An Roinn Fiontar,
Trádála agus Fostaíochta
Department of Enterprise,
Trade and Employment

Initial Assessment by the Ireland National Contact Point for the OECD Guidelines for Multinational Enterprises

Specific Instance Complaint from IUF against the Coca Cola Company/Ballina Beverages

Summary of the Ireland NCP Decision

- The Complaint is made by IUF, a global Union Federation, against The Coca Cola Company, specifically its wholly owned franchised bottling operation in Ballina, Co. Mayo - Ballina Beverages.
- The Complaint relates to Chapter V (Employment and Industrial Relations); Chapter IV (Human Rights) and Chapter II (General Principles) concerning issues regarding the right to form/join Unions; right to representation by Unions for collective bargaining; that a Company would not threaten transfer of an operation in the context of negotiations with workers representatives on employment conditions; and commitments to provide effective whistleblowing.
- The Ireland NCP has examined the complaint and has decided that some aspects of the complaint merit further consideration and should, on those aspects, proceed to the offer of good offices. As there are differing perspectives between the parties, organising dialogue between the parties could contribute to a resolution of the issues.
- The Ireland NCP will formally ask the parties whether they are willing to engage in a mediation process with the aim of reaching a resolution. If both parties agree to mediation, the Ireland NCP will liaise with the parties to arrange this.
- If these meetings achieve a resolution, the Ireland NCP will reflect this in a Final Statement without making a determination about the merits of the claim or whether the company acted consistently with the Guidelines. If a mediated solution is not possible, the Ireland NCP will conduct an examination of the case and will reflect the outcome in a Final Statement that may include recommendations.

Object of the Complaint

The Ireland NCP has received a Specific Instance Complaint (21 November 2018) from the **IUF**, a global Union Federation for trade unions representing workers in the food, agricultural, hotel, restaurant, catering, tobacco and allied sectors, hereinafter referred to as "the complainant". The Complaint is against **The Cola Company (TCCC)/Ballina**

Beverages, hereinafter referred to as "the company". The Irish trade Union, SIPTU, is affiliated with the complainant and is associated with the complaint against the company. The complainant alleges breaches by the company of the OECD Guidelines, particularly those relating to:

- The right to form/join Unions; right to representation by Unions; and that a company would not threaten transfer of an operation in the context of negotiations with workers representatives on employment conditions (Guidelines Chapter V: Employment and Industrial Relations);
- Associated interference with internationally recognised rights, to join trade unions particularly in ILO conventions and International Bill of Human Rights (Guidelines Chapter IV, Human Rights); and
- Breach of commitments to provide effective protection for whistleblowing (Guidelines Chapter II, General Principles).

The complainant contends that employees have been unfairly influenced by management in determining whether they wish to be represented by SIPTU. The complainant further contends that

"senior management stated that employees exercising their right to join SIPTU, and subsequently exercising their right to collective bargaining would result in catastrophic outcomes for the workers at the facility" and "all jobs at the facility would be placed at risk".

The complainant further contends that:

"Management further stated that SIPTU achieved collective bargaining at the Drogheda plant two years prior to its closure and that SIPTU was responsible for its closure."

The complainant contends that SIPTU had collective bargaining arrangements in Drogheda for "many more than the two years claimed by senior management

representatives" and that such a misrepresentation suggested serious consequences for the future of the Ballina plant should SIPTU engage in collective bargaining.
The complainant also references two claims (2015 and 2018) filed by SIPTU at the Irish Labour Court which recommended:

> *"The Company should recognise the Union as the representative of those employees who are in membership of the Union and should engage with it in dealing with employment related matters arising within the employment affecting those members."*

The complainant contends that the Labour Court recommendation is a description of collective bargaining on behalf of 109 Union members, since to negotiate terms and conditions of employment individually *"would violate the rights of these workers to freedom of association and collective bargaining as affirmed in the Guidelines."*

The complainant contends that the company's failure to accept and act on the Labour Court recommendation (which is not legally binding) represents a denial of collective bargaining rights of employees who have chosen to join SIPTU and wish SIPTU to represent them through collective bargaining. On 19 October 2018, SIPTU sent its most recent request to the Company to discuss collective terms and conditions. Management responded noting the Labour Court recommendation and they would continue their current approach and *"respect the wishes of any Associate who seeks to be represented by SIPTU in an employee relations matter."*

The complainant further contends that pressure has come from management at all levels on employees not to support or join SIPTU. The complainant also claims that shift patterns are regularly unilaterally changed by management at short notice and employees would be at even greater risk of such action if they were Union supporters or members. It also claims adverse comments by a worker on the plant operations or management might adversely affect their performance ratings and would be at greater risk if they were open about their support/membership of SIPTU. The complainant also contends that the company does not

provide sufficient whistleblowing protection for reporting of human rights violations including those that are the subject of this complaint.

