



WORKSHOP SUMMARY: APPENDIX

CORPORATE ENGAGEMENT WITH PUBLIC POLICY:

A FRAMEWORK BASED ON MULTI-STAKEHOLDER CONSULTATIONS

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Driving shareholder value over a two-to-five-year horizon often stayed front and center. This needs to change—quickly. Every society needs leadership. Historically, this was the role of elected officials, while businesses were expected to focus on legally and ethically pursuing their more narrowly defined self-interests. But that is not sufficient for the world we live in. If business leaders don't step up and shape a vision for shared growth and prosperity—a vision demonstrated through investments in people and in sustainable growth, reasoned fact-based discourse, and mutual respect—they'll be risking their ability to evolve and to sustain the support of society. Rich Lesser, CEO of the Boston Consulting Group

As business leaders, you know that responsible business cannot thrive in failing societies, where tension spikes and communities bristle with grievances and mutual contempt. Strong civil societies, due process, equality and justice: these are what enable real economic empowerment....By taking action to combat discrimination, inequality, xenophobia, violence and hate, you can help to build societies that are more inclusive, cohesive and strong. By moving forward in the implementation of the UN Guiding Principles on Business and Human Rights; by taking steps to uphold the rights of workers and communities affected by your operations; and by standing up for people whose rights are at risk, you can enrich societies – financially, and in their deeper values. Zeid Ra'ad Al Hussein, U.N. High Commissioner for Human Rights, before the U.N. Forum on Business and Human Rights, November 29, 2017

In a March 2018 article entitled, [“The Corporate Soul,”](#) *The New York Times* reported: “Business leaders today are reshaping the internet, reimagining health care, upending transportation and more. But being a chief executive is no longer just about running a company. It means taking political stands on everything from immigration to gun rights. It means weighing in on tariffs and taxes—all while balancing short-term profits with long-term goals, dealing with activist investors and attracting talented employees.” A week earlier the *Times* had examined in, [“Our Newest Culture Warriors: Activist C.E.O’s,”](#) a “recent phenomenon in which corporations and their chief executives pick a side in the culture war.” The article discussed how a significant number of corporations have been distancing themselves from the National Rifle Association following the Parkland massacre, which had been preceded by the Las Vegas mass killing. Business leaders [publicly denounced](#) the U.S. Government’s policy of separating families at the U.S.-Mexican border, while several major airlines requested that the government not use their flights to transport migrant children forcibly separated from their parents. Some companies have taken the lead to address governance failures by advocating for tax increases on large businesses in order to generate resources to systemically tackle the homelessness crisis in their communities or correcting market failures by helping to ensure the development of an affordable housing option, which is historically a role of the federal government. This phenomenon has morphed into a broader trend that has attracted the attention not only of mainstream media, but also academic circles and business experts. *The Harvard Business Review* featured a foundational article on [“The New CEO Activists”](#) and their roles in polarized political times. Forbes identified main Corporate Social Responsibility (CSR) trends for [2017](#) and [2018](#), which include “corporations [...] stepping up as advocates and problem-solvers” and more companies “bringing CSR into the C-suit” as a matter of corporate leadership.

I. FINDINGS FROM CONSULTATIONS

The Leadership Initiative on Corporate Engagement with Public Policy (“CEPP”) launched a frank and open dialogue in closed-door settings with corporate officials and stakeholder representatives with the goal of developing recommendations for corporate engagement with public policy issues for societal objectives, even if the issue is not directly linked to a company’s business operations. By “public policy,” we mean major issues of societal importance that (1) typically require governmental action, particularly in the fields of human rights, environmental protection, labor rights, health care, and domestic and international security, and (2) are not necessarily directly linked to a company’s business operations, but are “larger than self” issues. For purposes of CEPP, the term is not intended to encompass international trade or taxation. The initial objective has been to draft non-binding principled recommendations, building upon Principles 11 and 19 of the [U.N. Guiding Principles on Business and Human Rights](#), to assist corporate officials in their decisions to engage, publicly or privately, in response to governance gaps and to help shape the outcome of public policy issues in order to advance progressive societal objectives.

With respect to the human rights component of public policy, the [U.N. Human Rights Office](#) encourages the important role of corporate advocacy in the protection of human rights and supports the dialogue with top management on corporate engagement with public policy that was convened by Professor David Scheffer of Northwestern University and Dr. Caroline Kaeb, Co-Director of the Business and Human Rights Pillar and a Senior Fellow of the Zicklin Center for Business Ethics Research at the Wharton School. During April and May 2018 Professor Scheffer and Dr. Kaeb, in coordination with the Office of the United Nations High Commissioner for Human Rights (OHCHR), convened two closed-door roundtables on CEPP, one each in New York City and Geneva, Switzerland, for corporate representatives) and a roundtable in Washington, D.C. (for stakeholders). The corporate roundtables brought together corporate officials from the U.S., Europe, and South East Asia representing more than 12 different industries, including investment banking, asset management, manufacturing, clothing, extractive, information technology, transportation,

pharmaceuticals, accounting, manufacturing, agriculture, and health care. The Washington, D.C., roundtable at Foley Hoag LLP included expert stakeholder representatives from the U.S. State Department (IFBHR), AFL-CIO, Human Rights Watch, B-Team, Solidarity, Global Witness, Landesa, Oxfam, the International Corporate Accountability Roundtable, the Global Network Initiative, Freedom Fund, and the Business and Human Rights Resource Centre. The major points raised during the three roundtables are incorporated in the following discussion and greatly informed the drafting of the recommendations set forth below. A version of this final report and the recommendations were presented to the then UN High Commissioner for Human Rights, Zeid Ra’ad Al Hussein, and his staff in June 2018.

Parts of the background and research section of this briefing paper draw on the authors’ prior writings. A [September 2018 article](#) by Dr. Caroline Kaeb in the *Case Western International Law Review* describes “corporate engagement with public policy [as] the new frontier of ethical business.” This recent phenomenon of company practice has shown that “the human rights function of business is developing beyond mere risk management towards a more proactive approach by companies in terms of engaging in—if not advocating for—fundamental human rights issues in the very societies in which they operate.” This has shaped a new business and human rights paradigm in response to increasingly glaring governance gaps on issues of pivotal societal importance and an international shift towards extremism.

II. BACKGROUND INFORMATION

CEOs and their corporations have been speaking out constructively on such issues as migration and the global refugee crisis, LGBTI rights, equality among citizens, gender bias, racism, sexual harassment, police brutality, freedom of expression and terrorism, climate change, gun violence, and human rights in a global economy. These are areas of increasing governance gaps both domestically and internationally, a development that becomes even more pronounced in light of the current political landscape globally. CEPP would aim to establish parameters within which the corporate executives could consider how to engage on public policy issues and be more effective champions. This would involve, for example, suggesting how to navigate the relationship between the CEO and the Board of Directors on such engagement with public policy issues as well as what questions and issues to consider in managerial decision-making to engage.

Business realities have changed as 83% of senior corporate executives agree that “human rights are a matter for business as well as governments” [Economist Intelligence Unit, 2014]

Business is “expected to lead” and be a “trusted partner for change, based on a global survey. [Edelman Trust Barometer 2018, 2019]

CEPP is *not* concerned with traditional lobbying efforts aimed at reactively supporting or opposing legislation or regulatory reform for the sake of maximizing corporate profit; rather, the issue is how corporations, individually or jointly, seek to steer public policy in directions that address constructively and progressively the major societal issues of our day and promote universal values, which can be considered the bedrock of democracy, a free society, and human dignity. This can often be altruism on the part of corporate owners, shareholders, and officers, but it also reflects what they view as essential, as corporate citizens and agents of social change, to ensure sustainable long-term business success with the enlightened awareness that companies do not operate in a vacuum. CEPP does not address political spending by companies to influence elections, which poses a risk to their reputations and

brands, especially in today's polarized political environment, a recent [report by the Center for Political Accountability](#) shows.

Drawing upon the U.N. Guiding Principles, this effort recognizes a company's irrevocable baseline responsibility to respect human rights ("do no harm") and as such to have a human rights policy in place as well as an effective human rights due diligence process. CEPP aims to examine the additional spheres for proactive corporate engagement to promote fundamental values and human rights in a free society as an extension of a company's responsibility to respect. Throughout this process, the firm underlying premise is that "a company cannot compensate for human rights harm by performing good deeds elsewhere." [John Ruggie, 2008] CEPP conceived as a means to strengthen the Commentary of Principle 11 of the U.N. Guiding Principles, which reads in part: "Business enterprises may undertake other commitments or activities to support and promote human rights, which may contribute to the enjoyment of rights." The U.N. Guiding Principles also speak to the use of *leverage* by business enterprises for the advancement of human rights (Principle 19), which offers a helpful normative starting point for corporate engagement with public policy and yet a more nuanced and comprehensive examination of this new development is merited.

