

Berlin, June 29, 2007

**Statement by the German National Contact Point
for the 'OECD Guidelines for Multinational Enterprises'
on a Specific Instance brought by the DGB against Bayer AG
(EUBP-FFW ./.. Bayer Philippines)**

On June 27, 2003 the DGB submitted a complaint against Bayer AG to the German National Contact Point for the 'OECD Guidelines for Multinational Enterprises'. The background of the complaint were the consequences of the unlawful recognition of one of two competing company unions as contracting parties to collective bargaining by a subsidiary of Bayer AG in the Philippines in the period 1998 to 2002. While Bayer Philippines again recognized EUBP-FFW as the lawful union upon a corresponding ruling by the Philippine Supreme Court in 2002, there continued to be objections to the consequences of the conflict from the perspective of the complainant, namely the DGB, which represented the interests of the EUBP-FFW. Leading up to the complaint were acts that the court found to be violations of Philippine labor statutes, in particular provisions concerning collective bargaining; it should be noted that in advance of these events there were divergent votes and views on the interpretation of decisions regarding the subsidiary Bayer Philippines and the Philippine trade union EUBP-FFW which represents the employees there.

The specific issue at the focus of attention was the legality of dismissal for operational reasons of union representatives and members of the EUBP-FFW in the years from 2000 to 2002. On the other hand, the EUBP-FFW claimed entitlement *vis-à-vis* Bayer Philippines to the union membership dues transferred by that company to the REUBP union, which was retroactively found to be unlawful. According to the DGB and the EUBP-FFW, the "General Policies" (Section II) and the principles underlying "Employment and Industrial Relations" (Section IV) of the 'OECD Guidelines', in particular the principle of *bona fide* negotiations had not been observed.

After careful review, the German National Contact Point accepted for consideration the questions that had been raised and received detailed statements from both parties. In July 2004 the National Contact Point had a discussion with the DGB and in October 2004 a discussion with both parties in Germany's Federal Ministry of Economics and Labor (thus designated at that time) in the interest of working toward an agreement acceptable to the DGB, the affected Philippine union and its representative, and Bayer AG. The essential results of the meeting were that, owing to the complex issues, both parties should obtain further information.

On the basis of the information that has meanwhile been received and after additional discussions between the National Contact Point and the DGB and a meeting with all of the parties in May / June 2007, the case can now be concluded with the following joint statement in

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accordance with the 'OECD Guidelines', subject to the legally binding conclusion, within a appropriate period of time, of the agreements among the three involved parties in the Philippines (Bayer Philippines, EUBP-FFW, and the former union president):

Bayer AG asserts that Bayer Philippines management at no time intended to obstruct union activities by EUBP-FFW and regrets if this impression had been obtained by EUBP-FFW and the DGB. In this connection, Bayer AG is of the opinion that the controversies that arose could have been avoided if all of those involved had shown more willingness to cooperate and had reached out to one another.

In view of the fact that EUBP-FFW incurred the loss of a substantial share of union membership dues in the period 1998 to 2002, Bayer Philippines has submitted a financial offer in the interest of further cooperation in the spirit of trust. The payment will be made immediately under the condition that EUBP-FFW no longer raises claims against Bayer Philippines owing to the (now undisputed) transfer of union membership dues to REUBP in the 1998 to 2002 period, and appropriately shows that all requests and legal measures to this effect have been dropped.

On the only still pending individual labor court proceeding filed by the former president of EUBP against Bayer Philippines, a settlement has already been reached that takes account of the ruling of the Court of Appeals of 30 January 2006. This provided for the reinstatement of the former union president with the payment of all claims and remuneration since termination of employment in 2000 and the payment of compensation for damages.

All of the parties announce the above described situation to be ended with the amicable settlement of the proceedings.

The National Contact Point expects that this dialogue will contribute to an amicable ending of the complaint filed here and to a more intensive exchange of information between both parties, and to improved transparency, and they thank the participants, particularly Ms. Meyer and Dr. Eckl, Mr. Botsch, and Mr. Hahn of the DGB and Ms Ehemann-Schneider, Mr. Naumann, and Mr. de Win, chairman of the all-works council, of Bayer AG for their constructive participation.

The OECD Guidelines for Multinational Enterprises, as part of the OECD Declaration on International Investment and Multinational Enterprises, present recommendations for responsible corporate conduct in the case of investment abroad. The governments of the OECD Member Countries and other participating countries have committed themselves by way of their respective National Contact Points (in Germany the Federal Ministry of Economics and Technology) to promoting the use of these voluntary codes of conduct and to arriving at

solutions to complaints by way of the trusting intermediation of the respectively relevant partners.