Guidelines provisions cited by the Complainant

Chapter V, A.1:

"Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices and applicable international labour standards:
1.a) Respect the right of workers employed by the multinational enterprise to establish or join trade unions and representative organisations of their own choosing.
1.b) Respect the right of workers employed by the multinational enterprise to have trade unions and representative organisations of their own choosing recognised for the purpose of collective bargaining, and engage in constructive negotiations, either individually or through employers' associations, with such representatives with a view to reaching agreements on terms and conditions of employment."

Chapter V, A.7:

"In the context of bona fide negotiations with workers' representatives on conditions of employment, or while workers are exercising a right to organise, not threaten to transfer the whole or part of an operating unit from the country concerned nor transfer workers 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."

Chapter IV, A.1-2:

1. *Respect human rights, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.*
2. *Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur.*

Chapter II Commentary Paragraph 13:

"Following from effective self-regulatory practices, as a matter of course, enterprises are expected to promote employee awareness of company policies. Safeguards to protect bona fide "whistle-blowing" activities are also recommended, including protection of employees who, in the absence of timely remedial action or in the face of reasonable risk of negative employment action, report practices that contravene the law to the competent public authorities. While of particular relevance to antibribery and environmental initiatives, such protection is also relevant to other recommendations in the Guidelines".

The Initial Assessment Process

The purpose of the initial assessment is to determine if the issues raised in the complaint merit further examination by the Ireland NCP.

It does not determine whether the Company has acted consistently or inconsistently with the Guidelines.

Complaint Handling Process

21 November 2018	Complaint received from Ireland NCP from the complainant.
22 November 2018	Ireland NCP confirms receipt and commitment to review.
22 November 2018 to 1 March 2019	Review by the Ireland NCP including consultation (internal review, desk-based research, consultation with NCPs and OECD Secretariat).
1 March 2019	Letter issued by Ireland NCP to the company copying Complaint and Ireland NCP Procedures. Response invited by 18 April 2019.
1 March 2019	Letter issued by Ireland NCP to the complainant with Ireland NCP Procedures and inviting submission of any further information.
17 April 2019	Response received from the company.
23 May 2019	Further letter issued by Ireland NCP to the company requesting consent to share response.
25 June 2019	Ireland NCP offers opportunity for further information from the complainant based on the company response.
11 July 2019	Ireland NCP receives further information from the complainant.
18 July 2019	Ireland NCP provides for further information from the company based on the complainant response.
18 September 2019	Ireland NCP receives further information from the company.
10 February 2020	Ireland NCP completes draft initial assessment and issues to the parties.
24 February 2020	Ireland NCP receives letter from the complainant in relation to the draft initial assessment
6 July 2021	Letter issued by Ireland NCP to both parties informing them the draft initial assessment is being reviewed
30 July 2021	Ireland NCP issues Initial Assessment Statement to both parties
13 August 2021	Ireland NCP publishes Initial Assessment

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Is the Ireland NCP the right entity to assess the Specific Instance Complaint?

The Procedural Guidance (Commentary, paragraph 23, page 82) within the Guidelines states that: *"Generally, issues will be dealt with by the NCP of the country in which the issues have arisen."* As the issues raised primarily concern industrial relations issues in a specific plant in Ireland, the Ireland NCP is the most appropriate entity to assess the Specific Instance. As the company is a US multinational, the Ireland NCP has informed the US NCP of the complaint and has kept the US NCP updated.

