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Implementation of the UN Guiding Principles on Business and Human Rights

DROI



STUDY

Implementation of the UN Guiding Principles on Business and Human Rights

ABSTRACT

This study reviews the progress of implementation of the UN Guiding Principles on Business and Human Rights (UNGPs) in non-EU countries, five years after their unanimous endorsement by the United Nations Human Rights Council in 2011. Much progress has already been achieved, with i.a. relevant key international standards like OECD Guidelines for Multinational Enterprises becoming aligned with the UNGPs, new tools being developed to provide guidance to governments and stakeholders and a basis being set for constructive discussion. This led to increased awareness and better understanding, building trust and engagement among various stakeholders. Yet, despite all efforts, business-related human rights abuse is still a serious problem. Further implementation of the UNGPs and related instruments is thus necessary, with special emphasis needed on access to remedy and justice for victims of business-related abuses. Less declaration and more real political will is needed, as states' commitments to develop National Action Plans implementing the Guiding Principles have been far too slow to materialise, with only twelve NAPs being launched to date. Yet, the number of ongoing processes is promising, particularly in South America, although we have yet to see how meaningful and future action oriented their outcomes will be.

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Abbreviations

| | |
|----------|---|
| ACIA | ASEAN Comprehensive Investment Agreement |
| AHRC | Australian Human Rights Commission |
| ASEAN | Association of Southeast Asian Nations |
| AU | African Union |
| BHR | Business and Human Rights |
| BHRRC | Business and Human Rights Resource Centre |
| CEHURD | Center for Health, Human Rights and Development |
| CEO | Chief Executive Officer |
| CHRAJ | Ghana Commission on Human Rights and Administrative Justice |
| CNCA | Canadian Network on Corporate Accountability |
| CoE | Council of Europe |
| CSO | Civil Society Organisation |
| CSR | Corporate Social Responsibility |
| DG | Directorate-General |
| DG DEVCO | European Commission's Directorate General for International Cooperation and Development |
| DIHR | Danish Institute for Human Rights |
| DRC | Democratic Republic of Congo |
| EC | European Commission |
| ECAs | Export Credit Agencies |
| EEAS | European External Action Service |
| EIA | Environmental Impact Assessment |
| EIDHR | European Institute for Democracy and Human Rights |
| EP | European Parliament |
| ESG | Environmental, Social and Governance |
| ESIA | Environmental and Social Impact Assessment |
| EU | European Union |
| FCO | UK Foreign and Commonwealth Office |
| FDFA | Federal Department of Foreign Affairs |
| FDI | Foreign Direct Investment |
| GCNA | Global Compact Network Australia |
| GRI | Global Reporting Initiative |
| HRDD | Human Rights Due Diligence |

| | |
|-----------------|--|
| HURINET | Human Rights Network-Uganda |
| IACtHR | Inter-American Court of Human Rights |
| ICAR | International Corporate Accountability Roundtable |
| ICT | Information and Communications Technology |
| IFC | International Finance Corporation |
| IFC | International Finance Corporation |
| IGO | Intergovernmental Organisation |
| IGWG | Open-Ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights |
| ILO | International Labour Organisation |
| IOE | International Organisation of Employers |
| ISER | Initiative for Social and Economic Rights |
| ISHR | International Service for Human Rights |
| ISO | International Standards Organisation |
| LHRC | Legal and Human Rights Centre |
| MEP | Member of the European Parliament |
| MoU | Memorandum of Understanding |
| NAP | National Action Plan on Business and Human Rights |
| NBA | National Baseline Assessment |
| NCP | National Contact Point |
| NGO | Non-Governmental Organisation |
| NHRCK | National Human Rights Commission of Korea |
| NHRI | National Human Rights Institution |
| NPBHR | National Programme on Business and Human Rights |
| NSC | National Security Council |
| OECD | Organisation for Economic Cooperation and Development |
| OECD Guidelines | Guidelines for Multinational Enterprises of the Organisation for Economic Cooperation and Development |
| OHCHR | Office of the United Nations High Commissioner for Human Rights |
| PILAC | Public Interest Law Clinic |
| RBC | Responsible Business Conduct |
| SAHRC | South African Human Rights Commission |
| SCCJ | Swiss Coalition for Corporate Justice |
| SDGs | Sustainable Development Goals |
| SMEs | Small and Medium-sized Enterprises |

| | |
|-----------|--|
| SOEs | State-Owned Enterprises |
| SOMO | Centre for Research on Multinational Corporations |
| SMSG | Special Representative of the Secretary General |
| SUHAKAM | Human Rights Commission of Malaysia |
| UAE | United Arab Emirates |
| UHRC | Uganda Human Rights Commission |
| UK | United Kingdom |
| UN | United Nations |
| UNCT | United Nations Country Team |
| UN HRC | United Nations Human Rights Council |
| UN WG HRB | United Nations Working Group on Human Rights and Business |
| UNCT | United Nations Country Team |
| UNCTAD | United Nations Conference on Trade and Development |
| UNDP | United Nations Development Programme |
| UNGPs | United Nations Guiding Principles on Business and Human Rights |
| UPR | Universal Periodic Review |
| USA | United States of America |
| WBG | World Bank Group |

Executive Summary

Within five years of their unanimous endorsement in June 2011 by the United Nations Human Rights Council (UN HRC), the United Nations Guiding Principles on Business and Human Rights (UNGPs) have become the first globally accepted standard covering the responsibilities of states and businesses in preventing and addressing business-related human rights abuse, and thus the authoritative point of reference for all those working to ensure business respect for human rights. They have established a common global platform for action, upon which cumulative progress has started to be recorded. Unanimous endorsement by the United Nations (UN) body has made the UNGPs a legitimate document to be taken up in discussion with states around the world, that otherwise would not even enter into discussion about human rights and business.

The UNGPs' level of alignment with other international standards is extremely impressive. These include the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises, the UN Global Compact, the International Standards Organisation ISO 26000, the International Finance Corporation (IFC) Performance Standards and many more. Standards such as the Committee of Ministers of the Council of Europe Recommendation CM/Rec(2016)3 on human rights and business are taking the implementation of Pillar III to the next level.

Most interviewees agree that without the UNGPs the discussion about advancing respect for human rights in the business context would not have progressed so far. Yet, the assessment of whether or not efforts undertaken at national level by individual states in relation to Pillar I implementation and the progress achieved so far are adequate remains a point of contention. Certainly, less declaration and more real political will is needed on the side of governments, as so far their commitments to develop National Action Plans (NAPs) implementing the Guiding Principles have been far too slow to materialise. This is despite the availability of relevant guidance and support from the UN Working Group on Business and Human Rights, the Office of the UN High Commissioner for Human Rights (OHCHR), National Human Rights Institutions (NHRIs) and Civil Society Organisations (CSOs).

Up to 31 December 2016 only twelve countries, ten of which are from Europe, have produced National Action Plans: the United Kingdom ([UK](#)) (2013, 2016), [the Netherlands](#) (2013), [Denmark](#) (2014), [Finland](#) (2014), [Lithuania](#) (2015), [Sweden](#) (2015), [Norway](#) (2015), [Colombia](#) (2015), [Switzerland](#) (2016), [Germany](#) (2016), [Italy](#) (2016) and the [United States](#) (2016). Additionally, Spain has released the draft version and is awaiting final government approval, while two other states, the UK and Netherlands, are either undergoing or have already completed (UK) the NAP revision process. Several other European governments (including Belgium, Poland and the Czech Republic) and more from around the world have reported that such plans are currently being drafted. These include Mexico, Kenya (which is likely to be the first African country to develop the National Action Plan) and Australia.

Undoubtedly the European Union (EU) leads in regard to the number of countries that have adopted NAPs. Yet many of those early NAPs were developed without prior National Baseline Assessment (NBA) or sufficient consultations with stakeholders and hence the selection of NAPs' priorities was not evidence-based. Moreover, instead of being action oriented and forward looking, most of the first NAPs merely provide an overview of the activities already taken by the government, while lacking clearly formulated, future-oriented actions assigned to specific institutions. This is disappointing, particularly given the guidance available for selection of best approaches. The study stresses that the governments that have embarked on the process of developing NAPs, therefore, would be wise to draw lessons from the successes and missed opportunities of earlier examples. Thus it is very encouraging to note the existence of NBA-based, inclusive and open processes such as those in Kenya (close collaboration of government, National Human Rights Institutions and Civil Society Organisations as well as other stakeholders) and Mexico (strong civil society contribution to the government-led process).

Yet reducing the UNGPs implementation to NAPs development would be to do injustice to the achievements of many states and processes. This paper thus provides a brief description of selected efforts, some legislative and binding, that not only the EU but also non-EU governments are undertaking. The promising non-NAP related non-regulatory and regulatory developments particularly in the area of public procurement, non-financial reporting, supply chain monitoring or limiting demand for human trafficking are examples of good practices that should be widely disseminated as possibly inspiring examples for other states to follow. Additionally, those states that have so far ignored the UN treaty process should consider joining the discussion in good faith to help create a meaningful and complementary process that starts where the UNGPs end. At the same time, states calling for an internationally binding treaty should undertake meaningful domestic efforts to improve business respect for human rights, lest they be accused of hypocrisy.

The study also provides insight into the various countries' key implementation drivers. While the number of such initiatives is still relatively few, it is clear that governments in the EU and to some extent South America are those which took pro-active approaches to NAPs' development. In the Asia-Pacific Region as well as Africa, the initiating role of National Human Rights Institutions and Civil Society Organisations cannot be overestimated. The study also provides more detail on those processes that, as in case of Kenya, are led in an exemplary way, engaging all the stakeholders, taking advantage of the relevant stakeholders' perspectives and expertise as well as using all the support, financial and non-financial, offered by other actors.

Additionally, this paper discusses the challenges and opportunities presented by the UNGPs implementation, its drivers and ways to overcome obstacles, based on interviews conducted by the author of this study and findings from the surveys undertaken in 2015 by the Business and Human Rights Resource Centre. It concludes that the way forward in trying to step up UNGPs implementation efforts by states is to invest in awareness-raising, capacity building activities, Business and Human Rights (BHR) events, technical assistance and training, study visits and a whole range of other efforts aimed at providing experience, knowledge and best practice sharing and collaborative learning with other countries. At present, apart from the UN Working Group activity (which, one should note, is undertaken as a free service by its members) and technical assistance offered by the Office of the UN High Commissioner for Human Rights, the majority of awareness-raising and capacity-building work worldwide is made possible (often by National Human Rights Institutions such as the Danish Institute on Human Rights) thanks to funding from the UK, Norway, Denmark, the Netherlands and Switzerland, together with efforts and funding secured by Civil Society Organisations. The funding made available by the European Instrument for Democracy and Human Rights (EIDHR) both in the current ongoing call for proposals as well as through substantial grant allocated to National Human Rights Institutions, which includes Human rights and business as a thematic component, will also advance significantly the efforts aimed at increasing business accountability and impact. Yet even this makes only a very small contribution towards the total needs.

The study concludes with a set of recommendations for the European Parliament (EP), advising on actions that should be taken to advance the UNGPs' implementation.

1 Introduction: purpose and scope of the study

In June 2011, the United Nations Human Rights Council (UN HRC) unanimously endorsed the UN Guiding Principles on Business and Human Rights (UNGPs) (UN Human Rights Council, 2011a and 2011b). Developed by the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises (SRSO)¹, the UN Guiding Principles were designed to operationalise the UN 'Protect, Respect and Remedy' Framework approved three years earlier². Endorsement by the UN human rights body, along with the buy-in from other stakeholders extensively consulted during the drafting process, made these UNGPs the first globally accepted standard on the responsibilities of states and businesses for preventing and addressing business-related human rights abuse. They became the authoritative point of reference that had been previously missing in the polarised discussion on the best way forward to ensure that business activities do not cause or contribute to human rights violations³.

The endorsement of the UN Guiding Principles, as with the adoption of any other set of standards, could not alone have brought business and human rights challenges and abuses to an end. For that to happen, concrete steps would need to have been taken by states, businesses and other stakeholders, whose interrelated actions are key to improving respect for human rights in a business context. As the SRSO pointed out, the UNGPs endorsement marked 'the end of the beginning: by establishing a common global platform for action, on which cumulative progress can be built' (UN Human Rights Council, 2011b). Their step-by-step implementation was yet to start.

Five years later, to mark the fifth anniversary of the UN Guiding Principles on Business and Human Rights, the European Parliament (EP)'s Subcommittee on Human Rights has now requested a study assessing international progress on implementation of the UNGPs, with a focus on the UNGPs' first pillar (the state duty to protect human rights), and, in particular, efforts to develop National Action Plans (NAPs) on Business and Human Rights.

This study is based on the data gathered through desk research and examination of existing literature on the UNGPs' implementation. Data thus gathered was further complemented and verified in the course of over twenty interviews and in some cases email exchanges. Efforts were made to conduct interviews with experts involved in the UNGPs' implementation processes in the countries listed on the official Office of the UN High Commissioner for Human Rights (OHCHR) page devoted to business and human rights ([UN Working Group on Business and Human Rights National Action Plans repository website](#)) as those that have officially started the National Action Plan development process, although not in all cases has that effort been successful. The study also profits from examination of the 41 individual states' responses to the Business and Human Rights Resource Centre (BHRRC) administered questionnaires available through the

¹ The mandate of the SRSO on Human Rights and Business was created following the UN Commission on Human Rights resolution 2005/69 on Human rights and transnational corporations and other business enterprises (OHCHR, 2005). For an overview of SRSO's mandate, see *inter alia*: Ruggie, 2013; Aaronson & Higham, 2013.

² The 'Protect, Respect and Remedy' Framework developed by the SRSO on Human Rights and Business was endorsed by UN member states in the UN Human Rights Council Resolution on the Mandate of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (UN Human Rights Council, 2008)

³ See for example Kinley & Chamber, 2006 for insight into the heated discussions concerning the Draft UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (United Nations Economic and Social Council, 2003) approved by the UN Sub-Commission on the Promotion and Protection of Human Rights in its resolution 2003/16 of 13 August 2003 (UN Sub-Commission on the Promotion and Protection of Human Rights, 2003) but was refused endorsement by the then Commission on Human Rights.

Government Action Platform⁴, as well as information provided by selected states in response to the UN Working Group on Human Rights and Business State Surveys. In particular, the 2016 State Survey ([UN Working Group on Business and Human Rights, WG HR&B State Surveys](#)) focused on National Action Plans on Business and Human Rights, and aimed at gauging whether and how the development and implementation of National Action Plans on Business and Human Rights has served as a better way of preventing, mitigating and protecting against business-related human rights abuse.

This study reviews progress on implementation of the UN Guiding Principles on Business and Human Rights (UNGPs), five years after their unanimous endorsement by the UN Human Rights Council in 2011. Since an overview of the European Union (EU)'s and EU member states' efforts in this area is already provided by the Commission Staff Working Document on Implementing the UN Guiding Principles on Business and Human Rights – State of Play, this study focuses on countries outside the EU.

With only twelve National Action Plans on Business and Human Rights having been developed to date, eight originating in the EU and only two coming from a non-European country (Colombia and the United States), particular attention is paid to the regional leaders, some of which (such as Kenya), while still being in the process of NAP development, already contribute to creating the momentum in the region. An overview is also provided of the efforts being made by the countries that are currently drafting their NAPs in fulfillment of their state duty to protect human rights. The study reviews the concrete steps being taken, comparing specifically progress within different countries and regions, thereby identifying trends, best practices, challenges and lessons learned, paying special attention to whether it is governments that lead the NAPs development process (EU, some of the American countries) or National Human Rights Institutions (NHRIs) and Civil Society Organisations (CSOs) (Asia, Africa).

The study is not limited to NAPs-related UNGPs' implementation efforts, but looks also into non-NAPs related efforts undertaken by states in order to implement the UNGPs.

Finally, recommendations are provided on actions that the European Parliament should undertake in order to ensure the promotion of the UN Guiding Principles in the EU's external policies while ensuring that EU member states also learn from the experiences of other countries.

2 The UNGPs: history, objectives and impact

2.1 History

Although the majority of business enterprises were faced with a 'human rights and business' agenda for the first time only after the UNGPs were endorsed, attempts to define human rights duties for business enterprises, particularly multinational enterprises, have marked the UN agenda for several decades. An attempt to formulate the UN Draft Code of Conduct on Transnational Corporations⁵ was abandoned in the late 1980s, and followed by polarising discussions over the Draft UN Norms on Human Rights Responsibilities of Transnational Corporations and other Business Enterprises (UN Economic and Social Council, 2003). These were adopted by the Sub-Commission on the Promotion and Protection of Human

⁴ Between September 2014 and January 2015, the BHRRC contacted over 100 governments with requests for information on actions they have taken on business and human rights. 41 governments responded, with their replies being made available on the platform. EU member states were the most engaged, with a 71 % response rate, whereas governments from Asian and Pacific countries had the lowest level of engagement with a 16 % response rate.

⁵ The Draft Code of Conduct on Transnational Corporations (last version of the proposed draft code: UN Doc E/1990/94, 12 June 1990) required corporations to respect host countries' development goals, observe their domestic law, respect fundamental human rights and ensure consumer and environment protection.

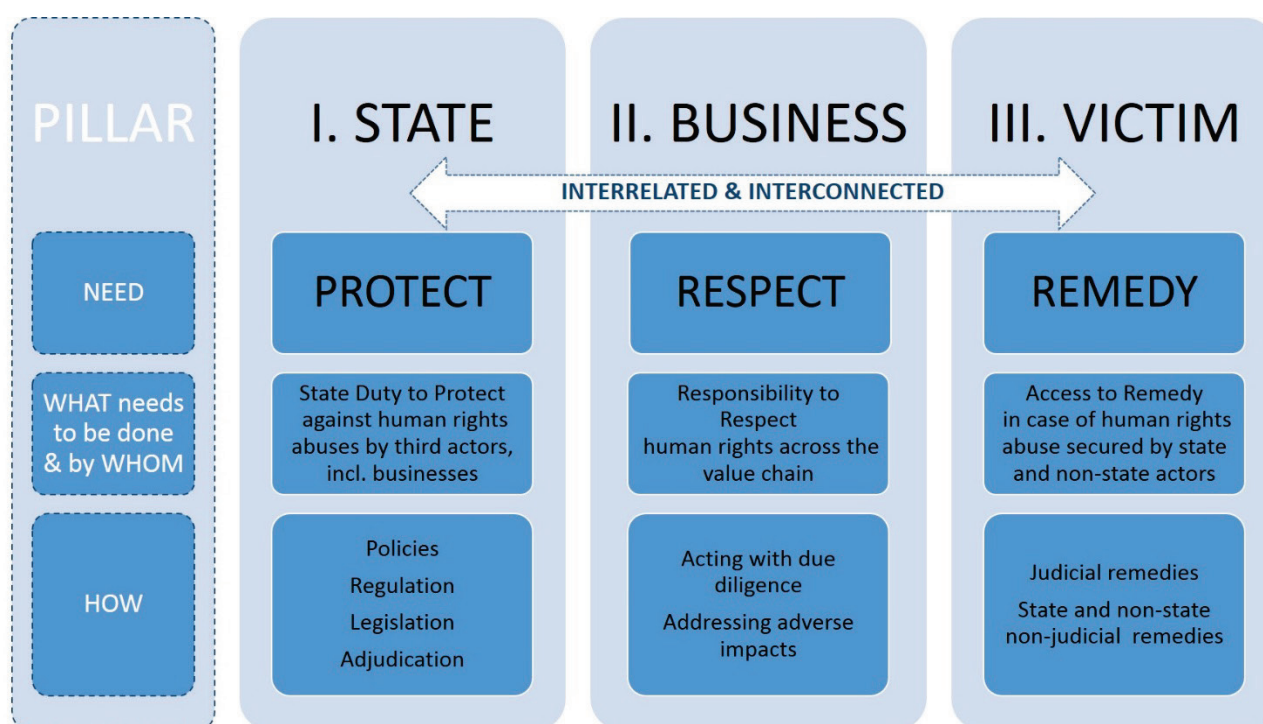
Rights in 2003, but subsequently rejected by the UN Commission on Human Rights in 2004. Hence, neither of those efforts have yielded success, although undoubtedly they have contributed to advancing discussion and identifying the most contentious issues⁶. Other international organisations, such as the Organisation for Economic Co-operation and Development (OECD) in the 1976 OECD Guidelines for Multinational Corporations, were more successful in addressing the challenges raised by companies' activities and outlining their responsibilities. These are binding on member states and consist of recommendations by governments to corporations on 'all major areas of business ethics, including corporate steps to obey the law, observe internationally-recognised standards and respond to other societal expectations.' Another example is the 1977 International Labour Organisation (ILO) Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. However, in both cases it was not until the paradigm shifting 2000 revision that the inclusion of a more detailed reference to human rights was ensured in their texts.

To overcome the highly polarised discussion on rules for companies and create grounds for a more constructive dialogue than existed in 2004 when the UN Commission on Human Rights rejected the Draft UN Norms, the mandate of the Special Representative of the Secretary General on Human Rights and Business (SRSG) was created in 2005. Unlike his predecessors, the SRSG decided against developing a new legal standard and focused instead on how to achieve the improvement of business respect for human rights. He based his approach on a 'smart mix' model, which amalgamated existing, binding legal obligations for states, stemming from ratified international human rights treaties, and accepted the ethical/moral responsibility of business enterprises, coming up with what was soon to be described as 'principled pragmatism'. This new and initially very controversial approach proved successful. Not only did the Human Rights Council endorse the UN 'Protect, Respect and Remedy' Framework presented by the SRSG in 2008, but his mandate was also extended when he was tasked with its operationalisation. The UN Guiding Principles on Business and Human Rights developed subsequently by the SRSG were unanimously endorsed by the HRC on 16 June 2011.

Resulting from six years of in-depth research, extensive multi-stakeholder consultations with an unprecedented variety of actors from all continents, as well as practical road-testing, the UNGPs clarified the duties and responsibilities of both states and businesses on tackling human rights risks related to business activities. Condensed into 3 pillars and comprising 31 Foundational and Operational Principles, they affirmed:

- I. States' existing obligations to respect, protect and fulfil human rights against adverse impacts by non-state actors, including business (Pillar I: State Duty to Protect);
- II. The responsibility of business enterprises to respect human rights (Pillar II: Business Responsibility to Respect); and
- III. The need for state and non-state based, judicial and non-judicial remedies to ensure that rights and obligations are matched to appropriate and effective remedies when breached (Pillar III: Access to Remedy).

⁶ For a brief overview of earlier attempts at regulating the human rights impacts of business enterprises, see e.g. Feeney, 2009; Buhman, 2012.

UN Guiding Principles on Business and Human Rights – schematic overview

It soon became clear that the SRSR was correct when he stated in June 2011 that the UNGPs 'normative contribution lies not in the creation of new international law obligations but in elaborating the implications of existing standards and practices for States and businesses; integrating them within a single, logically coherent and comprehensive template; and identifying where the current regime falls short and how it should be improved' (United Nations Human Rights Council (2011b, introduction, para 14).

The UNGPs were the first authoritative global framework to address business impact on all human rights, applicable to both states and businesses. They provided not only a common language and point of reference for discussion, but also a broadly supported tool for dealing with business-related human rights abuses, used by business and states alike. Some criticism was made by major non-governmental organisations (NGOs) and academics who raised concerns about the lack of reference to issues such as extraterritorial adjudication, together with the absence of a central mechanism to ensure UNGPs' implementation across the board as well as their non-binding character. NGOs have also criticised UNGPs' too strong reliance on a state's willingness and capability to assume and ensure the proper implementation and protection of international human rights as well as corporations' preparedness to spend their resources on ensuring that they do not harm human rights throughout their operations.

2.2 Follow-up

Anticipating that effective implementation of the UN Guiding Principles would face many challenges and might require more concerted awareness-raising efforts, the Human Rights Council included measures in its Resolution 17/4 (2011) to support this process by establishing a follow-up to the SRSR mandate:

- The UN Working Group on the issue of human rights and transnational corporations and other business enterprises (UN WG HRB)⁷, consisting of five independent experts, of balanced geographical representation and mandated by the Human Rights Council to promote the effective and comprehensive implementation of the UN Guiding Principles, through *inter alia* disseminating and promoting the implementation of the UN Guiding Principles, best practice identification, capacity building, country visits, developing recommendations on access to remedy and engaging in dialogue and cooperation with relevant actors; and
- A multi-stakeholder, annual UN Forum on Business and Human Rights, which in November 2016 took place for the fifth time and gathered over 2500 representatives from various stakeholder groups⁸. The global forum held in Geneva is – at the initiative of the UN WG HRB – complemented by regional fora aimed at focusing on issues of greatest relevance to the given region.

2.3 Impact and standards alignment

Within just a year of the UNGP's endorsement, an unprecedented level of alignment took place involving key standards as well as initiatives of global, regional and national reach, covering all geographic regions and business sectors. Among the first standards to be updated were the OECD Guidelines for Multinational Enterprises, which saw the addition of a whole new chapter focused on human rights in the business context, including the human rights due diligence recommendations (OECD, 2011). Over time, the OECD began to introduce human rights expectations into its other standards including the OECD Common Approaches that saw the inclusion of human rights due diligence (screening applications for severe human rights risks) in recommendations for Export Credit Agencies in their 2016 revision⁹. Furthermore, reference to the UNGPs and OECD Guidelines for Multinational Enterprises were contained in the 2015 update of the OECD Guidelines for the Governance of State-Owned Enterprises.

Other standards that were aligned with the UNGPs soon after their adoption included: the International Finance Corporation (IFC) Performance Standards on Environmental and Social Sustainability (IFC, 2012); the International Standards Organisation (ISO) ISO 26000 social responsibility standard (human rights chapter) (ISO, ISO 26000 – Social Responsibility) and the UN Global Compact. In this final case, the content of the Human Rights Principle of the UN Global Compact was clarified to be read in line with the UNGPs (UN Global Compact and OHCHR, 2011). Additionally, within their 2015 declaration, the G7 Summit Leaders reaffirmed in the context of responsible supply chains that they 'strongly support the UN Guiding Principles on Business and Human Rights and welcome the efforts to set up substantive National Action Plans', and gave an undertaking that they 'will take action to promote better working conditions by increasing transparency, promoting identification and prevention of risks as well as strengthening complaint mechanisms' (G7 Summit, 2015). The ILO, through its work on a proposed resolution concerning decent work in global supply chains, refers extensively to the UNGPs. Much of this is in the context of appropriate

⁷ The UN Working Group on the issue of human rights and transnational corporations and other business enterprises is expected *inter alia* to 'identify, exchange and promote good practices and lessons learned on the implementation of the Guiding Principles and to assess and make recommendations thereon [...]', 'provide support for efforts to promote capacity-building and the use of the Guiding Principles, as well as, upon request, to provide advice and recommendations regarding the development of domestic legislation and policies relating to business and human rights' and to 'conduct country visits and to respond promptly to invitations from States'. For details see [UN Working Group on the issue of human rights and transnational corporations and other business enterprises website](#).

⁸ See [5th UN Forum on Business and Human Rights website](#).

⁹ In the 2016 revision of the Common Approaches, there is an explicit statement that Export Credit Agencies (ECAs) should screen all applications covered by the Common Approaches for severe human rights risks (para 6) and where screening identifies a high likelihood of such risks, ECAs should further assess them, including potentially by complementing their existing environmental and social due diligence with human rights due diligence (paras 8 and 14). For details see OECD, 2016.

governance systems and measures by governments as well as social partners to achieve coherence between economic outcomes and decent work in global supply chains (ILO, 2016).

The UNGPs also saw an uptake at the regional level with the EU, the Council of Europe (CoE) and the Organization of American States (OAS) all undertaking concrete measures to support the UNGPs' implementation:

- The European Commission (EC)'s Communication on Corporate Social Responsibility (CSR) (European Commission, 2011) in 2011 not only set out steps¹⁰ and regulatory efforts aimed at contributing to the UNGPs' implementation, but also encouraged EU member states to incorporate those principles into their own national laws;
- On 16 April 2014, the Council of Europe first issued a Declaration on the UNGPs, stressing that their effective implementation by both states and business enterprises is essential to ensure respect for human rights in the business context. Subsequently, in 2016, the Committee of Ministers of the Council of Europe adopted the Recommendation CM/Rec (2016)3 on human rights and business¹¹. This text provides more specific guidance to assist member states in the implementation of the UNGPs, and in particular Pillar III, including preventing and remedying human rights violations by business enterprises, and also insists on measures which induce business to respect human rights, also elaborating on monitoring and oversight. The recommendation calls on member states to review *inter alia* their national legislation and practice to ensure that they are in compliance with the UNGPs. States are also asked to develop National Action Plans on business and human rights, sharing information publically not only generally, but also specifically about the process applied, so as to stimulate the exchange of ideas and peer-learning. The recommendation also provides for the exchange of good practices to be facilitated by the CoE via dedicated information-sharing platform. Importantly, it elaborates in detail on access to judicial remedy, drawing on the Council of Europe's expertise and legal standards in the field (civil and criminal liability, reduction of judicial barriers, legal aid, collective claims, etc.). Special emphasis is placed on the additional protection needs of workers, children, indigenous people and human rights defenders.

A mid-term review of the Recommendation's implementation is foreseen within five years following its adoption, a period during which details of good practices will be collected and shared among member states.

- The Organization of American States has so far adopted two resolutions of relevance to the UNGPs. The first, adopted in 2012, encouraged OAS member states to 'promote corporate social responsibility programs and initiatives among the private sector, the community and other stakeholders'; to 'promote among businesses operating in or from their countries the use of applicable corporate social responsibility initiatives, tools, and best practices', including the UN Guiding Principles on Business and Human Rights, and to 'encourage dialogue between legislative bodies and the private sector on the subject of corporate social responsibility' (OAS, 2012). The resolution adopted in June 2014 (OAS, 2014), was strongly supportive of the UNGPs and triggered the creation of measures to promote and implement them, including exchanges of information and sharing of best practices. Thus, the General Assembly of the Organization of American States recognised that businesses 'have a responsibility to

¹⁰ The European Commission *inter alia* commissioned the development of the Sectoral Guidance for three different sectors (ICT, Oil & Gas, Employment & Recruitment Agencies) and Guidance for Small & Medium Enterprises. It also initiated the legislative processes leading to the adoption of the Non-Financial Reporting Directive and changes in the Public Procurement directives of 2014. For further information see Chapter 4 of this study.

¹¹ For detailed information see Council of Europe, 2016a and 2016b. For information about the work of the CoE Steering Committee for Human Rights, see the [Council of Europe Steering Committee for Human Rights website](#).

respect human rights wherever they carry out their activities, irrespective of the capacity of states to meet their obligations in that regard', although pointing out that the state duty to protect human rights under international human rights law neither changes nor diminishes. The OAS General Assembly also encouraged member states and their National Human Rights Institutions to become central in fostering dialogue among different stakeholders, including corporations and civil society, as well as disseminating and applying the Guiding Principles within their jurisdictions¹².

Moreover, representatives of the ASEAN Intergovernmental Commission on Human Rights, the Inter-American Commission on Human Rights and the Council of Europe expressed support at the UN Forum for Business and Human Rights in 2013 for national implementation of the UNGPs and the role of organisations in encouraging their use through measures at regional level. Additionally, the UNGPs, particularly the corporate responsibility to respect human rights as set out in the Guiding Principles, have been incorporated into the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security of the Committee on World Food Security and several other standards; they were also featured in conferences and other events devoted to responsible business conduct by *inter alia* the United Nations Conference on Trade and Development (UNCTAD). The UNGPs were further referenced in the final document of the Conference on Financing for Development – Addis Ababa Action Agenda¹³. Last but not least, the 2030 Agenda for Sustainable Development references UNGPs in paragraph 67 (UN General Assembly, 2015b)¹⁴.

Finally, various stakeholder groups are very active in their attempts to bring the UNGPs to the attention of their members as well as clarifying and adapting them to their own specific contexts¹⁵. This also includes the UN itself. The Secretary-General's 2012 report noted that, as with any other organisation conducting commercial transactions or engaging in partnerships with business enterprises, the Guiding Principles should apply to the internal policies and procedures of the United Nations, and should be implemented effectively (UN Human Rights Council, 2012 and Corr.1, para 75). Overall, the UNGPs have 'established an agenda that is constantly moving forward and will not pull back' (Aranzazu Zubía Pinto, 2015).

First references to the UN Guiding Principles are now also starting to be included in court decisions¹⁶, which will add weight to the endorsement of the UNGPs, if not for moral reasons then at least to prove that companies are making an effort to prevent human rights abuses¹⁷. Such a unique global convergence of international standards and processes around the Guiding Principles and their core concepts carries additional value in helping to clarify, simplify and reinforce the implementation by both states and business enterprises. Ultimately, actors are finally receiving relatively unified feedback as to what they are expected to do.

¹² To gain further insight, see for example Salazar, 2015.

¹³ 'We will foster a dynamic and well-functioning business sector, while protecting labour rights and environmental and health standards in accordance with relevant international standards and agreements, such as the Guiding Principles on Business and Human Rights 9 [...]' (UN General Assembly, 2015b)

¹⁴ For further information about the relationship between the Sustainable Development Goals and the UNGPs, see for example Ruggie, 2016.

¹⁵ For example: van Huijstee, Ricco & Ceresna-Chaturvedi, 2012; UN Global Compact, 2012; IPIECA, 2015; IPIECA, 2014.

¹⁶ See for example: Inter-American Court of Human Rights, 2015: para 224; The Ontario Superior Court of Justice mentioned the UNGPs *in dicta* in Ontario Superior Court of Justice, 2013; High Court of South Africa, 2015.

¹⁷ In a recent decision of The Supreme Court of British Columbia rejecting efforts by Vancouver-based Nevsun Resources Limited (TSX: NSU / NYSE MKT: NSU) to dismiss a lawsuit brought by three Eritrean men who allege they were forced to work at Nevsun's Bisha Mine, the court references the UNGPs as part of the evidence introduced regarding the due diligence that the company undertook to avoid human rights abuses at the mine (Supreme Court of British Columbia, 2016: para 60-66). For more information about the case see for example: Canadian Centre for International Justice, 2016; Laanela & Merali, 2016.

