

THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

INTERNAL EVALUATION
OF THE FIRST PHASE
OF THE NHRI WORKING
GROUP ON BUSINESS
AND HUMAN RIGHTS
2009 – 2011

JANUARY 2013

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MA IN HISTORY & MASTER IN EVALUATION,
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CONTENTS

ACRONYMS AND NOTE	5
EXECUTIVE SUMMARY	6
SUMMARY AND CONCLUSIONS	10
OVERALL ASSESSMENT	10
INTERNATIONAL RECOGNITION	13
CAPACITY BUILDING OF NHRIS	16
ICC INSTITUTIONAL CONSIDERATIONS	17
MAIN LESSONS	20
1. OBJECTIVE AND METHODOLOGY	22
2. CONTEXTUAL BACKGROUND	24
3. THE WORKING GROUP MANDATE AND INITIAL PLANS	26
4. ADVOCACY FOR INTERNATIONAL RECOGNITION OF NHRIS IN RELATION TO B&HR	30
SIDE EVENTS	31
THE EDINBURGH DECLARATION	33
THE UN GUIDING PRINCIPLES	35
REVISING THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES	37
COOPERATION BETWEEN NHRIS AND UN GLOBAL COMPACT	43
WEBPAGES	44
5. CAPACITY BUILDING OF NHRIS	45
REGIONAL WORKSHOPS	45
TRAINING MATERIAL	46
BASELINE STUDY	47
6. THE WORKING GROUP ON HUMAN RIGHTS & BUSINESS OF THE ICC	50
RELEVANCE OF THE WORKING GROUP	50
THE WORKING GROUP AND THE ROLE OF DIHR	52
STRATEGIC ACTION PLAN & WG	54
RESOURCES FOR THE WG	56
THE WG MODEL	56

ANNEX 1 LIST OF PEOPLE INTERVIEWED AND DOCUMENTS CONSULTED	58
ANNEX 2: EXTRACT OF THE REPORT ON THE 22ND ICC SESSION 22 – 27 MARCH 2009 REGARDING HUMAN RIGHTS BUSINESS WORKING GROUP	60
ANNEX 3 STRATEGIC ACTION PLAN	62
ANNEX 4: EDINBURGH DECLARATION	68
ANNEX 5. QUESTION GUIDE	73
ANNEX 6 ADVOCACY PROCESS FOR INTERNATIONAL RECOGNITION	74



ACRONYMS AND NOTE

B&HR:	Business and human rights
BIAC:	Business and Industry Advisory Committee to the OECD
DIHR:	Danish Institute for Human Rights
HRC:	Human Rights Council
ICC:	International Coordinating Committee of NHRIs
MNE:	Multinational Enterprise
NCP:	National Contact Point
NHRI:	National Human Rights Institution
OHCHR:	Office of the High Commissioner for Human Rights
SDFA:	Swiss Federal Department of Foreign Affairs
SC:	Steering Committee
SRSRG:	Special Representative of the Secretary General on Human Rights and Transnational Corporations
TUAC:	Trade Unions Advisory Committee to the OECD
WG:	Working Group
UN:	United Nations
UNGC:	United Nations Global Compact

NOTE

This is an internal evaluation which aims to analyse the process and results of the Working Group on Business and Human Rights of the International Coordination Committee of the National Human Rights Institutions during the period in which the Danish Institute for Human Rights was Chair of the Working Group. The evaluator has not aimed to analyse the respective contributions of individual institutions and persons involved, but instead focussed on systemic issues. Any perceived omission to attribute due credit to any institution or person involved in the activities of the Working Group should be seen in this context.

Francesco Castellani, Senior Advisor & Evaluator, DIHR



EXECUTIVE SUMMARY

During the period 2009 – 2011, the Working Group (WG) on Business and Human Rights (B&HR) of the International Coordination Committee (ICC) on National Human Rights Institutions (NHRIs) was engaged in explaining and promoting understanding of the role of NHRIs in relation to business and human rights. The WG sought international recognition for this role, raised awareness amongst NHRIs on business and human rights and began building up NHRIs' institutional capacities in the field. The WG's efforts took place in the context of a process, which was underway in the international community, of including business in a human rights framework. This international agenda was to a large extent decisive in setting the pace for the efforts of the WG for achieving international recognition, and also explains its particular moment of establishment. The implicit principal objective of the WG programme can then be seen as having been: **To ensure international recognition of the role of NHRIs in relation to B&HR by key inter-governmental and governmental players, and to raise awareness among NHRIs of their role in relation to B&HR and increase levels of NHRI competence on how to fulfil this role.**

In practice, the WG on B&HR prioritized the difficult, two-fold process of both clarifying the relation between the Paris Principles-based mandates of NHRIs and their role in the field of business and at the same time pursuing increased international recognition of this role.

The WG embarked on an advocacy process (see Annex 6), which primarily targeted the development of the UN Guiding Principles on B&HR and the OECD Guidelines for Multinational Enterprises. Hence, with assistance from the ICC Bureau and the OHCHR, the WG organised two side events to the UN Human Rights Council (HRC) sessions in Geneva in June 2009 and May 2010, organised a side event to an OHCHR consultation on B&HR in October 2009 and contributed to organising the 10th Biennial ICC Conference in Edinburgh, which was hosted by the Scottish Human Rights Commission. The outputs of the side events in Geneva were summarised in statements, remarks and dialogue on the role of NHRIs in relation to B&HR. These outputs were important, as they contributed to raising the awareness of NHRIs on B&HR issues, and they brought about a

good dialogue with the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises (SRSG) who was in the course of developing the UN Guiding Principles on Business and Human Rights.

The SRSG participated in the 10th Biennial ICC Conference in Edinburgh with many other high level speakers and NHRI and civil society participants. The most important output of the Biennial Conference was the Edinburgh Declaration, adopted by the NHRIs that affirmed and defined the Paris Principles-based mandate in relation to B&HR. With the adoption of the Edinburgh Declaration, the issue of the role of NHRIs' mandate in relation to B&HR seems to have been settled beyond further discussion, both among international actors and amongst NHRIs. After the conference, six NHRIs participated in a civil society consultation on B&HR held in Geneva to provide input to the SRSG. At the start of 2011 the ICC made a further submission, based on material provided by the WG on B&HR to the SRSG on the draft Guiding Principles. The advocacy process proved to be highly successful as reference to NHRIs were included under all three pillars of the framework of the UN Guiding Principles as well as in the relevant UN Human Rights Council Resolution. NHRIs thus achieved recognition within the UN as having a comprehensive role in the field of B&HR.

The Edinburgh Biennial Conference, the Edinburgh Declaration and the process

of advocacy focussing on the UN Guiding Principles also impacted on the overlapping process of advocacy for improving the status of human rights in the OECD Guidelines for Multinational Enterprises (MNEs). The revision of the OECD Guidelines for MNEs seems to have been a window of opportunity for the ICC WG on B&HR, which held a side event on the OECD Guidelines at the Edinburgh Conference. The outputs of this side event were the establishment dialogue and a public submission on critical issues in the review of the Guidelines for MNEs and recommendations for integration of NHRIs into their framework. In January 2011, the dialogue continued through participation of representatives of the WG on B&HR, UN human rights experts and the ICC Chair at an informal expert meeting on human rights held at the OECD in Paris that provided further input to the revision. In January the WG submitted further comments on the OECD Guidelines, focusing on both the role of NHRIs and inclusion of human rights in the Guidelines. A second ICC submission made shortly afterwards called for more transparency and inclusiveness in the review process.

The outcome was that many of the recommendations made by the ICC regarding issues such as supply and value chains, definition of human rights, vulnerable groups, labour and precarious work, employees, child labour and non-discrimination became part of the OECD Guidelines. On top of this, ICC recommendations that were omitted from the text of the Guidelines were included in a "Third

Tier Resource Document” which provides a list of instruments that are relevant to the Guidelines. The WG Chair/Coordinator and members made an effort with governments including the Canadian, Danish, Dutch, French and Norwegian to pursue the various points made in the ICC submission. OECD member states did not adopt the ICC’s proposal for explicit recognition of NHRIs was not agreed upon by during the Guidelines review process. However, since the adoption of the revised Guidelines, the OECD and ICC have been negotiated a Memorandum of Understanding to establish formal channels of communication, which is intended also to address this issue.

Besides recognition of the role of NHRIs in the UN and OECD contexts, the WG on B&HR also initiated a process of engagement with the UN Global Compact, included through a side event at the UNGC Annual Local Networks Forum in May 2011. In addition, the WG produced in 2012 a joint ICC-UNGC Information Note on NHRIs and scope for their cooperation with UNGC Local Networks.

Following the 2010 Edinburgh Declaration, the WG on B&HR took part in workshops held by each of the ICC’s four regional networks. Workshops were held in the Africa, Asia Pacific and Americas regions in 2011, which produced statements and action plans on how to strengthen B&HR capacity among NHRIs and on how NHRIs can address B&HR issues. The regional workshops did not directly result from the activity of the WG on B&HR, but are a

consequence of the adoption of the Edinburgh Declaration and part of the follow up and capacity building effort among NHRIs. As part of the WG activities, however, DIHR has been engaged in developing training material on B&HR for NHRIs. Draft training material has been developed and a pilot training course was conducted in Sierra Leone. Training materials were finalised in December 2012 and training activities are planned for 2013.

The WG had to work under severe time constraints if it were to achieve the international recognition which it was established to advocate for. While the WG was instrumental in ensuring international recognition, it was also instrumental in ensuring clarity in relation to the Paris Principles-based mandates and the role of NHRIs in relation to B&HR. The expertise of DIHR on B&HR, combined with the effectiveness of the Chair/Coordinator, was seen by all respondents as having been crucial for the results obtained. This also reflects broad satisfaction with the results achieved by the WG.

However, the operation of the WG did have its flaws. Clearly formulated working methods were lacking at the outset and the initial omission of Terms of Reference for the Chair, Vice-Chair and coordinator left space for potential misunderstandings. Fundraising strategies and strategic plans for the WG activities were not fully developed and the WG evolved more into a steering committee confirming the initiatives, activities and

decisions taken by a results-focused Chair and Coordinator instead of being an inclusive and participatory process-conscious group collaborating in developing the topics together. Some WG members may have felt that they had a different understanding of the functionality of the WG than that which was practised. The evolution of the WG into a steering committee, which would confirm activities that already had been done diverted it from a more traditional understanding of the functions of a working group as being an entity for cooperation and collective planning and execution of tasks. Hence, the strengths of the WG on B&HR to enter in a timely manner into an advocacy process for international recognition, which is headed by an institution with expertise and resources to drive the process, was a weakness in relation to the functionality of the WG as a working group, so understood.

The WG on B&HR remains the first and only thematic WG within the structure of ICC. It appears that the WG has managed to affirm its role as an expert body capable of coordinating the activities of the ICC in relation to its topic. Advantages of a thematic WG include outreach to the regions, the possibility of including NHRIs in joint processes, empowering NHRIs through inclusion into a thematic area, and the impact such a coordinated approach may have on structures outside the ICC. Thus it seems reasonable to state that the WG model can be recommended to the ICC as an operational modality for other topics. However, strong support from within the ICC is important to the

success of an ICC WG and the issue of a WG's financial sustainability needs to be considered at an early stage, along with how a WG should be institutionalised in relation to ICC structures; establishment of a WG requires resources and time. Teambuilding of WG members, developing transparent and comprehensive procedures and developing joint proper planning process clarifying the aims, methods and timing of activities are important for establishing a WG, but these things also require resources to implement. Hence a WG needs to clarify expectations and to concretize what WG members understand to be the optimal avenues for fulfilling their mandate. The focus should be on deciding whether the WG should function as a steering committee for an executive entity or as a mutual collaboration that shares duties and obligations fairly among members.



SUMMARY AND CONCLUSIONS

OVERALL ASSESSMENT

1. In the period 2009–2011 the efforts of the ICC WG on B&HR were characterised by a pioneering effort in four areas simultaneously:: exploring the concrete role of NHRIs in relation to B&HR, searching for international recognition for this role, raising awareness of NHRIs' mandate on B&HR and building up NHRIs' institutional capacities in the field of B&HR. The overall assessment made of this pioneering effort is very positive. The activities were in general very relevant for implementing the goals, the main outputs were delivered and the key outcomes happened according to expectations. As an innovative initiative, the somewhat inductive approach and flexibility in pursuing opportunities were positive elements which contributed to creating a strong process. However, lack of full strategic planning and definition of clear objectives, milestones, and performance indicators did create a somewhat opaque process, which may have been difficult for the WG members to monitor and to ensure proper follow up.
2. The establishment of the WG on B&HR was very relevant for meeting the needs of NHRIs to achieve international recognition of their role in relation to B&HR and to qualify and clarify the relation between B&HR and the NHRI mandate. All respondents to interview for the evaluation unanimously praised the results achieved by the WG in relation to international recognition and the need for capacity building of NHRIs in the field of B&HR. As a consequence of the limited resources available, the issue of capacity building was, however, to some extent overshadowed by the advocacy for international recognition.
3. The overall assessment of the *modus operandi* of the WG on B&HR is that although the WG members were actively involved and contributed to the very positive outcome of the WG activities, the Chair and the DIHR secretariat did have a strong role in driving the process and in ensuring the involvement of key stakeholders inside and outside the WG. While it is important not to understate the important contribution provided by the members of the WG, it is

also important to point out that the WG did have a tendency over the period to evolve into a guiding and consensus-seeking decisional body, which was more similar to a steering committee than to a working group with an active inter-institutional collaboration and with task-sharing based on a joint planning process.

4. The period 2009–2011 was characterized by the absence of an explicit strategy for the WG. The WG Chair/Coordinator nevertheless decided to implement activities that together can be viewed as a programme for advocating recognition or acknowledgement by the international players in the field of B&HR of the role of NHRIs and a programme for building the increase the political awareness and institutional capacities of NHRIs to fulfil this role. The external process of advocacy was not formulated as such with an explicit statement of aims, however, the timing and sequence of events combined with choices made, seems to indicate that coherent thinking was indeed behind the programme. The overall implicit objective of the programme was: **To ensure international recognition of the role of NHRIs in relation to B&HR by key intergovernmental players, and to raise awareness among NHRIs on their role in relation to B&HR and increase levels of NHRI competences on how to fulfil it.**
 5. The adoption of the Edinburgh Declaration by the ICC of NHRIs was an extremely
- important event for the world-wide network of NHRIs, as it provides a clear statement of the commitment of NHRIs in relation to their role on B&HR as a concretisation of the Paris Principles based mandate, detailing the specific areas of contribution of NHRIs to B&HR. Hence, the Edinburgh Declaration can be regarded as an operational and authoritative interpretation of the Paris Principles in relation to B&HR. The Edinburgh Declaration was the result of the combined efforts of the Scottish HRC, WG members such as the Kenya National Commission on Human Rights, and the Coordinator of the ICC WG on B&HR in conjunction with the ICC Chair (New Zealand Human Rights Commission). It was finalised by a drafting committee with representatives nominated to the task by the ICC's regional NHRI networks, as well as including the WG Coordinator and Chair, ICC Chair, OHCHR, and the ICC Geneva Representative.
6. The ICC WG on B&HR, with extensive support from the Coordinator, managed to put NHRIs firmly on the international agenda concerning B&HR. The ICC WG on B&HR was highly successful in its efforts through advocacy, to ensure international recognition of NHRIs in relation to B&HR by key intergovernmental players. The ICC WG on B&HR secured recognition of the key role of NHRIs in relation to B&HR by all the main stakeholders of the international community on B&HR.

