

Business and Human Rights Implementation Group

Wednesday 9 October, 2019

11am,

Ballroom, Iveagh House

Minutes

Chair: Ms Breege O'Donoghue

- 1. Welcome by Chair**
- 2. Agree previous minutes, apologies and matters arising**

Ms Breege O'Donoghue, Chair of the Implementation Group, welcomed the Implementation Group and gave members the opportunity to comment on the minutes of the previous meeting (3 April 2019). The minutes were adopted.

Ms O'Donoghue then handed over to **Ms Martina Feeney Department of Foreign Affairs and Trade (DFAT)** to discuss the action points from the last plenary meeting under matters arising.

Ms Feeney noted that at the previous meeting the Group was invited to nominate additional members. The nominations were reviewed by the Human Rights Unit (HRU) with due regard to the need to ensure gender balance and stakeholder balance in the composition of the Group. A submission has been made to the Tánaiste for approval and a decision is expected in the coming weeks.

Ms Feeney added that another action point from the previous meeting was the formation of the three sub-groups. The Group was invited to nominate the chairs of the sub-groups. The delay in setting up the groups was due to an internal issue. The Chairs for the Pillar 2 and Pillar 3 sub-groups have been invited and once confirmed will be shared with the plenary. The Chair of the Pillar 1 sub-group will be announced in the coming weeks.

Finally, **Ms Feeney** asked the members for permission to share their email addresses within the Group and the sub-groups. Should they have any objections they should inform HRU.

Ms O'Donoghue opened the floor for interventions

Ms Fiona Crowley (Amnesty International) asked whether the members of the sub-groups will also sit on the Implementation Group.

Siobhan Curran (Trócaire) asked whether organisations could sit on two different sub-groups.

Responding to these questions **Ms Feeney** said that the members of the sub-groups will also be in the plenary. Members have been asked to select only one sub-group to maintain balance between the different stakeholder groups. To ensure that all members are aware of progress in the work of the different groups, the sub-groups will be reporting to the plenary.

3. Presentations by:

Ms O'Donoghue welcomed Ms Mary Lawlor, Ms Zara Porter and Mr Liam Reid, who attended the meeting to deliver presentations on a range of different topics relating to business and human rights.

a. Mary Lawlor on research by PhD candidate Benn Hogan on Irish Companies and Business and Human Rights

Ms Lawlor opened her presentation by drawing attention to the situation of human rights defenders who face threats, harassment and violence for defending human rights in the context of business activity. **Ms Lawlor** proceeded to present the findings of research conducted by Benn Hogan (M. SC. Development Practice, TCD- UCD) on *Benchmarking Business & Human Rights in Ireland*. The research focuses on the Corporate Responsibility to Respect Human Rights. It identifies 22 companies and applies the Corporate Human Rights Benchmark's (CHRB) "Core UNGP indicator assessment" methodology to assess the extent to which they comply with the UNGPs. The research focused exclusively on publically available information, while the businesses at issue were selected as a sample group on the basis of criteria including that at least 50% of their revenue originated outside Ireland and that the companies are publically listed. Summarising the findings of the research, **Ms Lawlor** noted that the scores were low across the board and identified human rights due diligence and remedy as key areas of concern; no company in the same disclosed a human rights due diligence process and no company had a formal commitment to remedy the adverse impact of its activities to individuals, workers or communities. **Ms Lawlor** noted that the findings demonstrated a lack of awareness by companies of their human rights obligations, although she stressed that companies may have other measures in place that are not known to the researcher.

Ms Lawlor ended her presentation by calling on Ireland to ratify the UN treaty on business and human rights and introduce human rights due diligence as a requirement for all procurement contracts, in line with the National Plan and the UN Guiding Principles.

Q&A

Ms Rhona Murphy (IBEC) enquired about the findings of the research in relation to remedies, noting that the low scores were surprising given that companies are required by law to provide remedies and companies of such a scale already have mechanisms in place to address complaints.

