
Advance edited version

Distr.: General
15 April 2014

Original: English

Human Rights Council
Forum on Business and Human Rights
Second session
2–4 December 2013

Summary of discussions of the Forum on Business and Human Rights, prepared by the Chairperson, Makarim Wibisono

Summary

The present document provides a summary of the discussions of the second annual United Nations Forum on Business and Human Rights, held from 2 to 4 December 2013. It provides a brief overview of the structure of the event and official proceedings, and should be read as an executive summary together with the session concept notes, statements and written submissions received, and session web recordings that are all available on the Forum website.

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I. Introduction

1. In its resolution 17/4, the Human Rights Council created an annual Forum on Business and Human Rights to be guided by the Working Group on the issue of human rights and transnational corporations and other business enterprises. The Forum was established to (a) discuss trends and challenges in the implementation of the Guiding Principles on Business and Human Rights (A/HRC/17/31); (b) 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; and (c) identify good practices.

2. The second annual Forum was held in Geneva from 2 to 4 December 2013.

3. As per resolution 17/4, the chairperson of the Forum, Makarim Wibisono, was appointed by the President of the Human Rights Council, served in his personal capacity, and was responsible for the preparation of this summary report, to be made available to the Working Group and participants of the Forum.

4. The Forum was prepared under the guidance of the Working Group, which has a strategy to maximize the potential of the Forum to serve as a key annual platform for relevant stakeholders from all regions to engage in dialogue on business and human rights, and strengthen engagement towards the effective and comprehensive implementation of the Guiding Principles. In preparation of the Forum, the Working Group issued a call for inputs from stakeholders on possible topics and key issues. More than 70 submissions were received.¹

5. The expanded scope and scale of the event was largely made possible thanks to a generous contribution from the Government of Norway and the substantive and organizational input from a large number of interested participants from all stakeholder groups.

II. Participation

6. The Forum's unique multi-stakeholder nature is derived from resolution 17/4, in which the Human Rights Council stipulates that the Forum shall be open to relevant stakeholders, sectors and disciplines, including States, United Nations mechanisms and entities, intergovernmental organizations, regional organizations and mechanisms, national human rights institutions, business enterprises and associations, labour unions, academics and experts, representatives of indigenous peoples and non-governmental organizations, and affected stakeholders.

7. The Forum was the largest global gathering convened to date to discuss progress and challenges in addressing business impacts on human rights and the implementation of the Guiding Principles, with a total of 1,489 pre-registered individuals.

8. It is estimated that more than 1,500 people from over 110 countries attended. Around 14 per cent of registered participants were from State delegations, 11 per cent from business enterprises and associations, 36 per cent from civil society, 10 per cent from academia, 4 per cent from national human rights institutions, 6 per cent from law firms, business advisory services and consultancies, 5 per cent from the United Nations system

¹ See <http://www.ohchr.org/EN/Issues/Business/Forum/Pages/2013ForumonBusinessandHumanRights.aspx>.

and other international organizations, and 1 per cent from trade union networks. There was equal representation of women and men.

9. In addition to the funding provided by the Government of Norway, the Government of Switzerland provided financial resources to support the attendance of participants from underrepresented countries and stakeholder groups at the annual Forum. Friedrich Ebert Stiftung Geneva assisted the Working Group and Office of the United Nations High Commissioner for Human Rights (OHCHR) with the organization of travel for a number of the participants from underrepresented countries and stakeholder groups, who benefitted from travel support.

10. All United Nations regional groups² were represented at the Forum: 16 per cent of registrants were from Africa, 12 per cent from Asia, 4 per cent from Eastern Europe, and 12 per cent from Latin America and the Caribbean. The Western Europe and Others group – which includes Australia, Canada, Israel, New Zealand and the United States – was represented with 56 per cent of the registrants.

11. Of the 1,489 pre-registered participants, 112 were representatives of business enterprises (in addition to the 50 who identified as from a business/industry association). Several sectors were represented, with around a third of the company participants identifying themselves as coming from the extractive sector.

12. A recurring message during the Forum discussions was that business participation needs to be enhanced.

III. Programme outline

13. The overall objective of the Forum on Business and Human Rights, as defined by the Human Rights Council, is to enhance the dissemination and implementation of the Guiding Principles and promote multi-stakeholder dialogue and cooperation on business and human rights. The programme was structured around identifying challenges and opportunities of specific groups, sectors and key strategic issue areas.

14. The Forum featured 20 official panel sessions and 25 side events over three days.³ The Forum's "pre-day" on 2 December offered (a) training sessions on the Guiding Principles; (b) side events with presentations on innovative tools and initiatives, as well as national cases of implementation practice and challenges; (c) side sessions hosted by the Working Group focused on regional trends and challenges in implementation of the Guiding Principles; and (d) single stakeholder sessions to assist in the further exchange of practices and perspectives on challenges. Official plenary and parallel panels were held on 3 and 4 December.

² See <http://www.un.org/depts/DGACM/RegionalGroups.shtml>.

³ For the programme and concept descriptions, see <http://www.ohchr.org/Documents/Issues/Business/ForumSession2/A-HRC-FBHR-2013-CRP-1.pdf>. For video recordings of the sessions, rules of procedure, stakeholder submissions, written statements and presentations by panelists, see <http://www.ohchr.org/EN/Issues/Business/Forum/Pages/2013ForumonBusinessandHumanRights.aspx>.

IV. Side events

A. Consultation on a global fund

15. The United Nations Secretary-General has identified the lack of capacity among all relevant actors as one of the key obstacles to advancing the business and human rights agenda and the implementation of the Guiding Principles.⁴ Subsequently, the Human Rights Council requested the Secretary-General to prepare a study to explore the feasibility of establishing a global fund to address this gap. The study should explore how to secure multi-stakeholder engagement, governance models and funding options. Stakeholders should be involved in a consultative process using existing channels, such as the Forum on Business and Human Rights.⁵

16. To this end, a consultation organized by OHCHR took place during the Forum. Subjects discussed during the session included (a) how potential projects to be supported could be most effectively identified, implemented and evaluated; (b) how participation of rights-holders and local community representatives in decision-making would be ensured; (c) the diverse roles United Nations agencies and programmes could play in such an initiative; and (d) the potential for a broad range of contributors to the fund, including States, businesses, foundations and other actors.

