



Final Statement

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

Date: 25 april 2023

Notification to the Netherlands National Contact Point for the OECD Guidelines for Multinational Enterprises 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.

As noted in the Procedural Guidance to the OECD Guidelines for Multinational Enterprises, following conclusion of a specific instance and after consultation with the parties involved, the NCP will make the results of the procedures publicly available.

This report describes the issues raised, the procedures initiated by the NCP to assist the parties and when agreement was reached. The parties have agreed to not include a summary of the agreement in this Final Statement.

This statement also identifies recommendations made by the NCP to the enterprise on the implementation of the Guidelines.

As specific instances are not legal cases and NCPs are not judicial bodies, NCPs cannot directly order compensation nor compel parties to participate in a conciliation or mediation process.

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1. Executive Summary

Notification

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.

The issues raised by the notifying party 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 party 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

According to the notifying party, the issues arose under the responsibility of Inter IKEA Holding BV, which is based in the Netherlands. Inter IKEA Holding BV (hereinafter: 'Dutch parent entity') has involved its Swedish subsidiary IKEA Industry AB (hereinafter: 'Swedish subsidiary') throughout the procedure before the NCP (collectively they will be referred to as 'the enterprise'). The issues raised were related partly to negative impact that was experienced in the United States. 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 was that the Dutch NCP was the right entity to assess the alleged non-observance of the Guidelines in this specific instance due to the involvement of the Dutch parent company. The Dutch NCP has kept both NCPs informed during the procedure.

Initial Assessment

The Dutch NCP concluded that this notification merited further consideration, based on the following considerations:

- the Dutch NCP is the right entity to assess the alleged violation by the Dutch parent entity;
- the notifying party has a legitimate interest in the issues raised in the notification;
- The Dutch parent entity is a multinational enterprise within the meaning of the Guidelines;
- the issues raised by the notifying party are material and *prima vista* substantiated;
- there is a link between the Dutch parent entity's activities and the issues raised in the specific instance;
- the consideration of this specific instance may contribute to the Guidelines' objectives and effectiveness.

The decision to accept the notification for further consideration was based on an initial assessment of the information submitted and did not represent a conclusion as to whether the Dutch parent entity observed the Guidelines, nor as to whether the statements made by the notifying party were accurate. The NCP published the initial assessment on 25 October 2021.

Dialogue

Following the conclusion that this notification merited further consideration, the NCP offered its good offices to the parties to address the concerns raised by the notifying party and come to a

solution through dialogue, with reference to the [Dutch NCP Specific Instance Procedure](#) for handling notifications. The good offices were accepted by the parties on February 23, 2022. The dialogue took place in the period May-October 2022 and resulted in an agreement, which was signed on December 5, 2022.

Recommendations

While recognizing that the good offices concluded with an agreement between the notifying party and the Swedish subsidiary, the NCP would like to draw the attention of the enterprise, including the Dutch parent entity which was not party to the agreement and to which the notification was addressed, to the Guidelines' provisions that are relevant to this notification.

First, the Guidelines prescribe that all entities within a corporate group are expected to implement the Guidelines and carry a shared responsibility to ensure each entity acts in line with the Guidelines. See paragraph 4, chapter Concepts and Principles.

Second, each corporate entity, including the parent entity, is expected to carry out risk-based due diligence throughout its corporate group as well as its supply chain to identify, prevent and mitigate actual and potential adverse impacts, and account for how these impacts are addressed. The expectation is that it takes action, where appropriate, towards group entities as well as business partners, with the aim to ensure alignment with the Guidelines by these actors. See paragraphs 10-13 and commentaries 14-22, chapter General Policies.

