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

REFERENCE: SPB/SHD/UH/ff

24 March 2017

**To the members of the G20 Employment Working Group**

Dear Madam,  
Dear Sir,

I am writing to you on behalf of the [United Nations Working Group on Business and Human Rights](#), which is mandated by the Human Rights Council to promote the effective and comprehensive dissemination and implementation of the Guiding Principles on Business and Human Rights for implementing the United Nations “Protect, Respect and Remedy” Framework.

It is encouraging to see that the 2017 G20 Employment Working Group has chosen the promotion of sustainable global supply chains as one of its main focus areas. This is an issue of enormous significance as global supply chains affect the ability of vast numbers of people worldwide to realize their human rights. In this regard, we would like to stress that the UN Guiding Principles on Business and Human Rights are a key reference. Unanimously endorsed by the member states of the Human Rights Council in June 2011, they provide the agreed global standard for preventing and addressing business-related adverse human rights impacts, including within supply chains.


In annex to this letter we make a number of recommendations on how to advance sustainable supply chains. In brief, the G20 should call on governments and businesses to implement the UN Guiding Principles. Key steps that governments should take include:

- Ensure policy coherence and alignment with the Guiding Principles in multilateral institutions that shape global supply chains;
- Implement the Guiding Principles through national action plans;
- Lead by example in their roles as economic actors, including to ensure that business enterprises that are State-owned or controlled respect human rights;
- Set out clearly the expectation that all business enterprises respect human rights throughout their operations, including by promoting effective human rights due diligence in supply chains through regulatory and policy measures;
- Implement the “access to remedy” pillar of the Guiding Principles;
- Address the threat faced by a range of human rights defenders who speak up against human rights risks and impacts associated with global supply chains.

We believe the Guiding Principles can make a significant contribution to the success of the G20's work and should, therefore, be referenced both in the Ministerial Declaration and in the G20 Leaders' Declaration. The G20 is uniquely placed to show leadership in taking action and in calling on others to embed human rights more firmly in global supply chains and thereby contributing to a more sustainable future for all.

We wish you all the best in your efforts and stand ready to support this goal.

Yours sincerely,



Michael K. Addo  
Chairperson

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

Annex enclosed

cc: German G20 Presidency

## Annex

### **Recommendations of the Working Group on Business and Human Rights to the G20 Employment Working Group**

As highlighted by several international institutions, including the ILO,<sup>1</sup> global supply chains have contributed positively to economic development and progress in helping people realize a range of economic and social rights, but supply chains are also linked to significant negative human rights impacts.<sup>2</sup>

The scale and scope of this challenge is considerable. Businesses that are part of global supply chains can affect virtually all internationally recognized human rights, and the risk of human rights abuse is often exacerbated by the way global supply chains are structured and managed (or not managed).

A wide range of serious human rights abuses and violations, in all world regions, have been linked to global supply chains, which require urgent attention by world leaders. Cases include (i) human rights abuse in the workplace, such as forced and bonded labour, unsafe working conditions, absence of freedom of association, lack of living wages, and employment discrimination, often disproportionately affecting women and marginalized groups, including migrant workers, people with disabilities, refugees, minorities and children; (ii) adverse impacts on individuals and communities caused by industrial pollution and toxic wastes; (iii) violations of the rights of indigenous peoples as well as other communities affected by investments in land, natural resource extraction and large-scale infrastructure projects; and (iv) the crack-down on individuals – including environmental defenders, union leaders and journalists – who speak up against the negative impacts of business operations.

These challenges reinforce the notion that globalization has not been able to secure human rights of all. However, by placing respect for human rights at the centre of global supply chains, a solid foundation for contributing significantly to sustainable development can be created.

The UN Guiding Principles on Business and Human Rights provide the agreed global standard for preventing and addressing the human rights challenges arising from business activity. They clarify what action is required and expected by all governments and business enterprises, based on three “pillars”: the State duty to protect human rights; the corporate responsibility to respect human rights; and the need to ensure access to effective remedies for victims of business-related human rights abuse. As such, they are a key reference for the G20 when promoting sustainable supply chains.

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<sup>1</sup> See the resolution concerning decent work in global supply chains from the 2016 International Labour Conference at [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_497555.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_497555.pdf).

<sup>2</sup> As reflected in daily updates at the global “hub” for news on business-related human rights impacts – both positive and negative – the portal of the Business and Human Rights Resource Centre, <https://business-humanrights.org/>.

