Executive summary

This document reports on the activities and outcomes of the ICC Working Group on Business and Human Rights. The reporting period covers August 2009, when the Working Group was formed, to May 2011.

During this time, the Working Group’s principal areas of activity have been:
- Contributing to international policy development and agenda-setting
- Dissemination and engagement amongst ICC members, individually and via ICC regions
- Outreach to relevant organizations
- Laying foundations for capacity building of NHRIs on business and human rights, and
- Supporting the Scottish Human Rights Commission and ICC Chair via materials for the ICC 10th Biennial Conference.

As the following report documents, the Working Group’s activities can be seen to have had significant impacts, including:
- Recognition of NHRIs’ mandate, capacities, needs and priorities in relevant policy frameworks and programmes, including the Guiding Principles developed by the UN Secretary General’s Special Representative on Business and Human Rights, and the OECD Guidelines for Multinational Enterprises
- Enhanced participation and raised profile of NHRIs in relevant policy processes
- Stronger recognition of NHRIs and understanding of NHRI mandate and role as regards business and human rights by relevant institutional actors at both international level (e.g. UN Global Compact, specialized UN agencies) and national levels (e.g. trade ministries)
- Supporting future knowledge and skills development and sharing between NHRIs on business and human rights, by production of new resources (e.g. Baseline Survey of NHRIs on business and human rights, NHRI Training Programme and Guidebook on business and human rights).

In this context, and with reference to the following factors, the Working Group concludes that ICC members should, via collective means, including with the support of the ICC Working Group, remain actively engaged in the business and human rights area:
The original commitment made by the ICC Bureau, to supporting and developing NHRI capacity on business human rights, in deciding to form the Working Group in its decision of March 2009. The collective commitment also towards these goals made by NHRIs via the Edinburgh Declaration. Recognition of the important role of NHRIs by the UN Special Representative on Business and Human Rights and the identified need for capacity building of NHRIs on business and human rights. Support from current Working Group members for continued work in this area.

However, the Working Group members note to the ICC Bureau with concern the need to identify funding to support participation on an equal basis across ICC Regions and of all Working Group members, and that lack of funding has during the current reporting period obstructed equal participation and is likely to do so also in the future.

Finally, the report contains a recommendation to the ICC Bureau submitted by the incoming Working Group Chair (Canadian Human Rights Commission) regarding priorities for the Working Group in the September 2011-September 2013 period. The WG will discuss the future work of the WG at ICC 24.

Copenhagen, May 2001

Dr. Jonas Christoffersen, Danish Institute for Human Rights, Chair of WG
Dr. Claire O-Brien, Danish Institute for Human Rights, Secretariat of WG
David Langtry, Canadian Human Rights Commission, Incoming Chair of WG
1. ICC Working Group on Business and Human Rights: Results and activities 2009-2011

In line with the Proposal for the establishment of a NHRI Working Group on Business and Human Rights approved by the ICC Bureau in March 2009, and the Working Group’s Strategic Action Plan, adopted in 2010, this document outlines activities across three areas: i) Strategic Planning; ii) Capacity Building and Resource Sharing; iii) Agenda Setting and Outreach.

