



TÉLÉCOPIE · FACSIMILE TRANSMISSION

DATE: 5 October 2020

A/TO: All Permanent Missions to the United Nations Office at Geneva

DE/FROM: Beatriz Balbin
Chief
Special Procedures Branch

A handwritten signature in blue ink that reads "Beatriz Balbin".

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PAGES: 8 (Y COMPRIS CETTE PAGE/INCLUDING THIS PAGE)

OBJET/SUBJECT: **Call for input - Working Group on the issue of human rights and transnational corporations and other business enterprises**

Mandate of the Working Group on the issue of human rights and transnational corporations and other business enterprises

5 October 2020

Excellency,

I have the honour to address you in my capacity as Chairperson of the Working Group on the issue of human rights and transnational corporations and other business enterprises (the Working Group on Business and Human Rights), pursuant to resolutions 17/4, 35/7 and 44/15 of the United Nations Human Rights Council.

I am writing to invite your Excellency's Government to provide inputs for the preparation of the Working Group's upcoming thematic report focusing on *'Business and human rights: towards a decade of global implementation'*, to be presented at the Human Rights Council in June 2021. The report will be centred on the upcoming tenth anniversary of the *UN Guiding Principles on Business and Human Rights (UNGPs)*, taking stock of the first ten years of implementation and informing a roadmap for global implementation in the next decade.

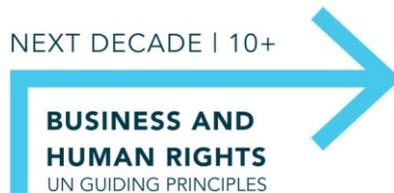
I would be grateful if this letter and the attached questionnaire could be transmitted to relevant authorities, inviting all submissions **no later than 30 November 2020**. Responses to the questionnaire can be sent to wg-business@ohchr.org (preferred) or addressed to:

Working Group on business and human rights
Special Procedures
Office of the United Nations High Commissioner for Human Rights (OHCHR)
Palais des Nations
CH-1211 Geneva 10, Switzerland

Please, accept, Excellency, the assurances of my highest consideration.



Anita Ramasastry
Chairperson
Working Group on the issue of human rights and
transnational corporations and other business enterprises



Business and human rights – towards a decade of global implementation

CALL FOR GOVERNMENT INPUTS

Introduction

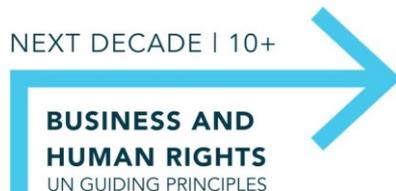
On 7 July 2020, the [UN Working Group on Business and Human Rights](#) (UNWG) launched a new global project, *[‘Business and human rights: towards a decade of global implementation.’](#)* Also known as “UNGPs 10+ / Next Decade BHR,” the project is centred on the upcoming tenth anniversary of the [UN Guiding Principles on Business and Human Rights \(UNGPs\)](#), the global authoritative framework on business and human rights that was unanimously endorsed by the UN Human Rights Council in June 2011. The project is taking stock of practice to date, identifying gaps and challenges, and developing a vision and roadmap for scaling up implementation of the UNGPs over the course of the next ten years.

The project’s consultation process is being carried out in collaboration with OHCHR, UNDP, and others. The UNWG seeks to hear perspectives from a wide range of stakeholders from all regions, including government actors, international organizations, national human rights institutions, industry organizations, businesses, consumer associations, investors, trade unions, representatives of affected communities, indigenous peoples, human rights defenders, civil society organizations, professional associations and groups, academia, and others. Accordingly, the UNWG is issuing calls for input. Please refer to the [project's website](#).

Call for government inputs

As recalled by the recent Human Rights Council resolution A/HRC/44/15, the UNGPs were unanimously endorsed by the Human Rights Council in 2011 (A/HRC/RES/17/4) and have become the authoritative global reference point for preventing and addressing adverse impacts on human rights arising from business-related activity. The resolution encourages all States to enhance efforts to implement the UNGPs, “including through appropriate policy frameworks, regulations and the development of national action plans on business and human rights” and share information about progress made, challenges and lessons learned.

