

SPECIFIC INSTANCE

THE INTERNATIONAL UNION OF FOOD, AGRICULTURAL, HOTEL, RESTAURANT, CATERING, TOBACCO AND ALLIED WORKERS' ASSOCIATIONS (IUF) AND BATIPART INVEST S.C.A

30 APRIL 2025, LUXEMBOURG

The objective of the initial assessment process under the Implementation Procedures is to determine whether the issues raised in the specific instance warrant 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.

The NCP has at this stage made no determination as to whether the company has acted consistently with the OECD Guidelines. As specific instances are not legal cases and NCPs are not judicial bodies, NCPs cannot impose sanctions, directly provide compensation or compel parties to participate in a conciliation or mediation process.

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OECD GUIDELINES FOR MNES ON RBC

The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (the “Guidelines”) are recommendations provided by governments to multinational enterprises.¹ The primary aim of the Guidelines is to encourage enterprises to contribute positively to economic, environmental, and social progress while minimizing adverse impacts associated with their operations, products, and services.

Since their introduction in 1976, the Guidelines have been regularly updated to address societal challenges and the evolving context of international business. Most recently updated in June 2023, the Guidelines cover key areas of business responsibility, including human rights, labor rights, environment, bribery and corruption, consumer interests, disclosure, science and technology, competition, and taxation. The Guidelines apply to multinational enterprises operating in and from the territories of the Adherents, which currently includes 52 countries, including Luxembourg.

NCPS FOR RBC AND LUXNCP

The OECD Guidelines are supported by a unique implementation mechanism: the National Contact Point for Responsible Business Conduct (“NCP”). NCPs are established by adhering governments to ensure the effectiveness of the Guidelines. The NCP of Luxembourg (“LuxNCP” or the “NCP”) operates within the Ministry of the Economy. In fulfilling its tasks, the LuxNCP adheres to the OECD’s core effectiveness criteria, including visibility, accessibility, transparency, accountability, impartiality and equitability, predictability, and compatibility with the OECD Guidelines. The primary responsibilities of NCPs include:

- I. Promote awareness and uptake of the Guidelines: NCPs work to increase awareness of the Guidelines among businesses, trade unions, and other stakeholders through outreach activities, training sessions, and guidance on implementation.
- II. Contribute to the resolution of issues that arise in relation to the implementation of the Guidelines in specific instances: NCPs serve as a non-judicial grievance mechanism, offering a forum for discussion and expertise to help parties resolve issues efficiently and in accordance with applicable law and the Guidelines.

In addition, NCPs may coordinate with relevant government agencies to support efforts by their governments to develop, implement, and foster coherence of policies to promote responsible business conduct.

KEY ROLES OF NCPS IN HANDLING SPECIFIC INSTANCES

When issues arise related to the implementation of the Guidelines in specific instances, NCPs are expected to assist in resolving them. This assistance may include supporting constructive dialogue, facilitating agreements between the parties and issuing recommendations. The aim of such assistance is to further the implementation of the Guidelines in the future and/or addressing adverse impacts in a way consistent with the Guidelines.

¹ OECD (2023), OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, OECD Publishing, Paris, <https://doi.org/10.1787/81f92357-en>.

EXECUTIVE SUMMARY

On 6 August 2024, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco, and Allied Workers' Associations (IUF) on behalf of itself and its affiliate unions including the Fédération de l'Hôtellerie et du Tourisme de la République de Guinée (FHTRC) in Guinea submitted a specific instance to the Luxembourg National Contact Point (LuxNCP or NCP) concerning alleged violations of the OECD Guidelines for Multinational Enterprises (OECD Guidelines) by Batipart Invest S.C.A. The complaint pertains to Batipart's role as an institutional investor and majority owner of Onomo Hotels (Onomo), specifically addressing alleged adverse impacts at Onomo Hotel Conakry (OHC) in Guinea.

The IUF alleges that Batipart has not fulfilled its due diligence obligations under the OECD Guidelines regarding labor rights violations at OHC. They argue that Batipart has not used its leverage over Onomo to ensure compliance with responsible business conduct. The primary allegations concern labor rights violations allegedly committed by OHC management, including interference with workers' rights to unionize, retaliation against union supporters, discriminatory subcontracting practices, and lack of good-faith collective bargaining. The complainant asserts that Batipart, due to its business relationship with Onomo, has a responsibility under the OECD Guidelines to conduct due diligence and use its leverage to address these risks. In their rejoinder submitted on 27 February 2025, the IUF further argues that Batipart's involvement contributes to the adverse impacts, referring to its majority ownership and managerial role in Onomo as the basis for this claim.

