

Assessment of the National Action Plan (NAP) on Business and Human Rights of FINLAND



November 2014



INTERNATIONAL CORPORATE
ACCOUNTABILITY ROUNDTABLE



In September 2014, the Finnish government launched a National Action Plan (NAP) on business and human rights. In response, the International Corporate Accountability Roundtable (ICAR) and the European Coalition for Corporate Justice (ECCJ) conducted a structured assessment of the Finnish NAP, using the NAPs Checklist developed and published by ICAR and the Danish Institute for Human Rights (DIHR).¹ The NAPs Checklist lays out a set of twenty-five criteria that address both the content of NAPs and the process for developing them.

This assessment is part of a larger effort by ICAR to assess all existing NAPs on business and human rights. In November 2014, ICAR and ECCJ published its first version of a joint report *Assessments of Existing National Action Plans (NAPs) on Business and Human Rights*,² which systematically assessed the published NAPs from the United Kingdom, the Netherlands, Denmark, and Finland. In November 2015, ICAR and ECCJ published an update of this report including the assessments of the Lithuanian and Swedish NAPs. This report was updated a further time in August 2017, in conjunction with both ECCJ and Dejusticia, to include assessments of the Colombian, Norwegian, United States, United Kingdom (second iteration), Italian, and Swiss NAPs.

SUMMARY ASSESSMENT: FINNISH NATIONAL ACTION PLAN

Introduction

Finland announced its decision to create a NAP on business and human rights in its Resolution on Corporate Social Responsibility on November 22, 2012.³ The Finnish government created a working group to draft the NAP, and the NAP was adopted on September 17, 2014.⁴ The NAP drafting process included many different government ministries and included two public consultations with stakeholders, as well as the possibility to comment in writing. However, while the NAP includes a large number of action points and information about steps that Finland is already taking, the action points primarily focus on voluntary measures, dialogue, training, and research, instead of on mandatory measures. Additionally, several of the action points are overly broad and vague.

This summary provides key trends in terms of process and content, as identified through the attached assessment of the Finnish NAP.

Process

Finland's NAP drafting process had several positive aspects, including the facts that the government entity tasked with overseeing the process was clearly identified and representatives from many different government ministries were members of the working group in charge of drafting the NAP. Moreover, there were two public hearings with stakeholders, the working group consulted with stakeholders in writing, and the consultation dates were published. In addition, the process for drafting the NAP was discussed in the Committee for Corporate Social Responsibility (YHVA), which is a multi-stakeholder body acting under the Ministry of Employment and the Economy and gathering business, trade unions, decision-makers, and NGOs. Lastly, the ministries responsible for implementing and following up on each action point are identified, and the responsibility for yearly monitoring of the implementation of the NAP as a whole is placed in the hands of the Committee for Corporate Social Responsibility.

One weakness of the Finland NAP drafting process was that no national baseline assessment (NBA) was conducted and/or published. Instead, a background memorandum was carried out by government ministries and published. This memorandum included information on "Finnish legislation, provisions on fundamental rights and international conventions, and other

measures and practices of the authorities in relation to the UN principles.”⁵ It was created for use by the working group and was intended to inform its proposals. However, this memorandum did not rise to the level of a NBA because it did not focus on the key questions of the UNGPs, and non-State stakeholders did not find it very useful and were not involved in its development. This is problematic because a thorough NBA is necessary to ensure that the government identifies the most pressing legislative gaps in the protection of human rights.

Another procedural flaw is that, as far as ICAR and ECCJ are aware, the Finnish government did not take special steps to facilitate the participation of disempowered stakeholders such as migrants, Indigenous peoples in northern Finland, or other minorities. Finally, although the dates of the consultations were published and the NAP process was discussed in the Committee for Corporate Social Responsibility, the overall process was unclear. After the working group in charge of drafting the NAP had published its proposal, the Finnish government did not provide information about the status of the draft nor about the political process through which the NAP would be approved. Therefore, it was unclear which process the second round of consultations was supposed to influence. Publishing or sharing this information would have further increased the transparency of the NAP process and ensured meaningful participation of civil society. In the end, the government approved the NAP based on the working group's proposal and a separate political statement⁶ in an informal meeting of the ministers. In its statement, the government underlined its priorities for the NAP's implementation, concretized some of the commitments, and partly improved the ambition level compared to the working group's original proposal.

