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Organization for Economic Co-Operation and Development's (OECD) Declaration on International Investment and Multinational Enterprises

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ORGANIZATION FOR ECONOMIC CO- OPERATION AND DEVELOPMENT'S (OECD) DECLARATION ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES

USAID JORDAN ECONOMIC DEVELOPMENT PROGRAM

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AUTHORS: JOSE CERON

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CONTENTS

INTRODUCTION 2

**ANNEX 1 OF THIS DOCUMENT IS AN EXTRACT OF THE OECD
WEBSITE WITH MORE DETAILS ON THE DECLARATION 3**

**ANNEX 2: OECD’S DECLARATION ON INTERNATIONAL
INVESTMENT AND MULTINATIONAL ENTERPRISES 6**

**ANNEX 3: RAISING COMPETITIVENESS THROUGH POLICY
ADVOCACY 7**

Introduction

OECD's Declaration on International Investment and Multinational Enterprises (The Declaration) dates from 1976 and is a policy commitment by the governments of OECD countries on International Investment and Multinational Enterprises to concentrate efforts on three areas of their economies. These three areas are:

- Improve the investment climate
- Encourage the positive contribution multinational enterprises can make to economic and social progress-Local Economic Development
- Minimize and resolve difficulties which may arise from their operations

All 32 members of the OECD plus 11 non-member governments and have "participant status" countries are subscribers to the Declaration.

To become an Adherent country of the Declaration a country must be invited by the OECD Council and subsequently submit detailing the invited country's investment policies by the OECD Investment Committee. An Adherent country gains the opportunity of receiving international recognition for its achievements as well as further support for its ongoing efforts to improve the investment climate. In addition the country gains the right to participate in the work of the OECD Investment Committee.

The submittal takes the form of a memorandum of approximately 40 pages covering the following areas:

- National Treatment Instruments
- Guidelines for Multinational Enterprises
- Conflicting Requirements; International Incentives and Disincentives
- Information on the broader policy framework for investment
- Other information: Bilateral investment treaties, intellectual property rights protection, participation of foreign investment in privatization programs, participation of private sector in strategic sectors
- Data on foreign trade

The review of submittals is carried out in Paris usually taking about half a day corresponding to the organization's Investment Committee's regular meetings. Timelines for submittal in 2010 are set according to the listing below:

- 22-26 March
- 21-22 June
- 4-8 October

Note: Sufficient lead time is necessary between submittal and time of review, which needs to be defined to determine feasibility of submittals for Oct. 2010.

Work on review of the submittal will not start until the Secretariat receives a payment of 170,000 Euros. Which covers the salary of a senior economist, a 2 person mission of 2 days and compensation for management and support staff in Paris.

If submittal is acceptable Adherence to the Declaration is secured through an exchange of letter between the Secretary General of the OECD and a Minister of the submitting country¹ (Usually the Minister of Foreign Affairs or the Minister of Economic Affairs/Industry and Trade). The signing ceremony is announced in an OECD press release while the signing of letters can be part of a signing ceremony in Paris or the capital of the applicant country. In addition, a publication on the country would be issued through OECD's Investment Policy Review could be included.

Annex 1 of this document is an extract of the OECD website with more details on the Declaration

Background on Jordan joining OECD's Declaration on International Investment and multinational Enterprises

On March 6, 2009 JIB received a letter from Mr. Angel Guria, OECD Secretary General, in answer to a communication submitted on August 15 2006 to that organization by Dr. Maen Nour requesting Jordan's adherence to the Declaration on Investment and Multinational Enterprises.. Mr. Guria's letter confirmed that during a meeting held on 26 March, 2009 the OECD Council agreed to invite Jordan, subject to full review of its investment policies by the Investment Committee to be an Adherent country of the Declaration. This would secure Jordan's status of participant in the Committee's Working Party and the Committee's enlarged sessions.

One salient characteristic of the letter exchange is its time frame. The initial request generated by JIB was on August 15th of 2006, OECD's Secretary General's answer referring to the JIB letter is dated April 6th 2006 with an immediate follow-up letter from OECD's Investment Division Head on April 7th of the same year. Three years transpired between the JIB request (2006) and OECD's answer (2009).

