



General Assembly

Distr.: General
2 July 2012

Original: English

Human Rights Council

Twenty-first session

Agenda items 2 and 3

Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Contribution of the United Nations system as a whole to the advancement of the business and human rights agenda and the dissemination and implementation of the Guiding Principles on Business and Human Rights

Report of the Secretary-General

Summary

In its resolution 17/4, the Human Rights Council resolution requested the Secretary-General to prepare a report on how the United Nations system as a whole, including programmes and funds and specialized agencies, can contribute to the advancement of the business and human rights agenda and the dissemination and implementation of the Guiding Principles on Business and Human Rights, addressing in particular how capacity-building of all relevant actors to that end can best be addressed within the United Nations system, and to present the report to the Council at its twenty-first session.

The present report, prepared pursuant to that request, gives an overview of ongoing activities by entities and mechanisms in the United Nations system relevant to business and human rights. It identifies opportunities and provides recommendations for advancing the business and human rights agenda within the United Nations system by embedding the agenda, and particularly the Guiding Principles on Business and Human Rights, across the system in coordination mechanisms, and by integrating the Guiding Principles in programmes and activities, including capacity-building efforts. It also makes recommendations for aligning the internal policies and practices of the United Nations with the Guiding Principles in order to manage risks and promote respect for human rights through its business relationships.

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I. Introduction

1. The global economic crisis continues to have a detrimental impact on the enjoyment of human rights in all parts of the world. At the root of the crisis lie failures of governance over decades of fast-developing globalization, creating governance gaps at many levels, including between the scope and impact of economic forces and actors, and the capacity of societies to manage their adverse consequences. These governance gaps have created a permissive environment for wrongful acts by economic actors of all kinds, without adequate sanctioning or reparation.¹ Narrowing and ultimately bridging these gaps to limit the adverse impact on human rights is a global challenge that the United Nations must play its part in meeting.

2. An important step towards meeting the above-mentioned objective was taken in 2011, when the Human Rights Council, in its resolution 17/4, unanimously endorsed the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework.² The support from Member States from all geographic regions and levels of economic development, combined with the endorsement by global business organizations and trade unions and broad support from civil society organizations, effectively established the Guiding Principles as an authoritative global reference point for the business and human rights agenda. This constitutes a key development in the efforts to prevent and address the adverse impact on human rights arising from business-related activity.

3. In order to promote the dissemination and implementation of the Guiding Principles, the Human Rights Council, in resolution 17/4, also established the Working Group on the issue of human rights and transnational corporations and other business enterprises, consisting of five independent experts for a period of three years.

4. Also in resolution 17/4, the Human Rights Council decided to establish an annual Forum on Business and Human Rights under the guidance of the Working Group to serve as a venue for stakeholders from all regions to discuss trends and challenges and identify good practices in the implementation of the Guiding Principles, and to promote dialogue and cooperation.³

5. Recognizing the important role of the United Nations in aligning the conduct of economic actors with international human rights norms, the Human Rights Council, in resolution 17/4, also requested the Secretary-General to prepare a report on how the United Nations system as a whole can contribute to the advancement of the business and human rights agenda and the dissemination and implementation of the Guiding Principles, addressing in particular how capacity-building of all relevant actors to this end can be best addressed within the United Nations system, and to present the report to the Human Rights Council at its twenty-first session. The present report was prepared pursuant to that request.

6. In the present report, the Secretary-General considers how the business and human rights agenda, and particularly the Guiding Principles, may be effectively integrated in United Nations programmes and activities, particularly by embedding the issue in existing system-wide coordination and policy structures. In accordance with the request of the Human Rights Council in its resolution 17/4, special attention has been paid to the role of the system in building the necessary capacity of all actors on the issue of business and

¹ A/HRC/8/5, para. 3.

² A/HRC/17/31, annex..

³ The first annual Forum will be held in Geneva on 4 and 5 December 2012.

human rights, in particular with regard to implementation of the Guiding Principles. In the report, how the Guiding Principles could be internalized within the Organization was also considered.

7. While the Working Group established by the Human Rights Council has an important role to play in advancing the implementation of the Guiding Principles, the sheer scale and complexity of the business and human rights agenda requires larger concerted efforts that involve the United Nations system as a whole. This view is also reflected in calls by Governments, business and civil society for the United Nations to play an active role in advancing the dissemination and implementation of the Guiding Principles.

8. In preparation of the report, the Office of the United Nations High Commissioner for Human Rights (OHCHR) requested all States and United Nations mechanisms, bodies, specialized agencies, funds and programmes and other relevant stakeholders to submit their views and recommendations to the Secretary-General on how to pursue the objectives presented in resolution 17/4. More than 70 submissions were received.⁴

9. Given the wide scope of the present report, it can only provide an outline of the main substantive and organizational issues raised in securing the involvement of all relevant entities and mechanisms of the United Nations system in advancing the business and human rights agenda in ways that are consistent with their respective mandates. The implementation of the recommendations made in the present report will in all likelihood require additional analysis by the entities concerned.