Batipart submitted its response to the LuxNCP on 26 November 2024, rejecting the allegations and describing the measures taken to address potential adverse impacts. Batipart states that it has implemented initiatives aimed at promoting social dialogue, human rights compliance, and responsible business conduct within Onomo Hotels.

The objective of the initial assessment process under the Guidelines' Implementation Procedures is to determine whether the issues raised warrant further examination.² **In this phase, the NCP assesses whether the issues are *bona fide*, in other words real or authentic, and relevant to the implementation of the Guidelines, in other words, within the scope of the Guidelines.**³ This assessment is based on six criteria specified in the Guidelines,⁴ which are also reflected in the Rules of Procedure of the LuxNCP.⁵

After engaging with both parties through meetings and written exchanges, **the LuxNCP conducted its initial assessment and decided to accept the specific instance, offering its good offices regarding Batipart's due diligence obligations as an institutional investor under the OECD Guidelines:**

1. IUF and its affiliates including FHTRC are organizations with relevant mandates concerning labor rights and have a legitimate interest in the matter.

² OECD Guidelines (2023), Procedures, C(2).

³ OECD, Guide for National Contact Points for Responsible Business Conduct on the initial assessment of specific instances, Revised version based on the 2023 version of the Implementation Procedures of the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, 3 May 2024 (OECD Initial Assessment Guide), p. 38.

⁴ OECD Guidelines (2023), Commentaries on the Implementation Procedures, para. 33.

⁵ LuxNCP, Rules of Procedure for Handling Specific Instances (herein after LuxNCP RoP), available at: <https://pcn.gouvernement.lu/dam-assets/documents/rop-vf.pdf>.

2. The alleged issues are material and *prima facie* substantiated, as supported by several worker testimonies and detailed documentation.
3. Batipart operates as a Société en Commandite par Actions (S.C.A.), a partnership limited by shares under Luxembourg corporate law, with international operations, and meets the definition of a multinational enterprise under the OECD Guidelines.
4. Based on the relationship between Batipart as an institutional investor and Onomo Hotels, including OHC, the NCP considers that there is a sufficient link between Batipart's activities and the issues raised in the specific instance.
5. As far as known, no parallel legal or other proceedings addressing similar issues would prejudice the current specific instance.
6. The NCP considers that accepting this specific instance and offering good offices could facilitate dialogue between the parties. This process would help address the issues raised and enhance the understanding of the due diligence obligations expected of institutional investors under the OECD Guidelines. This is particularly relevant following the 2023 update, which outlines how enterprises should conduct due diligence on impacts and business relationships related to the use of their products and services.

At this stage, the NCP does not make any determination on the parties' competing submissions. Accepting the case for further examination does not mean that the issues raised have been given final consideration and does not imply any finding as to whether or not Batipart has acted in accordance with the Guidelines.

The NCP has coordinated with the NCPs of France, the United Kingdom, and Morocco, in the present specific instance. The French and UK NCPs have received related specific instances involving similar allegations raised by the same complainant against different respondents. It was agreed that each NCP would handle the specific instances submitted to them, with the Moroccan NCP remaining informed and available to support if needed.

The LuxNCP shared the draft initial assessment with the parties on 10 April 2025. The final initial assessment was issued on 30 April 2025 and shared with the parties, the OECD Secretariat, and published on the NCP's website.

SUBSTANCE OF THE SUBMISSION (FACTS PRESENTED) AND THE ENTERPRISE'S RESPONSE

On 6 August 2024, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco, and Allied Workers' Associations (IUF) on behalf of itself and its affiliate union, Fédération de l'Hôtellerie, Touristique, Restauration et Branches Connexes (FHTRC) submitted a Specific Instance (complaint) to the Luxembourg National Contact Point (LuxNCP or NCP),⁶ alleging violations of the OECD Guidelines for Multinational Enterprises by Batipart Invest S.C.A. in relation to its ownership and investment in Onomo Hotels (Onomo), specifically Onomo Hotel Conakry (OHC) in Guinea.

- The complainants claim that Batipart, as the majority shareholder of Onomo (holding approximately 80% ownership), has failed to meet its due diligence obligations under the OECD Guidelines by not preventing or mitigating labor rights violations at OHC.

⁶ For the purposes of the remainder of this document, the term 'IUF' will be used to collectively refer to both complainants.

- They argue that Batipart has not exercised its leverage over Onomo to ensure compliance with responsible business conduct. The primary allegations concern labor rights violations allegedly committed by OHC management, including interference with workers' rights to unionize, retaliation against union supporters, discriminatory subcontracting practices, and bad-faith collective bargaining efforts. The complainants state that Batipart is linked to them through its business relationship with Onomo and thus has an obligation under the OECD Guidelines to conduct due diligence and use its leverage to mitigate these risks.

