

Report: Expert meeting on business and human rights, 29 January 2018

Summary:

The EEAS convened an expert group meeting on 29 January 2018 with the participation of EU Member States' experts from capitals and permanent representations ([REDACTED] and COM colleagues (DG GROW, TRADE, JUST, DEVCO, EMPL, SL) to brainstorm on strategic approaches to business and human rights. The meeting touched upon two building blocks – implementation of the UN Guiding Principles (exchange of best practises regarding development and implementation of National Action Plans, co-operation with civil society and business; concept of the due diligence, possibility of an overarching EU Action Plan on Business and Human Rights) and the way forward in multilateral fora. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Detail:

- EU Member States highly appreciated exchange of views on the preparation and implementation of the NAPs [REDACTED] [REDACTED] as regards co-operation and involvement of other line Ministries and the need for a long term vision [REDACTED] asked for a mapping to be carried out at the EU level to identify existing practises regarding NAPs , [REDACTED] suggested to a develop a toolkit containing lessons learned which could potentially encourage remaining EU Member States to develop their NAPs.

- Member States again raised the question of an EU Action Plan on BHR. They clearly showed their interest for an action at the EU level, and the need to develop a vision [REDACTED] however highlighted that the potential Action Plan on BHR should not become aim of itself (i.e. only ever a commitment with no date for delivery), but rather contain sharing of best practises in various strands (such as due diligence, responsible business conduct) and sectoral initiatives (eg garment industry). MS were also interested to learn more on the progress of the Action Plan on Corporate Social Responsibility. [REDACTED] highlighted that a lot has been done by the EU and EU MS on the implementation of the UNGPs, and there is a need for better communication on the work to date. They considered the Corporate Social Responsibility, Business and Human Rights files more through the prism of Sustainable Development Goals and referred to developments ongoing with regard to the multi-stakeholder platform and a possible Working Group on CSR. [REDACTED] also supported the idea of a toolkit to be developed at the EU level.

- [REDACTED] the need to go beyond the "false dichotomy" between the UN Guiding Principles and further legal developments as the UN Guiding Principles do foresee the need for regulation, and envisage a smart mix of voluntary and mandatory measures. Referring to the "Recommendations" paper produced by UNSRSG Ruggie at the end of his mandate [circulated to participants before the meeting] including the need for further legalization at the international level, she highlighted the need to address the existing protection gap which leads to the lack of clarity about both the normative and enforcement standards that apply where business causes or contributes to serious human rights harms particularly in areas of heightened risk where victims lack access to local remedy. Prof. Ruggie also pointed to the possibility of drafting a new international legal instrument, possibly with the UN Convention against Corruption as a model. [REDACTED]

Based on its own experience (e.g. EU Directive on disclosure), the EU could consider offering a different proposal in the international arena [REDACTED]

[REDACTED] Regarding the 2030 Agenda, [REDACTED] respect for human rights to be transformative in the way business companies are approached to implement the SDGs.

- [REDACTED] the push for a treaty is driven by the fact that victims often lack access to remedy in a situation where European and other companies have probably not done enough for prevention, notably in sectors such as textile, extractive and agriculture. There is also a business case for a treaty which would allow harmonization and standardization. Unfortunately, the treaty process was hijacked with a political and ideological agenda – supported by States known for their poor human rights records - with the EU in a disadvantageous position as it did not come first. [REDACTED]

[REDACTED] possible options of a legally binding instrument, ranging from a traditional treaty to be adopted and implemented by the Governments with reporting requirements to the possibility of an international court. The scope should apply to all companies and could include elements where the EU has made a substantial progress, for example, jurisdiction (Brussels Regulation). Certain important elements within the UNGPs/pillar three (access to remedy) needs to be addressed, including disclosure of information, liability of parent company for failing to exercise due diligence over enterprise (with a line to be drawn as a parent company cannot be responsible for everything in the supply chain), international co-operation and mutual legal assistance, as well as legal aid and funding for victims. Developing only a "precision tool" would not guarantee the full protection of victims.

[REDACTED]

[REDACTED]

- In conclusion, EU Member States found the expert meeting to be very useful and asked for meetings to be continued in this format, also discussing different thematic topics in the area of business and human rights.

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]