONAL'

<http://www.bis.gov.uk/files/file49308.doc>

[Date URL accessed: 17/4/2010 | Source ID = 16814 FULL DETAILS]

Cargill V Unión Obrera Molinera Argentina (Argentine Millers' Labour Union - UOMA)

Overview

NCP Decision	Accepted
Current Status	Closed
Date Submitted	29/11/2006
Date Closed	31/07/2007
Case Duration	8 months 4 days
Host Country	Argentina (Adhering Country)
Sector	Food, Agriculture and Tobacco
Issue	
Provisions Cited	II III IV
Case Description	The Argentine Millers' Labour Union (UOMA) submitted a case to the Argentine NCP in November 2006, concerning breaches of the Guidelines by Cargill, one of the world's largest agricultural company's, relating to anti-union practices.
Developments	On the 9th May 2007, the NCP convened a meeting of the parties to review the state of events. The meeting was held at the Argentine Ministry of Foreign Affairs. Representatives of UOMA and Cargill agreed to work together to find a solution.
Outcome	After having accepted the case, the NCP conducted negotiations between the two parties and an agreement was reached. On 22nd June 2007, the parties agreed a Memorandum of Understanding setting out their agreement on issues raised in the submission. The NCP issued a Final Statement on the 31st July 2007.

National Contact Points (NCPs)

Lead NCP [Argentina NCP](#) : Single Department

Companies

Multinational Company	Cargill (Home country: US)
Complainants	
Lead Complainant	Argentine Millers' Labour Union : Single Country Industry/Company Body

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✓
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Related Documents
OECD [Publication date: 31/7/2007] 'Argentine National Contact Point's Final Statement on the Specific Instance Between Union Oberara Molinera Argentina and Cargill S.A.' http://www.oecd.org/dataoecd/28/25/39201998.pdf [Date URL accessed: 4/8/2009 Source ID = 16695 FULL DETAILS]

VAE Nortrak V Brotherhood of Maintenance of Way Employees Division

Overview	
NCP Decision	No Decision
Current Status	
Date Submitted	03/11/2006
Date Closed	
Case Duration	8 months 4 days
Host Country	US (OECD member)
Sector	Metal Products
Issue	Anti-union activities
Provisions Cited	IV.1-a IV.2-b IV.2-c IV.4-a IV.8
Case Description	In November 2006, the Brotherhood of Maintenance of Way Employees Division (BMWED) raised a case with the US NCP concerning VAE Nortrak's treatment of employees at two facilities in Alabama. VAE Nortrak is a subsidiary of the Austrian company Voestapline AG (VAE), as well as North America's leading

	<p>manufacturer and supplier of track work and materials. The US NCP was requested to co-operate with the Austrian NCP in order to resolve the issue.</p> <p>During the trade union's organising campaign, Nortrak tried to persuade workers not to support the union by offering improved working conditions. Employees were questioned about their union activities and those supporting the union or involved in union activities were harassed. Despite these difficulties, the BMWED was certified as the workers' representative in June 2005. Nortrak nevertheless continued to suppress workers' rights. Union supporters have been discharged, suspended and transferred to other assignments. Nortrak also refused to negotiate a collective bargaining agreement.</p>
Developments	No further information
Outcome	

National Contact Points (NCPs)	
Lead NCP	US NCP : Single Country Industry/Company Body
Supporting NCP	Austria NCP : Single Department
Companies	
Multinational Company	Voestalpine AG (Home country: Austria)
Subsidiary	VAE Nortrak (Home country: US)
Complainants	
Lead Complainant	Brotherhood of Maintenance of Way Employees Division

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	✗
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Unilever PLC India V IUF (SEWRI, India)



Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	03/10/2006

Date Closed	09/11/2009
Case Duration	37 months 23 days
Host Country	India (OECD Enhanced Engagement)
Sector	Food, Agriculture and Tobacco
Issue	Failure to abide by national law; illegal transfer of ownership; illegal company closure; failure to engage in collective bargaining
Provisions Cited	I.7 IV.6
Case Description	<p>On the 3rd October 2006, in a submission to the British and Dutch NCPs, the IUF reported violations of the Guidelines conducted by a Unilever subsidiary - Hindustan Lever in India, which is owned by Unilever PLC. While Unilever PLC is registered in the UK, Unilever NV is registered in the Netherlands, but they have a common Board of Directors. The case was therefore filed with both NCPs.</p> <p>Hindustan Lever has for twenty years refused to enter into any collective bargaining negotiations with the legally registered union at the plant, which is a breach both of the Guidelines and national law. Salary adjustments, following the rate of inflation, have only been achieved through court orders. In March 2006, the Labour Court filed criminal proceedings against Hindustan Lever because of its disregard of court orders.</p> <p>In July 2005, Hindustan Lever was sold to another company (Bon Limited) through a loan from Hindustan Lever to Bon Limited although it did not have enough capital to operate the facility. One year later, the employees were informed of the closure of the plant and the termination of their employment. The closure was however illegal as it had yet to be approved by the Indian authorities.</p>
Developments	<p>At the end of October, the Dutch NCP requested further information from the IUF in order to decide whether the case was admissible. Among other things it inquired about the value added of an NCP intervention in view of the legal proceedings. The IUF explained that their aim was primarily to find an amicable resolution of the dispute and not to get Hindustan Lever management convicted. In addition, the legal proceedings have gone on for many years and will continue to do so as the company has refused to abide by the court decisions.</p> <p>Representatives of the IUF met with the UK NCP in April 2007 although the NCP had not decided whether to accept the case because of parallel proceedings. In May 2007, the NCP issued a statement acknowledging that the case merited further consideration.</p>
Outcome	<p>The parties reached a mutually acceptable agreement outside the specific instance procedure. A comprehensive settlement was reached and approved by the HLEU membership which resolved the issues arising from the closure.</p> <p>In accordance with the UK NCP's complaint procedure, the UK NCP published a reduced Final Statement, which explained that the parties had reached a mediated settlement outside the UK NCP's process. This statement formally closed the complaint.</p>

National Contact Points (NCPs)

Lead NCP	UK NCP : Bipartite
Supporting NCP	Netherlands NCP : Bi-ministerial plus Multistakeholder Independent Board

Companies	
Multinational Company	Unilever NV (Home country: Netherlands)
Multinational Company	Unilever PLC (Home country: UK, Netherlands)
Subsidiary	Hindustan Unilever (Home country: India)
Complainants	
Lead Complainant	IUF - UITA - IUL International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Unions

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✓
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings? Details: Parallel proceedings were an obstacle to addressing the substantive issues but not to providing mediation	✓
Were parallel proceedings an obstacle?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
Whilst it took a long time to get the assessment from the UK, overall there was a positive outcome.
Implications
The NCP focused on "adding value" rather than addressing the issues that were the subject of parallel proceedings and was able to provide mediation.
Use of the home country High Commission in the host country

Related Documents
IUF [Publication date: 14/10/2009] 'Settlement Ends 3-Year Dispute over Unilever India Mumbai Closure' http://www.iuf.org/cgi-bin/dbman/db.cgi?db=default&uid=default&ID=6246&view_records=1&ww=1&en=1 [Date URL accessed: 18/11/2009 Source ID = 16716 FULL DETAILS]





Nestlé V IUF (UK)

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	02/10/2006
Date Closed	01/10/2007
Case Duration	12 months 4 days
Host Country	UK (OECD member)
Sector	
Issue	Threat to transfer production
Provisions Cited	IV.1-a IV.7
Case Description	In October 2006, the IUF raised a case with the UK NCP concerning violations of Paragraph 1a of the Chapter on Employment and Industrial Relations on trade union rights and Paragraph 7 on threats to transfer operating units from the country in question. In July 2006, Nestlé informed trade union representatives that if they did not agree to a 15 per cent reduction in wages, the chocolate production in the UK would be in jeopardy. In September 2006, the management announced that it was going to suppress 645 jobs and transfer certain production lines. It also terminated the collective agreements in order to put pressure on the workers to accept conditions unilaterally imposed by management in the process of a major restructuring programme.
Developments	According to the initial statement by the NCP, it facilitated an exchange of information between the two parties which led to negotiations.
Outcome	As the discussions were perceived as successful, the NCP did not consider the case any further.

National Contact Points (NCPs)

Lead NCP	UK NCP : Bipartite
Companies	
Multinational Company	Nestlé (Home country: Switzerland)
Complainants	
Lead Complainant	IUF - UITA - IUL International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Unions

TUAC Analysis

Did the case result in a positive outcome?	
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	

Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications

None

Lafarge Group V Korean Chemical and Textile Workers Federation (KCTF)

Overview	
NCP Decision	Accepted
Current Status	Suspended
Date Submitted	01/10/2006
Date Closed	
Case Duration	12 months 4 days
Host Country	South Korea (OECD member)
Sector	Building and Construction
Issue	Union-busting/anti-union behaviour/outsourcing
Provisions Cited	II.10 IV.1-a IV.1-c IV.1-d IV.6 IV.8
Case Description	<p>In October 2006, the Korean Chemical and Textile Workers Federation (KCTF) submitted a case to the Korean NCP regarding violations of the Guidelines by Lafarge Halla Cement. According to the KCTF, Lafarge closed its in-house subcontractor Woojin Industry on 31 March 2006 because the workers had joined the KCTF a few weeks earlier. The owner of Woojin Industry (a former manager of Lafarge) had previously announced that it would not close down if the workers left the KCTF. The workers that agreed to resign from the union were transferred to other subcontractors at the plant while the 11 workers that refused to leave were dismissed. During the following months, another four of the dismissed workers left the KCTF of which two were employed by other in-house subcontractors and two retired.</p> <p>Given the nature of the relationship between Lafarge and Woojin Industry, the KCTF argued in its submission to the NCP that Lafarge should be considered as the real employer. Although the workers at the plant carried out the same or similar tasks, the Woojin workers were paid less than half of the salaries of the Lafarge workers. They were also forced to do overtime.</p> <p>The Korean Labour Ministry had concluded that the Woojin workers should be treated as employees of Lafarge. Moreover, the Gangwon Regional Labour Relations Commission has twice ruled that the workers that demanded reinstatement had been unfairly dismissed.</p>
Developments	The NCP replied in November 2006 that it would be difficult to conclude that Lafarge had not observed the Guidelines because the company had submitted evidence that it had provided “labour-related education” for its subcontractors. In December 2006, the NCP then claimed that it had to await the final decision of the

	<p>National Labour Relations Commission. It also referred to discussions that had taken place at the OECD Annual Meeting of the NCPs which it interpreted as NCPs should refrain from action in cases of parallel proceedings.</p> <p>In March 2007, the National Labour Relations Commission overturned the ruling of the Regional Labour Relations Commission. The union has therefore appealed to the Ordinary Court.</p> <p>In April 2007, Lafarge headquarters and the ICEM agreed to encourage the local Korean parties to find a solution through social dialogue under mediation of the Labour Ministry Office. Lafarge committed to “do its best efforts” to help the remaining workers to find an equivalent job among its subcontractors.</p>
Outcome	<p>In September 2007, three of the dismissed workers came to Paris to meet with the management of Lafarge. An offer was made by Lafarge on 1 October which included positions with the company’s subcontractors for the now remaining four workers. The offer was rejected by the KCTF on 4 October because the proposed workplaces were organised by affiliates to the FKTU. Besides, some of them were considered as external suppliers and not subcontractors. The KCTF also argued that the proposed salary was below the minimum wage.</p>

National Contact Points (NCPs)	
Lead NCP	South Korea NCP : Interdepartmental Office
Companies	
Multinational Company	Lafarge (Home country: France)
Subsidiary	Lafarge Halla Cement (Home country: South Korea)
In-house Subcontractor	Woojin Industry (Home country: South Korea)
Complainants	
Lead Complainant	Korean Chemical and Textile Workers : National Union

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	✗
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
LINK TO INTERNATIONAL FRAMEWORK

Implications
Outsourcing; parallel legal proceedings

Related Documents
BWI 'The dual face of Lafarge Group in Korea All that glitters is not gold' http://www.bwint.org/pdfs/Lafargecase.pdf [Date URL accessed: 17/4/2010 Source ID = 16813 FULL DETAILS]

Continental V United Steelworkers (USW)

Overview	
NCP Decision	No Decision
Current Status	
Date Submitted	01/08/2006
Date Closed	
Case Duration	12 months 4 days
Host Country	US (OECD member)
Sector	Automotive
Issue	Union busting; right to trade union representation; failure to engage in collective bargaining
Provisions Cited	IV.1-a
Case Description	<p>At the beginning of August 2006, the United Steelworkers (USW) informed the US NCP of alleged breaches of the Guidelines by Continental Tire North America Inc at a plant in Charlotte, North Carolina in the US.</p> <p>Continental Tire North America has for many years maintained a hostile attitude towards unions in the US, including hiring professional 'union busters' to intimidate non-union workers. In 2003, the company gradually phased out production at a unionised plant in Mayfield (Kentucky), which resulted in almost all of the 1300 workers being laid off and the transfer of machinery to a non-union plant in Mt. Vernon and to Brazil.</p> <p>In an apparent attempt to repeat the Mayfield closure, Continental Tire North America announced in late 2005 that it was demanding 32 million USD in contract concessions at its unionised plant in Charlotte, approximately 32,000 USD per employee per year. Moreover, the management refused to engage in constructive negotiations with the recognised representative of its employees, despite numerous calls from the USW. In March 2006, Continental Tire North America announced its intention to 'indefinitely suspend' tire production in Charlotte and began moving equipment to other plants. In May 2006, the company further imposed new cuts in wages and benefits on USW-represented workers. These were followed by the elimination of any type of employer paid retirement plan and restrictions in health care benefits. These measures will force hundreds of workers to use their pensions to pay for health care.</p> <p>On 29 June 2006, the National Labour Relations Board stated that the company</p>

	'did refuse, and continues to refuse, to bargain collectively with the Union' and that it 'failed and refused to bargain' over its decision to lay off employees and eliminate tire production at the Charlotte facility.
Developments	As of 26 September 2006, the US NCP had yet to acknowledge receipt of the USW submission.
Outcome	

National Contact Points (NCPs)	
Lead NCP	US NCP : Single Country Industry/Company Body
Companies	
Multinational Company	Continental (Home country: Germany)
Subsidiary	Continental Tire North America Inc. (Home country: US)
Complainants	
Lead Complainant	USW United Steelworkers of America : National Union
Supporting Complainant	ICEM International Federation of Chemical, Energy, Mine and General Workers' Unions : Global Union Federation
Supporting Complainant	AFLCIO

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

PSA Peugeot Citroën V Amicus and the Transport and General Workers Union (T&G)

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	28/07/2006
Date Closed	01/02/2008
Case Duration	18 months 13 days

Host Country	UK (OECD member)
Sector	
Issue	Plant closure
Provisions Cited	IV.1-a IV.2-b IV.2-c IV.3 IV.4-a IV.6
Case Description	Amicus and the Transport and General Workers Union (T&G) jointly addressed the UK NCP at the end of July 2006 concerning the closure of the PSA Peugeot Citroën car manufacturing plant of Ryton. On 18 April 2006, the chief executive of Peugeot informed the unions that the company had decided to close the plant ignoring the obligation to consult and negotiate with the unions prior to the decision. Regardless of repeated efforts by the unions to discuss the closure with Peugeot, it refused to enter into any consultations or negotiations.
Developments	The NCP replied in November 2006 that it was seeking further clarification from Peugeot. It also inquired whether the unions had taken any action under the provisions of UK legislation. In addition, it stated that the French NCP was fully informed.
Outcome	On 1 February 2008, the UK NCP published its statement finding that PSA Peugeot Citroën had failed to fulfil the requirements under the Guidelines: In particular, the company should have given reasonable notice of the closure and engaged with the unions. The UK NCP found that PSA Peugeot Citroën 'did not provide sufficient information to the unions to allow them to undertake meaningful negotiations with the company'. The NCP also recommended the company to engage with unions and provide adequate information for meaningful negotiations to take place. In particular, it should meet the requirements on "fair consultation as defined by 'R v British Coal' 1994" .

National Contact Points (NCPs)	
Lead NCP	UK NCP : Bipartite
Companies	
Multinational Company	PSA Peugeot Citroën (Home country: France)
Complainants	
Lead Complainant	T&G
Lead Complainant	Amicus : National Union

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications

Note cross-reference to UK law

Related Documents

[Publication date: 1/2/2008] 'FINAL ASSESSMENT BY THE UK NATIONAL CONTACT POINT FOR THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES: PSA PEUGEOT CITROEN'

<http://www.berr.gov.uk/files/file47348.doc>

[Date URL accessed: 5/7/2009 | Source ID = 16668 FULL DETAILS]

UK NCP [Publication date: 1/2/2008] 'FINAL ASSESSMENT BY THE UK NATIONAL CONTACT POINT FOR THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES: PSA PEUGEOT CITROEN'

<http://www.bis.gov.uk/files/file47348.doc>

[Date URL accessed: 17/4/2010 | Source ID = 16815 FULL DETAILS]

InBev V IUF

Overview	
NCP Decision	Accepted
Current Status	Withdrawn
Date Submitted	01/07/2006
Date Closed	13/06/2007
Case Duration	11 months 17 days
Host Country	Montenegro (Non-adhering country)
Sector	
Issue	Violation of trade union rights
Provisions Cited	IV.1-a IV.7 IV.8
Case Description	On 7 July 2006, the IUF, on behalf of the Autonomous Union of Trebjesa A.D. Brewery (SDSPT), submitted a case to the Belgian NCP involving the Belgian multinational InBev (formerly Interbrew) regarding breaches of the Guidelines at its subsidiary in Montenegro. The local management was refusing to re-instate the trade union officer Mr Bozidar Perovic, President of the SDSPT, in contradiction with local legislation and a formal agreement of September 2002 between Inbev and the IUF (specifying the reinstatement of workers after a strike in 2002). In 2003 and 2005, the company was twice found guilty of violation of the national labour code in Montenegrin courts, which declared Mr Perovics' dismissal illegal and ordered his immediate reinstatement. In its submission to the NCP, the IUF provided further evidence that InBev management had threatened to transfer production offshore to intimidate the trade union and inhibit further action to secure the reinstatement of Mr Perovic. The IUF letter also included evidence of interference of local management in union elections to impose a new leadership of the SDSPT in replacement of Mr Perovic,
Developments	The NCP responded by separately inviting the parties to discuss the handling of the case and the NCP procedures. On 4 December, the NCP held a tripartite meeting

	with the IUF and InBev to try to mediate between the parties.
Outcome	Nevertheless, the meeting made it possible for the two parties to enter into a constructive dialogue. The case was withdrawn in June 2007 after the parties reached a mutually satisfactory resolution. The dispute was resolved and the complaint formally withdrawn with the mutual agreement of the IUF and the company.

