



## Third Submission by the International Corporate Accountability Roundtable (ICAR) to the Open-Ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights

30 June 2015

The International Corporate Accountability Roundtable (ICAR) is a coalition of non-profit organizations that creates, promotes, and defends legal frameworks to ensure corporations respect human rights in their global operations.

In this, our third submission to the Open-Ended Intergovernmental Working Group (OEIWG) on Transnational Corporations and Other Business Enterprises with Respect to Human Rights, we call on the OEIWG to:

***Develop an international binding instrument that complements domestic-level implementation of business and human rights frameworks, including the UN Guiding Principles on Business and Human Rights (UNGPs), in the form of National Action Plans.***

ICAR has conducted extensive research into how National Action Plans (NAPs) processes can be utilized in the business and human rights context.<sup>1</sup> NAPs provide a critical framework for developing and implementing the national laws, regulations, and policies necessary to propel States toward fulfilling their duty to protect human rights from business-related harms.<sup>2</sup> Furthermore, completed national baseline assessments and multi-stakeholder consultations recommended for the NAPs process provide key evidence of “where businesses are negatively impacting human rights, as well as existing gaps in law, policy, and institutions that contribute to such impacts and that fail to ensure that prevention and redress that place.”<sup>3</sup> We therefore urge the OEIWG to ensure that its agenda complements rather than detracts from the ongoing efforts of States, businesses, civil society actors, national human rights institutions (NHRIs), and affected communities to develop NAPs dedicated to business and human rights.

As such, ICAR urges the OEIWG to (1) carefully consider current State practice and initiatives taking place as part of NAPs processes; (2) design a binding instrument that considers and responds to existing protection gaps identified throughout NAPs processes, including through the completion of national baseline assessments and multi-stakeholder consultations; and (3) issue a statement in support of State development of NAPs as a complementary, rather than competitive, process to the development of an international, legally binding instrument.

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<sup>1</sup> INT’L CORPORATE ACCOUNTABILITY ROUNDTABLE (ICAR) & DANISH INST. FOR HUMAN RIGHTS, NATIONAL ACTION PLANS ON BUSINESS AND HUMAN RIGHTS: A TOOLKIT FOR THE DEVELOPMENT, IMPLEMENTATION, AND REVIEW OF STATE COMMITMENTS TO BUSINESS AND HUMAN RIGHTS FRAMEWORKS (2014), <http://icar.ngo/wp-content/uploads/2014/06/DIHR-ICAR-National-Action-Plans-NAPs-Report3.pdf>

<sup>2</sup> *Id.* at 56.

<sup>3</sup> *Id.* at 1-2.

***Provide for a dedicated monitoring and review process of measures undertaken by State parties to implement their obligations under the instrument.***

Human rights instruments are now expected to scrutinize State measures toward compliance and implementation of substantive obligations that the State has undertaken. ICAR therefore expects the OIEWG to develop a dedicated monitoring process to be included in the international, legally binding instrument. A monitoring process will increase the likelihood that the commitments made by State parties to the eventual instrument elaborated by the OEIWG will be carried out in practice. While scrutinizing successes and failures, such monitoring and review mechanisms can also foster information exchange and the sharing of best practices within and among governments, as well as with wider society.<sup>4</sup>

ICAR has mapped and analyzed several promising routes for tracking progress toward the fulfillment of State commitments on business and human rights, including those outlined in NAPs, at the national and international levels.<sup>5</sup> The OEIWG should explore the monitoring and review mechanisms associated with other international agreements and seek to apply lessons from these contexts as it develops an oversight mechanism.

An international binding instrument is an important step toward greater respect for and protection of human rights from the harmful impacts of business activities, but it is not sufficient. Progress at the local, domestic, and regional levels is also crucial to preventing business-related human rights abuses and ensuring victims have access to effective remedies. **ICAR hopes that the OEIWG will fulfill its mandate in a manner that explicitly: complements NAPs processes and national efforts<sup>6</sup> to implement business and human rights frameworks, including the UNGPs; and provides a dedicated monitoring and review process to track measures undertaken to date, and gaps therein.**

Sincerely,



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Director

International Corporate Accountability Roundtable

[www.icar.ngo](http://www.icar.ngo)

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<sup>4</sup> *Id.* at 49.

<sup>5</sup> *Id.*

<sup>6</sup> See, e.g., *US Government Announces Development of National Action Plan on Responsible Business Conduct*, ICAR, September 25, 2014, <http://icar.ngo/analysis/us-government-announces-development-of-national-action-plan-on-responsible-business-conduct/>