



se2009.eu



Protect, Respect, Remedy – a Conference on Corporate Social Responsibility (CSR)

Stockholm 10–11 November 2009

Conference Report



REGERINGSKANSLIET

Ministry for Foreign Affairs
Sweden

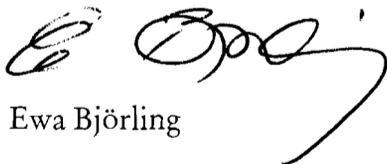
Minister for Trade

Acknowledgements

First, I would like to thank Professor John Ruggie for his valuable contribution and active participation in the conference, and for letting us borrow the name of his framework 'Protect, Respect and Remedy'. I am also very grateful to the Steering Group. The project management team at the Ministry for Foreign Affairs, CSR Ambassador Ms Catharina Kipp and Deputy Director Ms Margareta Kristianson were mainly responsible, with the valuable assistance of Mr John Morrison, now the Executive Director of the Institute for Human Rights and Business. I also appreciate the valuable contributions of the other members of the Steering Group, Mr Gerald Pachoud, special advisor to Professor Ruggie, and, from the European Commission, Mr Thomas Dodd, DG Enterprise, and Ms Susan Bird, DG Employment.

All participants showed genuine interest and engagement and contributed to many interesting discussions, for which I wish to express my sincere thanks.

Finally, I would like to thank the Spanish Ministry of Labour and Immigration, represented by Mr Juan José Barrera Cerezal, Mr Gil Ramos Masjuan and Mr Miguel Angel Martinez de la Riva Molina, for their much appreciated cooperation with the project management team and for their willingness to take on the task of promoting and putting into practice the Protect, Respect and Remedy framework.



Ewa Björling

Executive Summary

The 'Protect, Respect, Remedy' conference was held in Stockholm on 10 and 11 November 2009 as part of the Swedish Presidency of the European Union. It brought together two hundred practitioners from across the Union: from the governments of member states and the European Commission and others from business, trade unions and civil society. The aim of the event was to examine the ways in which the United Nations Framework on business and human rights might best be incorporated into the European Union (EU) and the EU commitment to corporate responsibility. It also looked in particular at the role that European member states might play in carrying out their duty to protect individuals from corporate-related human rights abuses.

The culmination of the conference witnessed both the Governments of Sweden (the current Presidency) and Spain (the incoming Presidency) issue a joint statement that endorsed the UN Protect, Respect and Remedy Framework and proposed some initial steps for its implementation into the European Union's policies and practices. There was also explicit endorsement of the UN Framework by all the business, trade union and civil society leaders speaking at the Conference. This was seen as an important development, setting a strategic direction for the months and years ahead. At a time of significant global economic, environmental and social challenges, European businesses reported that they could benefit from greater certainty about their human rights responsibilities and from a more level playing field between businesses from across the Union and other global regions.

The conference discussed the possibilities for a 'smart mix' of mandatory and voluntary approaches: business innovation being essential for driving change but states also needing to ensure that companies are held accountable for their human rights impacts. Under its duty to protect human rights in relation to business activities, the state can act in a number of ways: directly in terms of its own behaviour as an actor, as a regulator, as a catalyst to trade and or as the provider of capacity to smaller enterprises. There was a recognition that a significant amount could be achieved through greater coherence, both domestically and between national policy and regional human rights commitments, in areas such as public procurement, bilateral trade agreements, export credit guarantees, corporate law and overseas development assistance. The perceived dichotomy between international trade law and human rights law was addressed and it was reported that states could meet both objectives: in fact trade law allows for a much fuller incorporation of human rights provided they are evenly applied.

On 8 December 2009, the Foreign Affairs Council meeting of the European Union concluded:

"The Council also gave emphasis to the important role of business in achieving full respect for human rights. It reiterates its full support for the work of the UN Special Representative on human rights and transnational corporations and other business enterprises, and welcomes the convening of the conference 'Protect, Respect, Remedy' – a Conference on Corporate Social Responsibility, on November 11 2009."

