



# General Assembly

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**Human Rights Council**  
**Working Group on the issue of**  
**human rights and transnational**  
**corporations and other business enterprises**  
**Fifth session**  
Geneva, 17-21 June 2013

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

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## **I. Outcome of the fifth session of the Working Group**

1. The Working Group on the issue of human rights and transnational corporations and other business enterprises held its fifth session from 17 to 21 June 2013, in Geneva. At that session, the Working Group discussed its programme of work and activities for 2013 and 2014, forthcoming country visits and reports, its thematic report to the General Assembly on the implementation of the Guiding Principles on Business and Human Rights in the context of business activities that have an impact on indigenous peoples, follow-up to the 2012 Forum on Business and Human Rights and preparation for the 2013 Forum, its communications strategy, preparations for the regional Forum on Business and Human Rights for the Latin America and Caribbean region, Human Rights Council resolution 22/29, and engagement with partners.

2. At its fifth session, the Working Group held meetings with representatives of Member States, as well as of the Gender Reference Group, the Global Reporting Initiative and Shift. It also held a panel discussion open to the general public on managing human rights risks in the garment sector supply chain and the lessons learned from the perspective of the Guiding Principles.

## **II. Engagement with partners and stakeholder organizations**

3. The Working Group engaged with the Gender Reference Group, an international, multi-sector, ad hoc reference group made up of individuals with an interest and expertise in gender equality, business and human rights. The Working Group recalled its specific mandate to integrate a gender perspective throughout the work of its mandate<sup>1</sup> and its previous discussions on how to address this specific perspective in its work streams. The Working Group decided to continue its engagement with the Gender Reference Group to identify specific opportunities for collaboration in ensuring the integration of a gender perspective into its work.

4. The Working Group also engaged with the Global Reporting Initiative, specifically with regard to its most recent set of sustainability reporting guidelines (“G4”), and explored possible opportunities for cooperation in the area of business and human rights.

5. The Working Group continued its discussions with Shift, in particular with regard to the joint Shift/Mazars project on the development of public, global standards for reporting for companies in accordance with the Guiding Principles on Business and Human Rights. The Working Group, which will review the findings of the project, emphasized that any products resulting therefrom should be free and non-proprietary, and that the development process should be transparent and engage relevant stakeholders.

6. The Working Group held a meeting with the Group of Friends of Business and Human Rights, comprising interested members and observer States of the Human Rights Council, and outlined its planned programme of activities for the remainder of 2013. It invited all States to inform the Working Group of national and regional initiatives to disseminate and implement the Guiding Principles, particularly with regard to the development of national plans of action, and to share experiences and lessons learned from such initiatives with the Working Group and with other States and stakeholders. The Working Group also provided an update on preparations for the annual Forum in December 2013 and the first regional Forum for Latin America and the Caribbean, co-hosted by the

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<sup>1</sup> Human Rights Council resolution 17/4, para. 6 (f).

Working Group, the Regional Bureau for Latin America and the Caribbean of the United Nations Development Programme, and the Government of Colombia, to be held from 28 to 30 August 2013 in Medellín, Colombia.<sup>2</sup> The Working Group also expressed its hope to organize a similar regional consultation in Africa in early 2014, and would continue to seek funding and support for this proposal.

### **III. Open panel discussion on managing human rights risks in the garment sector supply chain, and the lessons learned from the perspective of the Guiding Principles on Business and Human Rights**

7. The Working Group held an open panel discussion on managing human rights risks in the garment sector supply chain, and the lessons learned from the perspective of the Guiding Principles on Business and Human Rights on 20 June 2013.<sup>3</sup> The objective of the panel discussion was to reflect on lessons learned from attempts to manage human rights risks in the garment sector, and to discuss how effective implementation of the Guiding Principles on Business and Human Rights by all actors, including States and local and international businesses, can help to prevent and address such risks. Issues for consideration during the panel discussion included the key lessons learned in relation to human rights due diligence and implementation of the Guiding Principles on Business and Human Rights in complex global supply chains, including with regard to access to remedy for victims; and how the momentum behind the Accord on Fire and Building Safety in Bangladesh can be extended to address working conditions in the garment sector globally, and to other sectors facing similar challenges.

