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

August 2017

ICAR INTERNATIONAL CORPORATE ACCOUNTABILITY ROUNDTABLE

ECCJ European Coalition for Corporate Justice

In December 2016, the Swiss 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 Swiss 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.

ASSESSMENT SUMMARY:
SWITZERLAND NATIONAL ACTION PLAN

Introduction

In 2012, the Swiss National Council adopted postulate 12.3503, "A Ruggie Strategy for Switzerland," which mandated that Switzerland's executive branch develop a National Action Plan (NAP) for the implementation of the United Nations Guiding Principles on Business and Human Rights (UNGPs). Following years of development, in December 2016, the Swiss government published its "Report on the Swiss strategy for the implementation of the UN Guiding Principles on Business and Human Rights" (Swiss NAP).

The Swiss NAP is organized exclusively around the federal government's obligations under Pillars I and III of the UNGPs, and goes through these respective UNGPs principle by principle. In relation to Pillar II, the NAP discusses the Swiss government's expectations of business enterprises more broadly under "The position and expectations of the Federal Council" section. Switzerland has a separate policy document in relation to Corporate Social Responsibility (CSR), which addresses a broad spectrum of issues, such as: working conditions, human rights, the environment, and corruption prevention. The NAP highlights that the CSR position paper and the NAP are complementary and of "equal status" for the purposes of fulfilling the mandate of postulate 12.3503.

This summary outlines key trends in terms of process and content, as identified through the attached assessment of the Swiss NAP. It is hoped that other States that are considering, beginning, or are in the process of creating a NAP will use this assessment to inform their own processes.

Process

The positive aspects of the NAP drafting process include: (1) the government entity tasked with drafting the NAP was clearly identified; (2) external stakeholder and government consultations were conducted; and (3) drafts of the Swiss NAP were made available for review and comment before the final version was adopted.

The Federal Council, Switzerland's executive body, coordinated the drafting of the NAP. Responsibility for the NAP was clearly placed with the Federal Department of Foreign Affairs and the Federal Department of Economic Affairs, Education, and Research. Prior to drafting the NAP, two informational consultations with external stakeholders, such as businesses, civil society, and academia were convened by Swisspeace, a Swiss non-governmental organization. The summary report of these consultations was used as one of the key documents to inform the NAP.

Another positive aspect of the drafting process of the Swiss NAP was that the Federal Council circulated drafts of the NAP to gain feedback from both external stakeholder groups and government offices. External stakeholders had the opportunity to provide feedback on two different drafts on the NAP—though some stakeholders note that there was not sufficient notice given for comment periods, making meaningful contributions to the process challenging. Additionally, drafts of the NAP were circulated to all federal departments for consultation.

However, the NAP process could have been improved in a number of ways; for example, by conducting a National Baselines Assessment (NBA) prior to the drafting of the NAP. Without conducting an analysis of the current status of implementation of the UNGPs, and identifying the gaps in this implementation, it is difficult for a NAP to fully respond to existing gaps in law and policy. Furthermore, the Swiss government did not publish a budget, clear plan, or timeline for the NAP process, nor did it facilitate the engagement of at risk or disempowered stakeholders.

Content

The content of the Swiss NAP primarily focuses on the Swiss government's current activities and commitments relating to Pillars I and III, with very few commitments to future action. The NAP only broadly discussed Pillar II, the corporate responsibility to respect, in terms of expectations rather than action points.

Of the fifty commitments, or policy instruments, included in the NAP, very few commitment to new actions. The overall content of the Swiss NAP essentially provides a summary of ongoing processes and existing support for promoting corporate respect for human rights, framed by often vague future commitments–many of which will be difficult to monitor in the absence of a timeline and clearly allocated responsibilities.

Another negative aspect of the NAP content is its failure to prioritize for action the most serious business-related human rights abuses faced by Swiss citizens or committed by Swiss companies operating abroad. The Swiss NAP also does not adequately address issues related to the most vulnerable and excluded groups, nor does it take into consideration the full scope of its jurisdiction, choosing to focus specifically on the impacts of Swiss business activity abroad.

On a positive note, the NAP does a good job of clearly identifying which government entity is tasked with overseeing the enforcement and implementation of specific policy instruments included in the NAP through the attached Annex. It also extensively discusses international and regional organizations and standards, and touches on thematic and sector-specific human rights issues.

