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## Freedom of Investment in Asia:

### Building a better business environment

*Speech by BIAC Secretary General, Mr. Tadahiro Asami, delivered on 7 April, 2010, Tokyo, on the occasion of the OECD-ADBI Roundtable on Asia's Policy Framework for Investment: Investing in a Stronger, Cleaner, and Fairer Asian Economy.*

## 1. Introduction

Thank you, Mr. Chairman for your kind introduction. Representing BIAC, I would like to thank John and Ken from ADBI and the OECD respectively for inviting me to this roundtable.

Before going further, let me begin by stating two underlining issues that I wanted to discuss with you this morning.

**First**, promoting and safeguarding cross-border investment is one of the most important policy objectives for the globalised economy, because investment is an integral component of economic growth.

**Second**, Asia is a particularly important region for the global economy, because its fast growing economy is a major driving force. But more importantly, Asia has become an important region because of its significant impact on the rest of the world in terms of policy formulation in

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trade, investment, innovation, the environment, corporate governance, regulation, competition and other policy areas.

It has become indispensable for the OECD to cooperate with the governments of the emerging economies in Asia to address global policy issues. It is equally indispensable for the OECD business community to co-operate with business in Asia.

I will first briefly explanation about how BIAC operates, and how the OECD and BIAC are working to reach out beyond OECD member countries.

I will then discuss protectionism and freedom of cross-border investment, the role of the OECD instruments in Asia, sovereign wealth funds and the importance of international dialogue among all stakeholders.

## 2. How BIAC operates

Following the creation of the OECD in 1961, BIAC was created in 1962 as the “**officially recognized**” Business and Industry Advisory Committee to the OECD. This formal recognition of business, through BIAC, and of trade unions, through TUAC (the Trade Union Advisory Committee), is unique to the OECD. Business and trade unions contribute to the OECD as independent but integral bodies of the OECD.

BIAC is a membership organization. We have currently 36 business and employer organizations as BIAC members from 30 OECD member countries.

In addition, we have 11 business organizations from 10 non-OECD member countries that currently participate as BIAC observers (Argentina, Brazil, Chile, India, Israel, Latvia, Morocco, Russia, Slovenia and South Africa).

With respect to BIAC policy committees, we have 37 committees and task forces that mirror many of the OECD committees and working

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parties. We have all together 84 committee chairs and vice chairs and more than 2400 committee members around the world. These committee leaders and members form a strong hub of international expertise for providing business input to the OECD.

BIAC members and observers participate actively in our various policy committees. Our policy groups provide technical business expertise as well as high-level strategic guidance to ongoing OECD activities with the aim to influence, strengthen and promote OECD outputs.

Raising the voice of business in international policy-making on investment issues is essential and effective, and it is particularly important as a means to resist protectionism and to ensure strong business environments.

### 3. OECD and BIAC outreach

At the time of its creation, the OECD area represented over 80% of the world GDP. Now that figure has come down to around 55% in 2005, reflecting structural changes taking place in the global economy. With currently 30 member countries, the OECD has been referred to by some as an exclusive “club” of developed nations.

However, this perception is outdated and needs to change.

Because of dynamic changes taking place in the world economy, the OECD launched in 2007 two initiatives: 1) the Accession or “enlargement” program, and 2) the Enhanced Engagement programs to reflect the dynamism of the global economic structure, particularly, the emergence of new economies that have become major economic players and trading partners.

Through the “**Accession**” program, the OECD opened discussions for membership with five countries (Chile, Estonia, Israel, the Russian Federation and Slovenia). This year, all accession countries except Russia are expected to become members or agree to become members of the OECD.

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Through the “**Enhanced Engagement**” program, the OECD is to strengthen its cooperation with Brazil, the People’s Republic of China, India, Indonesia and South Africa with a view to possible membership in the future. A central element of this initiative is the promotion of direct and active participation of these five countries in the work of the OECD policy committees.

The OECD has been endeavouring to enhance its global representation. In my opinion, it has become clear that the continued relevance of the OECD depends on how it can succeed in working with emerging economies such as China, India and the ASEAN tigers.

At the same time, BIAC has been reaching out to business communities around the world to strengthen the participation of business, industry and employers’ organizations in international policy-making.