Opening Presentations: The context

The conference opened with a number of keynote presentations: Dr Ewa Björling, Swedish Minister of Trade (representing the Swedish Presidency of the European Union); Vladimir Spidla, European Commissioner for Employment, Social Affairs and Equal Opportunities; Professor John Ruggie, Special Representative of the UN Secretary General on the issue of human rights and transnational corporations and other business enterprises; and Mary Robinson, Executive President of Realizing Rights: The Ethical Globalization Initiative. All of the speakers endorsed the 'Protect, Respect and Remedy' framework on business and human rights, adopted by the United Nations Human Rights Council in 2008, as a valuable contribution to the European Union and its member states.

There was felt to be a strong sense of opportunity at a very challenging time in international affairs: a time when economies and societies remained very much entwined. The financial turmoil, that began in a handful of nations was cited as contributing to a global economic and jobs crisis impacting individuals and families around the world. The World Bank's submission to the G20 Meeting in Pittsburgh (October 2009) predicted that 89 million more people would be living in extreme poverty by the end of 2010 as a result of the crisis. The International Labour Office's report to the G20 was also felt to be equally troubling, predicting that the global jobs crisis might persist for another six to eight years. It was also relayed, for a number of reasons, that many countries would not achieve the UN Millennium Development Goals by the year 2015. It was within the context of economic challenge, chronic poverty, increasing income inequalities, precarious employment and environmental degradation that the international corporate responsibility agenda was discussed.

The Swedish Government's rationale for hosting the Conference during their Presidency of the European Union (July-December 2009) was explained. It was stated that Sweden is a small country dependent on trade – free and sustainable trade based on strong environmental and social policies and practice. For example, the Swedish Government requires all state-owned companies to report according to the Global Reporting Initiative's indicators and encourages other companies to do likewise. It was stressed that corporate responsibility is not just wishful thinking but part of Swedish diplomacy included in delegation visits to other countries in order to promote Sweden and Swedish interests. This is also why the country appoints a CSR Ambassador of full diplomatic standing. Given that Sweden was perceived to be sitting in a 'shrinking world', where it is increasingly difficult for any nation to legitimately act alone, corporate responsibility was seen as being of strategic interest to the European Union, as well as the United Nations and the OECD.

Since its 2006 Communication on Corporate Social Responsibility, the European Commission was felt to have taken an increasingly significant role in helping business engage in the social (and environmental) challenges of our time. The Treaty of Lisbon was seen as creating new opportunities for this agenda. In particular, the European Union's 2020 Strategy could help member states out of the current crisis and towards more sustainable social models. Business was seen as having a central role to play in helping to develop a high-skilled workforce with the new skills required; tapping the creative energies of social innovation; and developing the technologies and tools

needed for environmental sustainability. Much of this was seen to be possible at the local level, with local authorities and groups of different actors working collectively – often with business as the catalyst.

During the keynote presentations and questions at the conference a number of more specific points were made about incorporating the ‘Protect, Respect and Remedy’ framework into the European Union.

The challenge of closing governance gaps

The business and human rights agenda was seen to be ultimately about closing governance gaps around the world, whether they exist due to conflict, corruption, acute poverty or environmental crisis. It was argued that a better understanding is needed of the kinds of extraterritorial measures European, and other, Governments should consider in order to hold businesses to account when they are operating outside of their home countries. This might mean adopting a mixture of both the exercise of direct extraterritorial jurisdiction, particularly when international crimes are committed, and also domestic measures with extraterritorial implications, such as reporting requirements imposed by the home state which entail consideration of the company's activities elsewhere. It was felt there was a range of potential public policy, regulatory and enforcement measures available to states, whether involving direct extraterritorial jurisdiction or domestic measures with extraterritorial implications; but generally speaking, these are currently yet to be developed across the business and human rights field. The perceived challenge was seen to be finding the right mix of measures that would provide guidance to companies while also ensuring accountability. The review, starting in 2010, of the OECD Guidelines for Multinational Enterprises could be understood as one element in this broader context.

Avoiding Protectionism

Whilst European states and companies need to engage fully on issues of corporate responsibility with other governments and businesses around the world (and in particular the key emerging economies) the question of perceived protectionism was raised. The panel felt that such allegations might be avoided if human rights were clearly part of local discourse on corporate responsibility and here the universality of the UN framework could play an important role. European companies should avoid lowering standards when operating outside of the Union. For example, the Swedish Government expects Swedish companies to live up to the same standards regardless of the location they are operating in. There was also felt to be a strong political and business case for a more level playing field between the way states, business, trade unions and civil society develop standards of corporate responsibility. A framework based on human rights was seen as being well positioned to provide this.

