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Fourth session of the Forum on Business and Human Rights: summary of discussions*

Note by the Secretariat

The present document, prepared in accordance with Human Rights Council resolutions 17/4 and 26/22, contains a summary of the discussions of the fourth annual session of the Forum on Business and Human Rights, held from 16 to 18 November 2015. It provides an overview of the discussions and should be read together with the Forum programme, session concept notes, statements and written submissions and session web recordings that are available on the Forum website.

* The present document was submitted late to the conference services owing to unforeseen circumstances.



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I. Introduction

1. The Forum on Business and Human Rights, the world's biggest annual event on business and human rights, held its fourth session in Geneva from 16 to 18 November 2015. It was attended by more than 2,400 registered participants from 130 States. The programme covered 63 different sessions.
2. The President of the Human Rights Council appointed Diana Chávez, the Executive Director of the Latin America and Caribbean Support Centre of the United Nations Global Compact, as Forum chair. Pursuant to Council resolution 17/4, the chair was responsible for the preparation of the present summary of the discussion of the Forum.
3. The Forum, which is guided by the Working Group on the issue of human rights and transnational corporations and other business enterprises, had a programme that included two high-level plenary sessions (opening and closing), 18 parallel sessions led by the Working Group and the Office of the United Nations High Commissioner for Human Rights (OHCHR), and 45 parallel sessions organized by external stakeholders, taken from 140 original submissions.
4. The Human Rights Council created the Forum in its resolution 17/4, with the mandate to discuss trends and challenges in the implementation of the Guiding Principles on Business and Human Rights (A/HRC/17/31, annex); to promote dialogue and cooperation on issues linked to business and human rights, including challenges faced in particular sectors, operational environments or in relation to specific rights or groups; and to identify good practices.

II. Participation

5. Participation at the Forum has increased every year. The 2015 Forum attracted more than 2,400 registered participants from 130 States, against some 1,000 registered participants from 80 States at the first Forum in 2012. All stakeholder groups attended in larger numbers in 2015, with equal representation of women and men.

| <i>Category of participating stakeholder</i> | <i>%</i> |
|---|----------|
| Academic | 14 |
| Business (business enterprises, business/industry associations, consultancies, law firms) | 21 |
| Civil society organizations | 34 |
| Multi-stakeholder initiatives | 2 |
| National human rights institutions | 2 |
| Professional associations | 1 |
| States | 13.5 |
| Trade unions | 0.5 |
| United Nations/intergovernmental organizations | 7 |
| Other | 5 |

III. Theme of the Forum

6. The theme of the 2015 Forum was “Tracking progress and ensuring coherence on business and human rights”. Discussions focused on six key areas:

- (i) Efforts to track performance and progress in the implementation of the Guiding Principles on Business and Human Rights;
- (ii) Policy coherence in global governance frameworks;
- (iii) Policy and practice coherence at the national level;
- (iv) Corporate respect for human rights in practice;
- (v) Groups at risk;
- (vi) Access to effective remedy.

7. Multi-stakeholder engagement between States, businesses, civil society and affected stakeholders across the three pillars of the Guiding Principles was another key focus. The Forum also included a special session on mega-sporting events.

8. Parallel sessions organized by external stakeholders also addressed key trends and issues relating to specific rights, groups, sectors and operational contexts. High-level plenary sessions provided a leadership perspective on the business and human rights agenda and current global trends.

IV. Opening plenary session

9. The opening plenary session comprised opening remarks and three multi-stakeholder panel discussions covering the 2015 theme. In their introductory remarks, the United Nations High Commissioner for Human Rights outlined the Forum’s contribution to promoting corporate respect for human rights. The Forum chair explained the importance of collective action, building on existing standards and maintaining the rule of law. The Working Group gave its assessment of the progress being made to implement the Guiding Principles over the past 12 months, as well as of remaining challenges in the field.

10. The first panel explored the different issues that make up the business and human rights agenda. First, it was stressed that the Guiding Principles had been a “game changer” for having clarified the roles and responsibilities of Governments and companies, and promoted such key concepts as human rights due diligence for companies. It was emphasized that the uptake of the Guiding Principles had been significant, by companies, international organizations and initiatives, regional organizations and Governments. Panellists also discussed in this regard the importance of clear State rules and regulations to prevent abuses and to remedy harm; the progress made to engage chief executives on human rights risk; the importance of including all stakeholders to promote better corporate conduct, including national human rights institutions; the impact of investment projects and free-trade agreements on communities, notably indigenous peoples; and situations of impunity for abuses involving companies, such as private security companies. A journalist and human rights defender from Angola explained that it took 10 years of tireless reporting on abuses before the private security companies withdrew from the mining areas. Effective human rights due diligence, transparency and protection of rights in the context of investments were also seen as instrumental to reducing abuses and community conflicts in resource-rich countries.

11. The second panel examined how international businesses could improve their conduct through better policies and management; the obstacles faced by victims in

accessing an effective remedy; the importance of national human rights institutions; the challenge of raising human rights risk in mergers and acquisitions; how to integrate LGBT rights inside companies that operate across all geographies, including countries where homosexuality is criminalized; and how to attract more businesses to engage publicly on human rights through such events as the Forum. The discussion also touched on how business considers its role in supporting the recently adopted Sustainability Development Goals and contribute to the fulfilment of human rights. Company experiences showed how implementing respect for human rights was within the realm of the possible, while also highlighting the complexity of managing human rights risks in a large transnational corporation. With regard to the corporate responsibility to respect human rights in mergers and acquisitions, due diligence processes tended to focus on core business issues, such as product alignment and balance sheets. Entry points for examining human rights issues in such processes included corporate culture, community relations, interaction with Governments and supply chain operations. The impact of corruption on human rights was discussed with reference to the measures taken to criminalize corruption under laws, such as the Foreign Corrupt Practices Act in the United States of America and the Bribery Act in the United Kingdom of Great Britain and Northern Ireland.

12. With regard to access to remedy, it was argued that little progress had been made and that, in some cases, access to accountability mechanisms had been reduced. The case of Ken Saro-Wiwa was highlighted. His efforts to address the impact of oil spills in the Niger Delta had led to his execution by the military government in 1995. It was noted that families of defenders such as Mr. Saro-Wiwa would find it even harder to find access to an effective judicial remedy today, given the more restrictive application of the Alien Tort Statute in the United States.

