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# **Making the Most of the OECD Guidelines for Multinational Enterprises in South East Asia**

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**RENGO-TUAC Symposium on the OECD Guidelines for Multinational Enterprises**

**“Increasing the Role of the Guidelines in South East Asia”**

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**Opening Session**

President Takagi, TUAC Secretary General, Ladies and Gentlemen,

It is a great pleasure to be back in this vibrant and trendy city of Tokyo to speak on the role of the OECD Guidelines for Multinational Enterprises in South East Asia.

I would also like to congratulate our hosts, the Japanese Trade Union Confederation organization RENGO and the Trade Union Advisory Committee to the OECD for organizing this event. This is indeed a welcome and timely initiative.

It is hard to think of another time when the OECD MNE Guidelines have generated a greater level of interest or activity than the present one. As you know, at their last Summit in Heilingendamm, Germany, in June 2007, the G8 Leaders acknowledged the prominent role of the OECD MNE Guidelines in the promotion of the social dimension of globalization. The Special Representative of the United Nations Secretary-General for human rights and trans-national corporations and other business has also recently drawn on the experience with the OECD MNE Guidelines to implement its mandate. The 2007 Annual Report on the OECD MNE Guidelines released last December shows a continuous strong support for the Guidelines.

South East Asia has also become a strategic region for the OECD MNE Guidelines as an increasingly larger share of OECD international investment flows to the region. At the same time there is a great potential to be filled. Apart from Japan and Korea, no other Asian country has yet adhered to the OECD MNE Guidelines, but we hope this situation will change following the recent adoption of the OECD enhanced engagement policy with non-Members, which gives priority to South East Asia.

I will take this opportunity to highlight the unique features of the OECD MNE Guidelines, illustrate important recent achievements and inform you about how we intend to respond to the G8 mandate relating to the Guidelines. I will conclude with some suggestions on how South Asian countries could become more involved in the work on this instrument.

## **What are the key features of the OECD MNE Guidelines? What makes them so special?**

The OECD MNE Guidelines are the most comprehensive government-agreed corporate responsibility instrument in existence today. They are part of a balanced package, namely the OECD Declaration on International Investment, which is aimed at improving the investment climate for foreign investors and encouraging responsible business conduct worldwide. The OECD MNE Guidelines benefit from the wide support from business, labour and NGO communities.

The 40 adhering governments to the OECD MNE Guidelines are those of 30 OECD countries and 10 non-OECD countries which account for 85 per cent of foreign direct investment. They are committed to encouraging enterprises operating into their territory to observe a set of widely recognised principles and standards of responsible business conduct wherever they operate. The areas covered range from employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation.

Over time, the promotion of high level standards for employment and industrial relations has proven to be most important area of activity under the Guidelines. In particular, Chapter IV on *Employment and Industrial Relations* asks companies to:

- Promote the effective abolition of child and forced labour, non-discrimination, the right to employee representation, and the protection of health and safety of workers.
- In the event of closure of an entity, to give reasonable notice to representatives of their employees and co-operate with the employee representatives and appropriate governmental authorities so as to mitigate to the maximum extent practicable adverse effects.
- To allow for bona fide negotiations with representatives of employees on conditions of employment, and not to threaten to transfer activities from the country concerned to other countries in order to influence those negotiations unfairly.
- To refrain from seeking or accepting exemptions to labour and other regulatory standards, and to encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of responsible business conduct.

Furthermore, the Guidelines are supported by a unique implementation mechanism – the specific instance facility – which commits National Contact Points to resolve disputes and reduce tensions with respect to the implementation of the Guidelines. In this area also, the Guidelines have proven to be of critical importance to labour stakeholders as most of the specific instances have dealt with employment and labour and industrial relations issues. Ten of these cases have actually taken place in South East Asia.

## **Recent Achievements**

Since the 2000 Review, which brought up a major update of its coverage and more effective implementing procedures, the OECD MNE Guidelines have witnessed a growing recognition of its legitimacy and a continuous rise in their use.