Ireland NCP Decision

The Ireland NCP decides on the basis of the information provided by the complainant and in the response by the company, that grounds exist that point to the need for more in-depth examination and the offer of good offices in this Specific Instance. The Ireland NCP is obliged to set out the reasons for this decision in some detail in the interests of transparency and accountability. The Ireland NCP took the following points into consideration in arriving at this decision.

a) Identity of the complainants and their interest in the matter

The complainant is a global Union Federation for trade unions representing workers in the food, agricultural, hotel, restaurant, catering, tobacco and allied sectors. The Services Industrial Professional and Technical Union (SITPU) is an affiliate of the complainant and is the largest Union in Ireland with members across public and private sectors. The complaint contains an affidavit of 109 SIPTU members in the plant subject to the complaint as of 19 June 2018. Thus, the complainant has standing.

b) Whether the issue is material and substantiated

The Ireland NCP has examined each aspect of the complaint relative to the specific alleged breaches of the Guidelines and provides the following assessment based on information provided by the complainant and the company:

i) Regarding **Chapter V A.1a)** (respect the right to establish/join trade unions), the complainant states that senior management stated at a number of meetings in the two weeks up to 3 April 2018 that "*employees exercising their right to join SIPTU, and subsequently exercising their right to collective bargaining would result in catastrophic outcomes for the workers at the facility"* and that *"all jobs at the facility would be placed at risk."*

The complainant further states that "*Pressure came from management representatives at all levels"* on employees to not support or join SIPTU. The complainant also states that shift patterns are *"regularly unilaterally changed by management at short notice"* and employees "*would be at even greater risk of such action if they were Union supporters and/or members."* They also state that any adverse comment by a worker about plant operations or plant management "*might adversely and unjustifiably affect their performance ratings'* and *'workers felt strongly that they would be at greater risk if they were open about their support and/or membership of SIPTU."*

The Ireland NCP also notes from the complainant's submission that Union membership has increased according to the affidavit provided, with 73 of the 109 Union members (two-thirds of the stated total plant membership) joining from January 2017 to May 2018.

The company in its response states that it has engaged with SIPTU in relation to individual employee issues on each occasion requested. The Company also states that

it has communicated to their employees at team and plant meetings that they "*have the right to join or to not join a union and are free to choose.".* The company further states that management *"do not engage in discussion about union membership unless requested to do so"* and that the company *"would not tolerate any anti-union activity on its behalf by either managers or indeed employees.".* The company states that it has been necessary to communicate Ballina Beverages' position as they became *"aware of internal pressure to join a union by a small number of union members and this was having a negative impact on employees who did not want to join SIPTU."* Regarding the complaint that shift patterns are regularly unilaterally changed by management at short notice, the company states only once in the past 20 years was it necessary to request employees to change their shift pattern due to the need to back up a sister plant. The company also states that its bonus scheme *"is connected to both individual and plant performance"* and that Union membership has no impact on individual ratings as the company *"is not aware of who is in membership".*

The company stated in a letter to the Union dated the 31 October 2018 that it *"respects the wishes of any Associate who seeks to be represented by SIPTU in an employee relations matter"* as per the Labour Court Recommendations issued in 2015 and 2018. The company also states in its response to the complaint that it will continue to do so if requested by an employee.

On this basis, and given that the company has engaged with the Union on each occasion requested, both regarding individual issues and via the Labour Court, the Ireland NCP has not identified sufficient grounds in the complaint submitted to conclude that the right to establish or join trade Unions has not been respected.

ii) With regard to **Chapter V A.1 b)** (right to collective bargaining), the complainant references two claims (2015 and 2018) filed by SIPTU at the Irish Labour Court which recommended:

"The Company should recognise the Union as the representative of those employees who are in membership of the Union and should engage with it in dealing with employment related matters arising within the employment affecting those members".

The complainant argues that the Labour Court recommendation is a description of collective bargaining on behalf of 109 Union members since to negotiate terms and conditions of employment individually would violate the rights of these workers to freedom of association and collective bargaining as affirmed in the Guidelines.

The chapeau to Chapter V of the Guidelines refers to the framework of applicable law, regulations and prevailing labour relations and employment practices and applicable international standards. In this context, Chapter V. 1 (b) encourages enterprises to engage in collective bargaining:

"respect the right of workers employed by multinational enterprises to have trade unions and representative organisations of their own choosing recognised for the purpose of collective bargaining, and engaged in constructive negotiations, either individually or through employers' associations, with such representatives with a view to reaching agreements on terms and conditions of employment."

