



**Parallel session: 18 November 2015, 10:00 to 11:20, Palais des Nations**

**(Room XXIII (Building E))**

## **Integrating human rights in State-owned enterprises and other business controlled by the State: Challenges and lessons learned**

*Organized by the UN Working Group on Business and Human Rights*

### ***Focus of the session***

This session will focus on discussing the challenges and lessons learned in integrating human rights in State-owned enterprises and other business controlled by the State. It will offer an opportunity to foster dialogue among different stakeholders on the growing integration of human rights to the operations of State-owned enterprises and will showcase examples of good practice and areas for further development.

### ***Background***

When addressing the issue of business and human rights, and in the broader area of responsible business conduct, States tend to talk about business in the third person. They tend to ignore the fact that the State has a direct stake in the economy, or control of the economy through its business relationships. The private sector often notes that States do not apply the same standards to their own activities as they require from private enterprises, and that there is a need for governments to “get their own house in order”. The session provides an opportunity to look at policy coherence, and address the role of the State as an economic actor. The session will consider the responses to the Working Group’s May 2015 State survey, and the recent G7 declaration, and will emphasise the importance of States “leading by example”. The session will adopt a multi-stakeholder approach in order to assess challenges and lessons learned when integrating human rights in State-owned enterprises and other business controlled by the State.

In relation to the May 2015 State survey, this focused on the roles and responsibilities of States as economic actors, including with regard to business enterprises owned/operated/managed by the State, business enterprises in which the State is a majority shareholder or exercises substantial control, and financial institutions such as sovereign wealth or pension funds, development banks, export credit

agencies and official investment and insurance guarantee agencies. The survey related to Guiding Principle 4 of the UN Guiding Principles on Business and Human Rights. Guiding Principle 4 clarifies that, as part of their duty to prevent and address adverse human rights impacts arising from business activities, *“States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies and official investment insurance or guarantee agencies, including, where appropriate, by requiring human rights due diligence.”* The commentary to that principle clarifies that business enterprises owned or controlled by the State may, in certain circumstances, involve direct international human rights law obligations for the State in question, and that in all circumstances these enterprises are subject to the corporate responsibility to respect human rights. Key elements of this responsibility include a policy commitment to respect human rights throughout operations, human rights due diligence and addressing adverse impacts that may occur.

The State’s own human rights obligations are also directly implicated when the State contracts with business enterprises that provide services that may impact upon the enjoyment on human rights (e.g. privatized service delivery providers) or act as a purchaser of goods, through public procurement activities (see Guiding Principles 5 and 6). The survey, however, focused specifically on the requirements set out in Guiding Principle 4 and aimed to identify progress and good practices in the implementation of the Guiding Principles. Responses received from States will inform the discussion.

### ***Aims and objectives***

- Support the UN Working Group’s efforts to promote States’ use of the Guiding Principles in State-owned enterprises
- Understand the obstacles to the effective integration of human rights into the operations of State-owned enterprises
- Present and discuss examples of good practice in the implementation in this area
- This session will adopt a multi-stakeholder approach in order to assess experiences in different regions, and examine the lessons learned by States and other stakeholders.

### ***Key discussion questions***

- What has been the experience of States when integrating human rights in State-owned enterprises and other business controlled by the State? What have been the specific challenges and lessons learned?
- What has been the experience of human rights defenders and indigenous peoples seeking to engage on human rights issues with State-owned enterprises and other business controlled by the State?
- What are the different challenges and opportunities encountered by State-owned enterprises and other business controlled by the State compared to businesses that are not controlled/organized in this way?
- Are there different challenges and different lessons learned in relation to States located in the Global North and the Global South?

- Whether Government policies and/or regulations and/or guidance that address the need for enterprises that are owned or controlled by the State to implement respect for human rights throughout their operations include:
  - ❖ Requirements or expectations for State-owned enterprises to undertake human rights due diligence?
  - ❖ Provisions for human rights due diligence relating to activities in other countries/abroad?
  - ❖ Requirements to report on human rights risks and/or impacts, and if so on what issues?
- Do States have any policies and/or regulations and/or guidance with regard to joint ventures involving the State (e.g. in the extractive sector)? If yes, do these also apply to joint venture partners?
- Are publicly owned funds (e.g. pension or sovereign wealth funds) required or expected to include human rights risks in fund management criteria?
- Whether publicly owned or controlled financial institutions (e.g. export credit agencies, official investment insurance agencies or development finance institutions) have safeguard policies that refer to human rights?
- If publicly owned or controlled financial institutions have safeguard policies that refer to human rights, do they have human rights due diligence requirements for clients that benefit from financial or advisory support?

### *Panel*

#### **Introductory remarks and Moderator:**

Mr. Dante Pesce, Member of the Working Group on Business and Human Rights

#### **Speakers:**

1. Mr. Jens Schlyter, Special Advisor, Sustainable Business, Ministry of Enterprise and Innovation, Government Offices of Sweden
2. Mr. Liang Xiaohui, China National Textile and Apparel Council & Peking University
3. Mr. Myongsei Sohn, President, Korea Health Insurance Review and Assessment Service
4. Dwight Justice, International Trade Union Confederation
5. Ms. Malin Helgesen, Leading Counsel, Legal, Statoil
6. Ms. Viviane Schiavi, Senior Policy Manager, Corporate Responsibility & Anti-corruption, International Chamber of Commerce

### *Format*

Short introductory presentations (5 minutes) and moderated discussion amongst panellists and with the audience.

### *Background reading*

Responses to the Working Group's 2015 survey:

<http://www.ohchr.org/EN/Issues/Business/Pages/ImplementationGP.aspx>