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Madame President, Excellencies, Distinguished delegates, Ladies and Gentlemen,

I am honoured to present the reports of the Working Group on Business and Human Rights to the Human Rights Council. The Working Group's thematic report focuses on how the business and human rights agenda and anti-corruption efforts relate to each other, how efforts in both areas can be mutually reinforcing, and how measures aimed at driving responsible business conduct across these two dimensions can drive policy coherence - and better respect for, and protection of, human rights. I will also report on the Working Group's 2019 visits to Georgia and Honduras, the Working Group's consultation on the role of National Human Rights Institutions in facilitating access to remedy for business-related human rights abuses, the fourth regional consultation for Latin America and the Caribbean, and I will acknowledge the presentation of the report on the 2019 Forum on Business and Human Rights later in the 44th session.

The Human Rights Council itself has pointed out that corruption negatively impacts people's enjoyment of human rights. The Working Group's report builds on this important foundation and shines a light on the need for States to act in a more integrated fashion to ensure companies are actively preventing corruption in their business activities as well as ensuring respect for human rights, as called for in the UN Guiding Principles on Business and Human Rights. Put simply, we drill down on how States, business and civil society can better ensure that businesses are part of the solution rather than the problem.

The pandemic highlights the fact that corruption linked to business activity can have serious human rights impacts. For example, as governments try to secure essential medicines to treat COVID-19 patients and personal-protective equipment for health care workers, they need to guard against fraud and bribery in health-care supply chains. If medicines get diverted because a bribe is paid, this will lead to devastating human rights abuses, including the death of innocent people deprived of treatments. If workers do not have adequate safety protections, their health is also at risk. Even in ordinary times, corruption in the health sector leads to losses to States of over US \$500 billion per year according to Transparency International, money which is diverting money from providing essential services to the public. The cost of corruption to human rights is high. This is one of the key messages from our report.

Given that businesses can be both drivers and beneficiaries of corruption, it is imperative to consider the harms caused to rights holders by corruption. The report highlights where

corruption leads to systematic business-related human rights abuses, and its impact on individuals and communities, for example, through undermining the goods and services that States need to provide to meet their international human rights obligations. The Working Group has observed during many of its country visits that businesses have used bribery and trading in influence to gain an illegal economic advantage while simultaneously imperiling the rights of vulnerable groups, including women, indigenous communities and minority populations. For example, companies may pay a bribe to illegally acquire a government permit or license only to circumvent proper procedures to ensure environmental and health safeguards when building a dam, or opening a mine. The report considers how the associated challenges posed by corruption in the business context can be addressed, for example, in relation to public procurement and concessions, land acquisition, health and pharmaceutical supply chains, and the extractive sector, as situations where corruption and human rights risks are pervasive.

The economic crisis accompanying the coronavirus pandemic poses an unprecedented test for governments and business, namely, how to support struggling businesses and economies while not lowering standards of responsible business conduct and human rights protection. Every sector will face new corruption, and business and human rights challenges, requiring strengthened and concurrent anti-corruption efforts and human rights protections.

The report considers the three pillars of the Guiding Principles' Protect, Respect, Remedy framework. Regarding pillar I, both home and host States should do more to incorporate human rights impacts when addressing corporate corruption. Similarly, any focus on responsible business conduct and human rights should include anti-corruption efforts. States should ensure greater policy coherence when countering corruption and protecting human rights, including when developing national action plans, in order to make explicit their expectations of the private sector in relation to responsible business conduct. Guidance on respecting human rights and addressing corruption is also needed to assist businesses operating overseas. Additionally, State agencies that interface with business need to operate in a coherent manner, for example by linking incentives in procurement, trade and finance to anti-corruption and human rights commitments. A positive practice is the introduction in several jurisdictions of targeted sanctions, asset freezes and visa denials for individuals who perpetrate gross human rights abuses and/or engage in corrupt acts.

The pandemic has caused governments to provide bailouts to businesses. States should ensure that those benefitting from assistance respect human rights and commit to transparency and accountability. States should refuse financial assistance to companies located in offshore tax havens and require companies receiving support to act in line with the Guiding Principles.

An example of how States can provide stronger policy coherence is by reforming beneficial ownership laws so that victims of business-related human rights abuses, as well as tax authorities and law enforcement, all have access to information about who is the ultimate owner of a shell company. We are heartened by the work of the Open Government Partnership Beneficial Ownership Leadership Group. Similarly, public procurement laws that require business to make key human rights and anti-corruption commitments are essential now during the pandemic and moving towards a resilient economic recovery.

Finally, mandatory human rights due diligence would help to counter corruption and promote human rights as it would force companies to conduct human rights due diligence for their operations and value chains. This would generate greater legal certainty, increased leverage within value chains, more level playing fields, and integrated risk management.

