



General Assembly

Distr.: General
15 June 2012

English only

Human Rights Council

Twentieth session

Agenda item 3

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

Written statement* submitted by the International Organisation of Employers, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 June 2012]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Human rights, transnational corporations and other business enterprises

The International Organization of Employers (IOE), the most representative voice of global business, welcomes the opportunity to submit a statement to the 20th regular session of the Human Rights Council on the topic of Human rights and transnational corporations and other business enterprises.

General comments

1. The Employers very much appreciate the open communication and consultative approach the UN Working Group on Human rights and transnational corporations and other business enterprises has taken so far. It was this open approach which was the success factor of the UN special representative John Ruggie. The Employers are very satisfied that the Working Group continues with this approach.
2. The Employers very much support the statement of the UN Working Group in its first report to the UN Human Rights Council that it will take a balanced approach that seeks to advance efforts in each of the three pillars of the framework in tandem. There are already several initiatives undertaken by different actors which mainly focus on the second pillar of the UN framework on the responsibility of companies to respect human rights. We hope this focus does not mean that work on the duty of states to protect and access to remedy are not also being given equal attention in the work and thinking of the working group. As we have stressed before the role of the state in establishing and enforcing a robust protection framework at national level is vital to allow business enterprises themselves to give effect to their duty to respect. Working on one pillar without due attention to the others runs the risk of distorting the realization of human rights and risks the clear separation of responsibilities of governments and business under the principles. The ongoing work of the working group should not lead to any misunderstanding of the importance of all three pillars of the framework being advanced.
3. Especially the Human Rights Council together with other UN agency should, therefore, focus in the context of the work of the Working Group on the support for States in their duty to protect the human rights at national level so that business can more easily fulfill their responsibility to respect human rights. Due diligence will be much more easy for companies when states properly fulfill their “protect” duty. Thus, particular attention has to be paid to states which are not in a position to implement and enforce human rights effectively. Such states must be helped to build up the appropriate judicial and administrative structures through more, better and more coordinated technical support.
4. The IOE supports the outlined strategy of the Working Group which is based on “promoting convergence, avoiding duplication, maintaining integrity, a balanced development, clarity and simplicity as well as encouraging results”. The Working Group identified the right principles to promote the up-take and implementation of the UN Guiding Principles in the spirit of the UN framework on business and human rights.
5. The outlined work stream of the Working Group is supported by employers as well. Global dissemination, promoting implementation, and embedding the Guiding Principles in global governance frameworks are the right means to implement the outlined strategy of the Working Group.

Specific comments

6. Engaging with stakeholders: The first report of the Working Group rightly stresses the need for the Working Group to consult and engage widely with stakeholders. In order to be meaningful and credible, engagement with stakeholders has to be direct and/or through their representative organization, not through states or state agencies. In the case for business that means that contact to companies has to be through the representative business organization at local, national, regional or international level. It is not up to governments to propose or nominate enterprises for consultation or participation in events of the Working Group in the field as well as in Geneva, as for instance for the Forum on Business and Human Rights in December 2012.

7. Think small first: When getting involved in promotional activities of the UN Guiding Principles the Working Group as well as states should not solely concentrate on the known MNE actors and brands, but on the mass of small and medium size companies (SMEs). The Working Group recognizes this need by focusing on “reaching a new audience”. Indeed, it is important not to underestimate the international business operations of SMEs: middle-ranking companies have long been very active at international level. And it is precisely these companies that need support. It is therefore urgently necessary that the Working Group and member states target the expansion and strengthening of structures and initiatives which support all companies in their corporate responsibility for human rights and their due diligence exercise. This includes also companies which are not in global supply chains and not cross border active. It is important that small and medium-sized enterprises have easy access to these initiatives.

8. Integrity of the UN guiding principles: The UN Working Group rightly stressed the urgent need to keep the integrity of the UN Guiding Principles. With regard to the members of the UN Human rights Council and other member states this means that they should be very sure in their undertakings concerning the implementation of the UN Guiding Principles that they are within the UN framework. The Guiding Principles cannot be a moving target and it is not possible to have a thousand of interpretations what they might mean. Business needs certainty with regard to its responsibility to respect. The interpretive guide of the Office of the High Commissioner of Human Rights is an important reference in this regard.

9. Constructive approach: The UN Working Group endeavors to advance the adoption and implementation of the UN Protect, Respect, Remedy framework. A constructive approach is key for the success of the Working Group. As the Working Group is not a complaint body, the Forum on Business and Human Rights must also not become a platform for complaint and accusation. The Forum must mirror the mandate and should be outcome oriented.

10. Using the first forum on business and human rights for stock taking: Since it is the first Forum the main focus should be on stock taking of existing initiatives and activities as well as on gaps and needs of stakeholders. Beyond the initiatives and activities listed already in the report of the Working Group there are masses of activities going on by employers organizations, multi-stakeholder initiatives, states, ... The IOE for instance has not only drafted promotional material with regard to the UN Guiding Principles, but is also running webinars to support the implementation of the Guiding Principles by companies. The Forum would be already a success if it would be possible to share this huge amount of experiences. It also would allow the Working Group to identify success factors and barriers when implementing the UN Guiding Principles. Moreover, it would enable the Working Group to get a better insight in how far the different activities are actually properly built on the Guiding Principles.