



SESSION NOTE

National Contact Points: a mechanism to promote social dialogue

Wednesday 20 June 2018 – 14:00-15:30

Room CC1 - OECD Conference Centre

As an important mechanism to promote better working conditions and social justice, social dialogue¹ has played a critical role in the evolution of the workplace. However, the economic environment in which social dialogue occurs has changed dramatically in recent decades, leading to growing concerns about whether social dialogue institutions still have the ability to shape outcomes.²

The 2018 [Global Deal Flagship Report](#) articulates these concerns. It notes that approximately half of the world's working population remains outside the coverage of the two critical international labour conventions protecting their rights to freedom of association and collective bargaining, and that over the past 15 years, challenges to these rights have persisted in both law and practice.³

Collective agreements have also been weakened by a number of global trends, including subcontracting and informal work.⁴ Workers' representatives may also lack the leverage and the organization that is needed to participate in social dialogue when they are engaged in the supply chain as casual, temporary or home-based workers.⁵ In addition, global supply chains have made it more complex for employers' organizations to represent their members and respond to their expectations.⁶ Taken together, these trends have been challenging the enabling conditions⁷ that are necessary for social dialogue.

The [OECD Guidelines for Multinational Enterprises](#) (Guidelines) contain a chapter setting out the responsibilities of business with regards to employment and industrial relations, both in their own operations and across their supply chains. Social dialogue is embedded in the Guidelines, and the provisions explicitly require companies to consult with social partners as part of their due diligence. The OECD's development of [general and sector-specific guidance](#) provide businesses with a clearer picture of how social dialogue can be leveraged to improve their due diligence and compliance processes.

A unique feature of the Guidelines is their built-in grievance mechanism, the [National Contact Points](#) (NCPs). Each country that adheres to the OECD Investment Declaration on International Investment and Multinational Enterprises is required to establish an NCP to promote the Guidelines and handle issues relating to their implementation, including non-observance of the Guidelines by companies. Within the shifting global context, and insofar as the OECD Guidelines are targeted at multinational enterprises, the NCPs have substantial and demonstrated potential to act as an institutional springboard for social dialogue, particularly in instances which would otherwise remain deadlocked.⁸

The potential of the NCPs to facilitate social dialogue is reflected in the significant number of cases that invoke the substantive chapter on employment and industrial relations. As of June 2018, the employment and industrial relations chapter has been cited in approximately 55% of all specific instances considered by NCPs (see Table below).

BY THEME



Table 1. Overview of [cases handled](#) by NCPs from 2000-2018.

Among the specific instances filed by trade unions, a majority have dealt with the right to organise and the right to bargain collectively (approximately 61% and 62% respectively).⁹

While the outcome of a specific instance will invariably depend on the parties involved and the issues at stake, the NCPs can play an important role to advance social dialogue, in particular in the contemporary global economic context where the conditions that are necessary for social dialogue are increasingly eroding.

Currently, National Contact Points represent the only state-based non-judicial grievance mechanism that can address company impacts throughout global supply chains. This has an important bearing for the NCPs' potential to facilitate social dialogue in cases that span multiple jurisdictions. In addition, the Guidelines allow "any interested party" to submit a case alleging that a company has not acted in compliance with the labour standards of the Guidelines. Since 2011, the scope of the Guidelines has increased to include business relationships and not only a company's direct operations, thereby expanding the scope of issues that can be raised and enterprises that can be linked to an impact. As such, the NCPs provide a structure for social actors from non-OECD countries to have their social dialogue concerns heard by an independent grievance mechanism.

Trade unions are identified by the Guidelines as a key institutional stakeholder. Trade unions are often also represented within NCPs with multi-partite structures, or on advisory or oversight bodies established by the NCPs.

Several features of the NCP mechanism also allows it to facilitate and promote social dialogue.¹⁰ NCPs can bring parties together at the right level by uniting complainants with representatives from senior international management to address systemic concerns. The NCPs' focus on establishing dialogues in non-adversarial settings is also important in labour cases where dialogue may be, in and of itself, the outcome that is being sought. NCPs also have a capacity to focus on forward-looking solutions as opposed to retrospective wrongdoings.

Lastly, the flexibility of the NCP procedures also allows NCPs to provide ongoing support and supervision after the mediation process has come to an end. This ability to offer follow-up through continuing advice and monitoring allows NCPs to match the parties' realities of dispute resolution: even the best agreements can give rise to disputes relating to meaning or implementation. This is particularly true when an agreement negotiated at a higher level has to be implemented by local or national management. If an impasse is reached, NCPs can offer a convenient forum to all parties to move forward.

This session will discuss the role of NCPs in supporting social dialogue, with a focus on NCP cases involving [DHL](#), [Unilever](#) and [FIFA](#). These case studies are part of a study which has been published as part of the Global Deal Flagship Report. They serve to showcase the role played by NCPs in promoting social dialogue and improving the enabling rights for collective bargaining in the context of global supply chains.¹¹

NOTES

¹ Social dialogue is defined by the ILO to include all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy. It can exist as a tripartite process, with the government as an official party to the dialogue or it may consist of bipartite relations only between labour and management (or trade unions and employers' organizations), with or without indirect government involvement.

² ILO, 2013. Social dialogue: Recurrent discussion under the ILO Declaration on Social Justice for a Fair Globalization, Report VI, International Labour Conference, 102nd Session, Geneva, paragraph 31.

³ ILO and OECD, 2018. Building Trust in a Changing World of Work. The Global Deal for Decent Work and Inclusive Growth Flagship report 2018.

⁴ ILO, 2013, Social dialogue: Recurrent discussion under the ILO Declaration on Social Justice for a Fair Globalization, op. cit., paragraph 73.

⁵ ILO, 2016. Report IV: Decent Work in Global Supply Chains. International Labour Conference, 105th session, 2016, paragraph 73.

⁶ ILO, 2013. Social dialogue: Recurrent discussion under the ILO Declaration on Social Justice for a Fair Globalization, op. cit., paragraph 55.

⁷ According to the [ILO](#), in order for social dialogue to take place, the following must exist:

- Strong, independent workers' and employers' organizations with the technical capacity and the access to relevant information to participate in social dialogue;
- Political will and commitment to engage in social dialogue on the part of all the parties;
- Respect for the fundamental rights of freedom of association and collective bargaining; and
- Appropriate institutional support.

⁸ ILO and OECD, 2018. Building Trust in a Changing World of Work. The Global Deal for Decent Work and Inclusive Growth Flagship report 2018, pg. 77.

⁹ TUAC, Key Statistics, Trade union cases in numbers.

¹⁰ See ILO and OECD, 2018. Building Trust in a Changing World of Work. The Global Deal for Decent Work and Inclusive Growth Flagship report 2018, pgs. 83-84, which are reproduced in the sections below, with slight modifications.

¹¹ OECD (2018), Facilitating social dialogue under the OECD Guidelines for Multinational Enterprises