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Agenda item 3

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Argentina, Austria*, Canada*, Denmark*, Guatemala, India*, Nigeria, Norway, Peru*, Russian Federation, Sweden*, Turkey*: draft resolution

17/... Human rights and transnational corporations and other business enterprises

The Human Rights Council,

Recalling Human Rights Council resolution 8/7 of 18 June 2008 and Commission on Human Rights resolution 2005/69 of 20 April 2005 on the issue of human rights and transnational corporations and other business enterprises,

Recalling also Human Rights Council resolutions 5/1 and 5/2 of 18 June 2007, and stressing that the mandate holder shall discharge his/her duties in accordance with those resolutions and the annexes thereto,

Stressing that the obligation and the primary responsibility to promote and protect human rights and fundamental freedoms lie with the State,

Emphasizing that transnational corporations and other business enterprises have a responsibility to respect human rights,

Recognizing that proper regulation, including through national legislation, of transnational corporations and other business enterprises, and their responsible operation can contribute to the promotion, protection and fulfilment of and respect for human rights and assist in channelling the benefits of business towards contributing to the enjoyment of human rights and fundamental freedoms,

Concerned that weak national legislation and implementation cannot effectively mitigate the negative impact of globalization on vulnerable economies, fully realize the benefits of globalization or derive maximally the benefits of activities of transnational corporations and other business enterprises and that further efforts to bridge governance gaps at the national, regional and international levels are necessary,

* Non-Member State of the Human Rights Council.

Recognizing the importance of building the capacity of all actors to better manage challenges in the area of business and human rights,

1. *Welcomes* the work and contributions of the Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises, and endorses the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, as annexed to the report of the Special Representative;¹

2. *Also welcomes* the broad range of activities undertaken by the Special Representative in the fulfilment of his mandate, including in particular the comprehensive, transparent and inclusive consultations conducted with relevant and interested actors in all regions and the catalytic role he has played in generating greater shared understanding of business and human rights challenges among all stakeholders;

3. *Commends* the Special Representative for developing and raising awareness about the United Nations Protect, Respect and Remedy Framework based on three overarching principles of the State duty to protect against human rights abuses by, or involving, transnational corporations and other business enterprises, the corporate responsibility to respect all human rights, and the need for access to effective remedies, including through appropriate judicial or non-judicial mechanisms;

4. *Recognizes* the role of the Guiding Principles on Business and Human Rights in providing comprehensive recommendations for the implementation of the United Nations Protect, Respect and Remedy Framework, as well as guidance that will contribute to enhancing standards and practices with regard to business and human rights, and thereby contribute to a socially sustainable globalization, without foreclosing any other long-term development, including further enhancement of standards;

5. *Emphasizes* the importance of multi-stakeholder dialogue and analysis to maintain and build on the results achieved to date and to inform further deliberations of the Human Rights Council on business and human rights;

6. *Decides* to extend the mandate of the special procedure on the issue of human rights and transnational corporations and other business enterprises as a working group of five independent experts, of balanced geographical representation, for a period of three years, to be appointed by the Human Rights Council at its eighteenth session, and requests the Working Group:

(a) To promote the effective and comprehensive dissemination and implementation of the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework;

(b) To identify, exchange and promote good practices and lessons learned on the implementation of the Guiding Principles and to assess and make recommendations thereon and, in that context, to seek and receive information from all relevant sources, including Governments, transnational corporations and other business enterprises, national human rights institutions, civil society and rights-holders;

(c) To provide support for efforts to promote capacity-building and the use of the Guiding Principles, as well as, upon request, to provide advice and recommendations regarding the development of domestic legislation and policies relating to business and human rights;

(d) To conduct country visits and to respond promptly to invitations from States;

¹ A/HRC/17/31.

(e) To continue to explore options and make recommendations at the national, regional and international levels for enhancing access to effective remedies available to those whose human rights are affected by corporate activities;

(f) 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;

(g) To work in close cooperation and coordination with other relevant special procedures of the Human Rights Council, relevant United Nations and other international bodies, the treaty bodies and regional human rights organizations;

(h) To develop a regular dialogue and discuss possible areas of cooperation with Governments and all relevant actors, including relevant United Nations bodies, specialized agencies, funds and programmes, in particular the Office of the United Nations High Commissioner for Human Rights, the Global Compact, the International Labour Organization, the World Bank and its International Finance Corporation, the United Nations Development Programme and the International Organization for Migration, as well as transnational corporations and other business enterprises, national human rights institutions, representatives of indigenous peoples, civil society organizations and other regional and subregional international organizations;

(i) To guide the work of the Forum on Business and Human Rights;

(j) To report annually to the Human Rights Council and the General Assembly;

7. *Encourages* all Governments, relevant United Nations agencies, funds and programmes, treaty bodies, civil society actors, including non-governmental organizations, as well as the private sector to cooperate fully with the Working Group in the fulfilment of its mandate by, inter alia, responding favourably to visit requests by the Working Group;

8. *Invites* international and regional organizations to seek the views of the Working Group when formulating or developing relevant policies and instruments;

9. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide all the necessary assistance to the Working Group for the effective fulfilment of its mandate;

10. *Welcomes* the contributions of the Global Compact in the area of business and human rights, and invites it to promote the dissemination and implementation of the Guiding Principles among its members;

11. *Also welcomes* the important role of national human rights institutions established in accordance with the Paris Principles in relation to business and human rights, and encourages national human rights institutions to further develop their capacity to fulfil that role effectively, including with the support of the Office of the High Commissioner and in addressing all relevant actors;

12. *Requests* the Secretary-General to prepare a report on how the United Nations system as a whole, including programmes and funds and specialized agencies, can contribute to the advancement of the business and human rights agenda and the dissemination and implementation of the Guiding Principles, addressing in particular how capacity-building of all relevant actors to this end can best be addressed within the United Nations system, to be presented to the Human Rights Council at its twenty-first session;

13. *Decides* to establish a forum on business and human rights under the guidance of the Working Group to discuss trends and challenges in the implementation of the Guiding Principles and promote dialogue and cooperation on issues linked to business and human rights, including challenges faced in particular sectors, operational

environments or in relation to specific rights or groups, as well as identifying good practices;

14. *Also decides* that the Forum shall be 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 shall also be open to other non-governmental organizations whose aims and purposes are in conformity with the spirit, purposes and 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;

15. *Further decides* that the Forum shall meet annually for two working days;

16. *Requests* the President of the Human Rights Council to appoint for each session, on the basis of regional rotation, and in consultation with regional groups, a chairperson of the Forum, nominated by members and observers of the Council; the chairperson serving in his/her personal capacity shall be responsible for the preparation of a summary of the discussion of the Forum, to be made available to all participants of the Forum;

17. *Invites* 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 Human Rights Council;

18. *Requests* the Secretary-General and the High Commissioner to provide all the necessary support to facilitate, in a transparent manner, the convening of the Forum and the participation of relevant stakeholders from all regions in its meetings, giving particular attention to ensuring participation of affected individuals and communities;

19. *Decides* to continue consideration of this question in conformity with the annual programme of work of the Human Rights Council.
