



Wilton Park
Harnessing the power of dialogue

Programme

The UN framework for business and human rights Thursday 13 – Saturday 15 January 2011 | WP1074

In co-operation with the Norwegian Ministry of Foreign Affairs, Oslo
and the Swiss Federal Department of Foreign Affairs, Berne

This conference constitutes the seventh of Wilton Park's annual human rights meetings sponsored by the Norwegian and Swiss Governments, which bring together human rights experts from governments in all regions with practitioners, academics and other non-governmental expertise.

In June 2011, the UN Secretary-General's Special Representative, Professor John Ruggie, will present his final report to the Human Rights Council on the UN framework for business and human rights, in particular the 'Guiding Principles' for its implementation. The conference aims:

- to examine the Guiding Principles with a view to their practical application
- to identify any possible unintended consequences their application may create
- and to ensure the Guiding Principles cover all key issues.

The draft Guiding Principles are published and available at
<http://www.business-humanrights.org/Links/Repository/1003306>

PARTICIPATION IN THIS CONFERENCE IS BY INVITATION ONLY

Thursday 13 January 2011

1300 Buffet lunch available

1500 Introduction to the conference

Isobelle Jaques
Programme Director, Wilton Park

1515-1645 1. Human rights and business: development of the UN framework

Bente Angell-Hansen
Ambassador; Permanent Representative of Norway to the United Nations, Geneva

Francesco Quattrini
Head, Human Rights Policy Section, Federal Department of Foreign Affairs, Berne

John Ruggie
Special Representative of the UN Secretary-General on the issue of human rights and transnational corporations and other business enterprises; Berthold Beitz Professor in Human Rights and International Affairs, Kennedy School of Government, Harvard University; Affiliated Professor in International Legal Studies, Harvard Law School, Boston

1645 Conference photograph followed by tea/coffee

1730-1900 2. The State duty to protect: what needs to be done or improved?

Moderator: Herbert M'cleod, Adviser to the President, Freetown

Jerry Matjila
Ambassador; Head, South African Permanent Mission to the United Nations, Geneva

Marcela Manubens
Senior Vice President, Global Human Rights and Social Responsibility Program, Phillips-Van Heusen Corporation, New York

Audrey Gaughran
Programme Director for Global Thematic Issues, Amnesty International, International Secretariat, London

1915 Reception drinks

1945 Dinner

Friday 14 January

0800 Breakfast

0900-1030 3. The corporate responsibility to respect: how can companies 'know and show' that they respect rights?

Moderator: Christian Frutiger, Public Affairs Manager, Nestlé, Vevey

Andrew Vickers
Vice-President, Policy and External Relations, Shell International, London

Puvan Selvanathan
Chief Sustainability Officer, Sime Darby Berhad, Kuala Lumpur

Victor Hugo Ricco
Leader and Strategic Adviser, Center for Human Rights and the Environment (CEDHA),

Córdoba

1030 Tea/coffee

1100-1230 **4. Access to remedy: what are the main obstacles and how can these be overcome?**

Moderator: Alan Miller, Chair, Scottish Human Rights Commission, Glasgow

Bennett Freeman

Senior Vice President of Sustainability Research and Policy, Calvert Investments, Maryland

Florence Simbiri-Jaoko

Chairperson, Kenyan National Commission on Human Rights, Nairobi

Patricia Feeney

Executive Director, Rights and Accountability in Development, Oxford

1300 Lunch

1430-1600 **5. Parallel working groups examining further the UN Framework:**

i. The duty to protect

Moderator: Herbert M'cleod, Adviser to the President, Freetown

Rapporteur: Lene Wendland, Adviser on Business and Human Rights, Office of the High Commissioner for Human Rights, United Nations, Geneva

ii. The responsibility to respect

Moderator: Christian Frutiger, Public Affairs Manager, Nestlé, Vevey

Rapporteur: Kathryn Dovey, Director, Global Business Initiative on Human Rights

iii. Access to remedy

Moderator: Alan Miller, Chair, Scottish Human Rights Commission, Glasgow

Rapporteur: Björn Edlund, Senior Advisor Europe, Middle East and Africa, Burson-Marsteller, Maisprach

1600 Tea/coffee

1630-1800 **6. Report back from working groups**

1930 Drinks

2000 Dinner

Saturday 15 January

0800 Breakfast

0900-1030 **7. Implementing the framework in conflict-affected areas: what special considerations apply?**

Moderator: Chris Avery, Director, Business & Human Rights Resource Centre, London

Maria Nazareth Farani Azevêdo

Ambassador; Permanent Representative of Brazil to the United Nations, Geneva

Silvia Garrigo

Manager, Global Issues and Policy, Policy, Government and Public Affairs, Chevron

Corporation

Mark Taylor

Deputy Managing Director, FAFO Institute, Oslo

1030

Tea/coffee

1100-1230

8. Following up the mandate of the SRSG: what should the next steps be?

John Ruggie

Special Representative of the UN Secretary-General on the issue of human rights and transnational corporations and other business enterprises; Berthold Beitz Professor in Human Rights and International Affairs, Kennedy School of Government, Harvard University; Affiliated Professor in International Legal Studies, Harvard Law School, Boston

John Morrison

Executive Director, Institute for Human Rights and Business, London

Ron Popper

Group Vice President, Head of Corporate Responsibility, ABB Ltd, Zurich

1245

Lunch

1415

Participants depart

The UN framework for business and human rights

Thursday 13 – Saturday 15 January 2011 | WP1074

Session 1 – Human rights and business: development of the UN framework

Business is the major source of investment and job creation, and markets can be highly efficient means for allocating scarce resources. They constitute powerful forces capable of generating economic growth, reducing poverty, and increasing demand for the rule of law, thereby contributing to the realization of a broad spectrum of human rights. But recent decades also have witnessed growing institutional misalignments, from local levels to the global, between the scope and impact of economic forces and actors, and the capacity of societies to manage their adverse consequences. Indeed, the modern corporation itself has evolved at an accelerated pace, embodying complex forms that challenge conventional understanding and policy designs. As a result of these epochal changes, what once were stable expectations about the respective roles of States and business in relation to minding and mending the broader social fabric are less predictable, have frayed or unraveled altogether. No country or region is immune.

