



GLOBAL BUSINESS INITIATIVE  
ON HUMAN RIGHTS



GEORGETOWN LAW

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## **Consultation on the U.S. National Action Plan (NAP) on Responsible Business Conduct**

Thursday, April 16, 2015  
10:00 am to 5:00 pm

Georgetown University Law Center  
600 New Jersey Avenue, NW  
Washington, DC 20001

Co-hosted by the International Corporate Accountability Roundtable (ICAR),  
the Global Business Initiative on Human Rights (GBI),  
and the Harrison Institute for Public Law at Georgetown University Law Center

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## BACKGROUND

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On September 24, 2014, [President Obama announced plans to develop a U.S. National Action Plan \(NAP\) on responsible business conduct](#). The NAP will be consistent with the UN Guiding Principles on Business and Human Rights (UNGPs) and the OECD Guidelines for Multinational Enterprises.

A [subsequent White House announcement](#) noted that “[e]xpanding U.S. efforts to promote responsible business conduct is intended to cement the brand of U.S. businesses as reliable and accountable partners internationally and promote respect for human rights.” The announcement also noted that “[t]he U.S. government will work closely with stakeholders throughout the development of the National Action Plan, including U.S. businesses and civil society” and that “[t]here will be a series of open dialogues, hosted by various independent organizations, during which stakeholders will be able to exchange ideas on the National Action Plan process and content.” Moreover, “U.S. officials will attend these events and the public is welcome to participate.” The full list of consultations is available on [the White House website](#).

## EVENT OVERVIEW

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The [International Corporate Accountability Roundtable \(ICAR\)](#) and the [Global Business Initiative on Human Rights \(GBI\)](#) are pleased to co-host the Washington, DC consultation on the U.S. NAP on April 16, 2015. The consultation is hosted as part of the U.S. government’s series of open dialogues mentioned above and is premised on the following objectives:

- **Focusing on the policy and regulatory functions of the government** as the framework and foundation for conversation. In other words, starting with the “State duty to protect,” as defined under Pillar I of the UNGPs;
- **Discussing the full range of tools** that the U.S. government has at its disposal including: policy and regulation; promotion, guidance, and education; monitoring and enforcement; transparency and reporting; judicial and non-judicial remedy; and collaboration with civil society and business on the ground;
- **Learning from what is already in place**, including having a frank dialogue on successes, shortfalls, and lessons learned from the viewpoint of all stakeholders;
- **Aiming to offer pragmatic and clear inputs** on some pre-identified, prioritized issues rather than aiming to address every aspect of the U.S. government’s role regarding responsible business conduct; and
- **Establishing deeper relationships** between civil society representatives, business leaders, and government officials from diverse agencies who will be responsible for carrying the U.S. NAP forward.

**PLEASE NOTE THE FOLLOWING:**

**The entire meeting is CLOSED TO THE PRESS.**

**The entire meeting is being conducted under the [CHATHAM HOUSE RULE](#).**

**ICAR and GBI will produce a summary report of the consultation following the event.**

## **AGENDA OVERVIEW**

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- 10:00 am Arrivals and Registration
- 10:30 am Welcome Remarks
- 10:40 am Consultation Overview
- 10:50 am Keynote Address
- 11:00 am Opening Plenary – Dialogue on U.S. NAP Objectives, Orientation, and Process
- 12:30 pm Lunch
- 1:30 pm Break-Out Sessions
- Overseas Investment
  - Aid and Development
  - Public Procurement
  - Anti-Corruption and Financial Transparency
  - Access to Remedy
- 3:00 pm Break
- 3:30 pm Reporting Back and Reflections from Break-Out Sessions
- 4:15 pm Closing Plenary – Next Steps
- 5:00 pm Thank You and Closing Remarks

## DETAILED AGENDA

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### 10:00 am Arrivals and Registration

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### 10:30 am Welcome Remarks

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- Amol Mehra, Director, International Corporate Accountability Roundtable (ICAR)
- Jane Aiken, Associate Dean for Experiential Education, Georgetown University Law Center

### 10:40 am Consultation Overview

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- Sara Blackwell, Legal & Policy Associate, International Corporate Accountability Roundtable (ICAR)
- Eric Biel, Associate Deputy Undersecretary for International Affairs, U.S. Department of Labor

### 10:50 am Keynote Address

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- Christopher Smart, Senior Director for International Economic Affairs, National Security Council, The White House

### 11:00 am Opening Plenary – Dialogue on U.S NAP Objectives, Orientation, and Process

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The opening plenary will feature leading representatives of civil society, business, the investment community, industry associations, and the labor community, who will address some of the basic issues and inputs regarding U.S. government action in relation to responsible business conduct.