Content

The Finnish NAP addresses thematic issues such as children's rights, communication technology, and extractive activities. The NAP also extensively discusses international and regional organizations and standards and how Finland plans to use these to push for the implementation of the UNGPs. The NAP also discusses various vulnerable groups, and there are action points specifically dedicated to them. Another positive aspect of the NAP's content is that each list of action points is assigned to a particular ministry or ministries, and the NAP indicates a year by which the action points should be completed for just over half of the action points. This specificity is positive because it allows stakeholders, including agents of the Finnish government, and civil society to hold a particular ministry accountable if an action point is not completed by the year indicated in the NAP.

In addition to identifying the responsible government entity and a deadline for completion, however, individual future action points in a NAP should also state what the government is going to do in concrete terms, instead of being overly broad or vague. In this respect, the Finnish

NAP is somewhat mixed. For example, there is a future action point that commits to adding a field to the public procurement notification service (HILMA) regarding whether social aspects were considered in the procurement decision in order to increase the amount of data available on this matter. Instead of just saying that the government will improve the availability of data, this future action point shows specifically how the government will do this. Other future action points, however, are overly broad or vague. For example, one of the future action points says that Finland “shall participate in the UN Business and Human Rights Forums and support the work of the working group related to the UN principles.”⁷ This future action point does not clearly lay out information on what type of support (e.g. financial or technical) Finland will provide. Another flaw in the content of the Finnish NAP is that there is very little attention paid to Pillar III, with the focus of the NAP on Pillars I and II. Finally, apart from committing to prepare to implement the European Commission’s directive on non-financial reporting, there is a lack of mandatory or regulatory measures, and the NAP instead focuses on voluntary measures, including dialogue, training, and research.

The Finnish CSOs found it positive that, within the action items outlined in the NAP, the government committed to commissioning a thorough legislative survey focusing on the UNGPs’ three Pillars and current legislative gaps, as the survey aims to provide concrete proposals for the way forward. In addition, the government committed in the NAP to looking into improving social responsibility criteria, in line with the EU Public Procurement Directive, when amending the Public Procurement Act. Moreover, according to the NAP, the majority of State-owned companies will start to assess their human right risks throughout their production chain and report on this. Furthermore, a separate complaint mechanism will be established in order to report alleged human rights violations of State-owned companies.

**ASSESSMENT OF THE FINNISH
NATIONAL ACTION PLAN ON BUSINESS AND HUMAN RIGHTS**

1. GOVERNANCE AND RESOURCES	COMMENTS
Leadership and Ownership of NAP Process	
1.1. Commitment to the NAP process.	Finland announced its decision to draft a NAP on business and human rights in its Resolution on Corporate Social Responsibility on November 22, 2012. ⁸ On September 17, 2014, the Finnish Government adopted the Working Group’s (discussed further in 1.3) proposed plan on implementation of the UNGPs. ⁹ The fact that Finland has a plan for monitoring implementation of the NAP, with yearly monitoring by the Committee for Corporate Social Responsibility ¹⁰ and additional monitoring of planned actions by specific ministries, is a positive indication of the government’s commitment to the NAP process. The creation of the inter-ministerial working group is another positive indication of this commitment, as is the fact that the Finnish NAP expressly says that it is designed “in a manner that allows potential new measures to be defined.” ¹¹ This means that Finland recognizes that this NAP is just a starting point and that there may be actions that should be added on in the future.
1.2. Ensure responsibility for the NAP process is clearly established and communicated.	The Ministry of Employment and Economy was tasked with overseeing the NAP drafting process. Specifically, it created an inter-ministerial working group (discussed further in 1.3), which then submitted to the Ministry of Employment and Economy a proposal for implementing the UNGPs in Finland.
1.3. Ensure an inclusive approach across all areas of government.	The Ministry of Employment and Economy created an inter-ministerial working group. ¹² The Working Group was tasked with creating a proposal for a national plan to implement the UNGPs. The Working Group met between May 28, 2013 and March 31, 2014. ¹³ The Working Group was chaired by Government Counsellor Antti Riivari and its secretary was Senior Specialist Linda Piirto, both of whom work in the Ministry of Employment and Economy. ¹⁴ The other ministries that were part of the working group were:

1. GOVERNANCE AND RESOURCES	COMMENTS
	<ul style="list-style-type: none"> • <u>The Ministry of Foreign Affairs</u>: Advisor Merja Lahtinen, Counsellor for Foreign Affairs Rauno Merisaari, Commercial Counsellor Kent Wilska, and from January 1, 2014 Advisor Linda Ekholm. • <u>The Ministry of Education and Culture</u>: Counsellor for Cultural Affairs Marjo Mäenpää. • <u>The Ministry of Agriculture and Forestry</u>: Government Counsellor Timo Tolvi. • <u>The Ministry of Justice</u>: Ministerial Advisor Kaisa Tiusanen, and from October 31, 2013 Ministerial Advisor Camilla Busck-Nielsen. • <u>The Ministry of Transport and Communication</u>: Government Counsellor Kaiser Leena Välipirtti. • <u>The Ministry of Finance</u>: Ministerial Advisor Taina Eckstein. • <u>The Ministry of Social Affairs and Health</u>: Senior Officer Ismo Suksi and Senior Officer Piia Mattila. • <u>The Prime Minister’s Office</u>: Government Counsellor Ilpo Nuutinen, and from November 1, 2013 Chief Senior Specialist Sinikka Mustakari and Financial Counsellor Petri Vihervouri. • <u>The Ministry of the Interior</u>: Program Coordinator Krista Nuutinen.¹⁵ <p>The result of the Working Group’s activities is Finland’s National Action Plan on implementation of the UNGPs.</p>
<p>1.4. Devise and publish terms of reference and a timeline for the NAP process.</p>	<p>The process for drafting the NAP was discussed by the Committee for Corporate Social Responsibility, and information about the dates that stakeholder hearings would be conducted was published.¹⁶ However, the overall process was unclear. After the Working Group published its proposal, neither information about the status of the draft nor about the political process through which the NAP was approved were published.¹⁷ The NAP was ultimately approved during an informal meeting of the ministers.¹⁸</p>

1. GOVERNANCE AND RESOURCES	COMMENTS
Adequate Resourcing	
1.5. Determine an appropriate budget for the NAP process.	No budget was made public. ¹⁹

2. STAKEHOLDER Participation	COMMENTS
Effective Participation by All Relevant Stakeholders	
2.1. Conduct and publish a stakeholder mapping.	Unknown. ²⁰
2.2. Develop and publish a clear plan and timeline for stakeholder participation.	The Working Group consulted with stakeholders during two public consultations. ²¹ Tens of NGOs and companies were invited to these stakeholder hearings. ²² The dates of these consultations were published. ²³ The Working Group also accepted comments in writing. ²⁴
2.3. Provide adequate information and capacity-building where needed.	The UNGPs were translated into Finnish. The Committee for Corporate Social Responsibility was provided with information about previously published BHR NAPs in other countries. ²⁵ However, clarity of the process would have improved meaningful participation of the civil society organizations (CSOs). The Ministry of Employment and Economy insisted on at first hearing different stakeholder groups (CSOs and business) separately and declined holding a common hearing for all interest groups. However, all the stakeholders were invited to the second hearing after the Working Group had published its draft.
2.4. Facilitate participation by disempowered or at-risk stakeholders.	All organizations, ministries, and companies at the consultations were Finnish. ²⁶ It is unclear whether the government directly heard from disempowered stakeholders such as migrants, indigenous peoples residing in northern Finland, or other minorities. ²⁷ One NGO present at the consultations worked on issues facing people with physical disabilities. Other NGOs present at the hearing work on issues related to

2. STAKEHOLDER Participation	COMMENTS
	disempowered or at-risk stakeholders. For example, Finnwatch works with migrants and Amnesty International works with transgender peoples and indigenous peoples. However, the NGO for people with physical disabilities was the only one in which at-risk groups were able to represent themselves. ²⁸
2.5. Consider establishing a stakeholder steering group or advisory committee.	In Finland, there is a permanent Committee for Corporate Social Responsibility (YHVA) that is composed of individuals from government ministries, NGOs, trade unions, and the church. ²⁹ This steering group was involved in the NAP drafting process. ³⁰ No new stakeholder steering committee was created. ³¹

3. NATIONAL BASELINE ASSESSMENT (NBA)	COMMENTS
The NBA as the Foundation for the NAP	
3.1. Undertake a NBA as the first step in the NAP process.	<p>No national baseline assessment (NBA) was conducted and/or published. Although a background memorandum was carried out by government ministries and published, it did not rise to the level of a NBA. The background memorandum included information on “Finnish legislation, provisions on fundamental rights and international conventions, and other measures and practices of the authorities in relation to the UN principles.” It was created for use by the Working Group and was intended to inform its proposals.³² However, this memorandum did not rise to the level of a NBA because it did not focus on the key questions of the UNGPs, and non-State stakeholders did not find it very useful and were not involved in its development. This is problematic because a thorough NBA is necessary to ensure that the government identifies the most pressing legislative gaps in the protection of human rights.</p> <p>However, within the action items outlined in the NAP, the government committed to commissioning a thorough legislative survey focusing on the UNGPs’ three Pillars and</p>

