



**European Union**

**UNITED NATIONS  
HUMAN RIGHTS COUNCIL**

**Open-ended intergovernmental working group on transnational corporations  
and other business enterprises with respect to human rights**

**8<sup>th</sup> Session**

**Statement by the European Union**

**Geneva, 24 October 2022**

**- CHECK AGAINST DELIVERY -**

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**(24 October 2022)**

Mr Chair-Rapporteur,

The EU and its Member States would like to thank you and the Secretariat of the High Commissioner's Office for organising this session.

Business and human rights is currently one of the fastest developing areas in the human rights field. Preventing business-related human rights abuses and ensuring effective remedy and access to justice for victims of such abuses is not only a duty of States but also a responsibility of companies. The EU is strongly committed to this agenda and has been taking important steps to enhance our collective action.

In this context, the EU believes in the potential of an international legally binding instrument to enhance global protection against business-related human rights abuses. However, as the EU has stated in previous sessions, an international instrument can lead to global standards only if it builds on consensual frameworks, is legally sound and realistically implementable, and is supported by a critical mass of UN members across regions. Let me expand on each of these aspects in a bit more of detail.

First, since they were unanimously endorsed in 2011, the UN Guiding Principles have provided the consensual basis for initiatives on business and human rights. Accordingly, one of the priorities of the EU's human rights policy has been to strengthen engagement in promoting global efforts to implement the Guiding Principles, including by supporting the development and implementation of National Action Plans in its Member States as well as partner countries, advancing relevant due diligence standards, and enhancing the coordination and coherence of EU action. Fifteen Member States of the European Union have developed National Action Plans on Business and Human Rights while others are in the process of developing them. Furthermore, some EU Member States have already passed national legislation regarding due diligence. In addition, the EU supports regional projects outside Europe such as the Responsible supply chains project in Asia and the Responsible business conduct project in Latin America and the Caribbean, working with

governments and businesses to develop concrete policies and plans based on the UNGPs. Moreover, the standards created by EU law in areas such as due diligence for mineral sourcing, non-financial reporting and batteries also build on international standards.

2022 was marked by two very important developments within the EU. Firstly, in February the European Commission presented a legislative proposal introducing horizontal mandatory due diligence requirements for companies regarding human rights, including labour rights, and environmental standards. The initiative proposes rules to ensure that businesses address the actual or potential adverse impacts of their operations on human rights. Secondly, last month the European Commission published its proposal to ban forced labour products from the EU market. The proposal covers all products extracted, harvested, produced or manufactured with forced labour, namely those made in the EU for domestic consumption and exports, as well as imported goods, without targeting specific companies or industries. Both initiatives build on internationally agreed definitions and standards and underline the importance of close cooperation with partners.

Furthermore, the EU is preparing a comprehensive EU Framework on the implementation of the UN Guiding Principles, which will identify actions to enhance the coordination and coherence of EU actions in the area of business and human

rights. This EU Framework will also contribute to identify possible measures to support the future implementation of the legislative instruments.

Secondly, as mentioned earlier, the EU believes that any binding instrument must be legally sound and implementable in practice, so that it can effectively enhance the protection of victims of business–related human rights abuses, and create a global level playing field for companies. In previous sessions, we welcomed the efforts by the Chair to propose a draft legally binding instrument, and today we welcome the Chair’s attempt to advance the discussion through some suggested amendments on key provisions. These proposals include important changes regarding prevention and international cooperation, among others, which require a comprehensive approach. We are looking forward to further comments and explanations on the rationale behind each article proposal. The current draft includes positive aspects, for instance on the promotion of human rights due diligence processes that require companies to integrate a gender perspective in all stages and that are proportionate to the company’s size and context of activity.

The EU supports the consensual UN Guiding Principles. This could include the requirement for business enterprises to develop a human rights policy, establish a mechanism preventing human rights abuses, foresee mitigating measures in case adverse impacts are identified and establish a complaint mechanism.

Nevertheless, the EU remains concerned, both about the process as well as the capacity of the proposed draft. In particular whether this instrument could lead to globally accepted standards that could be practically implementable by States. , Furthermore, the EU is concerned about the level of detail and prescriptiveness of the draft instrument in a number of policy areas such as civil and criminal liability, applicable law and jurisdiction, or judicial cooperation, whilst at the same time using vague and open definitions for other key elements in the draft. More generally, for the EU it is crucial that the obligations potentially created by the instrument would apply to all businesses in a non-discriminatory manner, irrespective of whether they are privately owned or State-owned.

Third and finally, Mr Chair, the EU would like to thank you for your efforts to gather broad cross-regional support to the process. We appreciate in this regard the proposal of the Chair to advance the work on the draft instrument by means of consultations carried out by a Group of Friends of the Chair during the inter-sessional period. We understand from your communications before the session that it has not been possible to convene such consultations. In this respect, we encourage the Chair to continue your engagement with UN members and stakeholders - including civil society organisations, trade unions and the business community – in order to build the necessary consensus towards an instrument that can effectively lead to globally accepted standards. The EU stands ready to continue working with you in this regard.

The EU encourages all States to engage positively during this session. While the EU does not have a negotiating mandate, the EU will provide elements to the discussion, notably based on the EU legislative proposals.

We look forward to the discussion during this session and stand ready to contribute constructively.

I thank you Mr. Chairperson-Rapporteur.