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SPECIFIC INSTANCE

“DIAM International in Turkey”

9 September 2021

Follow-up Statement of the French National Contact Point

The NCP notes that freedom of association and collective bargaining are still not in place in DIAM’s Turkish subsidiary and workers dismissed in May and June 2017 were not reinstated. It requests DIAM to step up its due diligence measures to lead to the establishment of the social dialogue in its Turkish subsidiary as provided for in the OECD Guidelines in order to fully remedy the shortcomings already found

The French National Contact Point for the Implementation of the OECD Guidelines for Multinational Enterprises (NCP) was referred by the Turkish Trade Union Birlesik Metal Is on 2 August 2017 with a specific instance concerning the French multinational enterprise DIAM International regarding the activities of its Turkish subsidiary, DIAM Vitrin.

The NCP accepted the referral in October 2017 and then conducted its good offices until October 2018. After noting the persistence of disagreements between the parties, the NCP then moved to the conclusion phase of the referral. It adopted a final statement on 14 May 2019. It announced that it will follow up the file.

The French NCP is a tripartite body for the non-jurisdictional settlement of disputes related to the implementation of the Guidelines for Multinational Enterprises. Its purpose is to contribute to the resolution of the questions referred to it through its good offices, mediation and conciliation. It endeavours to examine the issues raised as soon as possible, within 12 months of receipt of the specific instance if this is feasible. It publishes its decisions on its website.

1. Reminder of the Specific Instance “DIAM in Turkey”, 2017-2019

♦ Summary of the content of the specific instance

The specific instance relates to a social conflict that broke out on 12 May 2017 in the factory of DIAM Turkish subsidiary on the occasion of the unionization campaign carried out by the trade union Birlesik Metal Is to open collective bargaining with DIAM Vitrin. The factory experienced strong tensions after dismissals decided by the company at the beginning of May 2017 and after the company challenged the decision of the Turkish Ministry of Labour and Social Security taken at the end of May 2017 to recognize Birlesik Meyal Is’s competence to conduct collective bargaining in that company. This was a workers’ protest movement. Work stoppages spread over several days in May and June 2017. DIAM Vitrin



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dismissed 12 workers in the beginning of May 2017. These dismissals were followed by workers' work stoppages. After estimating that it was an illegal 8-day strike, the company decided to dismiss 76 workers. In total, dismissals represented 90% of the factory workforce. Birlesik Metal Is questions the dismissals it considers anti-union, the company's non-recognition of the union by the company and the absence of a collective bargaining agreement negotiations with DIAM Vitrin. It considers that DIAM Group does not comply with the OECD Guidelines. Several court cases were lodged by Birlesik Metal Is and by workers and the one hand and by DIAM Vitrin on the other hand.

♦ Summary of the procedure followed between August 2017 and May 2019

After completing the initial assessment of the referral, the NCP accepted the referral in October 2017 as it questions the effectiveness of the OECD Guidelines on the issue of corporate due diligence of the Group's head-office vis-à-vis its Turkish subsidiary, as well as on respect for human rights, workers' freedom of association and representation and collective bargaining within the group's Turkish subsidiary (see: "General principles"- Chapter II A10, A11, A12, A14, "Human rights" - Chapter IV 2, 5, 6, "Employment and industrial relations" - Chapter V 1a, 1b, 7, 8). The NCP conducted its good offices between the parties between November 2017 and October 2018 and then moved to the conclusion phase of the procedure to prepare its final decision. The NCP adopted a final statement on 14 May 2019, outlining the procedure followed, analyzing issues raised by the referral and addressing several recommendations to DIAM. The NCP indicated that it will follow up on them.

Extracts from the NCP Final Statement 14 May 2019

Following dialogue led by the NCP, the DIAM International Group has improved its due diligence policy although the NCP did note shortcomings in respect of a number of the OECD Guidelines' recommendations. The Group must strengthen its due diligence vis-à-vis its Turkish subsidiary to achieve full compliance with the Guidelines.

Recommendations A10, A11, A12 of chapter II on the General Principles:

DIAM and DIAM Vitrin have taken due diligence measures to identify and prevent the adverse labour impacts. However, the NCP believes that social dialogue within the enterprise must still improve.