Civil society efforts with respect to corporate advocacy and voluntary compliance with human rights standards in recent years have been significant and include the efforts of all of the organizations represented at the May 14 roundtable. As only two examples among many, the Business and Human Rights Resource Centre has launched a "Business, Civil Freedoms & Human Rights Defenders" portal, which explores the link between corporate activities and human rights defenders and how business can support such individuals and groups and amplify their work. B-Team and BSR have instituted a collective "Action Platform for Human Rights" providing business with engagement options (and targeted strategy advice) focused particularly on U.S.-based human rights issues. We consider CEPP as complementary to these important efforts and other relevant existing initiatives. CEPP aims to provide a principled framework for CEO activism and corporate advocacy and to conduct in-depth inquiries through research and consultations into the global specifications of this phenomenon.

Dr. Kaeb and Professor Scheffer co-chair the Working Group on Business and Human Rights of the U.N. PRME (Principles for Responsible Management Education), which aims to promote the understanding and integration of human rights into university programming, research, and business thinking. The U.N. Human Rights Office issued [global standards](#) setting out actions that companies can take to protect the rights of LGBTI people. CEPP builds upon this initiative with the aim to formulate guideposts across various policy areas and tie them to the U.N. Guiding Principles.

CEPP's goals thus are: (1) provide a principled framework for corporate officials to rely upon in deciding to speak out on public policy issues, in particular human rights (reinforcing the U.N. Guiding Principles), and (2) offer suggestions, in a forthcoming phase of CEPP, to operationalize the non-binding recommendations in managerial decision making and implementation. CEPP aims to build upon the U.N. Guiding Principles to provide guidance on corporate engagement in both human rights and a wider range of public policy issues by establishing a common ground for such activity across a broad spectrum of policy areas and by providing a reference point of legitimacy that corporate managers and officers can invoke, if they wish. The Leadership Initiative on CEPP has conducted a multi-stakeholder dialogue to develop non-binding recommendations for corporate engagement with public policy issues for societal objectives. This should assist senior corporate executives, including CEOs and Boards of Directors, to think through whether and how to engage publicly on important issues with their voices, particularly when the issue at hand is not directly related to their business. A major objective of the Initiative is also to understand this

from a global perspective, namely to explore whether there is a global trend and, if so, how corporate advocacy translates into different cultural settings and operating environments and across different markets. This includes empirical research into how public perceptions are changing in light of such corporate and executive interventions and engagements on prominent public policy topics and social issues.

1. Operational Realities: Governance Gaps

Corporate advocacy does not occur in a vacuum. There have been glaring governance gaps in capitals around the world on pressing societal challenges, which show no sign of narrowing any time soon. Tim Cook, CEO of Apple, has [emphasized](#) the significance of this reality for a more proactive corporate stance on public policy issues. He speaks to “[t]he reality...that government, for a long period of time has for whatever set of reasons become less functional and isn’t working at the speed that it once was.” He continues with the self-proclaimed mandate for business “...so it does fall, I think, not just on business but on all other areas of society to step up.” Marc Benioff, CEO of Salesforce, reinforces Cook’s point: “There’s a shift going on. When I went to U.S.C., it was all about maximizing value for shareholders. But we’re moving into a world about stakeholders. It’s not just about shareholders. Your employees are stakeholders, so are your customers, your partners, the communities that you’re in, the homeless that are nearby, your public schools. A company like ours can’t be successful in an unsuccessful economy or in an unsuccessful environment or where the school system doesn’t work. We have to take responsibility for all of those things.” [David Gelles, “A Tech Mogul Focuses on the Really Big Picture,” N.Y. Times, June 17, 2018, p. BU 3.]

The [Edelman trust barometer](#), an often-consulted source tracking the state of trust globally across all sectors of society for 19 years, has empirically confirmed this development. Through the collection of survey data in 28 countries, this trust study finds for the year 2017 that the growing governance gaps, failures of governments, and gridlocks of legislatures on both sides of the Atlantic have led to a steep decline in trust in the system and its institutions, namely government, media, NGOs, business.

Business is seen as the “last retaining wall” [Edelman Trust Barometer 2017]

While trust in government presents itself to be at an all-time low, trust in business is found to be slightly higher, yet it is considered to be “on the brink of distrust.” According to experts, “business is on notice” that the stakes are high because of public “expectations that it will act.” Business is looked to as the “last retaining wall,” which injects an expanded set of non-financial factors into business strategy and decision making. This presents business with an opportunity to play an active role in addressing pressing issues confronting society, but it also establishes a newly defined responsibility against which business will be judged. Public expectations confer a greater responsibility on corporations to act boldly, stand up, and speak out on behalf of public values and fundamental rights as the bedrock of democracy. The [2019 Trust survey](#) re-confirms this trend. More than 70% per cent of all participants expect CEOs to be leaders of change and “respond to challenging times,” including “industry issues, political events, national crisis, and employee-driven issues.” Further, 73%, with an uptick of 9 points, believe that “companies can improve society

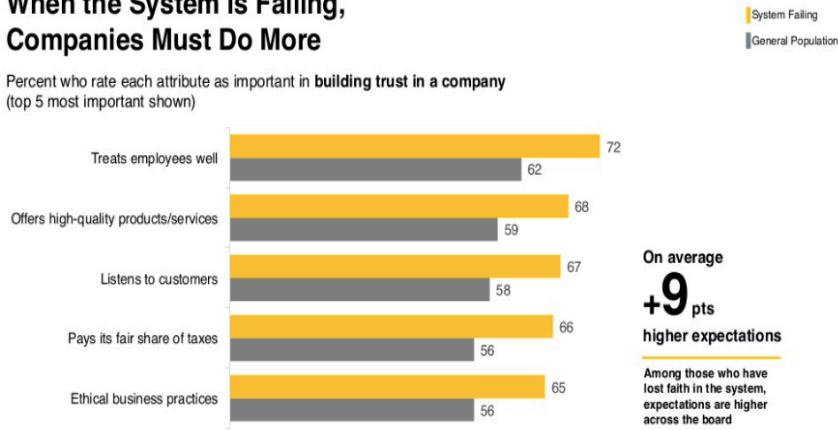
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In 2018, the “expectation on CEOs to speak up and lead change was up to a record high of 65 per cent. [In 2019], the call to action appears to be yet more urgent—a rise by 11 points in the public’s expectation that CEOs will speak up and lead change.” [Stephen Kehoe, global chair, Reputation, Edelman]

and also do well.” Overall, people’s distrust across all institutions in society remained [largely unchanged in 2018](#); in 2019, again, global distrust has shown to largely continue in 15 out of 26 markets surveyed with a modest uptick in trust globally in business and NGOs, while government and media are still distrusted by large parts of the general population.

When the System is Failing, Companies Must Do More

Percent who rate each attribute as important in building trust in a company (top 5 most important shown)



Source: 2017 Edelman Trust Barometer Q10-Q39. How important is each of the following attributes to building your TRUST in a company? Use a 9-point scale where one means that attribute is "not at all important to building your trust" and nine means it is "extremely important to building your trust" in a company. (Top 2 Box. Important) Data displayed is mean Top 2 Box rating for the listed items. Items were included if they were considered important by 50% or more of those who believe the system is failing. General Population and out by "the system is failing segments", 28-country global total. Q172-Q175, Q18-690, Q88-990. For details on how the "system failing" measure was calculated, please refer to the Technical Appendix.

Edelman Trust Barometer 2017

Percent who say that CEOs should take the lead on change rather than waiting for government to impose it

76% **+11pts**

Edelman Trust Barometer 2019

2. Supporting Research

Corporate Social Responsibility (CSR) among top publicly and privately held companies has long been a topic of controversy among financial analysts and shareholders. A multitude of empirical studies on CSR’s relationship to financial performance have yielded a wide variety of results. Such studies have shown that companies that tend to invest more in CSR may tend to be performing better. They demonstrate that CSR financial benefits have substantial effects, such that they pay off in the long term and enhance reputation and competitive advantage while improving the level of customer satisfaction. Other independent studies have reaffirmed a positive relation to stock market performance as well as consumer behavior. Overall, culture and industry (especially consumer goods) seems to play a large role, which underscores the need for a case-by-case analysis and approach by companies. CSR activist Bennett Freeman also [notes](#), “Responsible companies should not only evaluate the risks of action, but also assess the risks of inaction. In many cases companies may conclude that the risks—and the likely costs—of inaction may be more difficult to anticipate, mitigate and manage over the long term than the risks of action.” [“Shared Space Under Pressure: Business Support for Civic Freedoms and Human Rights Defenders: Guidance for Companies (September 2018)"]

A sentiment analysis can effectively complement these financial studies, which have proven not entirely conclusive in their results. Such an analysis tracks—either by means of polling or artificial intelligence—the public perception through various social media platforms and news outlets in the wake of corporate engagement with public policy issues, in particular. [YouGov BrandIndex](#) finds that those companies which publicly cut their ties with the NRA saw a significant increase of “word of mouth” as well as “buzz” indices, signaling a clear change in the pre- and post-announcement perception. The Leadership Initiative is currently conducting an AI-enabled sentiment analysis for a broad set of public policy issues-to confirm

whether this buzz ultimately leads to a significant and lasting (positive or negative) change in public perception of those companies proactively and vocally engaging on prominent public policy issues.

