

**Taking Stock:
1 ½ Years After the Endorsement of the GP's Pillar III'**

Access to Non-Judicial Remedy

Background Note on the Parallel Session

Overview

The UN Guiding Principles underline that States, businesses, and industry or multi-stakeholder initiatives should establish and/or participate in non-judicial grievance mechanisms capable of resolving and remediating complaints regarding business impacts on human rights as part of a comprehensive architecture for ensuring Access to Effective Remedy. They also set out a range of criteria that any non-judicial grievance mechanisms should meet in order to ensure its effectiveness.

Over the last 2-3 years, there has been significant growth in the number of initiatives that have established, accelerated, or helped to steer efforts to improve the availability and quality of non-judicial grievance mechanisms. This panel will profile a cross-section of these efforts across a broad range of contexts, including:

- A national human rights institution
- The National Contact Point of an OECD Member State
- An operational-level grievance mechanisms established by a company
- A company-community dispute resolution process facilitated by an international ombudsman
- An industry-specific, supply chain mechanism
- Accountability mechanisms of international financial institutions
- The first grievance procedure related to the supply chain of an Olympics and Paralympics event

The UN Guiding Principles underline the need to ensure that non-judicial grievance mechanisms do not undermine industrial relations processes or judicial mechanisms. The legitimacy of non-judicial mechanisms clearly depend on respecting these limits. Moreover, important work is underway by non-governmental organizations and academic institutions to explore the effectiveness of different non-judicial mechanisms, including from the perspective of affected stakeholders. This will bring further valuable learning.

While much work remains to be done, there is growing evidence that non-judicial mechanisms can be designed to accommodate and respect these concerns, expanding access to effective remedy in the process. Moreover, there can be little doubt that the

range and scale of these developments owes much to the attention that the UN Guiding Principles paid to the subject of non-judicial grievance mechanisms as an essential complement to judicial processes. The main focus going forward will be to learn from both research and broader stakeholder experience about the types of grievance mechanism and the approaches to dispute resolution that are most effective in different contexts. One significant development in this regard will be the launch in late 2012 of a new global resource center in The Hague called 'ACCESS'. ACCESS plans to provide a global knowledge center on non-judicial grievance mechanisms and to support practical access to dispute management resources for companies and companies at the local level.

Brief Profiles of the Mechanisms and Processes Represented on the Panel

1. Ghana's Commission for Human Rights and Justice (CHRAJ): A State-Based Non-Judicial Grievance Mechanism

In Ghana, the State-based [Commission on Human Rights and Administrative Justice](#) (CHRAJ), established in 1993, combines the functions of a national ombudsman office and a national human rights commission under one umbrella. The CHRAJ is one of only a few ombudsman offices that has been empowered to mediate human rights abuses between communities and private corporations. CHRAJ has mediated a number of recent disputes between gold mining companies and Ghanaian communities. With the growth of private sector development in Ghana, CHRAJ may be called upon to mediate additional conflicts accompanying a number of private sector activities likely to have impacts on communities.

2. Accountability Counsel – NGO Support and Capacity for Communities in Conflict

[Accountability Counsel](#) defends the environmental and human rights of communities around the world who are harmed by internationally financed development projects. It specializes in non-judicial accountability mechanisms established to receive community complaints. Accountability Counsel accomplishes its mission through: (1) [assisting communities](#) to use these mechanisms effectively and; (2) [policy advocacy](#), ensuring that these complaint offices are accessible, transparent, and fair tools for justice. Its approach includes working closely with community members to help voice their complaints. Its work pays particular attention to women, girls and other marginalized groups, who are often the most deeply harmed by abuses. As part of its work in communities, Accountability Counsel has established an [Accountability Resource Guide](#) on the world's major non-judicial mechanisms tied to international finance and development.

3. Sakhalin Energy Community Grievance Procedure – Operation-Level Greivance

Mechanism Established by a Company

Sakhalin Energy Investment Company Ltd. (Sakhalin Energy) is the operator of the Sakhalin-2 project under a Production Sharing Agreement with the Russian Federation in the Russian Far East. The Community Grievance Procedure is designed to provide a clear and accessible mechanism for stakeholders to raise grievances in relation to project implementation, and to enable effective and timely addressing of the grievance. Key components of the Procedure include: multiple channels for lodging grievances, clear timeframes for addressing grievances, communication with complainants during all stages of grievance resolution, internal and external monitoring, audit and reporting on the grievance resolution process, automated systems for grievance tracking, and follow-up and notification of relevant Company management. The mechanism has been supported by extensive awareness-raising campaigns in communities about the Procedure, as well as trainings for the company and its contractors.

