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

Ninth session

Geneva, 24 – 28 November 2014


Outcome of the ninth session of the Working Group on the issue of human rights and transnational corporations and other business enterprises*

* Reproduced as received.

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I. Summary

1. The Working Group on the issue of human rights and transnational corporations and other business enterprises held its ninth session in Geneva, Switzerland from 24 to 28 November 2014. It convened meetings and discussions on the following:

(a) The activities of the Working Group to promote State national action plans as a vehicle to implement the Guiding Principles on Business and Human Rights, and the guidance prepared by the Working Group on this issue, to be issued on 1 December 2014 at the third annual Forum on Business and Human Rights;

(b) Three open consultation meetings, respectively with stakeholders from business enterprises and business associations, States and intergovernmental organisations, and civil society organisations, to consult and seek their views on the Working Group's agenda for its second three-year term. The discussions and suggestions made by the various stakeholder groups informed the Working Group's initial discussions about the strategy for the second term;

(c) Strategy for the next three-year term of the Working Group;

(d) The third annual Forum on Business and Human Rights, to be held in Geneva, Switzerland 1 - 3 December 2014, and the second regional Forum on Business and Human Rights, the African Regional Forum on Business and Human Rights, held in Addis Ababa, Ethiopia 16 - 18 November 2014, and plans to hold a third regional Forum on Business and Human Rights in Asia during 2015;

(e) Other Working Group projects, meetings and salient issues, including its proposed country visits; its communications to States and businesses, where appropriate, in relation to pressing human rights issues; its cooperation with the International Labour Organization (ILO) and with the Inter-American Human Rights Commission.

The present report summarizes some of the key items discussed.

II. Activities of the Working Group on national action plans

2. The Working Group discussed the impending launch, at the third annual Forum on Business and Human Rights, of its guidance on national action plans to implement the Guiding Principles on Business and Human Rights.

3. The Working Group updated Member and observer States of the Human Rights Council on its forthcoming guidance on national action plans, and explained that the guidance would be reviewed in 2015 and in 2016 after incorporating lessons from further implementation experiences by countries that are adjusting their national action plans or are in the process of formulating a new plans.

4. The Working Group decided to engage with users of the guidance document to inform the next version of the guidance, and to ensure that future versions of the guidance remain current and true to its objective of (1) promoting national action plan processes that are effective in preventing and mitigating adverse business-related human rights impacts and in improving access to remedies; and (2) encouraging more States, civil society actors and business enterprises to develop and support such national action plan processes.

III. Guidance prepared by the Working Group on essential substantive elements in a national action plan

5. During its session, the Working Group finalized the guidance for States on the development of national action plans on business and human rights.¹ The guidance was produced following an open, global, year-long consultative process that involved States, companies, civil society, NHRIs and academia. The Working Group consulted with governments on the topic of national action plans via a 2014 State survey, and it launched an online consultation on the substantive elements to be included in a national action plan. The guidance built on the input received by the Working Group during its eighth session from a wide range of experts from a variety of backgrounds, including government, national human rights institutions, international organizations, business, civil society and academia. The guidance was also informed by a number of meetings of the Working Group held on national action plans, including the open consultation held in February 2014 during the seventh session of the Working Group.

6. The Working Group noted the value of a State developing a national action plan on business of human rights, and how the process of formulating a national action plan could promote national multi-stakeholder dialogue, and scale up implementation of, and awareness of, the Guiding Principles on Business and Human Rights by States and business enterprises.

7. The Working Group committed to update the guidance after further empirical evidence on viable and useful implementation is gathered in 2015-2016. As such the Working Group decided that the guidance document was “version 1.0” and subsequent versions would be issued in due course. The Working Group resolved to liaise with users of the guidance to make sure that subsequent iterations of the guidance reflect the user experience.

8. The Working Group recognised that there is no “one size fits all” approach to formulating, implementing, and reviewing a national action plan, but hoped that its guidance would provide States with a helpful guide to the essential elements for a successful and constructive national action plan process.

IV. Strategy for the next mandate of the Working Group

9. The ninth session was the first session to be held since the extension of the mandate of the Working Group, for a period of three years, by the Human Rights Council in June 2014. The Working Group considered that the end of the first mandate, and the commencement of the second mandate, provided an appropriate opportunity to review the Working Group’s strategy and priorities, identify new priority areas, and listen to, and talk with, stakeholders working on business and human rights issues, in order to update the strategy for the next three years.

10. The Working Group devoted a whole day to consultations with States and intergovernmental organizations, business enterprises and representatives of the business community, and civil society organisations, during which time it collected valuable input as to the priorities to be followed during the Working Group’s second mandate. Specific proposals and suggestions made and discussed by the Working Group included the importance of promoting industry sector specific plans in relation to business and human

¹ For more information see <http://www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx>.

rights issues, and of giving more attention on access to remedy and grievance mechanisms. The consultations held will feed into the review of the Working Group's strategy to be completed during the Working Group's tenth session in February 2015.