When the SRSG was asked to submit recommendations to the Human Rights Council in 2008, following three years of extensive research and inclusive consultations on every continent, he made only one: that the Council endorse the ‘Protect, Respect and Remedy’ framework as a statement of policy. The framework rests on three pillars: the State duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication; the corporate responsibility to respect human rights, which means to act with due diligence to avoid infringing on the rights of others and to address adverse impacts that occur; and greater access by victims to effective remedy, judicial and non-judicial. Each pillar is an essential component in supporting what is intended to be a dynamic system of preventative and remedial measures: the state duty to protect because it lies at the very core of the international human rights regime; an independent corporate responsibility to respect because it is the basic expectation society has of business in relation to human rights; and access to remedy because even the most concerted efforts cannot prevent all abuse.

Session 2 – The State duty to protect: what needs to be done or improved?

Most States have adopted a variety of individual measures relevant to business and human rights, including labour standards, health and safety provisions, and non-discrimination policies. However, States have been slow to address the more systemic challenge of fostering human rights-respecting corporate cultures and conduct. State practices exhibit substantial legal and policy incoherence and gaps. The most common gap is the failure to enforce existing laws, although for “at-risk” and vulnerable groups, there may be inadequate legal protection in the first place. The most prevalent cause of legal and policy incoherence is that the units of Governments that directly shape business practices—in such areas as corporate law and securities regulation, investment promotion and protection, and commercial policy—typically operate in isolation from, are uninformed by, and at times undermine the effectiveness of their Government’s own human rights obligations and agencies.

The first pillar of the “Protect, Respect and Remedy” framework is the State duty to protect against human rights abuses committed by third parties, including business, through appropriate policies, regulation and adjudication.

Session 3 – The corporate responsibility to respect: how can companies ‘know and show’ that they respect rights?

The business community has devised responses to business and human rights challenges. The number of private initiatives has increased in recent years, and their geographical base is expanding. A number of business associations, multi-stakeholder initiatives and responsible investment funds now address human rights concerns. Leading companies in sectors with large physical or social footprints are beginning to understand that the human rights risks they impose on individuals and communities, in turn, may pose operational and financial risks to the enterprises themselves. Business consultancies and corporate law firms are establishing practices to advise clients on the requirements not only of their legal, but also their social, license to operate. Nevertheless, such initiatives have not acquired sufficient scale to reach a tipping point of truly shifting markets. Moreover, the standards they incorporate typically are selected and defined by the business enterprise itself rather than tracking internationally recognized human rights. And accountability mechanisms for ensuring adherence to the standards tend to remain weak and decoupled from firms’ own core oversight and control systems.

The second pillar of the framework addresses the corporate responsibility to respect human rights, which means not to infringe on the rights of others and addressing adverse impacts. The responsibility to respect exists independently of what States do or should do.

Session 4 – Access to remedy: what are the main obstacles and how can these be overcome?

Effective grievance mechanisms, judicial and non-judicial, are essential to ensuring access to remedy for victims of corporate abuse. For States, they are also a means of enforcing or incentivizing corporate compliance with relevant laws and standards, and of deterring abuse. Operational-level grievance mechanisms have the benefit of enabling early warning of problems and helping mitigate or resolve them before abuses occur or disputes compound. But too many barriers exist to accessing judicial remedy, and too few non-judicial mechanisms meet minimum principles of effectiveness. Reality therefore falls far short of constituting a comprehensive and inclusive system of remedy for victims of corporate-related human rights abuse. Although progress has been made, all types of mechanisms – State-based non-judicial and judicial, operational-level, as well as collaborative and international – remain underdeveloped.

The third pillar of the framework therefore addresses the need for enhancing access to effective remedies for those whose human rights are adversely impacted by corporate activities or relationships.

Session 7 – Implementing the framework in conflict-affected areas: what special considerations apply?

The most egregious business-related human rights abuses take place in conflict zones. Human rights abuses frequently spark or heighten conflict, and conflict in turn often leads to further human rights abuses. The gravity of this situation requires that states respond to it as a matter of urgency. Yet there remains a lack of clarity among governments as to what innovative, proactive and, above all, practical policies and tools have the greatest potential for preventing or mitigating corporate-related abuses in situations of conflict.

The SRSG has aimed to identify a range of policy options that home, host and neighboring states have, or could develop, to prevent and deter corporate-related human rights abuses in conflict contexts—where the international human rights regime cannot possibly be expected to function as intended. These could include providing advice and guidance to companies; structuring incentives via export credit, risk insurance, development assistance, or investments by parastatal agencies; and through states' individual and collective roles in fostering corporate accountability.

Specific questions arising in relation to this topic include:

- What options do host and home states have for regulating/controlling company activities in conflict-affected areas?
- What are the implications of the responsibility to respect for business operating in conflict-affected areas?
- What particular steps should States take in relation to the risk of business involvement in international crimes?

Session 8 – Following up the mandate of the SRSG: what should the next steps be?

For background information see the outline paper from SRSG on follow-up options (Specific questions arising in relation to this topic include:

- Are there any pitfalls or unforeseen consequences to these proposals?
- Are there other ideas or opportunities that warrant consideration in the context of the strategic priorities identified?