13. The point was made that communities often considered foreign companies as representatives of the home government abroad, and that it was critical for home governments and corporations to recognize this conflation on the ground. Regarding the issue of coherence, it was stressed that many companies and Governments received great economic benefits from globalization and access to open markets. Nevertheless, to achieve a coherent system of business and human rights governed by the rule of law, benefits and privileges had to be coupled with responsibilities to respect human rights.

14. The third panel focused on market enablers and systemic issues that drive and thwart progress on corporate respect for human rights.

15. One observation made in the context of the World Economic Forum was that the chief executives increasingly recognized that respecting rights was core to their business, and that good governance was good for business. However, improving corporate practice remained a challenge in the current economic model that focused on short-termism, such as quarterly financial reporting, which does not give companies any incentive to examine how their structures, operations and management procedures affect sustainable growth and human rights.

16. With regard to systemic inequalities between and within countries, it was stressed that developing countries were missing out on approximately \$200 billion a year owing to tax avoidance by multinational companies; that low worker salaries affected 200 million people in the formal sector, and one billion people in the informal sector; and that 30 million people suffered forced labour conditions globally. Incoherent practices of companies that simultaneously expanded their corporate social responsibility programmes and avoided paying taxes, especially in developing countries, were highlighted. A more equal distribution of income would ensure more jobs, higher salaries and better social protection, and improve and strengthen State institutions. One increasing barrier to this was, however, the shrinking space for civil society globally to promote and monitor the conditions for sustainable and fair growth.

17. The discussion turned to the perspective of capital markets and investors who could incentivize and reward good business practice, but who in practice often pressured companies to deliver short-term returns at the expense of human rights. Three factors that could drive positive change were highlighted. First, fund managers and analysts should analyse the human rights performance of companies; corporate performance in this area was material to business and could affect returns. Second, in capital allocation decisions, fund managers should reward companies that perform well with more capital so that they have a competitive advantage. Third, investors that lend to the market, for example corporate debt investors and equity investors, should behave as “good owners”, particularly at annual general meetings, where they should vote in favour of company directors that take social issues seriously and equally hold them responsible for their negligence. However, none of these actions was currently being taken because analysts and fund managers did not receive the necessary human rights information and, even when they did, many did not have the expertise to conduct a proper analysis. To overcome this market failure, more clarity was needed with regard to the complexity of financial markets and greater collective understanding of what was expected of investors, coupled with transparent accountability mechanisms.

18. The importance of data and transparency and of incentivizing more and better reporting on human rights was also addressed. It was argued that policymakers and businesses ought to look at social and environmental impact holistically, through such broad filters as the G4 standard of the Global Reporting Initiative (GRI), and then go deep into targeted issues, such as human rights, via the UN Guiding Principles Reporting Framework. The panel explored whether consolidation of different reporting standards, to achieve greater clarity for companies, analysts and investors, would be feasible and desirable.

V. Measuring and tracking implementation of the Guiding Principles

19. As one of its six key focus areas, the Forum included discussions on how to track progress and to measure State and company implementation of the Guiding Principles. The Working Group outlined four reasons why measuring was important: (a) it provided a good internal management tool for States and companies; (2) it helped to drive better performance; (3) it clarified priority areas for faster implementation; and (4) it helped to provide accountability. The Working Group added that, while there were data to measure some of the ways in which States and companies implement the Guiding Principles (most current initiatives focused on measuring business implementation, labour rights and environmental impact), the information available is not always relevant or easy to retrieve and sort. At the same time, much data were missing, especially with regard to the third pillar of the Guiding Principles, community impact, the situation facing human rights defenders and whether company policies and State laws were achieving their aims on the ground by preventing and remedying harm to people.

20. The panellists acknowledged that the process of measuring posed significant challenges, such as gaining access to meaningful information and agreeing on a common set of indicators by which to effectively track progress in the implementation of the Guiding Principles. In particular, it was a challenge to ensure that measuring State and company action (or inaction), especially via indicators, did not lead to over-simplified and reduced data where the information lost its value, led to false conclusions and drove perverse behaviour. For example, an indicator that asked companies to “state what you are doing to educate staff on human rights” could encourage firms to develop e-learning programmes that did not lead to actual improvements in various operational-level functions

such as procurement, mergers and acquisitions and supply chain management. It was also noted that “what gets measured gets managed”, but as a result, a panellist warned that “what gets measured wrong gets managed wrong”. Furthermore, what was easy to measure was not necessarily meaningful to read. For this reason, tools such as the UN Guiding Principles Reporting Framework aimed to support initiatives like the Corporate Human Rights Benchmark and various environmental, social and governance indices, which use market mechanisms to catalyse better business conduct by encouraging companies to respond to “smart” narrative questions that described more accurately its human rights impact and by which it could identify blind spots and drive improvements internally. There was, however, tension between the use of qualitative and quantitative data, given that investors, companies and Governments were more comfortable with statistics than with words.

21. In the case of the efforts made by the International Labour Organization (ILO) to measure government action on decent labour standards through its “decent work statistical framework”, ILO found that the ratification by a State of ILO conventions did not necessarily lead to better conditions on the ground, and that a lack of data, especially on vulnerable groups such as migrant and child workers employed in the informal sectors, made it difficult to paint an accurate picture of the real situation.

22. Encouraging more in-depth and honest disclosure by States and companies on their human rights policies, practices and performance was cited as a critical way to ensure that public information remained accurate and was not devalued by the limits of proxy indicators. Promoting more meaningful corporate reporting, for example, was, however, a significant challenge that required concerted government action to incentivize company disclosure and a better understanding by financial analysts and investors that harm to people converges with harm to companies.

23. It was argued that national action plans on business and human rights and national baseline assessments were perhaps the simplest tool for measuring State implementation of the Guiding Principles because of their relatively standardized format. Both created a common base among ministries on salient issues and priority areas, and they could ensure engagement by different departments. In addition, one untapped mechanism to drive better State implementation was the universal periodic review process of the Human Rights Council, a peer review process during which Governments make specific, actionable recommendations to States under review in a four-yearly cycle. Lastly, the development of indicators to measure follow-up to the Sustainable Development Goals could offer another possible – albeit less specific – tool to assess State implementation. In this connection, national human rights institutions could play an even greater role in engaging with States on national action plans and national baseline assessments, such as by identifying regulation gaps and facilitating dialogue with key stakeholders on necessary future government action.

24. Overall, a more accurate picture of what individual States and companies were doing or not doing to implement the Guiding Principles was required, as well as more in-depth information on State legal frameworks, policies and financing of accountability mechanisms, better industry/sector-specific data on company action, and a greater focus on impact, performance and results rather than just company and government commitments.

