

National Action Plan for the implementation of the UN Guiding Principles on Business and Human Rights

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National Action Plan for the implementation of the UN Guiding Principles on Business and Human Rights

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Tiivistelmä Referat Abstract The Ministry of Employment and the Economy submitted its report, a joint proposal written by a working group representing various ministries, on the national implementation of the UN Guiding Principles on Business and Human Rights to the Government evening session on 17 September 2014. The Government also examined statements issued from the working group report. The national implementation will be launched based on the action plan proposed by the working group. The objective of these proposals is to initiate procedures that will place more of an emphasis on the connection between business and human rights and, in this way, help businesses improve the way they take the human rights impacts of their activities into account. Key aims for the action plan are the legislative report, definition of the due diligence obligation, and the application of social criteria in public procurement. In addition to these, an increase in dialogue between businesses and civil society is needed. Companies need information on human rights aspects to support their risk management work, and it is beneficial for civil society to receive information on the preconditions and opportunities related to business. The action plan has been drawn up in a way that facilitates the realisation of listed actions in the next few years, but also provides a foundation to which new actions may be added. Implementation of the action plan will be monitored each year by the Committee for Corporate Social Responsibility.	
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Government covering note on the UN Guiding Principles on Business and Human Rights National Action Plan

The Ministry of Employment and the Economy submitted its report, a joint proposal written by a working group representing various ministries, on the national implementation of the UN Guiding Principles on Business and Human Rights to the Government evening session on 17 September 2014. The Government also examined statements issued from the working group report.

In its report, the working group proposes several practical measures, some of which are already in the implementation phase and others just being initiated. The national implementation will be launched based on the action plan proposed by the working group.

The identification and management of human rights problems has been recognised as a challenge in companies operating at the international level. As a rule, Finnish companies deal responsibly with human rights issues and support their implementation. Despite this fact, the possibilities for a single company to identify human rights risks and rectify them are limited. This is why international co-operation, more efficient distribution of information, more effective enforcement of existing legislation and existing human rights conventions (e.g. ILO core conventions), transparency and the proper promotion of regulation for various actors should be emphasised in the promotion of human rights. The Team Finland network should also be more effectively developed to assist companies in understanding, taking notice of and managing human rights issues, particularly in areas where human rights risks are considerably high. The work of NGOs should be supported in accordance with the action plan drafted by the working group.

In accordance with the Government Programme, the administrative burden of companies will not be increased. In order to ensure a balanced result, all further actions will be prepared in extensive co-operation with various stakeholders. This is supported by the working group proposal to assign responsibility for monitoring the implementation to the Committee on Corporate Social Responsibility. In addition, the ministries will monitor the progress of proposals in their respective areas of responsibility.

Key aims for the action plan are the legislative report, definition of the due diligence obligation, and the application of social criteria in public procurement. With regard to the above, the following points should be taken into consideration in the national implementation.

Legislative report

A report on legislation pertaining to national and international business and human rights is to be drafted based on the principles stated in the UN Guiding Principles. The objective is to examine whether legislation corresponds with the aims of the UN principles and determine the necessity of initiatives taken to otherwise improve

corporate operating practices, particularly where due diligence, corporate reporting obligations and remedies for victims of human rights violations are concerned. It is also to propose concrete recommendations for change, wherever necessary.

Due diligence

With regard to the due diligence, the working group rightly emphasises in its report the need to identify best practices and the concept of more functional international specifications. At the same time, it is vital that the discussions be continued also at the national level. The aim of the round table discussions presented in the report should be to not only increase dialogue, but also to establish as broad a national understanding as possible on what due diligence means and how it can be properly implemented in various sectors and business areas. Stakeholders from different fields are invited to the round table discussions, whose final outcomes are addressed by the Committee on Corporate Social Responsibility.

Social criteria in public procurement

The EU Procurement Directive better allows social issues to be more effectively taken into consideration in public procurement. The possibilities for emphasising quality factors and social responsibility afforded by the Directive are being used in the comprehensive amendment of the Act on Public Contracts. Amendment of the Act on Public Contracts is being carried out under the Ministry of Employment and the Economy in cooperation with stakeholders.

Ownership policy and social responsibility

In State ownership steering, companies are required to observe human rights responsibly and transparently both within their own organisations and in subcontractor chains, in full accordance with the UN principles. The State uses a separate accountability mechanism for dealing with human rights violations committed by State-owned companies. Companies with a controlling interest held by the State assess the human rights risks of their own operations and those of their subcontractor chains, reporting on them and their own tax procedures. In doing follow-up work on the operating principles of social responsibility, consideration should be given together with companies and other stakeholders on how models developed in ownership steering could also be applied in other company functions.

OECD Guidelines and the Committee on Corporate Social Responsibility

Committee on Corporate Social Responsibility, together with the Ministry of Employment and the Economy, serves as the Finnish National Contact Point for the implementation of OECD Guidelines. The function of the National Contact Point will be assessed and its operating practices developed. The dissemination of information on operating practices will be improved.

Promotion of human rights at the centre of Finnish policies

In addition to the above-mentioned, Finland will actively promote human rights and the implementation and strengthening of human rights norms, at both the national and international level. The working group report offers a comprehensive description of the channels and means employed.

Foreword

In its Resolution on Corporate Social Responsibility, approved 22 November 2012, the Finnish Government decided to draft a plan on the implementation of the UN Guiding Principles on Business and Human Rights. The Ministry of Employment and the Economy established a working group to prepare a proposal for a plan to implement the UN principles for the state, covering the period between 28 May 2013 and 31 March 2014.

The working group included the following members: from the Ministry of Employment and the Economy, the working group chairman, Government Counsellor Antti Riivari and the working group secretary, Senior Specialist Linda Piirto; from the Ministry for Foreign Affairs, Advisor Merja Lahtinen (from 1 January 2014: Advisor Linda Ekholm), Counsellor for Foreign Affairs Rauno Merisaari and Commercial Counsellor Kent Wilska; from the Ministry of Education and Culture, Counsellor for Cultural Affairs Marjo Mäenpää; from the Ministry of Agriculture and Forestry, Government Counsellor Timo Tolvi; from the Ministry of Justice, Ministerial Advisor Kaisa Tiusanen (from 31 October 2013: Ministerial Advisor Camilla Busck-Nielsen); from the Ministry of Transport and Communications, Government Counsellor Kaisa Leena Välipirtti; from the Ministry of Finance, Ministerial Advisor Taina Eckstein; from the Ministry of Social Affairs and Health, Senior Officer Ismo Suksi and Senior Officer Piia Mattila; from the Prime Minister's Office, Government Counsellor Ilpo Nuutinen (from 1 November 2013: Chief Senior Specialist Sinikka Mustakari and Financial Counsellor Petri Vihervuori), and from the Ministry of the Interior, Program Coordinator Krista Nuutinen.