Europe's traditional partners

One question reflected Europe's rich tradition of social partnership: in particular the co-operation between business and trade unions in support of labour rights. The “Protect, Respect and Remedy” framework was not regarded by the speakers as an attempt reinvent labour standards, rather it draws on existing law and practice, including recognizing the central role of trade unions in the implementation of workplace rights, worker representation and site-level grievance mechanisms.

Building capacity

Several questions reflected the significant capacity challenges faced by all actors when operationalising the “Protect, Respect and Remedy” framework. For instance, financial institutions need to adapt in light of the framework as they also have due diligence responsibilities which will vary depending on the sectors, types and sizes of companies to which they are lending. Other examples of capacity included the use of existing human rights procedures within the United Nations itself with regard to business and human rights, and a greater role of national human rights institutions within this arena.

Plenary Presentations: Protect, Respect and Remedy

The main part of the first day of the conference consisted of three plenary panels: each examined one element of the Protect, Respect and Remedy framework and what its integration into EU policies and practices might mean. Each panel was followed by a question and answer session, the substance of which is also captured in the three sections below.

“Protect”: The State Duty to Protect Human Rights in relation to business activities

The panel on the State Duty to Protect was opened by a speech given by Ambassador Catharina Kipp of the Swedish Government, followed by responses from Richard Howitt, MEP, and Jim Baker, Co-ordinator of the Council of Global Unions. It was chaired by John Morrison of the Institute for Human Rights and Business.

It was argued that the first pillar of the framework was fundamental. Whilst it reflected the existing legal duties of states there was felt to be a need for much greater coherence in the way states implemented this duty: both vertical (in the integration of international human rights commitments at the national level) and horizontal (across domestic policy areas). Across the 27 member states of the European Union, there were seen to be different laws and practices relating to relevant issues of trade, investment, overseas development and corporate law. The examples given included different requirements on human rights in corporate reporting, public procurement and bilateral trade agreements. There was also at times a lack of vertical coherence between the human rights commitments of a particular state and the way they related to businesses as part of overseas development, consular activity or export credit guarantees. Taken as a whole, this incoherence was seen as presenting a fairly uneven playing field within the Union of 27 states even before relations with other states, such as Brazil, Russia, India or China, were considered.

One speaker said that the European Union could be seen as having moved into a new era in corporate responsibility, where the Protect, Respect and Remedy framework will play a central role. Human rights concerns were seen as playing an important role in the two reviews currently underway: in the OECD (with regard to the Guidelines for Multinational Enterprises) and the International Finance Corporation (with regard to the Safeguard Policies and Performance Standards). By analogy then, they should also play an important role in European Union’s policies and practices in this area. With regard to the first pillar of ‘the framework, the ‘Duty to Protect’, then a ‘smart mix’ of mandatory and voluntary approaches were seen as essential for creating a leveller playing field for European business. The 2010 study, overseen by the European Commission, on the accountability mechanisms relating to the overseas operations of EU-domiciled companies, was cited as a very important first step in understanding some of the state-based gaps that might exist. In addition, a more consistent approach to human rights within bilateral trade and investment treaties and public procurement contracts might be important first steps towards greater policy coherence between member states.

There was a discussion about the definition of ‘CSR’ in the European Union. It was argued that ‘business and human rights’ should not be seen as a ‘law-free’ area of

public policy. Trade unions find global framework agreements to be one useful mechanism for ensuring rights are respected in the workplace across jurisdictions, but developing and implementing these can be challenging. The aim of corporate responsibility policies should be, it was argued, to engender systemic approaches by both states and companies, and not just islands of human rights protection within societies where rights are more routinely violated. The systematic use of forced labour in cotton harvesting in Uzbekistan was cited, by a member of the audience, as a particular example of where business action alone was clearly not sufficient and where individual states will need to exert greater pressure, together with the international community, to ensure the state duty to protect is actually applied.

“Respect”: the Corporate Responsibility to Respect Human Rights

The second pillar of the framework was the focus of the ‘Corporate Responsibility to Respect’ panel. The main speakers were Mustafa V. Koç, Chair of Koç Holding, and Bengt Olof Hansson, Vice President of Corporate Sustainability at SKF. Responses came from Ron Popper of ABB Ltd, Elin Wrzoncki of the International Federation for Human Rights and Renate Hornung-Draus of the Confederation of German Employers. The panel was chaired by Pedro Ortún of the European Commission.

