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 INTERNAL ANALYSIS OF TREATMENT OF CASES RAISED WITH NATIONAL CONTACT POINTS FEBRUARY 2001 - DECEMBER 2007

*The information contained in this analysis has come primarily from TUAC affiliates and partners, or where available from the public comments of NCPs and companies. However, due to the lack of transparency of the functioning of some NCPs, further information may be available that TUAC would welcome in order to complete or amend this analysis.*

## I CASES NO LONGER BEFORE NCPs

### *Trico Marine Services: February 2001-December 2002 (22 months)*

The International Transport Workers' Federation (ITF) together with five American unions contacted the US NCP in February 2001 in order to facilitate resolution of a dispute with Trico. The union's case was that Trico by conducting an anti-union campaign including harassment and intimidation of workers, had violated several paragraphs of the Guidelines chapter on Employment and Industrial Relations[1], as well as the US National Labor Relations Act.

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. In 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

[1] "Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices:
1. a) Respect the right of their employees to be represented by trade unions and other bona fide representatives of employees, and engage in constructive negotiations, either individually or through employers' associations, with such representatives with a view to reaching agreements on employment conditions;
4. a) Observe standards of employment and industrial relations not less favourable than those observed by comparable employers in the host country;
7. In the context of bona fide negotiations with representatives of employees on conditions of employment, or while employees are exercising a right to organise, not threaten to transfer the whole or part of an operating unit from the country concerned nor transfer employees from the enterprises' component entities in other countries in order to influence unfairly those negotiations or to hinder the exercise of a right to organise."

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right to organise and that there would not be any discrimination or harassment of pro-union workers.

The US NCP was very slow to respond to the unions and since the case had been taken up by the National Labor Relations Board (NLRB), the NCP was reluctant to deal with the issue. In December 2002, the NCP concluded that further involvement in the matter was not warranted. It referred to the availability of the NLRB "to consider the matter on the basis of U.S. labor law" and the agreement between NOPEF and Trico. The US NCP therefore did not play an active role in trying to resolve this case. Nevertheless, the Guidelines did add further pressure on the company to cease its campaign and start recognising the workers' right to be represented by trade unions.

***French companies operating in Burma: March 2001-March 2002 (12 months)***

In March 2001, the French unions CFDT and FO (and later UNSA) requested the French NCP to investigate as to whether French companies operating in Burma were observing the Guidelines. This led to a number of meetings at the NCP with the oil company TotalFinaElf and the hotel chain Accor to discuss their operations in Burma. In December, the NCP made a first set of draft recommendations to companies investing in Burma. These were later finalised and are posted on the French NCP website[2]. While the recommendations demonstrate that the French NCP takes the Guidelines and the issue raised seriously, they are nevertheless unsatisfactory as they do not confront multinational enterprises with the disinvestment issue in Burma.

Accor announced in October 2002 that it would withdraw from Burma, but TotalFinaElf is still present.

***Marks and Spencer: April-December 2001 (8 months)***

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 the chapter on Employment and Industrial Relations[3]. 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

[2] www.minefi.gouv.fr/directions_services/dgtpe/pcn/compcn280302.htm

[3] "Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices:

3. Provide information to employees and their representatives which enables them to obtain a true and fair view of the performance of the entity or, where appropriate, the enterprise as a whole.

4. a) Observe standards of employment and industrial relations not less favourable than those observed by comparable employers in the host country;

6. In considering changes in their operations which would have major effects upon the livelihood of their employees, in particular in the case of the closure of an entity involving collective lay-offs or dismissals, 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. In light of the specific circumstances of each case, it would be appropriate if management were able to give such notice prior to the final decision being taken. Other means may also be employed to provide meaningful co-operation to mitigate the effects of such decisions."

carry out a consultation and information process. 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.

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.

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

The Marks and Spencer stores in France were acquired by Galeries Lafayette, and the employees were given the choice between a new job or severance pay. The opinion of the French trade unions is that the Guidelines did play some part in achieving an acceptable settlement.

***Burma: May 2001***

The American Federation of Labor & Congress of Industrial Organizations (AFL-CIO) wrote to the US NCP in May 2001 to discuss US companies trading with the Burmese regime. The AFL-CIO did not receive a reply from the NCP.

***Siemens: June-November 2001 (6 months)***

The Czech-Moravian Confederation of Trade Unions (CMKOS) raised a case with the Czech NCP at the beginning of June 2001 concerning a Czech subsidiary of the German-owned multinational Siemens. The conflict had arisen when the labour conditions worsened at the plant and the management refused to negotiate with the trade union. It took three extraordinary meetings of the NCP to resolve the dispute. The NCP also informed the German Embassy and it discussed the case with the German NCP. The intervention of the parent company also contributed to the solution. The parties reached an agreement relatively soon after entering into the negotiations, and after the declaration of the new "Principles for personnel policy". The trade union requirements were met in these principles and they are respected in the current operating practice.

The case confirmed the importance of positive cooperation between the social partners. The Siemens subsidiary was not affiliated to any of the Czech employers' organisation, which made the communication between the parties more complicated. In dealing with the case, the Czech NCP played a constructive role. As a result, new activities were agreed to deepen and

[4] www.minefi.gouv.fr/directions_services/dgtpe/pcn/compcn131201.htm

broaden the role of the NCP and the direct co-operation with the social partners. The CMKOS' experience with the NCP has therefore been positive.

***Bosch: June 2001-April 2002 (11 months)***

This case was submitted simultaneously with the case of Siemens to the Czech NCP by the CMKOS and also concerned the right to organise. A subsidiary of the German company Bosch prevented the workers from establishing a trade union. The local management even used physical force to prevent the workers from exercising their rights to organise. The case was discussed at four extraordinary meetings of the NCP. Again the NCP informed the German NCP as well as the German Embassy. The NCP offered a forum for negotiations and there were sometimes considerable tensions before the parties gradually approached a consensus. Although the management eventually agreed to the establishment of a trade union representation, it took a change in management by the parent company before constructive negotiations were started. At the fourth NCP meeting, the new management declared that there were no obstacles for the growth and development of the newly established trade union and for reaching a collective agreement.

The objectives of the trade unions were reached also in this case. The behaviour of the local management changed and it adapted to the strategies of the parent company (declared clearly in their policy documents). The case has demonstrated the effectiveness of the NCP.