The next sections summarize the main allegations of the complaint based on the initial submission by the IUF on 6 August 2024, as well as a follow-up response on 27 February 2025 addressing the company's reply. It also outlines the complainants' expectations for remedy and Batipart's initial reaction in its 26 November 2024 response.

In this initial assessment, the LuxNCP refrains from commenting on the factual accuracy of either position.

SUMMARY OF THE COMPLAINT

The IUF's allegations are twofold: first, claims regarding OHC's interference with workers' rights to unionize, bargain collectively, and protection from discrimination; second, Batipart's responsibilities as an institutional investor and majority owner under the OECD Guidelines.

The IUF alleges that OHC's management has not respected workers' rights to freedom of association, collective bargaining, and protection from anti-union discrimination and retaliation. The complainants assert that OHC's management has consistently hindered workers' attempts to unionize and exercise their collective bargaining rights. More specifically:

- The IUF claims that OHC management did not adequately recognize the FHTRC's petition for union elections, which was signed by 36 employees (representing more than 50% of the workforce). The IUF contends that OHC management showed a preference for the Confédération Nationale des Travailleurs de Guinée (CNTG), a national trade union confederation in Guinea. The complainants state that despite repeated attempts by FHTRC to present their case, OHC management allegedly continued to favor CNTG, which the IUF considers a form of unlawful employer interference with FHTRC-affiliated workers' rights to freedom of association.
- The IUF alleges that OHC management intimidated union supporters through one-on-one meetings where managers questioned workers about their union activities. Workers reported that they were asked whether they were involved in union activity and were told that union affiliation would violate the hotel's trust.
- The IUF alleges that OHC management engaged in retaliatory subcontracting by terminating or pressuring non-permanent workers—particularly those who had participated in union organizing - into becoming subcontractors through the Bureau de Consultation d'Enquêtes d'Intérim et de Perfectionnement (BCEIP), a subcontracting agency. This move effectively excluded them from voting in union elections. According to IUF, 18 of the 20 subcontracted workers had signed the FHTRC petition.
- The IUF contends that OHC discriminated against workers without permanent contracts by excluding them from union elections, arguing that this practice contravenes both Guinean and international law. IUF argues that the decision to exclude subcontracted workers from the electoral process was based on their vulnerable employment status, which they argue constitutes discriminatory treatment.

- The IUF alleges that OHC conducted union elections in a manner inconsistent with national election laws and international law. They claim that the elections were marked by coercion, threats of termination, and interference by management.
- The IUF claims that OHC did not reinstate the majority of workers who had been subcontracted as a result of union activity, despite earlier commitments to insource part of the workforce. Only a few workers received direct contracts, with only two being union supporters.
- The IUF alleges that OHC failed to negotiate the terms of newly issued temporary contracts with union representatives, instead presenting these contracts directly to workers without consulting the union and instructing workers not to discuss them.

The IUF contends that the above actions violate fundamental rights protected under international standards, including the OECD Guidelines, ILO Conventions No. 87 and No. 98 on freedom of association and collective bargaining, the ILO Declaration on Fundamental Principles and Rights at Work (1998), as well as Guinean labor law, which guarantees workers' rights to unionize, bargain collectively, and be protected from discrimination and retaliation.

According to the IUF, Batipart, as an institutional investor and majority owner of Onomo, has considerable leverage and is expected to use this leverage to prevent and mitigate adverse impacts related to workers' rights under the OECD Guidelines. The IUF contends that Batipart failed to adequately use this leverage to address and mitigate the adverse impacts resulting from OHC's practices.

More specifically:

- The IUF argues that Batipart has an obligation to encourage OHC to comply with the OECD Guidelines by conducting risk-based due diligence to identify, prevent, and mitigate adverse impacts on workers' rights, even if Batipart itself did not directly cause these impacts. The IUF contends that Batipart failed to meet this obligation by not using its leverage to influence OHC's practices, despite having considerable influence as a majority owner.
- The IUF further notes that the OECD Guidelines require investors to use their leverage to influence investee companies to cease harmful practices and to take appropriate remedial actions. According to the IUF, Batipart failed to take such steps despite being in a position to do so due to its significant ownership stake and its role within Onomo's leadership structure.
- The IUF also highlights that as an investor, Batipart has a due diligence obligation to engage with relevant stakeholders, including trade unions and workers' representatives, to address and mitigate adverse impacts. The IUF contends that Batipart did not adequately fulfill this obligation.