B. Training on the Guiding Principles

17. One of the goals of the 2013 Forum was to offer an opportunity for capacity-building. To this end, the pre-day of the Forum included the side events “Platform for tools, innovation and capacity-building” and “Presentation of selected national cases, research and good practices”, which offered a venue for participants to share information on their own initiatives, as well as brief training sessions on the Guiding Principles in English, French and Spanish.⁶ In advance of the Forum, the Secretariat provided a non-exhaustive and evolving list of different tools and guidance documents on business and human rights.⁷ The official Note from the Secretariat included an abridged version of the forthcoming “Frequently asked Questions” on the Guiding Principles.⁸

C. Regional side events

18. With the support of the Governments of Argentina, Ghana, India, Norway and the Russian Federation, the Working Group hosted a pre-Forum side event on 2 December featuring open discussions on each of the United Nations regions (Africa, Asia, Eastern Europe, Latin America and the Caribbean, and Western Europe and others). These discussions gave stakeholders the opportunity to learn about key trends in the region and engage with the Working Group to discuss experiences of challenges, opportunities and lessons learned relating to implementation of the Guiding Principles.

⁴ A/HRC/21/21.

⁵ Human Rights Council resolution 21/5.

⁶ See <http://www.ohchr.org/EN/Issues/Business/Forum/Pages/2013FBHRParticipation.aspx>.

⁷ See <http://www.ohchr.org/Documents/Issues/Business/ForumSession2/ListOfReferences.pdf>.

⁸ See A/HRC/FBHR/2013/2, available from <http://www.ohchr.org/EN/Issues/Business/Forum/Pages/2013FBHRDocumentation.aspx>.

D. Single stakeholder pre-Forum sessions

19. Within the framework of providing peer exchange platforms for stakeholder groups, single stakeholder-oriented side events were organized on the pre-day of the Forum. These provided space for self-organized, single group discussions to enable participants to share perspectives and lessons learned on implementation of the Guiding Principles. There were five simultaneous sessions dedicated to the following groups: Governments, business, civil society organizations, national human rights institutions, and indigenous peoples. The main points from the discussions in each of these sessions were reported back to the plenary in the Forum's official opening plenary (see section V.A below).

E. Other side events

20. In order to encourage multi-stakeholder sharing of experiences, good practice, research and tools and innovation, and give participants the opportunity to manage some of their own thematic discussions, there was an open process for submission of side event proposals. Decisions on side events were made on the basis of availability of space, relevance of the proposed topic to the Forum's mandate, whether the proposed side event topic overlapped with a panel during the official session, and the need to ensure stakeholder balance and global relevance. Almost 60 proposals for side events and presentations in addition to the over 70 submissions made to the Working Group on Business and Human Rights, were received.

21. Due to the number and array of proposals received, various side events were combined and collaboration was encouraged whenever possible.⁹

V. Summary of official sessions

22. The following sections include a brief summary of discussions during the official plenary and simultaneous sessions. It does not purport to provide a full reflection of discussions that took place and excludes discussions that took place on the pre-day of the Forum, or during side events, and can only give a brief sketch of some of the main interventions and issues presented. Readers are advised to consult the video clips of the official Forum panels for a full record of the proceedings.

A. Opening session

23. The opening session was presided over by the Forum Chairperson, Mr. Wibisono. Welcoming remarks were delivered by the President of the Human Rights Council, Remigiusz A. Henczel; the United Nations High Commissioner for Human Rights, Navi Pillay; and the Chairperson of the Working Group, Alexandra Guáqueta.

24. During the first part of the session, all speakers referred to the importance of the Guiding Principles, and emphasized that their adoption by the Human Rights Council in 2011 constituted a landmark moment for human rights worldwide. They also highlighted that their implementation would not be possible without the involvement of all stakeholders, and that the work focusing on implementation must be comprehensive, not piecemeal, and must take place across all three pillars to be successful.

⁹ Refer to side event programme at <http://www.ohchr.org/EN/Issues/Business/Forum/Pages/2013FBHREvents.aspx>.

25. The speakers reiterated the importance of the Forum, emphasizing its role of fostering a true multi-stakeholder dialogue, and given the high participation rates, emphasized the level of the priority that business and human rights issues had become globally. As a result of the implementation of the Principles, many businesses were taking serious steps to address effects on specific groups, including indigenous peoples and children, and had started to look more seriously into human rights due diligence processes and the provision of remedies. Many States were also designing action plans, but there remained much more to be done.

26. The Chair of the Working Group highlighted the key principles that had guided its work in preparing the Forum, including (a) emphasis on all three pillars of the Guiding Principles; (b) continued commitment to multi-stakeholder dialogue and principled pragmatism; (c) advocating for the need to complement the dissuasive power of court rulings with market incentives or disincentives to maximize prevention; (d) engagement with stakeholders at the regional level, manifested by the first regional forum on business and human rights, held 28–30 August 2013 in Colombia, covering Latin America and the Caribbean; (e) the need for practical application of the Guiding Principles to take on board local and regional as well as sectoral contexts; (f) the need to address impunity; (g) giving special attention to persons living in vulnerable situations, manifested at the Forum with sessions focused in particular on business impacts on indigenous peoples, children and migrant workers; and (h) the acknowledgment that the challenges of business and human rights could not be solved by one stakeholder group alone.

27. During the second part of the session, designated speakers from the previous day's single stakeholder sessions reported back from their respective meetings. The State representative emphasized that the main challenge in developing national action plans for implementation of the Guiding Principles was related to securing a comprehensive buy-in from all Government sectors as well as business. The representative of national human rights institutions highlighted the importance of multi-stakeholder approaches. The business speaker noted that there had been progress in implementation, but that key challenges remained: (a) implementation would take time; (b) the complexity of business relationships; (c) communication on development to external observers; and (d) what business should do when Governments failed to meet their human rights obligations. The representative from the indigenous peoples' session stressed the importance of free prior and informed consent to guarantee the rights of indigenous peoples. Finally, the civil society representative cited continued impunity for human rights abuse, lack of remedy mechanisms and the protection of human rights defenders as key obstacles to the implementation of the Guiding Principles.

B. Towards global implementation of the Guiding Principles: deepening the involvement of all regions

28. The session was chaired by the Forum Chairperson, Mr. Wibisono. Panel participants were Philippe Boillat from the Council of Europe, Med Kagwa from the African Commission on Human and Peoples' Rights, Rafendi Djamin from the Association of Southeast Asian Nations (ASEAN) Intergovernmental Commission on Human Rights, and María Claudia Pulido from the Inter-American Commission on Human Rights.

29. This session aimed to identify gaps in effective global uptake of the Guiding Principles, opportunities for strengthening regional dissemination, the roles regional organizations were currently playing, and steps to be taken by States, regional organizations and mechanisms, business and others.

30. Alexandra Guáqueta, the Working Group Chairperson, offered reflections on the outcomes of the pre-Forum regionally focused side sessions. She emphasized the role that

regional institutions should play. Banks and finance corporations could align their safeguard policies, political organizations could ask that States have national implementation plans, and regional human rights courts and commissions could align their sanctions with the Guiding Principles' expectations of companies with regards to remedy. She also said regional institutions could use the Guiding Principles as a basis for dialogue, thereby contributing to preventing further polarization and conflict in certain local contexts.

