

**Statement by the
German National Contact Point for the "OECD Guidelines for Multinational Enterprises"
on the Complaint Filed against Bayer CropScience
by German Watch, Global March, and Coordination gegen Bayer-Gefahren**

On October 11, 2004 the non-governmental organizations German Watch, Global March, and Coordination gegen Bayer-Gefahren (hereinafter designated as "complainants") submitted a complaint against the Bayer CropScience company to the German National Contact Point for the "OECD Guidelines for Multinational Enterprises" in the Federal Ministry of Economics and Technology. The complainants allege that suppliers of Bayer CropScience in the Indian state of Andhra Pradesh employed children in cotton cultivation and that Bayer CropScience had not taken adequate measures to counter the practice. In response, Bayer CropScience argues that all reasonable means had been taken to prevent the practice.

After conducting comprehensive discussions with the involved parties, at the end of which Bayer CropScience issued a declaration committing itself (see page 3) to act in conformity with the principles set forth in Chapter II, Section 10 and Chapter IV Section 1.b of the OECD Guidelines, the National Contact Point closes the complaint proceedings with the said declaration. In the declaration, the National Contact Point voices the expectation that Bayer CropScience will act in accordance with its voluntary commitment both now and in the future.

Background

The OECD Guidelines for Multinational Enterprises contain recommendations by the governments of the OECD countries and some non member countries concerning the foreign involvement of companies. The OECD Guidelines are based on the principle of voluntary conduct and contain standards of conduct and principles for corporate behavior relating to foreign investment. Their purpose is to foster the positive effects of foreign investment by provision of a frame of reference. National Contact Points have been established in the interest of the further dissemination and knowledge of the OECD Guidelines and for the possible arbitration of issues that might potentially arise.

The question raised in the case at hand relates to Chapter IV Section 1.b of the OECD Guidelines, which calls on enterprises to *"contribute to the effective abolition of child labor."* In particular, Chapter II Section 10 of the OECD Guidelines calls on enterprises to work toward the goal of the abolition of child labor also in the framework of their dealings with business partners and sub-contractors.

Case Background

On Indian cotton plantations, children are still used as workers for pollinating the cotton hybrid plants. They are taken away from schooling during the field-work season and can often no longer be re-integrated into regular classroom education; they are frequently exposed to possible health hazards from pesticides.

The complainants accuse Bayer CropScience of tolerating child labor on the part of the sub-contractors producing cotton seeds and not making adequate use of the possibilities that their business connections give them of influencing the operations. Although Bayer CropScience included a formal prohibition of child labor in its contracts, in practice this was not being monitored effectively enough. Furthermore, Bayer CropScience contributed to the further employment of children as cheap labor by paying suppliers at levels attuned to low profit margins.

Bayer CropScience responds by pointing out that, since the take-over of the India's Proagro seed company as part of the global acquisitions undertaken by Aventis CropScience, a child protection program had been instituted to prevent child labor in the sub-contractors of that subsidiary, owned by Bayer AG since mid 2002. In that connection, the incompatibility of child labor with Bayer AG's corporate philosophy was stressed and the already initiated measures to eliminate the employment of children highlighted. But child labor in India was still very common in India's farm sector, which is why Bayer CropScience would be able to achieve changes only within the enterprise's supply chain. The elimination of child labor beyond the enterprise's direct area of impact would require, among other things, the targeted and, above all, on-site involvement of non-government organizations. And it would presuppose a fundamental transformation in the population's mentality, a change that could not be accomplished by a company acting on its own.

But among the seed-producing enterprises in India, Bayer CropScience had taken on a position of leadership. In this connection, an extensive catalogue of measures was being implemented and constantly further developed. The enterprise describes the measures as a system of incentives and sanctions to induce sub-contractors exclusively to employ adult workers. And there was the continuing independent supervision of the fields, the so-called "Creative Learning Centers" to reintegrate former child laborers into regular everyday schooling, along with measures to encourage the proper and safe handling of pesticides by workers. In addition, Bayer CropScience was training its contractors to enhance their productivity. For this purpose, the enterprise had developed its own training program and drafted teaching material in several languages; this information was being provided to farmers free of charge.

The implementation of these measures by Bayer CropScience was described by the complainants as not satisfactory since child labor was still to be observed on the cotton farms. In response, Bayer CropScience emphasized the program's success to date, backed by figures, and emphasized its long-term orientation. Moreover, as the only enterprise in the branch thus far, Bayer CropScience had developed its own professional organization to ensure that there is no child labor in the sub-contractors' fields also in the future. Despite the recent expansion of the size of production, the number of sporadically spotted child laborers in the fields of contractors had shown further declines. From the perspective of Bayer CropScience, farmers were responding in a positive manner to the measures, which had been designed to continue into the long term.

Proceedings

After the OECD Guidelines were found to be applicable to the issues raised here, a total of four rounds of talks were held at the National Contact Point between the complainants and representatives of Bayer CropScience. Since Bayer CropScience refused direct contact with one of the complainants and since it was not possible to have that party represented by the two other complainants, the arbitration talks had to be conducted with each of the separate parties, thus making the proceedings more difficult in formal and substantive terms.

For the same reason, there was no possibility of a joint final statement being issued by the parties to the proceedings. However, Bayer CropScience stated its willingness to issue of declaration of voluntary commitment. The National Contact Point herewith closes the complaint proceedings, and refers to Bayer CropScience's Declaration of Voluntary Commitment for any individual questions that might arise.

Declaration of Voluntary Commitment by Bayer CropScience

In its Declaration of Voluntary Commitment, Bayer CropScience states its willingness to act, now and in the future, in accordance with the principles set forth in Chapter II, Section 10 and Chapter IV, Section 1.b of the OECD Guidelines. The individual measures to which Bayer CropScience commits itself are as follows:

- to continue actively to combat child labor,
- to continue to undertake all reasonable measures within Bayer CropScience's sphere of influence to protect children and support them in their commencement of schooling and occupational life,
- to continue and further improve the present program to protect children and foster the productivity of the farmers in agricultural regions of India,
- to continue to make seasonal reports available to the National Contact Point and other interested parties in the interest of success monitoring,
- to continue to pursue intensive contacts with the ILO with the objective of facilitating better access to education for children and young persons in agricultural regions, and
- after prior consultation to grant the National Contact Point and groups interested in constructive dialogue (except, according to Bayer CropScience, one of the complainants) an on-sight look into the Bayer CropScience program for combating child labor.

Final Remarks by the National Contact Point

The National Contact Point expects Bayer CropScience to honor this voluntary commitment, now and in the future, and closes the proceedings with a word of thanks for the efforts made by the parties involved.