

**Summary of the OECD Watch side event at the  
OHCHR Consultation on business and human rights:  
Operationalizing the "Protect, Respect, Remedy" framework  
6 October 2009, Geneva**

In the context of the OHCHR consultation with John Ruggie on the "Protect, Respect, Remedy" framework, OECD Watch organized a lunchtime side event that was aimed at exploring if and how the OECD Guidelines could be employed to operationalize the Ruggie framework, and how the Ruggie framework can help improve the OECD Guidelines during the upcoming review in 2010. After a welcome and introductory comments by the chair, Richard Howitt (member of the European Parliament and EP spokesperson on CSR), Joseph Wilde-Ramsing (OECD Watch Coordinator) introduced the aims of the event and provided the more than 60 participants with some context about the currently poor functioning of the OECD Guidelines and most National Contact Points (NCPs). Rashmi Venkatestan, Samson Mokoena and Victor Ricco were then invited to provide a perspective on the experiences with the OECD Guidelines in Argentina, South-Africa and India, respectively. Caroline Reese of the Ruggie team was asked to respond to these experiences and address the review of the Guidelines in the context of Ruggie's mandate and work. Kirsten Drew of TUAC closed the panel presentations by providing a trade union perspective. The panel presentations were followed by a lively debate with the audience during which representatives from government (NCPs), business, labour unions, and NGOs from the North and the South contributed comments.

The focus of most of the plenary discussion was focussed on the currently poor functioning of the OECD Guidelines and the vast majority of NCPs. The general consensus was that the Guidelines in their current form and functioning cannot contribute much to the operationalization of the Ruggie framework as they are largely ineffective in their role as a remedy mechanism. It was mentioned that out of the more than 200 complaints filed by NGOs and unions, only a handful had been successfully resolved through the NCP specific instance process.

The following reasons were mentioned for the ineffectiveness and poor functioning of the OECD Guidelines:

- The Guidelines are weak on supply chain responsibility.
- The lack of consequences attached to violations of the OECD Guidelines or a company's refusal to take part in the specific instance procedure and NCPs' general lack of "teeth".
- The NCPs are often not independent. For instance, they are housed at the Ministry of Economic Affairs which is also charged with promoting business interests, which can lead to a conflict of interest at the NCP.
- The NCPs differ greatly in their functioning. For instance, there are significant differences in the way NCPs deal with 'parallel legal proceedings' in their decision of whether or not to handle a complaint. There is thus a lack of "functional equivalence".

- NCPs experience an inherent tension between transparency and confidentiality. The Guidelines need to be clarified with regard to transparency obligations of NCPs.
- The Guidelines can only be used in OECD and adhering countries or in cases of violations committed by companies based in OECD and adhering countries.
- The reference to human rights in the Guidelines is very general. This can be regarded as a strength (i.e. large coverage) as well as a weakness (i.e. vague).
- Companies do not perceive NCPs as an authority and often do not engage seriously in the complaint procedure.

It was mentioned that some or all of these issues could be addressed in the upcoming review of the OECD Guidelines in 2010. Possible improvements to the Guidelines that were mentioned in the event included:

- The NCPs should work more proactively and should be allowed to attach consequences to non-compliance with the Guidelines or refusal to engage in NCP-facilitated mediation.
- The 'mediating' role of NCPs should be improved. NCPs should have access to external mediators if they lack these skills in-house.
- The Guidelines should be better aligned with the needs of complainants/victims in the South. Representatives of Southern groups should be included and actively consulted in the Guidelines review process.
- The Guidelines should provide more clarity on the responsibility of governments. At this point it is very unclear how the Guidelines should be used in the case of state (co)ownership of a company against which a complaint is filed.
- The fact that the Guidelines are not binding should not imply they are without consequences. Governments should provide companies with incentives for companies to comply with the Guidelines (e.g. attach conditions to export credit guarantees, participation in trade missions, etc.)
- The Ruggie team should be involved in the review of the Guidelines
- Revised Guidelines should explicitly mention 'living wages' and 'contract work'.
- NCPs should be regularly evaluated through a peer-review system, in which stakeholders should also be involved.

## Programme

### Chair - Richard Howitt, Member of European Parliament (tbc)

13:00	Welcome and introduction by <i>Richard Howitt, MEP (tbc)</i>
13.20	Aims of the side event - <i>Joseph Wilde-Ramsing, OECD Watch</i>
13:25	Perspectives from the South: Can the OECD Guidelines provide effective remedies? <ul style="list-style-type: none"><li>- <i>Rashmi Venkatesan, Cividep, India</i></li><li>- <i>Samson Mokoena, GroundWork, South Africa</i></li><li>- <i>Víctor Ricco, CEDHA, Argentina</i></li></ul>
13:55	Response from the Ruggie Team <i>Caroline Rees</i>
14:10	Perspective from the unions - <i>Kirstine Drew, TUAC</i>
14:15	Discussion with the audience
14:40	Conclusions and recommendations: Towards the review of the OECD Guidelines - <i>Joris Oldenziel, OECD Watch</i>

*OECD Watch is an international network of civil society organisations promoting corporate accountability. The network currently consists of 88 civil society organisations from 45 different countries around the world. For more information visit [www.oecdwatch.org](http://www.oecdwatch.org) or e-mail [info@oecdwatch.org](mailto:info@oecdwatch.org).*