Third, the OECD Due Diligence Guidance for Responsible Business Conduct explains that one of the characteristics of due diligence is that it should be informed by engagement with stakeholders and that it involves the timely sharing of the relevant information needed for stakeholders to make informed decisions in a format that they can understand and access. Concerning providing reasonable notice of changes which would have major employment effects, the Guidelines clarify that in some situations, such as the full closure of a facility, it would be expected of an enterprise to involve (local) worker representatives before the final decision being taken and to cooperate meaningfully with these representatives throughout the process. See paragraph 6 and commentary 59, chapter Employment and Industrial Relations, OECD Due Diligence Guidance for Responsible Business Conduct, p. 18, 48, 49.

Finally, concerning disclosure the Guidelines explain the notion that each corporate entity, including the parent, should take into account the increasing needs and expectations of various stakeholders, including the general public, for disclosure of detailed information on not only the entities' activities, but also on e.g. the corporate (group) structure, supply chain partners, and the provenance of their products and resources. See paragraphs 1-3 and commentary 28, chapter Disclosure.

Follow-up

With the publication of the final statement the NCP procedure is concluded. The follow-up will consist of an evaluation of the implementation of the agreement and recommendations. It will take place one year after publication of the final statement.

2. Substance of the submission, relevant provisions and the enterprise's response

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 a 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, which is mentioned in this submission. This site was directly controlled by the Swedish subsidiary.

Substance of the submission

According to the notifying party, the closure of the IKEA 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 2019 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, according to the notifying party, the company was unwilling to have discussions. The notifying party claims that appropriate and timely discussions with the representatives of the workers would have allowed for a quality examination of all the factors and circumstances related to the closure, including the effects on the victims.

BWI asserts that it has signed an International Framework Agreement (IFA) with IKEA in 2003 and has renegotiated it in 2013-2014, although the latter was never signed. That IFA 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. The notifying party also states that Inter IKEA does not make supplier information available and that in IKEA's code of conduct "IWAY" neither the UN Guiding Principles on Business and Human Rights nor the Guidelines are mentioned.

The notifying party claims that the decision to close the Danville facility was made under the responsibility of the parent company Inter IKEA and therefore considers the actual infringement to have taken place in the Netherlands. For this reason, it considers the Dutch NCP as the appropriate entity to handle the specific instance.

The notifying party requested the NCP to offer mediation to resolve differences and to come to a resolution leading to: a) a recognition of the 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 party expected 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 expected 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.

Relevant provisions

Provisions of the Guidelines referred to by the notifying party in the specific instance and which have, allegedly, not been observed by the Dutch parent entity:

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 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 was 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 stated: *“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 were 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 claimed that both the local 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 believed it supported the workers and mitigated the negative effects of the decision, which, according to the enterprise, BWI had also recognized in their meetings with them.

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

With regard to a meaningful social dialogue, the enterprise believed it had 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. Initial assessment by the NCP

The NCP concluded the notification merited further consideration. The full text of the initial assessment including the reasons why the NCP decided it merited further consideration can be found [here](#) on the NCP's website.

Subsequently, the NCP has offered its good offices to the parties. The NCP has asked both parties whether they are willing to engage in a mediation process, with the aim of agreeing how the issues raised can be successfully addressed. The NCP's good offices were accepted by both parties.

4. The proceedings of the NCP

Below is a chronological overview of what the NCP has done since receiving the submission.

Date	Action that occurred
	Initial Assessment phase
24 December 2020	Receipt of the specific instance
5 January 2021	Confirmation of receipt sent to notifying party
5 January 2021	Submission sent to Dutch parent entity
11 February	US NCP agreed to NL NCP being the lead
19 March 2021	Online meeting between NCP and notifying party
29 March 2021	Informal call with Dutch parent entity about the procedure
9 April 2021	Video meeting between NCP and Dutch parent entity together with Swedish subsidiary
4 June 2021	Informed Swedish NCP of involvement Swedish corporate entity
16 June 2021	Receipt of written response of enterprise
22 July 2021	First draft IA sent to both parties for comments and good offices offered
22 July 2021	First Draft IA sent to US NCP and Swedish NCP for information
20 August 2021	Receipt of response to first draft IA and good offices accepted by the Swedish subsidiary only
30 August 2021	Receipt of response to first draft IA and good offices accepted by the notifying party
1 October 2021	Second draft IA sent to parties for factual corrections only
4 October 2021	Receipt of response to second draft IA from the enterprise
7 October 2021	Receipt of response to second draft IA from notifying party
18 October 2021	Final IA and publication date shared with both parties, US and Swedish NCP
25 October 2021	Publication of the initial assessment on the NCP's website