National Contact Points (NCPs)	
Lead NCP	Belgium NCP : Tripartite with several Ministries
Companies	
Multinational Company	Inbev
Complainants	
Lead Complainant	IUF - UITA - IUL International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Unions
Affected Party	SDSPT

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✓
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings? Details: There were legal proceedings prior to the case	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
In the IUF's view, the NCP procedure was conducive to achieving this positive result.
Implications
Positive role of the NCP and provision of mediation

Shell V NGO Colectivo Alternatvio Verde and Sipetrol-SP

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	08/05/2006
Date Closed	25/03/2009

Case Duration	35 months 2 days
Host Country	Brazil (Adhering Country)
Sector	
Issue	Workers' Health and Safety
Provisions Cited	IV.4-b
Case Description	<p>In May 2006, the Brazilian and the Dutch NCPs were requested by the NGO Green Alternative Collective (CAVE) and the trade union Sipetrol-SP (Petroleum By-Product and Ore Workers Labour Union of the State of Sao Paulo) to take action in relation to the operations of Shell in Brazil. The case was based on a report by the State Health Secretary stating a number of irregularities pertaining to workers' health and safety. Specifically Shell and Esso are accused of failing to act on complaints by the State Secretary for Health regarding violations of federal, state and municipal legislation, as well as violation of ILO clauses. The complaints were submitted following the diagnosis of 65 illnesses arising from contamination due to exposure to products containing dangerous chemicals.</p> <p>In addition, the case was presented to the ILO and the World Health Organisation.</p>
Developments	In June 2006, the Brazilian NCP accepted the case. The Dutch NCP also stated its intention to follow the issue.
Outcome	<p>On 29th March 2009 the Brazilian NCP reported that after a long process of trying to establish mediation it closed the case. It published a final statement in which it stated that the main obstacle was the existence of parallel legal proceedings.</p> <p>"Since the complainants did not provide any further clarifications regarding the points that were not under judicial analysis and with regard to which there would be some possibility of NCP mediation nor did they contest Shell's allegations that the previously cited items were under judicial review, the NCP concluded that its involvement in this case would not be effective."</p>

National Contact Points (NCPs)	
Lead NCP	Brazil NCP : Interministerial Body
Supporting NCP	Netherlands NCP : Bi-ministerial plus Multistakeholder Independent Board
Companies	
Multinational Company	Shell (Home country: Netherlands)
Complainants	
Lead Complainant	Green Alternative Collective : Environmental
Lead Complainant	Sipetrol-SP : Local Union

TUAC Analysis	
Did the case result in a positive outcome?	<input checked="" type="checkbox"/>
Was there cooperation between NCPs?	<input type="checkbox"/>
Did the lead NCP play a positive role?	<input checked="" type="checkbox"/>
If different, did the home NCP play a positive role?	<input type="checkbox"/>

Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment

The NCP contends that, despite the fact that the case was closed without being successfully resolved, there is evidence that the NCP played a positive role in encouraging Shell to implement social projects targeted at the population of the Vila Carioca and its surrounding areas. These were not related to the subject of the Complaint, but arguably are valuable in establishing a basis for dialogue and avoiding future confrontations. On the basis of the NCP's analysis it tried to find identify space for mediation by identifying issues not subject to parallel legal proceedings. This assessment has still to be verified by the trade unions involved.

Implications

Parallel legal proceedings; the Brazilian NCP's approach was to offer its good offices for mediation on issues, which were not the subject of judicial proceedings

Related Documents
<p>Brazilian NCP [Publication date: 1/1/2008] 'FINAL COMPLAINT REPORT N° 01/2006' http://www.fazenda.gov.br/sain/pcnmulti/documentos/relatorios/relatorio_01.06_english.asp [Date URL accessed: 5/8/2009 Source ID = 16696 FULL DETAILS]</p>
<p>Brazil NCP [Publication date: 29/5/2009] 'Shell: FINAL COMPLAINT REPORT N° 01/2006' http://www.fazenda.gov.br/sain/pcnmulti/documentos/relatorios/relatorio_01.06_english.asp [Date URL accessed: 22/6/2010 Source ID = 16836 FULL DETAILS]</p>

British American Tobacco (BAT) V IUF (US)

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	04/05/2006
Date Closed	

Case Duration	35 months 2 days
Host Country	US (OECD member)
Sector	Food, Agriculture and Tobacco
Issue	Anti-union campaign
Provisions Cited	IV.1-a IV.7
Case Description	<p>On behalf of the Bakery, Confectionery, Tobacco Workers and Grain Millers Union (BCTGM) and the Machinists and Aerospace Workers (IAM), the IUF filed a case with the US and UK NCPs concerning the behaviour of Reynolds American Inc, a US subsidiary of British American Tobacco (BAT), on 3 May 2006. The right to union representation was violated at two tobacco plants in North Carolina. The company also threatened to relocate production offshore.</p> <p>As noted in the IUF letter to the NCPs: “At the request of a majority of the workforce [...] the BCTGM and the IAM have begun the process of organizing the plants. [Reynolds American Inc.] responded by launching an anti-union campaign involving disparaging attacks on the unions and worker intimidation. [...] The company has made it abundantly clear [...] that it does not want [its workers] to be unionised and there will be consequences if they do so”. The submission includes evidence of indirect threats made in a public meeting in April 2006 by the company’s vice-president for human resources to relocate offshore, should the plants be unionised.</p>
Developments	The UK NCP acknowledged receipt on 4 May 2006.
Outcome	

National Contact Points (NCPs)	
Lead NCP	US NCP : Single Country Industry/Company Body
Supporting NCP	UK NCP : Bipartite
Companies	
Multinational Company	British American Tobacco (Home country: UK)
Subsidiary	Reynolds American Inc. (Home country: US)
Complainants	
Lead Complainant	IUF - UITA - IUL International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Unions
Supporting Complainant	AFLCIO
Affected Party	Machinists and Aerospace Workers
Affected Party	BCTGM Bakery Confectionery Tobacco and Grain Millers International Union : National Union

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	✗

Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

PepsiCo V IUF

Overview	
NCP Decision	No Decision
Current Status	
Date Submitted	01/04/2006
Date Closed	
Case Duration	35 months 2 days
Host Country	Poland (OECD member)
Sector	
Issue	Sexual harassment. Anti-union behaviour/intimidation
Provisions Cited	II.8 IV.1-a IV.1-d IV.2-a
Case Description	<p>In April 2006, the IUF and Solidarnosc jointly submitted a case to the Polish and US NCPs regarding the activities of a Polish subsidiary of PepsiCo (Frito-Lay Poland Ltd).</p> <p>Eight women workers, also union members, were asked to resign and immediately leave the facility in December 2004, with no reason given for the dismissals. The women had also been victims or witnesses of sexual harassment by a supervisor at the plant, who was arrested in February 2005 after three of the women had filed a complaint.</p> <p>On 12 December 2005, all the workers were gathered in one room to respond to a questionnaire asking whether they were trade union members or not. Since they were intimidated, most of them denied their union membership.</p> <p>Two days later, the union chairman, who had assisted the fired workers, was dismissed on the grounds that the union had fewer members than had been accounted for.</p> <p>In January 2005, in connection with the union elections, workers received a letter from management with ready-made forms stating that "I do not consider myself a member of the workplace trade union organisation". These forms were to be signed and returned to management.</p> <p>The issue of sexual harassment was also raised with the ILO in February 2006. The Committee of Experts on the Application of Conventions and Recommendations noted in its reply in 2007 that the government had not provided its view on the</p>

	matter. The Committee requested the government to cooperate with the employers' and workers' organisations to promote observance of national equality policy and to provide further information on enforcement of legal provisions regarding sexual harassment.
Developments	The Polish NCP acknowledged receipt of the case. It also informed the company of the submission asking it to provide clarifications about its observance of the Guidelines. US contacted the Polish and the Polish NCP agreed to be the lead.
Outcome	

National Contact Points (NCPs)	
Lead NCP	Poland NCP : Single Department
Supporting NCP	US NCP : Single Country Industry/Company Body
Companies	
Multinational Company	PepsiCo Inc (Home country: US)
Subsidiary	Frito-Lay Poland Ltd. (Home country: Poland)
Complainants	
Lead Complainant	Solidarnosc
Lead Complainant	IUF - UITA - IUL International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Unions

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	✗
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Global SportsTechnology (Beteiligungsgesellschaft) V Austrian Trade Unions

Overview	
NCP Decision	Accepted
Current Status	Closed
Date	01/03/2006

Submitted	
Date Closed	
Case Duration	35 months 2 days
Host Country	Sri Lanka (Non-adhering country)
Sector	
Issue	Right to trade union representation; dismissal of trade unionists
Provisions Cited	IV.1-a
Case Description	In March 2006, trade unions submitted a case to the Austrian NCP concerning alleged violations of the Employment and Industrial Relations Chapter of the Guidelines by the subsidiary Global Sports Lanka of the Austrian Global Sports Technology Beteiligungsgesellschaft. The issues concerned labour conflict with the local textile trade unions and lay-offs of trade unionists in 2002.
Developments	The Austria NCP waited for several years until the parallel legal proceedings were finalised in Sri Lanka and court decisions were available. Although other court proceedings are still ongoing,
Outcome	<p>The NCP published a final statement including recommendations for the company, which included the following: a request to act fairly to those former employees who are not found guilty and to allow trade unions to enter the factory and give information to the employees.</p> <p>In its 2010 Annual report, the NCP reported that " it was not possible to reach a consensual approach" and that it had therefore issued a unilateral final statement.</p>

National Contact Points (NCPs)	
Lead NCP	Austria NCP : Single Department
Companies	
Multinational Company	Global Sports Technology Beteiligungsgesellschaft (Home country: Austria)
Subsidiary	Global Sports Lanka (Home country: Sri Lanka)

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings? Details: Originally blocked by parallel legal proceedings	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications

Suspended for many years due to parallel legal proceedings. However, the case finally went ahead even though other court proceedings were still ongoing

Formica Corporation V CUT Brazil and the Sindicato de Quimicos de ABC

Overview	
NCP Decision	Accepted
Current Status	Suspended
Date Submitted	01/02/2006
Date Closed	
Case Duration	35 months 2 days
Host Country	Brazil (Adhering Country)
Sector	Chemicals and Pharmaceuticals
Issue	Dismissal of trade union representatives without cause
Provisions Cited	II.2 IV.1-a IV.2-a IV.4-a IV.7 IV.8
Case Description	
Developments	
Outcome	The Brazilian NCP reported in May 2009 that it had carried out an initial analysis and prepared a final report. This report is not on the web site. It is not very clear. In Annex 4 it says that it is awaiting the decision of the judiciary.

National Contact Points (NCPs)	
Lead NCP	Brazil NCP : Interministerial Body
Companies	
Multinational Company	Formica Corporation (Home country: US)
Subsidiary	Pertech do Brasil (Home country: Brazil)
Complainants	
Lead Complainant	Sindicato de Quimicos de ABC
Lead Complainant	CUT Brazil : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	<input checked="" type="checkbox"/>
Was there cooperation between NCPs?	<input type="checkbox"/>
Did the lead NCP play a positive role?	<input checked="" type="checkbox"/>
If different, did the home NCP play a positive role?	<input type="checkbox"/>
Did the NCP provide mediation or conciliation?	<input checked="" type="checkbox"/>

Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Gamma Holding V USW

Overview	
NCP Decision	No Decision
Current Status	Withdrawn
Date Submitted	01/02/2006
Date Closed	01/04/2007
Case Duration	14 months 4 days
Host Country	US (OECD member)
Sector	
Issue	Right to trade union representation
Provisions Cited	IV.1-a IV.2-b IV.2-c IV.4-a IV.8
Case Description	<p>Violations of the Guidelines by the US subsidiary National Wire Fabric (NWF) of the Dutch company Gamma Holding were raised with the US NCP by the United Steelworkers of America (USW) at the beginning of February 2006.</p> <p>It was reported that NWF had interfered with the workers' right to organise and refused to enter into constructive negotiations with the union. When the company terminated the collective agreement in June 2005, workers decided to strike. The NWF therefore hired replacement workers to operate the plant. After first having accepted the return of the regular workers, the NWF then refused to reinstate them in order to keep the replacement workers.</p>
Developments	<p>On 26 July 2006, the FNV sent a letter to the Dutch NCP expressing support for the USW submission and asking the Dutch NCP to assist the US NCP in resolving the case. Since the FNV did not receive a reply, it wrote again to the NCP in December 2006. Still without a reply, the FNV sent yet a letter in February 2007 to demand a reply to previous letters and to provide further information about the latest developments in the US.</p> <p>In May 2006, the USW filed a case with the National Labour Relations Board (NLRB). The company was formally charged with labour law violations in January 2007 and the trial was scheduled for mid-March.</p>
Outcome	The USW withdrew the case from the NCP after having reached a settlement with NWF and Gamma Holding in April 2007.

National Contact Points (NCPs)

Lead NCP	US NCP : Single Country Industry/Company Body
Supporting NCP	Netherlands NCP : Bi-ministerial plus Multistakeholder Independent

	Board
Companies	
Multinational Company	Gamma Holding (Home country: Netherlands)
Subsidiary	National Wire Fabric (Home country: US)
Complainants	
Lead Complainant	USWA United Steel Workers of America (Canada) : Local Union

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	✗
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✓
Details: Filed after the Guidelines case; the National Labour Relations Board (NLRB)	
Were parallel proceedings an obstacle?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
Although the US NCP did not take any measures to resolve the case, the Guidelines were useful in getting the parent company involved to find a solution to the issue.
Implications
This is an example of a case in which the primary NCP did not take measures to resolve the case, yet the Guidelines proved a useful means of getting the parent company involved

Coats Plc V International Textile, Garment and Leather Workers' Federation (ITGLWF)

Overview	
NCP Decision	Accepted
Current Status	Suspended
Date Submitted	01/12/2005
Date Closed	
Case Duration	14 months 4 days
Host Country	Bangladesh (Non-adhering country)

Sector	Textiles, Leather and Garments
Issue	Right to trade union representation; harassment of trade unionists
Provisions Cited	IV.1-a IV.8
Case Description	<p>The anti-union practices by a Bangladeshi subsidiary of the UK enterprise Coats Plc was raised by the ITGLWF with the UK NCP at the beginning of December 2005.</p> <p>In November 2004, three trade union leaders were dismissed on alleged charges of misconduct, although the union believed that the real reason was their repeated request of a copy of the company's financial statement. In March 2005, the union organised a peaceful sit-down strike in support of the discharged union leaders. Coats responded with a lock-out. The police arrived at the scene (the union believes that they were called in by the company as this is a common practice in Bangladesh) resulting in a number of workers being injured and 27 arrested. They were later released on bail, but are now facing charges. Since then other union members have been dismissed as well.</p>
Developments	This case has been suspended due to ongoing legal proceedings in Bangladesh.
Outcome	

National Contact Points (NCPs)

Lead NCP	UK NCP : Bipartite
Companies	
Multinational Company	Coats Plc (Home country: UK)
Complainants	
Lead Complainant	ITGLWF International Textile, Garment and Leather Workers Federation

TUAC Analysis

Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	✗

Implications

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Mittal Steel Group

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	01/12/2005
Date Closed	
Case Duration	14 months 4 days
Host Country	Romania (Adhering Country)
Sector	Metal Products
Issue	Right to organise
Provisions Cited	IV.1-a
Case Description	In December 2005, the Romanian national centre raised a case with the Romanian NCP concerning the operations of Mittal Steel Group - the world's largest steel producer headquartered in the Netherlands. The trade unions contended that Mittal Steel Group had violated paragraphs 1, 7 and 8 of the chapter on Employment and Industrial Relations at two plants in Romania. The company had, inter alia, prevented employees from exercising their right to organise. The union members had been moved to other parts of the plant and the payment of union fees were being prevented. On 1 December 2005, 15 workers started a hunger strike in protest over their trade union rights being violated.
Developments	In the NCP's report to the Annual Meeting of NCPs in June 2006, it presented three arguments for not accepting the case: the adversity and the availability of the parties involved; the limited resources and information available to the NCP; and the possibility of what the NCP called an 'inmixture' in justice.
Outcome	

National Contact Points (NCPs)	
Lead NCP	Romania NCP : Bipartite
Companies	
Multinational Company	Mittal Steel Group
Complainants	
Lead Complainant	BNS : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	✗
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗

Was there an ownership or investment relationship between the MNC and the local entity concerned?	
Was the absence of an 'investment nexus' an obstacle?	

Implications

Raises question marks over the objectivity of the NCP and NCP structures, which involve employers, but not trade unions

Nestlé V National Confederation of Trade Unions Japan, Hyogo Prefectural Confederation of Trade Unions and Nestlé Japan Employees' Union

Overview	
NCP Decision	Suspended
Current Status	
Date Submitted	01/08/2005
Date Closed	
Case Duration	14 months 4 days
Host Country	Japan (OECD member)
Sector	
Issue	Unfair labour practice and disclosure of information
Provisions Cited	
Case Description	In August 2005, Nestle Japan Employees' Union filed a case against Nestlé with Japanese NCP concerning anti-union practices; failure to bargain collectively in good faith; massive layoffs without warning; and failure to disclose important information. The complaint alleged that Nestle management unfairly dismissed union officers and paid union workers lower wages in a discriminatory manner. Moreover, management appointed managerial level staff as negotiators with no such recognized authority by the union in collective bargaining talks, contrary to the principle of bona fide proceedings. The complaint also explained that in 2000 and 2003, Nestle closed or scaled down plants in Hyogo prefecture with no advance notice and with no consultation with the union or local government authorities. Finally, the complainants assert that Nestle has improperly refused to disclose what should be minimum public information on its wage structure for employees, the safety and reliability of its food products, and on the background of a major restructuring of Nestle Japan into four companies. Two Labour Commissions of local prefectures have ruled that Nestle should explain in detail what effects this restructuring will have on the legal relations between the companies and their employees. .
Developments	On June 29, 2006, the same complaint was lodged with the Swiss NCP. On June 6, 2007, the Foreign Affairs Committee of the Japanese Diet (lower house of Parliament) took up the matter on the urging of Senator Kasai. The Foreign Minister is quoted as saying that "The Guidelines must be observed". On Nov. 2, 2007, Senator Kasai brought up the matter once again in the Diet. Further developments, including the response of the Japanese and Swiss NCPs, are

	unclear.
Outcome	

National Contact Points (NCPs)	
Lead NCP	Japan NCP : Interministerial Body
Supporting NCP	Switzerland NCP : Single Department
Companies	
Subsidiary	Nestle Japan Holding Co. Ltd. (Home country: Japan)
Complainants	
Lead Complainant	National Confederation of Trade Unions : National Centre
Lead Complainant	Hyogo Prefectural Confederation of Trade Unions : Local Union
Lead Complainant	Nestle Japan Employees' Union : Single Country Industry/Company Body
Lead Complainant	Nestlé

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

GP Garments V ITGLWF






Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	09/06/2005
Date Closed	01/10/2007
Case Duration	28 months 4 days
Host Country	Bangladesh (Non-adhering country)
Sector	
Issue	Freedom of association; dismissals of striking workers; refusal to disclose ownership or structure; threat to close factory
Provisions Cited	III.1 III.2 III.3 III.4-a III.5-a III.5-b III.5-c IV.1-a IV.2-a IV.2-b IV.2-c IV.6 IV.7 IV.8

Case Description	<p>In June 2005, the ITGLWF raised a case with the Belgian NCP regarding violations of the Guidelines in the Biyagama Free Trade Zone in Sri Lanka by the Belgian-controlled company GP Garments. The company refused to disclose its ownership and structure in accordance with the Chapter III of the Guidelines, Disclosure, which made it impossible for the union to engage in a meaningful discussion with the company.</p> <p>In January 2005, the union was informed that the Biyagama factory would be re-organised. This process however took place without any social dialogue. The management threatened to close the company if it could not impose the changes unilaterally. As the conflict escalated, workers were threatened and harassed. At the beginning of April, an agreement was reached following the intervention of the Ministry of Industries of Sri Lanka. Afterwards GP Garments claimed that the local manager had been coerced into entering the agreement. Later that month, a new agreement was reached in presence of the Commissioner of Labour. A few days later, however, GP Garments sent out letters of termination to the workers. Furthermore, the Board of Investment was informed that GP Garments would reopen the factory without re-instating the 480 workers whose contracts were terminated.</p>
Developments	At the beginning of September 2005, the NCP organised a meeting with the parties concerned. With regard to the complexity of the issues raised, the NCP decided in April 2006 to appoint an independent expert to mediate between the ITGLWF and GP Garments.
Outcome	The mediation failed for the following reasons: GP Garments did not respect fixed dates to meet, an international investigation by the ILO coincided with the mediation process and the company did not consider that a solution would be found by the NCP. In its statement, the NCP called on the company to respect the Guidelines.

