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# **Report of SOMO Workshop** **on Complaint Mechanisms**

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In the context of monitoring and  
verification of codes of conduct



Amsterdam, October 2003

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## Introduction

The Centre for Research on Multinational Corporations (SOMO) and the International Secretariat of the Clean Clothes Campaign (CCC) hosted an international expert workshop on complaints mechanisms. This workshop was part of the SOMO-CCC project "Supporting European Initiatives on Monitoring and Verification of codes of conduct in the garment and sportswear industries."

The workshop brought together key actors involved in monitoring and verification debates and practices in the garment and footwear industry. Among the participants were representatives of leading multi-stakeholder initiatives (Ethical Trading Initiative, Fair Labor Association, Social Accountability International, Worker's Rights Consortium, Fair Wear Foundation), as well as representatives from key NGOs, trade union organizations and from individual garment and footwear companies.

The workshop was supported financially by the European Commission, Employment and Social Affairs DG, and the Swiss Foundation des Droits de L'Homme au Travail (FDHT)

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## Presentation of the SOMO Monitoring and Verification project & outcomes

by Joris Oldenziel, SOMO

Joris Oldenziel presented a short history of the involvement of the Clean Clothes Campaign in codes of conduct, monitoring and verification. This involvement started with the drafting of the CCC modelcode in 1998. In this modelcode, some basic principles on implementation, monitoring and verification were already outlined. These principles are still at the core of the initiatives that the CCC participates in:

- Involvement of NGOs and trade unions
- Responsibility on top of the supply chain
- Verification by an organization independent from the company
- Complaints procedures for workers

The current SOMO project of which this workshop is part, started in 2000. The partners were national monitoring or verification initiatives (like Fair Wear Foundation and Ethical Trading Initiative) or pilot projects testing and developing mechanisms on monitoring and verification in which the CCC participated.

The aim and activities of the SOMO project are to:

- Improve European cooperation between national level initiatives
- Share & disseminate experiences

- Identify best practices & bottlenecks
- Develop a European framework for code monitoring and verification

SOMO and the project partners were realistic enough to know that one European framework could not be achieved within the time-limits of the project. Therefore, SOMO focused on the development of tools and on analyzing the experiences, which can be of use in the work towards a European framework:

- Terminology guide: this was seen as very essential, because of the many interpretations of terms and of language differences.
- Report of CCC pilot experiences in China; it was seen as important to properly document the experiences in China, so that future European work on code monitoring and verification could be build upon this experience.
- Paper on complaints mechanisms; this provides an analysis and overview of the different existing complaints mechanisms in MSIs, and will serve as the basis of this workshop.

Finally, some recent development in the field of monitoring and verification projects:

- New initiatives in other European countries are emerging between the CCC and companies
- A joint project between the European and US initiatives (WRC, SAI, FLA, ETI, CCC, FWF) to test possible fields of cooperation.
- Ideas are being developed for a European Fair Wear Foundation

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## Presentation of paper on complaints mechanisms

by Ineke Zeldenrust, Clean Clothes Campaign

Ineke Zeldenrust presented the paper "Considering Complaints Mechanisms" she wrote together with Nina Ascoly. The full text of the paper can be found at the project website ([www.somo.nl/monitoring](http://www.somo.nl/monitoring)) Ineke described the different stages that can be distinguished when looking at complaints procedures and highlighted the key issues that need to be considered for each stage.

Complaints can be filed to workplace management, to sourcing companies directly or to Multistakeholder Initiatives (MSIs). MSIs have a double role: they can oblige suppliers and/or sourcing companies to establish complaints mechanisms AND receive complaints. Clarity, accessibility and a better understanding of the relationships, roles and responsibilities of the different parties involved are important issues.

The next stage is for a complaint to get accepted. In addition to the need for an 'easy gateway' for the person filing the complaint to the recipient the type of relation between the buyer and the supplier starts playing a role.

The MSIs vary considerably in their methods of investigation of the complaint , as do the sourcing companies. There is a need for establishing guidelines for guaranteeing quality of investigation, furthermore capacity and communication issues will have to be dealt with.

When it comes to remediation or corrective action the question is not only who is involved (workers, trade unions, NGOs, companies, government) but also how to deal with the more systemic issues arising in the industry and (again) what the responsibility is for the different parties in the supply chain.

Finally it is important to report throughout the process, taking into account which parties need what type of information. A balance will have to be struck between confidentiality (ex. of workers names) and transparency.