Ms Lawlor responded that it is important to stress that the absence of public disclosure does not mean a company is not meeting its responsibilities, legal or otherwise. However, the methodology, relies on publicly available information both to ensure transparency and replicability of the research, and to align with the Corporate Human Rights Benchmark's theory of change, which involves increasing corporate transparency on human rights.

Theme C (Remedies & Grievance Mechanisms) of the CHRB Core UNGP Indicator Assessment consists of three indicators

- C.1: Grievance channels/mechanisms to receive complaints or concerns from workers
- C.2 Grievance channels/mechanisms to receive complaints or concerns from external individuals and communities
- C.7 Remedying adverse impacts and incorporating lessons learned

Further information is available on the methodology (see corporatebenchmark.org).

Mr Simon McKeever (Irish Exporters Association) requested a copy of the presentation and information about the benchmark used.

Ms Emma Kerins (Chambers Ireland) noted that companies have measures in place to address human rights related issues but may not be using the right language to describe them.

Ms Lawlor responded that the indicators require specific commitments and language on the part of companies.

Ms Celine McHugh (D/Business, Enterprise and Innovation) welcomed the research and enquired whether the results have been shared with the businesses concerned. She noted that it would be important to have a dialogue with business and help them understand. **Ms McHugh** also enquired whether the benchmark is being used in other jurisdictions. It would be useful to see how some counterparts are performing.

Ms Lawlor responded that so far the research has focused on Ireland due to limited resources. The Danish Institute also does a lot of research in this area. Further, she added that the Scoresheets have been shared with the companies concerned, and a right of response was afforded to all companies in the sample. It is intended to share the full report with the companies in advance of its public launch.

The benchmark has been trialled in a number of other EU jurisdictions, the findings of these have not yet been made publicly available. Further information on these projects may be available from the Corporate Human Rights Benchmark.

Mr Tomás Sercovich (BITC) welcomed the research, which he described as interesting and thorough. He added that it is disappointing that there is a lack of understanding by companies surrounding human rights.

Ms Feeney responded to Ms Lawlor's recommendations to Ireland. In relation to human rights due diligence, she drew attention to Action No.14 in Annex 1 of the National Plan, which relates to procurement and human rights standards. Furthermore, the initial priorities for the implementation group include the promotion of human rights due diligence. In relation to the proposed binding treaty, **Ms Feeney** noted that the draft instrument is under consideration by the Inter-

Governmental Working Group on Transnational Corporations and other business enterprises (IGWG), which was established on foot of a resolution sponsored by Ecuador and South Africa. Ireland is advocating for greater engagement by the EU with the negotiations process. The EU is in the process of conducting a legal analysis of the revised draft instrument but the analysis will only be published after the new EU Commission is formed. **Ms Feeney** also expressed concern at reports that civil society is being excluded from the next round of negotiations and emphasized that the negotiations should be inclusive.

Ms Feeney also asked why the research focused on companies with 50% of their activities conducted outside Ireland. One of the strengths of the UNGPs is that they apply to all business enterprises, whether local or transnational. It is the proposed instrument's exclusive attention to transnational corporations that has been a cause for concern for Ireland.

Ms Lawlor responded that the specific criteria were selected to identify a restricted sample of multinational corporations given the international focus of the researcher's M.Sc. program. **Ms Lawlor** further added that this was just initial research. Additionally, many of the human rights violations globally are committed by transnational companies.

Mr McKeever asked Ms Feeney about the EU's policy on business and human rights.

Ms Feeney responded that the EU has been encouraging member States to launch national action plans. There is also a number of relevant EU Directives, including for instance on non-financial reporting and conflict minerals.

Ms Lawlor remarked that certain countries have introduced legislation to ensure compliance with human rights, for example in France there is the vigilance law, while Switzerland introduced responsible business initiatives in 2018. The UK has also introduced the Modern Slavery Act.