While preparing the working group memorandum, the working group consulted stakeholders in writing and through two public consultation events.

A background memorandum¹ dealing with Finnish legislation, provisions on fundamental rights and international conventions, and other measures and practices of the authorities in relation to the UN principles, was drafted as a basis for the working group proposals.

As a state, Finland actively works to ensure that human rights are respected in international arenas. In Finland, the Constitution provides strong protection for the realisation of human rights. The working group has written down objectives for Finland's international activities, but improvements are also proposed for the state's operations as a public procurer, provider of corporate funds and company owner.

In the view of the working group, the activities of Finnish companies compare favourably on an international level; and despite isolated failures, companies have shown a willingness to act. Intentional or conscious violations of human rights

1 Memorandum is available in Finnish, <http://bit.ly/1uCtyAf>.

are extremely rare. It is important that in addition to the companies themselves, operators such as non-governmental organisations monitor and assess the effects of business activities on human rights. This supports the reinforcement of the human rights aspect in business activities.

It is very challenging for companies to prevent human rights abuses, particularly in international operations. The possibilities of companies to make a difference are limited, particularly when they operate as part of international networks. Given this scenario, it is clear that ensuring the realisation of human rights also requires international cooperation to identify possibilities to prevent human rights violations.

The objective of the proposals 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. Increased dialogue between companies and non-governmental organisations is a key element. Companies need information on human rights aspects to support their risk management work,, and it is beneficial for civil society to receive information on the preconditions and opportunities related to business activities.

This memorandum is the working-group proposal for a national implementation plan that separately lists the follow-up measures contained in the plan. The plan was drafted to enable the implementation of measures contained therein during the next few years, but in a manner that allows potential new measures to be defined.

The working group will submit its memorandum to the Ministry of Employment and the Economy with an awareness of the fact that the implementation plan proposed is only the first step towards better ensuring human rights in connection with business activities.

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Introduction

The UN Guiding Principles on Business and Human Rights² include thirty-one principles based on three pillars. The state is obliged to protect human rights by means of appropriate procedures, regulation and legal decisions against human rights violations committed by third parties, including companies. On the other hand, companies have the responsibility to respect human rights, regardless of the states' obligation. Companies should therefore carry out due diligence, avoid human rights violations, and deal with the adverse impacts on human rights in which they have been involved. The third important element is the access of victims of human rights violations to effective legal and non-legal remedies.

The objective of the UN principles is to help states and companies examine the practices and the norms related to business activities as well as their consequences and to develop remedies. The principles are not intended to form the basis for new international regulations.

According to the UN principles, companies must respect human rights. This means that companies must avoid human right violations and deal with the adverse impacts on human rights in which they have been involved. The responsibility of companies to respect human rights also goes beyond their own activities. Companies should also critically assess the activities of their contractual partners – for instance, in supply chains – and to react to the shortcomings detected.

The responsibility to respect human rights applies to all companies. However, the extent of measures required for the respect of human rights is specific to a particular situation. This means that the methods used by companies to meet their obligations may vary depending on the company's size, branch of activity, operating conditions, ownership and company structure. The nature of the potential adverse impacts on human rights that the company may cause is also important.

For instance, based on international conventions, the prohibition of slavery and torture are always included in mandatory requirements that allow for no exceptions anywhere. They are included in the mandatory international customary law, which means that they are hierarchically in a stronger position than the international law based on conventions.

According to the Constitution,³ Finland participates in international cooperation for the protection of peace and human rights and for the development of society. As a member state of the UN and the European Union, Finland is committed to promote

2 MEE reports 36/2013: Guiding Principles on Business and Human Rights: Yhdistyneiden kansakuntien "Suojele – kunnioita – korjaa" -kehyksen täytäntöönpano, http://www.tem.fi/files/37713/TEMrap_36_2013_web_30.1.2014.pdf (Finnish unofficial translation); Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy Framework", http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

3 The Constitution of Finland (731/1999) Sections 1 and 22, <http://www.finlex.fi/fi/laki/ajantasa/1999/19990731> (in Finnish), <http://www.finlex.fi/fi/laki/kaannokset/1999/en19990731.pdf> (in English).

a society that is open to everyone. The Finnish social contract is based on interaction and on an aspiration to consensus. The desire to include everyone is also part of the open interaction. In Finland, there has been a desire to construct a society based on equality and to develop methods and a culture is sensitive to the impact of equality and gender. Equal treatment is taken into consideration in all the legislation and preparation of the national budget, various central government programmes and projects, and personnel policies.

Based on these strengths, there is also a desire to create functional tools for the global promotion of human rights related to business activities.

1 The state obligation to protect human rights

1.1 Human rights in Finnish legislation

Finland is strongly committed to the protection and promotion of human rights through national legislation and international cooperation. Our reinforced Constitution protects the inviolability of human dignity as well as the freedom and rights of individuals, and promotes justice in society. Fundamental rights (such as equality, freedom of movement, protection of privacy, freedom of association, freedom of speech and the right to social security and judicial protection) have been included in the Constitution.

According to the equality provision of the Constitution, no one may be treated differently based on sex, age, origin, language, religion, conviction, opinion, health, handicap or other reason related to the individual. In addition, the Constitution states that children should be treated equally as individuals and that it should be possible for them to be involved in matters relating to them in accordance with their development. The current public authority, municipality or other body exercising public authority must ensure the realisation of fundamental and human rights.

The general principle of Finnish legislation is that it is based on fundamental and human rights. Human rights under the Constitution are ensured in all legislation.

According to treaty law, Finland is obliged to implement international conventions, including human rights conventions to which it is bound. National legislation should be in harmony with the obligations of international and regional human rights conventions, and it should be applied and interpreted favourably with regard to human rights.

