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Concept note

Prepared by the Working Group on the issue of human rights and transnational corporations and other business enterprises

I. Introduction

1. The global business and human rights agenda reached a key milestone in 2011, when the Human Rights Council unanimously endorsed the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework.¹ The Council recognized the role of the Guiding Principles in providing guidance that will contribute to enhancing standards and practices with regard to business and human rights, and thereby contribute to a socially sustainable globalization.

2. The endorsement by the Council effectively established the Guiding Principles as the authoritative global standard for preventing and addressing adverse impacts on human rights arising from business-related activity. The standards in the Guiding Principles have already been incorporated into a number of other leading international standards, initiatives and guidance, contributing to the “convergence” of international standards and processes.²

3. The Guiding Principles were presented by the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises after a six-year process of extensive multi-stakeholder consultations and research. They provide the normative and operational standard for the implementation of the United Nations “Protect, Respect and Remedy” Framework for business and human rights structured around three pillars:³

- The State duty to protect against human rights abuses by third parties, including business enterprises, through policies, regulation and adjudication.

¹ Human Rights Council resolution 17/4, annex.

² See, for example, the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises (A/67/285).

³ See A/HRC/8/5. See also A/HRC/11/13 and A/HRC/14/27.

- The corporate responsibility to respect human rights, which means that business enterprises should act with due diligence to avoid infringing on the rights of others and to address the adverse impacts with which they are involved.
 - The need for greater access to remedy, through both judicial and non-judicial grievance processes, for victims of business-related abuse.
4. The Guiding Principles clarify and elaborate on the provisions of the existing international human rights treaty framework as it relates to the issue of business and human rights, and provide guidance on how to operationalize it.
5. Having endorsed the Guiding Principles, the Human Rights Council decided to establish the Working Group on the issue of human rights and transnational corporations and other business enterprises to promote their effective and comprehensive dissemination and implementation.⁴ The Working Group is mandated to identify, exchange and promote good practices and lessons learned on the implementation of the Guiding Principles; to continue to explore options for enhancing effective remedies available to those whose human rights are affected by corporate activities, including those in conflict areas; and to integrate a gender perspective throughout the work of the mandate and to give special attention to persons living in vulnerable situations, in particular children.
6. The Human Rights Council furthermore decided to establish a Forum on Business and Human Rights under the guidance of the Working Group.⁵

II. Aims and objectives of the Forum

7. The second annual Forum will take place on 3 and 4 December 2013 in Geneva, with multiple pre-events on 2 December. As per its mandate, the Forum aims to serve as a key annual venue for stakeholders from all regions to engage in dialogue on business and human rights, and to strengthen engagement towards the goal of effective and comprehensive implementation of the Guiding Principles. By bringing together relevant stakeholders, the Forum aids in identifying trends, challenges and good practices in the implementation of the Guiding Principles by States and business enterprises, as well as by other stakeholders, including challenges faced in particular sectors, operational environments or in relation to specific rights or groups.
8. Pursuant to resolution 17/4, the chairperson of the Forum is nominated by members and observers of the Human Rights Council and appointed for each session by the Council President, on the basis of regional rotation and in consultation with the regional groups. The chairperson serves in his or her personal capacity.
9. The first Forum was held on 4 and 5 December 2012.⁶ The background note prepared in advance of the first Forum by the Secretariat outlined some key trends and challenges in their implementation, which continue to be relevant.⁷ The first annual Forum was chaired by John Ruggie, former Special Representative on the issue of human rights and transnational corporations and other business enterprises, serving in his personal capacity.

⁴ Human Rights Council resolution 17/4, para. 6.

⁵ *Ibid.*, para. 12.

⁶ See the webpage of the 2012 Forum for documentation and links to the webcasts of various sessions: www.ohchr.org/EN/Issues/Business/Forum/Pages/2012ForumonBusinessandHumanRights.aspx.

⁷ See A/HRC/FBHR/2012/2, chaps. II and III.

10. About 1,000 participants, from over 80 different countries, registered for the first Forum,⁸ making it the largest global gathering on business and human rights to date. Approximately 50 Governments registered, along with about 150 business enterprises, 170 civil society organizations, 5 international trade union networks and about 20 national human rights institutions, as well as at least 15 specialized agencies from the United Nations system and 17 international and regional institutions. The official programme of the 2012 Forum included more than 20 sessions, in addition to a number of side events.⁹

11. The 2012 Forum was the first opportunity on this scale to discuss the implementation and dissemination of the Guiding Principles. Discussions at the Forum further solidified global expectations that the way business enterprises operate and contribute to environmental, social and economic impacts can no longer be limited to voluntary and ad hoc measures, and the imperative of comprehensive implementation by States of their duty to protect against business-related human rights abuse.

