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MULTI-STAKEHOLDER SINGAPORE FORUM ON BUSINESS & HUMAN RIGHTS (AND RELATED EVENTS)

Singapore, 28-31 May 2013; June 2013

Executive Summary

The present document provides a summary of the discussions of the Multi-Stakeholder Forum on Business and Human Rights and related events in Singapore. The Multi-Stakeholder Forum, held on 28 May 2013, was jointly organized by the ASEAN CSR Network, Singapore Compact, the Asian Peace-building and Rule of Law Programme of the Singapore Management University's School of Law ("SMU-APRL"). The Forum was graced by Dr. Puvan Selvanathan, Member of the United Nations Working Group on Human Rights and Transnational Corporations and Other Businesses ("UNWG"). A half-day executive training workshop on 'Integrating Human Rights into Corporate Risk Management' was held on 29 May 2013 at SMU's School of Law. These were followed by a Summer Course on "Southeast Asian Business & Human Rights Law", a joint academic partnership between SMU School of Law and Santa Clara's Centre for Global Law and Policy which was held at SMU on 30 and 31 May. A Roundtable on Business and Human Rights with Professor John Ruggie held on 11 June 2013 was co-organized by Singapore Compact and the Singapore Business Federation. This summary provides a brief overview of the proceedings of the afore-mentioned events and should be read as an executive summary together with any statements received, written submissions and session web recordings that may be available online.

A. Multi-Stakeholder Singapore Forum on Business and Human Rights (28 May 2013)

I. Introduction

1. In December 2012, the first United Nations Forum on Business and Human Rights was held in Geneva ("Geneva Forum"). The Geneva Forum focused on discussing trends and challenges in relation to implementing the UN's Guiding Principles for Business and Human Rights. The Geneva Forum was chaired by Professor John Ruggie, former Special-Representative of the

Secretary-General on the issue of human rights and transnational corporations and other business enterprises.

2. At the closing session of the Geneva Forum, Dr. Puvan Selvanathan, in his capacity as UN Working Group Chairperson-Rapporteur, stated that going forward, the UNWG aimed to include regional consultations as part of the Forum process. He encouraged participants to “show the courage that was needed to take the Guiding Principles into new territory”.¹ The Multi-Stakeholder Forum on Business and Human Rights held in Singapore in May 2013 (“Singapore Forum”) was one such regional consultation. It was designed to inform the Geneva Forum process, and to strengthen engagement towards the effective implementation of the Guiding Principles in the ASEAN region.

3. The Singapore Forum was jointly organized by the ASEAN CSR Network, the Singapore Compact, and the Asian Peace-building and Rule of Law Programme of the Singapore Management University’s School of Law (“SMU”). It was held at the National Trade Union Centre’s auditorium in Marina Boulevard, Singapore on 28 May 2013 to a full-capacity audience of about 100 participants. Dr. Puvan Selvanathan graced the event in his capacity as member of the UNWG.

4. The Singapore Forum, and its related side-events in May and June 2013 (see below) attracted a diverse body of key stakeholders from the region, including government officials, leading business enterprises and associations, and civil society organizations. Business networks from Singapore, Indonesia, Malaysia, Philippines, Thailand and Vietnam were represented. Importantly, environmental assessment experts, academics and civil society leaders from Myanmar, such as Ms. Hnin Wut Yee, Myanmar Programme Coordinator of the London-based Institute for Human Rights and Business participated in the Singapore Forum and subsequent related events.

¹ A/HRC/FBHR/2012/4, p 23.

5. The two formal days of the Forum included 3 panel sessions on Day 1, which focused on introducing the Guiding Principles, identifying challenges in implementation and opportunities for states and companies in ASEAN to meet their obligations to protect and respect human rights. On Day 2, a workshop was held to consider how to incorporate respect for human rights as an integral part of any business enterprise’s corporate risk management, mitigation and due diligence strategies.