8. The panel discussion was moderated by the vice-chairperson of the Working Group, Alexandra Guáqueta. The panellists were Aleix Gonzalez Busquets, Senior Corporate Social Responsibility and Supply Chain Manager, Inditex; Jenny Holdcroft, Director of Policy, Trade and Development, IndustriALL; Peter McAllister, Director of the Ethical Trading Initiative; Kamran Rahman, former president of the Bangladesh Employer's Federation and Vice President of the Metropolitan Chamber of Commerce and Industry of Dhaka; Caroline Rees, President of Shift; Daniel Rees, Director of the Better Work Programme, International Labour Organization (ILO); and Andy York, Ethical Trading Manager, JD Williams / N Brown Group.

9. The panel discussion was attended by some 70 representatives of States, international and regional organizations, businesses, trade unions, and employer and civil society organizations. The discussions focused on lessons for all stakeholder groups, ranging from global responses to the Rana Plaza building collapse in Bangladesh. The Accord on Fire and Building Safety in Bangladesh was also highlighted as a unique and highly interesting example of collaboration between unions and companies. The Accord, a legally binding agreement between global unions and international clothing brands, had been signed by more than 50 companies as at 20 June 2013. Participants highlighted particularly salient features of the Accord, including the close collaboration between the signatory brands, and between brands and trade unions; the commitment to establish factory-level health and safety committees composed of both workers and management; the

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<sup>2</sup> For more information, see [www.ohchr.org/EN/Issues/Business/Forum/Pages/2013LACRegionalForumBusinessandHumanRights.aspx](http://www.ohchr.org/EN/Issues/Business/Forum/Pages/2013LACRegionalForumBusinessandHumanRights.aspx).

<sup>3</sup> See [www.ohchr.org/EN/Issues/Business/Pages/WGSessions.aspx](http://www.ohchr.org/EN/Issues/Business/Pages/WGSessions.aspx).

legally enforceable nature of the agreement; the commitment to minimum pricing needed to guarantee safety; the agreement to provide incentives to suppliers, including underwriting remedial actions where necessary; and its focus on public transparency. Business participants in particular emphasized the greater leverage of concerted cooperation between corporate actors, which also benefited small- and medium-size companies that may otherwise have limited leverage with suppliers. In the view of the Working Group, the Accord, and the process that led to it, were worthy of further in-depth study. The discussions also highlighted the responsibilities of local companies in respect for human and labour rights, and for ensuring that remedies for violations were available.

10. Participants also discussed the importance of State implementation of the Guiding Principles, including the fact that the State has the primary duty to protect human rights against violations by third parties, which entails enacting and enforcing appropriate legislation and regulation. In this regard, panellists and stakeholders referred to the package of labour reforms that ILO had negotiated with the Government of Bangladesh, which included a commitment to increase inspections of factory buildings significantly, as a positive development. Stakeholders also highlighted the role that the Working Group could play in making recommendations to States and businesses. The issue of ensuring effective access to remedies was discussed. Some stakeholders noted that victims from past factory incidents had struggled to obtain a comprehensive remedy and that all actors, including the State, local companies and international brands had a role to play in this respect. Effective remedy was also emphasized as a means of addressing the underlying issues that allow violations and therefore of preventing recurrences.

11. The Working Group expresses its thanks to the panellists and participants, and to all those who had submitted written statements,<sup>4</sup> for helping to make the panel discussion such a fruitful exchange. The Working Group would continue to assess the issues raised in discussions, including with regard to the role it could play in collecting and disseminating lessons from the Accord, as well as in making recommendations to all relevant actors on the implementation of the Guiding Principles.

#### **IV. Civil society survey**

12. The Working Group recalled the surveys prepared in 2012 and addressed to States and business enterprises in order to establish the status of implementation of the Guiding Principles by stakeholders, the results of which were published by the Working Group.<sup>5</sup> It decided to seek collaboration from interested partners to also develop a survey for civil society organizations on their work with regard to the Guiding Principles, and to obtain their views on the key successes of and remaining challenges facing the implementation of the Guiding Principles by State bodies and businesses enterprises.

#### **V. Upcoming country visits**

13. The Working Group has published information on its forthcoming confirmed country visits on its dedicated webpage.<sup>6</sup> As at June 2013, missions to Ghana and the Russian Federation had been confirmed for 2013. The Working Group will announce its programme of visits for 2014 upon confirmation of dates by the relevant States.

