

How Homeworkers Can Use the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector

By Marlese von Broembsen and Sarah Orleans Reed



Neeramol Sutipannapong stitches a variety of hand bags and other products to help support her family. Neeramol is also a leader with HomeNet Thailand. Photo by Paula Bronstein/Getty Images Reportage.

Introduction

Around the world, millions of people¹—the majority of them women—produce clothing and footwear from their homes for global supply chains. These “homeworkers” play a vital role in supply chains, yet isolated and invisible, they are too often denied their labour rights.

The **OECD Guidelines for Multi-National Enterprises (the “Guidelines”)** were agreed to by the 36 OECD² countries, as well as several developing countries. Addressed to **multi-national enterprises (MNEs)** that operate from, or in, these countries, it comprises recommendations on “responsible

business conduct”. The Guidelines cover several areas of business, including: employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation.

In 2017, the OECD published the **OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector (“the OECD Guidance”)** – the result of a multi-stakeholder process that included trade unions and other civil society organizations. The Guidance sets out what MNEs’ responsibilities are for workers in their supply chains, including homeworkers.

This legal brief explains the key provisions of the OECD Guidance: MNEs’ responsibilities to workers in their supply chains; the provisions that relate specifically to homeworkers; and how the complaints process works. The brief also suggests how **membership-based organizations (MBOs)** of homeworkers might use the OECD Guidance as part of their advocacy strategies to secure decent work for homeworkers.

¹ Accurate estimates of the number of homeworkers worldwide are problematic; though data are improving, there are significant challenges to counting the world’s homeworkers. For more, see <https://www.wiego.org/informal-economy/occupational-groups/home-based-workers>.

² The Organisation for Economic Co-operation and Development (OECD) works to build better policies for better lives by establishing international norms and finding evidence-based solutions to a range of social, economic and environmental challenges. Learn more at www.oecd.org.



Homeworkers like these beaders in Turpan, China, play a vital role in global supply chains.
Photo by M. Chen

What is the OECD Guidance and why was it produced?

The OECD recognized that the garment and footwear sectors are more at risk for labour rights violations than most other sectors³ for the following reasons:

- Most of today's work in the garment and footwear sectors does not require complex, hard-to-find skills. Therefore, workers can be easily replaced by other workers. Unless workers are represented by strong trade unions, they have no bargaining power to negotiate for fair wages and conditions of work.
- Brands in these sectors tend to conclude short-term contracts with their suppliers. This means that suppliers do not know whether they will have an order the next season and are, therefore, reluctant to incur the costs of making all their workers permanent employees, in case they do not have enough orders. Instead, they employ workers on short-term contracts, or sub-contract aspects of an order. Home workers may be among those sub-contracted workers.
- Suppliers are often under pressure by brands to produce orders on very short notice. They can only meet these orders by demanding that their workers work over-time or by sub-contracting work, including to homeworkers.

The Guidance aims, therefore, to place some responsibility for workers (including homeworkers) onto MNEs, even though legally these workers are not their employees.

Legal basis in the UN Guiding Principles for holding brands accountable

Labour law is the branch of law that is concerned with worker rights. But labour law is premised on the existence of an employer-employee relationship, which does not exist between factory workers in one country and MNEs that are usually located in another country, and often on a different continent. What is the legal basis, then, for establishing that MNEs take responsibility for workers with whom they have no legal relationship? The Guidance finds a legal basis by relying on the UN Guiding Principles on Business and Human Rights.

The UN Guiding Principles on Business and Human Rights were endorsed by the United Nations Human Rights Council in 2011 and represent the first United Nations (UN) endorsed *corporate* human rights responsibility initiative. The Guiding Principles do not impose any binding legal obligations upon states or corporations. Nevertheless, the Guiding Principles represent an important instrument, as the first framework that outlines the duties of national states derived from human rights treaties, and corporations' corresponding moral responsibilities. It is the first international instrument that recognizes that MNEs have as much power to shape labour conditions as governments do.

³ OECD Guidance, Overview.

The Guiding Principles' three pillars relate to:

1. the state's duties to protect human rights;
2. corporations' responsibilities to respect human rights; and
3. workers' access to remedies where their rights have been violated.

The UN Guiding Principles affirm that labour rights are human rights. The Guiding Principles state that MNEs should be responsible for workers in their supply

chains, since their procurement practices may contribute to, or at least could prevent, the violation of workers' human (labour) rights.

The UN Guiding Principles rely on two international law agreements to provide the framework for claiming that labour rights are human rights, and for suggesting that MNEs should take responsibility for workers in their supply chains: the Universal Declaration of Human Rights,⁴ and the ILO Declaration on Fundamental Principles and Rights at Work.⁵

What is the OECD Guidance?

- It is the outcome of a multi-stakeholder process that included OECD and non-OECD countries; and representatives from business, trade unions and civil society.⁶
- It is a voluntary instrument: enterprises can choose whether or not to apply the recommendations.
- It provides enterprises with guidelines on how to perform a human rights "due diligence" in their supply chains: by identifying, preventing, mitigating and accounting for potential human rights violations.
- It is risk based: if MNEs source from countries with weak labour inspectorates, for example, they are required to exercise greater caution and oversight.
- It applies to all enterprises but is specifically aimed at MNEs.
- It states that retailers, brands, buying agents and manufacturers should all be responsible for ensuring labour rights in their supply chains.
- It requires MNEs to engage in "meaningful engagement" with "affected stakeholders".
- It has a "module" on homeworkers.
- It stipulates that MNEs must assess whether grievance mechanisms are "equally accessible to all parties," in particular whether women workers can access these mechanisms.



The UN Guiding Principles affirm that labour rights are human rights.

⁴ Sections 23-25 of the Universal Declaration of Human Rights set out the rights associated with decent work to which everyone is entitled. These include: the right to work; the right to just and favourable conditions of employment; the right to "equal pay for equal work"; the right to "just and favourable remuneration"; the right to social protection; the right to limited working hours; and the right to paid holidays.

⁵ The ILO Declaration on Fundamental Principles and Rights at Work binds ILO member states, irrespective of whether they have ratified Conventions. The Declaration includes eight fundamental rights, including: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect of employment and occupation.

⁶ <http://www.oecd.org/governance/oecd-due-diligence-guidance-for-responsible-supply-chains-in-the-garment-and-footwear-sector-9789264290587-en.htm> (accessed 14 October 2018)



Garment workers include those who make textiles, like the Ngalo Group in Uganda. Photo by C. Wills

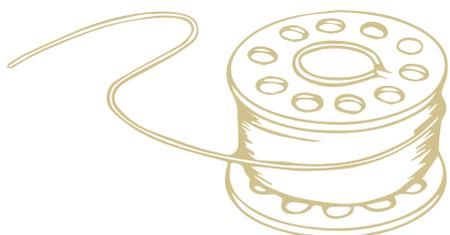
MNEs' 3 Responsibilities: Policy, Due Diligence, and Remediation

According to the UN Guiding Principles, businesses have a responsibility to address “human rights impacts” which they have caused or contributed to through their own activities, but also to “prevent or mitigate” behaviour by actors in their supply chains (such as suppliers or sub-contractors) that violate workers’ rights, even where they have not contributed to those violations.

