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


Thirteenth session

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

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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 thirteenth session in Geneva, Switzerland from 1 to 5 February 2016.
2. During the session, the Working Group convened meetings and discussions on the following:
 - (a) The Working Group's priorities and projects for 2016;
 - (b) The two-day meeting in Santiago, Chile which the Working Group and the Regional Office for South America of the UN Office of the High Commissioner for Human Rights are convening, with the collaboration of the Organization for Economic Cooperation and Development, from 2 to 3 March 2016 at the Economic Commission for Latin America and the Caribbean in Santiago, Chile, to facilitate a dialogue between Government representatives from Latin America and the Caribbean, international organizations and relevant stakeholders to identify progress and share challenges and experiences in relation to public policies that promote responsible corporate behaviour;
 - (c) Three open consultation meetings, respectively with States and intergovernmental organizations, business associations, and civil society organizations, to consult on the Working Group's plans and to seek input on specific projects;
 - (d) Plans to hold a regional Forum on Business and Human Rights for Asia in Doha, Qatar from 19 to 20 April 2016; and planning in relation to the fifth annual Forum on Business and Human Rights to be held in Geneva, Switzerland from 14 to 16 November 2016;
 - (e) Other Working Group projects and meetings, including its proposed country visits; its communications to States and businesses, where appropriate, in relation to pressing human rights issues; the Working Group's 2016 reports to the Human Rights Council and the General Assembly; and the Working Group's cooperation with various UN agencies including UNECE, UNDP, UNCTAD and the International Labour Organization (ILO).
3. The present report summarizes some of the key items discussed.

II. Working Group priorities and projects for 2016

4. The Working Group reiterated its position that the development of national action plans on business and human rights remains a key tool to help increase implementation of, and awareness of, the UN Guiding Principles on Business and Human Rights and that national action plans, once produced, should be revised on a regular basis, as the UK is currently in the process of doing. The Working Group noted that 10 States have now issued a national action plan on business and human rights, including, most recently, Colombia, which is the first State from the GRULAC region to do so. It also observed that a growing number of States are seeing the value of developing a national action plan on business of human rights, and are either in the process of finalising their national action plans (such as Germany and the USA), or announcing their intention to start the process of formulating a national action plan on the basis of multi-stakeholder dialogue. The Working Group also noted that national action plan processes are being launched with the support of civil

society organisations. The Working Group determined that it would continue to update its website¹ as it receives information about new national action plans. The Working Group noted that its updated guidance on national action plans² was launched at the fourth annual Forum on Business and Human Rights, following on from consultations with stakeholders that used the first version of the guidance which was published in November 2014. The Working Group noted its aspiration for the guidance to be used by all stakeholders during national action plan development processes.

5. The Working Group discussed its country visit to Brazil which took place during December 2015. It reviewed its key findings from the visit in preparation for the drafting of the report on the visit. It noted with satisfaction that it has now undertaken country visits to States in all of the UN regional groups as its visit to Brazil was its first visit to a country in the Latin America and the Caribbean region and it had previously undertaken visits to countries in Asia, North America, Africa and Eastern Europe. It also discussed its plans for country visits in 2016 and noted that it was looking forward to its visit to the Republic of Korea from 23 May to 1 June 2016.

6. The Working Group reviewed the communications sent during 2015 and during the first month of 2016 and reiterated its intention to continue sending communications to States, business enterprises and other relevant stakeholders. It also discussed the possibility of issuing follow-up communications in relation to particular cases. It noted that communications were often most effective when sent jointly with other Special Procedures mandates. It also stressed the continued importance of sending communications to both home and host states, where relevant, and its on-going commitment to raising awareness among other special procedures mandates of the need to communicate directly with business in communications involving allegations of corporate abuse or negative impacts, noting that business entities tended to be more responsive than States in relation to allegations raised with them.

7. The Working Group continued its discussion, started during the twelfth session, about its priorities for 2016 and the second term of its mandate. This included a discussion on the thematic focus of its reports to the Human Rights Council in 2016, the General Assembly in 2016, the Human Rights Council in 2017 and the General Assembly in 2017, and the possibility of undertaking a visit during the second term of its mandate to a business enterprise which would complement the country visits undertaken by the Working Group which also remain a priority.

8. Working Group members provided updates on the meetings and outreach exercises they have undertaken since the twelfth session, including attendance at the 21st session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (COP21/CMP11) held in Paris, France during December 2015.

III. Two-day meeting in Santiago, Chile from 2 to 3 March 2016

9. The Working Group discussed its plans to hold, with the Regional Office for South America of the UN Office of the High Commissioner for Human Rights, and with the collaboration of the Organization for Economic Cooperation and Development, a two-day meeting in Santiago, Chile from 2 to 3 March 2016 at the Economic Commission for Latin

¹ The Working Group's website is available at:
<http://www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx>.

