

Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the rights of Indigenous Peoples; the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity and the Special Rapporteur on violence against women and girls, its causes and consequences

Ref.: AL OTH 110/2022
(Please use this reference in your reply)

13 January 2023

Dear Mr. Kravis and Mr. Roberts,

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur in the field of cultural rights; Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the rights of Indigenous Peoples; Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity and Special Rapporteur on violence against women and girls, its causes and consequences, pursuant to Human Rights Council resolutions 44/15, 46/9, 46/7, 43/4, 50/17, 43/16, 51/16, 50/10 and 50/7.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 56 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring to the attention of your company, information we have received concerning **serious risks posed to Indigenous**

Kohlberg Kravis Roberts & Co. L.P.

Peoples' rights in the context of oil and gas projects in British Columbia, Canada. Of particular concern are allegations of ongoing violations and abuses against Wet'suwet'en Indigenous Peoples and communities related to the development of the Coastal GasLink pipeline project, as well as the human rights violations of land rights defenders peacefully demonstrating against the Coastal GasLink (CGL) pipeline under construction that was approved in 2018 without the consent of the impacted Indigenous Peoples represented by the Wet'suwet'en Hereditary Chiefs.

According to the information received:

The CGL pipeline under construction passes through the unceded traditional territory of the Wet'suwet'en Indigenous Peoples in British Columbia, Canada with the aim of delivering natural gas extracted in Canada from the Dawson Creek area to a liquified natural gas (LNG) facility near Kitimat, British Columbia, and to provide gas supply to Asian markets. The LNG facility, which is owned by the joint venture LNG Canada, is currently under construction. Transportation service on the pipeline is underpinned by 25-year transportation service agreements (with additional renewal provisions) between the five LNG Canada participants: Shell, Petronas, Petrochina, Mitsubishi and Kogas. TC energy currently holds a 35 per cent ownership interest in Coastal GasLink pipeline and has been contracted to develop and operate the pipeline. Two investment firms, KKR & Co. and Alberta Investment Management jointly hold the remaining 65 % of the stakes. The various sections of the Coastal GasLink are contracted to be constructed by the Canadian companies Surerus Murphy Joint Venture, SA Energy Group, AECON Group Inc., Pacific Atlantic Pipeline Construction Inc., O.J. Pipelines Canada, Macro Spiecapag Joint Venture, and Leducor Group.

In 1997, the Supreme Court of Canada ruled that Wet'suwet'en rights and title to its territory had not been extinguished.¹

On 14 May 2020, the Wet'suwet'en Hereditary Chiefs signed a memorandum of understanding (MOU) with the federal and provincial governments recognizing Wet'suwet'en title and rights throughout the traditional territory and outlining a process to negotiate agreements on the implementation of Wet'suwet'en title and rights. This MOU does not address nor provide consent to the pipeline, and the Canadian government has indicated that the CGL project is not included in the negotiations.

Work on the CGL pipeline is now more than 50% complete, and the developing company has started drilling under the Wedzin Kwah river, a site regarded as sacred to the Wet'suwet'en people. Construction has allegedly resulted in the destruction of an archaeological and cultural heritage site of great significance to the Wet'suwet'en people at Ts'elkay Kwe Creek. It has also resulted in an increase of industrial traffic creating dangerous driving conditions, and the deployment of law enforcement who are allegedly harassing indigenous residents. According to the information received, these conditions have made hunting, an important traditional activity of the Wet'suwet'en people, virtually impossible and have restricted Wet'suwet'en access to their territories.

¹ *Delgamuukw v British Columbia*, [1997] 3 SCR 1010.

The CGL route infringes upon Wet'suwet'en territory and disrupts traditional food and water gathering and hunting practices, all important parts of their culture. The threat of a pipeline leak creates an even greater risk of harm, including at the environmental level as crossing about 625 streams, creeks, rivers and lakes, including vital fish habitat. The exploitation of fossil fuels in general and the establishment of the 670-kilometres long pipeline in particular, would also impact climate change and threatens the completion of Canada's obligations in this regard, as outlined in the Paris Agreement. Upon completion, the expected capacity of the pipeline will be of up to five billion metric feet of natural gas per day.