Additionally, the Swiss NAP lays out a relatively strong framework for monitoring, updating, and revising the NAP. The NAP commits to the creation of a multi-stakeholder monitoring group prior to updating the NAP in 2020, to be comprised of representatives from business, civil society, and academia. The group will collaborate on implementation and be invited to comment on NAP status reports published by the Swiss government.

ICAR-ECCJ ASSESSMENT OF THE SWISS
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.	In 2012, Switzerland's parliamentary body, the National Council, adopted postulate 12.3503, "A Ruggie Strategy for Switzerland," which mandated that the Federal Council develop a National Action Plan (NAP) for the implementation of the United Nations Guiding Principles on Business and Human Rights (UNGPs).[3] Following years of development, in December 2016, the Swiss government published its "Report on the Swiss strategy for the implementation of the UN Guiding Principles on Business and Human Rights" (Swiss NAP). In the NAP, the Swiss government highlights its commitment to protecting human rights and implementing the UNGPs.[4] The government acknowledges that the implementation of the UNGPs in general, and "its State duties to protect and provide access to remedy" in particular, are an ongoing process that must remain adaptable to new challenges. [5] The government's efforts to consult with external stakeholders in business, civil society, and academia also show commitment to the NAP process. The Swiss government partnered with Swisspeace, a Swiss non-governmental organization, to conduct stakeholder consultations. Participating stakeholders had the opportunity to give feedback on two drafts of the NAP, and to attend informational meetings on the NAP's development.

		Similarly, the Swiss government's plan to monitor and implement the NAP is further evidence of its commitment to the NAP process. The NAP outlines the government's plan to review and update the NAP once every legislative period.[6] The implementation of the first Swiss NAP is to be completed by 2020. The next NAP review will take place in 2019.[7]
1.2.	Ensure responsibility for the NAP process is clearly established and communicated.	The Federal Council coordinated the creation of the NAP by the Federal Department of Foreign Affairs and the Federal Department of Economic Affairs, Education and Research.[8] The Federal Council is a seven-member executive council, which serves as the collective executive head of government and State of Switzerland.
1.3.	Ensure an inclusive approach across all areas of government.	The government did not create an inter-ministerial working group to ensure an inclusive approach across all areas of government. However, drafts of the NAP were circulated within all federal departments for consultation. Additionally, the final draft of the NAP was coordinated and approved by the Federal Council, the highest level of government.
1.4.	Devise and publish terms of reference and a timeline for the NAP process.	Neither terms of reference nor a detailed timeline for the NAP process was published. Postulate 12.3503 specified a two-year timeline for the development of the Swiss NAP; however, this timeline was not met due to a lack of human resources in the State Secretariat of Economic Affairs.[9]

Adequate Resourcing	
1.5. Determine an appropriate budget for the NAP process.	There is no information publicly available on the level of funding provided for the NAP process.

2. STAKEHOLDER PARTICIPATION	COMMENTS
Effective Participation by All Relevant Stakeholders	
2.1. Conduct and publish a stakeholder mapping.	There is no information publicly available as to whether the Swiss government conducted a stakeholder mapping. Prior to drafting the NAP content, in 2014, the government commissioned Swisspeace, a Swiss non-governmental organization, to conduct a stakeholder consultation. The summary report of this consultation period was made publicly available and used as one of the basis documents for drafting the NAP.[10] In addition, throughout the NAP process, external stakeholder groups "had the opportunity to provide feedback on two drafts" of the NAP and to participate in multi-party dialogues.[11] According to some stakeholders that participated in the process, they were not given sufficient notice of upcoming consultation periods, nor were these periods sufficient in length to allow for meaningful contributions.[12] Some stakeholders also noted that they were not notified as to how their input would be used, nor were they given any feedback following their initial round of comments.[13]

