



General Assembly

Distr.: General
12 April 2022

Original: English

Human Rights Council

Fiftieth session

13 June–8 July 2022

Agenda item 5

Human rights bodies and mechanisms

Tenth session of the Forum on Business and Human Rights

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

Summary

In the present report, the Working Group on the issue of human rights and transnational corporations and other business enterprises provides an overview of the key observations and messages emerging from the tenth session of the Forum on Business and Human Rights, held in Geneva from 30 November to 1 December 2021. The theme of the tenth session was “The next decade of business and human rights: increasing the pace and scale of action to implement the Guiding Principles on Business and Human Rights”.



Contents

	<i>Page</i>
I. Introduction	3
II. Key messages from the opening plenary session	4
III. The legacy of the architect of the Guiding Principles on Business and Human Rights, John Ruggie.....	6
IV. Guiding Principles on Business and Human Rights: a decade of action and a road map for the next decade	7
A. Government action and coherence.....	8
B. Multi-stakeholder dialogue	8
V. State obligations and actions	9
A. Mandatory human rights due diligence.....	10
B. International investment agreements and human rights.....	11
VI. Corporate respect for human rights	11
VII. Access to remedy	12
VIII. Regional perspectives and dialogue	14
A. African States.....	14
B. Asia-Pacific States	14
C. Eastern European States.....	14
D. Latin American and Caribbean States.....	15
E. Western European and other States	15
IX. Issues in focus	16
A. Groups at risk.....	16
B. Confronting racism	16
C. Coronavirus disease (COVID-19) pandemic	17
D. Human rights defenders and public participation	17
E. Climate change prevention and remedies	18
F. Technology	18
G. Responsible business conduct in the defence sector	19
X. Closing plenary session: key messages	19

I. Introduction

1. Since its first session in 2012, the Forum on Business and Human Rights has become the world's biggest event on business and human rights. It was established by the Human Rights Council in its resolution 17/4, in which the Council also endorsed the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework.¹ The mandate of the Forum is to discuss trends and challenges in the implementation of the Guiding Principles; promote dialogue and cooperation on issues linked to business and human rights, including challenges faced in particular sectors or operational environments, or in relation to specific rights or groups; and identify good practices.

2. The Forum is organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR), guided and chaired by the Working Group on the issue of human rights and transnational corporations and other business enterprises. The present report was prepared by the Working Group in accordance with Human Rights Council resolution 44/15, in which the Council invited the Working Group to submit a report on the proceedings and thematic recommendations of the Forum to the Council for its consideration.

3. The programme of the Forum consisted of 27 sessions, including various high-level sessions organized by the Working Group, OHCHR and external partners.² In the present report, the Working Group provides a broad overview of the Forum and key messages emerging from the discussions that took place over three days. It should be read together with the programme, session concept notes, statements and session web recordings.³ Owing to conditions related to the coronavirus disease (COVID-19) pandemic, the Forum was held in virtual format with attendance in Geneva of some members of the Working Group.

4. The year 2021 marked the tenth anniversary of the Guiding Principles on Business and Human Rights.⁴ On that occasion, the Working Group took stock in its report of 10 years of implementation of the Guiding Principles and additionally developed the Guiding Principles 10+ road map for the next decade of business and human rights aimed at scaling up the action and pace of implementation of the Guiding Principles in the next decade and beyond.⁵ Against this backdrop, the theme of the tenth Forum was "The next decade of business and human rights: increasing the pace and scale of action to implement the Guiding Principles on Business and Human Rights". Participants in the Forum took an active part in multi-stakeholder discussions to emphasize the need for States and businesses to look ahead and inspire a renewed push for scaled-up global implementation of the Guiding Principles in the decade to 2030.

5. The Working Group led thematic, global and regional discussions dedicated to trends, challenges and opportunities to implement the Guiding Principles, in which participants shared their perspectives on efforts and actions to overcome the implementation gaps identified in the stocktaking report and to identify pathways for faster and wider implementation of the Guiding Principles and a lasting positive impact on human rights and the environment for the next decade. The programme included thematic sessions dedicated to specific current or emerging issues, including connecting the business and human rights and climate change agendas; legal and policy developments, such as mandatory human rights due diligence legislation; State policy and practice to protect human rights in response to the socioeconomic crisis due to the COVID-19 pandemic; international investment agreements compatible with human rights; protection of human rights defenders and indigenous people; strengthening access to remedy; and business-related human rights abuses pertaining to the defence sector. In addition, the Working Group held regionally focused sessions to facilitate multi-stakeholder dialogue on challenges, lessons learned and ways forward in Africa, the

¹ [A/HRC/17/31](#), annex.

² See <https://10unforumbhr2021.sched.com/>.

³ Available at <https://www.ohchr.org/EN/Issues/Business/Forum/Pages/2021ForumBHR.aspx>.

⁴ See <https://www.ohchr.org/EN/Issues/Business/Pages/UNGPsBizHRnext10.aspx>.

⁵ See [A/HRC/47/39](#), [A/HRC/47/39/Add.2](#) and <https://www.ohchr.org/sites/default/files/2021-12/ungps10plusroadmap.pdf>.

Asia-Pacific region, Eastern Europe, Latin America and the Caribbean, and the Western Europe and other States region.

6. More than 3,000 participants from 140 countries and a wide range of backgrounds registered for the Forum (see table below). In addition, people from around the world were able to follow the Forum sessions on UN Web TV. The virtual format helped to ensure that a very broad and diverse range of stakeholders from all regions could follow and participate in the sessions. Over 65 per cent of registered participants and over 56 per cent of those with official speaking roles identified themselves as women.

<i>Category of participating stakeholders</i>	<i>Percentage</i>
Academic institutions	11
Civil society organizations, affected stakeholders and indigenous peoples' groups	26
Multi-stakeholder initiatives	2
National human rights institutions	3
Private sector (business enterprises, business/industry associations, consultancies, law firms and investors)	29
States	9
Trade unions	1
United Nations entities/intergovernmental organizations	10
Other	9

7. The Forum opened with a session that convened the Working Group members and senior leaders from the United Nations to present and discuss the recommendations in the road map on how to scale up the implementation of the Guiding Principles. It set the scene around the theme of the Forum and emphasized the focus for the discussions that would take place over the three days of the event.

II. Key messages from the opening plenary session⁶

8. The Forum was opened by the United Nations High Commissioner for Human Rights (through a video recording), the President of the Human Rights Council and the Chair of the Working Group. In their opening remarks, they highlighted the celebration of the tenth anniversary of the Guiding Principles as the global framework for preventing and addressing adverse human rights impacts linked to business activity. At the same time, they stressed the importance of the Forum in gathering diverse stakeholders for an inclusive dialogue to assess the implementation of the Guiding Principles to date, the remaining challenges and the path to follow in the next decade of implementing the Guiding Principles.