The Working Group echoes the statement made to the G20 Employment Working Group by the author of the Guiding Principles, Professor John Ruggie, who emphasized that: “In short, the Guiding Principles provide a roadmap for helping to bridge the governance gaps and imbalances that must be addressed for global supply chains and globalization itself to become socially sustainable.”<sup>3</sup>

Realizing this goal is also supported by business leaders, who have committed to implementing the Guiding Principles as part of their contribution to achieving the sustainable development goals.<sup>4</sup> However, in order to help reaching greater scale, the G20 should also call on larger companies to assist and support the capacity of small and medium-sized enterprises in global supply chains to commit to respect human rights in their operations.

Commitments and action by the G20 – which represents 85 percent of global output, 75 percent of world trade, and two-thirds of the world’s population – have potential to play a transformative leadership role.<sup>5</sup> G20 represents both “developed” and “emerging” markets and reflects the reality that global supply chains are no longer characterized by traditional Global South-Global North trading patterns, as business enterprises based in “emerging” markets are increasingly operating across the global economy. G20 leaders should recognize their responsibility and unique role to embed human rights more firmly in government and business policies and practice, both at home and globally. In that regard, we recall the declaration by the 2015 G7 leaders’ summit that addressed the need to safeguard labour and human rights in global supply chains and expressed strong support for the UN Guiding Principles. We would urge the G20 to build on these commitments and demonstrate leadership by contributing towards building a more inclusive and equitable global economy.

**The G20 should call on governments and businesses to implement the UN Guiding Principles**, which are grounded in States’ existing international human rights obligations and apply to all States and to all business enterprises.

Key steps that Governments should take include to:

**Ensure greater policy coherence in multilateral institutions that shape global supply chains**, such as those that deal with international trade, investment and finance. As explained in the Guiding Principles, States retain their international human rights law obligations when they participate in such institutions. Guiding Principle 10 provides that States should ensure that these multilateral institutions neither restrain the ability of their member States to meet their duty to protect nor

<sup>3</sup> <http://www.shiftproject.org/resources/viewpoints/ruggie-address-responsible-supply-chains-g20/>

<sup>4</sup> See “Business Community Affirms that Respect for Human Rights is a Key Contribution to Sustainable Development” at [http://www.ohchr.org/Documents/Issues/Business/ForumSession4/StatementUNGPs\\_SDGs.pdf](http://www.ohchr.org/Documents/Issues/Business/ForumSession4/StatementUNGPs_SDGs.pdf); Business Commission on Sustainable Development and references to the UN Guiding Principles, <http://report.businesscommission.org/>; see also <http://www.shiftproject.org/resources/publications/business-human-rights-sustainable-development-coherent-strategy/>.

<sup>5</sup> With regard to witnessing challenges and efforts at national level, the Working Group has so far conducted visits to four of the G20 nations – as part of its mandate to promote the Guiding Principles. See: <http://www.ohchr.org/EN/Issues/Business/Pages/WGCountryVisits.aspx>

hinder business enterprises from respecting human rights.<sup>6</sup> It is encouraging that other main global governance frameworks for sustainable global supply chains either incorporate key elements for human rights due diligence set out in the Guiding Principles<sup>7</sup> or reference the Guiding Principles as a key standard for businesses' contribution to sustainable development.<sup>8</sup>

**Support implementation of the Guiding Principles through relevant action plans and policy frameworks.** The G20 countries should recognize the current trend toward development of national action plans (NAPs) on business and human rights as a tool to implement the Guiding Principles and achieve greater policy coherence. Within the G20, Germany, Italy, the UK and the US have launched NAPs, while Argentina, Australia, Brazil, France, Indonesia, Japan, Mexico and the Republic of Korea have committed to develop one.<sup>9</sup> The G20 leaders should recall that the UN Human Rights Council has invited all States to develop NAPs on business and human rights and to report on progress,<sup>10</sup> and reiterate the commitment of all G20 nations to follow up on this. Recognizing that there is no 'one-size-fits-all' approach, the UN Working Group has developed guidance for States to support their efforts in developing NAPs.<sup>11</sup> In order for NAPs to reflect "state-of-the-art", they should:

- Be actionable and forward-looking, rather than just a summary of existing Government regulations, policies and activities;
- Be developed through an inclusive and transparent process;
- Provide for a process of regular review and update;
- Address the need to ensure access to remedy for victims;
- Integrate protection of human rights defenders;
- Adopt a gender-sensitive approach; and
- Learn from business efforts to implement the Guiding Principles.

**Lead by example in their roles as economic actors, including to ensure that business enterprises that are State-owned or controlled respect human rights.** As clarified by several Guiding Principles, the role of the State as an economic actor is a key aspect of the State duty to protect human rights in a business context. In that regard, the current lack of attention paid to the human rights impacts and

<sup>6</sup> For example, in 2016, the OECD Working Party on Export Credits and Credit Guarantees in its revised "Common Approaches" included an explicit statement that export credit agencies should screen applications for export credit for severe human rights risks (paragraph 6). See: [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=tad/ecg\(2016\)10/final&doclang=ue=en](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=tad/ecg(2016)10/final&doclang=ue=en).