However, on an international level states implement human rights conventions differently. This affects international business activities and their regulation. The international preparation and development of the UN principles deal with the legal regulation of cross-border business activities. The concept of human rights is very extensive, and the creation of more binding regulation for non-state actors (such as companies) would require specifying their obligations in relation to the obligations of states. The challenges of such regulation are related to features such as the general definition of the criminal liability of legal entities, the territorial application of criminal legislation, protection of the accused, definition of the civil liability for damages, functionality of legal redress, and territorial limitations of jurisdictions. Due to these challenges, the matter requires that further examination and analyses be made on both the national and international level.

For continuing both the national and international discussion, it would be essential to further clarify features such as the applicability of national legislation

to international business activities. For this reason, the working group proposes that as a follow-up measure,

- a report be commissioned on Finnish legislation in relation to the regulation and guidance of international business activities, particularly to prevent serious human rights violations and to remedy any existing violations.

Principal responsible party: Ministry of Justice, Ministry of Employment and the Economy and Ministry for Foreign Affairs, schedule by mid-2015.

1.2 Activities in international organizations

Finland promotes the realisation of human rights and greater awareness of human rights as part of business activities by influencing the operations of the international organisations of which Finland is member or those activities Finland otherwise supports or funds. As for human rights questions related to business activities, the key operators include the human rights bodies of intergovernmental organisations (such as the UN Human Rights Council, the Council of Europe, and international and regional convention control bodies and tribunals), organisations related to trade, funding and investment, and working life (such as international financial institutions for development, e.g. the World Bank and regional development banks), the special UN organisations and programmes (UNIDO, UNDP, UNCTAD), the Organisation for Economic Co-operation and Development (OECD), the International Labour organisation (ILO) and the World Trade Organisation (WTO). Many other international organisations also have activities relevant to this theme, which Finland may use for promoting human rights.

Generally, Finland supports the mutual dialogue between international organisations and their cooperation on human rights issues to increase coherence. The Ministry for Foreign Affairs has used development cooperation funds to finance actions related to features such as rights at work, the economic empowerment of women, and decent work.

The efforts for the implementation and development of the UN principles will continue within the intergovernmental organisations in whose work Finland is involved. The UN Office of the High Commissioner for Human Rights (OHCHR) has commissioned a report⁴ dealing with the improvement of legal protection for victims of human rights violations related to business activities.

It has been suggested within the UN Human Rights Council that a convention on the human rights liabilities of companies be made between governments⁵, but Finland has not recommended this. In international human rights bodies, Finland has emphasised development related to due diligence.

4 OHCHR launches study on domestic law remedies for corporate involvement in gross human rights abuses – invites stakeholder submissions, <http://www.ohchr.org/EN/Issues/Business/Pages/OHCHRstudyondomesticlawremedies.aspx>.

5 Cf. additional information: Business & Human Rights Resource Center: Calls for a binding treaty on business and human rights – perspectives, http://www.business-humanrights.org/Documents/Legally_Binding_Instrument_Business_Human_Rights.

As a follow-up measure, the working group proposes that

- Finland support the observance and implementation of the Guiding Principles on Business and Human Rights approved by the UN Human Rights Council and participate in a discussion on further developing the norms. Finland shall participate in the UN Business and Human Rights forums and support the work of the working group related to the UN principles.
- Depending on the situation, Finland utilizes the universal periodic review (UPR) of the human rights situation in the UN Human Rights Council states. In this review, questions may be asked and recommendations on the implementation of the guiding principles may be given to the states examined.
- Finland shall bring forward questions related to human rights in international trade and development organisations and direct its support to programs related to business and human rights as part of Finland's support to international trade and development organisations.
- Finland supports the cooperation and discussion with the WTO and other essential international organisations such as ILO or WIPO (World Intellectual Property Organisation), carried out within the framework of the WTO Coherence Mandate.
- Finland participates and actively influences the work related to human rights and CSR questions that is carried out in the OECD, for instance, by being involved in drafting and updating guidelines, templates and recommendations related to the subject. Finland shall support and participate in the update of the OECD Policy Framework for Investment.
- Finland participates in the development of UN's cooperation with business and supports features such as the Global Compact CSR initiative.
- Finland shall be actively involved in the Council of Europe working group for business activities and human rights and shall continue to influence its activities based on human rights in order to create non-binding European instruments.
- Finland shall report to the UN Committee on the Rights of the Child on the implementation of the recommendation by the Committee on Business. In addition, the UN Committee on the Rights of the Child General Comment No. 16 on State obligations regarding the impact of the business sector on children's rights shall be translated into Finnish and Swedish, and a summarised introduction to its contents shall be made for distribution to entities such as companies.
- 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 realisation of the rights of indigenous peoples will be brought forward in the World Conference on Indigenous Peoples in autumn 2014.

- Finland regards the human rights foundation (provisions on human rights and human rights principles) as a starting point for all development goals, also in the UN post-2015 development agenda. The goals shall also apply to national and private business activities to the extent to which businesses are involved in reaching the goals.
- Finland supports and more strategically uses the systems and work previously carried out in ILO and shall be involved in their further development.

Principal responsible parties: Ministry for Foreign Affairs and Ministry of Employment and the Economy, continuous activities.

1.3 Activities in the EU

PROMOTION OF CORPORATE SOCIAL RESPONSIBILITY

In 2011, the European Commission published a communication on corporate social responsibility (CSR) describing work related to CSR within the EU. In its communication, the Commission expressed the wish that the member states prepare national implementation plans for the UN principles. The guiding effect of the Commission communication is rather limited, but it is supported by the Commission's high-level CSR group, which is an important forum for the exchange of information and experiences among the member states. Finland is actively involved in the group's work.

NON-FINANCIAL REPORTING

On 18 April 2013, the European Commission made a proposal to amend the accounting directive for the disclosure of so-called non-financial information of certain large companies.

The proposal shall be applied to companies of significant public interest with more than 500 employees on average on the account closing date. According to the proposal, such companies should include in their annual report a declaration stating material data related to the environment, social affairs, employees, human rights, and the prevention of corruption and bribery. The declaration should contain a short description of the business model, a description of the policies related to the areas mentioned above as well as the due diligence related to them, the results obtained in the policies, the main risks and risk management that apply as related to the areas mentioned above, and the non-financial performance indicators significant for company business. Instead of a declaration attached to the annual report, companies may also publish separate reports on certain conditions.

