

ACCOR

11 December 2012 Statement of the French National Contact Point for the OECD Guidelines for Multinational Enterprises

The French National Contact Point (NCP) for the implementation of OECD Guidelines for Multinational Enterprises received a referral on 8 November 2010 within the framework of its good offices mission from the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) concerning the activities of the Accor Group establishments in Canada and Benin. It was agreed with the Canadian NCP that the French NCP would deal with this specific instance as the Accor Group headquarters are located in France and there is no NCP in Benin.

The referral focuses on Chapter IV, Employment and Industrial Relations in the Guidelines version dated 27 June 2000 as the referral predates the revised Guidelines dated 25 May 2011.

The referral to the NCP focuses in particular on Article 1 a) of Chapter IV, which stipulates that *“enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices:*

1a) 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 conditions.

The referral concerns the activities of the Accor Group in three hotels in Ontario, Canada and one hotel located in Cotonou, Benin.

In Canada, the claimant reported anti-union practices by Accor's management in the Novotel Mississauga, Novotel North York and Novotel Ottawa hotels allegedly aimed at defeating the UNITE HERE! union's recruitment campaign carried out since November 2008 and which purportedly contravenes the international trade union rights agreement signed between the Accor Group and the IUF in 1995. The claimant believes that the Group's actions violate the OECD's Guidelines. Parallel proceedings are also underway in Ontario regarding this part of the referral.

In Benin, the claimant reported the refusal since 2000 of Accor Group's management to negotiate a specific agreement for the Novotel Cotonou Orisha hotel with workers' representatives (Fesynta-Hta then Synovo). The claimant also reported the lack of consultation and negotiation with the workers' representatives prior to the introduction of a new wage system introduced in 2009 and the tardy creation of a health and safety committee in the same hotel. The claimant believes that the Group's actions violate the OECD's Guidelines.

- **Accor statement - Canada**

It was agreed with the Canadian NCP that the French NCP would deal with this specific instance as the Accor Group headquarters are located in France. There was regular dialogue between the French and Canadian NCPs and information was regularly exchanged between them to ensure that a better understanding of the facts was obtained based on how this instance actually came about.

This specific instance was examined at the same time as parallel proceedings took place in Canada. The UNITE HERE! Union lodged several complaints against the Accor Group with the Ontario Labour Relations Board, including in September 2012, claiming unfair labour practices and raising the certification issue for the UNITE HERE Union in these hotels. The Ontario Labour Relations Board issued its decision on 27 September 2012 (see below).

The NCP proceeded with its good offices mission despite considerable tension at local level between the opposing parties in Ontario which ended in failed talks regarding the right to trade union representation of the workers in the three hotels.

During its consultations, the NCP took into consideration the Accor Group's labour and environmental policy adopted in 1994 which saw the signature on 9 June 1995 of an international trade union rights framework agreement between Accor and the IUF. The NCP firmly drew the attention of Accor's senior management team to the very serious nature of the situation in Ontario and actively encouraged the Group to ensure that their management teams in Canada were committed to resuming talks with the Canadian workers' representatives; the Group's senior management agreed to do this. The NCP also noted that the UNITE HERE! Union carried out a very aggressive campaign against the Accor Group, particularly at the Novotel North York Hotel, which exacerbated tensions between the parties.

On 27 September 2012, the Ontario Labour Relations Board issued its decision on the hotel in Mississauga. In its decision, the Board ruled that the Accor Group had infringed Ontario labour law and ordered immediate remedial certification for the UNITE HERE! Union in the hotel, arguing that a fair vote was not possible given the management team's illegal acts¹.

The NCP duly noted Accor Group's acceptance of this outcome and its decision not to appeal. The NCP also noted the Group's real desire to revive talks in Ontario and solicit support from the Ontario Labour Relations Board. Despite the efforts made by the Accor Group, the NCP notes that there is still stalemate in the two other hotels (Ottawa and North York) regarding the question of union representation for workers.