Buzz: Brands Breaking Ties With The NRA
"If you've heard anything about the brand in the past two weeks — through news, advertising, or word of mouth — was it positive or negative?"
 (Buzz scores range from -100 to +100)

Rank	Brand	Previous Score	Current Score	Change in Score
1	United	-2.4	2.2	4.6
2	Delta	0.5	2.0	1.5
3	Life Lock	6.3	7.7	1.4
4	Dollar	2.3	3.1	0.8
5	Avis	1.8	2.4	0.6
6	MetLife	4.3	4.9	0.6
7	Chubb/ ACE	0.1	0.5	0.4
8	Symantec	0.4	0.7	0.3
9	Wyndham Hotels & Resorts	3.3	3.5	0.2
10	Budget	2.8	2.7	-0.1
11	Thrifty	2.1	1.9	-0.2
12	Best Western	6.8	6.5	-0.3
13	Enterprise	6.2	5.6	-0.6
14	National	0.9	-0.7	-1.5
15	Norton	3.5	1.8	-1.7
16	Alamo	2.9	1.2	-1.8
17	Hertz	3.0	0.9	-2.0

YouGov | yougov.com YouGov BrandIndex, March 2018

Word of Mouth: Brands Breaking Ties With The NRA
"Which of the following brands have you talked about with friends or family members — whether in person or online — in the past two weeks?"
 (Word of Mouth ranges from 0–100%)

Rank	Brand	Previous Score	Current Score	Change in Score
1	Delta	9.3	15.3	6.0
2	Hertz	1.5	5.5	4.0
3	Enterprise	3.7	6.9	3.3
4	Avis	1.0	3.5	2.5
5	National	0.3	2.6	2.4
6	United	9.4	11.2	1.8
7	Budget	1.2	2.9	1.7
8	Dollar	1.6	3.2	1.6
9	Wyndham Hotels & Resorts	2.1	3.7	1.6
10	Thrifty	0.7	1.8	1.1
11	Alamo	1.0	1.9	0.8
12	Symantec	1.1	0.6	-0.4
13	Chubb/ ACE	0.6	0.1	-0.5
14	MetLife	2.6	1.9	-0.6
15	Life Lock	4.8	3.9	-1.0
16	Norton	3.9	2.1	-1.8
17	Best Western	7.2	5.5	-1.8

YouGov | yougov.com YouGov BrandIndex, March 2018

Behavioral economics and neuroscience show the centrality of trust

Standard economic theory has worked on the longstanding premise that economic actors act perfectly rationally in the market, whether as employees, executives, or costumers, such that they are solely driven by economic considerations in their choices. Yet, behavioral economics has upended this sense of myth of economic theory practice. Nobel-prize winning economists Daniel Kahneman and Richard Thaler have fundamentally reformed economic thinking about what drives human behavior in the market place and within corporate organizations. Kahneman first applied insights from cognitive psychology to an economic understanding. In his groundbreaking work he showed that intrinsic motivation (i.e., such as emotions, attitudes, and values held by all of us) is in fact more decisive in stirring behavior than extrinsic motivational factors, including monetary considerations. While the notion of the human mind under traditional economic theory exemplified the “homo economicus,” as someone who’s behavior is solely stirred by rational economic self-interest, behavioral psychology has given a glimpse into the very human nature of economic actors in society. In other words, we still remain moral actors with intrinsic values and motivations when participating in the economic system. That understanding is critical to appreciate the pervasive role that trust and trustworthiness play as drivers of human behavior, even at the expense of monetary interests. Modern neuroscience confirms this. Contrary to long-held economic operating assumptions that relate to rational decision-making, neuroscience has demonstrated that personal relationships, status, and how others perceive us are key drivers for our behavior and decision-making.

III. CORPORATE CONSULTATIONS: KEY THEMES

The following observations are drawn from the corporate participants in the New York and Geneva roundtables, and thus reflect their individual corporate views, unless otherwise indicated. They

sometimes feature common or emerging themes among the corporate representatives. Yet, not all companies at the roundtables necessarily shared the same viewpoint on various issues or corporate conduct.

1. Filling Governance Gaps and Promoting Universal Values

At least one participant cautioned not to tie the phenomenon of CEO activism and corporate advocacy too closely to the current U.S. administration, since this would intrinsically give it a short shelf-life.

Even where governments are addressing the critical issues of public policy, companies today are expected to be “out front” on key issues as well. There was a clear awareness among participants that companies and their CEOs can no longer be strictly neutral, at least not on public policy issues about which they would be expected to engage. As one corporate official stated at the Geneva roundtable, it is crucial to “take a fearless moral step.” Corporate representatives recognize that there are increased expectations of a company to act on issues

outside its business, from the public (employees, consumers, and stakeholders) as well as from governments. In the last two years, this has manifested itself in the degree to which public policy issues are on the agendas of sustainability organizations and different business functions across markets. As one corporate official conceded, “We fill in for a lot of failure in public policy.” At least one participant cautioned not to tie this recent phenomenon of CEO activism and corporate advocacy too closely to the current U.S. administration, since this would give this development a short shelf life.

Especially, employees and potential hires have been reported as connecting closely with the company’s identity and are in fact driving a change in the way leadership acts on issues. Representatives from OHCHR added that suppliers or corporate clients can also influence corporations to act on issues.

Yet, historically and culturally, there has been limited (or no) trust by the public in large corporations to prioritize doing the right thing over their economic benefit, as observed by one participant. One very vital element of trust is the credibility of the company speaking on a specific issue. Backing up statements on certain issues with action in support of those issues, was perceived by the participants to increase credibility. Action includes allocating money towards an issue. When a company acts unilaterally in its self-interest within a democratic process, like through lobbying, it can encounter significant pushback. If the company acts independently or in association with other companies in support of human rights and universal values, the experience has been that it can generate support.

So, while there is a global failure of trust in organizations and governments, there was a convergence among the participants on the notion that public trust can build when a company joins with other companies or organizations or public figures to engage collectively, to “speak up” through words or action. Even where a government prioritizes human rights, for example, in the country where a company is headquartered, that fact alone does not insulate the company from the moral responsibility to act on a range of public policy issues at home and abroad. Global companies are assessed and valued by what they do in each country where they operate. While speaking on issues in a global fashion, companies recognize that there are different implications of their engagement in countries where they operative worldwide. Companies seemed well aware of this local context and the sensitivity and responsibility that comes with it.

Finally, one participant offered some additional perspective and vision stating that “We should be doing more....We shouldn’t be just filling the gaps, but [rather] working with government to move the needle together.”

2. The Rise of CEOs as Person Champions.

The public needs to place a face to the company’s statement and the CEO is often the most prominent face for the company. It is difficult to separate the CEO from the organization because (i) CEO tenure is shrinking and that makes it harder to for CEOs to develop their own voice independent from the organizations, and (ii) a great deal of cognitive dissonance is required for CEOs to separate who they are as individual people from who they are as a CEO. The CEO bears a heavy responsibility when he or she speaks out. Although the personal statement of the CEO can reflect his or her deeply held beliefs, the CEO typically would not want to get out ahead of the Board of Directors, who are there for advice and guidance. At the same time, there is often an expectation on the part of employees that the CEO speaks out. The CEO thus should ask, “Who am I as a person and as a CEO?”

It takes a great deal of cognitive dissonance for CEOs to separate who they are as individual people from who they are as a CEO

In light of the phenomenon of CEO activism in particular, the representative from the UN Human Rights Office emphasized that she “wants this to go beyond CEOs” (since “CEOs come and go”). Rather, the more the process can be embedded within the company, the more sustainable it is.

(a) The Importance of Authenticity and Empathy

Authenticity is required on the part of the CEO’s engagement and speaking out, many participants agreed. Authenticity was a reoccurring theme throughout the consultations in order to build trust and mitigate the pitfalls of speaking on issues, which might be perceived to be the “flavor of the day.” One participant summarized the prevailing sentiment at the roundtable as follows: “[I]t sometimes matters less what the position is if people feel it is authentic and will respond to that aspect of it.” Another continued saying, “Going back to the trust piece, authenticity is a key piece of that.” (There was discussion whether authenticity is a necessary trait primarily in a U.S. context or whether this would hold true internationally as well. One participant confirmed that it is an emerging theme for CEOs in France.)

The question is: What should the next generation CEO look like?

Empathy was another characteristic that participants seemed to look for in their CEO when it comes to CEPP; the CEO should be someone who can put himself or herself in someone else’s shoes and relate to those impacted by the public policy issues of modern times.

