
BUSINESS DIALOGUE ON NATIONAL ACTION PLANS: REPORT OF KEY THEMES

Understanding business perspectives on the development of National Action Plans and providing business input into key projects and processes led by civil society and States

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Convened by the **International Corporate Accountability Roundtable**, the **Danish Institute for Human Rights**, and the **Global Business Initiative on Human Rights**



**GLOBAL BUSINESS INITIATIVE
ON HUMAN RIGHTS**

INTRODUCTION

The Business Dialogue on National Action Plans was organised to facilitate understanding of the perspectives of business practitioners regarding the scope, content, and development of National Action Plans on business and human rights (NAPs). This report outlines the key themes from the meeting. The agenda and participants list can be found in the appendix. The Dialogue was carried out under the Chatham House Rule.

NAPs are increasingly seen as one key vehicle through which States express their commitments and priorities for implementation of their duty to protect human rights, as set out in the UN Guiding Principles on Business and Human Rights (UNGPs). As States begin the process of developing NAPs, it is important that all stakeholders – including businesses – provide their input with the aim of supporting dialogue that takes a crosscutting view of issues and the need for further developments.

One key purpose of the Dialogue was to receive input on the *National Action Plans (NAPs) Project*, which is a joint project of the International Corporate Accountability Roundtable (ICAR) and the Danish Institute for Human Rights (DIHR). The NAPs Project was launched in August 2013. Its goal is to produce a robust Toolkit in order to support the development and evaluation of NAPs in holding governments accountable for their progress in fulfilling the State duty to protect. Thus far, the Project has consulted with approximately 240 stakeholders from across world regions and across stakeholder groups, including governments, civil society, the business and investor communities, national human rights institutions, academia, indigenous peoples organizations, and international organizations.

Ms. Alexandra Guaqueta, Chair of the *UN Working Group on Business and Human Rights (UNWG)*, attended the Dialogue, and thereby enabled the expression of views with regard to the UNWG's current thinking on NAPs. The UNWG has confirmed that NAPs will be a key priority area for their work moving forward, and they are currently preparing a report on NAPs to be presented to the UN General Assembly in September 2014. The ICAR - DIHR NAPs Project has been welcomed by the UNWG as a valuable source of input.

The conveners would like to extend their gratitude to all participants who joined the session, and to Ms. Guaqueta and Mr. Stephen Lowe from the UK Government, for their participation in the event.

OBJECTIVES

The objectives of the Dialogue were to:

1. Update participants on the latest developments and emerging trends regarding NAPs and State implementation of the UNGPs;
2. Facilitate discussion with business regarding how relevant and valuable NAPs may be for the business community;
3. Provide a platform for business to share best practices and major challenges in working with national governments on business and human rights issues;
4. Provide a platform for business to share views about the effectiveness of various ways that governments can shift company practices, for example via regulation, voluntary standards, capacity building, financing, and procurement;
5. Seek business views on what measures may be taken to support development of NAPs, baseline studies, and other strategies for national implementation of key business and human rights framework.

KEY THEMES

Support for State implementation of the UNGPs and support for NAPs, alongside ongoing efforts to strengthen good governance and rule of law. Participants in general expressed a strong interest in, and support for, State implementation of the UNGPs. Many felt that NAPs are a promising means of clarifying expectations and supporting businesses in their efforts toward achieving respect for human rights. Participants also stated that, in parallel, States should continue to support programs that build government capacity in other States to address fundamental rule of law and governance issues, which were also seen as highly relevant, contextual factors for UNGPs implementation.

Multi-stakeholder processes are important for developing and implementing NAPs. Participants felt that a credible and well-managed multi-stakeholder process at the national level was key, both to inform the content of a NAP and to support its implementation. In particular, participants noted that a transparent and inclusive process would be necessary if the content of a NAP was to be appropriate, relevant, and authoritative in its priorities.

Support for focusing resources on the most urgent, systemic, and severe human rights risks. Participants identified some recurring business and human rights impacts and risks – understood by participants as risks to people as well as business risks – that exist in the value chains of most industries. These included land rights, trafficking, security, child labor, privacy, and conflict of laws, amongst others. Participants expressed that these issues often involve the most severe and irremediable human rights impacts and stated that corporate human rights due diligence can only go so far. It was therefore noted that States should prioritize supporting outcomes in these areas to develop consistent expectations, standards, requirements, and interventions that lead to positive and demonstrable human rights outcomes.

NAPs should not focus solely on business conduct and activities, but should also address the full range of a State's economic policies, strategies, and activities. With regard to the possibility that NAPs could focus mainly or exclusively on the activities of private enterprises, participants stressed the need for NAPs to address the full scope of Pillar I of the UNGPs, such as the State's own economic growth plans, investment strategies, bilateral agreements, trade promotion efforts, and development aid. Participants stated that this also applies to situations where States are involved in planning and rule-making in multilateral contexts, such as regional economic communities and international finance and trade institutions.