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<sup>4</sup> See [www.ohchr.org/EN/Issues/Business/Pages/Statements5thSession.aspx](http://www.ohchr.org/EN/Issues/Business/Pages/Statements5thSession.aspx).

<sup>5</sup> A/HRC/23/32/Add.2.

<sup>6</sup> See [www.ohchr.org/EN/Issues/Business/Pages/WGCountryVisits.aspx](http://www.ohchr.org/EN/Issues/Business/Pages/WGCountryVisits.aspx).

14. The Working Group also reviewed its past missions, to Mongolia and the United States of America, with a view to understanding how such missions could be strengthened and its approach to in-country work be made more robust.

## **VI. 2013 Forum on Business and Human Rights**

15. The Working Group discussed its preparations for the second annual Forum on Business and Human Rights, to be held in Geneva on 3 and 4 December 2013. The Working Group had received more than 70 submissions from an entire range of relevant stakeholders in response to a call for inputs on topics and modalities for the second annual Forum. The Working Group is deeply grateful to the stakeholders that submitted their suggestions, and appreciates the rich and thoughtful inputs received. It will seek to incorporate as many suggestions as possible as it continues its discussions on the programme of the Forum, while noting that the limited time available for the Forum will not allow it to accommodate all requests.

16. The Working Group intends to build on the momentum of the 2012 Forum, and will make adjustments based on lessons learned and feedback from stakeholders. The Working Group agreed that the programme for 2013 would be more focused, and will seek to facilitate greater active participation by States and businesses and enable more joint cross-stakeholder debate. The Working Group also agreed that the programme would accommodate the need to provide space for more specialized in-depth discussions on key topics. In particular, the Working Group deems it important that stakeholders be enabled to come together to take stock collectively on key trends and challenges in the implementation of the Guiding Principles, and that in-depth analysis of challenges in the context of specific stakeholder groups, such as human rights defenders and indigenous peoples, specific sectors, and the continued need for promoting the alignment of practices and standards, be ensured.

17. The Working Group expects that registration for the Forum will open in early September 2013, and that the provisional programme will be released by early October. Further details will be made available on the Forum webpage.<sup>7</sup>

## **VII. Human Rights Council resolution 22/29**

18. The Working Group discussed Human Rights Council resolution 22/29, in which the Council called upon the relevant United Nations bodies to take all necessary measures and actions within their mandates to ensure full respect for and compliance with Council resolution 17/4 on the Guiding Principles on Business and Human Rights and other relevant international laws and standards, and to ensure the implementation of the United Nations “Protect, Respect and Remedy” Framework, which provided a global standard for upholding human rights in relation to business activities that are connected with Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and requested the Working Group, including in consultation with relevant special procedures mandate holders, to fulfil its mandate accordingly.

19. In this regard, the Working Group welcomed the fact that a number of United Nations mechanisms (namely, treaty bodies and special procedures mandate holders) already referred to and applied the Framework and the Guiding Principles on Business and Human Rights in the implementation of their respective thematic and country mandates.

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<sup>7</sup> See [www.ohchr.org/EN/Issues/Business/Forum/Pages/ForumonBusinessandHumanRights.aspx](http://www.ohchr.org/EN/Issues/Business/Forum/Pages/ForumonBusinessandHumanRights.aspx).

The Working Group reiterated its previous recommendations to States and business enterprises on the implementation of the Guiding Principles,<sup>8</sup> and noted that they applied to all companies and in all contexts, and also within the occupied Palestinian territories.

20. The Working Group noted furthermore that the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 and the independent international fact-finding mission to investigate the implications of Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, had already investigated and reported on the matter,<sup>9</sup> and that the High Commissioner would be reporting thereon to the Human Rights Council at its twenty-fifth session, pursuant to the request made by the Council in resolution 22/29.

21. Lastly, the Working Group decided to continue its consideration of the matter and to issue a statement thereon before the twenty-sixth session of the Human Rights Council.

### **VIII. Upcoming meetings**

22. The Working Group will hold its sixth session, in Geneva, from 25 to 29 November 2013, prior to the second annual Forum on Business and Human Rights.

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<sup>8</sup> See A/67/285, A/HRC/20/29 and A/HRC/23/32.

<sup>9</sup> See A/67/379, A/HRC/22/63 and A/HRC/23/21.