Guiding Principles on Business and Human Rights: Survey on the State as economic actor

1. **General update**
2. Specific Steps taken by the State to implement the UN Guiding Principles on Business and Human Rights (UNGPs) since June 2011:

*Examples of Switzerland's activities to implement the UNGPs:*

* *Work to develop a National Action Plan to implement the UNGPs*
* *Background report on commodities, with recommended actions*
* *Integration of the UNGPs in the multi-stakeholder initiatives in which Switzerland is taking part (VPs, ICoC)*
* *Integration of this issue in bilateral consultations with other states*
* *Participation in the Council of Europe’s drafting group on recommendations for the implementation of the UNGPs*
* *Inclusion of a workshop on Business and Human Rights / UNGPs in the training of young diplomats and public officials.*
* *Supports and coordinates, through a participative approach, the elaboration of a guide to implement the UNGP for the commodity trading sector in Switzerland*

1. Do these efforts include a plan the develop or update a State National Action Plan on Business and Human Rights, and does such a plan refer to the UN Guiding Principles and the guidance developed by the Working Group?

*Yes, Switzerland is currently developing a NAP.*

If yes, please indicate:

1. The government departments taking the lead and involved in developing such a plan and coordinating its implementation.

*The Federal Department of Foreign Affairs and the State Secretariat for Economic Affairs are taking the lead jointly.*

1. Whether different stakeholders, including business associations and civil society organizations have been involved in developing the plan, and whether there is an institutional platform for such engagement and participation?

*Yes, the stakeholders (businesses, business associations, civil society and the academic community) were included in the process through oral and written consultations; it is also planned that they will accompany the implementation and revision of the future NAP*

**Business enterprises owned or controlled by the State**

***Preliminary remark***

The subsequent answers refer to the important enterprises owned and controlled by the federal state (“State owned enterprises” (SoEs) as stipulated in Art 8, para. 5 of the Government and Administration Organisation Act (RVOG, SR 172.010).

1. Does the Government have policies and/or regulations and/or guidance in place that address the need for enterprises that are owned or controlled by the State to implement respect for human rights throughout their operations? If yes do these include:
2. Requirements or expectations for State-owned enterprises to undertake human rights due diligence?
3. Provisions for human rights due diligence relating to activities in other countries/abroad?
4. Requirements to report on human rights risks and/or impacts, and if so on what issues?

*Switzerland is a Contracting Party to the most important UN human rights conventions (in addition to the two International Human Rights Covenants of 1966, namely the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities), as well as the important Convention on Human Rights of the Council of Europe (ECHR).*

*Under Art. 35 para. 2 of the Federal Constitution, the fulfilment of human rights is incumbent on all parties that act on behalf of the state, i.e. in principle also on all state-owned enterprises: "Whoever acts on behalf of the state is bound by fundamental rights and is under a duty to contribute to their implementation".*

*The Swiss state can integrate fair trade in its policy principles and set a good example. It can do this for instance when it awards public procurement contracts (Confederation, cantons, communes), or acts as an enterprise (e.g. public-law enterprise), or as the owner of public- or private-law enterprises (e.g. Swiss Post, Ruag, Swisscom, SBB).*

*The strategic goals which the Federal Council issues every four years for all federal SOEs stipulate that "a corporate strategy committed to sustainable and ethical principles is expected" (*[*http://www.efv.admin.ch/d/themen/finanzpolitik\_grundlagen/cgov/index.php*](http://www.efv.admin.ch/d/themen/finanzpolitik_grundlagen/cgov/index.php)*; for more information, click on the links in the paragraphs on specific federal businesses on this webpage). One of the approaches adopted by federal SOEs to implement this goal is to draw up special codes of conduct (human rights compliance, sustainability rules, anti-corruption regulations, legal compliance, etc.) that encompass the value chain in Switzerland and abroad as well as audits to verify customer compliance. The SOEs report their efforts in this area in their business report, which are generally based on the Global Reporting Initiative (GRI) index.*

*Examples from the Internet:*

***Swisscom***

*Download sustainability report:*[*http://www.swisscom-report.ch/de/download-center*](http://www.swisscom-report.ch/de/download-center)