9. The High Commissioner noted the importance of leveraging more responsible business conduct in support of a more sustainable future. She welcomed the Working Group's road map and its policy-oriented goals and actions, and paid tribute to the work and legacy of the drafter of the Guiding Principles, former Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie. She acknowledged that the Guiding Principles had proven to be an essential common framework for all stakeholders to address business-related human rights abuses and had helped to achieve real change for people on the ground. She expressed concern about the remaining challenges with respect to ensuring better protection of human rights and the prevention of adverse impacts on people resulting from business activity. She stressed that the triple threat of climate change, pollution and biodiversity loss were among the most significant challenges to human rights in the current era. Additionally, she noted that growing inequalities, exacerbated by the pandemic, and shrinking civic freedoms undermined resilience and the ability to avoid disaster for the planet. The High Commissioner acknowledged the many people who had suffered harassment, attacks or even lost their lives

⁶ See <https://media.un.org/asset/k1s/k1svby0pdn>.

for speaking up against harmful business activities and defending the human rights of workers and impacted communities. She also emphasized that respect for people and the planet should be at the core of every business practice now and for future generations.

10. The President of the Human Rights Council emphasized the role of all stakeholders in increasing the pace and scale of action to implement the Guiding Principles, particularly as the world emerges from the pandemic and as the global economy is increasingly integrated. She pointed out that businesses frequently operate in a global digital market, which has changed the world of work and requires increased attention. The President referred to the work of the Council in establishing a number of special procedure mechanisms, in addition to the Working Group, including those on trafficking in persons, especially women and children, and on the right to privacy, which provided resources that could enrich the understanding of the challenges and opportunities in the field of business and human rights. She stressed that the Forum took stock of the progress made, identified existing and rising challenges and opportunities for further action, and shared good practices, encouraging multi-stakeholder dialogue with civil society and human rights defenders.

11. The Chair of the Working Group welcomed participants and recalled that the Forum coincided with the tenth anniversary of the Guiding Principles. He stated that the Guiding Principles had led to significant progress by providing a common framework for all stakeholders in preventing and managing business-related human rights abuses. However, considerable challenges related to coherent action and implementation remained, which made it necessary to raise the ambition, increase the pace of implementation and improve coherence for the next decade. The Chair noted that the road map identified key action areas that set goals for States, businesses and other actors for achieving full implementation of the Guiding Principles and called on key actors to support meaningful stakeholder engagement to reinforce prevention and remediation efforts.

12. The Chair of the Working Group highlighted eight considerable remaining challenges, facing the agenda on business and human rights, which he referred to as the eight Cs. They are:

(a) COVID-19. The growing inequalities and discrimination exposed and exacerbated by the COVID-19-pandemic;

(b) Capacity. The requirement for significant technical and economic capacities, particularly for States in the global south, small and medium enterprises, and informal economy actors, in order to translate the requirements of the Guiding Principles into practice;

(c) Coherence. The lack of coherence in the practices of both States and companies, including in relation to effective, mandatory human rights due diligence requirements;

(d) Climate change. The importance of adopting a holistic approach that keeps human rights at the centre of efforts to address the climate crisis and ensure an inclusive and just green transition;

(e) Conflicts. As social, political, economic, religious and cultural conflicts undermine respect for human rights, businesses and States must work together to build peaceful societies based on human rights. Businesses operating in conflict and post-conflict-affected areas must conduct heightened human rights due diligence;

(f) Civic space. Civil society and human rights defenders have a critical role in promoting responsible business, however they continue to face harassment, threats and deadly attacks;

(g) Corporate accountability. Victims continue to face multiple barriers in accessing effective remedy and human rights abuses by businesses too often remain unchallenged and unaccounted for;

(h) Collective action. Overcoming challenges requires collective action by United Nations agencies, States, national human rights institutions, businesses, industry associations, trade unions, civil society, lawyers, academia and other actors.

13. The opening plenary of the Forum was followed by a multi-stakeholder dialogue on the theme: “The next decade of business and human rights: increasing the pace and scale of action to implement the Guiding Principles on Business and Human Rights”, during which the President of the Human Rights Council, an independent human rights activist, a representative of a civil society organization and a leading indigenous human rights defender offered critical perspectives and examined several of the most urgent global challenges where the issues of human rights and the role of business intersect.

14. During the session, participants noted diverse challenges in the field of business and human rights linked to abuses faced by human rights defenders and indigenous peoples, the role of technology, the political will of States (or lack thereof) to act on human rights issues, business accountability for human rights abuses and the transition to renewable energy. Regarding future action, speakers called for respect for and implementation of national and international human rights instruments and standards, including on fighting corruption and bringing the debates taking place in international and regional settings to the local level.

15. Concerning State action and accountability for business-related human rights abuses, speakers noted that corporate governance had moved from focusing on efficiency and profits to a far more inclusive and anti-discriminatory approach, partly due to a global trend of States enacting laws on business and human rights issues, such as modern slavery and human rights due diligence, that were increasing awareness among businesses of their responsibility to respect human rights. Speakers also highlighted the need for States to make regulation and enforcement one of their highest priorities, with effective regulations on accountability and a common understanding of the scope of liability for human rights abuses. Independent oversight was mentioned as particularly important in situations of collaboration between States and business, such as in the use of surveillance technology, data collection and information-sharing.

16. Speakers further emphasized that multi-stakeholder dialogue was an absolute precondition for addressing current challenges in the field of business and human rights. It was imperative that both governments and businesses engage with civil society, experts and human rights defenders, among others, to raise awareness of current issues, learn from the best practices of other actors and find solutions to prevent human rights abuses. They also emphasized that an inclusive transition to renewable energy should be conditioned on respect for the rights of all, particularly the most marginalized individuals and communities.

17. The following sections cover a number of key issues that were considered during sessions held during the Forum. It is not an exhaustive list of all the sessions; full details can be found in the schedule on the Forum website.⁷

III. The legacy of the architect of the Guiding Principles on Business and Human Rights, John Ruggie

18. The Forum dedicated a special session to John Ruggie, author of the Guiding Principles and former Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, who sadly passed away in 2021. Leaders from different backgrounds who engaged with Mr. Ruggie in his work to develop the Guiding Principles, and during his subsequent efforts to promote business respect for human rights, reflected on his legacy and discussed the next steps that would be needed to further develop and implement his vision, as expressed in the Guiding Principles, over the coming decade.

19. Speakers recalled Mr. Ruggie’s vision and achievements as a pioneer in addressing business-related human rights abuses in a globalized economy. Through the design of the Guiding Principles, he proposed the ground-breaking “Protect, Respect and Remedy” framework that had served as the compass for the business and human rights agenda during the previous decade. Speakers noted that since their unanimous endorsement by the Human Rights Council in 2011, the Guiding Principles had steered global efforts to address business-

⁷ <https://10unforumbhr2021.sched.com/>.

related human rights abuses and would continue to do so over the next decade. The importance of continuing the legacy and vision of Mr. Ruggie through concrete actions to tackle the lack of ability and/or unwillingness of States and businesses to address human rights issues in the business context was remarked on by speakers. They also stressed the importance of moving towards mandatory human rights due diligence and reporting, and delivering justice for victims of corporate human rights abuses, stressing that without effective access to remedies, the exercise of mandatory human rights due diligence would lose practical effect.

