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Permanent Missions to the United Nations
Human Rights Council Member States

Geneva, June 10, 2014

Re: Business and human rights

Excellency,

I am writing regarding the Council's engagement on business and human rights issues. We are aware of highly divergent views among delegations over whether and how to launch government negotiations leading to a legally binding instrument addressing business-related abuses. Although some states seek to initiate a negotiating process imminently, at the moment there is insufficient clarity on the scope of the proposed instrument or evidence it would have sufficient support to have the desired impact.

Our view is that there is a need for further development of international legal standards addressing business-related abuses but that there is prior work to be done to develop a firm basis for an international instrument on the subject. Rather than proceed directly to a negotiating process, we encourage you to advance the agenda on business and human rights at the Council in a considered manner with a clear view toward future legal standard-setting. In particular, we urge you to adopt a resolution in this session that requests a new working group of eminent experts with the express mandate to examine protection gaps that could be addressed by an international legal instrument on business and human rights and to develop proposals for consideration, through a transparent and consultative process.

We note that there is a groundswell of support among global civil society organizations for action to develop an international legally binding instrument on this subject. We share with our colleagues around the world the deep concern about the widespread and serious human rights abuses tied to business activity, as well as by the absence of accountability or remedy for such abuses. Like them, we have been disappointed by the lack of meaningful progress in confronting business-related abuses. When the Council endorsed the

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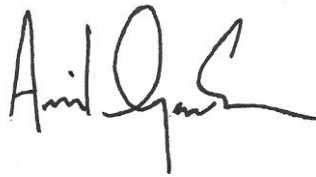
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UN Guiding Principles on Business and Human Rights in 2011, it declined to create a mechanism to monitor and assess implementation. From our vantage point, however, it is clear that implementation has been woefully inadequate. The Guiding Principles identify some of the measures governments and companies should take to prevent and remedy abuses, but there is increasing recognition that these principles are not sufficient on their own. A number of key issues require cross-border attention, not least essential issues of accountability and remedy in cases involving transnational corporations.

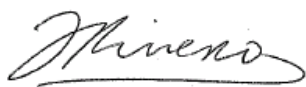
We recognize the potentially divisive nature of a government debate on a legally binding instrument at this time. We hope that you will act to create a new mandate for an expert group of highly-qualified experts who can assist in identifying what standards are needed and proposing how those could be elaborated, through a transparent and consultative process. The business and human rights agenda is too important for the Council to let it slip into stalemate or stagnation.

Thank you very much for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Arvind Ganesan', with a stylized flourish at the end.

Arvind Ganesan
Director, Business and Human Rights Program

A handwritten signature in black ink, appearing to read 'Julie de Rivero', with a horizontal line underneath.

Julie de Rivero
Geneva Director