



Federal Ministry
of Labour and Social Affairs

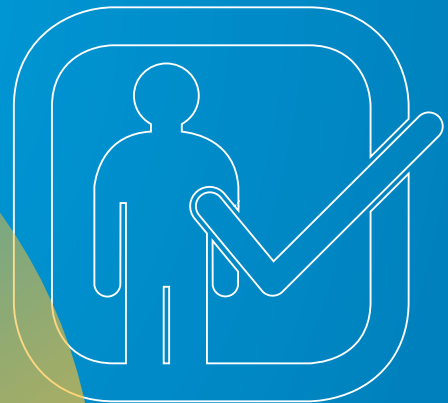
SECTOR DIALOGUE
Automotive Industry



**Respecting human rights
along global supply and
value chains of Germany's
automotive industry**

**Guideline
for the core element**

Policy statement



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1. Introduction to the guidelines

Context

Protecting human rights is a duty of the state. This duty cannot be transferred to any other social actors. Business enterprises also have a responsibility to respect human rights. This means they must be aware of the impact of their activities on human rights, and establish due diligence processes in order to prevent, mitigate or compensate for any adverse impacts.

Against this background, the German Federal Government adopted the National Action Plan for Business and Human Rights (NAP) on 21 December 2016. The NAP is based on the United Nations Guiding Principles on Business and Human Rights (UN Guiding Principles), which the United Nations Human Rights Council adopted by consensus in 2011, thus creating an internationally recognised framework for human rights due diligence. In accordance with the content of the UN Guiding Principles, the NAP sets out the duty of the state to protect human rights and the responsibility of enterprises to respect human rights in their global supply and value chains.

Germany’s Federal Government has established ‘sector dialogues’ to support enterprises operating in sectors with particularly high human rights risks. The dialogues are implemented by the Federal Ministry of Labour and Social Affairs (BMAS). The goal of the dialogues is to help enterprises find appropriate ways of implementing the five core elements of human rights due diligence and therefore contribute to the improvement of the human rights situation.

The five core elements are:

- human rights policy statement
- procedures for the identification of actual or potential adverse impacts on human rights
- measures to ward off potential adverse impacts and to review the effectiveness of these measures
- reporting
- grievance mechanism

In addition, from 2023 onwards, the German Supply Chain Act (Lieferkettensorgfaltspflichtengesetz, LkSG) requires certain enterprises to take appropriate action to observe human rights and environmental due diligence obligations in their supply chains.¹ As there is a great deal of overlap between the LkSG and the NAP, the sector dialogues also offer meaningful support to help enterprises meet the requirements of the Supply Chain Act.

As a key industry in the German economy, at its production sites around the world, and together with a network of suppliers, the automotive sector contributes to employment, training and economic development. Over half of the value added within the sector is generated by suppliers – from the extraction of raw materials and manufacture of inputs through to component assembly and the production of entire vehicles. At the same time, the situation in the automotive sector’s globally dispersed supply and value chains poses significant human rights risks in many areas. This is particularly the case in upstream processes. Furthermore, human rights violations and corruption are more likely to occur in states where the rule of

¹ The German Supply Chain Act came into force on 1 January 2023. All enterprises based in Germany with at least 3,000 employees, regardless of their legal form, and all enterprises with a branch in Germany and at least 3,000 employees in the country, are now required to fulfil certain human rights and environmental due diligence obligations. Within affiliated enterprises, the figure for the parent company includes the total number of workers employed at all the group’s companies in Germany and any employees currently on international secondments. From 1 January 2024, the threshold will fall to 1,000 employees. Small and medium-sized enterprises (SMEs) will also be affected indirectly, since enterprises subject to the LkSG will impose their own due diligence obligations on their suppliers.

law is lacking, institutions are weak, and poverty is endemic. Human rights risks that may arise in such countries include damage to the health or safety of workers and local people, discrimination, restrictions on freedom of association and violations of indigenous peoples’ rights. The responsibility of the German automotive industry to design sustainable global supply and value chains and to respect human rights is therefore of great importance.

Why is there a Sector Dialogue Automotive Industry?

Enterprises in the automotive industry maintain close links with their consumers. As such, the increasingly stringent requirements surrounding sustainability performance and human rights due diligence go beyond large manufacturers and suppliers of the automotive industry. Increasingly, small and medium-sized enterprises (SMEs) must also rise to the challenge of developing responsible supply and value chains – from the extraction of raw materials to the final product and eventual disposal.

In this context, implementing human rights due diligence can be seen as a learning journey, an individual and ongoing process that each enterprise will need to monitor regularly and keep on improving.

Furthermore, the challenges involved are often complex and diverse, reflecting the highly interwoven nature of supply and value chains. Many vehicle manufacturers and suppliers are already actively engaged in the field of human rights, either as individual enterprises or through national and international initiatives. A joint sectoral approach and industry-wide co-operation can have an even greater impact given the structural similarities between supply and value chains. This is why industry actors representing enterprises, business associations and unions have come together with civil society organisations and the Federal Ministry of Labour and Social Affairs (BMAS) to establish a sector dialogue for respecting human rights along global supply and value chains of Germany’s automotive industry.

The goal of the Sector Dialogue is to contribute to the improvement of the human rights situation along the industry’s global supply and value chains. It focuses on the responsibility of enterprises to respect human rights. The five core elements described in the NAP

support enterprises in implementing human rights due diligence in their business activities and integrating it into their operational management processes. With this goal in mind, the members of the Sector Dialogue have produced a series of guidelines for implementing the five NAP core elements. In this context, the guidelines are designed to act as both a point of reference and a toolbox for enterprises.

How do the guidelines differ from other advice?

The guidelines for the five NAP core elements of human rights due diligence differ in key areas from previous advice and therefore provide significant additional value.

- The guidelines form a collection of self-contained and structurally identical manuals that fully address the NAP requirements.
- The purpose of the NAP is to set out the UN Guiding Principles on Business and Human Rights from an implementation perspective. The guidelines reference the UN Guiding Principles and therefore contribute significantly to the implementation of the wider international framework, whose goals are explicitly recognised by all members of the Sector Dialogue.
- The guidelines include concrete references to the requirements of the Supply Chain Act (LkSG). This will help enterprises that fall under the scope of the law to meet their statutory obligations at the same time. In certain areas, the guidelines go beyond the above-mentioned policy frameworks and regulatory requirements.
- Other relevant guidance has been incorporated into the guidelines alongside examples of current business practice. The guidelines take into account the characteristics of both large enterprises and SMEs.
- With the help of the guidelines, users can review their progress towards fulfilling the NAP requirements (e.g. through checklists). In this way, they create transparency and verifiability for enterprises and their stakeholders and can demonstrate the progress made towards implementation.
- The guidelines – or parts of them – can also be used by your enterprise for training courses or as training resources.

Members of the Sector Dialogue have spent roughly two years drawing up the guidelines in a multi-stakeholder process. The strength of the guidelines lies in the wealth of knowledge and experience of individual members, and as such they have been broadly welcomed among the Sector Dialogue’s various stakeholder groups.

How are the guidelines structured?

This document focuses on the core element ‘Policy statement’ and

- summarises the key points in the guideline at a glance (section 2);
- clearly explains the NAP requirements for this core element and cites which parts of the LkSG apply to the policy statement (section 3);
- sets out practical and industry-specific steps to integrate the NAP requirements into business management processes (section 4);
- shows how progress towards implementation can be reviewed and made transparent in business practice (section 5);
- lists further information and sources of additional reading (sections 6.1 and 6.4);
- compares the NAP and LkSG requirements side by side in a table, with references to the implementation steps in the guideline (section 6.2);
- contains a glossary of relevant terms used in the field of human rights due diligence as well as selected definitions from the LkSG and the explanatory memorandum to the LkSG (section 6.3).

2. Core element ‘Policy statement’ – the key points at a glance

The purpose of the policy statement is to make a public commitment that acknowledges your enterprise’s responsibility to respect human rights and sets out how it will fulfil that responsibility.

You can use this guideline to help you implement step by step the due diligence processes and components required by the NAP. Ultimately, this will allow you to produce a policy statement in which your enterprise commits publicly to uphold human rights. Your policy statement will specify the human rights issues relevant to your business, identify potentially affected persons and clearly describe your enterprise’s due diligence processes.

To help you implement your policy statement both effectively and efficiently, the guideline includes suggested text modules that translate the NAP requirements into a ‘basic statement’. The text modules can act as a template for your policy statement. Please note, however, that you should not adopt the suggested texts word for word. They should instead be adapted to reflect your enterprise’s particular circumstances and, where appropriate, supplemented with the findings from your enterprise’s own risk analysis. The basic statement was agreed by all members of the Sector Dialogue Automotive Industry and is relevant to all enterprises that form part of the industry. In addition, enterprises that already go beyond the requirements for a basic statement in specific areas or would like to adopt a certain position, as well as businesses where there are particular risks or additional relevant issues, may voluntarily incorporate further specific information in an ‘extended statement’ that supplements the basic statement for the automotive industry.

The guideline proposes the following steps:

1. The enterprise documents its existing internal processes and guidelines to create a foundation for engaging internal and external stakeholders and mainstreaming respect for human rights into its business culture as well as its operating processes. When preparing a policy statement, the process of involving external experts, suppliers, civil society organisations and (potentially) affected persons, or representatives of these groups, can be extremely valuable, especially for large enterprises and enterprises exposed to significant human rights risks.
2. The enterprise makes an explicit commitment to respect human rights with specific reference to recognised international human rights standards.
3. The enterprise sets out the relevant human rights impacts associated with its business activities, identifies (potentially) affected groups and in this context defines what it expects of employees and suppliers.
4. The enterprise highlights which operating processes are in place to enable it to fulfil its due diligence obligations and names the persons responsible.
5. The enterprise explains what training will be provided for employees on human rights issues as a key element of its approach.
6. The resulting policy statement is adopted by the enterprise’s top management and then proactively communicated to internal and external stakeholders.
7. The enterprise updates its policy statement through a series of regular and (in the case of important changes such as the establishment of new business areas) ad hoc reviews.
8. Optionally, enterprises may voluntarily add further specific content to their existing sectoral policy statement so that it becomes an ‘extended statement’.

