



Evaluation Final Statement former employees of Bralima vs. Bralima and Heineken

Date: 21 April 2021

Evaluation of the Final statement by the Dutch National Contact Point ('NCP') for the OECD Guidelines for Multinational Enterprises ('the Guidelines') further to the [Final statement published on August 18, 2017](#) on the dialogue facilitated by the NCP.

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Agreement and recommendations in the Final statement

On 18 August 2017 the Netherlands National Contact Point for the OECD Guidelines for Multinational Enterprises ('the Guidelines') published a Final statement further to a specific instance submitted by 168 former employees of Bralima, represented by Mr Namegabe Bugabo, Mr Matabaro Rubanza and Mr Bayongwa Mirimba ('the Representatives') against Bralima SA in Bukavu, Democratic Republic of the Congo (DRC), and Heineken N.V., concerning an alleged breach of the Guidelines by Bralima and Heineken.

The NCP recommended that an evaluation should be conducted one year after the publication of the Final Statement of the NCP's forward looking recommendations. Due to high workload of the NCP and increase of specific instances this evaluation has experienced delay. The Final statement was published after the parties had reached an agreement on financial compensation of the former employees. This agreement has remained confidential. The compensation has been fully paid for as agreed.

On the request of the NCP, both parties provided written information for the purpose of the evaluation. The NCP received this information of both parties at the end of January 2021. The draft of this evaluation was shared with the parties for their comments within 14 days.

The recommendations of the NCP in the Final statement:

- Enterprises should provide transparent and clear information to employees on their performance and on any changes that could have a major impact on their employees' livelihood. The NCP recommends that transparency and communication to employees be part of enterprises' policies for dealing with conflict settings;
- Enterprises should thoroughly examine complaints from current or former employees at an early stage;
- The handling of complaints by current or former employees should be monitored and evaluated within company groups;
- Heineken should continue to actively monitor, evaluate and improve its business conduct code, and actively disseminate the principles throughout the Heineken Group.

At the time, Heineken indicated that it would draw up a policy, including guidelines, on how to conduct business and operate in volatile and conflict-affected countries. The NCP encouraged Heineken to do so.

Heineken expressed its commitment to continue working on an internal analysis of Heineken's existing policies and processes in the light of the Guidelines and the UN Guiding Principles on Business and Human Rights. This includes the employment process, from recruitment to termination, and operating in a conflict-affected environment, as well as procedural issues in the relations between operating companies and headquarters, including the existence of feedback loops to ensure that issues receive the attention they deserve.

Evaluation

In relation to drawing up a policy, including guidelines, on how to conduct business and operate in volatile and conflict-affected countries, Heineken in its evaluation paper recognises that it may face human rights dilemmas when conducting business in volatile and conflict-affected countries. They state to constantly review whether they can continue to operate in such countries and, if so, how? Their policy is that operating companies should never knowingly contribute to human rights violations by others, or where human rights are compromised. They will always protect the security of their employees, their relatives and of their facilities. The AMEE Good Government Platform has acted as an incubator to develop principles and solutions to meet policy commitments in the Africa Middle East region. Its actions have included:

- internal and external consultation on the potential human rights scenarios they may face;
- Development of methodology for assessing and ranking operating companies according to risk to people;
- Eight golden rules on how to address Human Rights in high risk contexts; and
- Individual action plans and strengthened governance structures in the highest risk companies.

Looking ahead, Heineken will extend the Good Governance Platform beyond the AMEE region. The importance of the NCP's recommendation that Heineken should continue to actively monitor, evaluate and improve its business conduct code, and actively disseminate the principles throughout the Heineken Group is underlined by the **Representatives** in the evaluation. They underline the importance for Heineken to stay vigilant and carry out their due

diligence. They are of the opinion that is important to monitor, now and in the future, how the everyday practice of Bralima looks like concerning labour issues and human rights. They stress the importance of communication with employees and transparent information for employees. In their update for the purpose of the evaluation, **Heineken** indicates that in 2017/2018, they performed a thorough analysis and revision of our Code of Business Conduct and underlying policies and processes, including those on Human Rights. With its Speak Up Policy, that has been functioning since 2012, Heineken has put in place a grievance mechanism for quickly and appropriately resolving any complaints that may arise within the company. It has been recognised in Heineken's Speak Up Policy that the handling of complaints by current or former employees should be monitored and evaluated within the company group.

Heineken states that the UN Guiding Principles on Business and Human Rights are the starting point for understanding, avoiding and addressing human rights risks in their operations and value chain. Their Human Rights policy was revised based on the human rights risks identified through their work with Shift, the leading centre of expertise on the UN Guiding Principles on Business and Human Rights. They also strengthened the human rights section of their Supplier Code and compliance is integrated into their global sourcing activities. In 2019, they developed practical implementation guidelines to help operating companies embed the revised Human Rights Policy in their activities.

In addition, the **Representatives** state it is also in the interest of Bralima as a company and as an employer to prevent future disputes with (former) employees by communicating in a transparent way with employees and by thoroughly examining at an early stage any complaint from current or former employees.

Heineken underlines that they continue conducting human rights risk assessments and action planning workshops in specific countries. Following the workshops, operating companies develop practical and relevant action plans to address the potential human rights risks identified. They have completed human rights risk assessment workshops with their operating companies in 15+ countries, including DRC. In 2020, they developed online workshops and they will continue to strengthen regional governance structures and improve human rights monitoring in the coming year.

Finally, the **Representatives** indicate that the agreement reached has been carried out completely and that all the former employees concerned have received the compensation as agreed.

They indicate that after the agreement was reached between Heineken and the former employees, following the NCP's engagement, no more complaints have arisen from individuals of the group of former employees they were representing.

Conclusion

The NCP is of the opinion that compliance with the corporate governance principles should continue to be part of an ongoing monitoring process within the Heineken Group and will require attention, now and in the future. The NCP acknowledges that Heineken, since the publication of the Final statement, has made important steps in developing and implementing their RBC policies within the Heineken Group.

Concluding, the NCP is very pleased that the agreement reached by the parties, following the dialogue facilitated by the NCP, has been fully implemented. It very much appreciates the

efforts made by both parties to overcome all difficulties they have experienced during the process and Heinekens' constructive attitude in working with the NCP. By their sincere intention to communicate and have a good understanding of each other's position, they successfully ended this intense process.

The role of National Contact Points (NCPs) is to further the effectiveness of the OECD Guidelines. The Dutch government has chosen to establish an independent NCP, which is responsible for its own procedures and decisions, in accordance with the Procedural Guidance section of the Guidelines. In line with this, the Dutch NCP consists of four independent members, supported by four advisory government officials from the most relevant ministries. The NCP Secretariat is hosted by the Ministry of Foreign Affairs. The Minister for Foreign Trade and Development Cooperation is politically responsible for the functioning of the Dutch NCP. More information on the OECD Guidelines and the NCP can be found on the [NCP Website](#)

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