		In 2015, another informational meeting was held to update consulted stakeholders on the progress of the NAP; however, following this meeting, external stakeholders were not invited to participate further in the NAP process and were no longer given periodic updates.[14]
2.2.	Develop and publish a clear plan and timeline for stakeholder participation.	It does not appear that the Swiss government developed or published a clear plan and timeline for stakeholder participation.
2.3.	Provide adequate information and capacity-building where needed.	It is unclear what, if any, information or capacity building was provided to consulted stakeholders.
2.4.	Facilitate participation by disempowered or at-risk stakeholders.	It is unclear what groups were involved in stakeholder consultations; though there is no indication that participation by disempowered or at-risk stakeholders was facilitated. The NAP merely notes that "[s]takeholder groups outside the government were consulted on multiple occasions."[15]
2.5.	Consider establishing a stakeholder steering group or advisory committee.	The Swiss government did not establish a stakeholder steering group or advisory committee for the development of the NAP. However, the NAP commits to the creation of, a multi-stakeholder Monitoring Group prior to the first update of Switzerland's NAP in 2020.[16] This group will be comprised of representatives of the Federal Administration, business, civil society, and academia.[17] The Monitoring Group will periodically discuss the implementation of the NAP with the Federal Administration and will be invited to comment on NAP status reports published by the Swiss government.[18]

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.	The Swiss government did not conduct a national baseline assessment (NBA), a full analysis of the gaps in existing laws and policies in the State which seek to implement the UNGPs. The Federal Council chose to review existing government measures and instruments instead of seeking to identify the gaps in these measures against the full scope of the UNGPs.[19] The Council made this decision without informing stakeholders who were involved in pre-drafting consultations.[20] The Federal Council has previously stated that it intended "to carry out an analysis of potential gaps and necessary measures, but it did not state the results of its consultations, "nor did it carry out an analysis of the required measures."[21] The NAP states that it "will be updated and revised once per four-year legislative period, based on an external analysis of the Swiss context for business and human rights, and any gaps identified in Switzerland's implementation of the UNGPs."[22] While unclear, this statement could represent the Swiss government's commitment to conduct an NBA in the future.
3.2.	Allocate the task of developing the NBA to an appropriate body.	Not applicable.

3. NATIONAL BASELINE ASSESSMENT (NBA)	COMMENTS
3.3. Fully involve stakeholders in the development of the NBA.	Not applicable.
3.4. Publish and disseminate the NBA.	Not applicable.

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
Scope of NAPs	
4.1. A NAP should address the full scope of the UNGPs.	The Swiss NAP is organized exclusively around the federal government's obligations under Pillars I and III of the UNGPs, and goes through these respective UNGPs principle by principle. The NAP begins with an introduction of the UNGPs and a brief description of the three Pillars. More specific government commitments are organized into 50 "policy instruments (PI)." In relation to Pillar II, the NAP discusses the Swiss government's expectations of business enterprises more broadly under "The position and expectations of the Federal Council" section.[23] This may be in part because Switzerland has a separate commitment to Corporate Social Responsibility (CSR), which addresses a broad spectrum of issues, such as: working conditions, human rights, the environment, and corruption prevention; though this document does not include an impact study of current CSR measures of Swiss corporations. The

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	NAP highlights that the CSR position paper and the NAP are complementary and of "equal status" for the purposes of fulfilling the mandate of postulate 12.3503. The overall content of the Swiss NAP essentially provides a summary of ongoing processes and existing support for promoting corporate respect for human rights, framed by often vague future commitments–many of which will be difficult to monitor in the absence of a timeline and clearly allocated responsibilities. In terms of substantive content, the following four sub-criteria provide insight into the NAP's coverage of the full scope of the UNGPs without conducting an extensive analysis of the NAP's fulfillment of each UNGP. 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) a regulatory mix (i.e. a combination of voluntary and mandatory measures that the State uses to encourage business to respect human rights).[24] These sub-criteria are not an exhaustive list, but have been supported by other researchers and advocacy groups as indicative of a NAP's adequacy in terms of substantive content. (1) <u>Positive and Negative Incentives for Due Diligence</u> Generally, the NAP commits the government to continuing to promote the concept of due diligence and its development as an international standard for