***Bata: June 2001-December 2002 (18 months)***

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. The reason was that the information given to the workers did not reflect the real situation, which was a breach of the Guidelines (the chapter on Employment and Industrial Relations). Since Bata was headquartered in Canada, the French NCP contacted the Canadian NCP to obtain more 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 resolve the case. The French NCP closed the case when the Hellocourt plant was taken over despite the fact that the issue had not been settled. According to the NCP, it wrote both to BATA and the Canadian NCP to explain this.

In a press release dated February 2003, the CGT contested the decision of the NCP. Only 268 out of 800 employees at the Hellocourt plant were rehired by the company that took over the plant. The BATA case illustrates the difficulties in using the Guidelines when a company has already closed a plant.

***IHC Caland: July 2001-July 2004 (36 months)***

In July 2001, the Dutch unions FNV and CNV 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.

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 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. In September 2002, Premier Oil announced its withdrawal from Burma. 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.

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. Not until July 2004 was the tripartite statement issued by the NCP[5].

Although the case had a satisfying outcome insofar as the company agreed to pull out of Burma, the fact that it took the NCP three years to conclude the case demonstrates the lack of efficient and timely procedures to deal with cases. There appears to have been considerable delays in setting up meetings and negotiating the final statement.

A follow-up meeting, involving FNV representatives, took place in January 2006.

***Cosmos Mack Industries Ltd: November 2001***

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. 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. Nevertheless, the NCP considered that the responsibilities should be shared between the joint venture partners and it recommended the company to conform to the Guidelines.

TUAC has not been able to obtain any further information about the subsequent outcome of the case.

***Liberian International Ship and Corporate Registry: November 2001-October 2002 (11 months)***

The US NCP was requested in November 2001 to investigate the conduct of the Liberian International Ship and Corporate Registry (LISCR), a US registered company, by the International Transport Workers' Federation (ITF). A report of the UN Security Council had showed that LISCR had been used to transfer money to buy weapons for the Liberian government, which was a violation of the UN arms embargo. It was also considered a breach of a number of provisions of the chapters on General Policies, Disclosure and Combating Bribery.[6] At the end of 2001, the UN Security Council adopted resolution 1343 (2001)

[5] The statement is posted on www.oesorichtlijnen.nl

[6] "**II. General Policies**

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.

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.

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.

The US NCP again proved reluctant to deal with a case. It has yet to reach a conclusion whether the paragraphs of the Guidelines laid out by the ITF has been violated. It confined itself to state that the conduct of LISCR was being handled through other means.

***Wärtsilä: December 2001***

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Enterprises should take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders. In this regard, enterprises should:

2. Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments.

7. Develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate.

**III. Disclosure**

1. Enterprises should ensure that timely, regular, reliable and relevant information is disclosed regarding their activities, structure, financial situation and performance. This information should be disclosed for the enterprise as a whole and, where appropriate, along business lines or geographic areas. Disclosure policies of enterprises should be tailored to the nature, size and location of the enterprise, with due regard taken of costs, business confidentiality and other competitive concerns.

**VI. Combating Bribery**

Enterprises should not, directly or indirectly, offer, promise, give, or demand a bribe or other undue advantage to obtain or retain business or other improper advantage. Nor should enterprises be solicited or expected to render a bribe or other undue advantage. In particular, enterprises should:

1. Not offer, nor give in to demands, to pay public officials or the employees of business partners any portion of a contract payment. They should not use subcontracts, purchase orders or consulting agreements as means of channelling payments to public officials, to employees of business partners or to their relatives or business associates.

2. Ensure that remuneration of agents is appropriate and for legitimate services only. Where relevant, a list of agents employed in connection with transactions with public bodies and state-owned enterprises should be kept and made available to competent authorities.

5. Adopt management control systems that discourage bribery and corrupt practices, and adopt financial and tax accounting and auditing practices that prevent the establishment of "off the books" or secret accounts or the creation of documents which do not properly and fairly record the transactions to which they relate."

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 as stipulated in the chapter on Employment and Industrial Relations. 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[7]. Furthermore, FNV requested the NCP to address the NCPs in Finland and Italy.

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. It therefore considered that the case was finalised in 2001 when it was partly withdrawn by the FNV.

***ChoiShin/Cimatextiles: February 2002-July 2003 (17 months)***

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.

The case was also sent to the US NCP because of the connection to Liz Claiborne. 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. 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.

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". 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.

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1. Contribute to economic, social and environmental progress with a view to achieving sustainable development."

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 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.

***Maersk Medical Inc: February 2002-May 2005 (39 months)***

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 Mærsk Medical Inc, a Malaysian subsidiary of the Mærsk Group, Denmark's largest company dealing with a broad spectrum of activities including in the maritime and industrial sectors. The management of the subsidiary refused to accept and enter into a collective agreement with the union (Rubber Products) despite the fact that the majority of 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.

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.

It has been difficult for the NCP to uncover the juridical details and aspects of the case and its development in the Malaysian system. In addition, the Danish employers' organisation was not particularly informative in the beginning of the process. Moreover, Mærsk Medical Inc was in 2003 taken over by Nordic Capital, one of the leading Nordic private capital companies, and operates under the name Unomedical. The parent company is still headquartered in Denmark. Again this is a case where the company and the NCP appear to

have been using the legal proceedings in a non-adhering country as an excuse to avoid dealing with the issue.

The NCP finally concluded the case in May 2005, after the Malaysian Supreme Court had ruled in favour of the trade union, by a letter to the AIF. The NCP informed the AIF that the company had begun negotiations with the union to reach a collective bargaining agreement. Furthermore, the NCP requested the company to respect the Guidelines at a meeting on 11 May.

***Gard: April-December 2002 (8 months)***

The ITF filed a case with the Norwegian NCP in April 2002 pertaining to 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[8], but the chapter on Consumer Interests[9] was also invoked since Gard provided insurance for the risks to be covered by the shipowners. 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.

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 did also state that these arrangements were normal insurance practices in the Philippines in this field of business.

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[8] "Enterprises should take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders. In this regard, enterprises should:

1. Contribute to economic, social and environmental progress with a view to achieving sustainable development.
2. Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments.
5. Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labour, taxation, financial incentives, or other issues.
6. Support and uphold good corporate governance principles and develop and apply good corporate governance practices.
7. Develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate."