The IUF cites the following OECD Guidelines Chapters as relevant: Chapter II (General Policies, paragraphs 11, 13, 14, 15), Chapter IV (Human Rights, paragraphs 1, 2, 6), and Chapter V (Employment and Industrial Relations, paragraphs 1(a), 1(b), 2(a), 2(b)).

To substantiate their allegations, the complainants submitted 31 exhibits as evidence, which are part of the complaint file.

Following Batipart's response to the initial complaint, the IUF submitted an additional statement on 27 February 2025 to address the points raised. In this second submission, the IUF argues that Batipart's involvement extends beyond a direct linkage to the alleged adverse impacts and constitutes a contribution to those impacts, and that Batipart is expected to cooperate in remediation. The IUF also elaborates on its views regarding Batipart's responsibility to exercise leverage to mitigate adverse impacts related to workers' rights.

Additionally, the IUF addresses points raised by Batipart concerning subcontracting practices, ongoing negotiations with FHTRC, and the sufficiency of due diligence efforts.

REMEDIES SOUGHT BY IUF

The complainants request that Batipart, in its role as the majority shareholder of Onomo, take measures to ensure that OHC aligns with the OECD Guidelines. They call on Batipart to:

- Ensure that OHC respects the right to freedom of association and collective bargaining, ceasing any intimidation or obstruction of union activities and ensuring compliance with labor standards.
- Ensure the reinstatement of workers who were dismissed or transferred to subcontracting arrangements without their consent, ensuring they are reinstated with direct and permanent employment contracts.
- Ensure a meeting takes place between the management teams of both Batipart and OHC with IUF to resolve any impediments to compliance with the OECD Guidelines at OHC.
- Ensure that OHC's management engages in good faith bargaining with FHTRC, as required by Guinean and international law.

The complainants state that they are willing to engage in dialogue with Batipart in accordance with the expectations of the OECD Guidelines through the LuxNCP. They express hope that the assistance of the LuxNCP will facilitate a resolution that provides an appropriate remedy for the workers at OHC.

INITIAL RESPONSE FROM BATIPART

Batipart submitted its response to the NCP on 26 November 2024. In its response, Batipart addresses the remedies sought by the IUF, disputing the allegations related to workers' rights and union activities. Batipart states that it has taken measures to identify, prevent, and monitor potential adverse impacts in alignment with the OECD Guidelines. Additionally, Batipart describes measures implemented to address workforce-related concerns, including training programs and social dialogue initiatives. The response outlines Batipart's approach to RBC, presenting the group's stated commitment to compliance with international standards and efforts to improve its practices. More specifically;

In response to the IUF's request for relief concerning OHC's management's respect for workers' rights to freedom of association and collective bargaining:

- Batipart states that, despite not being involved in daily management activities, it has made efforts to ensure that union elections at OHC were conducted in accordance with the OECD Guidelines. Batipart states that the delay in holding the union elections was attributed to efforts to ensure an inclusive and legally compliant process.
- According to Batipart, the rescheduling of the elections was necessary to address specific circumstances, including the inclusion of FHTRC candidates, obtaining guidance from the Labor Inspectorate regarding existing union agreements, and clarifying voter and candidate eligibility.

- Batipart further states that the union elections were held in January 2024, with the FHTRC obtaining the majority of votes. Following the elections, Batipart indicates that Onomo has maintained communication with union delegates from both FHTRC and CNTG.
- Additionally, Batipart notes that it supported a two-day training activity focused on social dialogue between OHC's management and union representatives.

In response to the IUF's request for relief concerning the reinstatement of workers who were allegedly threatened with termination if they did not transition to subcontractor status under BCEIP.

- Batipart states that the use of casual workers is a common practice in the hotel industry to manage fluctuating occupancy rates and operational needs. It states that directly hiring all casual workers was not considered feasible without imposing an unsustainable increase in administrative expenses given the uncertain economic context and historically low occupancy rates.
- Batipart notes that, following the IUF's complaint in July 2023, it requested Onomo to review its practices, which led to the identification of inconsistencies in the treatment of temporary workers across the Onomo Group. As a result, temporary workers at OHC were offered contracts with third-party BCEIP to align employment terms.
- Batipart states that as hotel occupancy increased, OHC has been increasing the number of direct employees. According to Batipart, 14 BCEIP employees received hiring letters, with 11 already integrated and three in the process of integration.
- Regarding the employment status of the 36 signatories of the petition, Batipart states that some remained direct employees, others resigned, some completed their assignments, and 18 were transferred to BCEIP, with a few subsequently reintegrated. Batipart states that the integration process did not differentiate between petition signatories and other employees.