Businesses are expected to fulfill this responsibility by:

- Drafting a **human rights policy**;
- Undertaking a **due diligence** of each supply chain to assess whether any act or omission in the production process might be contravening domestic law and/or causing human rights violations to workers;
- Implementing **remediation processes**, including an operational-level grievance mechanism.

The OECD Guidance outlines how these three responsibilities should be met in relation to the garment and footwear sector.



MNEs are required to address “human rights impacts”.

Drafting a Human Rights Policy

MNEs are required to draft a human rights policy that:

- Is made publicly available;
- Addresses risks that are specific to the sector or sub-sector;⁷
- Stipulates its position on the use of sub-contractors;
- Commits the MNE to meaningful engagement with “affected stakeholders” throughout its due diligence process;
- Commits the MNE to engage with “measured and substantiated” complaints of human rights violations that it has caused or contributed to in its supply chain that are “raised through legitimate processes”.⁸

If homeworker organizations know the name of the brand for which they produce, they could check on the brand’s website for its human rights policy.

What does “meaningful engagement” mean?

The Guidance states that “meaningful engagement” means⁹:

- Enterprises should give stakeholders “complete information”.
- Stakeholders “should be given opportunity to provide input prior to major decisions being made that may affect them”.
- “Stakeholders should identify methods for engagement that are effective for them”.
- The enterprise should prioritize engaging with stakeholders, or their representatives, who are most affected by the harms or potential harms.

Undertaking a “Due Diligence”

A company usually commissions a due diligence – a thorough investigation – to establish what another company’s assets and liabilities are before buying it. This concept has been applied to human rights. An MNE should apply the same thorough investigation process in its supply chains to identify where there may be a risk that workers in its supply chain are being denied their labour rights, and, if it finds that workers’ rights are being violated, to address the situation.

The UN Guiding Principles give guidance to MNEs on how to conduct a due diligence using these stages:

- **Identify** human rights abuses;
- **Mitigate** (make less severe/painful) human rights abuses that have occurred;
- **Remedy** (provide a remedy where workers’ rights have been violated); and
- **Account for** (report) how it has dealt with both potential and actual violation of labour rights.

1. Identify Human Rights Abuses

The Guidance states that an enterprise should undertake a “scoping exercise” to identify risks of human rights abuses in its supply chains. This exercise, which should be done every two years, can be desk-based research, but may be supplemented by engagements with “stakeholders” where there are gaps in information. Enterprises may also rely on research, including by national and international NGOs, international trade unions, and international organizations such as the UN or the ILO.¹⁰ The enterprise is then required to rank the risks – in terms of how many people might be affected (“**scope**”) and how serious the nature of the risks are (“**scale**”) and/or how lasting the damage (“**irremedial character**”) – and to prioritize a due diligence on those supply chains that are most at risk.

When an MNE chooses suppliers, one of the factors to take into account is whether the supplier has established an “operational level grievance mechanism” that allows workers to complain if their labour rights are violated.

The Guidance states that workers should participate in designing how MNEs assess their suppliers. The Guidance lists methods that MNEs should use for workers to participate in designing how it assesses its suppliers. These methods include focus groups, participatory assessments and worker interviews. The Guidance urges MNEs to take into account local power dynamics and cultural norms when deciding how to engage with workers. It also suggests using “[t]riangulation,

⁷ The OECD Guidance identifies an incomplete list of labour and environmental risks that are prevalent in the garment and footwear sector. It addresses risks to individuals and communities, not risks to the business. These include: child labour; discrimination; forced labour; occupational health and safety issues (e.g. worker-related injury and ill health); violations of the right of workers to establish or join a trade union and to bargain collectively; non-compliance with minimum wage laws; and wages that do not meet basic needs of workers and their families.

⁸ OECD Guidance, section 6.2.

⁹ OECD Guidance, Introduction to Due Diligence under the OECD Guidelines and Key Concepts section on *Meaningful Stakeholder Engagement*.

¹⁰ OECD Guidance, Section I.2.1.

which involves the convergence of data from multiple data collection sources".¹¹ Suppliers should be subject to ongoing monitoring. The Guidance suggests that enterprises which source from the same region and pool of suppliers should collaborate and share information with each other.

2. Understand Risk Factors

The OECD Guidance lists a number of risk factors that should be taken into account during the risk assessment, including:

- **Particular products** may be riskier than others. For example, working with cotton can expose workers to hazardous chemicals.
- **Particular sourcing countries** may be more at risk for forced or child labour.
- **Particular business practices** are riskier. If the MNE has short production cycles or several seasons per year, it necessarily means that lead times are shorter, which carries the risk of excessive and/or forced working hours and use of unauthorized outsourcing.
- **Particular sourcing models** are riskier. If the MNE's relationships with its suppliers are short-term, there may be no time to prevent or mitigate identified risks.

Enterprises are urged to “understand which population groups are most affected by the harm, local risk factors that could worsen harms, the underlying causes of harm and the actors that are involved in the harm.” **One of the risk factors cited is a preponderance of homeworkers in the supply chain.**¹²

3. Decide if an Enterprise Contributed to Harm

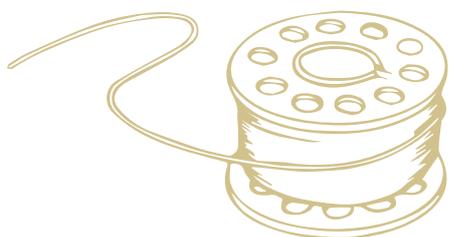
An enterprise “contributes to” a harmful impact if it “causes, facilitates or incentivizes the other entity” to cause a human rights violation. This is relevant in the case of homeworkers, since it places responsibility on the ultimate retailer (like a fashion brand) for violations perpetrated by sub-contractors down the supply chain. The Guidance states that the contribution must be “substantial.” The test for determining whether an enterprise has contributed to the violation is: “but for” the action or omission, would the entity have “caused the harm”?

Questions that help identify whether the enterprise has *contributed* to a supplier causing substantial harm:

- Did the enterprise do something – or not do something – that allowed or made it easier for the supplier to violate human rights or cause harm?
- Did the enterprise, through an action or omission, encourage or motivate the supplier to cause an adverse impact?
- If yes to any of the above, is there a *reasonable causal link* between the action of the enterprise and the action taken resulting in the adverse impact (e.g. by the supplier)?