When it comes to business conduct, NAPs should include a focus on legislation and regulation, but not exclusively so. Participants expressed the view that NAPs should not focus exclusively on the development of legislation and regulation regarding the corporate responsibility to respect human rights, as defined under Pillar II of the UNGPs. Participants argued that, while laws and regulations may be required and effective in certain situations, NAPs should actively consider other measures that can be used by States to set expectations and incentivize and reward responsible conduct by corporations. It was suggested that this could involve developing guidance, as well as convening CEOs and other senior business leaders to set out clear expectations consistent with the UNGPs (for example, in relation to clarifying the concept of corporate social responsibility (CSR) and how it relates to the concept of business and human rights). Further, licensing and public procurement were noted as examples where States already apply their leverage to influence business practices, for instance by rewarding businesses that

clearly evidence respect for human rights in their operations. Participants suggested that NAPs might therefore valuably include commitments by governments to review and identify good practices and lessons learned concerning the use of licensing and public procurement in the business and human rights context.

NAPs – and State implementation of the UNGPs more broadly – could draw on existing methodologies and tools from industry and multi-stakeholder initiatives. Participants observed that, over the past two decades, industry and multi-stakeholder initiatives have generated a range of methodologies and tools to support business respect for human rights. It was therefore suggested that States may be able to build on these existing methodologies and tools and integrate them into their own UNGPs implementation efforts. Examples given by participants included: i) States focusing on licensing in the extractive industry may be able to draw on impact assessment tools developed by relevant initiatives from the sector; and ii) States including measures on procurement in their NAPs may be able to learn from approaches to supply chain management from the private sector and sector-specific initiatives.

Consistent with the “Protect, Respect, Remedy” Framework, access to remedy should be addressed within NAPs, and all types of remedy should be explored. Participants highlighted that NAPs should address both judicial and non-judicial remedies for business-related human rights abuses. At the same time, participants emphasized that, while relevant legislation is often in place and remedies are technically available in many countries, one substantial obstacle to access to justice is the lack of implementation and enforcement at the national level. It was also recommended that NAPs should contain measures supporting the development and implementation of non-judicial mechanisms, such as alternative dispute resolution.

Support for knowledge-sharing and capacity-building between States. Participants expressed the hope that NAPs will be developed by States in all regions of the world in order to accelerate global uptake of the UNGPs. It was discussed that, in order to help create a level playing field, States that have already developed NAPs – and/or are implementing aspects of the UNGPs – should support other States to develop their own practices via peer learning and dissemination of good practice. However, it was reflected that this should be viewed in light of the fact that UNGPs implementation processes will necessarily be different across diverse national contexts. Further, participants stressed that NAPs should not have an exclusively “outward” focus, but should aim to adequately address business-related human rights impacts at home as well. Moreover, participants representing businesses that operate in multiple contexts emphasized that NAPs processes should, as far as possible, be coherent and complimentary across States, with the aims of ensuring that requirements on businesses are similar in different countries and of easing investments, business operations, and business relationships.

ANNEX A: PARTICIPANTS LIST

John	Kornerup Bang	Head of Positioning & Strategic Risk Management	A.P. Møller-Mærsk
Anders	Nordstrom	Group Advisor Sustainability Affairs	ABB
Ron	Popper	Group Head of Corporate Responsibility	ABB
Belinda	Richards	Senior Associate	Allen & Overy
Philippa	Birtwell	Head of Reputation Risk Management	Barclays
Thorsten	Pinkepank	Director, Corporate Sustainability Relations	BASF
David	Möeller	Manager, Sustainability	BASF
Maja	Erbs	Corporate Sustainability Relations	BASF
Lis	Culbard	Head of Sustainability, Global Infrastructure Business	Bechtel
Ines	Andrade	Coordinadora de Estándares Sociales	Cerrejón
Thomas	Wise	Manager, Global Issues and Policy	Chevron
Roger	Leese	Partner	Clifford Chance
Anya	George	Associate	Clifford Chance
Claire	Methven O'Brien	Chief Adviser, Human Rights & Business	DIHR
Cathrine	Poulsen-Hansen	Analyst, Human Rights & Business	DIHR
Mark	Hodge	Executive Director	GBI
Katryn	Wright	Programme Director	GBI
Andrea	Shemberg	Advisor/Associate	GBI
Catie	Shavin	Associate	GBI
Jo	Clark	Associate	GBI
Mark	Nordstrom	Senior Labor and Employment Counsel	General Electric
Frances	Phillips Taft	Associate General Counsel, Labor & Employment	General Electric
Sune	Thorsen	Founder	Global CSR
Desiree	Abrahams	Programme Manager	Global Compact Network UK

