

(Provisional Translation)

Final Statement on a Specific Instance Involving Suzuki Motor Corporation and Suzuki Motor
(Thailand) Co., Ltd. in Relation to the OECD Guidelines for Multinational Enterprises

23 June, 2017

Japanese National Contact Point (NCP)
for the OECD Guidelines for Multinational Enterprises

1. OECD Guidelines for Multinational Enterprises

(1) The OECD Guidelines for Multinational Enterprises (hereinafter referred to as the “Guidelines”), which were adopted in 1976 by the Organisation for Economic Cooperation and Development, are recommendations addressed by governments to multinational enterprises. The Guidelines lay down the principles and standards of responsible business conduct in a broad range of fields, including information disclosure, human rights, employment and industrial relations, the environment, bribery prevention, consumer interests, science and technology, competition and taxation. As the Guidelines are not legally binding, enterprises are expected to observe the Guidelines on a voluntary basis.

(2) Governments adhering to the Guidelines establish National Contact Points (NCPs). In Japan, the Ministry of Foreign Affairs, the Ministry of Health, Labour and Welfare and the Ministry of Economy, Trade and Industry jointly constitute the NCP for Japan (hereinafter referred to as the “Japanese NCP”), which promotes activities to disseminate the Guidelines and handles issues raised based on the Guidelines.

2. Complainants and Companies Involved

(1) The following specific instance was submitted by four persons belonging to labor unions and a non-governmental organization in Thailand and a non-governmental organization in Japan (hereinafter referred to as the “complainants”).

(2) The companies involved in the specific instance (hereinafter referred to as the “companies involved”) are Suzuki Motor Corporation, which is headquartered in Shizuoka Prefecture, Japan, and a subsidiary called Suzuki Motor (Thailand) Co., Ltd.

3. The Issues Raised and Requests

On May 10, 2016, in relation to the dismissal of some workers and the demotion and suspension of others from job duties implemented in Thailand by Suzuki Motor (Thailand) Co., Ltd., the

complainants alleged that the companies involved were violating the Guidelines as described in (1) below and called for the implementation of the measures specified in (2).

(1) Outline of the issues raised by the complainants and the relevant parts of the Guidelines

A. Outline of the issues raised by the complainants

(A). Dismissal of some workers

In December 2013, workers at Suzuki Motor (Thailand) Co., Ltd. submitted to the company requests concerning 13 items, including the working conditions, wages and bonuses, based on the 1975 Labour Law of Thailand. In addition, they applied with the Thai authority for the establishment of a labor union. As the representatives of workers and Suzuki Motor (Thailand) Co., Ltd. failed to reach an agreement concerning the requests in the first round of negotiations, an arbitration officer at the Office of Labor Protection and Welfare in Rayong Province mediated between the two sides, leading to an agreement (on bonuses, the maintenance of the current working conditions and the recognition that activities conducted during the negotiations were not in violation of the workplace rules). However, workers involved in activities related to the negotiations, such as the submission of the requests, were dismissed by Suzuki Motor (Thailand) Co., Ltd. in the following month for alleged theft, violation of duties, violation of the workplace rules, defamation and incitement.

(B) Domestic procedures in Thailand

In January 2014, the dismissed workers filed a complaint with the Labor Relation Committee (LRC) of Thailand against the dismissal by Suzuki Motor (Thailand) Co., Ltd. as an unfair act. In April of the same year, the LRC ordered Suzuki Motor (Thailand) Co., Ltd. to reemploy nine of the 10 dismissed workers for the same jobs and under the same conditions as before. In response, in June of the same year, Suzuki Motor (Thailand) Co., Ltd. filed a suit with the Central Labor Court (CLC) of Thailand against the LRC's decision, but in March 2015, the CLC upheld the LRC's decision (that Suzuki Motor (Thailand) Co., Ltd. should reemploy nine of the 10 dismissed workers for the same jobs and under the same conditions as before) (the one worker who was denied reemployment in the LRC's decision committed suicide in March 2015 because of the long-lasting stress and the pessimistic situation caused by his dismissal).

In July 2015, Suzuki Motor (Thailand) Co., Ltd. appealed to the Supreme Court with respect to the CLC's decision.

(C) Demotion and suspension of some workers from the workplace

In January 2016, Suzuki Motor (Thailand) Co., Ltd. demoted some workers. In March of the same year, Suzuki Motor (Thailand) Co., Ltd. suspended them from job duties and prohibited them from entering the factory, effectively immediately.

B. Complainants' claims in relation to the Guidelines and the relevant parts

(A) Violation of the domestic law in Thailand (I. Concepts and Principles 2)

The companies involved are violating the 1975 Labor Law of Thailand (Labour Relations Act B.E.2518), and the violation has been recognized by the Labor Relation Committee (LRC) and the Central Labor Court (CLC).