### **Morning break-out sessions: Sharing concrete experiences with complaints**

In three break-out sessions participants shared concrete experiences with complaints. In each session, the different stages of the complaints mechanism (filing, investigating, remediation and corrective action) were discussed.

#### **Reports from the break-out sessions**

##### **1. Filing complaints**

Moderator: Maggie Burns, ETI NGO coordinator

During this workshop people shared their experiences with mechanisms for workers and their organisations to file complaints to workplace management, sourcing companies or MSI.

One of the first questions that need to be addressed when the issue of filing complaints is considered, is whether there is an existing functioning trade union, as this is the logical place for workers to go.

Participant identified the following key issues:

- Determine if there is an existing functioning trade union, as this is the logical place for workers to go first when they have a complaint;
- Trustbuilding, workers need to trust the complaint system: communication is important;
- There should be no retaliation on workers;
- There should be a response to the complainant;

- Transparency is needed about the way the complaints be filed and what is done with the complaint;
- Sustainability of the process.

## 2. Investigation of complaints

Moderator: Joris Oldenziel, SOMO

During this workshop participants shared their experiences with investigations into allegations of code violations.

Questions that were raised :

- Who initiates/participates in the investigation?
- What guidelines can be identified for the investigation?
- How can information be shared during and after the investigation with different stakeholders and the public?

The example of an investigation that was conducted in Indonesia, where an SA 8000-certified factory was allegedly in violation of the SA 8000 standard, showed that there are different stages and different actors in the process of investigation. It was agreed that it is important to involve all these different actors as soon as possible, to avoid gaps in the information.

Different actors have different sources and different information. Such different actors include local partners, local trade unions but also international NGOs to keep the pressure on the investigation. Also, factory management needs to be involved, since they are important in the resolution of any outstanding issues. Both processes of investigation and remediation often take place at the same time.

In the investigation, it's important to have independent investigators who are trusted by all parties. All participants agreed that such people or organizations are difficult to find in production countries, so it was suggested that a database of independent mediators in different areas and countries could be set up.

The possibility of developing guidelines for investigations was raised, for example regarding acceptable timeframes for an investigation. However this was seen as problematic because the type of complaint (ex. FoS or OHS) and local context will have an impact on the timeframe (not only for investigations, but also for other phases such as remediation).

## 3. Remediation and corrective action

Moderator: Fenny Eshuis, Max Havelaar

During this workshop participants shared their experience with remediating workplace problems raised via complaints mechanisms.

The following issues were discussed:

The importance of cooperation between sourcing companies. What does a "responsible" brand company play? What are there legal obligations?

The importance of complaint mechanisms at the workplace level. It is important to have people at the workplace level who are responsible for complaints and a clear structure at factory level for processing and following up on complaints.

The experience of brands handling complaints themselves was discussed as well. Some companies are beginning to implement a complaint mechanism. The difficulties of handling a problem from a distance (HQ in Switzerland, problem in factory in China) were noted. NGOs and the MSIs could provide support here.

Management at all levels needs a better understanding of who is responsible for what part of the supply chain, in order to handle and solve a complaint properly.

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## Plenary Presentations on experiences with complaints

### Presentation 1: Experience of handling complaints between ETI members

By Dan Rees.

Complaints in the ETI context are filed by one member (usually an NGO or trade union) about another member (usually a company). Member companies sign up to a possibility for employees to file complaints. When NGOs or trade unions have a complaint: first complain to the ETI member and only when there is no response are the complaints taken public (including to the media). Until now there have only been two complaints filed to the ETI.

The ETI Guidelines on how to handle complaints (distributed at the workshop), are not procedures and therefore a flexible tool.

Purpose of guidelines is to ensure that

- complaints are brought to companies in a manner that they can be investigated
- ensure transparent and prompt investigation and remedial action
- encourage members to share information
- build trust & confidence

When a complaint is filed, ETI will make an initial assessment. Critical elements for initial complaint to include are:

- Name of supplier company/supplier site
- Link with ETI member company
- Alleged code breach/es
- The scale of the alleged problem
- Is the grievance being pursued along other channels
- Have workers affected by complaint identified a solution
- Contact point
- Relationships between all parties involved
- Other relevant organisations
- Local complexities that could effect investigation or remedial action

When a complaint is filed and includes the abovementioned elements and information, a memorandum of understanding is defined. This is a document agreeing what the complaint is and how to investigate it. It includes information about the buyers involved, the leverage of the buyers, scope and confidentiality, methods of investigation, evaluation, time scale, and resource implications. The ETI secretariat will act as facilitator of dialogue or as mediator between members if requested by those members involved.