III. The Forum and the mandate and strategy of the Working Group

12. The Working Group is charged with the task of promoting the dissemination and implementation of the Guiding Principles globally. In this respect, the Forum is a key platform to advance the Working Group's strategy¹⁰ and support the overarching considerations that the Guiding Principles should provide a common reference point in the rapidly evolving field of business and human rights; that they should be used to enhance accountability for adverse business-related human rights impacts; and that there is a need to cultivate an environment conducive for their uptake by all stakeholders. The Working Group considers the Forum as a key vehicle for pursuing and reinforcing its three main work streams:¹¹

(a) Supporting global dissemination of the Guiding Principles by engaging with new audiences as well as actors that may serve as multipliers and catalysts in generating effective and comprehensive dissemination and implementation;

(b) Promoting the implementation of the Guiding Principles by addressing the situation of vulnerable groups, including indigenous peoples; encouraging implementation efforts at regional and national levels; sharing good practices; and providing further clarification on the application of the Guiding Principles;

(c) Embedding the Guiding Principles in global governance frameworks by engaging with relevant institutions overseeing existing and emerging governance frameworks and with United Nations bodies; and seeking to complement and build upon the strength of important early successes of alignment with the Guiding Principles.

13. Specific activities of the Working Group play an important role in informing discussions at the annual Forum. In 2012 the Working Group announced its intention to hold regional forums on business and human rights as part of global efforts to promote the effective and wide dissemination and implementation of the Guiding Principles. The main purpose of regional forums is to reach out to a broader set of local and regional actors and identify challenges and lessons learned at a regional level from efforts to implement the

⁸ See the list of registered organizations for the 2012 Forum (as at 28 November 2012) at www.ohchr.org/EN/Issues/Business/Forum/Pages/2012ForumonBusinessandHumanRights.aspx.

⁹ See A/HRC/FBHR/2012/INF.1.

¹⁰ See the 2012 report of the Working Group (A/HRC/20/29).

¹¹ See A/HRC/20/29, paras. 63–74.

Guiding Principles. The first Regional Forum on Business and Human Rights for Latin America and the Caribbean was held in Medellín, Colombia from 28 to 30 August 2013, in collaboration with the United Nations Development Programme and the Government of Colombia. A regional forum for Africa is being explored for 2014. The regional forums will serve as key platforms for informing the discussions at the annual Forum in Geneva.

14. Further, in 2012, the Working Group decided to conduct two pilot surveys on the uptake and implementation of the Guiding Principles: one of States and one of business enterprises. The objective of the pilot surveys was to build the methodological foundations for a tool that can be used annually to identify global uptake trends, as well as enablers and challenges of implementation, while simultaneously signalling the Working Group's expectations that all States and all business enterprises implement the Guiding Principles. The long-term objective is to generate reliable, evidence-based information to track systemic progress and inform the Working Group and other stakeholders involved in developing guidance on business and human rights.

15. Presentation of survey results is envisaged as a regular item at the annual Forum as a key tool for informing discussions. State and business¹² surveys are being planned for 2013,¹³ subject to available resources.

IV. Consultation on the Forum

16. In preparation for the second annual Forum, the Working Group invited States, business, civil society and other stakeholders to submit their suggestions on topics and modalities for the Forum. In particular the Working Group asked for suggestions on:

- Specific topics/panels for the Forum, including names of potential speakers;
- Specific industry sectors, to inquire on how the intersection between pillars one, two and three of the Guiding Principles (the State duty to protect, the corporate responsibility to respect and access to remedy) play out in such sectors across the globe;
- Regional dynamics in the implementation of the Guiding Principles, including the interaction between regional bodies and individual States and business enterprises;
- Examples of Guiding Principles implementation practice by States, business enterprises or other stakeholders on all or certain aspects of the Guiding Principles, for example, transparency measures such as reporting requirements;
- Specific examples of strategic initiatives that can shape State and business uptake of the Guiding Principles;
- Modalities that may be conducive to engaging key stakeholders and promoting multi-stakeholder dialogue at the Forum;

¹² The business survey was conducted in collaboration with the International Organisation of Employers, the International Chamber of Commerce, the Global Business Initiative on Human Rights, and the Department of Business Ethics and Legal Studies at the Daniels College of Business (University of Denver).

¹³ Subject to the availability of resources, the Working Group is exploring the possible addition of a third part to the survey in 2014 focused on challenges faced by civil society and innovations in advocacy approaches, in order to identify perspectives on where progress is being made and where further work is needed on dissemination and implementation of the Guiding Principles.

- How to enhance the geographical balance of and participation by key stakeholders from all regions, including business enterprises and affected individuals and communities.

