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Outcome of the seventeenth 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 seventeenth session in Geneva, Switzerland from 8 to 12 May 2017.
2. During the session, the Working Group convened meetings and discussions on the following:
 - (a) The Working Group's priorities and projects for 2017-18;
 - (b) Regional consultations;
 - (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) An expert workshop on the role of the private sector in relation to human rights defenders and preserving civic space, as well as identifying opportunities for coordination and collective action;
 - (e) Plans for the sixth annual Forum on Business and Human Rights to be held in Geneva, Switzerland from 27 to 29 November 2017 and a possible Regional Forum in 2018;
 - (f) Other Working Group projects and meetings, including its 2017 country visits to Canada and Peru; and the Working Group's 2017 reports to the Human Rights Council and the General Assembly;
 - (g) The Working Group also held meetings with OHCHR, with the Thun Group of banks, and the International Labour Organisation.
3. The present report summarizes some of the key items discussed.

II. Working Group priorities and projects for 2017

4. The Working Group discussed its plans for its country visits during 2017, 2018 and 2019, including the visits confirmed for Canada from 23 May to 1 June 2017 and Peru from 10 to 19 July 2017. The Working Group discussed its priorities for country visits during 2018 and the coming years. It reiterated its wish to take a regionally balanced approach to the countries and regions it visits, and as such, it expressed a particular interest in visiting countries in Africa, and Asia during 2018 and 2019.
5. The Working Group continued its discussions concerning its priorities for 2017-2018, particularly its focus on issues related to access to remedy, gender and women's rights, human rights defenders and civic space. As well as the 2030 agenda for sustainable development, international investment agreements, banking and finance, the state as an economic actor (including public procurement and the role of State-Owned Enterprises), and the promotion of National Action Plans in Business and Human Rights, in line with the Working Groups Guidance on the development of such plans. The Working Group also discussed its work on communications, as well as its role in interpreting the UN Guiding Principles on Business and Human Rights. In this regard, it referred to its dialogue with members of the Thun Group of Banks concerning the discussion paper published by the Thun Group, "on the implications of UN Guiding Principles 13 and 17 in a corporate and investment banking context".¹
6. Working Group members provided updates on the meetings and outreach they have undertaken since the Working Group's sixteenth session, including participation in:

¹ See letter from the Working Group to members of the Thun Group of Banks dated 23 February 2017, available at: http://www.ohchr.org/Documents/Issues/TransCorporations/WG_BHR_letter_Thun_Group.pdf

- events in Brazil on 4-6 April 2017 facilitated by UNICEF and UNDP on the themes of children rights and business and of business contribution to Sustainable Development Goals;
- the 11th Asia Human Rights Forum on 17-18 April entitled ‘Human Rights and Asian Corporate Leadership’;
- events in the Netherland on 19-20 April International Organisation of Employers (IOE) global forum on business and human rights, Free Trade Agreements (FTAs) and Global Reporting Initiative (GRI) working meeting on human rights reporting;
- an expert panel meeting on operational grievance mechanisms on 23-25 April organised by the International Commission of Jurists;
- meetings in Mexico on 25-28 April, including participation in “ECLAC: Forum of the Countries of Latin America and the Caribbean on Sustainable Development” and meetings with Government working group on a national action plan on business and human rights and with Mexican civil society organizations;
- meeting in Japan on 1-3 May on a national action plan on business and human rights;
- EU Parliament meeting on ‘business and human rights in EU External Policies: due diligence, non-financial reporting and access to remedies’ on 3 May;
- ‘European Union peer learning’ conference in Brussels on 4 May;
- events in Belgium on 4-5 May with ITUC and OECD Watch and Louvain University working group on sustainability.

7. The Working Group discussed its participation in a national workshop on a national action plan on business and human rights in Thailand (Bangkok, 31 May 2017), and an ASEAN regional conference on “Moving ahead with National Action Plans in ASEAN” (Bangkok, 1-2 June 2017). The meetings were organized by the Working Group, UNDP, ASEAN CSR-Network, UNESCAP and the Ministry of Justice of Thailand.

8. The Working Group discussed the use of the Working Group’s twitter account (@WGBizHR) and how best to use the account to disseminate information related to the Working Group activities.

III. Reports to the Human Rights Council and the General Assembly

9. The Working Group discussed its thematic reports to the 35th session of the Human Rights Council focusing, on the implementation of the UN Guiding Principles on Business and Human Rights by small and medium sized enterprises (SMEs) and on cross-border cooperation between States with respect to law enforcement on the issue of business and human rights.² The Working Group further discussed how best to use the reports in their future work streams.

10. The Working Group discussed its report to the 72nd session of the General Assembly focusing on access to remedy. The report would complement and build on the work already undertaken by OHCHR and try to unpack the meaning of “effective remedy” under the Guiding Principles. The report would be informed by a number of consultation meetings, as well as by a questionnaire sent to States and other stakeholders.

11. The Working Group discussed lessons learnt from its recent country visits to Mexico and the Republic of Korea, on which it would report to the Human Rights Council at its 35th session.

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

12. The Working Group also discussed plans for a future report on public procurement, as an addendum to a future report to the Human Rights Council. The Working Group noted that such report would require a process of consultations with relevant stakeholders.

IV. Plans for the sixth annual Forum on Business and Human Rights and a possible Regional Forum

13. The Working Group reaffirmed its plans for the sixth annual Forum which will focus on the third pillar of the Guiding Principles (access to remedy for rights holders affected by business-related human rights abuses) addressing all three types of mechanisms covered in the Guiding Principles: state-based judicial mechanism, state-based non-judicial mechanisms and non-state-based grievance mechanisms. The Working Group discussed how the focus on access to remedy provides an opportunity to strengthen multi-stakeholder dialogue around practical solutions to ensure access to effective remedies for the victims of business-related human rights abuses.

