



National Contact Point of Brazil

DECLARATION OF TERMINATION OF COMPLAINT

Case BASF - *Complaint PCN N° 03/2010*

It came to the attention of this National Contact Point (NCP) on April 19, 2010, the complaint object of the Complaint NCP No. 03/2010, sent by the Unified Workers' Central (CUT), on behalf of trade unions members of the Workers Network at BASF South America, against the company BASF S.A.. CUT is a trade union based in Sao Paulo, Brazil.

According to the claimants, the company BASF S.A. used legal loopholes, nominally the mechanism of Prohibitory Interdict, to prevent the presence of union leaders in their units, and did not use the channel of Social Dialogue at the time of the dismissal for cause of a legitimately elected workers' representative.

Because of the alleged practices, the claimants denounced violations committed by the multinational corporation to the "OECD Guidelines for Multinational Enterprises", particularly to the chapter on Employment and Industrial Relations. Claimants considered BASF S.A. particularly disrespectful to the following recommendation:

IV. Employment and Industrial Relations

Enterprises should, within the applicable law, regulations and prevailing labor relations and employment practices and applicable international labor standards in:

1.a) 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; (...)

In a preliminary analysis by this National Contact Point, it was concluded that the complaint presented elements that kept thematic relevance to the topics addressed by the "OECD Guidelines for Multinational Enterprises", contained focus sufficiently circumscribed and had a list of supporting documents that could be verifiable by objective criteria. As a result, the NCP decided to accept the complaint and to communicate the fact to the NCPs of the host countries of the company BASF S.A., and to the OECD.

After the acceptance of the complaint, BASF S.A. was asked to make their comments to the allegations, a necessary step to further the analysis on the issue.

In October 19, 2010, BASF S.A. sent a reply to the Letter No. 125/2010/SAIN/MF-DF, in which it presented clarifications on each point of the complaint and requested the filing of the complaint. According to BASF S.A., the strike, which initiated after the signing of the Collective Agreement, ended naturally. Since the strike did not have total support from employees and did not observe some legal formalities, a regional Labor Court (*Tribunal Regional do Trabalho*) dismissed the strike as abusive and, in consequence, BASF S.A. resorted to the legal mechanism of Prohibitory Interdict.

On August 28, 2011, the NCP received a formal letter from the Central Union of Workers (CUT) and from the Workers Network at BASF South America requesting the suspension and the cancellation of the complaint. Also, the NCP received a letter of commitments made between BASF S.A. and representatives of the Network INTRAB (InterTrade Union of National Workers at BASF).

BASF S.A. and its workers committed, among other things, to improve the conditions of the dialogue between the representatives of workers and the enterprise in case of warning and /or suspension of the representatives, and even in cases of dismissal for cause, and the participation of the Workers Network in the integration of new employees, on the occasion of integration meetings.

In light of the above, the NCP decided to close this complaint, noting that the NCP avails itself to make the necessary efforts to help the parties in this case, in event of any new facts, or if parties envisage specific aspects in which the NCP performance can be useful to contribute towards an understanding.

National Contact Point
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