[9] "When dealing with consumers, enterprises should act in accordance with fair business, marketing and advertising practices and should take all reasonable steps to ensure the safety and quality of the goods or services they provide. In particular, they should:

3. Provide transparent and effective procedures that address consumer complaints and contribute to fair and timely resolution of consumer disputes without undue cost or burden.
4. Not make representations or omissions, nor engage in any other practices, that are deceptive, misleading, fraudulent, or unfair."

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 possibly 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.

***ASPOCOMP: April 2002-November 2003 (19 months)***

In April 2002, Force Ouvrière (FO) raised a case about the Finnish telecom multinational Aspocomp with the French NCP. The company, in announcing the closure of its plant in Evreux, failed to live up to the provisions of the chapter on Employment and Industrial Relations.[10] It also refused to participate in the tripartite consultations conducted by the NCP. In December 2002, the NCP wrote to the Finnish NCP to demand assistance in exerting pressure on the company to attend.

In the final statement of the French NCP in November 2003, it noticed that the company had not acted in conformity with the Guidelines.[11] Not only had Aspocomp violated the paragraph cited by the FO, but it had also failed to live up to paragraph 3 of the same chapter.[12] MEDEF (the French Employers' Association), however, did not share this conclusion.

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.

***Continental: May 2002-January 2005 (32 months)***

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. 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. In January 2005, an agreement was reached allowing the union to reopen the plant as a cooperative in a joint venture with the

[10] "Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices:
6. In considering changes in their operations which would have major effects upon the livelihood of their employees, in particular in the case of the closure of an entity involving collective lay-offs or dismissals, 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. In light of the specific circumstances of each case, it would be appropriate if management were able to give such notice prior to the final decision being taken. Other means may also be employed to provide meaningful co-operation to mitigate the effects of such decisions."

[11] www.minefi.gouv.fr/directions_services/dgtpe/pcn/compcn131103.htm

[12] "3. Provide information to employees and their representatives which enables them to obtain a true and fair view of the performance of the entity or, where appropriate, the enterprise as a whole."

Mexican investor group Llanti Systems. The Mexican NCP was criticised for not playing a constructive role in the resolution of the case.

***Marriott Hotel: Spring 2002***

The Polish NCP was contacted by the Polish trade union confederation Solidarnosc 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. TUAC is not aware of any measures taken by the NCP to deal with the issue. It appears that the case was never investigated. However, according to the 2006 OECD Annual Report on the Guidelines, the case had been resumed and the NCP was "in contact with representatives of parties involved". But as of February 2007, Solidarnosc had not been contacted by the NCP.

***Pinault-Printemps-Redoute (PPR): July 2002-January 2003 (7 months)***

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 UNITE and AFL-CIO. 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.

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. 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.

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. 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.

***Plaid Enterprises Inc: August 2002-December 2005 (40 months)***

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 had a couple of months earlier 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.

After the NCP had deemed that the case was receivable, it held a meeting with the FNV in November 2002. Thereafter the FNV did not receive any news and consequently sent several reminders. In October 2003, the NCP responded that all traces of Plaid in the Netherlands had disappeared. Given this and the fact that the court had found that Plaid had not informed the employees of its application for bankruptcy, the FNV considered that the NCP had enough information to conclude that Plaid had violated the Guidelines.

The case was not finalised until 2006. In the report of the NCP, it 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."[13]

***Parmalat: September 2002-April 2003 (7 months)***

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 workforce, without prior consultations with the trade union. This was considered a breach of the Guidelines.

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.

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. At the time of the conclusion, the NCP was still working on its structure and procedures. It was also decided to set up a consultative body to the NCP representing civil society.

***Sanmina-SCI/Hewlett Packard: September 2002-January 2004 (16 months)***

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.

[13] The statement can be found on www.oesorichtlijnen.nl

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.

The NCP did not officially respond to this demand, but appeared unwilling to deal with the issue. In January 2004, the FNV was informed that the NCP was not going to pursue the matter further.

***Sees Corporation: November-December 2002 (1 month)***

In November 2002, the Progress Union in Sri Lanka contacted the Korean NCP regarding the Korean company Sees Corporation. Sees Lanka Limited, a sports ware 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. However, in the beginning of December, the Progress Union reached a settlement with the management of Sees Lanka, whereby all workers were compensated. The case was therefore withdrawn from the NCP.

***Dutch Travel Agencies: November 2002-April 2004 (17 months)***

The Dutch unions FNV and CNV submitted a case to the Dutch NCP at the end of November 2002 involving several travel agencies. Since these travel agencies promoted tourism in Burma they were inevitably implicated with the regime and had implicitly failed to contribute to the elimination of forced labour. 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.

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.

In April 2004, the NCP issued a communication arguing that the Guidelines were not applicable to the case.[14]

This case raises concerns that NCPs are interpreting the "investment nexus" as discussed in the OECD Investment Committee to overly restrict the meaning of the Guidelines and avoid dealing with cases. In TUAC's opinion, the investment nexus does not change the spirit of the

[14] www.oesorichtlijnen.nl

Guidelines. 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”. Therefore it is worrying that the NCP considered the case receivable before the investment nexus was defined, but not afterwards.

***Ivanhoe Mines Ltd: November 2002-February 2006 (38,5 months)***

The Canadian Labour Congress (CLC) asked in November 2002 the Canadian NCP to investigate the charges against Ivanhoe Mines Ltd. The company was in a joint venture with a government enterprise in Burma 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 had caused serious ecological damage in the region. The NCP replied to the CLC in January 2003, demanding more information about the environmental problems. The CLC agreed to provide the NCP with more information on the environmental issue, but urged it to go ahead with the labour aspect of the case.

In June 2005, the NCP announced that it was going to close the case. But it took the NCP yet another 7-8 months to actually do so in February 2006. The NCP justified the closure by the fact 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[15].

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.

***Chemie Pharmacie Holland BV: December 2002-May 2004 (17 months)***

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.

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.

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.

The case was formally raised by Dutch NGOs in July 2003 to follow up the UN report. The NCP however declined the issue with reference to the lack of an investment nexus. Nevertheless, it published a statement on "lessons learned" after "having met extensively with the parties involved".[16]

***Lundin Group: January-December 2003 (11 months)***

At the initiative of the Swedish trade union confederations LO and SACO, the Swedish NCP contacted Lundin Petroleum in January 2003 with regard to the findings of the UN Panel on

[15] http://www.ncp-pcn.gc.ca
[16] www.oesorichtlijnen.nl

the Democratic Republic of Congo (DRC). The NCP requested the company to provide information concerning its operations in the DRC and to respond to the findings of the UN Panel. Lundin Petroleum replied that the company identified by the UN was in fact Lundin Group, a non-Swedish company registered in Bermuda. In the final report of the UN Panel, Lundin Group was taken off the list since the case was considered resolved in the sense that "the original issues that led to their being listed in the annexes having been worked out to the satisfaction of both the Panel and the companies and individuals concerned". The NCP therefore closed the case at its meeting in December.