II. Background

10. Against the backdrop of a longstanding and polarized debate on the human rights responsibilities of business, in 2005, the Commission on Human Rights, in its resolution 2005/69, requested the Secretary-General to appoint special representative on the issue of human rights and transnational corporations and other business enterprises, with a mandate to identify and clarify standards of responsibility and accountability for business enterprises with regard to human rights, and to elaborate on the role of States in effectively regulating and adjudicating business conduct in this regard. In 2008, the Special Representative introduced the “Protect, Respect and Remedy” Framework for business and human rights to the Human Rights Council, as a foundation for further action. In its resolution 8/7, the Council welcomed the Framework and requested the Special Representative to operationalize it. In 2011, the Special Representative, building on six years of extensive multi-stakeholder consultations and research, presented the Guiding Principles for the implementation of the Framework to the Council.²

11. The Guiding Principles do not create new legal obligations but constitute a clarification and elaboration of the implications of existing standards, including under international human rights law, and practices for both States and business enterprises, including as they relate to enhancing access to remedy for victims of business-related human rights abuse.

⁴ A total of 12 were submitted by States, 12 by United Nations system entities and mechanisms, five by national human rights institutions, four by business organizations and more than 40 from civil society organizations and other stakeholders.

III. Convergence of international standards and processes

12. The unanimous endorsement of the Guiding Principles by the Human Rights Council and the broad support that they have received from all stakeholders have made them an authoritative and broadly accepted basis, both inside and outside the remit of the United Nations, for moving the business and human rights agenda to a new stage, focused on ensuring effective implementation.

13. Global standards and initiatives on business and human rights are already converging around the Guiding Principles. The corporate responsibility to respect human rights as set out in the Guiding Principles has been incorporated into efforts involving United Nations system entities, such as the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security of the Committee on World Food Security, and the revised Sustainability Framework of the International Finance Corporation.

14. The Global Compact, the platform of the United Nations for engaging the business sector, including in support of human rights, has stated that the Guiding Principles elaborate on the component of the Compact's principle focused on business respect for human rights. In 2012, the Global Compact, together with the United Nations Children's Fund (UNICEF) and Save the Children, launched the Children's Rights and Business Principles, which build on the Guiding Principles to provide guidance for businesses on respecting and supporting children's rights in their operations.

15. Outside the United Nations, various core elements of the Guiding Principles have been included in such key standards as the updated Guidelines for Multinational Enterprises of the Organization for Economic Cooperation and Development and social responsibility standard ISO 26000 of the International Standardization Organization.

16. Efforts to promote the dissemination and implementation of the Guiding Principles are taking form across stakeholder groups, including at the level of regional organizations and Member States, and by the business sector, national human rights institutions and civil society.⁵

IV. Activities of the United Nations relevant to business and human rights

17. The activities of the United Nations relevant to the business and human rights agenda have, to a large extent, been centred on normative development and advocacy. Other efforts have revolved around providing stakeholders with support and, to a lesser extent, promoting dialogue.

A. Standard setting and advocacy

18. OHCHR provided substantive support to the process of developing the Guiding Principles. It continues to support and collaborate with the Working Group and other parts of the international human rights system, as well as engaging with other institutions and initiatives to promote the Guiding Principles. The High Commissioner has also, on several occasions, called on the business community to integrate respect for human rights in

⁵ A/HRC/20/29, paras. 22-40.

business practice.⁶ At the country level, OHCHR, in some contexts, monitors and addresses the human rights impact of business activities, including by working to secure access of affected communities to effective remedies, and promotes dialogue among stakeholders.⁷

19. The Working Group has an explicit mandate to support efforts to disseminate and implement the Guiding Principles. Other special procedures mandate holders frequently address business-related human rights situations and topics, and several have applied the Guiding Principles and the Framework in their analyses.⁸ Human rights treaty bodies are also increasingly addressing the impact of business enterprises through the lens of the treaty obligations of State parties.⁹

20. In addition to the initiatives described in paragraphs 12 to 16 above, other entities in the United Nations system also fulfil important relevant standard-setting and advocacy functions. In particular, the International Labour Organization (ILO) works with States, business enterprises and trade unions to promote and monitor the implementation of international labour standards that are part of the normative content of the Guiding Principles, together with other human rights standards.

21. The efforts of the Global Compact to promote business respect and support for human rights include such initiatives as the Women's Empowerment Principles and a multi-stakeholder task force on business engagement with indigenous peoples in collaboration with the secretariat of the Permanent Forum on Indigenous Issues.

22. With regard to business activities in conflict-affected areas, the Security Council has addressed the issue of corporate respect for human rights, in particular through the due diligence guidelines for trade in mineral products from the Democratic Republic of the Congo, developed pursuant to resolution 1896 (2009) by the Group of Experts supporting the Sanctions Committee.

B. Capacity-building and engagement

23. OHCHR is currently working to enhance capacity of its own staff in country and regional offices to address business and human rights issues, and has started to engage with Governments, civil society organizations, national human rights institutions¹⁰ and business organizations and networks to advance awareness and implementation of the Guiding Principles.¹¹ The Office also works closely with the Global Compact in its efforts to develop guidance material and tools for business on the implementation of the Guiding Principles.¹²

24. Other entities, such as the Food and Agriculture Organization of the United Nations and UNICEF, have started to integrate and carry out capacity-building on business and human rights and the Guiding Principles for both staff and other stakeholders. The Global

⁶ See www.ohchr.org/EN/Issues/Business/Pages/EventsStatements.aspx.

⁷ See <http://cambodia.ohchr.org/EN/PagesFiles/LandandHousingRights.htm>.

⁸ For example, the special procedures mandates on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, the right to food, the human right to safe drinking water and sanitation, indigenous peoples, the situation of human rights defenders, and the situation of human rights in Haiti and in Cambodia.