7. The combined process of advocacy for international recognition and NHRI awareness-raising was implemented through activities that were interdependent and often very skilfully connected. Hence the advocacy for recognition of the role of NHRI in the SRSG's Guiding Principles and in the OECD Guidelines for Multinational Enterprises mutually reinforced each other, for instance, via the Edinburgh Biennial Conference. These activities can altogether be viewed as a huge effort effectively to brand the NHRIs to the SRSG and stakeholders such as the OHCHR and the HRC as key players in relation to B&HR. Finally the collective effort can also be seen as an internal awareness raising exercise directed towards impressing on NHRIs the need to take seriously their mandate on B&HR and the need for each individual NHRI to ensure the necessary in-house capacities to fulfil this mandate. This means that the success and effects of one of these activities also had consequences for the other activities, and that each of the activities had side-effects that were important for the other activities.
8. Efforts to build up NHRIs' awareness of the importance of the B&HR aspects of their Paris Principle based mandates achieved successful results through data collection as part of the WG's baseline survey, side events to UN HRC and OHCHR events, and through the international ICC biennial NHRI Conference in Edinburgh and follow-up ICC regional B&HR workshops. The Biennial Conference was organised by the Scottish Human Rights Commission and the OHCHR NIRMs on the topic of B&HR with the support of the ICC WG on B&HR. The adoption of the Edinburgh Declaration by the conference can be seen in part as a consequence of the awareness raising efforts.
9. Efforts to build up the institutional capacity of NHRIs through regional Workshops and training was initiated too late to enable the current evaluation to pass judgement on these activities. However, the regional Workshops in Africa, Asia Pacific and the Americas seem to have provided a platform for very pertinent and fruitful discussions as well as promising outputs in terms of action plans and statements, indicating that the capacity-building process initiated in 2009–2011 is now being implemented.
10. The entire set of activities during the period 2009–2011 was characterized by a lack of an fully coherent strategy with defined objectives and planned means to achieve the objectives. However, the flexibility and timeliness of the various advocacy activities and their interrelatedness produced clearly synergetic results that indicate an implicit sense of direction and overall purpose of the process.
11. More explicit and coherent planning would perhaps have strengthened the

involvement of the members of the WG into implementing activities, and enabled them to monitor more closely the implementation of the advocacy and capacity building process.

12. The WG model can be recommended in relation to other thematic topics in relation to which the ICC may be interested in developing or strengthening its capacities. In such circumstances, WGs could be entities for coordination, networking, dissemination of information and strengthening of NHRI ownership of the issue. If the topic is new, as in the case of B&HR, a WG can also be an incubator for new ideas. However, the strong support of the ICC is important to ensure an ICC WG succeeds and the question of funding WG activities needs to be considered at an early stage.

INTERNATIONAL RECOGNITION

13. The ICC WG on B&HR and the Coordinator were heavily involved in supporting the process leading up to the ICC's 10th International Biennial Conference and in drafting the Declaration that would be finalised and presented at the conference for adoption by the NHRIs.
14. The Edinburgh Declaration was an important output with regard to promoting an international understanding of the role of NHRIs in relation to B&HR. The

importance and relevance of the Edinburgh Declaration cannot be overstated. It provides the answer to the basic question of what contribution NHRIs can offer to the strengthened international focus on B&HR. The added value that is provided by NHRIs is defined in the Declaration, which it is also quite specific in defining concrete activities that NHRIs should address. The efforts of the WG contributed to achieving this result.

15. The 10th International Biennial Conference, and especially the adoption of the Edinburgh Declaration, marked a positive qualitative change in the standing of the ICC and NHRIs in relation to international stakeholders and their role in relation to B&HR. The inclusion of the SRSG and the Working Party for the review of the OECD Guidelines as guests at the Biennial Conference combined with the adoption of the Edinburgh Declaration did constitute perhaps the most important milestone for the ICC and NHRIs in the process to achieve international recognition of the role of NHRIs in B&HR. This was a WG outcome of strategic importance for the international recognition of the role of NHRIs in relation to B&HR.
16. It was repeatedly mentioned during interviews with key personnel involved in the WG that the Biennial Conference in Edinburgh and the adoption of the Declaration marked an important step forward in advocacy for international

recognition. The Conference displayed the magnitude of the potential role of NHRIs in relation to the Protect, Respect and Remedy Framework. The level and quality of participants at the Conference was a clear indicator of the importance that the international community was prepared to attach to the role of NHRIs on B&HR. The Conference had a positive effect on facilitating the further process of advocacy targeting both the UN Guiding Principles and the OECD Guidelines for Multinational Enterprises.

17. In 2009 and 2010 the ICC WG on B&HR, supported by its Coordinator conducted an intense process of advocacy to ensure that the contribution or role of the NHRIs in the upcoming UN Guiding Principles of the “Protect, Respect and Remedy” Framework would cover all three pillars of the framework. In the final version of the Guiding Principles adopted by the HRC, the role of NHRIs was included under the first pillar, the “State duty to protect”, under the operational principle on “General State regulatory and policy functions,” where the commentary states, “National human rights institutions that comply with the Paris Principles have an important role to play in helping States identify whether relevant laws are aligned with their human rights obligations and are being effectively enforced, and in providing guidance on human rights also to business enterprises and other non-State actors.” The role of NHRIs was also stated under the second pillar on “The corporate responsibility to respect human rights”, under the operational principle “Issues of context”, where the commentary states, “In assessing how best to respond they [business enterprises] will often be well advised to draw on not only expertise and cross-functional consultation within the enterprise, but also to consult externally with credible, independent experts, including from governments, civil society, national human rights institutions and relevant multi-stakeholder initiatives.” Thus, given that NHRIs are also mentioned in connection with the third pillar, their role and functions are fully recognised under each aspect of the UN framework in the context of B&HR. The explicit inclusion of NHRIs under the three pillars provide NHRIs with an internationally recognised platform for their specific activities on analysing shortcomings and recommending improvements to existing standards and practices on B&HR.
18. Advocacy in relation to the revision of the OECD Guidelines was complicated because it had a two-fold objective: on the one hand, it aimed at strengthening references to international human rights standards in the OECD Guidelines; on the other hand, it aimed at achieving explicit recognition of the role of NHRIs in the revised Guidelines. The first aim was part of the Terms of Reference of the OECD Working Party

with the task of proposing a revised set of Guidelines, while the second fell beyond these.. There is no documented evidence for differentiation by the ICC WG on B&HR of the strategies for pursuing the two aims. However, the Secretariat and the ICC Chair made a substantial effort to achieve the explicit recognition of the NHRIs in the revised Guidelines through representatives of member states and NHRIs in some countries. While the advocacy target for strengthening the reference to international human rights standards successfully addressed the Working Party (this target was simultaneously pursued by civil society organisations such as the ICJ, Amnesty International and trade unions) the target for achieving an explicit recognition of the role of NHRIs through representatives of member states was not as successful in the short term and it would probably have required a stronger concerted decentralised effort by all ICC members. The initiative for embarking on this process apparently came from DIHR, but the decisive support of the ICC Chair and the WG members were crucial to the results ultimately achieved.

19. The advocacy of the ICC WG on B&HR was very relevant for the future role of NHRIs in B&HR. The Side Event at the Edinburgh Biennial Conference on the OECD Guidelines was an important step in the process of clarifying the relations between NHRIs and the OECD Guidelines and their structures such as NCPs as

well as envisaged possibilities such as formalising the relationship between ICC and OECD through a Memorandum of Understanding, which was negotiated in 2012. The process was further important in raising awareness of trade unions and BIAC of the role of NHRIs in relation to B&HR. The WG provided relevant inputs to the advocacy process, in terms of expert advice and suggestions and commentaries on two submissions to the revision of the Guidelines.

20. The WG was apparently successful in influencing the references to human rights standards in the revised Guidelines. The Guidelines were not as detailed as the WG had suggested they should be and not all suggested rights were directly mentioned in the text. On the other hand, it is easy to identify parts in the final text that represent issues that were raised by the WG. However, it should be kept in mind that many other stakeholders had similar suggestions to the ICC's and its WG on B&HR, and these stakeholders also contributed to the final result. The submissions of the ICC and its WG on B&HR were further quite inspired by the "Protect, Respect and Remedy" Framework of the SRSG and since the SRSG also was included as an important source of inspiration in the Terms of Reference of the Working Party and moreover was directly consulted by the Working Party, it is difficult to assess conclusively how the specific contribution

of the ICC impacted on the final result, apart from in relation to the rights of indigenous peoples and the rights of the child, which were specifically promoted by the WG and were included in the revised Guidelines documents. However, taking the many advocacy efforts undertaken by the ICC and its WG on B&HR into consideration, it is fair to assume that, at the very least, the WG's advocacy contributed to the strengthening of human rights in the updated version of the OECD Guidelines. One follow-up measure to the adoption of the Guidelines by the OECD was a decision to develop a list of instruments and initiatives that were relevant for the updated Guidelines, the "Third Tier Resource Document." This provides better evidence for the ICC impact on the Guidelines, as many of the ICC suggestions for the Guideline that were not part of the final version was included in the "Third Tier Document."

21. Advocacy for explicitly recognising the role of NHRIs in the revised text of the OECD Guidelines was not immediately successful as this was not accepted by member states during the negotiations on the revised Guidelines text. Nevertheless, the advocacy effort may be regarded as successful on, because, after the adoption of the revised Guidelines, the OECD decided to deepen its cooperation with NHRIs by concluding an MoU between OECD and the ICC on NHRIs. An MoU with the ICC will constitute

a de facto recognition of the role of NHRIs in B&HR. In addition, NHRIs were identified by the OECD in a number of other follow-up actions, indicating their recognition within the OECD institutional framework.

22. The WG on B&HR decided to explore the functions of the UNGC and the relevance of establishing partnerships between NHRIs and the UNGC. This initiative is relevant to agenda-setting by NHRIs as key players in relation to B&HR and also relevant for supporting implementation of B&HR at the national level through collaboration between NHRIs and UNGC Local Networks. The outcome that can be expected of this process is a mainstreaming of recognition of NHRIs in UNGC materials, and hence raising the profile of NHRIs as relevant actors to business, government and civil society at the national level.

CAPACITY BUILDING OF NHRIS

23. Even though the questionnaire for the WG's baseline study on B&HR was designed to collect data for the strategic planning, it may also as an unexpected outcome have contributed to the awareness raising of NHRIs regarding their role in relation to B&HR, which was also the case with the side events in 2009.
24. Adoption of the Edinburgh Declaration can be viewed as an important outcome of the intense process of raising awareness

among the worldwide NHRI network on the relevance and the commitments of NHRIs in relation to B&HR. The 10th International Biennial Conference on the topic of B&HR can thus be seen as a keystone in building general understanding among NHRIs on the pertinence of B&HR and on the Paris Principle-based mandate commitment they are all subject to in that regard area.

25. The process of awareness-raising among NHRIs was enhanced through regional Workshops that were held during 2011-12 and that appear to have been highly successful in producing outputs that promise to have impact on the future prioritisation and activities of NHRIs on B&HR, although follow-up measures are needed. The Workshops fit well into the programme and purpose of the ICC WG on B&HR and showed a demand for further training of NHRIs on B&HR issues.
26. The ICC WG on B&HR undertook to develop a training concept and materials for NHRIs. This task is highly relevant for building the capacity of NHRIs to fulfil their role on B&HR as committed to by the Edinburgh Declaration. As the development of material and implementation of training is still a work in progress, it is however, not possible to discuss any outputs or outcomes in the current evaluation.
27. One of the first activities of the WG on B&HR was to conduct an extensive baseline study on NHRIs and their relations to B&HR issues, based on a comprehensive questionnaire of some 80 questions. Conducting such a study was highly relevant as an input to the development of a strategic plan of action for the WG. However, the validity of the responses to the questionnaire can be questioned, due to a rather low response rate, to the limited total population and question structure. Finally, generating any statistically relevant information and cross-tabulations was impeded by the type of “yes” or “no” questions on factual information (and not on views, opinions and intentions) and the lack of identification of independent and dependent variables. The questionnaire did generate some valuable information that could be viewed as moderately indicative for NHRIs. However, the report was developed at a late stage and no conclusions have yet been extracted from the material. The baseline study has not served as input for any planning in the process and must by now be considered outdated.
28. The WG established a website providing comprehensive and updated information on the role and activities of NHRIs in the B&HR area.
29. The establishment of a WG on B&HR was very timely for achieving international

ICC INSTITUTIONAL CONSIDERATIONS

recognition of the role of NHRIs in the field of B&HR. The WG thus did seem in practice to prioritize the achievement of international recognition of the role of NHRIs within the field. The WG did deliver its input “just in time” for the international processes. Hence the international agenda tended to set the pace and priorities of the WG on B&HR.

30. The overall objective of the WG programme must be seen as highly relevant for the ICC on NHRIs in terms of ensuring that the pertinent area of B&HR would be recognised as integral to the mandate of NHRIs as prescribed by the the Paris Principles.
31. The establishment of the WG on B&HR was very relevant for meeting the needs of NHRIs to qualify and clarify the relation between B&HR and the NHRI mandates.
32. The evolution of the international agenda on B&HR put the WG on B&HR under time-pressure, which tended to set the priorities of the WG on B&HR and to set the pace of its activities.
33. The formulated working methods of the WG were the result of a collective WG effort summarizing the decisions taken by the WG during its first meetings. However they did have omissions and these, such as the lack of Terms of Reference for the Chair, Vice-Chair and secretariat, left space for discussion and potential misunderstandings.
34. The DIHR Secretariat provided the WG with a driving force of expertise, competence and experience on B&HR; appropriateness to push for the WG on B&HR in relation to international recognition; and effective advancement of key issues.
35. The expertise of DIHR on B&HR combined with the effectiveness of the secretariat was seen by the respondents as being crucial for the obtained results. The performance of the secretariat is given much credit for achieving the many results during the two years of DIHR chairmanship.
36. The credit given to DIHR and its secretariat for its work with the WG on B&HR should of course be seen in relation to a corresponding satisfaction with the results that were achieved by the WG, especially regarding the achieved international recognition of the role of NHRIs in relation to the field of B&HR.
37. The time constraints set by the international process, which impacted on the efforts of the WG on B&HR to achieve international recognition contributed to the WG's evolution into a steering committee, often confirming initiatives and activities, rather than an inclusive and participatory working group collaborating in developing the topic together. WG activities in relation to international recognition of the role of NHRIs in B&HR were delivered “just in time.” The time constraints forced the Chair of the WG to be very much results-oriented

sometimes at the expense of process considerations.

38. The evolution of the WG into a steering committee, which confirmed activities already undertaken did not meet expectations on the part of some that a working group should be a group of cooperating NHRIs collectively planning ahead; agreeing on what to do; and distributing tasks to each other.
39. The WG under DIHR's chairmanship developed a "strategic plan of action." This document was developed at a late stage and, up to the time of the assessment, it may be questioned whether it had practical use in the WG besides keeping track of activities, which were implemented under the three mandate areas. It did not contain any indication of expected results in terms of outputs and outcomes, nor did it consider objectives to be reached under the plan. The plan does not indicate a timeline for activities or an expected sequence of events in following the plan, nor nor acknowledges the interrelations that there may be between the activities.
40. The WG decided to implement activities without a strategic plan. However, the activities implemented constitute altogether a real programme. It can be discussed whether an implicit understanding at some time existed in the WG on what to do, as this is difficult to assess. However, various statements regarding lack of joint planning process suggests that not all parties shared a clear understanding of the direction of the WG at all times.
41. It can be discussed whether it would have been possible to develop a strategic plan during the relevant period. This task would certainly have required significant time commitment as such a plan would necessarily have had to have been the result of a collective working group effort that might also have had to involve the ICC Chair and other important stakeholders. But external time constraints in terms of deadlines for impacting effectively on the international process of strengthening the focus on B&HR did not leave much time for planning by the WG. However, the necessary information for developing a strategy plan was already available in 2008 so technically, the plan could have been developed, if adequate time had been available to the WG for this.
42. A fundraising strategy was not developed during the first two year period and the sustainability of the WG on a medium or long-term perspective has not been secured. However, the funding provided by DIHR was absolutely essential for the activities of the WG during the period 2009-11.

MAIN LESSONS

The identification of main lessons will focus on the establishment and use of WGs as a model for collaboration among NHRIs and for strengthening the outreach and impact of the ICC.

- The model for establishing thematic, expert NHRI working group has only partially been tested with the WG on B&HR as it has to a considerable degree functioned as a steering committee with a strong executive entity acting either in accordance with the Chair of the WG and/or on the expectation of an ex-post confirmation of its actions by the WG. However, the excellent results of the WG during the first two years of its existence nevertheless indicates the potentiality of joining forces among NHRIs on issues of common interest that need international attention. A WG seems to be a very effective provider of input for the ICC and for NHRIs in relation to the international community. A WG seems also to be an excellent tool to promote and raise awareness among NHRIs on issues of common interest or need.
- The composition of the WG with representation from all regions is paramount for driving a common process among NHRIs.
- For the ICC, a WG like the WG on B&HR seems to have been decisive as regards its capability to seriously promote a general awareness-raising among intergovernmental

organisations and UN structures during the period under consideration. A WG provides added value to the ICC especially by supplying expertise, counselling, coordination of an area, motivational impact on NHRIs and the outreach it may have to NHRIs and partners. The differences among participating NHRIs in terms of experience, different realities and cultures should here be seen as an advantage for a WG to ensure the universal validity of its course of action.