National Contact Points (NCPs)

Lead NCP	Belgium NCP : Tripartite with several Ministries
Companies	
Multinational Company	GP Garments
Complainants	
Lead Complainant	ITGLWF International Textile, Garment and Leather Workers Federation

TUAC Analysis

Did the case result in a positive outcome?	
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	
Did the case involve parallel proceedings? Details: There were many proceedings before the case. It is not clear how many were ongoing at the same time	

Were parallel proceedings an obstacle?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✗
Was the absence of an 'investment nexus' an obstacle?	

Implications

Lack cooperation of the company to engage in the mediation process. The investment relationship is not clear - and indeed the lack of information on ownership is part of the case. But this was not an obstacle.

Unilever V Central Unitaria de Trabajadores de Chile (CUT)

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	08/06/2005
Date Closed	01/11/2005
Case Duration	4 months 26 days
Host Country	Chile (OECD member)
Sector	
Issue	Failure to consult on plant closures
Provisions Cited	IV.6
Case Description	In June 2005 the Chilean Trade Union Confederation (CUT) submitted a complaint to the Chilean National Contact Point concerning the closure of Unilever plants in Chile. On 30 December 2004, Unilever verbally informed the trade union representatives that it was going to close three plants, so making 250 workers unemployed. A fourth plant was to be closed unless the workers accepted a 20 per cent wage cut. Moreover, Unilever prevented the union from making the company's decision public. It also promised a group of workers that they would not be dismissed if they opposed the actions taken by the union.
Developments	After a number of meetings organised by the NCP, Unilever and CUT reached an agreement in November 2005. The agreement was made possible because the parties accepted the role of the NCP as a mediator. The company also explicitly recognised the union as the workers' representative.
Outcome	The parties agreed to separate the collective bargaining procedure from the restructuring procedure leading to the closure of two plants. It was also agreed that all the workers made redundant would be compensated. In addition, the workers were to share an annual bonus of 14 million pesos. Unilever did not re-employ the workers, but agreed to provide them with good references. The NCP was made responsible for the observance of the agreement.

National Contact Points (NCPs)	
Lead NCP	Chile NCP : Single Department
Companies	

Multinational Company	Unilever PLC (Home country: UK, Netherlands)
Complainants	
Lead Complainant	Central Unitaria de Trabajadores de Chile : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✓
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Related Documents
Chilean NCP [Publication date: 1/11/2005] 'PROTOCOLO DE ACUERDO ENTRE LA EMPRESA UNILEVER CHILE Y LA CENTRAL UNITARIA DE TRABAJADORES DE CHILE' http://www.direcon.cl/documentos/OCDE/OCDE_protocolo_unilever.pdf [Date URL accessed: 7/8/2009 Source ID = 16708 FULL DETAILS]

Groupe Lactalis V the United Farmworkers Union (UFW)

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	24/05/2005
Date Closed	
Case Duration	4 months 26 days
Host Country	US (OECD member)
Sector	
Issue	Right to trade union representation, health and safety, sexual discrimination in hiring practices and harassment
Provisions Cited	IV.1-a IV.1-d IV.2-a IV.4-a IV.4-b IV.5
Case Description	In May 2005, the United Farmworkers Union (UFW) submitted a complaint to the US NCP concerning Threemile Canyon Farms, a supplier to Sorrento Lactalis, the US subsidiary of the French company Groupe Lactalis. Threemile has not respected the workers' right to be represented by trade unions

	and has harassed workers who have supported the union. The company has furthermore failed to provide protective equipment for workers dealing with dangerous chemicals. In addition, Threemile has been accused of sexual discrimination in its hiring practices. Health and safety violations - failure to pay minimum wage and other wage regulations, sexual discrimination and refusal to recognise workers rights to collectively bargain.
Developments	
Outcome	

National Contact Points (NCPs)	
Lead NCP	US NCP : Single Country Industry/Company Body
Companies	
Multinational Company	Groupe Lactalis (Home country: France)
Subsidiary	Sorrento Lactalis (Home country: US)
Supplier	Threemile Canyon Farms (Home country: US)
Complainants	
Lead Complainant	UFW United Farm Workers : National Union

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✗
Was the absence of an 'investment nexus' an obstacle?	✗

Implications
The allegations concerned a supplier of a subsidiary

Imerys V Transport and General Workers Union (T&G)

Overview	
NCP Decision	Accepted
Current Status	Withdrawn
Date Submitted	01/04/2005
Date Closed	01/04/2006
Case Duration	12 months 5 days

Host Country	UK (OECD member)
Sector	
Issue	
Provisions Cited	IV.2-b IV.6
Case Description	The UK operations of Imerys were raised with the UK NCP by the Transport and General Workers Union (T&G) in April 2005. The company had introduced major changes in the employment conditions and notably its pension system without any consultation or negotiation with the employees.
Developments	
Outcome	The issue was settled in June 2005 in that Imerys agreed to consult the unions over all future and retrospective pension proposals including the changes already announced. The case was therefore withdrawn.

National Contact Points (NCPs)	
Lead NCP	UK NCP : Bipartite
Complainants	
Lead Complainant	T&G

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	✗
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

ABN Amro Bank V UNITE-HERE

Overview	
NCP Decision	Accepted
Current Status	Withdrawn
Date Submitted	01/03/2005
Date Closed	12/07/2005
Case Duration	4 months 13 days
Host Country	US (OECD member)
Sector	Financial Services
Issue	

Provisions Cited	II.2 II.10
Case Description	UNITE-HERE filed a case with the US NCP in March 2005 regarding the operations of ABN Amro Bank. It was argued that the Bank being the primary creditor of Angelica, should encourage its business partner to 'apply principles of corporate conduct compatible with the Guidelines'. Despite being informed of the violations of the Guidelines of Angelica and a unilateral commitment not to take part in transactions with business partners that do not respect human rights, ABN Amro Bank had increased its investment in Angelica and had refused to meet with UNITE-HERE to discuss how to encourage Angelica to follow the Guidelines.
Developments	
Outcome	UNITE-HERE withdrew the case in July 2005 after reaching an agreement with Angelica. Secured contracts that would improve immigrant rights languages, pension plan, wage increase, better definition of seniority, health and safety.

National Contact Points (NCPs)	
Lead NCP	US NCP : Single Country Industry/Company Body
Companies	
Multinational Company	Angelica Textile Services
Financier	ABN Amro Bank (Home country: Netherlands)
Complainants	
Lead Complainant	UNITE-HERE

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	✗

Implications
This case raises issues concerning the obligations of banks to carry out human rights due diligence of its clients

Seves V Force Ouvrière

Overview	
NCP Decision	Accepted
Current Status	Closed

Date Submitted	09/02/2005
Date Closed	
Case Duration	4 months 13 days
Host Country	France (OECD member)
Sector	
Issue	Threats of relocation as a means to win concessions in negotiations on working conditions
Provisions Cited	IV.6
Case Description	In February 2005, Force Ouvrière asked the French NCP to examine the conduct of the Italian-based multinational enterprise, Seves, which is the world's leading manufacturer of glass and composite insulators for power transmission and distribution systems. In its complaint FO contended that Seves threatened to move an operating unit during negotiations with the employee representatives of the Sédiver subsidiary in St-Yorre.
Developments	Initially the case was suspended in order to take account of the decision of the Court of Appeal of Versailles. In 2007, the NCP decided to continue its consideration of the case. However, new and additional information was not forthcoming from the parties. At a meeting of the NCP June 13, 2008, the secretariat of the NCP was still waiting for new information.
Outcome	The NCP closed the case in 2009 on the grounds that insufficient evidence was provided to demonstrate the threat of relocation.

National Contact Points (NCPs)	
Lead NCP	France NCP : Tripartite with several Ministries
Companies	
Multinational Company	Seves
Complainants	
Lead Complainant	Force Ouvrière : National Centre





TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	✗
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓

Was the absence of an 'investment nexus' an obstacle?	
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Bata V ITGLWF

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	01/01/2005
Date Closed	01/11/2005
Case Duration	10 months 4 days
Host Country	Sri Lanka (Non-adhering country)
Sector	Textiles, Leather and Garments
Issue	Dismissed employees without any prior information or consultation with the union; right to trade union representation
Provisions Cited	IV.1-a IV.6
Case Description	In January 2005, the ITGLWF informed the Canadian NCP of serious breaches of the Guidelines by a Bata subsidiary in Sri Lanka. In April 2004, the company dismissed 146 employees without any prior information or consultation with the union, which represented a breach of paragraph 6 of Chapter IV on Employment and Industrial Relations. Moreover, the Bata subsidiary interfered with the workers' right to organise by dismissing the president of the union and filing police reports against the union leadership.
Developments	
Outcome	The case was closed by the NCP in November 2005.

National Contact Points (NCPs)	
Lead NCP	Canada NCP : Interdepartmental Office
Companies	
Multinational Company	Bata (Home country: Canada)
Complainants	
Lead Complainant	ITGLWF International Textile, Garment and Leather Workers Federation

TUAC Analysis	
Did the case result in a positive outcome?	
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	
Did the case involve parallel proceedings?	

Was there an ownership or investment relationship between the MNC and the local entity concerned?	
Was the absence of an 'investment nexus' an obstacle?	

BNL V Asociación Bancaria

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	01/12/2004
Date Closed	31/12/2008
Case Duration	49 months 21 days
Host Country	Argentina (Adhering Country)
Sector	Financial Services
Issue	Failure to disclose information
Provisions Cited	IV.3 IV.7
Case Description	In December 2004, the Argentinean trade union Asociación Bancaria raised a case with the NCP of Argentina concerning alleged breaches of the Guidelines by Banca Nazionale del Lavoro SA, which was a subsidiary of the Italian BNL Group. The company had among other things refused to provide its employees with information that enables them to obtain a true and fair view of the performance of the entity or [...] the enterprise as a whole. Moreover, the company had threatened to close its operations in Argentina.
Developments	The NCP held consultations with the two parties and the union stressed the positive role played by the NCP.
Outcome	In its 2006 annual report to the OECD, the NCP reported that: “The Argentine subsidiary of the multinational banking corporation subject to last year’s claim has been sold to a new owner. No pending issues exist with the new owner. Requests contained in the original presentation have been partially met. Nevertheless some areas of disagreement persist between the original parties of the specific instance reported last year. The final settlement is still pending. In the 2008 OECD Annual report, the NCP stated that it had closed the case because it had not received any 'new presentations'.

National Contact Points (NCPs)	
Lead NCP	Argentina NCP : Single Department
Supporting NCP	Italy NCP : Single Department
Companies	
Multinational Company	BNL (Home country: Italy)
Subsidiary	Banca Nazionale del Lavoro SA (Home country: Argentina)
Complainants	
Lead Complainant	Asociación Bancaria : National Union

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	✗
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	
Implications	
Sale of the company results in closure of the case and the need to file a new case.	

UPC Cable TV V Solidarnosc

Overview	
NCP Decision	Suspended
Current Status	
Date Submitted	01/12/2004
Date Closed	
Case Duration	49 months 21 days
Host Country	Poland (OECD member)
Sector	
Issue	Dismissal of a trade union representative of the newly established union.
Provisions Cited	IV.1-a
Case Description	In December 2004, the Polish trade union confederation Solidarnosc submitted a case to the Polish NCP concerning UPC Cable TV, a US based company. UPC Cable TV had violated the employees' right to organise by dismissing one of the trade union representatives of the newly established union.
Developments	According to Solidarnosc, the NCP did not want to examine the case because of ongoing legal proceedings, claiming that all legal measures should be exploited before a case could be raised under the Guidelines. In the 2006 OECD Annual Report on the Guidelines, the case was listed as ongoing. The NCP was presumed to be in contact with the parties involved although Solidarnosc had not heard anything from the NCP. In the 2009 OECD Annual Report the entry on the case is the same.
Outcome	

National Contact Points (NCPs)	
Lead NCP	Poland NCP : Single Department

Complainants	
Lead Complainant	Solidarnosc

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	✗
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
Although NCPs should take into account the relevance of applicable law and procedures when assessing a case, such a misinterpretation is unacceptable. The Guidelines were not drafted to provide assistance only when other means had been exhausted.
Implications
The interpretation by the NCP that the Guidelines should be an instrument of last resort.

UPM Kymmene V the Communications, Energy and Paperworkers' Union Canada

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	29/11/2004
Date Closed	10/06/2005
Case Duration	6 months 13 days
Host Country	Canada (OECD member)
Sector	
Issue	Closure; lack of disclosure, lack of negotiation and right to trade union representation
Provisions Cited	IV.2-b IV.6 IV.8
Case Description	In November 2004, the Communications, Energy and Paperworkers' Union Canada submitted a case to the Canadian NCP regarding the activities of the

	Finnish company UPM Kymmene. After the company announced the closure of the craft pulp mill part of its operations in September 2004, it refused to share any substantial information with the union about the closure, to negotiate a renewal of the collective agreement and to co-operate with the union and the governmental authorities to mitigate the negative effects. In addition, the President and the Vice President of the union were suspended by UPM Kymmene for their trade union work.
Developments	
Outcome	After more than six months the Canadian NCP concluded that “it would be inappropriate for us to get involved” on the basis of the existence at the provincial level of labour laws and remedies to deal with the issue and that such recourse had already been taken by the parties.

National Contact Points (NCPs)

Lead NCP	Canada NCP : Interdepartmental Office
Companies	
Multinational Company	UPM Kymmene
Complainants	
Lead Complainant	CEP/SCEP Communications, Energy and Paperworkers Union of Canada : Single Country Industry/Company Body

TUAC Analysis

Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	✗
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings? Details: T	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications

The obstacle was the existence of other mechanisms rather than the existence of parallel proceedings.

Ryanair V FNV and FNV Bondgenoten



Overview

NCP Decision	Rejected
Current Status	
Date Submitted	01/11/2004
Date Closed	31/12/2005
Case Duration	14 months 5 days
Host Countries	Ireland (OECD member) Netherlands (OECD member)
Sector	
Issue	Right to trade union representation
Provisions Cited	IV.1-a IV.2-a IV.2-b IV.2-c IV.3 IV.4-a IV.8
Case Description	In October 2004, the FNV and its affiliate FNV Bondgenoten raised a case with the Dutch NCP concerning the activities of the Irish budget airline Ryanair. Although Ryanair was based in Ireland, it had staff in the Netherlands and elsewhere that were affected by the company's anti-union policy. Hence, the NCP was requested to co-operate with the Irish, as well as other relevant NCPs. In order to decide whether the case was receivable, the NCP asked the unions to explain which paragraphs not covered by Dutch legislation that Ryanair had violated.
Developments	
Outcome	The NCP rejected the case on the basis that there was no subsidiary in the Netherlands.

National Contact Points (NCPs)

Lead NCP	Netherlands NCP : Bi-ministerial plus Multistakeholder Independent Board
Supporting NCP	Ireland NCP : Single Department
Companies	
Multinational Company	Ryanair
Complainants	
Lead Complainant	FNV Bondgenoten : National Union
Lead Complainant	FNV

TUAC Analysis

Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	✗
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✗

Was the absence of an 'investment nexus' an obstacle?	
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TUAC Assessment

The NCP appears to have taken an overly restrictive approach to the Guidelines both in terms of the investment nexus and the role of the Guidelines in the context of national law

Implications

The lack of an investment nexus - the "absence of a subsidiary". The role of soft law vis a vis hard law.

Smead Europe V FNV

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	01/10/2004
Date Closed	01/11/2004
Case Duration	1 month 1 day
Host Country	Netherlands (OECD member)
Sector	
Issue	Working conditions - introduction of a 40 hour week.
Provisions Cited	IV.1-a
Case Description	In October 2004, the Dutch trade union FNV raised a case with the Dutch NCP concerning the actions of Smead Europe, a US based office equipment company. The FNV contended that the company had violated a collective agreement for which it had been sanctioned by a Dutch court. In spite of the fact that the issue had been resolved, the FNV requested the NCP to officially record that the company had violated the Guidelines.
Developments	In the reply of the NCP in November 2004, it was suggested that the Guidelines should be used only to address problems that went beyond national legislation. The NCP reported in its 2005 OECD Annual Report on the Guidelines to the OECD that "legal proceedings took care of labour union's concerns".
Outcome	

National Contact Points (NCPs)	
Lead NCP	Netherlands NCP : Bi-ministerial plus Multistakeholder Independent Board
Companies	
Multinational Company	Smead
Complainants	
Lead Complainant	FNV

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment

Although NCPs should consider the relevance of applicable law and procedures when deciding whether a case merits further examination, the Procedural Guidance does not exclude cases on the basis that the issue is covered in national law.

Implications

The NCP's interpretation that the Guidelines should only be used to address problems that go beyond national legislation.

Imerys V PACE

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	22/09/2004
Date Closed	01/02/2006
Case Duration	16 months 17 days
Host Country	US (OECD member)
Sector	
Issue	Coercing and intimidating employees exercising their rights to organise
Provisions Cited	IV.2-b IV.2-c IV.4-a IV.8 V.1-a
Case Description	Abuses of workers' rights within Imerys Carbonates LLC, a subsidiary of the French corporation Imerys, were raised with the US NCP by the United Steelworkers (USW) in September 2004. The company had among other things threatened, coerced and intimidated employees exercising their rights to organise. Consequently, the union also filed a number of unfair labour practice charges with the National Labour Relations Board (NLRB).

	Given that Imerys is a French-owned company, the United Steelworkers requested the US NCP to co-operate with the French NCP in order to resolve the issue. It also suggested that the French NCP should intervene with Imerys in Paris.
Developments	<p>In November 2004, the US NCP replied that the matter was still under consideration. Before determining whether the issue merited further examination, the NCP wanted the union's opinion on the involvement of the NCP considering 'there are parallel legal proceedings before the NLRB'. The USW argued that the two procedures were not exclusive and that the Guidelines were complementary to national law and the fact that the Guidelines had been violated required the intervention of the NCP.</p> <p>TUAC took part in a fact finding visit to the Sylacauga Imerys facility in October 2005 and submitted a report to management.</p>
Outcome	An informal meeting took place with French management in February 2006 involving TUAC, ICEM and AFL-CIO. The situation subsequently improved following a change in both personnel and behaviour from the local management. A new contract was negotiated between the management and the USW and ratified by 95 per cent of the work force in February 2007. The case is being closely monitored by the AFL-CIO, the USW and the ICEM to make sure that recent improvements are sustained on the long run.

