

Edward Davey MP

Minister for Employment Relations.

Consumer and Postal Affairs

Adrian Bailey MP
Business, Innovation and Skills Committee
7 Millbank
House of Commons SW1A 00A

2 November 2010

Dear Adrian,

I am pleased to inform you that the Final Statement by the UK National Contact Point for the OECD Guidelines for Multinational Enterprises on the complaint against Unilever's personal product factory in Assam (India) was published on my Department's website on 2 November 2010. I am pleased to report that the UK National Contact Point's sponsored mediation led to a successful agreement between the parties.

For your information, I enclose a copy of the Final Statement. My Department will also deposit this document in the Libraries of both Houses of Parliament.

*Yours,
Edward*

EDWARD DAVEY

Final Statement by the UK National Contact Point for the OECD Guidelines for Multinational Enterprises

Complaint from the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations against Unilever plc (Doom Dooma factory – Assam – India)

BACKGROUND

OECD Guidelines for Multinational Enterprises

1. The OECD Guidelines for Multinational Enterprises (the Guidelines) comprise a set of voluntary principles and standards for responsible business conduct, in a variety of areas including disclosure, employment and industrial relations, environment, combating bribery, consumer interests, science and technology, competition, and taxation.
2. The Guidelines are not legally binding. However, OECD governments and a number of non OECD members are committed to encouraging multinational enterprises operating in or from their territories to observe the Guidelines wherever they operate, while taking into account the particular circumstances of each host country.
3. The Guidelines are implemented in adhering countries by National Contact Points (NCPs) which are charged with raising awareness of the Guidelines amongst businesses and civil society. NCPs are also responsible for dealing with complaints that the Guidelines have been breached by multinational enterprises operating in or from their territories.

UK NCP complaint procedure

4. The UK NCP complaint process is broadly divided into the following key stages:
 - (1) Initial Assessment - This consists of a desk based analysis of the complaint, the company's response and any additional information provided by the parties. The UK NCP will use this information to decide whether further consideration of a complaint is warranted;
 - (2) Conciliation/mediation OR examination - If a case is accepted, the UK NCP will offer conciliation/mediation to both parties with the aim of reaching a settlement agreeable to both. Should conciliation/mediation fail to achieve a resolution or should the parties decline the offer then the UK NCP will examine the complaint in order to assess whether it is justified;
 - (3) Final Statement – If a mediated settlement has been reached, the UK NCP will publish a Final Statement with details of the agreement. If conciliation/mediation is refused or fails to achieve an agreement, the UK NCP will examine the complaint and prepare and publish a Final Statement with a clear statement as to whether or not the Guidelines have been

breached and, if appropriate, recommendations to the company to assist it in bringing its conduct into line with the Guidelines;

(4) Follow up – Where the Final Statement includes recommendations, it will specify a date by which both parties are asked to update the UK NCP on the company's progress towards meeting these recommendations. The UK NCP will then publish a further statement reflecting the parties' response.

5. The complaint process, together with the UK NCP's Initial Assessments, Final Statements and Follow Up Statements, is published on the UK NCP's website:

<http://www.bis.gov.uk/nationalcontactpoint>.

COMPLAINT FROM THE IUF

6. On 19 October 2007 the "International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations" (IUF) wrote on behalf of the "All-India Council of Unilever Unions" of India, an IUF affiliate, to the UK NCP raising a number of concerns which it considered constitute a Specific Instance under the Guidelines in respect of the operations of Hindustan Unilever Limited, an India based company ("Unilever"), which is a subsidiary of Unilever plc (a UK registered company).
7. The concerns raised by the IUF relate to the operations of Unilever's Doom Dooma factory in Assam (India) and were specifically related by the IUF to the following provisions within the Guidelines:
 - (a) Chapter II(2): "[Enterprises should take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders. In this regard, enterprises should] *Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments*".
 - (b) Chapter IV(1)(a): "[Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices] *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*".
 - (c) Chapter IV(7): "[Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices] *In the context of bona fide negotiations with representatives of employees on conditions of employment, or while employees are exercising a right to organise, not threaten to transfer the whole or part of an operating unit from the country concerned nor transfer employees from the enterprises' component entities in other countries in order to influence unfairly those negotiations or to hinder the exercise of a right to organise*".
8. The IUF's main allegation was that Hindustan Unilever's management at the Doom Dooma factory had failed to respect the right of their employees to be represented by a legitimate trade union by requiring employees to renounce

their membership of the Hindustan Lever Workers Union (PPF), and instead join the Hindustan Unilever Democratic Workers Union, which the IUF alleged had been established by the management following a lockout announced by management on 15 July 2007.

RESPONSE FROM UNILEVER

9. Unilever denied all of the allegations made by the IUF. In particular, Unilever submitted that the Hindustan Unilever Democratic Workers Union was created by Doom Dooma's factory employees who themselves thought the PPF's actions to be illegal. Unilever also questioned whether the PPF's leadership was acting with the support of the majority of their members during the course of the dispute.

