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Concept note

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

I. Introduction

1. The global business and human rights agenda reached a key milestone in 2011, when the Human Rights Council unanimously endorsed the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework in its resolution 17/4. The Council recognized the role of the Guiding Principles in providing direction to enhance standards and practices with regard to business and human rights, and thereby contribute to socially sustainable globalization.

2. The endorsement by the Human Rights Council effectively established the Guiding Principles as the authoritative global standard for preventing and addressing adverse impacts on human rights arising from business-related activity. The standards in the Guiding Principles have already been incorporated into a number of other leading international standards, initiatives and guidance, contributing to the “convergence” of international standards and processes.¹

3. The Guiding Principles were presented by the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises after a six-year process of extensive multi-stakeholder consultations and research. They provide the normative and operational standard for the implementation of the United Nations “Protect, Respect and Remedy” Framework for business and human rights structured on three pillars:²

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

¹ See A/67/285.

² See A/HRC/8/5. See also A/HRC/11/13 and A/HRC/14/27.

- The corporate responsibility to respect human rights, which means that business enterprises should act with due diligence to avoid infringing on the rights of others and to address the adverse impacts with which they are involved.
 - The need for greater access to remedy, through both judicial and non-judicial grievance processes, for victims of business-related abuse.
4. The Guiding Principles clarify and elaborate on the provisions of the existing international human rights treaty framework as it relates to the issue of business and human rights, and provide guidance on how to operationalize it.
5. Having endorsed the Guiding Principles, the Human Rights Council decided to establish the Working Group on the issue of human rights and transnational corporations and other business enterprises to promote their effective and comprehensive dissemination and implementation.³ The Working Group is mandated to identify, exchange and promote good practices and lessons learned on the implementation of the Guiding Principles; to continue to explore options for enhancing effective remedies available to those whose human rights are affected by corporate activities, including those in conflict areas; and to integrate a gender perspective throughout the work of the mandate and to give special attention to persons living in vulnerable situations, in particular children.
6. The Human Rights Council furthermore decided to establish a Forum on Business and Human Rights under the guidance of the Working Group.⁴

II. Aims and objectives of the Forum

7. The third annual Forum will be held from 1 to 3 December 2014 in Geneva, with multiple pre-events on 1 December. In accordance with its mandate, the Forum aims to serve as a key annual venue for stakeholders from all regions to engage in dialogue on business and human rights, and to strengthen engagement towards the goal of effective and comprehensive implementation of the Guiding Principles. It supports the overarching position that the Guiding Principles should provide a common reference point in the rapidly evolving field of business and human rights; that they should be used to enhance accountability for adverse business-related human rights impacts; and that there is a need to cultivate an environment conducive for their uptake. By bringing together relevant stakeholders, the Forum aids to identify trends, challenges and good practices in the implementation of the Guiding Principles by States and business enterprises, as well as by other stakeholders, including challenges faced in particular sectors, operational environments or in relation to specific rights or groups.
8. Pursuant to Human Rights Council resolution 17/4 the chairperson of the Forum is nominated by members and observers of the Council and appointed for each session by the Council President on the basis of regional rotation and in consultation with the regional groups. The chairperson serves in his or her personal capacity.
9. The first Forum was held on 4 and 5 December 2012 and attracted more than 1,000 participants from 80 countries.⁵ The background note prepared in advance of the first

³ See Human Rights Council resolution 17/4, para. 6. The mandate of the Working Group was extended by the Council in June 2014, in its resolution 26/22.

⁴ Human Rights Council resolution 17/4, para. 12.

⁵ See the list of registered participants for the 2012 Forum at www.ohchr.org/EN/Issues/Business/Forum/Pages/2012ForumonBusinessandHumanRights.aspx. Documentation and links to the webcasts of various sessions are available at www.ohchr.org/EN/Issues/Business/Forum/Pages/2012ForumonBusinessandHumanRights.aspx.

Forum by the Secretariat outlined some key trends and challenges in their implementation, which continue to be relevant.⁶ The first annual Forum was chaired by the former Special Representative on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, serving in his personal capacity.

10. The second Annual Forum was held from 2 to 4 December 2013 and was chaired by the former Ambassador and Permanent Representative of Indonesia to the United Nations, Makarim Wibisono.⁷ Since its first session, the Forum has continued to expand in size, with almost 1,500 registered participants in 2013, from more than 110 different countries,⁸ making it the largest global gathering on business and human rights. Approximately 36 per cent of registered participants were from civil society, 14 per cent from State delegations, 11 per cent from business enterprises and associations, 10 per cent from academia, 6 per cent from law firms, business advisory services and consultancies, 5 per cent from the United Nations system and other international organizations, 4 per cent from national human rights institutions, and 1 per cent from trade union networks. There was equal representation of women and men. The official programme of the 2013 Forum included more than 20 sessions, in addition to a similar number of side events.⁹

11. The 2012 Forum was the first opportunity to discuss the implementation and dissemination of the Guiding Principles on this scale. Discussions at the 2013 Forum further consolidated global expectations that the way business enterprises operate and contribute to environmental, social and economic impacts can no longer be limited to voluntary and ad hoc measures, and underlined the imperative of comprehensive implementation by States of their duty to protect against business-related human rights abuses.¹⁰

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

12. The Working Group is charged with the task of promoting the dissemination and implementation of the Guiding Principles globally. In this respect, the Working Group considers the Forum a key vehicle for pursuing and reinforcing its central strategic considerations, including with regard to support for the development of by States of national action plans to implement the Guiding Principles; tracking business uptake and exploring ways to broaden and deepen implementation of the corporate responsibility to respect; exploring options to promote increased access to effective remedy; and advocating the incorporation of the Guiding Principles into global governance structures with a view to strengthening the global business and human rights architecture. Another cross-cutting

⁶ See A/HRC/FBHR/2012/2, chaps. II and III. A background note was also prepared for the second and third Forums, which provides a list of answers to some frequently asked questions on the Guiding Principles (see A/HRC/FBHR/2013/2).

