

To: Diana Bronson, Rights & Democracy

From: John G. Ruggie, Special Representative of the UN Secretary-General for Business and Human Rights

Date: 4 October 2006

Re: Letter from Johannesburg meeting on Human Rights Impact Assessments

Dear Diana,

Many thanks to you and your colleagues for your letter of 29 September 2006, and even more so for the important work you have been doing on human rights impact assessments going back some years now. Your experience can help define what comprises a quality HRIA, as well as when and how HRIsAs should be required.

The principles you propose are extremely useful in focusing the debate. I do have a few questions of clarification, if I may.

Principle 1: You propose that FDI projects should be subject to a HRIA "commensurate with the anticipated impacts on human rights". Is there a self-evident way to anticipate such impacts without doing a HRIA in the first place? If so, what is it? Are there other diagnostic tools that exist or should be developed for this preliminary assessment? Could those other tools include more standard social impact assessments?

Principle 2: I'm not exactly sure what all is entailed by this principle. Does it mean that every company, for every project, needs to examine the impact of its proposed investment on every right stipulated in every instrument? Would you envision no ex ante exceptions based on the sector or scale of the project? Would you envision a similar process for the start-up phase of a project and for subsequent modifications or expansions? Finally, what is meant by "other relevant standards?"

Principle 6 states that a HRIA "should have as its starting point an assessment of the risks to, and rights of, communities". What exactly does this encompass in practice? Which community rights? What are the boundaries of the concept of "community" in this formulation? And how do you see the role of central and local governments in this process?

One other question that we have asked stakeholders to help us clarify is precisely what does/should a HRIA entail that is not currently included in social impact assessments? Are there actual instances that you can help us identify where a HRIA turned up results that differed significantly from what a standard SIA would have turned up? We've had difficulty identifying any instance of anything resembling a pure HRIA apart from BP and Tangghu. I'm hoping to push this discussion beyond the realm of theory so that we can begin to describe to companies in concrete terms what they should do, as well as how and why.

Thanks again for your letter. I look forward to our continued discussions, and to seeing the outcomes of your project.

With best regards,

John

John G. Ruggie

Kirkpatrick Professor of International Affairs Director, Mossavar-Rahmani Center for
Business & Government, Kennedy School of Government, Harvard University

Affiliated Faculty Member, Harvard Law School

Special Representative of UN Secretary-General for Business and Human Rights