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Subject: **Council Conclusions on Business and Human Rights**
– Council conclusions (20 June 2016)

Delegations will find in the annex the Council Conclusions on Business and Human Rights, adopted by the Council at its 3477th meeting held on 20 June 2016.

COUNCIL CONCLUSIONS ON BUSINESS AND HUMAN RIGHTS

Foreign Affairs Council, 20 June 2016

Introduction

1. This month marks the fifth anniversary of the unanimous adoption by the United Nations Human Rights Council of the Guiding Principles on Business and Human Rights. The Council strongly supports the UN Guiding Principles. Their implementation supports and promotes human rights, and is good for all, reducing risks for people and business. The Council also supports the OECD Guidelines for Multinational Enterprises and the ILO Tripartite Declaration on Multinational Enterprises and Social Policy, and acknowledges the importance of the UN Global Compact and ISO 26000 Guidance on Social Responsibility.
2. The Council expresses its full support for the valuable work of the UN Working Group on Business and Human Rights. The Council stresses that the EU will continue to cooperate with and support the work of the Working Group, including the yearly UN Forum and regional fora on Business and Human Rights. These offer valuable opportunities at a global level for further building awareness of, and advocating for, implementation of the Guiding Principles.
3. The Council emphasises the significant role that business should play in helping to achieve the Sustainable Development Goals (SDGs) and in the implementation of the 2030 Agenda for Sustainable Development. The EU recognises that corporate respect for human rights and its embedding in corporate operations and value and supply chains is indispensable to sustainable development. and achieving the SDGs. All partnerships in implementing the SDGs should be built on respect for human rights and responsible business conduct.
4. The Council recalls its Conclusions on the EU Action Plan on Human Rights and Democracy 2015 - 2019 of 20 June 2015¹, in which the EU and its member States committed to actions to make advances on business and human rights. The Council also recalls its Conclusions of 12 May 2016 on Responsible Global Value Chains and on Child Labour².

¹ <http://www.consilium.europa.eu/en/press/press-releases/2015/07/20-fac-human-rights/>

² 8833/16 and 10244/16, respectively.

Implementing the UN Guiding Principles

5. EU Member States have taken the lead internationally on developing and adopting National Action Plans (NAPs) to implement the Guiding Principles or integrating the UN Guiding Principles into national CSR Strategies. The Council recalls the Member States' commitment in this regard.³ The Council encourages the Commission and the EEAS to promote peer learning on business and human rights, including cross regional peer learning.
6. The Council welcomes the Commission's intention to launch an EU Action Plan on Responsible Business Conduct in 2016. This Action Plan should address the implementation of the Guiding Principles, including with regard to due diligence and access to remedy, and provide an overall policy framework. The Council furthermore encourages the Commission to enhance the implementation of due diligence and to foster dialogue and cooperation amongst all relevant public and private stakeholders.
7. The Council recalls the global consensus reached on the UN Guiding Principles five years ago and stresses that any possible further steps regarding the international legal framework for business and human rights at UN level must be inclusive, firmly rooted in the UN Guiding Principles and address all types of companies.

Promoting Corporate Responsibility to Respect Human Rights

8. The Council calls on all business enterprises, both transnational and domestic, to comply with the UN Guiding Principles, the ILO Tripartite Declaration and the OECD Guidelines, inter alia by integrating human rights due diligence into their operations to better identify, prevent and mitigate human rights risks.

³ Action 18a, Action Plan on Human Rights and Democracy 2015–2019

9. The Council underlines the critical role of business transparency in enabling markets to recognise, incentivise and reward respect for human rights by companies, recognising the close linkage with other areas within the responsible business agenda e.g. private sector development and anti-corruption and anti-trafficking policies. The Council notes in this regard the contribution of the EU Directive on disclosure of non-financial and diversity information by certain large companies and groups, and looks forward to the non-binding guidelines on methodology for reporting non-financial information which the Commission is developing for proposed use by companies in their reporting.
10. The Council is committed to policy coherence and underlines the importance of incorporating human rights in impact assessments for EU sectoral policies such as trade and development cooperation. Similarly, the Council calls on the International Financial Institutions (IFIs) to ensure human rights compliance in their programme support and that their grievance mechanisms operate in line with the UN Guiding Principles.
11. The Council encourages EU Institutions and Member States to address their responsibilities as commercial actors (e.g. in public procurement) and when supporting or partnering with businesses (e.g. through export credit, trade promotion, or subsidies for the private sector). The Council calls on the Commission to consider what support can be provided to public authorities covered by the revised EU Procurement Directives, through tools and guidance for the implementation of the UN Guiding Principles, the OECD Guidelines and the ILO Tripartite Declaration.

Access to remedy

12. The Council recalls that access to effective remedies for victims of business-related human rights abuses is of crucial importance and should be addressed in National Action Plans. The Council acknowledges that further progress on this third pillar of the Guiding Principles is necessary.
13. The Council calls on the Commission to address remedies in the forthcoming EU Action Plan on Responsible Business Conduct, including at EU legislative level as appropriate, and to consider providing guidance to Member States in this regard.

14. The Council requests the EU Fundamental Rights Agency to issue an expert opinion on possible avenues to lower barriers for access to remedy at the EU level, taking into account existing EU legal instruments and competences at EU and Member States' levels.
15. The Council welcomes the recent adoption of the Council of Europe's Committee of Ministers' Recommendation on Human Rights and Business with a particular focus on access to remedy. The Council encourages the EU Institutions and Member States to implement this recommendation.
16. The Council welcomes the initiative⁴ on enhancing accountability and access to remedy of the UN Office of the High Commissioner for Human Rights (OHCHR) and the High Commissioner's recent report: "Improving accountability and access to remedy for victims of business-related human rights abuse" in this regard, recognising that the initiative may provide best practices that can be implemented at EU and Member State level, including on improved cooperation between states in cross-border cases. The Council undertakes to provide the necessary support and contributions to the OHCHR in this regard. The Council calls on Member States to consider this initiative including when adopting or updating National Action Plans, encompassing concrete measures aimed at improving redress mechanisms.
17. The Council encourages Member States which have implemented the OECD Guidelines to further enhance the effectiveness of their National Contact Points (NCPs). The Council encourages these Member States to promote peer reviews and learning on the functioning and performance of NCPs. The Council calls on the Commission and Member States to actively participate in the OECD's efforts to strengthen the capacity of NCPs within the EU and in the EU's partner countries. The Council encourages EU companies to establish operational-level grievance mechanisms, or create joint grievance initiatives between companies.

⁴ <http://www.ohchr.org/EN/Issues/Business/Pages/OHCHRstudyondomesticlawremedies.aspx>

External policy

18. The Council underlines the importance of EU institutions and Member States continuing to raise the UN Guiding Principles and work to enhance government ownership in contacts with third countries including in political dialogues. The Council stresses the importance of EU and Member States' support including through capacity building to third countries and regions, involving civil society, for the development of Action Plans on business and human rights.
 19. The Council recognises the importance of building capacity both within EU Delegations and Member States' embassies to work effectively on business and human rights issues, including supporting human rights defenders working on corporate accountability and providing guidance to companies on the Guiding Principles. The Council invites the High Representative and the Commission to develop the necessary tools for EU Delegations to help meet these needs, including through building on the support and best practices of Member States.
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