



## **Joint Statement on Business & Human Rights to the United Nations Human Rights Council**

**Geneva, 30 May 2011**

### **INTRODUCTION**

The International Organisation of Employers (IOE), the International Chamber of Commerce (ICC) and the Business and Industry Advisory Committee (BIAC) to the OECD, which together form the most representative voice of global business, welcome the final report of Professor John Ruggie, the Special Representative of the Secretary-General (SRSG) on business and human rights and the *"Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework."* We also thank the SRSG for his dedication and tireless effort over the past six years to develop open communication and consensus among all stakeholders, which has been a significant part of his contribution to the way in which these issues are addressed.

Our organizations have actively engaged with the SRSG throughout his mandate by participating directly in numerous consultations, submitting joint comments or statements on various reports produced by the mandate, and engaging in ongoing communication with the SRSG and his team during the entire mandate. We welcomed his previous reports to the UN Human Rights Council and, like many others, endorsed the UN "Protect, Respect, Remedy" framework, which clearly distinguishes the roles of States and third parties, including business enterprises. We have also strongly supported the pragmatic approach adopted by the SRSG that allowed the framework to emerge through a robust and open consultation process involving all stakeholders.

Building on that previous support, we welcome the SRSG's final report and the Guiding Principles on Business and Human Rights, and encourage the UN Human Rights Council to endorse the Guiding Principles as the basis for the ongoing and progressive implementation of the UN framework.

Business is committed to meeting its responsibility to respect human rights and we fully expect that States and other stakeholders will do the same within their respective duties and responsibilities. Our organizations also remain committed to working with the UN Human Rights Council and other stakeholders during the implementation phase to advance the framework and the Guiding Principles in a way that creates a sense of ownership of the issues among our members, which we see as a key success factor in dissemination and adoption of the Principles.

### **GUIDING PRINCIPLES**

Business welcomes the development of the Guiding Principles, which provide practical recommendations for States and business enterprises to operationalize the UN "Protect, Respect and Remedy" framework. In a joint submission to the SRSG in advance of the development of the Guiding Principles, our organizations called for the Principles to be:

- Universal: The Guiding Principles should apply to all countries and all companies, regardless of their size, location or ownership, applying to public, private and State-owned enterprises;
- Clear: The Guiding Principles should be written clearly and maintain the clear distinction between the respective roles of states and business enterprises;
- Flexible: The Guiding Principles should avoid a “one-size fits all” approach and should present a flexible framework that can be adapted to different circumstances;
- Practical: The Guiding Principles should reflect the approach of “principled pragmatism” adopted by the SRSG, focusing on recommendations that are practical and achievable;
- Simple: The Guiding Principles should be written directly for their target audiences, and use simple and commonly understood terms to explain the issues; and
- Stable: Once adopted, the Guiding Principles should be left unchanged for a number of years in order to allow for a period of reflection, adoption and application by States and the business community.

In our assessment, the final Guiding Principles have achieved these objectives, and we hope the eventual follow-up mechanism will as well. We see the universal application of the Principles as being crucial for the success of the framework by establishing a level playing field. In addition, business welcomes the acknowledgement that one size does not fit all in terms of the application of the Principles in different situations and circumstances, and that companies will apply the Principles differently depending on a range of factors, including the operating context and nature of its activities.

Business supports the approach taken in the Principles to elaborate the implications of existing standards and practices into practical guidance, rather than seeking to create new international legal obligations or to assign legal liability. We believe that these Principles will be useful to all actors – business, governments and other stakeholders – in order to implement measures to address human rights issues effectively.

We also welcome the recognition expressed in the Guiding Principles that the area of business and human rights is an emerging field that will continue to evolve over time. Similarly, it must be acknowledged that the Principles set out objectives that companies should strive to achieve, and that use of the Principles by companies will take time and constitutes an on-going process.

Finally, we continue to believe that the State duty to protect – in conjunction with the additional State duties to respect and promote human rights – remains the most important factor in ensuring that all people are free to enjoy their human rights. This is because only States have the ability to develop a positive national position on human rights that can set the tone and direction for all other actors in their countries. The respective obligations of States and enterprises should be seen as mutually supportive and intrinsically linked, particularly since the ability of companies to respect human rights can be directly affected by the actions of States.