17. The deadline for submissions closed on 12 April 2013; over 70 responses were received. The Working Group thanks all stakeholders who submitted inputs and suggestions. The Working Group has carefully considered all the submissions received and has incorporated them into the format and agenda of the Forum, where possible and appropriate, as well as into the multiple events envisioned for the day before the Forum. Unless the submitting organization specified otherwise, the submissions are posted on the website of the 2013 Forum.¹⁴

V. Format and agenda

18. The annual Forum in 2013 will feature both a greater regional focus and in-depth thematic discussions that will be aimed at contributing to a more nuanced understanding of regional differences in dissemination and implementation challenges as well as challenges and opportunities with regard to specific groups, sectors and key strategic issue areas.

19. As with the first annual Forum, the second Forum will be a multi-stakeholder platform, aimed at fostering the exchange of experiences and views of relevant stakeholder groups, including representatives of States, business, civil society, affected stakeholders and international institutions, as well as experts. It will also highlight the work of human rights defenders working in the area of promoting corporate responsibility.

20. At the first annual Forum, participants (including from Government, business and civil society) suggested that there was also a need for the second Forum to provide “safe spaces” for practitioners from the same stakeholder group in order to enable peer exchanges of perspectives and lessons on the implementation of the Guiding Principles. To respond to this request, while all sessions of the Forum will be multi-stakeholder, the Working Group and the Secretariat have decided to enable single-stakeholder “caucus” sessions to be held the day before the Forum, as these may play an important complementary role in facilitating additional learning and engagement opportunities. The following four key stakeholder groups have been identified for these sessions: government, business, civil society, and national human rights institutions.

21. An official preliminary agenda and programme of work will be posted on the Forum website in advance of the Forum.

VI. Participation in the Forum

22. Pursuant to Human Rights Council resolution 17/4, the Forum is open to the participation of States, United Nations mechanisms, bodies and specialized agencies, funds and programmes, intergovernmental organizations, regional organizations and mechanisms in the field of human rights, national human rights institutions and other relevant bodies, transnational corporations and other business enterprises, business associations, labour unions, academics and experts in the field of business and human rights, representatives of indigenous peoples and non-governmental organizations in consultative status with the Economic and Social Council; the Forum is also open to other non-governmental organizations whose aims and purposes are in conformity with the spirit, purposes and

¹⁴ See www.ohchr.org/EN/Issues/Business/Forum/Pages/2013ForumonBusinessandHumanRights.aspx.

principles of the Charter of the United Nations, including affected individuals and groups, based on arrangements, including Economic and Social Council resolution 1996/31 of 25 July 1996, and practices observed by the Commission on Human Rights, through an open and transparent accreditation procedure in accordance with the rules of procedure of the Human Rights Council.

23. Participating organizations are encouraged to share information about experiences of and tools and initiatives for advancing the business and human rights agenda and implementation of the Guiding Principles on Business and Human Rights, through interventions in sessions and informal dialogue across and within stakeholder groups. In addition to the plenary sessions, there will be a number of parallel sessions aimed at covering the breadth and depth of current realities and challenges pertaining to the implementation of the Guiding Principles. Parallel sessions may also allow a greater degree of exchange and dialogue among participants.

24. While the modality of sessions may vary, sessions will generally begin with introductory statements by panellists, followed by discussions open to interventions from the floor. Sessions will be structured to encourage, as far as possible, interactivity and open discussions among all stakeholders.

25. Participants wishing to highlight specific issues or to present cases, research or innovative tools in addition to those covered in the official programme also had the option to request space for holding their own side events. Proposals were submitted to the Forum secretariat, and organizations were requested to specify the theme, objective and link to the Forum mandate. Decisions on side events are made on the basis of proposals received by 1 October 2013 and subject to available space, the relevance of the proposed topic to the mandate of the Forum's mandate, and the need to ensure stakeholder balance. Side events are open to all Forum participants, and are a further opportunity for multi-stakeholder dialogue.

26. To further facilitate informal exchanges and promote dialogue, a public space — or “marketplace” — will be made available to participants in conjunction with the meeting rooms. Participating organizations wishing to use this opportunity to showcase information, tools and materials to other participants during the two days of the Forum may register for allocation of space, subject to availability.

27. Practical information about participation and accreditation is provided separately on the website of the Forum.

VII. Outcomes

28. The chairperson of the Forum is responsible for preparing a summary of the discussion of the Forum, to be made available to the Working Group and all other participants of the Forum.

29. In resolution 17/4, the Human Rights Council also invited the Working Group to include in its report reflections on the proceedings of the Forum and recommendations for future thematic subjects for consideration by the Council.