Other features of the ETI guidelines are:

- Guidance on contents of investigation report
- Guidance on contents of corrective action plan
- All parties to agree each step in the process
- Costs to be born by buyers and suppliers
- No victimisation policy

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### **Case study - Christmas Crackers**

Homeworkers in Wales paid sub-minimum wage to assemble Christmas crackers. The case was raised by Oxfam against ETI member Somerfield concerning Somerfield's supplier Swantex.

Result: the law was applied correctly, but still workers were underpaid. The law was used as a ceiling. Workers could not earn more than 80% of minimum wage. This made clear that in fact the law was bad. Halfway through the process the supplier announced that production was shifting to China. So the ETI process broke down.

Lesson for workers?

The homeworkers got nothing out the complaint, they lost work and conditions were not



improved. This case highlighted the vulnerability of homeworkers and the fact that those who file a complaint might not directly benefit from taking such action. Although the complaint could trigger action that has other possibly positive impacts.

What NGOs said about the process

- Guidelines need to be a binding procedure
- Penalties needed for non-compliance with procedure
- Direct representation in process for non-member NGOs that raise complaint.

What ETI members said about codes and homeworkers

- This problem could not be tackled effectively by targeting one supplier
- Labour law on piece rates need changing
- Need to work with the entire industry
- Homeworkers need a union!
- Need to know more about application of codes to homeworkers (e.g wage methodology)

## **Presentation 2: Experiences from The Gap**

by Sean Ansett

Mechanisms used by the GAP to follow up on workplace complaints

- 90+ staff of the Global Compliance team
- Independent monitors/ civil society training
- Stakeholder inquiries from NGOs, faith based groups or trade unions
- Websites or research
- Stakeholder dialogue, when follow-up with stakeholders, the stakeholder often contacts his own network. For GAP Inc., it is important that there is one dedicated communication point or person for each group of stakeholders to ensure that the information is further disseminated.

Complaint process Investigative Collaboration: Gina Form Bra- Case Study

Situation: Workers were laid off, the Gap was sourcing about 10% of the total production from that factory. The Gap conducted numerous factory visits, several meetings with key local and international stakeholders which also involved several of the NGOs present and which resulted in a victory for the union. More information on this case can be found at [www.cleanclothes.org](http://www.cleanclothes.org) (urgent appeals section).

In his view the following are the key issues in relation to complaints:

- How to involve stakeholders
- Level the playing field: Involving other companies is very important
- Understand complexities brands face
- Publicly, acknowledge successes where companies acted appropriately
- Goal: Sustained internal grievance process: Complaint systems are a good compliment, but in time the issues addressed need to be implemented in the normal business process.

Questions from participants: GAP says NGOs should push other companies. But what does GAP do to push other companies? Often peer pressure seems to go faster.

Answer: GAP has involved other companies sourcing from a particular factory, and GAP is willing to cooperate with other companies at the country level when it comes to complaints systems. But NGOs play an important role in trying to involve other companies by campaigning and pressuring those companies. Companies are much more sensitive to public (NGO) pressure, than to other businesses. So the ability of companies to involve other sourcing companies is much more limited than many NGOs think if they don't share a similar commitment to compliance issues.

The question who should do what in creating more leverage with suppliers by more cooperation between buyers seems to be an important one. Some participants feel that this is something that NGOs and trade unions should do while others argue that companies should be able to cooperate more through existing business networks.

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### **Presentation 3: Experiences of the WRC**

**by Scott Nova**

WRC does research into those companies that produce licenced university apparel to the universities. The WRC deals with the complaints that workers raise at the suppliers of these companies.

The WCR aims to be a worker-driven complaints system. Complaints are most effective when they are supported by the workers. A complaints system should therefore always be directed towards the workers.

When a case is being investigated, WRC makes use of what they call 'candid information': Information gathered through interviews with workers outside the factory premises.

Consultation with the workers is key. Suggestions for solutions should always be checked back to the workers, and they have to agree with the proposals.

WRC handles complaints from factories that supply many of the big companies such as Nike, Reebok, VF, etc. In some cases, the companies are confused when WRC claims they are investigation a complaints at one of their suppliers, as they did not realise they were sourcing from those areas. One of the first questions that the WRC has to deal with is therefore whether the buying company is actually sourcing from the factory in question. If not, or if they only were in the past, the question is whether they are still willing to take responsibility for the matter.