⁹ General comment on child rights and Business by Committee on the Rights of the Child (forthcoming). See also E/C.12/2011/1.

¹⁰ See for example www.ihrb.org/pdf/Uganda-Workshop-Final_Summary_Report.pdf.

¹¹ The OHCHR office in Cambodia issued the Guiding Principles translated into Khmer as part of efforts to promote the Principles at the national level.

¹² See www.ohchr.org/EN/Issues/Business/Pages/Tools.aspx.

Compact Office has also facilitated briefings for United Nations staff on the “Protect, Respect and Remedy” Framework.

25. The Global Compact provides a platform for direct engagement with the business sector, including through its local networks, to raise awareness, develop tools and guidance materials,¹³ and shares knowledge and good practices on integrating human rights into business practice. The Finance Initiative of the United Nations Environment Programme (UNEP), a global partnership on sustainability with the financial sector, pursues a work stream on human rights and finance that also incorporates the Guiding Principles.

26. Other activities by United Nations system entities also provide support to stakeholders in relation to business and human rights. Importantly, ILO follows up on the ratification of conventions by building the capacity of Governments, employers’ and workers’ organizations on international labour standards. It also provides enterprises with direct guidance on how to respect labour-related human rights through its Helpdesk for Business and through business-related networks.

27. The Peacebuilding Support Office and the UNEP Post-Conflict and Disaster Management Branch provide policy guidance on the management of national resources and the role of the private sector. Other agencies, such as the United Nations Development Programme (UNDP) and the United Nations Industrial Development Organization (UNIDO), carry out activities to support Governments and businesses in fostering responsible business practices and pro-poor investments. UNDP also conducts programmes focused on facilitating greater understanding between the extractive sector, indigenous peoples and Governments.

V. Advancing the business and human rights agenda

A. Embedding the agenda

28. The business and human rights agenda falls squarely within the bounds of the broader mainstreaming of human rights in the United Nations system, which has been central to a series of United Nations reform initiatives since 1997. However, despite the range of activities described above, the issue of business and human rights is not yet part of mainstream United Nations operations, not even within the human rights system itself. While ongoing efforts to advance the business and human rights agenda and the Guiding Principles are important, they do not derive from an overarching organizational strategy and thus face the risk of incoherence and fragmentation of efforts. Furthermore, in the absence of a coordinated strategic effort to embed the issue in existing policy and coordination bodies across the United Nations system, the latter’s role in advancing this agenda may not reach the necessary scale nor realize its full potential for impact at the operational level.

29. It is therefore important to ensure system-wide coordination of policy, programmes and activities, and to ensure that efforts can respond to the scale of the challenge of advancing the human rights agenda. The Guiding Principles should be embedded, where appropriate, in the policy-setting agenda of the Chief Executives Board for Coordination and its subsidiary bodies, the High-level Committee on Programmes, the United Nations Development Group and the High-level Committee on Management. Embedding is also necessary with regard to other coordination mechanisms, such as the Inter-Agency Framework for Coordination on Preventive Action, the Inter-Agency Support Group on Indigenous Peoples’ Issues and the Inter-Agency Standing Committee for the coordination

¹³ See www.unglobalcompact.org/Issues/human_rights/Tools_and_Guidance_Materials.html.

of humanitarian assistance, and the key entities identified in the present report. The United Nations system task team set up by the Secretary-General to support efforts to define and advance the post-2015 development agenda, as well as system-wide planning to support the implementation of recommendations made at the Rio+20 Conference, provide another important platform in this context.¹⁴

30. The strategic embedding of the business and human rights agenda and the Guiding Principles at the macro-level of the United Nations system will be necessary in order to achieve the further integration of the Principles into existing structures, programmes and activities, at both the global and national levels, as identified in the section below. This will strengthen the Organization's role in advancing policy coherence and convergence of standards, as well as create greater synergies with other initiatives. It will also strengthen the role of the United Nations in the promotion of enhanced accountability and redress for business-related human rights impact, supporting Governments and business enterprises to fulfil their respective responsibilities, and support national human rights institutions and civil society to advance the implementation of the Guiding Principles.

B. Integrating the Guiding Principles: specific areas of work within the United Nations

1. Human rights system

31. OHCHR plays a central role in the implementation of the business and human rights agenda and in taking appropriate action to promote and support embedding and integration of the Guiding Principles into relevant focus areas of existing United Nations system coordination mechanisms, together with their respective secretariats. The efforts of OHCHR in this regard will be reinforced through enhanced strategic engagement with actors such as the United Nations Development Group, the Peacebuilding Support Office, UNDP, the Global Compact, ILO, the UNEP Finance Initiative and others.

32. A particular concern with regard to the integration of the business and human rights agenda and the wider task of advancing the Guiding Principles effectively is the risk that the full benefits of convergence brought about by the adoption of the Principles could be weakened in the implementation process. Various actors are developing their own interpretations of the Guiding Principles, a situation that could lead to fragmentation in interpretation and divergence of understanding among stakeholder groups. To help avoid that outcome, OHCHR developed an interpretive guide on the corporate responsibility to respect human rights as set out in the Guiding Principles.¹⁵ More such guidance is, however, needed.

33. The institutional focal point within the United Nations system for providing uniform guidance and clarification on issues relating to the interpretation of the Guiding Principles rests with OHCHR,¹⁶ in close collaboration with the Working Group, as well as other human rights mechanisms and agencies or organizations, as appropriate. As efforts to advance capacity-building and the implementation of the Guiding Principles gain momentum, and both internal and external stakeholders seek guidance and support, the rationale for "one-stop shopping" to ensure alignment with the Guiding Principles is further strengthened.