(b) A Trans-Atlantic Perspective on CEO Activism and Corporate Advocacy

The consultations on this question yielded an interesting transatlantic nuance on the role of a company’s top executives with regard to CEPP. American-based multinational companies are led by CEOs who tend to be personally outspoken and who are willing to lead in addressing public policy issues, but usually within parameters found acceptable, and sometimes explicitly endorsed, by the Board of Directors. A CEO

may personally care about an issue and act on that issue, with or without the corporation’s buy-in. European-based multinational companies seem more constrained in how their CEOs function on matters of public policy. The leadership role of the CEO appears to be more qualified; thus, the Europeans develop an advocacy strategy within the company according to which the CEO is more likely to speak out on issues that are deemed—as a result of such strategizing—to be important for the company. The European CEO is also less inclined, according to participants from Europe, to respond rapidly to news developments that may be triggering a faster response by CEOs in the United States. Further, the European CEO was described as being more focused on working the issue internally for a decision on how the company then engages with a corporate voice.

The leadership role of the CEO appears to be more qualified in Europe than in the U.S. “We have champions for causes in every function [within the company],” so a European participant.

Overall, the individual role of the CEO does not seem quite as pivotal and universal in Europe as it is in the United States. One participant posited, “Why is it just CEOs?” and continued, “It doesn’t even have to be C-suite” who engages. Rather, particularly European representatives stressed that there are a number of personal champions within the company across all levels and business functions, who act with the support of top management. This notion was shared by at least one U.S. corporate participant stating, “We have champions for causes in every function, brand, affiliate.” In conclusion, the consultations

seem to suggest that while corporate advocacy in a broader sense is a shared phenomenon on both sides of the Atlantic, CEO activism is a concept that is predominantly shaped by a U.S. context. And while senior leadership engagement on public policy issues is increasing in a European context, there still seems to be a strong focus on corporate action at the organizational level when it comes to CEPP.

(c) Leadership, First Movers, and Leveling the Playing Field

Regarding their leadership role on public policy issues, one asset management firm wrote, “We have not sought to be a leader on public policy issues based on the news cycle. We are leading by our ESG integration and approach to business in general. Within the financial advisor and real estate circles that we frequent, we are looking to be a leader.” Another European firm stated, “From [the company] we are actively engaging in different topics both at a global and at a national level, with the aim to either create a level playing field that enables business growth for the retail industry, or else, that we can have more harmonized standards and legislation. This is often happening regarding critical issues of public policy. So, we would not put our CEO as a first-mover in these kinds of topics but rather have him contributing to influence in these through other platforms—WEF, UN bodies, etc.” The need to level the playing field also was voiced during the stakeholder consultation. One stakeholder representative re-affirmed this corporate notion by stating that the focus should not be on the concept of first movers as much as it should be on leveling the playing field.

An American-headquartered multinational applied a stakeholder-centric approach: “As a brand-led organization, we are incredibly proud of the proactive stance that many of our brands take....We also believe that being a leader sometimes also means taking a focused approach on issues that may not garner much press but may improve the lives of many....Naturally, like many companies, we are proud to take a public stand on the issues that matter to us, our *consumers and our employees*....It is this tailored approach of working where you can have the most impact that drives our decision making.” (emphasis added) Another American multinational described its leadership role as “mixed—on diversity and tax policy we’ve been out front, on long-term value/inclusive growth we are heading out front.” Emphasizing the signaling

function of first-mover CEOs, this corporate representative reflected that, “There is a group of leading CEOs who are setting a high standard (Paul Polman, Tim Cook). That’s good as it encourages other companies to take real action, together with the public sector.” The CEO is largely seen as the figurehead of a corporation but, of course, much depends on the personality of the particular CEO.

Some companies voiced caution, with one representative explaining that they are often in a “wait and see” pattern since they believed that otherwise they would be controlled by the news cycle of the day. Also, while participants stressed the horizontal integration of human rights issues across different business functions, they feel that, as a next stage, it is imperative to identify personal champions within their organization. (Stakeholder representatives also agreed on the need to identify and empower personal champions within companies.) Trust is a decisive factor in the market space and for the long-term performance of company, and is often tied to a personal champion, whether that person is a CEO or someone else in the company.

(d) A Comparative Perspective: Asia

During the consultations, it became apparent that there is a glaring cultural disparity between Asia and both Europe and the United States on the issue of CEPP. Although a roundtable could not be convened in Asia, one prominent CEO of a company from Southeast Asia attended the Geneva roundtable with an instructive perspective. The self-declared objective of this CEO always has been to build his factories in impoverished areas and to hire labor force from among the poor. The CEO’s societal goals are exemplary. But such a strategy also means that the workers, the company’s employees, almost all of whom come from impoverished conditions, would not want the CEO to undermine the profitability of the company in any way by taking controversial positions publicly. Their livelihood—indeed their survival—is dependent on the company’s overall profitability and success. So, one would not expect from the CEO or his company to engage on public policy issues in a way that American and European-headquartered companies might do so. Indeed, the CEO’s view resonated even within the western multinationals in terms of how their subsidiary operations in Asia operate, and thus one would not expect such subsidiaries necessarily to be outspoken, at least publicly, in overseas host countries of operation. The better tactic often is to engage in corporate private diplomacy with host governments on public policy issues of concern to the multinational.

3. A Business Link Enhances A Company’s Credibility to Engage

In fact, every public policy issue connects in some way with the company’s operations. It has been argued, though, that some kind of business link increases the credibility of a company to engage.

There was significant disagreement in the roundtables as to how much corporate officers should reach beyond the company’s core business when engaging on public policy issues that may have little if anything to do with such core business of the company. Some challenged the definition of “public policy issues” as those issues falling beyond the core business sphere. It was heavily debated whether companies should engage on public policy issues that have no link at all to the company’s business. While some corporate representatives stressed that there has to be a link to the

company’s business to qualify as a public policy issue of interest and engagement to that company, others did not feel the need for such a link; rather, they envisioned their engagement to go beyond their core business objectives. One corporate official stated explicitly that their CEO’s public statements have not been and need not be directly related to the company’s business. A similar approach was taken by another

company, which said that it actively engaged on public policy issues without a direct link to its business: “[W]e are actively engaged in a range of important public policy issues that go beyond [our business] and *touch the daily lives of our employees, our consumers, our partners in business and the communities in which we operate.*” (emphasis added) Some corporate participants said that every public policy issue connects in some way with the company’s operations, so it becomes more of an issue of prioritization. A number of them stated that they feel they would be more likely to engage when they feel that they can have an impact on the issue at hand. However, making a company’s engagement to do the right thing contingent upon its impact in terms of leverage in the respective situation has been viewed as problematic by the U.N. Human Rights Office.

One corporate official said his company engages only when the public policy issue has a contextual connection with the country where the company is headquartered. Another individual said a company should only engage on a public policy issue “where it has a legitimate interest.” The overarching notion emerged, as voiced by one corporate representative, that “[c]orporate leaders are leaders of society and have a broader responsibility.”

The following remarks illustrate the different perspectives on the issue:

A major multinational company put their engagement this way: “We do actively engage on public policy issues that are not directly related to our business...but we would argue that those issues are directly related to our business, as we employ hundreds of thousands of people globally, and need to make sure that both we and our clients have access to the best talent. Companies need to realize that there are a whole range of social issues that may not hit the bottom line tomorrow, but impact license to operate, the brand, and long-term sustainability—in addition to just being the right thing to do.”

Another company acknowledged that it speaks publicly on issues outside of its core business: “[W]e think that as a global business, and as a humanistic and purpose-led company, we want to contribute to a positive change in society while delivering to the UN Global Goals. So engaging in such topics comes very naturally to us.”

In contrast, an investment firm refrained from moving beyond its core business: “We have been very careful about engaging on public policy issues that don’t directly relate to our business. We want to be consistent in our support for our industry specific business-related topics.”

In conclusion, the discussion yielded the following common ground: Companies across the board appeared more likely to take a stand on issues that directly affect and benefit their business. In essence, participants shared the view that companies (and their executives) should engage on issues where they have credibility. While participants had different views about whether (and how close) a link to their business was necessary to justify their engagement on a certain public policy issues, most seemed to agree that some link to their business, while not necessarily required, would certainly enhance their company’s authority to speak out and engage on a matter. One example that came up several times during the consultation, was certain industries’ reliance on migrant workers and the best talent, from wherever they may come. The immigration ban therefore was perceived as an intrinsic matter for many companies on which they felt they had credibility to speak.

Reaffirming the centrality of personal champions for CEPP, several participants observed that ultimately, every matter is tied to the business and can affect its brand.

4. “There is an event every day...” –Companies Need to Prioritize

All of the corporate officials agreed that their CEOs and companies cannot speak out on everything and that they must prioritize which public policy issues they will engage on. One European corporate official said, “There is an ‘event’ every day, so how do you prioritize? Our company is neither a government nor an NGO.” Indeed, the same corporate official said that it is necessary for someone to say “You are doing enough.” She found utility in having a framework available to “lean on” in order to manage the level of engagement by the company.

Another way of prioritizing is to ask the question, “Where does it make sense to engage?” This often led corporate officials to point to a link to their business as the natural gateway to engagement. Otherwise, “It’s a grab bag of societal issues.” A focus on human rights, for example, was described as “more manageable” for purposes of prioritizing the focus of corporate engagement. But another official pointed to the U.N. Sustainable Development Goals as the better benchmark for prioritization considering the clear link between human rights and the SDGs, which can be helpful.