This questionnaire is aimed at getting up-to-date and accurate information about existing policies, legislation, initiatives and plans by States and to understanding the challenges, opportunities and policy innovations by Member States in the implementation UNGPs. Such information will be critical in informing the UNWG’s stocktaking of the first ten years of the UNGPs and the roadmap for global implementation in the next decade. It complements other surveys and calls for information conducted by the UNWG that seek the views and input from the full range of relevant stakeholders, including business and civil society. The stocktaking and assessment will be presented in the UNWG’s report to the Human Rights Council in June 2021 and the roadmap for the next decade will be launched at the 10th anniversary of the UNGPs around the same dates.



The UNWG kindly requests that States provide their input by responding to the questionnaire to wg-business@ohchr.org by 30 November 2020. Unless indicated otherwise, the input from States will be published on a dedicated page of the project website.

Government questionnaire

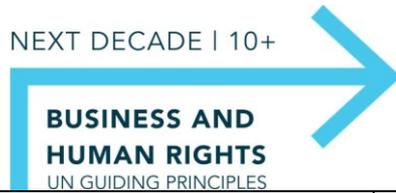
Questions addressed to all stakeholders:

- (1) Where has progress taken place in UNGPs implementation over the course of the last decade? What are the promising developments and practices (by governments, businesses, international organizations, civil society organizations, etc.) that can be built on?
- (2) Where do gaps and challenges remain? What has not worked to date?
- (3) What are key obstacles (both visible and hidden), drivers, and priorities that need to be addressed to achieve fuller realization of the UNGPs?
- (4) What systemic or structural challenges need to be tackled to realize sustainable development based on respect for human rights?
- (5) In concrete terms, what will be needed in order to achieve meaningful progress with regard to those obstacles and priority areas? What are actionable and measurable targets for key actors in terms of meeting the UNGPs' expectations over the coming years?

Questions addressed specifically to States:

Please provide information about the following aspects related to UNGPs implementation, including links to public documents wherever relevant.

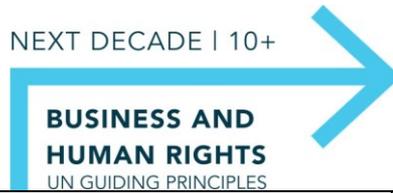
UNGPs	Existing practice and challenges	Actionable goals and targets for next decade
Commitment to implementing the UNGPs		
State commitment to implement the UNGPs, e.g., National Action Plans, public statements, national baseline assessments.	The Danish National Action Plan (NAP) from 2014 was the then-seated Danish Government's implementation of the UNGP's from 2011. The Danish NAP is still valid and is structured within three pillars just as the UNGP's: 1) The state duty to protect human rights, 2) The corporate responsibility to respect human rights and 3) Access	The Danish NAP from 2014 is still valid. Link to the NAP: https://em.dk/media/9370/nap-on-business-and-human-rights-final.pdf



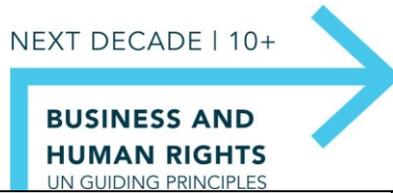
	<p>to remedy.</p> <p>Some of the initiatives mentioned in the NAP is, among others, the establishment of a Mediation and Complaints-Handling Institution for Responsible Business Conduct (now called NCP Denmark), evaluation of CSR reporting in large and listed Danish companies and more.</p>	
<p>State structures mandated to implement the UNGPs, e.g., government ministry tasked with implementation measures; allocation of internal resources.</p>	<p>The Mediation and Complaints-Handling Institution for Responsible Business Conduct (NCP Denmark) is the Danish national contact point to the OECD Guidelines for Multinational Enterprises. NCP Denmark is instituted by law and deals with cases of whether Danish companies, public authorities or civil society organizations act in accordance with the principles set up by the OECD Guidelines for Multinational Enterprises.</p> <p>In 2011, the OECD Guidelines were updated and aligned with the UNGPs on business and human rights. Private and public companies, organizations and authorities can be the subject of complaints if they fail to observe the principles of the Guidelines. The complaint follows several steps from assessment to mediation or investigation and statement by the Institution.</p> <p>NCP Denmark is also responsible for raising awareness of what responsible business conduct entails for businesses and authorities including guidelines from the OECD and UNGP's.</p> <p>The Danish Business Authority (a part of the Danish Ministry for Industry, Business and Financial Affairs) furthermore disseminates information about the UNGPs on central online platforms such as its</p>	