However, despite the broad uptake of UNGPs at policy level, the query concerning progress of UNGPs' implementation is fully justified as the impact on the ground, particularly when it comes to ensuring respect for human rights and access to remedy, has so far been rather limited. It is undeniable that there are many interesting initiatives improving business respect for human rights that would most likely have been impossible to launch without the UN Guiding Principles having created an authoritative point of encouraging dialogue and interaction between various stakeholders. Many of the interviewees also stressed that entering into dialogue on business and human rights (BHR) with their respective governments would not have been possible without the UN having approved the UNGPs.

The adoption of twelve National Action Plans (NAPs) on Business and Human Rights, with many more declared as being in progress, is also encouraging. Particularly if we compare the scale and speed of the UNGPs uptake with that of other, particularly of binding, human rights standards, it is difficult not to come to the conclusion that efforts around the UNGPs' implementation are rather striking. For instance, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights needed 10 years just to come into force¹⁸. Conversely, it is also true that five years into their implementation the UN Guiding Principles are still not well known to most business enterprises in Europe, particularly those outside the large multinational corporations. Many of these are familiar with Corporate Social Responsibility, but perceive it through a philanthropic rather than strategic lens that would enable them to conduct business in a responsible way and address the effects of their respective activities. Furthermore, victims of business-related human rights abuse in many cases are still searching in vain for justice and remedy.

To a certain degree, positive or negative assessment of the UNGPs' implementation progress as described above depends on whether one's attitude is to see the glass as half full or half empty. From a half-empty viewpoint and as stressed by Civil Society Organisations, there has been a small amount of meaningful improvement and progress in the protection of those affected by business conduct and in the availability of remedies for victims of business-related human rights abuses¹⁹.

The human rights agenda in general is plagued by a significant gap between the formal acceptance of norms and policy commitments on the one hand and on the other hand the achievement of compliance and implementation in practice (Hafner-Burton & Tsutsui, 2005). The area of human rights and business is no different. States and international organisations are reluctant to consider regulatory change, and where such initiatives are inspired by stakeholders, for example CSOs, their final wording is often significantly watered down in the drafting process²⁰. Together with the conviction that not only business, but also states remain far away from 'walking the talk' in a meaningful way, the doubts concerning the effectiveness of the UNGPs' 'soft law' approach, coupled with a growing disappointment, led to the creation of a movement which advocated the development of a binding international treaty on business and human rights. It was

¹⁸ While of course international treaties require a minimum number of ratifications to enter into force, which is of course not the case for the UNGPs, countries can from the moment of signing them undertake steps to ensure the effective implementation of their provisions, without waiting for the treaty to enter into force.

¹⁹ See for example: ECCJ, 2016; ECCJ, AI, CIDSE, FOEE & FIDH, 2016.

²⁰ One of the most interesting examples is the French draft law on the corporate duty of vigilance. The most recent (3rd) draft law was adopted by the lower chamber of the Parliament, the National Assembly on 29 November 2016 (Assemblée Nationale, 2016), and is now to be considered by the Senate. For an overview of the whole process and how the content of the initial draft has changed over time, see Bernaz, 2016. For stakeholder position following the adoption of the draft bill see e.g. Forum Citoyen pour la RSE, 2016a. Another example is the EU Directive 2014/95/EU on disclosure of non-financial and diversity information by certain large undertakings and groups (OJ L 330, 15.11.2014) (hereinafter EU NFR directive), which despite introducing the obligatory non-financial reporting for the large companies, because of the inherent imprecision, missed the opportunity to induce a major change and provide the market actors with comparable data to allow benchmarking. See e.g. Sjøfjell, 2016.

taken up by a group of states led by Ecuador and South Africa at UN level in 2014, and received support from the UN HRC²¹.

The need for further standard setting to address legislative gaps identified during the UNGPs development process had already been recognised by the SRSB at the HRC in 2011. He stressed that the UNGPs were endorsed without prejudice to 'any future initiatives, such as a relevant, comprehensive international framework' (UN Human Rights Council, 2011a)²². Yet this particular initiative was fuelled not by the willingness to complement the UNGPs, but by disillusionment over the speed and quality of their implementation. This was particularly noticeable among civil society actors, who later found allies in Ecuador and South Africa, whose decision to initiate the discussion about a treaty at the UN level might have been additionally stimulated by local and political factors. The initial division is becoming smaller between those who were fighting for a binding treaty, rejecting the UNGPs as too 'soft', and those who were arguing that negotiating a treaty will take years and carries the risk of reopening discussions that would ultimately weaken the progress made, as well as lead to further polarisation and diversion of resources and attention away from taking concrete steps in line with the UNGPs. With the passage of time, those polarised positions seem to soften, with more voices arguing that there is no inherent competition between the two processes, and that instead they would strongly benefit one another²³. The UNGPs' implementation is more than likely to highlight with time the true limits of the 'soft law' approach, pointing to the areas requiring regulation in the form of a binding treaty. This in turn could help to make the treaty process more concrete and narrower in scope, and thus much more operational and likely to be ratified. The EU is reluctantly starting to engage with the treaty development process and the European Parliament's calls for such engagement in good faith, expressed *inter alia* in the European Parliament resolution of 25 October 2016 on corporate liability for serious human rights abuses in third countries (2015/2315(INI)) (European Parliament, 2016a), adopted on the basis of the Corrao report (European Parliament, 2016b), or the EP's resolution on the Annual Report on human rights and democracy in the world (European Parliament, 2015: para 56). Such calls have certainly contributed to a change in the initial EU position.

At this moment, we are still far from reaching the limits of the UN Guiding Principles. Their biggest value lies in their providing: a) a requisite common language for business, host and home states, as well as civil society alike, after years of 'talking past each other' and b) a 'floor' and not a ceiling, thus allowing those who are willing to strive for more to go above the minimum, no matter whether it is a state or a company. Nevertheless, the pressure should continue to be exerted on states to undertake meaningful action and, in particular, to develop meaningful NAPs that constitute more of a gap-filling exercise preceded by a proper baseline assessment of national law and practice, as opposed to what has prevailed thus far – a mapping

²¹ In June 2014, by a plurality vote of 20 states in favour, 14 opposed and 13 abstaining, the UN HRC decided to establish an Intergovernmental Working Group to 'elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises' (UN Human Rights Council, 2014b). The resolution was co-sponsored by Bolivia, Cuba, South Africa and Venezuela. A majority of African members voted for it, as did China, India, and Russia. Apart from the sponsors, all other Latin American countries, including Brazil, abstained. The European Union and the United States voted against the resolution, which they thought was counter-productive and polarising, so did also Japan and South Korea. The first meeting took place in Geneva in July 2015. For discussion on the UN Treaty on Business and Human Rights, see for example: Cassel & Ramasastry, 2015; International Commission of Jurists, 2014. See also Ruggie, 2014. For an example of the critical CSOs' view on the UNGPs' implementation and the need to support the binding treaty development, see van Schaik & Ortiz, 2016. For more information about CSOs' efforts aiming to support the treaty development see e.g. the [website of the Treaty Alliance](#), a global movement for a binding treaty consisting of committed networks and campaign groups around the world who are joining to collectively help organise advocacy activities in support of developing a binding international instrument to address human rights abuses committed by transnational corporations and other business enterprises. For up to date information about the work of the Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights (IGWG) and current states' positions see the [IGWG website](#).

²² See also: Special Representative of the Secretary-General, 2011.

²³ See for example Blackwell & Vander Meulen, 2016. This was also the position taken by the majority of interviewees.

of what has already been done. States should also be stimulated to step up their efforts in the movement toward greater corporate accountability for human rights in the area of both judicial and non-judicial remedies, as fulfilment of the UNGPs' Pillar III lags behind significantly (Aizawa & Blackwell, 2016; Daniel et al., 2015).

3 Implementing the UN Guiding Principles

3.1 State duty to protect human rights

As mentioned above, the Framework and UN Guiding Principles are founded upon three pillars: 'the state duty to protect against human rights abuses by third parties, including business; the corporate responsibility to respect human rights; and the need for more effective access to remedies' for the victims of corporate-related human rights abuses.

The first pillar builds on existing legal obligations and requires states to prevent, investigate, redress and punish human rights abuses by private actors, and comprises 10 Guiding Principles:

- Foundational Principles (Guiding Principle 1-2)
- General state regulatory and policy functions (Guiding Principle 3)
- The state-business nexus (Guiding Principle 4-6)
- Supporting business respect for human rights in conflict affected areas (Guiding Principle 7)
- Ensuring policy coherence (Guiding Principles 8-9-10)²⁴.

Even though this pillar is 'nominally' addressed to states, all three pillars, particularly I and III, require states to undertake a number of measures that ensure both that business enterprises do not violate human rights and that effective remedies are available in cases of their violation. With Pillar III, the most relevant are:

- Foundational Principles concerning Access to Remedy (Guiding Principle 25);
- State-based judicial mechanisms (Guiding Principle 26);
- State-based non-judicial grievance mechanisms (Guiding Principle 27);
- Effectiveness criteria for non-judicial grievance mechanisms (Guiding Principle 31).

With regard to Pillar II, the UNGPs implicitly provide guidance (while the NAP provides a mechanism) for states on how to support business in fulfilling its responsibility to respect human rights, through a wise use of 'soft' and 'hard' law measures aimed at making it practical for companies to undertake human rights due diligence.

The value of the UNGPs lies in their providing practical guidance not only on 'who' (state) and 'what' (duty to protect), but also on 'how' states can provide the appropriate policy and regulatory environment to foster corporate respect for human rights. They also identify specific areas where states interact with businesses (e.g. State-Owned Enterprises, public procurement and privatisation, conflict-affected areas, international economic agreements, access to remedy, etc.) and articulate how these areas can be used as avenues to ensure corporate respect for human rights. Further guidance on specific aspects of the UNGPs has since been found in other UN documents. Thus, states seeking advice on how to improve access to judicial remedy for victims of business-related human rights abuses – an essential aspect of states' broader duty to protect against such abuse – are advised to consult the report on improving accountability and

²⁴ State policies need to be coherent, both vertically among different levels of government such as in federal states, and horizontally among different parts of government.

access to remedy for victims of business-related human rights abuse issued by the UN High Commissioner for Human Rights (UN High Commissioner for Human Rights, 2016).

3.2 National Action Plans on Business and Human Rights

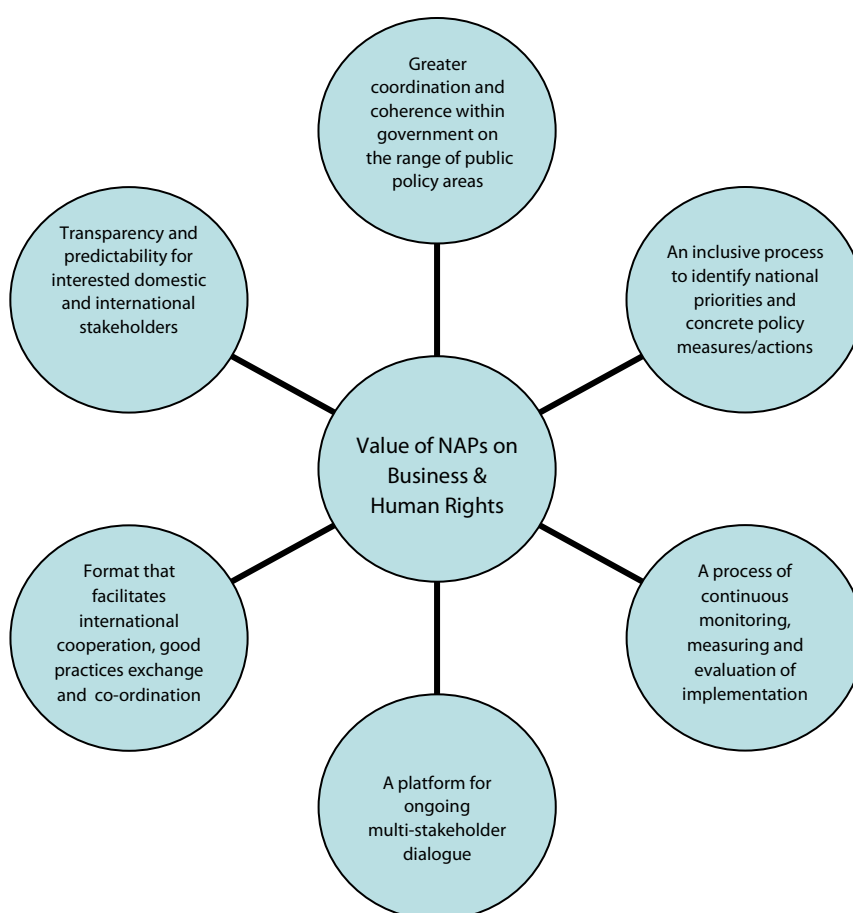
There is a broad agreement that National Action Plans, the government-led policy strategies outlining strategic orientation and concrete activities to address specific policy issues, comprise the key policy tool for states that want to honour their duty to protect against adverse human rights impacts by business enterprises in line with the UNGPs.

The broad framing offered by the NAP drafting process not only encourages the cross-governmental participation necessary to ensure horizontal policy coherence, but also 'allow[s] the government to make an assessment of the current legal-cum-policy framework so as to identify what is working and what is not in terms of ensuring that companies respect human rights', as pointed out by Surya Deva (Deva, 2016). Most countries often have a vast 'legal framework that applies (albeit in a patchy manner) human rights norms to companies. Instead of adopting a piecemeal approach of reviewing different segments of this legal framework (such as labour laws or environmental laws), a holistic assessment that does not ignore the human rights impact of creating an environment conducive to private investment-driven development may be preferable' (Deva, 2016). The advantage lies in their allowing states to identify and articulate their priorities as well as future actions in this area of concern, thus ensuring comprehensiveness of approach, coordination and policy coherence across a state's various departments.

The development of business and human rights-related NAPs together with the uptake of the UNGPs are corresponding and complementary processes. Apart from the advantages already mentioned, the NAP development process, if well designed and adjusted to the local context, can contribute greatly to ensuring not only that the implementation of UNGPs is efficient, targeted, measureable, informed and supported by relevant stakeholders, but also that it contributes to the strengthening of national human rights protection mechanisms. As was stressed by the majority of interviewees, a well-designed, inclusive, non-discriminatory and transparent NAP process²⁵ is crucial both in building awareness and empowering rights holders and in laying the foundations for trust among varying stakeholders, together with generating space for dialogue and increased mutual understanding between them (Methven O'Brien et al., 2015). This is crucial in the successful implementation of UNGPs and facilitates state monitoring together with the reporting of impact regarding adopted policies over time. While the development of NAPs is a government-led process, it can and should be supported at various stages by other stakeholders to profit from all the benefits it can bring²⁶.

²⁵ The UN WG HRB underlines in its guidance that 'Interested stakeholders need to be allowed to participate in the development, and update, of the NAP and their views need to be taken into account. Information needs to be shared transparently at all stages of the process'.

²⁶ Those include providing an opportunity for governments to spell out what is and what is not acceptable in terms of business practice and to indicate publicly the degree of government commitment to ensuring that businesses based in or operating in their countries respect UNGPs or potentially laying ground for addressing key business-related human rights challenges, thus playing a role in promoting more sustainable investments and supply chains.

BENEFITS OF NAPS:

Source: UN WG HRB, *Guidance on National Action Plans on Business and Human Rights*, 2016, p.1

Interestingly, when addressing the measures that states are expected to take in meeting their duty to protect people from human rights abuses by third parties, the UNGPs do not explicitly require states to develop NAPs to implement them. However, the EU called on states to use this particular format to ‘translate’ principles into the national context coherently and comprehensively to advance the initiative's implementation. It was the European Commission which in its Communication on CSR in 2011 (European Commission, 2011) called on the EU member states to develop such plans by the end of 2012. This was endorsed by the EU Council Conclusions on the EU Strategic Framework and Action Plan on Human Rights and Democracy in June 2012 (Council of the EU, 2012), with Action 25 committing EU member states to develop NAPs by the end of 2013. With only two countries meeting this deadline (the United Kingdom and the Netherlands), the target date for developing a stand-alone NAP on Business and Human Rights or integrating the UNGPs in national CSR strategies was further extended until 2017 in the EU Action Plan on Human Rights and Democracy 2015–2019 (Council of the EU, 2015: Action 18a) and 2016 EU Council Conclusions on Business and Human Rights (Council of the EU, 2016).

The first NAPs launched in 2013 (United Kingdom and Netherlands) and early in 2014 (Denmark and Finland), were followed by a growing momentum as an increasing number of states from various continents started to engage in such processes while others indicated their intentions to do so²⁷.

²⁷ Up to date information about the government's UNGPs' implementation efforts can be found on the [BHRRC website – Implementation by governments](#), and on [BHRRC's Government Action Platform](#), as well as at the OHCHR/UN WG HRB website.

Accordingly, in 2014 the UN Human Rights Council endorsed its expectation for states to adopt NAPs as a means of implementing the UNGPs within their respective territories and jurisdictions (UN Human Rights Council, 2014a). The preparatory work for this was done by the UN Working Group on Business and Human Rights²⁸, which 'strongly encourage[d] all states to develop, enact, and update a national action plan as part of the state responsibility to disseminate and implement the Guiding Principles on Business and Human Rights'. The Working Group also established a repository of all published NAPs²⁹, an issue which was addressed during the Regional Human Rights and Business Fora. Additionally the Danish Institute for Human Rights (DIHR)-International Corporate Accountability Roundtable (ICAR) National Action Plans Project contributed to building the necessary momentum, through *inter alia* three regional multi-stakeholder meetings on NAPs during 2013-2014 in Asia, Africa and Latin America. There were also CSOs meetings in Europe and a single-stakeholder gathering with business organised in collaboration with the Global Business Initiative on Human Rights, not to mention sessions on this topic during the UN Forum on Business and Human Rights in 2013 and 2014³⁰.

Furthermore, the Working Group developed an authoritative guidance for states on how best to approach this process (UN Working Group on Business and Human Rights, 2016)³¹. Realising that NAPs – if done well – can also be a powerful tool (De Felice & Graf, 2015) with which to measure progress, the UN WG also stressed that it considers four essential Criteria to be crucial for an effective NAP:

1. NAPs need to be founded on the UNGPs and underpinned by the core human rights principles of non-discrimination and equality;
2. NAPs need to be context specific and address the country's actual and potential business-related human rights abuse;
3. NAPs need to be developed in inclusive and transparent processes. Information needs to be shared transparently at all stages of the process;
4. NAPs need to be regularly reviewed and updated, in response to changing contexts, and strive for progress (UN Working Group on Business and Human Rights, 2016).

Briefly, it is worthy of mention that states are recommended to start the process by carrying out a baseline assessment which identifies gaps in UNGPs' implementation and acts as a useful parameter to measure the progress of the NAP over time. Apart from the UN WG Guidance, other complementary tools³² developed by various stakeholders to support states also exist, with the NAPs Toolkit (DIHR & ICAR, 2014a), developed by DIHR and ICAR and which preceded the UN WG Guidance by one year, probably being the best known and most frequently used (at least in the National Baseline Assessment development phase).

²⁸ Among other efforts, the UN WG HRB hosted an Open Consultation on NAPs in February 2014 and an Expert Workshop to discuss the 'strategic elements' of NAPs in May 2014.

²⁹ See [UN Working Group on Human Rights and Business NAP Repository website](#).

³⁰ ICAR-DIHR National Action Plans Project, Overview of the project is available on the [ICAR-DIHR National Action Plans Project website](#). Summaries and recommendations from the project's consultation meetings were also submitted as an input to the UN WG HRB meetings.

³¹ This guidance has been informed by wide and inclusive consultations with stakeholders and experts drawing extensively on the experiences of states that have already developed NAPs. For details see e.g: CALS-SMU Coalition on National Action Plans for Business and Human Rights, 2015; ASEAN CSR Network & Singapore Management University, 2015. Note as well that the UN WG in its report to the 23rd session of the Human Rights Council called upon states to 'consider elaborating a national plan of action' (UN Working Group on Business and Human Rights, 2013a: p. 21) and at its seventh session in February 2014, the UN WG outlined a road map on its activities to promote national action plans (UN Working Group on Business and Human Rights, 2014a).

³² Other guidance include e.g.: European Group of National Human Rights Institutions, 2012 (the first guidance ever developed); Graf, 2013; UN Global Compact, 2015; Global Business Initiative on Human Rights, 2015. Worth noting are also issue specific guidance documents as e.g. ICAR, DIHR & UNICEF, 2015; ICAR & ISHR, 2016.

Yet, even the best guidance will not suffice if there is a lack of political will to develop a meaningful NAP. States' commitments to develop NAPs for business and human rights in order to implement the UNGPs have been rather slow in materialising. While there is no doubt that the EU bears credit for the idea of using NAPs as a comprehensive tool for UNGPs, and that ten out of twelve already in existence were developed by European states, with the majority of those by EU member states³³, nevertheless the facts speak for themselves: so far only eight out of 28 EU member states have developed NAPs, with one more (Spain) awaiting approval by the government. Why has progress been so slow?

Developing a proper NAP that enables the state to meet its obligations under Pillar I (duty to protect human rights) and Pillar III (providing access to remedy), based on a gap analysis preceded by a thorough National Baseline Assessment (NBA) of the legal, political and practice issues, or even just on an analysis of the prioritised law areas³⁴, is a long process. It is likely to result in the conclusion that the introduction of improvements to the existing legal, regulatory and policy framework is necessary to implement the UNGPs fully and better protect against corporate-related human rights abuses. The implementation of UNGPs at domestic level requires legal and policy reform. An NAP creates the political commitment to carry out such reform. Additionally NAPs, just as human rights due diligence that companies should undertake, are not a singular effort but rather a continuous process that requires constant monitoring³⁵, follow-up and improvement. Not all governments seem to be ready for such change. This was and continues to be evident throughout the negotiations and current implementation of the [Directive 2014/95/EU on disclosure of non-financial and diversity information by certain large undertakings and groups](#) (OJ L 330, 15.11.2014) (hereinafter: EU NFR directive). Some countries watered down the reporting rules because of fears that requiring companies (including State-Owned Enterprises) to undertake new – in their view – unnecessary steps, might put them at a competitive disadvantage, despite the fact that the reporting rules are an important element in the transformation to sustainable business that the EU would like to see. Additionally, the current EU NFR directive's implementation trend, with the majority of EU member states doing the bare minimum and not addressing its vagueness as well as the lack of verification and enforcement, makes it clear that the political will to implement the UNGPs is not always present, despite commitments in the Council Conclusions.

Given that in some (including EU) states discussions about NAPs are conducted in the shadow of the debate on CSR, with there being little understanding of the differences between the two approaches (Ramasastry, 2015)³⁶, this automatically comes up against a major obstacle – an unwillingness of states to regulate due to fears of the impact it might have on their investment attractiveness. The fact that in many states the ongoing narrative indicates that they do want to ensure greater respect for human rights, but without resorting to binding regulation, makes a poor prognosis for the meaningfulness of the NAP

³³ More information about existing NAPs as well as other NAPs that are currently being developed is available on the [BHRRRC website – National Action Plans](#).

³⁴ For example, in Austria a study commissioned by NGOs and trade-unions (NeSoVe-Network for Social Responsibility and the Austrian Chamber of Labour for Vienna) found that Austrian law has to be changed in order to protect Human Rights from activities of Austrian business, their subsidiaries and suppliers, and to give victims access to justice. These findings are being used to promote a change of Austrian tort law, including certain alleviations from the burden of proof. Further information is available in Netzwerk Soziale Verantwortung, *Implementing human rights due diligence into Austrian civil law*.

³⁵ In fact some countries that went through the NAP development process, such as Denmark, point out that NAPs have created a good focus point from which to track implementation of the UN Guiding Principles throughout the public sector (see Government of Denmark, 2016).

³⁶ Ramasastry argues that while CSR emphasises responsible behaviour and sees the role of companies as voluntary and affirmative contributors to human rights realisation, the Business and Human Rights approach that came up as a sort of response to CSR and its perceived failure, moves – particularly with quest for accountability that shapes current discussions around BHR – into the realm of binding law, state oversight and the importance of access to remedy as a measure of corporate accountability. Thus the gap between the BHR and CSR widens. Yet it is still possible for BHR to draw from CSR to allow states to create incentives for business to promote human rights in their operations.

development process. It is also part of the reason why many of the NAPs developed so far are rather declaratory and stock-taking in nature, rather than focused on future-oriented actions³⁷, which is something that will be discussed fully in the subsequent chapters.

3.3 Existing National Action Plans

Up to 31 December 2016 only twelve countries, ten of which are from Europe, have produced NAPs:

1. United Kingdom (UK) – 1st NAP – September 2013 (Government of the United Kingdom, 2013); revised version – 2016 (Government of the United Kingdom, 2016);
2. The Netherlands (Government of the Kingdom of the Netherlands, 2013) – December 2013; revision forthcoming;
3. Denmark (Government of Denmark, 2014) – April 2014;
4. Finland (Government of Finland, 2014) – October 2014;
5. Lithuania (Government of Lithuania, 2015) – February 2015;
6. Sweden (Government of Sweden, 2015) – August 2015;
7. Norway (Government of Norway, 2015) – October 2015;
8. Colombia (Government of Colombia, 2015) – December 2015;
9. Switzerland (Schweizerische Eidgenossenschaft, 2016) – December 2016;
10. Germany (Government of Germany, 2016) – December 2016;
11. Italy³⁸ (Government of Italy, 2016) – December 2016;
12. United States (US Government, 2016) – December 2016.

Spain has released its draft version and is awaiting final government approval, while two other states, the UK and Netherlands, are either undergoing or have already completed (UK) the NAP revision process. Other European governments and many more from around the world have reported that such plans are currently being drafted, including Kenya, which is likely to be the first African country to develop the National Action Plan.

It is worth noting here as well that UNGPs are so far available only in 15 languages. Only eight of the translations are official UN ones (Arabic, Chinese, English, French, Russian, Spanish, Khmer, Mongolian), while the other seven (Burmese, German, Japanese, Polish, Portuguese, Serbian, Swahili) were done mainly by Civil Society Organisations and NHRIs³⁹.

³⁷ For a comprehensive assessment of the existing NAPs see e.g. ICAR & ECCJ, 2015.

³⁸ Italy has embarked on its NAP journey already in 2013 when its NCP commissioned the National Baseline Assessment to be conducted by an independent academic institution (Scuola Superiore Sant'Anna, 2013). This was later followed by the release on 20 March 2014 of 'The Foundations of the Italian Action Plan on the United Nations "Guiding Principles On Business And Human Rights"' (Government of Italy, 2014) and subsequently the draft NAP (Italian Interministerial Committee for Human Rights, 2016). The final Italian National Action Plan on Business and Human Rights 2016-2021, which was launched in December 2016 (Government of Italy, 2016), focuses on the following priorities: i) promoting human rights due diligence with a particular focus on SMEs; ii) promoting environmental protection and sustainability; iii) eliminating *caporalato* (an illegal system of employing workers for little pay and without rights and other labour protections, particularly present in the agricultural sector) and other forms of exploitation, forced labour, slavery and irregular work, with particular focus on migrants and victims of trafficking; iv) the promotion of fundamental labour rights in the internationalisation process of enterprises with particular regard to global supply chains; v) tackling discrimination and inequality and promoting equal opportunities; and vi) strengthening Italy's role in human rights-based international development cooperation.

³⁹ Translations available were done by: Burmese by Myanmar Centre for Responsible Business and Spectrum; German by German UN Global Compact Network (with support from the German Institute for Human Rights and TwentyFifty); Japanese by the Asia-Pacific Human Rights Information Ctr. (HURIGHTS OSAKA – Japan); Polish by the Polish Institute for Human Rights and Business

Interestingly, none of the translations were done by the states or transnational corporations themselves, which is surprising as one would have expected that if the company operating in the majority of the world's countries wanted to implement the UNGPs it should start from making them available in the local language of its staff and communities in which it operates.

3.4 National Action Plans in progress

National Action Plans in progress⁴⁰

| <u>Americas</u> | <u>Europe & Central</u> | <u>Africa</u> | <u>Middle East</u> | <u>Asia & Pacific</u> |
|---|---|---|---|---|
| <ol style="list-style-type: none"> 1. Argentina 2. Chile 3. Guatemala 4. Mexico | <ol style="list-style-type: none"> 1. Azerbaijan⁴¹ 2. Belgium⁴² 3. Czech Republic⁴³ 4. France 5. Greece 6. Ireland 7. Kazakhstan 8. Latvia 9. Poland⁴⁴ 10. Portugal | <ol style="list-style-type: none"> 1. Kenya 2. (Ghana) 3. Mauritius 4. Morocco 5. Mozambique⁴⁶ 6. Nigeria 7. Tanzania⁴⁷ 8. (Uganda) 9. (South Africa)⁴⁸ | <ol style="list-style-type: none"> 1. Jordan | <ol style="list-style-type: none"> 1. Australia 2. (Indonesia) 3. Malaysia 4. (Myanmar) 5. (The Philippines) 6. (Republic of Korea) 7. India |

(with support from the Friedrich Ebert Stiftung Poland and NSZZ Solidarność); Portuguese by Conectas (Brazil); Serbian by Beogradski centar za ljudska prava; Swahili by Legal and Human Rights Centre (Tanzania).

⁴⁰ This table was compiled from information provided on the BHRRC portal, UN WG HRB NAP Repository website and information gathered by the author (e.g. in case of Myanmar, which in other databases features as a country where the NAP process is government-led, this qualification was amended, as according to the information obtained by the author it was due to over-interpretation of the statement of one of the government representatives, whereas in fact it is the CSOs that started to engage in the National Baseline Assessment drafting process). The table should not be treated as a complete overview of all NAP activity.

⁴¹ Information about the Azeri government's pledge to develop NAP is to be found in Addo, 2015: p. 2.

⁴² On 5 July 2016, the President of the Interdepartmental Commission on Sustainable Development submitted the draft National Action Plan on Business and Human Rights (Government of Belgium, 2016) to the government for policy harmonisation and adoption. Information about the NAP development process is available on the [Belgian Commission on Sustainable Development website – Business and Human Rights](#).

⁴³ The process of NAP development by the Czech Republic was launched in December 2015 at an international expert seminar in Prague (with participation of the representatives of the Dutch Ministry of Foreign Affairs and OHCHR and a number of Czech stakeholders, followed by the establishment by the Minister for Human Rights of a national working group for that purpose, comprising both governmental and non-governmental stakeholders, including business associations, CSR associations, trade unions and NGOs such as Frank Bold, Amnesty international, NaZemi, Glropolis and Transparency International). The first meeting took place on 25 January 2016, and was followed by several other meetings to discuss drafts of NAPs, with the process being designed in such a way as to enable progress to be made pillar by pillar and principle by principle. At the end of 2016 the work on the first pillar of the NAP has been already concluded. The government has commissioned a study on the UNGPs' implementation in the Czech Republic which was prepared by an academic institution (Masaryk University) and will be followed by the gaps analysis, with an ambition to suggest concrete action points in the NAP (Government of the Czech Republic, 2016; email exchange with Filip Gregor of 29 November 2016, on file with the author).

⁴⁴ In its response to UN WG HRB 2016 Survey, Poland informed that it is in the process of developing an NAP, which it intends to launch in 2017 (See Government of Poland, 2016a). On 13 December 2016 the Polish Ministry of Foreign Affairs published the first draft NAP (Government of Poland, 2016b) thus initiating the process of public consultations due to be finished on 27 January 2017. The draft NAP was also presented to a small circle of civil society representatives during the roundtable on business and human rights on 19 December 2016 in which representatives of the Ministry of Economic Development, National Labour Inspectorate and Office of the Ombudsman participated and which provided an opportunity for presenting the first comments and recommendations on the draft NAP. The meeting was organised by Helsińska Fundacja Praw Człowieka (Helsinki Foundation for Human Rights) as a closing event of its joint project with Polska Rada Biznesu (Polish Business Roundtable) 'Biznes a prawa człowieka – współczesny stan dyskusji' (Helsinki Foundation for Human Rights, 2016).

⁴⁶ Information provided by Albachir Masacasas, Director of the National Directorate of Human Rights and Citizenship at the Ministry of Justice of Mozambique at the 2016 UN Forum on Business and Human Rights (14-17 November 2016, Geneva); the process aimed at developing an NAP in Mozambique started in 2014.

⁴⁷ See United Republic of Tanzania, 2013: pp. 50-51

⁴⁸ See Centre for Human Rights & ICAR, 2016b

| | | | | |
|--|---|--|--|------------------------|
| | 11. Slovenia 12. Spain ⁴⁵ | | | 8. Japan ⁴⁹ |
|--|---|--|--|------------------------|

Note: (In brackets: NAPs processes initiated by NHRIs/CSOs/TU)

Source: BHRRRC & UN Working Group on Human Rights and Business website (incl. NAP repository & States' 2016 Survey)

The numerous governments that have embarked on the process of developing NAPs to implement the UN Guiding Principles would be wise to draw lessons from the successes and missed opportunities of earlier drafted NAPs. They should also seek guidance in the UN WG HRB, ICAR-DIHR and other guidance documents developed already, especially if the new NAPs are to represent a concrete step towards increased accountability for government action in the implementation of UNGPs.

While there is no 'one size fits all', given that state-structure organisation and drafting processes differ quite naturally with respect to the form of cooperation among state administrations, the level of consultation with external stakeholders and the extent of engagement with independent experts should not be overstepped.

3.5 Non-NAP related efforts aimed at UNGPs implementation

While one of the very few, if not the only really visible trend particularly after the 'second NAPs wave' of December 2016 is the growing interest and uptake of NAPs by an increasing number of states globally, the UNGPs' implementation should not be limited to NAPs. Crucial is the rationale for undertaking specific actions and outcomes that the states want to achieve, with the form chosen for achieving them coming at a second place. Certainly, one advantage of NAPs is that they bring all the UNGPs' implementation efforts under one umbrella, thus making it easier to make cross-linkages between individual activities, which can in turn lead to additional outcomes. Yet it is also important to look strategically and identify actions that are meaningful, help to advance the real implementation and stimulate further discussion, without losing champions among stakeholders and business. At times, as well as omitting certain actions under the NAP umbrella, this might even mean not referencing UNGPs as such, because the same result can be achieved by using other standards (such as, for instance, Equator Principles⁵⁰ or OECD Common Approaches), which are less likely to awake opposition, but nevertheless remain aligned with the UNGPs⁵¹.

