BEERG

BEERG Sàrl, Route de Pré-Bois 20, Case postale 1889, 1215 Genève 15 Aéroport
Phone: + 33 684752 122 **I E-mail:** tom.hayes@beerg.com **I Website:** www.beerg.com

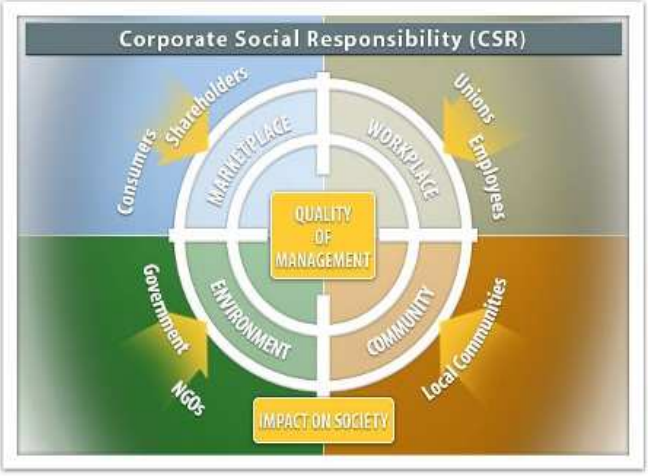
GLOBAL LABOR NEWSLETTER

No. 14 – April, 23 2013

CONTENTS

EU: Draft disclosure directive launched on CSR and employment diversity

Robbie Gilbert, BEERG's Director of Labor Relations, writes: New law, proposed by the EU Commission on April 16th, demands more detail in companies' Annual Reports on both Corporate Social Responsibility (CSR) and diversity policies. They would have to say how well these policies work, say which International CSR framework they follow or explain why they do not have them. That information will aid NGOs and global unions seeking to mount corporate campaigns on topics from under-representation of women in the boardroom to global collective bargaining rights. 18,000 firms are affected. MEPs may now press for a more prescriptive approach than the proposed 'comply or explain' regime.



Proposed Directive extends non-financial reporting requirements
The proposed Directive comes from the Internal Market and Services Commissioner, Michel Barnier, a 62 year old career politician of the centre-right in France (UMP) and Brussels (EPP).

Following the Single Market Act (II) of 2011, the Commission introduced a Communication calling for a renewed strategy on CSR. This argued that addressing CSR, which it defines as "the responsibility of enterprises for their impact on society", is in the interests of both business competitiveness and society as a whole, as it builds long-term trust among employees, consumers and citizens. High trust within the community, and wider engagement with it, helps enterprises innovate and grow.

A specially commissioned study into the current practices on non-financial reporting and the costs and benefits of requiring mandatory disclosure was published in December 2011. An Expert Group deliberated and two public consultations were held. The new draft Directive is the result.

It builds on existing requirements on environmental and social matters in Accounting Directives dating from 1978 and 1983, and is intended to increase companies' transparency and performance in these areas. In its development, the views of a range of 259 stakeholders were considered – nearly half of them accountants and auditors, public authorities and standard setters, academics and individuals, or 'users' (investors, analysts, ratings agencies, etc).

Less than a quarter (24%) of the responses considered were actually from the companies ('preparers' of reports); while NGOs provided 28% of the views taken into account. A majority of this weighted selection of stakeholders regarded the current obligations as lacking clarity and prejudicing legal certainty, (though it seems businesses generally saw no need for change).

Further, the Commission argues, national requirements currently in place that go beyond current EU requirements are diverse and fragmented, and this is unhelpful for companies and investors. The Directive is designed to increase the quantity of information – only 2,500 companies currently report on CSR – and the quality of information disclosed. The new measure's disclosure requirements apply to all limited liability companies incorporated under the law of a European Economic Area country, employing more than 500 people, and with assets of €20 million or a net turnover of €40 million.