The worker-driven approach provides possibilities to address those issues that would not have been found through monitoring alone. For example, by interviewing people who did not get a job, they can provide insight into issues by the monitoring processes. The worker driven process is a bulldog-process: Not letting go until you have reached your goal. The goal is to solve the problems of the workers. Listening to what the workers want is important.

#### Remediation process

The remediation process needs to be monitored. When do you go back to check to the process of remediation: Constantly. Make sure that there is an ongoing (positive) process.

### **Presentation 4: Sri Lanka Case study of the FLA**

**by Auret van Heerden**

Auret van Heerden gave an update on the Jaqalanka case in Sri Lanka. The case centred on the recognition of a branch union of the Free Trade Zone Workers Union FTZWU. The union had the legally required membership, but management refused to recognize the union. At a subsequent vote only a few workers participated, according to the FTZWU because they had been severely threatened and harassed. An international solidarity campaign followed, the FLA became involved in the case when the FTZWU lodged a complaint, and also member company Nike asked them to interfere and mediate in the conflict.

The FLA discussed the case with all the different parties and, together with a local NGO called the Center for Policy Alternatives (CPA), called for a roundtable, at which a settlement was reached. The union obtained recognition, and training will be provided for workers and management. In 6 months time the settlement will be up for review.

The involvement of the FLA in this type of work is primarily caused by the failure of local governments to uphold their laws, or to effectively mediate conflicts themselves. The interface between MSIs and the local legal system needs carefull attention. In addition to this role for the FLA itself, the member companies each have to develop a mechanism for receiving (confidential) complaints directly.

Questions from participants: what should the role of the MSI be in mediating labour conflicts? The MSI cannot be a substitute for governments. Furthermore, the FLA intervention in this case required a great deal of resources therefore there are limits to replicating this model elsewhere.

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## **Afternoon break-out sessions: key issues**

In the afternoon break-out session, the focus changed from sharing concrete experiences to discussing key issues.

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### **1. Evaluating impacts**

Moderator: Lynda Yanz, MSN

During this workshop participants discussed the positive and negative impacts of complaints so far.

- Important to determine what impacts are being measured (ex. Impact of the complaint system, impact of the mediation, etc).
- In what way can impacts be measured: using quantitative or qualitative data? Or should this be considered in terms of expectations of the different actors? There is a need for more experience in measuring.
- Sustainability of impacts is important to consider.

### **2. Cooperation**

Moderator: Frans Papma, FWF

During this workshop participants discussed the need for cooperation in handling complaints.

- How and when is sectoral approach needed to solve a problem?
- How can cooperation among sourcing companies and MSIs increase leverage when pushing for solutions?

Different types of cooperation were discussed, participants also considered when and in what situation they would be possible and desirable.

- Consultation of actors at the local level (eg producers, NGOs, trade unions) when developing complaints mechanisms;

- When endemic situations are identified cooperation between actors to further work upon such cases is advisable;
- Generally by working in groups (such as ETI member companies and several other companies on overtime issues in China), companies have more scope for successfully tackling labour issues;
- Companies suggested that campaigners should inform them more often about labour problems as they become known to them;
- Pressures from companies towards government (maybe even together with NGOs) is important.
- The increased cost for improvements need not be a problem for companies when all companies implement codes of conduct: level playing field.

### 3. Roles and responsibilities

Moderator: Sjef Stoop, FWF

During this workshop participants identified what the different roles and responsibilities are in the investigation and remediation phases of handling complaints. For example, what tasks should be carried out by the supplier, sourcing company, MSI, workers, trade unions, governments and who should ensure that these things happen. It was noted that different actors have different responsibilities.

Substantial time was spend discussing the various consequences for companies and MSIs of the failure of governments to ensure good working conditions and to enforce legislation. Though MSIs have a role to play in investigation as well as mediation it is important that governments are not absolved of their responsibility to ensure good labour practices.

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### Closing

The intensive participation of key actors from all parties did make it clear that across the board people consider it a vital topic that requires further debate and sharpening, to guide all of us in developing effective and mechanisms.

The day's discussions helped define key questions relating to complaints mechanisms. A continuing lack of information relating to handling of complaints was identified. Participants cited a need for more exchange, sharing and analysis of such information. Participants felt it would be usefull to pilot some of the methods and ideas discussed.

