

**Annual Reporting by National Contact Points
for the period June 2003-June 2004**

BRAZIL/BRÉSIL

A. Institutional Arrangements

The OECD Guidelines for Multinational Enterprises were formally implemented in Brazil by a Decree n° 92, of May 12th, 2003 of the Minister of Finance. The General Co-ordination is under the responsibility of the Ministry of Finance at the International Affairs Secretariat (one single Department) and involves other Ministries such as: Ministry of Foreign Relations, Ministry of Planning, Budget and Management, Ministry of Labour and Employment, Ministry of Justice, Ministry of Environment, Ministry of Science and Technology, Ministry of Development, Industry and Trade and the Brazilian Central Bank.

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The OECD Liaison Office of the Brazilian Embassy in Paris has a supporting role in relation to the Guidelines and their implementation. The OECD Liaison Office is responsible, within the Brazilian Embassy in France, for the follow-up and co-ordination of all activities related to the co-operation between the OECD and Brasil.

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Presently, NCP in Brazil is working in the implementation of an Advisory Committee with the purpose to cooperate with the NCP in the establishment of strategies, proposal of measures and activities to effectively promote the implementation of the Guidelines in Brazil. This Committee will be formed by the NCP and one representative of each of the following entities of the civil society with national relevance: Workers Union Confederations, Companies Union, Science and Technology, Industry and Trade Confederations, by-national Chamber of Commerce and Industry, Consumers Protection and any other entity considered by the NCP that play an important social role in the areas covered by the Guidelines, such as SOBEET (Brazilian Society for Multinational Enterprises Studies). The Committee will meet twice a year or whenever necessary.

The NCP is also finalizing the approval of a Resolution that regulates the presentation of complaints to the PCN.

After its creation, the NCP notified by letter the most important Workers Unions, Trade and Industry organizations, Chambers of Commerce and Industry, NGO's in the areas covered by the Guidelines. The letter explained the purpose of the Guidelines and attached the text of the Guidelines giving the contacts of the responsible officer in Brazil. Also notified all of them that additional information is disclosed at the Internet.

In 2003, the officer responsible for the NCP in Brazil attended meetings in Brasília and São Paulo to make presentations about the Guidelines.

In March of 2004, the newly appointed officer participated in São Paulo of a Seminar organized by a NGO – Observatório Social giving a presentation about the Guidelines. The International Seminar reunited 6 multinational companies (Bayer, Thyssen Krupp, Bosch, Phillips, Unilever, Ahold), Syndicates from Netherlands (FNV Mondiaal) and Germany (DGB - IG Metal, IG BCE), and Brazilian Syndicates (CUT, Força Sindical and others), and NGO's (Instituto Ethos, Diesat, Inama), Associação Brasileira de Químicos – Abquim, and Labour International Organization.

B. Information and Promotion

The OECD Guidelines and the Implementation Procedures are available in Brazil and the translations of the text into Portuguese are available in the internet site of the Ministry of Finance (www.fazenda.gov.br/multinacionaispcn). The translations are preceded by an introductory text that explains the general purpose of the Guidelines. It is also available the addresses of the National NCP, the composition of the NCP, the contacts and addresses worldwide, the regulations, documents, complaints and events. And indicates that comments and other requests can be posted through the Ministry channel of public dialogue, under the heading "Fale Conosco" (Talk to us). The site also contains a link to the OECD homepage and to other important multilateral and bilateral agencies, Workers Union Confederations, Companies Union, Science and Technology, Industry and Trade Confederations, by-national Chamber of Commerce and Industry, Consumers Protection, etc.

Until now, at the Ministry of Finance, we are in the process of disclosing some documents such as reports of some of the meetings and decisions in cases already solved.

Presently, the NCP is working in the organization of disclosure of informative publications to be sent to investment promotion agencies, departments of education, business schools. Also we are working together with some NGO's and other entities to participate in seminars and conferences to promote and inform about the Guidelines.

So far, the NCP Brazil received no enquiries from other NCP of adhering and non-adhering countries. In Brazil, the employees' organisations and non-governmental organisations are the most active and interested to know about the Guidelines.