When it comes to quality, every in-scope company will be required, in a statement or separate Report within its Annual Report:

- to give material information
  - ✓ not only on "employee-related matters" as now, but also
  - ✓ on respect of human rights, anti-corruption and bribery matters; and
- to include a description of
  - ✓ its policies in relation to these matters,
  - ✓ the results of these policies and
  - ✓ the risks related to these matters and how those risks are managed.

The company may, if it chooses, rely instead on its observance of national, EU-based or international frameworks for these purposes. These include: OECD Guidelines; the Global Reporting Initiative; the UN's Global Compact; the UN Protect, Respect and Remedy Framework (The Ruggie Principles); ISO 26000; and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policies. If so, it should specify with which it complies

Where the company does not have policies in place on these topics, it must provide an explanation for not doing so.

Separately, specific reference is also made to including in the Annual Report "non-financial key performance indicators" relevant to the business, "to the extent necessary for an understanding of the company's development".

Somewhere along the journey, the Commission Services decided that there was a second problem to be addressed: the lack of diversity in company boards. A similar approach is taken to deal with it

The corporate governance statement which companies must already provide is to be expanded to include a description of the company's diversity policy, covering:

- its administrative, management and supervisory bodies;
- aspects such as age, gender, geographical diversity, educational and professional background;
- the objectives of the policy;
- how it has been implemented; and
- the results in the reporting period.

This is aimed particularly at board-level, where the Commission asserts that insufficient diversity may lead to "group think" and resistance to innovative ideas.

Here again, companies are allowed not to have such a policy. However the company is then expected to do more to justify its stance, by providing "a clear and reasoned explanation as to why this is the case".

What does it all mean?

Assessing the impact of proposed additions to company reporting is fraught with difficulty. In this case, it is not easy to assess just how much additional information companies will be expected to give on non-financial issues.

The Commission sees the proposed Directive as reflecting "a non-prescriptive mindset", leaving scope for companies to disclose relevant information in the way they consider most useful and requiring little extra costs to business in the gathering of the information, while delivering unquantifiable gains.

At the very least, however, the proposed obligations will flag up whether the company has policies on human rights and diversity.

If it does not, that information could be seized upon by unions, NGOs or other interested bodies – including those responsible for awarding major contracts – to their advantage, in corporate campaigning or compiling approved lists of contractors and suppliers.

Companies who sign up for one of the international frameworks on CSR are not obliged to say that they do so in the Annual Report. However, their failure to mention that fact might raise awkward questions. Why do they not admit to this in the Report? Are they unwilling to share the real results of their supposed observance, or their performance on human rights under related KPIs? But committing to compliance with one international framework or more could also prove problematic under the new Directive, as these are continually developing. In this context, for example, the EU Commission is separately developing proposals for the implementation of the Ruggie principles in specific sectors, as we have previously reported. These appear to extend the obligations considerably. More generally, meeting new and obligatory statutory reporting requirements under this Directive could turn out to be one unintended consequence (or one of several) of a well-meant but insufficiently considered decision to back one or other of these frameworks.

The diversity reporting will give fuller information on the extent to which gender balance is changing on Boards, an issue that many businesses are actively addressing in the light of widespread concerns over the speed of progress. However, the wording in the Directive takes us into quite different territory – geographic location and educational and professional background – where the relevance of diversity at Board or any other level has not been well established. This provision looks as sound and well-constructed as the late bolt-on it undoubtedly is.

EU Parliament may want more

The EU Parliament passed a resolution on corporate social responsibility in January 2013 calling for "regulatory measures to be drawn up within a robust legal framework." They may consider that the current Directive does not go far enough.

In fact, the current proposals are centred on just one of four broad options that the Commission considered along the way. The first of these, do nothing, they quickly discounted. The second is characterised as simply requiring a statement in the Annual Report. This they see as where they have come out. The third, under which a detailed report would be required, has a number of variants, one of which - the 'report or explain' approach – has gone into the current draft, but extends to requiring a detailed, stand-alone non-financial report from all companies, or to allowing exemption for those covering all the necessary topics and signing up to one of the international frameworks voluntarily. The fourth, to set up a new and mandatory EU standard, including EU-based KPIs, was not favoured by the Commission as they could see it would introduce yet another product into an already overcrowded market for international frameworks.