20. Looking ahead towards the next decade, speakers recalled Mr. Ruggie's vision of the Guiding Principles being used to influence emerging markets and the economies of developing countries in order to boost social and economic growth and productivity in a sustainable way, grounded in respect for human rights. They also noted that young people played an essential role in advancing the business and human rights agenda, emphasizing the need to engage young leaders on the importance of the Guiding Principles for business respect for people and planet, and build their capacity for achieving sustainable, inclusive development.

IV. Guiding Principles on Business and Human Rights: a decade of action and a road map for the next decade

21. The road map, with its recommendations on how to scale up implementation of the Guiding Principles, was presented at the Forum in a session gathering together members of the Working Group and representatives of OHCHR, the Organization for Economic Cooperation and Development (OECD), the International Labour Organization (ILO), the United Nations Development Programme (UNDP) and the United Nations Global Compact.⁸

22. The Working Group stated that the road map, together with the Guiding Principles 10+ stocktaking report, aimed to assess the implementation of the Guiding Principles to date and chart a course for action in the next decade.⁹ The participation of stakeholders in the formulation of the road map was deemed to be a significant achievement. The process had included more than 200 submissions, around 70 consultations and hundreds of interviews with stakeholders globally. The Working Group provided an overview of the eight action areas and related goals, and the recommendations in the road map, and emphasized that it aimed to provide a strategic orientation for all stakeholders and a chance for them to raise their ambitions towards implementation of the Guiding Principles.¹⁰

23. Participants welcomed the road map and highlighted its aim of increasing and accelerating the implementation of the Guiding Principles by addressing some major global challenges and of achieving sustainable development, including in the areas of policy coherence, accountability and access to remedy, and technological innovation. They noted the importance of embedding respect for human rights in the core of corporate governance and business models. That included ensuring that human rights considerations were well understood and addressed from the operational level through to decision-making at board level. It also involved building the capacity of company boards to translate human rights commitments into policies and concrete actions throughout a company's operations and its business relationships. It was noted that one of the main issues to be tackled during the next decade was evaluating effectively how business enterprises integrated human rights into their policies, practices and corporate governance mechanisms. Speakers also stressed the necessity of having more inclusive and diverse boards in terms of gender, capacity, experience and knowledge of human rights.

24. With respect to areas to be prioritized over the next decade, participants emphasized that responsible business conduct should be a normal standard of practice rather than the

⁸ See <https://www.ohchr.org/EN/Issues/Business/Pages/UNGPsBizHRnext10.aspx>.

⁹ See [A/HRC/47/39](#). See also

<https://www.ohchr.org/Documents/Issues/Business/UNGPs10/Stocktaking-reader-friendly.pdf>.

¹⁰ See Working Group on Business and Human Rights, *Raising the Ambition – Increasing the Pace. A Road Map for the Next Decade of Business and Human Rights* (2021).

initiative of a minority. They also emphasized that representatives of local communities and human rights defenders should play a key role and needed to be meaningfully engaged by all stakeholders in order to advance the agenda at the local level. They stressed that valuable tools to help implement the Guiding Principles already existed but emphasized that future implementation should be more strategic and geographically accessible, and that tools should be available in a variety of languages.

A. Government action and coherence

25. The Forum featured a panel of senior representatives of organizations and governments from different regions. The panel discussed how to increase the pace of implementation of the Guiding Principles over the next decade through implementing the recommendations in the road map.¹¹

26. During the session, speakers noted that action taken by States was an essential factor in setting clear expectations for business to respect human rights. Policy coherence and States leading by example in their role as economic actors were particularly important elements. Some representatives noted that current challenges hindered the ability of States to promote coherent and effective implementation of the Guiding Principles. Those challenges included the climate crisis, the need for an economic transition to a green and sustainable economy, the lack of awareness among small and medium enterprises of the human rights implications in their supply chains, the informal economy and challenges related to technology and artificial intelligence. Speakers also mentioned challenges related to monitoring and verifying human rights abuses, owing to the increased complexity of supply chains, and the issue of the shrinking democratic space for civil society and human rights defenders, which negatively affected access to information and multi-stakeholder dialogue.

27. For the next decade, speakers emphasized that the adoption of a combination of measures was necessary to accelerate the implementation of the Guiding Principles and the road map and referred to the following as elements of a “smart mix” of measures to be taken:

- (a) Increasing policy coherence through the adoption of national action plans and other policies based on the Guiding Principles, such as responsible business conduct policies;
- (b) Adopting effective mandatory human rights due diligence and other legally binding instruments;
- (c) Ensuring adequate mechanisms for access to effective remedy and justice for rights holders;
- (d) Enhancing multi-stakeholder dialogue between States, businesses and civil society;
- (e) Collective action at the national, regional and international level to ensure respect for human rights.

B. Multi-stakeholder dialogue

28. In a session dedicated to multi-stakeholder dialogue, participants representing business, civil society, indigenous peoples and trade unions welcomed the multi-stakeholder approach of the road map and its clear and coherent structure of eight action areas and specific goals.

29. Lack of coherence in how States and businesses applied the Guiding Principles, the low level of knowledge and awareness of the Guiding Principles, as well as of the resources necessary to implement them, were stressed as critical gaps that needed addressing collectively. Speakers stressed the importance of States ensuring that their domestic legal

¹¹ Representatives of Belgium, Brazil, Colombia, Ecuador, Finland, Germany, India, Indonesia, Kenya, Malaysia, Pakistan, Sweden, Switzerland, Thailand, Uganda, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the European Union provided statements during the panel.

framework was in line with international human rights obligations and that human rights were effectively implemented and enjoyed in practice by all, particularly the most marginalized. In that regard, the ratification and enforcement of relevant international and regional conventions promoting and protecting the rights of indigenous peoples were recommended, along with the ratification of all relevant ILO conventions.

30. Concerns were raised in relation to ensuring human rights protection for workers in the informal economy, who often remained invisible and were therefore deprived of protection, with little or no access to justice in cases where their rights were abused. Some speakers also emphasized that meaningful engagement with affected communities, including indigenous peoples, should be at the centre of any multi-stakeholder mechanisms or initiatives, including non-State based mechanisms designed to improve access to effective remedy.

31. Participants pointed out that raising awareness and building capacity among stakeholders was essential to allow meaningful engagement in any measures aimed at implementing the Guiding Principles, including the development, monitoring and evaluation of the implementation of national action plans. That also applied to efforts to hold relevant actors to account for business-related human rights abuses. Speakers stressed that human rights needed to be at the centre of environmental, social and governance analysis and reporting, and that access to effective remedy not just through judicial mechanisms was also needed.

