

Business & Human Rights In Conflict Zones: The Role Of Home States

November 5th, 2007, Berlin

DRAFT AGENDA

The most egregious human rights violations take place during armed conflicts, nowadays mostly internal or regional civil wars. The impact of companies in such situations has received increased attention. The UN Security Council has adopted a number of resolutions dealing with this issue, and it has been addressed by such initiatives as the Voluntary Principles on Security and Human Rights, and the OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones. A relatively neglected area, however, are the actual and potential roles of home states of companies active in zones of conflicts. Simply defined, home states are considered those states with jurisdiction over transnational corporations, generally through incorporation or registration.

In his 2007 report, the SRSG elaborated on the nature of state duties but many important questions remain unanswered. They include what due diligence requirements states may have when they provide material or other assistance to firms operating in conflict zones, and what if any duties they may or should have to “regulate and adjudicate” human rights abuses by “their” multinationals in these zones. These are exceedingly complex questions that need to be handled with care – but they do need to be better understood.

The workshop will explore key existing or desirable policies and/or tools home states to reduce the risk that corporations may find themselves likely to directly or indirectly contribute to human rights abuses and to influence positively the behavior of corporations in the context of conflicts either in sanctioning, regulating, advising, or supporting companies. It will begin by examining what warning signals, or red flags, should draw the attention of home states in the first place (Session I). The discussion will then proceed to examine four analytically distinct cases. (1) Are there situations that are so risky that no home state response other than mandating or encouraging corporations to leave seems viable? (2) What should a home state do when a national company is benefiting from a conflict? (3) What should a home state do when a company has an unintended negative effect on a conflict? (4) What can home states do to assist companies in making a positive contribution in a conflict environment?

Each session will look both at the reactive and proactive roles states could play and will be introduced by short presentations by 2 speakers followed by roundtable discussions. The meeting will conclude by making suggestions to the SRSG for his upcoming report to the Human Rights Council.

Draft Agenda

0830-0900 Registration for participants

0900 – 0930 Introductory Remarks

This introductory session will explain why the focus on home state policies and practices and provide an understanding of how the meeting fits into the business & human rights debate and within the SRSG mandate.

0930 – 1030 Session I: Identifying Conflict Zones in Operational Terms

The first session will discuss the kind of indicators which should act as trigger points for home state policy makers, i.e. what should draw the attention of home states in the first place with respect to “their corporations” operating abroad in problem situations. The session will look at key indicators

which should serve as 'red flags' of potentially problematic situations for companies in conflict zones at the local, national and global levels. The session will also consider how states should best deal with the often changing roles and impacts of companies in conflict zones.

1030 - 1130 Session II: Identifying Potential "No-Go" Zones

The second panel will address whether there are circumstances when home state should insist or encourage companies to pull out of a region or a country because the warning signals are so strong that it is expected that it is not possible to operate with integrity. The discussion will identify the proactive and reactive role home states could or should play in responding to these extreme circumstances including: sanctioning; using early warning systems for conflict zones and conflict sensitive training; and the role of economic agents connected to the home state, such as export credit agencies in these situations.

1130 – 1145 Morning tea

1145 – 1300 Session III: Eliminating Deliberate Adverse Effects

This session will look at the responses the home state should bring when a company intentionally carries out acts that have a negative impact on the conflict and knowingly contributes or benefits from a conflict situation and human rights abuses. The goal of the session is to identify the regulatory or advisory role home states could or should play to prevent and stop this conduct, including sanctions, voluntary initiatives, civil and/or criminal legal actions or more specific tools such as Human-Rights-impact assessments.

1300-1400 Lunch

1400 - 1530 Session IV: Avoiding Unintended Harm

The fourth session will discuss the situation where a company has a unintended negative impact on the conflict, such as activities by company security forces or payments to rebel groups, and identify the regulatory or advisory role home states play and can play in minimizing corporate related human rights abuses. It will also explore how corporate knowledge regarding human rights risks in the area and how to reduce them could be guaranteed, for instance through the types of guidance and assistance states could or should deliver.

1530 – 1630 Session V: Supporting Positive Corporate Involvement

This session will look at situations where a company has a positive impact on the conflict situation and will discuss the facilitative and advisory role home states could or should play in fostering positive company impact. The goals of this session are to discuss ways to reward good company practice in conflict zones and conflict sensitive protocols as well as the success and challenges of relevant multistakeholders initiatives such as the Kimberly Process and EITI and to identify room for improvement in the role of governments

1630 – 1645 Afternoon tea

1645 – 1800 Session VI: Summarizing Recommendations

This final session will focus on bringing together the suggestions identified during the day, to record and discuss outstanding points of agreement and divergence and to get feedback from participants on focus areas, recommendations and ways to moving forward

1800 – 1815 Closing Remarks