SUMMARY OF PARTICIPANT COMMENTS

Dr. Jonas Christoffersen, Director, Danish Institute for Human Rights, and Chair, ICC Working Group on Business and Human Rights

I am honored as Chair of the ICC Working Group on Business and Human Rights to facilitate this session on the follow-up to the Edinburgh Declaration. The Edinburgh Declaration was adopted last October at the ICC’s 10th Biennial Conference, on the topic, “Business and Human Rights: The role of National Human Rights Institutions”.

The conference was hosted by the Scottish Human Rights Commission, and many colleagues here who were in Edinburgh warmly appreciated the great hospitality we received and the inspiring surroundings of the Scottish Parliament where we met.

The Edinburgh Declaration is a very important milestone. In it, we affirmed that our mandate under the Paris Principles applies to challenges and abuses of human rights occurring in the private sector, just as in the realm of state activities.

The Declaration also signals our collective commitment - at the global level through the ICC, within our regions, and at national level - to build our knowledge, skills and capacities so that as NHRI s we are able to address the need for promotion and protection of human rights with reference to business activities and consequences thereof.

Our collective commitment expressed in Edinburgh demonstrated our common concern.

In a globalizing world, where the influence of the private sector seems ever to be increasing, corporations are implicated across the board of human rights issues, and across all our regions:

- human trafficking, forced labour and child labour
• infringements of freedom of association
• forced evictions of indigenous peoples or other local communities from their land to make way for industrial development or mineral extraction
• dangerous working conditions
• discrimination, harassment and abuse in the workplace
• environmental degradation impacting on rights to water, food and livelihood,
• corrupt practices undermining the rule of law and good governance
• in some cases, complicity with unlawful interference by state authorities with privacy and freedom of expression on the internet and mobile phone networks
• And failure to pay a living wage sufficient to support workers and their families even to a level of subsistence.

These are abuses that impact profoundly on the daily lives and survival of many millions of people worldwide, which demand our urgent, firm and collective attention.

As you know, the ICC Bureau in 2009 established it first substantive Working Group on a wide, substantive human rights issue. Before we hear experiences from our four regions as well as from our guests today, I need to inform you of the progress made by the members of the Working Group in cooperation.

The Working Group’s first meeting was held in Copenhagen two years ago and we have – apart from administrative and analytical matters - focused our activities to two topics.

First, we wanted to understand - and have recognized – the role of national institutions relating to business and human rights issues. I am happy to say that we reached the objective as we have secured recognition of our role in the UN Guiding Principles on Business and Human Rights. After Edinburgh, we lobbied intensely the UN Special Representative, Prof. John Ruggie, to include references to NHRI’s in all aspects of his framework. This was successful not least thanks to the efforts of Rosslyn Noonan, ICC Chair, and of colleagues from NHRIs across all four ICC regions, inside and outside the Working Group.

We will continue this work by delivering a statement to the UN Human Rights Council at its upcoming 17th session. A draft of this statement is already available in the back of the room and we invite your comments on that.

We further engaged with the OECD to secure proper references to human rights in the OECD Guidelines for Multinational Enterprises. The OECD Guidelines will now include a new human rights chapter and we will continue to be in dialogue with the OECD, just as we are working to have the UN Global Compact
understand our unique role, including in providing remedies to victims of abuse, as well as monitoring and supporting both governments and corporations to fulfil their respective responsibilities to rights-holders.

Secondly, we have focused on capacity building of national human rights institutions. At the Danish Institute for Human Rights, we are in the process of developing an “Human Rights and Business Training Programme for NHRIs” and an “Human Rights and Business Guidebook” specifically focused on how we can use our Paris Principles based mandate in the field of business and human rights.

The last piece of information I would like to share is that Working Group materials will shortly be available on the Business and Human Rights section of the new NHRI website hosted by OHCHR.

Dr. Claire Methven O’Brien - who has been the driving force of the Working group – is working extremely hard with other staff at the Danish Institute to finish the training material mentioned in due time for the workshops that all ICC Regions are planning to host preferably by the end of this year.

I speak on behalf not only of the Danish Institute, but also in behalf of my colleagues in the Working Group, when I express the hope that you will find our efforts useful in your work to meet the challenge of human rights abuses associated with business activities.