¹ "Taken as a whole, the Hotel's illegal activity was of such nature that the wishes of the employees cannot be ascertained in a representation vote, even a vote held in conditions favorable to the union. I have considered other possible remedies which might permit a vote to be held but none of them could ensure the ascertaining of the employees' true wishes. The intimidatory effect of removal of the Union's main in-house organizer coupled with the threats and false information cannot be overcome". (...) "For all of the foregoing reasons, the Board (ii) finds that the conditions for certification pursuant to section 11 of the Act have been met and the union ought to be certified", cf. UNITE HERE v. Novotel Canada Inc., 2012 CanLII 57428 (ON LRB) , §129-130 ; <http://www.canlii.org/en/on/onlrb/doc/2012/2012canlii57428/2012canlii57428.html>

The French NCP now feels that it is necessary to assess the good offices function it performed in examining this specific instance in the last two years. In conclusion, after studying the specific instance and carrying out numerous consultations, the NCP concludes that in Ontario, the Accor Group did not act to ensure that the workers' right to union representation or representation by other legitimate employee organisations was respected. The NCP therefore concludes that the Group did not comply with Article 1a of Chapter IV of the OECD's Guidelines for Multinational Enterprises in some of its hotels in Canada.

However, the NCP notes the decision by Accor Group to accept the decision taken by the Ontario Labour Relations Board of 27 September 2012 regarding union representation of workers in the Novotel Mississauga hotel and acknowledges the attempts made by the Accor Group following this decision to solve the long-running dispute in Ontario.

The NCP therefore urges all of the parties to hold constructive talks and act in a responsible manner with the aim of reaching an agreement that will enable workers at the Novotel North York and Novotel Ottawa hotels to obtain union representation or representation by another legitimate employee organisation of their choice.

To this end, the NCP strongly recommends that the Accor Group takes into account the Guidelines revised on 25 May 2011, particularly Chapter V on Employment and Industrial Relations, which stipulates that "*Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices and applicable international labour standards:*

- 1a) Respect the right of workers employed by the multinational enterprise to establish or join trade unions and representative organisations of their own choosing;*
- 1b) 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;*
- 3) Promote consultation and co-operation between employers and workers and their representatives on matters of mutual concern".*

- **Accor Statement - Benin**

There is no NCP in Benin.

The French NCP held talks over an extensive period with the parties. During these consultations, the NCP took into account the Accor Group's labour and environmental policy adopted in 1994. The NCP drew to the attention of the Accor senior management team the situation in Benin and urged it to step up discussions with its contacts in Benin to finalise talks with the SYNOVO union; the Group agreed to do so. The NCP is delighted that, as a result of its good offices, the Accor Group has proposed a timetable for talks with the workers' representatives with a view to reaching an agreement. The NCP also welcomes the Group's acknowledgement that it must set up a health and safety committee.

In conclusion, after studying the specific instance and carrying out numerous consultations, the NCP notes that in Benin, the Accor Group did not enter into constructive negotiations with workers' representatives to reach an agreement about terms and conditions of employment until June 2012. The NCP therefore notes that in Benin, the Group has not complied with Article 1a), Chapter IV of the OECD's Guidelines for Multinational Enterprises.

However, the NCP acknowledges the measures taken recently by the Accor Group to revive talks with workers' representatives in Benin, in particular through the support given to the local union in their efforts to register with the relevant supervisory Ministry, an essential step in acquiring the legal capacity to enter into negotiations. The NCP also takes note of the Group's clear desire to reach an agreement which will cover the terms and conditions of employment, and to set up a health and safety committee. The NCP believes that the agreement reached on 24 August 2012 regarding job classifications and on 7 November 2012 regarding wage increases are important and positive steps in the right direction.

The NCP therefore urges the parties to continue to pursue a structured dialogue to: a) finalise wage negotiations that will lead to an agreement, and b) ensure the smooth operation of the health and safety committee.

Lastly, the NCP recommends that the Accor Group revives these talks with workers' representatives in compliance with the revised Guidelines dated 25 May 2011, particularly Article 1 of the General Policies, which stipulates that "*enterprises should: contribute to economic, environmental and social progress with a view to achieving sustainable development*" and Chapter V, Employment and Industrial Relations, which stipulates that "*Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices and applicable international labour standards:*

1b) *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;*

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

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