In response to the IUF's request for relief concerning the establishment of a meeting between the management teams of both Batipart and OHC with the IUF to address compliance issues with the OECD Guidelines at OHC:

- Batipart states that it has not identified any compliance issues that would require an urgent discussion or resolution between its management, OHC, and the IUF.
- Batipart indicates that Onomo's internal policies and procedures are aligned with OECD Guidelines.
- Batipart notes that discussions with union representatives in Conakry are ongoing, covering labor and ethical standards, and therefore, an additional meeting is not deemed necessary.
- Batipart states that it has not found any impediments to compliance, referencing information from Onomo regarding compliance with local labor laws, transparency in employment practices, and equal treatment of workers, including those contracted through BCEIP.

In response to the IUF's request for relief concerning OHC's management engaging in good faith bargaining with FHTRC, as required by Guinean and international law, Batipart states that:

- OHC management has been holding regular meetings with union representatives in Conakry to address workforce-related issues.
- OHC has reported the reintegration of outsourced workers, with 11 reintegrated and plans to hire three more by the end of 2024.
- Onomo has reported steps related to HR management in Conakry, including an attempted recruitment of an HR specialist.
- Onomo has reported that a training program on social dialogue has been organized in collaboration with the International Finance Corporation, aimed at improving the skills of both management and union representatives.
- Onomo is conducting a review of HR practices across its hotels to verify compliance with local regulations and assess practices related to social dialogue and union organization.

In addition, Batipart outlines measures it has taken to integrate RBC within its investor policies and management systems, including the implementation and formalization of policies related to human rights, environmental responsibility, labor practices, anti-corruption, and ethical business conduct.

- Batipart states that since 2018, Onomo has established an Environmental & Social Management System (ESMS) Framework, which includes policies such as the Anti-Bribery, Corruption, and Whistleblowing Policy, the Anti-Sexual Harassment Policy, and an Internal Grievance Mechanism. Batipart indicates that Onomo is reviewing its Corporate Stakeholder Engagement Plan and updating its ESG strategy and HR handbooks.
- Batipart notes that it is implementing reporting practices aligned with OECD Guidelines and global standards, including the Global Reporting Initiative (GRI) and the Task Force on Climate-related Financial Disclosures (TCFD). Onomo prepares an annual ESG Monitoring Report, shared with development financing partners and investors.
- Batipart indicates that Onomo has established internal monitoring and review mechanisms, including an Environmental & Social (E&S) Committee and an Audit Committee, with Batipart representatives participating in both. These committees are described as being responsible for overseeing ESG management, monitoring business ethics, and maintaining the ESG framework.
- Batipart states that Onomo collaborates with international development organizations, to follow standards related to integrity, compliance, and social responsibility. Batipart mentions that assessments conducted by these organizations have not raised any adverse comments or exceptions.
- Batipart states that sustainable development and responsible growth are part of its stated values and are reflected in its operations and initiatives, including philanthropic activities through its foundation and concludes that these practices reflect its alignment with international standards and that it considers the measures sufficient to address the issues raised in the IUF's complaint.

THE PROCEEDINGS OF THE NCP TO DATE

Since receipt of the submission, the NCP has undertaken the following actions:

Date	Action
6 August 2024	Complaint received by the NCP.
8 August 2024	Complaint shared with Batipart.
25 September 2024	Coordination call with UK, French, and Moroccan NCPs. Agreement: each NCP to handle cases submitted to their own NCPs, Moroccan NCP to support if needed.
9 October 2024	Follow-up coordination call with the same NCPs.
10 October 2024	Meeting with Batipart and Onomo Hotel representatives to clarify the procedure and address their questions.
28 October 2024	Additional meeting requested by the company to address further questions.
26 November 2024	Batipart submitted a written response to the NCP.
29 November 2024	NCP shared Batipart's response with IUF.
27 February 2025	IUF submitted a rejoinder.
28 February 2025	NCP shared IUF's rejoinder with Batipart.
3 March 2025	Follow-up call with IUF.
6 March 2025	Meeting with Batipart and Onomo Hotel representatives.
10 April 2025	NCP sent the draft initial assessment to both parties for comments within 15 working days.
30 April 2025	NCP shared the final initial assessment with the parties and the OECD Secretariat and published it on its website.

Due to the initial coordination efforts among NCPs and the time taken by parties to provide their responses, the deadline for the initial assessment could not be met.