3. NATIONAL BASELINE ASSESSMENT (NBA)	COMMENTS
	current legislative gaps.
3.2. Allocate the task of developing the NBA to an appropriate body.	Not applicable. However, various ministries were involved in development of the background memorandum.
3.3. Fully involve stakeholders in the development of the NBA.	Not applicable. No non-governmental stakeholders were involved in the development of the background memorandum.
3.4. Publish and disseminate the NBA.	The background memorandum was made publically available.

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
Scope of NAPs	
4.1. A NAP should address the full scope of the UNGPs.	<p>Most of the content of the Finnish NAP focuses on voluntary measures, research, and guidance to companies. As such, the NAP is severely lacking in regulatory measures. Most of the attention is on Pillars I and II, with very little attention to Pillar III.</p> <p>In terms of substantive content, the following four sub-criteria provide insight into the Finnish NAP's coverage of the full scope of the UNGPs without conducting an extensive analysis of the NAP's fulfillment of each UNGP, which is a task to be completed during the national baseline assessment (NBA) process. These four sub-criteria are: (1) positive or negative incentives for business to conduct due diligence, (2) disclosure of due diligence activities, (3) measures which require due diligence as the basis for compliance with a legal rule, and (4) the regulatory mix (i.e. a combination of voluntary and mandatory measures that the State uses to encourage business to respect human rights).³³ These sub-criteria are not an exhaustive list, but have been supported by</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>other researchers and advocacy groups as indicative of a NAP’s adequacy in terms of substantive content. The Finnish NAP is unsatisfactory under each of these sub-criteria:</p> <p><u>(1) Positive and Negative Incentives for Due Diligence</u></p> <p>One potential positive incentive to conduct due diligence is the annual CSR reporting competition put on by the Ministry of Employment and the Economy and the Ministry of the Environment. One of the future action points contained in the NAP says that Finland will make human rights the theme of this competition.³⁴ However, whether this would in any way incentivize due diligence depends on information not provided in the NAP. For example, currently the judges in this competition just evaluate how well the companies report on their policies, not the quality of the actual policies companies have in place. This competition would be more likely to incentivize due diligence if the companies that are more likely to win are those that conduct effective due diligence and that can identify and mitigate their human rights risks.</p> <p>There do not appear to be any other positive or negative incentives for conducting due diligence contained in the NAP. However, the State does commit to providing support to companies that wish to conduct due diligence, for example, by holding roundtable dialogues by branch of activity with the goal of pinpointing the highest risks for each branch and by promoting the “sharing of due diligence best practices.”³⁵</p> <p>The NAP also commits the State to “actively participate in the discussion of the proposal for a regulation on conflict minerals.”³⁶ The proposal the NAP is referring to is a proposal by the European Commission to create “a due diligence system for the union.”³⁷</p> <p>The government decided during the political process that the majority of State-owned companies will start to assess their human right risks throughout their production chain</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>and report on this. This was not included in the original draft of the NAP draft and is only mentioned in the separate statement that was published in the informal meeting of the ministers. It has not been translated in to English.³⁸</p> <p><u>(2) Disclosure of Due Diligence Activities</u></p> <p>The NAP points out that unlisted companies that are entirely owned by the State or that are majority State-owned have a CSR reporting requirement.³⁹ These reports must include information on human rights.⁴⁰ However, it is unclear from the NAP whether they must report on due diligence activities.⁴¹</p> <p>The NAP discusses the European Commission directive⁴² on non-financial reporting, which requires “companies of significant public interest with more than 500 employees on average on the account closing date” to report “material data” on human rights, the environment, social affairs, employees, and preventing bribery and corruption.⁴³ The report would have to include, among other information, the policies the company has in place, “including due diligence related to them,” and their effectiveness.⁴⁴ The NAP says that Finland will start to prepare to implement this proposal.⁴⁵</p> <p>In terms of new commitments, the NAP commits to making human rights the theme of the annual CSR reporting competition, mentioned earlier.⁴⁶ This improvement to the competition could incentivize disclosure of any due diligence activities that a company already conducts regarding human rights.⁴⁷</p> <p><u>(3) Measures Requiring Due Diligence as the Basis for Compliance with a Legal Rule</u></p> <p>There are no measures mentioned in the NAP that require due diligence as the basis for compliance with a legal rule. The NAP acknowledges that, during consultations, it was suggested that Finland enact a statutory obligation for companies to conduct due diligence. The State rejected this, stating that “[t]ransforming the due diligence</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>described above into a legally binding obligation is difficult to envisage.”⁴⁸ The State goes on to say that defining the obligations would be difficult and that instead there should be increased discussion about risks specific to particular branches of activity and types of risk management that could be useful.⁴⁹</p> <p><u>(4) Regulatory Mix</u></p> <p>The NAP is heavily skewed to voluntary measures and providing support and training. In fact, the NAP states that “[t]he objective of this proposal is to initiate measures that bring more attention to the link between business activities and human rights in order to help companies be more aware of the impacts their activities have on human rights.”⁵⁰</p> <p>For example, instead of committing to any legislation to regulate international business activities, Finland commits to creating a report on existing Finnish legislation that relates to such activities.