In specific situations, for countries in transition such as Myanmar, when the basics of good governance and the rule of law still require time and efforts to be fully embedded, focusing on the NAP development could be a counterproductive exercise, distracting from more important efforts (Bowman, 2016). In such a context, trying to embed the UNGPs in individual regulations might be the most sensitive and effective way forward. To stay with the Myanmar example, civil society and expert institutions, such as the Myanmar Centre for Responsible Business, are actively pursuing specific advocacy goals, including instances of regulatory gaps, with some first successes. These include explicit references to the UNGPs-aligned IFC Performance Standards in oil and gas production sharing contracts as well as explicit reference to the

⁴⁵ The Spanish NAP, launched yet in the summer of 2014, is awaiting the approval by the Spanish Council of Ministers. See Government of Spain, 2014.

⁴⁹ Japan's intention to develop an NAP was announced officially for the first time by Ambassador Mitsuko Shino in the statement delivered on 16 November 2016 at the 2016 Forum on Business and Human Rights in Geneva (Permanent Mission of Japan, 2016).

⁵⁰ The Equator Principles are a risk management framework, adopted by financial institutions for determining, assessing and managing environmental and social risk in projects. For further information see the [Equator Principles website](#).

⁵¹ See for example: Shift Project, 2012

UNGPs themselves in the context of ensuring effective grievance mechanisms in one of the Special Export Zones⁵².

With regard to countries that have already launched NAPs, it is difficult at times and in some ways unnecessary when reviewing actions aimed at implementing UNGPs to differentiate between those which originated in the course of the NAP development process and others which were simply included, albeit having originated earlier. Indeed, for countries struggling to develop a comprehensive NAP with actions foreseen in all the areas requiring change, the UN WG in its Guidance suggests using 'entry points'. Accordingly, the focus should be placed on a few key priority areas, even those that they were intending or had to address anyway (because of binding international legal commitments), to road-test the NAP approach and ensure they are familiar with the exercise.

When we compare the existing NAPs and non-NAPs related initiatives that do contribute to achieving the outcomes set out by the UNGPs, it is noticeable that many if not the majority of existing binding regulations were developed outside the NAP framework. It is noteworthy also that, for instance, major companies' disclosures about how they try to eradicate slave labour from their supply chains came around the time when the UK Modern Slavery Act was adopted. However, it is certainly the case that ongoing discussions first leading to the 'Protect, Respect and Remedy' Framework and later the UNGPs endorsement, along with large business-caused tragedies (Rana Plaza⁵³, Deepwater Horizon) and scandals (e.g. slavery work in the Nestlé and Unilever supply chains) contributed to the atmosphere conducive for their adoption. It is clear that meetings of various stakeholder groups and government officers led to increased awareness together with a better understanding of their specific roles in ensuring improved respect for human rights, even if at first mainly in the framework of initiatives of voluntary nature that do not carry the risk of fines or criminal charges. At the same time it has to be stressed that if the momentum is to be reached, training sessions and awareness raising are indispensable, particularly bearing in mind that quite similar knowledge is required in order to implement the smart mix of voluntary and obligatory measures.

Below are some of the most interesting pre-NAP or non-NAP related initiatives that could be copied or at least used as inspiration by other countries to develop similar or even better regulations that fit other countries regulatory framework:

- Regulations requiring businesses to report publicly on measures to reduce human trafficking or forced labour in their supply chains:
 - a. **The UK's Modern Slavery Act of 2015:** this came into force in 2016 and requires companies with a global turnover of more than GBP 36 million to make an annual statement on their activities to address forced labour and human trafficking in both their own operations and their supply chains. Section 54 of the Act focuses on 'Transparency in Supply Chains' and applies to commercial organisations that carry on a business, or part of a business, in the UK, without there

⁵²Thilawa SEZ Notice No. 4/2015 (7 August 2015): Notice to ensure the responsible investment in the Thilawa SEZ. Currently similar efforts are being undertaken with regards to the regulations for the new investment law. See for example Myanmar Centre for Responsible Business, 2015. In line with the suggested proposals, companies in receipt of a Myanmar Investment Commission permit to establish an effective operational grievance mechanisms reflecting the UN Guiding Principles, and publish an annual sustainability business report on their responsible business conduct.

⁵³ For example, it is worth noting that the original preamble of the French first draft bill on the duty of vigilance, which was put forward in November 2013, mentions 'as justifications for the bill, the Rana Plaza disaster; the UN Guiding Principles on Business and Human Rights; ISO26000; and a groundbreaking 2012 criminal case regarding the Erika oilspill, in which Total was held liable for the acts of its subsidiary on the basis that Total had accepted to control whether the boats of those subsidiaries were fit to be on water.' (Bernaz, 2016).

being a need for the company to be headquartered in the UK. Reporting under the UK Act became mandatory in the financial year starting from April 2016⁵⁴.

- b. **California Transparency in Supply Chains Act of 2010** (SB657): in 2010 the state-level government of California (United States Of America, USA) adopted a legislation requiring companies with worldwide annual revenues of USD 100 million or more that transact business in California to disclose information on their websites from January 2012 onwards about efforts to eradicate slavery and human trafficking from their supply chains.
- Regulations requiring businesses to report publicly non-financial information pertaining to their operations⁵⁵:
 - a. **Denmark, introduction of mandatory reporting for the largest Danish companies on human rights policies**: on 12 June 2012 the Danish Parliament adopted an amendment to the Financial Statement Act so that businesses in the future must expressly report on the topics of human rights and climate impact reduction. This is regardless of whether or not these issues are included in the businesses' CSR policies. Furthermore, businesses must in the future expressly declare this. The aim of this amendment to the reporting requirement is to inspire more businesses to include these two topics in their CSR policies.
 - b. **United States (US) Dodd-Frank Act**: section 1502 of the Dodd-Frank Act, enacted on 21 July 2010 (Final rule on disclosures from 22 August 2012), requires US Securities and Exchange Commission 'issuers' (including foreign issuers) that manufacture or contract to manufacture products where 'conflict minerals are necessary to the functionality or production' of the product, to disclose the use of specified conflict minerals originating from the Democratic Republic of Congo (DRC) and nine neighbouring Central African countries ('Covered Countries'). Currently, conflict minerals include cassiterite, columbite-tantalite, gold and wolframite originating from the Covered Countries. It is strongly believed that such trade funds armed conflict, leading to continued human rights abuses in the region. The final rule exempts any conflict minerals that are 'outside the supply chain'⁵⁶ before 31 January 2013.

⁵⁴ According to research conducted by the BHRRC, the majority of company statements from the 27 FTSE100 companies that have reported so far under the UK Modern Slavery Act demonstrate weak risk assessment and due diligence. There was also patchy compliance with the legal requirements of the Act, with only 14 of the 27 statements fully complying with the three requirements. More information is available at <https://business-humanrights.org/en/msa-briefing>, last accessed on 2 November 2016

⁵⁵ It should be stressed that the presented examples are only few of the existing regulations, with other innovative approaches being applied e.g. in the US government's Burma Responsible Investment Reporting Requirements, OMB NO. 1405-0209, which require any US person (individual or entity) that has undertaken a new investment pursuant to an agreement or the exercise of rights under such agreement that is entered into with the Myanmar Oil and Gas Enterprise to notify the Department of State in writing. They also require any US persons whose aggregate investment in Burma exceeds USD 5 000 000 to submit an annual report detailing certain types of information concerning their investment, including information related to due diligence policies and procedures. The public report requests information related to: overview of operations in Burma; human rights, workers' rights, anti-corruption and environmental policies and procedures; arrangements with security providers; property acquisition; financial transparency. The US government report requests additional information related to communications with the military and armed groups and risk prevention and mitigation. The aim of the reporting obligation is i.a. to inform consultations with US businesses to encourage and assist them to develop robust policies and procedures to address a range of impacts resulting from their investments and operations in Burma. The regulation also intends the public report to empower civil society to take an active role in monitoring investment in Burma and to work with companies to promote investments that will enhance broad-based development and reinforce political and economic reform. More information can be found in the [Reporting Requirements](#) themselves and [Burma Reporting Requirements Frequently Asked Questions](#) website.

⁵⁶ Conflict minerals are 'outside the supply chain' only 'after any columbite-tantalite, cassiterite, and wolframite minerals have been smelted; after gold has been fully refined; or after any conflict mineral, or its derivatives, that have not been smelted or fully refined are located outside of the Covered Countries'.

- c. **UK Companies Act of 2006** (Companies Act 2006, s. 414 (c)(7) as amended by regulation 3 of the Companies Act 2006 [Strategic Report and Directors' Report] Regulations 2013, which came into force on 1 October 2013): it requires UK-incorporated, 'quoted companies'⁵⁷ to compile a strategic report which must, to the extent necessary for an understanding of the development, performance or position of the company's business, include, amongst other requirements, information about social, community and human rights issues. This includes disclosing details of any policies in place relating to these issues and their effectiveness, together with Key Performance Indicators on employee and environmental issues. If the report does not contain information on these issues, it must state which of those kinds of information it does not contain. This applies to companies with financial years ending on or after 30 September 2013.
- d. **EU, the Directive of the European Parliament and the European Council 2014/95/EU of 22 October 2014 regarding the disclosure of non-financial information and diversity information by some large entities and groups** modified the obligations on businesses to publish non-financial information on an annual basis. It specified that companies employing more than 500 employees and meeting specific financial thresholds must report publicly on measures taken to respect human rights, including risks in the company's operations and business relationships which might cause adverse impact on human rights and the measures taken to manage such risks.
- Regulations aimed at preventing and fighting slave and compulsory labour:
 - a. **Brazil, MTE Decree No. 540/2004 'Dirty list'**: in 2003, the Brazilian government issued the first of what became known as the 'dirty lists' – a register naming employers who had been found by the mobile inspection team to be exploiting workers in slave labour. After two years their names were removed from the list, provided that they had paid any fines imposed, awarded any compensation to workers, and not committed further offences. For example, the list updated at the end of December 2010 contained 220 names, 88 for the first time, and noted that 7 895 workers employed by these 220 businesses had been found in 'conditions analogous to slavery'⁵⁸.
 - b. **Brazil, change of Constitution of May 2012**: the government can take over the property of people and companies that profit from slave or compulsory labour.
- Regulations aimed at preventing human rights abuses in the public procurement⁵⁹:

⁵⁷ 'Quoted companies' as understood in the Company Act 2006 are those that are listed on London Stock Exchange, European Economic Area, or on New York Stock Exchange or Nasdaq.

⁵⁸ The 'dirty list' was updated every six months by the Ministry of Labour and Employment from 2004 until the end of 2014. However, its legal basis was challenged by a real estate federation and a Supreme Court judge suspended its use in December 2014. It remains to be seen if it will restart, but since early 2015 Freedom of Information requests have been used by anti-forced labour activists to obtain and publish much of the same information (the names of employers found to be exploiting slave labour). The fact that it was a government ministry that publicly identified businesses caught exploiting workers by law enforcement officials certainly give it more legitimacy and weight than denunciations by journalists or Civil Society Organisations. For more see Dottridge, 2016.

⁵⁹ There are numerous examples of situations where the goods procured by governments were produced in conditions that did not meet basic human rights standards. See for example: Urbina, 2013 (a 2014 audit at Zongtex Garment Manufacturing in Phnom Penh, Cambodia, which makes clothes sold by the US Army and Air Force, found nearly two dozen under-age workers); the case of Adhikari v. Daoud & Kellogg Brown Root et al., No. 09-1237 (S.D. Tex. Aug. 23, 2013) 1-3 (the families of Nepalese workers allege that they were fraudulently recruited by a US defence subcontractor, transported to Iraq against their will, and kidnapped and executed by Iraqi insurgents while *en route* to a US military base); Mosk, 2012. To learn more about the current state of public procurement regulations and if/how they address the issue of ensuring respect for human rights, see C. Methven O'Brien et al., 2016.

- a. **USA, Executive Order 13627 Strengthening Protections Against Trafficking in Persons in Federal Contracts:** federal contractors are prohibited from conducting specific trafficking-related activities and affirmative duties are established for contractor and subcontractors, including several due diligence incentives. To ensure compliance, contractors and subcontractors are required to maintain a compliance plan, including concrete due diligence measures⁶⁰. All parties can find guidance and support in complying with those requirements on the Responsible Sourcing Tool website, developed at the initiative of the US government⁶¹.
 - b. **US Federal Acquisitions Regulation (FAR):** federal government suppliers are required to certify that they have conducted due diligence with respect to child labour in countries where their products are produced. However, contractors from countries that are party to the Agreement on Government Procurement (plurilateral agreement within the framework of the World Trade Organization) or that have free trade agreements with the United States with chapters on procurement are not required to certify their knowledge in this regard.
 - c. The **Executive Order 13126 on the 'Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor'**: signed on 12 June 1999, it is intended to ensure that US federal agencies do not procure goods made by forced or indentured child labour. It requires the Department of Labor, in consultation with the Departments of State and Homeland Security, to publish and maintain a [list of products](#), by country of origin, which the three Departments have a reasonable basis for believing might have been mined, produced or manufactured by forced or indentured child labour. Under procurement regulations implementing the Executive Order, federal contractors who supply products on a list published by the Department of Labor must certify that they have made good faith efforts to determine whether forced or indentured child labour was used to produce the items listed⁶². The list is intended to ensure that US federal agencies do not procure goods made by forced or indentured child labour⁶³.
 - d. Special guidance was developed i.a. by **Norway**, which came up with an interesting mix of self-assessment supported by state-provided oversight, but also support in improving performance.
 - e. The **Swedish public procurement legislation** mentions that public authorities should consider using social criteria, but only when this is justified by the nature of the procurement in question (1 kap. 9 a§ LOU).
 - f. **Japan**, which in 2020 will host the Tokyo Olympics and Paralympics, announced in January 2016 the **Fundamental Principles for the Sustainable Sourcing Code**, in line with which the Organising Committee will take into full account the impact of its procurement process on environmental issues, as well as human rights and labour issues.
- Initiatives supportive of non-judicial grievance mechanisms:
 - a. **Canada:** on 14 November 2014, the government of Canada launched its **enhanced CSR Strategy** (Government of Canada, 2014: annex 4), which included new measures to be applied

⁶⁰ White House, 2012. A list of other US government actions designed to lead by example and help promote the responsible conduct of businesses operating in the United States and abroad can be found in US Government, 2016: Annex 2.

⁶¹ The Responsible Sourcing Tool website is the result of the collaboration of four institutions committed to fighting human trafficking: the State Department's Office to Monitor and Combat Trafficking in Persons, Verité, Made in a Free World, and the Aspen Institute, with the State Department funding the efforts of the three other groups and working closely with each to pull together this resource for companies, federal contractors, federal procurement and contracting professionals, advocates, investors, consumers and others to rid supply chains of human trafficking.

⁶² See <https://www.dol.gov/ilab/about/laws/#eo13126>, last accessed on 2 November 2016

⁶³ See List of Products Produced by Forced or Indentured Child Labor, available at <http://www.dol.gov/ilab/reports/child-labor/list-of-products/>, last accessed on 2 November 2016

in cases of non-participation in the National Contact Point (NCP) process. Key elements of the enhanced strategy include:

- i. 'In situations where parties to a dispute would benefit from formal mediation, the CSR Counsellor will encourage them to refer their issue to Canada's National Contact Point, the robust and proven dispute resolution mechanism, guided by the OECD Guidelines for Multinational Enterprises on responsible business conduct, and active in 46 countries;
 - ii. Companies are expected to align with CSR guidelines and will be recognised by the CSR Counsellor's Office as eligible for enhanced government of Canada economic diplomacy. As a penalty for companies that do not embody CSR best practices and refuse to participate in the CSR Counsellor's Office or NCP dispute resolution processes, Government of Canada support in foreign markets will be withdrawn' (Government of Canada, 2014).
- Initiatives intended to provide guidance to business:
 - a. **China** in October 2014 launched the **CCCCMC Guidelines for Social Responsibility Outbound Mining Investment** (CCCCMC, 2014), which i.a. call for Chinese mining companies undertaking outbound mining investment, cooperation and trade strictly to 'observe the UN Guiding Principles on Business and Human Rights during the entire life cycle of the mining project' and to strengthen 'the responsibility throughout the extractive industries value chain'. The CCCC Social Responsibility Guidelines further contain requirements to 'conduct risk-based supply chain due diligence in order to prevent engagement with materials that may have funded or fuelled conflict' (Clause 2.4.6. of the Guidelines).
 - b. **Denmark, CSR Compass**: a tool developed with the Danish government's support aimed at helping companies to comply with international guidelines for companies' social responsibility in the supply chain⁶⁴.
 - Initiatives concerning states' export credit policies aimed at ensuring that government-run organisations take appropriate action to discourage demand for human trafficking and slave/forced labour. Such initiatives should extend to government-owned (or partially owned) organisations which provide credit, banking services or insurance (such as banks or other credit institutions).
 - a. In **Brazil**, during 2010 the government's National Monetary Council banned rural credit payments to any individuals or legal entities included in a **register of employers** that was published by the Ministry of Labour and Employment, containing the names of employers found by law enforcement officials to be exploiting workers in rural areas in conditions analogous to slavery (Maranhão Costa, 2009).
 - Initiatives aimed at providing information, guidance and expectation *vis-à-vis* states' foreign missions:
 - a. The **US government** sent a **cable to all Embassies** providing general background information about the Guiding Principles together with instructions on how they can be used in engagement with businesses, civil society and governments.
 - Human Rights due diligence provisions:

There are also over 100 examples of existing state practices with regard to due diligence in areas analogous to or including human rights that illustrate how governments could use their regulatory authority to mandate or encourage businesses to engage in human rights due diligence activity, a component of the United Nations Guiding Principles on Business and Human Rights (ICAR, ECCJ &

⁶⁴ The CSR Compass Tool is available on the [CSR Compass website](#).

CNCA, 2013; BHRRC, 2016). As the Human Rights Due Diligence Project proved in 2012, due diligence is used by the legal systems of states around the world, independent of the legal tradition. To some extent, therefore, it is possible to describe the components as constituting an emerging standard of due diligence procedure that is familiar in many jurisdictions internationally as follows: identify the risks to human rights, take action to prevent or mitigate those risks, and be transparent about both the risks and what is being done to address them (Taylor, 2013b: p. 3). Additionally, the report found four regulatory approaches through which states can ensure human rights due diligence (HRDD) activities by business:

- a. Due diligence as a matter of legal/regulatory compliance (e.g regulatory agencies in India, Ghana and Germany regularly require business to conduct due diligence as the basis upon which to grant approvals and licences for business activities that might impact the environment or worker safety in the construction sector) (Taylor, 2013b: p. 4);
- b. Regulation that creates incentives or benefits for companies that can demonstrate due diligence practice (Japan, Korea and Taiwan all have 'green procurement' provisions which, for instance, give preferential treatment to suppliers who can certify environmentally friendly practices, whereas the US Davis-Bacon Act (40 USCA para 3141 [West 2012]) combats social dumping in the USA by contractors working on federal construction contracts (Taylor, 2013b: p. 7);
- c. Encouraging or requiring due diligence through transparency and disclosure rules (some of them were already listed above);
- d. A combination of two or more of the above.

3.6 Support available to states

The development of the National Action Plan on Business and Human Rights, and more broadly UNGPs' implementation, is a challenging and resource-demanding task, not made easier by the frequently insufficient policy coherence at national level. It is thus important that states are not left to their own devices and can count on external support.

3.6.1 UN Working Group on Business and Human Rights, OHCHR and broader UN System

By way of assistance, the UN Working Group has developed the Guidance on National Action Plans on Business and Human Rights (UN Working Group on Business and Human Rights, 2016)⁶⁵, which is already being broadly consulted and used by certain states in their NAP development efforts⁶⁶.

Additional advice is also being provided in the UN WG's regular reports to the UN Human Rights Council, as for example, the [*Report of the Working Group on the role of states to ensure state-owned enterprises respect human rights*](#)⁶⁷. Further guidance was also given during the annual sessions of the UN Forum on Business

⁶⁵ The Working Group issued the final version of its Guidance on National Action Plans at the fifth annual forum, held on 14-16 November 2016. Two earlier editions were published in 2014 and 2015, with the UN WG exploring NAPs as a vehicle for UNGPs implementation almost from the beginning of its formation.

⁶⁶ Responses provided to the UN WG HRB 2016 Survey suggest that a number of governments are following or at least consulting the UN WG Guidance, including the Czech Republic, where the chair and the secretariat of the national working group suggested the methodology of work of the group on the basis of the Guidance (Government of the Czech Republic, 2016), Kenya, Australia (Australia response to the UN WG HRB 2016 Survey), Georgia (Government of Georgia, 2016), Argentina (Government of Argentina, 2016), Colombia.

⁶⁷ The report calls attention to and clarifies what States are expected to do in their role as owners of enterprises and why. The report highlights the persuasive reasons for additional action to be taken by states in this regard, including policy coherence, legal obligations, reputation and credibility. In the present report, the Working Group suggests a range of measures that states could take to operationalise the call to take additional steps with regard to State-Owned Enterprises, by building on existing international

and Human Rights held this autumn at the UN Office in Geneva, which at the same time provided opportunities for knowledge and experience sharing among various stakeholder groups. Slowly but surely, advice of a more general nature is also starting to come from the UN treaty bodies in the form of General Comments (UN Committee on the Rights of the Child, 2013; UN Committee on Economic, Social and Cultural Rights, 2016).

Individual advice can be provided by the UN WG on an *ad hoc* basis upon request to a specific country or more comprehensively under the 'pilot programme' recently launched by the UN WG, which can be 'activated' by the interested country. As the programme's core advantage, continuous support and advice is provided by the UN WG throughout the whole process of NAPs' development⁶⁸. Country-tailored advice is also provided in the UN WG reports resulting from its visits to various countries, which have the additional advantage that in recent cases they have moved from general recommendations to specific recommendations aimed not only at the government but also at various stakeholders⁶⁹. Additional recommendations can at times also be provided as part of the Universal Periodic Review (UPR) exercise, or in Concluding Observations of the UN human rights treaty bodies⁷⁰.

Support can be also sought from the OHCHR, the relevant unit of which in collaboration with the UN country missions can, subject to funding available, provide technical assistance (such as to Mozambique⁷¹), which could include, for example, workshops aimed at raising awareness across different government departments or assist in the organisation of consultations. OHCHR human rights and business experts are also frequently speaking at various events to disseminate information about the UNGPs (e.g. in the case of the Czech Republic⁷²).

Finally, the public administration can also profit from collaboration and support from the UN Global Compact and Global Compact Local Networks, although in such situations attention should be given to ensuring that the business community voices represented are balanced by adequate engagement with all other stakeholder groups that are not represented in the Global Compact Local Networks.

3.6.2 Civil Society Organisations, National Human Rights Institutions and academics

The amount and quality of the guidance developed by NHRIs, CSOs and other NGOs, including those representing business circles aimed at supporting states in their NAPs developing efforts, proves already that stakeholders are more than willing to contribute to a meaningful UNGPs' implementation⁷³. Indeed, the first comprehensive 'NAPs toolkit' (DIHR & ICAR, 2014a), the result of a collaboration between the Danish Institute for Human Rights and the International Corporate Accountability Roundtable, was mentioned by virtually all interviewees engaged in NAP processes as the key resource they have been using in practice, following some modifications, to develop National Baseline Assessments and recommendations for the NAP process in their countries, regardless of whether those were developed or

guidance and national practices related to the corporate governance of those enterprises.' (United Nations Working Group on Business and Human Rights, 2016a)

⁶⁸ According to information obtained in interview with Dr. M. K. Addo (notes on file with the author), one of the first countries receiving such 'pilot country' support is Kenya.

⁶⁹ See for example United Nations Working Group on Business and Human Rights, 2016b.

⁷⁰ For example: UN CERD, 2007: para 17; UN Human Rights Committee, 2012: para 16 (the Committee interpreted the International Covenant on Civil and Political Rights in the light of the UNGPs by stating concrete obligations of member states *vis-à-vis* private companies).

⁷¹ Interview with Lene Wendland, notes on file with the author.

⁷² In the case of the Czech Republic, the assistance to the National working group on NAP was provided by a representative of the OHCHR who attended the international expert seminar in Prague in December 2015 and a member of the UN WG who helped to steer a discussion on NAPs among the members of the EU at the Business and Human Rights Conference in the Hague in May 2016. For details see Government of the Czech Republic, 2016.

⁷³ See UN Working Group on Business and Human Rights, 2016 and footnote 32.

developing economies. It was also cited by the UN WG HRB and the Council of Europe as recommended guidance in the development of NAPs (UN Working Group on Business and Human Rights, 2016: p. 8). Several governments⁷⁴ have referenced it also in designing their NAPs processes, while the NHRIs and CSOs of Denmark, Germany, UK, Chile, Kenya and Zambia have used the Toolkit as a framework for the development of NBAs⁷⁵, as have CSOs or universities, in Belarus, Guatemala, Mexico, Serbia, South Africa, Tanzania and the United States.

The engagement of the National Human Rights Institutions, institutions with a constitutional and/or legislative mandate to protect and promote human rights within a state's jurisdiction⁷⁶ in support of UNGPs' implementation is not accidental. They were also singled out in the UNGPs as being crucial in helping states meet their duty to protect human rights in the business context⁷⁷. Most NHRIs have not only the mandate but also years of experience in assisting governments to ensure the compliance of state legislation with international human rights treaties, including evaluation of domestic legislation reviews, commenting on new legislative proposals and recommending policy changes – often of relevance for UNGPs' implementation (Faracik, 2012). In some countries, NHRIs are also often instrumental in being the first actors to start awareness raising around UNGPs. They undertake the initial steps aimed at inspiring governments in their efforts to develop National Action Plans (the Human Rights Commission of Malaysia, SUHAKAM, developed a Strategic Framework articulating a set of policy objectives and related recommendations that the government should consider when developing its NAP on Business and Human Rights). Furthermore, NHRIs can be of assistance not only to their own governments but also in providing advice and assistance to other interested parties and even governments⁷⁸, as for example in the cooperation between DIHR and several Latin American governments⁷⁹, as well as stakeholders across the world.

⁷⁴ For example: Chile (Aranzazu, 2015), Germany (German Federal Foreign Office, 2015), Kenya (Kenyan Department of Justice, 2016), USA (US Department of State, 2015) and UK (Government of the United Kingdom, 2016).

⁷⁵ See for example National Human Rights Commission of Zambia, 2016.

⁷⁶ For general information about the National Human Rights Institutions see the [website of the International Coordinating Committee \(ICC\) for National Human Rights Institutions/Global Alliance of National Human Rights Institutions](#). For the ICC engagement on business and human rights specifically, see the [website of the ICC Working Group on Business and Human Rights](#), which was the driver behind the Edinburgh Declaration. The role of the NHRIs with regards to human rights and business was recognised in the UN HRC Resolution A/HRC/RES/17/4 on human rights and transnational corporations (OP 10), which not only welcomed the important role of the NHRIs in this area, but also encouraged them to further develop their capacity to fulfill that role effectively, including with support of OHCHR and in addressing all relevant actors. Anticipating their role, the NHRIs gathered in Edinburgh already in 2010 at the 10th Biannual Conference, adopted the Edinburgh Declaration on 'Business and Human Rights. The role of national human rights institutions' and followed it with regional action plans on human rights and business, identifying key priority areas and concrete actions to be taken by NHRIs, individually and collectively, to support the implementation of the UNGPs developed in 2011 and 2012 in a series of regional workshops, held by the Network of African NHRIs Recommendations on the Plan of Action on B&HR (Yaounde, Cameroon, 29 September-1 October 2011); the Asia Pacific Forum of NHRIs, Asia Pacific Regional Conference on Business and Human Rights Outcome Statement (Seoul, Korea, 11-13 October 2011) (Asia Pacific Forum of National Human Rights Institutions, 2011); the Network of NHRIs of the Americas, Americas Business and Human Rights Regional Declaration and Action Plan (Antigua, Guatemala, 9-10 November 2011); and the European Group of NHRIs, Berlin Action Plan on Business & Human Rights (Berlin, Germany, 5-7 September 2012).

⁷⁷ Although it should be added that the explicit reference to the NHRIs in the text of the UNGPs was incorporated after intense advocacy by NHRIs themselves.

⁷⁸ The most active NHRI in this area is DIHR, engaged in capacity building and providing technical support for partners and stakeholders in encouraging, planning or implementation of NAPs processes in approximately 20 countries worldwide, including: Belarus, Denmark, Germany, Japan, Ireland, Poland, Scotland, Serbia, Kenya, Myanmar/Burma, South Africa, Tanzania, the United Kingdom and Zambia.

⁷⁹ DIHR's engagement in NAP processes is particularly significant in Latin America, where on the basis of the Memorandum of Understanding with Chile it is supporting Colombia and Mexico in the development and implementation of their NAPs. Whereas the NAP's Toolkit it co-authored is being used apart from those countries also in Brazil, Guatemala and Uruguay. For specific scope of support see for example Memorandum de Entendimiento entre La Secretaría de Gobernación de los Estados Unidos Mexicanos y el Instituto Danés de Derechos Humanos del Reino de Dinamarca Para Apoyar La Elaboración del 'Programa Nacional Sobre Empresas y Derechos Humanos de México' (29 April 2016).

While NHRIs are, or should be, natural partners, many states undervalue the support they could receive from CSOs. States that are 'open' could find of interest and help CSOs' work which is focused on identifying human rights concerns in individual countries with a view to providing support for business wanting to trade there without infringing human rights. This could, for example, include the Human Rights and Business Country Guides⁸⁰. Whilst intended primarily to help companies identify, assess and address their human rights impacts by providing country-specific guidance, the Country Guides could also serve as a list of issues that the state should address in its policies or legislation. Issues of concern for business are exactly those that NAPs should address. States could also seek information and input from NGOs through consultations and stakeholder engagement efforts, as well as opportunities presented by enquiries at national level⁸¹. Additional information on issues warranting examination can also be found in the NGOs and other actors' submissions to the Universal Periodic Review process⁸² and UN human rights treaty bodies. Further details can be found in CSOs reports from the field or more comprehensive industry sectors assessments and reports from human rights assessments of specific investment projects⁸³, together with National Baseline Assessments developed exactly with the aim of supporting UNGPs' implementation⁸⁴. CSOs can also support states by monitoring and assessing the effectiveness of the steps undertaken to implement the UNGPs, with some of the early examples coming *inter alia* from Sweden⁸⁵.

An interesting example of how CSOs can provide support to states in UNGPs' implementation is provided by SwedWatch, which is offering the public procurers help in monitoring their supply chains.

Of course, states can also always 'count on' hopefully constructive critique of their efforts by the CSOs. An exemplary constructive critique is the assessment of all existing NAPs based on criteria outlines undertaken and published by ICAR, in partnership with ECCJ and other CSOs (ICAR & ECCJ, 2015). However, CSOs can contribute with their expertise more directly to the NAP development process. Several states did indeed engage CSOs in the process of NAPs development, either by commissioning them to develop the National Baseline Assessment (Kenya) or indicating that they will use the NBA developed by CSOs as the 'official' version (Mexico). Additionally, states can invite representatives of NGOs with extensive expertise in business and human rights to become members of the consultative body, helping to steer their NAP development processes or advising on a wider range of issues of relevance to UNGPs' implementation⁸⁶.

Finally, guidance on gaps in legislation aimed at securing UNGPs and advice on implementation issues can be also sought from academia, both by examining already existing publications⁸⁷ and by commissioning relevant research into specific areas. This is being done at European level, for instance, through the Horizon 2020 Research and Innovation Programme that finances research, the outcomes of which are meant to provide guidance for the EU on how best to achieve its goals, including those concerning sustainable development and better policy coherence⁸⁸. Academics can also play more integral roles in the UNGPs'

⁸⁰ Human Rights and Business Country Guides are developed by the Danish Institute for Human Rights in collaboration with CSOs and NHRIs in a number of countries across the world. Further information can be found on the [Human Rights and Business Country Guide website](#).

⁸¹ See for example IHRB, 2016

⁸² See for example: IHRB, 2012b; IHRB, 2011a; IHRB, 2011b.

⁸³ See for example: Oxfam, Community-Based Human Rights Impact Assessment Initiative; Oxfam and FIDH, 2011.

⁸⁴ See for example: UCCA, 2016; Belgrade Centre for Human Rights, 2016.

⁸⁵ See SwedWatch, 2016

⁸⁶ For example, in Kenya the IHRB's Nairobi Process has been appointed to the national Steering Committee for the NAP process and has been requested to provide expert support to the Attorney General's Office for the process. Also Kenya Human Rights Commission (Civil Society Organisation) has been appointed to the Steering Committee, to provide representation of the Kenyan CSOs. More information is available at <https://www.ihrb.org/focus-areas/kenya/submission-building-better-national-action-plans-business-human-rights>, last accessed on 2 November 2016.

⁸⁷ See for example Sjøfjell and Richardson, 2015; Sjøfjell and Wiesbrock, 2016.

⁸⁸ As an example of Horizon 2020-funded research project, see e.g. Sustainable Market Actors for Responsible Trade Project ([SMART Project website](#)) that promotes sustainable development within the planetary boundaries, through research that *inter alia*

implementation processes, including drafting national baseline studies on human rights and business – as in Argentina or the Czech Republic.

3.6.3 Support from other states

Last but not least, important roles in stimulating the UNGPs' implementation are played by states, in particular those that have already been through the NAP development process. They can act as regional leaders (such as Colombia in South America, or the UK and the Netherlands in Europe), share their experiences from the process and provide capacity-building support to states in the region and elsewhere.

Some of the best examples of such cooperation include the collaborations between:

- The UK and Colombia⁸⁹ – which was even inscribed in the UK's own National Action Plan;
- Norway and Kenya – where Norway used the UPR process as a way of recommending the adoption of an NAP to Kenya and at the same time offered support, including experience and knowledge sharing to assist the country in its efforts⁹⁰.

