



Belgian National Contact Point
for the OECD Guidelines
for Multinational Enterprises.

Statement from the Belgian National Contact Point on the specific instance IUF / AB-InBev - 2nd March 2020

The Belgian NCP continues to offer its good offices

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, the Belgian NCP gathered the parties for a two days mediation meeting in Brussels under the guidance of a professional mediator.

While the mediation proved to be successful in terms of generating a dialogue and helped in achieving a common understanding of the respective positions, it didn't yield an agreement. However, the parties decided to continue their dialogue focusing on what appeared to be the central issue, being that of the four dismissed employees, which lies at the core of the submitting party's request.

The Belgian NCP decided to continue offering its good offices should both parties formally request it.

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>

1. Main steps conducted by the Belgian NCP since the publication of its Initial Assessment

On 2 April, 2019, The Belgian National Contact Point (NCP) for the implementation of the OECD Guidelines for multinational enterprises received a specific instance, by the *International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Worker's Associations* (IUF), declaring to represent the local union in India (HBLMU) targeting the activities of the enterprises *AB InBev* and its beer manufacturing facility in Sonepat (India).

It should be reminded that the notifiers called upon the NCP to *"Use its good offices to facilitate a resolution to the multiple adverse human rights impacts arising from AB InBev's failure to address and to remedy violations of the Guidelines at the Sonepat beer production facility in India through direct discussions between the IUF and HBLMU and AB InBev and its management at the Sonepat facility."*

On 24 June, the Belgian NCP published its initial assessment offering its good offices to assist the parties to develop a mutually agreed upon resolution to the issues raised.

On 23 August, *IUF* representatives met with the Chair and the General Secretary of the Belgian NCP in order to have a better understanding of the expectations of the submitting party and to explore ways forward within the offer of good offices. A clear request for a professionally lead mediation over a minimum of two days was suggested.

On 3 September, *Ab Inbev* representatives engaged in a telephone conference with the General Secretary of the Belgian NCP to have a better understanding of the process and to address their views. They shared their readiness to engage in a mediation occurring in Brussels.

In the course of the months of September and October the NCP met with a professional mediator suggested by an expert from the NCP and contractualized this engagement. The NCP also sought guidance to draft proper Terms of reference for the mediation before offering to the parties to review it.

On 30 October, The Belgian NCP formerly introduced its chosen mediator, Mr Patrick Van Leynseele, and offered to the parties the possibility to exchange information and their respective views with the mediator by phone prior to the mediation taking place in Brussels.

2. The mediation : challenges and achievements

On 25 and 26 November, 2019, The Belgian NCP gathered both parties for a two days mediation meeting lead by a professional mediator. Offering mediation on this Specific Instance 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. It should be noted that it was the very first time the Belgian NCP framed a mediation with a professional mediator, which was done upon the specific request of the parties.

Parties were welcomed by the Chair of the NCP. The General Secretary attended the whole mediation session along with the mediator. Terms of reference were agreed upon and signed by all attendants, allowing the parties to proceed under the guidance of the mediator.

Through the first day, it appeared that the core of the query of the submitting party was about the reinstatement of four workers who were dismissed by the local company in 2017. *AB Inbev* objects to such reinstatement. The dispute is still pending before the Indian courts (local parallel proceedings to the NCP case). The dismissal was based on a number of reasons put forward by *AB Inbev*, including alleged inadequate and dangerous behaviour, tampering with factory equipment and falsification of diplomas by these individuals. The *IUF* representatives made it clear that it would continue its support of the four

individuals since the actions undertaken by them and their dismissal by AB-Inbev are to be placed in the light of the defense of trade union rights and those of their representatives, which they believe have been denied by the company.

These four individuals were actively engaged in the former Trade Union that was then changed in 2017 following new contested internal elections, after the failure of the negotiation of the Charter of Demands with the local Management. Since then, the 81 workers are said to be divided in two groups: 59 of them are said to actively support the four dismissed workers and the previous Union representation while 22 are said to approve the new elected Union and to support its new Charters of Demands accepted by the local Management in 2018.

For nearly two years now, blockages, street protests and picket lines have led to temporary disruptions of the production line, poor productivity in a deleterious working atmosphere and have affected the image of *AB-Inbev*.

Both parties agree that such situation is unsustainable and that solutions should be found to restore confidence and good working conditions.