Criminalization of indigenous land defenders

The use of injunctions and Royal Canadian Mounted Police (RCMP) exclusion zones around CGL worksites have led to the criminalization of indigenous opposition to the pipeline. In Wet'suwet'en territory, injunctions are allegedly being used by public and private corporations to obtain police control over indigenous territory, effectively removing Indigenous Peoples from their homelands to make way for pipeline construction and criminalising Wet'suwet'en hereditary leadership.

Reportedly, the CGL obtained a series of injunctions against the Wet'suwet'en people in 2018 and 2019. Despite the Committee on the Elimination of Racial Discrimination's (CERD) decision urging Canada to cease forced evictions of Wet'suwet'en people from their lands, in early February 2020, the RCMP conducted a series of raids on Wet'suwet'en encampments, deploying over 100 tactical officers armed with semi-automatic rifles and police dogs. Unarmed Wet'suwet'en land rights defenders and peaceful supporters were forcibly removed from the territory and sent to prison. During the raid, the RCMP created an "exclusion zone" 17 kms away from the injunction area, blocking public access. Hereditary Chiefs, journalists, and a Member of Parliament were prohibited from entering the area to witness the arrests, while non-indigenous people were allowed to pass through the blockade without showing identification.

No criminal or civil charges were filed by the British Columbia Prosecution Service following the arrests; however, a recent decision of the British Columbia Supreme Court on 6 December 2021, allowed for the possibility of criminal charges to be filed privately, ruling that "failing to maintain the possibility of a finding of criminal contempt may undermine the administration of justice" and finding that for three unnamed arrestees "the matter can continue to assess whether they engaged in either criminal or civil contempt."²

The information received also describes racially motivated harassment, violence and discrimination by local non-indigenous residents. In one incident two Wet'suwet'en cabins were set afire by non-Indigenous assailants appearing intoxicated and shooting weapons in the air. Charges were laid but there were no convictions.

² Canadian National Railway Company v. Doe, 2021 BCSC 2469

In September 2021, the RCMP and the Community-Industry Response Group (C-IRG) established a new police checkpoint and exclusion zone within Wet'suwet'en territory. It is alleged that officers have continued to raid Wet'suwet'en encampments, dumping drinking water and violating COVID-19 safety measures by not wearing masks or observing safe social distancing practices.

In November 2021, the RCMP expanded their exclusion zone, and allegedly employed helicopters, snipers, assault weapons, and police dogs to arrest unarmed Wet'suwet'en people and journalists, subjecting them to intimidation and inhumane conditions while in detention.

It is important to note the increased threats faced by Indigenous Peoples across Canada, as legislation is introduced that could further target and criminalize land rights defenders opposing infrastructure projects. Most recently, in June 2020, the Province of Alberta passed Bill 1, the *Critical Infrastructure Defence Act*, that "protects essential infrastructure from damage or interference caused by blockades, protests or similar activities." There is a danger that these bills introduced to protect against "critical infrastructure sabotage" may suppress the growing anti-fossil fuel movement, in which Indigenous Peoples play a central role, by silencing dissent against planned or existing projects.

Work camps increase risk of COVID-19 exposure and violence against indigenous women, girls and two-spirited members

According to the information received, as construction of the CGL pipeline accelerates during the pandemic, indigenous communities are increasingly at risk from COVID-19 exposure. The fact that reporting of COVID-19 cases in the camps is based on workers' home provinces means that local communities are not informed of positive cases in their proximity. The presence of law enforcement and private security further threatens to exacerbate the COVID-19 crisis, creating fear of an outbreak in communities with limited health facilities and resources to deal with the pandemic. It is reported that there are at least five private security companies currently deployed in Wet'suwet'en territory.