Paragraph 47 (Commentary Chapter V) states:

"This chapter opens with a chapeau that includes a reference to 'applicable' law and regulations, which ***is meant to acknowledge the fact that multinational enterprises, while operating within the jurisdiction of particular countries, may be subject to national and international levels of regulation of employment and industrial relations matters****. The terms 'prevailing labour relations' and 'employment practices' are sufficiently broad to* ***permit a variety of interpretations in light of different***

national circumstances – for example, different bargaining options provided for workers under national laws and regulations*. (IE NCP highlights)*

In Ireland, the system of industrial relations is essentially of a voluntarist nature, within a statutory industrial relations framework that recognises and facilitates collective bargaining. There is no legal requirement in Irish law for enterprises to engage in collective bargaining. The Irish Constitution guarantees the right for citizens to join associations and trade unions. It does not however establish a concomitant obligation of compulsory recognition of associations/trade unions on employers for the purpose of collective bargaining. This principle has been firmly established in jurisprudence before the Superior Courts in Ireland.

While the constitutional and legal position in Ireland does not oblige enterprises to engage in collective bargaining, neither does it prevent them from engaging in collective bargaining. Irish law has gone to considerable lengths to support and facilitate collective bargaining, most recently in the context of the Industrial Relations Act, 2015. This Act amends the Industrial Relations Act 2001 and adds to the pre-existing rights provided for under the 2001 Act by putting in place a mechanism to allow a trade union, in the event of a claim for disparity in terms and conditions of employment, to bring a claim before the Labour Court on behalf of workers, even where the union is not recognised by the employer. It is understood that to date, no claim has been submitted by SIPTU under the 2015 Act on behalf of workers at the company's plant in Ballina.

It is also the understanding of the Ireland NCP that while recognising the important position and status of national law in the chapeau to Chapter V, the OECD Guidelines and the principles and standards promoted therein, although voluntary in nature, can exceed the requirements of national law. In 2020, the Trade Union Advisory Committee (TUAC) requested the OECD Investment Committee to provide clarification and a recommendation in relation to the OECD Guidelines on Multinational Enterprises. The

specific request put by TUAC was if industry-led or multi-stakeholder processes used by companies to conduct due diligence in respect of human and labour rights issues fulfil the requirements of Chapter II. A. 10 and 11 and Chapter IV. 1, 3, and 5 of the Guidelines if they do not include engagement with trade unions?

In response, the OECD Investment Committee issued a recommendation[1]: "*When examining due diligence steps taken by a company in respect of risks to workers based on industry-led or multi-stakeholder initiatives, NCPs should consider whether these initiatives include meaningful engagement with worker representatives, including with bona fide trade unions as a priority where these exist consistent with the clarifications ….*".

Furthermore, in 1998 at the International Labour Conference in June 1998, a Declaration was adopted at that session entitled the ILO Declaration on Fundamental Principles and Rights at Work[2] and this deals, inter alia, with the issue of collective bargaining. The Declaration in Part 2 (a):

"*Declares that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:*

(a) *freedom of association and the effective recognition of the right to collective bargaining;"*

[1] Engagement with Trade Unions in Due Diligence Processes Conducted by Industry-led or Multi-Stakeholder Initiatives (oecd.org)
[2] The text of the Declaration and its follow-up (DECLARATION) (ilo.org)

Although Ireland has not ratified the ILO Collective Bargaining Convention of 1981 (No. 154), Ireland is party to the 1998 ILO declaration.

The Ireland NCP would also draw attention to the fact that, under the OECD Guidelines, enterprises are not expected to go as far as to contravene local law but, if local law is inconsistent with the Guidelines, enterprises are expected to *"seek ways to honour such principles and standards to the fullest extent which does not place them in violation of domestic law."* In the Irish context there is no statutory restriction on the recognition of unions by employers.

A further point noted by the Ireland NCP is that the company's internal corporate policies i.e. The Human Rights Brochure for Employees[3] and the Human Rights Policy Managers Guide 2015[4] included on the company's corporate website appear to commit the company to collective bargaining where the employees have a legally recognised labour union.

In the Human Rights Brochure under the Heading "**Freedom of association and Collective Bargaining**" it is stated:

> *"We respect our employees' right to join, form or not to join a labor union without fear of reprisal, intimidation or harassment. Where employees are represented by a legally recognized union, we are committed to establishing a constructive dialogue with their freely chosen representatives. The company is committed to bargaining in good faith with such representatives."*

[3] Human Rights Brochure for Employees
[4] human-rights-policy-managers-guide-2015.pdf (coca-colacompany.com)

The **Managers Guide at** page 28 states:

"The company aims to have a productive relationship with employees' recognised representatives and will bargain in good faith with the intent to reach agreements that are in the best interests of employees and the company. Where such agreement is reached, the company will comply with the terms of the agreement during its effective period and within the confines of the law at all times. When a group of employees is represented by a legally recognized labor union, managers must not bypass the union to deal directly with individual employees regarding their terms and conditions of employment".

