FES / TUAC WORKSHOP ON THE OECD GUIDELINES
FOR MULTINATIONAL ENTERPRISES
WITH SUPPORT OF THE EUROPEAN COMMISSION
HOLIDAY INN, LUSAKA, ZAMBIA 6 – 7 OCTOBER, 2003

WORKSHOP SUMMARY REPORT [1] : CONCLUSIONS

1.0 Introduction

The Friedrich Ebert Stiftung (FES) and the Trade Union Advisory Committee (TUAC) of the Organisation for Economic Co-operation and Development (OECD) in collaboration with the European Commission organised a workshop on *OECD Guidelines for Multinational Enterprises* at Holiday Inn, Lusaka from 6th to 7th October, 2003.

The workshop objectives were:

- To explore the implications of foreign direct investment (FDI) on economic and social development in Southern Africa and its contribution in achieving (New Partnership for Africa's Development (NEPAD)'s Objectives;

- To acquaint participants with the *OECD Guidelines for Multinational Enterprises,* share experiences and examine the practical implications in the African context;

- To look at how the guidelines and Corporate Social Responsibility (CSR) can help promote socially responsible investment and sustainable development and consider a post Cancun international framework for investment.

1.1 ICFTU President, Mr. Fackson Shamenda, Opening Remarks

The International Confederation of Free Trade Unions (ICFTU) President Mr. Fackson Shamenda began by welcoming participants to the workshop and commending the FES and TUAC for organizing such a workshop.

[1] COMPILED BY ADRIAN SHIKWE – ZaCTU Researcher / Economist

Mr. Shamenda told participants that the ICFTU is concerned with issues of corporate citizenship as multinationals are one of the driving forces of globalisation which has had far reaching consequences on developing countries. He said that it is important that strengthening Ministries of Labour in order to guarantee social dialogue and the protection of workers' rights the conduct of multinationals are regulated.

The growth of multinational enterprise power, Mr. Shamenda said, has resulted in the development of various codes of conduct for multinationals. He however pointed out that the OECD Guidelines are unique as they are the only comprehensive multilaterally endorsed Code covering a broad range of issues.

2.0 Workshop Participation

Participants were drawn from a cross spectrum of organisations which included, governments, trade unions, employer's organisations, non governmental organisations, private sector and corporate world in Southern Africa.

3.0 Workshop Presentations

The workshop also had a diverse combination of resource persons whose presentations were discussed by participants:

3.1 Devan Pillay (NALEDI)- Foreign Direct Investment and Multinational Enterprises: Trends in FDI and MNE Activities in Southern Africa and the Implications for Economic and Social Development.

Comrade Devan Pillay of NALEDI, began his presentation by explaining the major types of foreign direct investment (FDI) as Greenfield and, mergers and acquisitions. The former, he said involves the bringing in of capital to set up enterprises while the letter involves the buying of part or all of the ownership of an already existing under taking.

He then outlined the flows of FDI globally and regionally. On the all, he observed that there has been a steady decline in the global flow of FDI by a fifth (US $ 651 billion). Among the factors which have led to the decline are:

- slow economic growth
- declining stock market valuations

- lower corporate profitability
- decline in manufacturing and service sectors
- increase in primary sector

Mr. Pillay said there was a notable decline in FDI in 23 of 53 countries in Africa from US $ 19 billion in 2001 to US $ 11 billion in 2002.Most of the FDI came in through the primary sectors such as oil, mining, plantations etc.

Devan told participants that FDI is important because of the benefits it offers which include:

- capital formation
- transfer of technologies
- job creation
- transfer of skills
- increased export competitiveness etc.

However, empirical evidence shows that FDI does not always lead to the desired effect.

To attract FDI, Comrade Pillay told participants that, governments use a number of methods such as incentives, investment treaties and investment promotion agencies. Some of the incentives are reduction of taxes, exemptions from certain obligations, subsidies etc. He explained that other incentives include grants, loans and bilateral investment treaties aimed at fair and equitable treatment of foreign investors.

In concluding, Comrade Pillay summarized the effects of corporate conduct of multinationals, especially with regard to labour markets, among them:

- ✓ anti trade union practices
- ✓ discrimination
- ✓ casual labour / labour brokers
- ✓ low wages
- ✓ poor compliance with national labour legislation and ILO conventions

He concluded that the OECD guidelines are a good starting point, but their adoption should not only be a public relation exercise but there should be true commitment to the guidelines.

3.2 Austin Muneku (ICFTU-AFRO) – The Contribution of FDI in Achieving NEPAD's Objectives

Mr. Muneku began his presentation by briefly explaining to participants what NEPAD is and its primary objectives. He said the Pan African Trade Union Conference held in Dakar, Senegal in February 2002 came up with a Declaration which among other things included:

- welcoming of NEPAD as a step forward though acknowledging its short comings
- seeking of spaces for full engagement and participation
- building capacities of trade unions for effective participation

He told participants that FDI remains critical to achieving NEPAD objectives as it is highlighted under priority number three of resource mobilization with FDI as one of the key sources.

On the impact of FDI, Mr. Muneku told participants that this would depend on a number of factors such as the mode of entry; whether the activity undertaken already exist; source of finance and impact on activities of domestic companies. He then told participants that there are problems that come with FDI to be taken note of such as its impact on domestic competition, balance of payments, development and its instability and volatility.