National Contact Points (NCPs)

Lead NCP	US NCP : Single Country Industry/Company Body
Companies	
Multinational Company	Imerys (Home country: France)
Subsidiary	Imerys Carbonates LLC
Complainants	
Lead Complainant	PACE Paper, Allied-Industrial, Chemical & Energy Workers International Union : National Union
Supporting Complainant	USW United Steelworkers of America : National Union
Supporting Complainant	AFLCIO

TUAC Analysis

Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	✗
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings? Details: US National Labour Relations Board	✓
Were parallel proceedings an obstacle?	✓

Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications

Parallel proceedings

Bridgestone V Local Union of Chemical, Energy and Mines

Overview	
NCP Decision	Suspended
Current Status	
Date Submitted	06/09/2004
Date Closed	
Case Duration	16 months 17 days
Host Country	Indonesia (OECD Enhanced Engagement)
Sector	Automotive
Issue	Dismissal of trade union officials for union activities
Provisions Cited	IV.1-a IV.2-a IV.2-c IV.3 IV.4-a IV.7 IV.8
Case Description	On the 6th September 2004, the Local Union of Chemical, Energy and Mines of Bridgestone Tyre Indonesia submitted a case to the NCP of Japan concerning violations of trade union rights by Bridgestone Tyre Indonesia Company, a subsidiary of Bridgestone Corporation. The union called on the company to reinstate four trade union officials that had been dismissed for union activities. The case has previously been raised with the ILO Committee of Freedom of Association.
Developments	In April 2005, TUAC was informed that the submission had not been received by the NCP and it was therefore resent. The NCP acknowledged receipt of the case at the end of May 2005.
Outcome	

National Contact Points (NCPs)	
Lead NCP	Japan NCP : Interministerial Body
Companies	
Multinational Company	Bridgestone (Home country: Japan)
Subsidiary	Bridgestone Tyre Indonesia (Home country: Indonesia)
Complainants	
Lead Complainant	Local Union of Chemical, Energy and Mines of Bridgestone Tyre Indonesia

TUAC Analysis	
Did the case result in a positive outcome?	✗

Was there cooperation between NCPs?	✗
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	✗
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Wackenhut V Union Network International (UNI)

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	01/08/2004
Date Closed	16/06/2005
Case Duration	10 months 19 days
Host Country	US (OECD member)
Sector	
Issue	Interference with the right to organise
Provisions Cited	IV.1-a IV.4-a IV.5
Case Description	<p>The Union Network International (UNI) filed a case with the US NCP in August 2004 regarding the anti-union practices of Wackenhut, a private security company in the US, owned by the UK-registered Group 4 Securicor (which was the result of the merger of British Securicor and Danish Group 4 Falck). The case was later submitted also to the UK NCP.</p> <p>Wackenhut has repeatedly interfered with the workers' right to organise. In 2002, the company informed its employees that they would have to resign from the trade union in order to be eligible for health insurance. Even though Wackenhut later withdrew from its position, it has kept refusing to let its employees organise with the Service Employees' International Union (SEIU). In a reply to the president of the SEIU in May 2004, Wackenhut rejected the request of union recognition encouraging SEIU to file a petition with the NLRB. In addition, Wackenhut has not lived up to the Guidelines provisions on training, which is virtually non-existing.</p> <p>The case was also presented to the ILO Committee on Freedom of Association in November 2003.</p>
Developments	In December 2004, the US NCP responded that it was still in the process of making an initial assessment whether the case merited further examination. Although it recognised its role in assisting to resolve matters related to the implementation of the Guidelines, the NCP claimed that it could not settle labour-management disputes. Since industrial relations are a prominent part of the Guidelines and

	<p>include labour-management issues, UNI repeated its request to the NCP to handle the matter in a letter dated January 2005.</p> <p>On December 2006, the NLRB upheld the decision of the Administrative Law Judge who found that Wackenhut had illegally threatened and interrogated security officers at the IMF building in Washington. (The US government is Wackenhut's biggest client.)</p>
Outcome	On 16 June 2005, the NCP replied that it was still making a preliminary assessment of the case. While the NCP accepted that the issues raised were within the scope of the Guidelines, it emphasised the fact that the NLRB and the ILO were also involved.

National Contact Points (NCPs)	
Lead NCP	US NCP : Single Country Industry/Company Body
Supporting NCP	UK NCP : Bipartite
Companies	
Multinational Company	Group 4 Securicor (Home country: UK)
Subsidiary	Wackenhut (Home country: US)
Complainants	
Lead Complainant	UNI : Global Union Federation

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Details: National Labour Board. ILO Committee on Freedom of - Nov 2003	
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

UNITE-HERE V Angelica Textile Services

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	12/07/2004
Date Closed	01/06/2005
Case Duration	10 months 24 days

Host Country	US (OECD member)
Sector	
Issue	
Provisions Cited	II.1 IV.1-a IV.2-b IV.4-b VII.1
Case Description	<p>Both the US and Dutch NCPs were requested by UNITE-HERE at the beginning of August 2004 to investigate the violations of the Guidelines by Angelica Textile Services, a healthcare laundry service provider in the US. To expand its operations, the company had obtained funding from LaSalle Bank, a division of Dutch ABN Amro Bank. As a business partner, the bank was expected to encourage Angelica Textile Services to apply the Guidelines or principles compatible with the Guidelines. Although Angelica Textile Services was not a multinational enterprise, the trade unions recalled that the Guidelines reflected good practice for all and that multinational and domestic enterprises were subject to the same expectations.</p> <p>Angelica Textile Services was in breach of several chapters of the Guidelines. It did not provide training for its employees. Workers were not trained on job duties and health and safety precautions. Neither did the company ensure occupational health and safety in its operations (chapters on General Policies and Employment and Industrial Relations). For example, it did not provide workers with Hepatitis B vaccinations as required. Moreover, it did not respect the right of its employees to be represented by trade unions (chapter on Employment and Industrial Relations). Finally, it did not meet the agreed or legally required standards for consumer health and safety (chapter on Consumer Interests). It had among other things failed to meet hospital laundry quality standards by not separating soiled and clean linen.</p>
Developments	The US NCP replied that 'further action' would not be appropriate given that Angelica Textile Services was a US company and that the issue concerned its operations in the US. It did however commit to inform the company of the issue raised.
Outcome	<p>In the middle of September, the unions requested the NCP to reconsider the complaint arguing that domestic companies were subject to the same expectations as multinational. They also stressed the international link to ABN Amro Bank. (See other case))</p> <p>LaSalle Bank met with the senior management of Angelica in response to a letter from UNITE-HERE. According to LaSalle Bank, their client 'is committed to responsible citizenship'.</p> <p>In June 2005, UNITE-HERE and Angelica came to an understanding resolving the dispute. It was agreed that employees at Angelica non-union facilities would have the right to decide whether they wanted to be represented by UNITE-HERE. New, tentative collective bargaining agreements were also negotiated for those facilities where existing agreements had expired.</p>

National Contact Points (NCPs)	
Lead NCP	UK NCP : Bipartite
Lead NCP	US NCP : Single Country Industry/Company Body
Supporting NCP	Netherlands NCP : Bi-ministerial plus Multistakeholder Independent Board
Complainants	
Lead Complainant	UNITE-HERE

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	✗
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	
Implications	
The case concerned activities in the domestic market - not in international investment.	

Life Uniform V UNITE-HERE and CATY

Overview	
NCP Decision	No Decision
Current Status	
Date Submitted	01/07/2004
Date Closed	
Case Duration	10 months 24 days
Host Country	Mexico (OECD member)
Sector	
Issue	Safety standards, minimum wage
Provisions Cited	II.1 II.2 II.3 II.4 II.6 II.7 IV.1-a IV.1-c IV.4-b
Case Description	<p>The working conditions at two factories in Mexico were raised with the US NCP by the US trade union UNITE-HERE and the Mexican organisation CATY in July 2004. The two factories are suppliers of Life Uniform, a health care uniform retailer. At the time of the case being raised, Life Uniform was a division of Angelica Corporation. In August, however, Life Uniform was sold to Healthcare Uniform Co, an enterprise of Sun Capital Partners.</p> <p>Life Uniform has failed to ensure that its suppliers apply principles of corporate conduct compatible with the Guidelines. Minimum employment standards and health and safety conditions have been violated at the two plants in Mexico (MarkeyTex and CocoTex) resulting in occupational injury and illness. Workers are denied minimum wages as regulated in Mexican labour law, they are expected to work overtime without compensation and they are not provided with protective equipment such as respiratory masks and suffer from respiratory infections.</p>
Developments	

Outcome	
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National Contact Points (NCPs)	
Lead NCP	US NCP : Single Country Industry/Company Body
Companies	
Multinational Company	Life Uniform (Home country: US)
Supplier	MarkeyTex (Home country: Mexico)
Supplier	CocoTex (Home country: Mexico)
Complainants	
Lead Complainant	CATY
Lead Complainant	UNITE-HERE

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	✗
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications
Transfer of Company to New Ownership

Marriott Hotel V Solidarnosc

Overview	
NCP Decision	No Decision
Current Status	
Date Submitted	01/04/2004
Date Closed	
Case Duration	10 months 24 days
Host Country	Poland (OECD member)
Sector	
Issue	Right to trade union representation; harassment; violence
Provisions Cited	IV.1-a
Case	The Polish trade union confederation Solidarnosc submitted a complaint to the

Description	Polish NCP in Spring 2002, regarding the US-owned Warsaw Marriott Hotel. Trade union activists had been threatened and harassed by the management, and one trade unionist had even been beaten by security guards at the hotel.
Developments	The Polish NCP reported in its 2009 Annual Report to the OECD, that the case had been resumed and the NCP was "in contact with representatives of parties involved". To TUAC's knowledge, Solidarnosc has not been contacted by the NCP.
Outcome	No action has been taken

National Contact Points (NCPs)	
Lead NCP	Poland NCP : Single Department
Companies	
Multinational Company	Marriott (Home country: US)
Complainants	
Lead Complainant	Solidarnosc

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
TUAC does not have enough information to know what the relationship between the Marriott and its subsidiary are.
Implications
Time-scales; NCP responsiveness

Korean EPZ Corporation V International Textile, Garment and

Leather Workers' Federation (ITGLWF)



Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	31/03/2004

Date Closed	19/05/2004
Case Duration	1 month 19 days
Host Country	Bangladesh (Non-adhering country)
Sector	
Issue	Freedom of Association in Export Processing Zones
Provisions Cited	II.1 II.2 II.5 II.11 IV.1-a
Case Description	<p>At the end of March 2004, the International Textile, Garment and Leather Workers' Federation (ITGLWF) submitted a case to the Korean NCP concerning the attempts of Korean EPZ Corporation, a group of 22 Korean investors, to prevent the Bangladeshi government to end the ban on freedom of association in their Export Processing Zones (EPZs).</p> <p>The Bangladeshi government announced in the gazette publication in 2001 that all workers in EPZs would have their rights restored from the first of January 2004. This was challenged by Youngone Corporation (one of the biggest foreign investors in Korea) in the Supreme Court of Bangladesh in 2003 on the grounds that the government had unilaterally changed the rules given that foreign companies invested in Bangladesh in the belief that trade unions were not allowed in the EPZs.</p> <p>Apart from violating the employees' right to organise, the company was also considered to have infringed several paragraphs of the chapter on General Policies.</p>
Developments	The NCP replied in May that it was not certain that the Korean EPZ Corporation had any relevance to the case arguing that the company's task was to develop an EPZ. Consequently, the ITGLWF wrote again to the NCP underlining that although Korean EPZ Corporation was a company established to develop an EPZ in Bangladesh, it should nevertheless comply with the Guidelines. The NCP repeated that the company had not acted on behalf of investors in EPZs, but had merely developed an EPZ and thus did not interfere with trade union rights.
Outcome	

National Contact Points (NCPs)

Lead NCP	South Korea NCP : Interdepartmental Office
Companies	
Multinational Company	Korean EPZ Corporation (Home country: South Korea)
Complainants	
Lead Complainant	ITGLWF International Textile, Garment and Leather Workers Federation

TUAC Analysis	
Did the case result in a positive outcome?	<input checked="" type="checkbox"/>
Was there cooperation between NCPs?	<input type="checkbox"/>
Did the lead NCP play a positive role?	<input checked="" type="checkbox"/>
If different, did the home NCP play a positive role?	<input type="checkbox"/>
Did the NCP provide mediation or conciliation?	<input type="checkbox"/>

Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✗
Was the absence of an 'investment nexus' an obstacle?	✓

Implications

Conflict with investment treaty rules; failure to find grounds for responsibility

Toyota Motor Corporation V Toyota Motor Philippines Corporation Workers' Association (TMPCWA)

Overview	
NCP Decision	Suspended
Current Status	
Date Submitted	04/03/2004
Date Closed	
Case Duration	1 month 19 days
Host Country	Philippines (Non-adhering country)
Sector	
Issue	Illegal dismissal of 233 union members who participated in a strike and the filing of criminal cases against union leaders
Provisions Cited	II.2 IV.1-a IV.6
Case Description	<p>In March 2004, the Toyota Motor Philippines Corporation Workers' Association (TMPCWA) submitted a case to the Japanese NCP regarding the anti-union behaviour of Toyota Motor Philippines Corporation (TMPC), a subsidiary of Toyota Motor Corporation. The company had refused to enter into collective bargaining negotiations with the TMPCWA as a result of which the union called a strike.</p> <p>The complaint alleges that TMPC refused to organise Certification Elections (CE) as stipulated by law. When CEs were eventually held in March 2000, TMPC challenged the result (which was favourable to TMPCWA), refused to open negotiations, and launched various administrative appeals against TMPCWA.</p> <p>On 16 March 2001, the Philippine authorities reaffirmed TMPCWA's legitimacy. On the same day, 227 leaders and members of the organisation, who had participated in a strike action during the previous month, were unjustifiably dismissed. Some leaders were charged with criminal offences.</p> <p>The TMPCWA then filed a case in the courts against TMPC asking for a withdrawal of the illegal dismissals.</p> <p>In September 2003, the Supreme Court of the Philippines ordered TMPC to begin collective bargaining negotiations with the TMPCWA. The company, however, ignored the court decision.</p>

	<p>In February 2003, the union submitted the case to the ILO Committee on Freedom of Association. In November 2003, the Committee made the following recommendations to the Philippines Government: 1) To reinstate the 233 union members; 2) To start the Collective Bargaining Agreement immediately in order to establish sound labour relations; 3) To withdraw the criminal case; 4) To accept an ILO delegation; and 5) To amend the relevant legislative provisions of the Labour Code of the country.</p>
Developments	<p>In September 2004, the TMPCWA wrote again to the NCP as six months after submitting the case it still had not been informed of whether the case merited further examination.</p> <p>In December 2004, the Japanese NCP responded saying that "the matter is still under examination and the initial assessment has not yet come to an end. We are of the opinion that the case of TMPCWA is still at bar at Court of Appeals".</p> <p>In its reply to the NCP, the TMPCWA explained that the Supreme Court had already turned down the ruling of the Court of Appeal to suspend the union's right to collective bargaining. It also expressed its disappointment with the NCP's treatment of the case.</p> <p>In February 2005, the Support Group for TMPCWA met with the NCP, which maintained its position that it would not move forward with the case until the court case in the Philippines was finalised.</p> <p>In July 2006, the TUAC Secretariat received a letter from the Department of Labour and Employment (DOLE) informing it that Toyota Motor Philippines Corp. contested the facts as accounted above.</p> <p>Since then the TMPCWA and its Support Group have met with Toyota every year outside the NCP forum at Toyota headquarters in Tokyo and Toyota City, but there has been no movement on the issues. NOT CLEAR TO ME - WITH THE NCP OR WITH TOYOTA</p> <p>In October 2009, the complainants received word that the Japanese NCP was planning to re-start the initial assessment on the case. They sent a letter urging the NCP to start this assessment without further delay.</p> <p>On 16 March 2010, the TMPCWA held a memorial protest to mark the nine years since Toyota illegal terminated the 233 members of the TMPCWA due to their winning the certification election.</p> <p>In its Annual report to the OECD, the Japanese NCP reported that "[Regarding a specific case on industrial relations of a Philippines subsidiary of a Japanese company, initial assessment is being made and the Japanese NCP is in consultation with parties concerned. There is a parallel legal proceeding".</p> <p>INVOLVEMENT OF THE ILO</p> <p>On 22-29 September 2009, the ILO sent a high level Mission to the Philippines to investigate the alleged extra-judicial killings and use of the military against workers as well as the long-standing cases before the Committee on Freedom of Association, including the cases of the TMPCWA.</p>

	<p>In November 2009, the Department of Labour and Employment (DOLE) initiated a meeting with the TMPCWA to discuss how to respond to the recommendations of the ILO High Level Mission.</p> <p>On 12 April 2010, the DOLE wrote to the TMPCWA asking for information that would help the national Tripartite Industrial Peace Council-Monitoring Body to respond to the ILO recommendations. The TMPCWA submitted a list of the illegally dismissed members of the TMPCWA. The DOLE response to the ILO mission gave reason for optimism but the TMPCWA is concerned that Philippines Toyota is not playing a supportive role.</p>
Outcome	

National Contact Points (NCPs)

Lead NCP	Japan NCP : Interministerial Body
Companies	
Multinational Company	Toyota Motor Corporation (Home country: Japan)
Complainants	
Lead Complainant	Toyota Motor Philippines Corp. Workers' Association : Trade Union Other

TUAC Analysis

Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications

Effective intervention by the ILO Freedom of Association Committee

Technip-Coflexip V CGT

Overview	
NCP Decision	No Decision
Current Status	
Date	01/03/2004

Submitted	
Date Closed	
Case Duration	1 month 19 days
Host Country	France (OECD member)
Sector	Building and Construction Oil and Gas
Issue	
Provisions Cited	IV.1-a
Case Description	The French trade union confederation CGT filed a case with the French NCP regarding Technip-Coflexip in March 2003 because an employee of Technip-Coflexip had part of his salary suspended for going on a trade union mission to the US. The Guidelines state that "management should adopt a co operative attitude towards the participation of employees in international meetings for consultation and exchanges of views among themselves".
Developments	TUAC has no further information on this case.
Outcome	

National Contact Points (NCPs)	
Lead NCP	France NCP : Tripartite with several Ministries
Companies	
Multinational Company	Technip-Coflexip
Complainants	
Lead Complainant	CGT

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	
Was there an ownership or investment relationship between the MNC and the local entity concerned?	
Was the absence of an 'investment nexus' an obstacle?	

Michelin V Sindicato Nacional de Trabajadores de Uniroyal SA de CV (SNTU)

Overview	
NCP Decision	Suspended

Current Status	
Date Submitted	01/02/2004
Date Closed	
Case Duration	1 month 19 days
Host Country	Mexico (OECD member)
Sector	Automotive
Issue	
Provisions Cited	IV.2-b IV.2-c IV.3 IV.6
Case Description	<p>The closure of two Uniroyal plants in Mexico, bought by Michelin in 1992, was filed with the Mexican NCP by a group of workers in February 2004. They argued that the two plants were closed without any prior notification or consultation with the workers. When they arrived at work on 7 August 2000 they were not allowed to enter the plants. Nevertheless, an agreement was later made between the trade union SNTU and the company, but it was criticised by some workers for not providing the compensation they were entitled to according to the collective agreement.</p> <p>In April 2002, one of the plants was re-opened under a new name, but with the same production, structures and owners. As to the other plant, it was in fact never closed and has continued to produce the same tires. In conformity with Mexican law, the dismissed workers demanded to be re-employed, which they were refused. The case was therefore also presented to the Mexican court.</p>
Developments	The NCP has met with representatives of the company and the Ministry of Labour, which claim that the closure was legal. The NCP appears to be awaiting the court ruling in order to bring the case to an end. French unions have brought the case to the attention of the French NCP.
Outcome	

National Contact Points (NCPs)	
Lead NCP	Mexico NCP : Single Department
Supporting NCP	France NCP : Tripartite with several Ministries
Companies	
Multinational Company	Michelin (Home country: France)
Subsidiary	Uniroyal (Home country: Mexico)
Complainants	
Lead Complainant	SNTU : Single Company Union
Lead Complainant	CGT

TUAC Analysis	
Did the case result in a positive outcome?	<input checked="" type="checkbox"/>
Was there cooperation between NCPs?	<input type="checkbox"/>
Did the lead NCP play a positive role?	<input checked="" type="checkbox"/>
If different, did the home NCP play a positive role?	<input type="checkbox"/>

Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	



Swatch Group V Union Syndicale Suisse (USS)

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	01/02/2004
Date Closed	01/06/2005
Case Duration	16 months 6 days
Host Country	Switzerland (OECD member)
Sector	
Issue	Failure to recognise collective bargaining agreement.
Provisions Cited	I.3 II.10 IV.8
Case Description	The Swiss NCP was contacted by in February 2004 concerning the activities of several subsidiaries of the Swatch Group. The subsidiaries, although covered by a collective bargaining agreement between the Swatch Group and the trade union organisation FTMH, did not recognise the agreement.
Developments	<p>The NCP responded that it would seek the advice of the OECD Investment Committee concerning the receivability of the case. Even though the NCP acknowledged that the Guidelines reflected good practices for all, it questioned the applicability of the Guidelines since the company was based in Switzerland and not in a foreign country. The Guidelines, however, do not make a distinction between MNEs operating abroad and those operating in home countries.</p> <p>In July 2004, the NCP made a formal request for clarification to the OECD Investment Committee. In its reply dated April 2005, the Committee recognised that the Guidelines were applicable to both domestic and international operations of companies. But it stressed that the implementation procedures had been created to deal with issues arising in international investment - not domestic investment. Finally, it encouraged the NCP to address the issue in terms of how to further the effectiveness of the Guidelines.</p>
Outcome	The issue was finally resolved in June 2005 after Swatch reached an agreement with the union concerning the extension of the collective bargaining agreement to three plants in the region of Tessin.