(B) Failure by a multinational enterprise to observe the Guidelines (I. Concepts and Principles 3)

The companies involved are failing to fulfill the obligation for multinational enterprises to observe the Guidelines.

(C) Failure to respect internationally recognized human rights (II. General Policies A2)

The companies involved failed to respect the human rights of workers by violating the domestic labor law of Thailand. The companies involved failed to observe the ILO Convention 87 (freedom of association and protection of the right to organise).

(D) Failure to form human capital (II. General Policies A4)

The unfair dismissal by the companies involved deprived workers of training opportunities.

(E) Failure to foster a relationship of mutual trust between companies and the societies in which they operate (II. General Policies A7)

The companies involved completely failed to foster a relationship of mutual trust with workers (part of the Thai society). The attitude and behavior of the representatives of the companies involved are generating mutual distrust.

(F) Failure to refrain from discriminatory or disciplinary action against workers who make bona fide reports to management (II. General Policies A9)

The companies involved attempted to treat the workers who established the labor union and tried to submit requests to them as criminals.

(G) Failure to carry out risk-based due diligence (II. General Policies A10)

The companies involved are not carrying out risk-based due diligence as shown by their continuing violation of the human rights of workers through their unfair dismissal of some workers and demotion and suspension of others from the workplace.

(H) Failure to avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts (II. General Policies A11)

By unfairly dismissing some workers and demoting and suspending others from the workplace, the companies involved are not only failing to avoid causing adverse impacts on matters covered by the Guidelines but are also intentionally causing adverse impacts.

(I) Failure to respect human rights (IV. Human Rights 1)

The unfair dismissal of some workers and the demotion and suspension of others from the workplace infringed human rights.

(J) Failure to avoid causing or contributing to adverse human rights impacts and address such impacts when they occur (IV. Human Rights 2)

By dismissing some workers and demoting and suspending others from the workplace in defiance of the authorities' instructions, the companies involved are failing to avoid causing adverse impacts through their activities, and rather are causing such impacts.

(K) Failure to have a policy commitment to respect human rights (IV. Human Rights 4)

The complainants are not aware of the presence of such a policy commitment.

(L) Failure to carry out human rights due diligence (IV. Human Rights 5)

If due diligence had been carried out, the issues raised could have been avoided.

(M) Failure to remedy adverse impacts caused by companies (IV. Human Rights 6)

All efforts by workers to resolve the situation were disregarded or viewed with hostility by the companies involved. Even the decisions made by two judicial organizations to resolve the unfair dismissal were unable to persuade the companies involved to take remedial actions.

(N) Failure to respect the right of workers to establish or join trade unions and representative organisations (V. Employment and Industrial Relations 1a)

The companies involved indirectly attempted to prevent association activity by workers (labor union) by unfairly dismissing the workers who had submitted the requests to the companies.

(O) Failure to respect the right of workers to engage in collective bargaining (V. Employment and Industrial Relations 1b)

The companies involved failed to respect the right of workers to engage in collective bargaining by unfairly dismissing some workers and by demoting and suspending others from the workplace.

(P) Failure to promote consultation and cooperation between the representatives of employers and workers (V. Employment and Industrial Relations 3)

The companies involved significantly weakened mutual trust in the workplace by unfairly dismissing the workers who submitted the requests to the companies or who participated in negotiations concerning the workplace conditions and by demoting and suspending others from the workplace.

(Q) Failure to observe standards of employment and industrial relations not less favourable than

those observed by comparable employers in the host country (V. Employment and Industrial Relations 4 a)

Although the LRC and CLC issued rulings recognizing the unfair dismissal, the companies involved did not observe the provisions of the labor law of Thailand.

(R) Failure to employ local workers and provide training to the greatest extent practicable in cooperation with worker representatives and relevant governmental authorities (V. Employment and Industrial Relations 5)

The unfair dismissal, demotion and suspension from the workplace impeded opportunities for workers to receive training to improve skill levels.

(S) Failure to enable representatives of the workers to negotiate and consult with representatives of management who are authorized to take decisions (V. Employment and Industrial Relations 8)

The companies involved dismissed, demoted or suspended from the workplace the workers who submitted the requests to the companies, participated in the negotiations and established the labor union.

(2) Contents of the complainants' requests

A. The unfairly dismissed workers should be immediately reinstated into their former jobs under the former conditions and compensation should be paid for the non-material damage that the dismissed workers and their families received due to the unfair dismissal.

B. Just compensation (including for non-material damage) should be paid to the family of the worker who committed suicide.

C. The workers suspended from job duties should be reinstated into their former jobs and compensation should be paid for income losses caused during the suspension period and for the non-material damage that the suspended workers and their families received.

D. The President of Suzuki Motor (Thailand) Co., Ltd should offer an official apology for characterizing the affected workers and the labor union chairman as criminals.

