



THE PERMANENT MISSION  
OF THE  
UNITED STATES OF AMERICA  
TO THE  
UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS  
IN GENEVA

Working Group on the Issue of Human Rights  
and Transnational Corporations  
and Other Business Enterprises  
Palais des Nations  
Geneva, Switzerland

**OHCHR REGISTRY**

- 4 OCT. 2016

Recipients : ...h...Wendland  
                  ...F.....

Enclosure .....

Dear Sir/Madam

Thank you for your letter dated July 15, 2016, the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises transmitted a letter to Mission Geneva requesting answers to a survey concerning the "national action plans on business and human rights."

Attached please find the response from the Government of the United States.

Sincerely,

Keith M. Harper  
Ambassador  
U.S. Representative to the UN  
Human Rights Council

SUBJECT: U.S. Response to Questionnaire on National Action Plans on Business and Human Rights

Survey:

1. Where a State has developed, or started the process of developing, a National Action Plan (or another specific Government-led plan to promote responsible business practice in line with the UN Guiding Principles), please share experiences on whether and how the NAP/NAP process has:
  - a. Helped identify gaps in State and business implementation of the Guiding Principles
    - The National Action Plan (NAP) process has helped to catalyze discussions within and among different parts of the U.S. Government about business and human rights, as well as responsible business conduct issues writ-large including but not limited to anti-corruption, transparency, and the OECD Guidelines. The United States has decided to write its National Action Plan on Responsible Business Conduct to encompass more than just business and human rights. In this regard the process of developing a NAP has helped to spread awareness and understanding among government officials about the OECD Guidelines and the UNGPs. The U.S. Government also chooses to use its process to conduct outreach to other stakeholders, including in the business, labor, and other civil society communities, which has led to useful sharing of perspectives and discussions on how to better coordinate our efforts toward shared objectives on this issue.
  - b. Led to concrete steps (e.g. new laws, policies, regulations) to address gaps identified
    - Not applicable; U.S. Government NAP is not yet finalized.
  - c. Helped improve policy coherence in areas of business and human rights
    - The process has helped different agencies and offices across the U.S. Government better understand each others' priorities, approaches, and activities. This has led to enhanced coordination and collaboration across the federal government.
  - d. Addressed the role of the States vis-à-vis companies that are owned or controlled by the State (in line with the recommendations set out in [A/HRC/32/45](#))
    - Not applicable.
  - e. Led to new initiatives to encourage companies to discharge their responsibility to respect human rights (such as mandatory human rights due diligence requirements)

- Not applicable; U.S. Government NAP is not yet finalized.
- f. Helped to develop a strategy for improving accountability and access to remedy (in line with [A/HRC/32/L.19](#))
- Not applicable; U.S. Government NAP is not yet finalized.
2. Where a State has consulted the Working Group Guidance on National Action Plans on Business and Human Rights, please comment on:
- a. How the Guidance has informed/is informing the NAP process
- The Working Group Guidance was circulated to all relevant agencies and offices at an early stage in the process and was referenced at various stages throughout.
- b. Which elements are seen as particularly useful
- We were pleased to see that the Working Group explicitly encouraged states to hold multi-stakeholder consultations with business, civil society, and other stakeholders. The process by which a NAP is developed is in many ways the most important determinant of the quality of the content. A key reason why the GPs have been so widely accepted is because they were developed through broad consultations to achieve buy-in from various stakeholders groups from the outset. The U.S. Government took this advice to heart, and followed through by holding four open consultations in four different regions of the country to ensure that a wide variety of interested stakeholders had opportunities to engage directly with the U.S. Government on this process.
- c. How the document could be further improved
- We appreciate that the guide includes a section on “identifying gaps in state and business implementation of the UNGPs.” In an effort to keep the Guide itself a manageable length, it might be worthwhile to have an appendix item on how to conduct an effective gap analysis of state law, regulation, and policy.
  - Given that logistical, capacity, and cost constraints are likely to impact states’ abilities to conduct NAP processes, it would be worthwhile if the Guide provided suggestions on how to mitigate costs and work load.
  - Ultimately, the best way to learn how to do a NAP will be to take on the task. While guidance and assistance from the Working Group can be tremendously useful in helping states understand the scope of the task and map out strategies to address it, a diversity of approaches and results is not only inevitable – but also, ultimately, desirable. We urge the Working Group to maintain an open and flexible approach to working with and facilitating mutual

learning on NAP processes between states, and with other involved stakeholders as well.

3. Where a state has not consulted the Working Group's Guidance on National Action Plans on Business and Human Rights, please comment on why this was the case.
  - a. Not Applicable
4. Where a state has already adopted and started to implement a National Action Plan, what progress has been made and what lessons have been learned from its implementation?
  - a. The United States has not yet adopted and stated to implement a NAP.