These questions relate to **a branch of law known as delict (or in America, tort) – the law that compensates victims if they have suffered a loss that is caused by another person's unlawful actions.** If an act or omission to act is unlawful, then the victim can claim damages from the person or legal entity that acted (or omitted to act). For a claim to be successful, the claimant must show:

- **Was there an intention to cause harm?** This intention can be indirect. If a reasonable person could foresee that the action may cause harm, then the courts may find that there was an intention. So, for example, if a company insists that its suppliers use production processes that it knows can lead to environmental damage, even if it did not intend to harm the environment, the court may find that there was an indirect intention.
- **Did the victim suffer damages (including emotional damage)?** Sometimes an act is unlawful, but the victim did not suffer a loss that is provable, and financially quantifiable (i.e. that a monetary value can be put on the damages). For example, a worker may work excessive hours, but would have to prove that the excessive hours caused harm to his/her health or family life that would not have been caused if they had worked reasonable hours.
- **Is there a causal link between the action of the person being sued and the damages?** This is the most difficult to prove. One has to show that it is the action that caused the loss.



...enterprises cannot address every risk. They should prioritize risks or harms that are the most serious and affect the most people.

¹¹ OECD Guidance, Section I.2.3 (under *Assessment approach & methodology*).

¹² OECD Guidance, Section I.2.3 (under *Understand the operating context*)

4. Stop/Prevent/Mitigate (make less severe/painful) Human Rights Violations

The Guidance distinguishes between cases where the MNE has caused or contributed to a harm, and cases where it has identified harm caused by another party in its supply chain. Where the MNE has either caused or contributed to the harm, it should stop the actions that lead to the harm and implement a “corrective action plan” (CAP). The CAP should include detailed action plans with clear timelines.

A corrective action example from the OECD Guidance¹³

Risk: Non-compliance with wage legislation

Corrective action: The enterprise may provide automated payments to workers. This may be accompanied by training for workers on their legal rights in relation to wages and benefits and how to read a pay slip.

The Guidance recognizes that enterprises cannot address every risk. They should prioritize, therefore, risks or harms that are the most serious and affect the most people. The Guidance suggests that where corrective action is taken, resources should be directed to where they would be “most effective; proportionate to the risk of harm; sustainable; and build on existing evidence”¹⁴. Training plays a large role in any CAP. Training should cover information on the risk; the rights of the worker; and the role of the trainee in preventing or mitigating harm.

The Guidance stresses that a CAP should include action that ensures that workers enjoy “enabling rights” – the right to form and join a trade union (or any representative organization of its own choosing) and to bargain collectively. It recognizes that:

[T]rade unions and representative organisations of the workers’ play an important role in preventing harmful impacts on-site through collective bargaining agreements, on-going monitoring and helping workers to access grievance mechanisms, or providing a form of grievance mechanisms themselves.

If the MNE identifies harm in its supply chain, the Guidance states that the MNE could respond as follows:

- Use its power over the supplier (“leverage”) to influence the supplier to change its behaviour.
- Support the supplier to change its behaviour (for example, by offering training).
- Stop ordering from the supplier.
- Engage with the government of the country where the supplier is based (through open letters; sharing of information; and multi-stakeholder engagements) where sector risks exist, including “inadequate wages to meet the needs of the works and their families”.
- Verify and monitor that changes have been implemented.

Remediate (Provide a Remedy Where Workers’ Rights Have Been Violated)

The Guidance states that the MNE should ensure that there are “operational-level grievance mechanisms” which can “act as an early-warning system” that workers’ rights are being violated. Examples of operational-level grievance mechanisms include:

- A complaint mechanism set up by the enterprise or the factory;
- A complaint mechanism agreed to between the MNE and the trade union;
- An audit by an independent organization that monitors whether workers’ rights are being recognized.¹⁵

If the enterprise finds that workers’ rights have been violated, the enterprise has a responsibility to remedy the situation. The Guidance suggests the following principles should apply when designing an appropriate remedy:

- The enterprise should engage with the workers whose rights have been violated (or their representatives) to discuss what an appropriate remedy would be. Their input should therefore be sought.



If the enterprise finds that workers’ rights have been violated, the enterprise has a responsibility to remedy the situation.

¹³ OECD Guidance, Section I.3.1, Figure 1.

¹⁴ OECD Guidance, Section I.3.1, under Longer-term and outcome-oriented solutions of a CAP

¹⁵ OECD Guidance, Section I.6.1, under Operational-level grievance mechanisms

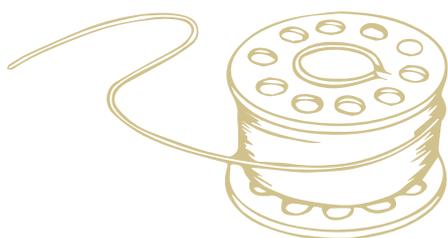
- The remedy should comply with the laws of the country where the worker performs her work, and/or with international law. Arguably, if there is no law that protects homeworkers in the country, then ILO Convention 177 would apply. ILO Convention 177 states that homeworkers should be treated equally with other workers in the supply chain, which means that minimum wage and social security policy and legislation that applies to employees in the country should be applied to homeworkers.
- The enterprise should engage with the complainants to assess whether they are satisfied with the remedy.
- Remedies include:
 - ~ an apology;
 - ~ a plan to ensure that the supplier recognizes workers' rights in the future, which can include a penalty payable by the supplier ("rehabilitation");
 - ~ "restitution", which means what was taken away from workers is restored to them. This can be in the form of money or other forms of compensation.¹⁶

Communicate/Account For (Report)

The Enterprise should communicate both publicly (on its website, for example) and to "affected stakeholders" the following:¹⁷

- Its human rights policy;
- How its due diligence system works, including:
 - ~ its method for assessing risks;
 - ~ its reasons if it has prioritized some risks over others;
 - ~ how it engages with its stakeholders;
 - ~ the findings against its suppliers;
 - ~ the corrective action plans for suppliers;
 - ~ any grievances against them and how they have addressed the grievances.

The Guidance asks that enterprises ensure this communication be "relevant, accurate, current, clear and user-friendly" and accessible to its intended users.¹⁸



ILO Convention 177 states that homeworkers should be treated equally with other workers in the supply chain...

¹⁶ OECD Guidance, Section I.6.3, under Determine the appropriate form of remedy

¹⁷ OECD Guidance, Section I.5.1

¹⁸ OECD Guidance, Section I.5.1



Viboonsri Wongsangiyim and her husband, Bang Aree, produce Muslim garments in their home in Bangkok. They joined HomeNet Thailand to access more benefits for informal workers. Photo by Paula Bronstein/Getty Images Reportage.

Module 12 on Responsible Sourcing from Homeworkers

The OECD Guidance identifies 12 “sector risks” and has a module on each. One of these risks is the use of homeworkers in the supply chain. Module 12 addresses this risk. It is directed to brands, buyers and manufacturers.

It outlines what enterprises should do to ensure that homeworkers are contracted “responsibly”. The module “aims to minimise the risk of the marginalisation of homeworkers” and to “create economic and development opportunities” for them.¹⁹ Importantly, it argues that informality does not constitute illegality.