The need to recalibrate the balance between companies and states was cited, particularly in light of the financial crisis. Sustainable development requires sustainable business and this responsibility needs to cross all borders. The corporate responsibility to respect respond was seen to be grounded in the legitimacy of the Universal Declaration of Human Rights and the standards that flow from it, but also requires cultural awareness about unique perspectives on application in the workplace and community. In Turkey, for example, there is no legal or social pressure yet for environmental or social reporting but some businesses, such as Koç Holdings, do it anyway. Business requires states to play their appropriate role in order to help create additional demand.

The panel also argued the need to operationalise the second pillar of the framework in language that business managers could understand. For example, this might include universal commitments to workplace rights and trade union participation, such as that held by SKF under a global framework agreement. Another example given was how ABB Ltd has now integrated human rights into supply chain, mergers & acquisitions, country investment and employee procedures. Companies, it was felt, need to show that any neglect of human rights will not be overlooked. For example, a business might choose not to award bonuses to managers not committed to these aspects of company performance and has to be willing to walk away from potential contracts or investments where human rights risks cannot be adequately managed.

The challenges, from a civil society perspective, were seen as being many. There was a demand for much greater transparency about the progress business is making on its due diligence approach. The Global Supply Chain Programme was cited as an example of good practice when business is willing to engage in greater oversight of global supply chains. Business associations reported that they were also aware that responsibilities of small and medium-sized enterprises (SMEs) need clarification and SMEs will often need assistance from states. For example, the German Employers

Association works with German embassies worldwide to provide relevant information to whichever companies need it.

State capacity was seen as sometimes being a dilemma in itself, it was remarked during questions. Business can support the capacity of state labour inspectors but what should they do in localities where the state officials are themselves corrupt? When should private auditing be used in place of increasing state capacity for labour inspection? The issue of avoiding complicity in the human rights abuses perpetrated by others was also seen as being key here. Given that a business is required to minimize the threat of its own complicity in abuses by others, its relationships with governments as well as other businesses must form an essential part of its due diligence, it was argued.

“Remedy”: Access to remedy for victims of Corporate-related human rights abuses

The third panel focused on access to remedy, the third and final pillar of the framework. The main speaker was Aart de Geus, Deputy Secretary-General of the OECD. Responses came from Widney Brown of Amnesty International and Professor Alan Miller of the Scottish Human Rights Commission. The panel was chaired by Ambassador Are-Jostein Norheim of the Norwegian Government.

It was reported that the OECD Guidelines on Multinational Enterprises were shortly to gain their 47th signatory, the state of Morocco. The Guidelines were represented as a relatively unique non-legal mechanism in the field of business and human rights. Around 150 cases have been heard by National Contact Points (NCPs) since the last review of the Guidelines and half of these cases have been concluded. Some of the Member States, in particular the Netherlands and the UK, have instigated reforms to their NCPs to create greater independence and transparency of process. Examples were given to show the range of results possible: G4S, a private security company firm, reached a global agreement with the relevant trade union in relation to worker rights through the mediation of the UK NCP; and the mining company Vedanta’s oversight of its Indian subsidiary, Sterlite Industries, was criticised by the UK NCP for behaviour inconsistent with India’s own human rights commitments.

The update of the Guidelines was seen as an opportunity to bring into focus additional human rights considerations, such as the impacts on suppliers or local communities. Also mentioned was the need to address the challenges posed by the functional equivalency requirement applying to NCPs in each Member State, as well as greater clarity about when legal proceedings should be used in place of non-legal mechanisms. Another priority expressed was the need to engage more of the emerging economies amongst the G20 states, beyond Mexico and Brazil who already adhere to the Guidelines.

Effective remedies for the victims of corporate-related human rights abuses, it was stated, can take a range of forms, including reparation, restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition. Non-judicial mechanisms have a valuable role to play in cases alongside judicial remedy in meeting the needs of affected individuals and communities. However, the Vedanta case under the OECD Guidelines did not, it was argued, result in an effective remedy for the community affected and so the specific attributes of each mechanism need to be kept in mind.