In February 2014, the negotiations between the Commission and the Parliament reached an agreement on the proposal, and the proposal is likely to be submitted to Parliament in April. After this, it will also be approved by the Council of the European Union. The proposal is due for approval before the end of the parliamentary term in May 2014. If the proposal is approved, it must enter into force in Finland in 2016. In

this case, it is estimated that the reporting obligation would apply to the financial year 2017 at the earliest. On a national level, Finland will initiate the preparations to implement the directive as soon as possible.

RAW MATERIALS

The international interest in raw materials is increasing. Whilst the materials may be used as a resource supporting development, there is also a risk of ambiguities related to the funds received from raw materials and/or the funds being used to support conflicts. The European Commission has made a proposal to establish a due diligence system for the union based on a spontaneous declaration by the responsible importers of certain minerals originating in conflict zones and high-risk areas⁶.

The Commission proposal has taken into consideration both the OECD Guidance for mineral purchasing in conflict zones⁷ as well as the OECD and UN guidelines more generally related to responsible supply chain management. The proposal is currently being discussed on the national level. Finland actively participates in the discussion of the proposal in the Council working group.

As for the more general responsible acquisition of raw materials, the new EU accounting directive obliges companies operating in oil, gas, extractive industry and loggers of primary forests to report on the fees paid to governments in connection with the financial statement⁸. The directive is currently being implemented in Finland.

As a follow-up measure, the working group proposes that

- Finland actively participate in the discussion of the proposal for a regulation on conflict minerals and in the discussion for the development of practices for responsible supply chains in the raw material sectors.

Principal responsible party: Ministry for Foreign Affairs, continuous activities.

TRADE POLICY

The promotion of the realisation of human rights is a central part of the EU's foreign relations. The common EU trade policy is carried out in the framework of the EU foreign relations principles and objectives. The common trade policy applies to third countries outside of the internal market. Member States cannot enact trade policy norms or conclude agreements between each other or with countries outside of the EU. The competencies transferred to the EU are exercised by its institutions. The

6 EU proposes responsible trading strategies and minerals from conflict zones, http://europa.eu/rapid/press-release_IP-14-218_en.htm.

7 OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected or High-Risk Areas, <http://www.oecd.org/fr/daf/inv/mne/mining.htm>.

8 A working group established by the Ministry of Employment and the Economy shall suggest how these obligations are to be implemented in Finland. Cf. additional information: A working group for the Accounting Act amendments has been established for the time period between 1 September 2013 and 30 November 2014, bit.ly/1iJg2GI (in Finnish).

Commission uses the competence outwards, representing the EU and negotiating on behalf of the Union.

The provisions on competencies and decision-making create the legal framework for the conduct of the EU's trade policy, but material objectives are not provided for. The objectives are created in the interaction between the Commission and the member states. For Finland, it is essential to get Finland's own national objectives integrated into the EU objectives.

As a follow-up measure, the working group suggests that in order to reinforce the human rights aspect in the EU trade policy:

- Finland will support the strengthening of human rights assessments in third countries during EU trade or investment agreement negotiations and when monitoring their implementation. Finland shall make use of the human rights assessments in forming its own opinions related to trade policy positions. Finland supports that human rights will be taken in to account in the EU investment agreements or in potential new bilateral agreements made by Finland.
- Finland endorses the inclusion of human rights clauses to all EU political framework agreements and their consideration as essential elements in trade agreements. In trade agreements, Finland shall also endorse clauses enabling an exemption from agreed provisions in cases where the other contracting party violates human rights.
- Finland shall monitor and influence human rights questions related to trade through the EU Generalised System of Preferences (GSP) by actively participating in the work of the Council of the European Union GSP Working Party and GSP Committee. The objective of Finland is for the system to promote the effective and efficient implementation of human rights in countries benefiting from the GSP. The system covers a special incentive mechanism for sustainable development and good governance (GSP+), a special arrangement for the least developed countries as well as a general arrangement.
- Finland promotes human rights issues in the framework of bilateral and inter-regional trade agreements by making use of the work of the monitoring groups for sustainable development of those agreements in matters related to trade and labour rights.
- Finland is involved in international work in UN decision-making bodies related to communication technologies (such as WSIS and the World Summit on the Information Society) as well as in other central international organisations (such as the Internet Governance Forum, IGF). The objective of Finland is to reinforce the administrative system of an open and inclusive network so that freedom of speech is ensured in the development of the international information society.

- A report shall be made on how trade and human rights as well as trade and labour rights have been taken into consideration in the free trade agreements of the EU, the United States and some other countries (such as regulation, monitoring mechanisms, dispute settlement and implementation).

Principal responsible party: Ministry for Foreign Affairs, continuous activities, report by mid-2015.

2 The state and companies

2.1 The state as an economic operator

SOCIALLY RESPONSIBLE PUBLIC PROCUREMENT

The value of public procurement in relation to EU gross domestic product is approximately 17 per cent. It is likely that such a large amount includes procurement that may have significant impacts on human rights. In its Resolution on Corporate Social Responsibility, the Finnish Government encourages public procurers to take social aspects into consideration. For the promotion of human rights, the procurement act allows consideration of aspects related to employment, working conditions, the position of vulnerable individuals and corporate social responsibility in connection with public procurement. The Ministry of Employment and the Economy has published a guide to socially responsible procurement⁹, with practical examples gathered from procurement units, explaining how social aspects can be taken into consideration in each stage of the procurement process. In addition, the Ministry maintains the CSRkompassi.fi website (available in Finnish and Swedish, some material also in English), with information and material for taking social aspects into consideration in long production chains related to public procurement.