To help you implement these steps efficiently, the guideline offers examples of good practice from the automotive and other similar industries, as well as advice on where you can find additional information. It also highlights the LkSG requirements for policy statements and explains which implementation steps

in the guideline are designed to help you meet them. Finally, the guideline includes a checklist that you can use to review your progress towards implementing the NAP’s human rights due diligence requirements.



3. What are the requirements that a policy statement must meet?

The purpose of the NAP is to implement the UN Guiding Principles. To this end, however, it does not fully replicate the Guiding Principles. Instead, it sets out the requirements from an implementation perspective and highlights issues of particular importance. In this context, the NAP requirements presented in this guideline refer to consistent stipulations and explanations in the UN Guiding Principles. Your enterprise’s policy statement should serve as a public expression of its intention to meet its responsibility to respect human rights. The NAP² requirements for enterprises are summarised below.³

Make a public commitment to respect human rights, and describe the human rights issues that are relevant to your enterprise:

- A.** The enterprise issues a public commitment to respect human rights. To this end, it specifies the human rights issues that it considers particularly relevant from its own perspective and that of the sector in which it operates. The statement cites selected international reference instruments in the field of human rights. As a minimum, these include the UN’s International Bill of Human Rights and the ILO Core Labour Standards.
- B.** The particularly relevant human rights issues specified in the policy statement reflect the enterprise’s own risk analysis. This enables internal and external stakeholders to embed these human rights issues in the context of their business activities across the supply and value chain. Specifying the issues also serves as a commitment by the enterprise to respect those human rights issues through appropriate management processes.

Describe how you implement human rights due diligence processes in your enterprise:

- C.** The enterprise briefly and clearly sets out the relevant procedures it follows in order to meet its human rights due diligence obligations. It specifies the internal functions or positions that are responsible for these procedures.
- D.** The enterprise also provides information about the training of employees who work in business areas that are particularly important in terms of human rights observance. If the enterprise does not yet run training courses on respect for human rights, it announces its intention to do so.
- E.** The enterprise also expresses its willingness to update its due diligence processes continuously and adapt them to changed circumstances.

Implement your policy statement within your enterprise:

- F.** Senior management formally adopts the policy statement and communicates this undertaking both internally and externally in the form of a signed and publicly accessible document.
- G.** The policy statement is also communicated internally (e.g. on the enterprise’s intranet) and externally (e.g. via public channels such as the enterprise’s website) and therefore made available proactively to relevant stakeholders of the enterprise. As a minimum, the enterprise draws attention to its policy statement through appropriate communication channels.
- H.** The policy statement is continuously updated.

² See German Federal Government (2016) National Action Plan: Implementation of the UN Guiding Principles on Business and Human Rights, pages 9 and 21.

³ Note: The exact wording of the requirements set out in the National Action Plan for Business and Human Rights for the core element ‘Policy statement’ can be found in the glossary in section 6.3.

What requirements does the Supply Chain Act (LkSG) impose with regard to the ‘policy statement’?⁴

The LkSG stipulates that enterprises must issue a **policy statement** [section 6 (2) LkSG], specify who is **responsible** within the organisation [section 4 (3) LkSG] and set out the requirements imposed on **indirect suppliers** [section 9 (3) no. 4 LkSG].

According to section 3 (1) sentence 2 no. 4 in conjunction with section 6 (2) sentences 1 and 2 LkSG, the senior management team of an enterprise that falls under the scope of application of the Act must issue a **policy statement** on the enterprise’s human rights strategy.

According to section 6 (2) sentence 3 nos. 1 to 3 LkSG, the policy statement must contain at least the following elements of the enterprise’s human rights strategy:

1. the description of the **procedure** by which the enterprise fulfils specified obligations under the LkSG;
2. the enterprise’s priority human rights and environment-related **risks** identified on the basis of the risk analysis;
3. the definition, based on the risk analysis, of the human rights-related and environment-related **expectations** placed by the enterprise on its employees and suppliers in the supply chain.

It is clear from the mechanisms set out in section 6 LkSG and from the explanatory memorandum accompanying the bill presented by the Federal Government in April 2021⁵ that the policy statement is a **preventive measure** within the meaning of the LkSG. Based on the findings of their risk analysis, enterprises are expected to take measures that prevent identified risks from materialising in their own business area and at their direct suppliers.

Furthermore, as stipulated in section 6 (5) LkSG, the statement must be reviewed **once a year** and **on an ad hoc basis** (e.g. before commencing a new business activity or before making strategic operational decisions), and must be promptly updated if existing risks have changed or additional risks are identified.

With regard to **indirect suppliers**, section 9 (3) no. 4 LkSG states that the policy statement must also be amended if an enterprise has actual indications suggesting that a violation of a human rights-related or environment-related obligation at these enterprises may be possible.

With regard to internal responsibilities, section 4 (3) LkSG stipulates that each enterprise must ensure that it specifies who is responsible within the enterprise for monitoring an appropriate and effective risk management system. In particular, this includes appointing a **human rights officer**. As recommended in the Federal Government’s explanatory memorandum, this person should report directly to senior management. The memorandum also specifies that the enterprise must provide the resources needed to facilitate appropriate monitoring. Senior management must keep itself regularly informed about the work of the responsible person or persons, i.e. at least yearly and additionally on an ad hoc basis, for example when introducing new business areas or products.

How are selected terms described in the LkSG and the explanatory memorandum?

- In some cases, the LkSG sets out obligations that must be fulfilled annually and, additionally, **‘on an ad hoc basis’**. In sections 5 (4), 6 (5), 7 (4) and 8 (5) LkSG, the obligation to meet a requirement on an ad hoc basis depends on whether the enterprise must expect a significantly changed or expanded risk situation in that area of its business. By contrast, with regard to the enterprise’s due diligence obligations on the basis of **‘substantiated knowledge’** [section 9 (3) LkSG], the requirement applies if the enterprise has actual indications that suggest that a violation of a human rights-related or an environment-related obligation at indirect suppliers may be possible. If this is the case, the enterprise must take action ‘as warranted’.

⁴ Note: Section 6.3 contains a glossary of terms used in the LkSG. Section 6.2 compares the NAP and LkSG requirements side by side in a table with references to the implementation steps recommended in the guideline.

⁵ [Supply Chain Act](#) – in German

- According to section 2 (7) LkSG, the term ‘**direct supplier**’ within the meaning of the Act refers to any supplier or service provider that is a partner to a contract with the enterprise and whose supplies are required in order to produce the enterprise’s product or to provide and use the service in question.
- According to section 2 (8) LkSG, the term ‘**indirect supplier**’ refers to any enterprise that is not covered by the definition of a direct supplier but whose supplies are necessary for your own enterprise’s business activities. This term includes all suppliers with which your enterprise is linked through its contractual relationships, business activities, products and services, even if there is no direct contractual relationship.

Damage to the environment can also lead to violations of human rights



Inevitably, the activities of enterprises and their relationships with other businesses through supply and value chains also involve impacts on the environment that may lead directly or indirectly to human rights risks as well as adverse human rights impacts. In this context, the actions of enterprises and any related environmental damage may also create human rights risks and may have an adverse impact on human rights both directly and indirectly. Air, water and soil pollution, for example, can threaten the livelihoods of local populations. If an enterprise extracts too much groundwater in a region already suffering from water shortages, for instance, it may violate the right to an adequate standard of living. Equally, the mishandling of hazardous waste may lead to human rights violations if it creates a danger to human health. Furthermore, any deliberate destruction of culturally and ritually important sites

may constitute a violation of human rights, as it limits the right of people to take part in cultural life. It follows that preventive and remedial measures must also take account, at least implicitly, of any environmental damage that could have an adverse impact on human rights and that was therefore identified in the risk analysis.

With regard to environment-related obligations, the LkSG contains a number of explicit prohibitions: causing any harmful soil change, water pollution, air pollution, harmful noise emission or excessive water consumption; the manufacture, use and treatment of mercury; the production and use of persistent organic pollutants; the handling, collection, storage and disposal of waste in a manner that is not environmentally sound; and exports and imports of hazardous waste.

4. How can your enterprise implement the requirements step by step?

To ensure that your policy statement meets the NAP requirements in terms of processes and content, you will need to implement each of the components set out in section 3. Section 4 describes the individual steps required.

The Sector Dialogue members have also produced a jointly agreed template in the form of text modules that enterprises in the German automotive industry can use to help them prepare their policy statement.

This does not mean that you should copy the text modules word for word. They are merely intended to provide a foundation for your own statement. As such, you will need to adapt and expand them as required to reflect your enterprise’s particular circumstances. The template is based not only on the UN Guiding Principles and the Corporate Human Rights Benchmark⁶ but also on the expertise and experience of members of the Sector Dialogue. Accordingly, the text modules go beyond the NAP and LkSG requirements in some areas.