VI. Policy coherence and convergence on business and human rights in global governance frameworks

25. A second key focus area was “policy coherence in global governance frameworks”. At the sessions thereon, the Forum explored opportunities for greater coherence and alignment between initiatives linked to responsible business practice.

26. In identifying ways to speed up and scale up implementation of the Guiding Principles, the Working Group stated that, despite the small number of national action plans dedicated to business and human rights, there had been visible uptake via projects and organizations that addressed the issues indirectly. It also observed that greater coordination and cross-referencing between these initiatives would promote further coherence and convergence around the Guiding Principles.

27. In the area of reporting, the Global Reporting Initiative’s G4 standard framework for sustainability reporting directly copied 12 indicators from the Guiding Principles, and included many others. Recent data on sustainability reporting revealed that 22 per cent of the some 1,400 companies surveyed had reported a negative impact on human rights and how they sought to address it. At the Forum, the Global Reporting Initiative also launched a “linkage document” on the relationship between the Guiding Principles and the G4 standard. Another standard central to supporting the Guiding Principles was ISO 26000, which was a key reference in the development of other standards, such as on sustainable procurement and health and safety.

28. Within the system of the Organization for Economic Cooperation and Development (OECD), several processes reinforced efforts to implement the Guiding Principles. The 2011 version of the OECD Guidelines for Multinational Enterprises, applied by 46 Governments, mirrored the key tenets of the Guiding Principles, notably with regard to the corporate responsibility to respect human rights and human rights due diligence. The key ongoing processes included the development of sectoral due diligence guidance as part of the OECD “proactive agenda”, currently for the minerals, garment, finance and agriculture sectors; collaboration with the Working Group on the promotion of national action plans; and developments in the practice of national contact points, which promote the OECD Guidelines and handle complaints from stakeholders of alleged breaches by multinational enterprises. Since the addition of human rights to the Guidelines in 2011, 170 cases (of a total of some 330 cases handled by the system since 2000) handled by national contact points had referred to human rights. Recent iconic cases concerned complaints against Formula 1 and SOCO International (with regard to oil exploration in Virunga National Park, in the Democratic Republic of the Congo). The statement made by the leaders of the Group of Seven recognizing the work of national contact points had been another significant development.

29. In the context of engaging the private sector around other initiatives of the United Nations, the Global Compact had incorporated the second pillar of the Guiding Principles’ into its own human rights principles, to which some 8,400 companies worldwide were currently signatories. According to data of the Global Compact on implementation, out of 1,600 reporting companies, 72 per cent addressed human rights in their overall code of conduct, and 42 per cent implemented grievance mechanisms for workers or communities. Nonetheless, it was noted that only 15 per cent had reported on having human rights impact assessment processes in place. The Global Compact, promoting the expectation that all companies commit to human rights both nationally and internationally, reaches companies in all regions through its 80 local networks.

30. With regard to the role of regional organizations, the strategy adopted by the European Union on corporate social responsibility promotes convergence around the

Guiding Principles, the Global Compact, the OECD Guidelines and ISO 26000. Key developments included its directive on non-financial reporting (active as of 2017); the promotion of national action plans (currently eight States member of the European Union have one); and integration of human rights in bilateral and multilateral (notably Group of Seven) dialogues and agreements on human rights, corporate social responsibility, trade and investment.

31. With respect to the promotion of labour rights, ILO standards were a key part of the normative base of the Guiding Principles. Strengthened coordination between ILO and the Working Group would therefore bring greater coherence and lead to mutually reinforcing efforts to drive decent work practices.

32. The Guiding Principles were also referenced in the context of international investment; for example, the United Nations Conference on Trade and Development (UNCTAD) sought to embed elements of the Guiding Principles in its work, such as in its Investment Policy Framework for Sustainable Development. In a recent report on export processing zones (special economic zones), UNCTAD had also underlined States' duty to protect human rights in a business context. Other key processes in which the Guiding Principles provided greater clarity on State and business responsibilities included the Sustainable Stock Exchanges Initiative and the Inter-Agency Round Table on Corporate Social Responsibility, coordinated by ILO, OECD and UNCTAD.

33. At the national level, UNDP also applied the Guiding Principles in various policy frameworks, for example in its assistance to Governments and national human rights institutions to support processes to develop national action plans on business and human rights, and in its support for the development of national governance frameworks for extractive industries and dialogues with affected stakeholders, in particular indigenous peoples. The reference by the General Assembly to the Guiding Principles in the outcome document of the 2030 Sustainable Development Agenda¹ was seen as a key opportunity for greater coherence and convergence between business and human rights and sustainable development processes at the national and international levels.

34. The convergence between the business and human rights agenda and the Sustainable Development Goals was also underscored in a statement issued by global business organizations to coincide with the Forum. The organizations stressed that the Guiding Principles were a critical and powerful companion to the Goals, reaffirmed the international business community's full support for the Guiding Principles and corporate responsibility to respect human rights.

35. Civil society perspectives on the above-mentioned trends suggested that ongoing processes with regard to the development of national action plans presented opportunities for further uptake and convergence. It was also suggested that there had been real traction for key concepts in the Guiding Principles, notably that of human rights due diligence. More coordinated work was however required to further clarify questions about leverage in the supply chain and responsible disengagement. Concerns raised included trends of pushback against government ministries that promote greater corporate accountability, retaliation against human rights defenders, and the importance of ensuring that efforts to develop a future legally binding instrument on business and human rights complements efforts to implement the Guiding Principles.

36. The Forum also examined the practical implications of the reference to the Guiding Principles in the 2030 Sustainable Development Agenda for the involvement of business in

¹ General Assembly resolution 70/1, para. 67.

implementing the Sustainable Development Goals. Participants underlined the importance of:

(a) Responsible business conduct standards, notably the minimum expectation in the Guiding Principles that all business activities respect and do not undermine human rights;

(b) Incentives and disincentives for companies to respect human rights when supporting sustainable development efforts;

(c) The links between tax payments and business respect for human rights, and the adverse effects on human rights, such as the rights to health and to education, of corporate tax avoidance;

(d) Accountability mechanisms, and the guidance provided in the Guiding Principles in this regard.

37. Another key area driving progress was company disclosure on how businesses prevent, mitigate and remedy human rights risks in the context of their contribution to sustainable development. The SDG Compass (developed by the Global Reporting Initiative, the Global Compact and the World Business Council for Sustainable Development) was highlighted in this regard. The need for effective measurement and tracking of government protection of and business respect for human rights as the Sustainable Development Goals were being pursued was also stressed. Such efforts needed to be supported by the development of effective indicators and benchmarks.

