

DELEGATION OF THE EUROPEAN UNION TO THE UNITED NATIONS OFFICE IN GENEVA

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Classification:
UNCLASSIFIED

To: *Lotte KNUDSEN – Managing Director Human rights - Global and Multilateral issues*

Subject: Business and Human Rights - Continued push at the UN level; EU expected to contribute further

Summary: *Pressure for progress on Business and Human Rights continues to come from various parts of the UN human rights machinery: OHCHR, UN Working Group on Business and Human Rights, UN Intergovernmental Working Group to elaborate a legally binding instrument on Transnational Corporations and other Enterprises with respect to Human Rights, and the UN Committee on Economic, Social and Cultural Rights. This note provides an update, and identifies areas where the EU is expected to contribute.*

[REDACTED]

- 14 February: extended deadline for written contributions on the OHCHR Accountability and Remedy Project on "State-based non judicial mechanisms", which the EU committed to support in its Council Conclusions of 20 June 2016;
- 16 February: oral intervention in meeting convened by the UN Working Group on Business and Human Rights with States;
- 21 February: opportunity for HQ to participate in the CESCR General Discussion on the draft general comment on "State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities", or alternatively to send speaking points by 14 February to be coordinated with EU Member States. [REDACTED]
- 28 February: deadline for response to the Working Group's questionnaire on cross-border cooperation pursuant to resolution 32/10, with EUMS enquiring about a possible common EU contribution; in the meantime, opportunity to transmit names of useful interlocutors to the Secretariat.

In addition, EUDEL would appreciate an update on steps taken to prepare ahead of the third session of the Ecuador-led UN Intergovernmental Working Group to elaborate a legally binding instrument on Transnational Corporations and other Enterprises with respect to Human Rights – including developing positive proposals / red lines. [REDACTED]

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Details:

1. Pressure for progress on Business and Human Rights continues to come from various parts of the UN human rights machinery: OHCHR, UN Working Group on Business and Human Rights, UN Intergovernmental Working Group to elaborate a legally binding instrument on Transnational Corporations and other Enterprises with respect to Human Rights, and the Committee on Economic, Social and Cultural Rights. Further to recent reports Ares (2016) 5945578 of 14 October 2016, Ares (2016) 6100922 of 25 October 2016 and Ares (2016)6221879 of 1 November 2016, this note provides an update, and identifies areas where the EU is expected to contribute. The Council Conclusions on Business and Human Rights of 20 June 2016 have confirmed the leading role of the EU in this field, [REDACTED]

I – UN Working Group on Business and Human Rights

2. The UN Working Group on Business and Human Rights is expecting a response by 28 February to a questionnaire to prepare, pursuant to resolution 32/10, "a study on best practices and how to improve on the effectiveness of cross-border cooperation between States with respect to law enforcement on the issue of business and human rights". The study is due to be presented at HRC35. Some EUMS in Geneva enquire on the possibility to have a joint EU response. The Secretariat of the Working Group informed EUDEL that the following interlocutors have already been contacted: DG JUST [REDACTED] EUROJUST [REDACTED], the European Judicial Network [REDACTED], EUROPOL [REDACTED] and CEPOL [REDACTED]. The Secretariat asked about possible additional useful contacts for this study.

3. The UN Working Group will convene on 16 February a regular meeting with States as part of its week-long session from 13 to 17 February – most of the session is otherwise private. This remains the opportunity for the EU to provide updates on policies, regulations and initiatives.

4. The UN Working Group on Business and Human Rights is, separately, involved in the implementation of resolution 31/36 requesting the High Commissioner "*to produce a database of all business enterprises involved in the activities detailed in paragraph 96 of the afore-mentioned report, to be updated annually and to transmit the data therein in the form of a report to the Council*". The report was initially due to be presented at HRC34. However, the High Commissioner recommended to the Council to defer for one time only its consideration of his report. Following a discussion by the HRC bureau on 31 January, the matter will be brought forward at the organisation meeting of 13 February with the purpose of taking a decision on the High Commissioner's request for a submission no later than the end of December 2017.

II – UN Intergovernmental Working Group to elaborate a legally binding instrument on Transnational Corporations and other Enterprises

5. Following its participation in the second session of the UN Intergovernmental Working Group to elaborate a legally binding instrument on Transnational Corporations and other Enterprises with respect to Human Rights in October 2016, the EU was involved in the finalisation of the Chairperson-Rapporteur's report - now publicly available [see attachment]. [REDACTED]

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