11 February 2022	Online meeting with new contact person at Dutch enterprise
23 February 2022	Good offices accepted by the Dutch parent entity together with the Swedish subsidiary
	Dialogue phase
1 April 2022	Online pre-mediation session with both parties
28 April 2022	Update sent to US and Swedish NCPs
25 May 2022	Dialogue session on Terms of Reference
8-9 June 2022	Dialogue session
12 July 2022	Online dialogue session
1-2 September 2022	Dialogue session
30 September 2022	Dialogue session
17 October 2022	Conclusion of the dialogue with an agreement between the parties
5 December 2022	Agreement signed by notifying party and Swedish subsidiary
	Final statement phase
2 February 2023	Draft final statement shared with NCPs of US and Sweden
2 February 2023	Draft final statement shared with parties for comments
28 February 2023	Receipt of response to draft IA from enterprise
1 March 2023	Receipt of response to draft FS from notifying party
18 April 2023	FS for publication and proposed publication date sent to parties
25 April 2023	Publication of the final statement on the NCP's website and closure of the specific instance

Besides the account given above the NCP has also corresponded with both parties in order to give updates on the procedure and held separate meetings with parties during the dialogue phase.

The NCP has not met the indicative timelines due to the high workload, which was primarily created by the increasing number of new notifications and the complexity of specific instances.

5. Outcome of the good offices

On the side of the notifying party the representatives of the three trade unions participated in the good offices. On the side of the enterprise both the representatives of the Dutch parent entity and the Swedish subsidiary participated. The dialogue resulted in an agreement in the form of a Memorandum of Understanding between the notifying party and the Swedish subsidiary (the Dutch parent is not a signatory). In accordance with the Implementation Procedures of the Guidelines (see Commentary 22, Guiding Principles for Specific Instances), the NCP ensured that the procedure was

compatible with the Guidelines. The NCP further confirms that there are no elements in the agreement which are contrary to the principles and standards contained in the Guidelines. The parties agreed to keep the content of the agreement confidential. The NCP commends both parties for reaching this agreement and for displaying good faith engagement.

Other positive outcomes of the NCP facilitated dialogue are that parties are willing to continue to engage with each other and have an opportunity to improve their relationship further. According to the enterprise, it has improved its reasonable notice procedure towards worker representatives in case of major decisions like a facility closure. Also, the enterprise indicated that due to the dialogue it improved its understanding of the Guidelines and strengthened the importance of the attention the enterprise gives to matters related to the issues raised in the notification.

6. Recommendations

While recognizing that the good offices concluded with an agreement between the notifying party and the Swedish subsidiary, the NCP would like to draw the attention of the enterprise, including the Dutch parent entity which was not party to the agreement and to which the notification was addressed, to the Guidelines' provisions that are relevant to this notification.

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7. Follow Up

As an important part of the NCP's non-judicial role, follow up on agreements and recommendations supports the effectiveness of the specific instance process. In particular, follow up can further the Guidelines' effectiveness by encouraging parties to remain engaged with the issues and companies to implement the recommendations and agreements adopted in accordance with the Guidelines.

The NCP will follow up the specific instance one year after the date of publication of the underlying final statement. The NCP will follow up with the parties in writing in order to evaluate the implementation of the agreement and recommendations. The outcomes of the follow-up proceedings will be shared via a publication on the NCP's website.

With this Final Statement, the NCP closes the Specific Instance Procedure.

The NCP would like to express its appreciation to the parties for participating in good faith in the procedure.

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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