- The establishment of an expert thematic NHRI working group within the structure of the ICC is recommendable for enhancing and strengthening its capacity on a given issue. It is important that the WG meets needs of the NHRIs and that it enjoys attention and support from the ICC. It is likewise important that the WG has members with the capacity to drive its process.
- The establishment of a WG should be preceded clarification of expectations among its members. Even given an overall framework in the form of set of terms of reference, a WG needs to further elaborate on its objectives and process and concretise what members of the WG foresee as the best possible avenues for implementing the framework. Focus should from the outset be on deciding whether the WG should function as a steering committee for an executive entity or as a mutual collaboration in which duties and obligations are shared among the members.

- The efforts needed for establishing and maintaining a WG should not be underestimated. Establishment of a WG requires resources and time. Crucial parts of the establishment of a WG is the process of teambuilding of members, developing transparent and comprehensive procedures and developing a joint planning process to clarify the aims, methods and timing of the WG's activities. Agreed plans should, however, never be fixed so that they are not open for revision when the need for a change of direction or new windows of opportunity arise. The planning process thus requires time and frequent meetings among members, in order to establish mutual confidence and respect, and momentum to further motivate the process.
- Membership of a working group entails a requirement for proactive participation in common tasks by all members. Hence, members of a working group should all have the capacity and resources to contribute. The Chairmanship of a WG entails an obligation to ensure as far as possible that all members are included in joint processes and that their resources and potential to contribute are put to good use. Likewise, it is one task of the Chair to encourage participation by communicating the relevance, direction and expected results of activities. An inclusive process may appear less effective for achieving results in the short term, but will in the long term create a deeper impact both externally and internally.
- A WG will always need the support of a coordinator that is capable of providing needed services for WG members, of networking and of taking independent initiatives as required for the benefit of the WG and its activities. The coordinator should be the process-driving entity of the WG rather than a service delivering entity for members.

OBJECTIVE AND METHODOLOGY

The evaluation of the first phase of the NHRI Working Group on Business and Human Rights August 2009 – September 2011 is the initial step in a comprehensive evaluation of the programme of the Department of Business and Human Rights at the Danish Institute for Human Rights. Hence the evaluation is both a pilot for efforts to come and an evaluation in its own right of activities that were anchored in the department.

The objective of the review has been discussed with the International Department management and can be formulated in the following way: the objective is to establish the results of the DIHR effort in supporting the activities of the NHRI Working Group on Business and Human Rights that was established in August 2009 by the International Coordination Committee (ICC) of National Human Rights Institutions (NHRI). The NHRI Working Group on Business and Human Rights was during this period chaired by DIHR and DIHR also provided secretariat support to the WG. Under this setup means that the WG mainly functioned as a steering committee for activities that the WG decided to engage in, with the DIHR Chair and its secretariat as the executive entity of the Working Group.

The term **results** should here be broadly understood to include results in terms of **delivery** (outputs), **effects** (outcomes) and **relevance** as an adequate response to the needs of NHRIs and in the context of key international stakeholders.

However, DIHR's management also expressed an interest in assessing and evaluating the process by which results were obtained. Hence the evaluation considers the process of how the NHRI working group on Business and Human Rights 2009 – 2011 operated in order to secure the achieved results.

The collection of data was undertaken through a desk study of documentation created by the WG process and through interviews with key personnel involved in the efforts of the WG. Features of the WG process impacted the selected evaluation design. DIHR support to the WG and the activities conducted on behalf of the WG have many similarities with ordinary projects i.e. time-bound, one-off processes, but the role of the Chair and the Secretariat was conducted as an operation of procedures for an organization. Measuring results – especially successes and failures - requires measuring

against something, usually the objectives that the process has set forth to achieve. However, the WG never made explicit exactly what the objectives were for its existence and for the various activities it engaged in. Hence the selected evaluation methodology has been to investigate and attempt to reconstruct the rationale of the WG and DIHR's support to the WG and then to measure results against this reconstruction. Or, to put it another way, the methodology has had similarities to a detective effort starting from the "crime scene" and from there establishing motives and facts. Data collection concentrated on process, outputs, and outcomes. The material available for the evaluation has i focused first on a desk study of documentation created by the WG and Secretariat, an approach which seems adequate to answer the stipulated evaluation objective of assessing the process and evaluating relevance and results.

Data collection through the desk study of documentation from the process has been further supported and put into perspective by qualitative data collected through semi-structured interviews (see **Annex 5**: interview grid). The interview structure has not been followed slavishly but used to supply main headings for discussion while interviewees were allowed to follow their own logic within the overall framework provided. Interviews were undertaken through telephone conversations and data were recorded by note-taking - not the optimal method in terms of having a complete recording, but which facilitates the provision of information without the sometimes intimidating

presence of a recording device. The note-taking technique is appropriate, as the collection of data focused on perceptions concerning results and relevance, and not on obtaining data to be transcribed for textual analysis to uncover indirect (Meta) messages. The data seems to be valid, as the methodology is transparent, most probably also replicable in terms of results if it is based on similar interviews and a systematic approach. The good level of internal validity of the gathered data does not, however, provide a similar degree of external validity i.e. to what extent the result of the evaluation can be generalized. This means that general lessons should be drawn with caution and due restraint.

CONTEXTUAL BACKGROUND

The ICC WG on B&HR held its inaugural meeting in August 2009, following a decision at the ICC 22 meeting in March 2009 that it should be established. The ICC 22 decision was the final outcome of a process that was initiated by DIHR, with financial support from SDF, in July 2008, with the hosting of a roundtable on B&HR with participants from 16 A-rated NHRIs. DIHR had been planning the event since the fall of 2007 and the idea was to establish a B&HR WG as a thematic sub-group to the global network of NHRIs. The WG would facilitate collaboration among the participating NHRIs in relation to the promotion of human rights in the corporate sector. Hence, the objective of the roundtable in 2008 was to clarify how NHRIs could leverage their mandates and collective resources to play a role within B&HR debates at domestic and international levels and to discuss the formation of a NHRI WG dedicated for this purpose. The outputs of the roundtable were two recommendations for the ICC to support the establishment of a WG on B&HR for its member NHRIs and to endow the WG with a mandate and functions regarding strategic planning, capacity building, pooling of resources, and agenda setting. This output was

submitted to the ICC 21 meeting in November 2008, which decided to establish a sub-committee or steering committee to develop recommendations for a mandate for an ICC WG on B&HR. These were produced over the span of three meetings and submitted to the ICC 22 meeting in March 2009, which led to the establishment of the WG.

However, the process of establishing a WG on B&HR in the framework of the ICC should be seen in the context of other parallel developments in the B&HR area.

A Special Representative of the Secretary General (SRSG) of the United Nations on the issues of human rights and transnational corporations and other business enterprises had been appointed in 2005 with a mandate to identify standards of corporate responsibility and accountability with respect to human rights, and to elaborate on the role of states in regulating the conduct of business enterprises with regard to human rights. In 2008, the SRSG submitted a proposal for guiding principles on how to address issues relating to business-related human rights impacts.

The guiding principles are based on the state duty to protect against human rights abuses by business; the corporate duty to respect human rights; and access to remedy by victims of business-related human rights abuses. A month before the 2008 NHRI roundtable meeting in Copenhagen, the proposed framework of the SRSG was endorsed by the Human Rights Council (HRC) and the mandate of the SRSG was extended to enable further elaboration of guiding principles with a view to operationalizing the framework. The guiding principles drew attention to the role of NHRIs in addressing business and human rights-related issues as important providers at the national level of access to remedies for business related human rights abuses. The role of NHRIs could include activities like monitoring and reporting human rights abuses in the business sector, facilitating legal reform, building capacity in government institutions, and working with private sector enterprises to promote and protect human rights.

The appointment of the SRSG was part of a general drive by the UN to encourage businesses worldwide to adopt socially responsible and sustainable policies. The drive was launched in 2000 with the establishment of the United Nations Global Compact (UNGC). The UNGC contains ten principles in the areas of labour rights, environment, anti-corruption and human rights, which the UNGC aims to mainstream, on a voluntary basis, in business activities around the world. Six UN agencies are supporting the initiative including the United

Nations Office of the High Commissioner for Human Rights.

As the DIHR had at the time been developing self-assessment tools for companies to ensure their business alignment with human and labor rights for more than six years, and as the DIHR had build a department specializing in research on issues relating to B&HR, DIHR felt it appropriate in 2008 to take the initiative to ensure the NHRIs their role in the international B&HR agenda. In light of the increasing importance attached to the issue of B&HR at the time by the UN, seeking to put the issue on the NHRI agenda must be seen as having been highly relevant.

THE WORKING GROUP MANDATE AND INITIAL PLANS

When the ICC NHRI WG on B&HR held its first meeting in Copenhagen in August 2009 its mission and mandate had been established with the adoption by the ICC in March 2009 of the proposal for the establishment of a NHRI WG on B&HR (**see Annex 1**). The WG on B&HR was mandated to be an advisory body for the ICC with the following mission:

“The NHRI Working Group on Business and Human Rights facilitates collaboration among National Human Rights Institutions in relation to strategic planning, joint capacity building and agenda setting in the field of business and human rights, in order to assist National Human Rights Institutions in promoting corporate respect and support for international human rights principles; and in strengthening human rights protection and remediation of abuses in the corporate sector in collaboration with all relevant stakeholders at the domestic, regional and international levels..

The core of this mission statement is clearly the **“facilitation of collaboration,” “joint capacity building”** and **“agenda setting.”** From this point of departure and based on the outputs (recommendations) of the 2008 Copenhagen NHRI roundtable, a strategic framework for the activities of the WG was defined. The declared idea of the strategic framework was to define the scope of its functions and to provide high-level strategic guidance for the concrete activities. The strategic framework consisted of three mandate areas:

a) Mandate area I: Strategic Planning

Facilitate the inclusion of business and human rights issues into baseline research and strategic planning of NHRIs, and provide a platform for regional and international collaboration on joint NHRI programmes.

b) Mandate area II: Capacity Building and Resource Sharing

Facilitate skills development of NHRI staff in relation to business and human rights issues and provide a platform for NHRIs for the exchange of expertise

and best practices and for the joint development of tools and materials.

c) Mandate area III: Agenda Setting and Outreach

Facilitate ICC and NHRI participation in key domestic, regional and international developments in the business and human rights field, including in relation to legislation, treaties, soft law mechanisms and institutional developments. Provide support for ICC and NHRI outreach to relevant domestic, regional and international stakeholders including governments, UN bodies and other multilateral institutions, business communities and civil society.

The composition of the WG was designed to broadly represent the global reach of the ICC and on the other hand to be practical and operational. Hence the WG was composed of 9 members: representatives of two NHRIs from each of the four NHRI world regions and a designated representative of the ICC Chair. Regional Chairs would appoint the two representatives for their respective region for a two-year term in the WG. The WG Chair would be elected by the WG members for a two-year term. Each member of the WG would have one vote. At the first WG meeting the DIHR was elected as chair of the WG and agreed to provide secretariat support for the WG for the period of its term as Chair. The Canadian Human Rights Commission was elected as Vice-Chair, and the WG agreed on regional

rotation of the office of Chair (and hence also of the office of Vice-Chair).

The first meeting of the WG was dominated by the substantial task of setting activities in motion within the three mandate areas of the strategic framework. The two-day meeting had set forth to establish the WG and outline the activities for the upcoming period (2009 – 11). During the meeting, the WG managed to set down an extensive list of proposed activities within the three mandate areas on three crosscutting issues i.e. baseline assessment, funding strategy, and communications and procedure. However, the strength of representing all regions of the NHRI network on the WG also had a downside, as participants to some extent assumed the roles of representing different political and socio-economic contexts with different human rights agendas, came from different administrative cultures with different priorities as regards standard procedures, etc. Without any time for teambuilding of the WG representatives this aspect was reflected in extensive dialogue and challenges in agreeing on working methods and in particular on how to ensure a democratic and continuous management of the WG.

It was a challenge for the process of creating a comprehensive and coherent programme for WG activities that the WG lacked a full “strategic action plan,” which, according to the mandate of the WG, ought to be produced at the beginning of each two-year term. The strategic action plan was supposed to be based on information

gathered through a baseline assessment of the interests, needs, and capacities of NHRIs in the area of B&HR. Hence within each of the three mandate areas a baseline assessment was required to provide a basis for the development of strategic action plans. Inevitably, the WG would need to move forward without the baseline assessment in hand and hence without a clear, coherent strategic action plan. The procedure for developing the initial plan as it was envisioned beforehand by the preparing Steering Committee was consistent but quite cumbersome to operationalize. Insisting on following a sequence of events that put the development of a strategic action plan based on a thorough baseline assessment before planning concrete activities would most probably have brought the WG to a standstill.

Hence, the WG wisely decided to continue pursuing its goals and implementation activities in parallel with the development of a strategic action plan and baseline study.

However, the WG did not discuss alternative options for a more expeditious development of a coherent strategic plan to provide an overall guide and overview on **what the WG would do; how it had made its priorities; why its priorities were relevant; what it expected or hoped to achieve; and how it would go about it.** However, any expeditious option chosen for the development of a coherent strategic action plan would have entailed considerable additional time for meetings and also teambuilding in the WG that would

have put additional burdens on the limited resources of the participants and Chair. As the situation evolved, the WG would work hard on developing its baseline assessment in order to make a strategic action plan, while otherwise focusing on implementation of activities. Some of the originally proposed activities were never followed up on and new activities seem to have been included later as the situation and the work of the WG evolved apparently without a premeditated overarching plan.

Lack of clarity concerning the objectives of the WG can be surmised from reading the first interim report of November 1st, 2009. The interim report refers to WG activities that were carried out before the first WG meeting, such as a joint ICC-OHCHR side event to the 11th Session of the HRC in June 2009. It also reports on a WG side event to the OHCHR's consultation on B&HR which took place in October 2009 and a WG statement referring to the SRSG's guiding principles on operationalising the "Protect, Respect and Remedy," framework, which the ICC Chair delivered to the consultation. The point in this context is not to assess the relevance or outcome of these isolated activities, but to discuss how these activities became part of WG activities apparently without having been discussed or planned by the WG. Sometimes it is necessary to act quickly and intuitively, so it is understandable that the ICC-OHCHR side event in June could not have been planned by a WG that had not yet convened at that time, but it is surprising that no track of reporting on the

matter to the WG at the August meeting has been found, and that the WG side-event at the OHCHR consultation and following statement was not discussed nor planned at the WG meeting in August.

The interim report of November 1st, 2009 further suggests a lack of consistent planning. A section regarding knowledge-sharing and communications lists a number of activities that the WG at that time envisaged undertaking. The list of activities can be viewed as being somehow inspired by the list of activities made at the first WG meeting. However, it is in practice not easy to see the connection between these listed activities and the ideas listed during the WG meeting in August with the exception of the establishment of a web-site and identification and dissemination of best practices. It is interesting to note that the interim report that was prepared by the secretariat was submitted to the ICC Bureau the day before the 2nd WG in Rabat, Morocco on November 2nd, but not submitted to the WG for comments and elaboration. Hence, the interim report was never subject to discussion in the WG.

In practice the mandate areas did not function as the overall high-level strategic guidance they were meant to be, but also served as expedient headings for lists of activities for the WG. The terms “**facilitation of collaboration**,” “**joint capacity building**” and “**agenda setting**” remained headings for activities, without any further justification, indication of the direction or overall expected

results. The lack of clarity on where to direct the activities left much room for improvisation as long as activities could be identified as fitting into the three mandate areas.

ADVOCACY FOR INTERNATIONAL RECOGNITION OF NHRIS IN RELATION TO B&HR

The goal of ensuring international recognition for the role of NHRIs in relation to B&HR by key intergovernmental players seems to have been the most urgent issue for the WG. A large part of its activities were focussed on this during 2009 and 2010, while at the same time awareness raising and capacity building amongst NHRIs were not forgotten. The overarching issue with regard to both these objectives was reinforcement of the legitimacy of NHRIs' action in the field of B&HR. The overall immediate focus for the process was the 10th Biennial International ICC Conference in 2010 which would be entirely dedicated to B&HR. The Scottish Human Rights Commission hosted this conference and cooperated closely with the ICC Chair on its planning and preparation, and on ensuring high-level input to the conference. The idea was to raise the awareness of NHRIs and at the same time, through the conference's concluding declaration, underscore the role of all NHRIs in relation to B&HR. This declaration would also inevitably become an important document and statement for the outside world - drawing attention to and clarifying the role of NHRIs in this respect.

In this context it is possible to view the two side events organised by the ICC in connection with the UN Human Rights Council's sessions in June 2009 and May 2010, as well as the side event to the OHCHR consultation on business and human rights in October 2009, as preparatory events aiming to draw as much attention as possible to the 2010 Biennial ICC conference, besides being relevant in their own right. The good cooperation between the WG secretariat and the ICC Chair, mediated by the ICC Geneva representative, was crucial for establishing these events.