Concerning pillar II, while many companies have implemented anti-corruption compliance programmes, responding to criminal laws against bribery and mitigating against sanctions, they have largely not done so in relation to human rights. This is even though the OECD Guidelines for Multinational Enterprises, and the United Nations Global Compact, both outline a vision of responsible business conduct that involves business making corruption and human rights commitments. As we have stated before, it is imperative for more businesses to engage in human rights due diligence in alignment with pillar II of the Guiding Principles. Furthermore, if a market or sector is rife with corruption, this should raise a red flag that there is also a high risk of human rights abuses to people – underscoring the need to see these risks as intertwined. As part of their commitment to sustainable development, businesses need to do more than positively contribute to the SDGs – they need to identify their negative human rights impacts and prevent, mitigate and remediate them, as well as commit to reducing corruption as set forth in SDG 16.

The report acknowledges that in many businesses, sustainability, supply chain, and human rights departments, operate independently from legal and compliance departments, therefore

posing challenges to a coordinated and aligned approach to preventing and addressing corruption and negative human rights. While there is no concrete trend towards companies developing single integrated compliance frameworks, the direction of travel needs to be towards greater alignment. Embedding human rights in anti-corruption efforts is easier in some categories than in others, for example, integrating human rights-related questions into baseline screening of business partners – where issues of a third party’s risks for bribery, fraud and human rights abuse could be screened at the same time.

Turning to pillar III relating to remedy, judicial incorruptibility is key. States and victims are starting to use corrupt behaviour as an entry point to seek remedy for business-related human rights abuses. Corruption is not a victimless crime but the question of who a victim is remains contested. While legal definitions are narrow, a definition of a victim that acknowledges the extent of the impact that corruption has on the enjoyment of human rights would greatly assist accountability and remedy efforts. Particular attention should be paid by States to ensuring access to remedy for all, especially for marginalized and discriminated individuals and groups at heightened risk of human rights abuses who may be deprived of their rights due to corruption, such as those displaced from their lands due to corrupt practices. Offices of the attorney general should consider the seriousness of the impact on human rights of the alleged corruption as an aggravating factor when deciding how to proceed with a case.

Finally, the report notes that multi-stakeholder governance issues often focus on anti-corruption or business and human rights – often in the same sector. In the extractive sector, for example, we have the Extractive Industries Transparency Initiative and the Voluntary Principles for Security and Human Rights. The Working Group reaffirms the importance of civil society engagement with business and States to develop solutions – but encourages States to consider frameworks that look at integrating both facets of responsible business conduct.

Distinguished delegates, States should prevent both corruption and business-related human rights abuses by fostering responsible business conduct. This requires cooperation across government and across borders. A human rights-based approach to anti-corruption is needed, one that puts the human rights of rights holders and the corresponding obligations of the State at the centre of anti-corruption efforts. Given the pandemic and the corruption which may ensue, the need for concerted action cannot be understated. The special session of the General Assembly against corruption, to be held in 2021, will provide opportunities to continue this

constructive dialogue in order to better understand the linkages between the business and human rights and anti-corruption agendas. We look forward to further collaboration with the United Nations Office on Drugs and Crime in this context.

We thank all stakeholders who contributed to the consultation process culminating in this report. Their contributions are posted on the Working Group's webpage. Finally, we also thank the core group on the topic of corruption and human rights within the Human Rights Council for its leadership and vision.

Country visits

Madame President, the Working Group thanks the Governments of Georgia and Honduras for inviting it to assess the implementation of the Guiding Principles in their countries. Both governments provided excellent support while we prepared and conducted the visits. They engaged in an open dialogue about their experiences, challenges and ways to overcome them. The Working Group expresses its gratitude to the representatives of civil society, trade unions, members of affected communities, and the business sector who shared their experiences with us.

Georgia

The Working Group visited Georgia from 3 to 12 April 2019. We were encouraged by the ongoing efforts to implement the Guiding Principles and welcomed the inclusion of a business and human rights chapter in the 2018–2020 National Action Plan on Human Rights. However, we found little evidence of the effective implementation of the chapter and suggested measures to strengthen its content and institutional framework to improve implementation. Developing a stand-alone National Action Plan on Business and Human Rights, through meaningful consultations with all stakeholders, would be the appropriate way forward.

We observed that economic policies remain focused on improving the ease of doing business and attracting investment, including through tax incentives and the creation of free industrial zones without setting clear expectations for companies to respect human rights through effective human rights due diligence processes in all sectors, and appropriate incentives for companies to respect human rights.

At the same time, we noted the political will to address existing gaps in the regulatory and institutional framework to protect the environment and communities affected by development projects, in the mining and energy sectors. More efforts, however, are needed to strengthen regulations and oversight to hold companies accountable for harm caused and to ensure public participation at all stages of environmental decision-making and monitoring, particularly in the hydro-power sector.