<sup>7</sup> Such as the newly revised ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy; OECD Guidelines for Multinational Enterprises; OECD due diligence sector guidance (Due Diligence Guidance for the Responsible Supply Chains in the Garment and Footwear Sector, and Due Diligence Guidance for Responsible Supply Chains from Conflict-Affected and High Risk Areas); and the OECD-FAO Guidance for Responsible Agricultural Supply Chains.

<sup>8</sup> 2030 Agenda for Sustainable Development, paragraph 67.

<sup>9</sup> This list is based on information received by the Working Group:

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

<sup>10</sup> Human Rights Council resolution 26/22.

<sup>11</sup> [http://www.ohchr.org/Documents/Issues/Business/UNWG\\_NAPGuidance.pdf](http://www.ohchr.org/Documents/Issues/Business/UNWG_NAPGuidance.pdf)

responsibilities of State-owned Enterprises (SOEs), and to the duty of Governments that own or control them, is striking. Many SOEs worldwide are connected with adverse human rights impacts throughout supply chains, but good practices also indicate that it is both possible and in the best interest of States and SOEs to have robust requirements on human rights and sustainability.<sup>12</sup>

Another issue related to the State as an economic actor is the role of public procurement. Given the enormous combined purchasing power of G20 governments, if G20 public procurement practices were to align with the Guiding Principles, this would be a considerable contribution to more sustainable supply chains. In this area too, there is emerging good practice to draw from.<sup>13</sup>

In the area of investment policy, the G20 should note that Guiding Principle 9 reminds States to maintain adequate policy space to meet their human rights obligations in the context of investment treaties or contracts.<sup>14</sup>

**Set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.** Regulation provides one means in the government “smart mix” toolbox to drive business respect for human rights, including throughout supply chains, often by means of human rights due diligence and related reporting requirements. The G20 should recall that the Guiding Principles clarify that companies are not only expected to address human rights impacts that they cause or contribute to through their own activities, but also the impacts with which they are directly linked through operations, products or services by their business relationships. This includes exercising human rights due diligence across value chains – and not merely at the first tier. Where supply chains involve a large number of entities, priority should be given to identify the areas where the risk of adverse human rights impacts is the most significant.

Some G20 governments recently have led the way by enacting legislation that aims to embed respect for human rights in supply chains. The 2015 UK Modern Slavery Act and the 2017 French “duty of vigilance” law are illustrative of this trend. The EU Directive on disclosure of non-financial and diversity information, which Member States were required to transpose into national legislation by December 2016, also has potential to advance business respect for human rights among companies based in the EU.

Developments in countries such as Indonesia<sup>15</sup> and China<sup>16</sup> also integrate human rights due diligence concepts from the Guiding Principles to promote respect for

<sup>12</sup> The Working Group’s 2016 report on SOEs and State ownership offers detailed guidance for States on how to integrate the Guiding Principles. See: A/HRC/32/45

<sup>13</sup> See the The International Learning Lab on Public Procurement and Human Rights on <http://www.hrprocurementlab.org>.

<sup>14</sup> A practical tool on investment policy and agreements and the Guiding Principles is the LSE Investment and Human Rights Project’s “Guide to Implementing the UN Guiding Principles in Investment Policymaking”. See <http://blogs.lse.ac.uk/investment-and-human-rights/2016/02/29/7197/>.

<sup>15</sup> The Indonesian Ministerial Regulation 2/2017, issued in January 2017, establishing a certification mechanism to protecting against human rights abuse in the fishing industry. Under the regulation, fishing companies must have in place a human rights policy and mechanisms for human rights due diligence and remediation.

human rights in supply chains in certain sectors, at home and abroad respectively. Yet another example is the US Executive Order on public procurement and human trafficking. Likewise, among voluntary frameworks, India’s national voluntary guidelines for social and environmental responsibilities of business build on the UN “Protect, Respect and Remedy” Framework.<sup>17</sup> There are also other notable innovations in developing joint accountability models for addressing human rights risks within supply chains in certain sectors.<sup>18</sup>

Regulation and policies that encourage or require company reporting on human rights impacts should lead to meaningful reporting on a company’s human rights impacts and mitigation responses, with the aim of improving actual performance. Otherwise, reporting requirements will be of no use to affected stakeholders, regulators, investors, civil society and the wider public. Therefore, regulation should be accompanied by clear reporting guidance consistent with the Guiding Principles.<sup>19</sup>

**Implement the “access to remedy” pillar of the Guiding Principles.** Ensuring access to remedy for victims of business-related human rights abuse is a central aspect of the State duty to protect human rights in a business context. Without progress in this area, it will be impossible to achieve socially sustainable supply chains.<sup>20</sup> Human rights abuses in global supply chains present particular challenges for realizing the right of access to effective remedy for victims, and G20 nations could play a pivotal role in tackling this major challenge. Increased State leadership and action is critical to improve access to remedy.