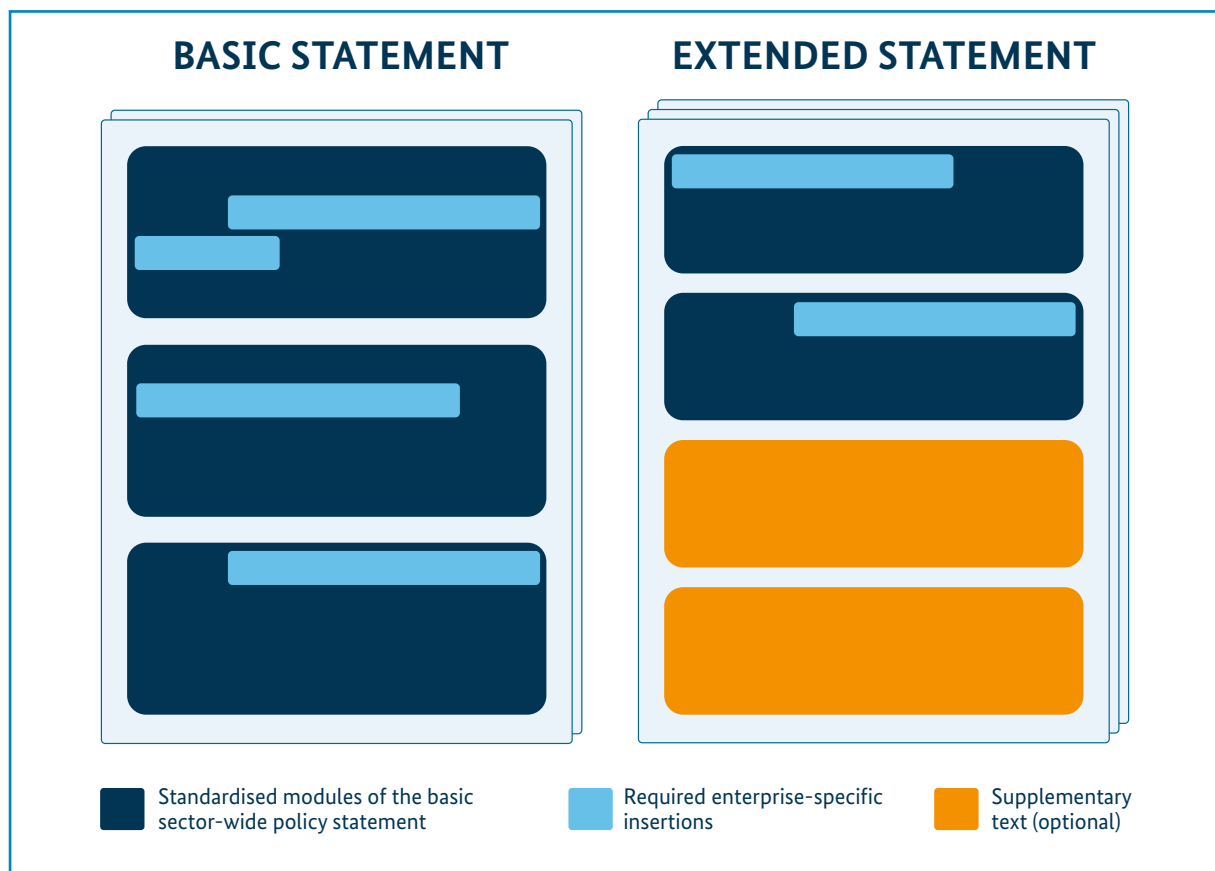


Figure 1: Policy statement options for enterprises

⁶The [Corporate Human Rights Benchmark](#) created by the World Benchmarking Alliance assesses enterprises on the basis of a structured list of criteria with regard to observance of human rights.

Basic statement

The text modules are shown in grey-highlighted italics at the end of each step. You are welcome to use these proposed wordings as the framework for your enterprise’s policy statement. Together they constitute a ‘basic statement’. Please note that you must adapt and supplement the text modules to incorporate the particular characteristics of your own enterprise. This is because the adverse human rights impacts and potentially affected groups will vary in importance between different business models, and between different supply and value chains. The human rights issues and the (potentially) affected groups cited in the text modules are merely examples identified jointly by members of the Sector Dialogue. Please check all examples carefully, decide whether they are applicable to your enterprise and, if so, whether they are complete. Any gaps that you need to fill yourself are indicated in the text modules.

Extended policy statement

The text modules for an extended policy statement go beyond the NAP requirements and in some cases address industry-specific issues, such as the use of conflict minerals procured through supply chains. As such, the extended policy statement is more ambitious than the basic statement. It reflects different business activities and the fact that enterprises within the industry are exposed to different levels of human rights risk. You may choose to incorporate elements of the extended statement into your enterprise’s individual policy statement. All the explanatory notes and text modules for the extended policy statement are presented in step 8.

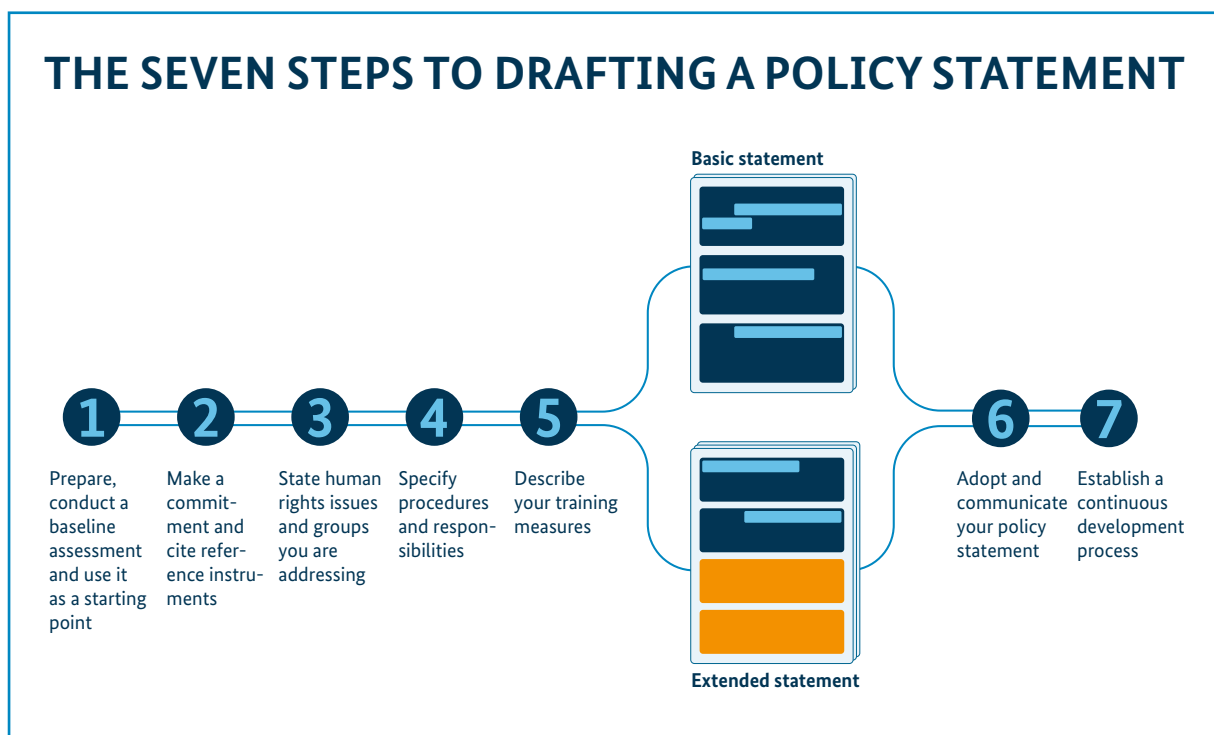


Figure 2: The seven steps to drafting a policy statement

4.1 Step 1 – Prepare, conduct a baseline assessment and use it as a starting point

First, to ensure that you can develop the policy statement efficiently, you should conduct a thorough baseline assessment. As well as this guideline, we would encourage you to draw on the reference materials and documents listed in section 6.1. Most enterprises have already integrated some of the elements required for the policy statement into their existing rules and procedures, e.g. on compliance, occupational safety, environmental management and supply chain management.

How do you conduct a baseline assessment?

First, compile all the rules and standards that your enterprise has already adopted and examine to what extent they address human rights, for example:

- internal guidelines, codes of conduct, contract components, policy statements, regulatory frameworks and position statements.

You can also identify activities already in place within your enterprise that support human rights observance, and include these in the rest of the process, for example:

- processes, (grievance) procedures, approaches, methods, specifications, reporting channels, reporting content, reporting formats, targets, measures, responsibilities and training content.

Tip: Involve relevant divisions and departments at an early stage.

When conducting a baseline assessment, it is important to bring together experienced colleagues from relevant divisions and departments. The meeting should begin with a presentation that establishes a basic understanding of human rights issues and human rights due diligence obligations. Participants should then jointly examine the rules, standards and

mechanisms listed above and identify which elements relate to human rights. It is worth setting out an overview of all the human rights risks to which your enterprise may be exposed to ensure that risks are not overlooked in any area of the business. Your enterprise’s structure and business activities will be the key factors in choosing colleagues for this exercise. As a general rule, relevant actors and solid in-house expertise will be found in departments such as legal & compliance, purchasing, sales, sustainability, human resources and occupational safety and in ‘codetermination’ bodies such as employee representations. If your enterprise does not have sufficient in-house knowledge and experience in the area of human rights, you will need to call on outside expertise. This can range from reliable online sources of information and specialist literature through to discussions with acknowledged experts, e.g. from civil society organisations.

Helpdesk



Even at this early stage of the implementation process, your enterprise can request input from external experts. Among other sources of expertise, we recommend contacting the [Helpdesk on Business & Human Rights](#) at the Agency for Business and Economic Development. As well as providing further guidelines and digital tools, the Helpdesk can put you in direct contact with suitable experts.