II. High Level Panel on Business & Human Rights in ASEAN

6. The Forum was officiated on 28 May 2013 by Ambassador Makarim Wibisono, Executive Director of the ASEAN Foundation and former Indonesian Permanent Representative to the United Nations.



L to R: Dr. Makarim Wibisono; and Dr. Puvan Selvanathan

7. Ambassador Wibisono delivered a welcome address that considered the history and context of the Guiding Principles based on his involvement as Chairman of the 61st session of the UN Commission on Human Rights (2005), the precursor to the UN Human Rights Council which unanimously endorsed the UN Guiding Principles in July 2011. Ambassador Wibisono noted the new roles and responsibilities of non-state actors, including business enterprises, with regards to observing human rights standards. Building on the Guiding Principles, he called for practical solutions for holding businesses legally accountable for their involvement in human rights violations.

8. In his keynote speech, the Working Group’s Dr. Puvan Selvanathan highlighted anti-corruption, labour standards and climate change as broad areas of concern. He noted that the Guiding Principles transcend traditional notions of Corporate Social Responsibility (“CSR”). He suggested that human rights cannot be reported purely by formulaic approaches and that it was important for companies to have long-term human rights related risk strategies. Dr. Selvanathan emphasized that it was crucial for all parties to continually change and learn from past mistakes,

and that the Geneva Forum process is a good platform to begin work on this for future generations.

9. Mr. Thomas Thomas, Executive Director of the Singapore Compact and study team leader for the ASEAN Intergovernmental Commission on Human Rights' inaugural baseline study on CSR and Human Rights, moderated the high-level panel discussion and asked the panelists about their opinion on the future of business and human rights in ASEAN. Noting that ASEAN's initial discussions regarding human rights began a decade ago and had culminated in the ASEAN Human Rights Declaration ("AHRD") last year, Ambassador Wibisono said he was hopeful.

10. Mr. James Kallman, President of Mazars Indonesia, agreed. He stated that there was now a stronger growth in uptake by ASEAN states and corporations towards corporate governance and human rights, as compared to the United States or Europe. He added that this may have been prompted by the realization, especially by corporations, that they can become global thought leaders in this arena.

11. Mahdev Mohan, Assistant Professor of Law & Director of the Asian Peace-building & Rule of Law programme ("APRL") at SMU, highlighted that further regional engagement with business & human rights is inevitable in light of ASEAN's progress towards becoming an integrated economic community by 2015. In response to a question on the role of civil society organizations ("CSOs"), he said that CSOs should not be viewed as outsiders, but as community representatives that are privy to business-related human rights harm; and are thus organizations that states and corporations should consult. Finally, Ast/Prof. Mohan marveled at Myanmar's verve. He noted, for instance, that it has turned to ASEAN experts to establish its own stock exchange by 2015.

12. Interventions from the floor addressed the capacity of Small and Medium Enterprises ("SMEs") in implementing the Guiding Principles. Mr. James Kallman explained that more SMEs are subject to due diligence obligations by their trading partners. He cited the recent example of PRIMARK's public statement to offer compensation to affected families after the collapse of Rana Plaza Complex in Bangladesh. He said that this was impressive and game-

changing for a company to publicly state. He explained that smaller companies will need to adopt the Guiding Principles for the right reasons as they may soon be required to have policies that are on par with large companies that they trade with.



L to R: Dr. Puvan Selvanathan; Dr. Makarim Wibisono; Mr. James Kallman; Prof. Mahdev Mohan; Mr. Thomas Thomas

III. Introducing the UN Guiding Principles on Business and Human Rights: How does it relate to the current CSR and Sustainability agenda for businesses?

13. The second session was moderated by Associate Professor Eugene Tan from SMU’s School of Law, a Nominated Member of Parliament in Singapore and an academic expert in constitutional law. This session involved a practical overview of human rights challenges in developing countries, and how some companies have utilized the Guiding Principles to deal with these challenges.