Sakhalin Energy reports that implementation of the Procedure has allowed the company to address community-related issues before they grow into conflicts, develop preventive measures and reduce probability of repetition of similar grievances, proactively assess the areas of social impact from the project activities, and pay special attention to the vulnerable groups of community.

4. CEREAL/CANIETI: An Industry-Level Grievance Mechanism for the Electronics Industry in Mexico

The electronics industry in Mexico has faced significant challenges with respect to labor rights and employment conditions. The Center for Reflection and Action on Labor Rights (CEREAL) campaigns on behalf of workers in the industry. CANIETI is the electronics industry association in Mexico.

In 2005, after years of tension and disputes, CEREAL and CANIETI established a dialogue process. While they still disagree over many issues, this platform for sustained dialogue has led to the creation of an industry-level grievance mechanism, where specific complaints can be brought by workers through a process managed by CEREAL and CANIETI. The grievance procedure has enabled many potential claims to be clarified and addressed before rising to the level of full-scale labor disputes. It resolves cases much more rapidly than prior to the mechanism, and – through the institutional learning from the mechanism – has led to changes in industry practice that have resulted in dramatic drops in cases of discrimination and safety incidents in the electronics industry in Mexico.

5. Supply Chain Complaints Process of the London Organising Committee of the Olympic and Paralympic Games.

The London Organising Committee of the Olympic and Paralympic Games (LOCOG) developed a process to deal with complaints and grievances related to the application of its Sustainable Sourcing Code by commercial partners, particularly in relation to labour conditions at factories supplying sponsors, licensees and suppliers. LOCOG commissioned a specialist partner, Ergon Associates, to devise and manage the process which was informed by the UN Guiding Principles on Business and Human Rights. The Complaint and Dispute Resolution Mechanism was in addition to the auditing, monitoring and evaluation efforts of LOCOG and its commercial partners.

The Complaint and Dispute Resolution Mechanism dealt with a range of labour issues, including some press allegations about factory working conditions in various countries and complaints from international and national trade unions and civil society organisations, as well as complaints from individual workers. In total, nine separate complaints, most involving multiple and sometimes complex issues, were accepted as falling within the scope of the mechanism and managed accordingly. A total of 74 identifiable remedial actions resulted as well as other collateral benefits, including negotiations between employers and trade unions.

[FAQ's for operation of the LOCOG procedure](#)

[Example public report on allegations dealt with under the LOCOG procedure](#)

[Agreement on workers' rights in global supply chains](#)