***Honda: February-August 2003 (6 months)***

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.

The NCP met separately with Honda on the one hand, and with the trade union organisations RENGO and IMF-JC on the other, to discuss the case. 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. It appears that the NCP defended the company position rather than trying to mediate in a serious breach of the Guidelines.

***Kiswire Sdn Bhd: May 2003-2006***

In May 2003, the MTUC submitted a case to the Korean NCP regarding the anti-union behaviour of the Korean-based company Kiswire Sdn Bhd. It had among other things refused to recognise the elected trade union, dismissed the trade union organisers and adopted discriminatory practices against union members.

The NCP claimed in April 2004 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 resent with a request to attend to the matter most urgently. This illustrates the importance of NCPs notifying the party raising a case when the submission has been received.

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.

***Saint-Gobain: June 2003-May 2007 (47 months)***

The International Federation of Chemical, Energy, Mine and General Workers' Union (ICEM) together with the American unions AFL-CIO and UAW solicited the US NCP in June 2003 to examine breaches of the Guidelines by the French 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 meaningful negotiations and the right to a safe and healthy workplace. The NCP was requested to bring the matter to the attention of the French NCP. Saint-Gobain's actions had also led to complaints by the National Labor Relations Board (NLRB) and citations and fines by the Occupational Safety and Health Administration.

The French NCP was informed of the case by both the US NCP and the French unions. The NCP thereafter contacted the management of Saint-Gobain, which claimed that the issue was part of their bargaining process. In a letter to the US NCP in October 2003, the French NCP declared its willingness to co-operate and desired information of the progress made in the US. The case was discussed at the French NCP meeting in December 2003. The French union CGT suggested that the NCP should convene a meeting with the management of Saint-Gobain and the leadership of UAW. The NCP, however, asserted that it was the responsibility of the US NCP to set up such a meeting.

In February 2004, the UAW wrote again to the US NCP in response to a letter sent to the NCP by Saint-Gobain in December 2003. The company argued that the issues should be considered by the NLRB and not the NCP. Again, national law was being used as an argument for not taking action under the Guidelines. The UAW also repeated its request for a meeting with the top management in France.

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.

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. The NCP therefore decided to close the case and issued a statement in May 2007[17].

***Bayer Philippines: June 2003-June 2007 (48 months)***

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 extra-ordinary 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.

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.

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

[17] www.state.gov/e/eeb/rls/othr/2007/84021.htm

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 NCP website[18].

***British American Tobacco: September 2003-February 2004 (5 months)***

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[19]. 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.

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 reluctantly 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.

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.

***Nestlé: September 2003-March 2004 (5,5 months)***

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

[18] http://www.bmwi.de/BMWi/Navigation/aussenwirtschaft,did=178196.html

[19] "Enterprises should take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders. In this regard, enterprises should:

1. Contribute to economic, social and environmental progress with a view to achieving sustainable development.

2. Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments.

10. Encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the *Guidelines*.

11. Abstain from any improper involvement in local political activities."

were considering moving their production to China amongst other countries. This was an infringement of paragraph 7 in the chapter on Employment and Industrial Relations[20].

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.

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 NKLU and Nestlé. The unions were extremely critical of the NCP since it closed the case without having met the unions even once 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.

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[21]. Furthermore, it engaged with the Korean NCP suggesting it to call a meeting with all parties to attempt to reach agreement on the issues raised and examined the possibilities of a joint statement.

***Locomotive Trading AG Hänibül: October 2003-February 2004 (4,5 months)***

An affiliate to the 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.

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.

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.

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[20] "Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices:
7. In the context of bona fide negotiations with representatives of employees on conditions of employment, or while employees are exercising a right to organise, not threaten to transfer the whole or part of an operating unit from the country concerned nor transfer employees from the enterprises' component entities in other countries in order to influence unfairly those negotiations or to hinder the exercise of a right to organise."

[21] www.seco.admin.ch/news/00197/index.html?lang=en

At the first NCP meeting in November 2003, it was announced that the enterprise had been declared bankrupt. The case was closed in February 2004 because the company was to be managed by the Receiver. The relations between the trade union and the Receiver were satisfactory and 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 and the trade union could return to the issue in the NCP.

***Unilever: December 2003-June 2004 (6 months)***

The partial transfer of a plant owned by Unilever in Brazil was raised by the CUT with the Brazilian NCP in December 2003. 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.

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.

The issue was resolved in June 2004 when the company agreed to engage in negotiations with the union.

***TGW International: February-August 2004 (6 months)***

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”.

According to the 2005 OECD report on the Guidelines, the NCP closed the case at the trade union’s request in August 2004.

***Swatch Group: February 2004-June 2005 (16 months)***

The Swiss NCP was contacted by Union Syndicale Suisse (USS) 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[22], did not recognise the agreement.

[22] On 1 January 2005, the FTMH together with several other Swiss unions merged into the new organisation UNIA.

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 multinational enterprises operating abroad and multinational enterprises operating in home countries.

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 also stressed the fact that the implementation procedures had been created to deal with issues arising in the context of international investment. Finally, it encouraged the NCP to address the issue in terms of how to further the effectiveness of the Guidelines.

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.

***Korean EPZ Corporation: March-June 2004 (3 months)***

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).

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.

Apart from violating the employees' right to organise, the company was also believed to have infringed several paragraphs of the chapter on General Policies.[23]

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

[23] "Enterprises should take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders. In this regard, enterprises should:

1. Contribute to economic, social and environmental progress with a view to achieving sustainable development.
2. Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments.
5. Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labour, taxation, financial incentives, or other issues.
11. Abstain from any improper involvement in local political activities."

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.

***Angelica Textile Services: August 2004-June 2005 (10 months)***

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.[24]

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.

The US NCP replied at the end of August 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.

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. (The responsibility of ABN Amro Bank was later raised as a separate case in March 2005. See page 24.)

