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Dear Mr.Kell,

Complaint regarding Deutsche Post DHL's breach of the UNGC's Ten Principles

The ITF represents transport unions with 4.6 million members globally. UNI, the global union for the service industries, represents 20 million workers worldwide, including 2.5 million workers in the postal and logistics sector. Both work closely with the ITUC (International Trade Union Confederation), which also campaigns for the rights of workers in multinational companies.

This letter is a follow up to remarks made by UNI Global Union General Secretary Philip Jennings at a recent Executive Board Meeting of the UN Global Compact in New York.

Deutsche Post DHL has participated in the United Nation's Global Compact since 2006 and has thereby committed to adhere to its principles. Yet, despite this commitment, UNI/ITF believe that Deutsche Post and its subsidiary DHL act in violation of Principles One, Two ,Three and Six of the UN Global Compact.

UN Global Compact Principles One and Two state that:-

- Principle One "Business should support and respect the protection of internationally proclaimed human rights; and
- Principle Two: "Business should make sure that they are not complicit in human rights abuses".
- Principle Three states that: "Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining".
- Principle Six states: "Businesses should eliminate discrimination in respect of employment and occupation".

The cases set out below show clearly that Deutsche Post DHL is not fully respecting these principles.

Despite numerous attempts by both UNI and the ITF to engage in global dialogue with the company, it refuses to negotiate a global agreement in order to address these issues in a systematic way with global stakeholders.

ITF/UNI would also like to highlight the failure of Deutsche Post DHL to accurately report its conduct, as stipulated in the “Communicating Progress Reports” required by the United Nations Global Compact. While Deutsche Post DHL has filed a 2010 Communicating Progress Report, it does not address any of the concerns that ITF and UNI have raised over the last year – nor does it provide any real mechanism for major stakeholders, such as ITF and UNI, to dispute or monitor the claims and commitments made in the COP. This is particularly important with respect to its commitment to Principle Three – Upholding freedom of association and the effective recognition of the right to collective bargaining.

1. Labour rights violations in the USA by DHL

Principle Three of the UNGC declares that: “Employers should not interfere in an employee’s decision to associate [i.e. or organize or join a trade union], or discriminate against the employee or their representative.”¹ DHL has a record of refusing to honor these commitments.

In early 2007, DHL began operations at its new sorting and shipping facility in Allentown, Pennsylvania, and it employed between 400-450 workers at the plant. Soon afterward, the American Postal Workers’ Union attempted to organize the workers employed there, but the union was defeated following a vigorous anti-union campaign from DHL.

An August, 2010 decision by the US National Labor Relations Board sustained a 2008 decision made an Administrative Law Judge which found that DHL had violated the National Labor Relations Act in a number of respects during this election and ordered that a new election be held. Unfortunately DHL had since closed its Breinigsville (Allentown) facility and another election could not be held.

The judge concluded that DHL “unlawfully interfered with protected concerted activity when, on April 30 [2007], its agents told handbillers they could not handbill on the sidewalk leading to the plant entrance, threatened to call, and actually called, the police. [Management]...transmitted these messages to the handbillers and...was responsible for setting these events in motion. Such conduct amounted to surveillance and more. [DHL’s] conduct was coercive and unlawfully interfered with protected union activity”², in violation of the National Labor Relations Act of the United States of America.

Furthermore, the Judge ruled that DHL discriminatorily issued its employee, Elias Sleiman, “with a warning notice, and gave him a negative evaluation because of his union activity, unlawfully discriminating against him.”³ The judge further noted that “the reduction of [Mr. Sleiman’s work] hours was discriminatory”⁴ also constituted a breach of the National Labor Relations Act.