## **FOLLOW-UP MECHANISM**

We believe that any follow up mechanisms to the mandate should reflect the fact that, as stated in the SRSG report, the international community is in the early stages of this journey, that this is a new policy domain and that business and human rights is significantly different and more complex than the traditional human rights agenda. This calls for a new approach in any follow up mechanism, as well as adequate time for the Guiding Principles to be studied, understood and implemented in practice.

We believe that the issue of business and human rights would be best served by continuing the very open, transparent and consultative approach adopted by the SRSB during his mandate, which was crucial to its success. The Guiding Principles set out comprehensive recommendations to States and to enterprises, but applying those recommendations in practice in a wide variety of circumstances will require ongoing consultation on the full spectrum of issues. Given this, we believe that a follow up mechanism based on dialogue and consultation among the relevant stakeholders will be necessary for the implementation of the Principles.

We also believe that any follow up mechanism should continue the approach of “principled pragmatism” adopted by the SRSB. This means looking for ways to implement and use the Guiding Principles in practical ways that may not address all issues all at once, but moves the process forward in an effective and sustainable manner.

Thus, our organizations strongly support the recommendation of the SRSB for a follow-up mechanism based on a multi-stakeholder approach focused on capacity building and information exchange. A multi-stakeholder approach would sustain business engagement in the implementation of the Principles by ensuring that companies have the necessary space and time to apply the Principles in ways that reflect their particular circumstances.

In our view, a multi-stakeholder process would also enhance the role of the Office of the High Commissioner for Human Rights as a facilitator and would increase the Office’s capacity to help governments, business and other stakeholders in understanding and using the Principles. Such an approach would give space for a consultative process and experimentation, thereby widening and deepening the understanding of how to make the most effective use of the Principles by all companies.

Conversely, we would be extremely concerned with a follow-up mechanism based on the traditional approach of a Special Rapporteur with a complaints-receiving mandate. We believe that such an approach would undermine the very productive consultative process developed by the SRSB and significantly increase the risk that the process would return to the highly contentious debate that preceded his mandate.

## CONCLUSION

Our organizations reaffirm our longstanding commitment on human rights issues and look forward to future opportunities to work together with Governments and other stakeholders to advance the implementation of the Guiding Principles.



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## **ABOUT THE IOE, ICC AND BIAC**

### **International Organisation of Employers (IOE)**

The IOE, the largest network of the private sector in the world, is a membership organization that promotes the interests of employers and their organizations from all over the world at the international level through representation, information and advice. The IOE provides leadership for the business community in all areas of social and labour policy and proactively participates in international policy development that seeks to create a framework that underpins enterprise creation and development. It provides an international forum that brings together national employers' organizations and their members from around the world and facilitates the exchange and transfer of information, experience and good practice amongst the business community globally. The IOE was founded in 1920 and today represents 150 national members in 143 countries.

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### **International Chamber of Commerce (ICC)**

ICC is the world business organization, a representative body that speaks with authority on behalf of enterprises from all sectors in every part of the world. The fundamental mission of ICC is to promote an open international trade and investment system and the market economy, and to help business corporations meet the challenges and opportunities of globalization. Business leaders and experts drawn from ICC's global membership establish the business stance on broad issues of trade and investment policy as well as on vital technical subjects. ICC was founded in 1919. Today it groups thousands of member companies and associations from 130 countries.

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### **Business and Industry Advisory Committee (BIAC) to the OECD**

BIAC is an independent international business association that was established to provide business advice to the government policymakers at Organization for Economic Cooperation and Development (OECD) on the full range of issues related to globalization and the world economy. BIAC promotes the interests of business by engaging, understanding and advising policy makers on a broad range of issues. Through its 37 policy groups covering most aspects of OECD work, BIAC members participate in meetings, global forums and consultations with the OECD leadership, government delegates, committees and working groups. BIAC was founded in 1962 and established formal relations with the OECD that year, and today represents 49 national business organizations from 34 OECD member countries and 7 major non-member economies.

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