However, these options offer plenty of material with which MEPs could begin developing proposals that would significantly extend the obligations in the current draft Directive.

A policy interface we need to watch

This is a major development in EU law. The fact that it comes from outside the part of the Commission that deals with Employment Social Affairs and Inclusion simply highlights the growing importance of new interface for business. The area between the management of labor relations at global level and the obligations arising out of Corporate Social Responsibility initiatives increasingly affects not only how we manage at the workplace but our dealings with unions. BEERG is considering how best to assist members in handling this increasingly important interface.

EU: "Social dialogue" under strain

Social dialogue is under great strain throughout the EU because of the economic crisis, with Eastern Europe particularly hard hit, says a new report from the European Commission. However, in presenting the report, **Industrial Relations in Europe 2012,** Employment and Social Affairs Commissioner László Andor denied that, with the exception of Greece, EU "austerity" policies were responsible for undermining labor relations and collective bargaining structures in individual European countries. Asked if the Commission's policy was not in fact schizophrenic, with Economic and Monetary Affairs Commissioner Olli Rehn pushing for austerity, while his office was advocating "social solidarity", Andor said Rehn too believed in social dialogue and that the Commission speaks with one voice. As far as Cyprus, Greece, Ireland and Portugal were concerned Andor insisted that the Commission had always advocated that the troika - where the International Monetary Fund and the European Central Bank are also represented - should involve social partners. He said that in his bilateral

contacts with IMF representatives, he always stressed the importance of respecting European labour legislation and social rights. “The principle is clear, the practice is diverse. There is certainly a difference between Greece and Ireland,” Andor said, explaining that in Ireland there has been “a certain tripartite cooperation” in order to minimise the social cost of reforms, at least in the public sector. “The situation in Greece has been quite different, the social partners have been in a way sidelined,” he said, adding that in order to address the situation the Commission would undertake an effort to “rebuild” social dialogue in Greece in a joint effort with the International Labour Organization.

The report shows that in Central and Eastern Europe industrial relations institutions remain weak and fragmented, with the notable exception of Slovenia. Statistics show that in the 15 “older” member states, some 70% of workers are covered by negotiated agreements at their workplace. But in Central and Eastern Europe this figure is only 44%. Trade union membership is lower in the Central and Eastern European countries, and even fewer employers in this part of the EU are members of an employers' organisation. In the 15 older member states, some two-thirds of employers are organised. In Central and Eastern Europe, it is less than 40%.

But the situation in new states also varies greatly. Estonia, Latvia and Lithuania, together with Bulgaria and Romania, are identified as “liberalist,” with a “minimalist” welfare state and a flexible labour market, marked with a very high degree of labour migration. In contrast, the Visegrad countries (Poland, Czech Republic, Hungary, Slovakia) are “welfarist”, with a generous social system, especially for pensioners, and a regulated work market and low migration, with the exception of Poland. Slovenia appears as a category of its own, “corporatist”, with a generous welfare system and low migration abroad for work purposes. Slovenia is also the only new member state with high labour participation in trade unions and high institutionalisation of collective bargaining.

The Commission says that well-established social dialogue contributes to economic prosperity and recommends that countries where social dialogue is weak need to strengthen it.

This important issue will be covered at our New York BEERG One-Day Workshop on Wednesday, July 10. To book contact derek.mooney@beerg.com

---

Data Protection: Data privacy in the Transatlantic Trade agreement? US-EU ponder the way forward

Eric Shimp of US law firm Alston & Bird writes: The United States and the European Union announced in February their intent to launch negotiations this year on a far-reaching trade and investment partnership agreement. Negotiations on the treaty, known as “TTIP”, should commence in June following a Congressional and public consultation period in the United States, and a parallel process in the EU whereby the European Commission will obtain a formal mandate from the 27 EU member states. Differences in data privacy and protection between the US and EU have already arisen as an issue of contention as governments labor to construct a bilateral negotiating agenda.