¹⁴ See for example

www.ohchr.org/Documents/Issues/Business/BNUNGuidingPrinciplesBusinessHR.pdf.

¹⁵ Available from www.ohchr.org/Documents/Issues/Business/RtRInterpretativeGuide.pdf.

¹⁶ A/HRC/14/27, para. 126.

34. Given that the Guiding Principles are not a static set of norms, the identification of normative gaps may arise. As such, further development of standards should be carried out by the United Nations human rights system, supported by open multi-stakeholder processes.

35. In addition to the Working Group on the issue of human rights and transnational corporations and other business enterprises, whose mandate is specifically focused on promoting the dissemination and implementation of the Guiding Principles, other special procedures mandate holders of the Human Rights Council are well placed to apply the Guiding Principles in their analyses of specific situations or thematic areas. Greater attention to the issue by mandate holders would contribute to the further exploration of any specific challenges faced in the implementation of the Principles by States and business sectors, in different operational contexts, in relation to particular human rights issues, human rights defenders and vulnerable groups.

36. United Nations treaty bodies have an important role to play in clarifying the application of the international human rights obligations of States parties with regard to business-related human rights issues. Treaty bodies may use the Guiding Principles (which to a large extent are derived from existing treaty obligations) to inform their dialogue with States parties under the treaty reporting process, individual complaints and in the elaboration of general comments, statements and other treaty body output that address States parties' obligations relating to the human rights impact of business activities.

37. In their submissions for the present report, some States proposed incorporating reporting on the duty to protect against corporate-related human rights abuse – the first pillar of the Guiding Principles – in the universal periodic review. Doing so would facilitate a more systematic collection of information on State efforts to implement the Guiding Principles. Civil society may also contribute to the universal periodic review and treaty body processes by using the Principles as benchmarks in their submissions.

2. United Nations system in general

38. Greater attention to human rights in general across the United Nations system offers opportunities for integrating the business and human rights agenda, and in particular the Guiding Principles, into existing platforms and activities.

39. The Global Compact as the strategic policy initiative of the United Nations for engaging the business sector already contributes by building consensus and supporting learning and dialogue on the human rights responsibilities of business. At the same time, awareness and implementation of such responsibilities among corporate members remains a key challenge. It is important that the Global Compact address this challenge by highlighting the corporate responsibility to respect human rights as set out by the Guiding Principles in more explicit terms in the commitments that business participants undertake upon joining. All human rights-related activities of the Global Compact should at a minimum be aligned with the Guiding Principles.

(a) *United Nations activities at the regional and country levels*

40. A number of activities involving the United Nations at the country and regional levels are relevant to the business and human rights agenda. Integrating the Guiding Principles into such activities will strengthen coherence and alignment with international standards on business and human rights.

41. At the regional level, the business and human rights agenda and the Guiding Principles can contribute to the activities of United Nations regional commissions focused on guidance, capacity-building and technical cooperation on economic and social policy involving Member States and other stakeholders in the respective regions.

42. At the national level, United Nations Resident Coordinators and country teams can play a strategically crucial role in promoting dialogue among Governments, business enterprises and civil society; promoting human rights due diligence in the context of economic activities; ensuring that risks to vulnerable communities, such as indigenous peoples, are considered; providing technical assistance; and supporting relevant research.

43. Resident Coordinators should take the lead at the national level, where possible in collaboration with OHCHR, in ensuring coordination among relevant agencies in integrating business and human rights into domestic development strategies and programmes. The Guiding Principles should also be integrated by Resident Coordinators into their advocacy efforts to promote United Nations norms. Country consultations under their leadership on the post-2015 development agenda provides an opportunity for integrating the Principles, including with regard to the private sector's role in equitable growth and the promotion of policy coherence between human rights and other development objectives.

44. United Nations country teams, together with OHCHR, UNDP and the International Coordinating Committee of National Human Rights Institutions are well placed to work together to enhance the key role of national human rights institutions in advancing the business and human rights agenda. This includes supporting the capacity of national institutions to monitor policy coherence, the implementation of the Guiding Principles and the individuals and communities seeking effective remedies, undertaking research relating to due diligence, and supporting the development of dispute resolution capacities.

45. The mobilization of Global Compact local networks provides important opportunities for advancing the business and human rights agenda, including with small and medium-sized enterprises, through awareness-raising, comprehensive dissemination of the Guiding Principles and capacity-building to advance implementation. United Nations country teams and UNDP are well placed to enhance their engagement with the local networks focused on business and human rights, where possible in collaboration with OHCHR and national human rights institutions.

(b) Development

46. The United Nations Development Group, through the human rights mainstreaming mechanism, should take the lead to advance integration of the Guiding Principles in the development efforts of the United Nations system aimed at delivering more coherent, effective and efficient support to countries seeking to attain internationally agreed development goals.

47. UNDP programmes focused on governance of the private sector, sustainable business and legal empowerment for the poor provide entry points for building the capacity of stakeholders to implement the Guiding Principles. With regard to industrial development, UNIDO programmes on corporate social responsibility and their specific focus on small and medium-sized enterprises provide another opportunity to integrate the Guiding Principles into capacity-building activities targeted at this constituency.