	own website: www.samfundsansvar.dk	
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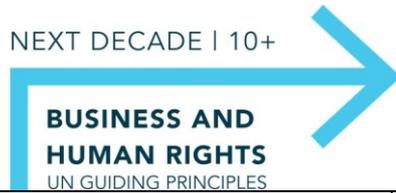
Regulatory and policy efforts	Existing practice and challenges	Actionable goals and targets for next decade
Legal and regulatory developments that enable or require business enterprises to respect human rights, e.g., mandatory human rights due diligence, duty of care, reform of securities law.	<p>The NCP Denmark has the authority to give public statements if the subject of a complaint has failed to observe the OECD Guidelines for Multinational Enterprises (and in effect the UNGPs on Business and Human Rights). NCP Denmark is instituted by law.</p> <p>Human rights due diligence by businesses is encouraged through NCP Denmark's promotion of the OECD Due Diligence Guidance for Responsible Business Conduct. NCP Denmark regularly invites businesses and other stakeholders to events about responsible business conduct and due diligence.</p>	Increased awareness about the OECD guidelines, the NCP and the mediation and complaints-handling system is a priority.
Legal or regulatory developments that enable or require reporting and transparency on how business enterprises address human rights risks (own activities and value chain)	<p>Since 2009, the Financial Statements Act, cf. Section 99a, has required the largest Danish companies and all state-owned limited liability companies to report on Corporate Social Responsibility (CSR) in their annual reports.</p> <p>Since the 2013 financial year, undertakings have also been specifically required to consider climate issues and human rights. If the undertaking does not have policies for climate issues or human rights, this must be disclosed.</p> <p>The regulation was revised in 2015 to implement Directive 2014/95/EU as regards disclosure of non-financial information by certain large undertakings and groups (NFRD).</p> <p>The revised regulation includes a larger scope of companies than required after the directive because the requirements of the Danish Financial Statements Act section 99 a</p>	Denmark will actively engage in the upcoming revision of the EU non-financial reporting directive with the aim to foster a more value-creating reporting and increased transparency.



	<p>applies to large undertakings that are subject to the requirements in accounting class C, and to all undertakings that are subject to the requirements in accounting class D (i.e. to listed companies and to state-owned limited liability companies, irrespective of their size).</p> <p>Again in 2018, the Danish Parliament passed a bill ensuring that in the future, the same companies must also explicitly state in their annual reports which measures they are taking to respect environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters, and to report if they do not have such measures in place. It must be stated for each policy area how the undertaking puts its CSR policy into practice, and any systems or procedures in this respect must be described.</p> <p>Details must also be given of the due diligence processes applied, if the undertaking uses such processes.</p>	
<p>Legal or regulatory developments that enable or require financial institutions, including institutional investors, to embed respect for human rights throughout their core business activities</p>	<p>The larger financial companies fall under the same NFRD reporting obligations as explained in the question above.</p> <p>Furthermore, there are special requirements for financial undertakings that follow from the recent regulation on sustainable finance in the EU.</p> <p>From March 2021, the Disclosure Regulation requires financial market participants and advisors with more than 500 employees to disclose how they take sustainability indicators into account. These indicators include measure of negative impacts on climate and environment related questions, but also social and employee questions, respect for human rights, anti-corruption and anti-bribery matters.</p>	



	<p>If the financial market participants or advisors are marketing financial products, which aims to make sustainable investment, they also have to disclose on these indicators.</p> <p>From January 2022, the Taxonomy Regulation enters into force. This regulation regulates what can be termed sustainable economic activities, and in order to fall under this category, an economic activity will have to live up to certain minimum safeguards. These safeguards include OECD Guidelines for Multinational Enterprises, the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the ILO on Fundamental Principles and Rights at Work and the International Bill of Human Rights.</p>	
<p>Incentives for responsible business (e.g. sanctions for practice that breaches human rights standards; or, “carrots” or “sticks” by export credit or finance institutions to encourage responsible business)</p>	<p>According to the Danish Act on International Development Cooperation, the Danish state-owned Development Finance Institution, IFU, must integrate the UNGPs in its activities. As a state-owned entity, IFU is responsible towards all three pillars of the UNGPs’ “protect, respects and remedy” framework. Based on this, a new human rights policy was adopted by the Board in June 2019 (https://www.ifu.dk/wp-content/uploads/2019/07/Human-Rights-Policy_final-june-2019.pdf)</p> <p>EKF (Denmark's Export Credit Agency)'s business builds on the OECD Guidelines for Multinational Enterprises, OECD Common Approaches, UN global Compact and UN Guiding Principles for Business and Human Rights. This is reflected in our CSR policy.</p> <p>EKF takes a Risk-based approach to assessment and handling of environmental and social issues. CSR is an integral part of EKF’s role as an</p>	