¹UN Global Compact, Principle Three, *What does Freedom of Association mean?*

²Decision of ALJ Robert A. Giannasi, *DHL Express and American Postal Workers’ Union; the Crossroads Group Labor Relations Consultants and American Postal Workers Union*, Cases Nos 4-CA-35417 et. al.; Case No. 4-CA-35685, June 5, 2008

³<http://www.hrw.org/en/reports/2010/09/02/strange-case>; accessed 02 June 2011, *Retaliation against a union leader*, pp43-44

⁴ALJ Giannasi decision, June 5, 2008

This case has been extensively dealt with in a report issued by Human Rights Watch called "A Strange Case".⁵

One of DHL's leaflets is reproduced in the Human Rights Watch report:

THE APWU WANTS TO TAKE AWAY YOUR VOICE! ... [T]he APWU does NOT care about your best interests.... Don't be fooled by the APWU's empty promises! ... Respect and dignity come from communication and cooperation among all of us ... not from a union contract!⁶

This conduct violates both Principles Three and Principle Six of the UNGC, in that DHL deliberately interfered in the employees' decision to associate and discriminated against employees on the basis of their support for the union.⁷

UNI and ITF have repeatedly asked DHL to negotiate a global agreement to ensure that its employees have the freedom to associate within a union without fear or intimidation in order to avoid incidents like this in the future.

2. Use of Lie detectors by DHL in Central America and South Africa

UNI and ITF have repeatedly received reports from affiliates that DHL requires its employees to undergo lie detector testing in many circumstances⁸. It is our position that this practice violates UNGC Principle One, which requires "Businesses should support and respect the protection of internationally proclaimed human rights and; Businesses should make sure that they are not complicit in human rights abuses".⁹

Initially, DHL seemed to agree that the practice was not in accordance with its policies. During the 2010 DHL Annual General Meeting, following a question posed by ITF/UNI representatives, Dr. Frank Appel stated that the use of lie detectors was unacceptable throughout the DHL group. Lie detectors are known to cause serious psychological damage to some of those interrogated.

Since unionists confronted DHL management over the use of lie detector tests on employees in Panama¹⁰ and Costa Rica¹¹ in 2010, new cases in Colombia and South Africa¹ have emerged. ITF/UNI believe that the result of this practice is fear, unemployment and social exclusion, as employees struggle under unwarranted suspicion. ITF/UNI are investigating allegations of their use in El Salvador.

On 25th May, during the 2011 DHL Annual General Meeting, a ITF/UNI representative asked Dr. Appel about the use of lie detectors in Colombia, citing the case of DHL worker Edwin Velasquez Ayala, who was subjected to a lie detector test carried out by former military officers. Mr. Ayala later stated that, "The test carried out by DHL split my life in half. It destroyed my self-esteem completely," Mr Velasquez was subsequently sacked by DHL with no reason given.

⁵ "A Strange Case" Human Rights Watch. September 2, 2010: <http://www.hrw.org/node/92719>

⁶ Ibid pg 39

⁷ <http://www.hrw.org/en/reports/2010/09/02/strange-case>; accessed 02 June 2011

⁸ For further information on DHL's use of lie detectors, please see DHL Workers' Abuse Dossier (attached) and also available on <http://www.itfglobal.org/dhlblog/wp-content/uploads/2010/10/uni-itf-v7-EN1.pdf>

⁹ http://www.unglobalcompact.org/Issues/human_rights/index.html

¹⁰ <http://www.uniglobalunion.org/Apps/UNINews.nsf/vwLkpById/F80547358D699E95C125771A00395B95> : accessed 02 June 2011

¹¹ See ITF/UNI DHL Workers' Abuse dossier: attached.

In response to that question, Dr.Appel reneged on his original statement that he delivered during the 2010 Annual General Meeting and attempted to justify the use of lie detectors, claiming this would be “in strictly defined exceptional cases”.

ITF/UNI have discovered that DHL employees in the above countries have even had to undergo lie detector tests while managers interrogate them. Testimonies clearly show that they are placed under strong psychological pressure and are forced to answer very personal and intimate questions. ITF/UNI understand that in some cases in Latin America interrogations typically last two hours and managers often refer to the results of these interrogations to justify dismissals.

ITF/UNI believe that this stance, from the CEO of DHL is indefensible and contravenes Principles One and Two of the UNGC’s Ten Principles, on the grounds that DHL’s use of lie detectors inflict emotional and psychological abuse on their employees and that the use of lie detectors directly conflicts with the spirit of international human rights standards¹². Furthermore, it is certainly the case in South Africa that the use of lie detectors is in breach of National Law. DHL has shown that it has failed to show due diligence, through its non-compliance with national laws. This is again in contravention of UNGC Principles One and Two.