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".

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.

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[24] "**I. Concepts and Principles**
4. The *Guidelines* are not aimed at introducing differences of treatment between multinational and domestic enterprises; they reflect good practice for all. Accordingly, multinational and domestic enterprises are subject to the same expectations in respect of their conduct wherever the *Guidelines* are relevant to both."

***Imerys Carbonates LLC: September 2004-February 2006 (18 months)***

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)[25] 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 Labor 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.

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. This appears to have been yet a case where the US NCP used parallel proceedings as an argument for not taking action.

TUAC took part in a fact finding visit to the Sylacauga Imerys facility in October 2005 and submitted a report to management. An informal meeting took place with French management in February 2006. The situation subsequently improved following a clear 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.

***Smead Europe: October-November 2004 (1 month)***

The corporate conduct of Smead Europe, a US based office equipment company, was raised with the Dutch NCP by the FNV in October 2004. The company had violated a collective agreement and was sanctioned for this 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.

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. 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.

It was noted in the 2005 OECD Annual Report on the Guidelines that "legal proceedings took care of labour union's concerns".

[25] Former union of Paper, Allied-Industrial, Chemical & Energy Workers – Pace

***Ryanair: November 2004-2005/06***

The violations of the chapter on Employment and Industrial Relations of the Guidelines by Ryanair were brought forward to the Dutch NCP by the FNV and its affiliate FNV Bondgenoten in November 2004.

Although Ryanair was based in Ireland, it had staff in the Netherlands and elsewhere which 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.

Nevertheless, in 2005/06 the NCP decided that the case did not merit further examination because of the absence of a subsidiary in the Netherlands. Again the NCP appears to have taken an overly restrictive approach to the Guidelines.

***UPM Kymmene: November 2004-June 2005 (6,5 months)***

The Canadian NCP was at the end of November 2004 requested by the Communications, Energy and Paperworkers' Union of Canada to examine breaches of the Guidelines by the Finnish company UPM Kymmene. After the company announced the closure of the kraft 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.

After more than six months the NCP concluded that "it would be inappropriate for us to get involved". It considered that there were provincial labour laws and remedies to deal with the issue and that such recourse had already been taken by the parties.

***UPC Cable TV: December 2004***

The Polish trade union confederation Solidarnosc submitted a case to the Polish NCP at the beginning of December 2004 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.

According to Solidarnosc, the NCP did not want to examine the case because of ongoing legal proceedings. It even claimed that all legal measures should be exploited before a case could be raised under the Guidelines. 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.

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.

***Bata: January-November 2005 (10 months)***

Three and a half years after French unions presented the French NCP with a case concerning the closure of Bata in France, the company again failed to observe the Guidelines. 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 was a breach of paragraph 6 of the chapter on 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.

The case was closed by the NCP in November the same year, but it was never resolved. TUAC has not obtained any information pertaining to the reasons for this.

***ABN Amro Bank: March-July 2005 (4 months)***

Further to the case against Angelica Textile Services submitted by UNITE-HERE in August 2004, UNITE-HERE filed an additional 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".[26] 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.

UNITE-HERE withdrew the case in July 2005 after reaching an agreement with Angelica.

***Imerys: April-June 2005 (2,5 months)***

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.

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.

[26] Paragraph 10 of Chapter II on General Principles

***Unilever: June-November 2005 (5,5 months)***

The corporate conduct of Unilever Chile Ltda was raised by the Chilean trade union confederation CUT with the Chilean NCP in June 2005. On 30 December 2004, Unilever had verbally informed the trade union representatives that it was going to close three plants 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.

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 recognised the union as the workers' representative.

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 engage to re-employ the workers, but would provide them with good references. The NCP was made responsible for the observance of the agreement.

***GP Garments: June 2005-second half of 2007 (unsolved)***

The Belgian NCP received a submission by the ITGLWF in June 2005 regarding violations of the Guidelines in the Biyagama Free Trade Zone in Sri Lanka by the Belgian-controlled company GP Garments. The company has refused to disclose its ownership and structure in accordance with the chapter on Disclosure, which has made it impossible for the union to engage in a meaningful discussion with the company.

In January 2005, the union was told that the Biyagama factory would be reorganised. This process however took place without any social dialogue. The management even 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.

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.
Despite the efforts of the mediator, no solution was found for several 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 necessarily take the view that a solution would be found by the NCP. Because of the lack of willingness of the company to engage, the attempt at mediation failed.

***Mittal Steel Group: December 2005 (rejected)***

The National Trade Union Bloc in Romania (BNS) submitted a case to the Romanian NCP in December 2005 concerning the operations of Mittal Steel Group - the world's largest steel producer headquartered in the Netherlands.

It was reported that Mittal Steel Group had violated paragraphs 1, 7 and 8 of the chapter on Employment and Industrial Relations[27] at two plants in Romania. The company had among other things prevented the 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.

In the NCP's report to the Annual Meeting of NCPs in June 2006, it presented three incomprehensible arguments for why it would not handle 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". This outcome together with the fact that the NCP consists of employer representatives, but not trade union representatives, raise serious doubts about the objectivity of the Romanian NCP.

***Gamma Holding: February 2006-April 2007 (15 months)***

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.

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.

It appeared that the US NCP informed the Dutch NCP in March 2006 inquiring whether the latter had contacted the management of Gamma Holding. 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

[27] "Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices:
1. a) Respect the right of their employees to be represented by trade unions and other bona fide representatives of employees, and engage in constructive negotiations, either individually or through employers' associations, with such representatives with a view to reaching agreements on employment conditions;
7. In the context of bona fide negotiations with representatives of employees on conditions of employment, or while employees are exercising a right to organise, not threaten to transfer the whole or part of an operating unit from the country concerned nor transfer employees from the enterprises' component entities in other countries in order to influence unfairly those negotiations or to hinder the exercise of a right to organise.
8. Enable authorised representatives of their employees to negotiate on collective bargaining or labour-management relations issues and allow the parties to consult on matters of mutual concern with representatives of management who are authorised to take decisions on these matters."

February 2007 to demand a reply to previous letters and to provide further information about the latest developments in the US.

In May 2006, the USW filed a case with the National Labor Relations Board (NLRB). The company was formally charged with labour law violations in January 2007 and the trial was scheduled for mid-March.

The USW withdrew the case from the NCP after having reached a settlement with NWF and Gamma Holding in April 2007. 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.

