

**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 on India's Sewri factory**

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 in three 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/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 the UK NCP has examined the complaint, it will prepare and publish a Final Statement with a clear statement as to whether or not the Guidelines have been breached and recommendations to the company for future conduct, if necessary.

5. The complaints process, together with the UK NCP's Initial Assessments and Final Statements, is published on the UK NCP's website <http://www.bis.gov.uk/nationalcontactpoint>.

COMPLAINT FROM THE IUF

6. On 3 October 2006 the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Association (IUF) brought a complaint to the UK NCP and the Dutch NCP on behalf of one of its affiliates, the Hindustan Lever Employees Union (HLEU). The complaint concerned the selling of Hindustan Lever Limited's¹ Sewri factory in Mumbai (India) to Bon Limited and the factory's subsequent closure in July 2006. Hindustan Lever Limited is a subsidiary of a UK registered company, Unilever plc.
7. The concerns raised by the IUF related to the following provisions within the Guidelines:
 - (a) Chapter I(7): *"Governments have the right to prescribe the conditions under which multinational enterprises operate within their jurisdictions, subject to international law. The entities of a multinational enterprise located in various countries are subject to the laws applicable in these countries"*.
 - (b) Chapter IV(6): *"[Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices] in considering changes in their operations which would have major effects upon the livelihood of their employees, in particular in the case of the closure of an entity involving collective lay-offs or dismissals, provide reasonable notice of such changes to representatives of their employees, and, where appropriate, to the relevant governmental authorities, and co-operate with the employee representatives and appropriate governmental authorities so as to mitigate to the maximum extent practicable adverse effects. In light of the specific circumstances of each case, it would be appropriate if management were able to give such notice prior to the final decision being taken. Other means may also be employed to provide meaningful cooperation to mitigate the effects of such decisions"*.
8. The IUF alleged that Unilever was operating in a manner inconsistent with the Guidelines by transferring ownership of the Sewri factory, which the IUF claimed was effected in order to close the facility and terminate the employment of all the union's members. The IUF alleged that aspects of the transfer represented a breach of Indian law and that this fact meant that Unilever had acted inconsistently with Chapter I(7) of the Guidelines. According to the IUF, Unilever also breached Chapter IV(6) of the Guidelines because it had failed to provide

¹ Now "Hindustan Unilever Limited".

reasonable notice to the employees and their representatives about the transfer of ownership of the factory and the termination of the employment contracts.

RESPONSE FROM UNILEVER

9. Unilever denied all allegations that its conduct was inconsistent with the Guidelines. In particular, Unilever contended that the decision to close the Sewri factory was based solely on economic factors, that is to ensure Hindustan Lever Limited's competitiveness. Unilever explained that both Hindustan Lever Limited and Bon Limited offered favourable voluntary retirement schemes to all employees, exceeding the statutory legal obligations and market practice in India. Unilever also explained that Hindustan Lever Limited's management made several attempts at an amicable settlement with HLEU.

UK NCP PROCESS IN THIS SPECIFIC INSTANCE

10. On 3 October 2006 the IUF submitted the complaint to the UK NCP and to the Dutch NCP. On 12 January 2007, the UK NCP formally agreed to take responsibility of this case. On 15 May 2007, the UK NCP published its Initial Assessment in which it accepted the Specific Instance. **Acceptance of this Specific Instance by the UK NCP does not mean that the UK NCP considers that Unilever operated inconsistently with the Guidelines.**
11. On accepting the complaint, the UK NCP did not consider itself to be in a position to judge whether Indian law had been broken. In any event, the Indian courts were determining the compatibility of various issues raised in the complaint with Indian law. The UK NCP accepted this Specific Instance in order to assist the parties to reach a negotiated settlement on the situation of the 782 employees in the Sewri factory who did not originally accept the Voluntary Retirement Scheme (VRS) offered in respect of the factory's closure.
12. Between May 2007 and October 2009, at the request of the parties, the complaint was effectively (albeit not formally) suspended to allow negotiations on the matter of the 782 employees in the Sewri factory and other related matters to take place in India without the direct involvement of the UK NCP. On 13 October 2009, both parties informed the UK NCP that they had reached a mediated settlement in India outside of the UK NCP's process, addressing all the issues raised in IUF's original complaint.

UK NCP CONCLUSIONS

13. **The UK NCP will close the complaint in respect of the Sewri factory and no examination on the allegations contained in IUF's complaint will take place.**

14. The UK NCP congratulates both parties for their efforts in encouraging discussions in India leading to a mutually acceptable outcome.

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