

National Contact Point of Switzerland

Specific Instance Nestlé Indonesia, Panjang Coffee Processing Plant Closing Statement

Berne, 24 June 2010

Background

1. The Swiss National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises is charged with raising awareness and promoting observance of the Guidelines. The NCP also contributes to the resolution of issues that arise relating to the implementation of the Guidelines in specific instances by offering a forum for discussion and assisting parties concerned to deal with these issues.

Proceeding of the NCP

2. On 10 November 2008, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Association (IUF) submitted a specific instance to the NCP on behalf of one of its affiliates, the Union of Nestlé Indonesia Panjang Workers (SBNIP). The submission concerned a labour dispute at the Panjang coffee processing plant owned by PT Nestlé Indonesia, a subsidiary of Nestlé SA (Switzerland). IUF claimed that Nestlé Panjang management was acting in a manner inconsistent with the Guidelines by not respecting the rights of the local trade union SBNIP and refusing to engage in collective bargaining and, in particular, to negotiate wages.
3. The concerns raised by IUF were related to the following provisions of the Guidelines:
Chapter IV 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;
Chapter IV 2 (b): Provide information to employee representatives which is needed for meaningful negotiations on conditions of employment;
Chapter IV 2 (c): Promote consultation and co-operation between employers and employees and their representatives on matters of mutual concern.
4. In its written response, submitted to the NCP on 26 November 2008, Nestlé denied all allegations. Referring to Nestlé Group's Corporate Business Principles it affirmed that Nestlé recognized the rights to collective bargaining and the rights of its employees to join, or not join, trade unions.
5. On 5 January 2009, the NCP concluded its initial assessment and informed both parties that it found the issues raised to be relevant under the OECD Guidelines and to merit further consideration. At the same time, the NCP recalled that accepting this specific instance did not mean that it considered Nestlé to have acted inconsistently with the Guidelines. Furthermore, the NCP offered its good offices with the aim of reaching a mutually acceptable outcome.
6. After both parties accepted the NCP's offer to contribute to the solution of the controversial issues, the NCP requested additional information, held separate

discussions with both parties and met with representatives of Nestlé on 21 April 2009 in Berne. The NCP was informed that parties attempted to reach an agreement at the local level in Indonesia. However, because of a delay in progress, the NCP arranged a joint meeting with IUF and representatives of Nestlé on 28 August 2009 in Geneva. At this meeting, it was agreed to concentrate further discussions on the main issue of collective bargaining and wage negotiations, and both parties reached a mutual understanding on how to resolve this outstanding issue.

7. There was disagreement about the allegations made in the submission relating to the non-respect of union rights, in particular the intimidation of union members and the involvement of the management in the creation of a second union (FKBNIP). Since the two parties had a different perception of the events in the past and presented the factual situation in a very different way the NCP was not in the position to make a full assessment of the situation and to draw any conclusions.
8. Following the meeting in Geneva, the NCP stayed in regular contact with both parties in order to exchange information on further developments and progress made in resolving the outstanding issue. On 16 October 2009, a follow-up meeting with IUF, involving also a representative of the workers in Indonesia, took place in Berne. Finally, the NCP was informed that parties in Indonesia had reached an agreement to include wages into the 2010-2011 collective bargaining agreement (CBA).
9. Nevertheless, negotiations on the CBA did not start up to date. Recently, the second union FKBNIP, which has been created in 2007, requested to be included into the negotiations according to the national law. However, upholding the allegations of non-respect of union rights and management support for FKBNIP SBNIP argued that it was the only recognized bargaining partner and refused to collaborate with FKBNIP. Nestlé, on the other hand, denied any support to FKBNIP and emphasised the need to include - if requested - both unions into the bargaining process in order to be compliant with the national union rights. Although the NCP tried to contribute to the de-blocking of the situation, no agreement on this issue could be reached.

Outcome of the Proceeding

10. It was the main objective of the dialogue facilitated by the NCP to find an agreement on collective bargaining and wage negotiations at the Panjang plant in Indonesia. At the joint meeting on 28 August 2009 in Geneva, representatives from IUF and Nestlé reached an understanding which paved the way for resolving these issues. After the meeting, parties in Indonesia have confirmed their commitment to include wages and wage scales in the 2010-2011 CBA. Unfortunately, negotiations on this new CBA have not yet started.
11. Although parties concerned agreed to concentrate discussions in the NCP process on the issue of wage negotiations, allegations of non-respect of union rights are upheld and are actually blocking the start of the bargaining process. Since facts on the respect or non-respect of union rights were presented in very diverging ways, the NCP was not in the position to make a full assessment of the situation and further contribute to the solution of the conflict.

Conclusions

12. Following the outcome of the NCP proceeding, the NCP will close the specific instance.

13. The NCP is recommending to Nestlé and IUF to continue its regular dialogue and to motivate unions and management at the Panjang plant in Indonesia to start the negotiation process on the 2010-2011 CBA.
14. The NCP thanks both parties for engaging in the process.