*Diversity / mention of human rights:*[*http://report.swisscom.ch/en/sustainability-report/sustainability-report/attractive-employer/diversity*](http://report.swisscom.ch/en/sustainability-report/sustainability-report/attractive-employer/diversity)

***SBB***

*Sustainability report:* [*http://geschaeftsbericht.sbb.ch/fileadmin/user\_upload/Downloads/SBB\_Nachhaltigkeitsbericht\_2014.pdf*](http://geschaeftsbericht.sbb.ch/fileadmin/user_upload/Downloads/SBB_Nachhaltigkeitsbericht_2014.pdf)

*Reporting in accordance with GRI index:* [*http://geschaeftsbericht.sbb.ch/fileadmin/user\_upload/Downloads/GRI\_Index\_DT.pdf*](http://geschaeftsbericht.sbb.ch/fileadmin/user_upload/Downloads/GRI_Index_DT.pdf)

***Swiss Post***

*Reporting in accordance with GRI index:* [*https://www.google.ch/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=2&cad=rja&uact=8&ved=0CCUQFjABahUKEwjbqM2GurDHAhVM2hoKHYLHCFg&url=https%3A%2F%2Fwww.post.ch%2F-%2Fmedia%2Fpost%2Fueber-uns%2Fdokumente%2Farchiv-berichterstattung%2Fgri%2Fgri-bericht-2014.pdf%3Fla%3Dde%26vs%3D1&ei=iwDSVZu3Kcy0a4KPo8AF&usg=AFQjCNFbzXZ8aBfrZc476GjqFOdvfjXG1g&bvm=bv.99804247,d.d2s*](https://www.google.ch/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=2&cad=rja&uact=8&ved=0CCUQFjABahUKEwjbqM2GurDHAhVM2hoKHYLHCFg&url=https%3A%2F%2Fwww.post.ch%2F-%2Fmedia%2Fpost%2Fueber-uns%2Fdokumente%2Farchiv-berichterstattung%2Fgri%2Fgri-bericht-2014.pdf%3Fla%3Dde%26vs%3D1&ei=iwDSVZu3Kcy0a4KPo8AF&usg=AFQjCNFbzXZ8aBfrZc476GjqFOdvfjXG1g&bvm=bv.99804247,d.d2s)

***RUAG***

*Annual report (for compliance see pp. 40 ff.):* [*http://www.ruag.com/fileadmin/ruag/group/Annual\_Report/GB/RUAG\_2014\_GB\_DE.pdf*](http://www.ruag.com/fileadmin/ruag/group/Annual_Report/GB/RUAG_2014_GB_DE.pdf)

*Code of conduct:* [*http://www.ruag.com/fileadmin/ruag/Divisions/Group/About\_us/Compliance/Code\_of\_conduct\_for\_partners/1411\_Verhaltenskodex\_fuer\_Geschaeftspartner\_von\_RUAG\_DE.pdf*](http://www.ruag.com/fileadmin/ruag/Divisions/Group/About_us/Compliance/Code_of_conduct_for_partners/1411_Verhaltenskodex_fuer_Geschaeftspartner_von_RUAG_DE.pdf)

2. Does the Government have any policies and/or regulations and/or guidance with regard to joint ventures involving the Government (e.g. in the extractive sector)? If yes, do these also apply to joint venture partners?

The Background report on commodities prepared under the direction of three departments (Federal Department of Foreign Affairs, Federal Department of Finance and Federal Department of Economic Affairs, Education and Research), which was published in March 2013, underscores the economic importance of the commodities sector in Switzerland. It also states that Switzerland already does a great deal to guarantee both its competitiveness and its integrity as a centre for conducting business, including commodity trading. The specific recommendations it makes should help further improve the framework conditions and reduce existing risks, including reputational risks.

Further information: https://www.news.admin.ch/dokumentation/00002/00015/index.html?lang=fr&msg-id=48319

1. Are publicly owned funds (e.g. pension or sovereign wealth funds) required or expected to include human rights risks in fund management criteria?