Senior U.S. officials, including outgoing U.S. Trade Representative Ron Kirk and Deputy National Security Adviser Michael Froman have both commented publicly that rules on cross-border data flows should be up for negotiation in the TTIP, responding to interest from US industry to liberalize data flows not only across the Atlantic Ocean, but also between various EU member state markets.

The European Union Commissioner for External Trade, Karel De Gucht, however, has stressed that while the US and EU should work on data privacy reforms, such negotiations must run parallel to the TTIP on a separate track. Proponents of rationalizing data privacy policies between the two markets, however, appear to fear that negotiations relegated to a separate track would lack the political impetus of TTIP, stressing that linkage to the large market access deal is the only way to ensure conclusion of a deal on data privacy.

Senior European data privacy officials, including the European Parliament rapporteur on the General Data Protection Regulation, Jan Philipp Albrecht MEP (Greens), and Germany’s federal commissioner for data protection Peter Schaar, meanwhile, reportedly desire data protection to be an issue subject to the TTIP negotiations, but have effectively placed preconditions on European participation which would include the US adopting new privacy protections in multiple areas.

These include addressing inconsistencies in privacy regulations between US states and expanding the coverage of data protection to sectors other than healthcare. EU officials have also expressed interest in reforming the 2000 US-EU Safe Harbor Agreement.

Consumer groups, meanwhile, have also entered the fray. The Transatlantic Consumer Dialogue, an umbrella group of consumer organizations, argues that data privacy rules should not be discussed under TTIP, preferring the development of independent, national regulations more sensitive to consumer protection.

To be clear, the scope of the TTIP negotiations has not been set. The months between now and June will serve to develop a robust negotiating agenda covering virtually the entirety of the US-EU economic relationship. Interested parties in the US should take the opportunity to respond to requests for public comments by the Office United States Trade Representative and the White House Office of Management and Budget, as well as members of Congress on key committees of jurisdiction.

Eric can be reached at: eric.shimp@alston.com

BEERG's Public Affairs Direct Derek Mooney adds: **Euractiv** reports that a senior official from the Federal Trade Commission, Julie Brill, was in Brussels last week to meet with EU Commission officials to discuss the issue of Data Protection, particularly the EU's planned reforms. While in Brussels she gave an address to the Mentor Group a US-EU Legal & Economic Forum. Her address can be seen here: http://www.ftc.gov/speeches/brill/130416mentorgroup.pdf

Meanwhile the General Data Protection Regulation is progressing through the European Parliament with May 29/30 set as the dates when the lead LIBE committee will vote on the 3133 amendments tabled. The amended draft is then expected go to a full plenary of the EU Parliament in June. This suggests that the GDPR is on track, a view confirmed by the Irish Justice Minister Alan Shatter, who issued a progress report last week saying:

> *"Remarkable progress has already been made on this package with the completion of the first technical reading of the lengthy and complex Regulation. Several policy discussions have also taken place at Ministerial level on some of the main issues of political importance. I am confident that we are on track to achieve our aim of agreeing key elements of the Regulation at the Justice and Home Affairs Council in June."*

In a separate development, ALDE: the Liberal Group in the EU Parliament, announced the appointment of UK MEP Baroness Ludford as its Shadow GDPR Rapporteur on the LIBE committee following the serious injury suffered by German MEP Alexander Alvaro in a car crash in February. She has invited BEERG to attend a roundtable meeting she is hosting in London this Friday to discuss the GDPR and the proposed amendments.

UK: One step closer to boardroom equality in the UK?