48. The World Bank Group can play an important role in supporting the dissemination and implementation of the Guiding Principles. Parts of the Guiding Principles already inform the updated version of the Sustainability Framework, including the performance standards applicable to clients of the International Finance Corporation. There may also be scope for aligning other relevant policies and aspects of the Group's work with the Guiding Principles. The Nordic Trust Fund, mandated to help the World Bank to develop a knowledge-sharing and learning programme on human rights for staff, can provide further opportunities for awareness-raising on human rights standards relating to the business sector, and in particular the Guiding Principles.

(c) *Investment and trade*

49. The Guiding Principles can serve as a benchmark to ensure coherence between international human rights standards and the development of business-focused development policies, including as they relate to trade and investment.

50. Agencies and programmes focused on investment and trade, particularly the United Nations Conference on Trade and Development, can advance the business and human rights agenda and help States to meet their duty to protect by ensuring integration of the Guiding Principles into policy guidance and capacity-building efforts. Of particular relevance for integrating business and human rights components into investment-related work are the principles for responsible contracts developed by the former Special Representative.¹⁷

51. The Guiding Principles may also contribute to ongoing deliberations on the links between human rights and international trade law. Work to clarify the application of the Guiding Principles in this domain, including to the World Trade Organization, is, however, needed. One entry point for dissemination and implementation of the Guiding Principles is through the texts and programmes of the United Nations Commission on International Trade Law, for example, those relating to arbitration rules for private investments and eligibility criteria for public procurement.

52. The global financial sector is another strategically important realm. On the one hand, it can contribute to the enhancement of business practices with regard to human rights; on the other, however, it also has the potential of undermining the enjoyment of human rights. As a partnership with the financial sector to promote research, capacity-building and policy dialogue, the Finance Initiative of UNEP is an important platform. Ongoing efforts to integrate the Guiding Principles should be strengthened, including in cooperation with OHCHR.

(d) *Peacebuilding and security*

53. Given the range of human rights challenges arising from business activities in conflict-affected situations and their direct correlation with any potential successful peacebuilding strategies, the Guiding Principles can make an important contribution to ensuring that business activities support rather than undermine the building of sustainable peace. Specifically, the Guiding Principles provide a particularly interesting and authoritative roadmap for all actors involved to ensure that any negative impact of economic activities is mitigated and, importantly, prevented.

54. A strategically key focal point for promoting and integrating the Guiding Principles into peace and security activities is the Peacebuilding Support Office, which services the Peacebuilding Commission, administers the Peacebuilding Fund and supports the efforts of the Secretary-General to coordinate the United Nations system in its peacebuilding operations.

55. The Guiding Principles are particularly relevant to the due diligence requirements developed by the Security Council for extractive companies in certain conflict zones, the further exploration on policy questions on the linkages between business human rights and peacebuilding in the intergovernmental Peacebuilding Commission,¹⁸ and the Peacebuilding Fund (the multi-donor trust fund that provides a critical bridge between conflict and recovery), which is increasingly focused on natural resources management as a

¹⁷ A/HRC/17/31/Add.3.

¹⁸ See A/HRC/17/32.

funding area in peacebuilding support. The Guiding Principles may also be relevant to the work of United Nations peacekeeping operations.

(e) *Humanitarian action*

56. With the increasing quantity and range of non-State actors present in humanitarian action, including post-conflict or disaster construction work, standards for the human rights responsibilities of business activities are increasingly relevant. The Inter-Agency Standing Committee and the Office for the Coordination of Humanitarian Affairs should take the lead in exploring how the integration of the Guiding Principles can ensure coherence and contribute to reducing the adverse impact on human rights of business activities in humanitarian situations.

57. UNEP work in post-conflict and disaster settings, including on environmental impact assessments and associated capacity-building programmes, provides another entry point.

(f) *Labour*

58. In addition to existing efforts, there is scope for increased collaboration and coordination between ILO, United Nations human rights bodies and OHCHR to ensure alignment between implementation of international labour standards and efforts aimed at promoting the implementation of the Guiding Principles. The tripartite structure of ILO provides important channels to reinforce efforts involving States, business and trade unions to promote implementation of the Guiding Principles. Collaboration could also include reciprocal efforts to coordinate work at the country level and to establish relations with a broader constituency.

(g) *Other areas*

59. Notable efforts to integrate the Guiding Principles on work relating to, for example, children and indigenous peoples, are already being made. Similarly, the Guiding Principles should also be incorporated into policies and programming in other areas covered by the United Nations system, such as education, health, HIV/AIDS, women, internal displacement, housing and migration, which intersect with business-related human rights issues.

C. Capacity-building of relevant actors

60. Lack of capacity among States, business enterprises, national human rights institutions and other actors in the area of business and human rights has been identified as a key challenge to ensuring the implementation of the Guiding Principles in practice.¹⁹ This is also reflected in Human Rights Council resolution 17/4, in which the Council specifically requested the Secretary-General to identify how the United Nations system as a whole could address the need for capacity-building of all relevant actors.

61. Supporting efforts to promote capacity-building among relevant actors is one of the tasks assigned to the Working Group on the issue of human rights and transnational corporations and other business enterprises.²⁰ Given the scale of its task, however, the

¹⁹ See www.business-humanrights.org/media/documents/ruggie/ruggie-special-mandate-follow-up-11-feb-2011.pdf.

²⁰ Human Rights Council resolution 17/4, para. 6 (c).