E. At present and in the future, the Thai government should prosecute cases like this regardless of the positions and reputations of the involved persons with the necessary reliability and consistency.

F. Suzuki Motor (Thailand) Co., Ltd and Suzuki Motor Corporation should have dedicated supportive policies on freedom of association and collective bargaining, generate a climate confidence and mutual trust by incorporating pro-actively unions and workers' representatives

into all labor-related issues at every premise and in the headquarters and pro-actively supporting all activities of unions' and workers' representatives.

G. Suzuki Motor (Thailand) Co., Ltd. and Suzuki Motor Corporation should urgently implement human rights due diligence procedures and closely monitor all facilities in this regard in close and cooperation with local, regional, national and international workers representatives, communities and others concerned.

H. Suzuki Motor (Thailand) Co., Ltd. and Suzuki Motor Corporation should urgently implement labor rights due diligence procedures and closely monitor all facilities in this regard in close cooperation with local, regional, national and international workers representatives.

4. View of the companies involved

When the Japanese NCP conducted an interview with the companies involved on June 20, 2016, they noted that while it is true that they dismissed some workers and demoted and suspended others from their job duties, their views were different from those of the complainants concerning some points, including some factual issues, and they expressed the view that they were appropriately dealing with those issues in accordance with the procedures based on the labor system of Thailand.

5. Undertakings of the Japanese NCP

(1) Issuance of the initial assessment

A. On May 31, 2016, the Japanese NCP issued a letter of acceptance of the complaint and conducted initial assessment to “determine if the issues raised merit further examination” based on “Commentary on the Implementation Procedures of the OECD Guidelines for Multinational Enterprises” 25. while collecting information from the complainants and the companies involved.

B. Specifically, in order to collect information, the Japanese NCP conducted an interview with Suzuki Motor (Thailand) Co., Ltd. through the Embassy of Japan in Thailand on June 2, 2016, and, as mentioned in 4., it also conducted an interview with Suzuki Motor Corporation in Japan on June 20, 2016. On the latter occasion, the Japanese NCP also provided explanations to Suzuki Motor Corporation concerning the Guidelines and NCP procedures.

C. Considering the information thus collected, although the Japanese NCP does not make any determination concerning the contents of the arguments of either of the two parties involved, it was confirmed that the issues were genuine and that there were differences of view between the two parties concerning the issues raised in relation to the implementation of the Guidelines. Therefore,

the Japanese NCP judged that the issues raised in this specific instance, except for the following points, merit further examination as specified in I. C. 1. of the Procedural Guidance of the Guidelines and issued an initial assessment to that effect to the complainants and the companies involved on September 8, 2016.

<The points excluded by the Japanese NCP from the NCP procedures in this specific instance>

- The claim concerning the “loss of training opportunities” based on “II. General Policies 4” and “V. Employment and Industrial Relations 5,” among the relevant parts of the Guidelines as pointed out by the complainants, does not merit further examination because it cannot be said, due to a lack of sufficient evidence presented, that the claim is material and substantiated.
- The claim concerning the “failure to foster a relationship of mutual trust with the societies” based on “II. General Policies A7,” among the relevant parts of the Guidelines as pointed out by the complainant, does not merit further examination because it cannot be said, due to a lack of sufficient evidence presented by the complainants, that the claim is material and substantiated.
- The request for the Japanese NCP to recommend that the Thai government should prosecute cases, among the complainants’ requests, shall not be handled in the procedures concerning this specific instance because the entity that would implement the requested action is the Thai government, rather than the companies involved.

(2) Steps taken to support the resolution of the issues

A. When the Japanese NCP issued its initial assessment as mentioned in (1), it solicited the view of the companies involved on the possibility of providing an opportunity for consultations with the relevant parties, including the affected persons. On September 28, 2016, Suzuki Motor Corporation and Suzuki Motor (Thailand) Co., Ltd. replied that for the following reasons, they had no intention to engage in dialogue with the complainants through the mediation of the Japanese NCP.

(A) Concerning the case in question, the companies involved have applied for resolution through the judicial procedures in Thailand and the procedures are ongoing now.

(B) Despite the proposal for mediation by the Japanese NCP, the companies involved intend to respect the judicial procedures in Thailand and aim for resolution in accordance with the judicial procedures.

B. After receiving the reply mentioned in A, the Japanese NCP solicited comments from the complainants and the companies involved concerning the draft of this final statement on 7 February, 2017. Both sides submitted their comments. Japanese NCP considered them and made some modifications on the final statement.

6. Conclusion

The provision of an opportunity for consultations by the NCP has to be based on an agreement by the parties involved. In light of the absence of such an agreement in this case, the Japanese NCP decided to conclude its involvement with this specific instance.

The Japanese NCP recommends that Suzuki Motor Corporation and Suzuki Motor (Thailand) Co., Ltd. conduct activity while respecting the OECD Guidelines for Multinational Enterprises.

(End)