



Initial Assessment BWI et al. vs Inter IKEA Holding B.V.

Date: 25 October 2021

Notification to the Netherlands National Contact Point by the Building and Wood Workers International (BWI), the International Association of Machinists and Aerospace Workers of North America (IAMAW) and Facket För Skogs-, Trä och Grafisk Branch (GS Facket) concerning an alleged violation of the OECD Guidelines for Multinational Enterprises by Inter IKEA Holding B.V.

The objective of the initial assessment process under the Procedural Guidance is to determine whether the issues raised in the specific instance merit further examination. If so, the NCP will offer, or facilitate access to, consensual and non-adversarial procedures, such as dialogue, mediation or conciliation (e.g. ‘good offices’) to the relevant parties. As specific instances are not legal cases and NCPs are not judicial bodies, NCPs cannot impose sanctions, directly provide compensation nor compel parties to participate in a conciliation or mediation process.

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1. Executive summary

On 24 December, 2020 the Dutch National Contact Point for the OECD Guidelines for Multinational Enterprises (NCP) received a notification of a specific instance from the Building and Wood Workers International (BWI), the International Association of Machinists and Aerospace Workers of North America (IAMAW) and Facket För Skogs-, Trä och Grafisk Branch (GS Facket) with regard to an alleged non-observance of the OECD Guidelines for Multinational Enterprises (hereinafter: the Guidelines) by Inter IKEA Holding B.V. (hereinafter: Inter IKEA).

The issues raised by the notifying parties are twofold and concern 1) lack of timely information and lack of prior consultations and discussions with the trade unions with regard to the closure of an IKEA facility in the United States, and 2) lack of a meaningful engagement with regard to the International Framework Agreement, that according to the notifying parties exists between the parties. The issues raised in this submission relate to the OECD Guidelines Chapter V Employment and Industrial Relations, para 2c and 6.

Coordination with other NCPs

The issues raised were related to impact which was felt in the United States. However, according to the notifying parties, the issues arose under the responsibility of Inter IKEA Holding BV, which is based in the Netherlands. A Swedish subsidiary of Inter IKEA was also involved in the procedure. The Dutch NCP had separate contacts with the NCPs of the USA and Sweden concerning the specific instance. The outcome of the coordination process with both other NCPs is that the Dutch NCP is the right entity to assess the alleged non-observance of the enterprise.

Brief overview of the timeline

The notification was received on 24 December 2020. The first virtual meeting with the notifying parties took place 19 March, 2021, the first virtual meeting with the enterprise took place on April 9, 2021. The draft initial assessment was shared with parties on 22 July 2021, parties could provide comments by 30 August 2021. The initial assessment was published on 25 October 2021.

Conclusion

The Dutch NCP concludes that the notification concerning Inter IKEA merits further consideration based on the following criteria:

- the Dutch NCP is the right entity to assess the alleged violation.
- the notifying parties are concerned parties with a legitimate interest in the issues raised in the notification.
- the issues raised are material and prima facie substantiated.
- there is a link between the enterprise's activities and the issues raised in the specific instance.
- the consideration of this specific instance may contribute to the Guidelines' objectives and enhance their effectiveness.

The decision to accept this specific instance for further examination is not based on conclusive research or fact-finding, nor does it represent a conclusion as to whether the enterprise observed the Guidelines or not.

2. Substance of the submission

This section provides an overview of the issues raised in the submission against the enterprise, how the issues relate to the Guidelines, and the enterprise's initial response. The NCP does not express an opinion on the correctness of the statements of the parties or the validity of the documentation provided by them.

The parties

The party submitting this specific instance is the BWI, a global union federation representing workers in the building and construction, wood and forestry, building materials and allied sectors, which has over 350 affiliated trade unions from 150 countries that represent over 12 million workers. It is joined in this submission by its member the IAMAW, which represents workers in Aerospace, Transportation, the Federal Government, Automotive, Defence, Woodworking and several other industries in North America and by GS Facket, BWI member and Swedish trade union representing workers in the forestry, woodworking furniture and graphic industries including IKEA Industry workers based in Sweden, as a supporting voice.