V. State obligations and actions

32. During the Forum, States were given the opportunity to present and comment on regulatory and policy developments. In addition to the developments mentioned in the section below during the regional sessions, developments mentioned included:¹²

- (a) A newly published national action plan by Pakistan focused on financial transparency, anti-discrimination, human rights due diligence, child labour, forced labour, occupational health safety and access to remedy;
- (b) Newly published national action plans by Peru and Uganda;
- (c) Ongoing efforts to review existing national action plans by Belgium, Colombia,¹³ Luxembourg, Switzerland and the United States of America;
- (d) Ongoing efforts to develop national action plans by Argentina, Brazil, Ecuador, India,¹⁴ Malaysia and Mexico;
- (e) Constitutional amendments to include companies, thereby placing a responsibility on businesses to respect human rights in Kenya;
- (f) Upcoming adoption of mandatory human rights due diligence legislation by Germany;
- (g) Consideration by the Government of Thailand of enacting mandatory human rights due diligence;
- (h) Development of practical guides and self-assessment tools on due diligence for small and medium enterprises in Belgium;
- (i) Legislative proposals on sustainable corporate governance (including a proposal to require companies to carry out mandatory human rights due diligence across their supply chains being developed by the European Commission);

¹² The list is not exhaustive and the Working Group is aware that there may be a number of other developments.

¹³ With a focus on solidarity and resilience during crises.

¹⁴ With a focus on sustainability and socially responsible business practices.

- (j) Legislation, such as the Modern Slavery Act of the United Kingdom, geared to introducing and updating corporate transparency, with the aim of addressing specific human rights abuses;
- (k) National policies on business and human rights, including the national strategy on business and human rights to implement the Guiding Principles in Indonesia;
- (l) Policy measures, such as the new rules and company guidance in the United States in relation to export controls on surveillance technology and digital security.¹⁵

A. Mandatory human rights due diligence

33. The recent wave of mandatory human rights due diligence legislation was discussed in various sessions, including during a dedicated multi-stakeholder dialogue, a panel on the implication of such mandatory due diligence for small and medium enterprises and a session on recent developments at the international level regarding the elaboration of a legally binding instrument.

34. In a session dedicated to mandatory human rights due diligence, stakeholders discussed the most effective set of enforcement mechanisms needed for emerging laws on mandatory human rights due diligence, as well as the role of stakeholders in strengthening their implementation. There was consensus among speakers that effective mandatory human rights due diligence should include administrative and civil liability as complementary components. They also stressed the need to look towards non-judicial avenues for remedy. Participants also highlighted the complementarity between corporate accountability and legal remedy. Furthermore, building effective stakeholder engagement and trust in human rights due diligence processes, especially for affected individuals and communities, was a recurring issue. Some participants pointed out that there should be mechanisms to ensure meaningful participation with all stakeholders in human rights due diligence processes to prevent and mitigate business-related human rights abuses. Participants also remarked on the necessity for any mandatory human rights due diligence regimes to also cover environmental issues.

35. In the framework of the ongoing efforts by the European Union to adopt mandatory human rights and environmental due diligence legislation, a session was dedicated to the implications of mandatory human rights diligence regimes for small and medium enterprises. Participants presented data to highlight such businesses as key actors for human rights-compliant supply chains and for advancing sustainable development. Regarding the challenges faced by small and medium enterprises in their supply chains and business relationships, participants emphasized the need to create specific tools to support them in making progress on these issues.

36. With regard to the legally binding instrument on business and human rights under development by the United Nations, participants commented on the third revised draft prepared by the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights in October 2021.¹⁶ Participants discussed how a future legal binding instrument and the Guiding Principles could benefit and strengthen each other, in light of the conclusions of the seventh session of the open-ended intergovernmental working group and the recommendations of the Chair-Rapporteur.¹⁷ Speakers addressed the opportunities provided by the legally binding instrument to make concrete progress towards the protection of human rights in business activities, improving accountability for harm caused and offering more effective remedies for victims, as well as strengthening the implementation of the Guiding Principles as a necessary and complementary step.

¹⁵ See <https://www.federalregister.gov/documents/2021/10/21/2021-22774/information-security-controls-cybersecurity-items>.

¹⁶ See www.ohchr.org/en/hrbodies/hrc/wgtranscorp/pages/igwgontnc.aspx and A/HRC/49/65/Add.1.

¹⁷ See <http://www.ohchr.org/en/hr-bodies/hrc/wg-trans-corp/session7>.

B. International investment agreements and human rights

37. The Forum included a session on international investment agreements, at which participants discussed their role in promoting respect for human rights, responsible investment and supporting an inclusive and sustainable economy. Speakers discussed some of the findings in the report of the Working Group to the General Assembly in 2021, in which it stated that the current international investment regime reflected three characteristics: imbalance, inconsistency and irresponsibility.¹⁸ Participants briefly highlighted some of the recommendations in the report, namely that the ultimate goal of investment agreements should be to achieve inclusive and sustainable development; that investment agreements should not undermine the duty of States to regulate investment and investors; and that they should include human rights obligations, as well as paths to access to remedy for all, not only for investors. They also pointed out the need to develop a fair and consistent system of investment agreements.

38. Speakers expressed their concerns about the problem of imbalance in the system of international investment agreements. They agreed on the fact that the existing investor-State dispute settlement arrangements disproportionately affected developing countries that did not have much leverage in the negotiations, although also affecting developed countries, thus affecting the sovereignty of States in terms of their rights and obligations to draw up regulations in relation to issues of public interest. A lack of provision for the protection of human rights in the core of international investment agreements was also noted by participants, who pointed out that investment protection should also be consistent with the protection of human rights and the environment.

39. Speakers emphasized that the purpose of investment should be reoriented to achieve sustainable development and to address poverty and socioeconomic inequalities. They agreed on the need for deep reform of the current investor-State dispute settlement arrangements and the creation of a new regime that would address current imbalances, with independent adjudicators, placing human rights and environmental considerations at its heart.

VI. Corporate respect for human rights

40. During the Forum, there was a repeated message that corporate respect for human rights ought to be understood not only as an operational issue, but also as a strategic one, and that a change of both corporate culture and business models was needed. Furthermore, it was emphasized that the full integration of human rights due diligence into corporate governance needed to become an emblem for a future in which businesses redoubled their efforts to align their practices with their public pronouncements on business and human rights. Speakers stressed that human rights needed to be at the centre of environmental, social and governance analysis and reporting.

41. As at previous sessions of the Forum, the importance of a level playing field for all companies was reiterated. Similarly, the need for a full value chain approach was emphasized, as was the need to avoid “tick box exercises”. Participants stressed the need for meaningful stakeholder engagement in human rights due diligence and remediation processes. They also agreed that implementing human rights due diligence should not be about protecting business enterprises from liability, but about building trust, protecting rights holders and preventing and mitigating adverse human rights impacts.