31. The speaker from the Council of Europe informed the Forum about ongoing work to create a declaration in support of the Guiding Principles and develop a non-binding instrument to fill gaps, in cooperation with the private sector and civil society. The speaker from the African Commission noted that the Commission had established a Working Group on human rights and extractive industries and begun taking stock of violations committed in that sector. The ASEAN representative highlighted the fact that implementation remained a challenge in Asia, stressing that better understanding of the issues was needed, including on challenges facing small and medium enterprises. The speaker from the Inter-American Commission on Human Rights spoke about how the Inter-American Court's case law contributed to the implementation of the Guiding Principles and the challenges and dilemmas pending.

32. Participants made references to the national action plans of France and the United Kingdom as well as the European Union (EU) process on promoting such plans. The EU's guides for three industry sectors and small and medium enterprises were cited. Topics raised included the primacy of the State's duty to protect, challenges posed by the informal sector, extraterritoriality, impacts on indigenous peoples, criminalization of human rights defenders, and challenges pertaining to integration of human rights in free trade agreements.

C. Defending human rights in the context of business operations in complex environments – challenges faced by human rights defenders and the role of States and business

33. The panel was moderated by Michael K. Addo, member of the Working Group. The multi-stakeholder panel was composed of Paul Arkwright from the Government of the United Kingdom; Philip Jordan from Total S.A.; Margaret Sekagya, Special Rapporteur on the situation of human rights defenders; and Marietta Paragas from the Shontoug Foundation.

34. The aim of this session was to identify challenges faced by human rights defenders who were addressing adverse impacts linked to business operations, and discuss how the Guiding Principles clarified responsibilities and policy options available to States, human rights due diligence measures for business, and provide guidance on necessary action.

35. A keynote introduction was delivered by Nobel laureate Joseph Stiglitz. His remarks emphasized that arguments in favour of economic efficiency had often been blind to the obvious consequences of business activity on workers, the community in which it operates, and society more broadly, and argued for a rights-based approach which took into account the interests of a broader spectrum of stakeholders. He called for a binding international agreement enshrining norms of corporate responsibility, which could hold companies accountable for their human rights abuses.

36. The representative of the Government of the United Kingdom emphasized that a key element going forward in addressing risks faced by human rights defenders was to bring together commitments from Government, industry and civil society. He cited how the Government's action plan for implementation of the Guiding Principles could offer a national-level framework for addressing the issue. The speaker from Total highlighted that

one lesson the company had learned was the importance of early involvement with communities and impact assessments. The Special Rapporteur noted that defenders working on access to land, natural resources and environmental issues, and those campaigning against illegal or forced evictions in the context of mega-projects, were at particular risk of threats, harassment, intimidation, criminalization and physical attacks. Her recommendations for reducing tensions included access to information for rights-holders, participation of rights-holders in decision-making, and access to grievance mechanisms at community level. The civil society panellist gave testimony of increasing negative human rights impacts in the context of business operations, caused by increasing militarization and characterized by harassment of human rights defenders, and the killing of indigenous peoples. Civil society organizations and indigenous communities had been working to address those issues through constituency building, building capacity, advocacy and research.

37. Discussions focused on further measures that could be employed to promote and protect human rights and human rights defenders in the context of business operations, including the need for greater support at the international level, and to further develop and implement national action plans. The possibility of a legally binding instrument was debated, with differing views on the timing, effectiveness, and feasibility of such an option being put forward.

D. 3 December Track 1 (simultaneous panels): Access to remedy

1. Overcoming barriers to effective judicial remedies

38. The panel was moderated by Working Group member Michael K. Addo and included comments by Simon Minks from the General Attorney's Office of the Dutch Public Prosecution Service, Richard Meeran from Leigh Day, Brent Wilton from the International Organisation of Employers, Elida Cristina from Tz'ununija (Guatemala) and Seema Joshi from Amnesty International.

39. This session sought to identify strategies for overcoming barriers to justice for victims of business-related human rights impacts, including through technical assistance and capacity-building.

40. The presentations highlighted the fact that serious challenges remained in ensuring adequate implementation of the third pillar of the Guiding Principles and access to effective judicial remedies for persons affected by business-related human rights abuses. The weak rule of law in some countries was identified as an important challenge. As a consequence, it was practically impossible for victims from those countries to access judicial remedies locally or nationally. Attempts to bring cases on behalf of victims before courts in other jurisdictions also often faced serious practical and legal barriers.

41. The panel discussed challenges for States in prosecuting companies in connection with human rights abuses and in respect of access to lawyers for victims, an important prerequisite for access to justice. For cases against parent companies in home countries to succeed, States had to have a genuine willingness to prosecute, and carefully assess the merits of a case, so as not to raise false expectations. Very few lawyers would bring cases against large companies because they generally needed to fund those for extended periods, and the outcome of cases was uncertain due to their novel character. Individuals and communities that were marginalized, for example indigenous peoples, often faced additional challenges in accessing judicial remedies. It was also highlighted that while compensation claims could function as an important deterrent, financial settlements with businesses had sometimes undermined access to judicial remedies for victims. Additional

challenges related to the long-term monitoring of impacts of company abuses, such as toxic waste dumping.

42. Other participants emphasized (a) that proposals on how to enhance effective access to judicial remedy were still lacking; (b) the effectiveness of local solutions; (c) the time required for building capacity locally; and (d) the need for access to remedy in “home countries”.

2. Non-judicial remedy: Is practice on the ground delivering effective remedy outcomes?

43. The session was moderated by Working Group chairperson Alexandra Guáqueta. The panel included Loretta Rosales from the International Coordinating Committee of National Human Rights Institutions Working Group on Business and Human Rights; Karin Buhmann, representing the Danish National Contact Point; Laura Safer Espinoza from the Fair Food Standards Council; Joris Oldenzel from SOMO and Organization of Economic Cooperation and Development (OECD) Watch; and Dwight Justice from the International Trade Union Confederation.

44. The aim of this session was to identify key elements that allowed non-judicial grievance mechanisms to operate following the Guiding Principles effectiveness criteria, elements of effective remedy outcomes, and steps to be taken by States, business and other stakeholders to increase access to remedy via non-judicial grievance mechanisms as a complement to judicial mechanisms.

45. The presentations highlighted the fact that non-judicial remedies could produce tangible results and promote reconciliation, and could be a mechanism for quick response to grievances at the local level. Unlike judicial remedies, they had the potential to create more harmonious social relations; they could also make significant contributions to creating change within corporate culture. Judicial and non-judicial remedies should work hand-in-hand, but one could be more appropriate for addressing a particular problem than another. In setting up non-judicial mechanisms, it was important to remember that human rights were not violated. It must be guaranteed, in particular, that non-judicial mechanisms did not undermine the right of victims to access judicial remedies.