Didlier	Bergeret	Senior Manager	GSCP
Johanna	Hull		Herbert Smith Freehills LLP
Jon	Bauer	Human Rights Program Manager	HP
Amol	Mehra	Director	ICAR
Sara	Blackwell	Legal and Policy Associate	ICAR
Claire	White	Manager, Social and Economic Development	ICMM
Roper	Cleland	Senior Manager, Social Responsibility	IPIECA
Rajiv	Williams	Corporate Head – CSR	Jindal Stainless Limited
Emily	Barton	Manager, Corporate Social Responsibility	Motorola Mobility
Michael	Rittersbacher	Director, Corporate Responsibility	Motorola Mobility
Susanne	Stormer	Vice President of TBL Management	Novo Nordisk A/S
Kasumi	Blessing	Project Manager, Corporate Sustainability	Novo Nordisk A/S
Felicitas	Weber	Manager of Investor Engagements, Social Issues	PRI
Liyang	Li	Adviser, External Affairs (Policy)	Rio Tinto
David	Holmes	Human Rights and Equality Policy Officer	Scottish Government
Andrew	Vickers	Vice President, NGO and Stakeholder Relations	Shell
Bert	Fokkema	Global Manager Social Performance	Shell
Sylvie	van Maris	External Communications	Shell
Nicoletta	Heilsberger	Corporate Sustainability	Siemens
Zulkifli	Zainalin Abidin	Executive Vice President, Group Human Resources	Sime Darby
Nadiah	Hanim	Head Corporate Social Responsibility	Sime Darby
Ylva	Stiller	Head Social Policy & Performance	Syngenta
Geri	Marti	Head of Security Global	Syngenta
Stuart	Kyle	Director Workplace Accountability	The Coca-Cola Company
Philip	Jordan	Chairman of the Ethics Committee	Total
Sophie	Pierson	Juriste Droits de l'Homme - Direction Conformité et Responsabilité societal	Total

Stephen	Lowe	Human Rights and Democracy Department	UK Foreign and Commonwealth Office
Gerald	Pachoud	Principal Officer within the Office for Strategic Planning in the Executive Office of the UN Secretary General	UN
Alexandra	Guaqueta	Chair	UN Working Group
Simone	Rocha Pinto	Human Rights Manager	Vale

ANNEX B: AGENDA

14.45 ARRIVALS

15.00 WELCOME, INTRODUCTIONS, AND CONTEXT

Moderator: Mark Hodge, Executive Director, GBI

Following a brief welcome and introductions, the first session of the Dialogue will be dedicated to hearing about developments, trends, and future plans regarding NAPs. The objective is to set the scene for the Dialogue with a focus on the various ways businesses could be, or have been, engaging in the development of NAPs. Three speakers will provide their own perspectives on trends, update participants on their own institution's work in this area, and indicate what they see as the role of business in the development of NAPs.

Speakers:

- *Dr. Claire Methven O'Brien, Special Adviser, Human Rights and Business, Danish Institute for Human Rights*
- *Mr. Stephen Lowe, Human Rights and Democracy Department, Foreign and Commonwealth Office, UK Government*
- *Ms. Alexandra Guaqueta, Chair, UNWG on Business and Human Rights*

Following a brief Q&A, the floor will be open for a few participants to share their experiences and views in relation to the following questions:

1. What is your view on the relevance and importance of NAPs as tools to support implementation of the UNGPS by States and by businesses?
2. How, if at all, have you been engaged in processes related to NAPs and/or the development of B&HR standards (either voluntary, regulatory, or multi-stakeholder in nature)?
3. In terms of engaging business leaders in NAP development and implementation, what advice or ideas do you have? What can businesses contribute?

16.15 BUSINESS VIEWS ON NAP PRIORITIES, CONTENT, AND IMPLEMENTATION

Moderator: Amol Mehra, Director, ICAR

The objective of this session is to hear from participants what guidance or recommendations they have in relation to the **scope, content, and priorities** of NAPs. In particular, it will be helpful to understand perspectives on specific essential elements that could or should be integrated into a NAP. The moderator will start with an overview of the key messages received from other stakeholders consulted thus far in the context of the ICAR- DIHR NAPs project. We will then open the floor to discuss the following questions:

1. From the perspective of your business, which human rights risks and issues would you like to see home or host states prioritize (e.g., land, trafficking, migrant workers, reporting requirements, access to remedy)? Are there areas where coordination or multi-lateral collaboration could help?

2. What is the role of rules and regulations when it comes to increasing respect of human rights by companies? What is effective in your view? What should States keep in mind when considering regulatory steps?
3. What are your views about the State using financial tools and market incentives to promote/support/require corporate respect for human rights? What has worked well in your opinion? What has worked less well?
4. In what ways could governments increase awareness of the UNGPs, and implementation of the corporate respect for human rights, by the business community in your country? What steps could they take at home? What steps can they take for their companies abroad?
5. Which governmental departments do you think are key for UNGP implementation by States? What examples do you have of helpful coherence between government departments/functions?

17.45 MOVING FORWARD: GUIDANCE AND ENGAGEMENT OPPORTUNITIES

This session will be an opportunity to react to the objectives and deliverables of the work of DIHR, ICAR, and the UNWG. We will also hear about opportunities to engage in future work and/or meetings. Questions we will address will include:

1. What advice do you have for ICAR - DIHR as they progress in their NAPs Project, particularly in relation to the tools being developed by this Project and the content and scope of NAPs?
2. What advice do you have for the UNWG as it develops formal guidance to States on the essential elements of NAPs?

18.15 END