All three of these events had the same overall objective: to impact on the development and operationalisation of the UN "Protect, Respect and Remedy" Framework, via a set of new UN Guiding Principles on Business and Human Rights. Once endorsed by the UN HRC and subsequently endorsed or employed by individual governments, these Guiding Principles would constitute a common global platform for action to address challenges connected to business and human rights. As a global platform for action, the Guiding Principles would be used by governments, businesses and other stakeholders as a single,

logically coherent and comprehensive template on existing standards and practices for states and business.

For Paris Principles-based NHRIs, achieving recognition and integration in the UN Guiding Principles in an appropriate way and in conformity with their mandates must be properly regarded as an issue of vital relevance for the future activities of NHRIs on B&HR.

SIDE EVENTS

The side event to the 11th session of the UN HRC in June 2009 aimed to develop a broad understanding of the emerging role of NHRIs on the B&HR agenda, focussing in particular on the issues canvassed by the UN SRSG on Human Rights and Transnational Corporations. More specifically, the aim of the side event was to address the role of NHRIs in relation to B&HR, which was envisaged in the SRSG's suggested policy framework for business and human rights (that would become the UN Guiding Principles). This tended to limit the role of NHRIs to addressing the issue of handling complaints on human rights abuses, leaving out the role of NHRIs--stated in the Paris Principles--in advising on human rights issues, monitoring their implementation and cooperating with UN and regional bodies. This limitation was the result of an incorrect assumption that NHRIs were only relevant for handling complaints, which emerged in an early study done by the SRSG. Hence, it was very relevant for possible future activities of the NHRIs in relation to B&HR to expand the

understanding of the contribution of NHRIs in the UN Guiding Principles to all three pillars of the framework and further to address the process of operationalizing the framework.

The concrete output of the side event was a statement by the ICC of NHRIs to the UN HRC, which contributed to the report by the SRSG to the HRC.

At the same time, gathering about 30 participants to the side event had the aim of developing a broader understanding of the emerging role of NHRIs on the B&HR agenda and provided an incentive for NHRIs to seek to expand and improve their abilities to address human rights and business issues. It is of course not easy to assess how much such a single event actually contributed to developing such an understanding, but it was an initial contribution to directing the attention of NHRIs to the issue of B&HR. Subsequent side events for NHRIs would emphasise the message to the ICC members. So the side event in October 2009 and the side event in May 2010 were part of the development of preparing the NHRIs for the ICC 2010 Biennial Conference in Edinburgh on B&HR. However, the specific outcome of these events in term of awareness-raising is difficult to assess.

In October 2009, the ICC, through the ICC WG Chair/Coordinator and in conjunction with the ICC Geneva Representative, organised a similar side event at the OHCHR's consultation on B&HR and operationalizing the SRSG's proposed "Protect, Respect Remedy"

Framework. This time, the objectives were formulated to an extent more self-consciously in stating that the side event should discuss the role of NHRIs in promoting fulfilment of the state duty to protect against human rights breaches by the corporate sector, in promoting fulfilment of the corporate responsibility to respect human rights, and in facilitating access to remedy for victims of human rights breaches by corporate actors. These objectives were framed by overall objectives of dialogue on operationalizing the SRSG's proposed framework and to support networking, exchange of experiences and enhance the visibility of the ICC WG.

The side event produced a statement which was delivered on behalf of the ICC WG on B&HR by the ICC Chair and Chief Commissioner of the Canadian Human Rights Commission to the OHCHR consultation on B&HR. The statement reiterated that NHRIs have a key role to play in advancing, supporting and operationalising all three limbs of the SRSG's proposed framework. In other words, the side event should be seen as a continuation of the advocacy for international recognition of the role of NHRIs in relation to the corporate sector, which had been at the core of the side event in June.

At the 14th HRC session, where the SRSG presented his second progress report, the ICC WG held its third side event, which was co-hosted by the Permanent Mission of Norway, the OHCHR and the ICC of NHRIs. A

close cooperation between the WG on B&HR secretariat and the ICC Geneva Representative made the side event possible. The side event had as its aim to continue the dialogue on the role of NHRIs in relation to B&HR. This side event demonstrated qualitative progress building on the earlier events as the side event would be introduced with remarks from the United Nations High Commissioner for Human Rights and the SRSG. The opening remarks by the SRSG acknowledged the role of NHRIs under all three pillars of the "Protect, Respect and Remedy" Framework and concretised in what way NHRIs could play an important role as watchdogs for state protection against third party abuse; as advisers for companies in understanding human rights, and as ensurers of access to remedies for corporate related grievances.

With this side event it is fair to state that the ICC WG objective of impacting the understanding and the operationalizing of the "Protect, Respect and Remedy" framework had succeeded, which was clear by the acknowledgement of the role of NHRIs in relation to B&HR by the SRSG's opening statement. The acknowledgement was further emphasised by the acceptance of the SRSG to participate in the ICC's 10th international biennial conference in Edinburgh in October 2010.

THE EDINBURGH DECLARATION

The 10th ICC International Biennial Conference of NHRIs was held at the Scottish Parliament in Edinburgh from October 8th to 10th, 2010. The selected topic for the conference was: “Business and Human Rights: The role of National Human Rights Institutions.” More than 350 participants from around 80 countries attended the conference. The objective of the conference was to increase awareness of the role of NHRIs in B&HR by strengthening the commitments of NHRIs to fulfil effectively their mandates under the Paris Principles by adopting a joint NHRI declaration on how the NHRIs would step up their action on ensuring promotion and protection of human rights as they relate to business. The ICC’s Biennial conferences always issue concluding declarations, however, one can view the declaration of the 2010 conference to be of particular importance as it addressed an area of the Paris Principles-based mandates that hereto had not been a central focus of activities for typical NHRIs. Hence, the conference was a key relevant part of the process of enhancing awareness and activation of the mandates of NHRIs on B&HR.

The Scottish Human Rights Commission hosted the conference. SHRC along with the WG, in particular the WG Coordinator, OHCHR, and ICC Chair were substantially involved in preparing and planning the contents of the conference, supporting and facilitating the proceedings, and in drafting the declaration that would be presented at the conference for

adoption. In addition the WG Coordinator *inter alia* provided the Concept Note and background briefing materials. It is not the main purpose of the evaluation to analyse the different specific contributions from various actors in the WG but rather to look into how the WG operated (see chapter 6 below). However it should be mentioned that the success of the conference was very much due to the strong support and efforts given by the Scottish HRC in preparing, planning, organising and providing input to the conference.

The first day of the conference featured highly relevant keynote speakers who fed into the dialogue and on the second day the logic of the conference programme followed that of the “Protect, Respect and Remedy” Framework from the proposed UN Guiding Principles. Debates were structured around working groups representing the four regions of the ICC. Some of the most important key players and stakeholders in B&HR were present, representing the UN, OECD, business, labour, civil society and NHRIs. Before the ICC conference an NGO Forum was organised with interested NGOs from around the world taking part in a pre-conference session which provided input to the ICC conference in the form of a written statement. The Coordinator of the ICC WG on B&HR in conjunction with the ICC Chair (the New Zealand Human Rights Commission), the Scottish HRC and WG members such as the Kenya Human Rights Commission had done the preparatory work of drafting a declaration, which was further contributed to and finalised

by a drafting committee with representatives that had been nominated to the task by the regional NHRI networks and including the WG Coordinator and Chair, ICC Chair, OHCHR, and ICC Geneva Representative.

The Edinburgh Declaration emphasises the role of NHRIs in monitoring states and non-state actors, advising relevant actors, providing remedies, conducting research, and integrating B&HR in reporting to international mechanisms. In other words, the Declaration emphasises the comprehensiveness of the role of NHRIs in fulfilling their Paris Principles mandates in relation to business. The point was to affirm that the Paris Principles-based NHRI mandate applies to abuses of human rights occurring in the private sector just as it applies in the realm of state activities. The importance and relevance of the Edinburgh Declaration in relation to the role of NHRIs in B&HR cannot be sufficiently appreciated, as it actually provides the answer to the basic question of what contribution the NHRIs can provide to the strengthened international focus on B&HR. The added value that is provided by NHRIs is defined in the Declaration, and it is also quite specific in defining concrete activities that NHRIs should cover. The Edinburgh Declaration raises the claim of NHRIs to have a role in relation to B&HR from an imposition based on a reference to the broad and general formulations of the Paris Principles and institutional mandates to a defined NHRI mandated B&HR commitment with specific B&HR related objectives, functions and tasks.

The Declaration must be viewed both as an output and as an outcome. It is an **output of the conference** and its outcome in relation to the external world was to ensure that the role of NHRIs in relation to B&HR would from now on be beyond further discussion. However **in relation to the NHRIs present at the conference passing the Declaration, the declaration must be regarded as an outcome** of the internal awareness-raising through the ICC structures that had been done by the WG on B&HR through their activities relating to the baseline study, WG meetings and mobilisation of the assistance and the sequence of side-events with participating NHRIs. The Declaration was adopted by the Edinburgh Conference as an outcome of the process, which the WG, led by DIHR, had carried through to ensure that NHRIs were broadly aware of the issues and their role in B&HR.

Key personnel involved in the WG repeatedly mentioned in their interviews that the conference in Edinburgh and the adoption of the Declaration marked an important step forward in the ICC's advocacy for international recognition of NHRIs' mandate on B&HR. The conference displayed the potential magnitude of the role of NHRIs in relation to the "Protect, Respect and Remedy" framework and the level and quality of participants at the conference was a clear indicator of the importance that the international community was prepared to attach to the role of NHRIs on B&HR. Hence the conference had a positive effect on further facilitating the process of advocacy targeting

both the UN Guiding Principles and the OECD Guidelines Principles for Multinational Enterprises.

THE UN GUIDING PRINCIPLES

Immediately after the Edinburgh conference, and following communications urging attendance by the WG Chair/Coordinator (who also undertook extensive liaison with OHCHR on NHRI participation) representatives from the NHRIs of Canada, Denmark, Korea, Malaysia, New Zealand and Venezuela went to Geneva to participate in a consultation that OHCHR had arranged with civil society on behalf of the SRSG. The consultation was part of a set of consultations the SRSG had conducted in order to receive input to the draft Guiding Principles based on the “Protect, Respect and Remedy” Framework that were to be submitted in final edition to the HRC session in June 2011. The two-day consultation addressed the three pillars of the framework with input from the SRSG as keynote speaker. During the consultation, the six participating NHRIs reiterated the main point made at the Edinburgh conference: the Guiding Principles should not understate NHRIs’ mandate on B&HR and the contributions NHRIs can make across all three pillars and in the areas of prevention of abuses and promotion of human rights. The NHRIs explained how the NHRIs had evolved over the past two years from discussing mandate limitations and what priority should be given to the issue of business and human rights to deciding through the

Edinburgh Declaration to commit themselves to fulfil their mandates on B&HR and step up work on the impacts of corporate human rights abuse. Hence, it would be very important with reference to Pillar I on the state duty of the “Protect, Respect and Remedy” Framework that NHRIs are provided with adequate resources and funding to fulfil their Paris Principles-based commitments. The SRSG agreed that NHRIs needed help to fulfil their important role, but many NHRIs also needed to have their specific legal mandates improved in order to become able to effectively address the area of business and human rights.

The process of advocacy to ensure for NHRIs an adequate position in the Guiding Principles based on the “Protect, Respect and Remedy” Framework came to a new climax at the beginning of 2011, when the WG Coordinator/Chair, on the basis of material supplied by ICC WG on B&HR and other NHRIs, prepared a submission for the ICC of NHRIs commenting on the draft Guiding Principles of the “Protect, Respect and Remedy” Framework, which had been posted on the online consultation forum of the UN SRSG for gathering views from stakeholders. Besides the ICC submission, the DIHR also prepared a submission with a wide range of detailed comments on various principles of the draft. The ICC submission reiterated the views mentioned above on the key role of NHRIs within all three pillars of the Guiding Principles. The submission was moreover based on responses to a questionnaire that had been filled out by six NHRIs.

Hence, the advocacy effort during the autumn after the Edinburgh Biennial Conference produced outputs in terms of direct dialogue at the consultation and a submission (besides the ICC submission, DIHR and other NHRIs made individual submissions on the draft Guiding Principles).

The concrete outcome of this effort is seen in the final Guiding Principles of the “Protect, Respect and Remedy” Framework, which were adopted by the UN HRC in June 2011. As mentioned above, the role of NHRIs had initially been mentioned in the third pillar on “Access to Remedy” under the principle of State-based non-judicial grievance mechanisms, where the commentary states, **“National human rights institutions have a particular important role to play in this regard.”** In the final adopted Guiding Principles, the role of NHRIs is included also under the first pillar on “State duty to protect human rights”, under the operational principle on “General State regulatory and policy functions,” where the commentary states, **“National human rights institutions that comply with the Paris Principles have an important role to play in helping States identify whether relevant laws are aligned with their human rights obligations and are being effectively enforced, and in providing guidance on human rights also to business enterprises and other non-State actors.”** In addition the role of NHRIs was also stated under the second pillar on “The corporate responsibility to respect human rights”, under the operational principle “Issues

of context,” where the commentary states, “In assessing how best to respond they (i.e. business enterprises, my insertion) will often be well advised to draw on not only expertise and cross-functional consultation within the enterprise, but also to consult externally with credible, independent experts, including from governments, civil society, national human rights institutions and relevant multi-stakeholder initiatives.” Hence, the role and functions of the NHRIs under all three pillars were fully recognised in the context of B&HR.

The effort of the WG Chair/Coordinator, ICC WG on B&HR, ICC Chair and ICC Geneva Representative to bring about a more balanced and adequate definition of their proper role in relation to business and human rights in the UN adopted version of the Guiding Principles of the “Protect, Respect and Remedy” Framework, compared to the first drafts and intention of the SRSG must be seen as having succeeded. The advocacy for recognising the role of NHRIs in relation to B&HR was actually so successful that the resolution of endorsement of the Guiding Principles by the Human Rights Council explicitly recognises this role in a paragraph formulated by the DIHR WG Coordinator and the ICC representative in Geneva: “10. **Welcomes** the important role of national human rights institutions established in accordance with the Paris Principles in relation to business and human rights, and encourages national human rights institutions to develop further their capacity to fulfil that role effectively, including with the support

of the Office of the High Commissioner and in addressing all relevant actors.” (A/HRC/RES/17/4).

Full recognition of the role of NHRIs in this context will in the longer term likely positively impact on the building up of NHRI capacities on topics related to business and human rights and at the same time provide a strengthened international position to pursue the fulfilment of their Paris Principles-based mandates. Even though the normative contribution of the Guiding Principles is not the creation of new international legal obligations, the explicit inclusion of NHRIs as part of the current understanding of state duties and corporate responsibilities provides NHRIs with an internationally recognised platform for their specific activities in analysing shortcomings and recommending improvements of existing standards and practices on B&HR.

REVISING THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

At the WG meeting in March 2010 the WG agreed, following a proposal from the WG Coordinator/Chair, to organise a side event to the ICC Biennial international conference in October addressing the review of OECD Guidelines for Multinational Enterprises (MNE) and also to prepare a submission in behalf of the ICC to the review. The Guidelines for MNE are voluntary corporate responsibility standards set by governments for MNEs that addresses issues such as information disclosure,

employment and industrial relations, the environment, combating bribery, consumer interests, and whistleblower protection. The Guidelines are recommendations to MNEs and provide no sanctions for perpetrators other than the risk to the reputation of the company in question. They are operated through National Contact Points in states that have adopted the Guidelines, which are all the OECD member states and 10 additional states.

The reason for NHRIs to try to impact the revision of the Guidelines was the weak protection of human rights in the existing Guidelines and the necessity of finding a proper role for NHRIs in relation to the Guidelines, companies, civil society and National Contact Points. Hence, an important reason for the ICC of NHRIs and its WG to engage in the review of the OECD Guidelines was to secure within the Guidelines explicit recognition of NHRIs' mandate and role at the national level. Additionally, another important reason was to influence how human rights were represented in the Guidelines. Both reasons were very relevant in turn to enhancing the role of NHRIs in relation to B&HR. In fact, not becoming explicitly recognised as a stakeholder on the national level in the area of B&HR in a time where human rights would achieve a more pronounced role in the Guidelines, could risk undermining the effort of NHRIs to secure for them a legitimate role in the area of B&HR.

The task was complicated for the ICC of NHRIs and its WG to take on, as the OECD

did not have formal channels for inclusion of Paris Principles-based independent human rights institutions in its process of consulting stakeholders. In principle, NHRIs were not officially considered to be stakeholders in OECD matters. However, by combining this task with the efforts to reinforce the legitimacy of NHRI action on B&HR and with those impacting on the development of Guiding Principles and the operationalization of the “Protect, Respect, Remedy” framework, the WG actually achieved a very strong synergistic result in terms of ensuring international awareness and recognition of the role of NHRIs in B&HR.