Homeworkers are legitimate workers, who should receive equal treatment to factory workers and be “formalized”²⁰:

Homeworkers should be viewed as an intrinsic part of the workforce entitled to receive equal treatment and therefore should be formalised in order to achieve good terms and conditions of employment.

OECD Guidance, Module 12, Box 15

Formalization is understood as: providing employment contracts; equal conditions of work to other workers; piece rates that meet minimum wage requirements; and social security and health insurance.

Formalization should not impose expectations on homeworkers that further marginalize them (for example, the obligation to work in a particular centre may marginalize homeworkers who can only work from home).



...informality does not constitute illegality.

¹⁹ OECD Guidance, Module 12: Responsible sourcing from homeworkers

²⁰ OECD Guidance, Module 12, Box 15: Framework for preventing and mitigating human rights and labour abuses when engaging homeworkers

The module argues that when categorizing homeworkers as “self-employed” entrepreneurs, suppliers and even governments are “neglecting the responsibility to provide more formalised contracts.”²¹ It argues that the first step to formalization is recognition of “worker status”, followed by permitting homeworkers to organize. Collective organization enables homeworkers’ participation in social dialogue, which is necessary to improve their terms and conditions of employment.

The module also addresses the importance of organizing:

The organisation of homeworkers is an important step that provides them with visibility and recognition and enables social dialogue in order to achieve good terms and conditions of employment.²² Given the unique needs and circumstances of homeworkers, the organisation of homeworkers may look differently from other organised workforces. The first steps in organising is often taken by community or women’s groups who are in a position to organise local groups which can later come together as a federation or trade union. Given the predominance of women homeworkers in the sector, in many contexts organisers should be women.

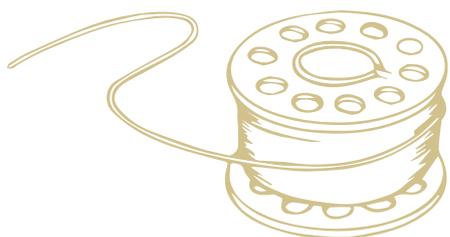
OECD Guidance, Module 12, Box 15

Module 12 provides the following framework for the prevention and mitigation of human rights and labour abuses.

Identify

Enterprises are encouraged to:

- Identify product lines and sourcing countries where homework is most prevalent,
- Assess suppliers in these product lines and countries to determine whether they have measures in place to ensure that homeworkers are protected.



Prevent and Mitigate

The “prevent and mitigate” responsibility has several components. Enterprises are encouraged to:

- **Establish “internal protocols”** with respect to homework and “pre-qualification systems” for intermediaries or agents that outsource work to homeworkers.
- **Include contractual provisions** in their agreements that requires suppliers, intermediaries or buyers to:
 - ~ Keep a record of homeworkers, including the quantity of goods that homeworkers make and how much they are paid;
 - ~ Record how long it takes to make items to ensure that piece rates make it possible for homeworkers to earn the minimum wage;
 - ~ Record social security or health insurance provided to homeworkers.
- **Provide intermediaries with training** on their legal and policy obligations. Third, they should provide intermediaries with training on their legal and policy obligations.
- **Partner with organizations** concerned with formalizing homework.
- **Engage with local or national governments** to provide homeworkers with rights so that homeworkers are treated equally with other workers, including with respect to social security. This clause suggests that government look at and address “the underlying causes of informality”.

...the first step to formalization is recognition of “worker status”, followed by permitting homeworkers to organize.

²¹ OECD Guidance, Module 12: Responsible sourcing from homeworkers

²² ILO. 2008. “The Informal Economy: Enabling Transition to Formalization,” Background document to the Tripartite Interregional Symposium on the Informal Economy: Enabling Transition to Formalization. Geneva: International Labour Organization. As cited in OECD Guidance, Module 12, Box 15.



Bhavna Ben Ramesh in Ahmedabad, India is a member of the Self Employed Women's Organization (SEWA), a trade union that works to secure the rights of workers in the informal sector. Photo: Paula Bronstein/Getty Images Reportage.

The OECD Grievance Mechanism: National Contact Points

Every country that is a signatory to the OECD Guidance must establish a grievance mechanism, called a “National Contact Point” (NCP). This mechanism is defined in the OECD Guidelines for Multinational Enterprises. NCPs are responsible for managing complaints (known as “specific instances”) related to alleged breaches of the Guidelines. NCPs operate in different ways across different countries, making some more effective in practice than others.

NCPs must meet the core criteria of visibility, accessibility, transparency and accountability, but aside from this, countries have large discretion in determining the institutional structure of their NCP. For instance, many NCPs are structured as an office within a single government agency (e.g. Australia), while others are multi-agency bodies

(e.g. the Japanese and Icelandic NCPs). NCPs can also determine their own rules of procedure, ranging from the information they require from complainants to the types of public statements they are permitted to issue.

Who can file a complaint to an NCP? Any “interested party” can file a specific instance complaint to the NCP. Interested parties include organizations or individuals directly affected by an MNE’s activities. A representative acting on behalf of the affected party, such as a lawyer, NGO, or workers’ organization, can also file a complaint as an interested party. Normally, complaints are filed by an organization (or organizations) of this nature rather than by individuals, due to the complex and time-consuming nature of the process.

Where can they file a complaint? Complaints against an MNE must be brought either to the NCP of the country where the MNE is domiciled or the country where the violation occurs, if that country is a signatory to the OECD Guidelines. For example, an Indian worker organization whose members suffer abuses in a Dutch company’s supply chain should file its complaint with the NCP in the Netherlands. If abuses occurred in the supply chain of a UK company, the organization should file its complaint with the UK NCP. This is the case because India does not adhere to the Guidelines, and therefore there is no Indian NCP. In contrast, factory workers in Brazil working in the supply chain of the same UK company could decide whether to file

their complaint with the Brazilian NCP or with the UK NCP – or they could submit a complaint to both.

How do complaints proceed? NCP are *not* like courts. MNEs are not legally obligated to participate in NCP processes and the parties are not bound by the NCP's final judgement or recommendations. Rather, the NCP provides a platform for voluntary dispute resolution and mediation.²³

The Process

The process has three stages:

- 1. Initial Assessment:** After receiving a complaint, the NCP issues an initial assessment, stating whether or not it will take further action on the specific instance. If an NCP agrees to move forward with the specific instance (complaint), it normally extends an offer to mediate between the two parties.
- 2. Mediation:** If the MNE agrees to the mediation, mediations can take place as a single meeting or over the course of several engagements.
- 3. Final Statement:** At the end of the mediation process, the NCP issues a statement. Some NCPs include a “determination” as whether the enterprise did indeed breach the OECD Guidelines, whereas other NCPs do not. This is considered an important factor in the degree of pressure the NCP mechanism can exert on an MNE. In some instances, NCPs also provide recommendations for how one or more of the parties should make improvements to comply with the OECD Guidelines (OECD Watch 2015, Daniels et al 2017).

