

Mr. Heeseok Hwang (attyhhs1@korea.kr)
Director General, Human Rights Bureau, Ministry of Justice

Mr. Young Jin Jang (koreancp@kcab.or.kr)
Chair, Korean NCP, Ministry of Trade, Industry and Energy

Mr. Hyun Suk Oh (ohs1905@hanmail.net)
General Secretary, Korean NCP

Amsterdam, 25 April 2018

Reforms to Strengthen the South Korean National Contact Point through the South Korean National Action Plan

Dear Mr. Hwang, Mr. Jang, and Mr. Oh,

We write to you because of our interest in strengthening the performance of all National Contact Points (NCPs) under the OECD Guidelines for Multinational Enterprises (the Guidelines). We wish to express our concern with the limited scope of the draft third South Korean National Action Plan (NAP) as it relates to the Korean NCP. We believe that the Business and Human Rights section of this NAP should more explicitly recognise the potential importance of a well-functioning NCP and make specific proposals for changes to the NCP that can increase its effectiveness. In our view, the Korean NCP is in need of significant reforms and the third NAP can be an important step in bringing these reforms about.

OECD Watch is a global network of civil society organisations with more than 100 members in 55 countries. One of our members, the Korean House of International Solidarity, presently serves on OECD Watch's coordination committee. As you may know, OECD Watch has a formal relationship with the OECD in respect of the OECD Guidelines for Multinational Enterprises.

At the G20 Summit in 2017, then-President Moon Jae-in provided full support to the 2017 G20 Summit Leaders' Declaration for enhancing the OECD Guidelines and the NCPs. The creation of South Korea's third NAP, in advance of the OECD Peer Review of the South Korean NCP scheduled for 2019, is an especially timely opportunity for the government to demonstrate its commitment.

We note that the National Human Rights Commission of Korea presented in March 2018 official recommendations to the Korean government for institutional reform of the Korean NCP. Authoritative voices outside of Korea have also called for strengthening the NCP. Following its visit to Korea in June 2017, the UN Working Group on Business and Human Rights emphasised the need for the participation of civil society and trade unions in the NCP. In October 2017, the UN Committee on Economic, Social and Cultural Rights in its concluding observations on the fourth periodic report of the Republic of Korea recommended the enhancement of the impact, transparency, inclusiveness, and effectiveness of the NCP.

This UN report expressed concerns shared by many civil society organisations including OECD Watch over “the documented cases of human rights violations resulting from the operations Korean companies at home and abroad.” The report recommended that Korea “act upon allegations of violations of human rights resulting from activities of Korean companies, domestically and abroad that are brought to its attention and ensure that victims can obtain claim reparations through the State party’s judicial and non-judicial mechanisms.”

A key purpose of an NCP—reiterated on many occasions by governments and inter-governmental bodies—is to provide a grievance mechanism to enable access to remedy for victims of business-related human rights abuses. The NCP is Korea’s most significant non-judicial mechanism in this regard. Unfortunately it is not working well. The small number of complaints submitted to the NCP over the years is inconsistent with the many known instances in which the operations of Korean companies have been incompatible with the expectations of responsible business behaviour set out in the OECD Guidelines.

As a result of the NCP’s shortcomings, the NCP does not retain the confidence of social partners and other stakeholders in Korea. That confidence could be restored if alterations are made to the NCP’s institutional arrangement to strengthen the ability of the NCP to act with impartiality. We therefore suggest that the following structural reforms be recommended in the NAP and ultimately implemented at the NCP:

- Establish a more independent commission with a view to increasing accountability, transparency, and impartiality as well as the level of expertise of commissioners in business and human rights matters.
- Include an equal number of representatives from business, trade unions, and civil society as the NCP commissioners. Consult BIAC, TUAC, and OECD Watch for recommendations on experts from civil society who may serve as commissioners.
- Include representatives from the Ministry of Foreign Affairs and the Ministry of Justice on an equal basis with the representatives of the other participating ministries.
- Provide special training and education to the governmental commissioners of the NCP who, due to their job rotation system, lack expertise on the OECD Guidelines and the mandates of the NCP.
- Establish a secretariat that is protected from undue influence of business on any one Ministry.
- Increase the financial resources for the NCP to enhance its effectiveness.
- Develop new rules of procedure to increase the NCPs’ effectiveness in handling specific instance complaints.

We believe that these recommendations, if implemented, would greatly increase the confidence of civil society and especially the potential users of the specific instance procedures. The Korean NCP would be more credible. This would bring the Korean NCP more in line with the commitments made by the Korean Government. These changes would in turn increase the positive impact and image of Korean business around the world.

We would welcome your response to these recommendations and are available to discuss them.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'J. Wilde-Ramsing', written in a cursive style.

Dr. Joseph Wilde-Ramsing, Ph.D.

OECD Watch Coordinator

Copies to:

Mr. Kim Choong-soo and Mr. Yoon Jong-won, South Korean representation to the OECD

Dr. Roel Nieuwenkamp, Chair of the OECD Working Party on Responsible Business Conduct

Ms. Kathryn Dovey, OECD NCP Coordinator

OECD Watch  Sarphatistraat 30  1018 GL  Amsterdam  The Netherlands
+31 (0)20 639 12 91  www.oecdwatch.org  info@oecdwatch.org