The 2006-2007 implementation cycle has been particularly forthcoming. Several adherent countries have adopted important modifications to the organization and functions of their National Contact Points (NCPs) or their specific instances procedures to make them more user-friendly and accountable. Promotional activities have become more focused, privileging sectors or activities more exposed to corporate responsibility risks (such as the resources sector) or capable of exercising a more direct influence on the behavior of enterprises (such as the financial sector). Meetings with stakeholders have become more diversified and the use of modern communication tools more widespread with a view to making the Guidelines more accessible and attuned to the needs of targeted audiences. The Guidelines have also been more frequently used by government agencies other than NCPs as a tool for communicating expectations to business. For example, 29 of the 40 adhering governments now make use of the Guidelines in the context of export credits or investment guarantees or in trade and investment promotion campaigns.

This implementation cycle also witnessed a significant increase in the number of specific instances raised (26 more than in the previous cycle) for a total of 156 requests since the June 2000 Review. This outcome suggests a greater familiarity with the procedures and a wider recognition of their usefulness. Several NCPs have become more pro-active in their mediation and conciliation efforts and more responsive to the need to better co-ordinate and consult on individual specific instances, notably those involving multiple requests to different NCPs on similar cases.

In addition, adherence to the OECD MNE Guidelines has continued to expand. Egypt became the tenth non-OECD adherent country in July 2007. Peru and three more Middle Eastern countries are also expected to follow suit over the coming year. New work has been launched to study corporate responsibility practices in emerging market economies, notably China and Russia.

### **The “G8 mandate”**

At the G8 Heiligendamm Summit, the G8 Leaders committed themselves to promote actively internationally agreed corporate social responsibility and labour standards (such as the OECD Guidelines for Multinational Enterprises and the ILO Tripartite Declaration, high environmental standards and better governance through OECD Guidelines’ National Contact Points. They also asked the OECD to undertake new work.

- First, the OECD will organize next June in Paris, in close cooperation with ILO, a high level Roundtable on Promoting Responsible Business Conduct in Employment and Industrial Relations in a Globalizing Economy within the framework of the Guidelines. This event will provide a unique occasion to take stock of current corporate practices in this area, discuss the main challenges ahead for both government and business and examine how the agenda for dialogue that the OECD’s Guidelines and the ILO’s Multinationals Declaration represent can be jointly developed further.
- Second, we are working on a compilation of corporate responsibility standards and principles in cooperation with the ILO and the UN Global Compact to improve their understanding and assess their relevance. This work already confirms that the OECD MNE Guidelines are, with the ILO Declaration, the most authoritative corporate responsibility instruments in existence today.
- Third, a major review of NCPs’ performance is under way with a view to enhancing the effectiveness of existing procedures. The 2008 Annual Meeting of the National Contact Points will actually be devoted to assessing the results.

This makes for a very busy and challenging year ahead!

### **Working South East Asia**

There are several ways South East Asia countries can take advantage of the OECD MNE Guidelines. Governments in the region can use the Guidelines’ recommendations to express their expectations concerning the behaviour of enterprises operating in their territories and that of their enterprises operating abroad. They may also create local mechanisms to resolve investment disputes inspired from the Guidelines’ specific instances facility. For instance, Chinese Taipei has already put such a mechanism in place, which is reported to be working rather well. Enterprises in the region can also make use of the authoritative standards and principles for the elaboration of their own codes of conduct and reporting their corporate responsibility practices.

It would obviously be preferable, however, for East Asian governments to formally adhere to the OECD MNE Guidelines. This would allow them to integrate the unique network of NCPs, actively participate in the work on the Guidelines and ensure that they better respond to the corporate responsibility challenges of the region. Globalization has increased the need for more direct contacts between host and home governments to foreign investment on the still evolving field of corporate responsibility field. Some of you – Malaysia, Indonesia, Thailand – have more recently expressed a genuine interest for being more closely associated with OECD investment work and we hope this will result soon in concrete action.

In the meantime, we look forward to seeing you in Paris on the occasion of the High Level Roundtable we are organizing at the end of June. We have made available relevant information. I also wish you the best of success in your discussions.

Thank you very much.