6. NCP Norway: A Grievance Mechanism for the OECD Guidelines for Multinational Enterprises

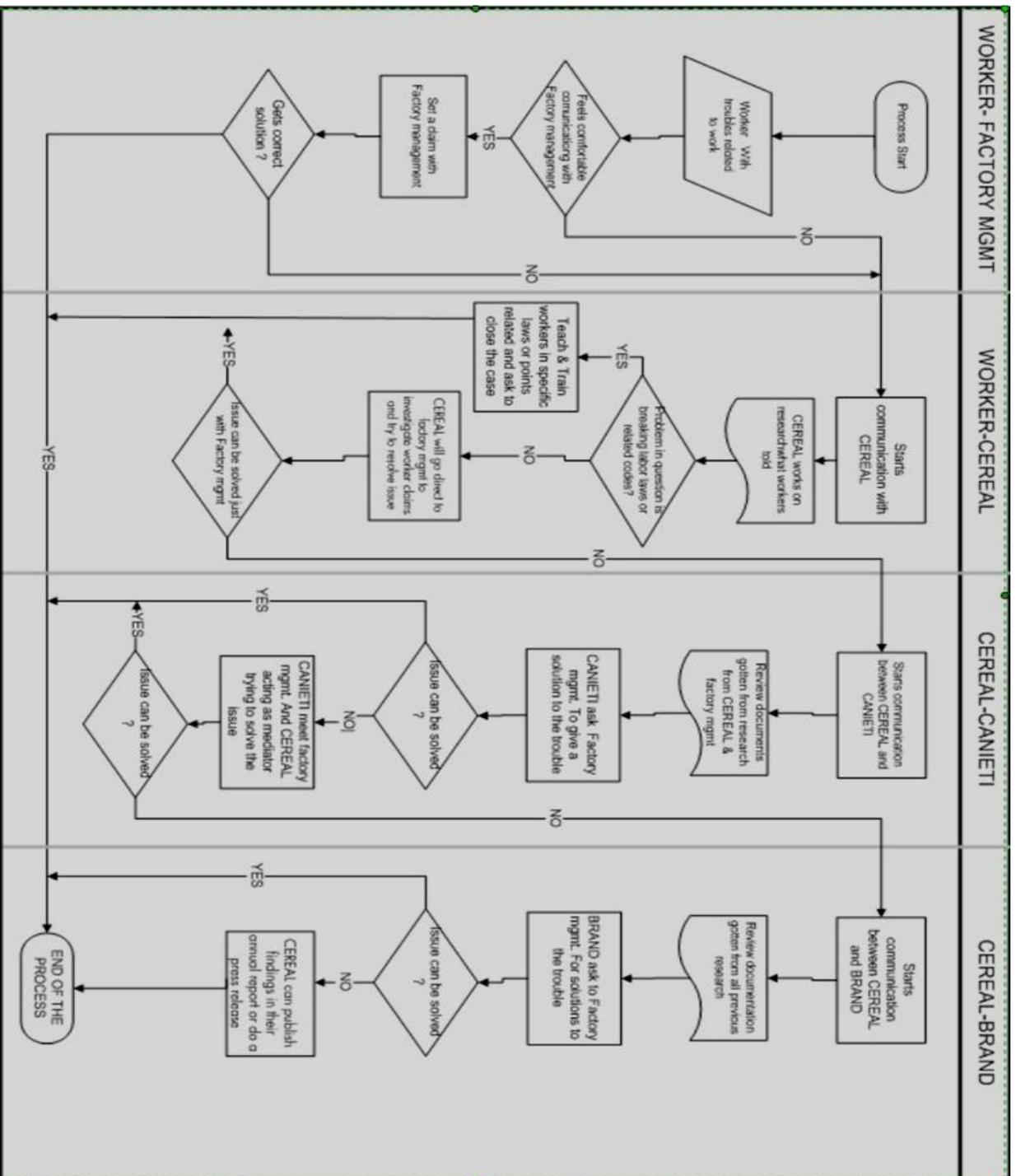
The OECD Guidelines for Multinational Enterprises are recommendations addressed by states to multinational enterprises operating in or headquartered in OECD and other states that adhere to the Guidelines. They set out principles and standards for responsible business conduct in a global context. The Guidelines are supported by a unique implementation mechanism of National Contact Points (NCPs). In addition to promoting the guidelines, NCPs represent a state-based non-judicial mechanism through which stakeholders can seek redress for alleged breaches of the OECD Guidelines.

In March 2011, the [NCP of Norway](#) was re-designed as an independent body of four experts, appointed in consultation with business, labor and environmental entities, served by a Secretariat hosted by the Norwegian Ministry of Foreign Affairs. The NCP of Norway is recognized as one of the leading NCPs today, innovating in both how the mechanism is designed and, increasingly, the problem-solving function that it plays through mediation, conciliation and good offices when complaints have been brought. Among other cases, the Norway NCP helped to mediate a consensual resolution between NGOs and a Norwegian company engaged in fish-farming in Chile.

7. Ambuklao-Binga Hydro-Electric Project: A Case Resolved through mediation by the World Bank Group's Compliance Advisor/Ombudsman (CAO)

In 2008, communities affected by the Ambuklao-Binga Hydro-Electric project filed a complaint with the Compliance Advisor/Ombudsman (CAO) office of the World Bank Group. Their opposition to the project dated back to the construction of the dams in the 1950's, which had involved government expropriation of land and resettlement of some communities. It was stoked by concerns about a new phase of the project, following privatization of the power plants to SN Aboitiz – a joint venture between two Norway- and Philippines-based power companies –with funding from the International Finance Corporation (IFC).

Under a process convened by the CAO, SN Aboitiz entered into a dialogue with the affected communities to address specific grievances related to land, livelihoods and labor, and the broader relationship between the company and neighboring communities. The process, mediated by a local neutral third party, led to a consensual resolution, which provided for indigenous access to land and affirmed concrete company commitments around livelihoods and corporate responsibility, aligned with the needs and objectives of the indigenous communities. (The CAO's concluding report on the case is available at <http://www.cao-ombudsman.org/cases/document-links/documents/Ambuklao-Binga - Conclusion report english.pdf>. A video entitled 'Making Monkey Business', produced by the Harvard Kennedy School of Government's Corporate Social Responsibility Initiative, describes the mediation process from the perspectives of involved stakeholders and is available at www.baseswiki.org)



WORKER-FACTORY MGMT

WORKER-CEREA

CEREAL-CANIETTI

CEREAL-BRAND