C. Implementation in specific instances

Since the implementation of the Guidelines in Brazil the NCP received 4 (four) specific instances. One of them involving PARMALAT – CUT in the South of the country is already solved, and 3 are being examined by the NCP in Brazil.

1. Company: Parmalat Brasil S/A Indústria de Alimentos – PARMALAT

Complainant: Central Única dos Trabalhadores (Workers Central Union) – CUT

Complaint: Article 6th, Chapter IV, from the OECD Guidelines for Multinational Enterprises was not observed when the enterprise decided to close down the premises at Porto Alegre's PARMALAT plant. No communication from the factory was given before decision was taken neither to the workers union nor to any government sphere.

Norm: Article 6th, Chapter IV, from the Guidelines states that the Multinational Enterprises should: "Offer the workers representatives and if it would be the case, to the competent public authorities, beforehand, all needed information related to foresighted changes to be introduced in the enterprise activities, capable to significantly alter the way of life of the workers, specially, in the case of closing down of unities that could imply in major dismissals of workers; cooperate with workers representatives and authorities to mitigate the adverse effects derived from the related measures; depending on the specific circumstances of each case and when it should be the case give information even before a final decision is made; other means could be used to build a constructive cooperation with the purpose to alleviate as much as possible the adverse effects of those related measures; depending on specific circumstances of each case and when possible, give notice even before taking a final decision; other means would be employed to allow a constructive cooperation with the purpose to substantially reduce the effects of those decisions".

Date that specific instance was received: September 26th, 2002.

Sector of activity: Manufacturing of dairy products (milk, yogurt, etc..).

The NCP members who decided to accept the complaint analyzed the request received on September 26th, 2002. On June 11th, PARMALAT's management forwarded a letter to the workers from the yogurt plant at Porto Alegre giving them knowledge about the transfer of that line of production for mid November that year. Until that moment the enterprise had not mentioned anything about that decision. The letter envisaged to employ part of the workers at other plants; promised to give three more months of health insurance after their dismissal; additional cash would be paid together with the departure bill and proportional to housing time of each worker; spread the news about disposed workers at Porto Alegre's region; training for interviews and notions of domestic economy.

The letter also mentioned the reason for closing down that unit: the main consumer's market location was in the Southeast whilst the plant was located in the deep south of the country. There were 410 workers at the plant when the enterprise began to fire 50 people a month from August 2002 on.

On November 7th 2002, PARMALAT sent a letter to the NCP affirming that they have received copy of the letter that the Workers Union – CUT had sent to NCP and tried to justify the decision of closing the plant. The letter was discussed at a NCP meeting at December 2002 and the members decide to accept the complaint.

On March 21st 2003, the company, CUT and PCN reunited and the CUT representative reassured the complaint and read the Article of OECD guidelines that had been violated. Also informed that they had informed the Italian NCP of the complaint. The Director of the PARMALAT presented a company's plan to alleviate the effects of the company's decision.

Conclusion: The Article 6th, Chapter IV, of the Guidelines is not only related to the necessity to minimize the impacts of entrepreneurial decisions among workers. It goes beyond trying to make those alternatives work. When it disposes about the necessity to inform workers and the government before taking any final decision that could substantially affect the life of workers, the Guidelines show a way towards participative alternatives. It must be mentioned that PARMALAT has offered a reasonable compensation to the workers above the level demanded by the Brazilian legislation. On the other side, the company didn't explore alternative solutions as the Guidelines prescribe. We all know that the final decision of closing or transferring a plant belongs to the company, but the workers and the government participation in evaluating the matter for an alternative solution would bring about possible options or at least to help keep the plant where it was. If that was not the case, at least alternative solution was tried and studied.

On June 20th, 2003, the NCP Brazil advised PARMALAT S. A. to observe the proceedings in similar cases in future situations encouraging the participation of other concerned parties, before taking decisions about questions substantially related to the life of the community they belong.