Notwithstanding the recent amendments to the Labour Code, occupational health and safety, especially in the construction and mining sectors, remains a challenge. We are encouraged by the commitment to establish (by 2022) a labour inspection mechanism with the mandate to inspect the full spectrum of human rights, including labour conditions and discrimination at the workplace. These issues remain a source of concern, particularly regarding the situation of women, persons with disabilities and LGBTI persons, who face additional barriers in seeking effective remedies.

More efforts should also be made to raise awareness and build capacity of all stakeholders about the concept of responsible business conduct and of the independent responsibility of businesses of all sizes and in all sectors to respect human rights.

Honduras

The Working Group visited Honduras from 19 to 28 August 2019. We welcomed the commitment of the Government, under the leadership of the Ministry of Human Rights, to implement the Guiding Principles as a critical element for the protection of human rights and sustainable development and were encouraged by some efforts in this regard.

Nevertheless, numerous challenges remain. A central challenge was the lack of a robust and coherent legal and institutional framework to protect against business-related human rights abuses, in a context in which development projects and investments appear to have outpaced protection of people and the environment. The lack of accountability and access to effective remedy for harm caused by businesses was often compounded by attacks, harassment and intimidation against those who speak out against abuses and demand accountability for victims in the context of development projects, the exploitation of natural resources, and in the energy

and agribusiness sectors. This has fuelled social conflicts with long-lasting negative repercussions for local communities, businesses and investors. The root cause of many social conflicts is the lack of meaningful participation of affected communities in decisions affecting them and a comprehensive and transparent environmental regulatory framework to prevent and mitigate adverse social and environmental impacts.

Access to, use of and control over land are serious issues often leading to social conflict. We were encouraged by some land registration and adjudication measures, including for the benefit of small-scale farmers and indigenous and Afro-Honduran peoples. Challenges remain regarding appropriate processes of territorial regularization, legal recognition and protection of land, in accordance with international standards.

We welcomed measures to strengthen labour rights protection, eradicate child labour, regularize informal labour and improve safety and health of workers. However, more needs to be done to strengthen regulations and oversight, particularly in the underwater fishing and garment sectors. In the latter, working conditions remain particularly hazardous and precarious for women, with significant impact on their physical and mental health.

Finally, many civil society actors and some representatives of the private sector agreed that impunity and widespread corruption had eroded confidence in public institutions and impeded sound and sustainable economic growth. Legal and institutional reforms to fight against corruption and impunity and to promote greater transparency are a precondition for promoting the business and human rights agenda.

NHRI Consultation

Pursuant to Human Rights Council resolution 38/13, the Working Group was requested to analyse further the role of national human rights institutions in facilitating access to remedy for business-related human rights abuses, and to convene a two-day global consultation on these issues. This ground-breaking consultation was convened by the Working Group, in coordination with the Global Alliance of National Human Rights Institutions (GANHRI) on 10 and 11 October 2019 in Geneva. It brought together representatives of over 40 NHRIs from all regions, together with representatives of Member States, civil society and other participants, to share experiences, challenges and lessons learned, as well as to identify positive practices that

can be shared with NHRIs globally. The Working Group looks forward to continuing and strengthening its engagement with NHRIs relating to the business and human rights agenda.

LAC Consultation

The fourth regional consultation for Latin America and the Caribbean was held on 3 and 4 September 2019. It was held at the UN Economic Commission for Latin America and the Caribbean and was organized by the Working Group in collaboration with OHCHR's Regional Office in Santiago, Chile, and in coordination with OECD and ILO, in the context of the EU-funded project on responsible business conduct in Latin America and the Caribbean. This important project has supported this regional platform for multi-stakeholder dialogue, through activities and technical support to diverse actors and sectors, in 2019 and 2020. The regional consultation attracted over 230 participants from 20 countries, including high-level LAC State representatives, businesses, civil society, indigenous peoples and academics. The report includes the summary of the discussion, as well as concrete recommendations. The Working Group will organize, with OHCHR's Regional Office in Central America and OECD, a virtual week on business and human rights in LAC from 7 to 11 September 2020 titled "Realising responsible business conduct in difficult times: turning challenges into opportunities".

Annual Forum

Finally, the 2019 Forum on Business and Human Rights was held in Geneva from 25 to 27 November under the title "Time to act: Governments as catalysts for business respect for human rights." The discussions focused on the need for governments to step up their leadership and action at all levels - national, regional and global - to meet their responsibility to protect and to strengthen accountability for business-related human rights abuses, and on challenges and the way forward. The report on the Forum will be presented on 15 July.

Thank you.