Of course, given the immense awareness, capacity and funding necessary to advance the UNGPs' implementation, it is important for states and individual actors to engage with each other and use the whole spectrum of assistance and support available. Some good examples include:

- Cooperation between Switzerland (Swiss Federal Department of Foreign Affairs) and Mexico – a comprehensive trilateral cooperation involving the Danish Institute for Human Rights resulted in the development of the Mexican National Programme on Business and Human Rights, within which the Swiss partner provided expert support, committed to undertaking specific actions on its own (e.g. addressed to the Swiss companies doing business in Mexico) as well as contributing to the programme's funding;
- Cooperation between the National Human Rights Commission of Malaysia and the United Nations Country Team (UNCT) in Malaysia – thanks to funding from the UK Foreign and Commonwealth Office (FCO) a project was undertaken (SUHAKAM, 2015) with the objective of formulating and proposing a framework for a national plan of action towards adoption and implementation of the Guiding Principles by both state and non-state actors in Malaysia;
- The USA supported work on human rights and business, including NAPs development, in Kenya and Tanzania by providing funding to NHRI and civil society actors (DIHR, Centre for Research on Multinational Corporations – SOMO, local partners) for the work in this area in 2016-2017 with the project funding comprising also a regional peer exchange element⁹¹;
- Sweden's NAP commits it to promoting NAPs abroad and the country has allocated very substantial funding to the United Nations Development Programme (UNDP) for the promotion of human rights and business. Sweden has also pledged to assist with the development of NAPs in eight Asian countries.

examines legal barriers to sustainable trade across the whole product's life cycle. The results of projects like this can provide a guidance to states and regional organisations as to what needs to be changed in e.g. the regulatory framework to ensure that economic growth is not happening at the human and environment cost.

⁸⁹ Government of the United Kingdom, 2013; interview with Paloma Munoz, 1 September 2016, notes on file with the author

⁹⁰ Kenya is also a very good example of a country in which the final decision to develop an NAP was taken following the acceptance of the Norwegian recommendation during the UPR, and in which the process profited from technical assistance and information sharing by Norway (interview with Maryann Njau-Kimani, 31 August 2016, notes on file with the author).

⁹¹ Information provided by Claire Methven O'Brien (email exchange on file with the author)

Finally, states could also profit from closer exchange not only between government officers in charge of NAPs' development⁹², but also from experience sharing between officers responsible for individual issue-specific dossiers such as public procurement, overseeing State-Owned Enterprises (SOEs), etc., which in turn could potentially inspire equally effective action even outside the NAP processes.

4 Implementation of the UNGPs worldwide

4.1 Europe

4.1.1 European Union

The hosts of the UNGPs' 5th Anniversary Conference 'EU Roadmap to Business and Human Rights' stated in their Conference Conclusions:

'The EU has the potential to be an international game-changer when it comes to business and human rights. It also has a specific responsibility, because of the large numbers of European companies involved in global value chains. To fulfil this responsibility, all EU member states should develop National Action Plans (NAPs) to implement the UNGPs and the EU should facilitate peer learning on NAPs. A coherent strategy to implement the UNGPs at EU level is also needed. This strategy could be integrated into the EU Action Plan on Responsible Business Conduct that is under development. Business and human rights policies at national and EU level should be developed, monitored and implemented with the participation of relevant stakeholders. They should cover all three pillars of the UNGPs, and give particular consideration to lowering barriers for access to effective remedy. The EU and member states should consider applying a smart mix of measures to foster business respect for human rights throughout their operations.' (EU Roadmap to Business and Human Rights Conference, 2016)⁹³

This statement neatly summarises where the EU currently stands. As the Commission Staff Working Document on Implementing the UN Guiding Principles on Business and Human Rights – State of Play provides an extensive overview of the EU's actions (European Commission, 2015), referred to earlier in this paper, this section will touch only upon key elements.

Worthy of note is the EC's following up on the majority of actions set out in the EC 2011 Communication on CSR, in which it introduced a UNGPs-aligned definition of CSR, thus breaking for good with the voluntary approach that previously dominated. The development of guidance for three sectors (Information and Communications Technology, Oil and Gas, Employment and Recruitment Agencies) as well as Small and Medium-sized Enterprises (SMEs) followed, as did proposals of legislative changes in the Public Procurement directives, and the development of the proposal covering non-financial reporting obligations. Additionally, the Council of the EU mentioned on several occasions the need to implement the UNGPs, including via NAPs, both with regard to individual states and the EU as a whole.

However, some opportunities have still been missed. These include the forthcoming regulation concerning the setting up of a Union system covering supply chain due diligence self-certification for responsible importers of tin, tantalum and tungsten, their ores and gold originating in conflict-affected and high-risk

⁹² For example, the Dutch government working in cooperation with DIHR hosted a peer exchange event on NAPs in 2014 in Vietnam for members of the Asia-Europe Forum on Human Rights (ASEM, 2014). OECD has also hosted 2 discussions on NAPs for governments on the margins of the annual Responsible Business Conduct Forums.

⁹³ The multi-stakeholder conference on 11 May 2016 in Amsterdam was organised jointly by the European civil society and the Ministry of Foreign Affairs of the Netherlands to advance the implementation of the Business and Human Rights agenda of the EU and its member states.

areas, which without pressure from the European Parliament would have been much weaker. The Non-Financial Reporting Directive on the one hand was an achievement in compromise reaching to accommodate concerns of all member states. However, due to inherent vagueness this also seems to be an opportunity missed to create a genuine change of paradigm and stimulate greater respect for human rights. Problems included a lack of clear guidance on the details that companies need to report on to ensure comparability of information necessary to enable benchmarking and avoid situations where companies are self-selecting which aspects to report on and thus present a 'manipulated picture'⁹⁴. The same is valid for the public procurement directives of 2014, which did introduce important changes in some areas (e.g. removing the lowest price primacy paradigm) but provided only minimal new scope for integrating human rights in some areas of the procurement process, with no follow-through from the European Commission and very limited, if any, capacity building in this area being provided⁹⁵.

Nevertheless, from a positive perspective it should be noted that issues of human rights and business are increasingly being picked up by non-traditional Directorate Generals (DGs). By supporting relevant research (such as the DG Justice-funded project 'Human Rights in Business: removal of Barriers to Access to justice in the EU' or the Horizon 2020 Programme-funded project SMART), the EU not only obtains evidence-based guidance for its own actions, but also helps to advance the UNGPs in practice. However, although the topic is gaining increasing importance, training on human rights generally, not to mention training specifically on human rights and business, is still not obligatory for all EU staff as is the case, for instance, with financial training. So, it can be stated that increasing awareness of the human rights and business agenda's importance is a positive development (and the European Parliament should ensure that this trend is sustained by regularly raising the issue in its contact with other institutions). However, only once the internal capacity in this area is improved will it be realistic to think about being able to ensure that any new legislation is assessed for its compliance with human rights and that a human rights-based approach is streamlined in management processes across all institutions.

Finally, the EU's willingness to engage seriously with the human rights and business agenda will be tested by the 'Green Card' initiative launched in May 2016 by the French National Assembly and seven other European parliaments⁹⁶. This initiative asks the European Commission to develop a legal proposal on a duty of care for European companies, which should prevent and repair abuses towards peoples and communities whose rights and environment are impacted by European companies' activities.

4.1.2 EU member states

As mentioned earlier, NAPs developed by EU Member States constitute the majority of NAPs launched so far. Yet, to date they were developed by only eight out of 28 EU member states, with others lagging behind on their own commitments, as expressed in the Council Conclusions. Additionally, NAPs developed in the region do leave much scope for improvement, with the majority of them being rather general, declaratory and stock-taking in nature, rather than forward looking and action oriented. Some of them, such as the first UK NAP, are using a wording that is below the expected UNGP standards for states.

Regarding NAP development processes, information was available either on government or CSOs websites in the UK, Germany, Denmark, Sweden, Finland, Italy and the Netherlands, but not in Lithuania. The positive

⁹⁴ For example, while reporting on human rights aspects the company might choose to provide information about the fact that there is very little/no gender pay gap – to paint the positive picture – but at the same time might avoid information that in the reporting period it was fined by the Labour inspection for not meeting the health and safety regulations in the workplace.

⁹⁵ It is worth noting that again the task of providing guidance to national level authorities was taken on by the CSOs and academic institutions, which created the International Learning Lab on Public Procurement and Human Rights. The Lab, since 2015 has already delivered an analysis of 20 jurisdictions and organised two major peer-learning events. Detailed information can be found on the [Lab's website](#).

⁹⁶ The parliaments involved aside from the National Assembly of France are those of Estonia, Lithuania, Slovakia, Portugal, the UK House of Lords, the House of Representatives in the Netherlands and the Senate of the Republic in Italy. Recently they were joined by Greece. More information is available in Forum Citoyen pour la RSE, 2016a.

trend is that all processes involved various entities within the government in some way, often through the creation of an inter-ministerial working group, and not only was the entity responsible clearly identified, but some form of consultation with stakeholders was also undertaken by all states, even if, as in the case of Denmark, to a rather limited extent. It seems that the majority, if not all, did not conduct proper stakeholder mapping which resulted in governments not reaching out to all disempowered and at-risk stakeholders, particularly in situations where there was a lack of transparency or clarity regarding the timeline of the drafting process which led to their being excluded from the process. Exceptionally, the German process was described by many as exemplary, to the extent that it was almost impossible to replicate in other states due to the requirement for too many resources (time and human) on the side of CSOs and other stakeholders.

The biggest weakness identified in the processes was the failure to conduct National Baseline Assessments to inform the NAPs' content or, as was the case in Germany, not using it to inform the process, although it is accepted that the Netherlands and Finland did conduct a sort of 'internal mapping' as well as providing a background memorandum on relevant laws and policies. This is a crucial omission as it significantly limits the chances of the NAP being evidence based and responding to the key challenges, as opposed to the perceived challenges. Finally, while the UK and Finland included information about how implementation of the NAP would be monitored, this information was missing in the Dutch, Danish and Lithuanian NAPs, while Sweden committed to following up on implementation but not until 2017. Additionally, only the Finnish NAP identifies which ministry is responsible for the implementation of all of future action points, while Lithuania provided such information in the case of some actions identified in its NAP.

In terms of content, it should be noted that the majority of NAPs in the EU focus rather on external actions (e.g. UK, Netherlands) than on steps necessary to improve domestic situations and concentrate rather on describing what has been done to date, rather than on setting out action points for the future. On a positive level, all state a commitment to UNGPs, but at the same time their biggest weakness is that they do not provide sufficient options to ensure access to remedial measures. Their actions are generally those that involve awareness raising, training, research and other voluntary measures with little focus on the need for developing regulatory actions. However, there are some interesting practices worth replicating, as for instance:

- The Dutch NAP provides for the development of innovative covenants between business and its stakeholders, with the first two of such covenants, the [Sustainable Garment and Textile Sector Agreement](#) (signed on 4 July 2016) (SER, 2016a) and the Banking Sector Agreement on International Responsible Business Conduct regarding Human Rights (signed on 28 October 2016) (SER, 2016b), already in place⁹⁷.
- The Dutch, Finnish and the first UK NAPs include actions aimed at ensuring that goods and services purchased via public procurement are not produced in a way that violates human rights (Government of the Kingdom of the Netherlands, 2013; Government of Finland, 2014; Government of the United Kingdom, 2013)⁹⁸;
- The UK NAP looks into promoting awareness of the diplomatic personnel at foreign missions via a 'Business and Human Rights Toolkit' developed by the UK government to guide its political, economic, commercial and development officers overseas on how to promote good conduct by UK companies operating abroad;

⁹⁷ See: SER, 2016c; SER, 2016d.

⁹⁸ Also the Italian draft NAP includes quite ambitious proposals in the area of public procurement (Italian Interministerial Committee for Human Rights, 2016).

- Denmark, as part of its Action Plan on CSR in which it at first included elements of relevance to UNGPs' implementation, before developing a first standalone NAP on BHR, established the New Mediation and Complaints Mechanism, with a mandate to investigate allegations and make recommendations, which replaced the old and much criticised National Contact Point for the OECD Guidelines.

As can be seen, despite overall commitment to the UNGPs by EU member states, there is still much to do by way of improving their implementation at both EU and national levels. Moreover, instead of being an example to follow, they are seldom referred to by CSOs and NHRIs on other continents, except to indicate that there are already ten NAPs in Europe and none/one in their region, but pointing out that the way they were developed is perhaps not the best example to follow. Some of the interviewees from other regions of the world did state that they perceive European NAPs as a 'tick box exercise', which provide no best practice regarding content and in some cases process.

4.1.3 Non-EU European countries

Having described the EU's uptake of UNGPs, it is necessary to point out that there are a number of European countries which are not part of the EU, and for which the regional standard-setting organisation is the Council of Europe, as the primary human rights organisation. As mentioned already in Chapter 2, the Committee of Ministers of the Council of Europe adopted a new Recommendation on human rights and business (Council of Europe, 2016a) in March 2016, which provides important guidance to governments, businesses and other stakeholders across the Council of Europe region regarding the implementation of human rights in the business context. It also calls on CoE member states to develop National Action Plans covering business and human rights, encouraging member states to legislate on the effective implementation of companies' human rights due diligence requirements, reflecting the UN Guiding Principles on Business and Human Rights as regards any of their business activities that have an impact on human rights. It further provides for a process of review and information sharing amongst member states, to be facilitated by the Council of Europe, to promote and review its implementation, as well as the exchange of good practices.

Given that CoE member countries differ significantly in terms of history, current economic development levels and commitment to human rights, it is interesting to look at Norway, Switzerland, Georgia and Serbia to see how UNGPs' implementation progresses across the region.

Norway is the first non-EU country to have launched its NAP in October 2015 (Government of Norway, 2015), which follows up on the government's white paper on human rights, *Opportunities for All (Human Rights in Norway's Foreign Policy and Development Cooperation)* and builds on priorities identified in the gap analysis carried out in 2013 (Taylor, 2013a). In accordance with this analysis conducted by an independent expert, certain actions are identified:

- Ensuring greater policy coherence and expertise on corporate social responsibility in public administration;
- Seeking to ensure that provisions for respect of human rights, including safeguarding labour rights and working conditions, are included in bilateral free trade agreements and investment treaties;
- Institution building and the development of adequate legislation to ensure that human rights are respected in priority countries receiving Norwegian development aid; as well as
- Seeking to ensure through international cooperation, that victims of grave and systematic human rights violations have access to effective appeals procedures.

As can be easily noticed, in the case of Norway, as in the case of the Netherlands and some other countries, the actions foreseen in the first NAP are oriented externally, with relatively little attention being paid to what improvements are needed internally in Norway to improve respect for human rights. While Norway

formally launched its NAP relatively recently, for some years now it has been actively supporting the promotion of UNGPs worldwide by providing funding for relevant CSO and NHRI projects, supporting OHCHR, as well as being open to and willing to share its experiences from the NAP development process with other countries, such as Kenya.

Second European, non-EU, state to have launched its NAP is **Switzerland**. In response to the parliamentary postulate 12.3503, which was submitted in June 2012 by National Council member Alec von Graffenried, on 9 December 2016 the Swiss Confederation's Federal Council adopted a report outlining a National Action Plan for the implementation of the United Nations Guiding Principles on Business and Human Rights (Federal Council of the Swiss Confederation, 2016; Schweizerische Eidgenossenschaft, 2016)⁹⁹. Among the positive aspects of the Swiss NAP one can note the fact that its structure follows the recommendations set forth by the UN Working Group, the statement that companies domiciled and/or active in Switzerland must duly fulfil their responsibilities in the field of human rights as well as the Federal Council's understanding of the implementation of the Guiding Principles as a continuous process, with a foreseen revision date provided for in the NAP itself (although a four-year long cycle seems too long given such a rapidly evolving international context such as that of business and human rights). Yet, overall, the content of the NAP is disappointing. Despite several studies being commissioned by the government, the strategy is not based on a gap analysis that would identify loopholes in Swiss law and practice. The Swiss NAP also contains barely six new measures, with 37 out of the 50 political instruments listed pertaining to activities already carried out by the Confederation and seven already featuring in the Federal Council's Corporate Social Responsibility position of April 2015. What is more, the new measures are limited to marketing (e.g. the creation of a Swiss Business and Human Rights Champion prize) and an improved application of existing Federal Department of Foreign Affairs (FDFA) instruments (such as the training of embassy staff), with the final NAP text explicitly excluding any new binding measures. In that way the final, published version seems to be – at least in the opinion of the civil society organisations – a step backwards if compared with the draft text that was submitted for public consultations in June 2016 and that provided for the mandatory human rights due diligence for state-owned enterprises (the final NAP requires SOEs to barely present an inventory of CSR activities)¹⁰⁰. Crucially, however, the Swiss government seems to understand well the importance of the human rights and business agenda, and that 'the UN Guiding Principles establish a foundation for regulating various business activities from a human rights perspective' (Federal Council of the Swiss Confederation, 2016), although regrettably at present the political will to adopt an NAP that is truly meaningful and reflecting recent international developments on business and human rights is lacking.

Conversely, **Serbia's** government seems to have little awareness of business and human rights issues and the impact that the lack of respect for human rights might have on the country's development. Here the awareness-raising and capacity-building work, as well as initial steps towards NAP development, is conducted by a single, Belgrade-based CSO – the Belgrade Centre for Human Rights, supported by the Danish Institute for Human Rights (DIHR). Activities include the development of the Human Rights and Business Country Guide for Serbia (Belgrade Centre for Human Rights & DIHR, 2016) and the draft National Baseline Assessment (Belgrade Centre for Human Rights, 2016), with financial support to carry them out being provided by DIHR and the Swedish International Development Cooperation Agency.

While Norway could serve as an example to many EU countries, in the case of Serbia, an EU candidate country, the EU's leadership role in engaging with human rights and business is undeniable, to the extent

⁹⁹ For more detailed information about the UNGPs implementation process in Switzerland see for example KOFF (Centre for Peacebuilding, 2014 and Schweizerische Eidgenossenschaft, 2016: p. 2.

¹⁰⁰ See e.g. Swiss Coalition for Corporate Justice, 2016b, which points out as well that despite active engagement of many NGOs in the consultations around the NAP's drafting, almost none of the proposals put forward by them were included in the final text.

that local CSOs trying to stimulate interest amongst government officers in UNGPs are trying to connect and link with efforts around the EU accession process¹⁰¹. Indeed, such efforts could be supported by the European Parliament calling on the European institutions involved in the accession process to address the human rights and business agenda as part of this process, and consider providing specific technical assistance support to Serbia and other candidate countries to assist them in developing NAPs and implementing the UNGPs in other ways.

Georgia comes somewhere in the middle of the scale, with the Georgian NHRI as much as possible undertaking efforts aimed at awareness raising and capacity building of various actors. While Georgia does not have a standalone NAP, the current Human Rights Action Plan (2016-2017), developed in a very open and participatory manner and adopted by the Cabinet of Ministers of Georgia on 13 June 2016, does include among the three new chapters a chapter on Business and Human Rights. Inspired by an NGO, the Civil Development Agency, it sets out two objectives and seven activities such as: conducting national baseline study on business and human rights, awareness-raising, organising multi-stakeholder round tables and conferences, translation of international standards into Georgian together with the elaboration of a national Business and Human Rights Action Plan. It thus serves as the government's initial commitment to adopt a more comprehensive chapter with relevant activities that will be based on the findings of the baseline study, identifying gaps in state and business implementation of the Guiding Principles. Apart from making policy statements, the government has also started undertaking the necessary steps to implement the plan by, *inter alia*, organising conferences aimed at familiarising stakeholders with the international standards on corporate sustainability, discussing the direction of the CSR agenda in Georgia and also stimulating discussion on the state's perspectives and business cooperation on a number of timely issues, such as the employment of people with disabilities and/or special educational needs (Government of Georgia, 2016). In November 2016, the first comprehensive Human rights and business conference aimed at raising awareness of various stakeholder groups in the country was organised by the Georgian NHRI and DIHR, with support from the ILO¹⁰².

4.2 Sub-Saharan Africa

Despite numerous records of business-related human rights abuses and the long-term impact of poorly regulated extractive industries' operations on human rights, only two positive advances in the institutional and regulatory field can be reported:

- The establishment by the African Commission on Human and Peoples' Rights of its special mechanisms, the Working Group on Extractive Industries, the Environment and Human rights in Africa in 2009; and
- The development of the African Union's Africa Mining Vision framework (African Union, 2009), which includes steps to eliminate human rights abuses in mining with an aim to halt mining's role in fuelling conflict and improve contributions to community development as well as women's empowerment, increase participatory decision-making, strengthen environmental and labour protections and prioritise poverty reduction in natural resource management;

¹⁰¹ The Belgrade Centre for Human Rights first undertook information gathering and analysing efforts when developing the Serbia Human Rights and Business Country Guide, available at <http://hrbcountryguide.org/countries/serbia/>, last accessed on 2 November 2016. The Guide was comprehensively updated in 2016. It is part of an ongoing effort by the BCHR to conduct a comprehensive National Baseline Assessment on Human Rights and Business, which could form the basis for a Serbian National Action Plan on Human Rights and Business. The Baseline assessment, which was produced based on the Danish Institute and ICAR's National Action Plan Toolkit, was published in the second half of 2016.

¹⁰² The International Conference on Business and Human Rights: Challenges and Opportunities for Georgia, held on 31 October-1 November 2016 in Tbilisi, Georgia, was coorganised by the Public Defender's (Ombudsman) Office of Georgia and DIHR. (Source: email exchange of 7 October 2016 with the International Relations and Communications Department of the Public Defender's [Ombudsman] Office of Georgia).

Since then, it appears at first glance that very little has been happening at the regional level in Africa regarding the UNGPs' implementation.

However, what seems to work and develop at regional level is cooperation among the NHRIs via the Network of African National Human Rights Institutions (NANHRI). In their Yaoundé Action Plan on Business and Human Rights adopted in the autumn 2011, they identified business and human rights as one of their priority areas and followed up with a number of concrete activities, such as the NANHRI Mapping Survey on Business and Human Rights (NANHRI, 2013). NANHRI's activity also resulted in regional workshops, such as the capacity-building workshop for NHRIs from East Africa and Ghana and Malawi (IHRB, 2012a), organised by the Uganda Human Rights Commission in cooperation with the OHCHR as well as the Institute for Human Rights and Business. Another positive step, possible thanks to the ICC Working Group on Business and Human Rights, was the development of the regional supplement for African NHRIs into a global guidebook for NHRIs (International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, 2013). This introduces African regional frameworks and standards relevant to business and human rights, such as key human rights conventions and governance institutions of the African Union (AU), the Action Plan for Implementing the Africa Mining Vision, and regional financial institutions, providing practical NHRI practice examples in the area of business and human rights.

Cooperation among CSOs around the BHR issue is also growing, particularly with the launch in November 2013 of the African Coalition for Corporate Accountability¹⁰³. There were also a number of earlier events such as the DIHR-ICAR consultation with African NHRIs and CSOs on Human Rights and Business/NAP Toolkit that played an important role in providing basic awareness in the field. The work done by the aforementioned actors paved the way for the African Regional Forum on Business and Human Rights. This was a regional event devoted to the UNGPs' implementation convened by the UN Working Group on Business and Human Rights with support from the African Union, the UN Economic Commission for Africa and the Office of the UN High Commissioner for Human Rights in Addis Ababa in 2014. Bringing together around 250 participants, it was aimed at discussing key business and human rights challenges for the continent. It was the first time that such a wide range of stakeholders had gathered to discuss ways forward in ensuring respect for human rights in a business context on the African continent and promoting national as well as regional action plans on business and human rights together with the scaling up of responsible business practice. Yet it seems that its impact has been losing momentum. There has been no support from the regional intergovernmental organisation, and very little seems to be left from the commitments made by the African Union Commission in conjunction with the UN Working Group to work jointly in advancing the business and human rights agenda by, for instance, developing practical tools adapted to the realities in African countries of implementing the UN Guiding Principles. In addition, there is little evidence of follow-up to the African Union-European Union seminar on 'Fostering the implementation of the UN Guiding Principles on Business and Human Rights through regional cooperation' held on the margins of the regional forum mentioned above, which was organised by the UN WG HRB¹⁰⁴.

As far as progress at national level is concerned, only a few countries seem to have risen to the challenge of developing NAPs. Nevertheless, some of those could serve as examples to the EU (for instance the approach taken by Kenya). The attitude of states to NAP development spans the spectrum from the

¹⁰³ The African Coalition for Corporate Accountability (ACCA) was launched in November 2013 as a coalition of Africa-based organisations supporting communities and individuals whose human rights are adversely impacted daily by the activities of corporations, both multi-national and domestic. It brings together 89 organisations from 28 African countries. Further information is available on the [ACCA website](#). See also ACCA, 2013.

¹⁰⁴ According to the Final Report from the meeting 'The African Union and the European Union confirmed their commitment to promote and implement the UN Guiding Principles in the two continents. They also agreed to continue their work in the coming months on sharing experiences as well as planning potential areas of cooperation, with a view to pursue their discussions at a higher level during the next AU-EU Human Rights Dialogue in November 2014.' (The Africa-EU Partnership, 2014)

comprehensive approach offered by Kenya and to a lesser extent Mozambique, through indifference to the CSOs and NHRIs efforts to the extreme of completely lacking interest in the area of human rights and business.

As mentioned above, a very positive thorough approach is being taken by **Kenya**. Since February 2016, when it became the first African country to announce its intention to develop a 'comprehensive strategy for protecting against human rights abuses by companies' – a National Action Plan on Business and Human Rights – the government has been working hand in hand with the Kenyan National Human Rights Commission and CSOs to implement the UNGPs and develop an NAP¹⁰⁵. While the decision to develop their NAP was taken in a follow-up to acceptance of the 2015 UN Universal Periodic Review recommendation, the way forward had already been prepared by the government, the Kenyan National Human Rights Commission and CSOs. Importantly, in what can be considered a best practice, the government – through the Department of Justice and the Office of the Attorney General – in the very first press release not only informed of the decision to develop an NAP and expressed its commitment to a deliberative, consultative and fact-based development process, but also:

- Provided a general overview of the process and its timeline, including National Baseline Assessment development, two general public surveys, consultations, etc.;
- Informed about the pre-NAP development steps already undertaken, such as progress of the National Baseline Assessment;
- Highlighted the roles of other stakeholders in the process, noting particularly the position of the Kenyan National Human Rights Commission,
- Provided contact point details for anyone interested in the process and willing to become involved and encouraged all interested stakeholders to participate in the process of developing the National Action Plan.

Declarations of the close cooperation with stakeholders are not empty worded. To ensure that the NBA is treated with confidence by the stakeholders, it was the Civil Society Organisation Kenyan Human Rights Commission that was commissioned to develop it. All stakeholder groups, including impartial expert organisations, are also represented on the multi-stakeholder Advisory Committee¹⁰⁶ established to provide advice in the course of the NAP development process, which is coordinated by the Department of Justice.

The work undertaken by the government creates a conducive environment for similar initiatives, with some interesting collaborations starting to sprout up. For instance, there is collaboration between the Kenya National Commission on Human Rights and the Institute for Human Rights and Business which engaged with companies and government on the Nairobi Process (a pact that aims to embed human rights guidance in Kenya's emerging oil and gas sector), as well as a Code of Ethics for Businesses developed under the auspices of the Kenya Association of Manufacturers and signed by several companies, which spells out responsibilities to the community and the environment and commits companies to respect human rights.

Similarly, a positive approach seems to be taken by **Mozambique**, where a process aimed at developing their NAP (either as a stand-alone document or as part of another strategic policy document) was launched

¹⁰⁵ See: Kenyan Department of Justice, 2016; interview with Maryann Njau-Kimani, Department of Justice.

¹⁰⁶ The Advisory Committee is composed of the representatives of the Department of Justice (Chair and Secretariat), Kenyan National Commission on Human Rights, Ministry of Energy and Petroleum, Ministry of Mining, Federation of Kenya Employers, Global Compact Network, Central Organization of Trade Unions, Kenya Private Sector Alliance, Kenya Human Rights Commission, Council Of Governors (representing the devolved government), Office of the High Commissioner for Human Rights, Kenya Office and Institute of Human Rights and Business.

in 2014 as a joint government and CSOs initiative. It was structured into several phases beginning with awareness raising for all stakeholders including government institutions; secondly, development of the baseline study analysis that formed the basis for the report; thirdly, a major conference in the autumn of 2016. In line with the recommendations, it is intended that as a next step a platform will be established to enable multi-stakeholder dialogue (including government, SOEs, private sector, CSOs, judiciary, parliament), followed by the organisation of a forum on human rights and business in late spring 2017¹⁰⁷. Importantly, the NAP process in Mozambique has received support from the Finnish and Norwegian governments.

A further positive approach but limited by funding availability can be identified in **Tanzania**, whose government in 2013 committed to undertake concrete activities aimed at improving respect for human rights in the business context, including to 'establish a Plan of Action that promotes meaningful participation and consensus of all stakeholders' (Tanzania Ministry of Constitutional and Legal Affairs 2013, Chapter 4, section 2.4.2). The NAP process, initiated by the government and supported by civil society, currently facilitated by means of a partnership between government and civil society, is likely to move forward in the near future, thanks to the development and release by the Legal and Human Rights Centre (LHRC) and the International Corporate Accountability Roundtable of the *'Shadow' National Baseline Assessment of Current Implementation of Business and Human Rights Frameworks in Tanzania* (LHRC and ICAR, 2016), which represents one of the most exhaustive studies of Tanzanian laws, policies, regulations, and standards as they relate to business and human rights at the national level; thus providing the basis on which the NAP can be developed. Another factor that is likely to have influence on the progress of the work on the Tanzanian NAP is the funding made available by the US Department of Labor, a grant provided to a consortium comprising DIHR, SOMO together with local CSOs and NHRI.

An indifferent attitude on the side of the government as opposed to high levels of commitment on the side of NHRIs and CSOs can be observed in several countries. In **Zambia**, the Zambia Human Rights Commission¹⁰⁸, with support from DIHR in 2016 developed the National Baseline Assessment on Business and Human Rights in a process combining both desk research and two sets of stakeholder consultations. Its critical conclusion goes so far as to state that 'the government has taken no deliberate steps to implement the UNGPs' and goes on to add that it 'found no examples in which the government assessed its laws, regulations, policies or practices against the Guiding Principles or other international standards as a step toward more effectively preventing business-related human rights abuses' (Zambia Human Rights Commission, 2016). Yet, despite this harsh assessment, the picture might be more nuanced, as one of the interviewees indicated that ministers had given a number of commitments to an NAP in speeches and they also actively participated in consultations on the NBA.

As in several other countries, the national NHRI was instrumental in taking the first steps aimed at raising awareness, building capacity and conducting necessary research. Before taking on the challenge of National Baseline Assessment development, it also partnered with the Danish Institute for Human Rights to develop the Human Rights and Business Country Guide for Zambia that contains information regarding the potential and actual human rights impacts of businesses in the country context to assist private enterprises intending to do business there¹⁰⁹.

¹⁰⁷ According to the information provided by Albachir Masacasari, Director of the National Directorate of Human Rights and Citizenship at the Ministry of Justice of Mozambique in his statement at the 2016 UN Forum on Business and Human Rights (14-17 November 2016, Geneva).

¹⁰⁸ The Zambia Human Rights Commission is a National Human Rights Institution established under Article 230 of the Zambian Constitution [Amendment] Act No. 2 of 2016 with an overall mandate of ensuring that the Bill of Rights is upheld and promoted. More information is available on the [Zambia Human Rights Commission website](#).

¹⁰⁹ See also Zambia Human Rights Commission, 2016

In **Uganda** it was non-state actors and more precisely the Uganda Consortium on Corporate Accountability that developed a National Baseline Assessment (UCCA, 2016) and submitted it to the government with recommendations for the best way to progress with an NAP.

The momentum is slowly building, with an increasing number of local actors engaging with the human rights agenda. This was evidenced during the Third Annual Conference on Economic, Social and Cultural Rights held on 14-15 September 2016 at the Makerere University, the leading theme of which was 'Business and Human Rights in Uganda: Accountability V. Social Responsibility for Corporate Abuses'. The event was co-organised by the Initiative for Social and Economic Rights (ISER), the Center for Health, Human Rights and Development (CEHURD), the Human Rights Network-Uganda (HURINET), the Public Interest Law Clinic (PILAC) of the School of Law, Makerere University, Global Rights Alert and the Uganda Human Rights Commission (UHRC)¹¹⁰.

Ghana has also seen high levels of commitment resulting from the recommendations issued by the UN WG HRB after its visit¹¹¹ to the country, during which it noted a lack of visible steps being undertaken by the government. Stakeholder awareness-raising workshops were organised in 2014 by the Ghana Commission on Human Rights and Administrative Justice (CHRAJ) with an aim to inform and explain to the various stakeholders the UNGPs, their implications and relevance within Ghana and provide an opportunity for laying the foundations for implementing the UNGPs (Government of Ghana, 2015)¹¹².

The approach exemplified by **South Africa**¹¹³ is that of a country where the decision to push for a binding treaty at international level resulted in the lack of any meaningful efforts to address the existing human rights and business/accountability challenges. There is no simultaneous pursuit at national level to initiate actions aimed at improving respect for human rights in the business context. Action was seen only on the side of CSOs and academic centres such as the Centre for Human Rights at the University of Pretoria (Centre for Human Rights, 2016a) where the shadow national baseline assessment has been developed.

Finally, there are countries such as **Niger**, where apart from information that the government has committed to NAP development, little else is known.

However, what can be reported as a trend in the region is that, as with Asia, the majority of processes such as those in Zambia, Tanzania, South Africa and Kenya are either being led by or involve the participation of NHRIs. While a close involvement of the NHRIs is important and in many cases crucial to the success of the

¹¹⁰ Further information is available at <https://business-humanrights.org/en/uganda-conference-to-discuss-state-of-business-human-rights-includes-call-for-abstracts> (call for papers), last accessed 30 November 2016.