Prof. Alan Miller, Chair, Scottish Human Rights Commission and Chair, European Group of National Human Rights Institutions

Prof. Miller reported on the ICC’s 10th Biennial Conference held in Edinburgh in October 2011 and its outcomes.

While the human rights and business area might appear academic to some, e.g. in face of violent crises, it was important not to underestimate the strategic importance to NHRIs of engaging in this emerging issue. Prof. Miller also acknowledged the role of Dr. Christoffersen, DIHR, and Dr. Methven O’Brien in contributing and being a standard bearer for this issue within the ICC.

The Scottish Human Rights Commission was very pleased to host the 10th Biennial Conference, on Business and Human Rights. The Conference was highly interactive, involving over 90 NHRIs from across the ICC Regions, civil society representatives, who took part in the preceding NGO Forum, and a number of business and labour representatives, in addition.
The Conference addressed four themes, selected by the ICC Regions: child labour (Africa), human rights abuses associated with environmental degradation (Americas); forced labour and human trafficking (Asia Pacific); and privatisation and public procurement (Europe).

The Conference had been honoured to receive four keynote addresses: from Navi Pillai, UN High Commissioner for Human Rights, who had underlined the significance OHCHR attached to human rights and business issues; from Prof. John Ruggie, UN Special Representative on Business and Human rights, who listened and was open to persuasion regarding NHRI’s strategic role in promoting observance of human rights in the business sector, which he subsequently recommended to HRC be recognized via his draft Guiding Principles on Business and Human Rights; from Mary Robinson, former UN High Commissioner for Human Rights; and Prof. Olivier Maurel.

The Edinburgh Declaration, which resulted from the Conference, is strategic and action-focused. It embodies the commitment of participating NHRI’s inter alia to:

- Monitor states’ and company compliance with business and human rights
- Recognize their potential role in convening relevant actors
- Facilitate victims’ access to appropriate remedies
- Conduct research, education, promotion and awareness-raising
- Integrate human rights and business into activities at international level as well as national and regional levels.

Within individual national human rights institutions, it was agreed

- To establish focal points on human rights and business
- To engage with relevant stakeholders
- To support victims of corporate human rights abuses
- To empower human rights defenders and civil society, and to work with NGOs.

Within ICC regions it was agreed:

- To hold ICC regional workshops on human rights and business
- To incorporate business and human rights into strategic plans, and
- To report back to ICC on actions taken.

Prof. Miller concluded by applauding ICC Regions for the progress now being made across the ICC Regional Networks towards practical arrangements for these objectives to be achieved, and in particular toward holding of ICC Regional Workshops on business and human rights.
Mr Jin Pyo Hong, Standing Commissioner, National Human Rights Commission of Korea

Distinguished Participants and Colleagues,

It is my pleasure to speak about the follow-up actions to the Edinburgh Declaration at the 24th ICC Annual Meeting.

In October 2010, we, the NHRIs, adopted the Edinburgh Declaration in the 10th International Conference of National Human Rights Institutions. This document brings a symbolic meaning to international community as the first instrument to resolve the commitment of the NHRIs to integrate a human rights perspective into the business sector. The Edinburgh Declaration puts forward several important agreements and actions. The Declaration also encourages a workshop on business and human rights in each ICC region during 2011.

Following up the Edinburgh Declaration, a regional conference in the Asia-Pacific region will be held from 11 to 13 October this year in Seoul, Korea. The National Human Rights Commission of Korea (NHRCK) and the Asia Pacific Forum of National Human Rights Institutions (APF) will jointly organize this meeting, with high aims to develop a regional action plan based on regional priorities and challenges. The meeting will accommodate sessions to consider the development of business and human rights training tool kits for NHRIs that allow for regional adaptation, and to discuss ways toward the effective implementation of the ‘Guiding Principles on Business and Human Rights’ formulated by the Special Representative.

The meeting is expected to provide an opportunity to build knowledge, exchange ideas and lessons learned among participants, and promote the agreements and conclusions contained in the Edinburgh Declaration at the regional and national level.