Working Group has recognized that it alone cannot carry out capacity-building efforts and will need to leverage other efforts.²¹

62. To meet this fundamental challenge, it is important that the United Nations system support the capacity-building efforts of relevant actors. A significant obstacle to this proposition, however, is the lack of capacity on this issue within the system itself. A critical first step is therefore to build capacity internally and to ensure that sufficient priority is given to this agenda by the relevant parts of the system.

63. In order to generate knowledge and enable integration of business and human rights into United Nations policies, analysis and programming, there is a need for adequate training modules on business and human rights that include the Guiding Principles. Such modules should form part of learning and capacity-building programmes for staff members and senior managers, including in the field, particularly those facilitated by the United Nations Development Group. OHCHR is developing training activities and resource materials to enable it to build the capacity of its own and other United Nations system staff to support advancing the dissemination and implementation of the Guiding Principles through their respective programmes and activities. This will be an important contribution to enabling OHCHR, in collaboration with relevant partners, to support the capacity-building efforts of State institutions, including the judiciary, parliaments and national human rights institutions, as well as civil society and business enterprises, to support the effective implementation of the Guiding Principles.

64. Capacity-building for United Nations staff is also needed in areas such as dispute resolution, negotiation skills (providing technical support for contract negotiations and management), and integration of business and human rights aspects in national planning processes.

65. Besides addressing internal needs, various parts of the United Nations system can play different and complementary roles in supporting capacity-building efforts directed at Governments. This is critical to enable Governments to better fulfil their duty to protect against business-related human rights abuse as specified in the Guiding Principles. Particularly relevant in this context are Government ministries and public agencies focused on business-related policy areas that may be frequently unaware of the State's obligations under international human rights law – a common factor behind lack of Government policy coherence.

66. A key challenge is the lack of awareness of human rights standards, including of the Guiding Principles, among the majority of the world's enterprises. Significant dissemination and capacity-building efforts for this constituency are needed, particularly among small and medium-sized enterprises. Employers' organizations, chambers of commerce and industry bodies would be key interlocutors for such endeavours.

67. Another key constituency are national human rights institutions, which have shown great interest in building their capacity on business and human rights and on being better equipped to play a role in supporting the implementation of the Guiding Principles, resolving business-related human rights disputes and as convenors and facilitators of multi-stakeholder dialogue at the national level.

68. Capacity-building is equally important for non-governmental organizations, trade unions, human rights defenders, academics and other stakeholders, including individuals and groups that may be adversely affected by business activity, in order to strengthen advocacy efforts and to promote access to remedies and accountability. A core focus of

²¹ A/HRC/20/29.

capacity-building efforts should be support for groups that are particularly vulnerable to discrimination or to adverse effects arising from business activities, including indigenous peoples, migrants, women and children. It is especially critical that the capacity of human rights defenders to carry out their work in the context of the adverse impact of business activities be strengthened, in particular with regard to access to effective remedies.

69. To enable comprehensive capacity-building and the capturing of lessons learned by different actors, enhanced knowledge management is required. At the current time there is no global repository of information on patterns of business-related human rights impact and responses by States and business, as well as other stakeholders, to address such an impact.

70. The establishment of a global database could facilitate record-keeping of the implementation of the Guiding Principles by States and business enterprises, as well as by other stakeholders, including information on State initiatives and processes, corporate policies and practices, and the use of accountability mechanisms for affected stakeholders.

71. The institutionalization of a global repository on business and human rights within the United Nations, in collaboration with external partners in both design and information-gathering and management phases, would improve the availability of comprehensive information to all stakeholders, with a view to promoting the further dissemination and implementation of the Guiding Principles and to ensure systematic tracking of challenges and lessons learned. The information collected in the context of the universal periodic review, and by treaty bodies and special procedures could also be included in such a database.

72. There is also scope for use of existing platforms, such as the United Nations Practitioners' Portal on Human Rights-Based Approaches to Programming, and the online discussion forum for the Human Rights Policy Network, HuriTALK. The integration of human rights and business can contribute to both awareness-raising of the Guiding Principles and an emerging body of lessons learned and practices in promoting their implementation.

73. With regard to business practice, the Global Compact provides a key platform for sharing knowledge in the implementation of members' commitments. Through the Global Compact Human Rights Working Group, the Global Compact should encourage corporate members to contribute with lessons learned from the implementation of the corporate responsibility to respect human rights.

74. The scale of the capacity-building challenge – both internal and external – is immense, and cannot be carried by one or even several entities within the United Nations system alone. Indeed, capacity-building at the necessary scale will also require the involvement and support of stakeholders outside the United Nations, as well as a careful examination of the necessary resource requirements. Lessons can be learned from other examples of global challenges requiring large-scale interventions, for example, in the area of HIV/AIDS and in improving access to immunization, where the United Nations has entered into partnership with all relevant stakeholders, including from the private sector, to create a significant capacity and funding base to enable such large-scale interventions. A similar model of public-private partnerships might be relevant for the design of a strategic response by the United Nations system to address capacity-building needs in the area of business and human rights, subject to the necessary rigorous policy safeguards in place in order to ensure the integrity of the system.

VI. Aligning United Nations policies and procedures with the Guiding Principles

75. Like any other organization conducting commercial transactions or engaging in partnerships with business enterprises, the Guiding Principles should apply to the internal policies and procedures of the United Nations, and should be implemented effectively.