➔ **RECOMMENDATION 1:** *Regardless of the outcome of the ongoing legal proceedings, and pending final court decisions, the NCP recommends that DIAM should continue to implement its due diligence initiatives for its Turkish subsidiary in order to remediate adverse impact on labour-related human rights (workers' freedom of association and right to be consulted on matters of mutual concern; see below) and to create conditions conducive to social dialogue in the plant in compliance with the Guidelines and local laws.*

Recommendations 2, 5 and 6 on human rights (chapter IV) and 1a, 1b, V3 and V8 on employment and labour relations (V):

➔ **RECOMMENDATION 2:** *The NCP recommends that DIAM and DIAM Vitrin improve social dialogue within the Turkish subsidiary in order to comply with the OECD's Guidelines and decisions of the Turkish courts.*

➔ **RECOMMENDATION 3:** *When the courts issue their final decisions, the NCP requests that DIAM's Turkish subsidiary should act promptly to comply with these decisions. For these purposes, the NCP recommends that DIAM and DIAM Vitrin establish and contribute to remediation schemes that could be used, for example, should the Turkish courts rule that the dismissals in May – June 2017 were anti-union in nature.*

➔ **RECOMMENDATION 4:** *The NCP requests that DIAM Vitrin comply with the "Employment and Industrial Relations" chapter of the Guidelines. More specifically, the NCP recommends that the Group should ramp up its action plan at DIAM Vitrin so that workers can elect their own representatives as soon as possible and begin consultations on matters of mutual concern (V.8) until a union is recognized as legally competent to carry out collective bargaining or to lead negotiations on labour relations (V.1a, V.1b, V.3). It notes that DIAM has informed it that an election process was launched and elections have indeed been held in its Turkish subsidiary.*

In conclusion, the NCP "reiterates its strong attachment to social dialogue and the OECD Guidelines "(Art. V1a, V1b, V3) and" emphasizes the importance of due diligence by enterprises "(arts. II.A.11 and II.A.12)".



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For more information on the treatment of the specific circumstance:

■ Webpage dedicated to the referral on the French NCP website

<https://www.tresor.economie.gouv.fr/tresor-international/pcn-france/circonstance-specifique-diam-international-en-turquie>

■ Initial Assessment Statement of 14 December 2017 : [HERE](#)

■ Final Statement of 14 May 2019'. "Following dialogue led by the NCP, the DIAM International Group has improved its due diligence policy although the NCP did note shortcomings in respect of a number of the OECD Guidelines' recommendations. The Group must strengthen its due diligence vis-à-vis its Turkish subsidiary to achieve full compliance with the Guidelines". [HERE](#)

2. Procedure followed by the NCP in accordance with its rules of procedure

In its final statement, the NCP requested *"that the parties keep it informed, in writing, of changes to the situation in six months (October 2019) and 12 months (April 2020)"* and indicated that it "will publish a follow-up statement if it considers this to be relevant". The follow-up to this referral has been extended due to the impact of the health crisis due to the Covid 19 pandemic on the Group's activities. The follow-up was also extended as a result of ongoing parallel proceedings initiated by DIAM Vitrin (who appealed and appealed in cassation in several legal cases), by workers dismissed in May and June 2017 and by Bilesik Metal Is. The last legal cases (see below) ended in May and June 2021.

The NCP has been in regular contact with the parties in 2019, 2020 and 2021, and with the Turkish NCP, to follow up on its recommendations. It regularly referred to this file at its meetings.

◆ Actions carried out between November 2019 and June 2021

The NCP wrote to DIAM in November 2019 and then in April 2020 inviting it to inform it of the steps taken to implement its May 2019 recommendations. In July 2020, the complainant informed the NCP of progress made in parallel proceedings to the referral. The NCP transmitted this information to DIAM in September 2020 and invited it to inform it of the steps taken to follow up on its recommendations.

