



Statement by His Excellency Archbishop Silvano Tomasi, Permanent Observer of the Holy See to the United Nations and Other International Organizations in Geneva at the 17th Session of the Human Rights Council - Item 3: General Debate
Geneva, 3 June 2011

Mr President,

With regard to human rights as they relate to business, the Delegation of Holy See welcomes the work and contributions of the U.N. Special Representative of the Secretary-General on business and human rights and endorses the *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*. The process of developing the Framework and Guiding Principles has been open to all stakeholders. Moreover, substantial input has been provided by civil society groups working with communities that, either directly or indirectly, have been negatively impacted by corporate practices. As a work in progress, this document serves as a base to continue an important dialogue on business and human rights among all relevant stakeholders. The Framework does not answer all questions and dilemmas related to this field, but it does provide a foundation for further work to develop over time.

The Framework makes a positive contribution by creating a standard whereby companies are expected to adopt comprehensive human rights policies; assess, on an ongoing basis, the potential and current impact on human rights that is exerted by their operations and throughout their supply chains; to integrate their analysis and findings into respective company policies and culture; and to openly monitor and report on their performance.

The focus is on the prevention of human rights violations in the first place, and on remediating any violations that have been caused directly or indirectly. This approach is consistent with that outlined by Pope Benedict XVI in his recent Encyclical where he states that "*business management cannot concern itself only with the interests of the proprietors, but must also assume responsibility for all the other stakeholders who contribute to the life of the business: the workers, the clients, the suppliers of various elements of production, the community of reference*"¹. In view of the size and reach of multinational and global corporations and the influence and impact that their operations have on millions of people across the globe, the recognition of this multi-layered and multi-dimensional responsibility becomes ever more urgent and essential. TNCs bear a significant

¹ Caritas in Veritate, n. 40

responsibility to respect and promote human rights and to support integral development that enhances the quality of life in the LDCs.

Regrettably, TNCs have failed to measure up to this standard on numerous occasions, have violated established rules and regulations, and thus have caused exceptional damage. Evidence of such failures can be found in the manufacturing sector when workers have been deprived of a living wage, when safety and security measures have not been observed, and especially when forced or child labour has been tolerated. The extractives and energy sectors, for example, remain particularly susceptible to a corporate culture that operates without sufficient regard for the rights of indigenous and local communities and deprives these same communities of safe water, food and livelihoods. In other instances, in order to circumvent social and environmental laws, some TNCs have resorted to the practice of sub-contracting without adequately monitoring the policies and practices of their business partners. In countries, where governments lack the resources to monitor these companies, it must be recognized and enforced that the principal contractor carries responsibility for assuring that subcontracting partners observe and respect such rules.

The new Guiding Principles that aim at operationalizing the ‘Protect, Respect, Remedy’ Framework make a major contribution to clarifying the role of the State’s Duty to protect human rights and establish policies and mechanisms to hold companies accountable for human rights violations. The Principles clearly articulate the role of companies to respect human rights by, at a very minimum, avoiding adverse impact on human rights that may be caused through their various activities. These Principles also describe and promote the avenues required by individuals and communities in order to remedy any human rights abuses caused by corporations. Also necessary are a more effective mechanism of enforcement and surveillance as well as a clearly stated commitment by companies to respect the laws and regulations of the countries where they are operating. In this manner, TNCs will assure their compliance with the demands of their social contract and license to operate and to behave as good corporate citizens.

A strong and effective follow-up mechanism is needed in order to ensure that the full benefit of the work completed thus far will be brought to fruition. It should include the possibility of receiving communications and undertaking investigations, and of making recommendations and providing expert advice. Expertise and good practice in the field of human rights is constantly improving. Therefore, when designing follow-up mechanisms, we should aim not simply to preserve outcomes to date, but also to ensure that these will stay relevant and will be developed further. The Guiding Principles provide for such an approach, since they call upon States to periodically assess the adequacy of laws requiring business enterprises to respect human rights, to be transparent and accountable in their negotiations and contracts especially with weaker and under resourced jurisdictions where they operate, and to be especially attentive to the needs of vulnerable populations – women, children, indigenous peoples

and people living in conflict zones. In addition, capacity building is necessary and should be initiated by offering technical expertise to those who need it most.

Mr. President,

Looking at the future, we hope that the increased protection and promotion of human rights by TNCs, operating within a sound ethical framework, can promote a globalization that has a human face and a sustainable framework. The implementation of these Guiding Principles should be located in a multi-stakeholder process and based on the principle of subsidiarity. It should involve all business actors, such as national and local governments, labour unions, consumer associations, grass-root organizations of the civil society, companies and investors. It should establish the necessary structures, for example, judicial and non-judicial remedies, to address the human rights issues that emerge. Such structures will be an important component of a future that is rooted in justice, especially for the individuals and communities most immediately affected by corporate abuse. The constructive and welcome engagement of all stakeholders in international economic and commercial matters will help to achieve an integral development and solidarity which is grounded in a vision of the future that guarantees an equitable distribution of resources and is responsive to the interdependence of people.² By accepting these principles and supporting the proposed Framework, the United Nations and the Human Rights Council, can provide the leadership that will assist TNCs, civil society, investors, and States to promote the common good of the human family.

² Cf. Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church*, n. 373. Rome, 2004