

Statement by the U.S. National Contact Point for the OECD Guidelines for Multinational Enterprises

Fact Sheet

BUREAU OF ECONOMIC AND BUSINESS AFFAIRS

February 1, 2012

The LEAD Group and Innospec

Background

The OECD Guidelines for Multinational Enterprises (MNEs) are voluntary, non-binding recommendations for responsible business conduct in a global context. The Guidelines are addressed to MNEs operating in or from the territories of governments adhering to the OECD's Declaration on International Investment and Multinational Enterprises, of which the Guidelines form one part. Adhering governments have committed to encourage their MNEs to follow the Guidelines in their global operations and to appoint a national contact point (NCP) to assist parties in seeking a consensual resolution to issues that may arise under the Guidelines.

As a part of its function, the U.S. NCP receives concerns raised, in the form of a specific instance, about the business conduct of a MNE operating in or from the United States. It handles such issues in accordance with procedures it has adopted for this purpose. In such circumstances, the NCP's primary function is to assist affected parties, when appropriate, in their efforts to reach a satisfactory and consensual resolution to matters raised under the Guidelines. The NCP's role is to take up issues that are amenable to a consensual resolution under the Guidelines and, where appropriate, make recommendations as to how the enterprise might make its business practices more consistent with the Guidelines. Consistent with the voluntary nature of the Guidelines, the NCP does not make a determination whether a "violation" of the Guidelines has occurred, nor does the NCP have legal authority to adjudicate disputes submitted under this process.

The Specific Instance

On August 27, 2011, The Lead Education and Abatement Design (LEAD) Group Incorporated contacted the U.S. NCP regarding concerns over the manufacture and sale of tetra ethyl lead (TEL), the additive for leaded gasoline, by Innospec, headquartered in Colorado. Innospec is the world's only remaining manufacturer of TEL. The LEAD Group's specific instance filing requested mediation between the two parties, with the goal of ending TEL's sale to and use in the countries that continue to use leaded gasoline, before the end of 2011. The LEAD Group, based on information from the UN Environment Program's Partnership for Clean Fuels and Vehicles, identified those countries as Afghanistan, Algeria, Iraq, Myanmar (Burma), North Korea and Yemen. The LEAD Group also asked that Innospec buy back existing stocks of TEL held in the six countries. The LEAD Group asserted that Innospec's continued sale of TEL was inconsistent with the environmental provisions of the Guidelines.

The LEAD Group also asserted that Xstrata, a Swiss-incorporated company, played an important supply chain role in Innospec's activities. The LEAD Group alleged that Xstrata owned a mine in Australia that sent its lead to the UK for refining at BRM, a UK-based smelter, and that BRM served as Innospec's sole source for lead used to produce TEL. The LEAD Group asked that if Innospec would not cease its sale of TEL to the above countries for

leaded gasoline, then Xstrata should cease its sale to Innospec of lead for TEL for leaded gasoline. Accordingly, The LEAD Group sent its August 27 specific instance request to the Australian, Swiss, UK and U.S. NCPs.

The four NCPs consulted and agreed the U.S. NCP would take the lead on Innospec-related issues, the UK NCP would lead on Xstrata-related matters, and the Australian and Swiss NCPs would offer support as appropriate. On September 30, the U.S. NCP notified Innospec of The LEAD Group's complaint. On September 30, the U.S. NCP separately asked The LEAD Group to identify the precise provisions of the Guidelines on which it was basing its request.

On October 4, Innospec, through its outside counsel, contacted the U.S. NCP. Innospec stated it had had no previous interaction with The LEAD Group, but was aware of its views. Innospec said The LEAD Group's characterization of Innospec's activities contained a number of inaccuracies and misunderstandings, including regarding how difficult it would be to change from leaded to unleaded gasoline use in the consuming countries under the proposed timeline. Innospec stated that it saw no merit in The LEAD Group's complaint and was considering not engaging in the specific instance process. The NCP confirmed that the specific instance process was voluntary, but suggested Innospec consider whether it would be useful to engage The LEAD Group to discuss their different assessments of the factual circumstances. In accordance with its procedures, the NCP informed Innospec that if Innospec chose not to participate the NCP would note Innospec's decision in a public statement. In an October 5 letter to the U.S. NCP, Innospec declared that it had not sold TEL to Afghanistan, North Korea or Burma.

On October 13, The LEAD Group responded to the U.S. NCP's September 30 letter, contending that Innospec's actions were inconsistent with the principles in Chapter VI (environment), specifically paragraphs 1(a), (b) and (c); 2(a) and (b); 3; 6(a), (b), (c) and (d); 7 and 8.

After further internal consideration, Innospec decided it would be unproductive to engage in the process, stating that it believed the LEAD Group's request to close down all TEL production for leaded gasoline and cease sales prior to the end of 2011 was unrealistic. The NCP informed The LEAD Group on December 14 of Innospec's decision.

Recommendation

After preliminary review, the U.S. NCP determined the issues raised by The LEAD Group merited further consideration under the Guidelines and would have been prepared to offer its good offices to assist the two parties to undertake a dialogue to seek a positive resolution. Innospec stated in its 10-K Securities and Exchange Commission report of 2010 that the company expected all sales of TEL for automobile gasoline use to cease in 2012, thus suggesting that its stated plans and the objectives of The LEAD Group were not far apart. The NCP has learned that Innospec now believes sales may continue into 2013.

Under U.S. NCP procedures, acceptance of The LEAD Group's specific instance would not indicate the NCP considered Innospec to have acted inconsistently with the Guidelines, but rather that the NCP considered it appropriate to facilitate a discussion between the parties of the issues raised. For Innospec's part, a decision to engage with The LEAD Group under this process would not have implied any prima facie admission of conduct inconsistent with the Guidelines. Mediation or conciliation is a voluntary step, providing an opportunity for a neutral third-party to assist parties to reach their own resolution of concerns. In mediation, the parties are responsible for arriving at their own solution, and the process is designed to create an environment for cooperative problem-solving between the parties.

The LEAD Group was prepared to engage in a mediated dialogue. In the end, Innospec declined to participate. The NCP observed the two parties had divergent views – not only with respect to the appropriate approach going forward, but also with respect to the underlying facts of the situation. In particular, Innospec contended The LEAD Group was mistaken in its views in a number of respects, and did not wish to engage on those issues with the LEAD Group. According to Innospec, its decision not to participate was based, in part, on certain earlier public statements by the LEAD Group. Those statements caused Innospec to believe the LEAD Group would not engage in a dialogue in good faith.

The U.S. NCP determined it would be unproductive to offer its good offices, because it would be unable to bring the parties together to address the issues raised. However, the NCP encourages the parties to continue to consider how to achieve the conditions necessary for a good faith dialogue on this matter.

Alan Yu

U.S. National Contact Point for the OECD Guidelines for Multinational Enterprises

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