In addition to the heightened risk of COVID-19 exposure, Indigenous Peoples have raised concern over the threat posed by work camps to the security of indigenous women, girls, and two-spirited members. It is well documented that indigenous women are impacted to a much greater degree by pipeline construction.³ Currently there are work camps in Wet'suwet'en territory near the "highway of tears," an area infamous for high numbers of missing and murdered indigenous women. The rapid influx of non-local workers in Wet'suwet'en territories has also brought an increase in murder rates, drug use, sexual harassment and gang activity in nearby communities. Indigenous women are reportedly at the forefront of the Wet'suwet'en struggle and may therefore face increased threats of violence, harassment, and discrimination.

³ See *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, 3 June 2019: <https://www.mmiwg-ffada.ca/final-report/>

Canada's duty to consult and obtain free prior and informed consent

The Wet'suwet'en were allegedly not consulted prior to the decision to route the pipelines through their unceded traditional territory. A proposal by the Hereditary Chiefs to meet with CGL to discuss an acceptable route for the pipeline project was rejected. With respect to permits for drilling under the Wedzin Kwa, it is alleged that the Hereditary Chiefs received documents which were password protected, and they were unable to review them within the prescribed timeframe for public consultation. Construction has proceeded in the face of ongoing opposition by the community and numerous concerns raised by leadership. The alleged practices do not conform neither with the domestic law nor with international human rights standards.

According to the information presented, consent cannot be based solely on the agreements that the oil company signed with band councils. The band council system imposed by the *Indian Act* attempts to displace traditional forms of governance, political institutions and legal systems. According to the *Indian Act*, band council jurisdiction applies only to the reserves. Under Canadian law, consultation must take place with the proper representatives of rights holders adversely impacted by development projects. Therefore, Canada must "consult and reasonably accommodate,"⁴ not the band councils but the collective, traditional and hereditary governance structures of the First Nations as a whole.

Concern raised by UN treaty bodies

International law standards go beyond the obligation to consult; it establishes the need for free, prior and informed consent of the Indigenous Peoples who are directly affected by the relevant project. This is what the UN Declaration on the Rights of Indigenous Peoples clearly prescribes. In December 2019, CERD issued a decision under its early warning and urgent action procedures⁵ calling upon Canada to cease construction of the CGL pipeline, and suspend permits until it obtains the free, prior, and informed consent of the Wet'suwet'en. In November 2020, CERD followed up on its 2019 decision with a letter,⁶ expressing regret that Canada had, to that date, furnished CERD with no information on measures taken to address the concerns raised in the 2019 decision. CERD requested updated information on measures taken in Canada's periodic report, which was expected on 15 November 2021. That report has not yet been received.

Furthermore, the UN Committee on Economic, Social and Cultural Rights (CESCR) also requested information about measures taken to address the concerns raised in the 2019 CERD decision and about how the legislative, policy and procedural framework relating to the rights of indigenous people has been applied in practice in its list of issues prior to the reporting of Canada's 7th periodic report - which was expected on 30 June 2021 and has not yet been received.⁷

⁴ *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73 para. 27.

⁵ CERD, Decision 1(100), 13 December 2019.

⁶ CERD/EWUAP/102nd session/2020/MJ/CS/ks

https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CAN/INT_CERD_ALE_CAN_9296_E.pdf

⁷ E/C.12/CAN/QPR/7

According to reports received, construction on the project has intensified since the release of the CERD decision, despite risks posed by the COVID-19 pandemic. Canadian courts have denied First Nations' legal challenges⁸ while granting additional permits and injunctions to the project proponents.⁹ Reportedly, land defenders have been forcibly removed from their territories, and continue to face profiling, surveillance, and violent and arbitrary arrest by police, as well as escalations of violence, harassment, and discrimination by nonindigenous citizens.