One corporate participant said, “We prioritize issues which we engage in the following manner: firstly, on what is most impactful on our portfolios, secondly what will drive most meaningful change in the industry, and thirdly, how we can set an example for others as a small business ourselves. We want to be consistent. We want to be methodical and deliberate in what we engage on so that we build a ‘trusted source and/or brand.’ We would like to help change happen but not ‘change for the sake of change.’ There are several issues personally that we would engage on, but as a company it needs to be more targeted.”

Another corporate participant noted, “We ensure that the issue is in line with our long-held corporate values, and consider the impact the issue has on our employees, consumers and the communities in which we operate.” Most participants shared the view that the voice and expectations of their partners, consumers, and employees are paramount when identifying the public policy issues on which to engage and how to structure their engagement. The same is true for the company’s values. Most agreed that a CEO needs to be informed by and aligned with a company’s values.

The representative from the U.N. Human Rights Office pointed to human rights due diligence as a tool to identify issues where companies can engage. This would help companies to identify public policy issues that are relevant and mitigate the risk of the issues chosen being random. The reactions by the corporate participants were mixed. One participant responded: “Due diligence is typically about managing business risk. It’s different from taking a fearless moral vision.”

Another participant saw the potential for using due diligence as a starting point for CEPP. He observed: “I see it as a continuum between due diligence and leveraging risks to advocate to the CEO or to the public. But how to bridge the continuum?”

5. Supplementing Ad Hoc Decision-Making on Public Policy Issues with a Systemic Approach

One of the distinctive observations at the roundtables was the fact that most corporations do not have an internal procedure and organizational decision tree to evaluate and determine the company’s engagement with public policy issues. For the most part, the process has not been formalized and is almost always ad hoc in character. If the public policy issue falls outside the core business of the corporation

(without a discernable link) or business-critical and/or on-brand topics, then the process is certain to be ad hoc and decisions are made on a case-by-case basis.

It became clear from the discussions that there would be considerable merit for corporations to organize internally in order to address public policy issues that may attract corporate engagement. Companies face the challenge that discussions on issues happen in a wide variety of departments, including corporate

Business-critical or on-brand public policy issues are usually systematically and strategically addressed, while engagement otherwise follows an ad hoc process.

social responsibility, foundation, diversity and inclusion, corporate sustainability, public policy, and/or public affairs. In some companies, there is a convergence among these areas where decisions can be made. Business-critical or on-brand issues are systematically and strategically addressed (e.g., by public affairs and policy teams); otherwise, an ad hoc process is used to raise and address all other public

policy issues. Public affairs functions within companies have been identified by several corporate participants as serving as the internal focal point providing strategic advice, support for top management, as well as leadership in the area of CEPP. One company reported that it is their Public Affairs Director speaking out on a public policy matter. Overall, companies largely agreed that engagement on public policy issues is often (even if not exclusively) driven by the C-Suite, primarily CEOs but also the Chief Sustainability Officer in their personal or institutional capacity. Some CEOs consult their boards of directors before acting. And some companies have public policy committees within their boards of directors or public policy councils. One corporate participant shared her view that the “CEO can’t get ahead of his board...not because he was in danger of being fired,” but rather in light of the institutional mandate of the board to provide guidance to the CEO. Some companies have held grassroots mini focus groups with employees on issues (like Charlottesville) before the company or CEO makes a statement.

Some companies struggle to ensure that all the appropriate voices get heard in making a decision on whether to speak on an issue. This generally means that they cannot respond quickly because bringing all of the relevant people together for consultations takes time. Also, within a large company, communicating a company’s position on an issue to frontline employees can be a challenge. The relationship with investors was also considered to be essential by corporate participants when it comes to CEPP. It has been mentioned that communications from investors on public policy issues can take various shapes and forms. Thus, such communications can come from large institutional investors or from individual investors who raise issues independently, as a group of individual investors, or through shareholder proposals that are proposed at annual shareholder meetings. Some companies also reach out proactively to investors.

The case of a company’s decision to sign an open letter was discussed as an example to illustrate the company-internal processes (or the lack thereof) on matter of CEPP. It became patently clear that such decision-making process varies significantly by company; it can go through the general counsel’s office, public affairs, compliance, sustainability, or other related departments. Not all decisions to sign open letters have to go through the board of directors; it can be a decision made by C-suite or even senior management. One corporate representative noted that sometimes the origin of the letter determines its path through the company. For example, if a letter comes from an investor or investor group, it goes to investor relations; otherwise it goes to corporate responsibility who works with the communications team on the response. In some companies, certain people become experts on certain issues but there is no formalized process where the letter always goes to be approved. The latter point was a recurring theme during both the corporate and stakeholder consultations, namely the vital role of personal champions to spearhead and advance public policy issues of universal value.

6. Facilitating Bottom-Up as Well as Top-Down Initiatives

While high-level leadership on public policy issues has been considered crucial by corporate participants, they also emphasized the bottom-up approach. As such, affinity groups of employees were raised as good practice examples, on multiple occasions, to promote, for example, LGBTI rights from within the company. But more generally, corporate participants repeatedly stressed the importance of bottom-up initiatives that spur corporate engagement with public policy. These initiatives arise primarily from employees, who often have expectations that the CEO must speak out on public policy issues of direct concern to them.

A bottom-up approach offers one way to gain legitimacy for CEPP.

Employees exert pressure from the bottom up to the CEO, rather than a top-down approach. In essence, employees expect that the company represents their values. One participant shared their company's experience stating, "It was never a top-down approach or part of a brand strategy; it was very much the employees having the power to raise these issues and getting support, and that has been going on for over 25 years." In the eyes of the participants, this approach offers one way to "find legitimacy [for CEPP]—through the employees." But shareholders and stakeholders also can generate bottom-up pressure to engage. One corporate representative also highlighted that the respective company is increasingly looking to its employees to help identify the policy priorities for the company's engagement by conducting period surveys on the matter.

Again, having an internal champion for an issue was deemed decisive; this is someone who identifies with a particular issue or affinity group and who has the ear of the CEO and believes that he or she can persuade the CEO to act.

7. Collective Engagement is More Effective than Individual Engagement

Companies feel that collective awareness raising and action both amplifies their impact and promotes risk sharing among companies. Corporate participants stressed that the amplified impact and the pooling together of diverse expertise makes collective engagement on public policy issues an effective approach. Participants had much to say on this point. For example:

"Collective action is the best way to go."

"Collective engagement brings more weight to the table, and more expertise."

"We look at [collective engagement] in a positive manner, since we believe they can be quite effective when they are timely and strategic, but not opportunistic. We have taken part in open-letter and global pledges. We are part of several global and EU coalitions, and we will continue to actively work in this way."

"There is a preference for collective engagement, particularly because it amplifies the investor voice."

Furthermore, the advantage of collective action was identified as follows:

“Working collectively—even behind the scenes, such as at Davos regarding the LGBTI agenda—avoids going out on a limb.”

Finally, there was an increased focus on the role of business, industry, and trade associations as a platform for collective CEPP. The reactions were overwhelmingly in favor of working through business associations on these issues. Participants urged:

“The U.S. Chamber of Commerce or Business Roundtable, as a collective association speaking on an issue, would be more effective.”

“The trade association [such as the Consumer Goods Forum] has credibility in the market.”

“The trade association speaks in the name of industry, and that is preferable.”

8. Conveying the Rationale for a Company’s Engagement to Stakeholders

One corporate participant shared the company’s experience with its human rights and public policy engagement efforts: Even though the company’s intent was only to “do good,” effective communication remains key in terms of conveying why the company is engaging on a certain issue in a certain way. If not handled properly, the company’s initiative can lead to speculation about a “hidden agenda” for why the company is engaging even on legitimate issues and worthy goals in the way it is doing. The takeaway was that the company needs to be transparent about why it is engaging and the rationale for doing so. The participant noted, “People should understand why businesses are getting involved [in public policy issues].” The lesson learned was that communications need to be prepared earlier in the process and more thought be given to how the company communicates its CEPP efforts. It is advisable not to announce initiatives and partnerships out of the blue. The participant said that one needs to be more aware of the sensitivities that such engagement on public matters may raise; communications with the public and stakeholders need to be managed accordingly. Other participants shared their notion about the pivotal nature of appropriate, effective, and sensitive communication.

9. Silence is a Risky Option, While Private Corporate Diplomacy Can Spur Engagement

It was generally agreed that companies cannot speak all the time on every issue, so the challenge for companies remains deciding when to speak. According to participants, there is public silence, private silence, and strategic silence. It was noted that speaking locally is easier and more effective than speaking globally. Some participating companies might get better traction on some important policy issues by not being on the public stage or generating a tweetstorm. Yet, several participants noted that silence is an option, but a dangerous one. Silence can be seen as complicity and no longer as neutrality. Many agreed on the necessity to determine the best timing for when to speak out; it takes time to see how a situation will play out after the first day it makes the news.

Where a company supports a business association engaging on a public policy issue, such collective action can be helpful if the individual company prefers to remain silent and rather act through the association. The [Global Network Initiative](#) is a good example of serving in a collective policy role for Information Communication Technology companies.