The revision of the OECD Guidelines must be seen as highly relevant for the ICC of NHRIs process of strengthening NHRIs’ work on B&HR. Like the UN Guiding Principles, the OECD Guidelines are an example of international “soft law.” This means that the Guidelines are not binding commitments made between governments. While the UN Guiding Principles are part of an intergovernmental system encompassing almost all governments, the OECD Guidelines are relevant for the 34 member states of the OECD. However, while the UN may have a larger outreach, the OECD concentrates on many of the world’s most advanced countries and emerging economies. The UN Guiding Principles address the relation between human rights and business in general; the OECD Guidelines should be understood as a mutual policy agreement between governments on how to protect human rights in relation to multinational enterprises and

their strong recommendations to multinational enterprises on how to 1) ensure that their conduct is in harmony with governments’ policies, in mutual confidence between MNEs and societies in which they operate, respects international human rights standards and 2) improve the foreign investment climate and enhance sustainable development. Hence, the Guidelines express the shared values of the governments of countries from which a large share of international investment comes. Hence, upgrading the status of human rights in these Guidelines and recognising the role of NHRIs in this context was a real window of opportunity for the ICC of NHRIs. The fact that this process somewhat coincided with the development of the UN Guiding Principles only contributed to the sense of opportunity to achieve synergies between the two processes. Besides the general upgrading of human rights in the OECD Guidelines, also the concrete implementation of the Guidelines offers opportunities for NHRIs, as each OECD country has a National Contact Point to promote and implement the Guidelines, and hence, with the upgrading of human rights in the Guidelines, they might become important partners or counterparts for the NHRIs.

The side event on the review of OECD Guidelines for MNEs at the Edinburgh Biennial Conference, which was an initiative of the WG Coordinator/Chair and organised by DIHR, did not produce any specific external output. However, according to the report on the B&HR side event, the side event and conference

overall did actually open a very positive and interesting dialogue between the OECD Working Party for the Guidelines review and the ICC of NHRIs and its WG on B&HR, which must be seen as the most important outcome of the side event. The fact that the entire conference was dedicated to B&HR and the adoption of the Edinburgh Declaration did ensure that the ICC of NHRIs was effectively brought into the view of the OECD Working Party on Guidelines as a stakeholder on B&HR. Also, a WG written submission to the Guidelines review initiated and drafted by the WG Chair/Coordinator, containing a list of critical issues in the current OECD Guidelines and recommendations for the NHRI role in revision and application of OECD Guidelines was produced. The recommendations touched upon how the OECD Guidelines could be concretely improved in relation to strengthening the human rights element in the guidelines and how the NHRIs could feed into the process. The recommendations further touched upon the relation between NCPs and NHRIs that might be relevant to clarify in connection with the strengthening of human rights in the Guidelines, in order to avoid confusion in situations where NCP and NHRIs might have parallel jurisdictions. The submission also aired the possibility of formalising the relation between OECD and the ICC on NHRIs through a Memorandum of Understanding, which would address the issues of common interest.

The good momentum was apparently utilised by organising an informal expert meeting

on human rights issues at OECD in Paris on January 25th, 2011. The expert meeting was organised by the Coordinator / Chair of the ICC WG on B&HR in collaboration with the International Commission of Jurists and Amnesty International. The aim of the meeting was to ensure that in the future the Guidelines would continue to contribute significantly to protecting human rights and preventing abuses in the realm of corporate activities. So the meeting would inform the review process concerning relevant human rights standards, explain their relevance to the review, offer constructive suggestions for revisions of the Guidelines, and promote a valuable dialogue on relevant human rights issues in relation to the Guidelines.

The meeting highlighted important issues such as the Rights of Indigenous Peoples and the Rights of the Child, employment rights, the role of NHRIs in B&HR, and the relation between National Contact Points (NCP) and NHRIs. For ICC and its WG the reference to the more specific HR documents were seen as being important to the updated version of the OECD Guidelines and one of the purposes of the meeting was to highlight this aspect.

The meeting was a success in providing input to the review process. However, the presentation clearly marked the double aim of the ICC advocacy: to strengthen the status of human rights in the Guidelines to come and to ensure an explicit recognition of the NHRIs role vis a vis B&HR in the future Guidelines. The expert

meeting undoubtedly provided input to the process as envisaged by the organisers, however while the development of more elaborated guidance on the application of human rights to the Guidance were an explicit part of the Terms of Reference of OECD Working Party, which even explicitly requested the OECD Working Party to take into account the due diligence recommendations of the SRSG, the issue of addressing the role of NHRIs went beyond the ToR of the Working Party.

This does not mean that the Working Party could not address the issue, but it meant that while mainstreaming human rights into the Guidelines was a task based on a political decision and therefore mainly a technical issue on how to get it done, any suggestion on the NHRI matter would be entirely a political issue that could encounter resistance by member states. The latter actually proved to be a problem. Upon the submissions of comments to the revised Guidelines by the Danish, Canadian, Norwegian and Dutch governments to pursue the various points made in the ICC submission, the proposal to recognise NHRIs specifically was not agreed upon by the OECD member states during the Guidelines review process.

Seen through the lens of pure technical advocacy, the efforts of the ICC and its WG on B&HR actually failed to some degree to identify the right targets for their advocacy and hence, to address their advocacy in the right way to hit the mark. The advocacy goal for strengthening

human rights in the Guidelines had a correct target, which was the OECD Working Party on Guidelines that had been charged with the task to develop a revised edition of the Guidelines. However, the target for ensuring an explicit recognition of the NHRIs role vis-à-vis B&HR in the future Guidelines should have been the OECD member states that would in the end decide on the matter. The Terms of Reference of the OECD Working Party were adopted in May 2010 so from that point of time it should be clear that pursuing the cause of recognition of the NHRIs would at best be a marginal issue for the Working Party and it would still require the consent of the member states which could not be taken for granted. The ICC WG on B&HR, especially the WG Coordinator was in fact successful in advocating the cause with the Danish, Dutch, French and Norwegian governments, and also, in conjunction with the Canadian NHRI to the Canadian government. Also the TUAC and BIAC were included in the WG advocacy effort. However the ICC WG on B&HR could probably not (as an isolated entity) reach out to many more member states, but as 35 countries among the 42 OECD member states have NHRIs, reaching out directly to the member states through their local NHRIs could perhaps have proven to be more conducive to achieving results. However, such an approach would have required a time consuming and probably uncertain systematic mobilisation throughout the NHRI network.

While such an advocacy approach would probably not have been practicable, a

concerted effort to approach the OECD member states through their NHRIs may have been a more powerful albeit much more resource demanding approach.

The relation between the ICC and the OECD was also challenging due to the lack of formal recognition of NHRIs as a relevant institutional actor, as the ICC had difficulties getting access to the documentation, which was necessary to monitor the process and to provide qualified input. The ICC and its WG on B&HR submitted two commentaries to the Guidelines Review. The first submission in January focussed on both the role of NHRIs and the ICC and on various pertinent aspects of human rights in the Guidance such as labour, supply chains, human rights responsibilities, mainstreaming human rights throughout the Guidelines, indigenous people's rights, due diligence, and important aspects of implementation procedures. The second submission in March 2011 called for more transparency and inclusiveness in the OECD Guidelines Review process, further highlighted outstanding human rights issues that needed to be addressed and suggested additional measures to strengthen the future implementation of the OECD Guidelines.

On 25 May 2011, the governments of the 42 OECD and non-OECD countries adhering to the OECD Declaration on International Investment and Multinational Enterprises and related Decision adopted the updated Guidelines for Multinational Enterprises adopted updated Guidelines The updated Guidelines contain

a coherent and mainstreamed reference to human rights that had been upgraded and concretised in a dedicated section. Without embarking on a detailed analysis on the various points made by the ICC through submissions, meetings and conferences and their impact on the final version of the updated Guidelines it can easily be assessed that most of their points regarding supply and value chains, definition of human rights, indigenous people, vulnerable groups, labour and precarious work, employee and worker, child labour, non-discrimination, etc. have been met in the updated Guidelines. The UN conventions on the Rights of Indigenous Peoples, the Rights of the Child, which the ICC had suggested should be directly mentioned in the text, were not directly referred to in the updated Guidelines, but were specifically alluded to in subsequent guidance material.

The WG Chair/Coordinator was invited to present to the OECD Annual CSR Roundtable in June 2011 on the role of NHRIs.

It is not the purpose of this evaluation to discuss possible shortcomings and omissions compared to the list of recommendations from the ICC and its WG on B&HR, but to assess whether the advocacy of the ICC had any success in terms of impact on the revised Guidelines. And apparently it had, as it is easy to identify the various articles of the Guidelines that have been improved or updated since the 2000 edition of the Guidelines and to see that these articles represents issues that have

been raised by ICC. First and foremost, the position of the ICC had been accommodated by the direct inclusion of human rights in the Guidelines. However, it is important to bear in mind that many other stakeholders had similar suggestions to the ICC and its WG on B&HR and these stakeholders also contributed to the final result. The submissions of the ICC and its WG on B&HR were further quite inspired by the SRSG and his “Protect, Respect, and Remedy” Framework. Taking into account that the SRSG was included as an important source of inspiration in the ToR of the Working Party and moreover was directly consulted by the Working Party during the process of revising the Guidelines, it is extremely difficult to assess how the specific contribution of the ICC impacted the final result. However, taking the many advocacy efforts done by the ICC and its WG on B&HR it is fair to assume that at the very least the advocacy contributed to further reinforcing the trend toward strengthening human rights in the updated version of the OECD Guidelines.

As mentioned above, the advocacy for explicitly recognising the role of NHRIs in relation to B&HR was not immediately successful as NHRIs were not directly mentioned anywhere in the updated version of the OECD Guidelines. However, the advocacy had not been in vain. With the adoption of the updated Guidelines, the OECD decided to give priority to a process of implementation of the new Guidelines. The OECD Working Party of the Investment Committee developed a work programme for

the implementation of the updated Guidelines for MNEs and included in this programme two issues of immediate interest for the ICC. The first point was the idea of developing a “Third Tier Resource Document” that should provide a list of instruments and initiatives for corporations that were perceived as being relevant to the updated Guidelines, but could not specifically be enumerated in the Guidelines because of length considerations. The second point of specific interest for the ICC was that the Working Party suggested to explore the benefits of deepening cooperation with NHRIs and suggested making such cooperation operational by concluding a MoU between OECD and the ICC on NHRIs. At the Working Party meeting in October 2011 these two suggestions were accepted (however, the MoU between OECD and ICC was realised only in late 2012). The MoU will establish formal channels of communication between the ICC and the OECD whereby the two entities will coordinate and communicate on a number of issues. Hence, the MoU will to some degree remedy the lack of explicit recognition of NHRIs in the 2011 update of the OECD Guidelines for MNEs.

As mentioned above, the “Third Tier Resource Document” contains many references to UN human rights documents that were proposed by the ICC and its WG on HR such as the Convention on the Rights of the Child, the Declaration on the Rights of Indigenous Peoples, the Convention on Elimination of all Forms of Racial Discrimination, the Convention

against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Beside these human rights documents the list also refers to the DIHR Human Rights Compliance Assessment to detect human rights risks in company operations.

The more tangible outcomes of the advocacy for strengthening human rights in the OECD Guidelines for MNEs, and of the advocacy to ensure an explicit recognition of the NHRIs were

- Contribution to the development of the updated Guidelines
- Recognition of NHRIs through agreement by OECD states to an MoU between the OECD and the ICC
- Reference to adequate human rights documents either in the updated Guidelines or in the resource document for the NCPs
- Increased awareness among trade unions, the BIAC and OECD Watch of the role of NHRIs in B&HR

The process of advocacy failed to achieve an explicit recognition of NHRIs in the updated Guidelines. However, the entire process and the willingness of the OECD to negotiate a MoU with ICC, which will constitute a de facto recognition of the role of NHRIs in B&HR, shows that the entire process of anchoring the NHRIs solidly within the international B&HR agenda did succeed.

COOPERATION BETWEEN NHRIS AND UN GLOBAL COMPACT

The United Nations Global Compact comprises more than 6,000 participating companies from 135 countries, as well as 2,300 non-business participants. These companies and organizations have voluntarily committed themselves to the implementation of ten universal principles. Human rights generally and in more specific forms permeate the Global Compact principles. The UNGC is the UN Corporate Social Responsibility initiative and for instance UNDP supports UNGC local networks in some countries. As part of the process of establishing NHRIs as actors with mandates on B&HR, the WG on B&HR decided to explore the opportunities to establish a relationship with the Global Compact in order to understand the functions of the UNGC and to explore synergies and potential collaboration between NHRIs and UNGC. The overall objective of this initiative seems to have been to achieve the recognition of the UNGC of NHRIs as relevant actors in the field of B&HR. This initiative must be regarded as very relevant both for the NHRIs and for the UNGC.

Hence, in May 2011 in Copenhagen the Chair/Coordinator of the ICC WG on B&HR organised a session at the 2011 UNGC Annual Local Networks Forum on experiences of cooperation between UNGC Local Networks and NHRIs based on concrete examples of cooperation. This was preceded in November 2010 by a presentation to the UNGC's Human Rights

Working Group in London delivered by the Coordinator of the ICC WG on B&HR. The presentation explained the status and functions of NHRIs and the ICC and NHRI activities relating to B&HR. An informal note for the UNGC Human Right Working Group explaining about NHRIs and the ICC and inspiring stronger links and producing synergies was also delivered to the Human Rights Working Group and later circulated to the ICC WG.

This initiative is very relevant for setting the agenda of NHRIs as key players in B&HR. In terms of outcome of this initiative, besides branding the NHRIs, the UNGC has agreed to jointly publish in 2012 with the ICC an Information Note on NHRIs and UNGC Local Networks, to explain to each actor the other's role and functions and demonstrate possible modalities for cooperation, based on the case studies presented in Copenhagen in May 2011. Devising an MOU between the UNGC and the ICC has been proposed by the ICC WG Chair/Coordinator to the UNGC, though it has not yet been accepted by the UNGC.

The involvement of the ICC WG on B&HR Coordinator in exploring the opportunities to establish a relationship with the Global Compact seems not to have been based on a formal written analysis including for example established objectives, defined expected benefits or a plan of action. In general it seems very reasonable to assume that it is relevant for the NHRIs to assess the opportunities for cooperation with the UNGC, however it might

have been beneficial for all involved if the process of approaching the UNGC were more transparently planned with the purposes of the activities were more concretely defined in advance.

WEBPAGES

At the 3rd WG meeting in March 2010, the WG decided to continue the efforts to establish a NHRI internet information platform on B&HR to be hosted by an NGO, the Business and Human Rights Resource Centre. However the subsequent WG meetings agreed to proceed with supporting B&HR content on the ICC official website. This output was realised and implemented by the ICC WG Chair/Coordinator, and the webpage can be found at <http://nhri.ohchr.org/EN/Pages/default.aspx>. The webpage on the ICC WG on B&HR is very informative, easy to access and easy to navigate. It has a comprehensive collection of documentation of the activities of the WG on B&HR of the ICC and has proven useful, for instance, for the collection of data for this report.

CAPACITY BUILDING OF NHRIS

While the centre of gravity of activities during the first year and a half of the ICC WG on B&HR was clearly the external communications regarding NHRIs' mandate in relation to B&HR and the advocacy for recognition by the international stakeholders, the focus in 2011 started to shift to awareness raising and capacity building of NHRIs in the ICC worldwide network. Also the Edinburgh Declaration emphasised ensuring the capacities of NHRIs in relation to B&HR and with the adoption of the Edinburgh Declaration the NHRIs and the ICC committed themselves to holding workshops on B&HR in each of the ICC regions.

REGIONAL WORKSHOPS

At the fifth WG meeting, in March 2011, the ICC WG on B&HR discussed progress towards organising regional workshops on B&HR. The regional workshops were not an output of the WG per se as they were decided upon through the Edinburgh Declaration; yet of course they fit well with the WG aim of raising awareness of NHRIs on B&HR. The concrete organization of workshops were in the hands of the regional networks, and received support from DIHR as

WG Chair/Coordinator in terms of planning and input on concept notes, agenda and output documents. At the sixth WG meeting, in May 2011, the regional networks could report on ongoing planning for the workshops. The workshops began to be held from September 2011 with the African regional workshop in Yaounde, Cameroon. The second was held by the Asia Pacific Forum in October 2011 in Seoul, Korea. The ICC Americas Network workshop was held in November 2011 in Antigua, Guatemala, while the European Workshop was finally held in October 2012.