42. The linkages between the climate change and business and human rights agendas were addressed across different meetings of the Forum. In order to allow for a just transition, businesses were called on to intensify their efforts to prevent and address adverse impacts on human rights and climate change, including by increasing the traceability of supply chains, developing the capacities of corporate partners and establishing long-term relationships with business partners.

¹⁸ See [A/76/238](#).

43. The Forum held a session on business respect for human rights in the political and regulatory sphere and on preventing “corporate capture”. Participants discussed contemporary human rights issues caused or exacerbated by irresponsible corporate political engagement practices. They also shared recommendations for concrete steps to implement the Guiding Principles in the context of the political and lobbying activities of businesses.

44. Speakers shared examples of how undue corporate political influence could enable business actors to affect political decision-making processes and legislative negotiations to the detriment of human rights. Specific tactics included, among others, direct lobbying activities that pursued corporate benefit in ways that risked adverse human rights impacts; the use of trade and industry associations to lobby for policies that carried the same risks; corporate sponsorship of biased scientific research; attempts by business actors to create a false impression of overwhelming public support for business-friendly policy decisions; and revolving-door hiring practices that allowed top industry executives to move into powerful government regulatory positions, and vice versa, with little scrutiny or consequence.

45. Speakers discussed a number of best practices for both States and businesses to ensure that corporate political engagement would be undertaken responsibly. Many focused on the importance of increased transparency. Speakers noted that for business actors to be held accountable by both their own shareholders and stakeholders, corporate political engagement should be reported transparently. Participants pointed out that this should be both a responsibility of companies and a requirement by States.

46. Attention was also given to the importance of strong conflict of interest frameworks for States as they engaged with corporate partners. Additionally, speakers discussed the important role to be played by investors, for example, through the use of shareholder resolutions, where investors could seek disclosure from business enterprises that would shed light on corporate political engagement activities.

47. Speakers noted existing frameworks for modelling corporate political citizenship, including road maps for businesses to ensure that their political engagement practices were both transparent and compliant with the Guiding Principles and in particular pillar II.

VII. Access to remedy

48. Throughout the Forum, speakers emphasized the importance of strengthening efforts to ensure effective access to remedy mechanisms, not only through judicial mechanisms, over the next decade and the complementarity of effective remedy and corporate accountability, with an emphasis on people as rights holders, not only as victims.

49. In the session dedicated to lessons from corporate human rights litigation, participants discussed the experiences of lawyers, human rights defenders and civil society organizations in pursuing an increasing number of cases against corporations in both common law and civil law jurisdictions, amid current barriers to delivering justice for corporate human rights abuses. Participants mentioned research that revealed that the Guiding Principles had been referred to in multiple cases since 2016 in Latin America.¹⁹

50. Speakers highlighted the difficulties in accessing resources and the information necessary to prove corporate responsibility (participants mentioned the creation of the Grata Fund to cope with issue of financing²⁰) and mentioned the reversal of the burden of proof in favour of the victim as a desirable solution.²¹ Speakers noted that financial compensation should not be considered as the only element of obtaining justice, although recognizing that compensation claims could have a deterrent or preventive effect for some companies. They also underlined the difficulties encountered in holding parent companies liable, especially when they were not involved at the operational level, and where regulations on responsible business conduct did exist, participants noted the lack of oversight. Speakers agreed on the

¹⁹ See https://cdn01.pucp.edu.pe/idehpucp/wp-content/uploads/2022/02/25135424/Experiencias-LA-Empresas_KAS2022-1.pdf (Spanish only).

²⁰ See <https://www.gratafund.org.au/>.

²¹ Reversal of the burden of proof has already been used in cases in Argentina, Colombia and Mexico.

need for more lawyers and law firms to work on business and human rights cases. Transparency, especially in cases of settlement agreements was also identified as a potential challenge in certain cases, notwithstanding that confidentiality should be protected where appropriate. Speakers agreed that States must prioritize the enacting of stricter legislation regarding corporate liability, allowing parent companies to be held liable for abuses.

51. In a session on the role of national human rights institutions in facilitating access to remedy for business-related human rights abuses, participants recalled the findings and recommendations of the report of the Working Group on the subject²² and recalled the huge potential of such institutions in facilitating access to remedy through direct, indirect, and foundational ways. Examples of national human rights institutions facilitating direct access to remedies included receiving complaints²³ and investigating abuses,²⁴ conducting hearings,²⁵ initiating civil proceedings before courts and ordering compensation,²⁶ and conducting national inquiries on business-related human rights abuses against indigenous peoples.²⁷ Other examples included proposing new legislation and the revision of existing legislation to strengthen their roles²⁸ and contributing to judicial mechanisms.²⁹ The work of national human rights institutions in relation to increasing stakeholder awareness of and education on the Guiding Principles was also noted.³⁰

52. Among some of the challenges experienced by national human rights institutions, participants noted their often-limited independence, resources and expertise regarding business and human rights issues, the lack of trust of stakeholders and users, and the need for explicit mandates to investigate, receive and address business-related human rights abuses. Participants also emphasized that national human rights institutions needed to support efforts to protect the civic space, maintain their independence and accessibility, and create platforms to share good practices and meaningfully engage with other stakeholders, including civil society and human rights defenders.

53. Speakers stressed that cooperation with United Nations agencies, country representatives, OHCHR and other organizations was helpful in strengthening national human rights institutions in terms of human resources, capacity-building and assistance. Some noted that for countries drafting national action plans, that cooperation had allowed national human rights institutions to rely on international organizations and United Nations agencies for guidance.

54. Participants also noted the importance of international and regional networks of national human rights institutions for exchanging best practices and increasing the dialogue between them, governments and businesses.

VIII. Regional perspectives and dialogue

55. The Forum included sessions dedicated to discussing trends and challenges in specific regions.³¹

²² [A/HRC/47/39/Add.3](#).

²³ For example, complaints in Malaysia of indigenous peoples, in Ghana related to mining and logging company activities, and in Portugal related to projects of extractive companies.

²⁴ For example, the Office of the Ombudsman in Guatemala.

²⁵ As reported by the South African Human Rights Commission in relation related to the socioeconomic challenges of communities affected by mining.

²⁶ As reported by the Deputy Commissioner of the Commission on Human Rights and Administrative Justice of Ghana.

²⁷ As reported by the Chair of the Human Rights Commission of Malaysia.

²⁸ Ibid. and Office of the Ombudsman in Portugal.

²⁹ For example, the amicus briefs of the South African Human Rights Commission in the case of *University of Stellenbosch Legal Aid Clinic and others v. Minister of Justice and Correctional Services and others*.

³⁰ For example, by the Office of the Ombudsman in Portugal, the South African Human Rights Commission and the Office of the Ombudsman in Guatemala.

³¹ The present section is focused on the main regional challenges and trends, but additional country-specific developments are to be found in other sections of the report.