38. With regard to the coherence theme, the Forum included sessions on the process of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights to elaborate a binding instrument on business and human rights. While a number of States expressed reservations about this process, a common view was that the Guiding Principles and the treaty process should be complementary. In this regard, it was noted that the treaty process should not undermine, but rather built upon, the implementation of the Guiding Principles and the “United Nations ‘Protect, Respect and Remedy’ framework”. It was also noted that the treaty process offered an opportunity to clarify issues, such as the principle of parent company liability, mandatory human rights due diligence requirements, and the steps that States should take to regulate the extraterritorial activities of businesses domiciled inside their jurisdiction. With reference to the lack of progress in improving victims’ access to remedy for business-related abuses, it was also highlighted that Governments had to do more to improve their judicial systems to improve access to remedy locally.

VII. Coherent national policies and practice

39. The Forum explored emerging national-level practices, challenges and opportunities, such as the development of national action plans and the State duty to protect human rights in the context of investment policies, State-owned enterprises and economic activities controlled by the State.

40. Launching the second edition of its *Guidance on National Action Plans on Business and Human Rights*, the Working Group noted that a growing number of States were developing a national action plan.² The call made by the Group of Seven for substantive

² For an overview of relevant processes, see the webpage of the Working Group at www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx.

action plans was considered a step in the right direction. The National Human Rights Commission of Korea, the Inter-American Commission on Human Rights and the European Commission shared examples of how they promote the development of national action plans.

41. The Governments of Colombia, Germany and the United States of America shared lessons from their national action plan development processes. They explained that:

(a) The process provided opportunities to strengthen “horizontal policy coherence” by facilitating internal information sharing between government agencies and departments;

(b) Transparency and broad stakeholder participation were key factors;

(c) A national baseline assessment provided an opportunity to convene relevant stakeholders and to obtain a better understanding of stakeholder expectations;

(d) A national action plan should be realistic, practical and actionable, and include a “smart mix” of measures that focus on all companies, including small and medium-sized enterprises;

(e) The agenda should aim to enhance sustainable economic growth that respects human rights and to establish a level playing field worldwide;

(f) Public officials working on the subject at the national and regional level should be trained and educated on human rights in order to implement and adapt the plan;

(g) Support from other States could help in identifying good practices;

(h) A national action plan should not replace regulation or other domestic measures that address human rights issues, including measures relating to procurement policies and to combating human trafficking;

(i) The plan must make clear to victims how they can obtain a remedy for human rights abuses.

42. During another session of the Forum, participants explored the link between the State duty to protect in the context of investment policy and national action plans. The panellists pointed out that investment policies and instruments had tended to be overlooked in processes involving the development of national action plans. Experiences in Colombia and Indonesia had shown that taking investment issues into account when developing a national action plan could help the Government to integrate the Guiding Principles into wider policy discussions and other reform processes. At the international level, there was considerable overlap and synergy between the Guiding Principles and the UNCTAD Investment Policy Framework for Sustainable Development. From a business perspective, it was argued that when States passed regulations to facilitate respect for human rights, it was positive for investments and it created enabling environment for business. Canada, Switzerland and the United Kingdom of Great Britain and Northern Ireland offered examples of how investment was being considered in the context of policies relating to business and human rights.

43. The Forum addressed the integration of human rights into the activities of State-owned enterprises. The Working Group recalled Guiding Principle 4, according to which all businesses controlled by the State were expected to meet “the corporate responsibility to respect human rights”, and the State “duty to protect” was applicable in many instances. The call made in 2015 by leaders of the Group of Seven for States to “lead by example” was welcomed, and implied more concerted action by State-owned enterprises. A survey of States conducted in 2015 by the Working Group on this topic drew only 18 government responses, reflecting inaction in this area, with very few responding countries reporting that

they had a specific policy on State-owned enterprises and human rights in accordance with the Guiding Principles. Nonetheless, presentations by panellists highlighted the efforts made by the Governments of China and Sweden; Sweden had introduced sustainability requirements on State-owned enterprises focusing on four areas: setting clear sustainability goals; collaborating actively with stakeholders; acting transparently and reporting on sustainability performance; and implementing international guidelines, such as the Guiding Principles. Furthermore, it was pointed out that the 2015 national action plan of Sweden had served to engage business on human rights and sustainability. to communicate clear expectations to State-owned enterprises, and to build knowledge within companies and to support network-building.

44. The proliferation of sustainability reporting in China (2,500 sustainability reports issued yearly) was highlighted. While corruption and loose oversight were still challenges, the sustainability of State-owned enterprises had become an important part of the national strategy. State-owned enterprises faced mandatory corporate social responsibility reporting requirements, and guidelines on social responsibility for outbound investments (of which the majority was controlled by State-owned enterprises) included due diligence components, which in practice amounted to a legal requirement.

45. During another discussion, participants examined the State's role in the implementation of the Guiding Principles in the context of public procurement, focusing on the Learning Lab on Procurement and Human Rights initiative. Panellists concluded that, given that it constituted a large proportion of the gross domestic product of most countries, public purchasing needed more scrutiny. Ongoing work was aimed at mapping law and practice, identifying good practices, convening decision-makers and developing tools and broader networks.

VIII. Corporate respect for human rights in practice

46. Several Forum sessions explored how companies could effectively prevent and address adverse effects on human rights, with a particular focus on human rights due diligence, sector-specific challenges and supply chain issues.

47. At one session, participants identified the lessons learned from implementing the second pillar in the context of business relationships beyond the supply chain, including in mergers and acquisitions, joint ventures, equity investments and franchises, and with customers. the discussion centred on three areas: general approaches to implementing respect for human rights in business relationships; building and using leverage, including through contracts; and ensuring access to effective remedy. Key messages included:

(a) Approaches are evolving from traditional "compliance and audit" to "collaboration and partnership";

(b) Companies are including respect for human rights in contracts with business partners and seeing it as a source of leverage;

(c) There are innovative examples of companies working collectively within their industry groups, with competitors/peers or with companies in the value chain to increase leverage and effect change in their business partners' practices;

(d) A greater understanding of the obstacles that prevent improved conduct by companies and their partners, and across sectors, is required;

(e) Companies are using grievance mechanisms to address low-level grievances before they escalate, but more attention is needed to remediation in the context of business relations.