46. Diverse examples of non-judicial mechanisms were presented and discussed. The success of non-judicial remedies relied, among other things, on the trust it engendered, which in turn depended on the credibility of the mechanism, its composition and the purpose for which it was set up, the knowledge of human rights it could draw from, and the effectiveness of remedies provided. At present, the quality and effectiveness of non-judicial grievance mechanisms were not systematically assessed, and initial studies indicated that standards varied widely. One study carried out in the electronics industry showed that complaint mechanisms failed to comply with the standards set out in the Guiding Principles and had so far remained largely ineffective.

47. Tensions existed between the perceived non-binding nature of the Guiding Principles, on the one hand, and the binding nature of human rights, including the right to join a trade union, on the other. Some participants highlighted the lack of genuine commitment on the part of States and businesses to implement the Guiding Principles. Participants emphasized that there was a need to collect further information on good practice, success criteria and how to monitor the quality of non-judicial mechanisms and document this. It was recalled, as set out in the Guiding Principles, that no non-judicial complaint mechanism could replace judicial process and criminal proceedings.

E. 3 December Track 2 (simultaneous panels): Key current issues

1. Protecting and respecting human rights in the digital domain

48. The session was moderated by Working Group member Puvan Selvanathan. The panellists were Jermyn Brooks from the Global Network Initiative (GNI), Dan Bross from Microsoft Corporation, Carly Nyst from Privacy International, Sophie Mueller from the European Commission, and Sidsela Nyebak from Telenor.

49. This session aimed to identify examples of good State and business practice, opportunities for multi-stakeholder solutions and aligning practices with the Guiding Principles, as well as steps to be taken by States, business and others to ensure effective implementation of the duty to protect and the responsibility to respect human rights in the digital domain.

50. Panellists recognized and emphasized that new technologies in the digital age had created new ways to promote and protect human rights, but they had also led to the rise of new risks to privacy and freedom of expression. Speakers acknowledged that there was a delicate balancing act between freedom of expression and privacy, and security of the person in the digital realm; yet in recent years, as highlighted by the ongoing mass surveillance controversy, the balance seemed to have shifted towards security. The current concerns raised by new technologies stemmed from a new mistrust of Government: as a result of recent events, trust in the safety of online communications had significantly eroded, and urgent actions were necessary to restore it.

51. Speakers provided details about initiatives – such as GNI – and businesses to restore this trust. GNI, a multi-stakeholder initiative that included some of the largest global ICT companies aims to provide guidance to the industry and its stakeholders on how to protect and advance the human rights of freedom of expression and privacy when faced with pressures from State actions that may infringe upon these rights. Corporations such as Microsoft were taking steps to incorporate the Guiding Principles into their working methods, while undertaking measures to limit the impact of Government data collection on their customers' right to privacy. Much remained to be done to ensure that the Internet remained a free and open space for all.

52. Further discussion focused on (a) possible reasonable responses from businesses to the mass surveillance controversy; (b) guaranteeing the right to remedy in the digital domain and the sense of disempowerment shared by the general public in addressing this important issue; (c) the dilemmas that companies faced when responding to Government requirements; and (d) ways to ensure that information technologies also fulfilled the right to information of the poorest people of the world.

2. Responsible supply chain management in alignment with the Guiding Principles

53. Session moderator was Working Group member Margaret Jungk. The panel included Simon Steyne from the International Labour Organization (ILO), Marcela Manubens from Unilever, Greg Asbed from the Coalition of Immokalee Workers, Jenny Holdcroft from IndustriAll and Liang Xiaohui from China National Textile and Apparel Council and Peking University. The aim of this session was to identify examples of good business practice, opportunities for multi-stakeholder solutions and for aligning supply chain management with the Guiding Principles, and steps to be taken by States and business actors.

54. Panellists emphasized the importance of root causes, including the challenges represented by the informal economy in many countries, such as absence of rule of law, lack of collective bargaining mechanisms for workers, and lack of Government enforcement, notably in the form of labour inspection. Companies needed to be consistent,

by demanding suppliers to follow ILO standards pertaining to health and safety, child labour, forced labour, collective bargaining and freedom of association. It was noted the Guiding Principles provided clarity on the elements companies needed to consider in order to meet their responsibility. Business should develop credible approaches, including through policy coherence and transparency, for example by allowing independent assessment of their practices.

55. A recurring theme was the emphasis on the fact that individual companies could not solve the underlying problems alone. Collaborative approaches were needed, including by involving workers in designing programmes. Structural issues at the macro level and the consequences that raising standards (and costs) in one market may have for business decisions were touched upon. The critical role of freedom of association both as a human right and enabler for change was highlighted. In this context, the recent successes of the Fair Food Program in Florida and the Bangladesh Accord were cited.

56. Interventions from the floor also shed light on concrete lessons to address human rights issues in supply chains, including provisions in the United Kingdom's national action plan, a multi-stakeholder supplier code for the maritime industry involving Danish shipping companies, an industry association and the Government, and collaborative work by oil and gas companies, led by IPIECA, to understand human rights risks in the supply chain. Also discussed were issues such as (a) the need for companies to be transparent about implementation of responsibility; (b) the use of market incentives and whether threats of cutting off suppliers that failed to respect human rights was a good solution; and (c) inconsistencies between companies' purchasing practices and corporate responsibility commitments.

F. 4 December parallel track 1

1. Indigenous peoples and business operations – taking steps towards implementing the Guiding Principles

57. Session moderator was Working Group member Pavel Sulyandziga. The panel included James Anaya, Special Rapporteur on the rights of indigenous peoples; Eduardo Vega Luna from the Defensoría del Pueblo de Peru; Arantza Hernanz, speaking on behalf of IPIECA and Repsol; Ivan Chernyakhovskiy from Sakhalin Energy and also speaking on behalf of the United Nations Global Compact; and Joan Carling from Asia Indigenous Peoples Pact.

58. This session aimed to identify key lessons and needed action for implementation of human rights due diligence, free, prior and informed consent provisions and access to remedy in the context of business operations affecting indigenous peoples.

59. The panellists discussed violations in the common scenario where indigenous peoples' rights were not taken into account by outside business enterprises operating in indigenous territories, and the need for free, prior and informed consent characterized by a number of minimum conditions outlined by the Special Rapporteur. An alternative model for sustainable development put forward was one that considered indigenous peoples as active economic agents. It was noted that implementing elements of free, prior and informed consent of indigenous peoples helped ensure mutual respect by recognizing that indigenous peoples were the owners of the resources. Panellists agreed that handling grievances locally was the most effective method. Customary laws should be taken into account in order to foster mutual respect and trust.

60. The presentations referred to various efforts to support improved implementation of free, prior and informed consent, such as the business reference guide to the United Nations Declaration on the Rights of Indigenous Peoples, as well as efforts at policy level

adherence, which had led to the development of internal procedures on due diligence and established grievance mechanisms.