The bargaining process referred to in the managers guide is defined as *"Collective bargaining"* or "*bargaining*" as the process by which the employer and the employees' legally recognised labour union meet to discuss employees' wages, hours and working conditions.

The company's internal policy at corporate level therefore appears to encourage and support collective bargaining but that does not appear to be the policy applicable in the current specific instance complaint involving the wholly owned subsidiary Coca Cola/ Ballina Beverages.

In conclusion, the Ireland NCP finds sufficient grounds relating to the aspect of collective bargaining to warrant further examination and the offer of the NCP's good offices.

iii) Regarding **Chapter V A.7** (threat to relocate the plant whole or part in order to influence negotiations or the right to organise), the Complainant contends that in meetings during the two weeks leading up to 3 April 2018

"senior management stated that employees exercising their right to join SIPTU, and subsequently exercising their right to collective bargaining would result in catastrophic outcomes for the workers at the facility" and that *"all jobs at the facility would be placed at risk."*.

The complainant states that the company has not repudiated this. The complainant states that any threat to close the plant would mean *"production at Ballina would be replaced by production at sites in other countries."* In further information provided by the complainant it states: *"a strong impression was conveyed by senior and line management that a formal union presence at Ballina might threaten the plant's existence and thus employment in the region."*

In its submission, the company strenuously denies any factual basis exists for the assertion the company has ever threatened to transfer the whole or any part of its operating unit outside of Ireland or transfer workers. The company contends that it has never sought to unfairly influence the employees' choice in determining whether they wish to be represented by SIPTU.

It is the view of the Ireland NCP that there is insufficient substantiation in the complainant's submission regarding a specific threat by management that meets the provision of Chapter V Article 7 of the Guidelines (Pages 36/37)

"to transfer the whole or part of an operating unit from the country concerned nor transfer workers 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."

The Ireland NCP cannot determine from the information submitted, that there was a threat made by management regarding transfer of operations or transfer of workers to the plant from other countries.

iv) Chapter IV – The human rights aspects of the complaint relate to the right to all workers to form and join trade unions, and the right to collective bargaining, specifically ILO Conventions 87 and 98 and the International Bill of Human Rights. Ireland has ratified ILO Conventions 87 and 98 as well as the International Bill of Human Rights and upholds these international standards. As regards the constituent instruments of the International Bill of Human Rights - Article 8 of the International Covenant on Economic Social and Economic Rights deals with the right to join trade unions as does Article 23 of the Universal Declaration of Human Rights and Article 22 of the International Covenant on Civil and Political Rights. The right to form and join trade unions is a right upheld by the Irish Constitution.

In light of the Ireland NCP's findings above relating to Chapter V, (the right to establish/join trade unions and the right to collective bargaining), the NCP considers that these issues have been comprehensively dealt with above from the perspective of the NCP's role which arises only in the context of the OECD Guidelines for MNEs.

v) In the context of **Chapter II Commentary Paragraph 13 (safeguards to protect bona fide "whistle-blowing" activities**, page 23**)**: The Ireland NCP notes the company's contention that there are mechanisms for reporting of wrongdoing to local management. Further that if such mechanisms are not used, it is the case that the Protected Disclosures Act 2014 provided for under Irish employment law, should provide adequate additional protections if that is necessary as the company is bound to observe this law. In further information received from the company it is stated that *"local management"* also extends to reporting to a Local Ethics and Compliance Officer who is not based in TCCC Ballina but within the same jurisdiction.

The Protected Disclosures Act 2014, protects workers in Ireland that work in the public, private and not-for-profit sectors from retaliation if they speak up about wrongdoing in the workplace. The Act provides that workers can report wrongdoing internally to their

employer or externally to a third party, such as a prescribed person. Persons who make protected disclosures (sometimes referred to as "whistleblowers") are protected by law and they should not be treated unfairly or lose their job because they have made a protected disclosure. In addition, there are a wide range of other protections in Irish employment law which afford protection for persons against discrimination for by reason of membership of or participating in trade union activity.