In connection with the consultations organised by the working group, the idea of a statutory obligation to take social aspects into consideration in public procurement was presented. For instance, there is a federal obligation in the United States to include terms on the prohibition of the worst forms of forced labour and child labour in public procurement. In Finland, procurement legislation is procedural in nature, and it makes no statement on what is procured or on what terms. It provides guidelines for the types of procedures that should be used in order for the procurement process to meet the legal principles related to transparency, non-discrimination and equality. There are approximately 30,000 to 40,000 procurement objects, which means that setting a categorical obligation for all procurement may lead to significant challenges in an individual procurement. A categorical obligation would produce the need to allocate monitoring resources to procurement with only a small risk related to human rights impacts. The third challenge related to the proposal is the functionality of the compelling guiding methods. Some of the state procurement is made through Hansel Ltd., and some directly from agencies and ministries. Except for procurement legislation, the state has no other power to guide municipal procurement.

The Act on Public Contracts is currently being amended on EU directives so that social aspects can be taken into consideration more easily in the future.

⁹ Guide to socially responsible procurement, http://www.tem.fi/en/current_issues/publications/guide_to_socially_responsible_procurement.98158.xhtml.

As a follow-up measure, the working group proposes that

- references to Section 49 of the Act on Public Contracts and to the Guide to socially responsible procurement be added to the procurement guidelines for ministries; and
- the responsibility themes in the state procurement manual be updated;
- in connection with the reform of the public procurement online notification service “Hilma”, a field be added to the sections containing procurement data to indicate whether social aspects have been taken into consideration in the procurement. This would improve statistics related to social procurement and encourage the consideration of social aspects in the future.
- A report will be made on the product groups that pose the highest risk for human rights violations. The report would 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.
- Finland promotes socially responsible public procurement in the EU by distributing information and experiences of Finnish practices.

Principal responsible parties: Ministry of Finance, Ministry of Employment and the Economy, schedule by the end of 2015.

PUBLIC FINANCIAL INSTITUTIONS AND FINANCIAL INSTRUMENTS RELATED TO DEVELOPMENT COOPERATION

The publication of the UN principles and the update of the OECD Guidelines for Multinational Enterprises in 2011 have had the effect in public export credits of increasing the amount of attention being paid to the impact on human rights in the projects guaranteed. Finland’s official export guarantee company, Finnvera, uses policies¹⁰ updated on 1 January 2013 for evaluating the environmental and social effects of projects. When granting export credit guarantees and confirming export credit guarantee conditions, the environmental and social impacts of the project in question are taken into consideration as part of the project’s total risk assessment. The development of Finnvera’s environmental and social impact assessment is continuing in accordance with the OECD Common Approaches agreement¹¹. As with other public export credit companies, Finnvera also reports on its progress at the expert meetings related to the OECD agreement.

In autumn 2011, Finnfund and twenty-four other providers of development funds signed the principles of good governance and guidelines on how the providers of development funds attempt to promote good governance in the companies funded and thereby support the sustainable economic development of developing countries. In addition, the activities of Finnfund itself and of the companies it funds should be

10 Cf. Finnvera: Policy for reviewing the environmental and social impacts of projects, <http://www.finnvera.fi/eng/Exports-and-internationalisation/Export-guarantees/Export-Credit-Guarantees/Policy-for-reviewing-the-environmental-and-social-impacts-of-projects>.

11 The OECD Common Approaches agreement, <http://search.oecd.org/officialdocuments/displaydocumentpdf/?cote=TAD/ ECG%282012%295&doclanguage=en>.

both environmentally and socially sustainable. The same principles of responsibility apply to the activities of both Finnfund and Finnpartnership alike.

In its final report in February 2014, a development group established by the Ministry for Foreign Affairs and the Ministry of Employment and the Economy suggested that a development innovation programme be established alongside the current financial instruments and support services. The programme is intended to compile the monitoring services for know-how and markets both in Finland and in developing countries; to produce support and development services for operators; and to enable a programme of flexible funding through the programme's own fund. The programme will be launched in 2014.

As a follow-up measure, the working group proposes that

- a regular dialogue be maintained with public financial institutions on the UN principles, the OECD Guidelines and other guidelines.

Principal responsible parties: Ministry for Foreign Affairs and Ministry of Employment and the Economy, continuous activities.

- in conjunction with companies and non-governmental organisations, the potential for new cooperation initiatives in the field of development cooperation funding be examined. The work carried out in the framework of the development group is used and human rights are emphasised in the new programme for business activities in developing countries that is currently being prepared, and similarly, in the Finnpartnership programme.

Principal responsible party: Ministry for Foreign Affairs, schedule 2014 to 2016.

CORPORATE GOVERNANCE

The Ownership Steering Department in the Prime Minister's Office has set a CSR reporting requirement for unlisted companies that are either majority-owned by the state or entirely state-owned. This also includes human rights. The obligation requires that companies submit reports in accordance with the best practices in the branch of activity concerned and, at minimum, adopting the standards corresponding to those of their central competitors.

As an owner, the state expects that the administration and management of state-owned companies take human rights into consideration in a responsible and transparent manner, both in their own organisation and in their subcontracting chains.

As a follow-up measure, the working group proposes that

- the importance of human rights to the state when serving as a company owner will continue to be emphasised in preparing the next decision in principle on ownership policy.

- When the amended OECD Guidelines on Corporate Governance of State-Owned Enterprises enter into force around the end of 2015, the new definitions of policy will be included in the ownership guidance practices of the Finnish state.
Principal responsible party: Prime Minister's Office, schedule before the end of 2016.

2.2 The State and the protection of privacy

The protection of privacy that is particularly related to electronic communications has received plenty of attention in recent public discussion. The right to privacy, the protection of personal data and the protection of confidential messages are fundamental human rights. The extent of data collection related to electronic communications has led to public discussion. Privacy questions related to electronic communications are particularly important in Finland, where the ICT infrastructure enjoys a strong position. This strength has played a significant role in the fact that Finland has been able to attract international ICT investments.

As a follow-up measure, the working group proposes that

- a roundtable discussion be organised on how to ensure the protection of privacy in Finland with the authorities, ICT companies and the civil society.
Principal responsible party: Ministry of Transport and Communications, autumn 2014.

3 Expectations towards companies and support services

The central objective of the UN principles is to promote companies' voluntary commitment to following international human rights norms. Human rights are universally recognised, which means that following them in business activities does not depend on the ability and/or willingness of states to meet their human rights obligations. On the other hand, this does not decrease the importance of state obligations, since states are expected to follow international conventions. However, as stated before, the operation of states in implementing human rights conventions varies on an international level. If the national laws and the legislative acts of the company's target country are in conflict with internationally recognised human rights, the company should find ways to respect human rights. However, companies are not expected to violate the national legislation of the target country.