Another key question outlined what should be done in circumstances in which a company is not willing to voluntarily engage in a remedial process? In some countries, it was argued, companies can negatively influence the legal process itself or the legal system may be over-burdened generally. How do we guard against non-legal mechanisms being used as substitutes for poorly performing legal ones? One option might be to make alternative legal mechanisms available in carefully defined circumstances, for example, by providing access to home state courts.

When non-judicial mechanisms are appropriate, they were seen as having a number of benefits typically including the speed of resolution and lower costs involved. One example is the role that national human rights institutions might play. The example of the Scottish Human Rights Commission was given, who are currently piloting four guiding principles to ensure appropriate mediation in human rights cases focused on: the empowerment of the victim, the importance of accountability (leading to the potential for a shift in power between the violator and the victim), the identification of a framework of shared responsibilities between both sides, and the possibility of developing sustainable relationships.

It was reflected that the 'Protect, Respect and Remedy' framework supports the appropriate use and strengthening of a range of legal and non-legal remedial mechanisms, including considering the appropriate role of extraterritorial options, as outlined in the opening session of the conference. Questions tended to focus on how such remedial mechanisms interact with the first two pillars, namely the state Duty to Protect and the Corporate Responsibility to Respect. For example, will the due diligence standards developed under the corporate Responsibility to Respect provide legal 'safe harbours' for those companies who subsequently face legal action despite trying to do the right thing? Another example given was that of state-owned enterprises who sometimes claim the benefit of state immunity whilst at others arguing that they do not have the 'state-like' duty to protect human rights. Such questions form part of the ongoing work of "operationalising" the UN Framework.

Parallel Workshops: Applying the State Duty to Protect

The second day of the conference focused specifically on the first pillar of the 'Protect, Respect and Remedy' framework: the state duty to protect human rights in relation to business activities. Four parallel workshops looked at different aspects of this duty: (i) the direct role of the state as an economic and political actor, (ii) the role of the state in regulating business activity, (iii) the role of the state in facilitating trade and investment opportunities and (iv) the role of the state in enabling the capacity of small or medium-sized enterprises.

The State as an Actor

This workshop looked at the direct role that the state plays in its own economic and political activities to protect human rights, covering issues such as public procurement, state-owned enterprises, diplomatic missions and political leadership in corporate responsibility. The speakers were Juan José Barrera Cerezal of the Spanish Government, Cecilia Edström of Telia-Sonera and Ernst Ligteringen of the Global Reporting Initiative. It was moderated by Charlotta Laursen of the Danish Government.

There is much the state can do for itself and by itself to ensure it is meeting its duty to protect. The need for greater alignment between human rights and trade, development, export credit, company law and public procurement had been discussed during the plenary session. Some examples of possible models for engendering this alignment were offered during the presentations. Both the Swedish and Danish governments require state-owned companies to report against the criteria of the Global Reporting Initiative, which includes human rights. Another example given was the creation of the State Council for Corporate Social Responsibility in Spain. Its role is to act as a consultative body and an assessor of State policy and it is composed of a range of civil society, business, trade union representatives as well as civil servants from government departments at the national, regional and local levels. Another good practice mentioned was the 'Business and Human Rights Toolkit' sent to all British diplomatic missions abroad explaining the relevance of the business and human rights framework for all businesses seeking advice.

The State as a Regulator

This workshop looked at the role of the state in holding business to account through legal and non-legal accountability mechanisms, OECD National Contact Points, corporate law, mandatory reporting and so on. The speakers were Herman Mulder, a member of the Dutch National Contact Point, Robin Edme of Eurosif, and Ruth Casals of the European Coalition for Corporate Justice. It was moderated by Rachel Davis, Legal Advisor to Professor John Ruggie.

The 2008-9 financial crisis, it was argued, demonstrated that markets are not self-regulating. It was stated that effective regulation requires real enforcement: it also needs smart regulators, and responsive regulation that can demonstrate real impacts. An example of effective regulation offered was that of the Danish or Swedish reporting laws for State-Owned Enterprises: state-owned enterprises that impose 'mandatory self-regulation' combined with public disclosure. One speaker stated that we have, however, yet to see a European state require companies to report on their compliance

with the due diligence steps of the corporate responsibility to respect but, they acknowledged, there was the real possibility of the expansion of the OECD Guidelines. The Guidelines were cited as a key 'soft law' standard in this area and one of the best opportunities for affecting company behaviour in parts of Africa.