It is not possible at this time to assess any outcomes of the workshops. However, already at the halfway stage of the workshops process there are some features worth mentioning.

The NANHRI workshop decided to prioritize thematic areas considered to be of especially high priority for African NHRIs for the subsequent three years: labour rights and working conditions, land-related human rights and environment- related human rights. The workshop also agreed on priority actions for the African NHRIs that focussed on capacity

building of individual NHRIs; human rights education, outreach and sensitization with relevant stakeholders; and integration of B&HR in strategic planning of the NHRIs. These conclusions were contained in the Yaounde Declaration, to which the former WG Coordinator, participating on behalf of the ICC Chair, contributed substantial drafting input.

The Asia Pacific Forum workshop also delivered final outcome statement, closely following the model of the Yaounde Declaration text, which focussed on how to strengthen the NHRIs' role in B&HR in terms of capacity building, strategic planning of the institutions, advocacy with the state for revision of Human Rights Action Plans to include human rights violations by business, increasing institutional capacities of NHRIs through training, creating focal points in each NHRI on B&HR; and promoting dialogue with stakeholders on B&HR issues. Hence where the African NHRIs were more concrete in prioritizing specific areas of concern in relation to B&HR, the Asia Pacific NHRIs were more general in their approach. However, both workshops emphasised the need for institutional capacity building.

The Americas Network workshop prioritized the labour market, environmental rights, and the more general duties of multinational companies with respect to economic, social and cultural rights. The workshop issued a declaration with a vision and strategic objectives. These objectives focussed on strengthening of public control mechanisms including legal frameworks on B&HR and on

capacity building of NHRIs to strengthen their networking and information sharing; and finally in including actively the UN reporting system in their activities and monitoring of B&HR issues.

DIHR, via the former WG Coordinator was represented at all three workshops. It is interesting to note that all three workshops apparently put emphasis on infrastructure issues for the NHRIs in relation to B&HRs, which could be seen to indicate some uncertainty on how to concretely deal with B&HR, or the importance of addressing such issues first of all.

As an avenue to promote interest and awareness amongst NHRIs on the importance of B&HR as part of their mandate, the workshops seem to have been successful. However, it is interesting to note that the results of the baseline study that might have facilitated the planning of the workshops did not seem to have been used for that purpose.

TRAINING MATERIAL

The need for capacity building NHRIs had been on the agenda of the ICC WG on B&HR since the Edinburgh Declaration, and before that as early as the 2009 Roundtable and in the initial definition of WG mandate areas. It seems that the intention had been to conduct training sessions in B&HR in conjunction with the ICC regional workshops, but this approach was modified to include information on the development of training materials, rather than to deliver training to participants, as it was

realised that more time and resources than were available would be necessary for the latter.

The first step of the development of a training programme for the NHRIs was for the WG Chair/Coordinator to develop a concept note on how to teach the implementation of the NHRI mandate on B&HR. A draft concept note on an ICC training module for NHRIs on B&HR and a concept for an ICC Guidebook for NHRIs on B&HR were developed, and at the WG meeting in March 2011 it was decided to merge the two concepts into a concept for a single training process. This was finished in June 2011 and from the concept note a concrete outline for a three day training course was developed. From the concept notes and course outline, an outline for a set of core tools was developed. The tools consist of analytical matrixes for understanding the B&HR landscape, a context analysis matrix, prioritisation of human rights and business issues, stakeholder mapping, and a matrix for issues analysis to prepare NHRI B&HR action plans.

Apart from the concept note on the training course, the WG Chair/Coordinator started to develop a comprehensive training programme for NHRIs comprising NHRI prior needs assessment, a training course adapted to specific needs, facilitation of the development of a B&HR strategic action plan, support for implementation of the plan and evaluation of the capacity building. This programme could also contain the option of developing a B&HR tailor-made manual for use with the NHRI.

Pilot training using some of this approach by DIHR took place in Sierra Leone with the Sierra Leone Human Rights Commission, co-funded by GIZ and DIHR, in September 2011, with in-person support from a Commissioner of the Kenyan NHRI, who was also a member of the ICC WG.

However, by the fall of 2011 the materials for the trainings were still not finalised and region-specific content and concrete planning of trainings still remained to be completed.

Conducting capacity building and institutional training of NHRIs on B&HR is in high demand by the NHRIs and highly relevant for a long term position as a key stakeholder in the B&HR field. As the course material outputs still are drafts and outlines it is difficult to assess their final quality. However great efforts are apparently made both to ensure contextualisation of the material to the needs and environments of the NHRIs and to ensure as much local ownership and participation as possible.

BASELINE STUDY

At the first planning meeting of the WG in August 2009, a baseline assessment of the NHRIs was seen as a requirement for developing all three mandate areas. The baseline assessment was meant to uncover the needs of NHRIs, the level of their current capacities, the personal skills of NHRI staff, the current prioritized actions, their stakeholder outreach, and the NHRIs' needs

regarding capacity for intervening and setting the international agenda.. The baseline assessment was to be carried out by means of comprehensive collection of quantitative data obtained through a questionnaire.

The questionnaire was prepared by the Scottish Human Rights Commission during the fall of 2009 and submitted by the WG Chair/ coordinator to the ICC NHRI members during February 2010. The collection of responses to the questionnaire was expected to enable the Chair/coordinator to submit a baseline assessment to the WG by March 2010. However, in the October 2010 WG the Chair expressed that the baseline study would only be done in time for presentation at the ICC regional workshops in 2011.

The baseline assessment was a very ambitious project. The study lacked a set of clear Terms of Reference providing a focus for the study, and the questionnaire seemed to try to capture all aspects of the relation between the ICC NHRIs and B&HR issues. The questionnaire was divided into four sections in addition to the introductory section regarding details of the respondent. The sections covered

- Current interest of your NHRI in B&HR issues
- Mandate, competences and areas of intervention
- Legal framework
- Needs and capacity building

The questionnaire was comprehensive with around 80 questions some of which were formulated as open questions leaving space for qualitative statements.

The questionnaire reflects a lack of basic information on the responding NHRIs as many questions had a very factual character. Many questions were formulated as questions with only “yes” and “no” answers, which did not leave much room for understanding how the NHRIs perceived the issue of B&HR in relation to their NHRI. Further, some of the questions embraced different issues in one question.

The baseline report does not clearly state how many NHRIs were asked to fill out the questionnaire but as the questionnaire is meant for providing input within the frame of the ICC, it must be assumed that the questionnaire was sent to all ICC NHRIs, meaning about 125 organizations, of which about 70 have the A status. Only 29 NHRIs returned responses, giving a response rate of about 23% of the total population, a rather low turnout. Hence, the validity of the responses as an expression of the general picture among NHRIs is questionable. It is not easy to know why those who did not respond choose not to do so, whether that might be for lack of interest, lack of understanding of the relevance, disagreement with the concept of including B&HR in their activities, lack of resources to complete the questionnaire, or other motives. Hence it can be assumed that those NHRIs who did respond to the questionnaire are those who for some

reason had a more pronounced interest in the matter than the average NHRI. It is therefore important to keep in mind that this response bias only makes it possible to provide a very rudimentary picture of the interest of NHRI in B&HR, which might not really be representative for the entire population of the NHRIs.

However, with these critical remarks it must also be taken into account that the questionnaire did provide much information that can be viewed as moderately indicative for the relation between NHRIs and B&HR. The draft report actually does mention many interesting conclusions within the B&HR issues of interest of NHRI in B&HR issues, mandate, competences and areas of intervention, legal framework and needs and capacity building. However, the baseline study has never been finalized and much of the information must now be regarded as obsolete.

THE WORKING GROUP ON HUMAN RIGHTS & BUSINESS OF THE ICC

RELEVANCE OF THE WORKING GROUP

The WG on B&HR was the first experience of the ICC on NHRIs in creating a thematically based working group. It is therefore relevant to discuss what lessons can be learned from the experience especially in light of the fact that the WG on B&HR was successful in achieving its goals in many of its activities.

As discussed earlier in this report (*supra* section 3), the WG decided to implement activities within the frame of three mandate areas: strategic planning, capacity building and resource sharing, and agenda setting and outreach. However a number of activities or interventions done by the WG actually covered more than one mandate area, which means that listing the activities of the WG in accordance with the mandate areas risks repeating the same activities under more than one mandate area. This was the case with the list of activities reported to the ICC Bureau in May 2011, which made a clear overview difficult. So the list of activities below covers the period 2009 – 2011 for all three mandate areas, with their mandate areas indicated in brackets. Activities that were

planned for implementation starting in 2012 are not included.

- Reinforcement of the legitimacy of NHRI action on B&HR (mandate areas 1 and 3)
- Advocacy for reference to the role of NHRIs on B&HR in the final version of the Guiding Principles on Business and Human Rights by SRSG (mandate areas 1 and 3)
- Advocacy for reference in the revised version of OECD Guidelines for Multinational Enterprises to the role of NHRIs on the implementation of the guidelines (mandate areas 1 and 3)
- Planning of regional workshops WS on B&HR based on a developed ICC B&HR training module / programme including a guide book and promotion of bilateral cooperation among NHRI on B&HR (mandate areas 1 and 2)
- Visibility of NHRIs' role in B&HR on the Internet (mandate area 2)
- Dissemination amongst NHRIs and others of examples of NHRI best practices on B&HR (mandate area 2)
- Promote cooperation between NHRIs and UN Global Compact members through partnerships (mandate area 3).

The listing of activities as separate activities should, however, not obscure the fact that many of the activities are interconnected and interdependent. Therefore, the “reinforcement of the legitimacy of NHRI action on B&HR” can also be regarded as an important stepping stone for the process of advocacy both for including the role of NHRIs in the SRSG’s Guideline Principles, and for obtaining inclusion of the role of NHRIs in the OECD Guidelines for Multinational Enterprises. And all these activities can also altogether be viewed both as a huge effort to effectively brand the NHRIs to the OHCHR and to the HRC as key players in relation to B&HR. Finally the collected effort can also be seen as an internal awareness-raising of taking the role of NHRIs in relation to B&HR seriously and the need for each individual NHRI to ensure the necessary in-house capacities to fulfil this role. This means that the success and effect of one of these activities also have consequences for the other activities and that each of the activities has side effects that are important for the other activities.

Although the overall objective of the programme is not explicitly stated anywhere, with the benefit of hindsight, it can be said that this programme in fact had a two-fold overall objective. **The overall objective of the programme was to ensure international recognition of the role of NHRIs in relation to B&HR by key intergovernmental players, and at the same time to raise awareness among NHRIs on this role in relation to B&HR**

and increase NHRI competences on how to fulfil this role. Data gathered through the interviews validates this definition of the overall objectives. The initiative for conducting this process seems to have come from the DIHR, which had already developed a comparatively high level of competence and awareness in this field. However, the ICC was the only NHRI agency capable of achieving this objective as it represents the NHRIs at an international level and is thus suitable for relating to the external targets of the advocacy process. In this process the OHCHR has been a supporting ally for the NHRIs as documented in the files of the programme through its representatives’ participation in WG meetings and discussions. The overall objective of the programme must be seen as highly relevant for the ICC on NHRIs in order to ensure that the pertinent area of B&HR would achieve its role in the performance by NHRIs of the Paris Principles mandate.

The process of achieving international recognition for the role of NHRIs in B&HR was very timely, as international events in relation to the UN Guiding Principles and OECD Guidelines for MNEs put the issue directly on the international agenda. If the NHRIs and the ICC were to have any role around this issue it was an opportune time to bring the role, the potentials and the capacities of the NHRI to international attention. Among the NHRIs, the international agenda on B&HR did also increase the awareness of needing some basic principles for how the NHRIs could address the issue and

qualify and clarify the relation between the NHRI mandates and B&HR. The Copenhagen conference in 2008 opened the eyes of many NHRIs to the fact that B&HR was an emerging issue internationally and at the same time a new topic for most NHRIs.

However this opportunity was at the same time an important time constraint that put all the work of the WG under time pressure to provide input to aspects of the international process such as the development of the UN and the OECD Guidelines. Hence the WG had to emphasise or prioritise achievement of international recognition of its role within the field. And as discussed above, the WG did deliver its input “just in time” for the international processes. This does not necessarily mean that the WG did not prioritise awareness-raising and capacity-building, as the process leading up to the Biennial Conference in Edinburgh did also have the effect of increasing the understanding of NHRIs of the importance of becoming able to address HR&B, while at the same time increasing the international recognition of the role of NHRIs in the field of HR&B. However, it does mean that the timing of the international agenda tended to set the pace and priorities of the WG on B&HR. The following section will also discuss how this need to be “just in time” impacted the working modalities of the WG.

The emphasis on the international recognition of the role of NHRIs in B&HR should, however, not cloud the fact that all respondents unanimously mentioned the need for capacity-

building of NHRIs in the field of B&HR. The issue of capacity building was, nonetheless, to some extent overshadowed by the advocacy for international recognition.

THE WORKING GROUP AND THE ROLE OF DIHR

At the first WG meeting on B&HR in August 2009, DIHR was elected as Chair of the WG on B&HR and the Canadian Human Rights Commission was elected as Vice-Chair. The WG also decided that DIHR, as Chair of the WG, would provide a secretariat for the WG. The first WG meeting also began to decide on various issues regarding WG procedures or bylaws explicating the decision-making process in the WG, eligibility for participating in the WG, type and term of membership, possibility of granting observer status, role of advisors etc. These bylaws were further discussed at the second WG meeting. At the third WG meeting in March 2010 the bylaws were presented to the WG for adoption under the title “Working Method.”

The Working Method lays out the basic procedures for the WG such as language, composition, eligibility, selection process of members, resignation or termination of membership, officers and succession, decision-making process, meeting frequency, and public communications policy. However, important issues were not mentioned in the Working Method, such as deadlines for dissemination of documents among members, deadlines for translations, meeting language, how to disseminate documents to the public and

reporting to the ICC Chair. As these topics must be considered standard operating procedure issues, not including them in the bylaws of the WG left a margin open for misunderstandings and subsequent unproductive discussions. A further important subject was not included in the Working Method. The roles of the Chair and Vice-Chair respectively were not defined and Terms of Reference outlining their specific functions in the WG were not developed. The role of the Chair in providing a secretariat was not explicitly defined either. So the minutes of the first meetings refers to the establishment of a secretariat for the WG, yet but by not qualifying this status by terms of reference defining how this role should be fulfilled, a risk was left open for the secretariat to function more as a chair secretariat than a WG secretariat. In comparable administrative cultures and among mutually trusted institutions a cooperation may work despite the lack of formal ground rules, but in a WG composed of personas from across world regions with different styles of management, different administrative cultures and very different experiences on how and whom to trust--not developing elaborated formal structures for the standard operating procedures can invite future problems.

All respondents interviewed for the evaluation had highly complementary words for the work of the DIHR-provided secretariat function. It seems that the effective Chair/Coordinator function provided by DIHR did mark a change to a higher level of performance in the WG. All respondents described the secretariat, in the

person of the Coordinator, as the “driving force” of the WG. The value of DIHR’s contribution is explained in terms such as expertise, competence and experience on B&HR; motivating collaboration; appropriateness to push for the WG on B&HR in relation to international organisations; good at advancing key issues. Especially the expertise of DIHR on B&HR combined with the effectiveness of the secretariat in person of the Coordinator was seen by all the respondents as being crucial to having obtained the results.

The unanimous praise for the work of DIHR and its secretariat/Coordinator for the WG on B&HR should of course be seen in relation to a corresponding satisfaction with the results that were achieved by the WG, especially regarding the international recognition of the role of NHRIs in the field of B&HR.

It is apparent that the lack of a formal framework for the work of the secretariat left a space for initiatives by the Coordinator. This fact was a huge advantage especially in relation to the delivery of input to the OECD Guidelines, which was mainly an initiative taken by the Coordinator and confirmed by the WG. However, this also represents the reverse side of the effective collaboration of the Coordinator and the Chair, that some WG members may have felt that they had a slightly different understanding of the role of the WG and its members than were practised. The respondents to the interviews described the WG as a steering committee, which would confirm activities that already had been done (*fait accompli*) and only occasionally

be able to contribute to activities, and not as a group of cooperating NHRIs that upon common agreement would distribute tasks to each other and collectively plan the way ahead. In fact, study of the documentation of the WG seems to demonstrate that the WG at the initial meetings involved members in supporting activities (especially the Scottish HRC that supported the initial stages of the baseline study and of course contributed heavily to make the Edinburgh Conference possible) while during the later stages the WG seemed to evolve more and more into a Steering Committee. Thus, due to time pressure the WG became more like a steering committee confirming the developments rather than a working group trying to carry the weights together. The Chairing of the WG was very much results oriented at some expense to the working process.

