

The Initial Assessment by the Japanese NCP for the OECD Guidelines for Multinational Enterprises on the Specific Instance at Top Thermo Mfg. (Malaysia) Sdn. Bhd.

1. Raised issues and intervention requests

The Malaysian Trades Union Congress (MTUC), as requested by its affiliated union, the Metal Industry Employees' Union (MIEU), (MTUC and MIEU are hereinafter referred to as "the complainants") submitted a complaint dated March 12, 2003 to the Japanese National Contact Point of the OECD Guidelines for Multinational Enterprises (hereinafter referred to as "the Japanese NCP").

The issues raised are described below in Section (1), they refer to an alleged violation of the OECD Guidelines for Multinational Enterprises (hereinafter referred to as "the Guidelines") by Top Thermo Mfg. (Malaysia) Sdn. Bhd. (hereinafter referred to as "TTM"), additionally, a request for assistance to the Japanese NCP is described below in Section (2).

(1) Issues raised

- i. TTM dismissed the organizer.
- ii. TTM openly adopted discriminatory practices against union members.
- iii. TTM refused to extend cooperation to Human Resources Ministry officials.
- iv. TTM obstructed the process of recognition.
- v. TTM refused to accept the Industrial Relations Department's ruling on membership scope of MIEU.
- vi. TTM continues to defy the Human Resources Minister's order to recognize the union.
- vii. TTM has caused frustration and delay by abusing the legal process.

(2) Requests for assistance

The complainants asked the Japanese NCP to provide assistance and urgent intervention to resolve the above-mentioned issues.

2. Consideration of the initial assessment

1. Following the submission of the complaint, described above in Section 1, and taking into consideration the progress of judicial procedures in Malaysia, the Japanese NCP conducted fact-findings with the collaboration of the Japanese Embassy in Malaysia and exchanged opinions with the parties involved. Based on the findings, the Japanese NCP made an initial assessment questioning "whether the issues raised merit further examination" in accordance with the Guidelines.
2. The results of the consideration are as follows:
 - i. The complainants involved in the issues are the Malaysian Trades Union Congress English Translation (MTUC) and the Metal Industry Employees' Union (MIEU), which

is affiliated to MTUC. The alleged enterprise is Top Thermo Mfg. (Malaysia) Sdn. Bhd. (TTM), which is an associated company of the Thermos KK., and based in Japan.

- ii. The issues raised, described above in Section 1, are material and substantiated and they are related to violations of employees' rights.
- iii. Regarding judicial procedures in Malaysia, TTM had lost the case in March 2010. The main issue of dispute was whether MIEU has a qualification as a representative union of TTM employees, and MIEU had been recognized as the union representing TTM's employees under the procedures. After that, MIEU proposed a draft collective agreement to TTM in June 2010, and MIEU and TTM concluded the agreement in July 2011.
- iv. The raised issues have been solved among the parties involved by the above-mentioned conclusion of the collective agreement between MIEU and TTM, while MTUC and MIEU both expressed that they would not ask the Japanese NCP for further assistance, and TTM also expressed its recognition that there was no special problem on their industrial relationship.

3. Conclusion of the initial assessment

As mentioned above in Section 2 (2) (iv), and because there is no room for the Japanese NCP to contribute further in addressing the issues raised, the Japanese NCP concludes that the issues raised "do not merit further consideration." The Japanese NCP welcomes that the issues have been successfully settled thanks to a constructive compromise among the parties involved. The Japanese NCP would like to pay tribute to the efforts made by the parties concerned.

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Japanese NCP of the OECD Guidelines for Multinational Enterprises

(Director, OECD Division, Economic Affairs Bureau, Ministry of Foreign Affairs;

Deputy Assistant Minister for International Affairs, International Affairs Division, Minister's Secretariat, Ministry of Health, Labour and Welfare;

Director, Trade and Investment Facilitation Division, Trade and Economic Cooperation Bureau, Ministry of Economy, Trade and Industry)