⁷ See the webpage of the 2013 Forum for documentation and links to the webcasts of various sessions: www.ohchr.org/EN/Issues/Business/Forum/Pages/2013ForumonBusinessandHumanRights.aspx.

⁸ See the list of registered participants for the 2013 Forum at www.ohchr.org/Documents/Issues/Business/ForumSession2/ListOfParticipants.pdf.

⁹ See the official programme for the 2013 Forum at www.ohchr.org/EN/Issues/Business/Forum/Pages/2013FBHRDocumentation.aspx. The list of side events is available at www.ohchr.org/EN/Issues/Business/Forum/Pages/2013FBHREvents.aspx.

¹⁰ An advance summary edited version of the report for the 2013 Forum is available at www.ohchr.org/Documents/Issues/Business/ForumSession2/A-HRC-FBHR-2013-4_en.pdf. See also A/HRC/FBHR/2012/INF.1.

strategic concern for the Working Group is the necessity of providing platforms for multi-stakeholder dialogue.¹¹

13. The specific activities of the Working Group play an important role in informing discussions at the annual Forum. In 2012, the Working Group announced its intention to hold regional forums on business and human rights as part of global efforts to promote the effective and wide dissemination and implementation of the Guiding Principles. The main purpose of regional forums is to reach out to a broader set of local and regional actors and to identify challenges and lessons learned at the regional level from efforts to implement the Guiding Principles. These regional forums also serve as key platforms for informing the discussions at the annual Forum in Geneva. The first Regional Forum on Business and Human Rights for Latin America and the Caribbean was held in Medellín, Colombia, from 28 to 30 August 2013, in collaboration with the United Nations Development Programme and the Government of Colombia.¹² A regional forum for Africa was held in Addis Ababa from 16 to 18 September 2014, in collaboration with the African Union, the Economic Commission for Africa and the Office of the United Nations High Commissioner for Human Rights (OHCHR).

14. Furthermore, in 2012, the Working Group decided to conduct two pilot surveys on the uptake and implementation of the Guiding Principles: one of States, and one of business enterprises.¹³ The objective of the pilot surveys was to build the methodological foundations for a tool that could be used annually to identify global uptake trends, as well as enablers and challenges of implementation, while simultaneously signalling the Working Group's expectations that all States and all business enterprises implement the Guiding Principles. The long-term objective is to generate reliable, evidence-based information to track systemic progress and inform the Working Group and other stakeholders involved in developing guidance on business and human rights.

15. The presentation of survey results is envisaged as a regular item at the annual Forum as a key tool for informing discussions. State and business surveys¹⁴ are also being planned for presentation in 2014. In addition, the Working Group intends to produce a guide on the process, substantive content and review of national action plans, to be preliminarily presented at the annual Forum in December 2014.¹⁵

IV. Consultation on the Forum

16. The Working Group conducted an online survey to solicit suggestions from stakeholders on topics, speakers and side event sessions in the field of business and human rights that could feature in the programme of the 2014 annual Forum, and received around 100 submissions. The Working Group also consulted informally with selected stakeholders and attempted to incorporate the feedback and learning from previous Forums.

¹¹ See A/HRC/20/29 and A/HRC/26/25, paras. 10–51.

¹² See A/HRC/26/25/Add.2.

¹³ See A/HRC/23/32/Add.2 and A/HRC/26/25/Add.1.

¹⁴ The business survey was conducted in collaboration with the International Organisation of Employers, the International Chamber of Commerce, the Global Business Initiative on Human Rights, and the Department of Business Ethics and Legal Studies at the Daniels College of Business (University of Denver).

¹⁵ The guide will be reviewed in 2015 and finalized in 2016 after a pilot period envisaged to begin after the launch of the guide in late 2014 (see A/HRC/26/25, para. 17).

V. Format and agenda

17. As in the case of the two previous annual Forums, the third Forum will be a multi-stakeholder platform, aimed at fostering the exchange of experiences and views of relevant stakeholder groups, including representatives of States, business, civil society, affected stakeholders and international institutions, as well as experts and human rights defenders working in the area of promoting corporate responsibility.

18. An official preliminary agenda and programme of work will be posted on a dedicated website in advance of the Forum.¹⁶

VI. Participation in the Forum

19. Pursuant to Human Rights Council resolutions 17/4 and 26/22, the Forum is open to the participation of States, United Nations mechanisms, bodies and specialized agencies, funds and programmes, intergovernmental organizations, regional organizations and mechanisms in the field of human rights, national human rights institutions and other relevant bodies, transnational corporations and other business enterprises, business associations, labour unions, academics and experts in the field of business and human rights, representatives of indigenous peoples and non-governmental organizations in consultative status with the Economic and Social Council. It is also 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, 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.

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

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

22. Participants wishing to highlight specific issues or to present cases, research or innovative tools in addition to those covered in the official programme also had the option of requesting space for holding their own side events. Proposals were submitted to the Forum secretariat, and organizations were requested to specify the theme, objective and link to the Forum mandate. Decisions on side events were made on the basis of proposals received by 1 August 2014 and subject to available space, the relevance of the proposed topic to the mandate of the Forum's mandate, and the need to ensure stakeholder balance. Side events are open to all Forum participants, and are a further opportunity for multi-stakeholder dialogue.

¹⁶ See www.ohchr.org/EN/Issues/Business/Forum/Pages/ForumonBusinessandHumanRights.aspx.

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

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

VII. Outcomes

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

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