While the NCPs do not have a formal monitoring role, an NCP can engage in monitoring and follow-up if a party requests its assistance. There is no formal appeals process, although the three advisory bodies (including OECD Watch and TUAC – see box) can request clarification from the The entire NCP process can take several years. OECD Watch recommends that complainants push NCPs to resolve disputes within one year (Daniels et al 2017).

What can complainants achieve through the NCP grievance mechanism?

In an ideal system, the NCP would be able to stop workers from experiencing adverse impacts in their daily work. Of course, many complainants hope that filing an NCP will improve conditions on the ground. This could mean stopping wrongful practices that workers experience, like ending interference with union activities, or remedying specific adverse impacts, like obtaining compensation for unpaid work.

OECD Watch and TUAC

Two organizations that provide support to complainants are OECD Watch and the Trade Union Advisory Committee (TUAC). OECD Watch is a network of NGOs and other civil society organizations; TUAC represents national trade unions from OECD countries. Both serve as advisory bodies to the OECD Investment Committee (which governs the OECD Guidelines). As such, they represent the views of Trade Unions and civil society to the Investment Committee, participate in regular peer reviews of national NCPs, can request clarifications or submit comments on the procedural aspects of specific instances.

TUAC and OECD also provide a range of services and resources for trade unions and civil society organizations, including support for submitting NCP complaints, reviews of previous cases, and campaigns on NCP reform. While TUAC takes the lead in supporting trade unions to submit NCP complaints, OECD Watch also works with civil society organizations submitting complaints on behalf of worker organizations.

See <https://www.oecdwatch.org/about-us/> and <https://tuac.org/about/>.

Alternatively or in addition, complainants might have broader goals about changing the MNE's practices. This could mean, for example, requiring the MNE to integrate the OECD Guidelines into its corporate code of conduct, enacting a new corporate policy on living wages and piece rates, or publishing procedures for hiring sub-contractors (for instance related to the rights of homeworkers). The complainant might seek also an acknowledgement of wrongdoing from either the MNE itself or the NCP.

How effective is the NCP as a grievance mechanism?

Complainants experience a range of barriers in achieving their goals in this process. Overall, NCPs refuse or deny approximately 30-40 per cent of complaints (OECD 2016). Denial is based on an NCP's initial assessment of many factors: for instance, that the complainants lack sufficient evidence, that mediation is unlikely to resolve the problem at hand, or that there are parallel proceedings taking place in national courts (Daniels et al 2015, OECD Watch 2015).

²³ See the **OECD Watch Case Check** for help in filing a case. Complainants can use this online tool, which is designed to advise potential OECD complaints. Based on a questionnaire about the case, the tool generates guidance on feasibility (the likelihood that an NCP will accept the complaint), relevant Guideline provisions (with which NCPs to file the complaint), and other factors that can increase likelihood of success (<https://www.oecdwatch.org/oecd-watch-case-check>).

If an NCP does agree to offer mediation, obstacles remain. It is not uncommon for MNEs to refuse mediation from the beginning, or for the parties to fail to meet terms for the mediation even when both are willing to participate. In other cases, parties may begin the process of mediation but abandon it midway through. Some do engage but nevertheless fail to implement final recommendations given by an NCP (OECD Watch 2015). These problems reflect, in part, the non-binding nature of the OECD Guidelines and NCP grievance mechanisms; MNEs have no legal obligation to engage.²⁴

Gibbons (2018) argues NCPs can play a role in creating social dialogue between enterprises and worker representatives. Elements of successful, NCP-facilitated social dialogue include third-party mediation where bi-lateral dialogue has failed; access to skilled mediators or specialists in international labour and human rights; information sharing between parties; and engaging the “right” senior managers or departmental representatives. Even if NCP mediation initially fails to resolve disputes, it may set the stage for productive bi-lateral dialogue and resolution between the parties. In some cases, relationships between parties grow over a series of separate specific instances involving an NCP, rather than a single interaction (Gibbons 2018).

NCP complaints can also serve an advocacy function. For many NGOs and trade unions, NCP complaints represent one tool in a larger arsenal – a means of creating additional pressure within a larger campaign against an MNE or industry. Submitting a complaint with an NCP can bring additional public scrutiny to business practices and help pressure behavioural change (OECD Watch 2017). In these cases, complaints could be productive even if stakeholders determine that a remedy is unlikely.

The strength of a particular NCP plays an enormous role in achieving any of the above goals. As described previously, NCPs vary significantly in their structure, procedures, and effectiveness. There are many factors, including:

- **Structure and independence of an NCP:** NCPs housed within a single government department are more likely to experience conflicts of interest, or to display a pro-corporate bias (especially among NCPs housed within agencies responsible for promoting

trade, as in Australia and the UK – Marshall 2016). OECD Watch finds that NCPs are more effective when they are composed of multiple agencies and/or with oversight mechanisms like multi-stakeholder boards or interdepartmental steering boards.

- **Standards of proof:** NCPs have widely varied interpretations of what constitutes a “bona fide” issue and “material and substantiated” claim, as they are required to determine in their initial assessments. Most NCPs require complainants to offer evidence or documentation that the MNE breached the OECD Guidelines. Some cases have been rejected because the complaints are not “proven,” or demonstrated as true by a court ruling (Daniels et al 2017).
- **Ability of NCPs to conduct independent fact-finding missions:** Independent investigations by the NCPs can help gain information on the complaint, such that the NCP is equipped to reach a determination and recommendations. This is particularly important since complainants often lack the resources to provide detailed reports or evidence. Very few NCPs currently conduct such investigations (Marshall 2016, TUAC NCP Comparison).
- **Presence of restrictive confidentiality requirements:** MNEs often favour stringent requirements to minimize media coverage and public scrutiny. The United States NCP, for instance, requires complainants to keep secret all communications, including the contents of their complaint. Other NCPs do not even publish final statements.²⁵ These limitations weaken the NCP mechanism for complainants, who often use public scrutiny to exert pressure on the MNE for resolution.
- **Engagement during parallel proceedings:** NCPs commonly decline to engage with specific instances because of existing judicial proceedings between the parties. This is in spite of clear direction from in the Guidelines that “NCPs should not decide that issues do not merit further consideration solely because parallel proceedings have been conducted, are under way or are available to the parties concerned” (OECD Procedural Guidance 26). This constraint is particularly limiting for labour cases, since parallel proceedings are almost always taking place (Gibbons 2018, Marshall 2016, Daniels et al 2015).



...NCPs can play a role in creating social dialogue between enterprises and worker representatives.