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	increasing transparency in business practices. For example, the NAP highlights Switzerland's support of human rights guidelines that include human rights due diligence guidance for sectors such as, commodities trading, finance, and food and agriculture.[25] The Swiss government has been, and continues to be, active in the development of many of these guidelines. The NAP provides numerous examples where the Swiss government can be seen to incentivize businesses to conduct due diligence. For example, the government incentivizes due diligence by providing financial support for the implementation of the OECD Due Diligence Guidance for responsible Supply Chains of Minerals from Conflict-Affected and High Risk Areas.[26] The Swiss government also incentivizes companies to undertake due diligence by requiring that private security providers hired by the government to work in complex environments be members of the International Code of Conduct for Private Security Providers Association (ICoCA).[27] Because the ICoCA requires that its members conduct human rights due diligence; businesses who desire government contracts will comply with these provisions. Similarly, in order for a company operating in elevated risk to receive Swiss Export Risk Insurance (SERV), the government requires that applicants conduct human rights due diligence. Again, companies that desire this government coverage will be incentivized to conduct due diligence.[28] The NAP also commits the Swiss government to establishing an award for the "Swiss Business and Human Rights Champion of the Year." The Federal Department of Foreign Affairs and the Federal Department of Economic Affairs,

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	Education and Research will work with civil society stakeholders and academics to award this honor on business enterprises that "make and outstanding contribution to the field of business and human rights."[29] This award may be seen to incentivize businesses to undertake company actions that fulfill their responsibility to respect human rights where their work may impact human rights. (2) Disclosure of Due Diligence Activities The NAP explicitly states that the Swiss government supports due diligence on a voluntary basis.[30] Although the Swiss government supports and is monitoring a number of reporting guidelines and requirements from international organizations and multi-stakeholder initiatives, it does not require disclosure of due diligence activities by private, State-owned, or State-associated businesses.[31] In 2013, the Swiss government passed the Federal Act on Private Security Services provided Abroad.[32] This Act requires that Swiss security providers be members of the ICoCA. The ICoCA requires that its members conduct due diligence and signatory companies are expected to establish appropriate auditing and monitoring of their compliance, including through reporting.[33]

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	(3) Measures Requiring Due Diligence as the Basis for Compliance with a Legal Rule The Swiss government currently does not require Swiss businesses to conduct due diligence. The NAP highlights the tumultuous debate for mandatory due diligence disclosures in Switzerland. In March 2015, the National Council accepted in a first vote, then rejected in a second vote a motion from a parliamentary commission "to introduce a binding obligation for business enterprises to conduct human rights due diligence."[34] However, the Swiss government does not favor mandatory due diligence until there is greater international support for this regulation, as it fears that such regulation would disadvantage Switzerland as a business location.[35] Yet, in April 2015, an alliance of over sixty civil society organizations launched the Responsible Business Initiative, which submitted a constitutional text to the government to codify a general human rights due diligence obligation. The popular initiative will be submitted to a vote of all Swiss citizens in the near future. As discussed in section 4(2), the Swiss government indirectly requires due diligence in relation to private security providers through the Federal Act on Private Security Services.[36]

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	(4) Regulatory Mix The regulatory mix of the Swiss NAP is not satisfactory because the government does not require due diligence as the basis for compliance with a legal rule. The substance of the NAP is largely focused on incentivizing voluntary due diligence, and slightly less on increasingly transparency of due diligence activities. The Swiss government does not currently support the idea of legally binding human rights due diligence.
4.2. A NAP should address the full scope of the State's jurisdiction.	The Swiss NAP does not adequately address the full scope of the State's jurisdiction. Most of the measures discussed in the Swiss NAP focus specifically on business activity abroad, and do not reference domestic corporate activity.[37] The government decided that the NAP would focus primarily on business activities abroad after consultation with external stakeholders revealed that their greatest challenges lie in their operations abroad.[38] In the section on government expectations, the NAP does mention that "business enterprises based and/or operating in Switzerland should abide by international standards such as the UNGPs, the OECD Guidelines for Multinational Enterprises, and the relevant sector and issue-specific guidelines."[39] However, the jurisdictional scope of the NAP falls short because it does not address human rights impacts caused by business in Switzerland, it only focuses on the impacts of Swiss companies abroad.

