

Business and Human Rights Resource Centre (BHRC)
Attn Saskia Wilks / Johannes Blankenbach
2-8 Scrutton Street
London EC2A 4 RT
United Kingdom

Berne, 13 September 2019

Your request regarding the Swiss Responsible Business Initiative

Dear Ms Wilks, dear Mr Blankenbach,

We understand your organisation has contacted those companies which signed a letter sent to Members of Swiss Parliament dated 8 August 2019, and that you are seeking clarification regarding their position towards the Swiss Responsible Business Initiative („RBI“). As the original letter was submitted jointly, our members again decided to submit a coordinated response. Accordingly, this letter should be regarded as the official reply of the companies that we represent.

economiesuisse is the umbrella organisation of Swiss business. SwissHoldings represents the interests of Swiss-based multinational enterprises from the manufacturing and service sector.

First, we would like to stress that respect for, and promotion of human rights – including the principles stipulated by the Universal Declaration of Human Rights, the OECD Guidelines for Multinational Enterprises and the ILO Core Conventions on Labour Standards – are of high importance to our members. economiesuisse and SwissHoldings have been consistently working on these issues for many years, including recent efforts to support, promote and disseminate the UN Guiding Principles (UNGPs). A study recently performed by the Swiss Confederation confirmed that large Swiss companies¹ are well advanced in implementing the UNGPs.

The purpose of the letter to Swiss Parliament is to convey the view of the signing companies within the Swiss domestic political dialogue and process. As laid out in the letter, our members are concerned about *how* the initiative and the „indirect counterproposal“ („GGV“) aim to implement obligations of companies related to human rights protection in Swiss national law. In fact, both proposals are incompatible in key aspects with related approaches followed by important other jurisdictions, in particular the European Union. Specifically:

- The RBI and the GGV as it stands today directly impose human rights obligations otherwise targeted at states and state institutions on private companies. This creates confusion by blurring and redefining the respective tasks and responsibilities of states and enterprises within the recognized UN's three-pillar framework ("Protect, Respect, Remedy"). Direct liability of companies for states' obligations will prove contrary to the spirit of the UNGPs.

¹Extracted from: twentyfifty: Bestandsaufnahme über die Umsetzung der UNO-Leitprinzipien für Wirtschaft und Menschenrechte durch den Bund und durch Schweizer Unternehmen (<https://www.nap-bhr.admin.ch/napbhr/de/home/dokumentation/studien.html>)



- Both the RBI and the GGV introduce an excessive „concept of jurisdiction". They aim at establishing extraterritorial jurisdiction, while disregarding national sovereignty. In addition, both the RBI and the GGV impose a mechanism to reverse the burden of proof, making companies liable for conduct of unrelated third parties including state actors.

Again, we would like to stress that this position does not conflict with our commitment to participating in further developing the agenda on business and human rights. To this end, we welcome the proposal recently announced by the Swiss Federal Council to fully align the Swiss regulatory approach with the policies and instruments implemented by the EU and some of its member states, in particular regarding human rights due diligence processes.

In addition, *economiesuisse* and SwissHoldings continue to participate in multilateral efforts to strengthen the protection of human rights at organisations such as the OECD, the UN Global Compact and the Global Business Initiative on Human Rights. We explicitly advocate for an internationally coordinated policy approach and recognise the different roles that governments and corporations have in ensuring respect for the rule of law and human rights. The 2015 UN Sustainable Development Goals (SDGs) have played a major role in pooling and mobilising action as well as co-operation across state actors and the private sector.

Today more than ever, sustainable development depends on the solutions, capabilities, contributions and commitment of business. We would like to thank you for your interest and for the opportunity to explain the purpose of the letter addressed to Members of the Swiss Parliament and the approach of our member companies to business and human rights.

Yours sincerely,



Monika Rühl
Chairwoman of the Executive Board
economiesuisse
Swiss Business Federation



Erich Herzog
Member of the Executive Board
economiesuisse
Swiss Business Federation



Dr Gabriel Rumo
Director
SwissHoldings
Federation of Industrial and Service Groups
in Switzerland



Denise Laufer
Member of the Executive Board
SwissHoldings
Federation of Industrial and Service Groups
in Switzerland