***InBev: July 2006-June 2007 (11 months)***

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.

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. The InBev representative claimed that he needed more time to verify the facts of the case. The IUF, however, felt that InBev was playing for time while awaiting the result of its appeal of the Montenegrin High Court ruling.

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. In IUF's view, the NCP procedure was conducive to achieving this result.

***Metraco: December 2006-September 2007 (9,5 months)***

In response to serious breaches of the Guidelines by the Turkish textile company Metraco, the International Textile, Garment and Leather Workers' Federation (ITGLWF) registered a case with the Turkish NCP in December 2006. Since the majority shareholder of Metraco was a Dutch company, Laurens van der Kroft Textiel, the case was also raised with the Dutch NCP.

Metraco was suppressing 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.

In May 2007, the Turkish NCP replied that it had closed the case. It claimed that the issue was pending in court and that the NCP could not get involved in any legal proceedings.

Nevertheless, an agreement was reached between Metraco and the Turkish trade union in September 2007 stipulating that 12 trade union members would be reinstated with retroactive salaries since the date of their dismissal. 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.

According to the trade union organisations involved, the NCPs in Turkey and the Netherlands did not make any serious efforts to resolve the case. But pressure from the company's main customers was important in achieving this result as well as the work carried out by the unions and NGOs.

## II CASES ONGOING AS OF DECEMBER 2007

### *Metaleurop: February 2003*

The French NCP was in February 2003 requested by Force Ouvrière (FO) to investigate the conduct of Metaleurop. The Swiss multinational Glencore is however the largest stockholder of Metaleurop and the case was therefore brought to the attention of the Swiss NCP as well. In January 2003, Metaleurop SA announced that it would stop finance its subsidiary Metaleurop Nord, the biggest foundry of lead in Europe, which was declared bankrupt in March 2003. In closing down the company, Metaleurop neglected both to put in place a social plan and to clean up the environmental damage it had caused. Consequently, both the chapters on Employment and Industrial Relations and on Environment were violated.

In the 2006 OECD Annual report on NCPs, the French NCP stated that the case was "being considered", but noted that the existence of a parallel legal proceeding.

### *Technip-Coflexip: March 2003*

The French trade union confederation CGT filed a case with the French NCP regarding Technip-Coflexip in March 2003. The reason was that an employee of Technip-Coflexip had had part of his salary suspended for going on a trade union mission to the US. This was considered a breach of the Guidelines since the clarifications to 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".

### *Top Thermo Manufacturers: March 2003*

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

### *General Motors do Brasil Ltda: September 2003*

In September 2003, the Brazilian NCP was contacted by the Porto Alegre Metal, Mechanical and Electrical Material Workers' Union regarding the conduct of General Motors Do Brasil Ltda. The company has since its establishment in 1997 interfered with the employees' right to organise. In August 1997, GM created a company union through a meeting held behind closed doors and to which the union members were not allowed. Workers have since been encouraged to join the company union so as to avoid "negative consequences" and workers

belonging to the real union have been punished. Moreover, the company union is being financed by GM. The case has also been submitted to the ILO Committee on Freedom of Association.

The NCP has invited the social partners to a tripartite meeting including the company union, but the latter did not attend.

***Michelin: February 2004***

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. 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.

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.

***Toyota Motor Corporation: March 2004***

The Toyota Motor Philippines Corporation Workers' Association (TMPCWA) approached the NCP of Japan at the beginning of March 2004 regarding the anti-union behaviour of Toyota Motor Philippines Corporation, a subsidiary of Toyota Motor Corporation. Since the company for several years has refused to enter into collective bargaining negotiations with the TMPCWA, the union called a strike. The company responded by illegally dismissing 233 union members who participated in the strike and filing criminal cases against some of the union leaders. The TMPCWA thus filed a case against Toyota Motor Philippines Corporations asking for a withdrawal of the illegal dismissals. The case is still pending. In September 2003, the Supreme Court of the Philippines ordered Toyota Motor Philippines Corporations to begin the collective bargaining negotiations with the TMPCWA. The company is however ignoring the decision.

In addition, the case was sent to the ILO in February 2003. The ILO Committee on Freedom of Association made the following recommendations to the Philippine government in November 2003: 1) To reinstate the 233 union members; 2) To start the CBA 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 Labor Code of the country.

In September 2004, the TMPCWA wrote again to the NCP to remind it of the importance of a prompt handling of the case. The union was concerned that after six months it still had not been informed of whether the case merited further examination. It considered that the NCP should already have started the mediation process.

In December 2004, the NCP replied that it was seeking further information from the parties concerned and relevant authorities. It also indicated the importance of the forthcoming decision of the Court of Appeals in the Philippines. 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.

In July 2006, the TUAC Secretariat received a letter from the Philippines government (Department of Labor and Employment) informing that Toyota Motor Philippines Corp. contested the facts as accounted above.

The NCP has indicated that it will not take any action until the court case in the Philippines has been brought to an end.

***Life Uniform: July 2004***

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.

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.

***Wackenhut: August 2004***

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.

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.

The case was also presented to the ILO Committee on Freedom of Association in November 2003.

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 include labour-management issues, UNI repeated its request to the NCP to handle the matter in a letter dated January 2005.

In 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.

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.)

***Bridgestone: September 2004***

At the beginning of 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.

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.

***Banca Nazionale del Lavoro SA: December 2004***

In December 2004, the Argentine trade union "Asociacion Bancaria" raised a case with the NCP of Argentina concerning alleged breaches of the Guidelines by Banca Nazionale del Lavoro SA, which is 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".[28] Moreover, the company had threatened to close its operations in Argentina.

The NCP has held consultations with the two parties and the union has stressed the positive role played by the NCP.

[28] Paragraph 3 of chapter IV on Employment and Industrial Relations

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."

***Seves: February 2005***

In a submission to the French NCP in February 2005, Force Ouvrière asked the NCP to examine the conduct of the Italian based multinational enterprise Seves, the world's leading manufacturer of glass and composite insulators for power transmission and distribution systems.

Seves has allegedly threatened to move an operating unit during negotiations with the employee representatives of the Sédiver subsidiary in St-Yorre.

***Groupe Lactalis: May 2005***

The United Farmworkers Union (UFW) requested the US NCP in May 2005 to look into alleged breaches of the Guidelines by Threemile Canyon Farms, a significant supplier to Sorrento Lactalis, the US subsidiary of the French company Groupe Lactalis. The UFW has informed both Sorrento Lactalis and Groupe Lactalis of Threemile's non-compliance with the Guidelines, bur without any result.

