

Input on Working Outline of National Plan on Business and Human Rights – Patrick Flanagan

Scope: Ireland is to be commended for recognizing "The National Plan on Business and Human Rights makes clear to business enterprises that Government is calling upon companies domiciled and operating in Ireland to respect human rights both in Ireland and throughout their global operations." I would suggest that this statement be given more prominence earlier in the document as it sets forth the scope of the plan for the Irish Government and businesses.

Further, the National Action Plan proposes a reasonable phase of monitoring, this is to be welcomed.

Pillar 1

In developing a draft National Action Plan, I would recommend that action points been strengthened from encouraging to require. For example, I would recommend that semi state enterprises be required to operate in accordance with the IFC Performance Standards (Action Point 17), where these activities occur outside OECD countries with a cost threshold (US\$10 million is current practice)

On point 18, where relevant an exclusion list of activities that ISIF supported companies should not be permitted to engage in should be drawn up. The World Bank, EIB, EBRD and many European Development Bank have such a list. Given that ISIF is funded by EIB and KFW/DEG, the ISIF will expectedly have to already apply EIBs and KFW/DEG's exclusion list (i.e. <http://goo.gl/bf5mut> and <https://goo.gl/8ERnla>). Given that these are legal obligations, these lists should form the basis of an ISIF exclusion list. Thereafter, the National Action Plan should consider additional activities/ regional products that companies supported by the ISIF should not support. Though inclusion on an ISIF exclusion list, an ISIF supported business could be prohibited from importing certain products for manufacture/sale from known conflict countries or weak sectors (i.e. cotton from Uzbekistan). Consider the US Government Department of Labor list on country specific activities that may involve child/force labor (<http://www.dol.gov/ilab/reports/child-labor/list-of-goods/>)

As government is the largest purchaser of goods in Ireland, consideration should be given to ensuring that goods purchased from non-OECD countries are done with a level of human rights due diligence commensurate to the cost and duration of the transaction. Once again the US Government Department of Labor list on forced/child labor could inform such due diligence.

Pillar 2

In further consultations with business and civil society, I would encourage DFA to recommend a set of standards that Irish businesses be either encouraged or required to follow in their activities outside of Ireland/OECD countries. I would recommend the IFC Performance Standards/Equator Principles given their international use, however, other standards may be more acceptable/appropriate to business/civil society. Nevertheless, it is important that clear guidance be provided.

Pillar 3

In many respects this is the least developed point in the international fora, and in the current working outline - DFA is to be commended for proposing further consultation with business (Action Point 51). I would encourage that civil society be included in these consultations.

Further, I encourage DFA to consider revising the OECD NCP to ensure that it is Legitimate, Accessible, Predictable, Equitable, Transparent, Rights-Compatible and A Source of Continuous

Learning (UNGP 31). In considering improvements to Ireland's NCP - I would encourage DFA and the Business and Human Rights Implementation Group to consider how other NCPs operate and how non-judicial grievance mechanisms operate at Development Finance Institutions. In such a review, I would recommend DFA and the Business and Human Rights Implementation Group consider the following report by a group on international civil society organisations - <http://goo.gl/If2UpY>.