14. Concrete case studies were presented by leading multi-national corporations involved in human rights due diligence, including Rio Tinto and ADIDAS.

15. Mr. Frank Riemann, Principal Adviser at Rio Tinto for Communities and Special Performance, explained that Rio Tinto operates in diverse and often challenging social, economic, political and cultural landscapes. He



L to R: Mr. Frank Riemann (Rio Tinto; and Mr. William Anderson (Adidas)

identified labour, land access, environment, and private security impacts as problems that the extractive sector commonly faces in relation to human rights. Citing projects in Mongolia, Mr. Reimann spoke about measures that can be taken to build enduring relationships with local communities, employees and business partners. He said that failing to appreciate human rights can pose real risks. These could include operational delays, legal challenges, reputational harm, lost opportunities, investor concern and employee dissatisfaction. Acting responsibly, he concluded, was part of Rio Tinto's professed core business.

16. Mr. William Anderson of ADIDAS, Vice President of Social and Environmental Affairs for the Asia Pacific, spoke about the company's approach to human rights. He highlighted the dual need for companies to protect their workers' rights and reduce their reputational risks. He said that problems should not always be couched in "human rights" language, but posed in the context of practical and experience-based questions to stakeholders. He noted that ADIDAS has successfully focused on three streams of engagement: stakeholder outreach, civil society campaigns and everyday business.

17. Ast/Prof. Mahdev Mohan presented the preliminary findings of SMU APRL's study on compulsory land acquisition and resettlement, and challenges this posed, amidst the gold rush to invest in the extractive sector in Cambodia, Laos, Myanmar and Vietnam. Ast/Prof. Mohan noted that corruption; military involvement in evictions; and absences of meaningful social and environmental impact assessments were chief concerns. He underscored the importance of taking a context-sensitive approach designed to anchor human rights in ASEAN's trade and investment laws.

18. Interventions from the floor questioned the efficacy of frameworks set up by companies, considering the large and distinct groups of stakeholders involved in the global supply chain. Ast/Prof. Mohan said that research by AICHR, and independent non-government and academic bodies in the region could inform companies about their social and legal responsibilities to the communities they interact with in the course of their business. Mr. Reimann added that even without legal standards, the companies should work on the betterment of communities and

should not hide behind the lack of proper frameworks. Mr. Anderson urged companies to respect human rights by engaging with government agencies directly or through trade unions.



L to R: Prof. Mahdev Mohan; Mr. Frank Reimann; Mr. William Anderson; Prof. Eugene Tan

IV. How to implement the UN GPs: Cases and frameworks to guide companies

19. The final session was facilitated by Ms. Sumi Dhanarajan, Founding Trustee of the Business and Human Rights Resource Centre (“BHRRC”) and Research Associate, Centre on Asian Legal Studies at the National University of Singapore. The panel, consisting of representatives from leading NGOs and businesses based in ASEAN, emphasized the need for policy coherence and for businesses to develop sound and comprehensive corporate strategies on business and human rights.

20. Ms. Kerri-Ann Mower, Head of Corporate Responsibility, Internal Communications and Engagement at AVIVA, recounted AVIVA’s efforts to embed human rights within its corporate governance strategy. Through risk management surveys and audits, AVIVA employees were able to share their own perspectives with the company. These perspectives led to successful community-based projects focused on improving the lives of street children and underserved women in developing countries. She explained how businesses could build upon principles that had already been formulated by various international organizations such as the UN Global Compact.

21. Ms. Cynthia Morel, Consultant with Global Advocacy, explained how compulsory land acquisition can have profound social, cultural and economic consequences. She underscored the importance of ensuring access to adequate remedy. She said that remedies for those whose land has been acquired would include, among other things, freedom from political influence and impartiality, and the provision of sufficient monetary and non-monetary compensation through various means.

