



Auswärtiges Amt

National Action Plan on  
Business and Human Rights



**Suggested process for a  
National Action Plan  
to implement**

**the UN Guiding Principles on  
Business and Human Rights**

**in Germany**

As of 6 March 2015



## I. Background

In June 2011, the United Nations Human Rights Council unanimously adopted the UN Guiding Principles on Business and Human Rights. The adoption of these guiding principles marked the conclusion of an extensive research and consultation process led by UN Special Representative Professor John Ruggie, with the active support of the German Government. These guiding principles are based on the three pillars of the frame of reference for responsibility for human rights in the business context:

- (I) State duty to protect human rights
- (II) Corporate responsibility to respect human rights
- (III) Access to remedy

These pillars of responsibility for human rights form the basis for Ruggie's 31 Guiding Principles, which are now used by all relevant initiatives, standards, guidelines and stakeholders as a frame of reference for upholding human rights. They are regarded as agreed language for describing human rights due diligence, and place international law in a framework of responsibility and action for states and business enterprises.

The Guiding Principles are based on the fundamental notion that it remains the responsibility of the state to protect human rights in the first instance. The state must enshrine rights in law and ensure that they are upheld within the framework of the instruments of due process. This creates a frame of order that applies to all of the business enterprises active in a country. At the same time, business enterprises should ensure that human rights are not violated through their own activities or through business relationships directly linked to their products or services. This applies in particular when business enterprises operate in a country where the rule of law is not in place.

Parallel to the ongoing implementation of the UN Guiding Principles, the Human Rights Council adopted a resolution in June 2014 to establish a working group tasked with finding out how transnational corporations can be obliged to respect human rights by means of a binding treaty or convention. The time frame and outcome of this process are still pending. However, this process does not call into question the agreed language found in the Guiding Principles.

In its corporate social responsibility (CSR) communication of October 2011, the European Commission called on all EU Member States to further the implementation of the UN Guiding Principles and to draw up National Action Plans on this topic. On



19 June 2013, the German Government's CSR Forum adopted a resolution in which it called on the German Government to "decide on steps for implementing these guiding principles in national policy". This demand was included in the coalition agreement. The first European countries have already drawn up their National Action Plans. By drawing up a meaningful National Action Plan based on a sound process, Germany has the opportunity to highlight its commitment and the importance of the topic both within the EU and in the Human Rights Council. Taking up the political initiative, the German Government has set itself the goal of launching a process to draw up a National Action Plan that

- is supported by all those involved,
- allows enough time for all stakeholders to participate and
- at the same time ensures that the first steps towards implementation can be started in this legislative term.

## **II. Shaping the process**

The Federal Foreign Office is coordinating this process. In order to include input from other ministries, the Federal Ministry of Labour and Social Affairs, the Federal Ministry for Economic Affairs and Energy, the Federal Ministry of Justice and Consumer Protection, the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety, and the Federal Ministry for Economic Cooperation and Development are also actively involved in this process. The ministries draw on the guidance of organisations working in this field for input and logistical support.

### **1. Aims**

In line with the aims set, the Federal Foreign Office, as the ministry coordinating the process, will draw up the National Action Plan with input from all relevant sections of society, thus creating a result with broad-based support. The aim is that Germany's National Action Plan will cover the entire spectrum of the UN's Guiding Principles.

### **2. Ways to participate**

The process of drawing up the National Action Plan will be transparent and participatory, that is, it will include all relevant sections of society, such as businesspeople, representatives of trade associations, civil society organisations, academia, the Government, the administration and the political parties. The process will be led by a steering group comprising representatives of the six ministries listed above, two trade association representatives (from the Confederation of German Employers' Associations [BDA] and the Association of German Chambers of Commerce and Industry [DIHK]), two representatives of non-governmental organisations (Forum Menschenrechte [Human Rights Forum] and the Association of



German Development NGOs), a trade union representative (from the German Trade Union Confederation) and two advisory members (from the German Institute for Human Rights and econsense). The next step will be to set up a smaller editorial group from the steering group to work on the text of the National Action Plan. The stakeholder representatives in the steering group will coordinate stakeholder participation, primarily during the workshops. The invitations will be issued by the Federal Foreign Office and the relevant topic mentors.

Various types of consultation phases will be facilitated throughout the process. To this end, the steering group will invite a wide range of stakeholders to enable a broad exchange of views and to provide space for ideas and comments during the process. In addition, the methodology and progress in the development of the National Action Plan will be presented and regularly updated in a website. The steering group can invite further stakeholders at any time if it thinks this would be useful.

A contact point has been set up in the Federal Foreign Office for the institutions, organisations and experts that are interested in the process, but did not receive a formal invitation to participate. They are welcome to submit suggestions and ideas on the overall process to this contact point. The entire input will be processed by the steering group and/or editorial group and documented for the process. All of the stakeholders, especially the members of the steering group, are invited to accompany and actively shape the entire process in order to achieve the necessary bindingness. In particular, the members of the steering group are asked to compile a list of their members' interests and to provide input. As a National Action Plan of the German Government, the plan will ultimately require agreement between the ministries and discussion in the Cabinet.

### **3. Preliminary procedure**

The steering group is tasked with holding regular discussions, guiding the process and undertaking detailed planning. The Federal Foreign Office, which is coordinating the process, serves as a central point of contact and secretariat. The schedule for the two-year process is currently as follows:

- November 2014: opening conference
- By April 2015: drafting of a National Baseline Assessment
- May 2015: conference – presentation of the National Baseline Assessment
- By November 2015: holding of workshops on selected fields of action
- Early December 2015: conference – putting the results together
- March 2016: conference – presentation of the draft National Action Plan
- Spring 2016: discussion in the Cabinet and approval of the National Action Plan by the German Government



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*Note: The recommendations of the toolkit for developing National Action Plans on Business and Human Rights, published by the Danish Institute for Human Rights (DIHR) and the International Corporate Accountability Roundtable (ICAR) in June 2014, were taken into account in the drafting of this paper. DIHR and ICAR produced the toolkit on the basis of experience to date in drafting National Action Plans. DIHR/ICAR (2014): National Action Plans on Business and Human Rights. A Toolkit for the Development, Implementation, and Review of State Commitments to Business and Human Rights Frameworks. <http://accountabilityroundtable.org>)*