⁵¹ However, this is a positive step in that it would retroactively fulfill the expectation that each State conduct a national baseline assessment (NBA) on current UNGPs implementation. The NAP also includes many commitments to promote the UNGPs and their implementation through international organizations.⁵² In its separate statement, the government concertized the scope of the legislative survey, emphasizing that it should focus on the UNGPs’ Pillars and current legislative gaps, including presenting concrete proposals for the way forward.</p> <p>In the NAP’s section on procurement, the past/current actions are entirely voluntary or guidance-based. Specifically, the NAP states that Finland is amending the Act on Public Contracts to make consideration of social issues in public procurement easier.⁵³ The NAP also points to the existence of a website (CSRKompassi.fi) that gives information to government bodies wishing to include social issues in their procurement.⁵⁴ The future commitments are also entirely voluntary or guidance-based. In fact, the NAP points out</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>that, during consultations, it was suggested that a statutory obligation be created to require consideration of social issues during public procurement decisions.⁵⁵ The NAP rejects this idea and instead commits to non-legislative measures, such as adding to the procurement guidelines a reference to section 49 of the Act on Public Contracts and the Guide to socially responsible procurement.⁵⁶ The NAP also commits to producing a report on the product groups for which there is a high risk of human rights violations in the supply chain.⁵⁷ However, the government underlined in its own decision, to look into improving social responsibility criteria, in line with the EU Public Procurement Directive, when amending the Public Procurement Act.</p> <p>This holds true for the section on due diligence as well, which rejects the creation of a statutory obligation for companies to conduct due diligence and instead focuses on roundtable discussions to assess the areas of risk for each branch of activity and on promoting the dissemination of due diligence best practices.⁵⁸</p> <p>Finally, the NAP commits to providing additional training, especially to small and medium enterprises (SMEs), on business and human rights issues.⁵⁹</p>
<p>4.2. A NAP should address the full scope of the State’s jurisdiction.</p>	<p>The Finnish NAP is focused on protecting human rights abroad and does not discuss national legislation that regulates business within Finland’s borders.⁶⁰ There is no discussion in the Finnish NAP on extraterritoriality. However, there are other action points that would apply abroad. For example, the NAP commits the State to “support the strengthening of human rights assessments in third countries during EU trade or investment agreement negotiations and when monitoring their implementation.”⁶¹ It also commits Finland to creating a report on product groups that are high risk for human rights violations with the goal to “increase the awareness related to responsible procurement and help target the consideration of the social aspect for the product groups that pose the highest risk.”⁶²</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
<p>4.3. A NAP should address international and regional organizations and standards.</p>	<p>The Finnish NAP extensively discusses international and regional organizations and standards and how the State will use those organizations and standards to push for further implementation of the UNGPs. Specifically, there is a sub-section (section 1.2) dedicated to “activities in international organizations,” under which there are 11 follow-up measures listed.⁶³ For example, Finland commits to “support and participate in the update of the OECD Policy Framework for Investment.”⁶⁴ Sub-section 1.3 discusses “activities in the EU,” under which there are additional follow-up measures listed. The NAP’s discussion of these standards and organization continues throughout the NAP and is not limited to sub-sections 1.2 and 1.3. For example, a follow-up action listed on page 22 says that there will be dialogue about the UNGPs and OECD guidelines with public financial institutions.⁶⁵</p>
<p>4.4. A NAP should address thematic and sector-specific human rights issues.</p>	<p>The NAP does address thematic and sector-specific human rights issues. It touches on children’s rights,⁶⁶ the rights of indigenous persons,⁶⁷ extractive activities,⁶⁸ issues related to trade,⁶⁹ labor rights,⁷⁰ communication technology,⁷¹ the right to privacy,⁷² and government procurement.⁷³</p> <p>For example, one follow-up action commits Finland to translating the UN Committee on the Rights of the Child General Comment No. 16 into Finnish and Swedish and to distributing it to various entities.⁷⁴ Finland also commits to creating a roundtable discussion on the right to privacy, including the State, civil society, and ICT companies.⁷⁵</p>
<p>Content of NAPs</p>	
<p>4.5. The NAP should include a statement of commitment to the UNGPs.</p>	<p>The NAP does include a statement of commitment to the UNGPs. Specifically, one of the follow-up actions says “Finland supports the observance and implementation of the Guiding Principles on Business and Human Rights approved by the Human Rights Council.”⁷⁶</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
<p>4.6. A NAP should comprise action points that are specific, measurable, achievable, relevant, and time-specific.</p>	<p>Many of the follow-up actions listed in the Finnish NAP are time-specific. At the end of each list of proposed follow-up measures, there is a section in bold that states the part of government that is the “principal responsible party” and either states that these are meant to be “continuous activities” or provides a year that the follow-up actions should be completed by. Out of the listed action points, just over half are listed as “continuous activities” (meaning they are not time-specific) while just under half include a date or date range for completion.</p> <p>The number of action points in the Finnish NAP is certainly sufficient. However, the quality of the action points must also be assessed. Overall, the action points are inconsistent when it comes to being specific and measurable.