In February 2021, the complainant informed the NCP of progress made in parallel proceedings to the referral and sought the support of the NCP to meet with DIAM. The NCP discussed this information at its meeting on 9 March 2021. At its meeting on 6 April 2021, it decided to transmit this information to DIAM, and to the Turkish NCP, and to prepare a follow-up statement as well as to coordinate with the Turkish NCP. The NCP informed the parties and the Turkish NCP of these decisions on 12 April 2021. On this occasion, the NCP indicated to the parties that it stays at their disposal to organize a meeting, what DIAM did not wish. DIAM stated its preference to organize a meeting at local level.

On 30 April 2021, DIAM provided the NCP with an updated on actions taken in response to its recommendations and ongoing procedures. On 25 May and 17 June 2021, the complainant informed the NCP of new decisions of the Turkish courts which closed the last legal cases and which, four years after the social conflict of May-June 2017, endorsed the recognition of the union's competence for DIAM Turkish subsidiary. The NCP forwarded these decisions to DIAM while proposing again to organize a meeting with the complainant, what DIAM did not wish at that time. DIAM indicated that *"negotiations*



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with the union would follow the Turkish law". On 22 June 2021, DIAM reminded the NCP of the actions taken to improve dialogue in its subsidiary and informed the NCP of the SA 8000 certification of its Turkish subsidiary.

The NCP discussed these issues at its meetings on 1 June and 2 July 2021 and in coordination with the Turkish NCP. The NCP adopted a draft follow-up statement on 2 July 2021, which was subsequently subject of consultations with the parties and the Turkish NCP. The NCP adopted the follow-up statement on 9 September 2021. It was then forwarded for information to the parties and the Turkish NCP prior to its publication on its website ([here](#)). The statement was published on 20 September 2021 and was notified to the OECD in order to update the NCP database ([here](#)).

♦ Coordination with the Turkish NCP

The NCP secretariat organized coordination with the Turkish NCP in the framework of the referral follow-up. In particular, the Turkish NCP provided support to monitor and verify judicial proceedings in Turkey. It was consulted on the draft follow-up statement. The French NCP thanks the Turkish NCP for its support.

This coordination is in line with its practice and [the OECD guide on NCP coordination](#)¹.

3. Follow-up of May 2019 Recommendations of the French NCP

The NCP reports back on information exchanged with the parties in follow-up of its recommendations between May 2019 and June 2021.

It notes that DIAM Group's activities had been and are affected by the Covid 19 crisis.

♦ Position of the Complainant

The complainant trade union, Birlesik Metal Is, has regularly informed the NCP of decisions issued by Turkish courts since the conclusion of the referral. The complainant states that DIAM Vitrin claims were rejected or DIAM Vitrin was condemned in the litigation concerning the charge of illegal strike, the dismissals of workers decided in early May 2017, and the recognition of the union by the Ministry of Labour and Social Security and the sectoral assignment to the metal sector. It points out that the Court ruled that the workers had been dismissed on account of their trade union affiliation. It notes that the company has systematically appealed these decisions and appealed in cassation where possible. The complainant union considers that DIAM Vitrin thus avoided opening collective bargaining with it. The complainant regularly sought the assistance of the NCP to meet with DIAM, what the Group did not wish.

According to the trade union, these decisions of Turkish courts confirm that the DIAM Group did not comply with the OCDE Guidelines during the social conflict of May – June 2017 in its Turkish subsidiary and that all dismissals decided by its Turkish subsidiary were anti-union dismissals.

During the follow-up of the NCP recommendations, Birlesik Metal Is pointed out that the workers dismissed by DIAM Vitrin in May and June 2017 were not reinstated and that they would not have been

¹ “[The NCPs and the OECD](#)”, www.pcn-france.fr



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sufficiently compensated. As such, it refers to the decisions of the ILO and the European Commission on Human Rights:

- The complainant refers to decisions of the ILO Committee on Freedom of Association about protection against anti-union discrimination which states about the reinstatement of trade unionists in their jobs that: *“In certain cases of dismissals in which judicial proceedings were ongoing, if the decision concludes that there have been acts of anti-union discrimination, the Committee has requested the reinstatement of the workers concerned as a priority solution”*².
- Concerning the amount of compensation for anti-union dismissals in Turkey, it refers to a decision of the European Court of Human Rights which states that: *“The Court notes that the employer's refusal to reinstate the dismissed employees and the award of insufficient compensation to deter the employer from carrying out any further wrongful dismissals did not infringe the law as interpreted in the judicial decisions in the present case. It infers from this that the relevant law, as applied by the courts, did not impose sufficiently deterrent penalties on the employer, which, by carrying out large-scale wrongful dismissals, negated the applicant union's freedom to seek to persuade employees to join it. Accordingly, neither the legislature nor the courts involved in the case satisfied their positive obligation to secure the effective enjoyment of the applicant union's right to seek to persuade the employer to hear what it had to say on behalf of its members and, in principle, its right to bargain collectively with the employer. It follows that a fair balance between the competing interests of the applicant union and of the community as a whole has not been struck in the present case. There has therefore been a violation of Article 11 of the Convention in this respect”*³.

It states that so the DIAM Group would still not comply with the Guidelines when considering several elements: compensation paid to dismissed workers would be insufficient and they should have been reinstated; the union is still not recognized by DIAM Vitrin; there is no social dialogue in the factory as DIAM Vitrin does not recognize any trade union social partner and that there is no dialogue between DIAM Vitrin and Birlesik Metal Is; collective bargaining still does not exist in the factory. It considers that the decisions of Turkish courts of 25 May 2021 and 17 June 2021 should lead to the opening of collective bargaining between DIAM Vitrin and Birlesik Metal Is. It sought the support of the NCP to resume dialogue with DIAM and hoped that the NCP would continue its follow-up to ensure that collective bargaining was conducted smoothly. It stressed that setting up various dialogue bodies within DIAM Vitrin did not correspond to social dialogue which, in its view, should include social partners, that is to say the trade union organization representing workers.

♦ Action taken by DIAM in response to May 2019 Recommendations of the French NCP

The health crisis has had and continues to have an impact on the Group. DIAM reported to the NCP in April and September 2020 that it focused its actions on health measures (and risk prevention of Covid 19) and on a social axis (with the implementation of partial unemployment in order to preserve employment and compensate for the loss of wages of its workers). Containment has had an impact on the Group's

² § 1171. Compilation of decisions of ILO's Comity on Freedom of Association - Protection against discrimination – Reinstatement of trade unionists in their jobs:

https://www.ilo.org/dyn/normlex/fr/?p=NORMLEXPUB:70002:0::NO::P70002_HIER_ELEMENT_ID,P70002_HIER_LEVEL:3947478,2

³ § 56. CASE OF TEK GIDA İŞ SENDİKASI v. TURKEY, Application no 35009/05, JUDGMENT, STRASBOURG, 4 April 2017, FINAL, [TEK GIDA İŞ SENDİKASI v. TURKEY \(coe.int\)](https://www.coe.int/t/ktd/tek_gida_is_sendikasi_v_turkey)



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activities, which saw a sharp decline in its turnover and whose visibility for the coming months is still reduced, including in Turkey.

On the follow-up to the NCP's Recommendations, DIAM send the following elements:

- a) DIAM responded to the NCP's questions on the progress of various disputes lodged by its Turkish subsidiary in first instance, appeal and cassation in the context of the May-June 2017 social conflict. These legal disputes are presented below.
- b) DIAM regularly responded to the NCP's questions on the implementation of its *"roadmap to strengthen social dialogue in its Turkish subsidiary"*:

- **In April 2020:** DIAM indicated that a *"social committee"* and a *"health and safety committee"* have been set up within the Turkish subsidiary and that representatives elected by the workers are part of it. DIAM clarified that meetings of these committees have been held regularly since March 2019 between employee representatives and management on several topics (e.g.: definition in February 2020 of the amount of social aid for 2020, negotiation under way for the redefinition of break schedules, analysis of accidents at work and improvement of personal protective equipment).

- **In September 2020:** DIAM indicated that it is continuing its approach towards SA 8000 certification of its Turkish subsidiary, a standard that serves as *"a tool and continuous progress in particular in the social dialogue"*. DIAM indicated that the pre-audit scheduled for the end of April 2020 had been postponed due to the health crisis.