A. African States

56. Speakers recognized the importance of taking stock, exchanging and learning about regional efforts and progress in advancing the implementation of the Guiding Principles in Africa. Representatives from a wide range of stakeholder groups noted that despite the complex challenges of the region, there were a number of encouraging positive developments.

57. Among the challenges, participants highlighted the poor level of awareness in the region, which would require the engagement of community-based organizations alongside national and regional institutions. Noting the recent adoption of a national action plan in Uganda in 2021 (the second country in the region to develop such a plan after Kenya) and that other participants were reporting on the development of national action plans,³² speakers highlighted the need for a stronger push in other States to follow suit.

58. Corporate capture and corruption were also identified as obstacles to the adoption of effective regulations to promote responsible business conduct.

59. Continuing with the “race to the top” strategy of the Working Group whereby regional and subregional Forums were being organized with the aim of discussing business and human rights issues at a more targeted level, it was announced during the session that a regional forum on business and human rights for Africa would be held in 2022, jointly organized by the Working Group, OHCHR, UNDP and the African Union.

B. Asia-Pacific States

60. The regional session was dedicated to hearing the voices of youth representatives from the Asia-Pacific region and the challenges and opportunities they faced in contributing to advancing the effective implementation of the Guiding Principles. That included opportunities to participate on an equal footing with adults regarding decisions in the field of business and human rights affecting their lives and as victims of human rights abuses in the context of business operations. It explored how the role of youth as “levers of change” could be harnessed to promote corporate respect for human rights and hold businesses accountable.

61. Participants emphasized that the younger generations were probably more conscious and more involved in human rights activism than previous generations and were already taking the lead in areas on issues such as climate change or new technologies. Making language more accessible to the younger generations and using creative ways to communicate and educate youth on the business and human rights agenda, for example through different technologies or documentaries, was suggested in order to reach youth adequately and engage with them.

C. Eastern European States

62. Participants noted that in Central and Eastern Europe, the implementation of the Guiding Principles remained slow due to specific challenges, such as the generally poor human rights environment, limited local expertise on business and human rights, the strong presence of State-owned enterprises and non-transparent economies, the weak judicial system and the lack of non-judicial remedy for business-related human rights abuses, as well as the lack of policy coherence regarding the implementation of the Guiding Principles. Some positive practices to overcome existing challenges were identified, including through empowering stakeholders, building a strong business and human rights multi-stakeholder community, more effective enforcement mechanisms, stronger civil society participation and bottom-up and inclusive initiatives for better implementation of the Guiding Principles.

63. Examples of best practices included a multistakeholder corporate gender policy empowering women in the atomic energy sector; training sessions offered to indigenous

³² Currently, processes are under way to produce national action plans in Ghana, Morocco, Mozambique, the United Republic of Tanzania and Zambia.

communities to improve negotiation skills with the corporate sector; equipping human rights defenders with updated data on business-related human rights risks and abuses; creating employment opportunities for marginalized groups; establishing a trade union for the self-employed; and applying a balanced human rights-based approach that supports both awareness-raising and the capacity-building of duty bearers and rights holders.

D. Latin American and Caribbean States

64. Speakers representing different organizations of the Latin American and Caribbean region highlighted challenges, examples of best practices and future opportunities for implementing the Guiding Principles in the region. Some of the challenges included the lack of inclusion of indigenous peoples in decision-making processes affecting their lives and lands, the implementation of human rights protections and due diligence throughout the supply chains and business relationships of contractors and the socioeconomic effects of the COVID-19 pandemic. With regard to good practices, stakeholders discussed initiatives taken by companies to implement United Nations standards and noted that the Forum was an opportunity for countries to engage in dialogue with each other regarding best practices and peer learning, including on the development and implementation of national action plans.

65. In terms of opportunities, stakeholders called on the countries in the region to exchange viewpoints and look to the contributions of other countries; promote environments conducive to sustainable businesses; and engage in meaningful discussions with indigenous communities, civil society, regional and municipal governments, local populations and young people. Panellists discussed the road-testing version of the regional road map that was presented during the Forum.³³ Speakers highlighted the need for a regional road map that would include four key areas regarding civil society: the inclusion of human, labour and environmental rights; the cultivation of environments that are safe for participation; the need for the development of a strategy to elevate the voices of Caribbean countries; and that States and businesses should be held accountable for addressing current barriers to civil society participation.

E. Western European and other States

66. The session on the Western European and other States featured regulatory and policy innovations, including steps taken by the European Union,³⁴ national mandatory corporate human rights due diligence³⁵ and experiences of implementing regulatory and policy innovations.³⁶ Participants discussed positive examples of efforts to strengthen remedy and accountability for business-related human rights abuses, including involving extraterritorial liability for damages caused to Nigerian farmers due to oil spills and the Swedish public prosecutor's charges against two executives of an energy company for aiding and abetting war crimes in Sudan, as well as ongoing lawsuits against French enterprises for their negative human rights impacts.

67. Speakers pointed to the challenges of the region, including the generally voluntary nature of corporate human rights due diligence, which is often used as a tick-box exercise, and the limited scope and restricted implementation of mandatory human rights due diligence laws. There was a broad understanding among speakers that mandatory human rights due diligence was needed as part of a "smart mix" of legal and policy measures, and that multi-

³³ See <https://empresasyderechoshumanos.org/prnu10/> (Spanish only).

³⁴ The EU regulation on sustainability-related disclosure in the financial services sector (the non-financial reporting directive), a legislative proposal on sustainable corporate governance and a proposal on social taxonomy are to be published on a sustainable finance platform.

³⁵ For example, the Transparency Act in Norway, the bill for responsible and sustainable international business conduct in the Netherlands and the Supply Chain Due Diligence Act in Germany.

³⁶ In particular, participants provided their experience on the implementation of the law on the duty of vigilance in France, the Tariff Act of the United States, the Modern Slavery Act in the United Kingdom and in Canada, and the rules relating to a ban on the import of forced labour in Canada.

stakeholder engagement was needed at all levels to make new regulatory developments work in practice.

IX. Issues in focus

68. Several sessions focused on current or emerging or systemic issues in the business and human rights agenda.

A. Groups at risk

69. Speakers noted that to ensure a gender perspective, it was important to focus on multiple issues, including the informal economy; taking note that women faced disproportionate levels of retaliation for raising concerns about business-related human rights abuses; supporting women-owned businesses; taking into consideration cultural differences and local needs, without using them as an excuse to undermine the autonomy of women; the need for participatory processes during the designation of remedies; and the importance of gender-responsive measures and tools in the area of business and human rights, in order to address the disproportionately negative impacts on the rights of women and girls, including the barriers to accessing effective remedy and promoting inclusive sustainable development. Speakers emphasized that individuals with different sexual orientations or gender identities faced unique challenges and noted the importance of addressing intersectionality as a lens to address the specific situations in which individuals and communities were exposed to heightened risks of abuse. Good practices discussed included the gender perspective in the Ugandan national action plan, a strategy for women's entrepreneurship in Canada and a diversity and inclusion guide for business in Turkey.