As already discussed, we have developed a BIAC observer programme. We have two observer organisations from India. However, we still have not recruited business organizations from any other Asian countries.

We firmly recognise the need for stronger outreach to Asia – we are holding discussions with business organisations from China and Indonesia and we plan to approach other business communities.

#### **4. Protectionism**

During the height of the global financial and economic crisis in 2008/09, international trade and cross-border investment recorded a dramatic fall after the financial crisis spread globally.

- Trade figures from OECD Statistics show that there was a 17% decline in the value of goods imports in the OECD area between 2007 and 2009.
- OECD and IIF data shows that international investment inflows declined 55% between 2007 and 2009, while inflows into the OECD area declined by almost 70%.

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- In the case of emerging economies in Asia, data suggests that private investment inflows declined by approximately 55% between 2007 and 2009 estimates.

During this same period, Governments were concerned, and business was worried, that protectionism would further jeopardize the deteriorating situation in international trade and investment. There was a strong concern that **beggar-thy-neighbour** policy reactions could develop. It was felt that we have to avoid recurrence of the Great Depression of the 1930s which was marked by a severe outbreak of protectionism.

G20 leaders have over the past one and half years, repeatedly addressed the importance of an open economy. In Pittsburgh last September they expressed their determination to refrain from raising barriers or imposing new barriers to investment or to trade in goods and services.

The OECD, WTO and UNCTAD reported in its March 8<sup>th</sup> quarterly issue that:

“they find most G20 members are holding to their commitments to open trade and investment in the wake of the global economic crisis. However, we cannot be complacent. Protectionist pressures may gather force in the face of job losses and high unemployment.”

Unfortunately, even though Leaders have spoken against it, there have been some cases of protectionist measures.

For example, in January 2009, President Barack Obama agreed to include the “Buy American” clause in his stimulus bill. The “Buy American” clause seeks to ensure that only US iron and steel are used in projects funded by the bill, which gave in to strong domestic political pressures. This can – depending on one’s view – be seen as a protectionism measure that introduces better conditions for national companies relative to ‘unsupported’ foreign companies and compromises a level playing field.

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More recently, in March this year Brazil threatened to restrict U.S. patents and intellectual property rights unless both countries settle a long-standing dispute over U.S. cotton subsidies and the export credit guarantee program.

These examples show that policies undertaken by government measures giving in to domestic measures only serve to aggravate trade relations by triggering counter measures.

In the investment area, an increasing number of merger proposals have been turned down in many parts of the world. Some acquisition deals have been reportedly blocked.

Protectionist measures can take various forms. Governments might favour national energy companies or companies in other strategic industries citing national security concerns. National providers of what is seen as '**critical**' **infrastructure** as well as **national champions** might also be given special advantages. Financial protectionism is another example of distortion of competition that hinders free investment.

Similarly, as part of their national economic stimulus packages, countries have taken steps to introduce so-called green growth measures that should generate growth in greener economy and at the same time alleviate negative environmental impacts. However, these measures easily take the form of **green protectionism** that act as protectionist measures favouring domestic industries and discriminating foreign companies.

In the United States, the 2009 stimulus bill of \$ 2.1 billion to help support the renewable energy industry reportedly resulted in nearly 80% of the grants reaching foreign energy companies because these companies won domestic orders and in effect the bill created many new jobs outside the United States. This led to strong and intensive domestic criticism and calls for the bill to be changed so that only United States companies should be able to benefit from it.

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It is exactly this threat of economic nationalism that makes it mandatory that any green stimulus measures and support schemes are applied in a non-discriminatory way and securing a level playing field among companies.

The issue of protectionism needs to be understood more broadly and deeply as it is interrelated to national interest. In order to counter protectionism more effectively, it is necessary to support and strengthen dialogue among governments, international organisations and stakeholders, and this roundtable stands as an excellent example for such dialogue. The OECD has a key role to play in this effort. BIAC will endeavour on its side to make sure the business point of view is reflected in policy development.

## 5. Freedom of cross-border investment / OECD Declaration and Guidelines

The “Freedom of Investment” (FOI) process has been framed by two OECD investment instruments, namely **the Code of Liberalisation of Capital Movements** and **the Declaration on International Investment and Multinational Enterprises**.

The **Code**, which was adopted in 1961, consists of legally binding rules that aim at non-discriminatory liberalisation of capital movements.