The next task is to compare the findings of your baseline assessment with the NAP requirements set out above in section 3. This will allow you to identify which of the items you need for the policy statement are already in place within your enterprise. These items can be incorporated into the policy statement or can be used to supplement existing guidelines. Your policy statement can include cross-references to other documents that are already in the public domain, e.g. internal guidelines, statements, codes of conduct and ethics, and purchasing guidelines. Please note, however, that the policy statement or the internal guidelines used for the statement must fulfil all the NAP requirements. The overall aim is to cover the entire value chain from the extraction of raw materials and manufacture of inputs through to the assembly, use and later disposal of the end product (i.e. vehicles and individual components).

A standalone solution or an integrated policy statement – both are possible

There are two ways in which an enterprise can prepare an NAP-compliant policy statement:

- **Standalone document:** This approach involves drafting a completely new and separate policy statement, possibly with references to other documents.
- **Integrated statement:** This alternative approach involves integrating all the required content into existing company guidelines.

It is recommended to prepare a standalone policy statement. The advantage of this approach is that the statement is then easier to find and easier to understand for external stakeholders, e.g. investors and groups that may be affected by your activities. A standalone policy statement can also contain references to other frameworks and to your enterprise’s own internal rules and guidelines in this area.

For small and medium-sized enterprises, however, integrating the policy statement into other existing documents is often a helpful approach as these enterprises have relatively few resources available, and their framework of internal guidelines is generally easier to record and coherent. There are two things to be aware of if you choose to prepare an integrated statement. Firstly, all policy statement content must be recognisable as such. Secondly, as already mentioned, the policy statement must fulfil all the NAP criteria in terms of content and processes.

In many cases, existing internal guidelines cover only certain parts of the wider value chain. For example, supplier codes deal mainly with the upstream value chain and usually focus solely on direct business partners. Codes of conduct for employees address business activities within the enterprise. These documents rarely mention members of local communities and people living near the enterprise’s local operating sites, smallholders or workers employed to extract raw materials. If you choose the option to integrate your policy statement into your existing internal guidelines, you should therefore ensure that your statement takes account of local groups and people who may be affected by any adverse human rights impacts of your activities.

Implementing the policy statement on respect for human rights

The contents of your policy statement must be incorporated into your enterprise’s policies and procedures to ensure that they are mainstreamed across the enterprise and therefore operationalised. Building on the results of your baseline assessment, you will need to specify which new and existing documents (e.g. internal guidelines; codes of conduct and ethics; contract and award documents) will incorporate the required elements of your policy statement.

To this end, at an early stage in the process, you should consult relevant bodies both within your enterprise (e.g. senior management, the legal department, purchasing, HR and your codetermination bodies) and, where appropriate, outside groups (e.g. key business partners, industry representatives and civil society organisations) in order to define the legal status of the policy statement for your own enterprise (taking into account the codetermination rights of your works council).

The policy statement must be issued by senior management.

How do you mainstream the policy statement into your corporate culture?

The policy statement must be issued by senior management. To ensure that the policy statement is given sufficient weight and firmly embedded in your corporate processes and culture, it should be on a par with your enterprise’s highest-ranking internal guidelines, e.g. on compliance or occupational safety.

You must ensure that the importance of the policy statement is recognised within the company and is communicated accordingly. Decide which internal actors are to be involved in the further development and implementation of the policy statement and at what point. Above all, top management must be fully on board and closely involved in the process as it is the senior management team that is required to adopt the statement.

Furthermore, to ensure that the statement is accepted by employees, it is very important for senior management to communicate its human rights responsibilities

openly and effectively through your internal channels. It is recommended that you establish the nature, scope and frequency of internal engagement with the process at an early stage. In addition, right at the start of the process, you should involve individual corporate functions and business areas that deal with existing human rights due diligence processes and requirements or that have a direct influence on them (see p. 13 on conducting a baseline assessment).

Make sure that you involve a wide range of internal actors



It is vitally important to communicate a clear commitment by senior management and involve a wide range of internal actors. This will pre-empt any resistance to the development and implementation of human rights due diligence processes and generate broad approval among employees.

Involve external organisations and individuals at an early stage

The targeted involvement of external organisations and individuals in the process at an early stage can also make a significant contribution to the success of the undertaking. Outside groups can offer in-depth professional expertise, generate crucial momentum and highlight any ‘blind spots’. Their involvement can also help to build greater social acceptance.

You will therefore need to decide to what extent you wish to involve others outside your enterprise, e.g. experts, suppliers, any groups potentially affected by adverse human rights impacts on account of your activities (see also step 3) and civil society organisations. Once you have made this decision, you should contact representatives of these groups and ask for their support. For large enterprises especially, and those exposed to particularly high human rights risks, it can be extremely valuable to seek the views of (potentially) affected groups through such representatives, for example to see how these important stakeholders perceive your draft policy statement. Involving outside groups is also a very important aspect of other due diligence processes and is examined in greater

detail in the corresponding guidelines. It is recommended to maintain that engagement over the long term. You should always ensure that stakeholder groups are not disadvantaged as a result of their involvement (see the guidelines for the core elements ‘Risk analysis’ and ‘Measures and effectiveness tracking’).

Once you have involved internal actors and external stakeholders, it is recommended that you maintain the resulting processes and structures, for example by setting up a multi-departmental working group. You will be able to use these as you progress towards implementing the policy statement and the other NAP core elements of due diligence and to ensure that you meet the requirements of the LkSG and the EU’s Sustainable Corporate Governance Initiative. Building long-term structures of this kind will help to implement and continuously improve all the due diligence processes required by the NAP.

A guideline for preparing a policy statement



[A Guide for Businesses – How to Develop a Human Rights Policy](#) is a detailed and practical document published by the UN Global Compact. Its purpose is to help enterprises draft a policy statement on human rights. The document also addresses the particular challenges facing small and medium-sized enterprises (SMEs). To ensure that the approach you adopt meets your needs and those of your stakeholders, you can start with the key questions on page 2 and from there, refer to the individual sections of the document for more detailed information.

4.2 Step 2 – Make a public commitment and cite reference instruments

Your enterprise’s policy statement is a commitment to respect human rights. The statement should refer to key international human rights instruments. These include international treaties, conventions, regulations, policies, guidelines, standards and other provisions designed to promote responsible business conduct in the area of human rights. These documents serve as an important point of reference and guide for a shared understanding of human rights and the obligation to respect them.

As a minimum, your policy statement must include a commitment to comply with the UN’s International Bill of Human Rights, which comprises the Universal Declaration of Human Rights and the Civil and Social Covenants (ICCPR and ICESCR), and with the Core Labour Standards of the International Labour Organization (ILO).⁷

In addition to these requirements, your enterprise’s policy statement can also include an undertaking to observe other international reference instruments and industry standards in the field of human rights. This specifically includes the UN’s Guiding Principles on Business and Human Rights, which the NAP is designed to implement. Industry standards build on the most important international reference instruments in the field of human rights and are designed to provide more concrete guidance on human rights issues and expectations for particular sectors of the economy. In 2011, for example, the Organisation for Economic Co-operation and Development (OECD) integrated human rights due diligence into its OECD Guidelines for Multinational Enterprises. Your policy statement can also cite the 1979 Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration), which was revised in 2017. Initiatives such as the UN Global Compact are also very important, as are other frameworks (e.g. the OECD’s due diligence guidance on 3TG and other ILO standards such as ILO 169) that may be relevant to your enterprise given your specific risk analysis.



⁷ The ILO’s Core Labour Standards (also known as the Fundamental Principles) are set out in Conventions 29, 87, 98, 100, 105, 111, 138 and 182 of the ILO.

The following text modules can be used as a rough template for your policy statement. In some areas, the text modules go beyond the NAP and LkSG requirements. Please check all the examples carefully, decide whether they are applicable to your enterprise and, if so, whether they are complete.

Text module: Our commitment to respect human rights

We are conscious of our corporate responsibility to respect human rights. We therefore undertake to respect human rights in our own business activities and in our global supply and value chains and to enable those affected by human rights violations to seek remedy. We will ensure that our actions are consistent with the United Nations’ internationally recognised Guiding Principles on Business and Human Rights and to this end will implement the requirements of Germany’s National Action Plan for Business and Human Rights.

Furthermore, our understanding and our human rights due diligence processes are based on the following international reference instruments in the field of human rights, all of which we undertake to observe:

The International Bill of Human Rights, consisting of the United Nations Universal Declaration of Human Rights and the Civil and Social Covenants (ICCPR and ICESCR), which define civil, political and social rights to which all people are entitled on account of their human dignity.

The Core Labour Standards of the International Labour Organization (ILO), including the four fundamental principles concerning freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour and the elimination of discrimination in respect of employment and occupation.

We also expect our business partners to undertake to respect human rights, to establish appropriate due diligence processes and to pass on those expectations to their own suppliers.



International conventions on the protection of human rights and the environment cited in the LkSG

The Supply Chain Act (LkSG) lists a number of international conventions on the protection of human rights (Annex, numbers 1 to 11) and on the protection of the environment (Annex, numbers 12 to 14). For the purposes of the LkSG, this is an exhaustive list.