If the WG on B&HR should have been a more inclusive and participatory WG it would have required much more time for team-building and confidence building, better and more elaborated ground rules, and probably meetings held more frequently than twice per year. The point is that the WG was a very results-oriented WG, eager to deliver the inputs for the international process “just in time,” which could only be done at the expense of focusing on a long term inclusive process for all involved in the WG. For instance it has been repeated several times to the evaluator that the OECD part of the advocacy was primarily a DIHR – initiative, which should be understood

as not really a concern of the WG. It seems that at least some of the WG members did not really feel ownership of this part of the advocacy process, while at the same time praising the initiative and especially the results. Similarly, in relation to the development of the training material, some members of the WG seem to have had concerns regarding the ownership of the training material being developed by DIHR in response to which DIHR has had to reassure the WG that that the ICC as a whole would have ownership of the training material.

Some of the respondents of the interviews pointed to room to improve the inclusiveness of the management of the WG, joint planning, team spirit, frequency of meetings, and overview and joint methodology for how to overcome the tasks as significant challenges in how the first two years of the WG activities were conducted. Unclear ownership of the process seems to have been an undercurrent in this period.

STRATEGIC ACTION PLAN & WG

The WG developed a Strategic Action Plan for 2010 – 12, which is attached as **Annex 2**. The Strategic Action Plan was structured as a list of activities to be performed within the three mandate areas as a “to do” list where each item is labeled with a priority of “high,” “medium” or “low,” which most probably indicates the perceived urgency of the matter at hand. The strategic action plan was, in other words, formally delivered as an output,

but because the plan does not provide much sense of direction and overall purpose with the envisaged activities, it seems to serve mostly as a checklist for keeping track of activities which the working group had agreed to conduct.

The baseline study never became the tool for providing input to the development of a strategic plan of action, which the ICC Steering Group had expected before the WG was established. The Strategic Action Plan was developed without the input from the baseline study and can be seen as a list of planned activities that the WG initially agreed to conduct.

Without a strategy plan the basic questions on the direction of the work of the WG remained unanswered. A plan would have outlined how the role of NHRIs in relation to B&HR could have been clarified, it would have analysed the international setting for achieving recognition of the role of NHRIs and it would have looked at the capacities of the NHRIs in order to plan for improvement. Hence the strategy plan would have identified the problems that the WG should concretely address, it would have selected priority issues and defined the goals to achieve and it would have mapped out strategies for achieving the results.

Timing is a key factor in any advocacy process. The invitation in May 2008 to the June roundtable meeting in Copenhagen refers to the “growing awareness of the role of corporations in the protection of human rights”

with specific mention of the appointment of the SRSG on B&HR and the establishment of the UN Global Compact. The inclusion in the WG programme of advocacy regarding the revised version of the OECD Guidelines for Multinational Enterprises (which apparently happened upon the suggestion of the DIHR WG chair) was an ambitious task, but also a very timely one. The WG decided to take this task on board at the WG meeting in Geneva in March 2010, just a month before the Terms of Reference for the review were to be decided by the OECD governments as a result of the decision from June 2009 to revise the Guidelines.

So, without a fully developed plan, the WG nevertheless decided to implement activities that together can be viewed as amounting to a programme. It is open for debate whether there was at some time an implicit understanding within the WG of an overall plan, as this is difficult to assess. However, given statements made by some WG members regarding lack of joint planning it would appear that not all members had a clear understanding of the direction of the WG at all times.

It can be discussed whether it would have been possible to develop a strategy plan at the relevant time. It would certainly have required time, patience and resources, on the part of all WG members, as it would necessarily have had to be the result of a collective working group that may also have involved the ICC Chair and other important stakeholders. But the WG

did not have the time and whether it could have found the necessary resources is highly questionable. But the necessary information for developing a strategic plan was available already in 2008, so only a lack of time and resources could justify embarking on such an ambitious process with no overall plan.

RESOURCES FOR THE WG

One of the initial aims of the WG was to develop a fundraising strategy, which seems never to have been realised aside from some initial considerations and listing of possible fundraising targets. So in the longer term the issue of fundraising remains unresolved. The needed resources would cover the expected action plan and address three areas: i) the Working Group's own administration (including needs for translation and interpretation); ii) Working Group core activities, and iii) project funding and partnership activities. However, a proper funding strategy--targeting potential donors and elaborating procedures for how the WG could approach donors, while avoiding potential conflicts of interest from private business corporation donors--was never realized.

The issue of funding the WG on B&HR was expediently resolved by Danida funding provided through DIHR for the first two years (2009 – 11) and funding from the Canadian Human Rights Commission for the subsequent two years (2012 – 14) as can be seen in section B of the strategic action plan (Annex 3). Hence, the resource issue was not resolved

by developing a proper funding strategy that would guide the WG on its path for securing longer term funding or at least indicate fundraising targets for NHRIs from less well funded institutions that would bring them beyond the traditional international funds for third world development. The issue is currently on the agenda of the WG.

A fundraising strategy was not developed during the first two-year period and hence the sustainability of the WG on a medium and long term perspective is not secure. However, the funding provided by DIHR was absolutely essential for the activities of the WG during the period of 2009 – 11.

THE WG MODEL

The WG on B&HR is the first example of a thematic WG in the structure of the ICC. It seems that the WG has managed to affirm its role as a body of expertise capable of coordinating the activities of ICC in relation to its topic. For the ICC the establishment of the WG was crucial for advancing the ICC agenda on B&HR. Hence the WG on B&HR was part of the ICC strategy and operational plan, which even detailed some of the initial side events in Geneva as WG activities. The ICC plan also indicated that the Biennial International Conference in Edinburgh would be dedicated to the topic of B&HR.

The Biennial International Conference in Edinburgh and the highly profiled keynote speakers and participants demonstrated that

the ICC had prioritized B&HR very highly and hence was a strong supporter of the WG on B&HR. For ICC the work of the WG on B&HR has raised its stakes in relation to the UN, as all international stakeholders now understand the importance of engaging with the ICC on B&HR. The advantages of having a thematic WG are the outreach to the regions, the possibility of including NHRIs in joint processes, the empowerment of NHRIs through inclusion into a thematic area, and the impact such a coordinated approach may have on structures outside the ICC.

Hence it seems to be reasonable to state that the WG model is recommendable also for other topics that the ICC may have interest in developing or strengthening. For known issues such WGs could become entities for coordination, networking and dissemination of information and strengthening of ownership on how to deal with the issue. If the topic is new, as in the case with B&HR, a WG could further be a nucleus for developing new ideas. However, as mentioned above, the WG on B&HR had to perform under a considerable time pressure. It takes time to build a WG that effectively cooperates, shares tasks, develops joint planning, etc. A more “steering committee” like WG model may, however, be an option to achieve strictly time-bound objectives.

However in either of the two cases, strong support of the ICC is important to make an ICC WG succeed, and the issue of funding needs to be dealt with at a fairly early stage.

ANNEX 1

LIST OF PEOPLE INTERVIEWED AND DOCUMENTS CONSULTED

INTERVIEWS:

Dr. Claire Methven O'Brien, Senior Advisor at the Danish Institute for Human Rights, former Secretary for the Chair of the Working Group on Business and Human Rights of the International Coordination Committee of the National Human Rights Institutions

Dr. Jonas Christoffersen, Executive Director at the Danish Institute for Human Rights, former chair of the ICC Working Group on Human Rights and Business

Ms. Katharina Rose, Geneva Representative of the International Coordinating Committee of the National Institutions for the promotion and protection of Human Rights

Prof. Alan Miller, Chair of the Scottish Human Rights Commission, former member of the Working Group on Human Rights and Business

Ms. Florence Jaoko, Commissioner at the Kenya National Commission on Human Rights

Ms. Myriam Montrat, Director General, Discrimination Prevention Branch; Canadian Human Rights Commission, member of the Working Group on Human Rights and Business

ALL DIHR PROJECT DOCUMENTS ON FILE:

G:\IMR\Human Rights & Business\Project - non conf\NHRI WG

DOCUMENTS DOWNLOADED FROM:

ICC on NHRI home page: <http://nhri.ohchr.org/EN/Pages/default.aspx>

ICC WG on B&HR: <http://nhri.ohchr.org/EN/Themes/BusinessHR/Pages/default.aspx>

Annual meetings of OECD National Contact Points:
http://www.oecd.org/document/53/0,3746,en_2649_34889_2512693_1_1_1_1,00.html

Paris Principles relating to the status of NHRIs: <http://www2.ohchr.org/english/law/parisprinciples.htm>

ICC WG on B&HR on the DIHR web-page:
<http://www.humanrightsbusiness.org/icc+working+group+on+business+and+human+rights>

ICC Bureau & ICC24 General Meeting May 2011
Geneva. ICC24 Progress Report on Strategic
Plan 2010-13/ Operational Plan 2010 - 11

ICC Strategic Plan 2010-2013, Draft #3

A/HRC/17/31: UN General Assembly. Human
Rights Council Seventeenth Session: “Report
of the Special Representative of the Secretary-
General on the issue of human rights and
transnational corporations and other business
enterprises, John Ruggie” <http://www2.ohchr.org/english/bodies/hrcouncil/17session/reports.htm>

A/HRC/RES/17/4. UN General Assembly.
Human Rights Council Seventeenth Session:
“Promotion and protection of all human rights,
civil, political, economic, social and cultural
rights, including the right to development.
Resolution adopted by the Human Rights
Council. <http://www.cfr.org/human-rights/un-human-rights-council-resolution-human-rights-transnational-corporations-other-business-enterprises/p27102>

OECD Guidelines for Multinational Enterprises
(2000 edition): <http://www.oecd.org/dataoecd/56/36/1922428.pdf>

OECD Guidelines for Multinational Enterprises
(2011 edition): <http://www.oecd.org/dataoecd/43/29/48004323.pdf>

ANNEX 2

EXTRACT OF THE REPORT ON THE 22ND ICC SESSION 22 – 27 MARCH 2009 REGARDING HUMAN RIGHTS BUSINESS WORKING GROUP

10. BUSINESS AND HUMAN RIGHTS

a) Report of the ICC Steering Committee on Business and Human Rights

Mr. Allan Lerberg Jørgensen of the Danish Institute for Human Rights (DIHR) mentioned that the DIHR was asked in October 2008 to look into the proposal of creating an ICC WG on Business and Human Rights. A Steering Committee was established with the following members: NHRIs of Togo, Venezuela, Denmark and a representative of the ICC Chairperson. Mr. Lerberg Jørgensen presented the Report of the Steering Committee.

b) Discussion

The ICC Chairperson thanked the Steering Committee for the work it has undertaken.

The Moroccan NHRI flagged that from 28 February to 1 March 2009, a seminar was held in Rabat, Morocco, on corporate social responsibility in the francophone area. He urged that the conclusions of that seminar be taken into account. He also urged that France's NHRI be part of the WG as it has published a major report on the subject.

The French NHRI flagged that no reference was made by the Steering Committee on the different legal traditions and that this should be done.

The Asia-Pacific Forum thanked the Steering Committee for its work. APF members support the establishment of the WG. He noted that the paper refers to the development of a strategic action plan, and acknowledged that this is a crucial first step. It would be important that the product of the ICC WG fulfills the needs of the ICC members. He flagged that it might be necessary to revisit the mandate of the WG. Finally, the significant resource implications for WG members were flagged.

Mr. Allan Lerberg Jørgensen replied that the Steering Committee was not assuming that all ICC members were able to engage on this topic, but that that does not imply that the ICC should not engage on the topic. The size of the WG is limited to be governable and resource efficient. He acknowledged that the mandate of the WG is open for revision.

The ICC Chairperson asked participants if there was support for the proposals of the Steering Committee. Consensus achieved.

DECISION:

6. The proposals of the ICC Steering Committee on Business and Human Rights are accepted as follows:
 - 6.1 An ICC Working Group on Human Rights and Business is established with the following mandate:
 - Strategic planning (facilitate the inclusion of business and human rights issues and provide for joint NHRI programming);
 - Capacity building and resource sharing (facilitate skills development of staff and provide a platform for NHRIs to exchange best practices and tools);
 - Agenda setting and outreach (facilitate the participation of the ICC and NHRIs in key debates at the international, regional and domestic levels in relation to business and human rights).
 - 6.2 The Working Group composition will initially consist of 2 NHRIs per region, in time raised to 3, for a 2-year term, as well as a representative of the ICC Chairperson.
 - 6.3 It would hold one annual meeting and additional ad hoc meetings. The annual meeting would coincide with the annual ICC meeting.
 - 6.4 It would report to the ICC Bureau twice per year.
 - 6.5 Projects and programmes such as training of NHRI staff would be funded on a stand-alone basis.
 - 6.6 Costs of NHRIs participating in the WG would need to be reimbursed on a needs-basis.
 - 6.7 The DIHR will coordinate the establishment of the WG in collaboration with existing Steering Committee members, the ICC Chairperson and regional chairs.
 - 6.8 The first meeting of the WG will be no later than 30 June 2009.

STRATEGIC ACTION PLAN



INTERNATIONAL CO-ORDINATING
COMMITTEE OF NATIONAL INSTITUTIONS
FOR THE PROMOTION AND PROTECTION OF
HUMAN RIGHTS (ICC)

ICC WORKING GROUP ON BUSINESS AND HUMAN RIGHTS

Strategic Action Plan & Funding Strategy 2010-12

DRAFT

A. STRATEGIC ACTION PLAN

In line with the Proposal for the establishment of a NHRI Working Group on Business and Human Rights approved by the ICC Bureau in March 2009, this document outlines activities and targets within the following three areas: i) Strategic Planning; ii) Capacity Building and Resource Sharing; iii) Agenda Setting and Outreach.

I. STRATEGIC PLANNING.

Facilitate the inclusion of business and human rights issues into baseline research and strategic planning of NHRIs, and provide a platform for regional and international collaboration on joint NHRI programmes

ACTIVITY / TARGET	DESCRIPTION	PRIORITY (HIGH, MEDIUM, LOW)
Baseline Survey	Baseline Survey Questionnaire to be distributed to all NHRIs Baseline Survey Report to be tabled before ICC and disseminated amongst ICC members and stakeholders	High
NHRI Mandate	Undertake steps to reinforce the legitimacy of action on business and human rights as core element of the mandate of NHRIs, including <ul style="list-style-type: none"> • develop a position paper on NHRI mandate and business and human rights, with a view to presentation / adoption at ICC Conference 2010 	High
Mapping Regional Legal Frameworks	Undertaking research into the applicable regional standards in the area of business and human rights	Medium
Regional Seminars Programme	Develop proposal for series of seminars for NHRIs in each ICC Region inter alia to review violations, identify regional priorities, and coordinate views on strategic lines of investigation litigation, and identify possible funders.	Medium

II. CAPACITY BUILDING AND RESOURCE SHARING

Facilitate skills development of NHRI staff in relation to business and human rights issues and provide a platform for NHRIs for the exchange of expertise and best practices and for the joint development of tools and materials.

ACTIVITY / TARGET	DESCRIPTION	PRIORITY (HIGH, MEDIUM, LOW)
Web platform	Establish web platform for the Working Group, as a resource for NHRIs, supporting the sharing of tools, lessons learned, and to facilitate collaboration, regionally and internationally. The website should be accessible in different languages.	High
Best Practices	Compile existing best practices of NHRIs on business and human rights and disseminate amongst NHRIs and beyond	Medium
Business and Human Rights Training Kit	<p>Develop a modular training kit specifically focused on NHRIs, and allowing for regional adaptation (e.g. to focus on regional priorities, such as privatized services, dialogue facilitation modules). The training kit can include:</p> <ul style="list-style-type: none"> • Benchmarks for NHRIs: Develop set of benchmarks of success for NHRIs to help them identify their focus and priorities in the business and human rights area • Skill-base Grid: Develop a tool mapping human resource needs for Business and Human Rights work within individual NHRIs • Develop a tool to support NHRIs in identifying relevant stakeholders in the business and human rights area • Develop a National Baseline Assessment template to guide individual NHRIs in assessing the adequacy of national frameworks in relation to business and human rights 	High
Business and Human Rights NHRI-Network	Establish a wider network of NHRIs interested in the Business and Human Rights area, beyond members of the Working Group	Low
Bi-lateral and multi-lateral cooperation between NHRIS	Produce briefing note on potential for collaboration between NHRIs (e.g. Memoranda of Understanding between Mongolian and South Korean NHRIs).	Medium

III. AGENDA SETTING AND OUTREACH

Facilitate ICC and NHRI participation in key domestic, regional and international developments in the business and human rights field, including in relation to legislation, treaties, soft law mechanisms and institutional developments. Provide support for ICC and NHRI outreach to relevant domestic, regional and international stakeholders including governments, UN bodies and other multilateral institutions, business communities and civil society.