Mr Shane Darcy (NUIG) encouraged Ireland to participate in the negotiations on a binding treaty and asked whether Ireland viewed the revised draft as an improvement over the zero draft. He also asked whether civil society has asked Ireland not to participate on account of their exclusion from the negotiations.

Ms Feeney responded that the scope of the treaty has been improved. In relation to civil society participation, Ms Feeney stressed that one of the strengths of the UN system is participation- human rights defenders and civil society need to be involved and be allowed to impart their expertise.

Ms Siobhan Curran (Trócaire) welcomed the research and the presentation. In relation to mandatory due diligence, **Ms Curran** mentioned that only a small percentage (22%) of companies that have signed up to the UN Global Compact have introduced human rights due diligence. She further voiced support for the call for mandatory due diligence, as recommended by the baseline study. In relation to the proposed binding treaty, **Ms Curran** welcomed the efforts by Ireland to encourage EU engagement but would like to see an Irish position. In relation to civil society participation, though she was aware that certain States were opposed to it, to the best of her knowledge it would not be affected in the IGWG's next meeting.

Mr David Joyce (ICTU) asked if Ms Lawlor could provide some more information about the benchmark used for the purposes of the assessment and the standing of CHRB.

Ms Lawlor replied that the indicators used started in the UK and were developed over 3 years. Australia has started using them.

Fiona Crowley (Amnesty International) noted that Eamon Gilmore will be addressing the formal launch of the report.

- b. Zara Porter, Northern Ireland Human Rights Commission's Business and Human Rights Forum on developments in Northern Ireland**

Ms Porter gave an update on the work of the Business and Human Rights Forum of the Northern Ireland Human Rights Commission (NIHRC). The NIHRC was established on the basis of the Belfast (Good Friday) Agreement. It regularly cooperates with the Irish Human Rights and Equality Commission (IHREC). In relation to the business and human rights agenda, NIHRC launched a paper in 2012 on the rights of older persons titled “In defence of dignity.” The Commission has also launched a report on procurement and human rights. The Business and Human Rights Forum was launched in 2015. It is a multi-stakeholder platform that meets 3 times per year. It allows Government, business, and civil society to engage on business and human rights. It is an inclusive and member-led body. Its membership is cross-country and includes SMEs, NGOs and is chaired by business representatives. The Forum has its own Action Plan, drafted and implemented by its members. The Plan recognises the existing framework and is modelled on the 3 pillar framework of the UNGPs. **Ms Porter** added that the Forum is launching a business and human rights ambassador programme to equip students with skills and improve knowledge of business and human rights. Events will be organised in conjunction with Ulster University and Queen’s University Belfast. **Ms Porter** concluded by mentioning that the Department of Finance (Northern Ireland) has launched human rights guidance in public procurement. This was done in consultation with the Commission. The note can be accessed [here](#).

Q&A

Ms Kerins (Chambers Ireland) asked whether, in the context of preparing the guidance note, consideration was given to SMEs and how they could comply.

Ms Porter responded that there was consideration and this is reflected in the note, offering to provide a link to the report (accessible [here](#)).

Ms Ruth Gallagher (IHREC) noted that national human rights institutions have a specific role in business and human rights and referenced the leading work done by the Danish Institute in this regard. Public procurement falls within the duty to promote human rights, under the IHREC Act 2014. **Ms Gallagher** added that there is still much to be done in regard to the inclusion of social considerations in procurement contracts.

c. Liam Reid, Corporate Relations Director, Diageo Ireland on Diageo's approach to business and human rights