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.

***Nestlé: August 2005***

In August 2005, yet another case was filed concerning the operations of Nestlé, this time with the NCP of Japan. According to the three unions[29] that submitted the case, the company is violating workers' rights. Nestlé is accused of conducting unfair labour practices, concealing information of its wage system, corporate structure and food safety.

***Coats Plc: December 2005***

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.

In November 2004, three trade union leaders had been dismissed on alleged charges of misconduct, although the union believed that the real reason was their repeated request of a

[29] The Nestlé Japan Labour Union, the National Confederation of Trade Unions (Zenroren) and the Hyogo Prefectural Confederation of Trade Unions

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.

***PepsiCo: April 2006***

In April 2006, the IUF and Solidarnosc together submitted a case to the Polish and US NCPs pertaining to serious violations of the Guidelines in a Polish subsidiary of PepsiCo (Frito-Lay Poland Ltd).

Eight women workers, also union members, were asked to resign and immediately leave the facility in December 2004. At the time being, the management did not present any reason for the dismissals. The women were 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.

On 12 December 2005, all the workers were conducted into 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. Two days later, the union chairman, who had assisted the fired workers, was dismissed on the grounds that the union had fewer members than accounted for. 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.

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 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.

The Polish NCP has acknowledged receipt of the case. It has also informed the company of the submission asking it to provide clarifications about its observance of the Guidelines.

***British American Tobacco: May 2006***

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 has been violated at two tobacco plants in North Carolina. The company has also threatened to relocate production offshore.

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.

The UK NCP acknowledged receipt on 4 May 2006.

***Shell: May 2006***

The Brazilian and Dutch NCPs were in May 2006 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 Paolo) to take action in relation to the operations of Shell in Brazil. The case is based on a report by the State Health Secretary stating a number of irregularities pertaining to workers' health and safety.

The case has also been presented to the ILO and the WHO.

In June 2006, the Brazilian NCP decided to accept the case. The Dutch NCP has also expressed its interest in following the issue.

***PSA Peugeot Citroën: July 2006***

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 has refused to enter into any consultations or negotiations.

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.

***Continental Tire North America Inc: August 2006***

The German based multinational Continental Tire AG has once again become the subject of a Guidelines case. At the beginning of August 2006, the United Steelworkers (USW) informed the US NCP of serious breaches of the Guidelines by Continental Tire North America Inc at a plant in Charlotte, North Carolina in the US.

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.

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.

On 29 June 2006, the National Labor Relations Board stated that the company "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.

As of 26 September 2006, the US NCP had yet to acknowledge receipt of the USW submission.

***Nestlé: October 2006***

The corporate conduct of Nestlé has again been contested under the Guidelines. On 2 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 workers to accept conditions unilaterally imposed by management in the process of a major restructuring programme.

***Unilever PLC: October 2006***

In a submission to the British and Dutch NCPs at the beginning of October 2006, the IUF reported violations of the Guidelines conducted by yet a Unilever subsidiary - Hindustan Lever in India 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.

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.

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.

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 can continue to do so as the company has refused to abide by the court decisions.

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.

***Lafarge: October 2006***

The Korean NCP was in October 2006 requested by the Korean Chemical and Textile Workers Federation (KCTF) to take action with regard to 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.

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 payed less than half of the salaries of the Lafarge workers. They were also forced to do overtime.

The Korean Labour Ministry has 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.

Despite this, 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 another reply in December 2006, the NCP claimed that it had to await the final decision of the National Labour Relations Commission. It also referred to discussions at the Annual Meeting of NCPs alleging that NCPs should refrain from action in cases of parallel proceedings.

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.

Since 2005, the International Federation of Chemical, Energy, Mine and General Workers' Union (ICEM) and the Building and Wood Workers International (BWI) have a Global Framework Agreement with Lafarge covering issues such as Freedom of Association. Lafarge is also a signatory of the Global Compact.

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 Labor Ministry Office. Lafarge committed to "do its best efforts" to help the remaining workers to find an equivalent job among its subcontractors.

At the beginning of 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 minimum wage.

***VAE Nortrak: November 2006***

VAE Nortrak's treatment of employees at two facilities in Alabama was raised by the Brotherhood of Maintenance of Way Employes Division (BMWED) with the US NCP in November 2006. Nortrak is North America's leading manufacturer and supplier of trackwork and materials. It is also a subsidiary of the Austrian company Voestapline AG (VAE). The US NCP was therefore requested to co-operate with the Austrian NCP in order to resolve the issue.

During the organising campaign, Nortrak tried to convince workers not to support the union in exchange for improved working conditions. Employees were interrogated 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 continues to suppress workers' rights. Union supporters have been discharged, suspended and transferred to other assignments. Nortrak is also refusing to negotiate a collective bargaining agreement.

***Cargill: November 2006***

The Argentine Millers' Labour Union submitted a case to the Argentine NCP in November 2006 concerning breaches of the Guidelines by Cargill (one of the world's largest agricultural companies).

***Group 4 Securicor: December 2006***

In addition to the case on Wackenhut, the Union Network International (UNI) raised further violations of the Guidelines by Group 4 Securicor (G4S) in the Democratic Republic of Congo, Greece, Israel, Malawi, Mozambique, Nepal, Uganda and the US with the UK NCP in December 2006. The NCPs in Greece, Israel and the US were also informed. However, these violations constitute a systematic lack of respect not only for workers' rights, but also for national law, and should therefore be dealt with in the home country of the company. 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. It was even considered to revoke the company's license to operate.

In January 2007, after meeting with the NCP, the UNI provided further information about 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.

In February 2007, TUAC participated in a meeting organised by the 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 the meeting and discuss these issues with some of the workers directly concerned, but chose not to do so.

***DeCoro: January 2007***

The Italian trade union confederations CGIL, CISL and UIL submitted a case to their NCP in January 2007 regarding infringements of the Guidelines by the Italian furniture company DeCoro at its plant in Shenzen in China.

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 dismissal indemnities well below the legal requirement. Most of the workers managed to escape, but three were hospitalised whereof one fell into a coma.

***Fiat: February 2007***

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 is 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 unions have requested that the NCP uses its good offices to facilitate a dialogue with Fiat.