61. Discussion focused on the need for consistency in the interpretation and application of the right to free, prior and informed consent by States, indigenous peoples and business enterprises. In this context, honouring and respecting human rights treaty obligations, including provisions which focused on indigenous women and children, would be an important step forward for implementing the Guiding Principles.

2. Security and human rights: Aligning key standards with the United Nations Guiding Principles

62. Session moderator was Gare Smith from Foley Hoag LLP. The panellists were Claude Wild from the Swiss Federal Department of Foreign Affairs; Mark Wall from Barrick Gold Corporation; Egbert G.Ch. Wesselink from IKV Pax Christi; Abiodun Baiyewu from Global Rights, Nigeria; and Francisco Lloreda from the Office of the President of Colombia.

63. The focus of this session was to identify the contributions and challenges of multi-stakeholder initiatives such as the Voluntary Principles on Security and Human Rights in preventing and addressing adverse business human rights impacts in complex environments, key practical human rights due diligence measures and ways to ensure effective remedy for human rights abuses in such contexts, and opportunities for strengthened accountability and alignment between key relevant standards and Guiding Principles.

64. Presentations highlighted the fact that the Guiding Principles provided Governments and businesses with high-level guidance regarding their respective responsibilities to protect and respect human rights, as well as to ensure that there were appropriate grievance mechanisms for entities impacted by their activities.

65. Speakers suggested that the Voluntary Principles and the International Code of Conduct for Private Security Providers (ICOC) operationalize guidance for the extractive sector with respect to due diligence and how to demonstrate respect for human rights in the context of the provision of security. It was emphasized that they were complementary to, and did not compete with, the Guiding Principles, and argued that effective operationalization of the Voluntary Principles and the ICOC contributed to fulfilment of the central tenets of the Guiding Principles, for example by providing specific direction to Governments and members of the extractive and security sectors on how respect for human rights could be maintained in complex and difficult environments.

66. Participants considered that the Voluntary Principles and the ICOC were most effective when participants incorporated industry best practices – such as embedding them in contracts, providing training regarding implementation, establishing a framework for verification, and monitoring for gaps. This was especially important for companies when working with public security forces whose activities the companies did not control.

67. A number of factors that contributed to the ability of companies to manage security and human rights risks were highlighted. Among these were practical due diligence measures related to the identification of security risks, the potential for violence, human rights records, the rule of law, conflict analysis, and guidelines regarding the transfer of equipment.

68. A conclusion drawn was that success on the ground was also often tied to the willingness of host Governments to recognize human rights challenges and work with companies and representatives of civil society to implement these initiatives in a manner that led to mutually beneficial scenarios.

3. Implementing the Guiding Principles in agribusiness

69. Moderator was Daira Gómes, CEGESTI. The panel included Nirun Phitakwatchara from the Thailand Human Rights Commission, Rafael Maldonado from Centro de Acción Legal – Ambiental y Social de Guatemala, Christian Frutiger from Nestlé, Vladimir Evtimov from the Food and Agricultural Organization of the United Nations (FAO) and Ylva Stiller from Syngenta.

70. The aim of the panel was to identify current implementation practices and key challenges, opportunities and needed action for implementation of the Guiding Principles in the agribusiness sector.

71. Panellists discussed the need to balance revenue generated from the exploitation of agricultural resources with the implementation of a rights-based approach. Some challenges were highlighted during the discussion: (a) lack of knowledge of labour and human rights standards among producers, including the Guiding Principles, and the importance of integrating human rights due diligence; (b) the difficulties of small-scale farmers to own land and access water; (c) the need for value chains to ensure improved conditions for farmers; (d) the implications of monoculture for sustainable agriculture; (e) lowering of standards due to competitive pressures among producers; and (f) weak or lack of policies, systems and good governance of producers to ensure they were in compliance with law.

72. Company commitments, with examples provided by Nestlé and Syngenta, to monitor and improve their human rights impacts and work with local communities to improve labour standards, were offered as an important solution. Adherence to tenure rights, and implementation of FAO's Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, were seen as requiring further development. When such international standards were not adhered to, and when domestic judicial systems inadequately addressed agribusiness-related violations, transboundary cases were critical, such as those undertaken by national human rights institutions, including that of Thailand.

73. Discussion emphasized the right to food, including the negative impact of large-scale export production on local communities and the potentially damaging effect of pricing policies on the rights of farmers. There were calls for the implementation of strong enforceable standards relating to labour and pricing, and stronger remedy mechanisms to protect farmers. A common message was the need for greater need for dialogue and improved coordination and cooperation between civil society, Government and the private sector.

G. 4 December parallel track 2

1. Preventing and addressing trafficking in persons in business

74. The panel was moderated by Joy Ngozi Ezeilo, United Nations Special Rapporteur on trafficking in persons, especially women and children. The panel consisted of Beate Andrees from ILO, Philip Hunter from Vérité, Jeffrey E. Tsai from the California Department of Justice, Marcel Gomes from Repórter Brazil and Adam Greene from the United States Council for International Business.

75. The session aimed to identify existing good practice and concrete experiences of preventing and addressing trafficking in business as well as available tools and necessary action.

76. It was pointed out that there was still little knowledge about the prevalence and underlying root causes of trafficking and the involvement of companies, which again had implications for policy. The importance of public inspections to complement voluntary

mechanisms was highlighted. Speakers recalled that international law – notably ILO conventions – needed to be at the core of implementation efforts. Other tools were also flagged: the Verité fair hiring toolkit, the Dhaka principles and the Special Rapporteur’s work on developing benchmarks and indicators. Two examples of policies designed to address trafficking in business were presented: the California Transparency and Supply Chain Act, which required companies to make disclosure about efforts they were undertaking to eradicate trafficking; and the Brazilian national pact for eradication of slave labour, which included a strong legal framework, market incentives in the form of a “dirty list” of employers using slave labour and use of the list by financial institutions, as well as multi-stakeholder collaboration.

77. Discussion touched upon several issues, including (a) the need for a smart mix of responses; (b) challenges faced by companies in terms of identifying trafficking, which often took subtle forms, with abusers trying to hide the situation, and the problem often being confined to the “lower” tiers of the supply chain; (c) the need to break trafficking down into more specific elements, such as bonded labour, migration and smuggling, retention of passports, sex trafficking, domestic services, and develop differentiated responses; (d) root causes, such as informality, corruption and crime; (e) the issue of responsibility versus leverage as set out in the Guiding Principles; (f) the need to consider unintended consequences of legal requirements; and (g) the need to move beyond a limited supply chain perspective.

2. Implementing the Guiding Principles in the employment and recruitment sector

78. The session moderator was John Morrison from the Institute for Human Rights and Business. The panel included Nick Forster from FSI Worldwide, Juliette de Rivero from Human Rights Watch, Fred van Haasteren from the International Confederation of Private Employment Services Federation (Ciett), Rachel Davis from Shift and Felipe Burgueño from the Center for Labor Reflection and Action (CEREAL).