76. Internal alignment with the Guiding Principles by the United Nations system should be grounded in the responsibility of avoiding or contributing to human rights abuses, or being involved with such abuse through relationships with business entities. This can also serve to enhance the credibility of the Organization in its efforts to promote the dissemination and implementation of the Guiding Principles by others.

77. A key concept of the Guiding Principles is the process of exercising due diligence to prevent and address human rights risks arising from business activities. Of particular relevance, this implies having in place processes to identify and address potential or actual adverse human rights impact directly linked to operations, products or services by the Organization's business relations. Exercising due diligence is also a means to manage risks to the Organization, in particular the risks to its reputation through potential links to any adverse human rights impact.

78. The issue of the Organization's own responsibility, including with regard to human rights, has been on the agenda of the United Nations since 2003, when a review was carried out to explore the implementation of the Global Compact principles in internal policies.²² A process was subsequently launched aimed at making the United Nations a leading example of responsible corporate citizenship, as advocated by the Global Compact.²³ Renewed efforts are, however, required, in particular with regard to the integration of human rights considerations in the Organization's relations with business enterprises.

79. Experiences of implementing the Human Rights Due Diligence Policy on support to non-United Nations security forces, developed under the leadership of OHCHR and the Department of Peacekeeping Operations and endorsed by the Secretary-General, may offer lessons learned on human rights due diligence processes in the area of business and human rights.

A. Investment management

80. The United Nations Joint Staff Pension Fund has committed to integrating the 10 Global Compact principles in its activities²⁴ and is a member of the United Nations Principles for Responsible Investment.²⁵ The Fund's current sustainable development action does not, however, refer to human rights principles, and its enterprise-wide risk management policy does not consider environmental, social and governance risks.²⁶

81. A group of major international investors participating in the Principles for Responsible Investment initiative stated that the Guiding Principles constitute a useful tool for "analysis of how companies address human rights risks" and "enable credible

²² *The Right Road, A Report to the Under-Secretary-General for Management on the Global Compact and the Practice of the Administration in the United Nations*, New York, February 2004.

²³ See www.unglobalcompact.org/docs/issues_doc/un_business_partnerships/Internalization_Overview_Feb2006.pdf.

²⁴ See www.unjspf.org/UNJSPF_Web/pdf/Agenda_21.pdf.

²⁵ See www.unpri.org.

²⁶ See www.unjspf.org/UNJSPF_Web/pdf/1011120_POLICYF-.pdf.

benchmarking of company efforts that has not been possible to date”.²⁷ Alignment with the Guiding Principles will therefore provide a means to manage human rights risks and meet rising expectations that investments entered into in the name of the United Nations are made on the basis of adequate human rights due diligence processes.

B. Procurement

82. While the Organization has worked to enhance the accountability of the United Nations system and ensure efficiency and transparency in its procurement practices, it also has a responsibility to ensure that the same practices are not linked to any adverse impact on human rights.

83. Efforts by the Procurement Division to incorporate sustainability into the procurement process have included awareness-raising on the Global Compact principles and the adoption of the non-binding Supplier Code of Conduct. The Code provides the minimum standards expected from vendors when conducting business with the United Nations, including an expectation that vendors respect and support human rights and avoid complicity in human rights abuses.²⁸

84. A revision of the Supplier Code of Conduct to reflect the Guiding Principles would help to clarify that the expectation that suppliers respect human rights implies exercising human rights due diligence and addressing any adverse impact. The same consideration applies to contracts issued by the Office of Legal Affairs for the provision of goods and services to the United Nations, which currently contain references limited to child labour, anti-personnel mines and sexual exploitation.

85. Under the United Nations sustainable public procurement initiative, guidance has been developed for procurers in the organizations of the United Nations system.²⁹ There is further scope for integrating human rights risk management into procurement and appropriate processes for addressing any risks identified. Alignment with the Guiding Principles is also needed in the implementation of the Framework for Advancing Environmental and Social Sustainability recently adopted by the Environment Management Group, which refers to the Guiding Principles as a founding document for social sustainability.³⁰

86. There is also scope for referencing the corporate responsibility to respect human rights at the United Nations Global Marketplace, the website for suppliers to the Organization, and in the registration process for potential vendors to the United Nations via the portal, as well in the regular briefings on the Global Compact in business seminars conducted by the Procurement Division.

87. Like for many large organizations, verifying the conduct of all suppliers may be impracticable. The Organization should nonetheless make concerted efforts to identify general areas where the risk of adverse human rights impact is most significant, and prioritize them for human rights due diligence. It is critical that steps to initiate such a process be taken without delay.

²⁷ See www.unpri.org/collaborations/2011-05-20_Investor_statement_Guiding_Principles.pdf.

²⁸ See www.un.org/depts/ptd/pdf/conduct_english.pdf.

²⁹ UNEP, *Buying For a Better World*, 2011. Available from www.unep.org/Publications/sp/BFABW_Final_web.pdf.

³⁰ See www.unemg.org/Portals/27/Documents/IMG/Safeguards/launch/SustainabilityFINALweb-.pdf.

C. Partnerships

88. Across the United Nations system, the number and type of partnerships with business have multiplied rapidly in recent years. This increases the opportunities to promote corporate respect for human rights, but also the risk of being linked to actors potentially involved in activities that have a negative impact on the enjoyment of human rights.