Ladies and Gentlemen,

From the experience in addressing the issues of business and human rights in South Korea, the NHRCK has learned important three lessons: first, many corporate leaders often perceive “human rights” as meaning simply civil and political freedoms and thus make little connections between the integrity of human rights and business practices; second, many companies view corporate social responsibility as a voluntary commitment rather than a duty; and third, companies in general agree to the human rights standards in principle but often reveal discrepancy in practice.
Recognizing these facts, the NHRCK will launch an ambitious project to investigate into and analyze the human rights compliance of the business sector in Korea and then publish a special national report to be submitted to the National Assembly and the Government with relevant recommendations. Such activities of public discussions, monitoring, and advising are essential elements requested to the NHRIs by the Edinburgh Declaration.

**Colleagues and Friends,**

The topic of business and human rights is relatively a new or unfamiliar concept to many countries including Korea, and the business recognition of human rights still remains underdeveloped. In this respect, the regional gathering of NHRIs pursuant to the Edinburgh Declaration can serve as an important momentum to prompt the maturation of business practice in many parts of the world. The NHRCK expects that the regional meeting will unfold flows of new ideas and recommendations for our joint commitment and future actions to implement the human rights standards in business.

Lastly, I seek support and cooperation of Asia-Pacific colleagues for our regional conference. Also, I would like to encourage NHRI colleagues to actively join the follow-up to the Edinburgh Declaration.

Thank you.

**Mr. Med Kaggwa, Chairperson, Uganda Human Rights Commission**

Mr Kaggwa opened his remarks by emphasizing that NHRIs are well placed to address challenges to human rights in the business sector in a range of ways: through engaging with business enterprises, building the capacity of government and Civil Society Organisations, handling complaints regarding abuses, monitoring and providing information, legal representation, and giving advice to victims.

Mr Kaggwa then explained that Uganda Human Rights Commission (UHRC) is already involved in such activities. The UHRC has a mandate to receive and investigate complaints regarding abuses in the public and private sectors. Most complaints regarding business and human rights relate to labour rights, e.g. failure to pay wages, working terms and conditions, forced labour, environmental hygiene standards, unfair dismissal, discrimination, such as on grounds of sex, disability, age, HIV status and ethnic origin.

UHRC thus investigates child labour and protects against exploitative labour practices. UHRC can write to respondents, undertake investigations and
examinations, perform interviews and record statements, where necessary, although UHRC mostly uses mediation to resolve labour complaints.

UHRC also undertakes review of legislation and policies. Under its Constitution, UHRC should advise the government on compliance with human rights standards. UHRC therefore advises on bills with human rights and business implications, for example, relating to land rights regimes.

A further issue is that there is currently no law on minimum wage, so that unskilled workers frequently receive low wages that are not sufficient to meet basic needs. In its Annual Reports, UHRC has appealed to the Government to enact a minimum wage law applicable to all workers.

Mr Kwaggwa next highlighted various challenges facing NHRIIs in seeing to the full implementation of the Edinburgh Declaration:

- Lack of awareness of workers’ rights by both public and private employers: many employers believe that “business” and “human rights” are not connected
- Few mechanisms to enforce compliance with human rights of business entities, and the impunity that results from this (e.g. the lack of industrial court judges for labour matters)
- Privatization – when this proceeds without consideration of workers’ situations, leading to large scale unemployment without provision to compensate or redirect workers
- Lack of binding labour contracts, allowing unfair dismissals that are not actionable
- Lack of understanding on the part of jobseekers of employment contracts offered to them
- The desperation of workers due to a tight labour situation
- Lack of recourse to remedies for abuses
- Layoffs effected without warning and/or compensation
- Ignorance of law by workers or others affected by corporate activities, so that they do not seek redress.

In addition, NHRIIs have the challenge of adequate funding to act according to their mandate on human rights and business: securing adequate funding for this will require a massive sensitization of both business and government.

Regarding the way forward, Mr Kwaggwa underlined the need for routine monitoring, education and training of NHRI staff on human rights and business so that they can properly pursue the NHRI mandate in this area. NHRIIs should also have a strategy on human rights and business, or action plans to follow through on the Edinburgh Declaration commitments. UHRC was pleased that
OHCHR had now allocated to it funding for training on business and human rights, hopefully to take place in July 2011, to increase its capacity to do so.