¹¹¹ As was noted by the UN Working Group on Human Rights and Business during the country visit in 2013, there are no visible specific implementation steps taken to date to ensure that businesses respect human rights, or even to raise awareness among local businesses and industry associations about human rights and business responsibilities as defined in the UNGPs, which the UN WG assessed as very low (United Nations Working Group on Business and Human Rights, 2014c).

¹¹² The Ghana Commission on Human Rights and Administrative Justice, in collaboration with the international non-governmental organisations Shift and SOMO, organised three awareness-raising workshops on 'UN Guiding Principles on Business and Human Rights; Practical Approaches for Civil Society Organisations (CSOs), Businesses and government Institutions in Ghana', one of which targeted directly the relevant government institutions and regulatory bodies and ministries. These workshops were aimed at informing and explaining to the various stakeholders the UNGPs, their implications and relevance within Ghana and provide an opportunity for laying the foundations for implementing the UNGPs (Government of Ghana, 2015).

¹¹³ For further details on South Africa see for example Centre for Human Rights & ICAR, 2016a. As highlighted in the Executive Summary of the 'Shadow' National Baseline Assessment (Centre for Human Rights & ICAR, 2016a: p. 2): 'South Africa's legislative and regulatory framework around business and human rights is relatively well developed, especially in the context of an emerging economy. However, it appears that in most cases these laws and regulations are not interpreted as one would expect nor fully implemented and enforced. The country is also at an interesting point in time, where multi-stakeholder discussions and government activities are revolving around legal and policy reforms that impact business and human rights. [...] At the same time, South Africa has been quiet on matters involving soft law, especially in the context of business and human rights. While many states have openly expressed support for the UNGPs, the South African government is currently prioritising the process around a treaty on business and human rights at the UN level. However, the South African Human Rights Commission (SAHRC) has led several capacity-building initiatives that include a focus on the UNGPs. In addition, several multinational companies in South Africa have expressed interest and support for the UNGPs and are building internal capacity around them.'

final document (not least due to the trust that many of the NHRIs enjoy from other stakeholders), it should nevertheless be stressed that for the NAP itself to be efficiently implemented it needs to be developed in the government-led process and appreciate a broad support from the government.

4.3 Asia-Pacific Region

There is rather limited action aimed at the UNGPs' implementation that can be reported as far as governments in the Asia-Pacific region are concerned, with none of the existing NAPs coming from countries there.

Until recently only the **Australian government** had explicitly committed to developing an NAP, albeit after quite a lengthy period of stimulation by CSOs and businesses alike. Although in 2011 Australia co-sponsored the HRC resolution endorsing the UNGPs, which was followed by some awareness-raising activities undertaken mainly by the local Global Compact Network and Australian Human Rights Commission, it was not until March 2016 that the Australian government announced its intention to undertake a national consultation on implementation of the UNGPs in 2016, responding to calls from CSOs earlier in the year and recommendations arising from Australia's UN Universal Periodic Review in November 2015. The process is being led by the Department of Foreign Affairs and Trade, working closely with the Attorney-General's Department and other relevant agencies. Following initial discussions with business and civil society stakeholders, the government is considering options for further consultation including the formation of a multi stakeholder advisory group. It is also undertaking a stocktake of Australian laws, policies and business practices relevant to the UNGPs, considering as a commitment the possibility of undertaking a National Baseline Assessment and a national consultation process on implementation of the UNGPs. The NAP development process was further supported by the third Australian Dialogue on Business and Human Rights convened in October 2016 by the Global Compact Network Australia (GCNA) and Australian Human Rights Commission (AHRC), and bringing over 100 practitioners and experts from business, government, civil society and academia together to advance business and human rights practice in Australia. One of the key themes looked at the potential for an Australian National Action Plan on Business and Human Rights (for further details see Global Compact Network Australia, 2016c).

Only in mid-November 2016 was Australia joined by **Japan**, when a representative reported at the 2016 UN Forum on Business and Human Rights his country's intention to develop an NAP. According to the statement, Japan plans 'to formulate our National Action Plan in the coming years, and [has] started preliminary discussion among relevant ministries, including the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Economy, Trade and Industry, together with the Ministry of Health, Labour and Welfare. In formulating our National Action Plan, we consider it important to listen to the voices of business and civil society. We aim to reflect those opinions in a well-balanced manner to promote responsible business activities.' (Permanent Mission of Japan, 2016). It is an important change in the government's attitude particularly taking into account Japan's hosting the Olympic Games in 2020. For that reason, declarations made in the statement about the Japanese government's intention to take human rights impacts into account in its procurement practices and its development of the sustainable sourcing code are particularly welcomed¹¹⁴.

Despite Japan joining the circle of states that have embarked on the NAP journey, with Malaysia and Korea seeming to be positively inclined to accept the strategic frameworks and guidance of their NHRIs, regional take-up remains low. Given the continued rise of Asia in the global economy, and Asian companies being very active abroad, it is of concern that states, which could play a key role in improving the respect for

¹¹⁴ See Permanent Mission of Japan, 2016 and also IHRB, 2016a.

human rights by business enterprises not only within the region but also beyond, are reluctant to send a clear signal to business and other stakeholders. Until now, the majority of efforts in the region leading towards NAPs' development or UNGPs' implementation in the broader sense have been led by the National Human Rights Institutions, as is the case in **Indonesia**, the **Philippines** or **Malaysia**¹¹⁵ and the **Republic of Korea**¹¹⁶, which have all developed National Baseline Assessments and even readied strategic frameworks that are now awaiting the government's decision to move forward with the NAPs. This is not surprising as the region's NHRIs were already engaging actively in this topic at the stage of the UNGPs' development¹¹⁷ and were undertaking numerous efforts as follow-up to the UNGPs' endorsement¹¹⁸.

Accordingly, in case of **Malaysia**, in March 2015 SUHAKAM released 'The Strategic Framework on a National Action Plan on Business and Human Rights for Malaysia'. This aims to provide the Malaysian government with a 'policy direction for the formulation of an NAP on Business and Human Rights for Malaysia towards promoting greater respect for human rights by the state and non-state actors including businesses, civil society and individuals and groups affected by adverse business-related human rights impacts', to ensure that Malaysia's transformation into a fully developed country is undertaken in a sustainable manner. The Strategic Framework is also worth noting as an example of UNGPs' implementation promoting activity that was made possible through the partnership and advice from the UN Country Team together with funding from the Foreign and Commonwealth Office. The Strategic Framework is an output of the project initiated in July 2014, whose aim was to formulate and propose a framework for a national plan of action towards the adoption and implementation of the Guiding Principles by both state and non-state actors in Malaysia (SUHAKAM 2015: p. i; Faracik, 2012: pp. 21-22 and 52-58).

In the case of **Korea**, the National Human Rights Commission of Korea (NHRCK) recommended the development of an NAP to the government in 2012 based on UNGPs, a recommendation that was regrettably not followed up on by the government. The effort was repeated in 2016, this time with the NHRCK recommending the adoption of the draft National Action Plan on Business and Human Rights that it had developed for adoption by the Korean government. It is hoped that this will be reviewed positively with the aim of launching the NAP early in 2017. A decision on the roles of establishing institutions is likely to rest with the Ministry of Justice, which will be expected to establish the process and organise a coordination institution. It should be noted that the NHRCK has been active also on other aspects of UNGPs'

¹¹⁵ In Malaysia, the leadership in advancing business and human rights agenda was taken on by SUHAKAM, which already in 2010 decided to give priority to the area of business and human rights. Since then it was undertaking a number of activities ranging from holding a series of forum and roundtable discussions with stakeholders, undertaking research, holding the National Inquiry on the Land Rights of Indigenous People in Malaysia and investigating allegations of infringements of rights impacted by business activities. As one of the key challenges it faced when working on those issues was the low, if any at all, awareness on areas of business and human rights both among the companies and government, it chose to do the necessary baseline assessment itself and recommend that the government formulate a National Action Plan on Business and Human Rights based on this.

¹¹⁶ The situation in Korea is best described by the UN WG HRB in its statement issued at the end of its country visit in May/June 2016, which states that 'there is a political commitment to improve the situation with regard to business and human rights issues, and [...] many government institutions and some businesses share this commitment. However, the implementation of the Guiding Principles has been limited to date and more needs to be done, both by the government and businesses, private and public, to strengthen the protection against business-related human rights abuse at home and abroad.' In practice, Korea is another country where the majority of efforts aimed at UNGPs' implementation, including those aimed at the development of an NAP, is the NHRCK (Government of the Republic of Korea, 2015). Also: email exchange of 29 August 2016 with Kyoung-jae Jho, Human Rights Policy Division, NHRCK, email communication on file with the author.

¹¹⁷ With regard to Asia, a regional consultation was held by the SRSG on Human Rights and Transnational Corporations and Other Business Enterprises in Bangkok in 2006 (Asian Regional Consultation, 2006). Additionally, the Philippines actively participated in a consultation of the Special Representatives with UN member states in 2010 (Special Representative of the Secretary-General, 2010), and the Malaysian Human Rights Commission together with five other NHRIs submitted an intervention in 2010 (Intervention on behalf of six NHRIs from Canada, Denmark, Malaysia, Korea, New Zealand and Venezuela, 2010)

¹¹⁸ For example the South East Asian Forum of NHRIs held a workshop on NAPs in June 2015 in Kuala Lumpur. For other examples of good practices, see Annex I in Faracik, 2012.

implementation, not just the NAP development¹¹⁹. Many of those efforts are also being actively supported by the UN Global Compact Network in Korea, and as was noted by the UN WG after its visit, progressively start to result in good practice among some companies. For example, the Korea Railroad Corporation stated its commitment and responsibility to exercise human rights due diligence beyond its first tier of direct suppliers. It also established a hotline which is available to workers of first, second and third-tier suppliers, conducting on-site visits to monitor compliance of first, second and third-tier suppliers, while additionally requiring suppliers to notify the corporation about any new sub-contracting arrangements.

In **Myanmar/Burma**, while no meaningful action is apparent from the government, for reasons explained above, ICAR and ALTSEAN-Burma formed a partnership to support the development of the NAP, through a project¹²⁰ designed to activate and build the capacity of key partners in the country on business and human rights issues, frameworks and tools. The aim is to create support through a number of workshops hosted across the country, as well as developing and completing a National Baseline Assessment of current business and human rights frameworks' implementation. Utilising data gathered through the completion of the NBA, the project is then aiming to develop key recommendations and priority areas in relation to the content of a prospective NAP, with the process being followed up on by its development. Such activities are supported and stimulated by expert centres such as the Myanmar Centre for Responsible Business¹²¹, which was also responsible for translating the UNGPs into Burmese.

No such activity is evident in **Kazakhstan**, where the only efforts worth noting are awareness-raising events organised or supported by the Dutch or British Embassies in collaboration with the local CSO, the Legal Policy Research Centre¹²².

In **Azerbaijan**, it appears that the only action taken was a pledge given to the UN WG during their country visit that it will undertake efforts to develop an NAP.

While across the region the 'Government ministries and individual businesses, [...] appear to be adopting a "wait and see" approach to NAPs' (CALS-SMU Coalition, 2015), nevertheless some early steps are starting to be visible with **China**, for instance, including some elements of human rights and business in its National Human Rights Strategy launched in 2016. There are also many non-NAP related developments revolving around CSR, such as the CCCMC Guidelines for Social Responsibility Outbound Mining Investment mentioned earlier which were launched in October 2014 (CCCMC, 2014).

¹¹⁹ Since 2012 the NHRCK has focused on deepening the research and assessment of the current situation and undertaking numerous activities in the area of business and human rights aimed at various stakeholder groups. Among the many activities undertaken during this period, worth mentioning is in particular the recommendation of the NHRCK issued in September 2014 to the 117 public institutions (including 30 public enterprises and 87 quasi-government institutions) to apply the 'Guidelines for Human Rights Management and Checklist' to their management practices and to improve vulnerable sectors by conducting self-checks based on the 'check list', which requires them to indirectly encourage human rights management in private companies (big conglomerates and SMEs) through their supply network. Importantly, 115 institutions accepted the recommendation and applied the 'Human Rights Management and Checklist'. Worth noting are also activities aimed at raising awareness and building consensus around the UNGPs, such as undertaking research, translating into Korean relevant documents and publications, carrying out education programmes for executives and employees, developing publications aimed at assising stakeholders in a better understanding of their responsibilities under the UNGPs, as well as devoting the 2015 edition of the Human Rights Management Forum to the theme of the National Action Plan on Business and Human Rights.

¹²⁰ See <http://icar.ngo/analysis/icar-altsean-burma-partner-to-support-the-development-of-a-national-action-plan-on-business-human-rights-in-myanmarburma/>, last accessed on 2 November 2016.

¹²¹ See [Myanmar Centre for Responsible Business website](http://myanmarcentreforresponsiblebusiness.org/).

¹²² In March 2012, the Embassy of the Kingdom of the Netherlands in Astana (Kazakhstan) organised a roundtable meeting on CSR, attended by delegations from many Kazakh companies and government agencies as well as by ministry representatives and members of the parliament. Subsequently, in 2014, an international conference on 'Implementing the UN Guiding Principles on Business and Human Rights in Kazakhstan: strategic view and action plan' took place, organised by the Legal Policy Research Centre with the technical support of the British Embassy in Astana. Further information is available at http://lprc.kz/en/events/international_conference_implementing_the_un_guiding_principles_on_business_and_human_rights_in_kazakhstan_strategic_view_and_action_plan-28.html, last accessed on 2 November 2016.

Another interesting development concerns **India's** voluntary guidelines on CSR that had an enormously positive impact on its stock exchange, as is a paragraph within the ASEAN Comprehensive Investment Agreement (ACIA), which quotes a state's right to advance human rights policies. More fully in this regard, article 17 of the ACIA says that states have the right to adopt or enforce measures that, among other things, address environmental concerns and maintain social order (although in case of the latter, one has to be cautious as the concept of 'social order' has been repeatedly used by various regimes to suppress human rights). The ACIA thus seems to be in line with Principle 9 of the UNGPs, which states that states should 'maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other states or business enterprises' (UN Human Rights Council, 2011b: principle 9).

An interesting approach was taken by **New Zealand**. While there is no intention on the side of the government to develop an NAP, a number of efforts have been undertaken to incorporate human rights concerns into legislation in various areas – an approach that seems to meet with the approval of CSOs and NHRI.¹²³

To make up for the low activity at national level, there are efforts to advance not only the UNGPs but also a CSR agenda at regional level. As external approaches, in April 2016 the UN Working Group organised an Asia Regional Forum on Business and Human Rights in Doha (OHCHR, 2016). Furthermore, as mentioned earlier the EU held its 14th Informal ASEM Seminar on Human Rights on 18-20 November 2014 in Hanoi on the topic of 'Human Rights and Business'. Internally, the local CSR/BHR community produced the first regional thematic Baseline Study on Corporate Social Responsibility and Human Rights that provides a comprehensive assessment on CSR as it relates to the promotion and protection of human rights in the ASEAN region, including the application of international standards in the ASEAN context (Thomas & Chandra, 2014: p. 2).

4.4 Middle East and North Africa

Since 2011, when the UN Human Rights Council, counting at that time among its members **Bahrain, Qatar** and **Saudi Arabia**, unanimously endorsed the UN Guiding Principles on Business and Human Rights, with the relevant resolution of the HRC being co-sponsored by Jordan and Turkey, there has been very limited uptake of the UNGPs in the region. Indeed, if we were to take into account only the governments' activity¹²⁴, we would need to conclude that this is the region where the least is happening in terms of conscious and explicit UNGPs' implementation. While in the UN WG HRB NAP repository **Jordan** is featured as a state where an NAP development process is in progress or there is commitment to its development, such a statement seems merely declaratory and not followed by any concrete action¹²⁵. Limited publicly available data on developments in this region together with numerous reports of human rights violations in the business context and widespread unrest across the region, post-Arab Spring curtailment of basic human rights and freedoms¹²⁶ seem to reinforce this perception. For example only the **United Arab Emirates (UAE)** responded to the UN WG HRB 2016 Survey while only **Bahrain, Morocco** and **Israel** responded partially to the BHRRC Government Action Survey.

¹²³ To ensure awareness raising and capacity building, New Zealand's NHRI has organised in cooperation with the Shift Project a human rights and business forum in 2016.

¹²⁴ There seem to be some CSR organisations in Jordan, such as CSR Watch Jordan (see [website](#)), which addresses issues of relevance to human rights and business, but framing them under societal and workplace issues heading, without explicit reference to UNGPs, and human rights in general. UNGPs are explicitly mentioned on the CSR Watch Jordan website but only among many guidance notes in the resource section.

¹²⁵ There appears to be no easily accessible public data to prove the opposite. Other documents of relevance, such as OECD, 2013, do not mention even in passing the intention to develop an NAP. It should be mentioned however that OECD IPR takes note of a number of legislative and policy initiatives aimed at improving workers' rights, etc.

¹²⁶ For details see for example Business and Human Rights Resource Centre, 2013.

Responses by governments also seem to suggest that little comprehensive understanding of the UN Guiding Principles exists as far as the role of states is concerned, while at the same time in some cases they seem to be convinced that their national legislation goes beyond the UNGPs requirements. Information provided by a few states in their responses to the above mentioned surveys does indicate some progress concerning changes to the national legislation. For instance, **Bahrain** reported that it had become the first nation in the region to grant foreign workers the right to move from one employer to another without the consent of their current employer (Business and Human Rights Resource Centre, 2015a); **Israel** confirmed that since 2011 it has undertaken new business and human rights initiatives, prioritising such types of company impacts as forced labour and trafficking, discrimination, sexual harassment, other core labour rights (including freedom of association and trade union rights) or freedom of expression and the right to privacy (Business and Human Rights Resource Centre, 2015b). On the other end, UAE had undertaken hardly any action¹²⁷. It is left unclear as to whether those changes are part of a more comprehensive approach aimed at aligning a national system of human rights protection with international standards, or rather just a reaction to external pressure by world public opinion.

As in other countries, when it comes to advancing UNGPs' implementation the NHRIs are more active. For instance the National Human Rights Committee of **Qatar** with its meaningful work aimed at improving respect for the rights of migrant workers (Faracik, 2012: pp. 52-53) or **Morocco's** National Human Rights Council¹²⁸, which as an independent institution had led many initiatives to bring together firms, government departments and trade unions to discuss the issue, including holding a forum in 2013 on the topic of Business and Human Rights (Business and Human Rights Resource Centre, 2015c). While in **Morocco** the government has yet to commit to the adoption of the National Action Plan on Business and Human Rights, the preparatory work currently underway under the auspices of the National Human Rights Council refers to the international standards and is being undertaken in consultation with the affected stakeholders (Business and Human Rights Resource Centre, 2015c). Furthermore, in May 2016 the National Human Rights Council signed an agreement with the General Confederation of Moroccan Enterprises to promote human rights in Moroccan companies (National Human Rights Council of the Kingdom of Morocco, 2016), which sets as its main priorities: 1) promoting the United Nations Guiding Principles on Business and Human Rights at the workplace; 2) promoting and improving the employment and employability of people with disabilities; and 3) promoting good corporate practices in ensuring equality between men and women at the workplace. It also includes provisions on child labour, with the aim of raising awareness of Chief Executive Officers (CEOs) and company leaders about this issue in their supply chains.

¹²⁷ The UEA response to the UN WG HRB 2016 Survey (United Arab Emirates, 2016) is rather brief and declaratory in nature. The UEA government response to the survey provides no information about any specific efforts aimed at implementing the UNGPs and developing a National Action Plan in this area. It rather informs that business laws and policies and the litigation system in the UAE guarantee the right to litigate to all those living in the UAE without discrimination, including on the basis of nationality. Labour law guarantees workers' rights and the judicial system guarantees the transparency and efficiency of legal processes. It also stresses that the state takes strategic measures to monitor, review and evaluate systems, processes and laws continually with a view to improving them when necessary. Business laws guarantee that every person has the right to litigate, to demand compensation, to appeal against court rulings, the right to full insurance in case of accidents and disability, in line with international practices. The state prohibits administrative or legal barriers or intimidation to prevent workers from claiming their rights. It highlights that the government-owned or controlled companies are governed by the same laws as other private companies – which seems to suggest that the government does not see the potential in leading by example by requiring the State-Owned Enterprises to do more in terms of respect for human rights and transparency. The UEA reply also informs that the laws adopted by the Ministry of Labour are in line with institutional strategies and are constantly reviewed and amended if necessary, while the country has institutional structures in place which guarantee that implementation is carried out through expert task forces. Finally, the reply welcomes the representatives of the Human Rights Council to visit the UAE to assess the work, legal and judicial environments and systems which go beyond the Guiding Principles.

¹²⁸ The Kingdom of Morocco National Human Rights Council was established to reinforce and consolidate the rule of law and the institution-based state. More information available is on the [Kingdom of Morocco National Human Rights Council website](#).

4.5 The Americas

The Americas are the only region apart from the EU in which already two countries – **Colombia** in 2015 and the **USA** in 2016 – have adopted a National Action Plan on Business and Human Rights; several others have either initiated the NAP development process (**Argentina, Guatemala**) or are close to publishing it (**Chile** and **Mexico**). **Brazil**, which has not yet adopted a National Action Plan, is nevertheless planning to hold a public consultation aimed at identifying the main challenges to the implementation of the UNGPs and to map existing good practices (Government Action Platform).

Since 2015, **Colombia** bears the honour of being the first country in the Americas to launch a National Action Plan on Business and Human Rights. The strong side of its NAP, in the development of which Colombia was assisted by DIHR, is that it clearly assigns each action to be carried out to a specific ministry with a concrete timeline and establishes a system of evaluation and follow-up, with the involvement of a dedicated Advisory Body. However, a weakness of the process is that it was developed without undertaking a proper National Baseline Assessment, which makes it somewhat arbitrary in the selection of priorities and sets.

The **Chilean** government is one of the governments that decided to join the group of states which developed the NAP under its own initiative, hoping to complete the process by 2017. What needs to be stressed even more is that **Chile** is the first country in the Americas that will develop an NAP based on an independent assessment of the state of affairs in the country, namely a National Baseline Assessment (Schönsteiner et al., 2016), developed by an impartial, academic institution (the Centre for Human Rights of Universidad Diego Portales). As with the majority of cases during the development of an NBA, the Chilean NBA follows the ICAR-DIHR Toolkit methodology with some modifications to take into account the specific country context and to allow for extensive interviews with relevant actors. As in the majority of other cases, the funding for the NBA development is also provided by DIHR. The NBA also provides suggestions as to the NAP development process, including the need for extensive stakeholder consultations; this process will include dialogue with all stakeholder groups, including indigenous peoples. Furthermore, DIHR has partnered with the Human Rights and the National Human Rights Institution of Chile to develop the Country Guide, which goes beyond being general human rights guidance for business and provides key input for the elaboration of Chile's National Action Plan on Human Rights and Business, which is one of several initiatives that have resulted from the Country Guide process development. This guide provides a baseline assessment of business impacts in Chile, which helps to inform the elaboration of the Action Plan, and has also been used to identify local recommendations for the government to consider in the elaboration of the NAP. There are also plans to use it in various multi-stakeholder events with the aim of facilitating dialogue between different stakeholders and building capacities (DIHR, 2016a).

While in the case of **Colombia**, which was keen to keep its image as a regional leader, the NAP development process was government initiated, in the case of other countries the governments' decisions to engage in the NAP process needed some push and inspiration not only from CSOs and NHRIs but also from a regional organisation, the Organization of American States. A helpful role was also enabled by the UN WG member coming from the region, who engaged extensively with various stakeholders including government representatives. Additional support and encouragement came with regard to America from the Danish Institute for Human Rights, which has been working very closely with a number of states, with the DIHR-ICAR NAP's Toolkit being used for instance in **Chile, Colombia, Guatemala** and **Mexico**, and DIHR having established Memorandums of Understanding (MoU) with **Chile, Mexico** and (indirectly) **Colombia**¹²⁹.

¹²⁹ In the case of Colombia, DIHR collaborated with the government through Fundacion Ideas Para la Paz, with which it signed a MoU.

Interesting is the case of **Mexico**, which plans to launch its NAP in 2017. In Mexico the NAP development process was provided with assistance on the side of civil society by ICAR supporting a Mexican CSO, PODER, and on the government side such support being provided by DIHR, which for example developed the Human Rights and Business Country Guide for Mexico to help the government identify the main human rights impacts of business and define actions under Pillar 2 of the National Action Plan (DIHR, 2016a)¹³⁰. PODER, supported by ICAR, is currently developing the National Baseline Assessment, which the government intends to acknowledge and treat as an official NBA. The government points out that the assessment made by CSOs and NHRIs will be trusted more, and thus will be more likely to form an agreed departure point for discussions on what actions the National Action Plan should cover. To complement the picture, the Mexican government will also be profiting from the experience and support of Switzerland.

As far as North America is concerned, while **Canada** has so far not expressed its intention to develop an NAP¹³¹, the government of the **United States of America** has launched its first National Action Plan on Responsible Business Conduct in December 2016. The USA has embarked on its NAP journey in April 2013, following the President's announcement of the US National Action Plan on Responsible Business Conduct, not without a push from the side of civil society, when it published a policy document entitled *US Government Approach on Business and Human Rights*. That document and the ongoing actions of the government in support of the Guiding Principles demonstrate the government's commitment to the Principles (US Department of State, 2013). The White House National Security Council (NSC) was designated to lead and coordinate the US government's efforts to develop the NAP. It convened the US government interagency meeting in fall 2014 in order to map out the development of the NAP, including US interagency collaboration and stakeholder outreach. From the beginning, the NSC-led NAP process included a wide array of executive branch agencies that work on aspects of responsible business conduct (RBC), including in the form of working groups on: 1) human rights; 2) labour rights; 3) trade, tax and investment; 4) procurement; 5) transparency and anti-corruption; and 6) land tenure and agriculture. In total, more than a dozen agencies were involved in the development and drafting of the NAP (US government, 2016: Annex I). The US NAP reporting process has received rather positive comments, particularly in regard to its full transparency with all key information available on the dedicated website developed by ICAR (civil society)¹³², and broad involvement of stakeholders not only from the capital but also across the whole country through a series of multistakeholder meetings, organised with the stakeholders' active participation¹³³. It was also commended for creating a dedicated email address for stakeholder input on the NAP and for keeping online consultations open throughout the process – although from the NAP's process coordinator's perspective this proved to be of little use and rather distracting, as in practice most relevant comments and suggestions on the NAP's contents were provided

¹³⁰ The Mexico Country Guide was produced by DIHR not only as a guidance for business, but also with the aim of supporting in elaborating Mexico's National Programme on Business and Human Rights (NPBHR), by providing a baseline assessment of business impacts in Mexico, which help to inform the elaboration of the NPBHR to be launched in 2017. As such, it is an official deliverable to Mexico's Ministry of Interior (Secretaría de Gobernación), which is responsible for developing and implementing Mexico's NPBHR. The Mexico Country Guide was produced with the support of the Swiss Ministry of Foreign Affairs. See more at: <http://hrbcountryguide.org/2016/11/new-country-guide-for-mexico-live-now/#sthash.YgYMeXBK.dpuf>, last accessed on 9 December 2016.

¹³¹ It should be mentioned that this approach is accepted by the local Civil Society Organisations that prefer the government to streamline human rights in relevant legislation instead of devoting attention to developing the action plan. On the other hand, CSOs, and in particular the Canadian Network on Corporate Accountability (CNCA) is pushing the government to start such meaningful action with the creation of an independent ombudsperson office for the extractive industries, and even have developed the model legislation. For details see: CNCA, 2016a, CNCA, 2016b.

¹³² See [US National Action Plan website](http://hrbcountryguide.org/2016/11/new-country-guide-for-mexico-live-now/#sthash.YgYMeXBK.dpuf).

¹³³ Consultations, co-organised in each case by academic institutions, CSOs, business organisations under the auspices of the US Department of State, were held in New York, Berkeley, Norman (Oklahoma) and Washington D.C. and focused on issues and sectors dominating and most challenging in the given region (agriculture, IT, etc.). The events were bringing together representatives of all stakeholder groups, with the final consultation in Washington attracting over 200 participants.

during the four main consultations, with the online submission service often being misused to send enquiries or complaints.

It should be stressed that the whole NAP development process was very strongly supported in numerous ways by all groups of stakeholders, and in particular by the American Civil Society Organisations, notably ICAR. ICAR not only created the aforementioned website dedicated to the process, but also published a *'Shadow' National Baseline Assessment for Pillar I and III of the UN Guiding Principles on Business and Human Rights for the United States* (ICAR, 2015), together with recommendations for a wide range of government agencies, and played an active role in organising the regional consultations involving government departments, business, civil society, labour and industry organisations and academia¹³⁴.

The US NAP is interesting in that it looks at the broader picture of promoting and incentivising responsible business conduct, and is not so specifically focused on human rights and the implementation of the UN Guiding Principles on Business and Human Rights. It also covers a broad range of issues including but not limited to: human rights, the rights of indigenous peoples, labour rights, land tenure and property rights, anti-corruption, transparency as well as environmental issues to the extent that they overlap with RBC. The US NAP is organised into five categories of action:

1. Leading by Example (includes promoting responsible business conduct and the UNGPs globally, including through multilateral agreements and diplomacy, leveraging the US government's purchasing power to promote high standards and conducting due diligence in US developing funding and trade finance);
2. Collaborating with Stakeholders (supporting, promoting and improving the value of key multi-stakeholder initiatives, and initiatives to promote workers' voices through global supply chains including new reporting tools to empower workers to directly report issues in federal supply chains to relevant government departments);
3. Facilitating RBC by Companies (includes improving the government's provision of country-level profiles to support better due diligence by companies, additional training for diplomats on responsible business conduct issues, capacity building and technical support around key issues, and support for voluntary reporting by companies on responsible business conduct);
4. Recognising Positive Performance (new initiatives to recognise best practice);
5. Providing Access to Remedy (exploring and enhancing platforms for remedy including improving the performance of the OECD National Contact and stakeholder consultations on improving access to effective remedy).

Each of them contains descriptions of the US government's ongoing and future commitments and initiatives to further RBC. Yet even though the first US NAP is a good start towards UNGPs implementation, it is not free from the weaknesses of other NAPs, with the majority of actions outward facing and the NAP relying too heavily on existing laws rather than introducing new laws and policies, with rather few bold new actions to address the challenges posed by business activity on human rights (see for example ICAR, 2016).

¹³⁴ More information on the US NAP from civil society is available at: <http://nationalactionplan.us/>. The website contains the 'Shadow' National Baseline Assessments for the United States, ICAR's recommendations for the content of the NAP, and links to written submissions provided to the US government during the NAP draft process.

5 UNGPs' implementation and National Action Plans' development: challenges and opportunities

Numerous factors impact both positively and negatively on states' willingness and ability to undertake actions resulting from meaningful implementation of the UN Guiding Principles.

5.1 Drivers of the UNGPs' implementation by states

What drives the UN Guiding Principles implementation by states is, in some cases, the (positive) **willingness to be a leader** on this issue(s) in a particular region (for instance, Kenya, Colombia, the Netherlands and the UK). The emergence of a regional leader, and proof that 'it can be done', can in turn initiate (a positive) competition in the region as to which country will be next or which NAP will be better.

It is just as important to **have an internal leader within the public administration** who is committed to advancing the human rights and business agenda internally, is trusted and engaging with all relevant internal and external stakeholders on regular basis, as for example in Kenya, or as was the case in the EU at the time of the 2011 EC Communication on CSR adoption and implementation. The higher the position such a leader holds in the public administration hierarchy, the greater are the chances of implementation succeeding.

An important role in driving the UNGPs' implementation can also be played **by the international organisations** both at global level (United Nations) and at regional level (EU, CoE, OAS). Yet, while this can be a positive role, in their responses to the survey carried out by the BHRRRC in 2015 some of the governments pointed out the political limitations imposed by foreign governments or multilateral institutions as being one of the challenges affecting their ability to implement UNGPs.

The UN system's role and in particular that of the UN Working Group on Business and Human Rights in providing support in UNGPs' implementation has already been addressed a number of times in this paper (see, for instance, guidance development and providing expert advice by the UN WG HRB, technical assistance provision by the OHCHR and UN country teams, guiding role of the Concluding Observations and General Comments issued by the UN human rights treaty bodies, experience sharing and elements of peer-to-peer learning during the annual Forum on Business and Human Rights). However, it is worthy of mention that were it not for such support, particularly in the form of technical assistance and funding being provided to promote specific processes and work, many states would not have the capacity to undertake efforts in areas which they did not initially understand.

At **regional level**, the EU leadership, regulations and encouragement addressed directly to its member states was instrumental in the countries from this region being the first to develop NAPs. Several of the interviewees working on human rights and business in Latin America also highlighted the instrumental role of the OAS resolutions in securing some of the states' interest in the region to look closer at the UNGPs' implementation.

Setting clear expectations *vis-à-vis* member states of a regional international organisation (as is the case with the Council of Europe Recommendations on business and human rights adopted in 2016), together with the adoption of relevant regulations at regional level (as was the case with the EU Non-Financial Reporting Directive [Directive 2014/95/EU] or 2014 Public Procurement Directives – even if they are not as strong as civil society would wish them to be) can also have a positive impact on decisions and the uptake of UNGPs or, more broadly, the human rights and business agenda. This can inspire states that aspire to this regional Intergovernmental Organisation (IGO) (e.g. the EU) membership to undertake efforts aimed at aligning their regulations and approach to that of the IGO, and thus even if indirectly incorporate elements that improve human rights and business establishment in the country (as for example in Serbia).

Additionally, **support from individual states** plays an important role in some countries taking the final decision of moving from talking about the need for implementation to actual implementation. Among the activities that individual states can undertake is raising the issue of UNGPs' implementation in the context of bilateral talks, in multilateral fora or in the framework of the Universal Periodic Review (in the form of concrete recommendations), ideally at the same time as offering their support (as was the case with Norway using Kenya UPR to recommend the adoption of an NAP, and simultaneously expressing its readiness to share its own experience from the process). Support can range from providing technical assistance, engaging in peer-to-peer learning exercises, information sharing, job shadowing and wherever possible individual cooperation, if necessary providing funding for specific activities forming part of the process (e.g. development of the National Baseline Assessment, organisation of consultations with stakeholders, or workshops to assist national authorities, etc.). A good example in this respect is provided by the cooperation between Norway and Kenya¹³⁵, the support provided by Sweden via UNDP to advance work on NAPs in Asia, as well as US support for actions by CSOs in East African countries.

