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

REFERENCE: SPB/SHD/MCS/14

The UN Working Group on Business and Human Right’s work on individual cases of alleged human rights violations and abuses

March 2014

The Working Group on Business and Human Rights would like to share information on its activities and communications with States and non-State actors, including business enterprises, regarding alleged human rights violations and abuses.

Communications to States and businesses

Within the framework of their mandates given by the Human Rights Council, Special Procedures mandate holders receive information on alleged violations and abuses of human rights and, where deemed appropriate, act on those cases relevant to their mandate by communicating directly with States and others on behalf of victims. These communications typically take the form of a letter addressed to a State, which bring alleged violations or abuses to their attention. Such letters, referred to as ‘Letters of Allegation’ and ‘Urgent Actions’ in the UN system, can address specific cases or general trends and they typically ask the recipient State to provide further information and/or take preventative or investigatory action to avoid future violations or abuses. Letters of Allegation do not adjudicate; this means they do not establish guilt and sanctions. They are a complement to the broader UN human rights system.

At an initial stage, these letters are sent confidentially to the concerned State to give them reasonable time to respond to such allegations. Three times a year, these communications are summarized and compiled in a public “Communications Report of the Special Procedures” for the Human Rights Council in March, June and September.

The mandate of the UN Working Group on Business and Human Rights, contained in Human Rights Council resolution A/HRC/17/4, includes the obligation to “seek and receive information from all relevant sources, including Governments, transnational corporations and other business enterprises, national human rights institutions, civil society and rights-holders” (paragraph 6(b)). We have approached our Letters of Allegations strategically to introduce the core concepts, obligations, responsibilities and expectations set out in the UN Guiding Principles. In our mode of inquiry, we encourage States to demand from companies information on human rights due diligence, we often approach both home and host states of the company allegedly involved in the abuse, and we stress the need for remedy, understood as making right what was done wrong.

The Working Group would like to express its thanks to those who brought information to our attention to date. Such information received was essential for the Working Group to develop a firm understanding of the negative impacts of business operations on human rights and the key challenges to rights-holders in obtaining access to remedy. The Working Group continually revisited its strategy and activities in light of the information provided, and began to address emblematic cases, where the issues at stake and the rights at risk of infringement could be applied to a number of other similar situations around the world.
Since December 2012, the Working Group has issued 19 communications regarding cases of alleged human rights abuses by companies in Asia-Pacific, Latin American, Western and Eastern European regions. These communications were sent not only to the State concerned, but also to the business involved and to their home state where applicable. Many of these communications were sent jointly with other relevant Special Procedures mandate-holders.

At time of writing, 16 of these communications have been made public in “Communications Report of the Special Procedures” (A/HRC/23/51, A/HRC/24/21 and A/HRC/25/74). Below is a short summary of the 16 public cases:

- **3 December 2012**: Together with Special Procedures mandates on Food, Health, Toxic Waste, and Water and Sanitation; we expressed concerns to the government of Armenia regarding the Teghut copper-molybdenum mining project, which allegedly caused serious environmental, health, social and other negative human rights impacts.
- **4 April 2013**: Together with the Special Rapporteur on Indigenous Peoples, we expressed concerns to the government of Suriname regarding the potentially harmful impacts of planned mining activities by IAMGOLD Corporation on the Saramaka tribal people.
- **4 April 2013**: The Working Group expressed concerns to IAMGOLD Corporation regarding the potentially harmful impacts of its planned mining activities on the Saramaka tribal people.
- **26 April 2013**: Together with Special Procedures mandates on Freedom of Expression, Human Rights Defenders, Migrants and Trafficking; we expressed concerns to the government of Thailand regarding the alleged criminal charges brought against a human rights defender who had reported on the conditions of migrant workers in the operations of a fruit processing company.
- **7 May 2013**: Together with Special Procedures mandates on Freedom of Expression, Freedom of Peaceful Assembly and Association, and Human Rights Defenders; we expressed concerns to the government of Brazil regarding the alleged involvement of a mining company in the infiltration and surveillance of human rights organizations.
- **23 May 2013**: Together with Special Procedures mandates on African Descent, Extreme Poverty, Food, Minority Issues, and Water and Sanitation; we expressed concerns to the government of Colombia regarding the impact of alleged sediment dumping at the Bajo Anchicayá Dam on Afro-descendant minorities living in the area.
- **11 June 2013**: Together with Special Procedures mandates on Adequate Housing, Democratic and Equitable International Order, Extreme Poverty, Food, Freedom of Peaceful Assembly and Association, Health, Human Rights Defenders, and Water and Sanitation; we expressed concern to the host State of India, regarding the alleged forced evictions of up to 20,000 residents for the construction of an integrated steel plant and captive port that could also result in serious violations of human rights including the right to food, adequate housing, water and sanitation, health and education.
- **11 June 2013**: Together with Special Procedures mandates on Adequate Housing, Democratic and Equitable International Order, Extreme Poverty, Food, Freedom of Peaceful Assembly and Association, Health, Human Rights Defenders, and Water and Sanitation; we expressed concern to the Republic of Korea being the home State of the multinational steel corporation, Pohang Iron and Steel Corporation (POSCO), regarding the alleged forced evictions of up to 20,000 residents for the construction of an integrated steel plant and captive port that could also result in serious violations of human rights including the right to food, adequate housing, water and sanitation, health and education.
- **11 June 2013**: Together with Special Procedures mandates on Adequate Housing, Democratic and Equitable International Order, Extreme Poverty, Food, Freedom of Peaceful Assembly and Association, Health, Human Rights Defenders, and Water and Sanitation; we expressed concern to the multinational corporation, Pohang Iron and Steel Corporation (POSCO), regarding the alleged forced evictions of up to 20,000 residents for the construction of an integrated steel plant and captive port that could also result in serious
violations of human rights including the right to food, adequate housing, water and sanitation, health and education.