70. Participants highlighted the continued criminalization of and violence against indigenous peoples, particularly indigenous women and indigenous women's rights defenders, as well as their lack of recognition and participation in decisions affecting them. Participants stressed that national action plans frequently did not sufficiently integrate the voices or priorities of indigenous peoples. Some of the existing challenges that indigenous peoples faced had been amplified by the pandemic. However, some positive progress was noted, such as the inclusion of the human rights considerations of indigenous peoples in the financial sector, including in development finance institutions. Stakeholders also noted that States should work with businesses to protect and secure the rights of indigenous peoples and that they should participate in any initiatives for better recovery from the pandemic.

B. Confronting racism

71. In a session on racism, representatives of civil society organizations, academia, the private sector and special procedure mandate holders examined the expectations from business of the Guiding Principles with regard to meaningful action to prevent and address racism and how the Guiding Principles could be used as a tool for initiatives and processes that could lead to a transformative change that would eradicate racism.

72. The need was noted for decision makers to become race-literate, race-competent, race-educated and ultimately race-responsible, in order to achieve a transformative change that would address the root causes of systemic racism at all levels of society and institutions. There was a discussion of the extent to which the climate crisis had a disproportionate impact on the rights of people of African descent, indigenous peoples and other communities of colour. That was tied to historical and structural racism and it was noted that those seeking to defend their human rights in relation to climate change and the right to a safe, clean, and healthy environment faced unacceptable levels of violence, threats and intimidation.

73. Speakers discussed key challenges and ways forward for companies to better prevent and address racial discrimination and xenophobia as part of their human rights due diligence and what other stakeholders should do to support this objective. That included accountability and redress of historical injustices, including through reparations. There was a discussion of the need to analyse how discrimination was reflected in unequal access to opportunities, land

ownership and business models, which, in turn, contributed to discrimination. It was noted that affected communities who were disproportionately impacted should be meaningfully involved in the process and empowered, particularly when addressing issues of intersectionality. The role of business in addressing racial discrimination was discussed in relation to human rights due diligence across supply chains and within operations, both externally and internally, including through responsible recruitment mechanisms and auditing processes to analyse the situation within their workforce and combat racism in all its forms.

C. Coronavirus disease (COVID-19) pandemic

74. The session on the COVID-19 pandemic provided a forum for a multi-stakeholder discussion of the consequences of the pandemic and the lessons learnt, as well as how to build back better based on the Guiding Principles. It revealed systemic business-related human rights abuses, including forced labour in the supply chains of the garment and information and communications technology sectors, with trade unions and workers, especially migrant workers and workers in the informal economy, facing unprecedented challenges globally. Discussions singled out groups hit particularly harshly by the crisis, including migrant workers, young workers, women and indigenous peoples.

75. The discussions also shed light on the challenges faced by businesses during the pandemic, including reduced business opportunities, increased operational costs, delayed payments, reduced cash flow and lack of or limited government support for small and medium businesses. Companies had faced difficulties in conducting meaningful human rights due diligence due to lack of access to places of work and workers. Participants in the session also noted some positive examples of State support and guidance to companies, as well as the efforts of businesses, employer organizations and civil society to alleviate the socioeconomic impacts on communities and workers.

D. Human rights defenders and public participation

76. The session started with the announcement of the recipient of the 2021 Human Rights and Business Award: African Resource Watch (AFREWATCH).

77. Speakers, including special procedure mandate holders, human rights defenders and representatives of civil society and of the Investor Alliance for Human Rights, outlined the increasing use of legal measures to intimidate and criminalize defenders through so-called strategic lawsuits against public participation. They reflected on how the filing of such lawsuits was aimed at silencing the critical voices of human rights defenders, restricting their access to remedy, dampening the appetite of others for speaking out and restricting the freedoms of expression and of assembly and association. The participants heard how such lawsuits served to defame and harass defenders, for example for protecting labour rights or criticizing business activities, and how they have provoked self-censorship, prevented individuals from seeking access to remedy and further limited the civic space in many contexts.

78. Speakers referred to the report of the Working Group on the Guiding Principles and human rights defenders, presented to the Human Rights Council in June 2021, in which the Working Group underlined the urgent need for States and businesses to address the adverse impacts of business activities on human rights defenders and unpacked the normative and practical implications of the Guiding Principles in relation to protecting and respecting their work.³⁷ Speakers reflected on the research conducted by the Business and Human Rights Resource Centre, which had identified 355 cases that bore the hallmarks of strategic lawsuits against public participation.³⁸

79. Speakers emphasized that businesses should recognize that such lawsuits were incompatible with responsible business and destroyed any credibility of corporate

³⁷ [A/HRC/47/39/Add.2](#).

³⁸ See https://media.bhrrc.org/media/documents/2021_SLAPPs_Briefing_EN_v51.pdf.

commitment to respect human rights at large. Speakers also outlined the actions that States should take to ensure that such lawsuits were not used to silence the voices of human rights defenders, such as by introducing law reforms to prevent cases of criminal libel being pursued against human rights defenders, and sanctioning business enterprises for engaging in such lawsuits.

E. Climate change prevention and remedies

80. The discussion during the session on climate change aimed to gather input to feed into an information note, to be developed by the Working Group, on what the three pillars of the Guiding Principles entailed for States and businesses in relation to climate change.³⁹

81. Participants agreed on the need for a “whole systems” approach to support the chance of a successful net zero transition, where State regulation, international cooperation and business actions would play a key role, including through the effective application of human rights due diligence or their alignment with the Paris Agreement on Climate Change, social dialogue on mitigation and adaptation to a just transition and the avoidance of corporate lobbying. Participants agreed that climate change mitigation measures could not take a territorial approach and that the Guiding Principles provided a key tool to guide and regulate businesses in decision-making related to climate change in areas beyond developing national laws and regulations. Participants called for a “smart mix” of measures other than binding rules, noting the need to rethink ideas about development, supply chains and how society operates, and start a social contract with nature.

82. Participants also highlighted the timely increase of climate change strategic litigation and the need for awareness-raising among and training of the judiciary, as well as the need to ensure access to justice for affected communities, including for traditional communities and indigenous peoples. During the session, participants agreed on the need to create a holistic approach and ensure policy coherence in order to prevent “greenwashing”.

F. Technology

83. In the context of the B-tech project led by OHCHR,⁴⁰ the Forum included a session to explore the regulatory landscape in the context of digital technologies and to consult on the building blocks for regulatory options for States to incentivize the technology sector to fulfil its responsibility to respect human rights in line with the Guiding Principles. The discussion touched on how the Guiding Principles could inform regulatory processes, in particular focusing on pillar I of the Principles; on the European Union Digital Services Act, currently under discussion, which attempts to set up a regulatory foundation for responsible innovation;⁴¹ and on the practice of applying the Guiding Principles to the technology sector.