While we do not wish to prejudge the accuracy of these allegations, serious concern is expressed as to the criminalization and alleged use of excessive force against Indigenous Peoples defending their rights to lands and resources, right to self-determination, right to free prior and informed consent, and rights to free expression and to peaceful assembly, as well as cultural rights. Our concerns over continued allegations of undue monitoring of the activities of indigenous organisations and arrests of land rights defenders peacefully opposing large-scale infrastructure projects, raised in the communications of 7 November 2013 (CAN 4/2013) and 27 November 2014 (CAN 1/2014) remain. Deep concern is also expressed over the alleged use of excessive force and mass arrests against Indigenous Peoples seeking to defend their lands, resources, and culture and rights to freedom of opinion and expression, freedom of peaceful assembly and the right to take part in decisions that have an impact on their cultural life. The spiritual relationship of Indigenous Peoples with their lands is part of their culture and hence, the allegations severely affect the right to take part in cultural life.

Deep concern is also expressed with regards to the risks associated with work camps spreading COVID-19 and threatening the security of indigenous women, girls and two-spirited members.

The burning of fossil fuels constitutes one of the human activities that has the largest impact on the Earth's climate. In this context, we remain preoccupied by the impact of fossil fuels exploitation in general and the establishment of the pipeline in particular on greenhouse gas emissions, contributing to the current climate crisis. Climate change is having a major impact on a wide range of human rights today, and could have a cataclysmic impact in the future unless ambitious actions are undertaken immediately. Among the human rights being threatened and violated are the rights to life, health, food, water and sanitation, a healthy environment, an adequate standard of living, housing, property, self-determination, development and cultural rights.¹⁰ In addition, guaranteeing a "safe climate" constitutes one of the substantive elements of the right to a clean, healthy and sustainable environment, as recognized by the Human rights Council on 8 October 2021 (Res. 48/13) and the General Assembly on July 28 (A/76/L.75).

⁸ The British Columbia Civil Liberties Association filed a complaint on behalf of the Wet'suwet'en Hereditary Chiefs with the Civilian Review and Complaints Commission for the RCMP challenging the use of exclusion zones. MEDIA ADVISORY: Legal Complaints Filed Against RCMP Exclusion Zone in Wet'suwet'en; Indigenous, Civil liberties, Human Rights & Labour Groups Condemn Exclusion Zone," January 14, 2020 A number of civil lawsuits have also been filed against CGL and its subcontractors. The Wet'suwet'en Hereditary Chiefs are currently challenging the extension of CGL's Environmental Assessment Certificate arguing that it did not address the impact of man camps on murdered and missing indigenous women. The Canadian Press. "B.C. Supreme Court hears petition for judicial review of Coastal GasLink certificate," October 1, 2020

⁹ Since CERD's decision, on the Trans Mountain Pipeline alone, a total of 40 permits have been granted and 22 were in progress as of August 15, 2020.

¹⁰ A/74/161.

The lands where this project takes place have a spiritual bond to the indigenous nation in question and hence any negative effect on this relationship would be a violation of the Wet'suwet'en people's cultural rights. Disruption of the Wet'suwet'en's way of life, including disruption of their traditional food practices, water gathering and hunting practices would also be violations of their cultural rights. We remind that States have both to abstain from such violations and to take positive measures to ensure that these rights are respected and materialised. Furthermore, any balancing of such rights would have to take into account the vulnerability of Indigenous Peoples and prioritise the respect of their rights, also taking into account other norms of international human rights law, particularly legality, legitimacy and proportionality.