48. Similar observations were made in discussions on human rights in the supply chains of the garment sector, where it was noted that that audits did not sufficiently prevent or remediate abuses. Key messages included:

- (a) While audits and certification processes remain important, they only offer a glimpse of working conditions;
- (b) Dialogue on social issues between democratically elected worker representatives and employers is very important;
- (c) Collective bargaining remains an aspiration in the garment industry, often resulting in workers seeking alternative means, such as organizing mass protests;
- (d) The proliferation of trade unions and/or the creation of fake unions are an obstacle to meaningful negotiation;
- (e) Brands should be more active and use their leverage not only in negotiating prices but also with respect to labour conditions;
- (f) Self-regulation is not sufficient; global regulation to ensure effective protection of workers is necessary;
- (g) Hazardous working conditions in factories, such as the lack of accessible fire exit doors and failure to provide compensation to employees, remain a huge challenge;
- (h) Brands should become more involved in remediation processes, and independent third-party involvement can result in more effective grievance mechanisms.

49. At other sessions, participants addressed human rights due diligence in the context of online services, agricultural supply chains, the recruitment of migrant workers and conflict areas. During one session, they examined the limitations, risks and challenges of human rights impact assessments. The importance of disclosure and transparency without infringing on the rights of those who participate in the process was raised. It was also noted that companies were in a sensitive position when they were obliged to publicly report governmental flaws. Other points included that impact assessments required significant human rights and technical expertise, that the Guiding Principles provided a solid foundation for this, and that companies would benefit from developing cross-functional human rights tools.

50. The Forum also examined the development of corporate human rights reporting. More than 6,000 companies were reporting under the framework of the Global Reporting Initiative, of which a third had included information on human rights. The launch in 2015 of the Guiding Principles Reporting Framework had the aim to assist companies to go into more depth and to strengthen their internal management of human rights by focusing on salient issues – namely, those that posed the greatest risks to people, as distinct from risk to the business. Six global companies were currently publicly using the framework and investors responsible for \$4.8 trillion of assets under management had expressed their support for it.

51. It was agreed that transparency led to greater trust. The experience of companies that had adopted the Reporting Framework suggested that it helped to build internal awareness and to provide a focus for reporting by identifying what was most relevant to disclose. Furthermore, it was noted that, for reporting to have value, the correct type of information had to be disclosed (independently assured by trusted experts), and that companies must be confident that what they disclosed was understood to reflect the current stage of their efforts to ensure respect human rights throughout their operations.

IX. Groups at risk

52. The Forum explored the situations facing vulnerable groups, including human rights defenders and women and men who defend their land and property, as well as communities that engage in due diligence processes with companies. In the light of the growing clampdown worldwide against human rights defenders who flag harmful business conduct, Forum sessions focused on the challenges that human rights defenders faced in the context of business activities. Panellists explained that, around the world, defenders were targeted by Governments that detained them, prevented them from raising funds, restricted their movements, threatened to shut down their operations, placed them under surveillance and, in some cases, authorized their torture and murder. Participants discussed how many companies either stood by as Governments employed tough law and order responses against defenders or aggressively targeted defenders who challenged their activities by legal or other means.

53. In one case presented, it was pointed out that, in responding to research findings on the conditions facing migrant workers, the two companies involved took very different approaches. When, in the case of a Thai tuna export company, the information of work place harassment and confiscation of documents was presented to it, management entered into a dialogue to seek to address the issues. On the other hand, when a Thai pineapple export company was confronted with allegations contained in a report by a non-governmental organization of child labour, confiscation of work documents, not paying proper wages, harassment and abuse in its factories, it launched four defamation cases against the author of the report, both civil and criminal. It was suggested that the company subsequently lost business, especially its exports to European-based drinks companies, not directly because of the publication of the research but because the company refused to introduce an external audit of its factories, which many European buyers had requested in the wake of the report.

54. An example from Liberia highlighted challenges in the context of the extraction of natural resources. It was noted that, after the civil war ended in 2007, Liberia attracted billions of dollars in foreign direct investment to produce palm oil, to mine diamonds and to develop other minerals; efforts to address the adverse corporate impact on local communities had, however, been presented as “anti-Government” and “anti-development”, and defenders were threatened.

55. Reference was also made to research by the International Federation for Human Rights (FIDH) documenting the increasing criminalization of defenders, especially in Latin America, where defenders are labelled “disturbers”. Some participants stressed that it was necessary to adequately train and sanction the security providers that companies used. Defenders were the best way to ensure that companies observed human rights due diligence, it was argued.

56. Against such a bleak backdrop, the panellists acknowledged that a number of progressive companies recognized the need and value in communicating effectively with communities affected by their projects. Without a social license to operate, companies faced many problems that could affect their operations, increase project costs and harm their overall reputation. The freedom that human rights defenders enjoy played an essential role in ensuring the legitimacy of a company’s operations. An open, secure civic space enabled defenders to build inclusive, stable societies characterized by the rule of law that contributed to a favourable investment climate and operating conditions for companies.

57. The panel highlighted the fact that companies had three possible motivations – largely relating to company risk – for taking the increasing clampdown of human rights defenders into consideration when they decided to invest in certain geographies. First,

companies and their staff did not want to suffer themselves from human rights-related violations or to be subject to legal systems that falsely criminalize their interests and actions. Second, they did not want to be accused of complicity in abuses. Third, there was the moral imperative of respecting human rights, which meant supporting defenders because it was the right thing to do and because their work helped to create the right conditions in society by which companies could do business better.

58. One example of corporate practice in support of human rights defenders was featured, whereby a software company issued licences to non-governmental organizations, allowing them to legally use its software. Participants emphasized the importance of developing trust and mutually beneficial relationships with human rights experts and defenders in order to be able to address undue government surveillance.

59. In a discussion on women human rights defenders, panellists explored the many challenges that women faced when defending their lands and lives, and their valuable role in society. Research conducted by the Association for Women's Rights in Development (AWID) in Africa, Asia and Latin America showed that women were still not involved in negotiations or decision-making processes with companies, notably in the extractive sector. In addition, the militarization and securitization of business, entailing recourse to private security companies and paramilitaries to support development projects, had had a harmful impact on women, who were routinely targeted and sexually abused by these forces. Furthermore, the leadership role of women was being undermined, as they were often branded as “anti-investment, anti-development, environmental terrorists” by the mainstream media.

60. Two defenders from Latin America shared their experiences, pointing out that there was greater pressure on women defenders, who were increasingly criminalized and harassed. Furthermore, public authorities and companies had sought to undermine the credibility of women's efforts by describing them as “mad” in an attempt to undermine their legitimate struggles to defend their lands against mining companies and mega-construction projects.