Several questions arose during the discussion - if disclosure of social impacts becomes increasingly mandatory for European companies (as is the case in France), to what extent will the content of this reporting be prescribed? How should the specificities of particular issues arising in different business sectors and geographies be reflected? If the onus is on each business to define the range of its human rights impacts, what process requirements are needed to ensure that the perspectives of different stakeholder groups are considered in developing an overall reporting framework?

Another point of view was that mandatory reporting by business across all member states was seen as desirable. Extra-territorial jurisdiction was also seen as key, as was 'piercing the corporate veil' in cases involving human rights violations. In addition, it was argued that directors' duties should be linked directly to such considerations.

The State as a Trader

This workshop looked at human rights policies in relation to international trade and investment (human rights in bilateral trade and investment treaties, export credit guarantees, and so on). The speakers were Hakan Lucius of the European Investment Bank, Karin Apelman of the Swedish Export Credits Guarantee Board and Gabrielle Marceau of the World Trade Organisation. It was moderated by Gerald Pachoud, Special Advisor to Professor John Ruggie.

One of the presenters argued that there are no prohibitions in the world trade regime, as represented by the World Trade Organisation (WTO) or national export credit agencies, against states adopting measures that will require their own businesses to respect human rights in their activities. Trade and human rights should not be regarded as being at opposite poles, it was stated: the ultimate goal of trade is the fulfilment of human needs. In other words, international human rights law and international trade law should be seen as being on an equal footing. It was maintained that sustainable development is already a goal of the WTO and this allows some trade restrictions. Added to this, WTO member states can deviate from their trade obligations for measures that are necessary to protect public morals – this too might well include specific human rights violations.

Bilateral and regional trade agreements that include human rights provisions also do not violate trade laws, provided they do not impose conditions on states that are not party to the agreement. WTO member states might also impose additional trade preferences that include human rights provided the conditions are based on objective criteria relating to development and that such a programme would be applied similarly to states in similar conditions. The one significant difference between trade law and human rights law was seen to be the comparative weakness of human rights-based dispute mechanisms when compared to the power that states have given to the WTO dispute settlement system.

On the investment side, a number of regional investment banks, together with the International Finance Corporation, have safeguard policies that include human rights considerations. The European Investment Bank, for example, restricts itself to financing projects that respect human rights and comply with the Bank's own social standards, based on the principles of the Charter of the Fundamental Rights of the European Union. The Bank also has a complaints mechanism with the ability for parties to lodge a complaint against the administration to the European Ombudsperson. It was reported that the Bank states a hope that it sets its conditionality to business clients at a realistic level and that it has been able to influence the behaviour of some companies, particularly in the extractive sector.

The State as an Enabler

This workshop looked at the role of the state in building the capacity of small and medium-sized enterprises (SMEs) in Europe and beyond (capacity building in Europe and bilateral and EU-wide development programmes in other countries). The speakers were Ambassador Michel Doucin of the French Government, Andrea Benassi of the European Association of Craft, Small and Medium-sized Enterprises and Mia Horn af Rantzien of the Swedish International Development Cooperation Agency. It was moderated by Robert Strauss of the European Commission.

The session started with presentations on three issues: (i) a number of good examples were given from both developing and developed countries of how governments have supported SMEs to help them deliver on corporate responsibility; (ii) how the three different "pillars" of the UN Framework? might be themselves linked in to overseas development priorities and (iii) how SMEs in local societies can be sceptical of external pressure and have many questions on what to do in practice and what costs are involved.

The audience was reminded that SMEs can often represent more than half of gross national product of specific national economies. Any consistent economic policy, it was argued, cannot allow the world of SMEs to be left out of corporate responsibility in public policy. In addition, it was noted that multinational companies can place significant pressure on SMEs to conform to social and environmental standards and yet still reduce prices. A collective response from SMEs was seen as the only sustainable response to this, one that engages with corporate responsibility proactively. Examples of such collective action were given from Singapore, Thailand and Vietnam outside the Union, as well as the Netherlands, Denmark and France inside it. It was felt that until now the European Union has been timid in its expectations of SMEs but that much greater alignment across Government was a prerequisite to more affirmative action.