**Questions to be addressed include:** Why is the development of a U.S. NAP on responsible business conduct important? What are key questions or concerns in relation to the NAP? Are there any high-level recommendations or preferences about the approach moving forward?

**Moderator:**

- Mark Hodge, Executive Director, Global Business Initiative on Human Rights (GBI)

**Lead Discussants:**

- Arvind Ganesan, Director, Business and Human Rights Division, Human Rights Watch
- Tam Nguyen, Global Head of Sustainability, Bechtel Corporation
- Bennett Freeman, Senior Vice President for Social Research and Policy, Calvert Investments
- Ariel Meyerstein, Vice President for Labor Affairs, Corporate Responsibility and Corporate Governance, USCIB
- Cathy Feingold, Director of International Affairs, AFL-CIO

### 12:30 pm Lunch

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The break-out sessions will be held simultaneously in separate rooms. As such, participants are asked to select one session to attend. The sessions are designed to address *some* of the key policy areas / functions of the U.S. government in relation to responsible business conduct, namely: (1) overseas investment, (2) aid and development, (3) public procurement, (4) anti-corruption and financial transparency, and (5) access to remedy.

Each break-out session will be kicked-off by opening remarks from civil society and business representatives, followed by open discussion among the entire group in each session. Government officials from diverse departments and agencies will also respond and ask questions of participants in each session.

Some guiding questions and concepts have been provided below to increase the possibility of meaningful outcomes from the conversations. The five overarching guiding questions are as follows:

#### **GUIDING QUESTIONS FOR BREAK-OUT SESSIONS**

- 1. Policy and regulatory context:** What are the most pressing policy and regulatory issues that need attention in relation to each topic? What are the levers that the U.S. government has at its disposal to address these issues?
- 2. Coherence and implementation capacity:** What improvements could be made in terms of interagency coherence in relation to each topic? What implementation capacity gaps should the NAP address?
- 3. Enabling and ensuring responsible business conduct, and learning from the private sector:** What currently works or does not work in terms of enabling or ensuring corporate respect for human rights and responsible business conduct? What are the pros and cons of requiring and / or incentivizing due diligence? What good practices from the private sector can the U.S. government take inspiration from in formulating its NAP commitments and implementation?
- 4. U.S. government influence with other States:** In what ways does or should the U.S. government work with other States (both host and home States) address responsible business conduct and governance gaps? What can be done bilaterally with States, particularly trade partners? What can be done in multilateral settings (including but not limited to the World Bank, G7 / 20, OECD, OAS, ILO, and the United Nations)?
- 5. Multi-stakeholder engagement:** What opportunities exist for multi-stakeholder collaboration that furthers responsible business conduct and/or addresses governance gaps? Where is robust multi-stakeholder dialogue needed to address differences between business and civil society?

## Session One: Overseas Investment

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### Moderator:

- Rachel Davis, Managing Director, Shift

### Lead Discussants:

- Rob McGarrah, Counsel, Office of Investment, AFL-CIO
- Niko Lusiani, Director, Human Rights in Economic Policy, Center for Economic and Social Rights
- Genevieve Taft, Global Manager of Workplace Accountability, The Coca-Cola Company
- Michael Tracton, Director, Office of Investment Affairs, U.S. Department of State

This session will focus on ways in which the U.S. government creates an environment for responsible business conduct through facilitation of and support for overseas investment. This includes, for example, eligibility criteria for export credit and investment insurance; reporting mechanisms regarding private investment overseas (especially in high-risk contexts); participation in multilateral institutions; and grievance mechanisms.

## Session Two: Aid and Development

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### Moderator:

- Motoko Aizawa, Managing Director, Institute for Human Rights and Business (IHRB) USA

### Lead Discussants:

- Chris Jochnick, Director of Private Sector, Oxfam America
- Frank Fannon, BHP Billiton
- Bama Athreya, Specialist, Labor and Employment Rights, U.S. Agency for International Development (USAID)

This session will focus on ways in which the U.S. government protects human rights and creates an environment for responsible business conduct in the context of its aid and development activities. This includes, for example, USAID contracting requirements; capacity building assistance; responsible business expectations / requirements in the context of public-private partnerships; and development interventions to address local governance gaps where U.S. corporations operate or source from.