Last but not least, tragedies initiated by human failure such as Rana Plaza¹³⁶, Deepwater Horizon (Pallardy, 2010), and the Maricana massacre (Smith & Macalister, 2012), also drive at least some states to put in place measures for preventing such tragedies in the future, including those presented through the UNGPs' implementation.

5.2 Challenges to the UNGPs' implementation by states

Bringing a state to a position where it declares its intention to develop a National Action Plan implementing the UN Guiding Principles is one thing. To keep it on this track and undertake efforts leading to the NAP's development is something entirely different. This is not made easy by a number of challenges faced by those states willing to engage with their own human rights and business agenda.

One of the key challenges to the implementation of the UN Guiding Principles is the lack of awareness about the UNGPs themselves together with the broader human rights and business agenda not only among government officials, but also other stakeholder groups. Not least due to the lack of awareness, this automatically goes hand in hand with challenges of coordinating across government departments. This problem has been well recognised by the SRSG in his Recommendations on Follow Up to the Mandate (Special Representative of the Secretary-General, 2011), in the UN SG report A/HRC/21/21 (UN Human Rights Council, 2012), which stressed that the 'lack of capacity among states, business enterprises, national human rights institutions and other actors in the area of business and human rights [...] is a key challenge to ensuring the implementation of the Guiding Principles in practice', by the UN Working Group and in various other fora, including the annual UN Forum. This led to the idea of setting up a global fund for raising awareness and enhancing the capacity of stakeholders to implement the UNGPs, which even gained the support of business circles.

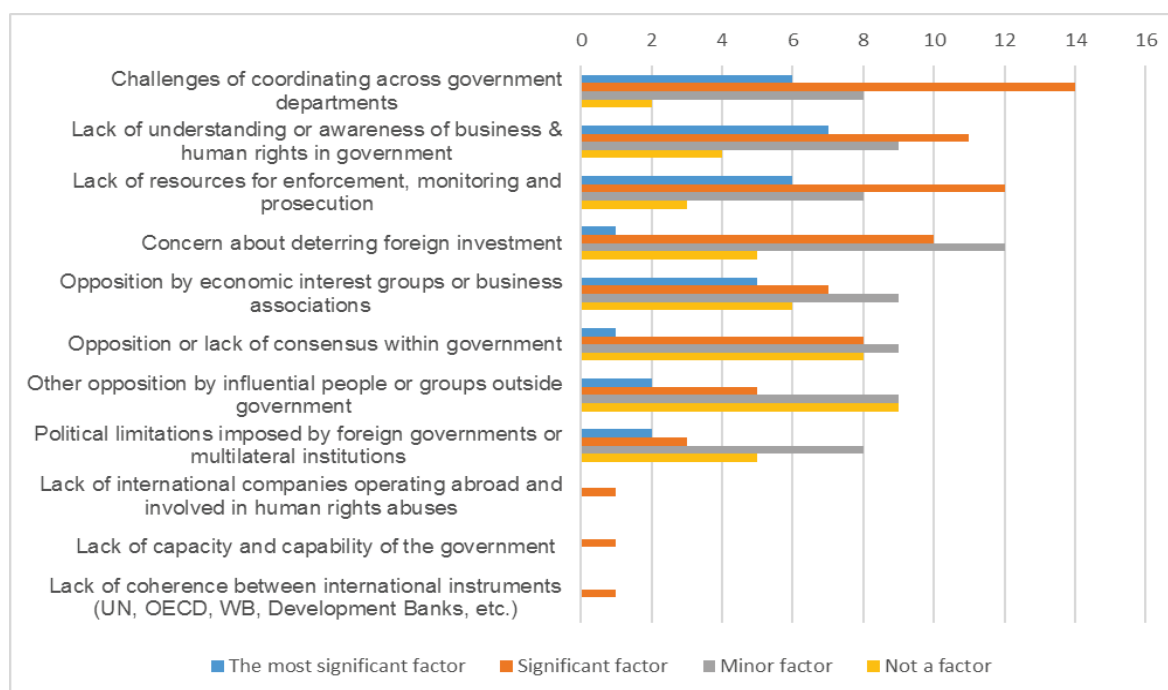
It cannot be denied that the human rights and business discourse has reached well beyond the usual crowd gathering at the UN Human Rights Council sessions, and has also become a legitimate topic for discussion in such new groups as, for instance, the institutional investors circles (Rees & Davis, 2016). This was possible thanks to the efforts undertaken by various stakeholders, including progressive companies, and not least due to the regulatory developments influenced by the UNGPs' endorsement that are driving human rights' due diligence through global supply chains, such as the US federal government procurement requirements on trafficking and the UK Modern Slavery Act. Yet the almost 2 000 participants that the UN Forum brings every year to Geneva still represent a relatively small circle of stakeholders, experts and businesses that should be familiar with issues covered by the UNGPs if the world is to see change. Thus,

¹³⁵ Interview with Maryann Njau-Kimani, Department of Justice, Kenya. Notes on file with the author.

¹³⁶ See e.g. The Guardian collection of news devoted to Rana Plaza collapse available at <https://www.theguardian.com/world/rana-plaza>, last accessed on 2 November 2016. See also footnote 53.

single CSOs, as for instance in Serbia, Uganda or Poland, working to raise awareness of all stakeholders in the country around UNGPs are not really enough.

Factors impeding states' ability to take action on business and human rights



Source: Business & Human Rights Resource Centre, Government Action Platform, Country responses to the BHHRC surveys. Number of responding states: 30, <https://business-humanrights.org/en/government-action-platform>, last accessed on 2 November 2016 (For details see Annex 2)

Regardless of the geographical location, the lack of awareness and expert capacity is often coupled with another factor indicated by the majority of states and interviewees as one of the key challenges: the lack of resources, both financial and human, not only to be able to develop necessary policies, including NAPs, and regulations, but also to ensure their effective implementation, enforcement and monitoring. If the situation is relatively good in one area, in that there exists a fairly good regulatory framework, the key challenge might be the effective implementation and enforcement of laws governing corporate behaviour (Human Rights Resource Centre, 2013: p. 29) For instance, in the case of ASEAN, states have fairly robust legal frameworks governing the core areas of land, labour and the environment despite there still being room for improvement.

It is also almost pointless to adopt specific laws, for example in the area of environmental protection, and require Environmental Impact Assessment to ensure that companies' activities will not cause adverse impact on the local populations' rights to health or water, when the public authorities are lacking funding to purchase the equipment necessary to verify contamination levels in the field or are not able to employ sufficient numbers of staff to undertake such verification, as is for example the case in one of the African countries examined for the purpose of this study.

Another major factor impeding a state's ability to undertake meaningful action regarding UNGPs' implementation is the fear of deterring foreign investment¹³⁷, lack of good governance and prevalence of

¹³⁷ For example, if a country is competing with other countries in the region with cheap labour, efforts to ensure that human rights are respected in the context of business might require introduction or increase of the minimum wage. This in turn will make the country less competitive for potential investors.

corruption, as well as political limitations imposed by foreign governments or multilateral institutions¹³⁸, mentioned earlier. Interestingly, while many of the responding governments pointed to opposition by economic groups as an obstacle to progress, companies responding to the business version of the BHRRC survey often indicated weak government frameworks and enforcement as a challenge. Germany was an example of the first case, where particularly traditional large business associations seemed to have been taking much more conservative stances than some of their member companies would do individually. That being so, perhaps governments should try to gain insights into the positions of individual business companies for instance via surveys (as has been done e.g. by the Polish Ministry of Finance in the course of preparation for the transposition of the EU Directive on the Non-Financial Reporting), as well as investing into raising awareness and understanding not only of the human rights impacts but also the economic cost of not respecting them for the companies. It is in fact a recurring theme: for some reason governments are convinced that business is against any additional regulation, whereas business is regularly stressing in various fora that what it is against is bad and insufficiently thought-through regulation, but that it would welcome regulations that would help to achieve a level playing field for all market actors. Misperceptions could have to do with wrongly perceived protectionism, fear of not being attractive to investment, or unwillingness to undertake additional legislative action that would require establishing a verification mechanism. It is interesting to note on this issue the approach that Kenya's representative presented at the 2016 UN Forum on Business and Human Rights. It is likely that raising labour standards in one country in the region would make it less attractive to investors. His government was undertaking efforts to convince other countries in the region to raise their standards at the same time, so that the whole region can guarantee the protection of basic human rights without losing attractiveness, as the playing field will remain level across the region of interest for the potential investors.

5.3 Overcoming obstacles to UNGPs implementation

Judging by the states' responses to the BHRRC survey, there is no denying on their side that there is a clear need for stronger co-ordination within governments as well as across governments and businesses together with other stakeholders to protect vulnerable people.

In fact, many of them confirm very clearly that they would welcome wide-ranging support to help them advance actions resulting in improvement of companies' impacts on human rights, including:

- Awareness-raising;
- Capacity building activities (including those amongst states and other key stakeholders on how to reach out to and motivate business enterprises still not familiar with the Principles, through NAPs or other policy measures);
- Business and Human Rights events;
- Technical assistance and training;

¹³⁸ While the states responding to the survey did not provide a more detailed explanation of what those political limitations imposed by foreign governments or multilateral institutions are in their opinion, one can assume that some of the limitations in the decision making by states are caused by the international investment agreements they have entered at an earlier date, be it Free Trade Agreements, Bilateral Investment Treaties or agreements developed within the World Trade Organization's system, the majority of which were developed without due consideration for human rights. Certainly this area would profit from more in-depth examination of its own, as such political (or legal) limitations imposed by states or multilateral institutions on states' ability to ensure protection and respect for human rights in business context are in clear contradiction with the UNGPs, and in particular Guiding Principle 9 and Guiding Principle 10, which clearly states that 'States, when acting as members of multilateral institutions that deal with business-related issues, should: a) seek to ensure that those institutions neither restrain the ability of their member states to meet their duty to protect nor hinder business enterprises from respecting human rights; b) encourage those institutions, within their respective mandates and capacities, to promote business respect for human rights and, where requested, to help states meet their duty to protect against human rights abuse by business enterprises, including through technical assistance, capacity-building and awareness-raising.'

- Study visits;
- Experience, knowledge and best practices sharing and collaborative learning with countries that have similar characteristics although some cross-regional learning was also of interest (e.g. during the UN Forum or during AU-EU meetings).

Some countries have indicated as particularly useful holding awareness-raising events aimed specifically at those government bodies that are not traditionally active in the area of human rights to contribute to building consensus across various departments. Others stressed that seminars and workshops should be organised in such a way as to ensure an active participation of the public, private and social sectors together with non-state actors to enable capacity building.

Based on comments made by some of the people interviewed for this study, it does appear that government officers in charge of the UNGPs' implementation do use occasions such as the annual UN Forum and traditional diplomatic channels to exchange experiences with their counterparts involved in similar jobs elsewhere. Nevertheless it might be useful to create an informal network of government officers in charge or involved in their countries' NAP development, perhaps somehow administered by the UN WG or at the regional level (e.g. in Europe with support of the Council of Europe information sharing platform – when it is created), to facilitate information exchange also beyond the regional or global conferences and workshops. The practicality of having a dedicated online forum for such a network engaged in NAPs' development was rejected by the majority of interviewees. Despite this, the organisation of dedicated workshops focused on experience exchange, sharing lessons learned in the process as well as best practices, for example on the margins of the annual UN Forum on Business and Human Rights or on the margins of regional meetings was assessed as useful. One such regional gathering is the EU Roadmap to Business and Human Rights Conference organised by the Dutch government¹³⁹.

As a tool that would be very useful in assisting states' efforts to develop their NAPs, the creation of a database of best practices and case studies of what has worked from governments and businesses, particularly on access to remedy, was suggested. This would link individual principles with relevant best practices, which states have foreseen either in their National Action Plans, or through other non-NAP but UNGPs related initiatives (regulatory, promotional, etc.). The good news is that such a database is currently being developed by ICAR and DIHR, and is likely to be released soon¹⁴⁰. Additionally, evidence-based research about key issues and challenges in different country contexts could be useful in helping states to identify where to start and what issues to prioritise.

Other types of support that could contribute to an improved implementation of the UNGPs include the development of campaigns to raise public awareness about human rights together with business and corporate responsibility issues, in order to create a general support for the efforts aimed at improving business conduct. At international level, ensuring greater coordination among UNGP initiatives and continued increased coherence between international instruments (UN, World Bank, Development Banks, OECD, etc.) should lead to harmonising expectations and producing a level playing field.

6 Conclusions and recommendations

There is no doubt that the unanimous endorsement by the UN Human Rights Council of the UN Guiding Principles on Business and Human Rights (UNGPs) was a milestone achievement. Without the UNGPs providing a framework for discussion accepted by all stakeholders and additionally endorsed unanimously by the UN body, the discussion about advancing human rights respect in the business context would not have progressed so far. The unanimous endorsement by the UN body made the UNGPs a legitimate

¹³⁹ See [EU Roadmap to Business and Human Rights Conference website](#).

¹⁴⁰ The future tool is expected to be available on the following website: <http://globalnaps.org/>.

document to be taken up in discussion with states around the world, that otherwise would not even enter into discussion about human rights and business. We would also not be discussing the quality of National Action Plans on Business and Human Rights, as they simply would not exist. Similarly, it is unlikely that we would have been discussing the best ways for companies to conduct human rights due diligence and the role of states in enforcing it, although possibly another framework would have appeared that would help us to move beyond the 2003 Draft UN Norms divide.

The UNGPs have already made possible much constructive discussion and generated a willingness to listen to other stakeholders' arguments which has in turn contributed to increased awareness of the issues and led to better understanding, building trust and engagement among those who previously, in some countries, would not even sit at one table together. Just this in itself would have been quite a spectacular achievement particularly given the human rights and business agenda's troublesome history at the UN that takes us back to the mid-1970s. None of the documents elaborated before the UNGPs have engaged such wide audiences beyond those attending the UN HRC and they have also spurred development of many tools (guidance documents, reporting frameworks, etc.). Even though many of them are imperfect, they are nevertheless helping stakeholders to move in the right direction and our main worry lies rather in improving them and ensuring that they are fully aligned with the UNGPs, and not lacking buy-in from various stakeholder groups.

Yet, five years on, despite the progress achieved by many governments and companies, business-related human rights abuse is still a serious problem. Thus further implementation of the UNGPs and related instruments is necessary, with special emphasis needed on access to remedy and justice for victims of business-related abuses. Here, further attention should be paid by states to the guidance offered in the Report of the United Nations High Commissioner for Human Rights (United Nations High Commissioner for Human Rights, 2016). At the Council of Europe level significant and well-intended effort should be put into making the CoE Council of Ministers Recommendations genuinely effective.

Certainly, less declaration and more real political will is needed on the side of governments, as so far their commitments to develop National Action Plans implementing the Guiding Principles have been far too slow to materialise, despite the availability of the relevant guidance. Twelve NAPs launched in the course of five years since the UNGPs endorsement is not impressive, particularly given that ten out of them come from one region, namely Europe. It is time to put action into NAPs. While the 'second wave' of NAPs that came up in December 2016 (Italy, Switzerland, USA and Germany) helped to keep the momentum, and also the number of ongoing processes is promising, particularly in South America, we have yet to see how meaningful and future action-oriented their outcomes will be. It is of particular concern that only in a very few cases have governments undertaken implementation efforts without being prompted by external actors. From this point of view, very inclusive and open processes such as the ones in Kenya (close collaboration of government, NHRI and CSOs as well as other stakeholders), Mexico (strong civil society contribution to the government-led process) and to some extent also in Malaysia and Korea seem to offer the most promising examples, giving hope for concrete outcomes. Additionally, the promising non-NAP related non-regulatory and regulatory developments particularly in the area of public procurement, non-financial reporting, supply chain monitoring or limiting demand for human trafficking should be widely disseminated as possibly inspiring examples for other states to follow. Particularly those states that have so far ignored the UN treaty process should consider joining the discussion in good faith to help create a meaningful and complementary process that starts where the UNGPs end. At the same time, states calling for an internationally binding treaty should undertake meaningful domestic efforts to improve business respect for human rights, lest they be accused of hypocrisy.

There is still plenty of scope for regional organisations to support the work of national states not only by providing guidance but also by setting examples in developing more visionary and future-oriented regulations concerning human rights due diligence as well as corporate accountability for adverse human

rights impacts that genuinely and effectively contributes to a greater respect for human rights, ensuring socially, economically and environmentally sustainable global development. In the past there were far too many cases where during negotiations states were behaving as if it was merely an exercise in who can water down draft legislative proposals more, with the result that many opportunities were missed, as was the case with the EU Non-Financial Reporting Directive. It is also time for governments to take up their roles in recognition of growing demand from their populations. The Swiss Coalition for Corporate Justice-led [Responsible Business Initiative](#)¹⁴¹, for instance, called on the Swiss government to implement key elements of the UN Guiding Principles into Swiss law by turning the Corporate Responsibility to Respect into a legal obligation. This introduced mandatory Human Rights Due Diligence and provided an enforcement mechanism by slightly expanding tort law to make parent companies liable for human rights and environmental damage caused by subsidiaries and other controlled entities whilst additionally allowing the use of HRDD as a defence.

Finally, change can be made possible only if states undertake concerted efforts to overcome basic barriers resulting from lack of awareness, capacity and resources dedicated to the UNGPs' implementation. At present, apart from the UN Working Group activity (which, one should note, is undertaken as a free service by its members) and technical assistance offered by the OHCHR, the majority of awareness-raising and capacity-building work worldwide is made possible (often by NHRIs such as the Danish Institute on Human Rights) thanks to funding from the UK, Norway, Denmark¹⁴², Netherlands and Switzerland, together with efforts and funding secured by the Civil Society Organisations. This is due to change somewhat thanks to the major funding made available via the European Instrument for Democracy and Human Rights (EIDHR) both in the currently ongoing call for proposal as well as through substantial grant allocated to NHRIs, which includes Human rights and business as a thematic component. Yet even this makes only a very small contribution towards the total needs. So while applauding the EU and in particular the Commission's DG for International Cooperation and Development (DEVCO) for allocating funding to the Business and Human Rights priority (and calling for more) as well as aforementioned governments for their engagement in knowledge and experience sharing together with their generous funding support both in terms of enabling raising awareness and capacity building around the world, it is time for the international community to call also on other states to meet their duties as described in the UNGPs.

6.1 Recommendations to the European Parliament

Of all the EU institutions, the European Parliament remains the most progressive, as evidenced for example by the recently adopted European Parliament's resolution of 25 October 2016 on corporate liability for serious human rights abuses in third countries ([2015/2315\(INI\)](#)) (European Parliament, 2016a)¹⁴³, which recognises that 'effective control and sanction mechanisms remain a challenge in the worldwide implementation of the UNGPs' and highlights the EU and EU Member States' legal responsibility to assure human rights protection from negative business impacts, within and outside the Union, and, where abuse has occurred, facilitate justice for victims. Giving priority to access to effective remedies for victims, the

¹⁴¹ In October 2016, the Swiss Coalition for Corporate Justice (SCCJ) had officially filed the Responsible Business Initiative supported by 120 000 validated signatures, which was launched in April 2015. The requirements for a Swiss citizen initiative that is to be submitted for a referendum are to collect 100 000 validated signatures within 18 months. The government has now time until next summer to position itself. The initiative will then be discussed by Parliament before finally being put to the public vote around late 2018-early 2019. 89 % of the population signaled agreement with the core demand in a recent survey. Further information is provided in Swiss Coalition for Corporate Justice, 2016 and in Mombelli, 2016.

¹⁴² While it was not pointed out earlier, the Danish government by providing funding to the DIHR that is one of the most active, if not the most active organisation supporting NAPs development in various parts of the world, is also contributing to the UNGPs' implementation worldwide.

¹⁴³ The European Parliament adopted the resolution on Corporate liability for serious human rights abuses in third countries with an overwhelming cross-party majority of 569 votes in favour, 54 against and 74 abstentions.

resolution invites also member states and the EC to analyse existing barriers to justice and take 'judicial, administrative, legislative' measures to eliminate them. Importantly, it also includes *inter alia* calls on the EU and its member states to introduce mandatory human rights due diligence for businesses, with immediate concern areas being State-Owned Enterprises, public procurement or public-private partnerships; recommendations to the EC to include and elaborate on the minimum essential elements to disclose in the guidance for companies on the new non-financial reporting requirement – something that is opposed by at least some of the EU member states (para. 23), as well as calls for introducing and promoting the 'abuse-free' label. The resolution also calls on the EU and member states to engage constructively in the process towards a binding UN Treaty on Business and Human Rights. Last but not least, the EP also points to the importance of assuring a coherent EU position on business and human rights 'at all levels', throughout all trade policies, relations and agreements, and calls on the EC and the members states to include 'rules on corporate liability for violations of human rights' in all trade and investment agreements.

The recommendations provided below should, therefore, be treated as an add-on to the work that the Parliament is currently doing and should continue to do.

6.1.1 Recommendations oriented at the European Parliament's own action

The European Parliament should:

- Ensure that human rights standards and principles, as described by UN Guiding Principles on Business and Human Rights, are explicitly incorporated in its future documents concerning CSR, human rights and business and also feature in policy documents relating to Trade, Development Aid such as the European Consensus on Development, as well as other relevant areas. The EP should also ensure that its recommendations for other institutions and member states are consistent with the guidance provided in this respect by the UN Working Group on Business and Human Rights;
- Continue to call for a higher level of human rights protection and access to remedy for the victims of human rights abuses by companies, in the legislation processes leading to the adoption of regulations and directives of relevance to business and human rights (as was the case with e.g. the regulations concerning conflict minerals), as well as to promote new legislation processes;
- Support the Green Card initiative launched in May 2016 at the inspiration of the French National Assembly and call on the European Commission to develop a legal proposal on a duty of care for European companies, which should prevent and repair abuses towards peoples and communities, whose rights and environment are impacted by European companies' activities;
- The European Parliament should call for allocation of appropriate EU funding for the translation of the UN Guiding Principles into all EU member states languages. Only in the case of a few EU states were the UNGPs translated into national languages to make them accessible to the local population and SMEs. The translation of the UNGPs would contribute significantly to a wider uptake and knowledge of the UNGPs and thus contribute to their greater implementation;
- Continue exerting pressure on the EC and monitor developments leading to the development of the European Action Plan on Business and Human Rights, which was first announced to be developed in the 2011 Communication on CSR;
- Ensure that it holds discussions about human rights and business, and UN Guiding Principles in particular, on a regular basis, to stimulate the discussion within the EU on those issues and to monitor the progress in the states' and the EU institutions' implementation of the UNGPs;
- Support and help organise an EU-wide public campaign promoting the UN Guiding Principles and the need to ensure business respect for human rights in its day-to-day activities;

- Consider organising a joint event dedicated to Human rights and business together with the Council Of Europe Parliamentary Assembly, to familiarise MEPs and delegates with the UNGPs but also with the tools and guidance developed by the EU and Council of Europe (in particular the 2016 CoE Recommendations on business and human rights) in order for them to be able to take this topic further to the national parliaments and stimulate the discussion at the national level, in the national parliaments;
- Consider including the issue of human rights and business, and the UNGPs' implementation in particular, as a specific topic on the agenda of the EP's missions to third countries and MEPs' visits to other countries and other meetings/events, contributing to raising awareness. The EP could also consider extending support for organising training and workshops on the margins of the bilateral or multilateral parliamentary events, to raise awareness of this topic among parliamentarians from other regional organisations and individual states. If such activities are undertaken, it should be ensured that there is sharing of a list of key resources on the UNGPs' implementation, including in particular UN WG HRB and DIHR-ICAR guidance documents on NAPs.

6.1.2 Member States-oriented recommendations

The European Parliament should:

- Call on the EU member states and the EU Institutions to provide support, including targeted financial support, to the UN Working Group on Business and Human Rights in their role to promote the uptake of the UNGPs as well as developing guidance and best practice;
- Encourage EU member states and EU institutions to support activities aimed at awareness raising and capacity building around the UNGPs of state authorities, CSOs, trade unions, Human Rights Defenders and business enterprises, either by providing funding or technical assistance or any other assistance required;
- Call on EU member states that have not yet taken action to develop National Action Plans implementing the UN Guiding Principles on Business and Human Rights;
- Encourage EU member states to develop and share information on their NAPs, as recommended by the Council of Europe Committee of Ministers, as well as calling on the European institutions to establish the NAPs' peer-to-peer review mechanism aimed at assisting and inspiring states to strive for continuous improvement;
- Call on the EU and individual member states to remain committed to the business and human rights agenda and participate constructively in the discussions aimed at advancing respect for human rights in the business context globally, including the UN process aimed at developing a binding treaty on business and human rights;

6.1.3 EU institutions-oriented recommendations

The European Parliament should:

- Call on the EU to undertake efforts to remain a leader in international fora on the issue of business and human rights, by ensuring that all of its Member States develop National Action Plans and support such plans' development in other countries, as well as by ensuring that it engages constructively in the ongoing discussions at the regional (Council of Europe) and international level, including the process leading to the development of the binding treaty;
- Continue to express consistently its expectation that EU institutions and high-ranking officials, including the EU Special Representative on Human Rights, undertake efforts to advance the human

rights and business agenda in the EU external relations and actions; but also that they undertake efforts to ensure consistency of the EU external and internal policies in this regard;

- Call on the EU institutions to ensure that human rights and business, and in particular human rights due diligence, including human rights impact assessment, feature among the legitimate issues for further dialogue listed in any future Free Trade Agreements, including Deep and Comprehensive Free Trade Agreements;
- Call on the EU institutions to integrate Business and Human Rights concerns into negotiations with EU candidate countries;
- Call on the EC to ensure that the EU's external financing instruments, including the EIDHR, as well as other grants or special research (such as Horizon 2020) or technical assistance programmes support actors, including other states, in their efforts to raise awareness, build capacity, including the drafting of NAPs and conduct the research necessary to advance the paradigm changes concerning the relationship between business and human rights as well as respect for sustainable development globally within planetary boundaries. The calls could also foresee funding for technical assistance in drafting NAPs. Awareness-raising and training activities should be encouraged to reach out beyond the usual stakeholders such as large business enterprises and CSOs by targeting such groups as, for instance, SMEs, lawyers and judiciary or staff of the bodies overseeing the correctness of public procurement spending. It is essential to sensitise those groups to enable the new policy or legislative changes to develop their full potential and to promote the implementation of the Guiding Principles;
- Call on the EIDHR, which included Business and Human Rights as a priority under the 2015 Call for Proposal, to launch a thematic call on this thematic area, to further stimulate the momentum and ensure that funding is available for awareness raising and capacity building and empowering of the rights holders across the world at the stage/time when it is possible to influence the development of the NAPs. Additionally, the European Parliament should encourage the EU Delegations, wherever this is a relevant topic, to include Business and Human Rights as a priority in the local calls for proposals managed by the EU Delegations on the ground;
- Address the internal capacity gaps and needs within the EU by integrating human rights, including human rights and business components, into learning and capacity-building for the EU staff and senior management across all institutions;
- Call on the European External Action Service (EEAS) to:
 - a. Develop and disseminate among all the EU Missions worldwide information about the UNGPs together with business and human rights more broadly, with the intention of stimulating and guiding their efforts aimed at contributing not only to improving the respect for human rights in the business context, but also the uptake of the UNGPs in the countries where they are located by making those issues become a regular point of conversation in these engagements;
 - b. Instruct its missions to work with host governments, local and EU business, trade unions, NGOs, human rights defenders, academics, lawyers and other local experts to be able to help inform companies of the human rights risks they face when deciding to do business in the given country;
- Call on the EU leadership to undertake all efforts to lead by example in the area of business and human rights. This means that the EU should align its internal and external policies as well as procedures with the UN Guiding Principles and ground them on the responsibility to avoid causing or contributing to human rights abuses or being associated with such an abuse through relations with business entities. This implies putting in place due diligence processes to identify and address potential and actual

adverse human rights impact linked to the EU operations and activities, including procurement, partnerships with business sector, choice of companies to provide security to the EU Delegations, providing investment support, etc.;

- Continue integrating human rights and business issues and implementation of the UN Guiding Principles into the agenda of formal Political Dialogues and Human Rights Dialogues to sensitise the authorities of the third countries to those issues, and make it a legitimate topic for discussion. Similarly, human rights and business issues should feature also on the agenda of CSO seminars, as events of this type, allowing the exchange of information and juxtaposition of European and third countries experiences, assist in raising awareness of those issues and allow for cross-fertilisation and sharing of best practices.

Bibliography

Aaronson, S. A., and I. Higham (2013), 'Re-Righting Business': John Ruggie and the Struggle to Develop International Human Rights Standards for Transnational Firms', in *Human Rights Quarterly*, 35(2), pp. 333–364

Addo, M. K. (2015), *Oral Statement at the 29th session of the Human Rights Council in Geneva*, 16 June 2015, <https://business-humanrights.org/sites/default/files/documents/UN-WG-BHR-stmt-to-Human-Rts-Council-Jun-2015.pdf>, last accessed on 2 November 2016

Africa-EU Partnership (2014), Final Report of the African Union – European Union seminar on 'Fostering the implementation of the UN Guiding Principles on Business and Human Rights through regional cooperation', held in Addis Ababa, Ethiopia on 16 September 2014, http://www.africa-eu-partnership.org/sites/default/files/userfiles/final_report_-_au-eu_hrb_seminar_held_on_16_sept_2014.pdf, last accessed 30 November 2016

African Coalition for Corporate Accountability (ACCA) (2013), Declaration of the African Coalition for Corporate Accountability (ACCA), <http://www.codesria.org/spip.php?article1884>, last accessed on 31 October 2016

African Union (2009), Africa Mining Vision, http://pages.au.int/sites/default/files/Africa%20Mining%20Vision%20english_0.pdf, last accessed on 2 November 2016

Aizawa, M., and Blackwell, S. (2016), *Where have the UN Guiding Principles Taken Us and Where Do We Go Next?*, 20 June 2016, <https://www.ihrb.org/focus-areas/finance/commentary-where-guiding-principles-taken-us-where-next>, last accessed on 31 October 2016

Aranzazu Zubía Pinto, V. (2015), *Measuring Progress Through National Action Plans and Sustainability Reports*, LSE Measuring B&HR, <http://blogs.lse.ac.uk/businesshumanrights/2015/11/25/un-forum-series-measuring-progress-through-national-action-plans-and-sustainability-reports/>, last accessed on 31 October 2016

ASEAN CSR Network & Singapore Management University (2015), *Implementing the UN Guiding Principles in Business and Human Rights*, Post-event Summary, <https://business-humanrights.org/sites/default/files/documents/workshop-report-smu-acn-nov2015.pdf>, last accessed on 2 November 2016

ASEM (2014), 14th Informal ASEM Seminar on Human Rights on the topic of 'Human Rights and Business' (Side-event on National Action Plans on Business and Human Rights on 20.11.2014), 18-20 November 2014, Hanoi, Vietnam, <http://www.asef.org/images/docs/Side-event%20-%2020%20November%20-%20NAPs%20Business%20and%20Human%20Rights.pdf>, last accessed on 30 December 2016

Asia Pacific Forum of National Human Rights Institutions (2011), Asia Pacific Regional Conference on Business and Human Rights Outcome Statement, <http://nhri.ohchr.org/EN/Themes/BusinessHR/Pages/Capacity%20Building.aspx>, last accessed on 31 October 2016

Asian Regional Consultation (2006), Held by the Special Representative of the Secretary-General on Human Rights and Transnational Corporations and Other Business Enterprises Bangkok, 26-27 June 2006, <http://www.reports-and-materials.org/Ruggie-Bangkok-consultation-report-26-27-Jun-2006.pdf>, last accessed on 2 November 2016

Assemblée Nationale (2016), Constitution Du 4 Octobre 1958, Quatorzième Législature, Proposition De Loi relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre, Adoptée Par L'assemblée Nationale En Nouvelle Lecture, 29 novembre 2016, <http://www.assemblee-nationale.fr/14/ta/ta0843.asp>, last accessed 30 November 2016

Australian Human Rights Commission (2016), *Implementing the UN Guiding Principles on Business and Human Rights in Australia: Joint Civil Society Statement*, <https://www.humanrights.gov.au/sites/default/files/Implementing%20UNGPs%20in%20Australia%20-%20Joint%20Civil%20Society%20Statement.pdf>, last accessed on 2 November 2016

Belgrade Centre for Human Rights (2016), National Baseline Assessment: Polazna ocena stanja: primena odabranih načela UN Rukovodećih načela o ljudskim pravima i biznisu. Nacrt za diskusiju, 2016 (Draft National Baseline Assessment), http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2016/02/NBA_Srbija-October-2016findraft.pdf, last accessed on 26 November 2016

Belgrade Centre for Human Rights & DIHR (2016) Human Rights and Business Country Guide for Serbia, <http://hrbcountryguide.org/wp-content/uploads/2016/09/Country-Guide-Serbia-FINAL-Serbian-August-2016.pdf>, last accessed on 26 November 2016

Bernaz, N. (2016), 'Unpacking the French Bill on Corporate Due Diligence: a presentation at the International Business and Human Rights Conference in Sevilla', Blog 'Rights as Usual', 21 Oct. 2016, <http://rightsasusual.com/?p=1087>, last accessed 26.11.2016

Blackwell, S. and Vander Meulen, N. (2016), 'Two Roads Converged: The Mutual Complementarity of a Binding Business and Human Rights Treaty and National Action Plans on Business and Human Rights', *Notre Dame Journal of International and Comparative Law*, Vol. 6:1, pp 51-75

Bowman, V. (2016), *Five Years On – Translating the UN Guiding Principles into Myanmar*, <https://www.ihrb.org/focus-areas/myanmar/commentary-five-years-on-myanmar>, last accessed on 2 November 2016