11. In addition, the Working Group observed that large audiences remain unaware of the Guiding Principles, and that scaling up implementation, and awareness, within and amongst States and business enterprises, therefore remained a top priority for the Working Group.

V. Third annual Forum on Business and Human Rights and second regional Forum

12. The Working Group, which is mandated by the Human Rights Council to guide the annual Forum on Business and Human Rights, discussed preparations for the third Forum, to be held in Geneva, Switzerland 1 - 3 December 2014. It noted that, this year's Forum had attracted significant interest from business representatives and from a wide range of civil society organisations and high-profile human rights defenders.

13. The Working Group discussed achievements of the African Regional Forum on Business and Human Rights held in Addis Ababa, Ethiopia 16 - 18 September 2014. The African Regional Forum followed on from the success of the first regional forum, the Regional Forum on Business and Human Rights for Latin America and the Caribbean held in Medellín, Colombia, 28 - 30 August 2013. The Working Group also discussed its intention to hold a Regional Forum on Business and Human Rights for Asia during 2015.

VI. Other Working Group projects, meetings and salient issues

14. The Working Group discussed its proposed country visits in 2015. Having undertaken visits to Mongolia 8 - 17 October 2012, the United States of America 22 April - 1 May 2013, Ghana 8 - 17 July 2013, and Azerbaijan 18 - 27 August 2014, the Working Group decided that it would prioritize a visit to a country in Latin America and the Caribbean during 2015.

15. The Working Group also discussed its planned communications to States, business enterprises and other relevant stakeholders and the need to raise awareness about the communications procedure, including through the website of the Working Group.

16. The Working Group agreed to start reviewing its Methods of Work with a view to updating to the Methods of Work document at its tenth session in February 2015.²

17. The Working Group met with Office representatives of ILO and discussed the on-going working arrangements between the ILO and the Working Group to further entrench existing cooperation and information sharing, for example in relation to labour aspects of reports on country missions. The Working Group decided that its revised Methods of Work document would reflect its decision, made at its eighth session to formalize existing cooperation with the ILO.³

18. The Working Group received an update from Shift about the human rights reporting and assurance framework initiative (RAFI), including on the forthcoming launch of the pilot reporting framework for companies and the latest round of consultations on the reporting framework recently held in Yangon, Manila, Jakarta, London and New York.

² Available from <http://www.ohchr.org/EN/Issues/Business/Pages/WorkingMethods.aspx>.

³ A/HRC/WG.12/8/1, para. 21.

19. The Working Group had a conference call with members of the Secretariat of the Inter-American Human Rights Commission. During the conference call, the Working Group heard about the plans of the Inter-American Human Rights Commission in the area of business and human rights, and explored areas of possible collaboration.

20. The Working Group met with staff of the Office of United Nations High Commissioner for Human Rights and was updated on the work of the Office in relation to the implementation of the Guiding Principles on Business and Human Rights, as well as on the negotiations surrounding the Sustainable Development Goals and the relevance of the Guiding Principles on Business and Human Rights to those negotiations.

21. The Working Group held a business stakeholder consultation with business enterprises and representatives of the business community. The Working Group facilitated the meeting with participants attending both in person, and via conference call. The Working Group received input in relation to the matters to be prioritised during its second mandate; the continued dissemination of the Guiding Principles on Business and Human Rights, particularly to small and medium-sized enterprises; input to processes being developed by intergovernmental organisations; and the Working Group's focus on promoting national action plans on business and human rights. In relation to this final point, it was suggested that industry sector specific plans should be formulated in relation to business and human rights issues.

22. The Working Group held a meeting open to all States and intergovernmental organizations. The meeting provided an opportunity for the Working Group to present its plans and seek input and ideas on areas related to its mandate. The session was well attended. Discussions centred on the forthcoming launch of the Working Group's guidance on national action plans, to be launched at the third annual Forum on Business and Human Rights on 1 December 2014; the Working Group's interest in supporting States that are in the process of formulating national action plans; and arrangements for the third annual Forum on Business and Human Rights.

23. The Working Group held a consultation with civil society organisations and met with a wide range of stakeholders. Discussions focused on the important role that civil society organisations can play in promoting the formulation of national action plans on business and human rights, and in conducting some of the preparatory work, such as baseline studies and stakeholder consultations. The Working Group also pointed out how civil society organisations can comment on draft national action plans, thereby strengthening the final document, and can participate in the implementation of national action plans. The dialogue continued with a discussion about access to remedy, both through judicial and non-judicial remedy mechanisms. The importance of engaging with human rights defenders was highlighted. Civil society organisations also spoke of the value of communications made by the Working Group to States, business enterprises and other relevant stakeholders. The discussion also addressed the suggestion that industry sector specific plans could be formulated in relation to business and human rights issues.

VII. Chairperson and Vice-Chairperson

24. Following his appointment at the end of the eighth session, Michael Addo served as Chairperson of the Working Group, and Margaret Jungk served as Vice-Chairperson. The Working Group decided that Michael Addo and Margaret Jungk will continue in these functions until 30 June 2015.