- **In April 2021:** DIAM told the NCP that *"in the continuity of the actions undertaken as a result of your 'good offices' and despite the uncertainty that currently weighs on the activity due to the health and economic situation, we have continued our efforts to improvement, which always seems to us the most important, in the interest of our employees and our social relations"*. DIAM indicated that it had *"strengthened the organization of social dialogue of its Turkish subsidiary and established new procedures"*.

DIAM indicates, on the one hand, that dialogue with workers representatives at DIAM Vitrin takes place in four bodies:

- A *"Social Performance Committee"* (different from the Works Council) established in February 2021 which includes 3 representatives elected by workers;
- A new *"Works Council"* whose annual election was held in March 2021;
- A *"Disciplinary Committee"* composed of a member of the Management and a member of the Works Council;
- A *"Hygiene and Safety Committee"* (which already existed) which includes representatives elected by workers.

On the other hand, DIAM indicates that it has continued the SA 8000 certification process of its Turkish subsidiary whose certification audit took place on 19 and 20 April 2021. DIAM states that it has *"reviewed or implemented procedures on all SA 8000 items that meet the standards of the International Labour Organisation, as well as the Universal Declaration of Human Rights and the United Nations Convention on the Rights of the Child."* DIAM states *"that all these procedures have been the subject of extensive communication and training sessions to train all employees (Internal Rules, Freedom of Association, Child Labour, Forced Labour, Disciplinary Procedures, Working Time & Overtime, Discrimination, and Compensation and salary R among others)"*.



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- In May and June 2021: DIAM informed the NCP that if Birlesik Metal Is's jurisdiction was ultimately recognized by the Turkish courts, then negotiations with the Turkish subsidiary would start. DIAM stated in May 2021 that *"As we have consistently repeated, we will comply with court decisions and if Birlesik Metal's competence is recognized, will proceed without delay to the organization of a meeting with the trade union to start negotiations, in accordance with the Turkish legal framework"* and then in June 2021 that *"the negotiation procedure will therefore follow, according to the legal framework in force in Turkey"*. On 17 June 2021, DIAM refused the NCP's proposal to hold a meeting or videoconference with Birlesik Metal Is. DIAM told the NCP that *"the negotiation procedure will therefore follow, according to the legal framework in force in Turkey"*. On 22 June 2021, DIAM informed the NCP of the SA 8000 certification of its Turkish subsidiary.

➔ *DIAM Group committed in 2019 to implement measures to improve the social dialogue in its Turkish subsidiary. The NCP notes that, in addition to the continuation of litigations initiated by its subsidiary, the Group's efforts have led to setting up of dialogue bodies with workers representatives and then to the SA 8000 certification of DIAM Turkish subsidiary. This shows progress compared to the situation submitted to the NCP in June 2017 thus without corresponding to the engagement of social dialogue with social partners in the meaning of the OECD Guidelines.*

So the NCP notes that 4 years after the submission of the referral, the freedom of association of workers, the trade union recognition and collective bargaining are still not in place in DIAM's Turkish subsidiary. Therefore the Group still does not comply with OECD Guidelines recommendations on freedom of association of workers and collective bargaining. DIAM must therefore continue its due diligence measures vis-à-vis its Turkish subsidiary to ensure that it will quickly and in good faith conduct collective bargaining with Birlesik Metal Is.

◆ **End of parallel proceedings to the referral**

"Illegal strike of 8 days in May 2017": DIAM Vitrin dismissed 76 workers for "illegal strike of 8 days". DIAM Vitrin's claim was dismissed at first instance on 7 May 2019 and on appeal on 22 July 2020. The court held that the workers used their legitimate rights and that the company violated international law (ILO). The proceeding is closed. Birlesik Metal Is points out that that decision shows that those workers were dismissed because of their trade union affiliation and their request to exercise their rights of representation and collective bargaining. Birlesik Metal Is insisted that these workers were not reinstated by DIAM Vitrin and that they would not have been properly compensated.