This decision has been the first one considered by NCP Brazil. The results were communicated to the Italian NCP but, so far, not to the public. Presently, the newly Brazilian NCP Director is considering publishing at the Internet site a summary of the case and of the decision.

2. **Company:** General Motors do Brasil – Gravataí Plant – Rio Grande do Sul

Complainant: Sindicato dos Metalúrgicos de Porto Alegre (Metal Workers Syndicate) – CUT

Complaint: Article 1st, Chapter IV, from the OECD Guidelines for Multinational Enterprises was not observed when the enterprise recognized as legitimate representative of the workers another Syndicate (SINGRA) than the Sindicato dos Metalúrgicos de Porto Alegre (Metal Workers Syndicate) which operates in Gravataí and other 7 cities near Porto Alegre.

Norm: Article 1st, a) Chapter IV, from the Guidelines states that the Multinational Enterprises should: “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 employer’s associations, with such representatives with a view to reaching agreements on employment conditions;”

Date that specific instance was received: September 26th, 2003

Sector of activity: Manufacturing – Cars

The specific instance has been accepted by NCP Brazil and notice has been given to US NCP. After the analysis of the documentation received NCP Brazil sent a letter to the company requesting information on the subject.

On February 16, 2004, the instance was discussed at a NCP meeting with the presence of GM and the Syndicate representatives and both presented their point of view. The company explained that they recognized as legitimate representative of the Gravataí workers the SINGRA (Sindicato de Gravataí) created in 1998, until the year of 2002 when the SINGRA had its registration license suspended by the Justice. The Sindicato dos Metalúrgicos de Porto Alegre that submitted the complaint is presently forbidden by the Justice to operate in Gravataí. Besides the two there is also an Associação dos Trabalhadores das Indústrias Metalúrgicas de Gravataí, created in 1986. Presently, there are 3 Syndicates in the city of Gravataí and none of them are regularly legitimate to represent the workers. The Justice is presently deciding the dispute between the entities.

GM clarified that there has been an agreement with the 3 entities to establish a schedule between them with specific days to contact the workers in the Gravataí Plant. Gravataí has a total of 12.000 metal workers and GM has 3.331 workers in the plant.

The Sindicato dos Metalúrgicos de Porto Alegre invokes that GM favored the Sindicato de Gravataí (SINGRA) affecting negatively the workers when negotiating the union's agreement in 1999/2000.

Clearly, NCP recognizes there has been a dispute between the entities to be the legitimate representative of the metal workers in Gravataí.

Present Situation: NCP Brazil decided to suspend the analysis of the instance until there is a decision from the Justice establishing which of the entities is recognized as the legitimate representative of Gravataí metal workers.

3. **Company:** Unilever

Complainant: Central Única dos Trabalhadores (Workers Central Union) – CUT

Complaint: Article 2nd, b) and Article 6th, Chapter IV, and from the OECD Guidelines for Multinational Enterprises were not observed when the enterprise decided to close down the premises at Vinhedo Unilever's plant. No communication from the factory was given before decision was taken neither to the workers union nor to any government sphere.

Norm: Article 2nd, b), Chapter IV, from the Guidelines states that the Multinational Enterprises should "Provide information to employee representatives which is needed for meaningful negotiations on conditions of employment".

Article 6th, Chapter IV, from the Guidelines states that the Multinational Enterprises should: "Offer the workers representatives and if it would be the case, to the competent public authorities, beforehand, all needed information related to foresighted changes to be introduced in the enterprise activities, capable to significantly alter the way of life of the workers, specially, in the case of closing down of unities that could imply in major dismissals of workers; cooperate with workers representatives and authorities to mitigate the adverse effects derived from the related measures; depending on the specific circumstances of each case and when it should be the case give information even before a final decision is made; other means could be used to build a constructive cooperation with the purpose to alleviate as much as possible the adverse effects of those related measures; depending on specific circumstances of each case and when possible, give notice even before taking a final decision; other means would be employed to allow a constructive cooperation with the purpose to substantially reduce the effects of those decisions".

Date that specific instance was received: October 27th, 2003.