INITIAL ASSESSMENT BY THE NCP

The objective of the initial assessment process under the Implementation Procedures of the OECD Guidelines is to determine whether the issues raised warrant further examination.⁷ The NCP reviewed the submissions from both parties. IUF has raised issues regarding Batipart's responsibilities under the OECD Guidelines, particularly alleging failure to conduct human rights due diligence concerning labour rights, including freedom of association and collective bargaining, at hotels linked to Batipart's business relationships. Batipart has provided arguments challenging these allegations. **At this stage, the NCP does not make any determination on the competing submissions of the parties.**

In the initial assessment phase, the NCP is assessing whether the issues raised are *bona fide*, in other words real or authentic, and relevant to the implementation of the Guidelines, in other words, within the scope of the Guidelines.⁸ This assessment is based on six criteria specified in the OECD Guidelines Procedures,⁹ which are also reflected in the Rules of Procedure of the LuxNCP:

⁷ OECD Guidelines (2023), Procedures, C(2).

⁸ OECD Initial Assessment Guide (May 2024), p. 38.

⁹ OECD Guidelines (2023), Commentaries on the Implementation Procedures, para. 33.

1. *the identity of the party concerned and its interest in the matter;*
2. *whether the issue is material, i.e. relevant to the implementation of the Guidelines; and substantiated, i.e. supported by sufficient and credible information;*
3. *whether the enterprise is covered by the Guidelines;*
4. *whether there seems to be a link between the enterprise's activities and the issue raised in the specific instance;*
5. *the extent to which applicable law and/or parallel proceedings limit the NCP's ability to contribute to the resolution of the issue and/or the implementation of the Guidelines;*
6. *whether the examination of the issue would contribute to the purposes and effectiveness of the Guidelines.*

The NCP conducted its initial assessment based on the six criteria mentioned above and decided that the specific instance merits further examination. The NCP will offer its good offices to the parties. The scope of good offices would focus on Batipart's responsibilities as an institutional investor under the OECD Guidelines.

Accepting the case for further examination does not mean that the issues raised have been given final consideration and does not imply any finding as to whether or not Batipart has acted in accordance with the Guidelines.

As per the OECD Guidelines Procedures and LuxNCP's Rules of Procedure, when a specific instance is submitted, the NCP will inform and coordinate in a timely manner with the NCPs of other involved or potentially involved countries. In the present complaint, LuxNCP has coordinated with the NCPs of France, the United Kingdom, and Morocco. The NCPs of France and the United Kingdom have also received specific instances involving similar allegations raised by the same complainant against different respondents. The NCPs have agreed that each NCP will handle the specific instance submitted to it, while the Moroccan NCP remains informed and prepared to engage if and when necessary.

1. *WHAT IS THE IDENTITY OF THE PARTY CONCERNED AND ITS INTEREST IN THE MATTER?*

According to the OECD Guide for NCPs during initial assessment of specific instances, an NCP may take into account both the mandate of an organization and its stated objectives when determining whether the organization has a legitimate interest in the matter.¹⁰

The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) is a global union federation, collectively representing more than ten million workers in the food, farm, and hotel sectors, and operating on behalf of 407 affiliates in 126 countries.¹¹ The IUF organizes and campaigns to defend and promote the rights and interests of workers around the world.

The Fédération de l'Hôtellerie, Touristique, Restauration et Branches Connexes (FHTRC) is an affiliate of the IUF. Since January 4, 2024, FHTRC has been the elected and legal union representative of workers at OHC.

LuxNCP considers the IUF and its affiliate FHTRC to be organizations with relevant mandates concerning the issues raised in the complaint, and therefore having a legitimate interest in the matter.

¹⁰ OECD Initial Assessment Guide (May 2024), p. 4.

¹¹ IUF, <https://www.iuf.org/>.

2. WHETHER THE ISSUE IS MATERIAL, I.E. RELEVANT TO THE IMPLEMENTATION OF THE GUIDELINES; AND SUBSTANTIATED?

NCP interprets ‘material and substantiated’ to mean that, based on the information submitted, the issues raised are plausible and related to the application of the OECD Guidelines. The objective at this stage is to determine whether the issue raised warrants further examination, not to undertake fact-finding or a thorough assessment of all the issues raised on their merits. Therefore, it is necessary to establish that the issues are relevant to the implementation of the Guidelines (*material*) and supported by sufficient and credible information (*substantiated*).