61. Another key challenge was that women defenders were being silenced. One example concerned women who worked and lived in the Marikana mine and who, following the deaths of male miners during a strike in 2012, had been silenced by trade unions who represented the men, by the corporation and by the State, which on three occasions denied them permission to protest against their squalid living conditions. In response, the women made a film to document the conditions that they endured, and lodged a complaint with the Office of the Compliance Advisor/Ombudsman for the International Finance Corporation and the Multilateral Investment Guarantee Agency, the private sector lending arms of the World Bank group.

62. The discussion turned to some concrete actions taken to improve the situation for women defenders. First, to tackle gender discrimination and inequality, judges needed more training to address pejorative labels and overt discrimination and discrimination based on assumptions. Second, women should be enabled to better harness the power of social media and technology to document abuses and atrocities. One tool used to support defenders was presented: the “eyeWitness” application, developed by the International Bar Association in partnership with Lexus Nexus. It could be used to record and document violations, and thus help to hold perpetrators to account and help victims to seek a remedy. Third, the gender perspective should be considered in every aspect of human rights work, from processes of human rights due diligence through to access to remedy.

63. Forum discussions also centred on company-community engagement, in which affected communities continued to struggle to have their voices heard. Panellists presented three types of community-driven initiatives in which affected communities took a leading

role in designing and implementing processes to improve the human rights due diligence of companies, such as community-based human rights impact assessments, operational-level grievance mechanisms, and community-led environmental impact monitoring. These initiatives put communities at the centre of decision-making and highlighted the importance of participation, transparency and accountability to ensure meaningful engagement.

64. Some innovative methods, including drones, were being used to monitor the impact of a project on the environment. In addition, the distribution of information was being strengthened through technology, whereby communities used smartphones to send out real-time warnings to alert companies and the State to any damage being caused. It was stressed that the active engagement of communities in monitoring the impact of a project on the environment and their forest helps to even out the balance of power.

65. The Community Consent Index, managed by Oxfam, encouraged a race to the top among companies, and empowered communities and civil society to hold companies to account for their commitments. The Index examined public commitments and the policies of extractive industries with regard to community rights and engagement, with a focus on free, prior and informed consent. In the Index, free, prior and informed consent was understood as the principle according to which indigenous and local communities must be adequately informed in a timely manner, free from intimidation, and that they should be given the opportunity to refuse or amend a project. The Index showed that the number of companies committing to free, prior and informed consent had increased threefold since 2012. Most companies listed in the Index had pledged to respect indigenous rights. However, case studies from Cambodia and El Salvador were presented to show how practices did not always reflect commitments.

X. Access to remedy

66. Access to remedy was the focus of several sessions organized by OHCHR and the Working Group, as well as of sessions organized by other stakeholders. The Forum dedicated some 12 discrete sessions to the third pillar of the Guiding Principles, from the interface between judicial and non-judicial remedies to the role of national human rights institutions on access to remedy. While panellists shared different views on the best options to make access to remedy a reality, stakeholders stressed the urgency of more concerted State action. Several argued that the Guiding Principles would not be effective without improvements in the ability of victims to have access to effective remedy.

67. Key messages included the need for States to review the effectiveness of their current legal systems in order to systematically address barriers to remedy, more effectively integrating remedy into national action plans, and the need to ensure that non-judicial grievance mechanisms were able to both hold companies to account and deliver actual remedy for victims. Some participants highlighted that the fact that, while existing mechanisms were important and could serve to establish accountability, they seldom resulted in improvements on the ground for those affected.

68. Stakeholders highlighted the OHCHR Accountability and Remedy Project as an important contribution to improving access to judicial remedy, particularly in cases of severe abuse. In accordance with the Guiding Principles, States should systematically review their legal systems to identify and address gaps in coverage that may prevent accountability and remedy through stand-alone legal review processes, incorporation into national action plan processes or other means. The need to address gaps at the national level was complemented by a need to strengthen also international cooperation to ensure that cross-border cases were effectively investigated and prosecuted, and that civil law remedies could be enforced.

69. In a discussion on the tests for corporate legal liability, panellists noted that few States had done an in-depth review of their legal frameworks to identify and address gaps that prevented access to remedy.

70. Early findings of the Accountability and Remedy Project indicated that a lack of clarity in many jurisdictions about the tests for the attribution of liability to corporate entities contributed to legal uncertainty, which was unhelpful for victims and companies alike. The recommendations made by OHCHR to States were being developed through multi-stakeholder processes, and would be considered by the Human Rights Council at its thirty-second session.

71. Panellists also discussed the importance of legal certainty for both victims and companies, including clear standards around human rights due diligence in relevant legal frameworks. Several noted the challenges in implementing existing legal standards, while others highlighted the need for improvements in the rule of law. The interrelatedness of the OHCHR Accountability and Remedy Project and the process of elaborating a legally binding treaty on transnational corporations and human rights was raised. Some panellists argued that a binding treaty was necessary to overcome certain barriers in access to remedy, while others stressed that fighting corruption, improving the resources of courts and strengthening their independence were the most effective ways to improve access to remedy for the masses of victims at the local level. It also was highlighted that the outcomes and recommendations of the Accountability and Remedy Project were not specific to any one instrument, and that the Intergovernmental Working Group elaborating a binding treaty might consider some or all of the Project's findings for inspiration.

72. At another session, participants examined the lack of international agreements on the roles and responsibilities of interested States in cross-border cases. Panellists noted that the issue went beyond the exercise of extraterritorial jurisdiction to encompass other modes of international cooperation. Research by OHCHR indicated that States had different attitudes with regard to the appropriate role of extraterritorial jurisdiction, depending on such factors as the connection to the home State, the severity of the case and the exhaustion of local remedies. The panel discussed case studies involving a cross-border element, and highlighted the need for more effective prosecutorial and law-enforcement-level cooperation to ensure that international cases were effectively investigated and prosecuted, and that civil law remedies could be enforced across borders. Positive experiences from related areas of law included Eurojust and international cooperation in cases of trafficking, sexual tourism and corruption. One often neglected issue was transitional justice in cases involving gross human rights abuses, where transparency about complicity could be as important as a conviction. The issue of funding for cross-border civil law cases was also highlighted.