1. Convention No. 29 of the International Labour Organization of 28 June 1930 concerning Forced or Compulsory Labour (Federal Law Gazette 1956 II pp. 640, 641) (ILO Convention No. 29)
2. Protocol of 11 June 2014 to Convention No. 29 of the International Labour Organization of 28 June 1930 concerning Forced or Compulsory Labour (Federal Law Gazette 2019 II pp. 437, 438)
3. Convention No. 87 of the International Labour Organization of 9 July 1948 concerning Freedom of Association and Protection of the Right to Organise (Federal Law Gazette 1956 II pp. 2072, 2071), as amended by the Convention of 26 June 1961 (Federal Law Gazette 1963 II pp. 1135, 1136) (ILO Convention No. 87)
4. Convention No. 98 of the International Labour Organization of 1 July 1949 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (Federal Law Gazette 1955 II pp. 1122, 1123), as amended by the Convention of 26 June 1961 (Federal Law Gazette 1963 II pp. 1135, 1136) (ILO Convention No. 98)
5. Convention No. 100 of the International Labour Organization of 29 June 1951 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (Federal Law Gazette 1956 II pp. 23, 24) (ILO Convention No. 100)
6. Convention No. 105 of the International Labour Organization of 25 June 1957 concerning the Abolition of Forced Labour (Federal Law Gazette 1959 II pp. 441, 442) (ILO Convention No. 105)
7. Convention No. 111 of the International Labour Organization of 25 June 1958 concerning Discrimination in Respect of Employment and Occupation (Federal Law Gazette 1961 II pp. 97, 98) (ILO Convention No. 111)
8. Convention No. 138 of the International Labour Organization of 26 June 1973 concerning the Minimum Age for Admission to Employment (Federal Law Gazette 1976 II pp. 201, 202) (ILO Convention No. 138)
9. Convention No. 182 of the International Labour Organization of 17 June 1999 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Federal Law Gazette 2001 II pp. 1290, 1291) (ILO Convention No. 182)
10. International Covenant of 19 December 1966 on Civil and Political Rights (Federal Law Gazette 1973 II pp. 1533, 1534)
11. International Covenant of 19 December 1966 on Economic, Social and Cultural Rights (Federal Law Gazette 1973 II pp. 1569, 1570)
12. Minamata Convention on Mercury of 10 October 2013 (Federal Law Gazette 2017 II pp. 610, 611) (Minamata Convention)
13. Stockholm Convention of 23 May 2001 on Persistent Organic Pollutants (Federal Law Gazette 2002 II pp. 803, 804) (POPs Convention), last amended by the decision of 6 May 2005 (Federal Law Gazette 2009 II pp. 1060, 1061)
14. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989 (Federal Law Gazette 1994 II pp. 2703, 2704) (Basel Convention), as last amended by the Third Ordinance amending Annexes to the Basel Convention of 22 March 1989 of 6 May 2014 (Federal Law Gazette II pp. 306/307)

4.3 Step 3 – State which human rights issues and groups you are addressing

In your policy statement, you should specify the human rights issues that your enterprise sees as particularly relevant and name any groups that may be affected by human rights violations. Through the Sector Dialogue, the main actors in Germany’s automotive industry agreed a joint assessment of the risks associated with the industry (see the guideline for the core element ‘Risk analysis’). These include, for example, risks associated with the procurement of conflict minerals. This joint risk assessment can act as a starting point to help you select relevant human rights issues and groups. Please note, however, that your selection should always include the findings of your own enterprise’s analysis of specific human rights risks and impacts.

When you perform this analysis, you should identify and assess potential adverse impacts on human rights that are caused by the enterprise’s business activities or in its supply and value chains, or that arise through any failure to exercise due diligence. The terms ‘human rights risks’ and ‘potential adverse human rights impacts’ cover all issues that prevent individuals from exercising their human rights or constrain their ability to do so. From your own risk analysis, you may conclude that the joint risk assessment produced through the Sector Dialogue Automotive Industry is not material to your enterprise. If this is the case, you do not need to include these human rights issues and groups in your policy statement. The guideline for the core element ‘Risk analysis’ provides a detailed explanation of the Sector Dialogue’s joint risk assessment and the corresponding steps for conducting your own risk analysis.

Your policy statement should present the human rights issues relevant to your enterprise in a way that allows internal and external stakeholders to place the human rights risks in the context of your business activities across your supply and value chain.

What requirements your workforce and suppliers must observe

You are required to embed your expectations of your workforce and suppliers with regard to human rights observance in the policy statement. Workers should be required to follow and implement the due diligence obligations which the enterprise has undertaken to fulfil. Call on your suppliers to respect human rights and, with that goal in mind, to establish their own due diligence processes and impose the same expectation on their own suppliers. Reflecting the approaches commonly used to implement codes of conduct (e.g. for suppliers), expectations of this kind can be set out and communicated in contractual provisions or through training.

Insight into corporate practice: the BMW Group’s human rights code



The BMW Group issued its policy statement on respect for human rights in October 2018. The statement complements its existing Joint Declaration on Human Rights and Working Conditions, which was first issued in 2005 and then reconfirmed in 2010. The human rights code is based on key international standards, such as the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises.

The code was adopted jointly by the Board of Management and the General Works Council of BMW AG and applies to all BMW Group sites and business activities worldwide. The preparations included conducting an international risk assessment encompassing all the Group’s operations and involving all relevant stakeholders. The findings were then discussed with representatives of an NGO. This approach made it possible to incorporate the viewpoints of particularly vulnerable groups in specific areas. With regard to implementation, the BMW Group is integrating the topic into its compliance management system.

The long version of this [good practice example](#) is available online.



Corruption and breaches of human rights due diligence obligations

The fight against corruption and bribery plays an important role in wider efforts to respect human rights. As shown in various studies, for example by Transparency International, human rights violations and corruption occur more frequently, for example, in states where the rule of law is lacking, institutions are weak and poverty is endemic. Potential human rights risks in such countries include damage to the health or safety of workers and the local population, discrimination, restrictions on freedom of association and violations of indigenous peoples' rights.

With regard to human rights due diligence processes, it is recommended that enterprises observe the following:

- As part of their human rights risk analysis, enterprises should be aware that corruption and bribery can be an indication of human rights violations.
- When developing rules and processes designed to ensure respect for human rights, you should consider measures to fight corruption and bribery as a cross-cutting task.

- Enterprises should integrate anti-corruption measures into their business processes and impose anti-corruption requirements across their supply chains. If you have not yet established processes of this kind at your enterprise, the expansion of your existing due diligence processes provides a good reason to do so and an opportunity to harness synergies.
- With regard to implementation, the recommended approach involves close collaboration between the compliance department and the various divisions and departments responsible for observing human rights.

Some examples of further reading on this subject:

[Corruption as a Violation of International Human Rights](#), research paper by Prof. Dr Anne Peters, in European Journal of International Law, Volume 29, Issue 4, November 2018, Pages 1251–1287, Published: 14 February 2019; [Integrating Human Rights in the Anti-Corruption Agenda](#), a study by the International Council on Human Rights Policy in collaboration with Transparency International, 2010; [Corruption and Human Rights: Making the Connection](#), a study by the International Council on Human Rights Policy in collaboration with Transparency International, 2009.

The following text modules can be used as a rough template for your policy statement. In some areas, the text modules go beyond the NAP and LkSG requirements. Please check all the examples carefully, decide whether they are applicable to your enterprise and, if so, whether they are complete.

Text module: Relevant human rights issues and potentially affected groups

We recognise that our business activities and our global supply and value chains may potentially cause adverse impacts on human rights.

We are committed to respecting all internationally recognised human rights. Accordingly, the main focus of our human rights due diligence processes will be on the following human rights issues, which our risk analysis has identified as material to our enterprise. These are the areas which we believe represent the greatest risks of adverse impacts on people who are directly or indirectly associated with our business activities at our sites and in our global supply and value chains:

[Note on preparation of the policy statement: At this point the enterprise should insert the findings of its own risk analysis by specifying the risks to which the enterprise is exposed. Your own list could include some or all of the following risks:]

- forced labour and child labour
- restrictions on freedom of assembly and association (including systematic opposition to and the suppression and sabotage of worker representation bodies)
- any form of discrimination (e.g. on the basis of sex, age, ethnic or social origin, nationality, religion or worldview, physical or mental disability, sexual orientation)
- risks to data protection and privacy
- risks to health and safety at the workplace
- precarious employment and labour conditions (e.g. in the case of unregulated temporary work or the misuse of short-term contracts)
- corruption and bribery
- risks to consumer protection and any failure to assume product responsibility

- restrictions on the rights of local communities and indigenous peoples
- damage to health, shelter or the economic resources needed for subsistence, e.g. due to water, soil or air pollution and deforestation
- restrictions on land rights
- restrictions on access to education

[In addition to the suggested risks listed above, you should include any business-specific human rights issues – and any associated environmental risks – identified by your enterprise through its own specific risk analysis. See also step 8.]

As part of our endeavours to respect human rights, we will focus on the following groups, as their human rights are potentially at risk from business activities across our global supply and value chains: [Note on preparation of the policy statement: At this point your enterprise should insert the findings of its own risk analysis (see the guideline for the core element ‘Risk analysis’) by specifying groups that are relevant to your enterprise. Your list could include some or all of the following groups:]

- our own employees and trainees at our national and international sites
- the workers employed by our business and joint venture partners
- groups in our direct and indirect supply chain: workers involved in the production and processing of raw materials and the manufacture of intermediate goods, smallholders, the employees of our service providers and direct suppliers
- groups in our downstream value chain: employees of our customers, end customers, people with other links to our products and services (e.g. through sponsoring arrangements)
- groups regardless of their position in our value chain: people with informal or precarious employment conditions, local trade union representatives or trade union members (within our enterprise or at our suppliers, service providers and business partners, joint venture employees)

- groups that are indirectly linked to our value chain: members of local communities and local residents near our sites, family members, employees of government authorities

Within these groups we have identified people who are exposed to a higher risk of adverse human rights impacts. These potentially affected groups are given special attention in our due diligence processes. They include groups of people who have specific needs, who are socially marginalised or who find it difficult to make their voices heard. With regard to our activities, the groups most at risk are:

[Note on preparation of the policy statement: At this point the enterprise should insert the findings of its risk analysis by specifying the groups most at risk in relation to its activities. Your list could include some or all of the following groups:]

- women
- children
- local communities (especially indigenous peoples)
- older people
- poor people
- sick people
- people with disabilities
- groups in unregulated or poorly regulated situations
- ethnic/religious minorities
- members of the lesbian, gay, bisexual, transgender, queer and intersex community
- representatives of certain groups (especially human rights defenders, trade union representatives)
- whistleblowers
- workers in precarious or informal employment
- migrant workers

[In addition to the groups suggested above, you should include any other groups identified by your enterprise through your own risk analysis. See also step 8.]

