



SOMO statement to the UN Regional Forum on Business and Human Rights Medellin, 28-20 August 2013

1. SOMO – the Centre for Research on Multinational Corporations - is an independent non-profit research and networking organisation based in the Netherlands. SOMO investigates the social and environmental impacts of multinational corporation's policies and practices worldwide.
2. SOMO, together with its partner organisations, monitors the implementation of the United Nations Guiding Principles (UNGPs) by state and business actors with the aim of furthering an ambitious interpretation and implementation of the UNGPs. For this purpose SOMO, CEDHA and Cividep have developed a guide for civil society organisations entitled 'How to use the UN Guiding Principles on Business and Human Rights in company research and advocacy'. The Spanish version of this guide will be launched on the third day of this Forum.
3. Since the adoption of the UNGPs, SOMO has analysed several cases of business related human rights abuses and used the UN Framework and the GPs to assess to what degree the involved state and business actors lived up to their respective duties and responsibilities to protect and respect the rights of workers. Unfortunately, on the basis of these analyses, SOMO concludes that both state and business actors fall short in implementing the UNGPs.
4. In addition to analysing concrete cases of business related human rights abuses, SOMO is currently executing a multi-year programme aimed at testing and increasing the effectiveness of non-judicial grievance mechanisms. Recent research by SOMO, complemented by research of other experts, shows that a number of inhibitors restrain non-judicial grievance mechanisms (NJGMs) from reaching their full potential to help solve problems of business-related abuses. SOMO analysed different types of NJGMs: company-level, national, multilateral and intergovernmental mechanisms.
5. The identified shortcomings include: a lack of leverage to effect change (e.g. the lack of ability to enforce remedies); lack of independence; lack of transparency about process and outcomes; lack of ability to deal with power imbalances; lack of the ability to identify and address systemic issues; lack of expertise and lack of exchange/collaboration with others; lack of mandate to investigate on own initiative.
6. In addition to the basic set of criteria for NJGMs provided by the UNGP, SOMO identified the following outcome-oriented requirements for existing initiatives:
 - a) **the ability to create leverage.** In order to create leverage, the range of NJGMs should provide a combination of different functions, either within one mechanism or through coordination between various mechanisms. Such functions include mediation/conciliation, dialogue, fact-finding and investigation, determination and adjudication. The different processes should be carried out by different experts, who need to be strictly independent from all parties involved (including government when there is an interest in protecting any one of the party's interests). A mandate to conduct investigation would imply the mandate to demand information. NJGMs should further be mandated with enforcing powers. In cases where breaches are found, and companies are unwilling to effectively mitigate and remediate the harm and come to an agreement with complainants and victims and the necessary mitigation and remediation, there should be consequences. These could include withdrawal of funds and support (government/bank lending, delisting, exclusion from public procurement, etc.).
 - b) **the ability to reduce the power imbalance between parties** by allowing representation of local or workers' communities by NGOs/ labour unions and by providing guidance for local and workers' communities.
 - c) **the ability to address systemic issues** within a company, across its corporate network or at industry level. In order to be able to address systemic issues NJGMs should seek interaction with other stakeholders; involve the local, regional or national government concerned; share lessons between mechanisms; be transparent on process and outcomes and be mandated to conduct research on their own initiative.



7. In conclusion, SOMO expects the Working Group to be informed about these persistent weaknesses in existing non-judicial grievance mechanisms and to use its mandate to ask the UN Human Rights Council to give attention to closing the governance gap faced by victims of business-related human rights abuses. SOMO is open to engage with the WG and provide information resulting from its research on multinational corporations and effectiveness of grievance mechanisms and experiences from its partner organisations across the world.

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