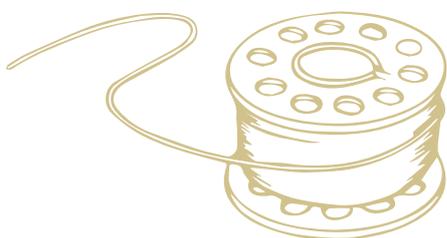
²⁴ OECD Watch’s 2015 reviews of cases brought by communities, individuals, and NGOs (but not trade unions) between 2011 and 2015 finds that only 14% of cases resulted in “some measure of remedy,” including statements of wrongdoing by the NCP or company, or changes in corporate policy. Only 3 cases (1%) directly improved the conditions for victims. A more recent review of 18 cases from 2017 shows that one-third of cases resulted in some form of remedy, with one case entailing a monetary compensation for victims (OECD Watch 2018). These results lead OECD Watch (2015) to offer a stark critique of the NCP system’s effectiveness: “If the NCP process is not resulting in concrete, visible changes on the ground for people harmed by corporate activity, then it is not effective.”

²⁵ In some cases, confidentiality requirements are imposed not by the NCPs but by the MNEs, who refuse to cooperate in the absence of strict confidentiality rules.

- **The ability and commitment of NCPs to offer a final “determination.”** As described above, some NCPs are able to issue a final judgement about whether an MNE has violated the OECD Guidelines or not. The threat of a final statement with determination of wrongdoing helps pressure companies to engage and cooperate with the process. A number of NCPs currently provide final determinations and/or have committed to doing so.
- **The ability or willingness of NCPs to impose material consequences on violators:** Outcomes of NCP specific instances are not legally binding; however, OECD Watch argues that this does not prevent countries from imposing certain economic penalties on MNEs that fail to participate or implement recommendations (described by Marshall 2016 as “economic diplomacy”). Consequences could include revoking access to trade support mechanisms such as export credit, investment guarantees, direct lending, participation in trade missions, capacity-building activities, and access to information and networks through embassies (OECD Watch 2018: 10). Canada, Germany, and Dutch NCPs have committed to imposing material consequences on companies that have been found to have violated the Guidelines or fail to participate in mediation (OECD Watch 2018). In 2013, the Canadian NCP imposed sanctions on mining company China Cold International Resources for its breach of the Guidelines.
- **Ability and commitment of NCPs to follow up on implementation:** Even when mediation leads to agreement between two parties, the process often fails in the implementation stage. Monitoring or reporting mechanisms and commitments to follow-up mediation help exert pressure for MNEs to follow through on agreements with complainants (Daniels et al 2015, Marshall 2016).
- **NCP resourcing:** Many NCPs are underfunded. This affects their capacity to be accessible and proactive, to handle a volume of cases, and to undertake important activities like fact finding and follow-up.

(OECD Watch 2015, 2018, Marshall 2016)

In addition to these structural and procedural factors, good quality staff and individual mediators is vital (Gibbons 2018 and Marshall 2016). This involves the individual expertise in human rights and labour relations, ability to build trust with both sides, and facilitation skills.



Outcomes of NCP specific instances are not legally binding ... this does not prevent countries from imposing economic penalties...



This shoe seamstress in Petrick, Bulgaria, is a member of the Association of Bulgarian Home Workers. Photo: V. Zlateva

Specific Instance Examples

Below are NCP specific instances with relevance for homeworkers.²⁶ These examples illustrate how an organization representing homeworkers could formulate a specific instance complaint to an NCP and use the NCP as part of broader advocacy campaign. Some of the cases illustrate positive outcomes of mediation, in which the NCP process has led to corporate policy change and due diligence in their supply chains. None show implementation of these policies, unfortunately.

1. International Union of Food Workers (IUF) and British American Tobacco (BAT)

In 2016, the global union federation IUF submitted a complaint regarding British American Tobacco (BAT) to the US NCP. Filed on behalf of the Farmworker Labour Organizing Committee (FLOC), a US-based farmworker union, the

complaint alleged that BAT failed to identify and address harmful impacts of its business partner’s activities related to the abuse of migrant farmworkers in North Carolina. Violations included “poor pay, unsafe working conditions and poor living conditions” and fear of retaliation if workers formed or joined a union (UK NCP [Initial Assessment](#)).

Other documents show that the US supplier in question is Reynolds American Incorporated (RAI) and that the workers are employed by contract farm via RAI. According to a 2014 fact finding report for FLOC, tobacco workers are employed by “independent contract farmers that usually grow tobacco for more than one manufacturer or leaf merchant,” or through an additional layer via “labour contractors who skim money from the wages owed the workers for rent, transportation, food, or other services.” Some workers are paid piece rates.

Another report (FLOC 2015) notes that U.S. law does not protect freedom of association for farmworkers, although FLOC underlines that this right is protected under international human rights law.

The complaint by IUF cites the following OECD provisions:²⁷

- Chapter II General policies (10, 12): Responsibility for carrying out due diligence, avoiding causing or contributing to adverse impacts, and seeking to prevent or mitigate an adverse impact to which the company has contributed;

²⁶ These cases were identified through a November 2018 scan of the TUAC case database (which is no longer accessible) and cases associated with the term “labour” in the [OECD Watch database](#). It prioritized cases submitted after 2011 that were found to have had a positive outcome, and which concerned allegations against labour rights violations by third-tier suppliers and/or sub-contractors in the supply chain of an MNE.

²⁷ The complaint, which is no longer available online, referenced provisions related to the company’s impacts within its own operations. However, this part of the claim was later refuted and rejected by the parties. Only the provisions relevant to impacts within supply chains are included here.

- Chapter IV, Human Rights (1, 3, 5, 6): Responsibility to respect human rights, prevent or mitigate adverse human rights impacts that are directly linked to an MNE's business operations, products or services by a business relationship (even if the MNE does not contribute to this impact); responsibility to provide for or cooperate through mediation processes where business has caused or contributed to adverse impacts;
- According to the US NCP initial assessment, "the complaint refers to international law on human rights under the International Covenant on Civil and Political Rights (in particular article 22 on freedom of association) and ILO Conventions 87 (on the right to organize) and 98 (protecting against dismissal as a result of union membership)".

IUF demands that BAT use "its influence with a specific US business partner to persuade that partner to agree to open discussions on creating a framework within which farmworkers can effectively access their rights." (UK NCP, Initial assessment 2016).

The NCP complaint is part of a long-term campaign by worker organizations to address working conditions for tobacco farmers, including within the supply chains of BAT. The campaign focuses on access to collective bargaining, higher tobacco pricing and wages, and better accommodation for workers. It has included the production of reports documenting abuses of farmworkers, including a 2011 report by Oxfam America and FLOC, a 2014 [fact-finding report](#) conducted by two British MPs, and a 2015 [alternative stakeholder report](#).

In 2011, BAT, FLOC, and Reynolds joined a multinational stakeholder group, the Farm Practices Working Group, which was established to address the issues raised by workers' organizations. However, FLOC argues that the working group has no teeth and has been ineffective (FLOC 2015).