During meeting held on August 12th 2010 with Ms Lana Karrain, JIB Donor Affairs Lead and Dr. Bashar Al-Zu'bi, Senior Advisor to the JIB CEO and UNIDO Focal, Point a number of points were clarified by Dr. Al-Zu'bi who is carrying out a due diligence process to determine whether or not Jordan should join the Declaration. Key among these points:

- Follow-up has been provided by Dr. Al-Zu'bi since early 2010 on this matter
- A submittal document framed within the OECD requirements has been prepared by Dr. Al-Zu'bi
- Consultation on the submittal document has been carried out by Dr. Al-Zu'bi with the OECD MENA lead who found the document acceptable for purpose of submittal

The result of this effort is that, lead times are properly addressed and accepted by the OECD, JIB could submit the required memorandum in October of 2010 to join the declaration. Along with the submittal a onetime fee of 170,000 Euros (adjusted from 120,000 Euros from the original requirement contained in OECD's letters of April 7th)

The decision now is whether or not JIB should pursue this relationship with OECD based on the value it offers Jordan. Within this context, on June 14th, 2010 Dr. Al-Zu'bi prepared and submitted an email message to Mr. Nasser Sunna, JIB CEO, expressing the values of joining the Declaration. Summing up the message a number of important points were raised as to why Jordan should join the Declaration::

¹ Adherence to the Declaration does not constitute a treaty making Parliamentary ratification unnecessary.

- Regional aspect: Jordan would be the 3rd MENA country to join (after Egypt in 2006 and Morocco in 2009).
- International recognition of the adhering country's investment policy reforms
- Support for domestic reforms:
- Benefits to the adhering country's investment community
- Commitments and benefits resulting from the OECD Guidelines for Multinational Enterprises (MNE): The Adhering country has to establish a National Contact Point (NCP) responsible for implementing and promoting the Guidelines – this sends a strong signal to the domestic and international investment community on the Adhering country's willingness to promote responsible business conduct in all areas concerned such as employment, industrial relations, environment, combating bribery, competition and taxation. At the same time, the Adhering country and its investors have access to other adhering countries' NCPs to resolve their possible enquiries regarding the activities of MNE in their own country or other adhering countries regarding these different areas of business ethics.
- Close cooperation with OECD countries on investment policy issues and direct involvement in discussions on future investment policy agenda:

OECD Declaration Relevance to the new JIB

Dr. Al-Zu'bi presents a compelling case for the value of adhering to the declaration. In all cases they fall within the context of the Policy Advocacy functions JIB will be assuming. Policy Advocacy has evolved into one of the core functions of IPAs internationally. Influencing the creation of a pro-business investment environment - including low taxation policies, favorable fiscal and other reasonable incentives, the absence of exchange controls, adequate protections, lowering the costs of doing business, and easing the bureaucratic burden- represents an essential component of any investment promotion strategy and its successful implementation by an IPA. The objective always centered on raising local competitiveness and thereby attracting more investment. Annex 2 includes a more detailed discussion on Policy Advocacy Elements

The Declaration offers an opportunity to incorporate into JIB's Policy Advocacy functions an international reference that would complement its efforts and lend further credibility to the seriousness of the organization both internally (Private and Public Stakeholders) and externally (Investors and Donor Community).

For example, donor assistance and funding for specific JIB direct programs would be considerably enhanced due to the credibility level generated in joining. Of course, adherence to the measures of the Declaration is key condition to maintaining credibility. Considering that most of the measures are necessary for maintaining competitiveness levels; essential to successful investment attraction, it would almost seem to be a natural complement as well as built-in international credible tool to divulge progress and successes. Country doing business evaluations, a constant point of sale for countries, would also be favorably impacted because of adherence to Declaration measures.

Recommendation:

Considering the above, it's recommended that Jordan, through JIB join the OECD Declaration on Investment and Multinational Enterprises because of the following:

- Dr. Al-Zu'bi's value identification for joining the Declaration are on target and valid
- The value of joining can be summed up as follows:

- Impacting the Policy Advocacy function of JIB thereby raising the organization's potential of influencing and maintaining an attractive business environment
- Incorporating and maintaining competitiveness as a driver for the organization as a whole, thereby consolidating JIB's leadership in this important area
- Raising Jordan's profile within an international organization housing top economic performance countries that are a source of investment
 - One investment generated by joining the declaration would surely represent substantially more than the 170,000 Euro fee
 - Publications or multi-media advertisement in international publications (CNN, Economists, Financial Times, etc.) probably would be considerably more than the OECD fee and do not have the sustainability factor that becoming an Adherent country provides.