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	In relation to access to remedy, the Swiss NAP notes that "the political, legal, and practical obstacles to the extraterritorial pursuit of policy and application and enforcement of law" have led the government to focus on domestic legal and policy measures, "the reach of which extends to partner States and the activities of business enterprises abroad."[40] The NAP refers to the Council of States Foreign Policy Committee's postulate 14.3663 on "Access to Remedy" (August 2014) which demanded a report analyzing judicial and non-judicial measures on access to remedies in different countries "to permit persons whose human rights have been violated by a company in a host state to seek remediation in that company's home State."[41] This study, which has not been published, was to be completed "by the end of 2016."[42] Once available, the NAP commits the Federal Council to "examine the implementation of possible measures in the Swiss context, with a view to the revision of the National Action Plan."[43]
4.3. A NAP should address international and regional organizations and standards.	The Swiss NAP extensively discusses international and regional organizations and standards and how the State and businesses should use those organizations and standards to push for greater respect for human rights in general, and further implementation of the UNGPs in specific. For example, in relation to Guiding Principle 3(c, d), the NAP provides a number of policy instruments that relate to multi-stakeholder initiatives and international organizations, such as the International Code of Code of Conduct for Private Security Providers Association (ICoCA) and the OECD.

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	Multiple other policy instruments discuss promoting activities of the UN Working Group on Business and Human Rights, such as incorporating business and human rights issues into Switzerland's UN Human Rights Council Universal Periodic Review report, and supporting and engaging further with the International Labor Organization (ILO).
4.4. A NAP should address thematic and sector-specific human rights issues.	The NAP addresses thematic and sector-specific human rights issues in its policy instruments.[44] It touches on issues such as conflict areas and security concerns, responsible investment, sustainability, and children's rights.[45]
Content of NAPs	
4.5. The NAP should include a statement of commitment to the UNGPs.	The Swiss NAP clearly demonstrates the Swiss government's commitment to the UNGPs. The NAP begins by explaining that the UNGPs reflect a "paradigm shift by clarifying the complementary roles of States and business enterprises with respect to the protection of and respect for human rights in the context of business activities."[46] Additionally, the NAP highlights Switzerland's involvement in and funding of the drafting of the UNGPs.[47]
4.6. A NAP should comprise action points that are specific, measurable, achievable, relevant, and time-specific.	The Swiss NAP defines a total of fifty policy instruments (PI) to be implemented and explicitly notes which federal agencies are responsible for implementing each instrument in an appendix to the NAP. All of the specific policy instruments developed in the NAP appear to be

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	relevant to the goal of promoting business respect for human rights and protecting against and remedying business-related human rights abuse. However, none of the policy instruments contained in the NAP have specific timelines for implementation, nor do they have any precise indicators to evaluate progress in implementation and follow-up. On the whole, the NAP fails to outline new commitments that the Swiss government is taking on as a result of the NAP process; this is to say that the NAP does not include any commitments that arise solely from the NAP drafting process. New commitments made in the NAP relate to existing CSR initiatives or stem from postulates already passed by the National Council. Several of the policy instruments included in the NAP are merely statements of support for human rights bodies the Swiss government already collaborates with or supports. For example, PI 11 reaffirms the Swiss government's commitments to support the ICoCA, the Voluntary Principles on Security and Human Rights (VPs), and the United Nations Special Rapporteur on Trafficking in Persons.[48] These statements are not measurable or time specific, and do not include new affirmative commitments for the Swiss government to act. Additionally, many of the NAP's policy instruments are vague and difficult to measure. For example, the NAP notes the Swiss government's commitment to carrying out awareness-raising programs geared toward raising businesses' consciousness of the issue of business and human rights.[49] However, the NAP provides no specific initiatives that the government hopes to carry out, nor in

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	what timeframe it hopes to conduct such programs. Other policy instruments contain no commitments at all. For example, PI41 merely discusses the work and grievance mechanisms of the International Labor Organization (ILO) and does not commit to any actions on the part of the Swiss government.
Priorities for NAPS	
4.7. A NAP should prioritize for action the most serious business-related human rights abuses.	The Swiss NAP speaks broadly of specific business-related human rights abuses, but does not prioritize any issue above others mentioned.
4.8. In line with the HRBA, the NAP should focus on the most vulnerable and excluded groups.	The Swiss NAP discusses to a certain extent vulnerable or excluded groups. For example, under policy instrument 39, the NAP states that "Switzerland will include business and human rights appropriately in its periodic reports on the implementation of international conventions, such as the Convention on the Rights of the Child, and the Convention on the Elimination of all Forms of Discrimination Against Women."[50] The NAP does not address how those conventions will be implemented in relation to Swiss business conduct, nor if any regulatory measures will be take into consideration in this regard, but it does note that Switzerland will report on their implementation. The specific rights of children are also addressed, more specifically under policy instrument 14. The NAP describes a campaign "to combat the sexual

