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PERMANENT MISSION OF INDIA TO THE UN, GENEVA

HUMAN RIGHTS COUNCIL

11TH SESSION (02-18 JUNE 2009)

**Report of the Special Representative of the Secretary-General on
Human Rights and Transnational Corporations and
Other Business Enterprises**

(2 June 2009)

Statement by India

Mr. President,

We express our appreciation to the two Special Rapporteurs and the Special Representative for their presentations. Our own remarks would be confined to the report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises. We thank Mr John Ruggie for his comprehensive analysis of the tasks of taking the policy framework of *Protect, Respect and Remedy* from a conceptual to an operational stage through concrete recommendations for both the state organs and business enterprises.

2. As a country that was one of the five original sponsors of the SRSG's mandate, India attaches considerable importance to the basic principle that this mandate enshrines, namely that it is not merely the state but also non-state actors, in this case the business sector, that have the responsibility to secure the observance of human rights. In our view, the current economic and financial crises have only deepened the relevance of this mandate by exposing the limitations of the market, the need to strengthen their governance and the baseline corporate responsibility to do no harm. We are, therefore, happy to note that the SRSG has had a productive visit to India in February 2009 at our invitation during which he held regional consultations with different stakeholders from all over Asia.

3. On the issue of the state's duty to *protect* against corporate-related human rights abuse, the SRSG has suggested measures on three dimensions; one, through new, innovative provisions in corporate law, as seen in some national legislations, including in

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India, that he has cited in his report; two, better investment and trade agreements that do not tie down the state from exempting the investors from new human rights legislations; and, three, international cooperation aimed at awareness-raising and capacity-building of states through mechanisms like international trade and financial institutions. In this regard, we encourage the SRSG to develop model investment and trade agreements for the states, as also explore how UNCTAD can be tapped for awareness-raising and capacity-building of states since, as he has mentioned in his report, it is the developing countries that seem to have the most lopsided bilateral investment agreements that exempt the investors from the effects of all new laws for the duration of the project, irrespective of their relevance to public interest.

4. On the issue of corporate responsibility to *respect* human rights, SRSG's study shows that very few companies have systems in place to conduct due diligence on human rights impact of their businesses. In this regard, we welcome, by way of practical guidance, SRSG's elaboration of the scope of due diligence. We would also urge him to explore the utility of non-state, voluntary industry codes or penal measures that increase the liability of firms that do not observe due diligence.

5. Finally, on the issue of access to *remedies*, we take note of the barriers to judicial remedies for victims of corporate human rights abuses on which the SRSG has focused in his report, especially when the company is a subsidiary of the overseas parent, and including the sheer lack of information available to the victim. We urge him to present options to overcome these barriers in his next report.

Thank you, Mr. President.