

# **Working Group on the issue of human rights and transnational corporations and other business enterprises**

## **Concept and discussion note for consultation with stakeholders on 14 February 2013**

### **I. Introduction**

At its third session (26-30 November 2012), the Working Group decided to submit a thematic report to the 68<sup>th</sup> session of the General Assembly in 2013, that will focus on the situation of indigenous peoples, with regard to the prevention of negative impacts of business activities on the rights of indigenous peoples, as well as addressing such impacts when they occur.

The Working Group has invited relevant stakeholders to a **public consultation on this thematic report**. The consultation will take place on 14 February 2013 from 15:00-18:00 in Room XVII, Palais des Nations, Geneva.<sup>1</sup>

This note provides an overview of the background for this thematic report and lists some questions to guide the consultation.

Stakeholders may also submit their input to the discussion questions presented in this concept note in writing before 1 March 2013 (please note extended deadline) to [wg-business@ohchr.org](mailto:wg-business@ohchr.org).

For all queries with regards to registration or accreditation for the consultation, please consult the following website: <http://www.ohchr.org/EN/Issues/Business/Pages/WGSessions.aspx>

### **II. Background**

In June 2011, the Human Rights Council unanimously endorsed<sup>2</sup> the Guiding Principles on Business and Human Rights<sup>3</sup>. The Council's endorsement 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 Council also established the Working Group on the issue of human rights and transnational corporations and other business enterprises with a mandate, inter alia, to promote the effective and comprehensive dissemination and implementation of the Guiding Principles.

In its first report to the Human Rights Council, the Working Group recognized that some groups and individuals, including indigenous peoples, face particularly significant obstacles when seeking remedies for business-related human rights grievances<sup>4</sup>. The Working Group further noted that indigenous peoples in all regions are profoundly and disproportionately

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<sup>1</sup> Please check the following website for further information on the consultation, including possible changes in the time and location of the event: <http://www.ohchr.org/EN/Issues/Business/Pages/WGSessions.aspx>

<sup>2</sup> A/HRC/RES/17/4

<sup>3</sup> <http://www.ohchr.org/EN/Issues/Business/Pages/Tools.aspx>

<sup>4</sup> A/HRC/20/29

affected by business-related activities, such as resource extraction and infrastructure development and that they frequently face discrimination in law and social practice and are marginalized in the development of policies, laws and regulations that have a bearing on business and human rights issues that affect them<sup>5</sup>. The Working Group therefore announced that it would specifically address the situation of indigenous peoples as a group vulnerable to impact of business activities.

The Working Group met with indigenous experts in Copenhagen in November 2012, to discuss challenges regarding the implementation of the UN Guiding Principles with regards to indigenous peoples. These challenges were also the topic of a panel discussion during the first annual Forum on Business and Human Rights in Geneva in December 2012<sup>6</sup>.

Based on the outcome of these discussions, the Working Group has decided to prepare a thematic report, to be presented to the 68<sup>th</sup> session of the UN General Assembly in 2013, on the topic of indigenous peoples and business and human rights. Mr. Pavel Sulyandziga, member of the Working Group and a representative of indigenous peoples, has been requested by the Working Group to lead on the preparation of this report. Mr. Sulyandziga served two terms as a member of the UN Permanent Forum on Indigenous Issues (UNPFII). In 2010, he was the author of the Permanent Forum's study on indigenous peoples and corporations<sup>7</sup>.

The Working Group will coordinate closely with other United Nations bodies which address this issue, including the Expert Mechanism on the Rights of Indigenous Peoples, the Special Rapporteur on the rights of indigenous peoples and the Permanent Forum on Indigenous Issues.

The Working Group will further consult with relevant stakeholders, including indigenous peoples, States, business enterprises and civil society organisations during the process of drafting the thematic report, including through this initial stakeholder consultation and call for submissions.

### **III. Consultation on the thematic report**

In the context of its specific mandate focusing on the promotion of the dissemination and implementation of the Guiding Principles<sup>8</sup>, the Working Group is seeking the views and recommendations of stakeholders, including indigenous peoples, States, business enterprises and civil society organisations, on the following issues related to its thematic report.

- 1) Focus: What specific issues and challenges should the Working Group take into account in drafting this report?
- 2) Existing guidance and standards: What existing standards and documents should the Working Group take into account in drafting this report?

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<sup>5</sup> A/HRC/20/29

<sup>6</sup> <http://www.ohchr.org/EN/Issues/Business/Pages/ForumonBusinessandHR2012.aspx>

<sup>7</sup> E/C.19/2010/9.

<sup>8</sup> A/HRC/RES/17/4

- 3) Existing practices and initiatives: What existing practices and initiatives should the Working Group take into account in drafting this report?
- 4) What focused insight can the Working Group bring to the issue of business impacts on indigenous peoples, given the role and thematic scope of other UN bodies on the rights of indigenous peoples?
- 5) Any other relevant considerations.

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