***Unibanco: February 2007***

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 allegedly violates workers' rights including the dismissal of one employee after ten years of service. The employee was the leader of the trade union and she was also pregnant. She was later reinstated as a result of court orders, but continues to be harassed by her employer.

***Banco del Trabajo: April 2007***

Claims of violations of the Guidelines by the Peruvian Banco del Trabajo were brought before the Chilean NCP by the Confederation of Bank Trade Unions of Chile, the General Workers' Confederation of Peru (CGTP), the Cenda Foundation and the NGO Plades in April 2007. 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 Cummins Group.

The bank is refusing to recognise the two trade unions Sutrabantra and Sudebantra that were established by the workers in March 2004 respectively April 2005. Consequently, the bank also refuses to engage in collective bargaining with the unions. Moreover, the bank has dismissed the leaders of Sutrabantra, while other trade union representatives have been transferred to other locations. The Labour Court in Peru has ruled in favour of the unions and has ordered the bank to reinstate the dismissed workers. Yet, the bank has at each instance sought another appeal.

The NCP accepted the case in May 2007.

***ISS Facility Services SA: April 2007***

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. The problems started when Shell decided to outsource its security operations to ISS in October 2006. Staff were then transferred to ISS, which did not recognise the collective agreement, pressurised the workers to accept working conditions below the legal norm and to leave the union.

***Tetra Pak: July 2007***

The Korean Confederation of Trade Unions (KCTU) filed a case with the Korean, Swedish and Swiss NCPs in July 2007 regarding breaches of the Guidelines by Tetra Pak Korea. Tetra Pak is registered in Sweden, but its headquarters are in Switzerland.

The Tetra Pak Korea Trade Union has at several times requested the company to disclose information about its financial and operating results as well as ownership and governance, but without any result. In March 2007, the company announced that the Yeo Ju factory was to be closed. When the union requested financial information pertaining to the closure of the factory, the company refused. The same month, workers received a letter by management stating that they would be fired as of 9 May if they did not send in their resignation. In a comment to the press, the president of Tetra Pak Korea said that they were closing the factory because the union was strong and demanded too high wages.

At the beginning of September, additional material was sent to the Korean NCP including a transcript of a discussion between the company management and the union, where the company admitted that the closure of the factory was due to trade union activities.

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.

Negotiations conducted by the Economic Department of the Vaud Canton broke down in mid-November after the union refused the offer by Tetra Pak.

***Philips: August 2007***

Philip's "improper involvement in local politics"[30] in Brazil were raised by the Brazilian trade union confederation CUT with the Brazilian and Dutch NCPs in August 2007.

The president of Philips in Brazil belongs to a group of people that have organised a movement called "Cansei" meaning "I am tired". The purpose of the movement appears to be

[30] Paragraph 11 of chapter II on General Policies

unclear, but according to the CUT, the movement is political and run by an economic elite. Philips is allegedly funding newspaper adds asking people to support their protests.

***Chongwon Trading: September 2007***

At the beginning of 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 the activities of Chongwon Trading.

The problems began in 2001 when the workers wanted to establish a trade union at the Chongwon Fashion plant in the Philippines. The management threatened to close down should the union be formed. Consequently, the union lost the election. However, a new election was held in 2004 which the union won. Since then, the company has repeatedly questioned the election result by filing several court petitions despite losing in every instance.

The management has through various threats tried to make the union leaders resign. 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. Nevertheless, the strikes continued and in June 2007 workers received death threats if they did not stop the strikes.

In February 2007, the Philippine Department of Labour and Employment (DOLE) suddenly declared that the union no longer represented the workers. The union believes that the company offered a bribe. It has also brought charges against the mediator of the National Relations Commission for taking bribes.

In June 2007, the company filed for bankruptcy.

***Il-Kyoung Co Ltd: September 2007***

Another case concerning a Korean textile company operating in the Philippines was raised with the Korean NCP by the KCTU, NGOs and a Philippine union in September 2007. In order to prevent the workers from organising, the management of Phils. Jeon Garments Inc (a subsidiary of Il-Kyoung Co Ltd) delayed the union election and threatened to close the factory should the union win. After the union won the vote in August 2004, the management questioned the result in a petition to the Department of Labour and Employment (DOLE). The petition was dismissed as was the following appeals.

In August 2006, the union president was discharged. Shortly after, another 63 union members were fired because of alleged lack of work. However, contract workers have replaced those workers that were forced to leave the company. In September 2007, the workers went on strike although they had been warned by management that they would be dismissed. The strike was dispersed by police and security guards who attacked the workers, of which 25 were injured.

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 then thrown out at a highway close to the Philippine Economic Zone Authority.

***Unilever PLC: October 2007***

In addition to a case registered one year earlier concerning the Unilever subsidiary Hindustan Lever's operations in India, the IUF filed yet a case involving the same company now called Hindustan Unilever Limited with the UK NCP in October 2007.

The workers were locked out at the company's plant in the Doom Dooma Industrial Estate in the Indian state of Assam from 15 July to 3 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.

In order to end the lockout, management requested the workers to leave the union and to join a new "yellow" union that it had itself created. Workers were visited at their homes by the company union 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 support of the locked-out workers.

When the lockout was lifted on 3 September, only workers that agreed to sign a printed form renouncing their union membership and joining the new union were allowed to enter the factory.

***Unilever PLC: November 2007***

Yet a further case concerning a Unilever subsidiary, Unilever Pakistan Ltd, was submitted by the IUF to the UK NCP in November 2007.

At the end of September 2007, the union at the company's factory in Rahim Yar Kahn decided to open membership to temporary workers. This was followed by individual petitions in the labour court in order to obtain permanent employment status as those that had worked more than nine months of continuous service were entitled to permanent contracts. In response, management issued termination letters to all 292 temporary workers on 20 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.

These events are 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. Now there are only 250.

***British American Tobacco: December 2007***

A third case concerning breaches of the Guidelines by British American Tobacco (BAT) was raised by the Malaysian Trades Union Congress (MTUC) with the UK NCP in December 2007.

The case concerns the denial of the right of workers to organize. In August 2006, the company began to transform company posts at its Malaysian facility into positions that could not be held by trade union members. The MTUC assert that this is a clear attempt to destroy the British American Tobacco Employees Union (BATEU).
The workers have had to carry out the same tasks as previously, such as operating machines, but by redefining a post to a management category 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.