

Professor John Ruggie
Special Representative on Human Rights and Transnational
Corporations and other Business Enterprises
Office of the High Commissioner for Human Rights
Palais des Nations
8-14 Avenue de la Paix
1211 Geneva 10
Switzerland

18 May 2006

Dear Professor Ruggie,

We are writing in response to the interim report you prepared in your capacity as the Special Representative of the UN Secretary General on business and human rights. In opening we would like to reaffirm our appreciation of your substantial and continuing efforts to consider business and human rights issues. It is a matter of record that the concerned NGOs fully supported the creation of the Special Representative's mandate as a means of advancing and deepening the discussion about corporate responsibility and accountability. We believe that the goal of strengthening standards of corporate accountability, a key aspect of the Special Representative's mandate, should be met through the adoption of universal standards on business and human rights. We look forward to the final outcome of your study, which, in our view, should make a significant contribution towards realizing this objective. We therefore respectfully call on you, as the Special Representative, to make recommendations to the international community as to the most appropriate and effective means for developing clear international human rights standards for business. To this end, and in a spirit of constructive engagement, we would like to take this opportunity to comment on a few aspects of the interim report and to offer our views on how best to secure the key goal of your mandate: namely to strengthen the protection and promotion of human rights in relation to business.

As your report correctly observes, some businesses, through their acts or omissions have caused serious harm in relation to human rights. Existing initiatives to provide standards for company behaviour have afforded insufficient guarantees for the protection of human rights. It would be worthwhile also to acknowledge that businesses have been involved in human rights abuses in both developed and developing countries. While recognizing the serious gaps in the protection of human rights and, ultimately, in measures to hold business entities accountable for involvement in human rights abuses, we agree with your assessment that a central challenge is to ensure that all companies consistently respect and protect human rights. We believe this objective can only be achieved through the establishment of clear, global standards of corporate responsibility and of effective mechanisms for holding companies to account. Global standards should reflect the responsibilities of business and should be derived from international human rights and humanitarian law and other internationally recognized principles. These universal standards should apply to all companies, irrespective of the nature of the activities in which they engage, the location of their headquarters, or the countries in which they are incorporated or conduct their operations.

The report of the High Commissioner for Human Rights on the responsibilities of business with regard to human rights¹ and the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights² enumerated many of the human rights principles at issue. This work constitutes important steps in the ongoing process of developing a shared understanding of the human rights responsibilities of business. The NGOs take the view that in your role as the Special Representative, you could usefully draw on many elements that have been identified through the work of other UN bodies. To the extent that you are seeking to find areas of consensus, we hope that you will aim to build awareness of and support for meaningful international human rights standards for business and will avoid the pitfall of reaching agreements that merely reflect the “lowest common denominator”.

We share your concern about the lack of effective legal regimes and institutions for holding companies accountable. We therefore urge you to explore ways of expanding or strengthening the existing legal mechanisms as well as of examining the potential for developing new legal approaches. We note the inclusion in the interim report of an initial exploration of the state of international human rights and international humanitarian law as it may apply to corporations. While states are the primary duty-holders under international law, including human rights and humanitarian law, it should not be forgotten that businesses also have responsibilities under these legal regimes. Indeed, as part of their obligation to protect human rights under their jurisdiction, states are under a duty to ensure that businesses act accordingly. We encourage you to expand your analysis of legal issues and consider developments in international law since the adoption of the Universal Declaration of Human Rights and the increasing relevance of human rights and humanitarian law to non-state actors. We strongly encourage you to take into consideration the growing body of legal jurisprudence and doctrine concerning the direct applicability of international law to private actors.

In your interim report, you have also addressed the evolving nature of the law and the potential for states to expand the current reach of the law in so far as it concerns the human rights practices of business. In this respect the “due diligence” obligations of governments to ensure that private parties do not commit human rights abuse is of particular relevance. We would also like to remind you of the importance we attach to the part of your mandate that calls on you to offer recommendations as to how states can effectively regulate transnational businesses with regards to human rights, including through international cooperation.

We respectfully call on you, as you embark on the next phase of your mandate, to build on existing efforts and to move beyond existing frameworks and the *status quo*. In particular we hope you will give further consideration to the question of “what the law should be,” and we hope that you will not hesitate to make recommendations about the means by which appropriate legal standards might be elaborated, adopted and, eventually, implemented.

