

The OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector: Its Application to Homeworkers

In 2011, the [United Nations Human Rights Council endorsed the UN Guiding Principles on Business and Human Rights](#). These principles are important because they:

- recognise that not only governments, but businesses also violate people's human rights;
- frame labour rights as human rights
- are based on the International Declaration of Human Rights and the [ILO Declaration on Fundamental Principles and Rights at Work](#).
- state that Businesses are responsible for human rights violations in their supply chains.

The UN Guiding Principles state that every business should:

1. Develop and publish a human rights policy;
2. Do a due diligence – an investigation – of its supply chains to identify whether workers rights are being violated and take steps to prevent labour rights violations; and
3. Make sure there is a mechanism for workers to complain and they provide “remedies” for workers whose rights are violated.

The UN Guiding Principles are Voluntary Principles, so Businesses can choose whether or not to implement them. Although they are voluntary, increasingly there is a lot of pressure on companies to apply the principles. France now has a Law that makes it mandatory for its companies to do a “due diligence” in its supply chains; the Netherlands and the United Kingdom are working on a law; and the EU is also working on a Law that will apply to all European Law countries.

The OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector

In 2017, the Organisation for Co-Operation and Development (OECD), a membership-based organization comprised of 36 democratic countries (mostly from Europe) together with 12 developing countries, signed the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, which is based on the UN Guiding Principles. Module 12 of the Guidance is on Homework. It states:

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.

The Guidance states that formalization means: providing employment contracts; equal conditions of work to other workers; piece rates that meet minimum wage requirements; and social security and health insurance.

What does the module 12 on Homeworkers say?

1. Businesses can choose to authorize homeworkers. It means Businesses can also choose NOT to authorize homeworkers and ban their suppliers from using homeworkers. [Question: Why would businesses ban homeworkers?]
2. Businesses should identify which kinds of products and which countries are likely to have homeworkers and assess whether suppliers making these product lines in these countries have measures in place to ensure that homeworkers are protected.
3. Business should Include in their contracts with suppliers that suppliers must:
 - Keep a record of homeworkers, including the quantity of goods that homeworkers make and how much they are paid per piece;
 - Record how long it takes to make each item and make sure the piece rate is enough to meet the minimum wage;
 - Train factories and contractors about labour rights for homeworkers;
 - Partner with organisations concerned with formalising homework; and
 - Engage with national governments to provide homeworkers with rights to social security

How can we use the Guidance?

1. If we know the brand that homeworkers produce for, we can check whether the brand has a human rights policy and whether it authorises homework.
2. The Guidance states that businesses must engage in “meaningful consultation with vulnerable groups” in its supply chains, so HomeWorker organisations can ask brands for such consultation. We must do so carefully because we don’t want brands to refuse and to ban homework because they fear getting into the media.
3. Homeworker organisations can check if their country has signed the OECD Guidance and then make these demands from domestic brands and from their governments.
4. Homeworker organisations can make a complaint against a brand at a National Contact Point in the country where the brand is registered.

What is a National Contact Point and how can homeworkers use it?

Every signatory country to the OECD Guidelines must establish a grievance mechanism, called a National Contact Point (NCP). NCPs are responsible for managing complaints (known as “specific instances”) brought against businesses for breaching the OECD Guidelines and the sector instruments, including the OECD Guidance for the garment and footwear sector.

NCPs are either housed in an office within a government agency (e.g. Australia) or are multi-agency bodies (e.g. the Japanese and Icelandic NCPs). Each NCP decides its rules on how complaints are heard and NCPs in some countries are much more effective than in others.

Who can file a complaint? Any “interested party” (individuals and organisations) can file a specific instance complaint with an NCP, if they have been directly affected by the businesses’ activities. They can also choose a representative, such as a lawyer or organization to file a complaint on their behalf.

Where can they file a complaint? Complaints against a brand must be brought either to the NCP of the country where the business is registered or the country where the violation occurs, if that country is a signatory to the OECD instruments – in this case the Guidance for the garment and footwear sector. For example, if homeworkers in Indian are producing for a Dutch company’s supply chain, it should file its complaint with the NCP in the Netherlands because India has not signed the Guidance and does not have a NCP. But factory or homeworkers in Brazil working could decide whether to file their complaint with the Brazilian NCP or with the NCP in Amsterdam – or they could submit a complaint to both.

How do complaints proceed? NCP are not courts. Businesses can refuse to respond to the complaint or to participate in the NCP process. And if the NCP makes a judgment or gives recommendations, the Business is not bound by the decision.

Why may it be strategic to file a complaint with an NCP? AN NCP provides a platform for voluntary mediation between a business and workers whose rights have been violated. But even if a business/brand refuses to participate in the process, a complaint could hurt them because consumers may not want to buy their products. But if not many of their customers know or care about homeworkers, the complaint could backfire because the brand may then decide to ban homeworkers in their supply chains. It is therefore important that a complaint is part of a bigger campaign about the importance of homework.

See [this](#) WIEGO resource for more detailed information.