3. DHL’s Breach of the “Principle of Good Faith” in their negotiations with unions

In Mumbai, India, the company has refused to accept that its employees are represented by a union and will not engage in good faith bargaining, in violation of Principle in Principle Three, “*What does Collective Bargaining mean?*” It has also discriminated against union supporters and denied their ability to freely associate, in violation of Principles One and Six.

The company has refused to honor or renegotiate its pay awards since its last award expired in 2004. The dispute is awaiting a final decision in court but, throughout the course of the case, DHL management has indicated that it would not accept its bargaining obligations. DHL management have claimed that they are unable to fulfil their collective bargaining obligation due to the poor state of their finances, which is something the relevant Indian legislation allows. However, DHL’s Annual Profits make a mockery of this statement, and clearly illustrates a breach of the UN Global Compact’s Principle of Good Faith.

Presently, DHL Mumbai union members are governed by a wage settlement signed on November 26, 2002. In November 2003, one month before the expiry of the November 26, 2002 settlement, DHL Mumbai management, in a pre-emptive move, served on the union a notice of change demanding discontinuance of the dearness allowance payment system prevailing in Mumbai as well as annual payment of ex-gratia bonus.

The implementation of the Notice of Change in Mumbai would mean that workers would be deprived of the gains they made through their struggles in the past. The union duly challenged the Company’s notice in court under the Industrial Disputes Act.

In January 2004, after the expiry of November 26, 2002 settlement, the employer refused to enter into collective bargaining with the union on workers’ wage rise demands. Thus, the demands ultimately reached an Industrial Tribunal for a decision.

Upon launching an offensive in 2003 the then DHL manager, RajendraGhag, allegedly boasted that with DHL’s immense financial power they would destroy the union. This statement is again at odds

¹²UN Global Compact, Principle One, para 5, *Respecting Human Rights*

with the Principle Three of the UNGC, which states that Employers should, "Support the establishment and functioning of local/national employers' organisations and trade unions."¹³

With this objective five leading activists came under suspension and employees were compelled to opt for voluntary retirement. When opposition from workers persisted, eleven Mumbai employees were transferred to Delhi. This is in direct violation of Principles One, Three and Six of the UNGC, in that DHL wilfully neglected their employees' rights to Freedom of Association and discriminated against Trade Union members. In May 2003, in response to lawful union industrial action, Mr. Ghag said he would entangle the union in endless litigation, defeat workers through time consuming, demoralizing, costly court cases.

DHL management subsequently refused to meet employees and union representatives to discuss any issue. All disputes ultimately landed in courts for resolution. DHL management have openly said they will not deal with Mumbai union and, indeed, that there is no place for a union in the service industry.

Since 2003, the union has tried to settle issues through negotiation. One such meeting took place in the chamber of the State Labour Minister. But DHL management refused to follow the guidelines given by the Minister.

While the wage demands were under adjudication, DHL and the union engaged in talks at the behest of the Tribunal, The Industrial Tribunal passed a final wage award in favour of the union in February 2010. In June 2010 the union held talks with DHL management and indicated that it was willing to forgo some benefits if a comprehensive settlement was made. DHL's initial enthusiasm evaporated with one meeting and they rescinded their agreement to meet again in a week's time. Without even informing the union of their decision to change tack, DHL challenged the wage Award in Bombay High Court where it is currently pending.

It is the UNI/ITF position that this refusal to negotiate in good faith with its unions, and refusal to even accept the role of a union in a services industry, amounts to a violation of UNGC Principle Three.

4. DHL's Breach of National Indian Labour Law

Through its practice of using agency employees to perform regular and core employee functions in India, and of paying those employees well below the permanent wage rate, DHL violates Principle One.

Under the Contract Labour (Regulation & Abolition) Act 1971, no employer in India is permitted to engage contract labour for any job of a regular and perennial nature and workers engaged through contractors to do the same or similar work should not be paid less than the wages paid to regular employees under settlement/agreement/award.

The core activity of DHL is the collection and delivery of goods. For this they have a "courier" category of employees. In violation of the prevailing legal provision described above, the employment agency Adecco has engaged 50 "Couriers" for DHL Pick-up and delivery business on a mere 25% of the normal wages paid under the settlement for a regular DHL employee. The State Government believes that there exists *prima facie* evidence that DHL has violated Labour laws and has now referred the matter to a court In Mumbai.