Ultimately we believe that a universal normative framework must both include a clear outline of the human rights obligations of states to ensure business does not infringe human rights and also identify the direct obligations of business with respect to human

¹ E/CN.4/2005/91

² UN Draft Norms

rights. This framework should provide clear, common standards that apply to all types of business and in all countries.

We recognise the fact that you have carried out a number of consultations and made several field visits in order to reach out to a wide range of stakeholders. We would encourage you to pay as many visits as possible to communities that are directly affected by various types of corporate activity, as well as to consult with national and local non-governmental organizations working with them.

The Special Representative should take full advantage of the burgeoning body of information and documentation regarding business and human rights from a range of sources including NGOs, academics, trade unions and journalists so as to develop a comprehensive information base. As regards further consultations, we would find it helpful if you could set out your plans and the issues you intend to cover, as well as ways for ensuring that the results of these consultations are widely shared. We are pleased that the report of the Johannesburg consultation has recently been circulated.

We welcome your decision to engage with a wide range of experts who can contribute perspectives from all regions and legal traditions to the legal issues relevant to your mandate and the interest you have shown in the International Commission of Jurists' complicity project.

Finally we would like to reaffirm our willingness and determination to continue our constructive engagement with you in your capacity as Special Representative and to work with you in the fulfilment of your important and challenging mandate.

Yours sincerely,

NGO ENDORSEMENTS

	ORGANIZATION	COUNTRY
1	Action Contre l'Impunité pour les Droits Humains	République Démocratique du Congo
2	ActionAid International	International
3	Alliance for Holistic and Sustainable Development of Communities (AHSDC)	India
4	Amnesty International	International
5	Associação para a cooperação entre os povos (ACEP)	Portugal
6	Business and Human Rights Programme Autonomous University of Barcelona	Spain
7	Canada Tibet Committee National Office	Canada
8	Center for Reflection, Education and Action (CREA)	USA
9	Centro de Derechos Económicos y Sociales (CDES)	Ecuador
10	Centro de Derechos Humanos y Ambiente (CEDHA)	Argentina
11	Centro de Documentación en Derechos Humanos "Segundo Montes Mozo S.J." (CSMM)	Ecuador

12	Coalición Internacional para el Hábitat-América Latina (HIC-AL)	Mexico
13	Coalition québécoise contre les ateliers de misère	Canada
14	Corporate Accountability International	USA
15	DanChurchAid	Denmark
16	Danish Association for International Cooperation	Denmark
17	Danish Food and Allied Workers' Union/Nærings- og Nydelsesmiddelarbejder Forbundet (NNF)	Denmark
18	Danish Women's Society	Denmark
19	EarthLink e.V. - The People & Nature Network	Germany
20	EarthRights International	Thailand/USA
21	Ecumenical Council for Corporate Responsibility	UK
22	El Centro de Derechos Humanos "Miguel Agustín Pro Juárez"	Mexico
23	El Centro de Reflexión y Acción Laboral (CEREAL)	Mexico
24	ESCR-Net Corporate Accountability Working Group	International
25	Focus on the Global South	Thailand/Philippines/India
26	Fundación de Estudios para la Aplicación del Derecho (FESPAD)	El Salvador
27	German Clean Clothes Campaign (CCC)	Germany
28	Germanwatch	Germany
29	Grupo de Mujeres de San Cristóbal Las Casas, A.C	Mexico
30	HK/Denmark-Union of Commercial and Clerical Employees in Denmark	Denmark
31	Human Rights First	USA
32	Human Rights Watch	International
33	IBIS	Denmark
34	India Committee of the Netherlands	The Netherlands
35	Indigenous Peoples Links	UK
36	Instituto del Tercer Mundo	Uruguay
37	Inter Pares	Canada
38	International Campaign for Tibet	USA / Europe / Germany
39	International Code Documentation Centre (IBFAN-ICDC Penang)	Malaysia
40	International Federation for Human Rights (FIDH)	International
41	International Restructuring Education Network Europe (IRENE)	The Netherlands
42	Justiça Global	Brazil
43	Kvinderådet /The Women's Council of Denmark	Denmark
44	Maquila Solidarity Network	Canada
45	mines, minerals & People	India
46	MISEREOR	Germany
47	Mpalabanda Association Civique du Cabinda	Angola
48	National Economic and Social Rights Initiative	USA
49	National Federation of Social Educators	Denmark
50	Oikocredit	The Netherlands
51	Oxfam International	International
52	People United for Environmental Justice	Nigeria