73. With regard to access to remedy in the financial sector, panellists pointed out that efforts to disseminate the Guiding Principles among banks had not been matched by progress in defining remedy and the responsibilities for remediation by banks when an adverse impact on human rights was linked to their activities. It was noted that the Guiding Principles clearly required companies to engage in remediation when they discovered that they had caused or contributed to human rights abuses; however, identifying in practice the relative responsibility of each when multiple actors are involved in an abuse could be difficult. Another challenge arose when a company did not agree that it had contributed to an abuse or that its operations were linked to one. In such cases, there was a need for effective mediation and judicial processes to settle the question of responsibility. The lack of effective grievance mechanisms in the financial sector was noted. It was argued that banks could exercise influence by making public their exclusion lists or divesting from entities that were associated with human rights abuses. One observation was that banks

needed a “culture change” specifically to overcome the notion that to engage in remediation was the same as admitting wrongdoing.

XI. Mega-sporting events and human rights

74. The Forum included, for the first time, a discussion on the human rights challenges associated with mega-sporting events and the solutions that were needed to prevent, mitigate and remedy adverse effects. Panellists highlighted the challenges confronting sports governing bodies, host Governments and organizing committees, sponsors, broadcasters and companies that allowed mega-sporting events to take place.

75. The discussion was framed around the positive and negative impact that mega sporting events had. Panellists stressed the potential advantages, including job creation and the development of new social housing and urban leisure space. In addition, the Paralympics offered an opportunity to shift harmful attitudes to persons with disabilities. They also explained, however, the scale of the problems caused by forced evictions and violations of housing rights; labour abuses, such as the exploitation of migrant workers in the construction phase and sweatshop labour during the manufacturing of sporting goods and merchandise; the constraints placed on homeless people; and the clampdowns on the right to protest during the event itself.

76. One major challenge was the slavery-like conditions that many migrant workers faced when signing contracts with recruitment agencies in their home countries to work in countries that would be hosting a mega-sporting event.

77. The panellists explained that a culture of corruption, cases of worker exploitation and other human rights abuses associated with mega-sporting events had eroded public confidence in the events themselves. These problems were compounded by at least five issues: weak global governance of mega-sporting events; inadequate awareness of and multi-stakeholder dialogue on the social and environmental issues; the varying circumstances surrounding each mega-sporting event from the underlying social issues inside the host country to the type and nature of the sporting event itself; poor planning and organizational time frames, especially with regard to sponsorship arrangements; and a “silo” mentality by which lessons on good and bad practices at one event are rarely learned and better managed for future events.

78. With regard to the above issues, panellists discussed why in practice few organizations and companies use their leverage to seek improvements. One noteworthy development highlighted at the Forum was the announcement made by the International Federation of Association Football (FIFA) in July 2015 that it would recognize the provisions of the Guiding Principles and make it compulsory for both contractual partners and those within the supply chain to comply with them.³ Participants noted, however, that all World Cup events were different in nature and that the influence of sports governing bodies varied accordingly. Some also cautioned against placing unrealistic expectations on mega-sporting events to solve the social problems of the host country.

79. From the perspective of corporate sponsorship of the Olympic Games and the FIFA World Cup, it was suggested that the current model whereby companies made multiple-year

³ FIFA, “FIFA Executive Committee sets presidential election for 26 February 2016 and fully supports roadmap for reform”, media release, 20 July 2015.

sponsorship commitments before the venue of an event was known limited the leverage of sponsors, even if they did not want to be associated with human rights harm.

80. Another observation was that media broadcast companies, especially State-funded ones, arguably had more leverage than sponsors to push for higher standards of social and environmental impact. Similarly, it was suggested that players were also not able or incentivized to speak out against abuses, which added to a culture of tacit acceptance of human rights harm. The panellists recognized that more work was needed to ensure that such influential figures as organizing bodies, sponsors, broadcasters and sports players themselves called for better conduct.

81. Participants argued for the need for a comprehensive framework that outlined global rules for all events and for all partners throughout the event. The lack of governance and alignment between different mega-sporting events and different parties that deliver them created the conditions for inaction and abuse. With regard to correcting the governance and bidding process, it was suggested that any bidding country or organization should be required to be transparent on its human and labour rights policies and commitments; that an independent mechanism was needed to monitor this; and that obligations and responsibilities should be written into binding contracts. Organizers should also engage more widely and earlier with affected stakeholders, including previous host countries and organizing bodies, in order to better manage potential and actual social and environments impact. These actions should also be backed by better auditing, compliance and monitoring, especially concerning risky sectors; and companies should be subject to sanctions, including financial penalties that are written into contracts, for non-compliance.

XII. Multi-stakeholder engagement across the pillars of “protect, respect and remedy” in concrete cases: good practice

82. Building on a session at the 2014 Forum, the 2015 event featured case studies on how the three pillars of the “Protect, Respect and Remedy” Framework were being applied simultaneously to highlight good practices, as well as tensions and challenges. The four case studies covered different sectors (industrial infrastructure investment, agricultural production, and retail and garment sourcing) and regions (the Americas, Africa and Asia). Each examination included the perspectives of civil society and business, and the Government in two.⁴

83. The first case presented was the Malawi 2020 Tea Revitalization Programme, a multi-stakeholder partnership aimed at delivering a living wage for workers in the Malawi tea growing sector. A core issue is that many workers, especially women, are not able to work their way out of poverty, even in productive and profitable supply chains. The Ethical Tea Partnership, which comprises 40 companies that buy and trade tea, suggested that, despite the attention to audits, certifications and paying legal wages, companies did not fully understand the problem. When presented with an evidence-based analysis carried out by Oxfam, however, companies had begun to realise that a national minimum wage did not mean that workers earned enough to meet their family’s basic needs. It was noted that all actors – companies, local tea producers, the Government, non-governmental organizations and trade unions – had to be involved if improvements, such as a move to a living wage, were to be made. The approach taken by Oxfam of helping companies to deal with the

⁴ Background papers are available at www.ohchr.org/EN/Issues/Business/Forum/Pages/Submissions.aspx.

findings in a transparent manner and without shaming those who stepped forward to tackle the issue was highlighted.

84. The second case was that of the Thilawa Special Economic Zone in Myanmar, a development project that affected 81 households and had led to human rights concerns, including relocation and the loss of farmland, livelihood, educational opportunities and access to clean water. Before 2012, the Government of Myanmar, through its role in the project management committee, had found that it had been difficult to establish dialogue and trust between stakeholders, owing to factors such as political and legal changes, challenges relating to the issue of land rights and relocation and the lack of experience in government-community dialogue and communication. Nonetheless, with the support of external organizations, progress had been made notably through the appointment of community mediators, the launch of a multi-stakeholder advisory group, and cooperation with both local and international civil society organizations as trusted third parties. Improved communication and negotiation, continued sensitization on rights and responsibilities, and replicating the Thilawa model in other special economic zones and resettlement programmes were seen as important next steps.