UK NCP PROCESS IN THIS SPECIFIC INSTANCE

10. On 19 October 2007, the IUF submitted the complaint to the UK NCP. On 10 April 2008, the UK NCP completed the Initial Assessment on the complaint accepting for further consideration the alleged breach of Chapters IV(1)(a) and IV(7) of the Guidelines, but not of Chapter II(2). In particular, the Initial Assessment concluded that the UK NCP would attempt to facilitate a negotiated settlement on the process to be used to establish which union represents the majority of workers at the Doom Dooma factory. **The acceptance of this Specific Instance for further consideration by the UK NCP does not mean that the UK NCP considers that Unilever acted inconsistently with the Guidelines.**
11. On 20 June 2008, the UK NCP suspended the complaint process under the Guidelines in the light of the decision of the PPF to petition the High Court in India for a supervised election to determine which union represents workers for collective bargaining purposes at Unilever's Doom Dooma factory¹.
12. Between November 2009 and February 2010, the UK NCP reviewed this Specific Instance in the light of its parallel proceeding guidance (which was endorsed by the UK NCP's Steering Board on 16 September 2009²). Having sought the views of both parties, the UK NCP informed both parties on 5 March 2010 that it would apply the guidance to this Specific Instance and progress the complaint in accordance with the UK NCP's complaint procedure³. The UK NCP offered, and both parties accepted, conciliation/mediation.
13. The UK NCP appointed ACAS⁴ arbitrator and mediator John Mulholland to serve as conciliator-mediator. An initial conciliation meeting took place on 21

¹ The UK NCP understands from the IUF that the High Court in India has delivered its judgment in February 2010 and ruled that it had no jurisdiction to supervise a union representation election for the Doom Dooma workers, but that there was nothing to impede such an election taking place should the parties so wish.

² <http://www.bis.gov.uk/files/file53069.pdf>

³ <http://www.bis.gov.uk/files/file53070.pdf>

⁴ Advisory, Conciliation and Arbitration Service.

May 2010 in London. The parties met again on 7 July 2010 in London. The meetings were chaired by Mr Mulholland. No mediation was required as the parties agreed a mutually acceptable solution to the complaint through conciliation. The full text of the agreement reached by the parties is attached as an annex to this Final Statement. The attached agreement refers to the application of a secret ballot at Doom Dooma factory. The UK NCP understands that agreement for the application of the secret ballot could not be obtained in India.

OUTCOME OF THE CONCILIATION

- 14. Following discussions which took place between 7 July 2010 and 29 September 2010, the parties reached the agreement attached to this Final Statement. Both parties have agreed that the full text of the agreement can be published and that there are no outstanding issues from the IUF's original complaint which need to be examined by the UK NCP. The parties also agreed that the implementation of the attached agreement will be jointly monitored by Unilever and the IUF at national and international levels.**

UK NCP CONCLUSIONS

- 15. Following the successful conclusion of the conciliation process by Mr John Mulholland and the agreement reached by the parties, the UK NCP will close the complaint in respect of the Doom Dooma factory. The UK NCP will not carry out an examination of the allegations contained in IUF's complaint or make a statement as to whether there has been a breach of the Guidelines.**
- 16. The UK NCP congratulates both parties for their efforts in reaching a mutually acceptable outcome and for constructively engaging in the discussions.**

18 October 2010

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UK National Contact Point for the OECD Guidelines for Multinational Enterprises

Nick van Benschoten, Sergio Moreno

ANNEX

Agreement between Unilever and the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) relating to Doom Dooma Factory, Assam, India

1. Unilever has committed to establishing a process that is acceptable to the IUF and local union (CITU) representatives to enable all workers at the Doom Dooma factory in Assam, India to confirm membership of a trade union organisation of their choice.
2. This process must enable all individual workers to participate without fear of intimidation, physical violence, discrimination or other disciplinary repercussions. The outcome must be verifiable and validated by an independent third party who is acceptable to all parties.
3. Unilever, the IUF and its affiliated members will agree to abide by the outcome of this process.

The Application of a Secret Ballot

4. In the first instance, Unilever will pursue agreement by the State Government of Assam (including the State Labour Commissioner) to support the holding of a 'free and fair' election at the factory by means of a secret ballot. Unilever has already contacted and written to the relevant Government Ministers and will now accelerate efforts to obtain their consent by no later than 21 July 2010.
5. Subject to the agreement of the State authorities a date for holding a secret ballot will be fixed during August 2010. In order to ensure the integrity of the secret ballot an independent third party District Court Judge (retired) Dharya Saikia (Dibrugarh District Court) has been proposed by the IUF to help oversee and validate the outcome.
6. Unilever will agree to cover the costs and ensure the safety of Dharya Saikia (and any associated members of his team) in the undertaking of this role.
7. All 'confirmed' permanent workers (excluding probationary workers) would be eligible to participate in the secret ballot. Those workers who are currently under suspension would be able to exercise their right to vote by postal ballot.
8. Three copies of the register of all the workmen will be provided, one for each of the unions and one with the independent third party who will act as the presiding officer for the election, and the attendance of workers who have exercised the right to vote will be recorded.