² The Working Group's updated guidance document is available at:
http://www.ohchr.org/Documents/Issues/Business/UNWG_NAPGuidance.pdf.

America and the Caribbean in Santiago, Chile. The Working Group agreed that the aim of the meeting is to facilitate a dialogue between Government representatives from Latin America and the Caribbean, international organizations and relevant stakeholders to identify progress and share challenges and experiences in relation to public policies that promote responsible corporate behaviour. The title of the event is “Regional consultation for Latin America and the Caribbean (LAC) on public policy for the implementation of the United Nations Guiding Principles on Business and Human Rights in the Framework of the 2030 Agenda on Sustainable Development” and the meeting will have an emphasis on the implementation of the UN Guiding Principles on Business and Human Rights and the OECD Guidelines on Multinational Enterprises.

10. The Working Group noted that the meeting would enable participants to share cross-regional practice and lessons learned on the implementation of the UN Guiding Principles on Business and Human Rights and that an outcome report would be drafted following the meeting in order to disseminate the knowledge shared during the meeting to a wider audience.

11. The Working Group further noted that, subject to available funding, it would be desirable for the meeting to be held on an annual basis in order to capitalize on momentum and facilitate knowledge sharing and development across the region.

12. The Working Group also noted with gratitude that funding for the March 2016 meeting was being provided by the Governments of Switzerland and the Netherlands .

IV. Forthcoming reports to the Human Rights Council and the General Assembly

13. In relation to its forthcoming report to the 32nd session of the Human Rights Council, the Working Group decided that the report would focus on the State as an economic actor and state owned enterprises.

14. In relation to its forthcoming report to the 71st session of the General Assembly, the Working Group decided that the report would focus on human rights in global supply chains.

V. Feedback on the fourth annual Forum on Business and Human Rights, plans for the fifth annual Forum on Business and Human Rights, and plans for the Regional Forum for the Asia region

15. The Working Group, in accordance with its mandate from the Human Rights Council to guide the annual Forum on Business and Human Rights, discussed the helpful feedback it had received from a range of stakeholders concerning the fourth annual Forum, to be held in Geneva, Switzerland, held from 16 to 18 November 2015. The Working Group also considered the Summary of discussions of the Forum on Business and Human Rights, prepared by the Chair, Ms. Diana Chávez, which would be presented to the Human Rights Council in June 2016.

16. The Working Group also discussed plans underway for the fifth annual Forum, to be held in Geneva, Switzerland, from 14 to 16 November 2016. It decided that primary focus areas of the fifth annual Forum would be the State as an economic actor and global supply chains.

17. The Working Group noted that a call for applications for parallel sessions for the fifth annual Forum would shortly be placed on the Forum website, along with the criteria the Working Group will apply when selecting parallel sessions.

18. The Working Group emphasized that it is encouraged that the annual Forum is going from strength to strength and that it has become the main global meeting for the discussion of business and human rights issues. It renewed its encouragement for all States to promote attendance at the Forum to experts in capitals, and to businesses and business associations. The Working Group stated that it remains committed to its goal of achieving a representative balance of stakeholder participation from States, business, civil society, and communities directly affected by business operations.

19. The Working Group discussed its plans to hold a Regional Forum on Business and Human Rights for Asia in Doha, Qatar from 19 to 20 April 2016; and outlined the logistical and practical arrangements that were being finalised in preparation for the event. In discussing the Regional Forum for Asia, the Working Group reflected on the achievements of, and feedback received in relation to, the African Regional Forum on Business and Human Rights held in Addis Ababa, Ethiopia 16 - 18 September 2014, and the Regional Forum on Business and Human Rights for Latin America and the Caribbean held in Medellín, Colombia 28 - 30 August 2013.

VI. Meetings and briefings with stakeholders

20. The Working Group took the opportunity to meet with Permanent Missions to discuss particular issues relevant to its mandate. It met with the Ambassador of Brazil to discuss the findings of its recent country visit to Brazil, and with the Minister Counsellor at the Permanent Mission of China to hear about the plans for China's presidency of the G20. The Working Group also met with the Deputy Permanent Representative of the Permanent Mission of Japan to hear about the plans for Japan's presidency of the G7, and to explore opportunities for collaboration in light of the Leaders' Declaration at the 2015 G7 Summit which stated: "*We strongly support the UN Guiding Principles on Business and Human Rights and welcome the efforts to set up substantive National Action Plans. In line with the UN Guiding Principles, we urge private sector implementation of human rights due diligence. We will take action to promote better working conditions by increasing transparency, promoting identification and prevention of risks and strengthening complaint mechanisms. We recognize the joint responsibility of governments and business to foster sustainable supply chains and encourage best practices.*" The Working Group encouraged Japan to follow up on this statement during its presidency of the G7 and suggested that China could promote a similar commitment amongst G20 countries.

