

# National Contact Point of Switzerland

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## Final Statement

### Specific Instance regarding LafargeHolcim submitted by the Building and Wood Workers' International (BWI)

Berne, 11 May 2021

#### Executive summary

On 12 December 2019, Building and Wood Workers' International submitted a written request to the Swiss NCP to consider a specific instance under the OECD Guidelines regarding LafargeHolcim (LH). The submission concerned alleged breaches of specific provisions of Chapter V (Employment and Industrial Relations) of the OECD Guidelines. Following the acceptance of the specific instance and agreement on Terms of Reference, a dialogue consisting of six meetings took place between 1 July 2020 and 17 March 2021.

The issues for discussion were twofold: a. LH's labour practices at group level, among others regarding trade union rights, compensation etc; b. LH's treatment of workers of Holcim Philippines. These and other issues – related to LH workers and policies, in the Philippines and elsewhere – were discussed during the mediation but no joint outcome could be reached. Achievements included: a willingness shown by both parties to hold a formal social dialogue at the global level; a self-assessment by LH of its implementation of the OECD Guidelines; and the inclusion of trade unions in future Human Rights Impact Assessment by LH in the Philippines.

The Swiss NCP recommends both parties to pursue their dialogue at the global and local level, regarding above all the treatment of LH workers. The Swiss NCP will ask the parties to report on progress within six months after the publication of this report and convene a new meeting, planned in autumn 2021. The meeting will take stock of steps taken following the closure of the specific instance and decide on possible further steps among the parties.

#### 1. Submission and Initial Assessment

The OECD Guidelines for Multinational Enterprises (hereafter OECD Guidelines) represent a set of principles and standards for responsible business conduct, addressed as recommendations by the governments of the 37 OECD member and 13 other adhering States to multinational enterprises operating in or from their territories. The National Contact Point of Switzerland for the OECD Guidelines (hereafter "Swiss NCP") has the mandate to raise awareness and promote observance of the OECD Guidelines. The Swiss NCP also contributes to the resolution of issues that arise relating to the implementation of the OECD Guidelines in specific instances by offering a forum for mediation, assisting parties concerned to deal with these issues and providing recommendations regarding the implementation of the OECD Guidelines.

On 12 December 2019, Building and Wood Workers' International (hereafter "BWI" or "submitting party") submitted a written request to the Swiss NCP to consider a specific instance under the OECD Guidelines regarding LafargeHolcim (hereafter "LH" or "responding party"), headquartered in Switzerland. The submission concerned alleged breaches of specific provisions of Chapter V (Employment and Industrial Relations) of the OECD Guidelines.

Following the acceptance of the specific instance (see [Initial Assessment](#) from 26 May 2020), the parties took up the Swiss NCP's offer for a mediation. The issues for discussion, recalled in the Terms of reference (hereafter TORs) for the mediation, were twofold:

- a. LH's labour practices at group level, among others regarding trade union rights, compensation, health & safety as well as discrimination, and concerning both regular as well as subcontracted workers; as well as a due diligence on the impact of these practices on the workers. LH's practices with respect to social dialogue with international trade unions were also to be discussed.
- b. LH's treatment of workers of Holcim Philippines, in view of the existing collective bargaining agreement (hereafter CBA), and concerning both regular as well as subcontracted workers; in particular, the differences in treatment between regular and subcontracted workers in terms of wages, benefits and compensation.

## 2. Proceedings of the Swiss NCP

Since the receipt of the submission on 12 December 2019, the Swiss NCP carried out the following actions:

12.12.2019	Written confirmation to the submitting party to <b>acknowledge receipt</b> of the submission
9.01.2020	Constitution of an <b>ad hoc working group</b> , in accordance with the Specific Instances Procedure of the Swiss NCP <sup>1</sup> , including representatives from the SECO and the Federal Department of Foreign Affairs.
26.05.2020	Publication on of an <b>Initial Assessment</b> confirming acceptance of the specific instance, stating the position of the submitting party and the response of the receiving party and offering its good offices to the parties.
1.07.2020	Agreement on and signing of the <b>Terms of Reference</b> (TORs) for a mediation process.
1.07.2020 1.09.2020 12.11.2020 16.12.2020 4.02.2021 17.03.2021	Holding <b>six dialogue meetings</b> , the first two in person, the other four by video-conference; participants to these meetings were: <ul style="list-style-type: none"> <li>• three representatives of BWI, including the General Secretary and a lawyer based in Manilla (via video),</li> <li>• three representatives of LH, including the Chief Human Resource Officer,</li> <li>• two representatives from the NCP secretariat, including the mediator.</li> </ul>