The UK NCP's initial assessment outlines the justification for *accepting* further examination of the specific instance, including:

- **Degree to which both parties can be legitimately engaged:** The NCP notes that although neither IUF nor its US member union (FLOC) directly represents the workers, IUF is able to provide information about the workers' conditions and actions of the UK company, and appears to "have authority to reach an agreement about the action it proposes the company should take to meet its Guidelines obligations using leverage with its US business partner." With regard to BAT, it notes that BAT is linked through a 42% shareholding in the

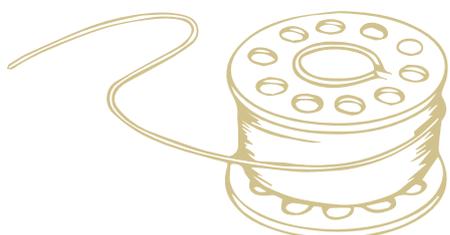
company and through its supply chain relationship. It also highlights that the OECD Guidelines apply equally to the business partner (RAI), and that it would have been appropriate for IUF to approach the US NCP instead of the UK NCP.

- **Materiality of issue and substantiation:** The UK NCP notes that the complainant has substantiated its allegations by providing recent reports about working conditions.
- **Contribution to the "purpose and effectiveness of the Guidelines":** The NCP determined that the disagreement about appropriate actions to address labour abuses could be resolved through further information sharing by the two parties.

In December 2019, a Final Statement was issued by the UK NCP. It found that "while BAT has met the obligations which were the basis of IUF and FLOC's complaint, there are still issues which need to be addressed by the company to ensure that these are acted on appropriately." The NCP recommended that BAT address the living and working conditions of migrant farmers, detailed in reports, by establishing objective standards for these conditions. Further, it recommended that, since BAT has taken full control of RAI as a wholly-owned subsidiary (therefore, RAI is no longer an independent supplier), BAT ensure that RAI's management of "the well-being of agricultural workers employed in its supply chain" is appropriate and in keeping with the OECD Due Diligence Guidance for Responsible Business Conduct.

This specific instance has a number of characteristics that make it relevant to homeworker organizations:

- This case addresses abuses of workers in an MNE's third-tier suppliers (through supplier's sub-contractors) and labour contractors who, in some cases, pay piece rates. This is very similar to the sub-contracting system through which homeworkers in global garment supply chains are linked to MNEs.
- The complaint sought to protect freedom of association, a labour right which is recognized under international human rights frameworks and the OECD Guidelines, but which is not protected by the host country's national law. This would be the case for many labour rights abuses suffered by homeworkers which are not prohibited by the homeworkers' national laws.
- The case also demonstrates how an NCP case can fit into a multi-pronged, multi-year advocacy campaign (such as the one HomeNets and global partners are planning for the garment sector).



... an NCP case can fit into a multi-pronged, multi-year advocacy campaign

2. International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) and PepsiCo, Inc. (India)²⁸

This specific instance, filed with the US NCP, concerns the failure of PepsiCo to address labour rights violations in its supply chain. IUF claimed that Pepsi violated provisions under Chapters 4 and 5 of the Guidelines on Human Rights and Labour and Industrial Relations. It also failed to perform due diligence by “double outsourcing” its employment relationship through Radhakrishna Food Land Pvt Ltd., which contracted a company to provide labour for its warehouses, according to IUF. The complaint cites the MNE’s failure to perform due diligence via contract provisions (e.g. compliance with international labour standards, penalties, monitoring or reporting, responsibilities of labour contractors). IUF’s complaint referred to a specific case in which workers lost their jobs as a result of having joined a union.

The US NCP accepted the case and offered its services for mediation between the two parties. Due to PepsiCo’s refusal to meet for mediation, the US NCP eventually issued a final statement that closed the specific instance without any determination as to whether PepsiCo had violated the OECD Guidelines (as per the US NCP’s own rules of procedure). However, PepsiCo did use its leverage to ensure that all employees who had lost their jobs received new offers of employment. But PepsiCo argued it had no obligation or leverage to require its contractors to reinstate employees with back pay, as demanded by the IUF (US NCP Final Assessment).

In 2015, as IUF and PepsiCo continued bi-lateral discussions, PepsiCo requested mediation support from the US NCP, to which the US NCP agreed. In its [Second Final Statement](#), the US NCP summarized that: “Although they were not able to reach a mediated agreement, the parties and the US NCP found the dialogue and mediation process to be productive and useful.” It also affirms an MNE’s responsibility to ensure that a “contracting arrangement does not dilute workers’ access to their rights” regardless of the amount of leverage the MNE believes itself to have with the supplier. The Second Final Statement includes a recommendation that PepsiCo update its workplace policy to incorporate the human rights and labour chapters of the OECD Guidelines. Following the mediation, PepsiCo took several actions, including enactment of preliminary risk assessments of suppliers, an update to human rights policy, and supplier code of conduct ([Erkens 2017](#)).

Relevance for homemaker organizations:

- This specific instance affirms that an MNE has due diligence responsibilities with regard to sub-contracted workers in its supply chains (although the workers in question in this instance are fewer steps removed from the MNE than is normally the case with homeworkers).
- It also illustrates the potential for constructive mediation via the NCP. In this case, mediation resulted in corporate policy change that focused on enhancing due diligence with regard to sub-contracting relationships. It is not clear whether or not the complaint also played a role in direct remediation, but it is possible that PepsiCo put pressure on its supplier to re-employ the fired workers.



²⁸ Relevant facts in this case were gleaned from “Results without a Negotiated Agreement in Mediation: IUF v PepsiCo, Inc.” by Yvonne Erkens, available at https://brill.com/view/journals/ilrc/3/3/article-p311_311.xml.

3. The Netherlands Trade Union Federation (FNV) and Nuon/Mitsubishi

The Netherlands Trade Union Confederation (FNV) submitted a case to the Netherlands NCP in 2012 regarding unequal pay for migrant workers. The workers, mainly from Eastern European countries, were hired by agencies that were sub-contracted by Nuon and Mitsubishi to build an electricity plant in the Netherlands. FNV argued that the migrant workers should be paid on the same basis as Dutch construction workers on the site, who were covered by a collective agreement.

FNV wanted Nuon and Mitsubishi to encourage their sub-contractors to apply the OECD Guidelines. The Dutch NCP accepted the case and provided mediation to the parties, which led Nuon to agree to use its leverage in its supply chain.

In its 2014 Annual Report, the Dutch NCP stated that the parties reached a joint solution regarding how Nuon should increase its influence in the supply chain. “They have agreed that Nuon will make changes to future contracts with its principle contractors in order to promote compliance with agreements throughout the supply chain.” In other words, Nuon would now require its principal contractors to not only abide by their obligations with regard to conditions of employment, wage rates and compliance with national and European legislation, but to impose those obligations on their sub-contractors and suppliers ([2014 Annual Report of Dutch NCP](#)).