21. The Working Group met with staff of the Office of United Nations High Commissioner for Human Rights and received an update on the OHCHR-led project on access to remedy and the accompanying consultation process in preparation for a report to the Human Rights Council. The Working Group also heard information regarding plans for the second session of the open-ended intergovernmental working group on transnational corporations and other business enterprises which is scheduled to be held, in accordance with Human Rights Council resolution 26/9, in October 2016 in Geneva.

22. The Working Group met with Office representatives of the ILO and discussed the on-going cooperation between the ILO and the Working Group. In particular they discussed the ILO's forthcoming work on supply chains, the forthcoming Asia Regional Forum on Business and Human Rights, the Working Group's thematic reports for 2016, plans for the fifth annual Forum on Business and Human Rights, the Working Group's plans for country visits, an update on the ILO's International Labour Conference to be held in June and the

thematic discussion on value chains, prospects for a review and update of the MNE Declaration, and information about a new ILO publication on indigenous peoples in the Asia Pacific Region.

23. The Working Group had a telephone meeting with representatives of the International Trade Union Confederation in Brussels to discuss on-going collaboration and engagement in relation to the Regional Forum on Business and Human Rights for Asia and the fifth annual Forum on Business and Human Rights.

24. The Working Group held a meeting open to all States and intergovernmental organizations. The meeting was well attended by representatives from 40 delegations and provided an opportunity for the Working Group to present its work since the twelfth session and share its plans for 2016. The Working Group discussed with States its plans for the Regional Forum on Business and Human Rights for Asia and the fifth annual Forum on Business and Human Rights, feedback on the fourth annual Forum, and its planned report to the 32nd session of the Human Rights Council on State Owned Enterprises (following on from the Working Group's 2015 survey) and the Working Group's plans for its report to the 71st session of the General Assembly on supply chain management. The Working Group emphasised that it is open to holding bilateral meetings with States. The Working Group also expressed sincere thanks to the States that had accepted its requests to undertake country visits.

25. The Working Group held a meeting with the UNECE Executive Secretary and staff of the UNECE to discuss areas of collaboration in the context of the Sustainable Development Goals and the 2030 Agenda for Sustainable Development, and UNECE's work including in relation to anti-corruption standards for public-private partnerships, the Convention on access to information, public participation in decision-making and access to justice in environmental matters (the Aarhus Convention), the Convention on the Transboundary Effects of Industrial Accidents, and the Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention). One specific area for collaboration that was discussed was the incorporation of a human rights perspective, and the UN Guiding Principles, into UNECE guidance for public-private partnerships in the context of the 2030 Agenda.

26. The Working Group held a consultation with civil society organizations and met with a range of stakeholders. The meeting provided an opportunity for civil society organizations to share their experiences with the Working Group. In particular, the Working Group heard from a range of civil society organizations about the initiatives they are taking in the field of business and human rights. The meeting also provided a chance for the Working Group to present its plans for 2016 and to provide feedback on its recent country visit to Brazil and inform about its forthcoming country visit to the Republic of Korea in May 2016 and its further aspirations for country visits and company visits over the coming years.

27. The Working Group held a business stakeholder consultation by telephone with business enterprises and representatives of the business community. The Working Group received feedback in relation to the fourth annual Forum on Business and Human Rights and gathered input in relation to the plans for the Regional Forum on Business and Human Rights for Asia and the fifth annual Forum on Business and Human Rights and the participation of business enterprises in these events.

28. The Working Group held a meeting with Office representatives of UNCTAD to discuss areas of collaboration and ways to strengthen cooperation in the context of UNCTAD's work on responsible contracts, sustainable stock exchanges, investment and human rights, and global value chains.

29. The Working Group held a meeting with Office representatives of UNDP to discuss areas of collaboration, particularly in relation to UNDP's work on the Sustainable Development Goals and the 2030 Agenda for Sustainable Development, and expectations of the private sector in the roll-out of the 2030 Agenda, in light of the UN Guiding Principles on Business and Human Rights. The Working Group also discussed its support for national action plans on business and human rights and explained its strategy in this area to UNDP.

VII. Chairperson and Vice-Chairperson

30. Dante Pesce served as Chairperson of the Working Group, and Pavel Sulyandziga served as Vice-Chairperson. From 1 January 2016, Dante Pesce took on the role of Chairperson of the Working Group and will serve in that role until 30 June 2016. From 1 January 2016 Pavel Sulyandziga took on the role of Vice-Chairperson of the Working Group and will serve in that role until 30 June 2016. For the period from 1 July to 31 December 2016, Pavel Sulyandziga will serve as Chairperson and Michael K. Addo will serve as Vice-Chairperson.