The Ireland NCP concludes that, notwithstanding any local arrangements that the company has put in place to cater for whistleblowing activities, the company is bound by the protections afforded under the Protected Disclosures legislation. This requires the company to put in place a facility also to report alleged wrongdoing to a third party which, by definition, would be external to the company. The Ireland NCP considers that the remedies available under that legislation provides the appropriate framework within which to process any alleged shortfalls by the company. Moreover, Section 9 of the Act affords trade union officials a status in relation to disclosures in the context of health and safety as well as environmental damage.

c) Link between the enterprise's activities and the issues raised in the Specific Instance

The Complaint is made by IUF, a global Union Federation, against The Coca Cola Company, in relation to its wholly owned and controlled plant, Ballina Beverages based at Ballina, Co. Mayo and the complaint relates to activities at Coca Cola's Irish based operation in Ballina, Ireland.

d) Relevance of applicable law and procedures, including court rulings

It has been the policy of successive Irish Governments to promote collective bargaining through its laws and through the development of an institutional framework supportive of a voluntary system of industrial relations that is premised upon freedom of contract and freedom of association. The freedom of association and the right to organise and bargain

collectively are also guaranteed in a number of international instruments which the State has ratified and which it is, therefore, bound to uphold under international law. The Industrial Relations (Amendment) Act 2015 came into effect in Ireland on 1st August 2015. The legislation provides a mechanism by which the fairness of the employment conditions of workers in their totality can be assessed in employments where collective bargaining does not take place and brings clarity and certainty for employers in terms of managing their workplaces in this respect. The 2015 Act also explicitly prohibits the use of inducements by employers to persuade employees to forgo collective bargaining representation and provides protections for workers who invoke the provisions of the 2001/2004 Industrial Relations Acts or who have acted as a witness or a comparator for the purposes of those Acts.

The Industrial Relations Act 2015 amended the previous Industrial Relations Act (2001) to insert a definition of collective bargaining

> ***1A.*** *For the purposes of this Act, 'collective bargaining' comprises voluntary engagements or negotiations between any employer or employers' organisation on the one hand and a trade union of workers or excepted body to which this Act applies on the other, with the object of reaching agreement regarding working conditions or terms of employment, or non-employment, of workers.*

The legislation therefore maintains Ireland's voluntary system of industrial relations. But it also provides that where an employer chooses not to engage in collective bargaining either with a trade Union or an internal 'excepted body', and where the number of employees on whose behalf the matter is being pursued is not insignificant (in relation to the grade, group or category of workers concerned, or any larger related grade, group or category of workers), there is in place an effective framework to have the terms and conditions assessed and determined by the Labour Court, if necessary.

e) How similar issues have been, or are being, treated in other domestic or international Complaints

In terms of the specific complaint on the right to collective bargaining, as outlined Ireland's system of industrial relations is of a voluntarist nature and issues arising at domestic level are normally considered in the context of Industrial Relations legislation and considered, in the first instance, by the Labour Court and, on appeal, to the Superior Courts of Ireland. The Ireland NCP has consulted the OECD Secretariat as to the application of the Guidelines in relation to complaints on collective bargaining and in relation to the interpretation of the Guidelines in the context of similar complaints taken by other NCP's.

f) Whether the consideration of the Specific Instance contributes to the purpose and effectiveness of the Guidelines

The Guidelines are clear that "national circumstances" and "prevailing labour relations and employment practices" (Chapter V, Industrial Relations) should be considered alongside international standards. While in this instance, there are parallel and opposing concerns for the NCP to balance, the OECD Guidelines promote standards that can exceed domestic obligations, in particular where no domestic prohibitions exist to prevent the application of those higher standards.

Next Steps

Following the issuing of the initial assessment to both parties to the complaint and publication of the initial assessment, the Ireland NCP will formally ask the parties whether they are willing to engage in mediation/conciliation with the aim of reaching a resolution.

The offer of good offices is voluntary to both parties. Subject to their response, the Ireland NCP will liaise with the parties to arrange mediation/conciliation meetings. If these

meetings achieve a resolution, the Ireland NCP will reflect this in a Final Statement without making a determination about the merits of the claim on whether the company acted consistently or inconsistently with the Guidelines.

If a mediated solution is not possible, the Ireland NCP will conduct an examination of the complaint and will reflect the outcome in a Final Statement that may include recommendations.