</p> <p>Examples of adequately specific action points include the following:</p> <p>Finland commits to having the Ministry of Foreign Affairs create a report on how free trade agreements made by the EU, the US, and other countries take into account trade and human rights (particularly labor rights) by mid-2015.⁷⁷ This is adequately specific as it names what ministry will be in charge, when it will be completed, and what the specific topic of the report will include. This level of specificity makes it measurable as well because stakeholders, including the State itself, will be able to tell whether this report has been completed by the date set out. However, this could have been made even more specific by explaining how this report will be used by Finland and whether it will be published.</p> <p>Finland also commits to making sure that statistics on the consideration of social aspects in government procurement decisions are improved. Specifically, by adding a field about whether social aspects were considered in the procurement decision to HILMA, the public procurement notification service. This task is assigned to the</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>Ministries of Finance and of Employment and the Economy, and is to be completed by the end of 2015.⁷⁸ The goal of this action is to encourage consideration of these issues in procurement. It is adequately specific because instead of just saying that the government will improve information about the prevalence of government consideration of social issues, it points to a particular change that will be made. Once again, whether this change has been made or not is easily measurable.</p> <p>Moreover, Finland commits to having human rights be the annual theme of the CSR reporting competition by the end of 2015, which is put on by the Ministry of Employment and the Economy and the Ministry of the Environment.⁷⁹ The intent of the competition is to encourage companies to report on CSR issues, and by having the theme be human rights it would further encourage reporting on that particular issue within CSR. Whether or not the government completes this action point will be clearly measurable.</p> <p>Other action points are not adequately specific. Examples of these action points include the following:</p> <p>Finland commits to maintaining a “regular dialogue” on the UN principles, the OECD guidelines, and others with public financial institutions.⁸⁰ Although this dialogue would be positive, and although the action point identifies the general participants⁸¹ in this dialogue, it could have been more specific. For example, it could have explained whether a roundtable would be set up, how often these groups would meet to discuss these principles, and whether there would be any tangible outcome (e.g. a report, proposals for reform of public financial institutions) from this ongoing dialogue.</p> <p>Another of the action points says that Finland “shall participate in the UN Business and Human Rights Forums and support the work of the working group related to the UN</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>principles.”⁸² It is unclear what type of support Finland will provide. This is not a very specific or measurable action point. It could have been improved by committing to providing funding or technical assistance to the UN Working Group.</p> <p>Other action points are simply statements of support instead of statements of how Finland will act. For example, one action point states that “Finland supports the cooperation and discussion with the WTO and other international organisations such as ILO or WIPO (World Intellectual Property Organisation) carried out within the framework of the WTO Coherence Mandate.”⁸³ This action point (and others) does not say in what concrete ways Finland “supports” this initiative (e.g., Is this just a statement that Finland thinks it is a good initiative? Or has Finland provided concrete support in the form of funding or services?), and it does not commit to any future action.</p> <p>Additionally, one of the action points regarding the Universal Periodic Review merely states that “questions may be asked and recommendations on the implementation of the guiding principles may be given to the states examined.” This appears merely to be a statement about what the UN Human Rights Council can do to further the UNGPs implementation rather than a commitment on Finland’s part to act in some way, for example, by offering information regarding Finland’s implementation of the UNGPs in Finland’s next State report to the UN Human Rights Council.</p> <p>On the positive note, however, the government approved the NAP based on the Working Group’s proposal and a separate political statement in an informal meeting of the ministers. In its statement, the government underlined its priorities for the implementation, concertized some of the commitments, and partly improved the ambition level compared to the Working Group’s original proposal.</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
Priorities for NAPs	
<p>4.7. A NAP should prioritize for action the most serious business-related human rights abuses.</p>	<p>The NAP does not appear to prioritize any human rights abuses over others.</p>
<p>4.8. In line with the HRBA, the NAP should focus on the most vulnerable and excluded groups.</p>	<p>The NAP is not focused on the most vulnerable and excluded groups. However, it does discuss and include follow-up actions that specifically relate to vulnerable and excluded groups, namely Indigenous persons and children. Specifically, a follow-up action listed on page 15 says that Finland “will continue the dialogue related to the human rights impacts of business activities with the UN Bodies for indigenous peoples and ensure that the effects of business activities on the realization of the rights of indigenous peoples will be brought forward in the World Conference on Indigenous Peoples in autumn 2014.”⁸⁴</p> <p>In a separate follow-up action listed on page 15, Finland commits to including information to the UN Committee on the Rights of the Child regarding Finland’s implementation of the Committee’s recommendation about Business.⁸⁵ Additionally, Finland commits to translating the Committee’s General Recommendation No. 16, which discusses business activities and children’s rights, into Finnish and Swedish, as well as distributing a summary of the General Recommendation’s content.⁸⁶</p>
5. TRANSPARENCY	COMMENTS
Full Transparency With All Stakeholders	
<p>5.1. The NBA and any other significant analyses and submissions informing the NAP should be published.</p>	<p>The background memorandum is publically available.</p>