Nick Thomas of Morgan Lewis writes: Reports show that the number of female board members at UK-listed companies continues to grow but that the rate of appointments must increase to meet targets for gender-balanced boardrooms. Recently published reports from former UK government minister Lord Davies of Abersoch and the Cranfield University School of Management indicate that the push to increase the number of women on boards of UK-listed companies is slowing down. However, the UK government continues to encourage companies to address the imbalance, rather than imposing gender quotas and sanctions for noncompliance. ***Women on boards 2013***

On 10 April, Lord Davies of Abersoch published his *Women on boards 2013* report,[1] which follows his 2011 report commissioned by the UK government to look into the poor representation of women on the boards of directors of UK-listed companies. The original 2011 report starkly highlighted the lack of gender equality amongst board members, and it set out a series of recommendations that businesses should follow to address the gender imbalance.

[1]. View *Women on boards 2013* at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/182602/bis-13-p135-women-on-boards-2013.pdf.

One of those key recommendations was that, by 2015, the boards of FTSE 100 companies should be made up of at least 25% women. Importantly, Lord Davies's approach to tackling this issue, which has since been adopted as the government's approach, fell short of imposing mandatory gender quotas on companies. Instead, Lord Davies considered that a business-led approach would be sufficient to bring about the desired changes.

Women on boards 2013 provides an overview of the progress that has been made to improve female board representation in the two years since the original report was published. The 2013 report shows that women now occupy 17.3% of all board positions of FTSE 100 companies. In 2010, this figure was just 12.5%. Also encouraging is the fact that there are now only six FTSE 100 companies that do not have a female representative on the board, as compared to 21 companies in 2010. The majority of new female board appointments are to nonexecutive positions, and there is recognition that more needs to be done to replicate this increase in executive positions.

Supporters of the government's business-led approach to tackling the gender issue will likely celebrate the latest figures. In response to the report, Lord Davies stated that it shows that the UK's top companies are "stepping up and responding." Vince Cable, the UK's Business Secretary, also responded, stating that the government "continues to believe that a voluntary approach is the best way forward."[2]

Cranfield University Report

The Cranfield University School of Management published its report *The Female FTSE Board Report 2013: False Dawn of Progress for Women on Boards?* (Cranfield Report) on 10 April.[3] The Cranfield Report suggests that any progress made to date is of only limited significance and that the pace of change needs to accelerate if the targets set by Lord Davies in 2011 are to be achieved. The Cranfield Report shows that, in the last six months, only 26% of directors appointed to FTSE 100 boards were female. The report suggests that this percentage should be contrasted with the preceding six months, in which 44% of appointments went to women. The reasons for the recent slowdown are uncertain, however, care must be taken to ensure that companies do not lose momentum in striving to achieve a more diverse boardroom.

Dr Ruth Sealy, co-author of the Cranfield Report, warns that "Lord Davies' target for FTSE 100 companies is still in sight but only if the rate of new appointments going to women regains momentum promptly."[4] The Cranfield Report also highlights that the percentage of women participating in executive committees has fallen from 18.1% in 2009 to 15.3% in 2013. As executive committees are typically seen as a talent pool for potential promotion to executive positions, the drop suggests that the pipeline of women for board promotion is currently not strong. This can be contrasted with the legal, marketing, and human resources professions, which are still dominated by females.

Implications

Neither *Women on boards 2013* nor the Cranfield Report are likely to change the UK government's approach to tackling the lack of women on the boards of UK-listed companies. The government remains committed to encouraging companies to address the imbalance, rather than imposing gender quotas and sanctions for noncompliance. Notwithstanding this, if sufficient progress is not made by 2015 and the UK does not achieve Lord Davies's 2011 targets, there is a very real possibility that the question of mandatory quotas will be revisited.

Nick can be reached at: nthomas@morganlewis.com

EU: Flemish language law breaks EU law

The European Court of Justice (ECJ) has ruled that a Belgian Flemish community law broke EU law by insisting that all employment contracts must be drafted in Dutch, the language used in that part of Belgium.