I. Strategic Planning

Facilitate the inclusion of business and human rights issues into baseline research and strategic planning of NHRI, and provide a platform for regional and international collaboration on joint NHRI programmes.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Goals in Strategic Action Plan, 2009-11</th>
<th>Activities August 2009- May 2011</th>
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<tbody>
<tr>
<td>Baseline Survey</td>
<td>Baseline Survey Questionnaire to be distributed to all NHRI. Baseline Survey Report to be tabled before ICC and disseminated amongst ICC members and stakeholders</td>
<td>Baseline Survey Questionnaire developed by Scottish Human Rights Commission; distributed via ICC Regional Chairs and responses received from NHRI.</td>
<td>Responses processed and summary Baseline Survey report prepared.</td>
<td>Complete full Baseline Survey Report and disseminate. Present regional Baseline Survey findings for optional use in reports of ICC Regional Workshops.</td>
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<tr>
<td>NHRI Mandate</td>
<td>Undertake steps to reinforce the legitimacy of action on business and human rights as core element of the mandate of NHRI.</td>
<td>Working Group supported development of Concept Note for October Biennial Conference 2010 and Edinburgh Declaration</td>
<td>Biennial Conference Declaration affirms BHR as important element of Paris Principles mandate</td>
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<tr>
<td>NHRI Mandate</td>
<td>Coordinating advocacy by ICC members on NHRI role in relation to business and human rights, including:</td>
<td>• Final version of SRSG Guiding Principles refer strongly to NHRIs across all three “pillars” of the protect, respect, remedy framework</td>
<td>Support development of ICC statement in response to SRSG final report to UN Human Rights Council, June 2011</td>
<td>Support ICC engagement with stakeholders regarding role of NHRIs in implementation of Guiding Principles and follow-up</td>
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<td>• Prepared 2 ICC statements to UN HRC in debate on SRSG reports</td>
<td>• Encouraged HCHR statements supporting NHRI work on BHR</td>
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<td>• Organised 2 side events to relevant UN HRC events on NHRI role</td>
<td>• Enhanced awareness of NHRI mandate on BHR by key stakeholders, including UN special mandate holders, treaty bodies, and agencies; UNGC, OECD, EU.</td>
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<td></td>
<td>• Contributed to planning and materials for ICC Biennial Conference 2010</td>
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<td></td>
<td>• Undertook advocacy and dissemination to key stakeholders internationally (e.g. UN, OECD, EU, OSCE, UNICEF) and nationally on NHRI role in BHR area</td>
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<td>NHRI Mandate</td>
<td>Working Group highlighted NHRI mandate on BHR via two submissions to Review of OECD Guidelines for Multinational Enterprises and by supporting advocacy of individual NHRIs at national level</td>
<td>Concluding report of OECD Guidelines Review refers to role of NHRIs in supporting implementation of Guidelines and recommends further engagement with ICC.</td>
<td>Maintain support for ICC / NHRI engagement with OECD regarding role of NHRIs in implementation of OECD Guidelines for MNEs and Common Approaches</td>
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<td>Mapping Regional Legal frameworks</td>
<td>Undertaking research into the applicable regional standards in the area of business and human rights</td>
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<td>Develop ICC Training Module including provision for regional frameworks content and liaise with ICC Regions on development of such regional content</td>
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### II. Capacity Building and Resource Sharing
Facilitate skills development of NHRI staff in relation to business and human rights issues and provide a platform for NHRIIs for the exchange of expertise and best practices and for the joint development of tools and materials.

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<tr>
<td>Web platform</td>
<td>Establish a web platform for the Working Group as a resource for NHRIIs, supporting the sharing of tools, lessons learned and to facilitate collaboration, regionally and internationally.</td>
<td>WG solicited revised proposal from the Business and Human Rights Resource Centre for NHRI web portal on BHR: WG decided to proceed with supporting BHR content on ICC official web pages. WG is preparing revised content for BHR ICC web pages.</td>
<td>Established WG content for Wikipedia. Posted WG materials on NHRI.net and commenced revision of WG content for new ICC official website.</td>
<td>Coordinate with OHCHR NIRMS on transfer and hosting of WG materials to new ICC website.</td>
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<tr>
<td>Best Practices</td>
<td>Compile existing best practices of NHRIIs on business and human rights and disseminate amongst NHRIIs and beyond</td>
<td>Conducted Baseline Survey to generate data on best practices Gathered information from Edinburgh Biennial on best practices</td>
<td>Best practices will be included in ICC Guidebook for NHRIIs on BHR</td>
<td>Include NHRI best practices on BHR in Guidebook Liaise with OHCHR NIRMs re provision on ICC website for NHRIIs to provide content on /</td>
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<td>Activity</td>
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<td>Business and Human Rights Training Programme and Guide Book</td>
<td>Develop a modular training kit specifically focused on NHRIs and allowing for regional adaptation (e.g. to focus on regional priorities, such as privatized services, dialogue facilitation modules). The training kit can include: - Benchmarks for NHRIs to help them identify their focus and priorities in the business and human rights area - Skill-base Grid: Develop a tool mapping human resource needs for Business and Human Rights work within individual NHRIs - Develop a tool to support NHRIs in identifying relevant stakeholders in the business and human rights area - Develop a National Baseline Assessment template to guide individual NHRIs in assessing the adequacy of national frameworks in relation to</td>
<td>Scoped training materials for NHRIs and general training materials on business and human rights.</td>
<td>Developed and approved a Concept Note for an ICC Training Programme and Guidebook on BHR. Concept Note includes provision for context analysis, including NHRI own capacities and skills on BHR, as well as external stakeholder analysis and national strategy development. Pilot exercise and evaluation of Training Programme planned.</td>
<td>Complete development of core modules Training Programme for NHRIs on BHR and a number of thematic modules, and Guidebook, following consultation with OHCHR and ICC Regions. Liaise with ICC Regions regarding definition of regional specific content for Training Programme and Guidebook. Undertake pilot exercise and evaluation of NHRI Training module and report.</td>
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### Activity Goals in Strategic Action Plan, 2009-11