22. Ms. Bobbie Sta. Maria, Researcher and Representative for Southeast Asia at the BHRRC, presented her views on tracking business-related rights abuses and calling for access to remedy. She too emphasized the importance of ensuring adequate avenues for remedies and for providing non-judicial complaints mechanisms, such as company-based grievance procedures. She noted that a non-judicial grievance mechanism should place a premium on, among other things, legitimacy, predictability, and continuous learning. She also introduced the BHRRC's database which covers 195 countries with weekly updates being received by about 16,000 subscribers worldwide.

23. Mr. James Kallman concluded the panel discussion by noting that companies should conduct social responsibility reporting with a genuine care for the community, and not merely for public relations purposes. He called on companies to keep abreast of legal rules and reporting standards they should adhere to as, many companies are unaware of the applicable rules and standards. He also briefly mentioned the Mazars-Shift Human Rights audit project. A set of human rights auditing standards are being developed for companies by Mazars and Shift, a non-profit center for business and human rights practice, to assess corporate performance with regard to human rights risk management.

24. Interventions from the floor asked whether previous cases of human rights abuse that had gone unaddressed could be placed before contemporary grievance mechanisms and courts. Ms. Morel stated that such direct impact cases and efforts can serve to inspire communities to look to the judicial system for recourse. She added, however, that recourse may be limited by lack of funding for CSOs, which act as conduits for affected communities. Mr. Kallman said that although companies need to obtain and respect the views and opinions of civil society

organizations, they must retaining their autonomy to evaluate which views ought to be followed up with action.



L to R: Ms. Cynthia Morel; Ms. Kerri-Ann Mower; Ms. Bobbie Sta. Maria; Mr. James Kallman

V. Closing

25. Mr. Roger Branigin, Executive Director of the Global Corporate Community of Practice (“GCOP”), added that the scope of topics covered by the Singapore Forum speakers was remarkable and would significantly contribute to sustained efforts to advance and implement the Guiding Principles in the ASEAN region. He explained that the GCOP provides a platform for MNCs to collect, develop and share best practices in human rights due diligence and risk management.

26. Mr. Thomas Thomas delivered the closing speech and congratulated the speakers and moderators on a successful event that had brought together government, business, civil society and academia for constructive engagement as part of the Forum process. He noted that the Singapore Forum had promoted dialogue and cooperation on issues linked to business and human rights, including challenges faced in particular sectors and identified good business practices. He said that the ASEAN CSR Network will continue to work with the relevant stakeholders from the business, government, non-government and academic communities to promote more dialogue and cooperation in the region on the topic.



Question & Answer session with panel moderator Ms. Sumi Dhanarajan

B. Workshop on ‘Integrating Human Rights into Corporate Risk Management’ (29 May 2013)

27. The half-day executive training workshop held at SMU drew a full-capacity audience of business representatives from renowned local and multi-national corporations based in Singapore and the ASEAN region. It was conducted by Dr. Puvan Selvanathan, Mr. James Kallman, Ast/Prof. Mahdev Mohan, Mr Thomas Thomas and Mr. Roger Branigin according to the Chatham House Rule and in accordance with the values of the Global Corporate Community of Practice.

28. Ast/Prof. Mohan and Ms. Vani Sathisan, SMU-APRL’s Research Manager, welcomed the speakers and participants to SMU and explained SMU-APRL’s work in holding executive seminars, conducting innovative research and leading transitional justice initiatives in post-

conflict Asian countries. They noted that SMU-APRL's Associate Fellows Ms. Delphia Lim and Ms. Geetanjali Mukherjee had served as principal author and research coordinator of a synthesis report on business & human rights recently published by the Human Rights Resource Centre for ASEAN ("HRRC").

29. Focused on integrating human rights into internal corporate risk management strategies, the workshop sought to train regional corporate representatives involved in risk management and CSR practitioners through real-life case studies. The workshop provided practical advice on how to develop benchmarks to measure human rights due diligence ("HRDD") in business operations from a management perspective, as opposed to a purely compliance-oriented one. Participants remarked that they had found these case-studies and candid discussions helpful and looked forward to future sessions.