Over the two days of mediation, both parties showed mutual respect and discussed and exchanged views in an atmosphere of serenity helping to develop a common narrative and to understand respective points of views. Also, a joint thinking on proposals, commitments and actions already implemented aimed at strengthening workers rights and proper trade union activity were identified by the mediator on a flipchart during the meeting (which was photographed by the parties). *Ab-InBev* and *IUF* acknowledge the fact that employees should feel comfortable to take positions of leadership within trade union without fear of retaliation. They also share the wish to have meaningful interaction in a "bottom-up" approach with proper structures for employer and employee representatives to meet and discuss workers issues.

According to both parties the two days mediations held in Brussels were helpful in the search for future ways of collaboration and solutions to the pending issues and to build a long term relationship in order to restore trust and a proper running company in Sonapat.

However, at the end of the meeting, both parties regretted that no agreement could be reached.

Ab Inbev wanted to remind that many tools are already in place for all employees and are part of their Human Rights policy such as a grievance committee and a whistle-blower line. The company also reminded the work and actions undertaken during the three past years to identify a path and framework with the Union leadership, all with a view to strengthen workers rights.

Ab Inbev expressed concerns after having made several new proposals that were all rejected in the course of the mediation, such as:

- creating a board with quarterly meetings between staff and management,
- providing resources and information that would further equip employees to organize new internal Union representatives elections, while respecting employee's independent right to do so only at their choosing, with even an offer of services from an independent third party to provide training and support,
- advancing the negotiation for the new Charter of Demands planned in next/upcoming Long Term Agreement,
- accepting to reinstate two of the dismissed employees,

The company regretted that *IUF* hardly changed its stance since the beginning of the mediation and continued focusing only on the reinsertion of the four dismissed workers - something the company was not able to envisage in the light of the serious nature of the alleged past behaviour - while not exploring any other ways of resolution.

As a final note, *Ab Inbev* offered that an additional meeting could be held in India with the four dismissed workers with *IUF* and may be the NCP in order to continue the dialogue and envisioned potential solutions.

While *IUF* shared their disappointment for not reaching an agreement, they recognized progress and good will from the company representatives and welcomed the many proposals put on the table even if they didn't reach their expectations. *IUF* is thankful to the Belgian NCP for having organised this dialogue allowing progress and demystifying the tensions by exploring many ways of progress with the help of the mediator. Since the dialogue proved to be constructive and positive *IUF* welcome the proposal from *Ab Inbev* to continue the mediation with the four suspended workers.

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

Towards the end of the mediation meeting, the parties expressed their wish to have the report include the following:

For AB-Inbev, the company's:

- Proposals, commitments and actions already implemented aimed at strengthening workers rights and proper trade union activity, as were identified by the mediator on a flip chart during the meeting (which was photographed by the parties);
- willingness to allow proper trade union representation on an accelerated basis;
- willingness to organize proper training by an independent third party of its workers in connection with their trade union rights;
- willingness to organize and strengthen the representation process (including further reinforcement of its Human Rights Policy, review of its grievance hotline process and promoting additional channels for raising employee concerns);
- willingness to reinstate two of the dismissed employees², and its acknowledgment that the two other individuals have a right to be elected as non-employee representatives;
- need to keeping in place mechanisms allowing disciplinary and other actions when needed based upon circumstances and needs following proper and non-discriminatory management appraisal;
- regrets of the limited nature of the mandate that the *IUF* representatives apparently received for this mediation process;
- willingness to carry on the dialogue and its willingness to organize a further discussion session that would include the four dismissed employees, either through the The Belgian NCP or through direct discussions between itself and *IUF*.

For *IUF*:

- Its wish to have specific proposals made and discussed during the mediation session remain confidential;
- the acknowledgment of its expectations as embodied in its initial request to the Belgian NCP;
- its acknowledgment of the efforts and commitments already made by *AB-Inbev* to improve the organization and strengthening of workers rights in the areas of common interest as were identified by the mediator on a flip chart during the meeting (which was photographed by the parties);
- its approval of the proposal to organize a further discussion session that would include the four dismissed employees, either through the The Belgian NCP or through direct discussions between itself and *IUF*.

² Mediation did not reach the stage of full discussion on any relevant terms and conditions for this reinstatement due to *IUF* mandate requiring reinstatement of all four former employees.

While the parties showed a desire to reach agreement, unfortunately they were ultimately unable to bridge their differences. The Belgian NCP encourages the parties to continue their dialogue on the issues raised, and stands ready to consider future requests for mediation by the parties under the auspices of the Belgian NCP.