The IUF’s submission is material as it refers to alleged non-observance of specific provisions of the OECD Guidelines. The IUF raises issues concerning Batipart’s obligations as an institutional investor and majority owner under the OECD Guidelines. Specifically, the IUF alleges that Batipart has not fulfilled its due diligence obligations regarding the following chapters of the OECD Guidelines (2023): Chapter II - General Policies; Chapter IV - Human Rights; Chapter V - Employment and Industrial Relations. The NCP notes that, while the submission also includes allegations concerning the conduct of OHC and Onomo Hotels, the complaint itself is addressed to Batipart. Therefore, the NCP has to delimit the scope of this specific instance and the offer of good offices to Batipart’s responsibilities as an institutional investor under the OECD Guidelines.

The IUF has supported its claims concerning the labour rights issues at OHC by providing several worker testimonies accompanied by detailed documentation. These testimonies describe alleged instances where union representatives and workers reportedly faced dismissals, threats of dismissal, and other coercive actions by hotel management. The testimonies claim that certain changes — including the transfer of workers from direct employment to subcontractor status — were carried out as reprisals against workers involved in union activities. Additionally, the complaint includes references to exchanges between union representatives, hotel management, and relevant authorities, providing contextual information about the events leading up to the submission.

On the basis of the above, the NCP considers that the issues raised in the complaint are material and sufficiently substantiated for the purposes of initial assessment.

3. WHETHER THE ENTERPRISE IS COVERED BY THE GUIDELINES?

This criterion relates to whether the entity mentioned in the complaint qualifies as an enterprise to which the Guidelines apply.¹²

The OECD Guidelines do not provide a precise definition of what constitutes an MNE but indicate that the term encompasses enterprises across all sectors, regardless of ownership or structure. In determining whether an entity qualifies as an MNE under the Guidelines, two primary factors are considered:¹³ the commercial form, purpose, or activities of the entity, and the international nature of an enterprise’s structure or activities.

Commercial Dimension

¹² OECD Initial Assessment Guide (May 2024), para. 18.

¹³ OECD Guidelines (2023), Chapter I, paras 4 and 5. See, Annex II for the Guidelines language on the notion of multinational enterprise.

Batipart operates as a Société en Commandite par Actions (S.C.A.), a partnership limited by shares under Luxembourg corporate law. As an S.C.A., Batipart has its own legal personality and a capital structure divided into shares, making it particularly suitable for investment activities. This structure enables Batipart to pool capital while ensuring that management responsibilities remain with the managing partners. Founded in 1988, Batipart functions as an independent investment group with substantial commercial activities. It has significant investments across the real estate, hospitality, and tourism sectors. The scale and scope of its asset management reflect a robust commercial presence, consistent with the characteristics of an enterprise engaged in commercial activities.

International Dimension

Batipart's operations span multiple countries and continents, reflecting its significant international presence. In Europe, the group is active in seven countries: Germany, Spain, France, Italy, Portugal, Switzerland, and Luxembourg. Beyond Europe, Batipart also operates in North America (United States and Canada) and Africa. This extensive geographic reach demonstrates the international nature of Batipart's and activities.

Based on the above, Batipart is a multinational enterprise within the meaning of the OECD Guidelines.

4. WHETHER THERE SEEMS TO BE A LINK BETWEEN THE ENTERPRISE'S ACTIVITIES AND THE ISSUE RAISED IN THE SPECIFIC INSTANCE?

The OECD Guidance on "Responsible business conduct for institutional investors" (2017) states:

"[i]nvestors, even those with minority shareholdings, may be directly linked to adverse impacts caused or contributed to by investee companies as a result of their ownership in, or management of, shares in the company causing or contributing to certain social or environmental impacts. In other words, the existence of RBC risks (potential impacts) or actual RBC impacts *in an investor's own portfolio* means, in the vast majority of cases, there is a "direct linkage" to its operations, products or services through this "business relationship" with the investee company."¹⁴

The same Guidance furthermore notes that in some instances investors may be contributing to impacts caused by their investee companies when investors wield significant managerial control over a company.¹⁵

The relationship of an enterprise to an adverse impact—whether it causes, contributes to, or is directly linked through a business relationship—is an important consideration in determining how the enterprise should respond to an impact and whether there is also a responsibility to provide or cooperate in remediation.¹⁶ However, the OECD RBC Guidance for Institutional Investors also indicate that investors should not be precluded from participating in dialogue or mediation processes regarding the adverse impacts, even when there is only a direct linkage to the adverse impact.¹⁷

¹⁴ OECD (2017), Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises ('RBC Guidance for Institutional Investors'), p. 13 (emphasis original).

¹⁵ Guidance for Institutional Investors, p. 20.

¹⁶ OECD Guidelines, Commentary on Chapter II: General Policies para 23; Guidance for Institutional Investors, p. 20.

¹⁷ Guidance for Institutional Investors, p. 45.