ACTIVITY / TARGET	DESCRIPTION	PRIORITY (HIGH, MEDIUM, LOW)
Events & seminars	Organise two public events per year to raise the profile of NHRIs amongst relevant stakeholders in relation to business and human rights	High
UN Special Representative on Business and Human Rights	Produce draft submission to UNSR 2010 report, if possible for adoption by ICC Bureau	High
Treaty Monitoring Bodies / regional mechanisms	Take steps to heighten awareness of TMBs / regional mechanisms on the potential role of NHRIs in relation to business and human rights including <ul style="list-style-type: none"> • Develop a position paper for presentation to UN Treaty Monitoring Bodies / regional mechanisms on NHRIs and business and human rights 	High
UN Special Procedures	Take steps to heighten awareness and recognition by UN Special Procedures of the potential role of NHRIs in relation to business and human rights issues including <ul style="list-style-type: none"> • Submissions to 2 or more Special Procedures on behalf of the Working Group 	High
UN Global Compact	Undertake activities to raise the profile and understanding of the functions of and possibility of partnerships with NHRIs with UN Global Compact members	High

OECD	Feed into upcoming review of OECD Guidelines for Multinational Enterprises	High
ICC Conference 2010	Support planning for ICC Conference 2010	Medium
Supporting national-level agenda setting and outreach	Produce materials to support advocacy at national level by individual NHRIs on business and human rights issues including <ul style="list-style-type: none"> • Develop briefing notes / issue papers for NHRIs on right to food and right to water and sanitation 	Medium
Regional NHRI hubs	Use NHRI WG web portal to establish hubs to facilitate regional cooperation between NHRIs	Medium

B. FUNDING STRATEGY

FUNDING CATEGORY	ITEM	PROPOSED / CONTRIBUTOR	2009-10	2010-11	2011-12	2012-13
Core funding	Core administration	WG Chair	DIHR	DIHR	CHRC	CHRC
	Translation of documents	ICC Chair	CHRC	? CHRC / NZHRC	?	?
	Other core activities (e.g. relevant submissions on behalf of WG / ICC, briefing notes, dissemination)	WG Chair	DIHR	DIHR	CHRC	CHRC
Working Group Meetings	Annual meetings* (2)	WG Chair	DIHR	DIHR	CHRC	CHRC
	Telecons (2)	WG Chair	DIHR	DIHR	CHRC	CHRC
Outreach	WG public events (2)	WG Chair	DIHR	DIHR	CHRC	CHRC
Projects	Baseline Survey	-	SHRC	DIHR		
	Developing NHRI training module on business and human rights	-		DIHR		
	Roll-out of NHRI Training module on business and human rights	-			?	?
	Regional seminars			?	?	?

*Subject to coverage of own participation costs by WG members on a capacity basis

** Project financing should be allocated per project according to interest and capacity of WG members and partners

Adopted by ICC Working Group on Business and Human Rights

DATE.

ANNEX 4

EDINBURGH DECLARATION



INTERNATIONAL CO-ORDINATING
COMMITTEE OF NATIONAL INSTITUTIONS
FOR THE PROMOTION AND PROTECTION OF
HUMAN RIGHTS (ICC)

THE EDINBURGH DECLARATION

1. The Tenth International Conference of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights addressed the theme of **Business and Human Rights, the role of national human rights institutions (NHRIs)**.
2. The Conference took place in Edinburgh, Scotland between October 8 –10, 2010 and was hosted by the Scottish Human Rights Commission (SHRC) in cooperation with the Office of the High Commissioner for Human Rights (OHCHR), the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) and its Working Group on Business and Human Rights.
3. Participants thanked the SHRC, OHCHR, the Scottish Parliament and the Scottish and UK Governments for their support and dedication to the organisation of the Conference. The Conference was also enriched by the participation of the Advocate-General for Scotland, UK Government and by the Justice Secretary, Scottish Government.

4. Participants welcomed the statements of the United Nations High Commissioner for Human Rights, Navanethem Pillay, the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (SRSG), Professor John Ruggie, former United Nations High Commissioner for Human Rights, Mary Robinson and Professor Olivier Maurel. Keynote addresses were followed by interactive and productive discussions which reflected the experience, diversity and perspectives of all NHRIs as well as those of non-governmental, trade union and business representatives.
5. Non-governmental organisations (NGOs) from around the world organised a pre-conference NGO Forum. The Forum delivered a highly constructive statement to the Conference which enriched the debate, participants' collective thinking and deliberations.

The Tenth International Conference adopted the following Declaration:

6. **Reaffirming** the inherent dignity, equal and inalienable rights of all human beings, the need for universal and effective recognition of human rights and fundamental freedoms, and to promote social progress and better standards of living, as expressed in the Universal Declaration of Human Rights; further reaffirming the universality, indivisibility, interdependence and interrelatedness of all human rights as expressed in the Vienna Declaration and Programme of Action on Human Rights.
7. **Welcoming** the UN Human Rights Council's continuing engagement with the business and human rights agenda, and noting its support by consensus for the "protect, respect, remedy" framework proposed by the SRSG. The greater understanding, clarity and consensus about the appropriate roles and responsibilities of states and business, and the right of victims to access remedy as regards corporate abuses was welcomed by participants.
8. **Noting** that the Human Rights Council has tasked the SRSG with operationalising and promoting the framework and welcoming the opportunity for NHRIs' and other actors' involvement in the consultation process and in the development of the Guiding Principles.
9. **Acknowledging** that businesses can have impacts on human rights. National and transnational business activities can generate harm on human rights. In certain regions inappropriate models of privatisation have prevented the realisation of human rights. However, the responsible operation of business and effective regulation can also contribute to promoting respect, protection and fulfilment of human rights.

10. **Noting** with concern that weak governance systems, national legislation and implementation mechanisms cannot effectively prevent the negative impacts of globalisation on vulnerable societies, cultures, economies and peoples, including indigenous peoples
11. **Reaffirming** the importance of effective and independent national human rights institutions with broad mandates to promote and protect all human rights, in accordance with the **Principles relating to the status of national institutions under UN General Assembly Resolution 48/134** 20 December 1993 (Paris Principles).
12. **Emphasising** the important role national human rights institutions can play in addressing corporate-related human rights challenges at the international level, including through the ICC, and at the regional and national levels.
13. **Welcoming** the valuable discussions of the Conference's Regional Working Groups addressing human rights and business through the four thematic areas of: child labour and young workers (Africa); safe and healthy environment (Americas); human trafficking (Asia Pacific); and privatisation and public procurement (Europe).
14. **Acknowledging** the independence and autonomy of all NHRIs, the diversity of their regional and national contexts and the need to define strategic objectives and programmes informed by local circumstances and resources.
15. **Noting** that the Paris Principles oblige States to ensure adequate funding and an appropriate infrastructure to NHRIs to fulfil their mandates including human rights and business and urging states and the international community to cooperate to achieve this end.

The NHRIs here assembled agree:

16. To actively consider how their mandates under the Paris Principles can be applied, or where necessary strengthened, in order to promote and protect human rights as they relate to business, including through:
 - monitoring states' and non-state actors', including businesses' compliance with human rights
 - advising all relevant actors on how to prevent and remedy such abuses
 - providing and/or facilitating access to judicial and/or non-judicial remedies, for example by supporting victims, handling complaints and/or undertaking mediation and conciliation

- conducting research and undertaking education, promotion and awareness-raising activities
 - integrating human rights and business issues when interacting with international human rights bodies, including UN treaty bodies, Special Procedures, the Human Rights Council and the Universal Periodic Review, as well as regional human rights mechanisms.
17. To proactively consider new ways in which NHRIs' mandates can be used to advance the "protect, respect and remedy" framework while recognising the need for its further development and alignment with international human rights standards.
18. To call on the SRSG in his Guiding Principles to recognise the centrality of NHRIs in business and human rights under all three pillars of the "protect, respect, remedy framework".
19. To urge States to identify and establish a properly resourced focal point within the UN to provide guidance and support capacity building as recommended by the SRSG (UN Doc A/HRC/14/27).
20. To broaden NHRIs' activities by means such as:
- creating focal points on business and human rights within their institutions and developing platforms to convene dialogue among relevant actors
 - engaging with organisations and stakeholders at national, regional and international levels, such as business, including small and medium sized enterprises (SMEs), trade unions, civil society and the UN Global Compact
 - supporting victims of corporate abuses, and facilitating their access to effective judicial and non-judicial remedies
 - empowering human rights defenders and securing the effective participation of civil society in business and human rights, in particular vulnerable groups.
21. To renew efforts to work collaboratively with NGOs and civil society in implementing NHRIs' mandates as regards business and human rights, including through sharing knowledge and expertise and institutionalising exchanges and interactions.

Further agree that NHRIs will:

22. Undertake activities, commencing in 2011, in coordination with the ICC Working Group on Business and Human Rights and with the support of the Office of the High Commissioner for Human Rights, including if possible a workshop on business and human rights in each ICC Region to be held during 2011.

23. Incorporate business and human rights in strategic plans and workplans in each NHRI and ICC Region.
24. Engage with and support the ICC Working Group on Business and Human Rights, and in all activities encourage participation from relevant stakeholders including government, legislatures, trade unions , business including SMEs, NGOs and civil society.
24. Report, including via Regional Chairs and the ICC Working Group, to ICC General Meeting in 2011 on regional, sub-regional and national activities on business and human rights.

Adopted on 10 October 2010
Edinburgh

ANNEX 5

QUESTION GUIDE

QUESTION GUIDE

Relevance	<p>NHRI PERSPECTIVE</p> <p>Did the NHRIs in the ICC agree on the need to achieve international recognition on the role of NHRIs in relation to B&HR? Were NHRIs interested in the field of HR&B?</p> <p>ICC PERSPECTIVE</p> <p>The objectives of the WG: To raise awareness / build capacities among NHRIs on B&HR and to achieve the international recognition on the role of NHRIs in the field of B&HR? Why did ICC need at WG on B&HR?</p> <p>HR PERSPECTIVE</p> <p>Why would it be important for human rights to take business into consideration?</p>
WG Process	<p>DIHR AND THE WG (ROLE, VALUE)</p> <p>MEMBERS AND THE WG (ROLE, VALUE)</p> <p>ICC AND THE WG (ROLE, VALUE)</p> <p>PLANNING, TEAMBUILDING, INFORMATION, COMMUNICATION, WORKING LOGIC (NEGATIVE, POSITIVE, PLANNING, METHODS)</p> <p>THE ROLE OF WG: WORKING OR STEERING?</p> <p>VALUE OF WG IN RELATION TO THE ICC STRUCTURE (MODEL FOR FUTURE)?</p>
Results	<p>INTERNATIONAL RECOGNITION</p> <p>Edinburg Declaration UN Guidelines OECD Guidelines UNGC</p> <p>AWARENESS RAISING / CAPACITY BUILDING</p> <p>Regional forums Training material</p>

ANNEX 6

ADVOCACY PROCESS FOR INTERNATIONAL RECOGNITION

ACTIVITY	RELEVANCE	OBJECTIVE	OUTPUT	OUTCOME	IMPACT
Baseline study	To understand the practice and awareness of NHRIs in relation to B&HR	To provide input for strategy plan	Unfinished draft baseline study	Contributed to raise awareness among NHRIs on their needs, role or non-role in relation to B&HR	
Side event to HRC session June 2009	Relevant to expand the contribution of the NHRIs in the UN Guidelines to all three pillars of the "Protect, Respect, Remedy" framework	- Raise awareness or NHRIs on B&HR - Underscore the role of all NHRIs on the field of B&HR	Statement by the ICC of NHRIs to the HRC, which contributed to the report to the report by the SRSG to the HRC	Awareness has been raised among NHRIs on their role in the field of B&HR	Strengthened international position of NHRIs to pursue their Paris Principle based mandates relating to B&HR
Side event October 2009 on OHCHR consultation on B&HR			Statement delivered by the ICC Chair and Chief Commissioner of the Canadian Human Rights Commission to the OHCHR	The Paris Principle based mandated role of NHRIs in relation to the field of B&HR has been clearly defined in the Edinburgh Declaration by the NHRIs.	It can be expected that the clarification and international recognition of the role of NHRIs in relation to B&HR will increase the impetus of NHRIs to strengthen their capacities in the field.
Side event to HRC session May 2010	Clarify the role of NHRIs in relation to the field of B&HR	- To impact on the development and operationalizing of the UN "Protect, Respect, Remedy" framework	Introductory remarks of UN High Commissioner for HR & remarks by SRSG acknowledging the role of NHRIs in all three pillars of the "Protect, Respect, Remedy" framework	The role of NHRIs in relation to B&HR has been settled beyond further discussion in the Edinburgh Declaration in relation to the international community	
10th Biennial Conference in Edinburgh			- High level key note speakers contributed to clarify the role of NHRIs in relation to B&HR - UN, OECD and business participation increased their awareness on NHRI role - NGO input to conference - Edinburgh Declaration: NHRIs affirms and defines their Paris Principles based mandates in relation to B&HR	The SRSG's awareness of the importance and the potentialities of role of NHRIs in relation to B&HR has been increased A dialogue has been opened between OECD review and the NHRIs on the role of NHRIs in B&HR	

<p>6 NHRI's participates in a Civil Society consultation organized by OHCHR on behalf of the SRSG to provide input to framework. October 2010</p>	<p>Keep focus of the SRSG on the role of NHRIs in the field of B&HR</p>	<p>- OECD participated in a side event on the review of OECD Guidelines for MNE (an internal output: List of critical issues on Guidelines and recommendations for NHRIs) Constructive concrete dialogue with the SRSG on including the role of NHRIs in all three pillars of the "Protect, Respect, Remedy" framework</p>	<p>Inclusion of NHRIs under all three pillars of the final UN Guiding Principles and hence a success for the efforts done to achieve a formalized comprehensive role in relation to B&HR in the UN Guiding Principles</p>	<p>Inclusion of the role of NHRIs in the UN Guiding Principles impacts on the standing of NHRIs in relation to the review on OECD Guidelines on MNE International standing of the ICC has been improved</p>
<p>ICC comments on the draft of the UN "Protect, Respect, Remedy" framework</p>	<p>To impact on the final version of the UN "Protect, Respect, Remedy" framework</p>	<p>An ICC submission to the SRSG on the draft UN "Protect, Respect, Remedy" framework</p>		
<p>OECD participation at the Edinburgh Conference</p>	<p>Strengthen the role of HR in the revised version of OECD Guidelines and explicit recognition of the role of NHRIs by OECD. To inform the review process</p>	<p>OECD becomes increasingly aware of the role of NHRIs in B&HR following the Edinburgh Conference: the Declaration and inclusion of NHRIs under all three pillars of the UN Guiding Principles Provision of input to the revision process</p>	<p>New guidelines contain a coherent and mainstreamed reference to human rights that has been upgraded to a specific and concretized section. Most of the recommendations made regarding supply and value chains, definition of human rights, vulnerable groups, labor and precarious work, employee, worker, child labor, non-discrimination are part of the guidelines now.</p>	<p>Too early to be specific concerning impact, but the on going process of recognition of ICC by OECD will in combination with the improved Guidelines and the perspective of possible cooperation between NHRIs and the OECD National Contact Points for the Guidelines most certainly open new perspectives</p>
<p>Informal expert meeting at OECD January 2011</p>	<p>The guidelines are voluntary standards that act as codes of good conduct of MNEs. The OECD concentrates on most of the worlds' most advanced countries.</p>	<p>2 submissions focusing on the role of NHRIs and ICC on various issues in the field of B&HR, various human rights that the guidelines should explicitly address, and comments on the transparency and inclusiveness of the review process</p>	<p>A "Third Tier Resource Document" includes ICC recommendations that were omitted in the proper Guidelines. An MoU is under way between OECD and ICC and establish formal channels of communication</p>	
<p>2 ICC submissions to the OECD Guideline review</p>	<p>To impact on the review of the guidelines to achieve recognition of the role of NHRIs and to enhance human rights in the guidelines</p>			

<p>Advocacy toward Canada, Denmark, Netherlands, France, Norway to recommend explicit reference to NHRI as a distinct category under the Guidelines</p>	<p>The terms of the review of the guidelines did not encompass the role of NHRIs; hence recognition of NHRIs under the guidelines required a specific political decision by OECD states.</p>	<p>To achieve an explicit reference to NHRIs as a distinct category under the Guidelines</p>	<p>The governments recommended the explicit reference</p>	<p>The recommendation was not agreed upon by member states</p>	
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