The submission concerns Inter IKEA, a holding company based in the Netherlands. Inter IKEA Group is the group of companies that connects IKEA franchisees with range development and suppliers and aligns the overall IKEA strategic direction. It owns IKEA Industry Group, which manufactures wood furniture and owns production sites, including the closed site in Danville, US.

The submission

According to the notifying parties, the closure of the production facility in Danville, Virginia, United States, was announced on July 10, 2019 without any prior negotiations, discussions or consultations with IAMAW, the union representing the workers. The effective date of the closure was to be the end of the year but was extended to April 2020. The closure directly affected 300 workers. Before the closure, the union was able to negotiate an agreement on its impact to cushion the blow to workers, but the closure itself was already a fait accompli. The union and its members were told that the costs of raw materials were too high, so production would be shifted to Europe. Possible alternative sites in the US were not considered because the company was unwilling to have discussions. The notifying parties claim that appropriate and timely discussions with the representatives of the workers would have allowed a quality examination of all the factors and circumstances related to the closure, including the effects on the victims.

BWI claims that it has signed an International Framework Agreement (IFA) with IKEA in 2003 and has renegotiated it in 2013-2014, but the latter was never signed. It provides a structure and a process to resolve conflict, including expectations to take responsibility for associated human rights risks or impacts of its business partners, which is in line with human rights and due diligence requirements in the Guidelines. However, according to BWI, Inter IKEA does not recognize the IFA, and when BWI attempted to renegotiate it, Inter IKEA's response proved neither meaningful nor effective. BWI also states that Inter IKEA does not make supplier information available and in IKEA's code of conduct "IWAY" neither the UN Guiding Principles on Business and Human Rights nor the Guidelines are mentioned.

The notifying parties claim that the decision to close the Danville facility was made under the responsibility of the parent company Inter IKEA and therefore consider that the actual infringement took place in the Netherlands, and therefore consider the Dutch NCP as the appropriate entity to handle the specific instance.

The notifying parties expect the NCP to offer mediation to resolve differences and to come to a resolution settlement leading to a) recognition of the, alleged, non-observance of the Guidelines in the procedure followed in the Danville closure; b) a Memorandum of Understanding establishing the right to represent workers of a future facility in North-America, and; c) the signing of a renegotiated IFA. The notifying parties expect Inter IKEA to actively take part in the mediation with the objective to ensure that Inter IKEA in the future effectively recognizes the right of the affected workers to be informed and consulted prior to making a final decision on labour practices, in such a manner that the affected workers and their chosen representatives (trade unions) can have a meaningful influence on the final decision. Moreover, they expect Inter IKEA to ensure that the right of workers to form or join trade unions and to bargain collectively is adequately taken into account by all group members when making decisions over labour practices and, especially, when entering or maintaining business relationships, whether that is in the supply chain or in granting franchises.

Provisions of the Guidelines referred to in the specific instance

Chapter V Employment and Industrial Relations, paragraph 2c and 6.

“2. c) Provide information to workers 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.

6. In considering changes in their operations which would have major employment effects, 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 the workers in their employment and their organisations, and, where appropriate, to the relevant governmental authorities, and co-operate with the worker 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 co-operation to mitigate the effects of such decisions.”

The enterprise’s initial response

According to the enterprise, the decision to discontinue the production at the Danville facility and find a new responsible owner who could offer as many workplaces as possible was made by the board of IKEA Industry AB, a Swedish entity and subsidiary of Inter IKEA. Therefore, the enterprise is of the opinion that the notification should be handled by the Swedish NCP.

Concerning the course of events that led to the decision, the enterprise states: *“The background of the decision was long-term business challenges, resulting in not being affordable for the customers. Many actions were taken over several years to overcome the challenging situation. Throughout the years, these challenges were transparently addressed to local union representatives and co-workers, hence the decision to discontinue production and look for a responsible buyer of the facilities, was not unexpected. To further stimulate dialogue, the IKEA Industry site manager in Danville initiated additional union meetings in the autumn of 2018 continuing through 2019.*

In addition to the local union, there are union representatives in the IKEA Industry Board where the decision was taken. The selected co-worker representatives in the European Works Council (EWC) were also consulted prior to the decision.

