

250 West 57th Street
Suite 2232
New York, NY 10107
tel: +1-212-653-0696
www.shiftproject.org

30 May 2016

Guy Ryder
Director General
International Labour Office
Geneva
Via email

Dear Guy,

I have been following with great interest the preparations for discussions on decent work in global supply chains at the upcoming International Labour Conference. And I very much welcome the references to the UN Guiding Principles on Business and Human Rights (UNGPs) in the ILO background report ("Decent work in global supply chains"). As you know, the UNGPs carefully frame corporate responsibility in supply chain contexts in a manner that all stakeholder groups have found useful, and which contributed to the UNGPs' unanimous endorsement by the UN Human Rights Council.

In the interest of sustaining and building on that consensus, allow me to offer two points of clarification intended to ensure that the excellent background paper is not misunderstood on the subject of the UNGPs. (I will share this letter with interested stakeholders.) The first point concerns the concept of "control" by lead firms, and the second the "cause/contribute/linked to" distinction embodied in the UNGPs.

Control by lead firm

I can be brief on this. I was struck by the paper's assertion that a 'lead firm' typically has 'control' of its global supply chain. That seemed to run counter to the realities that are so well articulated in much of the rest of the paper, where the concept of 'influence' – what the UNGPs call 'leverage' - is more convincingly used to describe the relationship. The term 'control' is subject to two possible misinterpretations in this context. First, it implies an over-ambitious assessment of what any company can achieve *individually* in progressing labor rights in extended supply chains. Second, I fear that a definition based on 'control' could lead some companies to revert to focusing solely on situations where they actually *do* have control—which is over their own activities That would run counter to the uniform consensus achieved by the Guiding Principles that companies' responsibilities are more extensive, though within clear limits. Which brings me to my next point.

Cause/contribute/linked to

I warmly welcome the fact that the background paper recognizes that companies' responsibility to respect human rights – which of course includes labor rights – does *not* stop with their own activities, but extends to their business relationships, including the different entities up and down their value chains. The Guiding Principles recognize three distinct ways in which companies may be involved with negative impacts on human rights: by causing them, contributing to them, or being linked to them yet without contribution on their part. A different responsibility is attached to each situation.

Causation is of course primarily about companies' own activities. Here the correlative responsibility is simple: where the company may cause harm it should take steps to avoid doing so, and it should provide for or cooperate in remedy if harms do occur. In turn, contribution and linkage are particularly relevant in the context of supply chains and other business relationships. The ILO paper highlights some of the ways in which companies may contribute to adverse impacts on human rights, such as through purchasing decisions that create incentives for suppliers to cut corners on labor standards. Here the UNGPs state that the company concerned should "take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impact to the greatest extent possible," as well as to help provide for or cooperate in remedy if harms occur.

The third situation is where the company has neither caused nor contributed to the adverse impact, but the impact is nevertheless directly linked to its operations, products or services through its supply chain relationships *at whatever tier*. Here the UNGPs encourage the company to use its leverage to try to reduce or prevent those impacts, and if necessary to seek to increase its leverage for that purpose. Ultimately, of course, terminating the relationship with the party causing the harm must be an option, particularly in the case of severe abuses where no progress is evident in reasonable time.

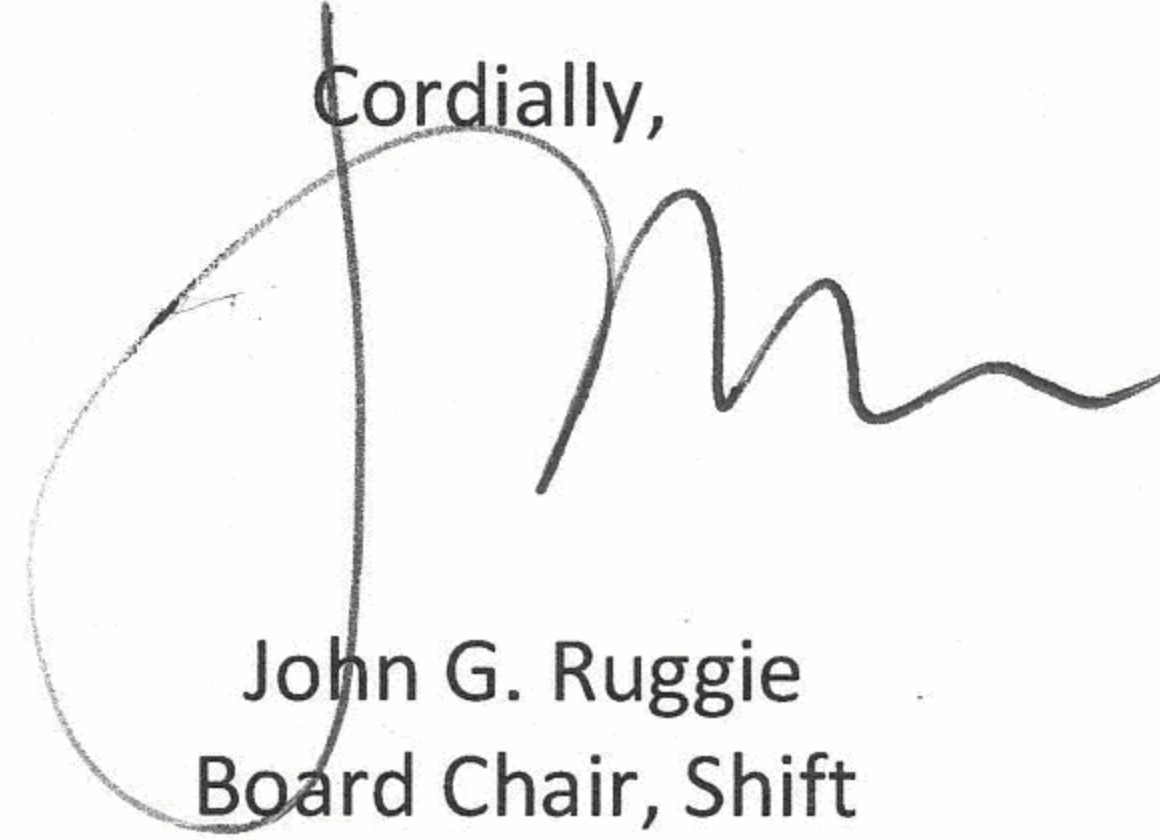
One of the important contributions I believe we made with the Guiding Principles was to recognize both that the responsibility of companies to respect human rights extends across the various tiers of their business relationships, and that this requires a far more thoughtful and engaged approach to creating and using leverage than had been the norm in the past. The upcoming ILO Conference offers a timely and valuable opportunity to underline and reinforce this important point.

Moreover, the ILO paper raises some compelling examples of how companies have been working together and with trade unions, governments and others to address some of the most severe and systemic labor rights abuses in their supply chains. The Bangladesh Accord and the ACT initiative are two such instances that illustrate the promise of collective action to leverage change. Importantly, these initiatives are not just about voluntary philanthropic contributions to development, but also the product of a recognized responsibility of companies to address severe human rights risks in their supply chains. In doing so, these initiatives make a critical contribution to sustainable development as well.

I hope and indeed expect that the ILO's discussions in June can help to further consolidate and reinforce these understandings and trends. The advancement of the human rights of workers and sustainable business depend on it.

With best wishes for a successful conference,

Cordially,

A handwritten signature in black ink, appearing to be 'J. Ruggie', written over the printed name.

John G. Ruggie
Board Chair, Shift

Former SRSG for Business & Human Rights
Berthold Beitz Professor, Harvard Kennedy School