4.4 Step 4 – Specify procedures and responsibilities

Your policy statement should describe the procedures your enterprise has adopted to ensure that it meets its human rights due diligence obligations. You should also specify which positions within your enterprise are responsible for applying the procedures.

In this context, the term ‘procedures’ refers to all processes whose purpose is to identify, assess, prioritise, prevent, mitigate and report on adverse human rights impacts from your own business activities and right across your upstream and downstream value chain. You should consider not only actual impacts but also potential risks. Your policy statement should therefore include brief and clear descriptions of how you implement the following due diligence processes:

- procedures designed to regularly identify and analyse the human rights risks to groups potentially affected by your enterprise’s business activities across the value chain (see the guideline for the core element ‘Risk analysis’)
- procedures designed to prevent and mitigate adverse human rights impacts that are actually or potentially caused by your business activities across the value chain (see the guideline for the core element ‘Measures and effectiveness tracking’)
- procedures designed to review the effectiveness of measures to prevent and mitigate adverse human rights impacts (see the guideline for the core element ‘Measures and effectiveness tracking’)
- procedures linked to grievance mechanisms that you have established (see the guideline for the core element ‘Grievance mechanism’)
- procedures for external reporting on the actual or potential adverse human rights impacts of your business activities and on the related due diligence processes (see the guideline for the core element ‘Reporting’)

To ensure that human rights due diligence processes can be implemented within your enterprise, you must actively involve senior management and assign clear responsibilities.

To this end, your policy statement should include the following information on responsibilities:

- details of which member(s) of the senior management team is/are responsible for implementing the human rights due diligence processes
- details of which processes have been established to ensure that senior management, supervisory bodies and codetermination bodies are involved
- details of which department(s) and/or body/bodies have been given operational responsibility for implementation

How can you embed the issue of human rights at a structural level?



Based on tried-and-tested procedures from corporate practice, Shift has compiled various successful approaches to corporate human rights governance on behalf of the UN Global Compact ([Organizing the Human Rights Function within a Company](#)). This overview primarily supports larger enterprises in setting up effective structures and involving essential internal stakeholders as early as possible.

The following text modules can be used as a rough template for your policy statement. In some areas, the text modules go beyond the NAP and LkSG requirements. Please check all the examples carefully, decide whether they are applicable to your enterprise and, if so, whether they are complete.

Text module: Our approach to implementing human rights due diligence

We believe that respecting human rights is a continuous process. Accordingly, we constantly review and continuously update the measures we take to implement our human rights due diligence obligations to ensure that they reflect changing circumstances, the nature of our business activities, and the size and structure of our enterprise.

To ensure respect for human rights, we have therefore mainstreamed human rights due diligence processes into our organisational structure and into our relationships with our business partners.

Text module on risk analysis

We believe that our responsibility to exercise due diligence in this area includes being aware of potential and actual adverse human rights risks and the impacts of our business activities on people across the entire value chain. For this reason, through an established management process, we identify and assess all relevant human rights issues associated with our business activities, as well as potentially affected groups and our direct and indirect business relationships. This includes analysing both the human rights risks and the impacts caused through the use of our products and services.

To this end, we have systematically incorporated human rights issues into our enterprise-wide risk and supplier management system. Our management process is also designed to address external criticism and reported incidents involving human rights.

Our analysis of human rights risks and impacts is updated once a year and, if there are significant changes to the enterprise's business profile or its activities, on an ad hoc basis. These analyses incorporate input from internal and external human rights experts, our business partners and selected stakeholders, including representatives of groups that are or may be affected by our activities.

[Optionally, you can identify and provide a more detailed analysis of particularly at-risk groups and of the human rights risks to which they are exposed. See also step 8.]

The findings of our analysis of human rights risks and impacts are integrated into our corporate decision-making processes for supplier selection, business partner management, product responsibility, product development, and mergers and acquisitions. Our risk analysis is the basis on which we identify appropriate measures. The senior management team regularly discusses conflicting human rights objectives and relevant findings from our human rights due diligence processes. We also use the findings as the basis for preparing and, if necessary, amending our internal rules, processes and training courses to ensure that they reflect any changes in the requirements for our due diligence processes.

Text module on measures

We have established a combination of measures that enable us to fulfil our responsibility to observe human rights. Their purpose is to protect individuals who are or may be affected by our activities, and to prevent or at least minimise any adverse impacts on those individuals. To this end, we have established standardised processes. We actively and systematically involve rights holders (e.g. local communities and our suppliers’ employees and workers) and human rights experts, engage in regular discussions with other enterprises (e.g. through sector initiatives) and cooperate with stakeholders in order to promote access to human rights. We take into account any concerns expressed by rights holders or their legitimate representatives, local stakeholders, experts and civil society.

Outside our enterprise, we impose a contractual obligation on at least all our direct business partners to observe the laws of the country in question and the ILO’s Core Labour Standards, to respect human rights and to deal appropriately with any human rights risks in relation to their own business partners.

Text module on effectiveness tracking

We review the effectiveness of our measures at least yearly, and additionally on an ad hoc basis, in order to prevent and mitigate any adverse human rights impacts. We also check that our requirements are being met. Within our enterprise, we also conduct risk-based audits, follow up all information we receive about potential human rights violations, conduct employee surveys and review the effectiveness of our initial and further training measures through regular questions during the course to ensure the content has been understood and through end-of-course tests. In our value chain, we check whether our measures are effective by monitoring the findings of our continuous human rights risk and impact assessment. We also conduct risk-based audits of our direct suppliers, e.g. through document inspections, online assessments and on-site checks. Wherever possible, we ensure that potentially affected groups, or at least their representatives, are actively involved and that audits are conducted in consultation with rights holders.

Text module on the grievance mechanism

We reject all forms of human rights violations. As an important part of our due diligence processes, we have therefore established an appropriate and effective grievance mechanism to effectively prevent any adverse human rights impacts from our enterprise and our activities, and provide effective remedy. We have established an in-house grievance management system that can be accessed both internally and externally, and we are actively involved in industry-wide procedures.

This includes participation in the Cross-company Grievance Mechanism (CCGM) in Mexico. This mechanism was developed through the Sector Dialogue of the German automotive industry. Its purpose is to address any gaps in protection and accountability and, through a joint procedure, to improve access to remedies for those affected by industry activities and proactively prevent potential harm. The CCGM is designed to deal with complaints of (potential) adverse impacts across the upstream value chains of its member enterprises in Mexico. The CCGM will be continuously developed with the active involvement of local rights holders.

We operate a whistleblower system that gives internal and external interest groups and any groups potentially affected by our activities worldwide a confidential channel through which they can report possible violations of human rights and international agreements. Information explaining how to access the whistleblower system is communicated to target groups proactively, and in appropriate language that takes account of differences between them. Reports can also be submitted anonymously. We actively inform our target groups about the available grievance mechanisms through measures adapted to each specific group as well as the local context and actively involve them in designing the mechanisms.

All reports and justified suspicions of possible human rights violations are handled through a process that is designed to be transparent, balanced and predictable for all those involved. All information received is treated as confidential, and whistleblowers remain anonymous. As far as possible, and to the extent that we can use our influence, we ensure that whistleblowers are protected against any disadvantages or sanctions in connection with the complaints they have submitted. Our systematic approach to dealing with and learning from complaints enables us to continuously improve our human rights due diligence processes. To this end, we also review the effectiveness of our existing grievance mechanisms against the criteria set out in the United Nations Guiding Principles on Business and Human Rights every year and, in the event of significant changes in the risk situation or concrete indications of constraints on our complaints management system, on an ad hoc basis.

Text module on remedy (as part of ‘measures’)

If we as an enterprise have directly caused a human rights violation, we take immediate action to end the business activities in question or restructure them so that they are consistent with human rights, and work towards providing redress. We take appropriate sanctions against any of our employees whose conduct is not compatible with human rights.

If our business activities contribute or are indirectly linked to potential or actual human rights violations, we make every effort to contribute to appropriate remedy and swift redress through the responsible bodies. We carefully and thoroughly investigate any justified suspicions or concrete indications of possible human rights violations in our enterprise, or at any point in our upstream or downstream value chain, that are brought to our attention. We require our business partners to support our investigations into the circumstances and to fully cooperate within a reasonable period. Depending on the severity of the violation, we reserve the right to take appropriate action in dealings with any business partner, ranging from a request to immediately discontinue the violation through to legal action or termination of our business relationship. Irrespective of the action taken, we work towards ensuring appropriate redress for the violation.

Text module on reporting

In our [insert relevant frequency, e.g. annual] [insert reporting format, e.g. CSRD-compliant sustainability report] we inform the public about our human rights commitments and about our due diligence processes and their effectiveness.

We report on any material human rights risks and impacts that we have identified in relation to business activities at all points in our global supply and value chains and describe the preventive and remedial measures that we have implemented. To demonstrate how effective our human rights due diligence procedures have been, we also publish the indicators used to measure their effectiveness.