In conclusion, NHRI s have a crucial role to play in promoting human rights in the business sector, but need to develop capacity and human resources necessary to achieve this.

Dr Morales Alvarado, Human Rights Defender of Guatemala

Dr Morales Alvarado provided two case studies, by video presentation, regarding positive examples of company actions on human rights in Guatemala. The first related to company collaboration to address the problem of displacement of communities due to flooding. The second case study concerned company actions to help preserve Guatemalan cultural heritage, in the form of an important Mayan town.

Bente Angell Hansen, Norwegian Ambassador to United Nations Geneva

Ambassador Hansen focused her remarks on the upcoming debate at UN Human Rights Council, 17th Session on the UN Special Representative’s Guiding Principles on Business and Human Rights, and the question, following the expiry of the SRSG mandate, "Where to from now?"

In the Ambassador’s opinion, the SRSG mandate had differed from many others during the 1970s, and 1980s, where discussions on business had often been at stalemate. The Norwegian government was therefore grateful to Prof. Ruggie, and his team at OHCHR for their work in moving the discussion forward. As a sponsor of the SRSG mandate, along with states from all world regions in the so-called Core Group (Argentina, Nigeria, Russia, India) Norway’s aim was for follow-up measures to be ambitious and to consolidate progress made, via securing the endorsement for the Guiding Principles by the UN Human Rights Council.

Norway would also look to ICC to play a key role in that consolidation, given the NHRI role across all dimensions of the SRSG framework and Guiding Principles, as highlighted also in the ICC Edinburgh Declaration. There was a need to gather and disseminate best practices widely, across the range of business and human rights issues, such as food security, agricultural workers, pesticides, low salaries on which workers could not even feed their families, and rights to free assembly and expression.
Norway hoped for follow up to the SRSG mandate after June 2011 to include a Working Group and an annual forum event embodying a stakeholder approach. Members of the UNHRC might ask, “Can we afford it?” But as human rights is a pillar of the UN system, member states must find a way to afford it, by contrast with the past when very little funding was available for human rights relative to e.g. development and security pillars.

Norway would continue to support the ICC, and the Ambassador expressed Norway’s respect and appreciation of NHRIs’ important work, while also requesting NHRIs to keep track of good practices and share learnings on business and human rights.

**Lene Wendland, UN Office of the High Commissioner for Human Rights**

Ms Wendland reiterated the appreciation of the UN Special Representative on Business and Human Rights, Prof. John Ruggie, for the interest and commitment of NHRIs to advancing respect for human rights in the business sphere. The Special Representative and had highlighted NHRIs as important partners with enormous potential to act as “multipliers” in supporting implementation of all three pillars of the UN “protect, respect, remedy” framework.

Regarding the state duty to protect against corporate human rights abuses, this referred to a core Paris Principles function of NHRIs, namely supporting and overseeing state policy and regulatory functions.

Concerning the second pillar, the corporate responsibility to respect, while this might be unfamiliar terrain for some NHRIs, there was a clear role for NHRIs to play in engaging with businesses as they set about undertaking human rights due diligence: as recognized experts on human rights at national level, business can turn to NHRIs for advice, for example, in assessing human rights impacts. This was reflected *inter alia* in draft Guiding Principle 23.

Finally, with regard to the third pillar, NHRIs may be an important non-judicial grievance mechanism for corporate human rights abuses, as had been explicitly recognised in the draft Guiding Principles.

Ms Wenland applauded the activities of the ICC Working Group, as having established a solid foundation for NHRIs’ activities on business and human rights, yet more work remained to be done.

In particular, many NHRIs faced capacity challenges. To address these, NHRIs would need to be creative: for example, by working together in collaboration, identifying business networks as possible partners, and finding other
opportunities for enhancing capacity and outreach. NHRIs should also recognise that most human rights issues have a corporate component, and then identify how the corporate dimension sits alongside other workstreams (for example, on indigenous peoples’ rights) and strive to reflect the Guiding Principles in these.

Ms Wendland reported that OHCHR was currently devising its strategy for future work on human rights and business. OHCHR National Institutions and Regional Mechanisms Unit would be shortly discussing inter alia the scope for linking to the business and human rights agenda at field office level within the UN.