

Final Statement from the Belgian National Contact Point on the specific instance : the IUF / AB-InBev – 19 November 2020

Agreement between the parties

The OECD Guidelines for Multinational Enterprises are recommendations by governments to their companies, regardless of where they operate.

These recommendations focus on several areas such as disclosure, human rights, employment and industrial relations, the environment, the fight against corruption, consumer interests, science and technology, competition and taxation. In addition, the concepts of responsible supply chains and due diligence have been introduced.

The various National Contact Points are responsible for monitoring the implementation of these Guidelines.

In Belgium, the National Contact Point (NCP) is chaired by a representative of the Federal Public Service Economy. It has a tripartite structure composed of social partners, representatives from the various federal public services and regional governments.

The NCP's role is, particularly, to contribute to the resolution of the issues raised in specific instances. The NCP will facilitate access to consensual and non-adversarial means such as mediation or conciliation.

Following its Initial Assessment¹ published on 24th of June 2019 offering its good offices, and the Statement published² on 2nd of March 2020 specifying the decision of the parties to continue their dialogue after a first mediation round held in Brussels in November 2019, the Belgian NCP gathered the parties for four additional digital mediation meeting under the guidance of a professional mediator, Patrick Van Leynseele (24th of August, 3rd & 4th of September and 22nd of October 2020).

These mediation sessions confirmed the quality of the dialogue and the respective listening skills between the parties as mentioned in the previous Statements of the NCP. At the end of these meetings, the parties reached an agreement which will enter into force in the coming weeks following this publication.

The NCP wishes to thank all parties involved in the long road leading up to this final statement. During the extensive and clear discussions between the parties, there has always been respect. The NCP also values and appreciates the constant effort of all participants and the willingness to continue to discuss and overcome the many obstacles and different views expressed in the course of the dialogue.

¹ Initial Assessment of the Belgian NCP: <https://economie.fgov.be/sites/default/files/Files/Entreprises/IUF-ABInbev-EN-Initial-Assessment-24-06-2019.pdf>

² Statement, "The Belgian NCP continues to offer its good offices", <https://economie.fgov.be/sites/default/files/Files/Entreprises/Mediation-Statement-NCP-IUF-ABInbev-EN.pdf>.

1. Main steps conducted by the Belgian NCP since the publication of its Statement of March 2020

Between the months of April and July 2020, there were exchanges between The NCP and each party to determine the best way to follow in order to continue the mediation and thus to tend to resolve the issues at stake with the support of the professional mediator

It was commonly agreed by the parties to continue this process under the guidance of the professional mediator already involved. The context of the Covid-19 crisis has made it necessary to reflect and organise the appropriate modalities for holding mediation sessions, at distance, in order to have the highest chances of success. It was also decided to involve directly the four workers concerned as part of the IUF delegation in the mediation sessions. The language barrier could not be an obstacle. Each party therefore provided an interpreter.

The NCP organised a preliminary meeting with the interpreters and with the workers to explain the goals and the role of the NCP, the process of the mediation, and to introduce the mediator mandated by the NCP. This meeting took place on the 5th of August.

During this presentation, it was reminded that the offer of good offices from the NCP is not a determination on the merits of the claims presented, but merely an offer to organize a mediation process aiming at assisting the parties to voluntarily, confidentially, and in good faith, attempt to reach a cooperative resolution of their concerns.

Before the online mediation session, all the parties signed additional term of references specifically adapted to digital mediation.

2. The mediation : challenges and achievements

On 24 August 2020, a full day of mediation was held. The participants were : three IUF representatives and the four workers concerned, four AB-InBev representatives and two interpreters, designated by each party. The session was conducted with the intervention of the professional mediator and a member of the NPC secretariat. The Chair of the NCP was present during the first part of the meeting.

The IUF and the AB InBev representatives have reaffirmed their mandate.

The mediator used a platform enabling the creation of separate “rooms” in which the parties could discuss among themselves, without the presence of the other side, with or without the mediator and the NCP representatives. The latter two could “visit” the separate rooms and hold caucus discussions if and when appropriate or requested by the parties or suggested by the mediator.

The parties were informed of the possibility to organise a second day of mediation at the beginning of September if necessary and at their request

The conclusions of the two days of mediation held in November 2019 were reminded in the introduction, as well as the common points shared by the parties: to work together constructively, to let of the past, the willingness to find together a long term and sustainable solution for everyone involved and to take commitments to Human Rights.

Three points were pinpointed as being central to the debates:

- The implementation of trade union rights;

- the feasibility of the reintegration of the four workers;
- resolving the lack of clarity concerning their status as official trade union representatives.