14. The Working Group noted that the call for session proposals was opened in March 2017 with a deadline of 26 May 2017.

15. The Working Group reflected on the challenges of facilitating increased participation from the Global South, and in particular representatives from affected communities. In that regard, the Working Group discussed the possibility of crowdsourcing and the role external partners could play in raising funds to support travel of Forum participants.

16. The Working Group discussed its plans for a “Forum blogs series” that will help inform Forum discussions. The blog series would be hosted by the *Business and Human Rights Journal*.

17. The Working Group noted that in the context of the 2017 Forum it was conducting a mapping of ongoing research and projects related to access to remedy.³

V. Regional consultations

18. The Working Group will continue to support and convene regional events to promote implementation of the Guiding Principles. In 2017, apart from participating in ASEAN regional workshop in Bangkok, Thailand on 1-2 June, the Working Group will also convene, jointly with OHCHR Regional Office for Latin America, a third regional consultation on national action plans and public policies on business and human rights, in Santiago, Chile, on 12-14 December 2017. The Working Group would like to convene a UN regional forum on business and human rights in 2018, following on from the regional forums convened by the Working Group in 2013 (Latin America and Caribbean), 2014 (Africa), 2016 (Asia), provided that funds could be raised for such event.

VI. Meetings and briefings with stakeholders

19. The Working Group held meetings with OHCHR staff and received updates on: the OHCHR report mandated by Human Rights Council resolution 32/10 to “identify and analyse lessons learned, best practices, challenges and possibilities to improve the effectiveness of State-based non-judicial mechanisms that are relevant for the respect by business enterprises for human rights, including in a cross-border context”. It also met with the Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights and plans for its third session from 23 to 27 October 2017; and the database of business enterprises in accordance with Human

³ Information is sought via an on-line form, via the concept note of the 2017 Forum, at: <http://www.ohchr.org/Documents/Issues/Business/ForumSession6/ConceptNote.pdf>.

Rights Council resolution 31/36. The Working Group appreciated the updates provided by OHCHR staff.

20. The Working Group met with representatives from the Permanent Mission of Canada in connection with the country visit by the Working Group (23 May to 1 June 2017).

21. The Working Group met with the Peruvian Ambassador and representatives from the Permanent Mission of Peru in connection with the planned country visit by the Working Group from 10 to 19 July 2017.

22. The Working Group met with the Ambassador of Thailand and representatives from the Permanent Mission of Thailand in connection with the national and regional workshops on business and human rights from 31 May to 2 June 2017, with the participation of two Working Group members.

23. The Working Group held a meeting with representative of the Thun Group of Banks on 10 May 2017, focusing on the Thun Group of Banks 'discussion paper on the implications of the UN Guiding Principles 13 & 17 in a corporate and investment banking context'.⁴

24. On 11 May, the Working Group held an expert consultation entitled 'Human Rights Defenders and Civic Space – the Business & Human Rights Dimension'. The consultation brought together members of civil society, non-governmental organisations, human rights defenders, representatives of business enterprises associations and the United Nations. The expert consultation focused on elements for the Working Group to consider as it explores guidance for businesses in this area. The guidance will seek to clarify the corporate responsibility to respect the human rights of human rights defenders and the role of business in supporting civic freedom and human rights.

25. The Working Group met with representatives of the ILO and discussed areas for collaboration and cooperation between the ILO and the Working Group. Representatives from the Multinational Enterprises and Enterprise Engagement Unit, and the Fundamental Principles and Rights at Work Branch attended the meeting. The following items were discussed: the Working Group's plans for its reports to the Human Rights Council and the General Assembly in 2017; the sixth annual Forum on Business and Human Rights; the Working Group's country visits during 2017; the Working Group's work on human rights defenders; an update on the revised ILO Multinational Enterprises and Social Policy (MNE Declaration); ILO work on the sustainable development goals, and Alliance 8.7 on child and forced labour.

26. The Working Group held an open meeting with States and intergovernmental organizations. The meeting provided an opportunity for the Working Group to present its work since the sixteenth session and share its work plan for 2017 and 2018. The Working Group provided statistics in relation to country visits and noted that it would like to visit countries in Asia and Africa as a priority in 2018 and 2019. The Working Group also reminded States about the process for submitting session proposals for the sixth annual Forum on Business and Human Rights, and drew attention to its statement to the G20.⁵

27. During the 17th session, 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 highlight specific topics and cases with the Working Group. It also provided a chance for the Working Group to share details of its 2017 work plan. The Working Group informed participants of the latest development in regard to the Annual Forum, and that a regional consultation may take place in Eastern Europe, depending on funding. The Working Group furthermore informed civil society organizations of the latest developments of States' national action plans.

28. During the 17th session, the Working Group held a consultation with representatives of a number of business associations. The Working Group discussed the annual Forum and

⁴ http://www.ohchr.org/Documents/Issues/TransCorporations/WG_BHR_letter_Thun_Group.pdf

⁵ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21450&LangID=E>

various focus areas, including work on human rights defenders, gender, the SDGs, and national action plans.

VII. Chairperson and Vice-Chairperson

29. Michael K. Addo served as Chairperson of the Working Group, and Surya Deva served as Vice-Chairperson. Michael K. Addo will serve as Chairperson, and Surya Deva will serve as Vice-Chairperson until 30 June 2017. For the period from 1 July to 31 December 2017, Surya Deva will serve as Chairperson and Anita Ramasastry will serve as Vice-Chairperson.