The Finnish state is committed to promoting the OECD Guidelines for Multinational Enterprises. Although following the guidelines is voluntary for companies, the Finnish government expects companies to observe them. Companies' obligation to respect human rights includes various actions to proactively mitigate the risk of human rights violations. This may be done for instance by including a human rights assessment in the company's risk management system or by carrying out various special measures.

A careful human rights risk assessment and careful prevention has favourable long-term effects on the company's own business activities.

3.1 Clarification of due diligence

The OECD Guidelines for Multinational Enterprises¹² were updated in 2011. In the same connection, the UN Guiding Principles on Business and Human Rights were included in the Guidelines along with due diligence. In the OECD Guidelines, due diligence is seen as an examination process with which companies identify and prevent the actual and potential adverse impacts of their activities in their decision-making and risk management. This means that due diligence is not a single action. Instead, it is an ongoing process where the human rights impacts of business activities are assessed with appropriate and sufficient care.

Due diligence also includes the mitigation of adverse impacts and communication on how companies deal with these adverse impacts. Potential effects are dealt with by preventing or mitigating them, whereas actual impacts will be dealt with by remedying them.

12 The OECD Guidelines for Multinational Enterprises, <http://mneguidelines.oecd.org/text/>.

By following due diligence, an attempt is made to prevent the adverse impacts which a company will either cause itself, to which it will considerably contribute towards, or which are directly related to the company's activities, products or services through a business relationship.

The contribution refers to a situation where that contributing impact is substantial. This means activities resulting in indirect adverse impacts caused, promoted or encouraged by another party. This does not cover minor or insignificant contributions. If a company contributes to a detrimental effect on human rights, it should take the necessary measures and use its influence to prevent or alleviate the adverse impact.

In the Guidelines, business relationships cover relations with business partners, supply chain operators and other operators independent of the state and governmental operators that are directly related to the company's business activities, products or services. If the company has a lot of suppliers, it should identify the areas where the risk of adverse impacts is highest and contribute to the prevention of these risks.

WHAT IS SUFFICIENT?

At the consultation events organised by the working group, it was suggested that a new statutory obligation on due diligence should be established for companies when implementing the UN principles on a national level¹³. Transforming the due diligence described above into a legally binding obligation is difficult to envisage. The problem with statutory due diligence for respecting human rights is the difficulty of defining the obligation included therein. On a national level, respecting human rights is defined in appropriate legislation, and careful actions may be important for assessing company responsibilities. Extending national legislation to international activities is even more challenging. The special questions related to the regulation of international business activities have been described above in Section 1.1.

According to the international guidelines, the sufficiency of following due diligence and the possibilities of making a difference are always weighed on a case-by-case basis. The issues mentioned above (such as the size of the company, branch of activity, operating conditions, ownership and business structure) are taken into consideration. The seriousness of the adverse impacts caused is important as well. Since both the UN principles and the OECD Guidelines emphasise prevention, a retrospective assessment on sufficiency will cause challenges of its own for preparatory actions.

The discussion on the content of due diligence and the ways it is applied also continues in international organisations.

Though there is no binding regulation on due diligence, it is a central concept in managing human rights risks related to international business activities. For these

13 The "Human Rights Due Diligence: The Role of States" (2012) report (which was cited at the consultation events) deals with solutions available in accordance with the legislation of various countries where the application of due diligence exerts an impact on the legal liability of companies.

reasons, more discussion and information is required on the types of risks and possibilities related to each branch of activity, on the types of risk management needed, and on the expectations for observing due diligence in various branches of activities.

As a follow-up measure, the working group proposes that

- companies, non-governmental organisations and other key stakeholders are invited to a roundtable discussion by branch of activity. For example, the discussion could begin with the forest industry, the consumer goods trade and the textile industry. With the discussions, an attempt shall be made to create a dialogue amongst various stakeholders and to establish the essential risks for each branch of activity as well as sufficient risk management and due diligence.
- In co-operation with the business sector, the collective industrial organisations and non-governmental organisations, sharing of due diligence best practices is promoted in order for companies to apply them.

Principal responsible parties: Ministry for Foreign Affairs and Ministry of Employment and the Economy, schedule by the end of 2015.

3.2 Reporting on corporate social responsibility

Reporting on corporate social responsibility may be a significant factor in monitoring the human rights impacts and risks of companies. In the Resolution on Corporate Social Responsibility, the Finnish Government encourages companies to publish the non-financial data on the social and environmental impact of their activities. The Ministry of Employment and the Economy and the Ministry of the Environment are involved in organising the annual competition for reporting on corporate social responsibility. The competitions have been organised since 1996 with a view to encourage companies to report on CSR. When reporting becomes mandatory for some of the companies (cf. Section 1.3 on non-financial reporting), the question of reforming the competition must be addressed.

International information on the content of companies' responsibility reports is available in a database maintained by the Global Reporting Initiative (GRI). In Finland, Corporate Responsibility Network FIBS acts as a partner for GRI for all Finnish companies and organisations to register their responsibility reports in the database. By means of the database, companies' responsibility reports can be compared by branch of activity and by geographical area. The database also provides useful information concerning the international corporate social responsibility standard to which each report refers.

As a follow-up measure, the working group proposes that

- human rights be adopted as the annual theme of the reporting competition.

Principal responsible party: Ministry of Employment and the Economy, schedule before the end of 2015.

3.3 Training and counselling

Training plays a crucial role in the promotion of human rights related to business activities. As a party protecting human rights, the state also has the obligation to promote training, communications and counselling related to them. They may target companies, the authorities, and other operators. The Team Finland network (cf. next paragraph) may be used as one of the training channels. Companies may also independently acquire information and training related to human rights from various experts and consultants. However, compared to large companies, SMEs have limited resources for acquiring training related to human rights. For this reason, it is important to provide targeted training for SMEs.

As a follow-up measure, the working group proposes that

- the distribution of information on the UN principles and on the related interpretive guide published by the UN be ensured¹⁴.
- the need for training and information related to the impact of business on human rights and the responsibilities of Finnish companies with regards to international business activities be examined.
- training related to the theme of business and human rights be provided to companies. The special emphasis is on SMEs operating in branches of activity that pose a high risk for human rights.