53	People's Movement for Human Rights Learning (PDHRE)	USA
54	Plataforma Portuguesa das ONGD	Portugal
55	Réseau Foi et Justice Afrique-Europe Antenne de France	France
56	Rights and Accountability in Development (RAID)	UK
57	Rights and Democracy/Droits et Démocratie	Canada
58	Ririki Intervención Social	Mexico
59	Save the Children Denmark	Denmark
60	Servicio Paz y Justicia (SERPAJ)	Uruguay
61	SOMO	The Netherlands
62	Tebtebba-Indigenous Peoples' International Centre for Policy Research and Education	Philippines
63	Terra de Direitos	Brazil
64	The Danish National Federation of Early Childhood Teachers and Youth Educators (BUPL)	Denmark
65	The Danish Nurses' Organization (DNO)	Denmark
66	The Danish United Nations Association	Denmark
67	The Documentary- and Advisory Centre on Racial Discrimination (DACoRD)	Denmark
68	Urgewald	Germany
69	Women's Environment and Development Organization (WEDO)	USA
70	World Economy, Ecology & Development (WEED)	Germany

SRI ENDORSEMENTS

	ORGANIZATION	COUNTRY
71	Association Ethique et Investissement	France
72	Benedictine Sisters	USA
73	Brigidine Sisters, US Region	USA
74	CHRISTUS Health	USA
75	Dominican Sisters of Hope	USA
76	Dominican Sisters: Grand Rapids	USA
77	Leadership Team, Ursuline Sisters of Louisville	USA
78	Marianists International	USA
79	Maryknoll Fathers and Brothers [AKA, The Catholic Foreign Mission Society of America, Inc.]	USA
80	Meeschaert Asset Management	France
81	Mercy Investment Program, United States	USA
82	Missionary Oblates (OMI) Justice, Peace & Integrity of Creation	USA
83	Northwest Coalition for Responsible Investment	USA
84	Sisters of Charity, BVM	USA
85	Sisters of Mercy Regional Community of Detroit	USA
86	Sisters of Mercy, Merion Regional Community	USA
87	Sisters of St. Francis of Philadelphia	USA

88	Social Justice Office of the Sisters of the Blessed Sacrament	USA
89	Socially Responsible Investment Coalition	USA
90	The Ethical Funds Company	Canada
91	The United Church of Canada	Canada
92	Ursuline Sisters of Tildonk	USA Province

INDIVIDUAL ENDORSEMENTS

	INDIVIDUAL	COUNTRY	ORG. AFFILIATION
93	Helga Birgden	Australia	Chair of Christian Centre for Socially Responsible Investment
94	Aberrahman Bourehim	Morocco	Ex - président de la section Marocain d Amnesty
95	Danwood Mzikenge Chirwa	South Africa	Lecturer in Law-University of Cape Town
96	Linda Hayes, OP	USA	Dominican Sisters of Springfield
97	S. Ruth Kuhn, SC	USA	Sisters of Charity of Cincinnati, Corporate Responsibility Committee and Region VI Coalition for Responsible Investment
98	Anne Lally	USA	Independent Consultant Human Rights in the Global Economy
99	Murielle Mignot	Angola	General Coordinator of the FONGA RECI-DESC Project
100	Maud Emmanuelle Labesse	Canada	
101	Sr Claire Regan	USA	Sisters of Charity of New York
102	Cathy Rowan	USA	Maryknoll Sisters
103	Rev. David M. Schilling	USA	Director, Global Corporate Accountability-Interfaith Center on Corporate Responsibility
104	Irene Senn	USA	Director, Office of Justice, Peace & Integrity of Creation-Sisters of St. Francis of Assisi
105	Sister Annette M. Sinagra, OP	USA	Corporate Responsibility Analyst-Portfolio Advisory Board-Adrian Dominican Sisters
106	Stella Storch, OP	USA	CSA Justice Coordinator
107	Claudia Volk, CEFA	Germany	WestLB AG, Investment Research, German Equity Strategy/SRI

CC: Gerald Pachoud and Lene Wendland