- **21 June 2013**: Together with Special Procedures mandates on Adequate Housing, Extreme Poverty, Foreign Debt, and Water and Sanitation; we expressed concern to the government of Portugal at the unaffordability of water and sanitation for vulnerable groups as an alleged consequence of the privatization of water and sanitation services as part of the government’s austerity measures. Concern was also raised about allegations that concerned populations which had not participated in the decision-making process.

- **5 August 2013**: Together with Special Procedures mandates on the Environment, Freedom of Expression, Freedom of Peaceful Assembly and Association, Human Rights Defenders, Independence of Judges and Lawyers, Summary Executions and Torture; we expressed concern to the government of Guatemala about alleged murders, attacks and acts of intimidation against environmental defenders who campaign against the negative impacts of extractive company operations.

- **27 August 2013**: We expressed concern to the government of Honduras about the alleged murder, kidnapping, threats and acts of intimidation against defenders of the environment, land and indigenous peoples’ rights.

- **29 August 2013**: Together with Special Procedures mandates on Extreme Poverty, and Water and Sanitation; we expressed concern to the government of the United Kingdom at the alleged negative impact of rising water costs on people with the lowest incomes, leading to water poverty.

- **11 November 2013**: Together with the UN Special Rapporteur for Indigenous Peoples, we issued a follow-up letter to our joint allegation letter of 4 April 2013 to IAMGOLD Corporation.

- **18 November 2013**: Together with Special Procedures mandates on Freedom of Expression, Freedom of Peaceful Assembly and Association, Human Rights Defenders and Summary Executions; we expressed concern to the government of Colombia about the alleged murder of three human rights defenders who had campaigned on the protection of land rights and natural resources.

- **26 November 2013**: Together with Special Procedures mandates on Freedom of Expression, Freedom of Peaceful Assembly and Association, Human Rights Defenders and Summary Executions, we expressed concern to the government of Mexico about alleged murder, violence and intimidation against human rights defenders working to defend access to land, natural resources and indigenous peoples’ rights in the context of extractive and energy company operations.

Further summaries of our written communications will be made available in the “Communications Report of the Special Procedures” to the Human Rights Council in June 2014.

**Other Working Group activities bringing focus to specific cases of alleged abuses**

In addition to issuing letters to States and businesses, the Working Group publishes press releases on high-profile cases and substantial issues as part of its work; for example, in relation to the Rana Plaza disaster last year we made a public call to multinational companies to avoid pulling out but rather to stay engaged and help build capacity for better workplace safety in garment factories. The Working Group also directly engages with victims of human rights violations and abuses during its official country missions, including meetings with groups of nomadic herders in the Gobi desert in Mongolia, tomato pickers and indigenous communities in the USA and migrant workers in West Africa. In the Annual Forum on Business and Human Rights we also strive to secure the participation of affected stakeholders and other civil society representatives. Despite significant budget limitations for the Forum, the Working Group together with OHCHR managed to secure additional funding for 35 affected stakeholders to participate in each of the two annual Forums held in Geneva in 2012 and 2013. The Working Group also raised funds to ensure the participation of 25 representatives of civil society and affected stakeholders at the first Regional Forum on Business and
Human Rights held in Latin America in August 2013. We also focused our 2013 annual report for the UN General Assembly (A/HRC/4/37) on indigenous peoples, who are often vulnerable to the negative impacts of business activities and who can face compounded barriers when seeking access to remedy.

Just as the negative impacts of business operations on individuals and communities are wide-ranging and various, so are the approaches by which we seek to address them. We believe that the dissemination and implementation of the UN Guiding Principles on Business and Human Rights, including their explicit recognition of “access to remedy” and the protection of vulnerable groups, is a crucial approach toward securing the enjoyment of all human rights. We welcome debate regarding our activities and invite close monitoring of our progress in executing our mandate, and in that context we wish to clarify the variety of approaches and paths we choose, including our approach to specific cases of allegations of abuse. At the heart of each of these approaches is our concern for the victims of human rights abuses by companies, including helping to secure remedy for today’s victims as well as stronger prevention measures for tomorrow’s victims. This is, and will always remain, the driving force behind all of our activities. We encourage you to continue to submit information or complaints to us at: wg-business@ohchr.org.

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