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	exploitation of children in connection with tourism" that Switzerland launched five years ago in 2012 with Austria and Germany.[51] This campaign provides a website through which individuals can report suspicious activities to the Federal Office of Police.[52] Additionally, the NAP states that the federal government supports projects to protect children that "are focused on compliance with fundamental labour standards, including measures to combat child and forced labour."[53] The NAP also briefly touches on gender inequality under policy instrument 21, mentioning that under the Federal Act on Public Procurement, "the federal government awards contracts for goods and services in Switzerland" based on conditions such as whether a business "ensures that men and women receive equal pay for equal work."[54] Additionally, the NAP describes planned measures related to sporting events that address vulnerable groups. Under policy instrument 8, the NAP states that the federal government "will work with the international sporting associations which are based in Switzerland…with sponsors, NGOs, international organisations, other governments and the Institute for Human Rights and Business to implement the UNGP."[55] To this end, a "multi-party steering committee is conducting a series of pilot projects on issues such as…the establishment of grievance mechanisms and the involvement of particularly vulnerable groups."[56]

5. TRANSPARENCY	COMMENTS
Full Transparency with All Stakeholders	
5.1. The NBA and any other significant analyses and submissions informing the NAP should be published.	Overall, transparency during the Swiss NAP process was lacking. Postulate 12.3503, the parliamentary directive for the creation of the NAP, was adopted in 2012. The postulate requested that its mandate to create a NAP be fulfilled within two years, by 2014. The NAP was not published until December of 2016, nearly two additional years beyond the postulate's requested deadline. During this initial two-year period, no terms of reference or strategy was published. No NBA was conducted or published as part of the drafting process. While stakeholder groups "had the opportunity to provide written feedback on two drafts of the Action Plan," neither the drafts nor the stakeholder responses to them were made publicly available.[57] The only stakeholder report published was that developed by Swiss civil society organization, Swisspeace, following its consultation with external stakeholders. The NAP states, however, that "the progress of work was discussed several times in the form of multi-party dialogues."[58] While the NAP mentions stakeholders' concerns throughout the NAP, the full extent to which the Swiss government took stakeholder recommendations into consideration during the drafting process and incorporated them into the final NAP is unclear. The NAP was published in French and German on December 9, 2016, and an English version was published online on April 18, 2016.

6. ACCOUNTABILITY AND FOLLOW-UP	COMMENTS
Holding Duty-Bearers Accountable for Implementation	
6.1. NAPs should identify who is responsible for implementation of individual action points and overall follow-up.	The Federal Department of Foreign Affairs (FDFA) and the Federal Department of Economic Affairs, Education and Research (EAER) are responsible for the overall implementation and monitoring of the Swiss NAP; while specific policy instruments will be implemented by the lead federal agency identified in Appendix I of the NAP.[59] The FDFA and EAER are also tasked with monitoring NAP implementation.[60] While the NAP also commits the government to updating and revising the NAP once per legislative period, it does not go as far as to state explicitly which government agencies will be in charge of future iterations of the NAP.[61]
6.2. NAPs should lay out a framework for monitoring of and reporting on implementation.	Section 6 of the Swiss NAP lays out a framework for monitoring, updating, and revising the NAP.[62] To ensure effective implementation of the NAP, the FDFA and EAER will join with representatives from business, civil society, and academia to create a Monitoring Group. The exact role and functions of the Monitoring Group are to

6. ACCOUNTABILITY AND FOLLOW-UP	COMMENTS
	be defined by the group after its creation; though the NAP does clarify that the Monitoring Group will "regularly discuss progress" of the NAPs implementation with the FDFA and EAER.[63] Additionally, the FDFA and EAER will publish a "short joint report on the status" of the NAP's implementation at the end of each legislative period.[64] The Monitoring Group will have the opportunity to comment on these reports. The NAP will also be updated and revised once per legislative period. The update of the NAP will be based upon, "an external analysis of the Swiss context for business and human rights, and any gaps identified in Switzerland's implementation of the UNGP[s]."[65] Though this process is positive, it does not reach the level of an NBA because the government will only be reviewing what is in the NAP, not conducting a broader gap assessment. The NAP gives further context to the revision process by noting that the update will "examine the possible integration of environmental aspects associated with human rights."[66]