"First 12 dismissals of May 2017": The 12 workers who were dismissed on 12 and then on 17 May 2017, before the work stoppage started, filed a complaint for unfair and anti-union dismissals. DIAM Vitrin was sentenced on 21 September 2018⁴ at first level of decision and on appeal on 28 November 2019. These decisions are final. The proceedings are closed. Dismissals were found to be anti-union. The workers were not reinstated. DIAM states that the employees were compensated by DIAM, *"in accordance with the court decisions, and the sums paid have been checked and validated by the plaintiffs' lawyers and ours"*. Birlesik Metal Is insisted that according to it, these workers should have been reinstated and that they would not have been properly compensated.

"Recognition of the competence of the trade union by the Turkish administration": In May 2017, DIAM Vitrin challenged the administrative decision to validate Birlesik Metal Is's competence for the factory. DIAM Vitrin referred a claim to the court under the jurisdiction of the factory and not to the court

⁴ One case was sentenced on 10 October 2018.

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under the jurisdiction of the administration that took the decision to recognize the trade union. According to the complainant, this practice would be “*a common use to delay court proceedings*”. It insisted that “*it is impossible that a lawyer doesn’t know the address of the Ministry who took the said decision and that it doesn’t know to which court a case should be lodged*”. This resulted in an initial proceeding to determine the court’s jurisdiction. In May 2018, the seized court declared itself incompetent and referred the case to the territorially competent court. DIAM Vitrin appealed this decision. In 2019, the Court of Appeal upheld the first instance decision. DIAM Vitrin filed for cassation. On 9 July 2020, the Supreme Court upheld the decision and referred the case to the competent court.

On the merits of the claim, the administrative decision to recognize the trade union competence was validated at first instance in July 2020. DIAM Vitrin appealed the court’s decision. The decision of first level, that validated the union’s competence, was upheld by the Regional Court on appeal on 4 January 2021. DIAM Vitrin then submitted the case to cassation. In its decision of 12 April 2021, the Supreme Court ruled that the Regional Court should not have accepted the appeal for failure to comply with the procedural deadlines and that the first instance judgment should have been enforced. The case was then referred to the Regional Court. On 30 April 2021, DIAM informed the NCP that it will not intend to intervene to challenge the Supreme Court’s decision. DIAM then advised the NCP that the hearing scheduled for 6 May 2021 was postponed to 17 June 2021. On June 17, 2021, the complainant informed the NCP of the decision of the Regional Court which dismissed DIAM Vitrin’s appeal. As a result, the administrative decision to certify Birlesik Metal Is competence is validated. The proceeding is closed.

“Recognition of DIAM Vitrin’s sector branch”: in June 2017, DIAM Vitrin challenged the administrative decision concerning its assignation to the metal sector. On 17 October 2019, the court decided to assign DIAM Vitrin to the “wood and paper” branch. The complainant appealed this decision. On 30 December 2020, the Regional Court upheld the first instance decision on appeal. The complainant went to cassation. On 8 April 2021, the Supreme Court rejected the appeal decision and validated the decision of the Ministry of Labour and Social Security thus assigning the company to the metal branch. The complainant informed the NCP of this decision on 25 May 2021. Therefore, Birlesik Metal Is is the legitimate union for this company. DIAM took note of this decision. The proceeding is closed.

→The NCP takes note of the outcome of parallel litigation’s proceedings to this specific instance. These decisions of the Turkish courts are related to the conviction of DIAM Vitrin for the 12 dismissals (before the work stoppages) recognized as anti-union, the rejection of DIAM Vitrin’s complaint for unlawful strike (which had justified the dismissal of 76 workers), the validation of Birlesik Metal Is’s competence to engage in collective bargaining with the company and the confirmation of the company’s assignment to the “metal” branch. The NCP notes that DIAM and its Turkish subsidiary did not comply with the OECD Guidelines during the social conflict of May and June 2017 which followed Birlesik Metal Is’s certification’s application.

As indicated in its final statement of 14 May 2019, the NCP regrets that DIAM didn’t reconsidered its judicial strategy as discussed during its good offices. This litigation strategy has not helped to establish conditions conducive to social dialogue and engagement with trade union organizations or to address the issue of remediation of negative impacts.



4. Conclusion

The NCP thanks DIAM and Birlesik Metal Is for their participation in follow-up the specific instance.