Text module on responsibilities

Responsibilities for human rights due diligence in our enterprise

We have defined clear responsibilities for exercising and fulfilling our human rights due diligence obligations. At senior management level, [insert position, e.g. our CEO or management board] is responsible for the observance of human rights in our business activities and in our upstream and downstream value chain. Informed decisions can be taken at all times thanks to regular and ad hoc internal reporting to this designated person covering the human rights-related results of our continuous risk analysis, information received through our grievance mechanisms and information on the effectiveness of our remedial and preventive measures as well as our complaints procedures.

Responsibility for the operational implementation of our human rights due diligence processes lies with [insert names of specific business areas, departments and/or bodies, e.g. head of purchasing for business partners, head of human resources for employees, head of sales for customers].

4.5 Step 5 – Describe your training measures

Your efforts to respect human rights will only be truly effective if your workforce is clearly aware of the issues. Employees also need to understand how key due diligence processes work within your enterprise. Regular courses and both initial and further training measures can help to raise awareness of human rights issues and give your employees a basic or in-depth understanding of human rights due diligence obligations. This knowledge is crucial to ensure that they are familiar with your individual human rights risks and the corresponding implications, and so that they can operationalise due diligence processes and observe them when working with both internal and external stakeholders.

Consequently, employees who work in business areas and activities that are particularly important for human rights compliance should undergo regular training. For most enterprises, the key departments in this context are HR, purchasing, compliance and sales. Ensure that your courses and your initial and further training measures focus systematically on the goals and principles of corporate social responsibility.

This means that your policy statement must include an undertaking to provide regular training courses that give your employees the knowledge and skills required to understand and implement human rights due diligence processes. You will need to describe and give specific details of your initial and further training measures and their target group. For example, do they involve general awareness-raising campaigns, online courses to familiarise employees with the subject, or target-group-specific training sessions addressing selected issues such as modern slavery in the value chain?

If your enterprise has not yet conducted any training courses on human rights observance, you are expected to set this out in your policy statement together with a commitment to providing such courses in the future. When drawing up a training programme, many enterprises (especially SMEs) can benefit from information-sharing and collaboration, for example with larger enterprises.

Effective training



For advice on developing and implementing effective training in the area of human rights, we recommend the UN Global Compact publication entitled [Designing Effective Human Rights Training Aligned with the Corporate Responsibility to Respect in the UN Guiding Principles on Business and Human Rights](#).

As well as guidance on the best approach, the document provides examples of appropriate content and a training plan.

The following text modules can be used as a rough template for your policy statement. In some areas, the text modules go beyond the NAP and LkSG requirements. Please check all the examples carefully, decide whether they are applicable to your enterprise and, if so, whether they are complete.

Text module on training

We hold regular compulsory initial and further training courses within our company to ensure that all our employees are fully aware of the need to respect human rights and that the required expertise is available in the business areas responsible for effectively implementing human rights due diligence processes.

[For enterprises that have not yet conducted training courses on human rights observance: As a key element of our due diligence obligations, we believe it is important to raise our employees' awareness of the need to respect human rights, and to give them the knowledge and expertise they require in order to effectively implement human rights due diligence processes. We therefore undertake to hold regular training for this purpose in future.]

4.6 Step 6 – Adopt and communicate your policy statement

Your policy statement must be adopted by the enterprise’s senior management. It should then be communicated internally and externally. When you publish your policy statement, make sure it is permanently available through your chosen communication channels for as long it remains in force.

How to adopt your policy statement

Once you have finished consulting all the relevant external groups (e.g. experts, business partners, civil society organisations and potentially affected groups), as well as post-holders within the enterprise who were involved in drafting the statement or are part of the internal approval processes, you will need to finalise the policy statement and present it to the enterprise’s senior management team for adoption. Senior management then signs the statement as confirmation of the enterprise’s commitment to respect human rights and fulfil its responsibility to implement appropriate human rights due diligence processes.

Task for senior management: defining the status of the policy statement

Broad collaboration and the support of all your direct employees are essential for the appropriate implementation of your enterprise’s human rights due diligence obligations. The role of senior management is to determine the status and (drawing on legal expertise) the legal form of the mandatory policy statement in accordance with your own corporate culture, existing regulations and individual risk exposure. Depending on the status your enterprise assigns to the statement, it could be incorporated, for example, into contracts and tendering procedures. The measures you take to publicise the statement should therefore reflect the accountability systems and levels you have established and potential sanctions. To ensure that the policy statement is given sufficient weight and mainstreamed into your corporate processes and culture, it should be on a par with your enterprise’s highest-ranking internal guidelines, e.g. on compliance or occupational safety.

What do you have to consider in terms of communication?

Using **proactive** communication measures, your enterprise must ensure that the policy statement is accessible to all relevant individuals and groups. These include:

- individuals who will be required to implement the statement (e.g. employees, suppliers, your contractors’ employees)
- individuals with a direct interest in the implementation of your statement (e.g. employees at other enterprises, civil society organisations, government bodies)
- potentially affected rights holders (e.g. local communities, particularly vulnerable groups, customers)

As a minimum, the statement should be communicated to the workforce, any employee representation body, your direct suppliers and the public. It should be permanently accessible. For each of these different target groups you should use an appropriate form of communication.

Internal communication channels should be used to provide a continuous and reliable source of information about your policy statement for all your employees and others who work directly for your enterprise. In part, this is about emphasising the binding commitment made by your senior management (i.e. top-down). At the same time, you should aim to raise awareness of how important the statement is in order to achieve broad acceptance (i.e. bottom-up).

At a minimum, you will need to use the following internal communication channels:

- your enterprise’s intranet
- electronic circulars
- relevant training measures

You can also use other channels with increasing levels of obligation and an increasingly proactive approach:

- meetings and internal discussions
- internal presentations by senior management
- internal publications
- written instructions
- employment contracts

Turning to **external communications**, your policy statement must be made accessible to the general public. This includes external bodies with which the enterprise has a contractual relationship (e.g. direct suppliers and business partners), groups with a direct link to your business activities (e.g. indirect suppliers, customers, local residents, state security forces, investors, trade unions) and groups that may be affected by adverse human rights impacts linked to your business activities. To ensure that your policy statement is also communicated appropriately to external stakeholders that are not directly linked to the enterprise, it is advisable to work with a range of external actors (e.g. non-governmental organisations, local communities, representatives of potentially affected groups, sector initiatives and end users). To this end, you can also require your direct business partners to cooperate or stipulate in their contracts that they must provide such support. More specifically, you can establish a clear expectation that they pass on and enforce the commitments and due diligence processes set out in the policy statement when dealing with their own business partners.

To this end, at a minimum, the policy statement must be published on your enterprise’s website. Additionally, the following general communication formats may also be useful for external communication purposes:

- external publications (e.g. as part of your sustainability reports and company reports)
- external presentations
- social media

There are various formats you can use for your external communications with **direct business partners**. From the least to most binding, these are:

- informal discussions with business partners
- electronic circulars to business partners signed by your enterprise’s top management
- training measures for business partners
- written guidance for business partners
- integral component of contracts and tender procedures

Publish your policy statement in different languages



To ensure that your policy statement is accessible to your external stakeholders, you should consider publishing the document in various languages. Above all, this will reduce barriers to access for (potentially) affected groups.

The formats suggested below are suitable for your external communications with indirect external stakeholders, especially any potentially affected groups identified in your human rights risk analysis:

- locally held discussions
- training for NGO representatives to act as multipliers in local communities
- communication campaigns aimed at end users
- information brochures and leaflets specifying local contact points

Ensuring stakeholder engagement



The document [Stakeholder Engagement in Human Rights Due Diligence](#) produced by the UN Global Compact Network Germany and twentyfifty Ltd is designed as a guide to help enterprises establish good and effective forms of engagement with rights holders. The document can be used for all five of the NAP core elements. It stands out for its practical approach and is suitable for enterprises of all sizes.

4.7 Step 7 – Establish a continuous development process

To ensure that your enterprise maintains its respect for human rights, you will need to keep the implementation of your due diligence obligations under constant review and update your processes continuously in line with changing circumstances, the nature of your business activities and the size and structure of your enterprise. You are expected to perform this review at least annually, and ad hoc. Ad hoc updates may be required, for example, if there are any significant changes in your business activities or the business environment. They may also be needed in response to any important findings from your monitoring processes, such as your effectiveness tracking and complaints management systems.

You will need to establish a standardised procedure for regularly updating your policy statement, especially as regards the human rights issues specified, reference instruments, potentially affected and particularly vulnerable groups, and the corresponding due diligence processes that have been implemented. You should conduct regular and ad hoc analyses of human rights risks, and use the results, together with the structural findings from your grievance mechanisms, to update the policy statement.

Conduct regular analyses of human rights risks, and use the results, together with the findings from your grievance mechanisms, to update the policy statement.

You should also check regularly whether your communication strategy for the policy statement is effective. The most important factors in this context are the active involvement of rights holders and/or collaboration with independent external auditors. Reviews of this kind should examine whether rights holders are aware of the policy statement, and whether the statement itself is worded such that it

can be clearly understood by the designated target group. In the case of internal target groups, this could be checked, for example, through inclusion in your enterprise’s compliance management system, perhaps as part of an annual employee compliance statement. (For further information, please see the guideline for the core element ‘Measures and effectiveness tracking’).

The following text modules can be used as a rough template for your policy statement. In some areas, the text modules go beyond the NAP and LkSG requirements. Please check all the examples carefully, decide whether they are applicable to your enterprise and, if so, whether they are complete.

Text module: Commitment to the continuous development of our human rights due diligence processes

We believe that by respecting human rights and fulfilling our human rights due diligence obligations in our business processes, we can make an important contribution towards improving the human rights situation across the German automotive industry’s global supply and value chains. We accept this challenge and undertake to continuously update our human rights due diligence processes.