79. This session sought to identify key challenges and opportunities for implementing the State duty to protect and the business responsibility to respect human rights in the employment and recruitment sector domain, and effective legal and policy measures for States, good practice and policy options for business actors.

80. The panel discussion highlighted the fact that the sector possibly was the one with the greatest potential impact on human rights globally in light of its close linkages with global migration flows. Key challenges emphasized by panellists related to debt bondage for migrant workers, retention of identification papers, lack of freedom of association, various kinds of abuse of workers, and a lack of sanctions for non-compliant actors. A challenge was the lack of effective grievance mechanisms for migrant workers, which was particularly acute when they were not able to enjoy protection from affiliation with trade unions. Speakers highlighted the challenges posed by traditional recruitment models and the need for user companies to check realities on the ground with the help of local expertise. It was recalled that human rights violations existed at all stages in the recruitment and employment process, both in sender and host countries.

81. All the speakers, including the industry representative, called for stronger regulation by States, either by closing legislative gaps or by ensuring effective enforcement, based on ratification and implementation of ILO Convention 181. The sector guide developed by the European Commission on how to incorporate the Guiding Principles in the operations of recruitment and employment agencies was repeatedly highlighted. Panellists also stressed that implementing the Guiding Principles and responsible recruitment practices presented opportunities for business.

82. Further discussion highlighted (a) the need to fill the gaps presented by low ratification of ILO Convention 181; (b) the need for effective frameworks between sender and host countries to protect migrant workers; (c) concerns about business models' quest for low labour costs; (d) the potential of reporting requirements on supply-chain business relationships; (e) how to ensure effective auditing; (f) policy incoherence between Government ministries; and (g) social exclusion of certain groups and gender issues. It was emphasized that the Guiding Principles expected States to review their legislation and take steps to fill identified gaps through a targeted mix of policy options, including effective regulation.

3. Business respect for the rights of children

83. The panel was moderated by Marta Maurás from United Nations Children's Fund (UNICEF). Panellists were Benyam Dawit Mezmur from the United Nations Committee on the Rights of the Child, Carmelo Angulo from Spain's Ministry of Foreign Affairs and Cooperation, Porntat Amatavivadhana from Sansiri Public Company Limited, Elana Berger from the Bank Information Center and Ursula Wynthoven from the United Nations Global Compact.

84. The session aimed to identify key challenges and opportunities for effective State and business implementation of their respective duties and responsibilities with regard to preventing and addressing adverse impacts on children's rights resulting from business activity.

85. Panellists emphasized that safeguarding the rights of the child should go beyond the standard of doing no harm. The usefulness of General Comment 16 of the Committee on the Rights of the Child as a roadmap to regulate the business sector to make it respect the rights of the child was put forward. It was stressed that voluntary actions by businesses were not a substitute for State actions and regulation; businesses and States needed to act in a concerted and cooperative fashion. The existing legal framework for protecting the human rights of children was of crucial importance, as was the role of international cooperation in ensuring its implementation. It was noted that States had to adopt a proactive approach, regulating the private sector and striving to guarantee children's right to remedy. The issue of child labour was raised as being of particular importance.

86. Participants gave examples of the effective promotion and protection of children's rights. Key success factors cited were the measurement of success through outcomes, the completion of full due diligence processes and the core view that children's rights were everyone's business. In the final part of the session, the interactive discussion with the audience focused, *inter alia*, on (a) the publication of the children's rights and business principles by Global Compact, UNICEF and Save the Children; (b) ways for businesses to better understand their obligations and for States to support their efforts; (c) the best interest of the child; and (d) the need to effectively implement existing legal instruments.

87. Discussions emphasized that companies should consider both risks and impacts of their own operations as well as the role they could play in their own sector and beyond, including in promoting public policy.

H. 4 December parallel track 3

1. Integrating human rights in international investment policies and contracts

88. Moderator was Andrea Saldarriaga from Vale Columbia Center on Sustainable International Investment. The panellists were Renato Torres from the Government of Ecuador, Zachary Douglas from the Graduate Institute Geneva, Viviane Schiavi from the International Chamber of Commerce, Samuel Nguiffo from the Center for Environment and

Development, and Elisabeth Tuerk from the United Nations Conference on Trade and Development (UNCTAD).

89. The session aimed to identify key challenges and opportunities for integrating human rights in international investment policies and practices.

90. Participants were reminded of the Principles for Responsible Contracts¹⁰ developed by the former Special Representative of the Secretary-General in the area of business and human rights, which provided practical guidance to States and negotiators on how to integrate human rights risk management in contract negotiations. Panellists highlighted the relevance that human rights had in the context of investment in their respective areas of practice, including in the negotiation of investment contracts and treaties, in the decision of investment disputes by arbitral tribunals and in the structuring and implementation of investment projects. However, it was noted that discussion of human rights issues in the context of investment was at its early stages and work was needed in the dissemination and implementation of the Guiding Principles and the Principles for Responsible Contracts in this area. UNCTAD's framework on investment policies for sustainable development was considered to be a potential avenue for integrating human rights in this domain and promoting alignment with the Guiding Principles. The investment guide of the International Chamber of Commerce was also highlighted as a useful tool.

91. Panellists' presentations and further discussion touched upon a range of challenges in this field, including (a) lack of cross-departmental coordination and policy coherence within Governments; (b) the need for capacity-building among all relevant actors; (c) the need to operationalize human rights in the international investment context in order to enable judicial application; (d) perceived power imbalances between States and investors; (e) the financial burdens faced by States involved in arbitration disputes; and (f) lack of transparency and access to information.

2. Financial sector: Towards greater clarity on how the Guiding Principles apply

92. Moderator was Bennett Freeman from Calvert Investments. The panel included Roel Nieuwenkamp from OECD; Liselotte Arni from UBS; Daniel Schydrowsky from the Peruvian Superintendency of Banking, Insurance and Private Pension Fund Administrators; Pierre Hubbard from Global Unions Committee on Workers Capital; and Andreas Missbach from BankTrack.

93. This session sought to identify key trends of applying the Guiding Principles to the financial sector and the key challenges ahead for ensuring effective implementation the Principles in the sector.

94. The growing movement among actors in the financial sector to understand the salience and materiality of human rights risks was highlighted. One important driver for this was the OECD Guidelines for Multinational Enterprises, whose human rights chapter was based on the Guiding Principles. The Guidelines provided a state-of-the-art supply chain responsibility that also covered all parts of the financial sector, including banks, private equity, hedge funds, asset managers, funds and insurance companies. Reference was made to a recent debate on the responsibility of minority shareholders. It was noted that while investors did not have primary responsibility for human rights impacts caused by companies they invested in, the Guiding Principles and the OECD Guidelines clearly set out that all investors have a responsibility to use their leverage. However, these issues were very complex and several clarifications were called for, including implications of the

¹⁰ A.HRC.17.31.Add.3.