National Contact Points (NCPs)

Lead NCP	Switzerland NCP : Single Department
Companies	
Multinational Company	Swatch Group
Complainants	
Lead Complainant	USS Union Syndicale Suisse : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications

The Swiss NCP made a request for clarification to the OECD Investment Committee on the application of the Guidelines to domestic investment. The Investment Committee responded that whilst the principles of the Guidelines apply the implementation procedures do not. This clarification has been cited in other cases.

TGW International - American Chance Casinos V Czech-Moravian public catering, hotels and tourism trade union federation

Overview	
NCP Decision	Accepted
Current Status	Withdrawn
Date Submitted	01/02/2004
Date Closed	01/08/2004
Case Duration	6 months 2 days
Host Country	Czech Republic (OECD member)
Sector	
Issue	Preventing the workers from establishing a trade union and refused to bargain collectively. Yellow unions
Provisions Cited	IV.1-a
Case Description	At the beginning of February 2004, the Czech NCP received a submission from the Czech-Moravian public catering, hotels and tourism trade union federation

	concerning a subsidiary of TGW International - American Chance Casinos. The company was preventing the workers from establishing a trade union and refused to bargain collectively. It had also set up a management-controlled 'union'.
Developments	
Outcome	According to the 2005 OECD report on the Guidelines, the NCP closed the case at the trade union's request in August 2004.

National Contact Points (NCPs)

Lead NCP	Czech Republic NCP
Companies	
Multinational Company	TGW International - American Chance Casinos
Complainants	
Lead Complainant	Czech-Moravian Catering & Hotel Trade Union Federation : National Union

TUAC Analysis

Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	✗

BASF V CUT-BRAZIL

Overview	
NCP Decision	No Decision
Current Status	Withdrawn
Date Submitted	01/11/2003
Date Closed	01/12/2003
Case Duration	1 month 0 days
Host Country	
Sector	Chemicals and Pharmaceuticals
Issue	Anti-union behaviour
Provisions Cited	IV.1-a
Case Description	The case was withdrawn one month after it was submitted because the issues were resolved.

Developments	
Outcome	

National Contact Points (NCPs)	
Lead NCP	Brazil NCP : Interministerial Body
Companies	
Multinational Company	BASF (Home country: Germany)
Complainants	
Lead Complainant	CUT Brazil : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	
Was there an ownership or investment relationship between the MNC and the local entity concerned?	
Was the absence of an 'investment nexus' an obstacle?	

Unilever V CUT Brazil

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	27/10/2003
Date Closed	01/06/2004
Case Duration	7 months 8 days
Host Country	Brazil (Adhering Country)
Sector	Chemicals and Pharmaceuticals
Issue	Failure to consult or give information on plant closure
Provisions Cited	IV.2-b IV.6 IV.7
Case Description	In December 2003 the partial transfer of a plant owned by Unilever in Brazil was raised by the CUT with the Brazilian NCP. The decision to transfer part of the production line from Vinhedo (Sao Paulo) to Ipojuca (Pernambuco) was taken without any prior consultations with the Labour Union of Chemical Workers of Vinhedo. In fact, the workers learned about the details of the closure from the local newspapers. Furthermore, after the decision had been made public, the management threatened to move the whole factory if the trade union did not call off its activities.

Developments	The National Committee of Unilever Unions first tried to establish a dialogue with the company on the Guidelines, but Unilever Brazil responded negatively. It was therefore decided to submit the case to the NCP. Since Unilever is headquartered in the Netherlands, the CUT requested the Brazilian NCP to co-operate with the Dutch NCP.
Outcome	The issue was resolved in June 2004 when the company agreed to engage in negotiations with the union.

National Contact Points (NCPs)	
Lead NCP	Brazil NCP : Interministerial Body
Supporting NCP	Netherlands NCP : Bi-ministerial plus Multistakeholder Independent Board
Companies	
Multinational Company	Unilever PLC (Home country: UK, Netherlands)
Complainants	
Lead Complainant	CUT Brazil : National Centre
Supporting Home Country Trade Union	National Committee of Unilever Unions : Single Country Industry/Company Body

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications
NCP cooperation

Locomotive Trading AG Hänibül V Czech-Moravian Confederation of Trade Unions

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	08/10/2003
Date Closed	01/02/2004
Case Duration	3 months 26 days

Host Country	Czech Republic (OECD member)
Sector	Automotive
Issue	Right to trade union representation
Provisions Cited	IV.1-a IV.2-b IV.3
Case Description	<p>An affiliate to the Czech-Moravian Confederation of Trade Unions (CMKOS) - The Railway Trade Unions Association - contacted the Czech NCP in October 2003 concerning the behaviour of the Swiss company Locomotive Trading AG Hänibül, the owner of a plant for production and repair of railway equipment. The company had transferred assets abroad, which threatened it to go into liquidation. The main objective of trade union was to prevent the liquidation of the plant and retain the production and employment.</p> <p>Meanwhile the union alleged that the company violated trade unions rights as well as the Czech law by not paying wages or delaying the wages, threatening and attacking trade union representatives in the supervisory body of the plant, refusing to provide the trade union with any information concerning the enterprise and by refusing to conclude a collective agreement.</p> <p>It was believed that the only way to deal with the situation was for the company to declare bankruptcy and for a new owner to adopt a different approach.</p>
Developments	At the first NCP meeting in November 2003, it was announced that the enterprise had been declared bankrupt.
Outcome	The case was closed in February 2004 because the company was to be go into administration. The relations between the trade union and the Receiver were satisfactory. CMKOS believed that there was a possibility to find a new owner and thereby save the enterprise and retain employment. These developments were to be monitored with the trade union having the possibility to return the issue to the NCP.

National Contact Points (NCPs)

Lead NCP	Czech Republic NCP
Companies	
Multinational Company	Locomotive Trading AG Hänibül (Home country: Switzerland)
Subsidiary	ZOS Nymburk
Complainants	
Lead Complainant	CMKOS Ceskomoravská konfederace odborových svazu : National Centre

TUAC Analysis

Did the case result in a positive outcome?	<input checked="" type="checkbox"/>
Was there cooperation between NCPs?	<input type="checkbox"/>
Did the lead NCP play a positive role?	<input checked="" type="checkbox"/>
If different, did the home NCP play a positive role?	<input type="checkbox"/>
Did the NCP provide mediation or conciliation?	<input type="checkbox"/>
Did the guidelines play a positive role?	<input checked="" type="checkbox"/>

Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	✗

Implications

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Nestlé V Korean Confederation of Trade Unions (KCTU), International Union of Food and Allied Workers (IUF) and the International Federation of Chemical, Energy, Mine and General Workers' Union (ICEM)

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	26/09/2003
Date Closed	01/04/2004
Case Duration	6 months 8 days
Host Country	South Korea (OECD member)
Sector	Food, Agriculture and Tobacco
Issue	Sub-contracting workers; failure to engage in construction negotiations; threat to re-locate/transfer in the context of a collective bargaining dispute
Provisions Cited	IV.1-a IV.7
Case Description	The Korean Confederation of Trade Unions (KCTU) in co-operation with the International Union of Food and Allied Workers (IUF) and the International Federation of Chemical, Energy, Mine and General Workers' Union (ICEM) filed a case with the Korean NCP at the end of September 2003. The Swiss NCP was also informed of the case as Nestlé is headquartered in Switzerland. Nestlé had threatened to close its factory in Korea because of a collective bargaining dispute with the Nestlé Korea Labour Union. The union took strike action after the local management had refused to include issues over staffing levels and subcontracting in the negotiations for a new collective bargaining agreement. In response, the management initiated a lockout and threatened to close its operations in Korea. In a letter to the employees and in Korean and international business press, Nestlé announced that they were considering moving their production to China amongst other countries. This was an infringement of Paragraph 7 of the Chapter on Employment and Industrial Relations .
Developments	Nestlé in Korea came under heavy pressure to change its behaviour, not least from the parent company. In addition, on November 16 the Chungbook Province Labour Relations Committee ruled in favour of the union. At the end of November, a settlement was reached between the Nestlé Korea Labour Union (NKLU) and the company. The new collective agreement established a joint union-management committee to review any proposed changes to employment levels, working conditions and job classification. It also provided for a 5.5 per cent increase in salaries.

Outcome	In response to repeated requests by the unions, the Korean NCP stated in March 2004 that the case was closed given the agreement between the NKLK and Nestlé. The unions were extremely critical of the NCP since it closed the case without having met the unions and without making a public statement. The unions therefore asked the Ministry for a meeting to discuss this further. As a result, a meeting was held between the NCP and the KCTU, in which the NCP reconfirmed that the case was closed. It did however state its willingness to start a dialogue over its internal procedures.
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National Contact Points (NCPs)	
Lead NCP	South Korea NCP : Interdepartmental Office
Supporting NCP	Switzerland NCP : Single Department
Companies	
Multinational Company	Nestlé (Home country: Switzerland)
Complainants	
Lead Complainant	KCTU- Korea : National Centre
Supporting Complainant	ICEM International Federation of Chemical, Energy, Mine and General Workers' Unions : Global Union Federation
Supporting Complainant	IUF - UITA - IUL International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Unions

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	✓
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
The Swiss NCP played a constructive role in trying to resolve the case. Although the Korean NCP had the main responsibility for dealing with the case, the Swiss NCP met with the unions involved and Nestlé several times. It also met with a labour delegation from Korea on 21 November. The press release is available on the NCP website . Furthermore, it engaged with the Korean NCP suggesting that it should call a meeting with all parties to attempt to reach agreement on the issues raised and examined the

Implications
NCP Cooperation; Home country NCP played a significant role

General Motors V Porto Alegre Metal Workers' Union

Overview	
NCP Decision	No Decision
Current Status	
Date Submitted	04/09/2003
Date Closed	
Case Duration	6 months 8 days
Host Country	Brazil (Adhering Country)
Sector	Automotive
Issue	Yellow unions
Provisions Cited	IV.1-a VI
Case Description	<p>In September 2003, the Porto Alegre Metal, Mechanical and Electrical Material Workers' Union submitted a case to the Brazilian NCP regarding the conduct of General Motors Do Brasil Ltda a subsidiary of the US based General Motors.</p> <p>The union alleged that since its creation in 1997, the company has interfered with the employees' right to organise. In August 1997, GM created a company union, which is financed by General Motors, in a meeting that was held behind closed doors and to which union members were not invited. The company encourages workers to join the company union so as to avoid 'negative consequences', whilst workers belonging to the real union have been subject to retaliation. The case has also been submitted to the ILO Committee on Freedom of Association.</p>
Developments	
Outcome	The NCP invited the social partners including the company union to a tripartite meeting, but the latter did not attend.

National Contact Points (NCPs)	
Lead NCP	Brazil NCP : Interministerial Body
Companies	
Multinational Company	General Motors (Home country: US)
Subsidiary	General Motors do Brasil Ltda
Complainants	
Lead Complainant	Porto Alegre Metal Workers' Union : National Union

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	✗

Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

British American Tobacco (BAT) V IUF (Burma)

Overview	
NCP Decision	Accepted
Current Status	Withdrawn
Date Submitted	02/09/2003
Date Closed	01/02/2004
Case Duration	5 months 2 days
Host Country	Burma (Non-adhering country)
Sector	Food, Agriculture and Tobacco
Issue	Divestment from Burma and the effect of remaining licenses
Provisions Cited	II.1 II.2 II.10 II.11
Case Description	The operations of the British American Tobacco Company (BAT) in Burma were raised with the UK NCP by the International Union of Food and Allied Workers (IUF) in September 2003. BAT was conducting a joint venture with the Burmese military, which precluded it from complying with several of the paragraphs of the chapter on General Policies . The IUF argued that BAT's operations in Burma necessarily involved it in political activities which repeatedly had been condemned by resolutions of the United Nation Security Council, the ILO and other international bodies. Prior to the case being raised, the UK government had already encouraged BAT to leave Burma, but without any result.
Developments	At the beginning of November 2003, BAT sold its stake in Burma to a Singapore-based investment company because of a formal request from the British government to withdraw from Burma. It did so explaining that 'it is hard to ignore the political will of your government'. Consequently, the IUF withdrew the case in February 2004 after a separate meeting with BAT. Although the IUF was successful in reaching its goal to get BAT to disinvest, BAT is nevertheless present in Burma through licensing agreements.
Outcome	

National Contact Points (NCPs)

Lead NCP	UK NCP : Bipartite
Companies	

Multinational Company	British American Tobacco (Home country: UK)
Complainants	
Lead Complainant	IUF - UITA - IUL International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Unions

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	✗

TUAC Assessment
It appears that the Guidelines case and the resulting discussion through the NCP did act as a focal point for getting some momentum in the company position.

Bayer V DGB

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	27/06/2003
Date Closed	29/06/2007
Case Duration	48 months 23 days
Host Country	Philippines (Non-adhering country)
Sector	Chemicals and Pharmaceuticals
Issue	Right to trade union representations Establishing a 'yellow' union
Provisions Cited	IV.1-a IV.2-a IV.2-b IV.2-c IV.3 IV.5 IV.6 IV.8
Case Description	In June 2003, the German Confederation of Trade Unions (DGB) forwarded a submission by the Employees Union of Bayer Philippines (EUBP) to the German NCP. It requested the NCP to assemble an extraordinary meeting at the beginning of September to discuss the case. The EUBP argued that Bayer Philippines had set up a company union to replace the EUBP and to prevent the workers from organising. After a ruling by the Philippine Supreme Court in 2002, Bayer recognised the EUBP as the lawful union. However, before the recognition, EUBP members had been dismissed and the union membership dues had been transferred

	to the yellow union.
Developments	After examining the case, the NCP convened a meeting in October 2004 to discuss the issue with both parties. It was agreed that the parties needed to provide further information because of the complexity of the case.
Outcome	After lengthy negotiations, the case was finally resolved in June 2007. It was agreed that Bayer would make a payment to the EUBP compensating for the loss of union membership dues and to the former president of the EUBP compensating for the termination of his employment in 2000. A joint declaration by the NCP and the parties involved is available on the German NCP's website .

National Contact Points (NCPs)	
Lead NCP	German NCP : Single Department
Companies	
Multinational Company	Bayer (Home country: Germany)
Subsidiary	Bayer Philippines (Home country: Philippines)
Complainants	
Lead Complainant	EUBP Employees Union of Bayer Philippines : Single Company Union
Supporting Home Country Trade Union	DGB German Trade Union Centre : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications
The case highlighted the need for parties to submit good quality information; timescales

Related Documents
German National Contact Point [Publication date: 29/6/2007] 'Statement by the German National Contact Point for the 'OECD Guidelines for Multinational Enterprises' on a Specific Instance brought by the DGB against Bayer AG' http://www.bmwi.de/BMWi/Redaktion/PDF/E/erklarung-der-deutschen-nationalen-kontaktstelle-f_C3_BCr-die-oecd-leitsaetze-englisch,property=pdf,bereich=bmwi,sprac

he=de,rwb=true.pdf [Date URL accessed: 6/8/2009 Source ID = 16698 FULL DETAILS]
German NCP [Publication date: 29/6/2007] 'Erklärung der deutschen Nationalen Kontaktstelle für die ,OECD-Leitsätze für multinationale Unternehmen' zu einer Beschwerde des DGB gegenüber Bayer AG (EUBP-FFW ./.. Bayer Philippines)' http://www.bmwi.de/BMWi/Redaktion/PDF/E/erklaerung-der-deutschen-nationalen-kontaktstelle-fuer-oecd-leitsaetze,property=pdf,bereich=bmwi,sprache=de,rwb=true.pdf f [Date URL accessed: 6/8/2009 Source ID = 16700 FULL DETAILS]
[Publication date: 1/12/2008] 'FILLING THE GAP: A NEW BODY TO INVESTIGATE, SANCTION AND PROVIDE REMEDIES FOR ABUSES COMMITTED BY UK COMPANIES ABROAD A report prepared for the Corporate Responsibility (CORE) Coalition' by December 2008 http://corporate-responsibility.org/wp/wp-content/uploads/2009/09/Filling-the-Gap_dec08.pdf [Date URL accessed: 25/3/2010 Source ID = 16810 FULL DETAILS]
BMWi [Publication date: 29/6/2007] 'Statement by the German National Contact Point for the 'OECD Guidelines for Multinational Enterprises' on a Specific Instance brought by the DGB against Bayer AG (EUBP-FFW ./.. Bayer Philippines)' http://www.bmwi.de/BMWi/Redaktion/PDF/E/erklaerung-der-deutschen-nationalen-kontaktstelle-f_C3_BCr-die-oecd-leitsaetze-englisch,property=pdf,bereich=bmwi,sprache=de,rwb=true.pdf [Date URL accessed: 16/4/2010 Source ID = 16811 FULL DETAILS]

Saint-Gobain V International Federation of Chemical, Energy, Mine and General Workers' Union (ICEM)

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	05/06/2003
Date Closed	01/05/2007
Case Duration	47 months 16 days
Host Country	US (OECD member)
Sector	
Issue	Right to trade union representation, the right to information for meaningful negotiations and the right to a safe and healthy workplace
Provisions Cited	IV.1-a IV.1-b IV.4-a IV.4-b
Case Description	In June 2003, the International Federation of Chemical, Energy, Mine and General Workers' Union (ICEM) together with the American unions the AFL-CIO and UAW submitted a case to the US NCP concerning breaches of the Guidelines by the French multinational company Saint-Gobain. These included violations of the right to organise (through challenging the union-won election and threatening and intimidating workers who supported the union), the right to information for

	<p>meaningful negotiations and the right to a safe and healthy workplace. The unions requested the US NCP to bring the matter to the attention of the French NCP.</p> <p>Saint-Gobain's actions had also led to complaints from the National Labour Relations Board (NLRB) and citations and fines by the Occupational Safety and Health Administration.</p>
Developments	<p>The US NCP and the French unions informed the French NCP about the case. The French NCP then contacted the management of Saint-Gobain, which stated that the issue was part of their bargaining process.</p> <p>In October 2003, the French NCP confirmed its willingness to co-operate in a letter to the US NCP and requested information on progress with the case.</p> <p>In December 2003, the case was discussed at a meeting of the French NCP. The French trade union, the CGT, suggested that the NCP should convene a meeting with the management of Saint-Gobain and the leadership of UAW. The French NCP however considered it the responsibility of the US NCP to set up such a meeting.</p> <p>In December 2003, Saint-Gobain submitted a letter to the US NCP stating that the issues should be considered by the NLRB, not the NCP.</p> <p>In February 2004, the UAW responded in a letter to the US NCP, arguing that national law was being used as a reason for not taking action under the Guidelines. The UAW repeated its request for a meeting with the top management in France.</p> <p>In January 2005, the ICEM together with French unions met with the management of Saint-Gobain in France. The management stated that the company was not hostile to union representation in the US, but refused to intervene in the dispute.</p> <p>The same month, a decertification vote was held at the US plant. The union objected to the election, but the result was confirmed by the NLRB in March 2006. Thus, the union could no longer represent the workers.</p>
Outcome	The NCP closed the case and issued a statement in May 2007.

