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DECISION

16 October 2012

Reference: Specific Instance submitted to the Finnish OECD National Contact Point on 11 June 2012

Subject: Pöyry PLC and the Xayaburi Dam project in Laos

OECD Guidelines for Multinational Enterprises

The OECD Guidelines for Multinational Enterprises, updated in 2011, are recommendations addressed to multinational enterprises by national governments. They provide non-binding principles and standards for responsible business conduct in a global context consistent with applicable laws. Finland is committed to promoting compliance with the OECD guidelines. The guidelines are supported by a mechanism of National Focal Points (NCPs), agencies established by compliant governments to promote and implement the guidelines. The NCPs also provide a mediation and conciliation platform for resolving issues that may arise relating to the implementation of the guidelines in specific instances.

Implementation of the guidelines in a specific instance refers to a situation where a party wishes to establish whether a specific multinational enterprise has operated in compliance with the guidelines. In such cases, the Ministry of Employment and the Economy together with the Committee on Social and Corporate Responsibility acts as the Finnish OECD National Focal Point (Government Decree 591/2008). Upon request of the Ministry, the Committee gives its opinion on whether the enterprise has complied with the guidelines or not.

Pöyry and the dam project in Laos

In May 2011, the Lao PDR government commissioned Pöyry Energy AG, the Swiss subsidiary of the Finnish consulting company Pöyry, to assess whether Xayaburi Power Company's plans to construct a dam in Laos were in compliance with the recommendations issued by the Mekong River Commission and whether the Lao PDR government and the power company had taken the comments submitted by the Mekong River Commission's member states (Laos, Thailand, Cambodia and Vietnam) into consideration. The report by Pöyry was published in August 2011. The Finnish state has supported the drafting of the Mekong River Commission's Strategic Environment Assessment report for 2010, for example.

### The Specific Instance submitted

According to the Specific Instance submitted by the Siemenpuu Foundation, Maan ystäväry (Friends of the Earth Finland) and 13 other NGOs in June 2012, Pöyry should have contacted the Mekong River Commission prior to carrying out the actual work to establish the commitments made by Lao PDR under the Mekong Agreement of 1995. According to the Specific Instance submitted, it was also contrary to the general policies of the OECD Guidelines that the consulting services were provided, although it was known that the member states of the Mekong River Commission had not reached regional agreement on the matter.

According to the Specific Instance, Pöyry has violated the guidelines' recommendation on sustainable development and several environmental recommendations and has demonstrated a lack of due diligence as referred to in the chapters on general policies and human rights of the guidelines. According to the Specific Instance submitted, with its actions Pöyry has undermined some of the Finnish government's development policies and targets, and has thus led to a waste of public funding. The Complainant requests that the National Contact Point initiate a process with the aim of requiring Pöyry to pay for damages caused to the Finnish state due to support provided by the state to the project and of correcting Pöyry's behaviour, for example, through public statements with relevant stakeholders. In addition, there are several other demands made of the Pöyry Group.

### Pöyry's response

In its response dated 30 July 2012, Pöyry denied all the claims and demands presented in the Specific Instance. Pöyry considers that the Specific Instance should not be examined. The response includes a demand for confidentiality.

### Initial assessment of the issue raised in the Specific Instance

According to the OECD Guidelines, the NCP must make an initial assessment of whether the issue raised merits further examination, i.e. whether the Specific Instance will be examined. A positive decision does not mean that a Specific Instance has been accepted.

Pöyry PLC is a Finnish company and the parent company of the internationally operating Pöyry Group. Pöyry Energy AG is a wholly owned subsidiary of Pöyry PLC. The Finnish OECD National Contact Point is competent to deal with the issue raised in the Specific Instance. The Swiss OECD National Contact Point has been informed of the Specific Instance.

The NGOs that have signed the Specific Instance promote sustainable economic and social development and environmental protection on a broad basis, and human rights, especially in the Mekong region. They also monitor the progress and impacts of the Xayaburi Dam project. The issue raised in the Specific Instance is *bona fide*. Raising the issue is justified based on the NGOs' activities.

The issue raised in the Specific Instance is material and substantiated, with reference made to the Mekong Agreement and the recommendations issued by the Mekong River Commission and the relevant recommendations of the OECD Guidelines.

There seems to be a link between the enterprise's activities and the issue raised in the Specific Instance. In its response, Pöyry confirms and justifies its operations in the Mekong region.

The decision of the Ministry of Employment and the Economy

Further consideration of the issue raised in the Specific Instance would contribute to the purposes and effectiveness of the OECD guidelines with respect to the recommendations referred to by the complainant.

After receiving the opinion of the Committee on Social and Corporate Responsibility, the Ministry of Employment and the Economy as the Finnish OECD National Contact Point has decided that the issue raised in the Specific Instance requires further consideration and it will be examined. The parties involved will be asked whether they consider it possible to reach agreement on the issue raised in the Specific Instance.

Lauri Ihalainen, Minister of Labour

Jorma Immonen, Chief Counsellor

Copy to Pöyry PLC  
Committee on Social and Corporate Responsibility