Guiding Principles' provisions on "business relationships", and delimiting what it meant for a business enterprise to be "directly linked" to a human rights abuse.

95. Presentations addressed a discussion paper issued by the Thun Group, a group of seven banks that had exchanged views on implications of the Guiding Principles for the banking sector. The paper highlighted the fact that banks needed to have in place a human rights policy and due diligence processes, and was referred to as representing a "paradigm shift" for thinking on human rights in the banking sector in spite of its shortcomings.

96. The reason why financial sector regulators should start thinking about human rights due diligence was also addressed: requiring companies and banks to take into account the risks and costs of social conflict could have positive implications for the whole economy.

97. Key points emerging from the discussions included (a) the need for asset managers to use their leverage if informed about human rights violations – and to set priorities; (b) the costs of regulation and due diligence requirements were significantly lower than the costs of failing to deal adequately with human rights risks; (c) soft law developments were being turned into hard law requirements in some jurisdictions; (d) the importance of Government national action plans; and (e) the observation that the Guiding Principles set out that due diligence is an ongoing process.

3. Public finance: Applying the Guiding Principles to State-owned financial institutions

98. Bonita Meyersfeld from the Center for Applied Legal Studies was the session moderator. Panellists were Jaime Gorstejn from the Brazilian Development Bank (BNDES), Kamil Zabielski from Norway's Export Credit Agency GIEK, Juana Kweitel from Conectas, Eleni Kyrou from the European Investment Bank, and Andrea Shemberg from London School of Economics Investment and Human Rights Project.

99. The aim of this session was to contribute to greater clarity on how the Guiding Principles applied to State-owned financial institutions, identify good practice examples and key challenges and priorities for advancing implementation.

100. The presentations and discussion on applying the Guiding Principles to State-owned financial institutions revolved around issues of accountability, transparency versus confidentiality, and the role of these institutions in promoting the inclusion of human rights considerations into the projects financed by them. With regard to transparency, panellists asked whether confidentiality was overstated or whether banks could be more transparent without compromising client confidentiality. Most participants agreed that transparency around human rights need not be limited by client confidentiality. It was noted that responsibility should not be conflated with leverage, and that leverage was important to allow the financier to ensure compliance. Panellists also discussed that State-owned enterprises were public entities and seemed themselves bound by pillar one and pillar three of the Guiding Principles.

101. Regarding accountability, panellists and participants stressed that sound complaints mechanisms should be put in place, allowing stakeholders the possibility of filing complaints against a State-owned financial institution in cases where their rights were violated by projects supported by them. A number of participants suggested that State-owned financial institutions should engage in consultations with civil society organizations, as well as other stakeholders, prior to making investment decisions.

102. On the question of transparency, participants encouraged State-owned financial institutions to disclose information on their projects, suggesting that the defence of fundamental rights took precedence over confidentiality and bank secrecy issues.

I. 4 December parallel track 4

1. Corporate governance and the Guiding Principles

103. Panel moderator was Vanessa Zimmerman from Rio Tinto. The panel included Hiroshi Ishida from Caux Roundtable, Japan; Hans Petter Graver, representing the Norwegian National Contact Point on the OECD Guidelines for multi-national enterprises; Armando Tripodi from Petrobras; Laura Ceresna-Chaturvedi from Cividep; and Joane Goddard from Aviva Public Limited Company.

104. The session aims were to (a) identify and evaluate key corporate management and controls systems as channels for effective implementation of the second pillar of the Guiding Principles; (b) examine innovative tools and approaches by State regulators, investors, civil society and affected stakeholders for assessing the effectiveness of corporate human rights performance; and (c) evaluate points of convergence and key remaining challenges for integrating human rights due diligence into business practice and external oversight.

105. The session focused on alignment of corporate responsibility to respect human rights with corporate governance – the practices and systems through which a company controlled its activities. The panellists considered that good corporate governance and respect for human rights were mutually reinforcing: companies that had good corporate governance in place may find it easier to incorporate respect for human rights. The panellists discussed the importance of integrating respect for human rights firmly into management systems and processes, and to have in place robust processes for identifying and assessing risks at the earliest stage, and integrating these throughout the company. It was discussed that having in place policies and processes was an important first step, but that implementation on the ground was essential, and could be challenging.

106. The discussion also focused on the importance of involving workers' representatives and external stakeholders. The latter could be challenging, as there was a need to bridge the internal-facing nature of governance policies with the external-facing nature of human rights risks. Civil society organizations could often face challenges in access to key information on corporate policies and processes. The experience with OECD National Contact Points was also discussed – corporate governance was an important part of the recommendations that followed from the OECD Guidelines for Multinational Enterprises, which stressed the importance of corporate governance specifically. The participants also discussed that there was an increasing awareness among many investors that human rights were part of good governance processes, and that some investors saw increasing attention to this issue among companies in their portfolio. Finally, panellists discussed the important roles Governments could play in ensuring good corporate governance, for example by ensuring that corporate law did not constrain business respect for human rights, and by making reporting mandatory.

107. Key points from the session discussion included (a) the fact that companies could have been doing a lot around integrating human rights into corporate governance but information not necessarily getting through to other stakeholders; (b) policies that looked good on paper were meaningless without implementation; and (c) good corporate governance and human rights due diligence tended to be mutually reinforcing.

2. Multi-stakeholder initiatives as drivers of good practice of Guiding Principles implementation?

108. Moderator was Michael Posner from New York University Business School. The panel consisted of Peter McAllister from the Ethical Trade Initiative (ETI), Christy Hoffman from UNI Global Union, Amelia Evans from the Institute for Multi-Stakeholder

Initiative Integrity, Anne-Marie Buzatu from the Geneva Centre for the Democratic Control of Armed Forces, and Mark Hodge from the Global Business Initiative on Human Rights.

109. This session aimed to identify lessons of how multi-stakeholder initiatives may help advance implementation of the Guiding Principles and requirements for such initiatives to be effective.

110. The introductions reiterated that the duty of States to protect against human rights abuse resulting from business activities was paramount, but that the reality was a world of governance gaps, where the multi-stakeholder approach was *one* way of addressing specific gaps. Speakers emphasized the fact that multi-stakeholder initiatives should not be seen as *the* solution, but one option available to stakeholders in the short and medium terms. It was suggested that they were still work in progress. The experiences of the ETI, the Bangladesh Accord and ICOC were presented. Panellists focused on factors or criteria required for multi-stakeholder initiatives to effectively prevent and address adverse human rights impacts, including critical elements such as being based on international law, the need for effective grievance mechanisms for affected stakeholders, oversight and good governance, transparency, availability of adequate resources, and producing tangible results on the ground. A tool from the Institute for Multi-Stakeholder Initiative Integrity on core effectiveness criteria that was to be released in 2014 was flagged.

