



March 2018

# **IOE input to the report of the UN Working Group on Business and Human Rights on: "Ensuring respect for human rights in the context of economic diplomacy and investment/trade promotion"**

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## **1. Introduction**

The International Organisation of Employers ([IOE](#)) is the largest private sector network in the world, representing different types of businesses across social and labour policy fora such as the ILO, the UN and its various agencies, and the G7/G20.

The IOE attaches great importance to business and human rights and is actively engaged in endorsing, promoting and disseminating the UN Guiding Principles on Business and Human Rights (UNGPs), as well as other Government-backed instruments on responsible business conduct, among our members and networks. We help businesses of all sizes to meet their responsibility to respect human rights in line with the UNGPs and to make a positive contribution to the Sustainable Development Goals (SDGs).

Respecting and advancing human rights is a priority for the international business community and the IOE strongly argues for preserving the approach outlined by the UNGPs.

## **2. Input for the report**

The IOE appreciates the opportunity to provide the UN Working Group on Business and Human Rights with a short submission in response to its call for input for its report to the UN Human Rights Council on: "*Ensuring respect for human rights in the context of economic diplomacy and investment/trade promotion.*"

We would like to make some points in relation to questions 5, 6 and 7:

- **First, in relation to questions 5<sup>1</sup> and 6<sup>2</sup>:**

We strongly recommend that the Working Group's report acknowledge that a complaint by victims and/or civil society organisations against a company should not by itself result in consequences for trade and investment-related support for that same firm. This does not mean that complaints or allegations should be ignored, but instead that any action against a company should not be based upon a complaint/allegation alone or pre-judge a full and impartial investigation into the matter with respect for the principles of due process.

Similarly, company engagement with a remedy mechanism should not automatically result in measures against the company, such as a loss of export credit / financing, while the case is still being examined and a final outcome has not been reached. For example, in the case of State-based non-judicial grievance mechanisms such as the OECD's National Contact Point (NCP) process, the aim is to encourage mediation between different parties when allegations surface and/or issues occur. It is important to note that the State should, therefore, not punish or sanction a company for engaging in this legitimate process especially when a specific instance has not yet been resolved. Doing so would greatly undermine the grievance mechanism itself and send a contradictory message to business.

The Working Group's report should also recognise that complaints against companies tend to target better known brands and that there needs to be careful consideration and appreciation of the three ways in which a company can be involved in a human rights harm ("cause", "contribute", or "direct linkage"). Any consequences against a company should reflect this and be consistent with the approach of the UN Guiding Principles on Business and Human Rights.

- **Second, in relation to question 7<sup>3</sup>:**

We would like to make some points about special economic zones/export processing zones as they relate to labour and human rights.

The conclusions from an ILO Meeting of Experts on how "to promote decent work and protection of fundamental principles and rights at work for workers in export processing zones" in November 2017 clearly stated that there are "limited recent empirical studies on EPZs in general, on the decent work impacts of EPZs and on the promotion of

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<sup>1</sup> **Question 5:** *If a company/business is the subject of a complaint by victims and/or civil society organizations, relating to adverse human rights impacts, are there examples of this having consequences for trade and investment-related support to the same company?*

<sup>2</sup> **Question 6:** *In what ways may decisions by State-run grievance mechanisms (e.g. national contact points) have consequences for whether a business receives trade and investment support? Are there examples of such connections being made?*

<sup>3</sup> **Question 7:** *Are there examples of laws, regulations, policies and procedures in place for special economic zones/export processing zones that also include provisions for ensuring that businesses operating in those zones respect the human rights of workers and other people/communities who may be impacted by their activities?*

decent work and protection of fundamental principles and rights at work for workers in EPZs." The conclusions added that the "approximately ten-year gap in knowledge on how EPZs affect decent work, as well as the heterogeneity of EPZs, underscore the need for up-to-date information and counsel against a one-size-fits-all approach."<sup>4</sup> The Working Group should be cognizant of this information gap.

In addition, we would like to highlight that EPZs are, to a large extent, a policy response to regulatory burdens, inefficient administration and a lack of development and investment in the country and its people. At the same time, the information available shows that EPZs often provide better working conditions, benefits and training for workers than jobs in the national economy.

What is needed, therefore, are not laws, regulations and policies that include provisions on respect for human rights which specifically target EPZs, but an approach that retains the positive elements of an EPZ and drives stronger linkages between enterprises in EPZs and producers in the broader economy. For example, measures to improve labour law enforcement, labour inspection and labour administration coverage, social dialogue and investment in education and skills development should not separate out EPZs from the broader national economy. Furthermore, efforts should focus on broad regulatory and market reforms to ensure efficient labour laws with the right degree of flexibility, as well as greater economic development outside of EPZs to build the capacity of domestic firms to improve production so that there is less need to import products duty free; and greater efforts to support domestic firms to access EPZs.

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<sup>4</sup> Conclusions from ILO Meeting of Experts on EPZs (November 2017): [http://www.ilo.org/wcmsp5/groups/public/-/-ed\\_emp/-/-emp\\_ent/-/-ifp\\_seed/documents/publication/wcms\\_605081.pdf](http://www.ilo.org/wcmsp5/groups/public/-/-ed_emp/-/-emp_ent/-/-ifp_seed/documents/publication/wcms_605081.pdf)