Finally, we express particular concern with regards to the apparent correlation between the lack of formal recognition of Indigenous Peoples' title to their lands and these large-scale energy projects.¹¹ We wish to highlight our preoccupation with the failure of the State to respect the self-determination of indigenous communities over their lands and peoples, as well as the failure to adequately consult indigenous communities impacted by their decisions and obtain their free, prior and informed consent.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the human rights due diligence policies and processes put in place by Kohlberg Kravis Roberts & Co. L.P. to identify, prevent, mitigate, and remedy the adverse human rights impacts of your activities and, in particular, with respect to the human rights of the Wet'suwet'en Indigenous Peoples and communities affected by the Coastal GasLink pipeline, in line with the UN Guiding Principles on Business and Human Rights.
3. Please provide information about specific due diligence or impact assessment measures taken by Kohlberg Kravis Roberts & Co. L.P. in relation to the development of the Coastal GasLink pipeline project. In particular, please highlight how your company has conducted meaningful consultation with affected stakeholders and, in particular, with the Wet'suwet'en Indigenous Peoples and communities, before and after the commencement of the Coastal GasLink pipeline project. Please indicate whether any steps were taken to avoid negative social, cultural, and environmental impacts on the Wet'suwet'en Indigenous

¹¹ See CERD's expressions of concern in relation to Site C Dam and the TransMountain Pipeline in CERD, Decision 1(100), 13 December 2019, CERD/EWUAP/102nd session/2020/MJ/CS/ks.

Peoples and communities located in the project area, including by seeking their free, prior and informed consent for the project on their lands.

4. Please describe the measures that Kohlberg Kravis Roberts & Co. L.P. has taken, or plans to take, to prevent the recurrence of situations of human rights violations against Wet'suwet'en Indigenous Peoples, as well as other Indigenous Peoples and communities affected by development projects in the future.
5. Please explain what measures have been adopted to ensure that staff of your company as well as your business partners have adequate awareness, knowledge and tools to identify and report human rights abuses, including those alleged in the present letter, throughout your operations.
6. Please provide information on the steps taken by Kohlberg Kravis Roberts & Co. L.P. to establish, implement and/or enforce an operational-level grievance mechanism, in line with the UN Guiding Principles, in order to address the adverse human rights impacts caused or contributed to by your company's operations.
7. Please kindly provide information on how Kohlberg Kravis Roberts & Co. L.P. does not impact negatively the work of human rights defenders, specifically in light of the recommendations provided to Businesses in the Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises on the adverse impact of business activities on human rights defenders (A/HRC/47/39/Add.2).
8. Please provide information on whether and/or how your company assesses the actual and potential human rights impacts of investees prior to investing as well as on an ongoing basis once invested. In particular, please provide information on whether your company consulted with relevant stakeholders, such as the Wet'suwet'en Indigenous Peoples and communities in this specific case.
9. Please provide information on whether and/or how your company has enabled and/or promoted the provision of remedy to victims of business-related human rights abuse, recalling the expectation for investee companies to each have in place operational-level grievance mechanisms and participate in collective bargaining processes in line with the UNGPs' effectiveness criteria.
10. Please provide information on whether your company publicly discloses how it is addressing human rights risks and impacts connected with its investment activities.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your company will be made public via the communications reporting [website](#). They will also subsequently be made

available in the usual report to be presented to the Human Rights Council. Please send your reply to ohchr-registry@un.org.

Please be informed that a letter on this subject matter has been also sent to business enterprises that are involved in the development of the Coastal GasLink pipeline, including the other owners of the pipeline (TCenergy, Alberta Investment Management), the owner of the LNG Facility (LNG Canada Joint Venture, and its members Royal Dutch Shell, Petronas, Petrochina, Mitsubishi, Kogas), the contracted construction companies (Surerus Murphy Joint Venture, SA Energy Group, Aecon Group Inc., Pacific Atlantic Pipeline Construction Inc., O.J. Pipelines Canada, Macro Spiecapag Joint Venture, and Ledcor Group), as well as to the home-States of all involved companies (the Governments of Canada, China, Japan, the Netherlands, Malaysia, the Republic of Korea and the United States of America).

Please accept, Mr. Kravis and Mr. Roberts, the assurances of our highest consideration.