On the point of “silence as necessity,” one corporate participant described how the company used private diplomacy with the local government where the company’s factories were located to address worker rights, especially minimum wage. The participant confirmed that the company is very comfortable and prepared to engage on issues within their value chain since this is where “we’re in control.” Beyond their value chain, NGOs and governments have urged the company to speak on political developments of concern in their country of operation. The concerns this particular company had included: “Is that where we have our leverage? Beyond manufacturing? If we would do that, we’d never talk about it in public because that would destroy our relations with the government (although we would tell the NGOs we did). Who are we to tell the government what to do? Do we have the knowledge, the right?” In essence, if the company had publicly criticized the government, then it was worried that its leverage through private diplomacy would have been undermined. Other participants shared the view that sometimes silence is necessary because corporate private diplomacy can be more effective.

Silence on prominent public policy issues has occasionally been seen as a necessity by companies, especially if it is beyond their value chain. Participants highlighted the potential of corporate private diplomacy in certain circumstances.

As another example of successful private diplomacy exercised collectively, one participant noted that a group of companies worked very closely together on LGBTI issues, recognizing that, “If any one of us steps out individually, the backlash potential is enormous. Together companies work diplomatically behind the scenes for a while, and then when they come forward, when they are put in same the room together, they are bigger than a lot of countries, so they have economic power. But that is where diplomacy works: sometimes it is private, sometimes it is in groups. It is not always a matter of taking a vocally outward stance.”

One participant confirmed that from experience working on LGBTI issues, “It is clear...that quiet diplomacy is more effective than big Western declarations.”

Overall, the sentiment at the roundtables was that we need more “private corporate diplomacy.” One company impressed upon participants, “In some cases ‘silent diplomacy,’ through ominous dialogue with governments’ representatives, may be more effective than a ‘name and shame’ strategy to fill in the governance gaps.” Finally, effective and transparent communication is key especially when it comes to private diplomacy. It is essential for companies to gain trust, especially when they do back channel diplomacy to advance public policy issues.

10. Consumer-Facing Companies are Compelled to Engage to Protect Brand Identity

While some corporate participants stressed the need for industry-specific guidance on CEPP and cautioned that there is no one-size-fits-all approach, most participants gravitated towards agreeing that what is decisive is whether a company is consumer-facing. In relation to that, the concept of trust and trustworthiness was front and center in the discussions as a main driver to inform whether, when, and how companies and their leadership engage. Much of the discussion focused on the brand identity and how it is a crucial link that informs CEPP. One participant observed, “The young consumer today has an expectation of their brand that transcends the product itself. They want to identify with it.” If not, they will make the shift. Another participant shared his experience stating, “It depends on the brand that you are. It can be tricky to position yourself hard on the issues” if you have a broad and diverse customer base.

It is easier to build your brand identity on specific public policy related positions if you have a narrower and more homogenous customer base.

IV. STAKEHOLDER CONSULTATION: KEY THEMES

1. Companies as Allies for the Human Rights Movement

The predominant sentiment among stakeholders was that companies are important allies for the human rights movement. It was considered essential that companies stand up on issues of significance to the civil society community by using their voice and influence. There were some distinct voices among stakeholder representatives, who cautioned about the potential negative effect of business on politics and were concerned particularly about a consolidation of corporate power, which they feared can constitute a slippery slope. In response, one representative stated that he believed the “corporate capture debate has held us back” to tap into the full potential of stirring corporate influence towards achieving vital public and social objectives. In order to address these concerns, the following specifications for CEPP were stressed during the stakeholder roundtable: institute an integral role for civil society to shape the agenda for CEPP and also ensure transparency and accountability for the exercise of corporate influence. (See Sections 3 and 6 below.)

2. Multi-Stakeholder Initiatives can be Powerful Platforms for a Collective Voice and Action

Multi-stakeholder Initiatives (MSIs) provide a collective platform that can have a pronounced policy angle as part of its mandate. The Global Network Initiative was raised by one participant as an example of delivering on such a collective policy function. Another stakeholder representative pointed out MSIs as an effective way to address the call for accountability and transparency with regard to CEPP. This representative noted, “MSIs have gotten a real pass on this.”

In response to the merit of a CEO or a corporation being the first mover on a public policy issue, the common view among the stakeholder participants was that we usually see first movers at the top or the bottom. One participant confirmed, “Companies at the top always want to be first.” Companies at the bottom, the participant observed, see their very survival as sometimes hinging on being first on an issue. Since benchmarking shows competition at the top and the bottom, participants agreed that the first mover concept might not be a helpful framing for all the in-between cases. Rather, it is about creating a level playing field through collective and multi-stakeholder efforts.

Benchmarking shows competition at the top and at the bottom; so, the first mover concept might not be helpful for all the in-between cases.

3. Civil Society Plays a Valuable Role in Setting the Agenda for CEPP

Civil society sees its role in helping to set the agenda and define the issues for corporate engagement

Stakeholder representatives see their organizations as driving the issues for attention by corporations and enjoying public support in doing so. A prime example of civil society leadership is sexual harassment. Some issues are harder to prevail upon with companies, while other issues pertinent to CEPP are more universal and enjoy widespread support, such as climate change, refugees, shifts towards extremism, and the closing of the civil space. Further, the question was raised whether companies should focus on

issues where they can have the most impact, which are usually closely related to their business operations, such as income inequality. Companies need tools, assistance, and a playbook, all of which civil society can provide. In many ways, civil society sees its role in guiding companies and shaping the process by helping to set the agenda and define the issues that corporate leadership should be engaged on.

4. Empowering Personal Champions Within Companies

The stakeholder representatives shared, for the most part, the view that CEPP was primarily an ad hoc decision and effort on the part of companies. Several thus emphasized the significance of empowering personal champions within the corporate organization. Some suggestions to reform company-internal processes to provide a more systemic approach included the idea that political risk analysis (ERM) should factor in public policy considerations. A second proposal focused on incentivizing CEOs and corporate executives to think about the longer-term objectives of the corporation's role in society by not awarding them stock options as part of their compensation package, since stock options encourage short-term gains at the expense of economic and social sustainability.

5. A Bottom-Up Approach to CEPP has Proven Effective

Like corporate representatives, stakeholders consider effective a bottom-up approach, especially through employee affinity groups, which have proven to be able to elevate issues to influence management's approach to CEPP. A representative noted, "Companies are not monolithic. Some employees and officers are more committed to human rights than are others. The role of civil society is to empower those employees who are more forward-leaning."

6. Seeking Consistency Between CEPP and How Companies Spend Lobbying Dollars

There was a clear call for more transparency and accountability in how lobbying dollars are spent and also how corporate influence is exerted. Reference was made to a [recent 2018 Oxfam report](#) on that matter. It was argued that there is too often a disconnect between a company's engagement on public policy issues and its lobbying efforts for legislation or regulations that contradict its corporate advocacy on exactly these public policy issues. This "disconnect" led one representative to propose that there be much greater transparency in what corporations must report regarding their lobbying efforts. They should report on how their spending on lobbying efforts aligns with publicly advocated positions of relevance to CEPP. Also, more broadly, there needs to be more accountability for how corporate influence is exerted, namely to ensure that CEPP is transparent to the public and the company's stakeholders and that it aligns with its corporate commitments. One stakeholder representative mentioned that existing lobbying regulations might provide a helpful starting point for guidance. After all, companies are very familiar with lobbying regulations, the latter which already accommodates some level of transparency.

7. CEPP as a Response to the Global Retreat on Fundamental Rights

From the stakeholder perspective, corporations and CEOs have engaged on issues in recent years in order to preserve the status quo in the face of regressive public policies and not necessarily to advance human rights, in particular. "The stakes are higher today," said one representative. Other representatives agreed that there is something unique about the current situation, where we see a global erosion of democratic freedoms. "It is a unique moment in time," one stakeholder observed. So companies should not be accorded too much credit for "doing good." Rather, their engagement is to hold the line, the status quo,

as retrogressive trends unfold in the public sector, especially if such developments do not represent the views of their employees anymore. One representative noted that the engagement on the part of companies should not be mistaken for “enlightened self-interest” or altruism, but rather in the immediate economic self-interest of the company. Someone else noted that while in the past companies were expected not to “push for bad laws,” now the expectation has changed such that companies are being judged on whether they in fact stood up against “bad” laws and policies and actively advanced fundamental rights.

There is something unique about the current situation, where we see a global erosion of democratic freedoms. Business is increasingly looked to for holding the line, said one participant.

8. The Mounting Fatigue Among Companies to Weigh In

Stakeholders recognize that, “We can’t ask every company to do everything we want them to do.” One participant said, “There is only so much bandwidth for corporate outrage.” In light of increasing fatigue, the messaging from stakeholders needs to be more coordinated regarding what issues should be addressed by which companies. There should be more focus on what corporations need to change collectively.