Principal responsible parties: Ministry for Foreign Affairs and Ministry of Employment and the Economy in conjunction with business sector organisations, schedule 2014 to 2016.

3.4 Team Finland cooperation

The Team Finland network was established in 2012 to promote the Finnish cause abroad. This entity includes Finland's financial foreign relations, the internationalisation of Finnish companies, the foreign investments made in Finland and the image of Finland as a country. The objective is to create a clear and customer-oriented operating model where the central domestic and foreign operators are invited to sit down to a discussion at the same table. The activities of Team Finland are guided by common objectives that are confirmed by the government each year.

The core of the Team Finland network consists of the Ministry of Employment and the Economy, the Ministry for Foreign Affairs, the Ministry of Education and Culture, and the publicly funded organisations and foreign offices operating under these ministries (such as Finnish foreign services, the Finpro and Tekes offices, and cultural and scientific institutes). Cooperation with companies, organisations and

¹⁴ OHCHR: The Corporate Responsibility to Respect Human Rights. An Interpretive Guide (2012), http://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf. The Finnish Human Rights Centre will publish the guide in Finnish in autumn 2014.

institutions of higher education is also extremely important in matters related to business and human rights. As an existing forum, Team Finland may operate as an excellent platform for bringing forward human rights factors related to business activities.

As a follow-up measure, the working group proposes that

- the Team Finland network provide interactive training on the theme of business and human rights;
- in connection with travel for export promotion, questions related to human rights and CSR are taken into consideration. For instance, by including a concise overview of the human rights situation of the target country in the background materials.
- Questions related to human rights and corporate social responsibility shall be included in the service selection by the Team Finland network provided by Finnish foreign services. Ministry for Foreign Affairs and Ministry of Employment and the Economy shall provide the support materials required for counselling.

Principal responsible party: Ministry for Foreign Affairs and Ministry of Employment and the Economy, continuous activities.

3.5 Support for Finnish and international organisations promoting the subject

Defenders of human rights, trade unions and other civil society operators can play an important role in the assessment of the impact of business activities on human rights, the availability of legal remedies and national and international discussion. Finland has a strong tradition of mutual interaction between the authorities and civil society operators. The collaboration between labour market parties is part of the Finnish social contract. Ministries support the business and human rights activities of Finnish and international non-governmental organisations in various ways.

The Ministry for Foreign Affairs uses development cooperation funds to support international organisations, programmes and initiatives which promote the theme of business and human rights. For instance, the Ministry for Foreign Affairs has supported the following projects:

The UN Global Compact CSR initiative for EUR 350,000 in 2013 and its Business for Peace initiative for EUR 200,000 between 2013 and 2014. The activities focus on features such as human rights, gender equality, good governance and environmental affairs.

In 2014, approximately EUR 17 million were spent to support the projects of the International Labour Organisation (ILO). The projects are related to matters such as rights at work, green workplaces for the construction sector, the inclusion of women in the labour market, and decent work.

The OECD Policy Framework for Investment is being modernised to face the challenges of sustainable development, such as equality, CSR and human rights.

Each year, the Ministry for Foreign Affairs also supports the development cooperation projects for Finnish non-governmental organisations as well as communications and global education projects. Support is also provided for projects promoting the theme of human rights and business.

As a follow-up measure, the working group proposes that

- the possibilities of funding new programmes or initiatives be examined. These programmes or initiatives should be related to business
- and human rights, particularly trade, business activities and rights at work, and they may have significantly positive effects on development.

Principal responsible party: Ministry for Foreign Affairs, schedule 2014 to 2015.

4 Access of victims of human rights violations to legal remedies

The realisation of human rights requires that the victims of human rights violations may have their situation assessed and remedied. For this reason, the existence of sufficient legal remedies or other settlement or compensation proceedings is crucial. These procedures may be legally binding or optional.

The starting point is that the activities of the state and the national control of business activities are in harmony with international conventions and national legislation.

The autonomy of Finnish tribunals is guaranteed, legal expenses are small, and those without sufficient financial means for legal aid are entitled to free counselling. However, in order for the victims of human rights violations to have access to legal remedies, they must be aware of their rights. In addition to the authorities, labour market organisations and non-governmental organisations have been assigned the important task of helping employees – particularly employees in a vulnerable position – in defending their rights and using legal remedies. The organisations also distribute information on rights and provide counselling. Finland has a strong tradition of cooperation between the authorities, labour market organisations and non-governmental organisations. These strengths can also be used in activities carried on outside Finland's borders.

Finland is actively involved in reinforcing the development of the rule of law on an international level and supports the development of the legal sector in developing countries. It is also involved in the cooperation for promoting international human rights obligations and the control of fundamental rights in working life.

It is important to emphasise the use of preventive measures (such as consultations and settlement proceedings) at a sufficiently early stage to prevent or decrease the adverse impacts on human rights that may be related to business activities. Companies are encouraged to increasingly use non-binding complaint mechanisms related to human rights and to cooperate with non-governmental organisations.

Trade unions and non-governmental organisations play an important role in securing human rights and rights at work. Finland cooperates in various ways with human rights defenders and non-governmental organisations exposing corruption. Mainly within the framework of EU cooperation, Finnish representatives are involved in the monitoring of legal processes on a case-by-case basis when monitoring is believed to have a positive impact on the protection of the rule of law.

As a follow-up measure, the working group proposes that

- Finland participate in the discussion on developing legal remedies carried out in the Office of the High Commissioner for Human Rights and the Human Rights Council.
- Finland support non-governmental organisations, which follow human rights issues related to business activities and support the victims of human rights violations.

Principal responsible party: Ministry for Foreign Affairs, continuous activities.

4.1 Development of the OECD National Contact Point

The OECD Guidelines include a monitoring mechanism referred to as the National Contact Points (NCPs), which are established by governments adhering to the Guidelines. NCPs promote the Guidelines and implement them.

The primary objective of the OECD procedure is to promote the resolution of conflicts between the parties. The NCP's task is to act as a mediator in this process. Where necessary, in addition to the mediation duty, the NCP will make a statement on whether the company in question followed the OECD Guidelines. The statement of the NCP is not a legal remedy in the sense of obliging a company to change its operations or in the sense of resulting in potential compensation or other types of reimbursement for activities in violation of the guidelines.