Buhman, K. (2012), 'The Development of the 'UN Framework': A Pragmatic Process Towards a Pragmatic Output', in: Mares, R. (ed.), *The UN Guiding Principles on Business and Human Rights: Foundations and Implementation*, Leiden: Brill, pp. 85-105

Burma Responsible Investment Reporting Requirements, OMB NO. 1405-0209, <https://www.humanrights.gov/pdf/responsible-investment-reporting-requirements.pdf>, last accessed on 30 December 2016

Business and Human Rights Resource Centre (2013), Business and Human Rights in the Middle East and North Africa – A regional briefing, <https://business-humanrights.org/sites/default/files/media/documents/briefing-business-and-human-rights-in-mena-10-dec-2013.pdf>, last accessed on 2 November 2016

Business and Human Rights Resource Centre (2014a), *Business & human rights in Africa: Time for a responsibility revolution, A regional overview*, http://www.ohchr.org/Documents/Issues/Business/AfricanForum/Business_humanRightsin_Africa.pdf, last accessed on 2 November 2016

Business and Human Rights Resource Centre (2014b), *Business & human rights in Eastern Africa*, <http://www.business-humanrights.org/media/documents/eastern-afr-briefing-bus-human-rights-apr-2014.pdf>, last accessed on 2 November 2016

Business and Human Rights Resource Centre (2014c), *Business & human rights in Francophone Africa*, <http://www.business-humanrights.org/media/documents/francophone-afr-briefing-bus-human-rights-mar-2014.pdf>, last accessed on 2 November 2016

Business and Human Rights Resource Centre (2015a), Bahrain response to the BHRRC Government Action Survey 2015, [https://business-humanrights.org/en/bahrain-0?keywords=&filtertype=region®ions\[\]=10812](https://business-humanrights.org/en/bahrain-0?keywords=&filtertype=region®ions[]=10812), last accessed on 2 November 2016

Business and Human Rights Resource Centre (2015b), Israel response to the BHRRC Government Action Survey 2015, [https://business-humanrights.org/en/israel-occupied-palestinian-territories?keywords=&filtertype=region®ions\[\]=10812](https://business-humanrights.org/en/israel-occupied-palestinian-territories?keywords=&filtertype=region®ions[]=10812), last accessed on 2 November 2016

Business and Human Rights Resource Centre (2015c), Morocco response to the BHRRRC Government Action Survey 2015, [https://business-humanrights.org/en/morocco-western-sahara?keywords=&filtertype=region®ions\[\]=10812](https://business-humanrights.org/en/morocco-western-sahara?keywords=&filtertype=region®ions[]=10812), last accessed on 2 November 2016

Business and Human Rights Resource Centre (2016), Annex: State regulatory approaches: the trend toward mandatory human rights due diligence and reporting across sectors. Examples of government regulations on human rights reporting & due diligence for companies, November 2016, <http://www.ohchr.org/Documents/Issues/Business/ForumSession5/Nov16/StateRegulatoryApproaches.pdf>, last accessed 30 December 2016

CALS-SMU Coalition on National Action Plans for Business and Human Rights (2015), *Asia & Africa National Action Plans Update to the UN Working Group on Business and Human Rights, Third Submission*, <http://www.chr.up.ac.za/images/files/news/press/Coalition's%20Third%20Submission%20to%20the%20WG%2020151012.pdf>, last accessed on 2 November 2016

Canadian Centre for International Justice (2016), *Vancouver court clears way for slave labour lawsuit against Canadian mining company to go to trial*, Press release, <http://www.ccij.ca/news/slave-labour-lawsuit-against-canadian-mining-company/>, last accessed on 2 November 2016

Cassel, D. and Ramasastry, A. (2015), *White Paper: Options for a Treaty on Business and Human Rights, Prepared for the American Bar Associations*, Center for Human Rights and The Law Society of England and Wales

Centre for Human Rights and International Corporate Accountability Roundtable (ICAR) (2016a), *'Shadow' National Baseline Assessment (NBA) of Current Implementation of Business and Human Rights Frameworks in South Africa*, <http://icar.ngo/wp-content/uploads/2016/04/Shadow-SA-NBA-Final.pdf>, last accessed on 2 November 2016

Centre for Human Rights and International Corporate Accountability Roundtable (ICAR) (2016b), *So. Africa: NGOs publish 'shadow' natl. baseline assessment on govt.'s implementation of business & human rights frameworks*, <https://business-humanrights.org/en/so-africa-ngos-publish-shadow-natl-baseline-assessment-on-govts-implementation-of-business-human-rights-frameworks>, last accessed on 2 November 2016

CESCR Committee (2016), Draft General Comment on State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities, <http://ohchr.org/Documents/HRBodies/CESCR/Discussions/2017/E-C-12-60-R-1.docx>, last accessed 30 November 2016

China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters (CCCMC) (2014), *Guidelines for Social Responsibility in Outbound Mining Investments*, <http://www.cccmc.org.cn/docs/2014-10/20141029161135692190.pdf>, last accessed on 2 November 2016

CLT-envirolaw (2014), *Overview of key Business & Human Rights Legislation for companies (Europe, UK & USA)*, https://business-humanrights.org/sites/default/files/media/documents/clt_human_rights_legislation_-_1.pdf, last accessed on 31 October 2016

CNCA (2016a), *The Global Leadership in Business and Human Rights Act – An Act to create an independent ombudsperson for the international extractive sector*, 2 November 2016, <http://cnca-rcrce.ca>, last assessed on 30 November 2016

CNCA (2016b), *Talk is not enough: Why Canada needs and extractive-sector ombudsperson*, September 2016, <http://cnca-rcrce.ca>, last accessed on 30 November 2016

Cottier, T., Pauwelyn, J. and Bürgi, E. (eds.) (2005), *Human Rights and International Trade*, Oxford: Oxford University Press

Council of Europe (2016a), Recommendation CM/Rec(2016)3 on human rights and business, <https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec%282016%293&Language=lanEnglish&Ver=original&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864>, last accessed on 31 October 2016

Council of Europe (2016b), Recommendation CM/Rec(2016)3 on human rights and business - Explanatory Memorandum, <https://wcd.coe.int/ViewDoc.jsp?Ref=CM%282016%2918&Language=lanEnglish&Ver=addfinal&Site=CM&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864>, last accessed on 31 October 2016

Council of the European Union (2012), EU Strategic Framework and Action Plan on Human Rights and Democracy, Foreign Affairs Council Conclusions, https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131181.pdf, last accessed on 31 October 2016

Council of the European Union (2015), Council Conclusions 10897/15 on the Action Plan on Human Rights and Democracy 2015-2019, <http://data.consilium.europa.eu/doc/document/ST-10897-2015-INIT/en/pdf>, last accessed on 31 October 2016

Council of the European Union (2016), Council Conclusions on Business and Human Rights, <http://www.consilium.europa.eu/en/press/press-releases/2016/06/20-fac-business-human-rights-conclusions/>, last accessed on 31 October 2016

Daniel, C. et al. (2015), *Remedy Remains Rare*, OECD Watch, http://www.oecdwatch.org/publications-en/Publication_4201, last accessed on 31 October 2016

Danish Institute for Human Rights (DIHR) and International Corporate Accountability Roundtable (ICAR) (2014a), *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*, <https://business-humanrights.org/sites/default/files/documents/DIHR%20-%20ICAR%20National%20Action%20Plans%20%28NAPs%29%20Report.pdf>, last accessed on 31 October 2016

Danish Institute for Human Rights (DIHR) and International Corporate Accountability Roundtable (ICAR) (2014b), 'Protecting Human Rights through Government Procurement', presented to Expert Workshop organised by the UN WG on BHR 'Essential Elements of State National Action Plans for Implementation of the UN Guiding Principles on Business and Human Rights', 7 May 2014, Geneva

Danish Human Rights Institute (DIHR), *Business and Human Rights: A Guidebook for National Human Rights Institutions* <http://www.humanrights.dk/e-learning-business-human-rights-nhris>, last accessed on 31 October 2016

De Felice, D. and Graf, A. (2015) 'The Potential of National Action Plans to Implement Human Rights Norms: An Early Assessment with Respect to the UN Guiding Principles on Business and Human Rights', *Journal of Human Rights Practice*, 7 (1), pp. 40-71, <http://jhrp.oxfordjournals.org/content/7/1/40>, last accessed on 31 October 2016

Derss, S. (2016), Opening remarks to the ACCA General Assembly, http://www.accahumanrights.org/images/news/acca_news/13july2016/THE%20POWER%20OF%20BIG%20BUSINESS%20AND%20THE%20HUMAN%20RIGHTS%20PROTECTION%20VACUUM.pdf, last accessed on 31 October 2016

Deva, S. (2016), *Background Paper for India's National Framework on Business and Human Rights*, The Ethical Trading Initiative, http://s3-eu-west-1.amazonaws.com/www.ethicaltrade.org/files/shared_resources/india

[national framework bhr background.pdf?FeQtVeqQG8IntPXXHzNOIGnH3hUOPllc](#), last accessed on 31 October 2016

Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0095&from=EN>, last accessed on 2 November 2016

Dottridge, M. (2016), *Emerging Good Practice By State Authorities, The Business Community And Civil Society In The Area Of Reducing Demand For Human Trafficking For The Purpose Of Labour Exploitation*, Council of Europe, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900016806846be>, last accessed on 2 November 2016

Equality and Human Rights Commission (2013), *Buying better outcomes. Mainstreaming Equality Considerations in Public Procurement: A guide for public authorities in England*, https://www.equalityhumanrights.com/sites/default/files/buying_better_outcomes_final.pdf, last accessed on 31 October 2016

EU Roadmap to Business and Human Rights Conference (2016), *Conclusions of the hosts*, 11 May 2016, Amsterdam, <http://eu-roadmap.nl/wp-content/uploads/2016/05/Conclusions-of-the-hosts-BHR-Conference-11-MAY-2016.pdf>, last accessed on 2 November 2016

European Coalition for Corporate Justice (2016), *5 years of UNGPs – 5 Business & Human Rights issues to focus on*, <http://corporatejustice.org/news/135-5-years-of-ungps-5-business-human-rights-issues-to-focus-on>, last accessed on 31 October 2016

European Coalition for Corporate Justice, Amnesty International, CIDSE, Friends of the Earth Europe & FIDH (2016), *Joint letter to Member States Representatives on the Council of the EU Working Party on Human Rights (COHOM): Business and Human Rights: Addressing gaps*, http://corporatejustice.org/news/eccj-ai-cidse-foee-fidh_letter_to_cohom_-_business_and_human_rights.pdf, last accessed on 26 November 2016

European Commission (2011), *A Renewed EU Strategy 2011-2014 for Corporate Social Responsibility*, COM (2011) 681 final, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0681:FIN:en:PDF>, last accessed on 31 October 2016

European Commission (2015), *Commission Staff Working Document on Implementing the UN Guiding Principles on Business and Human Rights – State of Play*, SWD(2015) 144 final, https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/swd_2015_144_f1_staff_working_paper_en_v2_p1_818385.pdf, last accessed on 3 November 2016

European Group of National Human Rights Institutions (2012), *Implementing the UN Guiding Principles on Business and Human Rights: Discussion paper on national implementation plans for EU Member States*, <http://nhri.ohchr.org/EN/Themes/BusinessHR/Documents/EU%20NHRIs%20Paper%20on%20National%20Implementation%20Plans%20for%20UNGPs%2010612%20SHORT.docx>, last accessed on 2 November 2016

European Network of National Human Rights Institutions (2012), *Berlin Action Plan on Business and Human Rights*, <http://nhri.ohchr.org/EN/Themes/BusinessHR/Pages/Capacity%20Building.aspx>, last accessed on 31 October 2016

European Parliament (2015), *European Parliament resolution of 17 December 2015 on the Annual Report on Human Rights and Democracy in the World 2014 and the European Union's policy on the matter (2015/2229(INI))*, P8_TA(2015)0470, <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2015-0470>, last accessed on 26 November 2016

European Parliament (2016a), European Parliament resolution of 25 October 2016 on corporate liability for serious human rights abuses in third countries (2015/2315(INI)), P8_TA-PROV(2016)0405, <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2016-0405&language=EN&ring=A8-2016-0243>, last accessed on 29 December 2016

European Parliament (2016b), Report on corporate liability for serious human rights abuses in third countries ('Corrao Report') (2015/2315(INI)), Committee on Foreign Affairs, 19 July 2016, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A8-2016-0243+0+DOC+XML+V0//EN&language=en>, last accessed on 26 November 2016

Faracik, B. (2012), *The Role of the Non-EU National Human Rights Institutions in the Implementation of the UN Guiding Principles on Business and Human Rights, with a focus on Eastern Partnership Countries*, European Parliament Policy Department Study Series, EXPO/B/DROI/2012/08, [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/457112/EXPO-DROI_ET\(2012\)457112_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/457112/EXPO-DROI_ET(2012)457112_EN.pdf), last accessed on 31 October 2016

Federal Council of the Swiss Confederation (2016), *National report and action plan on business and human rights*, Press Release, 9 December 2016, <https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-64884.html>, last accessed on 29 December 2016

Feeney, P. (2009), 'Business and Human Rights: The Struggle for Accountability in the UN and the future direction of the advocacy agenda', in *International Journal on Human Rights*, 6(11), pp. 161-175

Forum Citoyen pour la RSE (2016a), In the Face of Corporate Impunity – Progress in Europe http://forumcitoyenpouurlarse.org/wp-content/uploads/2016/10/Corporate_impunity-progress-in-Europe.pdf, last accessed on 21 November 2016

Forum Citoyen pour la RSE (2016b), Press release '*Devoir de vigilance des multinationales: un pas de plus vers l'adoption définitive de la loi*' (30 November 2016), <http://ccfd-terresolidaire.org/infos/rse/devoir-de-vigilance-des-5704>, last accessed 30 November 2016

G7 Summit (2015), G7 Summit Leaders' Declaration, 7-8 June 2015, Schloss Elmau, Germany, https://www.g7germany.de/Content/EN/Anlagen/G7/2015-06-08-g7-abschlusseng_en.pdf?blob=publicationFile&v=3

German Federal Foreign Office (2015), Suggested Process for a National Action Plan to implement the UN Guiding Principles on Business and Human Rights in Germany, http://www.auswaertigesamt.de/cae/servlet/contentblob/706642/publicationFile/205776/150506_NAP-Prozess-Umsetzung.pdf, last accessed on 2 November 2016

Global Business Initiative on Human Rights (2015), *National Action Plans on Business and Human Rights. Recommendations from The Global Business Initiative on Human Rights*, http://www.global-business-initiative.org/wp-content/uploads/2015/06/GBI_NAP_Statement_June_2015_Web.pdf, last accessed on 31 October 2016

Global Compact Network Australia (2016a), *Towards a National Action Plan on Business and Human Rights: Business Roundtables*, <http://www.unglobalcompact.org.au/2016/08/02/towards-a-national-action-plan-on-business-and-human-rights-business-roundtables/>, last accessed on 2 November 2016

Global Compact Network Australia (2016b), *Global momentum grows around National Action Plans (NAPS) on Business and Human Rights: US, Italy, Switzerland and Germany publish NAPS*, 21 December 2016, <http://www.unglobalcompact.org.au/2016/12/21/global-momentum-grows-around-national-action-plans-naps-on-business-and-human-rights-us-and-italy-and-switzerland-publish-naps/>, last accessed on 30 December 2016

Global Compact Network Australia (2016c), *2016 Australian Dialogue on Business and Human Rights: Summary and Outcomes Document Published*, 20 December 2016, <http://www.unglobalcompact.org.au/2016/12/20/2016-australian-dialogue-on-business-and-human-rights-summary-and-outcomes-document-published/>, last accessed on 30 December 2016

Government of Argentina (2016), Reply to the UN Working Group on Business and Human Rights' survey 2016, http://www.ohchr.org/Documents/Issues/Business/2016Survey/Argentina_2.pdf, last accessed on 2 November 2016

Government of Australia (2016), Response to the Working Group on the issue of human rights and transnational corporations' survey on the implementation of the Guiding Principles on Business and Human Rights: National Action Plans on Business and Human Rights, <http://www.ohchr.org/Documents/Issues/Business/2016Survey/Australia.docx>, last accessed on 2 November 2016

Government of Belgium (2016), Interdepartmental Commission on Sustainable Development (ICSD), draft National Action Plan on Business and Human Rights (Version of 10 June 2016), http://www.rs.belgium.be/sites/5015.fedimbo.belgium.be/files/encart/attachments/nap_bhr_20160610_fr.pdf, last accessed on 31 October 2016

Government of Canada (2014), *Canada's Enhanced Corporate Social Responsibility Strategy to Strengthen Canada's Extractive Sector Abroad*, <http://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/csr-strat-rse.aspx?lang=eng>, last accessed on 2 November 2016

Government of Colombia (2015), Plan Nacional de Acción sobre Derechos Humanos y Empresas, http://www.ohchr.org/Documents/Issues/Business/NationalPlans/PNA_Colombia_9dic.pdf, last accessed on 31 October 2016

Government of Denmark (2014), Danish National Action Plan: Implementation of the UN Guiding Principles on Business and Human Rights, http://www.ohchr.org/Documents/Issues/Business/NationalPlans/Denmark_NationalPlan_BHR.pdf, last accessed on 31 October 2016

Government of Denmark (2016), Response to the UN Working Group on Business and Human Rights' questionnaire, <http://www.ohchr.org/Documents/Issues/Business/2016Survey/Denmark.docx>, last accessed on 2 November 2016

Government of Finland (2014), National Action Plan for the Implementation of the UN Guiding Principles on Business and Human Rights, http://www.tem.fi/files/41214/TEMjul_46_2014_web_EN_21102014.pdf, last accessed on 31 October 2016

Government of Georgia (2016), Response to the Survey on the Implementation of the Guiding Principles on Business and Human Rights: National Action Plan on Business and Human Rights, <http://www.ohchr.org/Documents/Issues/Business/2016Survey/Georgia.pdf>, last accessed on 2 November 2016

Government of Germany (2016), Nationaler Aktionsplan Umsetzung der VN-Leitprinzipien für Wirtschaft und Menschenrechte 2016-2020, <http://www.auswaertiges-amt.de/cae/servlet/contentblob/754690/publicationFile/222786/161221-NAP-DL.pdf>, last accessed on 30 December 2016

Government of Ghana (2015), Response to the UN Working Group on Business and Human Rights' on the implementation of the Guiding Principles On Business And Human Rights: the role of states as economic actors, <http://www.ohchr.org/Documents/Issues/Business/2015Survey/Ghana.docx>, last accessed on 2 November 2016

Government of Italy (2014), The Foundations of the Italian Action Plan on the United Nations "Guiding Principles on Business and Human Rights", <https://business->

humanrights.org/sites/default/files/media/documents/foundations-ungps-nap-italy.pdf, last accessed on 30 December 2016

Government of Italy (2016), Italian National Action Plan on Business and Human Rights 2016-2021, 9 December 2016, http://www.cidu.esteri.it/NR/rdonlyres/82FBBD9B-EBA5-4056-A45C-281F0D2C9398/49117/NAPBHR_ENGFINALEDEC152017.pdf, last accessed on 30 December 2016

Government of Lithuania (2015), Lithuania's Action Plan on the Implementation of the UN Guiding Principles on Business and Human Rights, http://www.ohchr.org/Documents/Issues/Business/NationalPlans/Lithuania_NationalPlanBHR.pdf, last accessed on 31 October 2016

Government of Norway (2015), Business and Human Rights National Action Plan for the implementation of the UN Guiding Principles, https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/mr/business_hr_b.pdf, last accessed on 31 October 2016

Government of Poland (2016a), Response to UN WG HRB 2016 Survey, <http://www.ohchr.org/Documents/Issues/Business/2016Survey/Poland.docx>, last accessed on 31 October 2016

Government of Poland (2016b), Krajowy Plan Działania na rzecz wdrażania Wytycznych ONZ dotyczących biznesu i praw człowieka na lata 2017-2019, <http://konsultacje.gov.pl/node/4371>, last accessed on 29 December 2016

Government of Scotland (2010), *Procurement of Care and Support Services*, <http://www.scotland.gov.uk/Resource/Doc/324602/0104497.pdf>, last accessed on 2 November 2016

Government of Spain (2014), Draft Spanish National Action Plan on Business and Human Rights, http://www.ohchr.org/Documents/Issues/Business/NationalPlans/Spain_NationalPlanBHR.doc, last accessed on 31 October 2016

Government of Sweden (2015), Action plan for business and human rights (2015), <http://www.government.se/contentassets/822dc47952124734b60daf1865e39343/action-plan-for-business-and-human-rights.pdf>, last accessed on 31 October 2016

Government of the Czech Republic (2016), Reply to the UN WG HRB Survey, <http://www.ohchr.org/Documents/Issues/Business/2016Survey/CzechRepublic.pdf>, last accessed on 31 October 2016

Government of the Kingdom of the Netherlands (2013), National Action Plan on Business and Human Rights, <http://business-humanrights.org/sites/default/files/documents/netherlands-national-action-plan.pdf>, last accessed on 31 October 2016

Government of the Republic of Korea (2015), Response to the Survey on the Implementation of the Guiding Principles on Business and Human Rights: National Action Plan on Business and Human Rights, <http://www.ohchr.org/Documents/Issues/Business/2015Survey/RepublicKorea.docx>, last accessed on 2 November 2016

Government of the United Kingdom (2013), Good Business: Implementing the UN Guiding Principles on Business and Human Rights (2013), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236901/BHR_Action_Plan_-_final_online_version_1_.pdf, last accessed on 31 October 2016

Government of the United Kingdom (2016), Good Business: Implementing the UN Guiding Principles on Business and Human Rights, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/522805/Good_Business_Implementing_the_UN_Guiding_Principles_on_Business_and_Human_Rights_updated_May_2016.pdf, last accessed on 31 October 2016

Graf, A. (2013), *Developing National Action Plans on Business and Human Rights*, Essential 04/2013, SwissPeace, http://www.swisspeace.ch/fileadmin/user_upload/Media/Publications/Essentials/Essential_4_2013.pdf, last accessed on 31 October 2016

Hafner-Burton, E. M. and Tsutsui, K. (2005), 'Human rights in a Globalizing World: The Paradox of Empty Promises', in *American Journal Of Sociology*, 110(5), pp. 1373-1411

Helsińska Fundacja Praw Człowieka (2016), Wspólny projekt Polskiej Rady Biznesu i Helsińskiej Fundacji Praw Człowieka – 'Biznes a prawa człowieka – współczesny stan dyskusji', <http://www.hfhr.pl/wspolny-projekt-polskiej-rady-biznesu-i-helsinskiej-fundacji-praw-czlowieka/>, last accessed on 29 December 2016

High Court of South Africa (2015), *University of Stellenbosch Legal Aid Clinic and Others v Minister of Justice And Correctional Services and Others* (16703/14) [2015] ZAWCHC 99; 2015 (5) SA 221 (WCC); [2015] 3 All SA 644 (WCC); (2015) 36 ILJ 2558 (WCC), <http://www.saflii.org/za/cases/ZAWCHC/2015/99.html>, last accessed on 2 November 2016

van Huijstee, M., Ricco, V. and Ceresna-Chaturvedi, L. (2012), *How to use the UN Guiding Principles on Business and Human Rights in company research and advocacy*, SOMO, CEDHA, Cividep India, <https://www.somo.nl/nl/wp-content/uploads/sites/2/2012/11/English-version.pdf>, last accessed on 31 October 2016

Human Rights Commission Of Zambia (2016), *2016 Zambia National Baseline Assessment On Business And Human Rights* (2016), <http://www.hrc.org.zm/index.php/publications/general-publications/file/156-2016-zambia-national-baseline-assessment-on-bussiness-and-human-rights>, last accessed on 2 November 2016

Human Rights Resource Centre (2013), *Business and Human Rights in ASEAN. A Baseline Study*, University of Indonesia, <http://hrrca.org/wp-content/uploads/2015/09/Business-and-Human-Rights-in-ASEAN-Baseline-Study-ebook.pdf>, last accessed on 31 October 2016

Institute for Human Rights and Business (IHRB) (2011a), Submission to the United Nations Human Rights Council Universal Periodic Review Session 13: India, <https://www.ihrb.org/uploads/submissions/2011-11%2C%20IHRB%20Submission%20UN%20Universal%20Periodic%20Review%20of%20India.pdf>, last accessed on 2 November 2016

Institute for Human Rights and Business (IHRB) (2011b), Submission to the United Nations Human Rights Council Universal Periodic Review Session 13: United Kingdom, <https://www.ihrb.org/uploads/submissions/2011-11%2C%20IHRB%20Submission%20UN%20Universal%20Periodic%20Review%20of%20United%20Kingdom.pdf>, last accessed on 2 November 2016

Institute for Human Rights and Business (IHRB) (2012a), *Capacity Building for NHRIs from East Africa, Malawi and Ghana*, Summary Report, Kampala, 25-26 January 2012, <https://www.ihrb.org/pdf/Uganda-Workshop-Final-Summary-Report.pdf>, last accessed on 2 November 2012

Institute for Human Rights and Business (IHRB) (2012b), Submission to the United Nations Human Rights Council – Universal Periodic Review Session 16: Colombia, <https://www.ihrb.org/uploads/submissions/2012-10%2C%20IHRB%20Submission%20UN%20Universal%20Periodic%20Review%20of%20Colombia.pdf>, last accessed on 2 November 2016

Institute for Human Rights and Business (IHRB) (2016), UK Joint Committee on Human Rights Inquiry into Business & Human Rights, <https://www.ihrb.org/other/national-action-plans/submission-uk-joint-committee-inquiry-business-human-rights>, last accessed on 2 November 2016

Institute for Human Rights and Business (IHRB) and Nairobi Process (2016), *Submission to Kenya Attorney General's Office and Kenya NAP Steering Committee. Notes from the Field: Lessons Learned on Building Better National Action Plans on Business and Human Rights*, https://www.ihrb.org/uploads/submissions/2016-04_IHRB_Submission_Lessons_Learned_in_Building_Better_National_Action_Plans_on_Business_Human_Rights.pdf, last accessed on 31 October 2016

Inter-American Court of Human Rights (2015), Case of the Kaliña and Lokono Peoples V. Suriname, Judgment of 25 November 2015, http://www.corteidh.or.cr/docs/casos/articulos/seriec_309_ing.pdf, last accessed on 2 November 2016

International Commission of Jurists (2014), *Needs and Options for a New International Instrument in the field of Business and Human Rights*, <https://business-humanrights.org/en/pdf-needs-and-options-for-a-new-international-instrument-in-the-field-of-business-and-human-rights>, last accessed on 31 October 2016

International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (2011a), Americas Business and Human Rights Regional Declaration and Action Plan, <http://nhri.ohchr.org/EN/Themes/BusinessHR/Pages/Capacity%20Building.aspx>, last accessed on 31 October 2016

International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (2013), *Business and Human Rights – A Guidebook for National Human Rights Institutions*, http://www.humanrights.dk/files/media/dokumenter/udgivelser/bhr_guidebook_for_nhris_2013_eng.pdf, last accessed on 2 November 2016

International Corporate Accountability Roundtable (ICAR) (2015), *'Shadow' National Baseline Assessment (NBA) of Current Implementation of Business and Human Rights Frameworks – The United States – Pillar I*, <http://icar.ngo/wp-content/uploads/2015/03/ICAR-Shadow-U.S.-NBA-Pillar-I.pdf>, last accessed on 3 January 2017

International Corporate Accountability Roundtable (ICAR) (2016), ICAR Press Release Obama's Parting Words on Responsible Business Conduct: A Challenge to the Incoming Administration, 16 December 2016, <http://icar.ngo/analysis/obamas-parting-words-on-responsible-business-conduct-a-challenge-to-the-incoming-administration/>, last accessed on 30 December 2016

International Corporate Accountability Roundtable (ICAR) and European Coalition for Corporate Justice (ECCJ) (2015), *Assessments of Existing National Action Plans (NAPs) on Business and Human Rights, November 2015 Update*, <http://icar.ngo/analysis/napsassessments/>, last accessed on 31 October 2016

International Corporate Accountability Roundtable (ICAR) and International Service for Human Rights (ISHR) (2016), *Human Rights Defenders in National Action Plans (NAPs) on Business and Human Rights*, <http://icar.ngo/wp-content/uploads/2016/06/HRDs-English-FINAL.pdf>, last accessed on 31 October 2016

International Corporate Accountability Roundtable (ICAR), Danish Human Rights Institute (DIHR) and UNICEF (2015), *Guidance on children's rights in National Action Plans on business & human rights*, <https://business-humanrights.org/en/new-guidance-on-childrens-rights-in-natl-action-plans-on-business-human-rights>, last accessed on 31 October 2016

International Corporate Accountability Roundtable (ICAR), European Coalition for Corporate Justice (ECCJ) and Canadian Network on Corporate Accountability (CNCA) (2013), Database of Due Diligence Regulations, Human Rights Due Diligence Project, <http://hrdd.icar.ngo/>, last accessed on 31 October 2016

International Finance Corporation (IFC) (2012), Sustainability Framework: Policy on Social and Environmental Sustainability, http://www1.ifc.org/wps/wcm/connect/b9dacb004a73e7a8a273fff998895a12/IFC_Sustainability_Framework.pdf?MOD=AJPERES, last accessed on 31 October 2016

International Labour Organization (ILO) (2016), Provisional Record No.14-1, Reports of the Committee on Decent Work in Global Supply Chains: Resolution and conclusions submitted for adoption by the Conference, http://www.ilo.org/ilc/ILCSessions/105/reports/provisional-records/WCMS_489115/lang-en/index.htm, last accessed on 31 October 2016

International Organisation of Employers (IOE) (2014), *IOE Position on a dedicated UN Fund to enhance the capacity of stakeholders to implement the UN Guiding Principles on Business and Human Rights*, Geneva,

http://www.ioe-emp.org/fileadmin/ioe_documents/publications/Policy%20Areas/business_and_human_rights/EN/2014-01-28_G-426_IOE_Position_on_Capacity-building_Fund_for_Stakeholders_in_the_UN_Guiding_Principles_final_news.pdf, last accessed on 31 October 2016

International Standard Organisation (ISO), *ISO 26000 – Social Responsibility*, <http://www.iso.org/iso/home/standards/iso26000.htm>, last accessed on 31 October 2016

Intervention on behalf of six NHRIs from Canada, Denmark, Malaysia, Korea, New Zealand and Venezuela following the Edinburgh conference, hosted by the Scottish Human Rights Commission on behalf of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) and the Office of the High Commissioner for Human Rights (OHCHR) (2010), Geneva, 12 October 2010, <https://business-humanrights.org/sites/default/files/media/documents/joint-nhri-statement-to-john-ruggie-consultations-12-oct-2010.doc>, last accessed on 2 November 2016

IPIECA (2014), *Human rights training tool – 3rd edition*, http://www.ipieca.org/sites/default/files/publications/IPIECA_Human_Rights_training_toolkit_2014_06.pptx, last accessed on 31 October 2016

IPIECA (2015), *Community grievance mechanisms in the oil and gas industry. A manual for implementing operational-level grievance mechanisms and designing corporate frameworks*, http://www.ipieca.org/system/files/publications/Community_grievance_mechanisms_manual_2015_interactive.pdf, last accessed on 31 October 2016

Italian Interministerial Committee for Human Rights (2016), *DRAFT Italian National Action Plan on Business and Human Rights*, <http://www.cidu.esteri.it/NR/rdonlyres/82FBBD9B-EBA5-4056-A45C-281F0D2C9398/48254/NAPBHHRENGOpenConsultation.pdf>, last accessed on 30 November 2016

Kenyan Department of Justice (2016), *Kenyan Government Commits to Develop a National Action Plan on Business and Human Rights*, Press release, <https://business-humanrights.org/sites/default/files/documents/Kenya%20NAP%20-%20Attorney%20General%20Press%20Release.pdf>, last accessed on 2 November 2016

Kinley, D. and Chambers, R. (2006), 'The UN Human Rights Norms for Corporations: The Private Implications of Public International Law', in *Human Rights Law Review*, 6 (3), pp. 447-497, <http://hrhr.oxfordjournals.org/content/6/3/447.abstract>, last accessed on 31 October 2016

KOFF (Centre for Peacebuilding) (2014), *KOFF Newsletter No. 125 - March 2014: Swiss NAP on Business & Human Rights*, http://www.swisspeace.ch/fileadmin/user_upload/Media/Publications/Newsletter/2014/NL_125_EN.pdf, last accessed on 29 December 2016

Laanela, M. and Merali, F. (2016), *Forced labour lawsuit against Vancouver mining company can proceed*, CBC News, <http://www.cbc.ca/news/canada/british-columbia/nevsun-eritrean-lawsuit-1.3795687>, last accessed on 2 November 2016

Lagoutt, S. (2014), *The State Duty To Protect Against Business-Related Human Rights Abuses. Unpacking Pillar 1 and 3 of the UN Guiding Principles on Human Rights and Business*, Danish Institute for Human Rights, Human Rights' Research Papers Series No. 2014/1, http://psm.du.edu/media/documents/reports_and_stats/think_tanks/dihr_2014_un_guiding_principles.pdf, last accessed on 31 October 2016

Legal and Human Rights Centre (LHRC) and the International Corporate Accountability Roundtable (ICAR) (2016), *'Shadow' National Baseline Assessment of Current Implementation of Business and Human Rights Frameworks in Tanzania*, <http://icar.ngo/wp-content/uploads/2016/11/Tanzania-NBA-Final.pdf>, last accessed on 30 December 2016

Maranhão Costa, P. T. (2009), *Fighting Forced Labour. The Example of Brazil*, ILO, Geneva

Methven O'Brien, C. et al. (2015), 'National Action Plans: Current Status and Future Prospects for a New Business and Human Rights Governance Tool', in *Business and Human Rights Journal*, 1(1), pp.117-126

Methven O'Brien, C. et al. (2016), *Public Procurement and Human Rights: A Survey of Twenty Jurisdictions*, *International Learning Lab on Public Procurement and Human Rights*, <http://www.hrprocurementlab.org/blog/reports/public-procurement-and-human-rights-a-survey-of-twenty-jurisdictions/>, last accessed on 26 November 2016

Mombelli, A. (2016), *Swiss firms could be held to account for actions abroad*, *Swissinfo*, http://www.swissinfo.ch/eng/corporate-responsibility_swiss-firms-could-be-held-to-account-for-actions-abroad/42506080, last accessed on 2 November 2016

Mosk, M. (2012), *Bangladesh Factory Fire: Patterns for Marine Corps Sweats, Tank Tops Found in Ashes*, *ABC News*, 4 December 2012, <http://abcnews.go.com/Blotter/bangladesh-factory-fire-patterns-marine-corps-sweats-tank/story?id=17875010&singlePage=true>, last accessed on 2 November 2016

Myanmar Centre for Responsible Business (2015), *Further Proposals from MCRB on the Draft Myanmar Investment Law*, <http://www.myanmar-responsiblebusiness.org/further-proposals-draft-myanmar-investment-law.html>, last accessed on 2 November 2016

National Human Rights Commission of Malaysia (SUHAKAM) (2015), *The Strategic Framework on a National Action Plan (NAP) on Business and Human Rights for Malaysia*, <http://www.suhakam.org.my/strategic-framework-on-a-national-action-plan-on-business-and-human-rights-for-malaysia-2015/>, last accessed on 2 November 2016

National Human Rights Council of the Kingdom of Morocco (2016), *CNDH signs agreement with the Confederation Of Businesses to promote human rights in Moroccan companies*, <http://www.cndh.ma/an/article/cndh-signs-agreement-confederation-businesses-promote-human-rights-moroccan-companies>, last accessed on 2 November 2016

Network of African National Human Rights Institutions (2013) *Report of the NANHRI mapping survey on Business and Human Rights - the role of NHRIs*, <https://business-humanrights.org/sites/default/files/documents/mapping%20survey%20on%20bhr%20-%20role%20of%20nhris%20-%20final%20version.pdf>, last accessed 30 November 2016

Netzwerk Soziale Verantwortung, *Implementing human rights due diligence into Austrian civil law – Arguments and discussion*, <http://unternehmensverantwortung.netzwerksozialeverantwortung.at/%20implementing-human-rights-due-diligence-into-austrian-civil-law-arguments-and-discussion/>, last accessed on 3 November 2016

Office of the High Commissioner for Human Rights (OHCHR) (2005), *UN Commission on Human Rights resolution 2005/69 on Human rights and transnational corporations and other business enterprises of 20 April 2005*, http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2005-69.doc, last accessed on 31 October 2016

Office of the High Commissioner for Human Rights (OHCHR) (2016), *Asia Regional Forum on Business and Human Rights Doha, Qatar, 19-20 April 2016*, <http://www.ohchr.org/EN/Issues/Business/Pages/2016AsiaRegionalForum.aspx>, last accessed on 2 November 2016

Ontario Superior Court of Justice (2013), *Angelica Choc v. Hudbay Minerals Inc., HMI Nickel Inc. and Compañía Guatemalteca de Níquel S.A.*, <http://www.chocversushudbay.com/wp-content/uploads/2010/10/Judgment-permitting-lawsuits-to-proceed-to-trial-in-Canada.pdf>, last accessed on 2 November 2016

Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights (IGWG),

<http://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOnTNC.aspx>, last accessed on 26 November 2016.