¹³United Nations Global Compact, Principle Three, *In the community of operation*

It is believed that there are some 200 “couriers” in Delhi, Chennai, Bangalore and Kolkata who are also subject to this treatment by DHL.

The failure of DHL to adhere to national law in contravention of Principle One of the UNGC “Business must ensure that its operations are consistent with the legal principles applicable in the country of operation” is again in breach of the United Nations Global Compact.

In addition, the failure of DHL to ensure that its contractor pays “fair and just remuneration”, as stated in Principle One of the UNGC contravenes the Principle.

Additional Allegations of Discrimination Based upon Union Activity

In addition to the cases supported by legal decisions ITF/UNI alleges that Deutsche Post DHL has exhibited an ongoing disregard for the human and labour rights principles articulated in UNGC’s Ten Principles.

For example, ITF/UNI alleges that DPDHL has systematically dismissed employees because of their union activity. Most recently an employee in Norway, a well-known union activist, was dismissed for supposed infractions of company rules and regulations.

Conclusion

ITF/UNI believes that the above cases indicate that DHL is in breach of Principles One and Two, Three and Six of the United Nations Global Compact, of which DHL is a participant.

ITF/UNI would also like to highlight the failure of Deutsche Post DHL to accurately report its conduct, as stipulated in the “Communicating Progress Reports” required by the United Nations Global Compact.

The 2011 Global Compact Communication on Progress from DHL is vague, incomplete and misleading with respect to Principle 3 and Principle 6. Indeed DHL makes no mention of any actions taken towards ensuring freedom of association or the effective recognition of collective bargaining. DHL notes that it has signed a wage agreement in Germany but does not describe its collective bargaining in any of the other 220 countries and territories in which it operates. While DHL claims that it is “working with employee representatives” in fact ITF/UNI believe that DHL deals with unions in a minority of its national operations and in some of the examples described above it works to prevent the establishment of a union at its workplace.

The vague assertions and systems described in connection with Principles 3 through 6 are in marked contrast to the section on Principle 10 – Corruption, where DHL has set up an internal Compliance Management System, including a Chief Compliance Officer, a Global Compliance Office and Regional Compliance Offices, A Compliance Committee chaired by the Chief Compliance Office and an Integrity Board.

DHL has categorically refused to enter into discussions with ITF/UNI on a global agreement which would effectively monitor and ensure that DHL is in compliance with Principles 3 and 6 and ensure that employees worldwide enjoy freedom of association and access to collective bargaining.

ITF/UNI have requested without success on a number of occasions that the company enter into negotiations for a global framework agreement, which we believe would provide a mechanism for resolving problems such as those addressed in this letter. As noted by UN Global Compact, “A global

framework agreement can be an effective tool to advance the implementation of the Global Compact labour principles and improve labour relations.”¹⁴

ITF/UNI do not believe that the behaviour of both local and senior management within Deutsche Post DHL is in accordance with the Principles laid out by the United Nations Global Compact and that the continued inclusion of Deutsche Post DHL in the list of UN Global Compact participants contradicts some of these principles and is detrimental to the reputation and integrity of the United Nations Global Compact.

The UNGC Integrity Measures permit the exclusion of participants from the UNGC, should the participating company be “detrimental to the reputation and the integrity of the Global Compact.”¹⁵

We urge the Global Compact Office to raise this matter with Deutsche Post DHL. The Global Compact should request that the company take immediate actions to remedy these abuses. Should the company refuse to align its actions with its commitments to the Global Compact principles, it should be removed from the list of participants in the Global Compact and be removed from the Global Compact website.

We look forward to working with you on this important matter.

Yours sincerely,



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General Secretary
International Transport Workers’ Federation



Philip Jennings
General Secretary
UNI Global Union

cc. Ursula Wynhoven, General Counsel wynhoven@un.org

¹⁴http://www.unglobalcompact.org/Issues/Labour/Global_Framework_Agreements.html

¹⁵<http://www.unglobalcompact.org/AboutTheGC/IntegrityMeasures/index.html> : accessed 01 Jun