Sector of activity: Manufacturing – Tooth paste.

The request was analyzed by the NCP who decided to accept the complaint. NCP prepared a letter to the company requesting information on the subject. In the answer dated February 12th, 2004, Unilever explained that in October 10, 2003 announced to the workers, workers union, the Prefeitura de Vinhedo, local press, suppliers and others, the company's decision to transfer the Vinhedo plant to a new plant located in Ipojuca, state of Pernambuco, northeast of Brazil. The impact of this decision would affect 150 workers (100 due to the transfer of the unit and 50 due to the new automated process). The company presented the workers the possibility of transfer to the new plant located in Ipojuca.

At the same time, Unilever presented a plan to minimize the effects of the transfer of the plant: to give support in the reallocation of the workers at other units of the company or other plants in the region; promised to extend for a longer period the life and health insurance after their dismissal; additional cash would be paid together with the departure bill and proportional to housing time of each worker; pay for training courses to increase the chances of the employee to get a new job.

Until February 12, 2004, according with company's information, 42 workers had been reallocated and 63 are participating of selection process in companies located in the region. Unilever also explained that the decision of transferring the plant to the Northeast region was the solution found in the search of new export markets (Central America).

From October to December negotiations between the company and the Syndicate were suspended and restarted at the beginning of January 2004. On January 15th, 2004, Unilever received the NCP correspondence informing the instance and requesting information and decided to suspend the negotiations. In February 5th, 2004, the Vinhedo workers went on strike. NCP Brazil informed the Dutch NCP of the situation.

Present Situation: On May 25th, NCP received a notice from Central Única dos Trabalhadores (Workers Central Union) – CUT informing that, after a number of pressures from the Syndicate, civil society entities, politicians, besides the fact that the instance had been submitted to the NCP and was being examined, the Unilever direction announced that the company would be working an alternative plan that would involve the investment in new production lines at Vinhedo and this would absorb most of the workers of the dismissal list. At the same time, the company keeps offering help to the workers that want to leave the plant.

The Syndicate requested NCP to contact the company requesting them to clarify the terms of the proposal. In a contact with Unilever NCP contacted the company that reassured the interest in solving the situation in a short period of time.

NCP Brazil will be following the situation and believe Unilever and the Syndicate will find a satisfactory agreement shortly.

4. **Company:** Bom Preço/Wal-Mart

Complainant: Confederação Nacional dos Trabalhadores no Comércio e Serviços (Commerce and Services Workers Central Union) – CONTRACS – CUT

Complaint: NCP received on March 2004 from CONTRACS-CUT a letter stating several issues that are presently being analyzed to decide if they will be accepted or rejected.

Date that specific instance was received: March 26th, 2004.

Sector of activity: Retail distribution

On March 2004, the NCP Brazil has received from Contracs - CUT a request for a meeting to discuss the situation Bom Preço and Wal-Mart. Contracs-CUT has sent a set of documents that are being analyzed by NCP to decide if there is a specific instance to be accepted or rejected.

Present Situation: NCP members are analyzing the documents to decide if the instances will be accepted or rejected.

Specific instances considered by NCP's to date

Annex Table 4 presents a summary table intended to provide basic information about specific instances that have been accepted for consideration by NCP's. NCP's are asked to complete this table.

D. Other

How have the core criteria for the operation of NCPs (visibility, accessibility, transparency, and accountability) been applied in your country to further the effectiveness of guidelines implementation?

The implementation of the Advisory Committee will help to give effectiveness to the guidelines in the country.

Also, after the approval, the Resolution that regulates the presentation of complaints to the PCN will be sent by mail together with a copy of the guidelines to the principal Workers Union Confederations, Companies Union, Science and Technology, Industry and Trade Confederations, by-national Chamber of Commerce and Industry, Consumers Protection Entities and multinational companies.

PCN Brazil is presently in contact with Syndicates to participate in conferences and seminars giving presentations about the Guidelines and NCP role. We are also in contact with the other Ministry's and Government agencies in Brazil to include the NCP link in their websites.