To achieve this, all parties acknowledged the need to work together towards a productive future of AB InBev, having regard to the specific environment and constraints caused by the Covid crisis. At the end of the day, significant progress has been made and the parties asked the NCP to continue the mediation process.

Before continuing the mediation with an additional session, the NCP requested each party to prepare constructive options for the next session.

On 3 and 4 September, to move further in the process, the NCP and the mediator invited the parties to reflect back on common values shared previously in the first round of mediation in 2019 in order to reach the same goals of a long term sustainable solution. These reflections helped the parties to pave the way to a written agreement including an ad-hoc and dedicated process of reintegration for the four workers. Several caucus sessions were needed for the parties to work out a document and provide feedback while the mediator was virtually jumping between the two groups and try at his best to make a constant link.

By the end of the two full days of mediation, parties agreed on a settlement of a large part of the issues to be dealt with, which includes a reintegration plan for the four workers combining the pre-requisites of the IUF and AB-InBev. The four workers were involved at every steps of the process thanks to the two interpreters.

Over the course of the month of September and October 2020, the NCP continued its intervention with a view to reaching a solution on all the points, in particular that of the role of the four workers also as trade union representatives. After exchanges between the parties on the process and the documents endorsing this role, the situation has been clarified ; the four workers are officially recognised as also trade union representatives by all parties, during a final mediation session with the NCP on the 22 October 2020.

On 28 October 2020, the NCP acknowledged receipt of a signed version of the confidential terms of agreement by all parties, allowing the agreement to enter into force.

3. Content of the agreement

The parties have stated that they wish to keep the content of their agreement confidential but the broader commitments and values shared by all parties can be highlighted as follows :

- AB InBev and the IUF are committed to promote respect for trade union rights and constructive and *healthy industrial relations in a productive, safe working environment that is integral to viable, sustainable business growth.*
- *The commitment is in line with the respective organizations' existing policies and commitments on human rights and diversity as well. They comply with the OECD Guidelines for Multinational Enterprises.*
- *Both organizations recognize the value of communication and clear understanding between parties at all levels to ensure compliance with global policies and international standards and advance constructive and healthy industrial relations.*

3.1 Summary of the main points of the agreement

3.1.1. *reintegration of the four workers and recognition of their role of trade union representatives with the following modalities:*

- To improve communication at all levels and implement these commitments with respect to the Sonapat Plant, a temporary local Advisory Committee will be set up, comprised of representatives of the local management and the four former employees slated for reintegration.
- This Advisory Committee will meet at a neutral and agreed location which may include the Sonapat Plant, for a period of at least six (6) months.
- The Four employees concerned will be reintegrated in Sonapat based on availability of roles matching their skills, education and successful completion of standard ABI requirements and background checks.
- Should the appropriate job roles still not be available after six (6) months, the existing job opportunities as a matter of priority will be evaluated.

3.1.2. *Cessation of local protest actions and picketing*

- The IUF agreed to support the end of local protest actions and picketing disrupting production

3.1.3. *Follow up with the Belgian NCP:*

- The IUF and AB InBev will keep the Belgian NCP informed on progress made during the process and provide information and comments on a regular basis;
- The Belgian NCP shall receive a written update on the reintegration process after a period of 6 months

4. Conclusion at this stage and decision from the Belgian NCP

The NCP welcomes the agreement the parties reached under its offer of good offices and is confident that the constructive dialogue between the parties that the process has recreated, will continue after the closing of the procedure.

The goal of the NCP's 'good offices' in this specific instance has always been to bring the parties together and help them focus on a solution of the issues raised and of the tensions that the conflict has generated. The NCP wishes to remind that the character of its dialogue is not to 'judge' past decisions, occurrences, and allegations made, but that it has a forward looking approach in order to solve the issues raised, thus assisting in resolving the problems for the future.

The Belgian NCP formulates the following recommendations to both parties :

- The Belgian NCP encourages the parties to continue their dialogue to materialise the commitments made in the agreement within the agreed timeframe of 6 months, in a spirit of cooperation and relationship building.

- The NCP recommends that the parties ensure that the selected third-party monitor is neutral and independent in relation to the parties and the purpose of the assignment.
- The NCP recalls the importance of a permanent and constructive company-union dialogue in conformity with human rights and international standards including the OECD guidelines.
- The NCP underscores the utmost importance of mutual respect during the discussions that will take place in the scope of the Joint Committee (and possibly in the margin thereof): all persons involved should be encouraged to display the utmost respect of values and interests of each side but, most of all, of persons and their individual personalities and aspirations. That is key to creating a constructive, fruitful and meaningful dialogue.

The NCP invites the parties to report in writing on the status of implementation of the agreement, and will, if necessary, arrange a meeting with them to discuss its recommendations and the operationalization of the agreement. A follow up Statement on the progress of the situation between the parties after six months will be published.