

## MOLEX

20 September 2012

### Communiqué of the French National Contact Point for the OECD Guidelines for Multinational Enterprises

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The National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises received a specific instance referral on 28 February 2011 within the framework of its good offices mission from the *Fédération des travailleurs de la métallurgie CGT (FTM-CGT)*, the *Fédération Générale des Mines et de la Métallurgie CFDT (FGMM-CFDT)*, *CFE-CGC Métallurgie*, *FO Métaux* and the International Metalworkers' Federation (IMF) regarding compliance with the OECD Guidelines by Molex Automotive SARL, a French manufacturer of electronic components for various industries. Molex Automotive SARL is a subsidiary of US group MOLEX International Incorporated (Molex Incorporated)<sup>1</sup>.

The referral refers mainly to Chapter IV of the Guidelines on Employment and Industrial Relations. As the complaint was made prior to the revised version of the Guidelines dated 25 May 2011, the 27 June 2000 version applies. Article 6, Chapter IV states: *"Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices: In considering changes in their operations which would have major effects upon the livelihood of their employees, in particular in the case of the closure of an entity involving collective lay-offs or dismissals, provide reasonable notice of such changes to representatives of their employees, and, where appropriate, to the relevant governmental authorities, and co-operate with the employee representatives and appropriate governmental authorities so as to mitigate to the maximum extent practicable adverse effects. In light of the specific circumstances of each case, it would be appropriate if management were able to give such notice prior to the final decision being taken. Other means may also be employed to provide meaningful cooperation to mitigate the effects of such decisions"* .

The referral also refers to Article 3, Chapter IV which states: *"Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices: Provide information to employees and their representatives which enables them to obtain a true and fair view of the performance of the entity or, where appropriate, the enterprise as a whole"* .

The claimants accuse MOLEX Automotive SARL of failing to comply with the OECD Guidelines in terms of providing information to and consulting employee representatives prior to organising the closure of the company plant located at Villemur-sur-Tarn.

As the company had already been wound up by decision of court, the NCP was unable to speak to a company representative as part of its assessment of this specific instance.

The NCP takes note of the interim order delivered by the Toulouse Court of First Instance<sup>2</sup> on 19 May 2009 and the ruling of the Toulouse Industrial Tribunal on 28 June 2012.

During its assessment of this specific instance, the NCP concluded that Molex's management *"only informed the works council of the closure of the Villemur-sur-Tarn plant after the decision had been taken"*. It was found that the information and consultation process only began once the decision to close the plant had been taken. Moreover, the NCP came to the conclusion that the procedures for informing and consulting employee representatives were insufficient in that MOLEX's management *"did not provide the works council with a full and fair explanation of the situation"* that would have enabled it to give its opinion on the proposed job protection plan. Lastly, the NCP found that MOLEX had not cooperated in a constructive manner to mitigate the adverse impacts caused by the decision to close the plant.

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<sup>1</sup> A company incorporated under US law with headquarters in Lisle, Illinois, USA.

<sup>2</sup> Tribunal de grande instance de Toulouse

The NCP also noted that, according to the Toulouse Industrial Tribunal<sup>3</sup>, “ there was a clear hierarchical link between US-based MOLEX Incorporated and MOLEX Automotive SARL, with the former acting as the latter’s employer” and “*the request that Molex Incorporated should be classified as joint employer was valid*”.

**The NCP finds that MOLEX Automotive SARL did not comply with the obligation outlined in the Guidelines to promote consultation and cooperation between employers and employees and their representatives on matters of mutual concern.**

The NCP takes this opportunity to issue a reminder of how important it is for multinational enterprises to comply with the principle of providing information to and consulting employee representatives as outlined in the revised Guidelines dated 25 May 2011 in Chapter III, Disclosure and in Chapter V, Employment and Industrial Relations. In so doing, the NCP stresses the importance of disclosing information on all the significant aspects of a multinational enterprise’s activities, financial structure, earnings, shareholders and system of governance. The NCP draws attention to the importance of complying with the principle of promoting consultation and cooperation between employers and employees and their representatives on matters of mutual concern, particularly in the case of the closure of an entity or when making decisions that could have a major effect on the livelihood of employees.

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<sup>3</sup> Conseil des Prud’hommes de Toulouse