

## OECD Watch open letter to the OECD Council at Ministerial Level

Re: Potential Review of the OECD Guidelines for Multinational Enterprises

Dear Members of the Council,

On 24-25 June 2009, the OECD's 30 member countries will hold their annual Ministerial Council Meeting with the aim of building "a stronger, cleaner and fairer world economy" to address and move beyond the current financial and economic crisis. Reckless and unethical business conduct has contributed to the severity of the crisis. OECD Watch therefore appeals to the Council to authorise the long-overdue review of the OECD Guidelines for Multinational Enterprises so that they can become an effective and credible tool for promoting responsible corporate behaviour worldwide.

At the recent 2009 OECD Roundtable on Corporate Responsibility and Annual Meeting of NCPs it was confirmed that the possibility of a review of the OECD Guidelines is being considered by OECD Member States and non-OECD adhering countries. OECD Watch, a network of more than 80 civil society organisations from around the world committed to promoting corporate accountability and sustainable development, would like to make clear its position about the urgency of reviewing both the substance and implementation of the OECD Guidelines.

OECD Watch believes that a binding international regulatory framework for corporate behaviour is required to provide access to effective remedies for communities that are the victims of irresponsible corporate behaviour. In the absence of such a regulatory framework, the OECD Guidelines are one of the most important international instruments currently available for promoting responsible business conduct. However, nearly 10 years after their last revision, there is a growing body of evidence and concern that the current implementation of the Guidelines is inadequate to address or prevent irresponsible corporate behaviour.

OECD Watch's view on the need for a review appears to be widely shared. Mr. Angel Gurría, the Secretary General of the OECD, recently observed that the crisis was the result of "massive regulatory, supervisory, corporate governance and risk management failures", and he has called for the effective implementation of standards to ensure more honesty, propriety, and transparency in business conduct. Professor John Ruggie, Special Representative to the Secretary General of the United Nations on Business and Human Rights, has documented a number of deficiencies in both the content and procedural functioning of the OECD Guidelines.

OECD Watch, which has done extensive work aimed at improving the effectiveness of the Guidelines, through research, capacity building and promotion, would expect to be invited to contribute to the review as a key stakeholder. The global economic crisis provides a unique political opportunity to review, update and revise the OECD Guidelines. The revised Guidelines could also provide a valuable input to the recently-initiated Lecce Framework for a common set of principles and standards regarding the conduct of international business and finance.

To ensure that the review process is effective, it must be transparent, have clear terms of reference, and involve all stakeholders from the development of the ToR to the selection of reviewers and drafters of recommendations. Equally important is that the perspectives of affected communities in developing countries be taken into account. A review would provide an opportunity to strengthen key areas of the Guidelines such as human rights, supply chain responsibility, climate change, financial disclosure, and the functioning of NCPs. In order to ensure compliance, the revised Guidelines must include better incentives and enforcement mechanisms.

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OECD Watch is convinced that a review of the OECD Guidelines is timely and essential to ensure they meet their full potential to promote responsible business conduct. The severity of the crisis requires that immediate action be taken. We thus encourage the Council to provide full support for a review of the OECD Guidelines.

Yours sincerely,

The OECD Watch coordination committee on behalf of the OECD Watch network

CC: OECD Investment Committee

### About OECD Watch

OECD Watch is an international network of civil society organisations promoting corporate accountability. The purpose of OECD Watch is to inform the wider NGO community about the policies and activities of the OECD's Investment Committee and to test the effectiveness of the OECD Guidelines for Multinational Enterprises.

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<sup>1</sup> This is an advance edited version. A final version will be drafted taking into account comments received during and after the Annual Meeting of NCPs and consultations with stakeholders