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] EINE RUGGIE-STRATEGIE FÜR DIE SCHWEIZ [A Ruggie Strategy for Switzerland], Dec. 13, 2012, Postulate 12.3503 (Switz.).
[4] REPORT ON THE SWISS STRATEGY FOR THE IMPLEMENTATION OF THE UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS at 4 (Dec. 9, 2016), [hereinafter SWISS NAP].
[5] *Id.* at 9.
[6] *Id*. at 41.
[7] *Id*.
[8] *Id.* at 9.
[9] STRATÉGIE RUGGIE. LE PROCESSUS BLOQUÉ PAR LE SECO [Ruggie Strategy. The Process Blocked by SECO], Dec. 2, 2014, Question 14.5649 (Switz.).
[10] Graf et al. (2014) *Zusammenfassender Bericht: Stakeholderkonsultationen zum Nationalen Aktionsplan Wirtschaft und Menschenrechte ['Summary report: stakeholder consultations on the National Action Plan on Business and Human Rights'*], SWISSPEACE (2014), http://www.swisspeace.ch/fileadmin/user_upload/Media/Publications/Newsletter/2014/NL_125_DE.pdf.
[11] SWISS NAP, *supra* note 2, at 10.
[12] Based on ECCJ stakeholder interviews.
[13] *Id.* .
[14] Based on ECCJ stakeholder interviews.
[15] SWISS NAP, *supra* note 2, at 10.
[16] *Id*. at 41.
[17] *Id*.
[18] *Id*.
[19] REPORT DATED 9. DECEMBER 2016 ON SWITZERLAND'S STRATEGY FOR THE IMPLEMENTATION OF THE UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS IN RESPONSE TO THE PARLIAMENTARY POSTULATE 12.3503, ALEC VON GRAFFENRIED, 14. DECEMBER 2012, THE SWISS COALITION FOR CORPORATE JUSTICE 9-10 (2016) [hereinafter SWISS COALITION REPORT].
[20] *Id.* at 10.
[21] *Id.*
[22] SWISS NAP, *supra* note 2, at 42.
[23] *Id*. at 7.
[24] These sub-criteria are laid out in Kristin Jesnes, Statens plikt til å beskytte menneskerettigheten e: En analyse av nasjonale handlingsplaner for oppfølging av FNs veiledende prinsipper for menneskerettigheter og næringsliv. (The State Duty to Protect: An Analysis of National Action Plans on Business and Human Rights). Fafo-notat 2014:15 (2014), http://www.fafo.no/pub/rapp/10199/index.html (currently only available in Norwegian).
[25] SWISS NAP, *supra* note 2, at 18, 21.
[26] *Id*. at 26.
[27] *Id*. at 24.
[28] *Id*. at 23.
[29] *Id*. at 18.
[30] *Id*. at 14.
[31] *Id*. at 22.
[32] *Id*. at 15.
[33] INTERNATIONAL CODE OF CONDUCT FOR PRIVATE SECURITY SERVICE PROVIDERS at 4 (Nov. 9, 2010).
[34] SWISS NAP, *supra* note 2, at 14.
[35] *Id*.
[36] *Id*. at 15.
[37] *See id*. at 11.

[38] *Id*.
[39] *Id*. at 7-9.
[40] *Id*. at 13.
[41] *Id*. at 37.
[42] *Id.* at 38.
[43] *Id.*
[44] *See*, *e.g.*, *id*. at 18-20.
[45] *See, e.g., id.* (highlighting conflict areas in PI 3, 22-23, 25-26; responsible investment in PI 18; and children's rights in PI 10 and 14).
[46] *Id*. at 4.
[47] *Id*. at 5.
[48] *Id*. at 19.
[49] *Id*. at 30.
[50] *Id*. at 34.
[51] *Id*. at 20.
[52] *Id*. at 21.
[53] *Id*. at 18.
[54] *Id*. at 25.
[55] *Id*. at 18.
[56] *Id.*
[57] *Id.*
[58] *Id.*
[59] *Id*. at 41.
[60] *Id.*
[61] *Id.*
[62] *Id*.
[63] *Id.*
[64] *Id.*
[65] *Id*. at 42.
[66] *Id*.