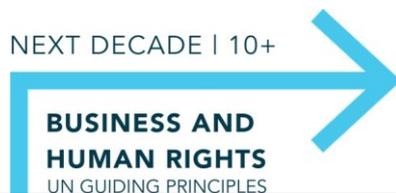


	<p>export credit agency. Through a risk-based approach to due diligence of environmental and social issues, EKF handles possible substantial impacts early in the life cycle of the transactions.</p> <p>EKF assess transactions for potential and actual human rights risks. For further information on the integration of Human Rights in EKF's due diligence process and management of human rights issues go to: https://ekf.dk/media/cbhd0jpb/csr-policy-uk.pdf https://ekf.dk/media/cbhd0jpb/csr-policy-uk.pdf</p> <p>In <u>Vækstfonden</u> (the Danish state's investment fund), CSR practice is based on the OECD Guidelines for Multinational Enterprises and UN Guiding Principles on Business and Human Rights. As part of Vækstfondens commitment to responsible financing, Vækstfonden screens funds and companies with respect to potential severe negative impact on human rights, environment and anti-corruption. Vækstfonden seek to engage in a dialogue with the companies and funds about how to operate in a responsible manner in order to motivate funds and companies to remedy negative impacts. If Vækstfonden discover legal breaches, Vækstfonden can sanction by terminating the agreement.</p>	
<p>Guidance on human rights expectations for business enterprises, including financial institutions</p>	<p>NCP Denmark is responsible for raising awareness of what responsible business conduct entails and to promote the implementation of the guidelines among Danish enterprises, public authorities and organizations.</p> <p>The OECD Guidelines for Multinational Enterprises has been made available in Danish: https://virksomhedsadfaerd.dk/file/</p>	<p>Global Compact Denmark and the Danish Business Authority in partnership are currently translating the UNGP's to Danish.</p> <p>Equally, NCP Denmark has commissioned an updated translation of the OECD guidelines.</p> <p>Websites and guidance will be reviewed in 2020 and 2021.</p>

	<p>668289/OECD-MNE-DK.pdf</p> <p>The Danish Business Authority has developed a guidance on responsible investments for institutional investors. The Guidance explains how investors should implement due diligence to avoid adverse impacts on e.g. human rights and specifies the three levels of accountability that investors can be subjects to in relation to actual or potential adverse impacts.</p>	
<p>Integration of the UNGPs in other policy tools oriented to responsible business (e.g. do other policy instruments relating to responsible business or “CSR” refer to the UNGPs, or if not are there plans to strengthen alignment)</p>	<p>Danish businesses are encouraged to respect the UNGPs on Business and Human Rights. This was for example demonstrated in relation to relief packages intended to support Danish businesses and workers during the COVID-19 crisis, when the parties behind the relief packages encouraged Danish Business to act in coherence with the UNGPs. Further information and guidance to businesses are provided on the website: www.samfundsansvar.dk</p> <p>Additionally, the Danish Government supports the EU-Commission's intentions to address how companies can be encouraged to carry out due diligence processes in line with the international guidelines. The Danish Government finds that a harmonized EU approach to responsible business conduct is an important step in order to ensure that companies integrate their environmental and human rights risks and impacts into their corporate strategies. The Danish Government believes that the regulation of due diligence processes to be best addressed at the EU level in order to ensure a level playing field.</p>	
<p>Human rights at the “state-business nexus” – leading by example</p>	<p>Existing practice and challenges</p>	<p>Actionable goals and targets for next decade</p>

<p>State efforts to protect human rights among business enterprises that are owned or controlled by the State, and when providing funding or other support to business. e.g., export credit agencies.</p>		
<p>State efforts to protect human rights when contracting with businesses to provide services, e.g., health care, social security, education.</p>		
<p>State efforts to protect human rights through public procurement.</p>	<p>The Danish Government recently launched a new strategy for green public procurement. The content of the strategy will be discussed and negotiated with the political parties in the coming months.</p>	
<p>State efforts to protect human rights through development finance</p>	<p>The Danish Ministry of Foreign Affairs is responsible for Denmark's development assistance (Danida). Investing in activities that promote human rights is a central pillar of Danish development assistance, and the UNGP's are central in Denmark's strategy for development cooperation and humanitarian action, The World 2030, as concerns the promotion of inclusive and sustainable growth. The protection of human rights, thus, is fundamental to Danish development engagements. Responsible business conduct is a requirement for companies that engage in Danida-funded partnerships.</p> <p>When looking at specific initiatives that focus on promoting the human rights agenda with private businesses, Denmark supports:</p> <ul style="list-style-type: none"> - The Sustainable Trade Initiative - World Benchmarking Alliance - UN Global Compact. <p>These organizations are all specifically engaged in the</p>	