A number of important points came out of the discussion following the opening presentations. The first was one related to definitions and how the historic EU definition of CSR and the new Nations UN Framework on business and human rights might best be understood together. It was also apparent that the demands placed on small companies must be significantly different than those on large companies. It was agreed that SMEs would need more support from the state. Also seen as important was to use the knowledge and experience from multinational companies active in

developing countries when designing support programmes for SMEs. There was a specific call for tools and training to develop capacity.

Conclusion

The Conference concluded with the Spanish and Swedish Governments delivering their Joint Declaration, which is repeated in the Annex to this report. With this Declaration in mind the Foreign Affairs Council meeting of the European Union concluded on 8 December 2009 that:

“The Council also gave emphasis to the important role of business in achieving full respect for human rights. It reiterates its full support for the work of the UN Special Representative on human rights and transnational corporations and other business enterprises, and welcomes the convening of the conference ‘Protect, Respect, Remedy’ – a Conference on Corporate Social Responsibility, on November 11 2009.”ⁱ

ⁱ The Conclusions on Human Rights and Democratisation in third countries, 2985th Foreign Affairs Council Meeting, Council of The European Union, 8 December 2009.



Protect, Respect, Remedy

– Making the European Union take a lead in promoting Corporate Social Responsibility



Referring to the recent discussions at the conference Protect, Respect, Remedy – a Conference on Corporate Social Responsibility (CSR) in Stockholm on 10–11 November 2009, the Swedish Presidency of the European Union and the incoming Spanish Presidency conclude that:

The European Union and its Member States should take a global lead and serve as a good example on CSR when building markets, combating corruption, safeguarding the environment and ensuring human dignity and human rights in the workplace. The European Union is the largest economy in the world and the largest development cooperation partner. Europe hosts many of the multinational enterprises in the world. We welcome that European employers consider it an important task to promote and take a global lead on CSR.

The responsibility is threefold: **the State duty to protect** – including legislation as well as implementation of human rights obligations, in particular with regard to business; **the corporate responsibility to respect human rights**; and the responsibility of all parties involved to ensure **access to adequate remedies** to uphold and develop such human rights.

Today's common challenges, emanating from the rapid evolution of globalisation, climate change and the current economic turmoil, require a sustained international response. There is a need for common solutions that can balance economic imperatives with the realisation of universal norms embodied in internationally recognised human rights instruments. This can only be achieved through active participation of all stakeholders. We need to continue our important dialogue with non-member states, civil society, trade unions and businesses, including small and medium-sized enterprises, to realise the Protect, Respect and Remedy framework.

The United Nations' Protect, Respect and Remedy framework provides a key element for the global development of CSR practices. It constitutes a significant input to the CSR work of the European Union. Over the recent years the European Union and its Member States have recognised CSR as a key element in fostering a truly sustainable global economy, building on the Lisbon Strategy and on the recommendations and work of the European Parliament and European Commission. Now the time is ripe to take this important work further by developing common frameworks; raising awareness and improving dialogue between all stakeholders; and measuring and evaluating tangible results.

We encourage the European Union and its Member States to:

1. With regard to the State duty to protect:

- Clarify the impact that company law can have on issues within the field of CSR, such as incorporation, directors' duties, reporting, stakeholder engagement, and corporate governance generally;
- Emphasise the importance of implementing human rights, fighting corruption and maintaining an open free trade policy throughout the European Union and the European External Action Service, for example within bilateral trade and investment treaties, host governments, export credit guarantees and overseas development programmes.

2. With regard to the corporate responsibility to respect:

- Raise business awareness of its responsibility to respect human rights and exercise due diligence, notably through active implementation of the framework, effective incentives and other relevant means;
- Ensure that businesses respect human rights wherever they are operating;
- Continue, deepen and further improve the dialogue on CSR across Europe and beyond.

3. With regard to access to effective human rights remedies:

- Promote greater awareness of and adherence to existing international human rights mechanisms;
- Further greater access to effective remedies, both legal and non-legal;
- Strive to fully implement an appropriate mechanism at all levels.

The CSR framework is part of the European Union's response to the environmental and economic challenges ahead. This includes reaching out beyond the Union to achieve greater international coherence and cooperation. Through working together, all stakeholders can bring about better local impacts and also ensure greater transparency.

Jointly, we look forward to the incoming Spanish Presidency of the European Union, which in 2010 will continue to promote and put into practice the Protect, Respect and Remedy framework. Forthcoming European Commission studies on current legal dispositions and on responsible supply-chain management should help to identify opportunities for doing this.