The NCP in Finland is the Ministry of Employment and the Economy together with the Committee on Corporate Social Responsibility. The Committee states, by request of the Ministry, whether it sees that a company has followed the Guidelines. Finnish NCP's procedures are described in more detail in the background memo and online¹⁵.

As a follow-up measure, the working group proposes that

- alternatives for the development of the NCP be mapped out. In the meantime, the procedures of the NCP shall be clarified and communications shall be made on them.

Principal responsible party: Ministry of Employment and the Economy, schedule before the end of 2015.

15 For more information visit <http://www.tem.fi/csr>.

5 Monitoring the implementation of recommendations for measures

The proposal for implementation produced by the working group has scheduled the majority of the proposed measures for the period from 2014 to 2016. These procedures were intended as first steps on the road to promoting human rights related to business activities. If the Government approves the proposal, the working group considers it important that the monitoring of the implementation be also included in the proposal for implementation approved by the Government.

As a follow-up measure, the working group proposes that

- the implementation of the action plan be monitored each year by the Committee on Corporate Social Responsibility.

Principal responsible party: all ministries involved in the implementation process

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Tiivistelmä Referat Abstract Työ- ja elinkeinoministeriö antoi 17.9.2014 valtioneuvoston iltakoululle tiedoksi YK:n yrityksiä ja ihmisoikeuksia koskevien ohjaavien periaatteiden kansallista toimeenpanoa koskevan raportin*), jonka oli kirjoittanut eri ministeriöiden edustajista koostunut työryhmä. Hallitus tutustui myös työryhmän raportista annettuihin lausuntoihin. Kansallinen toimeenpano käynnistetään työryhmän esittämän toimeenpanosuunnitelman pohjalta. Toimeenpanosuunnitelman tavoitteena on saattaa liikkeelle toimenpiteitä, joilla yritystoiminnan ja ihmisoikeuksien välinen yhteys saisi enemmän huomiota ja siten auttaisi yrityksiä huomioimaan paremmin toimintansa ihmisoikeusvaikutukset. Keskeisiä tavoitteita toimintasuunnitelmassa ovat lisälainsäädäntöselvitys, huolellisuusperiaatteen täsmentäminen sekä sosiaalisten kriteerien hyödyntäminen julkisissa hankinnoissa. Näiden ohella tarvitaan myös yritysten ja kansalaisjärjestöjen välisen dialogin lisäämistä. Yritykset tarvitsevat oman riskienhallintansa tueksi tietoa ihmisoikeusnäkökulmasta ja järjestöille on hyödyllistä saada tietoa liiketoimintaan liittyvistä reunaehdoista ja mahdollisuuksista. Toimeenpanosuunnitelma on laadittu siten, että siinä olevien toimenpiteiden toteuttaminen olisi mahdollista jo lähivuosien kuluessa, mutta niin, että näin voidaan pohjustaa mahdollisten uusien toimenpiteiden määrittelyä. Suunnitelman etenemistä seurataan yritys- ja yhteiskuntavastuun neuvottelukunnassa. Työ- ja elinkeinoministeriön yhteyshenkilö: Työelämä- ja markkinaosasto/Antti Riivari, puh. 029 506 3742 ja Linda Piirto, puh. +358 29 504 7028	
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Nationellt genomförande av FN:s vägledande principer för företag och mänskliga rättigheter			
Tiivistelmä Referat Abstract			
Arbets- och näringsministeriet informerade 17.9.2014 statsrådet om en rapport om det nationella genomförandet av FN:s vägledande principer för företag och mänskliga rättigheter, som var skriven av en arbetsgrupp med representanter från olika ministerier. Statsrådet bekantade sig också med de utlåtanden som getts vid arbetsgruppsbetänkandet. Det nationella genomförandet inleds utifrån den genomförandeplan som arbetsgruppen har presenterat. Syftet med genomförandeplanen är att mobilisera åtgärder för att sambandet mellan företagsverksamhet och mänskliga rättigheter ska få mera uppmärksamhet och därigenom hjälpa företagen att bättre beakta konsekvenserna av sina verksamheter för de mänskliga rättigheterna. Centrala målen för genomförande-planen är en utredning av lagstiftningen, precisering av aktsamhetsskyldigheten samt tillämpning av de sociala kriterierna vid offentliga upp-handlingar. Vid sidan om dessa behöver man också öka dialogen mellan företag och frivilligorganisationer. Företagen behöver information ur ett människorättsperspektiv till stöd för sin riskhantering, samt för organisationerna är det nyttigt att få information om de specialvillkor och möjligheter som hänför sig till affärsverksamhet. Genomförandeplanen har utarbetats på så sätt att det ska vara möjligt att genomföra åtgärderna i den redan under de närmaste åren, men så att man samtidigt får underlag för fastställande av eventuella nya åtgärder. Genomförandet av åtgärdsprogrammet följs upp i delegationen för samhälls- och företagsansvar.			
Kontaktperson vid arbets- och näringsministeriet: Avdelningen för arbetslivs- och marknadsfrågor/Antti Riivari, tfn 029 506 3742 och Linda Piirto, tfn 029 504 7028			
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National Action Plan for the implementation of the UN Guiding Principles on Business and Human Rights

The Ministry of Employment and the Economy submitted its report, a joint proposal written by a working group representing various ministries, on the national implementation of the UN Guiding Principles on Business and Human Rights to the Government evening session on 17 September 2014. The Government also examined statements issued from the working group report. The national implementation will be launched based on the action plan proposed by the working group.

The objective of these proposals is to initiate procedures that will place more of an emphasis on the connection between business and human rights and, in this way, help businesses improve the way they take the human rights impacts of their activities into account. Key aims for the action plan are the legislative report, definition of the due diligence obligation, and the application of social criteria in public procurement. In addition to these, an increase in dialogue between businesses and civil society is needed. Companies need information on human rights aspects to support their risk management work, and it is beneficial for civil society to receive information on the preconditions and opportunities related to business.

The action plan has been drawn up in a way that facilitates the realisation of listed actions in the next few years, but also provides a foundation to which new actions may be added. Implementation of the action plan will be monitored each year by the Committee for Corporate Social Responsibility.

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