Prepared by José M. Cerón

August 14, 2010

Annex 2: OECD's Declaration on International Investment and Multinational Enterprises

Extracted from the OECD web site:

http://www.oecd.org/document/24/0,3343,en_2649_34887_1875736_1_1_1_1,00.html

The 1976 OECD Declaration is a policy commitment by the governments of OECD countries on International Investment and Multinational Enterprises to:

- Improve the investment climate
- Encourage the positive contribution multinational enterprises can make to economic and social progress
- Minimize and resolve difficulties which may arise from their operations

All 32 OECD countries and 10 non-OECD countries have subscribed to the Declaration:

Country	Year of Declaration Subscription
Morocco	2009
Peru	2008
Egypt	2007
Romania	2005
Latvia	2004
Israel	2002
Lithuania	2001
Estonia	2001
Argentina	1997
Brazil	1997

The Declaration consists of four elements:

- Guidelines for Multinational Enterprise. Recommendations on responsible business conduct addressed by governments to multinational enterprises (FDI) operating in or from adhering countries. Observance of the Guidelines is supported by a unique implementation mechanism: adhering governments - through their network of National Contact Points - are responsible for promoting the Guidelines and helping to resolve issues that arise under the specific instances procedures.
- National Treatment. A voluntary undertaking by adhering countries to accord to foreign-controlled enterprises on their territories treatment no less favorable than that accorded in like situations to domestic enterprises.
- Conflicting requirements. Adhering countries shall co-operate so as to avoid or minimize the imposition of conflicting requirements on multinational enterprises.
- International investment incentives and disincentives: Adhering countries recognize the need to give due weight to the interest of adhering countries affected by laws and practices in this field; they will endeavor to make measures as transparent as possible.

Annex 3: Raising competitiveness through Policy Advocacy

Maintaining competitive levels is a key aspect of successfully answering market conditions. As such, the Policy Advocacy Unit of JIB will address one of the core functions of top IPAs. The Unit's goal would be to provide the necessary market (Internal and external) monitoring activity required to identify sector/FDI trends, their impact on existing sectors, identifying potential ones and generating concrete recommendations on competitiveness enhancements.

To achieve its goals, the Policy Advocacy Unit should concentrate, minimally, on the following:

- Cross sector Strengths, Weaknesses, Opportunities and Threats analysis
- Develop databases of benchmarking evaluations of Jordan against competitor countries for key characteristics, including:
 - Preferential access to local, regional and international markets including appropriate trade and investment agreements, technical and economic cooperation accords, duty free access agreements and customs union memberships
 - Political risk and availability of international political risk insurance, and guarantees against government confiscation and other non-commercial risks
 - Corporate and personal taxation and tax incentives
 - Foreign exchange regimes
 - Restrictions on investment (ease of entry, beurocratic burden, shadow costs, etc.)
 - Duty free privileges
 - Foreign ownership restrictions
 - Preferential and prohibited investment sectors
 - Size and ownership of investments; double taxation agreements
 - Availability and cost of human resources; educational levels; existence and future investments in higher education including engineering, business and computer sciences
 - Transportation infrastructure, services and costs including airport, port, storage facilities and roads
 - Availability and costs of specialized business support services: architects and engineering, construction, telecommunications, auditing, business consultants, legal, and insurance
 - Utilities including electricity, water, waste disposal, telecommunications
 - Land and building availability, location and lease, rental and building costs, including industrial estates and free zones
 - Access to and costs of capital and operating funds.
- Assist in determining Jordan's strategic target sectors, investment environment improvement priorities by generating Policy Papers that would include
 - Identification of internal constraints (Legal framework, regulations, practices and/or procedures).

Detail the concrete economic effect these constraints are reporting

Specific adjustment required by area

Expected results over time if the adjustment is made

Competitive repercussions and results if the adjustment is not made

USAID Jordan Economic Development Program (SABEQ)
Deloitte Consulting LLP
Salem Center, Sequleyah Street, Al-Rabiyeh
Amman, 11194 Jordan
Phone: + 962-6 550-3050
Web address: <http://www.SABEQ-Jordan.org>