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Input for the Roadmap for the next decade - Building blocks for realizing UNGPs implementation toward 2030

The International Organisation of Employers (IOE), *Business at OECD* (BIAC) and BusinessEurope, their member federations and the tens of millions of companies they represent have been deeply engaged in the promotion and implementation of the UN Guiding Principles on Business and Human Rights. The tenth anniversary of the UN Guiding Principles this year is an important moment for stocktaking and re-focusing efforts to strengthening their uptake. The IOE, *Business at OECD* (BIAC) and BusinessEurope welcome the initiative to draft a roadmap for the better implementation of the UN Guiding Principles. The IOE has supported this project by the UN Working Group on Business and Human Rights through regional and global consultations, surveys, and research as well as the flagship report "#UNGPsPlus10- Achievements, challenges, and the way forward in the uptake and implementation of the UN Guiding Principles on Business and Human Rights", which was launched in February 2021.

Based on their strong business and human rights engagement, IOE, *Business at OECD* (BIAC) and BusinessEurope reiterate that the UN Guiding Principles as the authoritative global framework on business and human rights, created clarity of the rules and responsibility of all actors and resulted in much more focused approach in the promotion of business and human rights by particularly companies, but also investors, and international organisations and States. The inclusion of the UN Guiding Principles into key frameworks, such as the OECD MNE Guidelines and the ILO MNE Declaration, has amplified their uptake.

The last ten years have seen very dynamic developments with regards to the Business and Human Rights agenda through hard and soft law developments, benchmarks, investor choices and, most important, ever-increasing efforts of business to deepen the implementation of the UN Guiding Principles and finding innovative ways to address challenges. The biggest obstacles in the implementation of the business and human rights agenda are, according to the UN Working Group's 2018 report to the UN General Assembly, "*a lack of government leadership in addressing governance gaps (...). A fundamental issue is that host Governments are not fulfilling their duty to protect human rights, either failing to pass legislation that meets international human rights and labour standards, passing legislation that is inconsistent, or failing to enforce legislation that would protect workers and affected communities.*" Indeed, pillar One of the Protect-Respect-Remedy framework, the state duty to protect human rights, remains an untapped opportunity. A focus going forward must be to strengthen accountability of governments with regards to the implementation of the UNGPs.



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National Action Plans (NAPs) must play a much bigger role in the promotion of the UNGPs. They are key for promoting local action. Solutions to implementing the UNGPs must be led locally in order to succeed and be sustainable. No external intervention can replace the influence, impact, and role of local leaders, so building and strengthening local leadership capacity on human rights issues is critical.

Open and transparent processes in the development of NAPs, which include all stakeholders, are key for the success of NAPs. NAPs should strengthen policy coherence and the role of government to establish and enforce law and to create and maintain stable and predictable political and legal systems alongside a climate conducive to economic and social progress. NAPs must focus on the implementation of the UN Guiding Principles and should not move beyond that. NAPs should be consistent in this respect so that businesses and other stakeholders have clarity and stability with regard to their role and responsibilities, and the expectations of them.

Policy coherence is of utmost importance – at national level between ministries, at international level between international organisations and also in policies implementing the UN Guiding Principles. Any new policy measures should be crafted in line with the UNGPs, share the same fundamental principles, and be based on the learnings from existing initiatives of what has worked and what has not.

The root causes of human rights challenges, such as poverty, weak governance & corruption, have not so far received the necessary attention in strategies to move the human rights agenda forward. Too often business is regarded as the easiest way to fix problems whose causes are far beyond what individual companies can resolve. The roadmap for the better implementation of the UN Guiding Principles must put clear emphasis on comprehensively tackling such root causes, most evidently good governance and rule of law deficits, and lack of access to social protection, education, gender equality and decent work. The human-rights agenda needs an adequate and well-functioning ecosystem to flourish.

The informal economy is thereby of particular concern. More than 60 percent of the global workforce is in the informal economy. It is there, in the informal economy, where the human rights risks are the highest. However, action so far is rather limited to promote the transition from the informal to the formal economy. Without finding innovative ways to address the challenges of informality, progress to the better implementation of the UN Guiding Principles will be very limited.