Under the Flemish law on the use of languages, workers must sign their employment contract in Dutch. Non-compliance results in a cancellation of the contract, even if the worker comes from abroad.

---

[2]. Press Release, Dep't for Bus. Innovation & Skills, Dep't for Culture Media & Sport, & Gov't Equalities Office, Women on boards 2013: Two years on (Apr. 10, 2013), *available at* https://www.gov.uk/government/news/women-on-boards-2013-two-years-on.

[3]. View the Cranfield Report at http://www.som.cranfield.ac.uk/som/dinamic-content/media/Research/Research%20Centres/CICWL/FTSEReport2013.pdf.

[4]. Press Release, Cranfield Univ. School of Mgmt., Progress stalls again for women on boards (Apr. 10, 2013), *available at* http://www.som.cranfield.ac.uk/som/som_applications/somapps/oepcontent.aspx?pageid=14249&apptype=newsrelease&id=4856.

The Belgian court asked the ECJ to **determine** if the Flemish law infringed the freedom of movement of workers within the European Union.

Last week the ECJ said that it noted that "… only the Dutch text is authentic in the drafting of cross-border employment contracts concluded by employers whose established place of business is located in the Dutch-speaking region of Belgium. Consequently, such legislation, which is liable to have a dissuasive effect on non-Dutch-speaking employees and employers from other member states, constitutes a restriction on freedom of movement for workers." The court added that such a restriction is justified "only if it pursues an objective in the public interest, is appropriate to ensuring the attainment of that objective, and is strictly proportionate".

"Yet parties to a cross-border employment contract do not necessarily have knowledge of Dutch," the court said. "In such a situation, the establishment of free and informed consent between the parties requires those parties to be able to draft their contract in a language other than the official language of that member state." The Luxembourg-based court found that the Flemish community had infringed the rights of Anton Las, a Dutch national who was working for a multinational group whose registered office is in Singapore. Not long after Las was hired as chief financial officer of PSA Antwerp, his employers terminated his contract, which was drafted in English

In Belgium the linguistic divide between the country's two main populations, the Dutch-speaking Flemish community in the north and the French-speaking Walloons in the south, continues to give rise to severe political tensions. Between June 2010 and December 2011, Belgium went through the worst political crisis in its history, which started with a dispute between French- and Dutch-speaking parties regarding electoral boundaries surrounding the capital, Brussels. The crisis left Belgium without a government for 541 days. There is a significant body of opinion in Flanders which would like to see it break away from Belgium and set up as an independent republic.

EU: Agency work not covered by Fixed-Term Work Directive

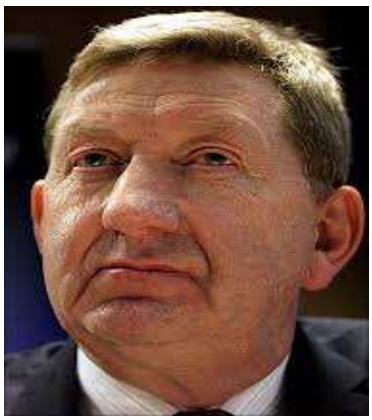
Posteitaliane

In a judgement delivered on April 11 the European Court of Justice said that agency workers were not covered by the Fixed-Term Work Directive, which limits the number of fixed-term contracts that a company can use with any individual employee.

The ECJ said that the Directive only covered workers who were directly employed by the company. *Oreste Della Rocca* was assigned by a temporary work agency to Poste Italiane three times between November 2005 and January 2007. He argued before an Italian court that he should instead have been employed permanently by Poste Italiane and that his continual employment on successive short-term contracts was in breach of the Fixed-Term Work Directive, as transposed into Italian law.

The Italian court referred the matter to the ECJ for interpretation. The court ruled that "triangular relations" involving a worker, an agency and an end-user employer were outside the scope of the Directive.

