

To: Carol Ransley, EarthRights International, Thailand

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

Date: 2 July 2006

Re: Asia Civil Society Statement at Asia Regional Consultation

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As you requested, my colleague Gerald Pachoud forwarded to me the letter you sent him, co-signed by a number of civil society representatives, addressing some issues related to the agenda of the Asia Regional Consultation I convened in Bangkok on June 26-27.

I found the meeting to be enormously helpful and am grateful to everyone who participated. But I regret that you chose to announce at the very end of the very last session that you would be sending me such a letter, while revealing none of its content and, thereby, not giving the group as a whole, or me, the opportunity to engage in a dialogue about it. I also find it perplexing, in light of the facts that I addressed many of the issues you raised in my opening remarks, and that you had ample opportunity to share your thoughts and concerns with us in open session, when you and I chatted at the reception the evening before the consultation began, or when you attended a small dinner the next night with two members of my team.

We will soon post our report of the Bangkok meeting on the Business and Human Rights website. But in the meantime I am concerned that anyone who learns about the consultation only from your letter might draw unwarranted – and quite erroneous – inferences from it. Accordingly, I feel the need to respond in some detail – and regrettably in the same public format.

1. I want to begin by reminding everyone that the governments that established my mandate as well as the Office of the High Commissioner for Human Rights consider it to be a “research mandate,” requiring no field work of any kind. Accordingly, the sole budgetary support I was provided during the first year consisted of three trips to Geneva. Organizing regional consultations, convening legal workshops, and making site visits within different industry sectors all are at my own initiative, and I have had to raise the funding for them – including funding to bring civil society organizations to Bangkok. Moreover, to the best of our knowledge no human rights special rapporteur or SRSG has conducted as extensive a series of non-mandated consultations.
2. It has been a matter of public record for some time – including by means of an open letter I sent to more than 100 NGOs, which I also posted on the Business and Human Rights website – that the regional consultations in sub-Saharan Africa, Asia, and Latin America are intended to serve two purposes. One is to contribute to a cumulative work program for the overall mandate, by focusing in depth on a particular set of business and human rights challenges within each region. The other is for me to learn about broader concerns stakeholders within the region want to draw to my attention. The Bangkok consultation was no exception to this rule.

3. The thematic focus of the Bangkok meeting on human rights issues in global supply chains similarly has been a matter of public record for some time, and all participants were sent a detailed agenda before the meeting itself. It is somewhat unorthodox to accept an invitation to a meeting that is based on a specific agenda, participate in two full days of discussions and then, at the conclusion of the meeting, issue a public statement complaining about the agenda.
4. Even so, as planned we devoted a full quarter of the meeting to “other issues,” encouraging everyone to go well beyond the agenda in expressing their views and concerns. In fact, many if not most civil society interventions from the floor throughout the consultation did so, and many consisted of quite lengthy statements. I made no effort to constrain the range of issues raised or to keep interventions to any time limit.
5. Your letter expresses appreciation for my inviting “some” civil society groups from the region. The word “some” could be taken to mean a mere sprinkling, so I hasten to point out that of 79 confirmed participants, 45 were from civil society organizations (including labor); 21 from business; and 33 were “other” (academics, governments, international organizations). We had two keynote speeches, one from business and one from labor. Of 16 panel presentations, 10 were by civil society representatives. A rough count indicates that civil society participants accounted for three-fourths of all interventions from the floor. In short, civil society was very well represented in our deliberations.
6. The EarthRights International website refers to letters from Burmese NGOs that were not invited. Lest anyone think that we excluded such groups, I cite from a letter I was presented at the meeting by Arakon Oil Watch, an organization focusing on corporate related human rights abuses in that country: “We are pleased by your decision to invite several grassroots Burmese NGOs to your regional consultation in Bangkok.”
7. Your letter states that “it is important that Professor Ruggie recognize that some of the worst human rights abuses are...in extractive industries,” and you criticize me for not devoting more attention to it in Bangkok. That I *do* recognize the importance of this sector is acknowledged by your own reference to my discussion of it in my interim report – in which I used precisely those words. Moreover, as I suspect you know, we held a two-day consultation on the extractive industries in Geneva last November, with the High Commissioner’s Office issuing a report from that session. It is also known to EarthRights that I visited Peru last January to learn first-hand about the situation in the extractive industry there, including spending two days with NGOs and *campesino* groups organized by Oxfam. In March I delivered an address to the annual conference of the World Mining Ministers in Toronto; my remarks are posted on the Business and Human Rights website. Lastly, it is public knowledge that we are convening a regional consultation in Colombia that will focus on community engagement and indigenous peoples issues – which inevitably will again feature the extractive sector. In contrast, before Bangkok we had not examined global supply chain issues in any forum.

8. The case of Burma does pose a particular set of challenges with which the United Nations has struggled for more than a decade, and the issues it raises are receiving careful consideration in my work.
9. You note that “Professor Ruggie has so far declined to commit to measures for more laws against corporate misconduct...” In fact, I have studiously declined to commit to *any* specific measures thus far. I am in the middle of a two year project to understand better the many dimensions of business and human rights together with effective ways to deal with them. I did not begin the project with answers but with questions, and in due course some of those questions will get resolved.
10. Similarly, as I stressed at the Bangkok meeting, analyzing supply chain issues does not mean advocating any particular approach to managing them, which your letter seems to imply. As you know well because you were there, we spent considerable time examining the limits of existing initiatives and impediments to raising the bar.
11. With regard specifically to legal issues, again it is a matter of public record that I am convening three workshops to explore these in some depth with a broad spectrum of legal experts. By coincidence, the report of the first of these workshops was posted on the Business and Human Rights website the same day your letter appeared.

You conclude your letter by stating that my recommendations to the United Nations will be “effective,” “useful,” and “relevant” only if I continue to consult and hear from various stakeholders. Any fair-minded observer will conclude that I am fully committed to such a process. But I look forward to the day when all parties resist the temptation to mix serious problem-solving dialogue with public posturing, which undermines the trust and credibility that is required for the success of any collaborative effort.