### Activities August 2009-May 2011

### Key results to May 2011

### Completion of activities to September 2011

<table>
<thead>
<tr>
<th>Activity</th>
<th>Business and Human Rights</th>
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<tbody>
<tr>
<td>Produce briefing note on potential for collaboration between NHRIs</td>
<td>Developed Concept Note for NHRI Training Programme on BHR</td>
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### III. Agenda Setting and Outreach

Facilitate ICC and NHRI participation in key domestic, regional and international developments in the business and human rights field, including in relation to legislation, treaties, soft law mechanisms and institutional developments. Provide support for ICC and NHRI outreach to relevant domestic, regional and international stakeholders including governments, UN bodies and other multilateral institutions, business communities and civil society.

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<tr>
<th>Activity</th>
<th>Events &amp; seminars</th>
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| Organise two events per year to raise the profile of NHRIs amongst relevant stakeholders in relation to business and human rights | Organised 5 public events on BHR/NHRIs;  
- Side meeting to UNHRC, Geneva, July 2009  
- Side meeting to UNHRC, Geneva, 2010  
- OECD Guidelines, Side Meeting at Biennial Conference, October 2010  
- Event on BHR/ NHRIs with UNGC, UNGC Local Networks Annual Forum, Copenhagen May 2011  
- OECD Guidelines HR expert meeting Jan 2011 | Profile of NHRI mandate on BHR, NHRI activities, needs and priorities in BHR area raised with regard to:  
- UN HRC  
- OECD  
- UN Global Compact | Organise side event to UN Human Rights Council, June 2011 (TBC) |
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<tr>
<td>Treaty Monitoring Bodies (TMBs) / regional mechanisms</td>
<td>Take steps to heighten awareness of TMBs / regional mechanisms on the potential role of NHRIs in relation to BHR including development of a position paper for presentation to UN TMBs/ regional mechanisms on NHRIs and business and human rights</td>
<td>Initiated outreach and engagement with some UN TMBs (UNCRC, UNCESCR), and 1 regional mechanism (Council of Europe) regarding role of NHRIs on BHR.</td>
<td>Initiated greater recognition of NHRI role on BHR amongst certain TMBs (UNCRC, UNCESCR) and 1 regional mechanism.</td>
<td>Sustain outreach to UN TMBs, regional mechanisms.</td>
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<td>UN Special Procedures</td>
<td>Take steps to heighten awareness and recognition by UN Special Procedures of the potential role of NHRIs in relation to business and human rights issues including submissions to 2 or more Special Procedures on behalf of the Working Group</td>
<td>Developed submission to a UN Special Procedure on behalf of ICC. Initiated engagement with OHCHR on issues relevant to thematic mandates (e.g. right to health).</td>
<td>Enhanced awareness of TMB role on BHR amongst certain Special Procedures.</td>
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<td>UN Global Compact</td>
<td>Undertake activities to raise the profile and</td>
<td>Initiated outreach from ICC to UN Global Compact, including via:</td>
<td>Raised UNGC institutional awareness and awareness of</td>
<td>Finalise Information Note on NHRIs for UNGC and</td>