*In Switzerland pension funds are not explicitly required to include human rights risks in fund management criteria. However, Art. 50 of the Ordinance on Occupational Old Age, Survivors' and Invalidity Pension Provision (OPO 2) stipulates that pension funds "must select, manage and monitor their investments carefully". This somewhat broader formulation encompasses human rights risks that could lead to a failure to meet due diligence requirements.*

4. Do publicly owned or controlled financial institutions (e.g. export credit agencies, official investment insurance agencies or development finance institutions) have safeguard policies that refer to human rights? If yes, do they have human rights due diligence requirements for clients that benefit from financial or advisory support?

***The Swiss Export Risk Insurance (SERV)***

*As a member of the OECD, Switzerland applies the OECD Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence ("Common Approaches"). Under the heading "Environmental and Social", the Common Approaches also subsume criteria pertaining to human rights and make explicit reference to the UN Guiding Principles on Business and Human Rights. The evaluation is always project-related and is conducted on the basis of World Bank and IFC benchmarks (in particular the IFC Performance Standards on Environmental and Social Sustainability). SERV has internalized the Common Approaches and adopted its environmental, social and human rights compliance policy accordingly. SERV actively participates in the work of the expert group in charge of these discussions. Furthermore a revision of the ordinance pertaining to SERV has been approved by the Swiss government in June 2015. This includes a new explicit reporting obligation on human rights by SERV customers.*

*SERV is a so called pure cover Export Credit Agency (ECA) and unlike many other OECD ECAs does not provide direct export credits. Hence its involvement in the export transaction is only a contingent liability and not continuous as in the credit business.*

***Swiss Investment Fund for Emerging Markets (SIFEM AG)***

*SIFEM is Switzerland's Development Finance Institution and has the mandate to invest mainly in funds and financial intermediaries for the benefit of small and medium-sized enterprises (SME), rapidly growing enterprises and private infrastructure companies in developing and transition countries. By doing so, SIFEM provides long-term access to finance and know-how for these enterprises and contributes to their sustainable growth, the creation of jobs and to poverty reduction.*

*SIFEM is a company pursuant to the Swiss Code of Obligations and wholly owned by the Swiss Confederation. As such, it is obliged both legally as well as by the Strategic Objectives of the Federal Council to respect the principles of financial, economic, social and environmental sustainability and – with regard to employment creation and working conditions – the Decent Work Agenda of the International Labour Organisation (ILO). The evaluation of the sustainability criteria and the ILO Core Labour Standards, on the basis of SIFEM's Responsible Investment Policy, is always done ex-ante and project-related. To this end, the IFC Performance Standards on Environmental and Social Sustainability often serve as a benchmark. They include direct references to the UN Guiding Principles on Business and Human Rights and the International Bill of Human Rights. The implementation of SIFEM's Responsible Investment Policy is rigorously monitored and externally evaluated.*

5. Please indicate any other practices or lessons learned that the Government would like to share in relation to the human rights responsibilities of business enterprises owned or controlled by the State.

*In its Position paper on CSR the Confederation recognizes its special responsibility to safeguard human rights through state owned businesses*[[1]](#footnote-2)*. Federal businesses are required to play an exemplary role*[[2]](#footnote-3)*.*

*Public procurement:*

*State that bidders performing their service in Switzerland must comply with the applicable health and safety regulations for Switzerland at the place of performance and guarantee equal pay for men and women (Art. 8 Public Procurement Act). Bidders performing their service abroad must comply with at least the ILO Core Conventions (Art. 7 (2) Public Procurement Ordinance; see below, Section 2.1.3, p. 10).(see Sustainable Procurement Recommendations for the federal procurement offices enclosed)*

1. Federal businesses means businesses that are managed in accordance with strategic goals, as stipulated in Art 8, para. 5 of the Government and Administration Organisation Act (RVOG, SR 172.010). [↑](#footnote-ref-2)
2. See also: "Gesellschaftliche Verantwortung der Unternehmen, Erwartungen an die Verantwortung der Unternehmen für Gesellschaft und Umwelt, Positionspapier und Aktionsplan des Bundes" (Position Paper and Action Plan of the Federal Council on Corporate, Social and Environmental Responsibility, in German), 1.4.2015 (https://www.wbf.admin.ch/de/aktuell/medieninformationen/medienmitteilungen/medienmitteilungen-2015/?tx\_rsspicker\_pi\_list%5Boid%5D=56760&tx\_rsspicker\_pi\_list%5Bview%5D=single). [↑](#footnote-ref-3)