UK: McCluskey re-elected Unite general secretary with underwhelming mandate



Len McCluskey, Unite general secretary, has been re-elected to the position, beating his only opponent, Jerry Hicks, by 144,570 to 80,000. With the turnout around 15%, McCluskey has been re-elected by around 10% of the union's 1.5 million members.

McCluskey was originally elected to the position in 2010 meaning that the next election should not have been held until 2015. However, the union said it had brought it forward to this year to avoid clashing with the UK general election which will be held in 2015Commentators have suggested other reasons for the early election.

It gave opponents no time to mount an effective campaign against him,

and ensures that McCluskey gets another five years to put his own people in place across the organisation and to move it sharply to the left. It will also avoid the potential embarrassment of seeking to keep a 65 year old from continuing as General Secretary until he is nearly 70, at a time when the union is resisting the raising of retirement ages for its members ("68 is too late").

McCluskey is a 62 year old former Liverpool clerk who worked on the docks. He became a full-time local union officer in 1979 and then a national union officer in 1990. Hicks is the former union convenor of Rolls-Royce in Bristol and a supporter of maverick left-wing MP, George Galloway's far-left Respect Party. Since been sacked by the company in 2005 he has become the organiser of the "Grassroots left faction" in Unite.

Since his election in 2011 McCluskey has set up a £25m dispute fund to support union members financially. No industrial dispute has been repudiated by the union, and it has become quite adept at avoiding legal penalties for supporting unofficial and illegal strikes. He has also adopted a version of the US unions' "corporate campaign" strategy as a way of putting pressure on companies other than through strike action. He has also opened union membership to "community activists". Politically, he wants to "take back" the Labour Party from its current moderate leadership, even though he helped elect Ed Miliband as party leader after the resignation of Gordon Brown. His supporters hope he will reinvigorate it with their 'values' and push Unite activists into Parliament. More recently, he has backed calls for a one-day general strike against the coalition government's austerity policies

For the moment it is unclear exactly how his re-election will impact the way Unite officials approach European Works Councils going forward.

US: Supreme Court limits reach of Alien Tort Statute

The U.S. Supreme Court has given multinational corporations legal protection from at least some lawsuits over alleged atrocities overseas, by severely curtailing the scope of the Alien Tort Statute. In ***Kiobel v. Royal Dutch Petroleum, Co*** the justices threw out a suit accusing two foreign-based units of Royal Dutch Shell of facilitating torture and executions in Nigeria. The majority said the 1789 Alien Tort Statute generally doesn't apply to conduct beyond U.S. borders. Human-rights advocates say Alien Tort Statute suits let atrocity victims hold their perpetrators accountable. Alleged victims have invoked the law more than 150 times in the past 20 years.

Chief Justice John Roberts said a company couldn't be sued under the Alien Tort Statute simply because it had a "corporate presence" in the U.S. In the Shell case, "all the relevant conduct took place outside the United States," he wrote for the court. The justices were unanimous on the outcome in the Shell case, while dividing in their reasoning. He pointed to the "presumption against extraterritoriality," saying that legal principle limits the reach of the Alien Tort Statute. The court's four Democratic appointees -- Stephen Breyer, Ruth Bader Ginsburg, Sonia Sotomayor and Elena Kagan -- wrote separately to say they would have reached the same result using different reasoning. Three other justices -- Anthony Kennedy, Samuel Alito and Clarence Thomas -- said in separate opinions that the ruling was a narrow one. Kennedy said the court "is careful to leave open a number of significant questions." The suit before the high court was pressed by Nigerians who said two Shell units were complicit in torture and execution in the country's Ogoni region from 1992 to 1995. Shell denies the allegations.

Roberts's opinion didn't explicitly say U.S. corporations could be sued, and suggested that they might be insulated, just like foreign companies. "Even where the claims touch and concern the territory of the United States, they must do so with sufficient force to displace the presumption against extraterritorial application," the chief justice wrote. "Corporations are often present in many countries, and it would reach too far to say that mere corporate presence suffices." Breyer wrote separately to say he would allow lawsuits in several circumstances, including cases involving an American citizen as a defendant or a wrongdoing on U.S. soil. He also suggested that suits could go forward if the alleged perpetrator had taken refuge in the U.S.