	<p>sustainable business agenda, and, among other things, work to promote due diligence in global value chains of private businesses. Furthermore, effective implementation by businesses of the UNGP is among the key results to be achieved through Denmark's support for and engagement with OHCHR, as outlined in Denmark's organizational strategy 2019-2022 for engagement with OHCHR.</p>	
Policy coherence at the national, regional, and international levels	Existing practice and challenges	Actionable goals and targets for next decade
<p>Horizontal and vertical policy coherence, e.g., coordination on business and human rights policies across government agencies and departments, at multiple levels of government. (e.g. <i>BHR and SDG NAPs cross-reference or are integrated, government training curriculum on BHR, NHRI recommendations to government</i>)</p>	<p>The Danish Ministry of Finance is responsible for the Danish implementation of the SDG's and the ministry coordinates with the other relevant Danish ministries regarding SDG's.</p> <p>The Ministry of Foreign Affairs of Denmark and the Ministry of Industry, Business and Financial Affairs coordinates policy coherence on business and human rights.</p>	
<p>Business-related policy with other State and businesses (e.g. trade and investment agreements, investor-state contracts)</p>	<p>The EU is responsible for negotiation and conclusion of trade and investment agreements with third countries on behalf of member states. The EU has integrated commitments on promoting responsible business practices in all its recent trade agreements with a reference to UNGP's, the OECD Guidelines for Multinational Enterprises as well as the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (MNE Declaration). Denmark supports this approach.</p>	



<p>Across multi-lateral institutions (e.g. regional organizations, participation in other international processes on BHR, integration of BHR in multi-lateral finance and trade)</p>	<p>Denmark participates in the OECD working group on responsible business conduct.</p>	
<p>Access to remedy</p>	<p>Existing practice and challenges</p>	<p>Actionable goals and targets for next decade</p>
<p>Effectiveness of judicial mechanisms to address business-related human rights abuse allegations</p>		
<p>Effectiveness of and access to non-judicial state-based processes, e.g., OECD NCPs, NHRIs, multi-stakeholder grievance mechanisms, international grievance and regional mechanisms.</p>	<p>Any person or organization can submit a complaint to NCP Denmark. There are no fees related to submitting or being part of a complaint.</p> <p>To ensure effectiveness of the Danish NCP's grievance mechanism, NCP Denmark always follow up a year after issuing a public statement with recommendations. In the follow up, the subject of the complaint is asked to account for and document how they have implemented NCP Denmark's recommendations. NCP Denmark performs an annual follow up until the recommendations are implemented.</p>	<p>NCP Denmark regularly evaluates its efforts with Danish stakeholders. A multi-stakeholder meeting was held in March 2020.</p>
<p>Multi-stakeholder platforms</p>	<p>Existing practice and challenges</p>	<p>Actionable goals and targets for next decade</p>
<p>Multi-stakeholder initiatives to support responsible business and accountability</p>	<p>The Danish Government appointed a Council for Social Responsibility and the SDG's in 2018. The Council supports and advises the Danish Government in matters on Danish companies' social responsibility, and its' members represent Danish businesses, organizations, local municipalities and NGO's. The Council is expected to give recommendations to the Danish Government on CSR and responsible business conduct.</p> <p>Also, the NCP Denmark raises awareness of what responsible business conduct entails and</p>	<p>The council will launch concrete initiatives and provide recommendations to the Danish Government on corporate social responsibility and how to work with the SDGs within the business' sector.</p>



	promotes the implementation and compliance of the guidelines among Danish enterprises, public authorities and organizations.	
Other relevant information	Existing practice and challenges	Actionable goals and targets for next decade
Please include information about other efforts and developments involving the State that you consider relevant	The EU Commission has published intentions to put forward a regulatory proposal about sustainability that apply across global value chains. Corporate due diligence, in particular human rights due diligence, is key for a responsible supply chain management in line with the UN Guiding Principles on Business and Human Rights, and the OECD Guidelines for Multinational Enterprises. The ambitious initiative from EU Commission is expected to create a new level playing field within the EU and possibly also globally.	Denmark will actively engage in the EU process.