

Parallel session at the 2015 UN Forum on Businesses and Human Rights

Title of the session:

Implementing the Guiding Principles: Implications of trade & investment agreements for the state duty to protect and access to remedy

Name of organisers:

CIDSE

FIDH

Friends of the Earth Europe

ActionAid

Description

The Guiding Principles deal explicitly with international trade and investment agreements and make clear that states are expected to consistently fulfill their obligation to protect human rights across all these areas. The Guiding Principles call on states not to enter trade or investment agreements that prevent them “from fully implementing new human rights legislation, or put them at risk of binding international arbitration if they do so.” The Guiding Principles caution states to reserve and maintain “adequate policy and regulatory ability to protect human rights under the terms of such agreements.”

This session will discuss new developments in trade and investment agreement negotiations and the extent to which aspects of these agreements are serving or challenging the implementation of the UN Guiding Principles on Business and Human Rights, particularly governments’ state duty to protect. During the session, new research and experiences will be shared on the real or likely role of such trade and investment agreements concerning human rights abuses by companies and access to remedy for victims. In a joined-up perspective, discussions will consider the interaction and coherence between trade and investment agreements and other international instruments of relevance for business and human rights.

Aims and Objectives:

- Discuss new developments in trade and investment agreement negotiations and the extent to which aspects of these agreements are serving or challenging the implementation of the UN Guiding Principles on Business and Human Rights, particularly governments’ state duty to protect.
- Share new research and experiences on the real or likely role of such trade and investment agreements concerning human rights abuses by companies and access to remedy for victims.
- In a joined-up perspective, consider the interaction and coherence between trade and investment agreements and other international instruments of relevance for business and human rights.

Format

80-minute side session with a panel of speakers, dynamic moderation and high interaction with the audience.

Key discussion questions

- What is the current practice of States and businesses regarding trade & investment agreements, what coherence or incoherence regarding implementation of the Guiding Principles, in particular looking at the state duty to protect and access to remedy, also as discussions open on an international legal instrument on business & human rights?
- What challenges in trying to secure human rights for example in EU trade and investment agreements negotiations, with a focus on Burma, Vietnam, China, US, Peru, Mexico? (e.g. recent decision by EU Ombudsman on human rights impact assessments in the EU-Vietnam trade agreement)

Speakers

- Ms. Marta Hirsch-Ziembinska, Head of Complaints and Inquiries Unit, EU Ombudsman
- Mr. Joshua Curtis, Irish Centre for Human Rights, National University of Ireland Galway
- Ms. Tran Bich Hanh, Director of joint venture owning the Sheraton Hotel in Hanoi, Vietnam
- Ms. Debbie Stothard, FIDH Secretary General and Coordinator of the Alternative ASEAN Forum on Burma

Moderation by the organizers

Brief background

International trade and investment can have both positive and negative impacts on human rights. Past experience has shown that, in the current state of affairs, international trade and investment rules have tended to undermine the protection and realisation of human rights. This is particularly the case in developing countries with regard to access to medicine, access to water, rights of indigenous peoples, rights to an adequate standard of living, adequate housing, food, health and education, participation, labour rights and the right to work, peaceful gathering, etc.

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The ongoing EU-US TTIP bi-lateral trade and investment agreement negotiations reveal a number of related and controversial challenges, particularly the proposals for regulatory cooperation to help remove non-tariff barriers to trade and proposals to include an Investor-State Dispute Settlement mechanism which will give investors the ability to challenge some regulatory decisions of States. Similar issues concerning imbalances are also under debate concerning agreements with countries like China, Burma, Vietnam, Peru, Mexico etc.

A number of civil society organizations have consistently called for human rights to be fully integrated in trade and investment agreement frameworks. Key measures include a human rights model clause, as well as human rights impact assessments in order to prevent negative human rights impacts, endorsed by multiple stakeholders, including several UN Special Procedure reports, studies and analyses.