When encouraging all States to develop NAPs to implement the Guiding Principles, the G20 should stress that action on the “access to remedy” pillar needs to be a central part of such efforts. The G20 should also recognize the usefulness of the 2016 OHCHR recommendations to States on improving accountability and remedy in domestic legal systems.<sup>21</sup> A commitment to implement these policy recommendations would be an important contribution to addressing human rights abuse and violations in global supply chains. One concrete aspect is that of cross-border collaboration, where G20 nations could make a significant contribution by committing to more effective collaboration between law enforcement agencies to address human rights abuses linked to cross-border supply chains, including human trafficking.<sup>22</sup>

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<sup>16</sup> See Chinese Due Diligence Guidelines for Responsible Minerals Supply Chains, <http://www.cccmc.org.cn/docs/2016-05/20160503161408153738.pdf>

<sup>17</sup> National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business, see: [http://www.mca.gov.in/Ministry/latestnews/National\\_Voluntary\\_Guidelines\\_2011\\_12jul2011.pdf](http://www.mca.gov.in/Ministry/latestnews/National_Voluntary_Guidelines_2011_12jul2011.pdf)

<sup>18</sup> One recent example is the development of “sector covenants” in the Netherlands, where the government, industry and civil society are working together in a sector context to identify human rights risks in supply chains and a joint platform for addressing them.

<sup>19</sup> A tool that offers guidance on corporate reporting in line with the Guiding Principles is the “UN Guiding Principles Reporting Framework” ([www.ungpreporting.org](http://www.ungpreporting.org)). The Global Reporting Initiative also incorporates key elements of the Guiding Principles (<https://g4.globalreporting.org/specific-standard-disclosures/social/human-rights/Pages/default.aspx>).

<sup>20</sup> This issue is also a major focus of the 2017 UN Forum on Business and Human Rights: [www.ohchr.org/2017ForumBHR](http://www.ohchr.org/2017ForumBHR).

<sup>21</sup> See A/HRC/32/19, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/32/19](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/32/19).

<sup>22</sup> The Working Group is currently undertaking a study on cross-border cooperation in cases relating to business and human rights to be presented to the Human Rights Council in June 2017.

In addition to judicial mechanisms, the G20 should recognize the essential complementary role that State-based non-judicial mechanisms provide as a means of achieving accountability and access to remedy.<sup>23</sup> To strengthen access to non-judicial mechanisms, States should both ensure adequate resources and independent mandates for a range of institutions that could help address human rights challenges linked to supply chains – such as national human rights institutions, labour inspectorates, and environmental protection agencies. OECD member States should also examine the role of their National Contact Points, to ensure a more robust and effective remediation process for rights-holders.

The G20 should also call on businesses to develop or participate in operational-level grievance mechanisms as a means for human rights concerns to be addressed early and remediated directly, while stressing that such mechanisms need to be consistent with the effectiveness criteria stipulated in the Guiding Principles.

Finally, but no less important, **G20 leaders should recognize the threat faced by human rights defenders** who speak up against the risks and adverse impacts of investments and business activities connected with global supply chains. Addressing this serious situation needs to be addressed through multiple actions by States. It is a key priority for civil society and UN human rights mechanisms,<sup>24</sup> and it is increasingly also being recognized by leading business actors, who are exploring how they can protect and support human rights defenders.<sup>25</sup>

In conclusion, **G20 commitments along the lines of above recommendations would be a game-changer to strengthen collective global efforts to achieve sustainable supply chains and a global economy founded on respect for human rights and dignity for all.** Such commitments and call for action by the G20 would be an important first step, but would also have to be put into practice. The Working Group stands ready to support the G20 and other stakeholders in these efforts, for which the UN Guiding Principles show the way forward.

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<sup>23</sup> In relation to efforts to improve the way in which non-judicial mechanisms can play a role in addressing human rights challenges in supply chains, another project led by OHCHR based on Human Rights Council resolution 32/10, is examining ways to improve effectiveness of such mechanisms.

<sup>24</sup> The Working Group echoes the UN High Commissioner's call for sustainable infrastructure development based on protection of and respect for human rights. See: <https://business-humanrights.org/en/g20-must-ensure-safe-sustainable-infrastructure-investment-agenda-un-high-commissioner-for-human-rights-says>

<sup>25</sup> See <https://www.business-humanrights.org/en/business-human-rights-defenders-portal>.