30. Nonetheless, concerns were raised as to whether corporate self-regulation through internal HRDD reporting or auditing could lead to inadvertent inaccuracies or self-serving underreporting of human rights risks. It was suggested that non-financial reporting standards that are increasingly used or envisioned by stock-exchange regulators in Singapore, Malaysia Hong Kong and other countries could serve as a base-line for HRDD. According to these standards, companies must comply and disclose how they affect the communities they operate in, or explain deviations from standards. Further, beyond such disclosure and explanation, it was suggested that grievance mechanisms could be set up to further investigate and engage with affected communities.

31. In conclusion, it was noted that the GCOP was an iterative process that would continue to create a private space for companies to share best practices in HRDD and human rights risk management in confidence; and to explore how the business community might develop a common set of human rights risk management strategies, methods, and standards that apply across the board.



Speakers and participants at the Workshop on ‘Integrating Human Rights into Corporate Risk Management’

C. Summer Course on Southeast Asian Business & Human Rights Law (30 & 31 May 2013)

32. The Summer Course on “Southeast Asian Business & Human Rights Law”, held at the SMU under the auspices of Santa Clara University (California), was a joint academic partnership between SMU School of Law and Santa Clara’s Centre for Global Law and Policy. This summer course is led by Santa Clara’s Professors Vinita Bali and Michael Flynn. Professor Bali directs the Centre for Global Law and Policy and writes extensively in the field of business and human rights.

33. This 3-week summer course on business and human rights in the region is unprecedented. Dr. Selvanathan, Ast/Prof. Mahdev Mohan, and Ms. Vani Sathisan, Research Manager of SMU-APRL served as guest faculty members for this summer course in its first week. They spoke about their respective experience as a UN Special Rapporteur and as international lawyers engaged in the promotion and protection of human rights, with specific reference to business enterprises.

34. Ms. Sathisan presented findings from field research undertaken by SMU-APRL in Cambodia and Myanmar on human rights due diligence in the context of land resettlements for industrial development. Dr. Selvanathan and Ast/Prof. Mohan debated the legacy of the US Supreme Court decision in the *Kiobel v. Royal Dutch Shell Petroleum*, in which a majority of the US Supreme Court limited the operation of the Alien Tort Claims Act based on a legal presumption against extraterritoriality.

35. J.D. students from the US were engaged in discussions about the recent US Country Visit by the UN Working Group; US and ASEAN reporting standards when investing responsibly in Myanmar; and recent judicial decisions before the US Supreme Court – all of which raised awareness of the practical application and limits of the Guiding Principles in ASEAN and beyond.



Ms. Vani Sathisan and Dr. Puvan Selvanathan with students at the Santa Clara Summer Course on “Southeast Asian Business and Human Rights Law”

D. Roundtable on Business and Human Rights with Professor John Ruggie (11 June 2013)

36. On 11 June 2013, at the Roundtable on Business and Human Rights in Singapore co-organized by Singapore Compact and Singapore Business Federation, and at a related public lecture, Professor John Ruggie launched his book “Just Business – Multinational Corporations and Human Rights.” He noted the convergence among international standard setting bodies in

relation to measures that business enterprises should undertake so as to meet their human rights commitments. He highlighted that SMU-APRL, Singapore Compact, AICHR and the ASEAN CSR Network have all been taking the lead on business and human rights in ASEAN and said that he hoped to see more engagement between government and business entities in the realm of human rights.



Roundtable on Business & Human Rights with Professor John Ruggie

E. Conclusion

37. Taken together, these events have encouraged multiple stakeholders to discuss pertinent issues on business and human rights in the region. These events have also raised awareness of these important issues amongst students, policy-makers, human rights practitioners, and business representatives, and have helped to underscore why human rights matter in state and corporate discussions in ASEAN.

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