



National Contact Point- NCP

FINAL STATEMENT

Mappel/ Chemists of ABC NCP Complain N° 3/2014

On October 16th, 2013, the Brazilian National Contact Point (NCP) received a notification sent by the Workers' Union and by the Workers of the Chemical, petrochemical, pharmaceutical, paints and varnishes, plastics, synthetic resins and explosives Industries of ABCD, Maúá, Ribeirão Pires e Rio Grande da Serra (the Complainant), against Mappel Packaging industry S/A (the Company), a multinational French enterprise located in Diadema, São Paulo and São Bernardo do Campo, São Paulo.

According to the document, Mappel would be refusing to have a dialogue with the Union and to fulfill the request to accept the Union claimed by most of the workers. Such action would be violating Paragraph 3 of Chapter I, Concepts and Principles; Paragraphs 2 and 9 of Chapter II, General Policies; and Paragraphs 1 (Points a and b), 2 and 3 of Chapter V, Employment and Industrial Relations, of the Guidelines.

I. Concepts and Principles

3. Since the operations of multinational enterprises extend throughout the world, international co-operation in this field should extend to all countries. Governments adhering to the Guidelines encourage the enterprises operating on their territories to observe the Guidelines wherever they operate, while taking into account the particular circumstances of each host country.

II. General Policies

2. Respect the internationally recognized human rights of those affected by their activities.

9. Refrain from discriminatory or disciplinary action against workers who make bona fide reports to management or, as appropriate, to the competent public authorities, on practices that contravene the law, the Guidelines or the enterprise's policies.

V. Employment and Industrial Relations



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1. a) Respect the right of workers employed by the multinational enterprise to establish or join trade unions and representative organizations of their own choosing.
b) Respect the right of workers employed by the multinational enterprise to have trade unions and representative organizations of their own choosing recognized for the purpose of collective bargaining, and engage in constructive negotiations, either individually or through employers' associations, with such representatives with a view to reaching agreements on terms and conditions of employment.
2. a) Provide such facilities to workers' representatives as may be necessary to assist in the development of effective collective agreements;
b) Provide information to workers' representatives which is needed for meaningful negotiations on conditions of employment.
c) Provide information to workers 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.
3. Promote consultation and co-operation between employers and workers and their representatives on matters of mutual concern.

The Complainant informed that, on May 9th, 2013, a letter was filed to officially inform that the affiliation of the workers of the company was desired, to which there was no answer, and again they were called to discuss the matter, on August 25th 2013. The union also said that many meetings with the workers were made, in which they manifested interest in being represented by the Complainant Union.

Given the situation, the Complainant requested the rapporteur the services of mediation for a discussion of the theme "freedom of Association", in the terms of the Guidelines.

In preliminary examination of admissibility, the Brazil NCP concluded that the Complaint met the objective criteria necessary to examine the acceptance of the Complaint. Being so, an e-mail was sent on November 26th, 2013, requesting complementary information. As an answer, the union informed that the Company would be disrespecting Item 3 of Chapter II of the Guidelines, Concepts and Principles, which documents were confidential and of the process of a labor action in the court, process 0000331-76.2012.5.02.0261 .



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After a consultation in the Brazilian NCP, on December 12th, 2013, the Complaint was given to Ministry of Work and Employment, a member with more knowledge of the thematic discussed.

In the analysis for acceptance, the Rapporteur, according to the NCP Resolution 01/2012, decided that the Complaint brought together elements that had thematic relevance with the topics covered by the Guidelines; had well enough delimited focus area; and presented documents that could be analyzed objectively. Due to the exposed, the NCP decided to accept the Complaint and informed the parties, the French NCP, as well as the OECD.

Therefore, through Official Message 16/2015/SRT/TEM, the Rapporteur asked the Company to send its considerations about the Complaint.

After requesting an extension of time, the Company sent its answer on March 13th, 2015, requesting the conclusion of the Complaint due to Court decision that denied the Union claimed by most of the workers in the Company.

Verifying the documents sent by the Company, it is noticed that the NCP Resolution 01/2012 is not pertinent – it does not allow the acceptance of a Complaint that has already been judged in Court. This is because the Complaint was accepted in by the NCP before the matter was finalized in Court. However, the matter decided in Court is completely related to the object of the Complaint, and so the Complaint is jeopardized.

Due to the exposed, the Brazilian NCP decided to terminate and file the Complaint 3/2014.

Brasília, April 7th, 2015.

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