9. Unilever will identify a safe and secure venue for the secret ballot and ensure adequate security is provided (in an area just outside main gate of the factory). Voting will be held on a work day and conducted between 08.00 and 17.00hrs.

10. In casting their ballot workers would be eligible to vote for the Hindustan Unilever Sramik Sangha, the Hindustan Lever Workers Union or 'none of the above'.

11. Three representatives of Hindustan Unilever Sramik Sangha and three representatives of Hindustan Lever (PPF) Workers Union will be allowed to be present at the venue where the election is held.

12. The vote will be tallied and the result publicly announced on the same day as the election. The results will be notified to and verified by the State Labour Commissioner. The results will also be communicated to the UK National Contact Point for the OECD Guidelines for Multinational Enterprises.

13. If no agreement can be obtained from the State authorities and/or if there is a legal challenge by another party (namely INTUC local union) to block progress, it may not be possible to convene a secret ballot process at the factory in a timely or expedited manner.

The Application of an alternative Verification Process

14. In this event, both Unilever and the IUF are in agreement that an alternative 'verification' process to enable all workers to confirm their preferred union membership is necessary.

15. The verification process should be pursued under the 'Code of Discipline' procedure that is a recognised voluntary procedure for resolving Trade Union organisation membership disputes in India.

16. Unilever and the IUF agree that 100% of all confirmed permanent workers should participate. Interviews will be carried out with suspended workers but these will be done at a location outside of the factory premises that is mutually agreed between management and the Hindustan Lever (PPF) Workers' Union.

17. Unilever will identify a safe and secure venue for the verification process within the factory. Interviews will be held on a work day and conducted between 08.00 and 17.00hrs. Workers not on duty shall be allowed to enter the factory to participate in the verification process.

18. A mutually agreed independent third party of high repute in India shall be appointed to oversee and manage this verification process. A nominated officer representing the State Government should also be invited to then note and record the outcome of this process.

19. A procedure for monitoring the verification process as it takes place shall be agreed upon by the independent third party in consultation with local union and

management representatives in order to ensure the credibility and transparency of the verification process.

20. The independent third party will need to be agreed by both Unilever and the IUF. It is proposed that a short list of suitable candidates (approx 5-6 names) be drawn up by no later than Friday 16th July 2010. Both Unilever and the IUF can nominate suitable candidates who should be confirmed by no later than 2 August 2010.

21. It is proposed that the individual workers be interviewed solely by the independent third party or his/her nominee.

22. This process should once again guarantee that all workers can express a preference without risk of intimidation, physical violence, discrimination or other disciplinary repercussions.

23. Workers will be invited to declare whether they wish to belong to and be represented by the Hindustan Unilever Sramik Shangha, the Hindustan Lever Workers Union or 'none of the above'.

24. A commencement date for the individual interviews will be set in agreement with the independent third party, the IUF and Unilever. The interview process should take no longer than 5 working days to complete. The outcome must be verifiable and validated by the credible and trusted independent third party.

25. The outcome should be made public and shared with all relevant stakeholders (including the UK National Contact Point for the OECD Guidelines for Multinational Enterprises).

26. Unilever and the IUF will agree to accept and abide by the outcome for future collective bargaining purposes.

The Deduction of Trade Union Membership Dues

27. Unilever has already agreed to halt the deduction of trade union membership dues (15 rupees) that are currently deducted each month on behalf of the Hindustan Unilever Sramik Sangah (INTUC).

28. The Company had sought to cease deductions on 2 July 2010 but following representations by INTUC to the Assam State Labour Commissioner were legally obliged to reinstate these deductions pending the outcome of a conciliation procedure initiated on 3 July.

29. A conciliation meeting with the State Labour Commissioner, Unilever and INTUC has been set for 12 July 2010. INTUC has threatened an indefinite period of strike action should the deduction of fees not be reinstated. Unilever has made it clear that the deduction of membership dues is wholly 'discretionary' and that as a result of numerous written representations the will of individual workers can no longer be verified.

30. Unilever is committed to ceasing the deduction of membership fees for any trade union organisation as soon as possible. A further attempt to cease deductions will be made in August but the company may face the risk of further litigation should no agreement be forthcoming under the conciliation procedure. The IUF for its part has made it clear that all 'illegal' deductions must cease in August irrespective of the legal situation that the Company faces given the lack of progress that has been made to date.

31. The implementation of this agreement will be jointly monitored by Unilever and the IUF at national and international levels.

Signed by:

Nick Dalton

(V.P., H.R. Global Supply Chain, Unilever)

Ron Oswald

(General Secretary, IUF)

London, 7 July 2010