Organisation for Economic Co-operation and Development (OECD) (2011), OECD Guidelines for Multinational Enterprises, http://www.oecd-ilibrary.org/governance/oecd-guidelines-for-multinational-enterprises_9789264115415-en, last accessed 10 October 2016

Organisation for Economic Co-operation and Development (OECD) (2013), *Investment Policy Reviews: Jordan*, <http://www.oecd.org/daf/inv/investment-policy/jordan-investment-policy.htm>, last accessed on 2 November 2016

Organisation for Economic Co-operation and Development (OECD) (2016), Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence (The 'Common Approaches'), TAD/ECG(2016)3, <http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=TAD/ECG%282016%293&docLanguage=en>, last accessed on 31 October 2016

Organization of American States (OAS) (2012), Promotion of Corporate Social Responsibility in the Hemisphere, AG/RES. 2753 (XLII-O/12)

Organization of American States (OAS) (2014), Promotion and Protection of Human Rights in Business, AG/doc.5452/14

Oxfam and FIDH (2011) *Community-based Human Rights Impact Assessments. The Getting it Right Tool*, https://www.oxfamamerica.org/static/media/files/COBHRA_Training_Manual_-_English.pdf, last accessed on 2 November

Oxfam, Community-Based Human Rights Impact Assessment Initiative, <https://policy-practice.oxfamamerica.org/work/private-sector-engagement/community-based-human-rights-impact-assessment-initiative/>, last accessed on 2 November 2016

Pallardy, R. (2010), *Deepwater Horizon oil spill of 2010*, Britannica Online entry, <https://www.britannica.com/event/Deepwater-Horizon-oil-spill-of-2010>, last accessed on 2 November 2016

Permanent Mission of Japan to UN in Geneva (2016), Statement by Ambassador Mitsuko SHINO to the 2016 United Nations Forum on Business and Human Rights 'National action plans to implement the UN Guiding Principles: stepping up Government commitments and action' (November 16, 2016), http://www.geneve-mission.emb-japan.go.jp/itpr_en/statements_rights_20161116.html, last accessed on 26 November 2016

Polski Instytut Praw Człowieka i Biznesu (2015), *30 NGOs call on Polish Government to develop National Action Plan on Business and Human Rights*, <http://pihrb.org/apel-do-prezes-rm-dot-krajowego-planu-dzialan-w-zakresie-biznesu-i-praw-czlowieka/>, last accessed on 31 October 2016

Ramasastri, A. (2015), 'Corporate Social Responsibility versus Business and Human Rights: Bridging the Gap Between Responsibility and Accountability', in *Journal of Human Rights* 14(2,) pp. 237-259

Rees, C. and Davis, R. (2016), *Where We're At: Taking Stock of Progress on Business and Human Rights*, August 2016, <http://www.shiftproject.org/resources/viewpoints/taking-stock-progress-guiding-principles/>, last accessed on 31 October 2016

Rivera, H.C. (2013), 'Regional Approaches In The Business & Human Rights Field', *L'Observateur des Nations Unies*, 2013-2(35), pp. 53-84, <https://business-humanrights.org/sites/default/files/documents/HFCR-%20Regional%20Approaches%20in%20the%20Field%20of%20BHR%20%28OBSNU%29.pdf>, last accessed on 31 October 2016

Ruggie, J. G. (2013), *Just Business: Multinational Corporations and Human Rights*. New York:W.W. Norton, pp. 1-225

Ruggie J. G. (2014), *Quo Vadis? Unsolicited Advice to Business and Human Rights Treaty Sponsors*, Institute for Human rights and Business, <https://www.ihrb.org/other/treaty-on-business-human-rights/quo-vadis-unsolicited-advice-to-business-and-human-rights-treaty-sponsors>, last accessed on 31 October 2016

Ruggie, J.G. (2016), The Sustainable Development Goals and the Guiding Principles. Open letter to the heads of the Global Commission on Business and Sustainable Development, 16 February 2016, <http://www.shiftproject.org/resources/viewpoints/sustainable-development-goals-guiding-principles/>, last accessed 26 November 2016

Salazar, K. (2015), *Business and Human Rights: A New Challenge for the OAS?*, <https://dplfblog.com/2015/10/14/business-and-human-rights-a-new-challenge-for-the-oas/>, last accessed on 31 October 2016

Scuola Superiore Sant'Anna (ed.) (2013), *Imprese e Diritti Umani: Il Caso Italia. Analisi Del Quadro Normativo e Delle Politiche di Salvaguardia*, 4 November 2013, http://www.sviluppoeconomico.gov.it/images/stories/documenti/Imprese_e_diritti_umani_Il%20caso_Italia_FINALE_NOV_2013.pdf, last accessed on 30 December 2016

van Schaik, A. and Ortiz, L. (2016), *5 Years of Failure – Why UN Voluntary Measures Aren't Stopping Bad Business Behaviour. Marking the 5th anniversary of the UN Guiding Principles on Business and Human Rights*, Common Dreams, <http://www.commondreams.org/views/2016/06/15/5-years-failure-why-un-voluntary-measures-arent-stopping-bad-business-behavior>, last accessed on 31 October 2016

Schönsteiner, J. et al. (2016), *Estudio De Linea Base Nacional (LBN) Sobre Empresas Y Derechos Humanos. Chile, Centro de Derechos Humanos de la UDP, Facultad de Derecho*, https://business-humanrights.org/sites/default/files/documents/Sch%C3%B6nsteiner_Estudio%20Linea%20Base%20Chile%2027.5.2016.pdf, last accessed on 2 November 2016

Schweizerische Eidgenossenschaft (2016), Bericht über die Schweizer Strategie zur Umsetzung der UNO-Leitprinzipien für Wirtschaft und Menschenrechte. Bericht des Bundesrates in Erfüllung des Postulates 12.3503, Alec von Graffenried, 14. Dezember 2012, vom 9 Dezember 2016. German version available at <https://www.newsd.admin.ch/newsd/message/attachments/46597.pdf>, last accessed on 29 December 2016. French version = available at <https://www.newsd.admin.ch/newsd/message/attachments/46598.pdf>, last accessed on 29 December 2016

SER (2016a) Agreement on Sustainable Garment and Textile, 4 July 2016, <http://www.ser.nl/~media/files/internet/talen/engels/2016/agreement-sustainable-garment-textile.ashx>, last accessed on 26 November 2016

SER (2016b), Dutch Banking Sector Agreement on international responsible business conduct regarding human rights, http://www.ser.nl/en/~media/files/internet/publicaties/overige/2010_2019/2016/dutch-banking-sector-agreement.ashx, last accessed on 26 November 2016

SER (2016c), 75 signatures endorse Sustainable Garment and Textile Sector agreement, 4 July 2016, <http://www.ser.nl/en/publications/news/20160704-sustainable-garment-textile-sector.aspx>, last accessed 26 November 2016

SER (2016d), Banks, unions, NGOs and government working together on human rights, 28 October 2016, <http://www.ser.nl/en/publications/news/20161028-dutch-banking-sector-agreement.aspx>, last accessed 26 November 2016

Shift Project (2012), *Advising the Peruvian Financial Regulator on Improved Corporate Management of Social Conflict*, www.shiftproject.org/resources/collaborations/peruvian-financial-regulator-improved-corporate-management-social-conflict/, last accessed on 2 November 2016

Sjåfjell, B. and Richardson, B.J. (eds.) (2015), *Company Law and Sustainability. Legal Barriers and Opportunities*, Cambridge University Press, 2015

Sjåfjell, B. and Wiesbrock, A. (eds.) (2016), *Sustainable Public Procurement under EU Law. New Perspectives on the State as Stakeholder*, Cambridge University Press, 2016

Sjåfjell, B. (2016), A missed opportunity for sustainability, EurActive, 27 September 2016, <https://www.euractiv.com/section/sustainable-dev/opinion/a-missed-opportunity-for-sustainability/>, last accessed 30 November 2016

Smith, D. and Macalister, T. (2012), *South African police shoot dead striking miners*, The Guardian, 17 August 2012, <https://www.theguardian.com/world/2012/aug/16/south-african-police-shoot-striking-miners>, last accessed on 2 November 2016

Special Representative of the Secretary-General (2010), Consultation with Member States on the Implementation of the UN 'Protect, Respect and Remedy' Framework, Summary Note, <https://business-humanrights.org/sites/default/files/media/documents/report-from-ruggie-govts-consultation-geneva-6-oct-2010.pdf>, last accessed on 2 November 2016

Special Representative of the Secretary-General (2011), Recommendations on the Follow-up to the Mandate, <https://business-humanrights.org/sites/default/files/media/documents/ruggie/ruggie-special-mandate-follow-up-11-feb-2011.pdf>, last accessed on 2 November 2016

Supreme Court of British Columbia (2016), *Araya v. Nevsun Resources Ltd.*, 2016 BCSC 1856, <http://www.cci.ca/content/uploads/2016/10/BCSC-Nevsun-judgment-Oct-2016.pdf>, last accessed on 2 November 2016

SwedWatch (Sjöström, Th. and Jakobsson, L.S.), *Report #82: Agents for Change. How public procurers can influence labour conditions in global supply chains. Case studies from Brazil, Pakistan and Thailand*

Swiss Coalition for Corporate Justice (2016a), *Swiss quality must include the protection of human rights and the environment*, <http://konzern-initiative.ch/swiss-quality-must-include-the-protection-of-human-rights-and-the-environment/?lang=en>, last accessed on 2 November 2016

Swiss Coalition for Corporate Justice (2016b), *Switzerland's disappointing Action Plan*, http://konzern-initiative.ch/switzerlands-disappointing-action-plan/?lang=en#_ftn1, last accessed 29 December 2016

Tanzania Ministry of Constitutional and Legal Affairs (2013), United Republic of Tanzania Human Rights Action Plan 2013-2017, December 2013, <https://business-humanrights.org/sites/default/files/documents/Tanzania%20National%20Human%20Rights%20Action%20Plan%202013.doc>, accessed on 26 November 2016

Taylor, M. (2013a), *A Mapping and Gap Analysis: The State's Duty to Protect A mapping and gap analysis as a basis for Norway's national action plan for implementation of the UN Guiding Principles on Business and Human Rights*, FAO 2013:12, <https://business-humanrights.org/sites/default/files/documents/10178-summary.pdf>, last accessed on 2 November 2016

Taylor, M. (2013b), *Human Rights Due Diligence: The Role of States. 2013 Progress Report*, ICAR

Thomas, T. and Chandra, A. (2014), *A baseline study on the nexus between corporate social responsibility and human rights: An Overview of Policies and Practices in ASEAN*, Report prepared by the study team on business and human rights of the ASEAN Intergovernmental Commission on Human Rights

UCCA (2016), The State of Corporate Accountability in Uganda: A Baseline Study Report for the Uganda Consortium on Corporate Accountability, September 2016, available at <http://www.iser-uganda.org/index.php/publications/reports/301-the-state-of-corporate-accountability-in-uganda-a-baseline-study-report-for-the-uganda-consortium-on-corporate-accountability.html>, accessed on 26 November 2016

United Arab Emirates (2016), Response to the UN WG HRB 2016 Survey, http://www.ohchr.org/Documents/Issues/Business/2016Survey/UAE_2.pdf (in Arabic), accessed on 2 November 2016

United Nations (1990), Draft Code of Conduct on Transnational Corporations (last version of the proposed draft code: UN Document E/1990/94)

United Nations Committee on the Rights of the Child (2013), General Comment No. 16 on State obligations regarding the impact of business on children's rights, UN Document CRC/C/GC/16 of 7 February 2013, <http://resourcecentre.savethechildren.se/sites/default/files/documents/7140.pdf>, last accessed on 31 October 2016

United Nations Economic and Social Council (2003), Economic, social and cultural rights: Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regards to Human Rights, UN Document E/CN.4/Sub.2/2003/12/Rev.2

United Nations General Assembly (2015a), Resolution A/RES/69/313, Addis Ababa Action Agenda of the Third International Conference on Financing for Development

United Nations General Assembly (2015b) Resolution A/RES/70/1, Transforming our world: the 2030 Agenda for Sustainable Development, 25 September 2015, available <http://www.un.org/sustainabledevelopment/sustainable-development-goals/>, last accessed on 26 November 2016

United Nations Global Compact (2012), Good Practice Notes on Human Rights

United Nations Global Compact (2015), Guidance for Global Compact Local Networks on National Action Plans on Business and Human Rights, https://www.unglobalcompact.org/docs/issues_doc/human_rights/Resources/GCLN-NAP-HR-Guidance.pdf, last accessed on 2 November 2016

United Nations Global Compact and Office of the High Commissioner for Human Rights (OHCHR) (2011), *The UN Guiding Principles on Business and Human Rights: Relationship to UN Global Compact Commitments. Joint note by the UN Global Compact and OHCHR*, www.unglobalcompact.org/docs/issues_doc/human_rights/Resources/GPs_GC%20note.pdf, last accessed on 31 October 2016

United Nations High Commissioner for Human Rights (2016), *Improving accountability and access to remedy for victims of business-related human rights abuse*, UN Doc A/HRC/32/19, http://www.ohchr.org/Documents/Issues/Business/DomesticLawRemedies/A_HRC_32_19_AEV.pdf, last accessed on 2 November 2016

United Nations Human Rights Committee (2012), Concluding observations on the VI periodic report of Germany, adopted by the Committee at its 106th session, CCPR/C/DEU/CO/6, <http://www2.ohchr.org/english/bodies/hrc/docs/co/CCPR-C-DEU-CO-6.doc>, last accessed on 31 October 2016

United Nations Human Rights Council (2008), Mandate of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, UN Doc A/HRC/RES/8/7, http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_8_7.pdf, last accessed on 31 October 2016

United Nations Human Rights Council (2011a), Human Rights Council resolution on Human rights and transnational corporations and other business enterprises, UN Doc A/HRC/17/4

United Nations Human Rights Council (2011b), Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework, UN Doc A/HRC/17/31, Annex; <http://www.ohchr.org/documents/issues/business/A.HRC.17.31.pdf>, last accessed on 31 October 2016

United Nations Human Rights Council (2012), Contribution of the United Nations system as a whole to the advancement of the business and human rights agenda and the dissemination and implementation of the Guiding Principles on Business and Human Rights, Report of the Secretary-General, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-21_en.pdf, last accessed on 3 November 2016

United Nations Human Rights Council (2014a), Human Rights and Transnational Corporations and Other Business Enterprises, UN Doc A/HRC/RES/26/22, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/083/82/PDF/G1408382.pdf?OpenElement>, last accessed on 31 October 2016

United Nations Human Rights Council (2014b), Human Rights Council Resolution on elaboration of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights, UN Doc A/HRC/26/9

United Nations Human Rights Council (2014c), Report of the Secretary-General on the challenges, strategies and developments with regard to the implementation of the resolution 21/5 by the United Nations system, including programmes, funds and agencies, UN Doc A/HRC/26/20

United Nations Human Rights Council (2016), Report of the Working Group on the Universal Periodic Review on Australia, UN Doc A/HRC/31/14/Add.1, http://www.upr-info.org/sites/default/files/document/australia/session_23_-_november_2015/a_hrc_31_14_add.1_e.pdf, last accessed on 2 November 2016

United Nations International Convention on the Elimination of all Forms of Racial Discrimination (UN CERD) (2007), Concluding observations on Canada report, UN Doc CERD/C/CAN/CO/18, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhstz6Kqb8xvweVxiwlinyzEmj6bjNwyfleXkGXXWoxwc2TqTqLC%2BzR7iOE0TY1IshtA6Vsvcl2InvYKFdZVkm8e6G6TpDX4d9KSXz1O7Dr4dX>, last accessed on 31 October 2016

United Nations Sub-Commission on the Promotion and Protection of Human Rights (2003), Resolution 2003/16 of 13 August 2003, UN Doc E/CN.4/Sub.2/2003/L.11

United Nations Working Group on Business and Human Rights (2013a), Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, UN Doc A/HRC/23/32, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-32_en.pdf, last accessed on 31 October 2016

United Nations Working Group on Business and Human Rights (2013b), Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises - Addendum - Visit to Mongolia, UN Doc A/HRC/23/32/Add.1, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/126/21/PDF/G1312621.pdf?OpenElement>, last accessed on 3 November 2016

United Nations Working Group on Business and Human Rights (2014a), Outcome of the seventh session of the Working Group on the issue of human rights and transnational corporations and other business enterprises, http://www.ohchr.org/Documents/Issues/Business/Session7/A.HRC.WG.12.7.1_en.doc, last accessed on 2 November 2016

United Nations Working Group on Business and Human Rights (2014b), Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises - Addendum - Visit to the United States of America, UN Doc A/HRC/26/25/Add.4 of 06/05/2014, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/024/76/PDF/G1402476.pdf?OpenElement>, last accessed on 31 October 2016

United Nations Working Group on Business and Human Rights (2014c), Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises - Addendum - Visit to Ghana, UN Doc A/HRC/26/25/Add.5, http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A_HRC_26_25_Add.5_ENG.DOC, last accessed on 3 November 2016

United Nations Working Group on Business and Human Rights (2015a), Guidance on National Action Plans on Business and Human Rights, Version 2.0., Geneva 2015 (paper copy on file with the author).

United Nations Working Group on Business and Human Rights (2015b), Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, UN Doc A/HRC/29/28,, http://www.ohchr.org/Documents/Issues/Business/A-HRC-29-28_en.pdf, last accessed on 31 October 2016

United Nations Working Group on Business and Human Rights (2015c), Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises - Addendum - Visit to Azerbaijan, UN Doc A/HRC/29/28/Add.1, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/111/74/PDF/G1511174.pdf?OpenElement>, last accessed on 31 October 2016

United Nations Working Group on Business and Human Rights (2016), Guidance on National Action Plans on Business and Human Rights (Final Version), November 2016, http://www.ohchr.org/Documents/Issues/Business/UNWG_NAPGuidance.pdf, last accessed on 30 December 2016

United Nations Working Group on Business and Human Rights (2016a), Report of the Working Group on the role of states to ensure state-owned enterprises respect human rights to the 32nd Session of the UN HRC held in June 2016, UN Doc A/HRC/32/45, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/091/71/PDF/G1609171.pdf?OpenElement>, last accessed on 31 October 2016

United Nations Working Group on Business and Human Rights (2016b), Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises on its mission to Brazil, UN Doc A/HRC/32/45/Add.1, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/096/43/PDF/G1609643.pdf?OpenElement>, last accessed on 31 October 2016

Urbina, I. (2013), *U.S. Flouts Its Own Advice in Procuring Overseas Clothing*, New York Times, 22 December 2013

US Department of State (2013), *U.S. Government Approach on Business and Human Rights*, <http://www.humanrights.gov/wp-content/uploads/2013/06/usg-approach-on-business-and-human-rights-updatedjune2013.pdf>, last accessed on 2 November 2016

US Department of State (2015), *USG National Action Plan on Responsible Business Conduct: Frequently Asked Questions*, <http://www.humanrights.gov/dyn/2015/usg-national-action-plan-on-responsible-business-conduct/>, last accessed on 31 October 2016

US Government (2016), *First National Action Plan on Responsible Business Conduct for the United States of America*, 16 December 2016, <https://www.state.gov/documents/organization/265918.pdf>, last accessed on 30 December 2016

White House (2012), *Fact Sheet: Executive Order Strengthening Protections Against Trafficking in Persons in Federal Contracts*, <https://www.whitehouse.gov/the-press-office/2012/09/25/fact-sheet-executive-order-strengthening-protections-against-trafficking>, last accessed on 2 November 2016

Zambia Human Rights Commission (2016) with support from the Danish Institute for Human Rights, National Baseline Assessment on Business and Human Rights, <http://www.hrc.org.zm/index.php/publications/general-publications/file/156-2016-zambia-national-baseline-assessment-on-bussiness-and-human-rights>, last accessed on November 2016

Websites

5th UN Forum on Business and Human Rights website, <http://www.ohchr.org/EN/Issues/Business/Forum/Pages/2016ForumBHR.aspx>, last accessed on 2 November 2016

ACCA website, <http://www.accahumanrights.org/en/>, last accessed on 2 November 2016

ACHR Business & Human Rights portal, (<http://www.humanrights.gov.au/education/business-and-human-rights>), last accessed on 2 November 2016

African Coalition for Corporate Accountability (ACCA) website, <http://www.accahumanrights.org/>, last accessed on 31 October 2016

African Commission on Human and Peoples' Rights, *The Working Group on Extractive Industries, Environment and Human Rights Violations* website. <http://www.achpr.org/mechanisms/extractive-industries/>, last accessed on 30 November 2016

Australian Commission on Human Rights Business & Human Rights website, www.humanrights.gov.au/education/business-and-human-rights/index.html, last accessed on 31 October 2016

Belgian Commission on Sustainable Development website – Business and Human Rights, <http://www.rs.belgium.be/fr/actualite/C3%A9/business-and-human-rights>, last accessed on 2 November 2016

Belgrade Centre for Human Rights – Human rights and business project website, <http://www.bgcentar.org.rs/biznis-i-ljudska-prava-u-srbiji/>, last accessed on 26 November 2016

BHRRRC website – Implementation by governments, <https://business-humanrights.org/en/un-guiding-principles/implementation-tools-examples/implementation-by-governments>, last accessed on 2 November 2016

BHRRRC website – National Action Plans, <https://business-humanrights.org/en/un-guiding-principles/implementation-tools-examples/implementation-by-governments/by-type-of-initiative/national-action-plans>, last accessed on 2 November 2016

BHRRRC's Government Action Platform, <https://business-humanrights.org/en/government-action-platform>, last accessed on 2 November 2016

Burma Responsible Investment Reporting Requirements Frequently Asked Questions website, www.HumanRights.gov/burmaresponsibleinvestment, last accessed on 30 December 2016

Council of Europe Steering Committee for Human Rights website, http://www.coe.int/t/dghl/standardsetting/cddh/default_EN.asp?, last accessed on 31 October 2016

CSR Compass website, <http://www.csrcompass.com/>, last accessed on 2 November 2016

CSR Watch Jordan website, <http://www.csrwatchjordan.com/>, last accessed on 2 November 2016

Equator Principles website, <http://www.equator-principles.com/>, last accessed on 2 November 2016

EU Roadmap to Business and Human Rights Conference website, <http://eu-roadmap.nl/>, last accessed on 2 November 2016

Human Rights and Business Country Guide website, <http://hrbcountryguide.org/>, last accessed on 2 November 2016

ICAR-DIHR National Action Plans Project website, <https://business-humanrights.org/en/un-guiding-principles/implementation-tools-examples/implementation-by-governments/by-type-of-initiative/national-action-plans/icar-dihr-national-action-plans-project>, last accessed 26 November 2016

International Coordinating Committee (ICC) Working Group on Business and Human Rights website, <http://nhri.ohchr.org/EN/Themes/BusinessHR/Pages/Home.aspx>, last accessed on 26 November 2016

International Coordinating Committee for National Human Rights Institutions/Global Alliance of National Human Rights Institutions, <http://nhri.ohchr.org/EN/Pages/default.aspx>, last accessed on 30 November 2016

International Learning Lab on Public Procurement and Human Rights, <http://www.hrprocurementlab.org/>, last accessed 30 November 2016

Kingdom of Morocco National Human Rights Council website, <http://www.cndh.ma/an/about-cndh/about-us>, last accessed on 2 November 2016

Myanmar Centre for Responsible Business website, <http://www.myanmar-responsiblebusiness.org/>, last accessed on 2 November 2016

NANHRI website, <http://www.nanhri.org/our-work/thematic-areas/business-human-rights/>, last accessed on 2 November 2016

National Action Plan website, <http://nationalactionplan.us/>, last accessed on 2 November 2016

Office of the UN High Commissioner for Human Rights website, NHRIs Section, <http://www.ohchr.org/en/countries/nhri/pages/nhrimain.aspx>, last accessed on 26 November 2016.

Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights (IGWG) website <http://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOnTNC.aspx>, last accessed on 26 November 2016.

SMART Project website, <http://www.jus.uio.no/ifp/english/research/projects/smart/>, last accessed 26 November 2016

The Responsible Sourcing Tool website, <http://www.responsiblesourcingtool.org/>, last accessed on 30 December 2016.

Treaty Alliance website, <http://www.treatymovement.com/>, last accessed on 2 November 2016

UN Working Group on Business and Human Rights National Action Plan Repository website, <http://www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx>, last accessed on 2 November 2016

United Nations Working Group on Business and Human Rights, WG HR&B State Surveys, <http://www.ohchr.org/EN/Issues/Business/Pages/ImplementationGP.aspx>, last accessed on 31 October 2016

United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises website, <http://www.ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporationsandotherbusiness.aspx>, last accessed on 3 November 2016

US National Action Plan website, <http://nationalactionplan.us/>, last accessed on 9 December 2016

Zambia Human Rights Commission website, <http://www.hrc.org.zm/>, last accessed on 2 November 2016

Annex 1 - List of interviewees

1. Dr Michael K. Addo, Member of the UN WG on Business and Human Rights; Senior Lecturer at the University of Exeter
2. Sara Blackwell, Esq., Legal & Policy Coordinator, Frameworks Program, International Corporate Accountability Roundtable (ICAR)
3. Jerome Chaplier, Coordinator, European Coalition for Corporate Justice
4. Carlos Cordero, Sustentia
5. Representative of a NHRI
6. Foster Hamuyube BA, Msc Econ, Chief- Research and Planning, Zambia Human Rights Commission
7. Representative of a NHRI
8. Fernanda Hopenhaym, Deputy Director, Project on Organizing, Development, Education, and Research, PODER
9. Representative of the international NGO
10. Arnold Kwesiga, Project Coordinator, Uganda Consortium on Corporate Accountability
11. Josua Loots, Programme Manager: Business & Human Rights, Centre for Human Rights, Faculty of Law, University of Pretoria
12. Pasience Mlowe, Programme Officer, Corporate and Government Watch, Legal and Human Rights Centre
13. Paloma Munoz, Human Rights and Business Advisor, Latin America Focal Point, Human Rights and Development, Danish Institute for Human Rights
14. Maryann Njau-Kimani, OGW, Senior Deputy Solicitor General, Secretary, Justice & Constitutional Affairs OAG & Department Of Justice
15. Claire Methven O'Brien, Senior Advisor on Human Rights and Business, Danish Institute for Human Rights
16. Jason Pielemeier, Special Advisor and Section Lead; Bureau of Democracy, Human Rights and Labor; U.S. Department of State
17. Caroline Rees, Director, Shift Project
18. Lene Wendland, Adviser on Business and Human Rights, Human Rights and Economic and Social Issues Section, Research and Right to Development Division, OHCHR
19. Jovana Stopic, Belgrade Centre for Human Rights
20. An employee of an international organisation

Annex 2 – Factors impeding government’s ability to take action on business and human rights

According to the responses provided in the individual states’ responses to the Business & Human Rights Resource Centre questionnaire administered in 2015 (30 out of 41 countries that responded to the questionnaire addressed this issue), the factors impeding governments’ ability to take action on business and human rights are as follows:

| Factor impeding governments’ ability to take action on BHR? | The most significant factor | Significant factor | Minor factor | Not a factor |
|--|--|--|---|--|
| Challenges of coordinating across government departments | Morocco, Senegal, Myanmar, Czech Republic, Estonia, Slovenia, | Ghana, Mozambique, Niger, Bahrain, Israel & OPT, Indonesia, El Salvador, Colombia, Belgium, Hungary, Spain, Netherlands, Slovakia, Switzerland | Angola, Morocco, Tanzania, Argentina, Brazil, Denmark, Norway, UK | Bulgaria, Finland |
| Lack of understanding or awareness of business & human rights in government | Morocco, Tanzania, Indonesia, Brazil, El Salvador, Slovenia, Spain | Ghana, Niger, Mozambique, Bahrain, Myanmar, Colombia, Belgium, Czech Republic, Estonia, Hungary, Netherlands | Angola, Niger, Senegal, Bahrain, Israel & OPT, Denmark, Slovakia, Norway | Argentina, Mexico, Finland, Switzerland |
| Lack of resources for enforcement, monitoring and prosecution | Ghana, Senegal, Tanzania, Bahrain, Indonesia, El Salvador | Angola, Niger, Mozambique, Morocco, Israel & OPT, Myanmar, Argentina, Belgium, Estonia, Hungary, Netherlands, Slovenia | Brazil, Colombia, Czech Republic, Denmark, Norway, Slovakia, Spain, UK, | Bulgaria, Finland, Switzerland, |
| Concern about deterring foreign investment | Colombia | Angola, Niger, Tanzania, Ghana, Brazil, Indonesia, Myanmar, Bulgaria, Czech Republic, UK | Morocco, Senegal, Bahrain, Israel & OPT, El Salvador, Denmark, Estonia, Netherlands, Slovak Republic, UK, Slovenia, Switzerland | Mozambique, Mexico, Finland, Norway, Spain, |
| Opposition by economic interest groups or business associations | Morocco, Tanzania, Indonesia, Myanmar, El Salvador | Ghana, Niger, Israel & OPT, Brazil, Argentina, Czech Republic, Netherlands | Angola, Mozambique, Bahrain, Colombia, Belgium, Denmark, Estonia, Slovakia, Spain | Senegal, Bulgaria, Finland, Norway, Switzerland, UK, |

| | | | | |
|---|-------------------------|---|--|---|
| Opposition or lack of consensus within government | Senegal | Tanzania, Israel & OPT, Indonesia, Myanmar, Brazil, Czech Republic, Switzerland, Netherlands | Ghana, Argentina, El Salvador, Estonia, Slovenia, Belgium, Denmark, Spain, UK, | Angola, Niger, Mozambique, Bahrain, Colombia, Bulgaria, Finland, Norway |
| Other opposition by influential people or groups outside government | Tanzania, Indonesia | Niger, Senegal, Myanmar, Brazil, El Salvador | Ghana, Morocco, Israel & OPT, Argentina, Czech Republic, Denmark, Estonia, Netherlands, Spain | Angola, Mozambique, Bahrain, Colombia, Bulgaria. Finland, Norway, Switzerland, UK |
| Political limitations imposed by foreign governments or multilateral institutions | Senegal, Netherlands | Niger, Argentina, Indonesia, Myanmar, Denmark | Angola, Ghana, Tanzania, Morocco, El Salvador, Estonia, Norway, UK | Mozambique, Bahrain, Finland, Spain, Switzerland |
| Lack of international companies operating abroad & involved in human rights abuses | | Bulgaria | | |
| Lack of capacity and capability of the government | | Indonesia | | |
| Lack of coherence between international instruments (e.g. UN, OECD, World Bank, Development Banks) | | Norway | | |

Source: Business & Human Rights Resource Centre, Government Action Platform, Individual country responses to the BHHRC survey 2015

Number of country responses featuring response to this question: 30. All responses are available at <https://business-humanrights.org/en/government-action-platform>, last accessed on 8 December 2016

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