Companies should be encouraged to engage, particularly where the public policy issue pertains to foreign societies. This is important to emphasize, as one representative put it, because, “[t]here is so much to be done here in the United States, it’s hard to focus on activities overseas.” And yet that focus also must be aimed abroad to have true corporate impact on improving human rights in particular.

9. Building CEPP Around a Company’s “Core Value”

A re-occurring theme in the stakeholder consultation was that the public policy issues of CEPP need to be built on the core value of each company. That “creates the North Star of what we do,” said a stakeholder. This is different, in methodology, from a human rights approach that centers around a company’s intersections with society in terms of positive and adverse human rights impact.

10. Business and Trade Associations Play an Important Role

Stakeholders agreed that business and trade associations are a key influence since businesses listen to them. One participant noted that the goal for stakeholders would be to use this lever by making sure that trade associations are at least neutral on hot bottom issues of public policy relevance.

V. HOW DO CORPORATE AND STAKEHOLDER PERSPECTIVES ON CEPP COMPARE?

There were some aspects pertaining to CEPP that were raised primarily during the stakeholder consultation, such as the concept of “retrogression” as well as the call for transparency and accountability pertaining to CEPP.

There is a lot of common ground between the corporate and the stakeholder perspectives on CEPP.

There was, however, a lot of common ground on other questions between the corporate roundtable discussion and the stakeholder perspective. Thus, stakeholders share the view that a systemic approach at the organizational level is largely lacking. Moreover, stakeholder representatives, as do corporate participants, confirm that a bottom-up approach has

proven effective in many instances. Again, in line with the corporate perspective, stakeholders agree on the importance of collective action, arguing that it is essentially more about leveling the playing field than promoting a first-mover mentality among companies. Regarding the question whether companies should only engage on public policy issues that are linked to their business (directly or indirectly), stakeholders voiced concern that companies have been reluctant to engage on issues that in essence “hit too close to home,” i.e., are too closely linked to their business operations, for example income inequality and gender discrimination/sexual harassment. Stakeholders felt that these are exactly the areas where companies can have an impact in an effective and credible way and should therefore engage. Before companies are not addressing these kinds of issues, it is hard for their stakeholders to deem their efforts in other public policy areas as credible. Companies and stakeholders agree on the role of business associations and trade associations as impactful platforms and partners to guide CEPP. Finally, and not surprisingly, while companies are very focused on the expectations of their employees and customers, stakeholders frame their CEPP more in light of the expectations of the broader public.

VI. THE VALUE OF RECOMMENDATIONS ON CORPORATE ENGAGEMENT WITH PUBLIC POLICY

Corporate officials and stakeholders generally embraced the utility and desirability of receiving recommendations on corporate engagement with public policy. The lack of clearly established internal decision trees for making decisions pertaining to CEPP, a concern raised repeatedly during the consultations, also point to the usefulness of recommendations that can assist companies in how they focus their attention on public policy issues.

Participants noted that a principled set of recommendations would provide companies with one way to reconcile their positions in countries with different hostility levels to issues on which they want to take a stand. Further, recommendations also would ensure that “we are all speaking from the same lexicon.”

Companies pointed out that while U.N. or U.N.-inspired guidance is in general “nice to have,” it is not sufficient. Rather, companies expressed a heightened need for guidance on how to implement and operationalize the general concepts, which will be the focus of the second phase of the Initiative. Also, companies viewed the recommendations as a guidepost for “what to engage on and what not to engage on.” Companies are looking for some guidelines that would simplify the complex topic of CEPP. It was remarked that the recommendations may have more meaning to companies that are newer to addressing related issues. The recommendations would be particularly helpful for such companies “when they have to build their case.”

It was emphasized on several occasions that a statement coming from the U.S. Chamber of Commerce or from the Business Roundtable may hold more weight in the U.S. context. In general, private sector best practices were deemed extremely relevant, possibly even more so than UN guidance. Similarly, principles that were discussed among and recognized among a number of companies (e.g., at Davos) are considered helpful guidance. Both companies and stakeholders agreed that a multi-institutional approach would be useful.

If the recommendations are concrete and useful in making decisions, and if they are adopted by different companies and industries, then companies felt that they should add value.

Regarding the utility of recommendations with international backing, company representatives shared the following perspectives. One corporate official stated, “We have been [committed to] the UN Guiding Principles on Business and Human Rights for many years. As a global business we have long partnered with the U.N. in many ways. So we would see this kind of non-binding [recommendations] in a positive manner as a way to inspire and stimulate more corporate leaders to stand out and support global development from this perspective.”

Another one observed that, “[The recommendations] would bring greater awareness to a larger audience. Although non-binding they would codify the corporate advocacy instrument from a trusted international entity.” Other companies agreed that the recommendations would spur engagement on public policy issues, particularly if the company could make reference to a statement by the U.N. High Commissioner for Human Rights or other prominent human rights advocate about the criticality of corporate advocacy on human rights. As one corporate participant said, “It is always helpful to have an outside voice, especially one with credibility and moral imperative, to mitigate risk and encourage focus inside the company.”

Finally, it was noted that if developed with input from the United Nations, such as the U.N. Human Rights Office, then the recommendations would not be viewed, necessarily, as pushing Western values, which has long been a concern. The U.N. provides authority and “neutralizes” controversial topics as one corporate participant noted.

VII. OPEN QUESTIONS AND NEXT STEPS

Based on the consultations with companies and stakeholders, the following open questions will merit further examination. They include whether a link to the business is necessary for a company to engage on a public policy issue, the role of politics in corporate decisions regarding such engagement, and the different realities and challenges when companies engage on issues pertaining to the host country as opposed to home country, as well as the global specifications of the phenomenon of corporate advocacy and CEO activism. An important objective is to understand how corporate advocacy translates into different cultural settings and operating environments across different key markets.

Next steps should focus on the following main objectives:

1. Develop more granular operational guidance (including model “decision trees”) for companies to consider for internal decision-making processes that pertain to corporate engagement with public policy. Corporate participants have expressed repeatedly the need for guidance on how to operationalize the recommendations on CEPP at the firm-level.
2. Conduct further outreach to and consultation with a larger number of companies, particularly those headquartered in non-OECD countries, including in Africa and Asia, in order to further substantiate the findings and fine-tune the recommendations.
3. Conduct in-depth inquiries through research and consultations into open questions pertaining to this phenomenon.

4. Conduct empirically-driven research study into how public perceptions are changing in light of such corporate and executive interventions and engagements on prominent public policy topics and social issues.

VIII. PRINCIPLED RECOMMENDATIONS ON CORPORATE ENGAGEMENT WITH PUBLIC POLICY

The following non-binding principled recommendations on corporate engagement with public policy have benefited in their drafting from the consultations with corporate officials and stakeholder representatives as well as the U.N. Human Rights Office. They are put forward by the Leadership Initiative on Corporate Engagement with Public Policy, which takes sole responsibility for them, for the purpose of advising corporations on fundamental concepts that should be considered in determining corporate engagement with public policy issues. The recommendations are designed to point corporate officials in the direction of responsible and meaningful engagement on public policy issues that can neither be ignored nor treated with indifference by corporations, which have central roles to play in society and in advancing the universal values that should sustain the dignified treatment of all human beings. Together with this final report, the recommendations were presented to the former UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, and his staff on June 29, 2018.

RESPECT FOR HUMAN RIGHTS:

1. The responsibility of all business enterprises is to respect human rights wherever they operate and as such avoid infringing on human rights and address adverse human rights impacts with which they are involved. ("Do no harm.") To this end, business should implement the UN Guiding Principles on Business and Human Rights.
2. To meet their responsibility to respect, companies should have a human rights policy commitment in place and they should conduct effective human rights due diligence in order to prevent, mitigate and account for how they address any adverse human rights impacts. Implementing the UN Guiding Principles on Business and Human Rights requires due diligence, which includes assessing actual or potential human rights impacts, integrating the findings, tracking the effectiveness of responses, and accounting for how impacts are addressed.
3. Doing good deeds in the realm of human rights through corporate engagement does not absolve companies of the responsibility to respect human rights. As the former U.N. Secretary-General's Special Representative on Business and Human Rights, John Ruggie, wrote, "[A] company cannot compensate for human rights harm by performing good deeds elsewhere." For example, philanthropic actions or corporate activism (in the realm of human rights) do not discharge a company of the responsibility to respect human rights in its own activities or its operations, products or services or in its business relationships.

CORPORATE ENGAGEMENT WITH PUBLIC POLICY ISSUES:

4. Beyond meeting their responsibility to respect human rights, companies should consider using their leverage to intervene on public policy where relevant to advance human rights principles, through private corporate diplomacy as well as public statements and action.
5. Companies and their executives can help steer public policy in directions that address constructively and progressively societal matters of significance at home or abroad, often of

great controversy and pertaining to human rights, sustainability, fundamental freedoms, or social justice (“public policy issues”).