Mr Reid (Diageo), joined by **Jeanne McDonagh (Diageo)**, presented on Diageo's policy on human rights. **Mr Reid** began by noting that Diageo has a global reach and a significant footprint in Ireland. The company acts in accordance with the UN Guiding Principles on Business and Human Rights and the Sustainable Development Goals, while its policy is also informed by the ILO Declaration on Fundamental Principles and Rights to Work. The company's human rights policy is founded on six core principles, namely diversity, non-discrimination and preventing harassment, child labour and forced labour, wage and hour, freedom of association, health and safety. **Mr Reid** added that the company requires partners, suppliers and other third parties to comply with human rights obligations. The company publishes an annual sustainability report and case studies relating to grievance mechanisms. Diageo's 2020 sustainability and responsibility targets include creating a positive role for alcohol in society through partnerships and programmes which impact misuse, reducing environmental impact and building communities. The company also has clear guidance on sustainable procurement. The company has a rigorous due diligence process in place to ensure its business partners are in compliance with their human rights obligations, including by consulting international lists. In relation to gender balance and diversity, the company introduced a strategy in 2010 with the aim of ensuring at least 40% of employees and 50% of graduates are women. Other relevant measures include diverse interview panels and paternity leave for employees, while the company is currently gathering data on ethnic diversity. Diageo also has a number of initiatives that are designed to promote diversity in the community, including "Learning for life", designed to provide training in the hospitality sector, and "Open Doors", an initiative to remove barriers for people who face challenges in entering the labour market, such as refugees, migrants, young people, people with disabilities.

Q&A

Mr Vittorio Buffachi (University College Cork) queried whether the company is in fact motivated by anything other than profit and noted that alcohol addiction has a serious impact on the wellbeing of individuals.

Mr Reid responded that one of the three key areas of the company's policy relates to reducing harm caused by excessive drinking. He added that though profit is a goal, it is not at odds with human rights, as the two are mutually reinforcing.

Mr Joyce (ICTU) welcomed the policies relating to business and human rights and asked for more information about the company's human rights impact assessment.

Mr Reid responded that the company conducts an assessment across the supply chain, from sourcing to sale.

Mr McKeever (Irish Exporters Association) asked about the conversation the company had in relation to value and profitability and noted that it would be interesting to look at the metrics.

Mr Reid responded that the company has been moving from a cost mind-set to an investment mindset.

4. 2019 UN Forum on Business and Human Rights Forum 25-27 November Geneva

Ms Feeney gave a short update on the UN Forum on Business and Human Rights. The forum is organised by the Working Group on transnational corporations and other business enterprises every year and serves as a platform for civil society, business and Government to discuss topics on business and human rights and present their experiences in relation to the implementation of the UN Guiding Principles. The forum attracts more than 2,000 participants per year and involves more than 60 panel discussions on business and human rights over a three day period. The next forum will take place on 25-27 November in Geneva. **Ms Feeney** ended her presentation by encouraging participation in the Forum. She also mentioned that the Department is considering forming a small delegation consisting of the Chair of the group and the secretariat to participate in the Forum.

Q&A

Ms Curran (Trocaire) asked if it would be possible to arrange a meeting between Trócaire and its partners and the Chair of the implementation group in the margins of the Forum in Geneva.

Ms Feeney responded that a meeting could be facilitated and as always the Permanent Mission to the UN in Geneva would be happy to arrange a meeting in the margins of the Forum.

5. Work Programme – Priorities

Ms O’Donoghue invited the implementation group to voice their views on how best to proceed with the prioritisation of the key actions in the National Plan, such as the development of a toolkit to provide guidance on human rights due diligence.

Ms Feeney asked whether for instance the group would like to commission additional research and noted that it would be useful to hear from business representatives about the kind of guidance that their organisations would like to receive.

Ms Lawlor intervened to note that there are existing resources developed by organisations and institutions, such as Shift and the Danish Institute for Human Rights, which the Group could use to develop its guidance. There is no need to start from scratch.

6. Any Other Business

No matters were raised under any other business.

7. Date of next meeting

Ms O’Donoghue noted that the next plenary meeting will take place on **29 January 2020** in the Ballroom of Iveagh House.