## 3. Outcome of the mediation process and conclusions

Both parties engaged in the mediation with a determination to reach results. However, the objective of the discussions changed partly during the process and went beyond the scope of the TORs. Therefore, discussions tackled many issues covered, by the TORs as well as others, including:

- contours of a future social dialogue on group level between LH and BWI, including as well the international trade union IndustriAll. The latter not being part of the NCP proceeding, the mediation initiated discussions between LH, BWI and IndustriAll between the mediation meetings;
- health and safety issues and the conduct of Human Rights Impact Assessments (hereafter HRIAs) by LH on the global and local levels;
- a self-assessment of LH regarding its fulfilling of the OECD Guidelines;
- the fate of a number of dismissed LH workers in the Philippines being dealt with in a local court;
- issues regarding picket lines in front of the LH Davao plant.

<sup>1</sup>[www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik\\_Wirtschaftliche\\_Zusammenarbeit/Wirtschaftsbeziehungen/NKP/organisation-und-kontaktaufnahme.html](http://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/NKP/organisation-und-kontaktaufnahme.html)

In conclusion, long discussions were held also on issues outside the TORs but no joint outcome could be reached. The Swiss NCP is of the opinion that this is due to the fact that no substantial progress could be achieved concerning the fate of the dismissed workers in the Philippines through an amicable out-of-court settlement. Nevertheless, some achievements were attained during mediation including:

- direct discussions were held among LH, BWI and IndustriALL, as a result of the mediation and with an aim to enter a formal social dialogue at the global level;
- a dialogue at the local level between LH Philippines and the trade union Sentro took place by virtual means in December and served to build some trust locally;
- a self-assessment by LH of its implementation of the OECD Guidelines, which concluded that LH meets the Guidelines, especially its Chapter V on Employment and Industrial Relations, as it recognizes rights to collective bargaining, forming unions, wage equity, health & safety;
- a mutual understanding on the inclusion of trade unions members in the Philippines in future processes of LH conducting HRIAs in the Philippines.

#### **4. Recommendations and follow-up**

The Swiss NCP welcomes:

- the participation of both parties in the mediation with high-level, well prepared teams including representatives with decision making power;
- the sharing of numerous information by both parties on expectations, views over the situation in the Philippines and elsewhere, policies and procedures with regard to responsible business conduct, such as LH's HRIAs and further instruments;
- the offering of various constructive suggestions notably by LH for the formalization of a future social dialogue on group level between LH and trade unions;
- the commitment of both parties to find an amicable out-of-court solution for a group of dismissed workers in the Philippines.

The Swiss NCP recommends:

- the parties to establish and formalize a social dialogue on group level;
- BWI to examine constructively the proposals of LH regarding a social dialogue, to be held in collaboration with IndustriALL;
- LH to closely follow up the situation in the Philippines regarding the treatment of workers of Holcim Philippines, concerning both regular and subcontracted workers, with an aim to not discriminate against them with respect to employment and occupation including, but not limited to, pay and benefits<sup>2</sup>;
- the parties to continue with all efforts their dialogue at the local level in the Philippines in good faith also taking into account the legal situation.

The Swiss NCP will follow up on this specific instance with the following measure:

- the Swiss NCP will ask the parties to report within six months following the closure of the specific instance on progress regarding the social dialogue on group level (including IndustriALL) and any new developments regarding the treatment of workers of Holcim Philippines, concerning both regular and subcontracted workers. The Swiss NCP expects each party to submit a written report, to be shared with the other party;
- following receipt of the mentioned reports, the Swiss NCP will convene a new meeting, planned in autumn 2021. The meeting will take stock of steps taken following the closure of the specific instance and decide on possible further steps among the parties.

With this Final Statement, the Swiss NCP closes the specific instance.

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<sup>2</sup> OECD [Guidelines](#) for multinational enterprises 2011, Chap. V para 1.e) and respective commentary 54.