The **Declaration**, which was adopted in 1976, seeks to promote cross-border investment. The 30 OECD member countries and 12 non-member countries (Argentina, Brazil, Chile, Egypt, Estonia, Israel, Latvia, Lithuania, Morocco, Peru, Romania and Slovenia) have subscribed to the Declaration. Adhering governments represent almost all the regions of the world and account for 85% of global FDI.

This Declaration includes **the OECD Guidelines for Multinational Enterprises**. The Guidelines focus on corporate responsibility among MNEs and are multilaterally agreed by governments. They encourage enterprises operating in members’ territories as well as abroad to

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observe a set of widely recognised **principles and standards** for responsible business conduct. The Guidelines, being part of the Declaration, foster international recognition of business conduct and improve the attractiveness of the general investment climate, thereby supporting the Freedom of Investment process.

So I would like to discuss usefulness of these instruments in Asia.

## **6. Usefulness of the OECD Instruments for business in Asia**

### *Importance of MNE Guidelines for Asia*

The Guidelines are recommendations endorsed by governments to multinational enterprises operating in or from adhering countries. They provide voluntary principles and standards for responsible business conduct. This means that adhering governments must promote the voluntary nature of the Guidelines among national MNEs operating in or from their countries.

Since the Guidelines recommend proper MNE behaviour also outside their countries, their operations in Asian countries will be affected. The Guidelines furthermore address Asian SMEs operating in the supply chain of larger companies through their code of conduct programmes.

The Guidelines will bring about a number of benefits to Asian business communities, improving competition and thereby economic growth. Among the many business codes of conduct that exist today, the OECD Guidelines are broadly recognized and supported by many MNEs.

### *Adhering countries in Asia*

However, in Asia, the only adhering countries to the OECD MNE Guidelines are Japan and Korea (and Australia and New Zealand in Australasia) – which are already OECD members. Not one of the 12 non-OECD adhering countries is an Asian country.

Why is this the case? Does the OECD need to do more to promote the Guidelines in Asia? Is the OECD still considered too much of a “rich

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countries' club", particularly when we consider its historically European origins?

One way forward would be for the OECD to strongly consider Asian countries in its next round of the enlargement of membership. Many Asian countries are democratic market-based economies, or in transition to become so, and their economic growth rates have been impressive. Malaysia's per capita GDP at Purchasing Power Parity, for example, is approximately the same as that of Mexico and higher than that of Turkey, both of which are OECD member countries, and it is higher than the rates in all of the five OECD Enhanced Engagement countries<sup>1</sup>. Meanwhile, Thailand's estimated GDP PPP rate is higher than that of China, Indonesia and India. There is also the case of Singapore, an Asian non-OECD member whose GDP per capita rate is above that of the United States.

Several Asian countries will eventually become OECD members in the future. However, I believe it is important to consider how these countries will be encouraged to participate in certain OECD activities and how they will familiarise themselves with OECD instruments, such as the MNE Guidelines, OECD Principles of Corporate Governance, and many other flagship instruments of the Organisation.

This can be carried out by including Asian countries as observers in OECD committees or groups that would encourage more of an equal-footing in certain activities of the OECD, particularly on issues such as the updating of the MNE Guidelines.

BIAC, in parallel with OECD-Asia cooperation efforts, is eager to work together with Asian business in this process. In addition to China and Indonesia, we would like to consider working with business organisations from **Malaysia, the Philippines, Singapore, Thailand, Vietnam**, and others. The voice of business from these countries is

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<sup>1</sup> IMF Statistics estimate that GDP per capita PPP in Malaysia in 2009 was **USD 13,551**, compared to: USD 13,541 in Mexico and USD 12,339 in Turkey; USD 10,456 in Brazil, USD 9,961 in South Africa, USD 2,932 in India, USD 4,149 in Indonesia, and USD 6,546 in China. Thailand's rate is USD 7,998

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essential to make real progress in improving the business environment in Asia and beyond, and to make the OECD instruments useful for businesses in Asia.

### *Updating the MNE Guidelines*

Now is a good time for Asian governments and business communities to become involved. The upcoming Ministerial Council Meeting of the OECD that will take place on May 27-28 is expected to announce an official launch of the updating of the Guidelines lasting one year. Specific substantive issues, such as supply chains of MNEs and disclosure rules on MNE information sharing, have been proposed for an update. These issues are important for Asian economies, particularly the update on supply chains due to their abundance and the related MNE operations in Asia.