Relevance for homeworkers:

- This case relates specifically to equal treatment of workers and sub-contractors, including with regard to wages. It provides a precedent of an MNE acknowledging the problem and making changes to its policies to ensure sub-contracted workers enjoy the same conditions as employees.

4. Building and Wood Workers’ International (BWI) and Federation International de Football Association (FIFA), submitted to the Swiss NCP

This complaint to the Swiss NCP, submitted in 2015, focused on abuse of migrant workers in the construction of facilities for the Football World Cup in Qatar. Building and Wood Workers’ International (BWI) argued that FIFA had violated the OECD Guidelines by allowing Qatar to

host the World Cup despite widely documented human rights violations, including against migrant workers; failing to conduct due diligence; and failing to include human rights issues within its bidding process. The complaint was part of a long-term campaign by trade unions to bring scrutiny to labour conditions linked to construction for FIFA events.

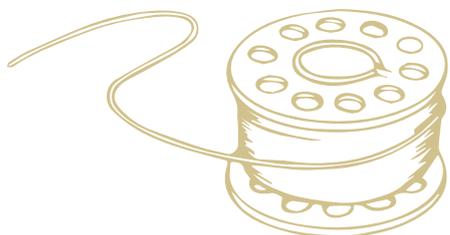
According to Gibbon et al. (2018), the NCP process had the positive outcome of confirming the need for the FIFA to use its leverage on the government of Qatar to protect migrant workers’ rights:

- The public joint outcome from the NCP process identifies five agreed areas of change: (1) identification and use of FIFA’s leverage in Qatar; (2) the Human Rights Policy under art. 3 of the FIFA Statute; (3) a process for monitoring labour conditions; (4) a mechanism for worker complaints and grievances; (5) establishment of an oversight/advisory body.
- FIFA also agreed to seek ways to honour the OECD Guidelines, mitigate human rights risks, improve enforcement vis-à-vis migrant workers, and strengthen collaboration with BWI etc. Furthermore, FIFA committed to include stakeholders in the development of its human rights policy, follow relevant guidance in order to develop a human rights due diligence policy, integrate human rights in existing mechanisms, secure human rights compliance of subcontractors, capacity building and establish joint labour inspections and include BWI as a member of the FIFA Human Rights Advisory Board”.

The process helped establish a direct relationship between BWI and the government body responsible for overseeing infrastructure development in Qatar. It also resulted in a process to monitor working conditions in Russia in the lead-up to the 2018 World Cup (Gibbons 2018).

Relevance to homeworkers:

- This case deals with vulnerable, non-standard workers with whom the MNE has no direct employment relationship. Unlike the other cases, the “supplier” is a state government that facilitates contracted labour, rather than an enterprise, but the principles remain the same.
- The NCP process resulted in policies and mechanisms to better protect vulnerable, non-standard workers who are not directly employed by the MNE.



The NCP process resulted in policies and mechanisms to better protect vulnerable, non-standard workers



Peruvian home-based workers demonstrate their skills at a gathering of informal workers in Lima.
Photo: S. Trevino

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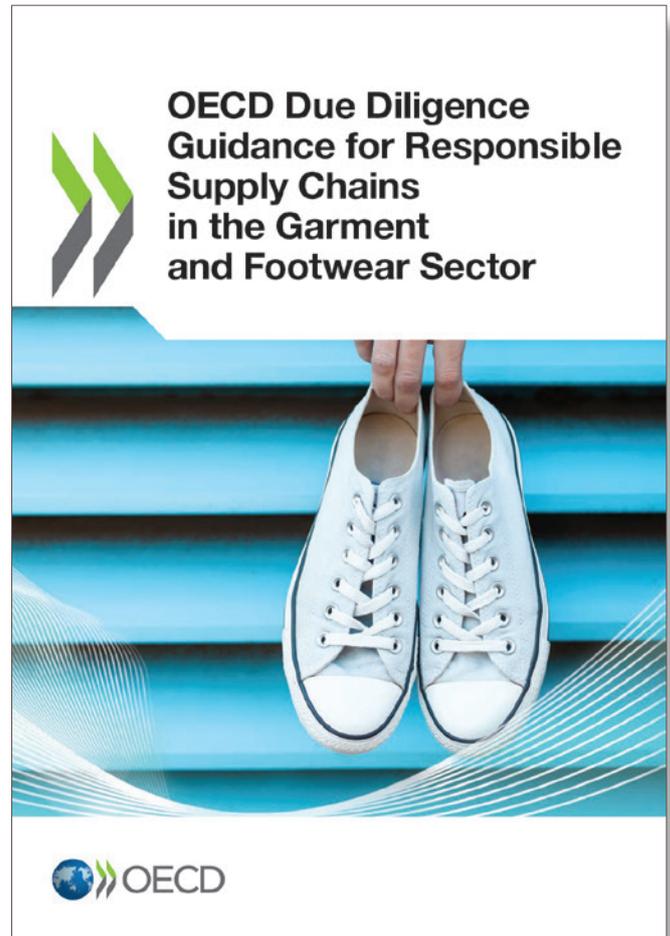
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How is the Guidance helpful to homeworkers?

- **It recognizes homeworkers as legitimate workers in supply chains.** This is important, because there have been calls for homework to be banned.
- **It places the responsibility for formalization on enterprises, not homeworkers.** It does not equate formalizing with homeworkers registering and/or going to work outside their homes; rather, it states that enterprises should ensure that homeworkers have written contracts to prevent employers arguing that homeworkers are self-employed.
- **It emphasizes that homeworkers are entitled to the provision of social security.**
- **It encourages brands/retailers to engage in “meaningful consultation” with groups of workers who are most at risk of human rights violations.** Homeworkers are one such group.



Written Contracts Must Include the Name of the Brand/Retailer

The OECD Guidance requirements for transparency are important, but they don't go far enough. Most homeworkers do not know the names of the brands for which they are producing, and factories may hide the identity of their buyers.

Homeworker organizations and their allies must campaign for written contracts that contain the brands names.

Buyers must insist their suppliers sign written contracts with homeworkers and that these contracts include the name of the brand/retailers.

If homeworkers know the brand for which they produce, they can:

- Check the brand's human rights policy on its website.
- Check whether the brand authorizes homework.
- If the brand does not authorize homework, explain to the brand why homework is important.
- Notify the brand that homeworkers are organized and ask for “meaningful consultation” that includes:
 - ~ designing a complaints mechanism that will protect homeworkers from losing their work if they complain; and
 - ~ deciding the remedy that should be applied where their rights have been violated. Remedies could include some form of restitution (as per the UN Guiding Principles) such as buyers contributing to a social protection fund for homeworkers.
- As part of an advocacy strategy/campaign, file a complaint with a National Contact Point (NCP) against the brand if it does not apply the Guidance. In filing a complaint, homeworker organizations should partner with strong allies so that, if the brand reacts to the complaint by banning homework in its supply chains, allies can engage the brand and let consumers know.