Mr. Muneku the outlined the desired FDI to meet NEPAD objective:

- ✓ Greenfield mode of FDI
- ✓ Job creating and sustainable development promoting type of FDI
- ✓ Socially responsible FDI
- ✓ Women empowering FDI
- ✓ Managed FDI not FDI which sets conditions

Whether this is attainable, Mr. Muneku said FDI at the moment remains elusive though some countries have more capacity to attract FDI. But he said NEPAD should explore other sources of resources other than FDI.

3.3 Veronica Nilsson (TUAC) – The OECD Guidelines for Multinational Enterprises

The presentation by Veronica Nilsson elaborated what the OECD guidelines are, their content and application. She said the guidelines are an instrument for corporate responsibility which are becoming a globally acceptable benchmark for multinationals. Veronica explained that the guidelines contain voluntary principles and standards for responsible business conduct.

Veronica told participants that currently there are 37 adhering countries, 30 of which are OECD members while the rest are non – members. She explained that the Guidelines are the only multilaterally endorsed and comprehensive code that governments are committed to promoting though other business codes of conduct are publicly available.

Ms. Nilsson told participants that the Guidelines were first adopted in 1976 following concerns over the emerging power of multinational corporations. They are part of a wider OECD Declaration on International Investment and Multinational Enterprises package of investment related provisions.

Veronica then summarized the areas covered by the Guidelines among them:

- *Concepts and principles*
- *General policies*
- *Disclosure*
- *Employment and Industrial Relations*
- *Environment*
- *Combating bribery*
- *Consumer interests*
- *Science and technology*
- *Competition, and*
- *Taxation*

In conclusion, Veronica, outlined the implementation procedures of the Guidelines and gave examples of cases raised under the guidelines. She explained how and when an NCP should be contacted.

3.4 Marinus Sikkel (Dutch NCP and CIME member)– Using the Guidelines in Africa

Mr. Sikkel's presentation focused on the practical aspects of National Contact Points (NCPs). He began his presentation by explaining that the OECD council's decision has been that all adhering countries should set up NCPs which are responsible for promotional activities, handling inquiries and contributing to the solutions of problems that may arise. He said NCPs in different countries cooperate with each other. They meet annually and report to Committee on International Investment and Multinational Enterprises (CIME).

He explained that the role of NCPs is to further the effectiveness of the guidelines. The core criteria for their operation include: visibility, accessibility, transparency and accountability. Mr. Sikkel then explained the set up and activities of NCPs.
On which NCP to contact when there is a problem with a corporation, Mr. Sikkel told participants that if the problem takes place in an NCP country then the NCP in that country should be contacted. If it is another adhering country the NCP for that country should be contacted; but if its is in a non adhering country then the NCP of country of origin of the MNE should be contacted.

Mr. Sikkel then elaborated the requirements for lodging a complaint to the NCP as:

- Identity and interest of complainant
- Name of company involved
- Location of the activity
- Specification of relevant part of the guidelines
- Thorough description of the case
- And other relevant information that might be revealed to the concerned company

He however told participants that the given NCP will assess the relevance of the case and decide on whether to take any action or refer the case back for further clarification or discontinue it. If the case merits further action, the NCP will make consultations with parties involved and other key stakeholders. Then it might seek guidance from OECD CIME on issues related to the interpretation of the guidelines and perhaps offer conciliation or mediation if possible.

In conclusion, Mr. Sikkel elaborated the role of CIME as being a body where NCPs share with other stakeholders share experiences, make clarifications on the guidelines and consider recommendations and suggestions from NCPs; thereafter report to the OECD Council.

Each presentation was followed by a small panel reaction and plenary discussions. Besides the main presentations, selected representatives of organisations that have utilized the guidelines in specific instances of violations of the OECD Guidelines, in Botswana, Zambia, and Congo DR, shared their experiences with other participants.

4.0 Conclusions

After rigorous deliberations the workshop concluded the following:

a) Foreign Direct Investment does not always guarantee benefits to any country, especially in the third world. Therefore there is need to undertake measures such as active partnerships that can help in maximizing benefits from FDI.

b) International trade and investment frameworks can only succeed if developed countries puts in place measures aimed at leveling the playing field such as removal of subsidies on their agricultural products and opening up of their markets to goods from developing countries.

c) Trade union strength and power is crucial in the defense of workers' rights in the face of excesses of multinational corporate power and FDI powered investment projects.

d) The non-legally binding nature of the guidelines impedes their implementation as good will of multinationals depends on prevailing circumstances.

e) The guidelines should be used to re-enforce existing mechanisms, such as domestic legislation, in protecting local interests and dealing with unacceptable conduct of multinationals.

f) Pan-Africanism and unity of purpose should be used to triumph over the current neo-colonialist tendencies by some multinational enterprises and developed countries.

g) Social partners and other key stakeholder should be consulted in decisions with wide implications such as investment, social and other national policies.

h) Governments should strengthen legislation to protect their nationals from exploitation by MNCs and workers from foreign investors who abandon investments and obligations to pay workers their dues on leaving.

i) National foras of social partners should be convened to consider the guidelines in detail and how they can compliment existing regulations.

j) Domestic private sector enterprises should be nurtured and allowed to compete on a level playing field with foreign investment for stable and sustained development to be guaranteed.

k) The current leadership should encourage full participation of citizens and not allow past experiences where citizens were made to rely on the state for everything, thus inhibiting creativity.

l) Business should adopt the guidelines because of their long-term benefits for socially responsible conduct.

m) Stakeholders should network and broadly consult in order to avoid conflict of interest and build up solidarity in confronting issues of bad corporate conduct.