National Contact Points (NCPs)

Lead NCP	US NCP : Single Country Industry/Company Body
Lead NCP	France NCP : Tripartite with several Ministries
Companies	
Multinational Company	Saint-Gobain (Home country: France)
Subsidiary	Saint-Gobain Abrasives (Home country: US)
Complainants	
Lead Complainant	ICEM International Federation of Chemical, Energy, Mine and General Workers' Unions : Global Union Federation

TUAC Analysis

Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	✓
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications

Good example of NCP cooperation

Kiswire V Malaysian Trade Union Congress (MTUC)

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	20/05/2003
Date Closed	01/06/2006
Case Duration	36 months 28 days
Host Country	Malaysia (Non-adhering country)
Sector	
Issue	Right to trade union representation
Provisions Cited	IV.1-a
Case Description	In May 2003, the MTUC submitted a case to the Korean NCP regarding the anti-union behaviour of the subsidiary of the Korean -based company Kiswire Ltd. It had among other things refused to recognise the elected trade union, dismissed the trade union organisers and adopted discriminatory practices against union members.
Developments	In April 2004, the NCP stated that it had not received the submission, which had been sent both electronically and by ordinary mail to the official NCP address. It was therefore re-sent.
Outcome	According to the NCP's report to the Annual Meeting of NCPs in June 2006, the Malaysian High Court ruled against the union. The NCP therefore closed the case.

National Contact Points (NCPs)

Lead NCP	South Korea NCP : Interdepartmental Office
Companies	
Multinational Company	KISWIRE LTD (Home country: South Korea)

Subsidiary	Kiswire Sdn Bhd (Home country: Malaysia)
Complainants	
Lead Complainant	MTUC- Malaysia : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	
Implications	
Need for NCPs to acknowledge receipt	

Top Thermo Manufacturers V Malaysian Trades Union Congress (MTUC)

Overview	
NCP Decision	Suspended
Current Status	
Date Submitted	01/03/2003
Date Closed	
Case Duration	36 months 28 days
Host Country	Malaysia (Non-adhering country)
Sector	
Issue	Right to trade union representation
Provisions Cited	IV.1-a
Case Description	The anti-union activities of the Japanese company Top Thermo Manufacturers were raised with the Japanese NCP by the Malaysian Trades Union Congress (MTUC) in March 2003. The company has for several years refused to recognise the Metal Industry Employees Union (MIEU). Moreover, it has dismissed the union organisers and discriminated against union members. In January 2002, the Minister of Human Resources in Malaysia ordered the company to recognise the MIEU. But Top Thermo contested the decision by filing an application in the Kuala Lumpur High Court in August 2002. The High Court ruled in favour of the company in March 2003 and MTUC therefore appealed to the Supreme Court. T

Developments	he NCP has acknowledged receipt of the case, but is apparently awaiting the outcome of the parallel proceeding.
Outcome	

National Contact Points (NCPs)	
Lead NCP	Japan NCP : Interministerial Body
Companies	
Multinational Company	Top Thermo Manufacturers
Complainants	
Lead Complainant	MTUC- Malaysia : National Centre
Affected Party	Metal Industry Employees Union : National Union

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	✗

Honda V International Metalworkers' Federation (IMF)

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	01/02/2003
Date Closed	01/08/2003
Case Duration	6 months 1 day
Host Country	Indonesia (OECD Enhanced Engagement)
Sector	Automotive
Issue	
Provisions Cited	IV.1-a
Case Description	The International Metalworkers' Federation (IMF) raised the conduct of a subsidiary to Honda in Indonesia with the Japanese NCP in February 2003. After wage negotiations had broken down, workers at Honda Prospect Motor Indonesia

	went on a legal strike. Honda responded by dismissing 208 workers. Later, an additional 160 workers were fired. Although the Indonesian Labour Dispute Arbitration Committee had ruled that the strike was legally convened and ordered Honda to reinstate the workers, Honda defied the decision of the Arbitration Committee.
Developments	The NCP met separately with Honda and the trade union organisations RENGO and IMF-JC to discuss the case.
Outcome	In its conclusion dated August 2003, the NCP noted that Honda had reaffirmed its intention to abide by the court decision and that most of the workers concerned had reached an agreement with Honda to retire with severance pay.

National Contact Points (NCPs)	
Lead NCP	Japan NCP : Interministerial Body
Companies	
Multinational Company	Honda (Home country: Japan)
Subsidiary	Honda Prospect Motor Indonesia (Home country: Indonesia)
Complainants	
Lead Complainant	IMF International Metalworkers Federation

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings? Details: Proceedings prior to the case	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
It appears that the NCP defended the company position rather than trying to mediate in a serious breach of the Guidelines.
Implications
Parallel Proceedings

Metaleurop V Force Ouvrière (FO)








Overview	
NCP Decision	Suspended
Current Status	

Date Submitted	01/02/2003
Date Closed	
Case Duration	6 months 1 day
Host Country	France (OECD member)
Sector	
Issue	Failure to consult on company closure; environmental damage
Provisions Cited	IV.6 V.2-b
Case Description	In February 2003 Force Ouvrière (FO) raised a case with the French NCP concerning the activities of Metaleurop. As the Swiss multinational Glencore is the largest stockholder of Metaleurop, the case was also submitted to Swiss NCP. In January 2003, Metaleurop SA announced that it would stop financing its subsidiary Metaleurop Nord, the biggest foundry of lead in Europe, which was declared bankrupt in March 2003. In closing down the company, Metaleurop failed to put in place a social plan and to clean up the environmental damage it had caused in breach of the Chapters on Employment and Industrial Relations and Environment.
Developments	In the 2006 OECD Annual report on NCPs, the French NCP stated that the case was "being considered", but noted the existence of parallel legal proceedings.
Outcome	

National Contact Points (NCPs)

Lead NCP	France NCP : Tripartite with several Ministries
Supporting NCP	Switzerland NCP : Single Department
Companies	
Multinational Company	Metaleurop SA (Home country: France)
Subsidiary	Metaleurop Nord (Home country: France)
Controlling Shareholder	Glencore International AG (Home country: Switzerland)

TUAC Analysis

Did the case result in a positive outcome?	
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	
Did the case involve parallel proceedings?	
Were parallel proceedings an obstacle?	
Was there an ownership or investment relationship between the MNC and the local entity concerned?	
Was the absence of an 'investment nexus' an obstacle?	

Implications

Parallel legal proceedings

Chemie Pharmacie Holland BV v FNV



Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	04/12/2002
Date Closed	01/05/2005
Case Duration	29 months 9 days
Host Country	Democratic Republic of Congo (Non-adhering country)
Sector	
Issue	Congo Case
Provisions Cited	II.1 II.2 II.10 II.11
Case Description	In December 2002, the FNV asked the Dutch NCP to look into the allegations against Chemie Pharmacie Holland BV. The company was together with 84 other multinational enterprises listed by the UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo in October 2002 as being in violation of the Guidelines.
Developments	<p>In January 2003, the chair of the OECD Committee on International Investment and Multinational Enterprises (CIME) requested the UN Panel to provide the NCPs with further information in order to investigate the cases. According to the final report of the Panel in October 2003, the company had not reacted to the allegations in the previous report.</p> <p>The issue was also debated in the Dutch parliament with questions put to the Minister of Foreign Affairs. It was alleged that the company had not done anything wrong.</p>
Outcome	The case was formally raised by Dutch NGOs in July 2003 to follow up the UN report. The Dutch NCP rejected the case on the grounds of a lack of an investment nexus. Nevertheless, it published a statement on "lessons learned" after having met with the parties involved.

National Contact Points (NCPs)	
Lead NCP	Netherlands NCP : Bi-ministerial plus Multistakeholder Independent Board
Companies	
Multinational Company	Chemie Pharmacie Holland (Home country: Netherlands)
Complainants	
Lead Complainant	FNV

TUAC Analysis

Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✗
Was the absence of an 'investment nexus' an obstacle?	✓

Implications

Landmark case on the Congo - investment nexus

Gard V ITF

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	01/12/2002
Date Closed	
Case Duration	29 months 9 days
Host Country	Philippines (Non-adhering country)
Sector	Financial Services Transport
Issue	Contractual benefits, health benefits
Provisions Cited	II.1 II.2 II.5 II.6 II.7 VII.3 VII.4
Case Description	The ITF filed a case with the Norwegian NCP in April 2002 regarding the behaviour of the Norwegian insurance company Gard. The company had refused to pay the contractual benefits to the seafarers and their families in personal injury and death cases. Furthermore, Gard did not honour the vessel owners' obligation to provide basic health care benefits for injured seafarers. This was considered primarily a breach of the chapter on General Policies, but the chapter on Consumer Interests was also invoked since Gard provided insurance for the risks to be covered by the ship-owners. The NCP however took a different view. It was of the opinion that the chapter on Employment and Industrial Relations would be more relevant, arguing that the issue concerned an employer-employee relationship and not a customer relationship, even though it was a matter between the employer's insurance company and the employees.
Developments	
Outcome	Nevertheless, the NCP concluded in December 2002 that Gard had not violated the Guidelines. The decision was based on the fact that the challenged arrangement was in accordance with Philippine law. There were agreements between the worker organisations and the employer organisations/shipping companies on the

	arrangement, and according to the Norwegian Embassy, the Supreme Court had decided that it was 'lawful'. The Embassy also stated that these arrangements were normal insurance practices in the Philippines in this field of business.
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National Contact Points (NCPs)	
Lead NCP	Norway NCP : Tripartite with several Ministries
Companies	
Multinational Company	Gard (Home country: Norway)
Complainants	
Lead Complainant	ITF

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings? Details: There had been previous court decisions	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
The Norwegian NCP is tripartite, and the conclusion of the NCP was agreed together with the social partners. According to the Norwegian Confederation of Trade Unions (LO), the choice of statutory authority to deal with the complaint could have been discussed. Furthermore, LO considered it a problem that the ITF did not discuss the matter with the concerned organisation (the Norwegian Seamen's Union) before submitting it to the NCP. The lesson is perhaps the need for better coordination on the trade union side.
Implications
Interaction with domestic law

Dutch Travel Agencies V FNV and CNV



Overview	
NCP Decision	Accepted
Current Status	Closed

Date Submitted	27/11/2002
Date Closed	01/04/2004
Case Duration	16 months 11 days
Host Country	Burma (Non-adhering country)
Sector	
Issue	Forced labour in Burma
Provisions Cited	IV.1-c
Case Description	In November 2002, the Dutch trade unions the FNV and CNV raised a case with the Dutch NCP concerning seven Dutch travel agencies. The unions contended that since these travel agencies promoted tourism in Burma they were inevitably implicated with the regime and had thereby implicitly failed to contribute to the elimination of forced labour.
Developments	<p>The NCP held a hearing with the trade unions in January 2003. A tripartite meeting with the parties concerned was organised in July 2003. Next the NCP informed the social partners that it could not handle the case because of a lack of an investment nexus. Yet the case had been brought to the NCP because the Dutch government had stated that the NCP was the proper body to deal with issues over Dutch companies' operations in Burma, whether they related to trade or investment.</p> <p>In January 2004, the Deputy Minister of Economic Affairs addressed the General Association of Dutch Travel Agencies explaining that the government preferred that they abstained from commercial activities in Burma. If they would however continue pursuing their activities, they should at least follow certain recommendations.</p>
Outcome	In April 2004, the NCP issued a communication arguing that the Guidelines were not applicable to the case. However, despite its finding that due to the lack of an investment nexus the Guidelines did not apply it also issued a statement which discouraged travel to Burma.

National Contact Points (NCPs)	
Lead NCP	Netherlands NCP : Bi-ministerial plus Multistakeholder Independent Board
Companies	
Multinational Company	Far Holidays International
Multinational Company	Asian Way of Life (Home country: Netherlands)
Multinational Company	Summum (Home country: Netherlands)
Multinational Company	Koning Aap (Home country: Netherlands)
Multinational Company	Fox Vakanties (Home country: Netherlands)
Multinational Company	Best Tours Nederland. B.V. (Home country: Netherlands)
Multinational Company	VNC Travel (Home country: Netherlands)

Multinational Company	Outsight Travel (Home country: Netherlands)
Complainants	
Lead Complainant	CNV
Lead Complainant	ENV

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✗
Was the absence of an 'investment nexus' an obstacle?	✓






TUAC Assessment
The Investment Committee has recognised that 'the international community may continue to draw on the values underlying the Guidelines in other contexts' as well as 'the fact that the OECD Declaration does not provide precise definitions of international investment and multinational enterprises allows for flexibility of interpretation and adaptation to particular circumstances'. This ruling is of grave concern especially as the NCP considered the case eligible before the investment nexus was defined, but not afterwards.
Implications
The requirement for there to be an investment nexus

Ivanhoe Mines Ltd (Burma) V Canadian Labour Congress (CLC)

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	01/11/2002
Date Closed	01/02/2006
Case Duration	39 months 18 days
Host Country	Burma (Non-adhering country)
Sector	
Issue	Forced labour in Burma, environmental damage

Provisions Cited	IV.1-c
Case Description	In November 2002, the Canadian Labour Congress (CLC) requested the Canadian NCP to investigate the activities of Ivanhoe Mines Ltd. The company was participating in a joint venture with a government enterprise in Burma, which was operating the copper mine S&K. This joint venture had allegedly been involved in the use of forced labour, among other things to build a railway to supply the mine. In addition, the mine was reported to have caused significant ecological damage in the region.
Developments	he NCP replied to the CLC in January 2003, requesting more information about the environmental problems. The CLC agreed to provide the NCP with more information on the environmental issue, while urging it to go ahead with the labour aspects of the case.
Outcome	In June 2005, the Canadian NCP announced its decision to close the case, although it finally closed the case in February 2006. The NCP justified the closure on the grounds that it was not able to proceed with the dialogue given that there was “no agreement between the parties to participate in the process”. The NCP has issued a statement on its website .

National Contact Points (NCPs)	
Lead NCP	Canada NCP : Interdepartmental Office
Companies	
Multinational Company	Ivanhoe Mines Ltd (Home country: Canada)
Joint Venture	S&K Mine Burma (Home country: Burma)
Complainants	
Lead Complainant	CLC

TUAC Analysis	
Did the case result in a positive outcome?	
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	
Did the case involve parallel proceedings?	
Was there an ownership or investment relationship between the MNC and the local entity concerned?	
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
Not only did the NCP spend more than three years on trying to convince the company to participate in a dialogue with the CLC, it also failed to make recommendations on the implementation as called for by the Guidelines.
Implications

Lack of cooperation of the company to engage in the NCP process

Related Documents

Ivanhoe Mines [Publication date: 20/1/2009] 'Reference: Canadian Friends of Burma again misrepresenting about Ivanhoe Mines' former interest in Myanmar.'

http://www.ivanhoemines.com/i/pdf/2009-01-20_IVNOL.pdf

[Date URL accessed: 12/8/2009 | Source ID = 16711 FULL DETAILS]

Canada NCP [Publication date: 1/2/2006] 'Ivanhoe Mines Ltd and the Canadian Labour Congress Canadian National Contact Point for the OECD Guidelines for Multinational Enterprises Statement concerning Ivanhoe Mines Ltd in Burma'

<http://www.international.gc.ca/trade-agreements-accords-commerciaux/ncp-pcn/spe-cific-spezifque.aspx?lang=eng>

[Date URL accessed: 12/8/2009 | Source ID = 16712 FULL DETAILS]

Canadian Friends of Burma [Publication date: 5/4/2006] 'Damage Control at Ivanhoe'

<http://www.cfob.org/clickMore/1.shtml>

[Date URL accessed: 9/5/2010 | Source ID = 16825 FULL DETAILS]

Sees Corporation V Progress Union

Overview	
NCP Decision	No Decision
Current Status	Withdrawn
Date Submitted	01/11/2002
Date Closed	01/12/2002
Case Duration	1 month 0 days
Host Country	Sri Lanka (Non-adhering country)
Sector	
Issue	
Provisions Cited	II.5 IV.2-a
Case Description	In November 2002, the Progress Union in Sri Lanka contacted the Korean NCP regarding the Korean company Sees Corporation. Sees Lanka Limited, a sports wear manufacturer owned by Sees Corporation, was about to close its bag section. Contrary to Sri Lankan law, it also stopped paying the salaries. According to the law, the company should have continued to pay wages until the government inquiry had been terminated.
Developments	
Outcome	In December 2002, the Progress Union reached a settlement with the management of Sees Lanka, whereby all workers were compensated. The case was therefore withdrawn.

National Contact Points (NCPs)

Lead NCP	South Korea NCP : Interdepartmental Office
Companies	
Multinational Company	Sees Corporation

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
It appears that this is an ownership relationship but it is not entirely clear.

Related Documents
mbendi [Publication date: 6/11/1999] 'Nigeria to privatise power' [Date URL accessed: 19/6/2000 Source ID = 8 FULL DETAILS]

Parmalat V CUT-Brazil

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	26/09/2002
Date Closed	01/04/2003
Case Duration	6 months 7 days
Host Country	Brazil (Adhering Country)
Sector	Food, Agriculture and Tobacco
Issue	
Provisions Cited	IV.3
Case Description	The Brazilian trade union confederation CUT presented a case to the Brazilian NCP regarding the Italian food company Parmalat at the end of September 2002. The Italian trade unions also brought the case to the attention of the Italian NCP requesting the two NCPs to collaborate. Parmalat had decided in June 2002 to transfer the production in a factory in Porto Alegre and to dismiss half of the

	<p>workforce, without prior consultations with the trade union. This was considered a breach of the Guidelines.</p> <p>In October, the CUT was invited to a first meeting with the NCP. It was decided that the NCP would convene another meeting with the CUT and Parmalat. This meeting was held in March 2003. Parmalat claimed that the workers had been given prior notice and that a collective agreement had been signed with the union, while the CUT maintained that the workers had not been informed before the final decision had been taken.</p>
Developments	
Outcome	<p>The NCP concluded in April 2003 that Parmalat had not tried to find an alternative solution to the closure of the plant in co-operation with the workers and the government authorities as stipulated in the Guidelines. The NCP therefore recommended Parmalat to accomplish its procedures in similar cases in the future. The conclusion supported the facts put forward by the CUT, but the wording could have been stronger. The NCP's first draft conclusion had been even weaker, but the CUT insisted on having the text changed.</p> <p>However, the unions reported that the statement did not have an impact.</p>

National Contact Points (NCPs)	
Lead NCP	Brazil NCP : Interministerial Body
Supporting NCP	Italy NCP : Single Department
Companies	
Multinational Company	Parmalat (Home country: Italy)
Complainants	
Lead Complainant	CUT Brazil : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	✗
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Hewlett Packard V FNV

Overview	
NCP Decision	Rejected

Current Status	
Date Submitted	03/09/2002
Date Closed	01/01/2004
Case Duration	16 months 5 days
Host Country	Netherlands (OECD member)
Sector	
Issue	Abrupt closure of an assembly plant, set up with considerable financial assistance by local, regional and national Government
Provisions Cited	IV.3 IV.6 IV.8
Case Description	The Dutch NCP was approached by the FNV at the beginning of September 2002 concerning the behaviour of Sanmina-SCI - a computer assembly firm and subsidiary of Hewlett Packard. The Sanmina plant had been set up with government funds and was closed without any prior information to the employees. Besides, the workers' representatives had not been allowed to negotiate with the real management.
Developments	<p>The FNV withdrew part of the case in December 2002 after successful negotiations with Sanmina-SCI over a social plan. But the FNV maintained that the company's failure to meet the requirements of the Guidelines in paragraph six of the chapter on Employment and Industrial Relations in relation to public authorities ("...provide reasonable notice of such changes to representatives of their employees, and, where appropriate, to the relevant governmental authorities, and co-operate with the employee representatives and appropriate governmental authorities so as to mitigate to the maximum extent practicable adverse effects") should be examined by the NCP.</p> <p>The NCP did not officially respond to this demand, but appeared unwilling to deal with the issue.</p>
Outcome	In January 2004, the FNV was informed that the NCP was not going to pursue the matter further.