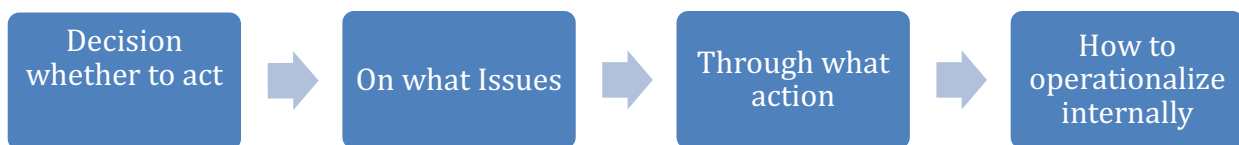
6. Corporate senior officials, including the CEO, C-suite, and Board of Directors, have unique influence to engage on public policy issues, including those relevant to human rights, in local, national, and global contexts, especially where they can have significant impact. They can demonstrate the corporate leadership’s moral and ethical commitment to such issues and their relevance not only to the company’s role and operational stability in society but also to universal values that are “larger than the self,” transcending the company’s more narrow business objectives. In particular, corporate officials should engage on public policy issues where there are governance gaps (for example, on policies concerning immigration, climate change, racism, income inequality) that governments, in particular, are failing to close.
7. Companies should take into account their legitimacy to speak to a particular issue and consider the expectations of stakeholders, especially employees, to foster a bottom-up approach when making the corporate decision about whether and how to engage. Also, companies should be transparent about their engagement and communicate clearly their rationale for why they are engaging.
8. Empowering personal champions across business functions within the company is an effective way to cultivate and promote a company’s core values and encourage public policy engagement around those core values.
9. Beyond identifying and addressing actual or potential human rights impacts, effective due diligence can assist companies to identify opportunities for how they can engage on public policy issues for the advancement of universal values, including human rights. The Sustainable Development Goals can provide further useful guideposts for companies to determine on what matters to engage. For issues that are not in a company’s value chain, corporate management nonetheless should be prepared to exercise fearless moral inventory and to be guided by a company’s core values as a member of society.
10. Companies and their executives are in a unique position to seize immediate media exposure when taking principled positions on public policy issues and thus have a potential for impact unavailable to most individuals.
11. Corporate officials should assess the consequences of maintaining silence in the face of human rights violations and actions undermining environmental or other societal objectives, including whether such silence will encourage further violations that erode the bedrocks of democracy, rule of law, and an open society and ultimately risk undermining business operations and profitability.
12. Where society suffers from a governance gap in addressing systemic societal challenges (such as climate change, human rights, sustainable development) and associated retrogression in rights, companies should determine whether to intervene with principled public and private statements and actions to positively impact the public dialogue and thus become a change agent to help close governance gaps.

13. Guided by the U.N. Declaration on Human Rights Defenders (General Assembly Resolution A/RES/53/144 (1999)), companies should stand with human rights defenders by refraining from action that would obstruct their work and by using their influence to contribute to an enabling environment for human rights defenders, as they are intertwined with the society in which business operates. It is the responsibility and in the interest of business and investors to promote and protect human rights defenders. This includes facilitating access to government and their own corporate community and providing support for human rights defenders when they are imprisoned, particularly by making public statements and private entreaties. Companies should have an internal process that examines whether prospective deals would contribute to human rights violations and undermine the work of human rights defenders.
14. Corporate executive public statements or collective statements relating to public policy issues can be amplified when backed up with supportive actions.
15. Collective engagement through multi-stakeholder initiatives or business associations (in terms of awareness raising and/or collective action) promotes transparency and provides a platform for business to join voices and forces for an amplified positive impact of such engagement with public policy issues.
16. CEO activism and corporate advocacy on public policy issues translates differently into various cultural contexts, but still should be guided by fundamental freedoms and international principles of human rights, environmental protection, and democracy.

SUPPLEMENTAL INFORMATION

Discussion Questions – Corporate Consultations

The following questions provide a roadmap for the roundtable discussion and are only meant to stimulate your thinking prior to the roundtable and during the discussion. We also encourage you to arrive at the roundtable with further questions and lines of inquiry to consider relating to the different stages of decision making and implementation for corporate engagement with public policy.



- 1) Are you actively engaging on public policy issues that are not *directly* related to your business?
- 2) Are there examples of such engagement by your company through CEO or corporate statements or action to respond to a prominent public policy issue?
- 3) How does such engagement relate to your existing corporate responsibility mandate, efforts, and functions?
- 4) What considerations inform your decision whether or not to engage?

- 5) What industry specific realities of your company would influence how you structure your engagement?
- 6) How do the local political and socio-economic contexts and governance gaps in countries of your operations inform your decision? I.e., with trust lacking in government because of governance gaps, there are higher expectations for corporations to fill this void.
- 7) How are issues for engagement determined within your company? Where within your company is this decision made? Who is the champion, either personally or institutionally?
- 8) How do you prioritize the issues on which you speak out or engage on in other forms? What factors do you consider when making this decision and what role do reputational considerations play?
- 9) Do you have a standard format for such engagement or is it a case-by-case decision?
- 10) Would you consider your company or CEO a first mover on critical issues of public policy? In other words, would you describe your company as largely reactive to public policy issues that gain prominence in the news or does your company (or perhaps only your CEO) take a proactive stance either in terms of addressing an issue before it breaks in the news or being a leader among other companies in reacting to a prominent issue in the news?
- 11) How does your company consider joining collective corporate interventions on public policy issues? In general, is there is preference for collective engagement (such as open letters) or multi-stakeholder responses over individual company engagement (such as CEO public statements)?
- 12) Are your engagements on public policy issues mostly public-facing or private (i.e., lobbying for legislative change), or both?
- 13) Would you describe your company's engagement as driven by individual senior leadership, in particular your CEO? Or is your company's engagement rather through corporate action at the organizational level?
- 14) Would you describe your company's engagement on public policy issues as ad hoc or as systemic and institutionalized within your organization? If the latter, can you describe the internal process? In particular,
 - What are the roles of the CEO and Board of Directors?
 - Are there consultations with other C-suite executives across different business functions?
 - What is the role of the Supervisory Board or trade union, if applicable?
 - What kind of consultations have emerged among these constituencies on public policy issues?

- 15) Are there other advisory functions available within your company to assist in making decisions about the company's engagement? What role do external stakeholder consultations play, if any?
- 16) Where "action" steps beyond advocacy to physically intervene on the relevant issue and commit corporate resources to change the dynamic of it, how is that kind of decision arrived at internally and how might it reinforce corporate advocacy?
- 17) In a practical sense, how seriously would non-binding guidance on corporate engagement with public policy, as an extension of the UN Guiding Principles on Business and Human Rights (particularly Principle 11), be considered by senior management and executive officers in your company? Would some other form of guidance on this topic that could be conveyed to your executive team or perhaps stated publicly by the UN High Commissioner for Human Rights be more effective to stimulate and help guide your corporate advocacy?
- 18) Would you feel more comfortable engaging publicly on these issues if you could make reference to some guidance from the UN High Commissioner for Human Rights about the criticality of corporate advocacy on human rights, the environment, and other issues that are experiencing governance gaps?

Discussion Questions – Stakeholder Consultation

- 1) How would you describe the relatively recent phenomenon of CEO and other corporate advocacy on prominent public policy issues? Have your expectations on CEO/corporate advocacy changed recently? Do you see evidence that this is a growing trend or a temporary episode in corporate operations?
- 2) Stakeholders can claim credit for bringing many public policy issues to the forefront of corporate awareness. How has your organization done so in recent years and what were the results in terms of corporate engagement?
- 3) What is your expectation, in light of recent corporate advocacy, regarding corporate intent to "do good" compared to their "doing harm" in order to advance conventional business objectives?
- 4) Are there examples of major corporations that your organization has encountered and/or worked with during the last two years and that have demonstrated a marked shift towards positive (or negative) corporate advocacy not only relating to human rights but other public policy issues?
- 5) Have you detected particular considerations (such as local political and socio-economic contexts) that corporate officers are taking into account when determining how to engage on public policy issues?
- 6) In your view, are particular corporations stepping up to fill governance gaps on human rights and other public policy issues, or are they exhibiting a notably cautious attitude about addressing such governance gaps?

- 7) Have you detected any particular systemic decision-making process within corporations when determining if and how to engage on public policy issues? Or have you observed primarily ad hoc decision-making steps?
- 8) How have corporations prioritized what issues they are speaking out on, considering the number of public policy issues that might merit prominent CEO/corporate advocacy?
- 9) How would you describe the value of a CEO or corporation being the “first-mover” on a public policy issue and then how that “first-mover” initiative can or should galvanize a collective effort by other CEO’s/corporations? Have you tried to persuade any CEO’s/corporations to be first-movers and if so, how did the process unfold?
- 10) Are you detecting more public-facing or private (i.e., lobbying for legislative change) engagements by corporations on public policy issues recently? Should we assume that collective engagement will be more effective than individual engagement?
- 11) Are you recently observing an American-centric engagement by corporations on public policy issues or is there a shift taking place with foreign corporations as well?
- 12) What “action” steps—beyond advocacy—to physically intervene on a relevant issue and commit corporate resources to influence it have you observed and/or sought to generate regarding corporations that are engaging or considering engagement on public policy issues?