6. ACCOUNTABILITY AND FOLLOW-UP	COMMENTS
Holding Duty-Bearers Accountable for Implementation	
<p>6.1. NAPs should identify who is responsible for implementation of individual action points and overall follow-up.</p>	<p>The NAP does identify which ministry or ministries are responsible for the individual action points. Specifically, at the end of each list of proposed follow-up measures, there is a section in bold that states the part of government that is the “principal responsible party.”⁸⁷ It is assumed that the ministry indicated at the bottom of each list of proposed follow-up actions is in charge of all of the actions in that list unless otherwise specified.</p> <p>These sections also indicate either a timeline or designate the activities assigned to the ministry as “continuous.”⁸⁸ The NAP also indicates that the ministry or ministries assigned to the particular action points are responsible for monitoring the progress in implementation of those actions.⁸⁹</p>
<p>6.2. NAPs should lay out a framework for monitoring of and reporting on implementation.</p>	<p>The NAP states that it contains actions that are meant to be achieved in the next few years (specifically, 2014-2016), but that it also “provides a foundation to which new actions may be added.”⁹⁰ Each year the NAP’s implementation will be monitored by the Committee for Corporate Social Responsibility.⁹¹ Additionally, the individual ministries will “monitor the progress of proposals in their respective areas of responsibility.”⁹² There is no discussion of whether the Ministries or the Committee for Corporate Social Responsibility will have to report to anyone on the implementation of the NAP based on their monitoring activities.</p>

