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**Joint views of ICC and the IOE on the
draft “Norms on the Responsibilities of Transnational Corporations
and Other Business Enterprises with regard to Human Rights”
submitted to
the United Nations Commission on Human Rights**

The International Chamber of Commerce (ICC) and the International Organisation of Employers (IOE) – the most representative global business organizations – respectfully submit their views on the draft “Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights”, to members of the United Nations Commission on Human Rights in advance of the 60th session of the Commission (15 March - 28 April 2004, Geneva), at which the draft “norms” will be reviewed.

ICC and the IOE have followed closely the development of the draft “norms” and have previously expressed views on the “norms” to the Working Group on the Working Methods and Activities of Transnational Corporations and to the Sub-Commission on the Promotion and Protection of Human Rights, as well as to the United Nations High Commissioner for Human Rights.

- Business is committed to operating in a responsible and sustainable manner, including by respecting the human rights and civil liberties of employees, customers, suppliers and the communities in which they operate. Business is also committed to helping advance human rights in its own sphere of influence and fully supports efforts to raise awareness of human and labour rights among companies. Business has a strong interest in encouraging the improvement of social conditions, which are an important factor for stable development, and in providing an example of good human rights practices.
- In addition to the many international treaties that have been negotiated between governments, companies have put considerable efforts into individual corporate responsibility initiatives to promote good human rights practices, and into developing voluntary codes that set forth positive human rights practices for companies and other organizations. Examples include the OECD Guidelines for Multinational Enterprises (1976), the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977), the Caux Principles for Business (1994), the Global Sullivan Principles (1999), the UN Global Compact (2000), and the Voluntary Principles on Security and Human Rights (2000).
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- Such efforts are designed to supplement the implementation and enforcement of national laws and regulations to protect human rights and civil liberties, not to replace them. However, the

draft “norms” are predicated on the belief that human rights can best be advanced by circumventing national political and legal frameworks and establishing international legal obligations for multinational companies that do not exist at the national level and do not apply to domestic companies.

- ICC and the IOE are of the view that, while well-intentioned, this approach would be counterproductive because it risks undermining the resources and attention necessary to improve the capacity of national governments to implement and enforce their existing human rights laws, with which all companies – foreign or domestic, local or global – must already comply. It would also shift the focus away from some of the worst cases of human rights and labor abuses that take place in local economies.
- Private organizations, including business, do not have the democratic mandate nor authority to assume what are and should remain government responsibilities and functions. Attempting to shift that responsibility to companies would place them in an impossible situation of being held accountable for the actions of those beyond the company’s control.
- Moreover, the “norms” extend far beyond issues of basic human rights and cover a wide range of political, social, and economic rights that should be decided by national governments. It would be highly inappropriate to privatize, in effect, the policing of those rights by making companies the enforcing agent. ICC and the IOE strongly believe that the establishment of the legal framework for protecting human rights is a task for national governments.
- The draft “norms” create a legal no man’s land. They do not distinguish between binding and non-binding human rights obligations. They are presented as a set of “norms” when in fact many of the instruments they are drawn from are not themselves legally-binding, and those that are legally-binding heavily qualify the rights that they address. By calling them “non-voluntary” and using legal language where there is no legal obligation, the draft “norms” blur the line between voluntary and legal actions, and make corporate compliance virtually impossible.
- The draft norms would create significant conflicting requirements for companies. Few, if any, could remain in compliance with existing national laws should the draft “norms” be adopted. As one example, companies would be required to ensure that their actions do not indirectly contribute to human rights abuses. Since tax payments fund government activities, companies would be required to stop tax payments to any government that is suspected of present or future human rights abuses.
- Further, companies would be required to ensure that all companies in their entire supply chain comply with the draft “norms”, which for many companies is simply not possible. Companies would be required to break contracts with suppliers that the company - not an

impartial court - deems to be in non-compliance with the draft “norms”. Given the legal ambiguities in the draft “norms”, this would create a legal justification for companies to break contracts at will.

- Lastly, as the draft “norms” would impose potential legal and practical burdens on companies, especially companies operating in developing countries where they may face difficult human rights situations, the “norms” would create a deterrent to investing in developing countries. Rather than improving human rights in such countries, the draft “norms” would greatly discourage the very investment that is the best hope for economic development and improved human rights.

ICC and the IOE hope that Members of the United Nations Commission on Human Rights will take the above views into account in their discussion of the draft “norms” at their forthcoming 60th session, and wish to thank Members of the Commission for this opportunity to place these views before them.

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