

## 2018 Report of the UN Working Group on Business and Human Rights to the General Assembly

### Contribution by Germany (in addition to the contribution of May 16<sup>th</sup>)

*„The report will examine emerging practice of corporate human rights due diligence in line with the UNGPs. A key question addressed to States is examples of how they are encouraging and incentivizing human rights due diligence by companies (both public and private).”*

Germany is implementing the UNGPs by various means, of which the National Action Plan is the most prominent.

In its NAP, the government has laid down its expectations towards business concerning human rights due diligence with five core elements. The German Government expects all enterprises to introduce the processes described in chapter III of the NAP in a manner commensurate with their size, the sector in which they operate and their position in supply and value chains. Their compliance will be reviewed annually from 2018. The aim is that at least 50 % of all enterprises based in Germany with more than 500 employees will have incorporated the elements of human rights due diligence described in this chapter into their corporate processes by 2020. Enterprises which have not adopted particular procedures and measures should be able to explain why they have not done so (the ‘comply or explain’ mechanism). If fewer than 50 % of the enterprises defined above have incorporated the elements of human rights due diligence described in NAP chapter III into their corporate processes by 2020 and the target is thus missed, the Federal Government will consider further action, which may culminate in legislative measures or in a widening of the circle of enterprises to be reviewed. In this context, the Federal Government will also examine, in consultation with the National Regulatory Control Council, the necessity of the corporate compliance costs arising from this plan.

Human rights due diligence by companies includes the involvement of stakeholders. For example, with the aid of effectiveness tracking, the enterprise should regularly review the efficacy of the measures it has taken and, to this end, engage in dialogue with affected stakeholders.

Germany supports sectoral initiatives to encourage and incentivize human rights due diligence by companies. The existing sectoral initiatives (the Alliance for Sustainable Textiles, the Forum for sustainable Cocoa and the Forum for sustainable Palm Oil as well as the Round Table Human Rights in Tourism) operate through a multi stakeholder setting that allows for an exchange of views and best practices. The government hopes to create a “race to the top” by means of the sectoral initiatives.

Government action to incentivize and enable HRDD includes various policy fields. For example, the German Government advocates and supports impact assessments including human rights aspects of the EU’s **trade and investment agreements**. It has to be ensured that comprehensive sustainability impact assessments are conducted in a way that their findings can be taken into account during the respective negotiations. The instruments of **development policy** relating to cooperation with business are being reviewed for compliance with the requirements of the UN Guiding Principles. In particular, the contractual

clauses of the developPPP.de programme are to be fleshed out to include the due diligence requirements with regard to human rights.

The Competence Centre for Sustainable **Procurement** at the Procurement Office of the Federal Ministry of the Interior provides information and training regarding sustainable procurement, which is also offered to state-owned enterprises that are bound to public procurement law. The trainings include social and human labour aspects and will be extended.

The Centre of Excellence is also available to assist procurers in situ, for example by providing advice in person or by telephone and by forwarding information material. In 2014, the Centre of Excellence, along with the BITKOM association of German digital goods and service firms, drew up an initial sectoral agreement in the form of a Declaration on Social Sustainability for IT, which provides for adherence to the ILO core labour standards in procurement procedures. Other sectoral agreements on critical product categories are planned.

“Kompass Nachhaltigkeit” (sustainability compass), an information platform funded by the German Government, provides an overview of sustainability standard systems and supplementary requirements and assists public contracting bodies in incorporating a sustainability dimension into their procurement procedures.

The “Fair Procurement Network“ of municipalities, which is part of the “Service Agency Communities in One World”, provides advice to municipalities, among other things, and familiarizes local authorities with the issue of sustainable procurement through specialised promoters. An information and dialogue campaign entitled “Deutschland Fairgleicht “ informs municipal decision-makers and contracting bodies and raises their awareness of sustainable procurement.

In the field of **external trade promotion**, Germany has put in place various means of incentivizing business’ respect for human rights. (For further details, please refer to the German answers on the Questionnaire “The state as an economic actor”, submitted March 2018.)

Several measures that aim at integrating a **gender perspective** are also in place. (For further details, please refer to the German contribution to the Closed Meeting with States that was held by the Working Group on Wednesday, 16 May.)