Business is basically satisfied with its current form, but acknowledges that certain features might need to be looked at in order to reflect the changes in the economic environment since the last review carried out ten years ago. Any changes must be thoroughly evaluated before they are proposed during the forthcoming update process.

Transmitting the opinion of non-members or non-adhering business communities through BIAC to the OECD is crucial. BIAC members and observers in emerging economies will then be able to contribute valuable private sector expertise to improve the global business environment.

## **7. Sovereign Wealth Funds**

Finally, I would like to discuss briefly sovereign wealth funds (SWFs). Asian countries dominate the ownership of the global SWFs and it is therefore an interesting issue to discuss.

We consider that SWFs are economically effective and can promote economic development of both home and host countries as well as contribute to global financial stability. By investing in recipient countries, SWFs can re-adjust global economic imbalances by effectively re-cycling

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financial resources to these host countries. This helps to improve the balance of payments of the host country. Until now SWFs have, in most of the cases, proven to be stable investment vehicles in the world economy.

However, we also recognise that SWFs could cause fears in many of the host countries because it has been claimed that SWF investments into the host country might be motivated by political objectives and therefore might threaten national security. These fears were felt recently, for example in the energy, transportation, port and other essential sectors.

The OECD has together with the IMF worked on necessary framework for SWF investments. The IMF has focused on compilation of best practices concerning transparency and accountability for SWFs in the countries of origin in order to increase the information about aim and operation of specific SWFs. The OECD has worked on guidance on recipient country policies towards SWFs.

Due to the recent economic crisis the global activity of SWFs has decreased, but I am sure that they will come back soon. It is important that international discussions involving SWFs, their governments and recipient governments are well established, since such dialogue will increase understanding, mutual trust and confidence that would avoid protectionist responses, strengthen transparency and governance in the SWFs.

BIAC therefore strongly supports the both the IMF as well as the OECD initiatives, since it is central to business that host countries should not erect protectionist barriers to SWF investment, should not discriminate among investors, and when national security concerns do arise, any investment safeguards taken should be transparent, proportional to clearly-identified national security risks, and subject to accountability in their application.

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## 8. Conclusion

I began my speech by noting that protectionism has been largely contained thanks to the cooperation and collaboration of major governments, but we must remain cautious. The financial and economic crisis has now turned into a jobs crisis. The OECD area unemployment rate rose to 8.8% by the end of 2009. This represented an increase in the unemployment rate of just over 50% in two years from a 28-year low of 5.8% in late 2007.

Economic recovery is generally slow and fragile and there is no sign yet that unemployment rates are coming down. It will take several years to reach the pre-crisis level of unemployment because of the hysteresis effects, or a time lag in the labour market.

The financial system is still very weak due to inadequate bank capitalization. Furthermore, the post crisis financial regulatory system has not been effectively coordinated among regulators.

If the jobs crisis does not improve, domestic pressures for protectionist policies will rise. Since protectionism can take the form of economic nationalism, it remains as a potential threat for trade and investment.

How should we prepare ourselves for such a threat? It can be only done by learning from each other – through effective cooperation and collaboration among governments and between governments and stakeholders such as business and labour.

This cooperation and collaboration can only be achieved through constructive dialogue among the concerned parties. The OECD can learn much from Asia, particularly when we consider the lessons learnt from the Asian financial and economic crisis in 1997-98 and subsequent economic measures which were taken.

The voice of Asia should be heard and sufficiently reflected in OECD policy formation. In this respect, the OECD should do more in Asia, and we at BIAC would very much like to reach out to Asian business

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communities to bring Asian voice to BIAC committees. By the same token, Asian economies can greatly benefit from OECD analysis and expertise towards building a stronger business environment.

China and India are in the OECD's Enhanced Engagement program with a view that these two countries will be members of the OECD in the future. Several other Asian countries should also become members of the OECD in the future. BIAC will similarly work to reach out to business communities in Asian countries to work together for freer investment and a better business environment.

Last but not least, I would like to thank again the ADB Institute and hope that the ADB Institute and the OECD will develop their working relationship so that the two organizations can address many important global issues together.

Thank you.