National Contact Points (NCPs)

Lead NCP	Netherlands NCP : Bi-ministerial plus Multistakeholder Independent Board
Companies	
Multinational Company	Hewlett Packard (Home country: US)
Subsidiary	Sanmina-SCI (Home country: Netherlands)
Complainants	
Lead Complainant	FNV

TUAC Analysis

Did the case result in a positive outcome?	<input checked="" type="checkbox"/>
Was there cooperation between NCPs?	<input type="checkbox"/>
Did the lead NCP play a positive role?	<input checked="" type="checkbox"/>

If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✗
Was the absence of an 'investment nexus' an obstacle?	

Implications

Not dealing with cases that deal with government assistance



Plaid Enterprises Inc. V FNV

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	08/08/2002
Date Closed	01/12/2005
Case Duration	40 months 11 days
Host Country	Netherlands (OECD member)
Sector	
Issue	Failure to inform workers on their decision to file for bankruptcy
Provisions Cited	IV.6
Case Description	<p>Breaches of Guidelines by the US wholesale company Plaid were raised with the Dutch NCP by the Federation of Dutch Trade Unions (FNV) at the beginning of August 2002. The Dutch subsidiary Plaid Nederland had applied for bankruptcy without informing the employees in advance. The FNV also brought the case to court and won in the first instance, but lost in the second.</p> <p>After the NCP had deemed that the case was receivable, it held a meeting with the FNV in November 2002. In October 2003, the NCP responded that all traces of Plaid in the Netherlands had disappeared.</p>
Developments	
Outcome	The case was not finalised until 2006. In its final report, the NCP stated that: " Since the management of Plaid went elsewhere, neither a tripartite meeting nor a joint statement could be realised. The NCP decided to draw a conclusion, based on the information gathered from bilateral consultations and Courts' rulings. Part of this conclusion is that the company's efforts of sharing information with its employees about the financial situation of the company apparently were not effective."

National Contact Points (NCPs)

Lead NCP	Netherlands NCP : Bi-ministerial plus Multistakeholder Independent
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	Board
Companies	
Multinational Company	Plaid Enterprises Inc (Home country: US)
Subsidiary	Plaid Nederland B.V. (Home country: Netherlands)
Complainants	
Lead Complainant	FNV

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications
Good example of impotence of the procedures where the subsidiary no longer exists and the need for action to be taken in the home country.

Related Documents
[Publication date: 1/12/2005] 'Statement of the National Contact Point on specific instance raised by FNV Bondgenoten about activities of Plaid Nederland' http://www.oesorichtlijnen.nl/wp-content/uploads/NCP/Verklaringen/NCP%20statement%20Plaid-FNV.pdf [Date URL accessed: 26/1/2010 Source ID = 16747 FULL DETAILS]

Pinault-Printemps-Redoute (PPR) V UNITE and AFL-CIO

Overview	
NCP Decision	No Decision
Current Status	Withdrawn
Date Submitted	02/07/2002
Date Closed	01/01/2003
Case Duration	6 months 3 days
Host Country	US (OECD member)

Sector	
Issue	Right to trade union representation
Provisions Cited	IV.1-a IV.4-a
Case Description	<p>The conduct of Brylane Inc, a US subsidiary to the French Pinault-Printemps-Redoute (PPR), was raised with the US NCP at the beginning of July 2002 by the US trade union organisations . It was also brought to the attention of the French NCP by the CFDT, CGT and FO. In addition, the FNV raised the case with the Dutch NCP on the grounds that PPR also owned Gucci, which was headquartered in the Netherlands. The same case was also submitted to the Austrian NCP in October by the Austrian Clean Clothes Campaign.</p> <p>The reason for the case was that Brylane did not respect the employees' right to organise. In response to the workers' efforts to form a trade union, it was alleged that Brylane initiated a campaign of harassment and intimidation.</p>
Developments	The US NCP contacted the French NCP about the case, while the Dutch NCP replied that the case was not relevant to the Dutch NCP. Likewise, the Austrian NCP did not find the case admissible in the Austrian NCP. In November, UNITE renewed its request to the US NCP as it had not received a response.
Outcome	UNITE withdrew the case in January 2003 after it had reached an agreement with Brylane to have a card check ballot to determine whether the employees wanted to be represented by UNITE or not. UNITE won the card check ballot on 29 January, and later a collective bargaining agreement was signed.

National Contact Points (NCPs)

Lead NCP	US NCP : Single Country Industry/Company Body
Supporting NCP	Netherlands NCP : Bi-ministerial plus Multistakeholder Independent Board
Supporting NCP	France NCP : Tripartite with several Ministries
Supporting NCP	Austria NCP : Single Department






Companies

Multinational Company	Pinault-Printemps-Redoute (PPR) (Home country: France)
Subsidiary	Brylane Inc. (Home country: US)

Complainants

Lead Complainant	AFLCIO
Lead Complainant	UNITE
Lead Complainant	FNV

TUAC Analysis

Did the case result in a positive outcome?	
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	

Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment

Despite the passivity of the US NCP, the case helped to enable PPR to get Brylane to comply with the Guidelines. Action was taken by French trade unions and the French NCP. This contributed to the positive outcome.

Continental V SNRTE

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	01/05/2002
Date Closed	01/01/2005
Case Duration	32 months 16 days
Host Country	Mexico (OECD member)
Sector	
Issue	The closure was executed without any prior information to the workers.
Provisions Cited	II.2 IV.1-a IV.6 IV.7
Case Description	The two NGOs Germanwatch and FIAN submitted a case to the German NCP on behalf of the Mexican union SNRTE concerning the closure of a subsidiary of Continental (Euzkadi) in Mexico in May 2002. The closure was executed without any prior information to the workers.
Developments	In dealing with the case, the NCP met with a trade union delegation from Mexico. The case was however transferred to the Mexican NCP as it had the main responsibility considering that the issue had arisen in Mexico and not Germany.
Outcome	In January 2005, an agreement was reached allowing the union to re-open the plant as a cooperative in a joint venture with the Mexican investor group Llanti Systems.

National Contact Points (NCPs)	
Lead NCP	Mexico NCP : Single Department
Supporting NCP	German NCP : Single Department
Companies	
Multinational Company	Continental (Home country: Germany)
Subsidiary	Continental Euzkadi (Home country: Mexico)
Complainants	
Lead Complainant	FIAN

Lead Complainant	Germanwatch
Affected Party	SNRTE

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	✗
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✓
Were parallel proceedings an obstacle?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
The Mexican NCP was criticised by trade unions for not playing a constructive role in the resolution of the case.
Implications
NCP Cooperation

Aspocomp V Force Ouvrière

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	01/04/2002
Date Closed	01/11/2003
Case Duration	19 months 9 days
Host Country	France (OECD member)
Sector	
Issue	Failing to consult on the closure of a plant
Provisions Cited	IV.6
Case Description	In April 2002, Force Ouvrière (FO) raised a case about the Finnish telecommunications multinational Aspocomp with the French NCP. The company had failed to consult with trade unions before announcing the closure of its plant in Evreux. In December 2002, the NCP wrote to the Finnish NCP to demand assistance in exerting pressure on the company to attend.
Developments	Aspocomp refused to participate in the tripartite consultations conducted by the NCP. In December 2002, the French NCP wrote to the Finnish NCP to request assistance in exerting pressure on the company to attend.

Outcome	In its final statement of the French NCP in November 2003, it noticed that the company had not acted in conformity with the Guidelines. Not only had Aspocomp violated the provisions cited by the FO, but it had also failed to live up to paragraph 3 of the same chapter. MEDEF (the French Employers' Association), however, did not share this conclusion.
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National Contact Points (NCPs)	
Lead NCP	France NCP : Tripartite with several Ministries
Supporting NCP	Finland NCP : Quadripartite with several Ministries
Companies	
Multinational Company	Aspocomp (Home country: Finland)
Complainants	
Lead Complainant	Force Ouvrière : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	✗
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
Although the FO was satisfied with the outcome, the decision of the NCP had limited effect considering that Aspocomp did not have any remaining activities in France. Moreover, the procedures were extremely tardy, partly due to the slow reaction of the Finnish NCP and the fact that the company refused to meet with the NCP.
Implications
Company refused to meet with the NCP; example of need to engage home NCP; NCP ruled against the company on provisions of the Guidelines other than those cited in the complaint
Divided opinion of NCP

ChoiShin Co Ltd.V ITGWLF, FKTU and KCTU

Overview

NCP Decision	Accepted
Current Status	Closed
Date Submitted	19/03/2002
Date Closed	01/07/2003
Case Duration	15 months 19 days
Host Country	Guatemala (Non-adhering country)
Sector	Textiles, Leather and Garments
Issue	Anti-union campaign, which included harassment and threats against workers.
Provisions Cited	IV.1-a IV.7
Case Description	<p>In February 2002, the International Textile, Garment and Leather Workers' Federation (ITGLWF) in co-operation with TUAC and its two Korean affiliates FKTU and KCTU brought a case to the Korean NCP concerning the behaviour of ChoiShin and Cimatextiles - two Guatemalan subsidiaries of ChoiShin Co. Ltd. of Korea, which mainly produced clothes for the American retailer Liz Claiborne. The two plants had been conducting an aggressive anti-union campaign, which included harassment and threats against workers.</p> <p>The case was also sent to the US NCP because of the connection to Liz Claiborne.</p> <p>The FNV also raised the case with the Dutch NCP since government funds had been used for the Central American Maquila Organising Programme, which included workers from the two plants concerned.</p> <p>The case was also raised with the ILO Committee on Freedom of Association, which in February 2003 urged the Guatemalan government "to ensure that the investigation covers all the allegations made in this case concerning serious acts of violence and other antiunion acts at the ChoiShin and Cimatextiles enterprises in the Villanueva free trade zone, with a view to clarifying the facts, determining responsibility and punishing those responsible".</p>
Developments	On May 20, the US NCP replied that it had contacted the Korean NCP "with the request for information on their handling of the issue". The following day, the Korean NCP wrote to TUAC to ask for advice on what action to take. At first, the Dutch NCP did not find the case relevant. But in March 2003, the NCP held a meeting with the General Secretary of the ITGLWF. In April 2003, in connection with the CIME meeting, TUAC arranged a meeting between the Korean NCP, the President of the Guatemalan trade union concerned, FESTRAS and the General Secretary of the ITGLWF.
Outcome	In Spring 2003, the Guatemalan government threatened to revoke the company's export licence if it did not reach an agreement with the trade unions. In July 2003, ChoiShin signed a first collective bargaining agreement with the two unions Sitracima and Sitrachoi. The company also started to reinstate the union members that had been dismissed.

National Contact Points (NCPs)

Lead NCP	South Korea NCP : Interdepartmental Office
Supporting NCP	US NCP : Single Country Industry/Company Body
Companies	

Multinational Company	ChoiShin Co. Ltd (Home country: South Korea)
Subsidiary	Cimatextiles (Home country: Guatemala)
Subsidiary	ChoiShin (Home country: Guatemala)
Complainants	
Lead Complainant	FKTU
Lead Complainant	KCTU- Korea : National Centre
Lead Complainant	ITGLWF International Textile, Garment and Leather Workers Federation

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	✓
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings? Details: ILO Committee on Freedom of Association	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
<p>It is difficult to assess to what extent the Korean NCP contributed to the solution of the case. What is clear is that the case was finally resolved because of the threat to revoke the export licence. According to the NCP, it recommended that the company should “conserve the local culture and labour practice and to encourage workforce-friendly environment”. The NCP did meet with the Korean management a number of times and did take measures to try to resolve the issue. But it did not follow the procedures set out in the Procedural Guidance. Firstly, it did not respond directly to the party raising the case, the ITGLWF. Instead it contacted a Korean affiliate of the ITGLWF, which created confusion. Secondly, it invited the company and NGOs to an arbitration meeting, but not the ITGLWF, which posed the question how to conduct an arbitration meeting if one of the parties in the dispute is not present! In addition, the NCP claimed that the ITGLWF had not proved that the trade unions represented at least 25 per cent of the employees, which is the legal requirement in order to negotiate a collective bargaining agreement. But the issue for the NCP to consider was the fact that the company prevented the workers from organising, which naturally makes it impossible to enter into any collective bargaining negotiations. Although the case was of some use in raising</p>

the profile of this dispute in the Korean government, it was ultimately resolved through national law and the NCP missed an opportunity to achieve a much earlier solution and to play a constructive role itself.

Implications

NCP Cooperation



Maersk Medical A/S V AIF

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	01/02/2002
Date Closed	11/05/2005
Case Duration	39 months 25 days
Host Country	Malaysia (Non-adhering country)
Sector	
Issue	Right to representation; right to collective bargaining
Provisions Cited	IV.1-a IV.4-a IV.8
Case Description	<p>The Danish labour movement's international forum AIF, an NGO connected to the trade unions, raised a case with the Danish NCP in February 2002 concerning Maersk Medical A/S a Malaysian subsidiary of Maersk Medical Inc., which was part of the Maersk Group, Denmark's largest company dealing with a broad spectrum of activities.</p> <p>The employees had signed that they wanted to join the union. The company referred to requirements in the Malaysian Trade Unions Act, which stipulates that the trade union has to be recognised as competent in the single company by the Department of Trade Union under the Ministry of Labour. After several rejections Rubbers finally achieved recognition as competent in 1988, which Mærsk Medical Inc disputed. As a result, the issue was pending in the legal system of Malaysia for several years due to appeals first by the employer and then the trade union.</p> <p>In November 2003, the Court of Appeal ruled that the union was to be acknowledged, a decision which was challenged by the company. In August 2004, the Federal Court dismissed the application by the enterprise and upheld the decision of the Court of Appeal. Hence the Federal Court reaffirmed the Recognition Order by the Minister directing the company to recognise that the union was valid and right in law. The NCP however did not want to take any further action until this had been confirmed.</p> <p>I</p>
Developments	Campaigning activities of the trade union AIF led the NCP to write to complain which led the union to apply to the Ombudsman which in turn asked for clarification so the trade union wrote to CIME.

Outcome	The NCP finally concluded the case in May 2005, after the Malaysian Supreme Court had ruled in favour of the trade union. In a letter the NCP informed the AIF that the company had begun negotiations with the union to reach a collective bargaining agreement. Furthermore, the NCP requested that the company respect the Guidelines at a meeting held on 11 May 2005.
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National Contact Points (NCPs)	
Lead NCP	Denmark NCP : Tripartite with several Ministries
Companies	
Multinational Company	Maersk Medical A/S (Home country: Denmark)
Subsidiary	Maersk Medical Inc (Home country: Malaysia)
Complainants	
Lead Complainant	AIF

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings? Details: Malaysian courts/Federal Courts	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
<p>The NCP reported that it was difficult to uncover the details of the court case and its progress through the Malaysian court system. In addition, the Danish employers' organisation was reported to be not fully cooperative at the beginning of the process.</p> <p>Moreover, in 2003, Mærsk Medical Inc was in the process of being taken over by Nordic Capital, one of the leading Nordic private capital companies, which operates under the name Unomedical. The parent company is still headquartered in Denmark.</p> <p>The company and the NCP appear to have been using the existence of legal proceedings in the host country as a reason not to address the issue.</p>
Implications
Confidentiality and the role of campaigns vis a vis a

Guidelines case

Wärtsilä V FNV

Overview	
NCP Decision	Accepted
Current Status	Withdrawn
Date Submitted	01/12/2001
Date Closed	31/12/2001
Case Duration	1 month 0 days
Host Country	Netherlands (OECD member)
Sector	
Issue	Closure without consultation or notice
Provisions Cited	II.1 IV.3 IV.6
Case Description	The closure of a subsidiary of Wärtsilä, a Finnish company producing ship engines, in the Netherlands was raised by the Federation of Dutch Trade Unions (FNV) with the Dutch NCP at the end of December 2001. The company decided to move the plant to Trieste in Italy without any prior information or consultations with the trade union to mitigate the negative effects. Considering the large amounts of public funds that had been transferred to the company, FNV also referred to paragraph 1 in the chapter on General Policies. Furthermore, FNV requested the Dutch NCP to cooperate with the NCPs in Finland and Italy.
Developments	
Outcome	In the final negotiations with Wärtsilä, the trade unions agreed to withdraw the part of the case regarding the chapter on Employment and Industrial Relations from the NCP. In exchange, 440 jobs were saved. However, the part that concerned the government funds that had been transferred to the company was never settled. The NCP asserted that the local authorities had other ways to address the issue. The case was therefore considered to be closed in 2001, when it was partly withdrawn by the FNV.

National Contact Points (NCPs)	
Lead NCP	Netherlands NCP : Bi-ministerial plus Multistakeholder Independent Board
Supporting NCP	Finland NCP : Quadripartite with several Ministries
Supporting NCP	Italy NCP : Single Department
Companies	
Multinational Company	Wärtsilä (Home country: Finland)
Complainants	
Lead Complainant	FNV

TUAC Analysis

Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✓
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Cosmos Mack Industries Ltd. V Free Trade Zone Workers' Union (FTZWU)

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	01/11/2001
Date Closed	
Case Duration	1 month 0 days
Host Country	Sri Lanka (Non-adhering country)
Sector	
Issue	Right to trade union
Provisions Cited	IV.1-a
Case Description	The Free Trade Zone Workers' Union (FTZWU) in Sri Lanka approached the Korean NCP in November 2001 about the anti-union practices of Cosmos Mack Industries Ltd. The company had refused to recognise the trade union. Furthermore, it was alleged that the company had intimidated the workers and fired key trade union members.
Developments	The Korean NCP stated in its annual report 2003 that it had investigated the case and that the company was a joint venture between a Korean and a Sri Lankan company. It claimed that it was the Sri Lankan company that was responsible for labour issues and not the Korean company.
Outcome	The NCP considered that the responsibilities should be shared between the joint venture partners and it recommended that the company conform to the Guidelines.

