**Statement by Alexandra Guáqueta, the Chairperson of the UN Working Group on Business and Human Rights**

**17 March 2014**

**ICAR and DIHR Latin America Dialogue on National Implementation of Business and Human Rights Frameworks**

***Check against delivery (oral remarks delivered in Spanish)***

**Why National Action Plans are important**

The existence or ratification of a treaty does not automatically imply or lead to its full compliance or implementation. This seems like a simple remark, but it took decades for experts (academics and practitioners) to realize it and articulate it. Today, it is a widely held view that,bar important exceptions (e.g. the issue of the human rights impacts of the financial sector and the need for international regulation on the matter),we have a good deal of treaties and laws on a number of issues and that one of the reasons why widespread and frequent violations exist is the lack of implementation of those treaties and laws.

Implementation depends on cultural capital, institutional capacity for democratic law enforcement (training, money to have needed personnel and technical systems),and local political will (which takes us into the depths and complexities of domestic interest from the local town council member and the employee of a large business’s contractor). National Action Plans, if well led and implemented, could potentially help us address these challenges.

National Action Plans are, of course, only a vehicle. As Chile eloquently put it a few days ago, they are not a goal in itself; they are a vehicle that pushes implementation closer to the ground, and therefore closer to the very concrete constellation of micro-interests that shape domestic interests that, in turn, shape global trends. This is why the UN Working Group on Business and Human Rights has chosen to prioritise National Action Plans in its strategy.

**Concretely,the UN Working Group expectsNational Action Plans to:**

* Trigger national dialogue (contact and communication among actors that normally would not have sit around the table together);
* Identify material priorities and create processes that can increase law enforcement and/or change laws and policies as required;
* Deliver on the prevention of human rights violations and abuses (environmental impact assessments for host States, supply chain and transnational corporations requirements for home States);
* Trigger a foreign policy stream of work (to connect the dots) to tackle key governance “items”: investment tribunals, international commercial policy, trade regimes, regional courts, OECD National Contact Points, public financial institutions’ social safeguards and grievance mechanisms, global financial regulation, and yes, greater legal cooperation on corporate criminality and issues of remedy for victims– to mention a few;
* Allow for international stock-taking (measuring) of progress and strengthening of international monitoring.

What I have mentioned covers bottom-up forces and processes as well as top-down pressures, which should give us the necessary scope needed in the 21st century globalized world.

Another main advantage of / reason for supporting National Action Plans is that they can deliver results now. As you all know, Ecuador and some NGOs present here today, have called for treaty-making process covering an unknown scope of themes. One real fear that many have expressed, including the Working Group, is that such a process could slowdown efforts to deliver results now. A National Action Plan is a good vehicle today and a good vehicle tomorrow. If we were to have a ratified treaty, the next step for States would be to enact a National Action Plan. By prioritizing National Action Plans and creating incentives for countries to do one now, we can help States prepare for the future while responding to potential and actual victims’ rights today.

**What the Working Group envisages**

* National Action Plansconducted through multi-stakeholder processes: to address divisions, gain business buy-in, and create bottom-up demand and domestic capacity;
* A process that identifies essential elementsto maximize prevention and remedy at the local and global levels;
* An annual review process that can help us to scale up implementation by increasing accountability (by States and civil society).
* Finally, the Working Group aimsto provide Guidelines on National Action Plans by December 2014 as part of our roadmap.

**A view from the Global South and considerations for Latin America and the Caribbean**

* Addressing State capacity in a realistic and pragmatic way;
* Business and human rights cannot become non-tariff barriers for the Global South;
* Ensure that States in Latin America and the Caribbean do not adopt a purely formalistic approach (laws versus actual conduct/essence);
* Need to addressdeep-rooted societal divisions;
* Need to address authoritarianism and approaches to authority and hierarchy;
* Need to address spoilers (from drug trafficking, to illegal armed groups, to anti-market agendas);
* Priority themes: security (multi-stakeholder initiatives such as the Voluntary Principles on Security and Human Rights and International Code of Conduct for Private Security Service Providers), landrights and indigenous peoples;
* The Latin America and the Caribbean region should adopt a clear vision.

**Background to the event**

The International Corporate Accountability Roundtable (ICAR) and the Danish Institute for Human Rights (DIHR) held consultations in Bogotá, Colombia on 17-18 March 2014 with local experts and key stakeholders around the world to gain inputs into its National Action Plans (NAPs) Project.

**The agenda of the consultation is available here:** <http://accountabilityroundtable.org/wp-content/uploads/2014/03/Latin-America-Dialogue-Final-Program.pdf>