ENDNOTES

¹ DANISH INSTITUTE FOR HUMAN RIGHTS & INTERNATIONAL CORPORATE ACCOUNTABILITY ROUNDTABLE, NATIONAL ACTION PLANS ON BUSINESS AND HUMAN RIGHTS: A TOOLKIT FOR THE DEVELOPMENT, IMPLEMENTATION, AND REVIEW OF STATE COMMITMENTS ON BUSINESS AND HUMAN RIGHTS (2014) [*hereinafter* NAPs TOOLKIT].

² INTERNATIONAL CORPORATE ACCOUNTABILITY ROUNDTABLE & EUROPEAN COALITION FOR CORPORATE JUSTICE, ASSESSMENTS OF EXISTING NATIONAL ACTION PLANS (NAPs) ON BUSINESS AND HUMAN RIGHTS, NOVEMBER 2015 UPDATE (2015).

³ FINNISH NAP, *supra* note 9, at 7-8.

⁴ *Id.*

⁵ FINNISH NAP, *supra* note 9, at 7-8.

⁶ Valtioneuvoston saate YK:n yrityksiä ja ihmisoikeuksia koskevien ohjaavien periaatteiden kansallisesta toimeenpanosta (Sept. 9, 2014), *available at* <http://valtioneuvosto.fi/tiedostot/julkinen/pdf/2014/TEM-saate-iltakoulu-170914.pdf> (currently only available in Finnish).

⁷ *Id.* at 15.

⁸ *Id.* at 7-8.

⁹ *Id.* at 5.

¹⁰ *Id.* at 32.

¹¹ *Id.* at 8.

¹² *Id.* at 7-8.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Based on the experience of Finnwatch.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ FINNISH NAP, *supra* note 9, at 7-8.

²² Based on the experience of Finnwatch.

²³ *Id.*

²⁴ FINNISH NAP, *supra* note 9, at 7-8; based on the experience of Finnwatch.

²⁵ Based on the experience of Finnwatch.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² FINNISH NAP, *supra* note 9, at 7-8.

³³ Jesnes, *supra* note 23.

³⁴ FINNISH NAP, *supra* note 9, at 26.

³⁵ *Id.*

³⁶ *Id.* at 17.

³⁷ *Id.*

³⁸ Valtioneuvoston saate YK:n yrityksiä ja ihmisoikeuksia koskevien ohjaavien periaatteiden kansallisesta toimeenpanosta (Sept. 9, 2014), *available at* <http://valtioneuvosto.fi/tiedostot/julkinen/pdf/2014/TEM-saate-iltakoulu-170914.pdf>

iltakoulu-170914.pdf (currently only available in Finnish).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Although the language used in the NAP calls this a proposal, it was passed before this NAP was published and the language in the NAP was not updated.

⁴³ FINNISH NAP, *supra* note 9, at 16.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.* at 26.

⁴⁷ *Id.*

⁴⁸ *Id.* at 25.

⁴⁹ *Id.* at 25-26.

⁵⁰ *Id.* at 9.

⁵¹ *Id.* at 13-14.

⁵² *Id.* at 15-16.

⁵³ *Id.* at 20-21.

⁵⁴ *Id.* at 20.

⁵⁵ *Id.*

⁵⁶ *Id.* at 21.

⁵⁷ *Id.*

⁵⁸ *Id.* at 25-26.

⁵⁹ *Id.* at 27.

⁶⁰ Based on the experience of Finnwatch.

⁶¹ FINNISH NAP, *supra* note 9, at 18.

⁶² *Id.* at 21.

⁶³ *Id.* at 15-16. However, a couple of these “follow up measures” appear to be statements of current actions Finland is involved in without a clear statement that Finland will continue to do this. *E.g.*, “Finland participates in the development of UN’s cooperation with business and supports features such as the Global Compact CSR initiative.”

⁶⁴ FINNISH NAP, *supra* note 9, at 15.

⁶⁵ *Id.* at 22.

⁶⁶ *Id.* at 15.

⁶⁷ *Id.*

⁶⁸ *Id.* at 17.

⁶⁹ *Id.* at 17-19.

⁷⁰ *Id.* at 19, 18.

⁷¹ *Id.* at 23, 18.

⁷² *Id.* at 23.

⁷³ *Id.* at 20-21.

⁷⁴ *Id.* at 15.

⁷⁵ *Id.* at 23.

⁷⁶ *Id.* at 15.

⁷⁷ *Id.* at 19.

⁷⁸ *Id.* at 21.

⁷⁹ *Id.* at 26.

⁸⁰ *Id.* at 22.

⁸¹ It is assumed that on the government side of the dialogue the Ministry of Foreign Affairs and the Ministry of Employment and Economy would participate in this dialogue as they are listed as the principal responsible parties.

⁸² FINNISH NAP, *supra* note 9, at 15.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *See, e.g.*, FINNISH NAP, *supra* note 9, at 16-17.

⁸⁸ *See, e.g., id.* at 12, 16.

⁸⁹ *Id.* at 15.

⁹⁰ *Id.* at 8.

⁹¹ *Id.* at 32.

⁹² *Id.* at 32.