National Contact Points (NCPs)	
Lead NCP	South Korea NCP : Interdepartmental Office
Companies	
Joint Venture	Cosmos Mack Industries Ltd
Complainants	
Lead Complainant	FTZWU

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	✗

Liberian International Ship and Corporate Registry V ITF

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	01/11/2001
Date Closed	01/10/2002
Case Duration	11 months 4 days
Host Country	Liberia (Non-adhering country)
Sector	
Issue	
Provisions Cited	II.2 II.7 III.1 VI.1 VI.2 VI.5
Case Description	In November 2001, the International Transport Workers' Federation (ITF) raised a case with the US NCP concerning the activities of the Liberian International Ship and Corporate Registry (LISCR), a US registered company. A UN Security Council report showed that the LISCR had been used to transfer money to buy weapons for the Liberian government, in violation of the UN arms embargo. The ITF also contended that this constituted a breach of the Guidelines. At the end of 2001, the UN Security Council adopted a Resolution 1343 (2001) concerning Liberia and the activities of LISCR, recommending the establishment of a special account (audited by the International Monetary Fund) to make sure that the revenue was used for development purposes.
Developments	In May 2002, the US NCP replied that the US government was addressing the issue through direct contacts with LISCR and that it supported the new UN resolution 1408 (2002), which called on Liberia to establish a transparent and internationally verifiable audit regime to ensure that the revenues were used for legitimate purposes. The ITF renewed its request to the NCP to investigate the conduct of LISCR. A meeting between the NCP and the ITF was finally held in July 2002. The NCP also held a separate meeting with LISCR.
Outcome	At the end of October 2002, the NCP concluded that further involvement was not warranted as the issue 'is being effectively addressed through other appropriate

	means'. Moreover, the NCP referred to the audit that was going to be carried out by the auditing firm Deloitte and Touche. However, in November 2002, the ITF and the human rights NGO Global Witness revealed that Deloitte and Touche had not carried out the audit of LISCR in a transparent manner. Furthermore, a secretive agreement had been signed between the government of Liberia and the Ghana-based Deloitte subsidiary. In December 2002, Deloitte in Ghana withdrew from the contract to undertake the audit.
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National Contact Points (NCPs)	
Lead NCP	US NCP : Single Country Industry/Company Body
Companies	
Multinational Company	Liberian Int'l Ship and Corporate Registry (Home country: Liberia)
Complainants	
Lead Complainant	ITF

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings? Details: UN Security Council	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

IHC Caland (Burma) V FNV and CNV







Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	23/07/2001
Date Closed	01/07/2004
Case Duration	35 months 24 days
Host Country	Burma (Non-adhering country)
Sector	
Issue	Forced labour in Burma and human rights
Provisions Cited	II.2 IV.1-c

Case Description	In July 2001, the Dutch unions requested the Dutch NCP to look into the association of the Dutch dredging company IHC Caland with the use of forced labour in Burma. They also asked the NCP to contact the French NCP. Since IHC Caland was a subcontractor to Premier Oil, the Trades Union Congress urged the UK NCP to consider the role of Premier Oil and to co-operate with the Dutch NCP.
Developments	A tripartite meeting was held in March 2002, more than half a year after the case had been raised. It resulted in a separate meeting between the social partners in July 2002. IHC Caland later declared afterwards that it would withdraw from Burma when its contract expired in 2013. The Dutch unions and IHC Caland also met with the Burmese Embassy to protest against the use of forced labour.
Outcome	<p>In September 2002, Premier Oil announced its withdrawal from Burma.</p> <p>The social partners reached an agreement in July 2003. A draft declaration was presented by the NCP six months later, but it was not accepted by the trade unions. On 1 July 2004, the NCP issued a joint tripartite statement .</p> <p>The company was taken over by Petronas, a Malaysian enterprise. In November 2003, IHC Caland wrote a letter to Petronas requesting it to observe the Guidelines.</p> <p>A follow-up meeting, involving FNV representatives, took place in January 2006.</p>

National Contact Points (NCPs)

Lead NCP	Netherlands NCP : Bi-ministerial plus Multistakeholder Independent Board
Supporting NCP	UK NCP : Bipartite
Supporting NCP	France NCP : Tripartite with several Ministries
Companies	
Multinational Company	IHC Caland (Home country: Netherlands)
Complainants	
Lead Complainant	CNV
Lead Complainant	FNV

TUAC Analysis

Did the case result in a positive outcome?	
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	
Did the case involve parallel proceedings?	
Was there an ownership or investment relationship between the MNC and the local entity concerned?	
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment

The case had a positive outcome in terms of both the company agreeing to pull out of Burma, after the end of its existing contract and company took steps to write to its contractor to ask for steps to be taken to address the human rights situation.

More negatively the length of time taken to complete the case highlighted the failure of the NCP to manage the process within a reasonable timeframe and the need for NCPs to set and adhere to strict timetable.

Implications

Need for strict timescales

Related Documents

Dutch NCP [Publication date: 1/7/2004] 'JOINT STATEMENT BY THE NCP, FNV, CNV and IHC CALAND'

<http://www.oesorichtlijnen.nl/wp-content/uploads/NCP/Verklaringen/Joint%20statement%20IHC-FNVCNV.pdf>

[Date URL accessed: 26/1/2010 | Source ID = 16748 FULL DETAILS]

Bosch V Czech-Moravian Confederation of Trade Union (CMKOS)

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	05/06/2001
Date Closed	25/04/2002
Case Duration	10 months 24 days
Host Country	Czech Republic (OECD member)
Sector	Electrical and Electronics
Issue	Right to trade union representation
Provisions Cited	IV.1-a
Case Description	In June 2001, the Czech-Moravian Confederation of Trade Unions (CMKOS) submitted a case concerning a subsidiary of the German company Bosch for prevented workers from establishing a trade union. CMKOS reported that the local management used physical force to prevent the workers from exercising their right to organise. CMKOS also submitted a case regarding Siemens to the Czech NCP at the same time.
Developments	The case was discussed at four extraordinary meetings of the NCP. The Czech NCP also informed the German NCP, as well as the German Embassy. The NCP offered a forum for negotiations which supported a slow process of building consensus. Although the management eventually agreed to the establishment of a trade union representation, it took a change in management of the parent company

	before constructive negotiations were started.
Outcome	At the fourth meeting convened by the NCP, the NCP declared that the case was closed. The new management had declared that there were no obstacles to developing the newly established trade union and for reaching a collective agreement. The parties agreed on a settlement without the need for a final statement. The trade unions reported that the behaviour of the local management changed in terms of complying with the strategies of the parent company in line with their policy documents.

National Contact Points (NCPs)	
Lead NCP	Czech Republic NCP
Supporting NCP	German NCP : Single Department
Companies	
Multinational Company	Bosch (Home country: Germany)
Complainants	
Lead Complainant	CMKOS

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	✓
Did the NCP provide mediation or conciliation?	✓
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
The objectives of CMKOS were reached. The case demonstrated the effectiveness of the NCP.
Implications
This is an early case that demonstrated the effectiveness of the NCP

Siemens V Czech-Moravian Confederation of Trade Unions (CMKOS)

Overview	
NCP Decision	Accepted
Current Status	Closed
Date	05/06/2001

Submitted	
Date Closed	27/11/2001
Case Duration	5 months 25 days
Host Country	Czech Republic (OECD member)
Sector	
Issue	Right to trade union representation, working conditions, lack of negotiations
Provisions Cited	IV.1-a
Case Description	In June 2001, the Czech-Moravian Confederation of Trade Unions raised a case with the Czech NCP concerning a Czech subsidiary of the German-owned multinational Siemens. Conflict had arisen when the labour conditions worsened at the plant and the management refused to negotiate with the trade union. I
Developments	It took three extraordinary meetings of the NCP to resolve the dispute. The Czech NCP also informed the German Embassy and discussed the case with the German NCP. The intervention of the parent company also contributed to the solution.
Outcome	The parties reached an agreement relatively soon after entering into the negotiations, and after the introduction of new 'Principles for Personnel Policy'. These principles embedded the trade union's requirements and were reported to be being complied with in the company operating practices.

National Contact Points (NCPs)	
Lead NCP	Czech Republic NCP
Companies	
Multinational Company	Siemens (Home country: Germany)
Complainants	
Lead Complainant	CMKOS

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	


TUAC Assessment
The case provides an example of the positive impact of cooperation between the social partners as well as the effective role that can be played by an NCP. As a result, new activities were agreed to deepen and broaden the role of the NCP and its direct co-operation with the social partners.

Implications
Involvement of the home NCP and the parent company

Bata V CFDT and CGT

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	01/06/2001
Date Closed	01/12/2002
Case Duration	18 months 8 days
Host Country	France (OECD member)
Sector	Textiles, Leather and Garments
Issue	Failure to provide information on the company that reflected its financial situation
Provisions Cited	IV.2-b IV.3
Case Description	In June 2001, the CFDT, with the support of the CGT, raised the closure of Bata's establishment in Lorraine (the Hellocourt plant) with the French NCP in June 2001 for failing to provide information to the workers that reflected the real situation of the company.
Developments	Because Bata is a Canadian multinational company, the French NCP contacted the Canadian NCP to obtain information directly from the parent company. BATA was however unwilling to provide further information. It appears that the Canadian NCP did little to try to support the resolution of the case.
Outcome	The French NCP closed the case when the Hellocourt plant was taken over despite the fact that the issue had not been settled. The French NCP wrote to both BATA and the Canadian NCP to explain its decision. In a press release of 3 February 2003, the CGT contested the decision of the NCP. Only 268 out of 800 employees at the Hellocourt plant were re-hired by the company that took over the plant.

National Contact Points (NCPs)	
Lead NCP	France NCP : Tripartite with several Ministries
Supporting NCP	Canada NCP : Interdepartmental Office
Companies	
Multinational Company	Bata (Home country: Canada)
Subsidiary	Hellocourt (Home country: France)
Complainants	
Lead Complainant	CFDT : National Centre
Supporting Complainant	CGT

TUAC Analysis	
Did the case result in a positive outcome?	

Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	✗
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

Implications

The BATA case illustrates the difficulties in using the Guidelines when a company has already closed a plant.

Marks and Spencer (Belgium) V FGTB and CSC

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	01/05/2001
Date Closed	23/12/2001
Case Duration	7 months 26 days
Host Country	Belgium (OECD member)
Sector	
Issue	Failure to provide information prior to notice
Provisions Cited	IV.3 IV.4-a IV.6
Case Description	In May 2001, the Belgian unions FGTB and CSC raised a case with the Belgian NCP concerning the closure of a Marks and Spencer store in Belgium and the fact that the employees had not received any information prior to the closure. In April 2001, CFDT and FO (and later UNSA) had raised a case concerning the closure of Marks and Spencer with the French NCP, which had similarly announced the closure without any prior consultations with the workers.
Developments	Both the French and the Belgian NCPs convened a number of meetings with the unions and the company. They also consulted the UK NCP as the home country NCP. Marks and Spencer claimed that the British stock exchange rules prohibited it from informing the employees first. However, according to the UK NCP, quoted companies could handle redundancies with confidential consultation in advance, and simultaneous announcements to the workforce and the markets.
Outcome	The French and Belgian NCPs prepared a joint draft statement, but reached different conclusions. In December 2001, the French NCP stated publicly that Marks and Spencer had not consulted the employees properly and in a letter to the company, the NCP also pointed out that it had violated the Guidelines. The Belgian NCP, however, did not find enough evidence to conclude that Marks and Spencer had infringed the Guidelines. The Marks and Spencer stores in France were acquired by Galeries Lafayette, and the employees were given the choice between

	a new job and severance pay.
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National Contact Points (NCPs)	
Lead NCP	Belgium NCP : Tripartite with several Ministries
Supporting NCP	UK NCP : Bipartite
Companies	
Multinational Company	Marks and Spencer
Complainants	
Lead Complainant	CSC
Lead Complainant	FGTB

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	✓
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment
The French trade unions consider that Guidelines did play some part in achieving an acceptable settlement.
Implications
The company claimed that stock market rules precluded disclosure of information on closure

US Companies in Burma V AFL-CIO

Overview	
NCP Decision	No Decision
Current Status	
Date Submitted	01/05/2001
Date Closed	
Case Duration	7 months 26 days
Host Country	Burma (Non-adhering country)
Sector	
Issue	Forced labour

Provisions Cited	IV.1-c IV.1-c
Case Description	In May 2001, the American Federation of Labour & Congress of Industrial Organizations (AFL-CIO) wrote to the US NCP with regard to a number of US companies trading with the Burmese regime. The AFL-CIO did not receive a reply from the NCP.
Developments	
Outcome	No information

National Contact Points (NCPs)	
Lead NCP	US NCP : Single Country Industry/Company Body
Complainants	
Lead Complainant	AFL-CIO : National Centre

TUAC Analysis	
Did the case result in a positive outcome?	✗
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✗
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✗
Was the absence of an 'investment nexus' an obstacle?	

Marks and Spencer (France) V CFDT and FO

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	01/04/2001
Date Closed	23/12/2001
Case Duration	8 months 26 days
Host Country	France (OECD member)
Sector	
Issue	Closure without any prior consultations with workers: lack of information, lack of consultation, lack of notice
Provisions Cited	IV.3 IV.4-a IV.6
Case Description	In April 2001, CFDT and FO (and later UNSA) raised the closure of Marks and Spencer with the French NCP. The announcement of the closure had been made without any prior consultations with the workers, and was therefore a breach of

	Chapter IV Employment and Industrial Relations. Furthermore, the decision of Marks and Spencer was an infringement of French law and the European Works Council Directive. Consequently, the French courts ordered on 9 April Marks and Spencer to suspend the implementation of its closure plans and carry out a consultation and information process.
Developments	<p>The Belgian unions FGTB and CSC raised the same issue with the Belgian NCP in May 2001 since the Belgian employees had also not received any prior information of the closure of the Marks and Spencer stores in Belgium.</p> <p>Both NCPs convened a number of meetings with the unions and the company, and they also consulted the UK NCP as the home country NCP. Marks and Spencer claimed that the British stock exchange rules prohibited it from informing the employees first. However, according to the UK NCP, quoted companies could handle redundancies with confidential consultation in advance, and simultaneous announcements to the workforce and the markets.</p>
Outcome	<p>The French and Belgian NCPs prepared a joint draft statement, but in the end they reached different conclusions. In December 2001, the French NCP stated publicly that Marks and Spencer had not consulted the employees properly and in a letter to the company, the NCP also pointed out that it had violated the Guidelines. The Belgian NCP, however, did not find enough evidence to conclude that Marks and Spencer had infringed the Guidelines.</p> <p>The Marks and Spencer stores in France were acquired by Galeries Lafayette, and the employees were given the choice between a new job and severance pay. The opinion of the French trade unions is that the Guidelines did play some part in achieving an acceptable settlement.</p>

National Contact Points (NCPs)	
Lead NCP	France NCP : Tripartite with several Ministries
Supporting NCP	UK NCP : Bipartite
Companies	
Multinational Company	Marks and Spencer
Complainants	
Lead Complainant	FO
Lead Complainant	CFDT : National Centre
Supporting Complainant	UNSA

TUAC Analysis	
Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	✓
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	✗
Did the NCP provide mediation or conciliation?	
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between	✓

the MNC and the local entity concerned?	
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment

It was clearly unfortunate that the NCPs reached different conclusions, necessitating better coordination between NCPs.

Total FinaElf and Accor Hotels V CFDT, FO and UNSA

Overview	
NCP Decision	Accepted
Current Status	Closed
Date Submitted	01/03/2001
Date Closed	28/03/2002
Case Duration	13 months 2 days
Host Country	Burma (Non-adhering country)
Sector	
Issue	Investment in Burma
Provisions Cited	IV.1-c
Case Description	In March 2001, the French unions CFDT and FO (and later UNSA) requested the French NCP to investigate whether French companies operating in Burma were violating the Guidelines.
Developments	The French NCP organised a number of meetings with the oil company Total/FinaElf and the hotel chain Accor to discuss their operations in Burma.
Outcome	In December 2001, the NCP issued draft recommendations to companies investing in Burma. These were later finalised and posted on the French NCP website . In October 2002, Accor announced that it would withdraw from Burma, but TotalFinaElf is still present.

National Contact Points (NCPs)	
Lead NCP	France NCP : Tripartite with several Ministries
Companies	
Multinational Company	Accor (Home country: France)
Multinational Company	TotalFinaElf (Home country: France)
Complainants	
Lead Complainant	UNSA
Lead Complainant	FO
Lead Complainant	CFDT

TUAC Analysis

Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✓
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings?	✗
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	

TUAC Assessment

The French NCPs recommendations indicated that it took the case and the issues extremely seriously. However, they are unsatisfactory as they did not recommend disinvestment from Burma.

Related Documents

The Irawaddy [Publication date: 4/8/2009] 'Total Chief: Critics Can 'Go to Hell''
http://www.irrawaddy.org/article.php?art_id=16479

[Date URL accessed: 6/8/2009 | Source ID = 16697 FULL DETAILS]

Associated Press [Publication date: 3/8/2009] 'Total targeted in debate over Myanmar sanctions' by Herve Rouach

<http://www.google.com/hostednews/afp/article/ALeqM5isnsZK2GnYJ8q1ZmgthuPjyvHknQ>

[Date URL accessed: 12/8/2009 | Source ID = 16713 FULL DETAILS]

Trico Marine Services

Overview	
NCP Decision	Rejected
Current Status	
Date Submitted	02/02/2001
Date Closed	12/12/2002
Case Duration	22 months 18 days
Host Country	US (OECD member)
Sector	Transport
Issue	Denying employees right to representation by the Federation of Maritime Unions, harassment and intimidation.
Provisions Cited	IV.1-a IV.4-a IV.7
Case	In February 2001, the International Transport Workers' Federation (ITF) together

Description	with five American unions submitted a case to the US NCP concerning an anti-union campaign conducted by Trico including harassment and intimidation of workers.
Developments	In response to Trico's anti-union campaign, the Norwegian oil and petrochemical workers' union, NOPEF, started a boycott of Trico. NOPEF also persuaded the oil company Norsk Hydro to halt negotiations with Trico on the chartering of vessels. Furthermore, legal action was taken in Norway, which made reference to the Guidelines. I
Outcome	n November 2002, NOPEF and Trico Norway signed a consent decree, allowing the employees at Trico USA to organise. Trico also agreed to send a letter to all the employees ensuring that the company accepted the right to organise and that there would not be any discrimination or harassment of pro-union workers. One month later In December 2002, the NCP rejected the case on the grounds of parallel legal proceedings. The US NCP's response, which was slow, stated that it would not take up the case due to the role of the National Labour Relations Board (NLRB) referring to the mandate of the NLRB 'to consider the matter on the basis of U.S. labour law' as well as the agreement between NOPEF and Trico.

National Contact Points (NCPs)

Lead NCP	US NCP : Single Country Industry/Company Body
Complainants	
Lead Complainant	International Organization of Masters, Mates and Pilots : National Union
Lead Complainant	Seafarers International Union : National Union
Lead Complainant	ITF
Supporting Complainant	AFLCIO

TUAC Analysis

Did the case result in a positive outcome?	✓
Was there cooperation between NCPs?	
Did the lead NCP play a positive role?	✗
If different, did the home NCP play a positive role?	
Did the NCP provide mediation or conciliation?	✗
Did the guidelines play a positive role?	✓
Did the case involve parallel proceedings? Details: US National Labour Relations Board	✓
Were parallel proceedings an obstacle?	✓
Was there an ownership or investment relationship between the MNC and the local entity concerned?	✓
Was the absence of an 'investment nexus' an obstacle?	✗

TUAC Assessment

The US NCP did not play an active role in resolving this case. Nevertheless, the Guidelines served as a source of pressure on the company to stop its anti-union campaign and recognise the rights of the workers to be represented by trade unions.
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Implications

Parallel legal proceedings

Number of cases = 120