89. As part of the efforts coordinated by the Global Compact to promote greater coherence in United Nations business partnerships, guidelines on cooperation between the United Nations and the business sector were developed to generate more effective partnerships while ensuring the integrity and independence of the Organization.³¹ While the guidelines contain human rights principles, which declare that the United Nations will not engage with business sector entities that are “complicit in human rights abuses”, they should now be updated to ensure full alignment with the Guiding Principles. Individual entities at various levels also have their own policies for partnerships with business actors, some of which have integrated, or contemplate integrating, the Guiding Principles.³²

90. In his five-year action agenda announced on 25 January 2012, the Secretary-General launched his plans for scaling up transformative partnerships with the private sector through the creation of a new United Nations partnership facility integrating the Office for Partnerships. In this regard, it is important that steps be taken to ensure that its approach to partnerships is coherent with United Nations core priorities, including by aligning its policies with the Guiding Principles and the corporate responsibility to respect human rights.

91. The network of United Nations Private Sector Focal Points is an important platform for integrating the Guiding Principles as a core standard relevant for United Nations partnership policies, screening processes and management of relations with business. The annual Private Sector Forum convened by the Secretary-General provides an opportunity for raising awareness on the Guiding Principles with business leaders and public policymakers. Lastly, the United Nations Business Partnership gateway, an online portal to facilitate partnerships with the private sector, should reference the Guiding Principles and the corporate responsibility to respect human rights as the baseline standard expected of business conduct.

VII. Conclusions and recommendations

92. **The business and human rights agenda of the United Nations and the Guiding Principles on Business and Human Rights should be an integral part of global efforts to bridge existing governance gaps and safeguard protection and respect for human rights in the context of economic activities. The entities and mechanisms of the United Nations system already contribute towards that end, but the sheer scale and complexity of the issue requires a coordinated strategic effort by the United Nations system as a whole.**

93. **In order to achieve system-wide coordination and coherence with regard to business and human rights, the business and human rights agenda, and particularly the Guiding Principles, should be embedded throughout the United Nations system at the strategic policy level. In this context, the United Nations High Commissioner for**

³¹ Available from http://www.unglobalcompact.org/docs/news_events/9.1_news_archives/2009_11_23/un_business_guidelines.pdf.

³² For example, the OHCHR internal policy on partnerships with the business sector.

Human Rights has been asked to take appropriate action to promote and support the embedding and integration of the Guiding Principles into the United Nations system, in cooperation with the secretariats of the Chief Executive Board and system-wide coordination mechanisms, including through the human rights mainstreaming mechanism and other key entities identified in the present report.

94. United Nations Resident Coordinators and country teams should take the lead, where possible in collaboration with OHCHR, to ensure coordination on business and human rights and the integration of the Guiding Principles into planning and advocacy efforts at the national level. Joint efforts to engage national human rights institutions and Global Compact local networks would make an important contribution to the promotion of the business and human rights agenda and the Guiding Principles.

95. Ongoing efforts focused on standard setting, advocacy and engagement with relevant stakeholders should be strengthened, and the business and human rights agenda and the Guiding Principles should be further integrated into all parts of the United Nations system, as identified in the present report and in ways that are consistent with their respective mandates.

96. Functions for providing uniform guidance and clarification on issues relating to the interpretation of the Guiding Principles within the United Nations system should be institutionalized with OHCHR as focal point, in collaboration with the Working Group on the issue of human rights and transnational corporations and other business enterprises. This would further enhance the consolidation of capabilities to support capacity-building and coordination efforts.

97. To address the significant capacity gaps with regard to business and human rights, the United Nations system should support capacity-building of relevant actors.

98. The business and human rights agenda and the Guiding Principles should be integrated into capacity-building for United Nations staff where relevant. Training modules and material towards that end should be developed in full alignment with the Guiding Principles and integrated into learning and capacity programmes for staff members and senior managers, including those facilitated by the United Nations Development Group.

99. Besides addressing internal capacity needs, the United Nations system should support capacity-building initiatives directed at Government agencies, business enterprises, including small and medium-sized enterprises and their representative bodies and networks, national human rights institutions, non-governmental organizations, trade unions, human rights defenders active in the context of business operations, and other stakeholders, particularly individuals and groups that are especially vulnerable to adverse impact arising from business activities.

100. An important contribution to support the sharing and management of knowledge on business and human rights would be to explore the establishment of a global database to keep track of the implementation of the Guiding Principles by States and enterprises and their application by other stakeholders, as well as the scope for using existing platforms.

101. Considering the scale of the capacity-building challenge and the resource implications of meeting it, the feasibility of establishing a global fund on business and human rights linked to the United Nations, with multi-stakeholder engagement, should be considered. The primary purpose of such a fund would be, both within and

outside of the United Nations system, to enhance the capacity of stakeholders seeking to advance the implementation of the Guiding Principles.³³

102. To lead by example, the United Nations system should apply the Guiding Principles in its internal policies and procedures, grounded on the responsibility to avoid causing or contributing to human rights abuses or being associated with such abuse through relations with business entities. In particular, this implies having in place due diligence processes to identify and address potential or actual adverse human rights impact directly linked to operations, products or services by the business relationships of the United Nations.

103. Specifically, the Organization's approaches to investment management, procurement and partnerships with the business sector should be aligned with the Guiding Principles.

104. As provided by the Guiding Principles, States should encourage multinational institutions of which they are members to promote business respect for human rights within their respective mandates and capacities. This should apply to the United Nations system as a whole.

³³ See www.business-humanrights.org/media/documents/ruggie/ruggie-special-mandate-follow-up-11-feb-2011.pdf.