Pichamon Yeophantong
Chair-Rapporteur of the Working Group on the issue of human rights and
transnational corporations and other business enterprises

Alexandra Xanthaki
Special Rapporteur in the field of cultural rights

David R. Boyd
Special Rapporteur on the issue of human rights obligations relating to the enjoyment
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Irene Khan
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Mary Lawlor
Special Rapporteur on the situation of human rights defenders

José Francisco Cali Tzay
Special Rapporteur on the rights of Indigenous Peoples

Victor Madrigal-Borloz
Independent Expert on protection against violence and discrimination based on sexual
orientation and gender identity

Reem Alsalem
Special Rapporteur on violence against women and girls, its causes and consequences

Annex

Reference to international human rights law

In connection to the alleged facts described above we would like to draw your attention to the applicable international norms. First, we would like to highlight the UN Guiding Principles on Business and Human Rights (A/HRC/17/31), which were unanimously endorsed by the Human Rights Council in June 2011, and which are relevant to the impact of business activities on human rights. The Guiding Principles have been established as the global authoritative norm for all States and companies to prevent and address the negative consequences related to companies on human rights. The responsibility to respect human rights is a global standard of conduct applicable to all companies, wherever they operate. It exists regardless of the ability and / or willingness of States to meet their own human rights obligations and does not reduce those obligations. It is an additional responsibility to comply with national laws and regulations for the protection of human rights.

The Principles 11 to 24 and Principles 29 to 31 provide guidance to business enterprises on how to meet their responsibility to respect human rights and to provide for remedies when they have caused or contributed to adverse impacts. Moreover, the commentary of the Principle 11 states that “business enterprises should not undermine States’ abilities to meet their own human rights obligations, including by actions that might weaken the integrity of judicial processes”. The commentary of Guiding Principle 13 notes that business enterprises may be involved with adverse human rights impacts either through their own activities or as a result of their business relationships with other parties.(...) Business enterprise’s “activities” are understood to include both actions and omissions; and its “business relationships” are understood to include relationships with business partners, entities in its value chain, and any other non-State or State entity directly linked to its business operations, products or services”.

"The responsibility to respect human rights requires that business enterprises:

- (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;
- (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts."(Guiding Principle 13).

“In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action.” (Guiding Principle 19).

Appropriate action will vary depending on whether the business actor causes human rights abuses, contributes to human rights abuses; or whether the adverse human rights impact is linked to the operations of the company by a business relationship. Furthermore, the action will depend on the extent of leverage of the business enterprise to address the impact.

To fulfill their responsibility to respect human rights, business enterprises should have in place:

- “(a) A policy commitment to meet their responsibility to respect human rights;
- (b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
- (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.”(Guiding Principles 15)

In this connection, we recall that Guiding Principle 22 states that: “[w]here business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes”. The Guiding Principle 20 states that business should track the effectiveness of their response. Tracking should: a) be based in appropriate qualitative and quantitative indicators; and b) draw on feedback from both internal and external sources, including affected stakeholders.

Furthermore, business enterprises are expected to utilize their leverage to prevent or mitigate the adverse impact. And if the lack leverage there may be ways for the enterprise to increase it. Leverage may be increased by, for example, offering capacity-building or other incentives to the related entity, or collaborating with other actors” (Commentary to Guiding Principle 19).

The Guiding Principles 25 to 31 provide guidance to business enterprises and States on steps to be taken to ensure that victims of business-related human rights abuse have access to effective remedy.

In addition and based on the foundational principle 11 of the Guiding Principles that businesses must respect human rights, and based on principle 12 that “The responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work”, we would like to refer to the Slavery Convention of 1926, which calls for the complete abolition of slavery in all its forms and to article 4 of the Universal Declaration of Human Rights which states that "No one shall be held in slavery or servitude, slavery and the slave trade shall be prohibited in all their forms". We would also like to recall article 5 of the Slavery Convention which calls upon States to take appropriate measures to prevent forced or compulsory labor involving conditions similar to slavery.

We would like to refer to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international

levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.