Access to remedy continues to be of deep concern. Research shows, that the states which have major deficits when it comes to the protection of the human rights of their citizens, also have the biggest challenges when it comes to access to remedies. Insufficient enforcement of human rights and lack of effective judicial frameworks do not mean thereby that these are the countries, in which companies can get on with their business activities unimpeded and without restrictions. The opposite is the case: It is especially the states with the biggest human rights and access to remedy challenges in which the entrepreneurial freedom is most restricted. Ineffective judicial systems,



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corruption, deficient administrations, and arbitrary political decisions hamper companies in their business activity, impede planning certainty and make investments an inherent risk.

Shortcomings in judicial systems are not carved in stone. Some countries are making progress in addressing the issues. Progress, however, is too slow, not comprehensive enough throughout the different areas of good governance and even more uneven between countries. What is needed are stronger commitments by governments to deliver on their duty under international law to provide access to remedy. The roadmap for the better implementation of the UN Guiding Principles must put the finger on the weak spot and call for more ambitious action to improve judicial systems at local level. Since access to remedy in the vast majority of cases is most likely to come through better and more effective judicial systems at a national level where violations occur, efforts and resources should be focused on improving national judicial systems in host countries and where violations occur, instead of focusing on expanding the availability of extraterritorial jurisdiction and on building new international legal structures.

Innovative approaches and partnerships between different actors are key to address systemic issues, which one actor alone will not be able to resolve. One good example of innovative partnership approaches is the Alliance 8.7, which brings together all actors – governments, social partners, civil society, UN - at international level and local level to focus on the eradication of child labour in line with the SDGs. Another initiative worth mentioning is the Call to Action in the Garment industry, an alliance of international and national employer and worker organisations, companies, multistakeholder initiatives, governments, and the ILO to mitigate the impact of COVID-19 on the garment industry. To make this happen, trust and collaboration must be strengthened between the relevant and legitimate actors involved in the business and human-rights agenda so that they can work together to contribute to the development of public policies in a constructive environment devoid of ideological polarisation. Moreover, business and their representative organisations must be part of the solution and not perceived as the problem and must be fully involved in the development of normative and non-normative processes.

Peer-learning and the exchange of experience are key to support each other in the implementation of the UN Guiding Principles. The increasing numbers of national and regional business and human rights forums are important platforms to allow the exchange of good practices, learnings and the identification of innovative and effective tools that can serve as examples that can be replicated and scaled up. These platforms must be thereby fully inclusive. All legal companies have the opportunity and responsibility to improve their human rights impact and contribute to the implementation of the UNGPs, as well as the 2030 Agenda. Excluding companies that operate in certain sectors, or for any other reason, from joint action, peer-learning, and the conversation in general will not help affected communities and groups, quite the opposite.

The roadmap for the better implementation of the UN Guiding Principles should take a “think small first” approach. Small and medium-sized enterprises (SMEs) are the essential backbone of all economies around the world and, moreover, many small and medium-sized enterprises are active on a global scale. SMEs have different challenges and resources, but also possibilities when it



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comes to the implementation of the UN Guiding Principles. The recommendations and provisions in the roadmap must take the challenges, limitations and needs of SMEs into account because the roadmap should address *all* companies, not only MNEs.

Business and Employer federations have a key role to play in paving the way forward and driving change in the implementation of the UNGPs over the next ten years because not only do they have the trust of their members, but they also reach the broadest range of companies, large and small, and across all sectors and geographies.

- Business and employer federations have a key role to play in continuing awareness-raising and capacity-building, in facilitating peer-learning among the business community and in coordinating collective action.
- Business and employer federations, as the representative voice of business, are committed to engage even more with policymakers and all relevant stakeholders in the increasing political and legislative activities relating to business and human rights, as they bring the experiences, realities, and views of the entire business community to the table.
- Business and employer federations will not only need to continue supporting businesses to respect human rights, but also support them in navigating in the fast-changing legal environments around the world.

IOE, *Business at OECD* (BIAC) and BusinessEurope are deeply committed to support the better uptake and implementation of the UN Guiding Principles and related instruments and to drive the business and human rights agenda forward.