84. Speakers emphasized that States could help rights holders better understand the reasoning behind certain decisions if corporate transparency was mandated and if transparency and accountability were linked to enforcement mechanisms. Speakers stated that there should be a focus on how the private sector could implement safeguards and emphasized the need for governments to implement regulations effectively. Participants provided insights into experiences of implementing the Guiding Principles, by both technology companies and governments, and also reflected on relevant experiences in different regions.

G. Responsible business conduct in the defence sector

85. The Forum included a session focused on the topic of responsible business conduct in the defence sector. In this session, participants representing civil society, government and the

³⁹ See <https://www.ohchr.org/en/special-procedures/wg-business/climate-change-and-ungps>.

⁴⁰ See <https://www.ohchr.org/en/business/b-tech-project>.

⁴¹ See https://ec.europa.eu/info/digital-services-act-ensuring-safe-and-accountable-online-environment_en.

defence industry discussed how defence companies currently addressed human rights risks associated with defence sector products, examined the scope for enhanced environmental, social, governance and sustainability efforts in the defence sector, and discussed how States and businesses should apply the Guiding Principles to prevent, mitigate and remedy business-related human rights abuses that might be connected to the defence sector.

86. During the session, speakers noted that implementation of the Guiding Principles and other business and human rights frameworks in the defence sector had been slow and remained incomplete, despite the fact that the defence sector carried considerable human rights risks. Participants discussed the independent responsibilities of defence sector companies to respect human rights in situations where States approved arms exports to a third country.

87. Participants further discussed the exposure of defence sector companies to unique human rights risks related to their limited control over their products and services once they reached end users, often located in regions experiencing conflict, instability and political repression. It was also noted that issues of non-transparency in importing countries posed serious human rights risks, including by further complicating end-use monitoring efforts.

88. Speakers discussed several positive practices that both States and businesses in the defence sector should implement to prevent and mitigate adverse human rights impacts, including undertaking heightened human rights due diligence processes to identify human rights risks before contracts were agreed to and through the introduction of mandatory human rights due diligence legislation.

89. Speakers offered a number of different strategies to achieve better application of the Guiding Principles in the defence sector, including building human rights language directly into sale and export contracts; genuinely independent auditing of defence budgets; and the application of international arms export monitoring mechanisms to domestic retail sales of small arms.

X. Closing plenary session: key messages

90. The Forum concluded with a discussion on priorities for the near future and thinking about the road map for the next decade, as well as addressing any outstanding challenges that would be faced over the coming years, the role that States and businesses could play and what stakeholders could do to pursue this agenda. The closing plenary was moderated by the Working Group.

91. The Assistant Secretary-General and representative of UNDP recalled the need for international policy coherence, for a focus on access to remedy and for mandatory human rights due diligence legislation. She highlighted the steps that UNDP had taken in this context to train businesses, support civil society and carry out human rights due diligence in conflict-afflicted areas.

92. The representative of the Indigenous Caucus emphasized the role of national human rights institutions in providing and facilitating access to remedy and observed that, conversely, the National Contact Points for Responsible Business Conduct established pursuant to the OECD Guidelines for Multinational Enterprises and grievance mechanisms often failed to deliver effective remedies. He also urged States to ratify the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazu Agreement) and urged businesses to develop clear policy commitments to address their entire value chain and ensure the participation of indigenous peoples. A call was made for the establishment by States of an international legally binding instrument that would regulate the transnational activities of corporations.

93. The representative of the International Organization of Employers noted the lack of effective regulations for implementing the Guiding Principles and the lack of judicial frameworks and remedies. He emphasized the need for increased policy coherence across States and the role that national action plans could play in facilitating the implementation of the Guiding Principles. He also highlighted the need to take the informal economy into

account in the context of the Guiding Principles and to make access to remedy more efficient through effective judicial frameworks.

94. The representative of the International Chamber of Commerce stressed the importance of including small and medium enterprises in the discussions and the need for mandatory human rights due diligence and for meaningful engagement with all stakeholders.

95. The representative of the Climate Observatory praised the ambition of the road map and stressed the need for differing accountability of businesses and States. She also emphasized the need for international regulations and policy coherence.

96. The representative of the Global Business and Human Rights Scholars Association called on States to better align their trade commitments to business and human rights standards, highlighted the role of academia in business and human rights and called for effective remedies and for the protection of human rights defenders.

97. A representative of a business and human rights advisory company restated the need for meaningful engagement with all stakeholders and called for ambition in implementing the road map.

98. Key messages emerging from the Forum discussions, as summarized by members of the Working Group during the closing plenary, included the following observations:

(a) The importance of governments continuing to work on inclusive and transparent processes to develop and/or review national action plans founded on the Guiding Principles that addressed the relevant country's actual and potential business-related human rights abuses;

(b) The need for governments to increase policy coherence through the adoption of national action plans and other policies based on the Guiding Principles;

(c) The critical importance of regional, interregional and intersectorial dialogue for ensuring the exchange and promotion of good practices and lessons learned on the implementation of the Guiding Principles. For this purpose, the Working Group would continue to engage with regional and international organizations in organizing regional forums that would allow for in-depth analysis of the business and human rights agenda;

(d) The importance of contextualization and localization of the Guiding Principles and the need to further interpret and translate them in order that people on the ground, as well as companies and governments, take them from the theoretical on paper and put them into practice;

(e) The need for legislation and mandatory human rights due diligence to become a cornerstone of the business and human rights agenda, with a unanimous call from various stakeholders for a complementary package, including civil liability and administrative supervision;

(f) The key importance of consultation and engagement with rights holders, including in informing effective remedies, as right holders must always be at the centre of the discussions;

(g) The need to eliminate the lack of coherence within certain companies that have committed to human rights principles and due diligence, but whose government relations and political engagement activities carry human rights risks;

(h) The need to explore intersectional approaches to the gender-race environment, including the crises related to climate change and COVID-19, diversity and inclusion;

(i) Consultation with potentially affected communities and relevant stakeholders does not equal consent and cannot therefore be conducive to a positive human rights assessment as part of human rights due diligence process of a business.

99. In closing, the Working Group reflected on the progress achieved by the Guiding Principles in the last 10 years and the expectation that the road map would be implemented jointly by all stakeholders, emphasizing that it would continue to be important to hold States accountable and parent companies liable, and ensure effective access to remedy and justice. They called for all involved stakeholders to work together to create and implement a "smart

mix” of measures, including mandatory human rights due diligence, that would allow for adverse business-related human rights impacts on people and on the planet to be identified, prevented, mitigated and accounted for. The Working Group also provided reflections on future forums, both global and regional, indicating the constructive nature of such platforms for dialogue and peer learning, and suggested that the issue of access to remedy and accountability might be a focus for the future.

100. The eleventh annual Forum on Business and Human Rights will be held from 28 to 30 November 2022.