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<td>understanding of the functions of and possibility of partnerships with NHRI with UN Global Compact members</td>
<td>• presentation to UNGC Human Rights Working Group on NHRI, November 2011, London&lt;br&gt; • Engagement with UNGC / UNICEF / Save the Children initiative for Business Principles on Children’s Rights&lt;br&gt; • Engagement with UN Local Networks: organised session on NHRI – Local Network collaboration at Local Networks Annual Forum 2011, including presentations from 3 NHRI&lt;br&gt; • Developed draft Information Note for UNGC participants explaining role and functions of NHRI on BHR, and including regional case studies</td>
<td>UNGC Local Networks members of role and functions of NHRI on BHR.&lt;br&gt; Established relationship between UNGC Human Rights Working Group and ICC / ICC WG.&lt;br&gt; Developed materials to raise awareness of NHRI role on BHR amongst UNGC participants.&lt;br&gt; Organised intervention by UNGC/STC/UNICEF on NHRI engagement with Children’s Rights and Business Principles at ICC 24.</td>
<td>diseminate.&lt;br&gt; Produce report on UNGC Local Networks Annual Forum session on NHRI, May 2011.&lt;br&gt; Support engagement of NHRI in UNGC/STC/UNICEF Childrens Business Principles consultation process.</td>
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|          | by ICC Chair, UNSRIP, UNCRC; produced meeting report  
• Supported engagement by individual NHRIS (approx 7) with OECD process at national level  
• Raised issue of lack of transparency and inclusion in OECD Guidelines Review process | Guideline of states adhering to OECD Guidelines, and other stakeholders (TUAC, BIAC, NGOs).  
OECD Guidelines Review documentation was made accessible to external stakeholders following ICC advocacy. | Continue to support dissemination and implementation of Edinburgh Declaration commitments, internally within ICC and amongst external stakeholders. |
Supported development and drafting of ICC Biennial conference documents and materials for Thematic Workshops. | Supported Biennial through provision of thematic content and planning support. |  |
2. Recommendation on the Future Work of the ICC Working Group on Business and Human Rights

This section presents a recommendation as to the preferred way forward for the ICC Working Group on Business and Human Rights (BHR). It is presented by the Canadian Human Rights Commission (CHRC) in its capacity as incoming Working Group Chair to ensure that it has clear guidance in meeting expectations during its mandate, and forms the basis of the CHRC’s contribution to the Working Group’s Report.

_Reconfirming Working Group Priorities_

The ICC, regional networks, and individual NHRI have differing mandates, priorities, and needs. The CHRC has reviewed all of the Working Group priorities in this context and proposes that they be further refined based on the following principles:

1. the activity demonstrates high visible impact and will result in a concrete achievement;
2. the activity is cost-effective and independent of ICC funding;
3. the activity is aligned with ICC priorities (for instance regional capacity building and engagement with UN Treaty Bodies and Special Procedures);
4. the activity enhances the ability of the regions to assume leadership for efforts in BHR;
5. the risk of not proceeding with the activity is high to the ICC and its constituent NHRI; and
6. the degree of involvement of the Working Group is taken into objective consideration vis-à-vis other modes of delivery.