In July 2019, the decision to discontinue production and look for a new owner was communicated, with prolonged termination periods until mid-December 2019 or longer. By this, the enterprise wanted to provide the co-workers a fair chance to adapt to the change. It also provided sufficient time for negotiation with the union on a good support package to mitigate any adverse effects. The final support package was presented together with the union on September 18, 2019."

According to the enterprise, it undertook the following efforts to mitigate adverse effects: *"IKEA Industry supported all co-workers in finding a new job for example through the Virginia Employment Commission (VEC), by hosting job fairs, introducing scholarships and by offering professional support and outplacement services. IKEA Industry deliberately chose the buyer of the facility, for being a good partner to the region and the number of workplaces they would offer - up to 1000, compared with 300 co-workers employed at IKEA Industry Danville."*

Moreover, the enterprise claims that both governmental authorities as well as 80% of the workers confirmed the proper and responsible way IKEA Industry handled the closure.

Based on the above the enterprise believes it supported the workers and mitigated the negative effects of the decision, which, according to the enterprise, BWI has also recognized in their meetings with them.

Concerning the IFA, the enterprise is of the position *"that the IFA referred to by the notifying parties is connected to another Group of Companies and is not any way applicable for Inter IKEA Group, including IKEA Industry."*

With regard to a meaningful social dialogue, the enterprise believes it has all the preconditions in place to support this: *"Looking at the structure we have developed for working with our work councils and unions, we believe we have all the pre-conditions in place to truly support a collaborative approach and a meaningful social dialogue. We have union representatives in the IKEA Industry Board, we have an IKEA Industry global workers council, we have an Inter IKEA Group European workers council, and we have local unions in most of our factories. Where we do not have unions, we have other set-ups to secure co-determination for co-workers. Our code of conduct "IWAY" reflects our commitment to the UN Guiding Principles on Business and Human Rights and is based on the Ten Principles of the Global Compact. In developing our requirements, we have also been guided by the UN Sustainable Development Goals and the ILO Centenary Declaration for the future of Work, among others."*

3. The proceedings of the NCP to date

Since the receipt of the submission on 24 December 2020 the NCP has carried out the following actions.

On 5 January 2021, the NCP has sent a confirmation of receipt to the notifying parties and has informed the enterprise of the notification. Both parties also received a description of the NCP procedure.

On 11 February 2021, it received agreement from the US NCP to the coordination proposal that the Dutch NCP takes the lead and the US acts as supportive NCP.

In February 2021, the NCP received correspondence from Inter IKEA claiming the issues have arisen at Inter IKEA's Swedish subsidiary IKEA Industry.

On 19 March 2021, the first video meeting with the notifying parties took place.

On 9 April 2021, the first video meeting with the enterprise took place. Inter IKEA delegated this meeting to its subsidiary IKEA Industry AB, a Swedish entity.

On 4 June 2021, the Swedish NCP was informed of the involvement of a Swedish entity in the procedure. The Swedish NCP had no objections to the Dutch NCP taking the lead and offered its assistance.

On 22 July 2021, the first draft initial assessment was sent to both parties for comments, to be provided by 30 August (due to Summer holidays the NCP extended the usual deadline of two weeks). In the accompanying mail, the NCP offered its good offices and asked the parties to respond.

On 1 October 2021, the second draft initial assessment was sent to both parties for factual corrections, to be provided within 14 days.

On 18 October 2021, the final version was sent to both parties with a proposal for a date of publication.

On 25 October 2021, the initial assessment was published.

4. Initial assessment by the NCP

The NCP has decided to accept the submission. This decision has been taken following an assessment of the criteria below, as outlined in the commentary to the Procedural Guidance, para 25.

What is the identity of the submitter(s) and what is the nature of their interest in the submission?