111. Other multi-stakeholder initiatives were also highlighted, including the Voluntary Principles for Security and Human Rights, the Global Network Initiative, the Fair Food Program, OECD's conflict minerals due diligence guidance, and the Nairobi Process. It was noted that the initiatives with the greatest potential for active involvement by business were those focused at local level implementation that engaged local actors and affected communities.

112. The question and answers focused on (a) various aspects of assessing effectiveness of multi-stakeholder initiatives; (b) questions of conflict of interest of involved parties; (c) the need to address the full range of root causes of governance gaps; (d) the different roles of operationally and advocacy based civil society organizations respectively; (e) the role of trade unions; and (f) the involvement of Governments.

113. One unresolved challenge was the need to ensure a real framework of trust that achieved both real accountability and business participation. Finally, it was noted that there was a need to look at approaches industry by industry and country by country and that there was no one-size-fits-all solution.

3. Options for effective human rights reporting

114. Session moderator was Richard Howitt, Member of the European Parliament. The panellists were Andrea Pradilla from the Colombian Ministry of Trade, Industry and Tourism, on behalf of the Group of Friends of Paragraph 47 of Rio + 20; Scott Busby from the Government of the United States; Teresa Fogelberg from the Global Reporting Initiative; Caroline Rees from Shift; and Amol Mehra from the International Corporate Accountability Roundtable.

115. This session sought to identify current forms of Government-introduced human rights reporting for business and how they worked, assess how current non-financial reporting initiatives were aligning with the Guiding Principles and how company reporting standards for human rights could be made effective.

116. Introductory comments emphasized that (a) transparency worked in terms of generating good corporate conduct; (b) good reporting did not need to be a burden and financially unsustainable; and (c) the current process in Europe to introduce non-financial reporting requirements in corporate law was progressing. The panel addressed (a) the

experiences of the United States Government reporting requirements for investments in Myanmar and sourcing of conflict minerals in the Democratic Republic of the Congo in the Dodd–Frank Act; (b) the Government-led initiative of the Group of Friends of Paragraph 47, which sought to promote corporate sustainability reporting as a key tool for achieving sustainable development; and (c) inter-linkages between the Global Reporting Initiative and the Guiding Principles. Government practices in France, Denmark, Norway and Colombia were mentioned. A specific initiative to develop public reporting and assurance frameworks based on the Guiding Principles – the Reporting and Assurance Frameworks Initiative – was briefly presented. Questions addressed by this initiative included what kind of information was meaningful for companies to report on – both for the company itself and external stakeholders, including investors and affected communities – and what was good assurance. Comments emphasized the need for Governments not only to put adequate regulatory measures into place, but also to ensure effective enforcement of reporting requirements, and stressed that human rights reporting was fundamentally different from sustainability reporting more broadly, as it ultimately was about addressing potential and actual adverse human rights impacts.

117. Discussion covered issues such as (a) how to engage affected stakeholders on what to include in reports from a materiality point of view; (b) the need to distinguish between formal reporting and a company’s communication with stakeholders regarding human rights risks, impacts and responses, as emphasized in the Guiding Principles; (c) the consequences of the Dodd–Frank Act on the ground; (d) Government enforcement options; (e) the limitations of dealing with sensitive issues in public reports; (f) debate on the role of the assurance industry in providing expertise in development of standards; (g) an initiative by 33 countries in the Americas involving heads of State to commit to national action plans on corporate social responsibility and sustainability reporting; (h) reporting by public agencies; and (i) reporting on impacts on indigenous peoples.

118. It was observed that the current trends represented a coming together of the human rights and the sustainability reporting movements, and that developments in this area were gaining ground. Conclusions included (a) the fact that formal reporting was not a panacea, but better reporting could lead to better communication and dialogue among stakeholders; (b) that there needed to be formal public reports to ensure accountability; and (c) that, so far, some 2,000 companies did have sustainability reporting which included references to human rights, but that quantity and quality of reporting varied greatly.

J. Closing panel: Priorities and key issues for 2014

119. The session was presided over by the Forum Chairperson. Distinguished panel speakers were Mary Robinson from the Mary Robinson Foundation – Climate Justice; Aron Cramer from Business for Social Responsibility; Aisha Abdullahi, the Commissioner for Political Affairs of the African Union Commission; William Echikson from Google Corporation; and Debbie Stothard from the International Federation for Human Rights and Altsean-Burma. The Chairperson of the Working Group, Alexandra Guáqueta, made closing remarks.

120. The aim of the closing session was to identify the key business and human rights issues and priorities for 2014, opportunities for promoting wide and effective implementation of the Guiding Principles, and enhancing multi-stakeholder dialogue and cooperation.

121. In the first part of the concluding session, speakers focused on priorities and issues to be addressed during 2014, while taking stock of the contributions of the current Forum to the business and human rights agenda. Mary Robinson called for 2014 to be a year of strategic and concerted action to deliver results, and emphasized the links between the

business and human rights and the climate change and human rights agendas. Adam Cramer outlined several issues in need of continued attention, including bringing more businesses to the table, moving human rights further into core business operations, looking at systemic change and at the intersection of human rights and business innovation. Aisha Abdullahi stated that the Guiding Principles presented opportunities for efforts at the regional level in Africa through integrating the framework in relevant policies and strategies. She shared the plans of the African Union Commission to collaborate with the Working Group in holding a regional forum in 2014. William Echikson emphasized how Government surveillance posed a profound challenge to the existence of the Internet, insisting on its openness and power to generate new ideas. Finally, Debbie Stothard emphasized, among others, the need to protect human rights defenders, the need for adequate remedies for violations, and the potential development of a new legally binding instrument on business and human rights.

122. Recommendations made by other participants to the Working Group included that it investigate areas as diverse as sexual and reproductive health, competition law, human rights in business and school curricula, and human rights and sports. Speakers emphasized the importance of the Guiding Principles, and the need for their effective and across-the-board implementation.

123. In her concluding remarks, the Chairperson of the Working Group offered her views on the impact of the Forum. She acknowledged how the issue of corporate liability, a complex theme, had been at the core of some of the most difficult discussions. She also urged States and businesses to act without delay, within their respective roles, to address the multiple cases of threats faced by human rights defenders. Ms. Guáqueta acknowledged the central role of national human rights institutions and described additional avenues for action, *inter alia* (a) more commitment of States through national action plans; (b) the engagement of regional organizations with the view of mainstreaming the Guiding Principles into their charters, policies and justice and accountability systems; (c) integrating the Guiding Principles in the post-2015 development agenda and into the work of global institutions and the United Nations system; (d) the creation of a global fund for capacity-building; and (e) an adjusted focus of the work of the Working Group. She thanked all participants and organizers for a very successful and relevant Forum.