Specifically in relation to this last principle, given other competing ICC and regional priorities, the CHRC looked at the role of the Working Group in relation to other resources such as the regional networks, individual NHRI, the ICC Geneva Representative and the OHCHR in relation to BHR. The CHRC considers the Working Group’s leadership in achieving the priority outcomes identified for 2011-2013 as follows in relation to these other resources:

<table>
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<tr>
<th>Mandate Area</th>
<th>Working Group Leadership Required</th>
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<tbody>
<tr>
<td></td>
<td><strong>High / Essential</strong></td>
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<tr>
<td><strong>I. Strategic Planning</strong></td>
<td>• Baseline survey report</td>
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<td>• Regional seminars</td>
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</table>
## II. Capacity Building and Resource Sharing

- Training and Guide Book
- Regional capacity building
- Regional action plans
- Web platform
- Best practices (link to Guide Book)
- Briefing note on potential for collaboration between NHRIs
- Creation of a wider network of NHRIs beyond members of the Working Group

## III. Agenda Setting and Outreach

- Strategic, high impact events
- Regional and international engagement - with UN Treaty Bodies, Special Procedures; SRSG Ruggie and OECD processes
- General seminars
- UN Global Compact

### Recommendation

Given the above considerations, it is recommended that the Working Group focuses its primary efforts on building / strengthening the capacity of the four ICC regions in BHR.

A number of benefits are associated with this approach:

- The Working Group supports and coordinates regional efforts on behalf of the ICC to develop member capacity in BHR.
- The Working Group assists NHRIs in meeting their commitments under the October 2010 Edinburgh Declaration.
- The Working Group continues to provide a focal point for cohesive and concerted action on behalf of the ICC membership.
- The Working Group continues to provide leadership at a critical juncture in the negotiation of international instruments and initiatives relating to BHR.
- The Working Group is well placed to complete the original commitments made in its Strategic Action Plan from 2009 and thereby meet current expectations of ICC members and ICC priorities.
- Continuation of the Working Group and the realization of its outcomes will help further inform the ICC’s experience with, and contemplation of, structures for future collaboration among NHRIs.
ANNEX: Extract from Edinburgh Declaration, October 2010, Tenth ICC Biennial Conference

The NHRIs here assembled agree:

16. To actively consider how their mandates under the Paris Principles can be applied, or where necessary strengthened, in order to promote and protect human rights as they relate to business, including through:
   - monitoring states’ and non-state actors’, including businesses’ compliance with human rights
   - advising all relevant actors on how to prevent and remedy such abuses
   - providing and/or facilitating access to judicial and/or non-judicial remedies, for example by supporting victims, handling complaints and/or undertaking mediation and conciliation
   - conducting research and undertaking education, promotion and awareness-raising activities
   - integrating human rights and business issues when interacting with international human rights bodies, including UN treaty bodies, Special Procedures, the Human Rights Council and the Universal Periodic Review, as well as regional human rights mechanisms.

17. To proactively consider new ways in which NHRIs’ mandates can be used to advance the “protect, respect and remedy” framework while recognising the need for its further development and alignment with international human rights standards.

19. To urge States to identify and establish a properly resourced focal point within the UN to provide guidance and support capacity building as recommended by the SRSG (UN Doc A/HRC/14/27).

20. To broaden NHRIs’ activities by means such as:
   - creating focal points on business and human rights within their institutions and developing platforms to convene dialogue among relevant actors
   - engaging with organisations and stakeholders at national, regional and international levels, such as business, including small and medium sized enterprises (SMEs), trade unions, civil society and the UN Global Compact
   - supporting victims of corporate abuses, and facilitating their access to effective judicial and non-judicial remedies
   - empowering human rights defenders and securing the effective participation of civil society in business and human rights, in particular vulnerable groups.

21. To renew efforts to work collaboratively with NGOs and civil society in implementing NHRIs’ mandates as regards business and human rights, including through sharing knowledge and expertise and institutionalizing exchanges and interactions.

Further agree that NHRIs will:
22. Undertake activities, commencing in 2011, in coordination with the ICC Working Group on Business and Human Rights and with the support of the Office of the High Commissioner for Human Rights, including if possible a workshop on business and human rights in each ICC Region to be held during 2011.

23. Incorporate business and human rights in strategic plans and workplans in each NHRI and ICC Region.

24. Engage with and support the ICC Working Group on Business and Human Rights, and in all activities encourage participation from relevant stakeholders including government, legislatures, trade unions, business including SMEs, NGOs and civil society.