The NCP notes that DIAM *"sincerely thanks the NCP whose "good offices" have contributed to the evolution of our local organization and to our decision to initiate and conduct a certification project. The quality of the current social dialogue will undoubtedly make it possible to approach negotiations with the trade unions in a calm and serene atmosphere"*. The NCP takes note of DIAM's commitment *"to organize without delay a meeting with the trade union to start negotiations, in accordance with the Turkish legal framework"*, and that *"the negotiation procedure will therefore follow, according to the legal framework in force in Turkey"*. The trade union reminds that nothing in Turkish Law prohibits to recognize the trade union. However, it regrets that DIAM refused its support to organize a meeting or video conference with Birlesik in May and June 2021.

At a time when collective bargaining should start between DIAM Vitrin and Birlesik Metal Is:

- The NCP requests DIAM to strengthen its due diligence vis-à-vis its Turkish subsidiary in order to ensure that it respects the OECD Guidelines in its internal functioning and in social dialogue and collective bargaining to come;
- The NCP calls on both parties to participate in good faith and in a constructive spirit in this collective negotiation and in future social dialogue;
- The NCP remains at the disposal of the parties to organize a direct dialogue between them.

The NCP recalls its commitment to social dialogue as provided for in the OECD Guidelines (Articles VIa, 1b, 3 and 8) and the importance of the Group's due diligence (Article II A10, A11, A12 and A13) in order to ensure their effective compliance by its Turkish subsidiary (see annex).

The NCP asks the Turkish subsidiary of DIAM to comply with Turkish court decisions.

The NCP decides to continue to follow-up on its recommendations until December 2021. It invites the parties to keep it regularly informed of developments.

The NCP will report the publication of this follow-up statement to the Regional Economic Service of Ankara and the French Embassy in Turkey as well as to the French network of the United Nations Global Compact of which DIAM is a member. It invites DIAM's commercial partners to take note of this follow-up statement.

Annex: Extract from the OECD Guidelines for Multinational Enterprises (Arts 1 and 2 of the Concepts and Principles, Art. 10-13 of the General Principles, Art. 1a, 1b, 3 and 8 of the Employment and Industrial Relations Chapter).

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Annex: Extract from the May 2011 Recommendations of the Guidelines

Chapter I on Concepts and Principles

1. The Guidelines are recommendations made jointly by Governments to multinational companies. They set out principles and standards of good practice in accordance with existing laws and other internationally accepted standards. Corporate compliance with the Guiding Principles is voluntary and is not legally binding. Nevertheless, some topics covered by the Guiding Principles may also be regulated by national legislation or international commitments.

2. Companies have the primary obligation to comply with their country's legislation. The Guiding Principles cannot replace or prevail over national legislation or regulations. While the Guiding Principles go beyond the law in many cases, they should not – and that is not their purpose – place companies in a situation where they would face contradictory obligations. In countries where domestic legislation or regulations contradict the principles and standards set out in the Guiding Principles, companies should seek ways to comply with those principles and standards to the extent possible without, however, risking breaches of their national legislation.

Chapter II on the General Principles:

Enterprise should take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders. In this regard:

II.A. Enterprises should:

II.A.10. Carry out risk-based due diligence, for example by incorporating it into their enterprise risk management systems, to identify, prevent and mitigate actual and potential adverse impacts as described in paragraphs 11 and 12, and account for how these impacts are addressed. The nature and extent of due diligence depend on the circumstances of a particular situation.

II.A.11. Avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur.

II.A.12. Seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship. This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship

Chapter V on employment and industrial relations

Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices and applicable international labour standards:

V.1a. Respect the right of workers employed by the multinational enterprise to establish or join trade unions and representative organisations of their choosing.

V.1b. Respect the right of workers employed by the multinational enterprise to have trade unions and representative organisations of their 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.

V.3. Promote consultation and cooperation between employers and workers and their representatives on matters of mutual concern.

8. Allow authorised representatives of their workers to conduct negotiations on issues relating to collective agreements or relations between employees and employers and authorise the parties to undertake consultations on matters of common interest with employers' representatives empowered to take decisions on such matters.