85. The relocation of the affected community brought economic hardship, lost land access and no alternative training; however, the establishment of a community-driven operational grievance mechanism eventually resulted in some improvements. The mechanism was seen as a bridge between communities and the Government and companies involved, and a relatively easy way to provide remedy. This view was shared by the Government's joint venture partner, the Myanmar Japan Thilawa Development Ltd. The introduction of community advisers and the multi-stakeholder advisory council had helped to ensure sustainable company-community engagement. The Myanmar Centre for Responsible Business, which became involved as a facilitator, had found that initially there was no joint platform for stakeholder dialogue, and thus a common understanding of the problems and possible solutions were difficult to reach. One of the first tasks had been to conduct stakeholder mappings and to create mechanisms by which challenges could be raised and addressed. Other challenges included identifying reliable sources of information, and the country's complex and fluid legal system. The development of guidelines on responsible conduct for companies joining the project was seen as an essential tool. Key elements of the guidelines included reference to the Guiding Principles and to ILO standards, the Government's expectations and the concerns held by the community.

86. The third case was the Fair Food Program in the Florida tomato growing sector, covering the entire value chain from workers to food brands and retailers. Currently covering almost the entire sector in Florida, and with a record of having eliminated previous practices of forced labour, sexual assaults and trafficking, the Program is considered a success by workers, companies and the Government. In the experience of the Coalition of Immokalee Workers, which founded the Fair Food Program, it was critical to build a system of enforcement based on a number of mechanisms, including:

- The development of a worker-driven code of conduct for company commitments to be based on the problems experienced by the workers
- Worker-to-worker training to develop an "army of worker monitors"
- A worker-led mechanism to address grievances
- In-depth audits to complement worker monitoring
- Market consequences for growers and retailers established through legally binding contracts between Coalition of Immokalee Workers and food brands

87. The Compass Group, a participating company, had found the subtle "carrot and stick" approach adopted by the Coalition of Immokalee Workers compelling and workable,

and that, although changing company practice did not happen overnight, it was able to expanding the Fair Food Program across other sectors. The experience of the United States Department of Labor, which oversees compliance of agriculture labour standards across the country, was that multi-layered supply chains had made it difficult to establish responsible parties; however, the Fair Food Program, as a leading example of worker-driven enforcement in collaboration with companies, had helped to complement and support government enforcement of standards.

88. The last case study presented concerned the Kingsland factory in Cambodia, where a subcontractor of a supplier to the company H&M closed down one of its factory in 2012, leaving workers without work and pay. Although the supplier's use of the subcontractor breached its agreement with H&M, which technically did not have any direct legal liability, the company decided that it could help to improve the situation. Through engagement with non-governmental organizations, the Arbitration Council, the Government and ILO, workers were compensated. H&M took steps to clarify its expectations of its suppliers and set up, in collaboration with trade unions, a whistle-blower system. The case demonstrated the value of workers asserting their rights and pushing large companies to become involved. Participants pointed out that there could be no replacement for worker representation and that dialogue involving all parties – workers, the brand company, suppliers, the Government and ILO – was vital.

XIII. Closing plenary session

89. At the closing plenary session, panellists were asked to make concrete suggestions on how to deepen and broaden implementation of the “Protect, Respect and Remedy” pillars of the Guiding Principles in the coming years. The Working Group stressed the power of measurement and the ability of companies, when they have the will, to improve. There was a need for more comprehensive data on how businesses have an impact on human rights, and for robust systems to track State and company approaches to address that impact.

90. Speakers agreed that all States should develop a national action plan, given that the plans were a vehicle for ensuring policy coherence and action at all government levels.

91. Speakers also highlighted the urgent need for more policy coherence within Governments, particularly in their role as economic actors with regard to trade, State-owned enterprises and public procurement. Specifically, Governments should be clear that companies are expected to respect human rights; strengthen protection of human rights defenders working to promote economic, social and cultural rights; and harmonize their expectations in international forums, notably on the issue of access to remedy and accountability. It was also noted that States should not wait for an international treaty and use the absence of one as a pretext for not developing a national action plan. More peer pressure on States and companies was seen as a key driver to effect change.

92. One speaker emphasized that national action plans should take a “think small first” approach, and take into account the particular challenges and opportunities for small and medium-sized enterprises, the backbone of all economies around the world, to implement the Guiding Principles. In this regard, the human rights implications of the informal economy were emphasized, as were the challenges of decent work deficits and lack of social protection.

93. Participants pointed out that the trade community had to understand that it is not acceptable to trade “at any cost” or to promote “any type of trade”, regardless of social or environmental impact. One speaker highlighted the need for genuine compliance with international rules and standards, meaningful transparency with public registries of

beneficial ownership of companies, and penalties that hurt companies for non-compliance instead of “small” fines that were passed on to shareholders and customers.

94. With regard to the second pillar, it was noted that scaling up the dissemination of the Guiding Principles among business was still needed. Participants cautioned against overly simplifying the Guiding Principles to the point that they lost their power to effect change. While companies often sought simple and practical solutions, implementing the corporate respect for human rights was not a simple, one-off endeavour. Companies found real value in their efforts to implement the Guiding Principles when they took time properly to understand when and how they had an impact on human rights and what this meant for the company’s reputation and bottom line. One panellist stressed that rights-holders should be considered at the outset of and during business operations and new ventures, including by giving them a voice in how corporations make decisions.

95. With regard to the third pillar and specifically to judicial remedy, participants reiterated how domestic legal systems around the world lacked the capacity to hear cases brought by victims of business-related abuses. When these cases were heard, they were often subject to political interference. When judgements were reached, they were often not enforced. The Working Group called for more international cooperation, particularly between home and host States, to ensure access to effective judicial remedy. The findings and recommendations of the OHCHR Accountability and Remedy Project should help States to take concrete steps to improve the situation. With regard to non-judicial mechanisms, there was a need for more dissemination of successful handling of business-related complaints by national human rights institutions, OECD national contact points and company grievance mechanisms, and more attention paid to community-based monitoring and joint grievance handling.

96. One panellist conveyed a message focused on the need for stronger political leadership from more diverse parts of governments to implement the first and third pillars of the Guiding Principles. The role of the Group of Twenty was highlighted, suggesting the need for member States to commit to developing national action plans on business and human rights; to integrate a “risk to people” lens in the context of trade, finance and investment; to encourage the largest firms in each country to use the UN Guiding Principles Reporting Framework; and to implement recommendations made within the context of the OHCHR Accountability and Remedy Project.