An enterprise's relationship to adverse impact is not static; it can evolve over time depending on the due diligence steps and actions taken to address identified risks.¹⁸

In its rejoinder dated 27 February 2025, the IUF contends that Batipart's actions amount to contributing to the alleged adverse impacts at OHC, given Batipart's 80% ownership of Onomo and its managerial control within the group. The NCP acknowledges the IUF's position. However, for the purpose of the initial assessment, the NCP is not required to determine the precise nature of the relationship between the enterprise and the adverse impact. Rather, the NCP's task at this stage is to assess whether there appears to be a sufficient link.

Based on the relationship between Batipart as an institutional investor and Onomo Hotels, including OHC, the NCP considers that there is a sufficient link between Batipart's activities and the issues raised in the specific instance.

5. *WHAT IS THE EXTENT TO WHICH APPLICABLE LAW AND/OR PARALLEL PROCEEDINGS LIMIT THE NCP'S ABILITY TO CONTRIBUTE TO THE RESOLUTION OF THE ISSUE AND/OR THE IMPLEMENTATION OF THE GUIDELINES?*

This criterion assesses whether the NCP's ability to address the issues and implement the Guidelines is limited by existing laws or other proceedings.¹⁹ **As far as is known, while these issues primarily relate to labor law and could theoretically lead to local legal proceedings, there are no laws or parallel proceedings addressing similar issues that would prejudice the current specific instance.**

6. *WHETHER THE EXAMINATION OF THE ISSUES CONTRIBUTES TO THE PURPOSES AND EFFECTIVENESS OF THE GUIDELINES?*

The purpose of the Guidelines is to enhance the business contribution to sustainable development and address adverse impacts associated with business activities on people, planet, and society. They aim to encourage positive contributions by enterprises to economic, environmental, and social progress while minimizing adverse impacts related to their operations, products, and services.²⁰

Regarding effectiveness, the Guidelines' Implementation Procedures mandate that NCPs contribute to resolving issues related to the Guidelines' implementation. NCPs should consider whether facilitating exchanges between parties, discussing the issues and expectations outlined in the Guidelines with concerned enterprise, or developing meaningful recommendations would help support or encourage the resolution of the issues.²¹

Given the differing perspectives presented by the parties, the NCP considers that accepting this specific instance and offering good offices could facilitate dialogue between the parties. This process would help address the issues raised and promote a better understanding of the due diligence obligations expected of institutional investors under the OECD Guidelines. Notably, the 2023 update to the Guidelines includes

¹⁸ OECD (2018), OECD Due Diligence Guidance for Responsible Business Conduct, p. 71.

¹⁹ OECD Initial Assessment Guide (May 2024), para. 27.

²⁰ OECD Guidelines (2023), Foreword and Preface, para. 1.

²¹ OECD Initial Assessment Guide (May 2024), para. 36.

recommendations on how enterprises should conduct due diligence on impacts and business relationships related to the use of their products and services, which is relevant to the issues raised in this specific instance.

Therefore, the NCP considers that examining the issues raised in this specific instance will contribute to the purposes and effectiveness of the Guidelines.

CONCLUSION

The NCP believes that the specific instance merits further consideration based on the above criteria and extends an offer of good offices to facilitate dialogue between the IUF and Batipart.

The NCP's conclusions in this initial assessment are derived from the information provided by both parties.

The NCP does not currently offer any opinion on the factual accuracy of the statements or the validity of the submitted documents.

NEXT STEPS

The NCP accepts this case for further examination and offers its good offices to the parties. Participation in good offices is voluntary and dialogue-based. The NCP asked both parties whether they were willing to engage in a mediation/conciliation process with the aim of agreeing on how the identified issues could be successfully addressed. **Both the IUF and Batipart have accepted the NCP's offer of good offices.**

If the parties manage to reach an agreement and successfully settle the issues raised, the LuxNCP will issue a final statement reflecting the results of the proceedings.

If the good offices dialogue is unsuccessful, the NCP will undertake further examination to assess whether the concerned enterprise failed to observe the Guidelines. As per LuxNCP's Rules of Procedure, the NCP may, if relevant, issue recommendations to the enterprise on how to improve its conduct in accordance with the Guidelines, or make determinations in the final statement.

The final statement will be shared with the OECD and published on the NCP's website.

During the good offices and throughout the specific instance process, the NCP expects parties to commit to participating in good faith. This includes responding in a timely manner, maintaining the confidentiality of information exchanged during the procedure, unless otherwise agreed, refraining from misrepresenting the process or retaliating against parties involved in the procedure, and genuinely seeking to resolve the issues raised in accordance with the Guidelines.