## Session Three: Public Procurement

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### Moderator:

- Michael Posner, Co-Director, Center for Business & Human Rights, NYU Stern School of Business

### Lead Discussants:

- Judy Gearhart, Executive Director, International Labor Rights Forum (ILRF)
- Robert Stumberg, Director, Harrison Institute for Public Law, Professor of Law, Georgetown Law
- Jay Celorie, Human Rights Manager, HP
- Mathew Blum, Associate Administer, Office of Federal Procurement Policy, Office of Management and Budget, Executive Office of the President of the United States (to be confirmed)

The session will focus on ways in which the U.S. government protects human rights and creates an environment for responsible business conduct in the context of its public procurement. This includes, for example, government risk assessment and priority setting; the expansion of requirements beyond core labor rights to all human rights; lessons from anti-trafficking regulations and rules; government capacity to monitor and enforce requirements; and incentives / punitive actions related to compliance / non-compliance.

## Session Four: Anti-Corruption and Financial Transparency

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### Moderator:

- Anita Ramasastry, Director, Graduate Program in Sustainable International Development, Professor of Law, University of Washington School of Law

### Lead Discussants:

- Stefanie Ostfeld, Senior Policy Advisor, Global Witness
- Heather Lowe, Director of Government Affairs, Global Financial Integrity (GFI)
- Carol Doran Klein, Vice President for Taxation, USCIB
- Dan Bross, Senior Director, Global Corporate Citizenship, Microsoft
- Tommy Iverson, Senior Policy Advisor, Office of Terrorist Financing and Financial Crimes, U.S. Department of Treasury

This session will focus on ways in which the U.S. government addresses anti-corruption and financial transparency in relation to responsible business conduct. This includes, for example, the link between corporate governance and human rights due diligence; mandatory and / or voluntary financial transparency; anti-corruption and rule of law programs in host countries; and lessons from FCPA implementation for the wider responsible business agenda (including but not limited to discussions about extra-territoriality).

## Session Five: Access to Remedy

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### Moderator:

- Ragnhild Handagard, Business & Human Rights Consultant, United Nations Office of the High Commissioner for Human Rights (OHCHR)

### Lead Discussants:

- Katie Shay, Legal & Policy Coordinator, International Corporate Accountability Roundtable (ICAR)
- Trevor Gunn, Managing Director International Relations, Medtronic and Co-chair of U.S. OECD NCP Stakeholder Advisory Board
- Melike Ann Yetken, Senior Advisor for Corporate Responsibility, U.S. National Contact Point for the OECD Guidelines, U.S. Department of State
- Maha Jweied, Deputy Director, Access to Justice Initiative, U.S. Department of Justice (to be confirmed)

This session will focus on ways in which the U.S. government provides for access to remedy for business-related human rights harms occurring in the United States, as well as how it enables or supports access to remedy for victims abroad. This includes, for example, addressing corporate involvement in gross human rights violations; enhancing judicial and non-judicial mechanisms in both home and host countries; building the capacity of government officials (at home and abroad) to support mediation and arbitration; and enhancing the U.S. OECD National Contact Point. The conversation will span the varying forms of remedy set out in the UNGPs, i.e. State-based judicial mechanisms, State-based non-judicial mechanisms, and State support of non-State-based grievance mechanisms.

**3:00 pm**      **Break**

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### **3:30 pm      Reporting Back and Reflections from Break-Out Sessions**

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**Moderator:**

- Sara Blackwell, Legal & Policy Associate, International Corporate Accountability Roundtable (ICAR)

**Break-Out Moderators Reporting Back:**

- Rachel Davis, Managing Director, Shift
- Motoko Aizawa, Managing Director, Institute for Human Rights and Business (IHRB) USA
- Michael Posner, Co-Director, Center for Business & Human Rights, NYU Stern School of Business
- Anita Ramasastry, Director, Graduate Program in Sustainable International Development, Professor of Law, University of Washington School of Law
- Ragnhild Handagard, Business & Human Rights Consultant, United Nations Office of the High Commissioner for Human Rights (OHCHR)

Following brief reports on the break-out discussions by the session moderators, we will open up the floor for reflections from all consultation participants. U.S. government representatives in particular will be asked to share reflections from the floor in the form of key takeaways and insights.

### **4:15 pm      Closing Plenary – Next Steps**

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**Moderator:**

- Amol Mehra, Director, International Corporate Accountability Roundtable (ICAR)

**Lead Discussants:**

- Regina Waugh, Director for Multilateral Affairs, National Security Council, The White House
- Melike Ann Yetken, Senior Advisor for Corporate Responsibility, U.S. National Contact Point for the OECD Guidelines

The final session will focus on the path of the U.S. government going forward in terms of the drafting of the NAP and future implementation of recommendations. Following views from the panel, there will be an opportunity for questions and / or reflections from all consultation participants.

### **5:00 pm      Thank You and Closing Remarks**

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- Amol Mehra, Director, International Corporate Accountability Roundtable (ICAR)
- Mark Hodge, Executive Director, Global Business Initiative on Human Rights (GBI)