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The United Nations Human Rights Norms for Business and the UN Global Compact

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Summary: The recently adopted UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights are a good and welcome basis for improving companies' human rights track records. The UN Global Compact's nine principles help to put the discussion on business' responsibility with regard to human rights into a wider development perspective; as a global values-based learning platform and experimental laboratory, the Global Compact can assist in elaborating and putting the UN Norms into practice. A closer linkage between the two instruments would help to promote the Norms and to increase the Global Compact's credibility.

Introducing the "Norms"

In August 2003, the UN Sub-Commission on the Promotion and Protection of Human Rights, the main subsidiary body of the Geneva-based Commission on Human Rights, adopted the *United Nations Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*¹, thereby feeding the steadily ongoing - and healthy - parallel debates on the respective responsibilities of the different sectors of society as well as on the voluntary versus compulsory character of societal engagement of the private sector.

The UN Norms, according to the relevant Sub-Commission resolution², have been transmitted to the Commission on Human Rights for consideration and eventual adoption by the Commission. The same resolution recommends the Commission to invite Governments, UN bodies, NGOs and other interested parties to submit comments on the Norms to its annual session in 2005, and that the Commission then consider establishing a working group to review the Norms in the light of comments received.

¹ *Norms document*: UN Doc. E/CN.4/Sub.2/2003/12/Rev.2 (2003); www1.umn.edu/humanrts/links/norms-Aug2003.html.

² *Sub-Commission resolution* 2003/16: UN Doc. E/CN.4/Sub.2/2003/L.11 at 52 (2003); www1.umn.edu/humanrts/links/res2003-16.html.

Even if we can expect the Norms to take several years to take on their final form, they are in a number of ways already today a welcome addition to the numerous already existing corporate responsibility standards and initiatives, and responsible companies should not regard the Norms as a threat, but as a tool to advance their thinking and action on human rights issues.

First and foremost - to answer the most frequently asked question - the Norms document is not a formal treaty under international law, thereby triggering binding legal obligations; as "soft law" the Norms do however provide companies with a morally authoritative code of conduct which goes beyond the notion of voluntary. In this sense, the Norms also introduce general provisions for the implementation of human rights, including such for internal and external communication, training, supply chain management, reporting, and internal and external monitoring and evaluation, but stopping short of enforcement mechanisms.

Companies should also realize that the primary responsibility to protect and promote human rights in international as well as national law remains with governments; the Norms purely attempt to restate the complex relevant international human rights law in regard to the obligations of business within its particular spheres of activity and influence. And in subjecting all companies and competitors, rather than merely relying on interest and good will on the one hand and inspiration and peer pressure on the other, the Norms create a level playing-field for every one.

The present Norms document compiles internationally-recognized human rights issues in different domains (labour, health, environment, non-discrimination, safety, etc.). In each of the subject matters, the document goes into more details than other existing standards and initiatives such as the UN Global Compact. The Norms therefore help to provide clarity and guidance around expectations vis-à-vis business in managing the diverse human rights challenges and thereby contributing to long-term sustainable development. Company managers struggling with this particular issue will appreciate the effort. This being said, it is obvious that there can be no one-size-fits-all approach, and that corporate responsibility for human rights depends on the nature, size and range of a company's presence in a particular country.

Linking up with the Global Compact

What will therefore become of the UN Global Compact with its nine rather vague principles in basically the same areas of human

rights, labour and the environment? Will it become redundant because the more recent UN Norms cover the same areas but in a more concrete manner? Will it become redundant because of it being a merely voluntary, non-regulatory, initiative with - as some complain - no teeth? We don't believe it will. And we don't believe it should. But we do believe in the necessity of linking the two instruments, something which to date does not seem to have been undertaken.

The Norms document with its twenty-three operational paragraphs certainly does go into more detail than the Global Compact principles and in a sense serves to elaborate their purpose. However, whereas the Norms have been deduced from a set of international treaties and conventions and as such are a consensus document, the Principles are situated in the context of both international law and the plans of action of recent major UN development conferences such as the Rio Declaration or the Millennium Declaration with its associated eight Millennium Development Goals. In other words, whereas the advantage of the Norms lies in their clear articulation, their applicability and their measurability³, the advantage of the Principles lies in the openness of their practical interpretation beyond the minimal standards set by the UN Norms in view of contributing to achieving internationally-agreed development goals; they therefore help to put the Norms into a wider perspective.

At a more structural level, one of the Global Compact's strengths lies in it providing those who do not want to continue with business as usual with a global learning platform and network as well as an experimental laboratory, whereas the Norms are merely letters printed on paper for each company to struggle with in isolation.⁴ Global Compact participants should make the point that the Global Compact and its national-level outreach structures are well-suited to provide for a dialogue on the Norms and for testing, piloting and learning from activities for their implementation. This practical experience would in turn be an important input into the debate on the utility and future design

³ NGOs such as Amnesty International and Human Rights Watch have begun to use the Norms as the basis for their assessments of the conduct of businesses.

⁴ A brief reference is made here to the recently established three-year *Business Leaders' Initiative on Human Rights* chaired by the former UN High Commissioner for Human Rights, Mrs. Mary Robinson, and with the participation of ABB, Barclays, MTV Europe, National Grid Transco, Novo Nordisk, Novartis and the Body Shop, which inter alia will consider the roles the UN Norms might play in their work to strengthen human rights through their own operations and by supporting the work of others.

and focus of the Norms within the context of the Commission on Human Rights.

To conclude, we would suggest that both instruments born from within the United Nations stand to gain from a closer mutual and constructive relationship. The Global Compact, on the one hand, is an ideal platform for promoting as well as disseminating information and knowledge about the UN Norms and their practicability. In doing so, on the other hand, the Global Compact would be well on its way to regaining credibility amongst the increasing number of stakeholders, including progressive private sector representatives, claiming it sets the bar too low.

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