The party submitting this specific instance is the BWI, a global union federation representing workers in the building and construction, wood and forestry, building materials and allied sectors and has over 350 affiliated trade unions from 150 countries that represent over 12 million workers. BWI is joined in this submission by its member IAMAW, the North American trade union which represented the workers at the Danville site, and by GS Facket, which represents workers based in Sweden in the forestry, woodworking furniture and graphic industries and in IKEA Industry. GS Facket is also involved in the Inter IKEA EU Works Council as supporting expert. All three trade unions have been involved in the IFA negotiations with IKEA.

Based on the above, the Dutch NCP is of the opinion that the notifying parties have a legitimate interest in the issues raised in the notification.

Are the issues raised by the submitter(s) material and substantiated?

Based on the information received the NCP finds the issues raised material and substantiated, meaning they are plausible and related to Chapter V Employment and Industrial Relations, para 2c and 6 of the Guidelines.

Is there a link between the activities of the enterprise and the issues raised? Is the Dutch NCP the right entity to assess the alleged violation against Inter IKEA?

The IKEA site in Danville, US is owned by IKEA Industry AB, which is a in Sweden based subsidiary of the Netherlands based Inter IKEA. According to the information provided by the enterprise, the decision to close the US based IKEA facility was taken by the IKEA Industry AB board and the CEO and CFO of Inter IKEA were board members of IKEA Industry AB at the time. Afterwards, the closure was confirmed at the European Works Council in which both IKEA entities have a seat. While IKEA Industry was the Inter IKEA subsidiary under which the Danville facility was operated and as such IKEA Industry was, presumably, directly involved in the decision to close the Danville facility, the NCP concludes that Inter IKEA was part of the decision making process as the ultimate parent company and through the involvement of the CEO and CFO of Inter IKEA. Therefore, the Dutch NCP believes there to be a link between Inter IKEA and the issues raised in the specific instance and, subsequently, the Dutch NCP is the right entity to further examine the alleged violations of the Guidelines by Inter IKEA.

What is the relevance of applicable legislation and procedures, including court rulings?

According to the Guidelines, enterprises are expected to meet the requirements of domestic legislation. Also, companies are expected, as a minimum, to make reference to international human rights and labour standards such as the International Human Rights Bill and the ILO fundamental rights principles (Chapter I para 1, Chapter IV para 39).

With regard to the closure of the Danville site in the US, in principle US law is applicable. The NCP is not aware of any relevant court rulings.

How similar issues have been, or are being, treated in other domestic or international proceedings?

The NCP is not aware of any past or ongoing parallel proceedings.

Would considering this submission contribute to achieving the Guidelines' objectives and enhancing their effectiveness?

The Guidelines aim to ensure that the operations of “enterprises are in harmony with government policies, to strengthen the basis of mutual confidence between enterprises and the societies in which they operate” (Preface, para 1). The NCP is of the opinion that the consideration of the underlying submission can contribute to the fulfillment of Inter IKEA’s responsibilities under the Employment and Industrial Relations Chapter as well as its responsibilities to exercise due diligence throughout its subsidiaries. The OECD Due Diligence Guidance for Responsible Business Conduct - OECD may be a helpful tool in this regard.

Taking into account the forward looking resolution of the issues raised which the notifying parties is seeking, the NCP believes it can facilitate a mediation process between the parties with the aim to reach a forward looking agreement.

5. Conclusion

The NCP concludes that this specific instance merits further consideration. The conclusions reached by the NCP in this initial assessment rest on the criteria laid out in the commentary to the Procedural Guidance, para 25 and are based on the information received from both parties. The NCP does not express an opinion on the correctness of the statements of the parties or the validity of the documentation provided by them.

6. Next steps

The NCP accepts this case for further examination and offers its good offices to the parties. The NCP will ask both parties whether they are willing to engage in a mediation/conciliation process, with the aim of agreeing how the issues can be successfully addressed. If the parties cannot reach agreement as a result of the good offices, the NCP will examine the issues and provide recommendations.

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](#)

Published by:
National Contact Point OECD Guidelines
for Multinational Enterprises

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