The Supreme Court ruling has triggered significant comment which can be found here: **http://www.business-humanrights.org/Documents/SupremeCourtATCAReview**. Already, one group of activists is calling on the EU to push forward with legislation to "fill the gap" left by the Kiobel decision.

THE BEERG AGENDA

BEERG MEETING: June 12 - 14 - Hotel Estela, Sitges, Barcelona

The June 2013 BEERG meeting will take place at the **Hotel Estela**, south of Barcelona. Topics to be covered at the meeting include:

- Is there a future for industry in Europe?
- How have European companies managed through with the economic crisis?
- Changes in labour law in Spain
- Obama 2: What can we expect?
- How to "Twitter a Tweet" – using social media to enhance you company image.
- Confirmed speakers (others will be added) include:

Dan Yager, *HR Policy*	Wilma Liebman, *Fmr chair US National Labor Relations Board*
Anna Kwiatkiewicz, *Leuven University*	Annemarie Muntz, *Randstad*
Alex Valls, *Baker McKenzie*	Manuel Martinez, *American Express*
Rick Warters, *UTC*	Fabian Zuleeg, *Chief Economist, European Policy Centre*
Nick Thomas, *Morgan Lewis*	Pascal Tanchoux, *Oneida Assdocies*

The meeting will start with a welcome/networking reception on the Wednesday evening. The sessions will commence at 9am on Thursday morning and run until lunchtime on Friday June 14th. Contact derek.mooney@beerg.com if you wish to attend.

BEERG One Day Workshop: Changes in labor Law in Europe: *Restructuring, Collective Dismissals & Disclosure of Non Financial Information* – New York, Wednesday, July 10

BEERG will be running a one-day workshop in New York on Wednesday, July 10 on current and iminent changes in European Labor Law. The workshop will focus on developments involving Restructuring, EWCs, Collective Dismissals and potential new obligations on companies to disclose non financial information covering their environmental social & human rights policies.

It will be hosted by **IBM** at their offices at **590 Madison Avenue, Manhattan, New York, NY 10022**. Meeting starts at 08.30 and finishes at 16.00. Speakers include:

- Tom Hayes, Executive Director, BEERG.
- Vincent Toman, an employment lawyer with the London Law firm, Lewis Silkin.
- Philippe Grabli of Oneida Associes, who has worked with many US companies on restructuring projects in France.
- Emmanuelle Rivez-Domont from Jones Day, Paris.
- Alex Valls, Baker McKenzie, Spain.

Attendance fee: €650. (Includes coffee on arrival and light lunch) Places are limited - to book, email: derek.mooney@beerg.com

TRAINING PROGRAMS

June 25-26; August 20-22 - *HR Policy Global Labor Relations Mastery Program*

HR Policy has concluded the first component of the *Understanding the Global Labor Challenge* program and now has dates for the additional components they are adding to complete the mastery certification:

- *The International Labor & Human Rights Agenda – Implications for Global Firms and their Value Chain* takes a deep dive into International Labor Standards and explores how globalization and the international labor and human rights agendas are raising expectations and shifting responsibility from the firm to the chain of firms involved in bringing a product or service to the buyer.

Dates/Locations: **June 25-26 in Washington, D.C. area**

- *Developing and Leading an Effective Global Labor Relations Program* provides more in-depth guidance on creating the essential elements of a multinational employment/labor relations program including building the business case for change, defining success, and creating a global employee & labor relations strategy.

Date/Location: **August 20-22 in New York City**

© 2013 BEERG, All Rights Reserved.

BEERG Sàrl, Route de Pré-Bois 20, Case postale 1889, 1215 Genève 15 Aéroport
Phone: + 33 684752 122 I **E-mail:** info@beerg.com I **Website:** www.beerg.com