We believe that effective due diligence processes are very important. As such, we are committed to establishing [or maintaining] a dialogue with people who may be affected by any adverse human rights impacts of our business activities at any point in our upstream or downstream value chain. The purpose of this dialogue is to identify human rights risks and assess the effectiveness of our measures to prevent, mitigate and remedy adverse human rights impacts.

4.8 Step 8 (optional) – Prepare an extended policy statement

Enterprises may choose to prepare an ‘extended policy statement’ if they already voluntarily exceed the requirements for a basic statement in specific areas, or wish to adopt a certain position, or are exposed to particular risks and/or need to address additional relevant issues. The extended statement goes beyond the basic statement and therefore also exceeds the NAP requirements. It allows you to highlight factors that are specific to your enterprise and to position your enterprise as a front-runner in certain areas. In this way you stand to derive even greater benefit from maintaining effective due diligence processes.

In the following section, we will look at possible content that you can add to a basic statement. You can use any points that are relevant to supplement all or parts of your basic statement step by step. The pre-formulated text modules are in italics.

Commitment and reference instruments

- Refer to particular industry standards on human rights.
- Undertake to comply with selected UN conventions, e.g. the International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Convention on the Rights of the Child (UNCRC) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).
- Undertake to comply with selected ILO conventions beyond the eight Core Labour Standards, e.g. the Occupational Safety and Health Convention (ILO 155), the Minimum Wage Fixing Convention (ILO 131), the Hours of Work (Industry) Convention (ILO 1) and the Weekly Rest (Industry) Convention (ILO 14).
- You can also extend the basic statement to include specific forms of raw material extraction, for example:
 - *We specifically undertake to ensure that minerals from conflict and high-risk areas (or all high-risk minerals) that are used in our products are procured responsibly, with due regard for human rights and in accordance with the OECD’s Due Diligence Guidance for the 3TG Minerals (Tin, Tantalum, Tungsten and Gold).*

- *In particular, we ensure that critical raw materials are sourced responsibly with due regard for human rights. For our enterprise, the most important of these critical raw materials are [insert as applicable, e.g. aluminium, cobalt, rubber].*

- You can also add a specific commitment to respect the human rights of human rights defenders: We will neither tolerate nor, as an enterprise, contribute to threats, harassment and physical or legal attacks on human rights defenders.

Analysing risks and opportunities in material supply chains



For your selection of critical raw materials, you may wish to draw on the study entitled [Material Change](#) produced by Drive Sustainability, the Responsible Minerals Initiative and The Dragonfly Initiative. The document contains risk analyses for 37 key input materials used by the automotive industry.

Procedures and responsibilities

Risk analysis

- You can supplement your basic statement in relation to vulnerable groups: We increasingly strive to identify and conduct in-depth analyses of the most at-risk groups (e.g. children, ethnic and religious minorities, human rights defenders, women and indigenous peoples) and the human rights risks to which they are exposed.
- You can supplement your basic statement in relation to conflict and high-risk areas: For all our direct and indirect business activities in conflict and high-risk areas (e.g. procuring raw materials) we conduct thorough checks to assess any link or any risk of contributing to human rights violations.

Measures

- You can supplement your basic statement by including other measures that your enterprise has put in place, e.g. training for relevant managers and purchasers on the basic human rights policy statement and on the monitoring systems you have set up for suppliers; training sessions for your direct suppliers; the integration of human rights criteria into contracts with your business partners; work to

develop and implement remedial measures at your suppliers; local social projects implemented in your upstream value chain; and your engagement in sector-wide initiatives or partnerships. For example:

- *To remedy any issues in our upstream value chain, we are committed to working with suppliers and/or initiatives and, alongside the remedial processes that we offer, not to obstruct or exclude any other forms of remedial action.*
- *Given the particular importance of human rights due diligence in supply chains, we make clear to our direct suppliers [insert additional business partners as applicable] that human rights observance should be given high priority. Through dialogue events and information campaigns, we explain the human rights due diligence requirements that we expect our business partners to fulfil.*

Effectiveness tracking

- To supplement your policy statement in this area, you can specify the indicators you use to measure effectiveness, e.g. accident indicators, diversity indicators, the number and type of violations identified during audits, the results of training courses and actual human rights incidents.

Grievance mechanisms

- You can supplement your policy statement to include details of the channels you have established for submitting complaints (e.g. email, phone, post or an online communication platform) and of the languages in which these channels are available.
- You can include further in-house procedures, e.g. an ombudsperson, complaints procedures for customers, interviews with a local community as part of an audit, residents’ forums and employee committees.
- Indicate in your statement whether your procedure has been formalised and standardised:
We have formalised and standardised our measures for remedy and redress.

Reporting

- This part of the policy statement can be extended to include additional communication formats for specific target groups.

- You can also include additional reporting objectives, for example:
 - Our reporting system is designed to ensure that the measures we take to fulfil our human rights due diligence obligations are transparent, and that we share the challenges we have encountered, the lessons we have learned and the good practices we have established in our management of human rights risks and impacts.
 - Our communications on our human rights due diligence processes are intended to enable rights holders and external stakeholders to understand those processes. With a view to continuous improvement, we want to give them an opportunity to assess and judge whether the measures are appropriate and effective.
 - We publish a summary of the results of our due diligence processes in our human rights reports in order to enrich the public dialogue on sustainable development.

Responsibilities

- In this section you can describe how your human rights priorities influence decision-making at your enterprise, for example: The implementation of our human rights policy statement is included in performance targets for managers.

Training

- Here you can refer to other sources of information, such as your website or sustainability report, which offer more details of your initial and further training measures (e.g. types of course and target groups).
- Include specific details of the types of course you provide, for example:
 - *As part of our [insert frequency, e.g. annual] training on [insert e.g. respect for human rights, compliance, our code of conduct], all employees attend courses on the principles of corporate responsibility to respect human rights and on corporate due diligence processes.*
 - *Furthermore, employees in the purchasing team [insert any other particularly relevant departments] undergo compulsory training once a year. This ensures that they understand the importance and procedural requirements of due diligence in their specialist area and in our routine business processes.*

- *We believe it is particularly important to conduct human rights due diligence in our supply chains. We therefore offer training for our direct business partners on respect for human rights and on our requirements for human rights due diligence processes.*
- Give specific details of the training, e.g. a general information campaign, an online course comprising an introduction to the issue of human rights observance, or target group-specific training on selected issues, such as corruption, bribery and modern slavery in the supply chain.

5. Monitoring your progress towards implementing the requirements

You can use the following list of criteria to check whether you have fully completed the steps and therefore fulfilled the NAP requirements for the core element ‘Policy statement’.

Steps implemented to fulfil the NAP requirements for the core element ‘Policy statement’		Reference to step in the guideline
☐	The policy statement has been produced as a standalone document or has been integrated into one or more existing internal guidelines.	1
☐	The policy statement contains a public undertaking to respect all human rights in the value chain.	2, 3
☐	The policy statement cites the selection of international reference instruments approved during the Sector Dialogue.	2
☐	The policy statement specifies the human rights issues that are of particular relevance to the enterprise based on the findings of its risk analysis.	3
☐	The policy statement specifies relevant groups that may be affected by adverse human rights impacts linked to the enterprise’s activities.	3
☐	The enterprise draws on solid internal and/or relevant external expertise when drafting and continuously updating its policy statement.	1, 7
☐	The policy statement describes the procedures in place to implement human rights due diligence within the enterprise, including those designed to identify risks and review the effectiveness of measures and of grievance mechanisms.	4
☐	The policy statement specifies who is responsible for the procedures.	4
☐	The policy statement has been adopted by senior management.	6
☐	The policy statement has been communicated internally to the enterprise’s employees.	6
☐	The policy statement is publicly available.	6
☐	The policy statement has been proactively communicated to the public, to external bodies with which the enterprise has a contractual relationship, to other groups directly linked to the enterprise’s business activities (e.g. indirect suppliers, other business partners, customers, local residents, state security forces, investors and trade unions) and (in the case of business activities with significant human rights risks) to potentially affected groups.	6
☐	With regard to the implementation of human rights due diligence, the enterprise has communicated its expectations proactively to its employees and suppliers as well as to all other business partners that are directly linked to its business activities, products and services.	5, 6
☐	The policy statement provides information on training measures for employees working in departments that are relevant to human rights observance.	5
☐	The enterprise has established processes for continuously updating the policy statement.	7, 8

6. Where can you find more information?

6.1 Further information

This guideline is a standalone document covering all the relevant steps you will need to implement in order to completely fulfil the NAP requirements for the core element ‘Policy statement’. In addition to this guideline and the other external documents cited so far, the following sources will help you to acquire a deeper understanding of the subject:

- **A Guide for Businesses – How to Develop a Human Rights Policy**, published by the UN Global Compact. This is a guide to preparing and implementing a policy statement. The document is both detailed and practical, and it addresses the particular challenges facing small and medium-sized enterprises (SMEs).
- **CSR in Deutschland**: an online platform operated by the Federal Ministry of Labour and Social Affairs (BMAS), with information on the NAP and LkSG, useful background information and a collection of general and industry-specific guides, advisory services, training courses and practical examples. The site includes a regularly updated [list](#) of answers (in German) to the most frequently asked questions about the LkSG.
- **Business & Human Rights Resource Centre**: an online platform providing a wide range of information on human rights issues in relation to business. In particular, the site creates transparency and emphasises responsibility by publishing reports on human rights violations as well as company responses. Some of the materials relate specifically to the automotive industry.
- **Designing Effective Human Rights Training Aligned with the Corporate Responsibility to Respect in the UN Guiding Principles on Business and Human Rights**. This document from the UN Global Compact offers guidance on setting up effective human rights training courses.

- **Human Rights Capacity Diagnostic** by the UN Global Compact Network Germany (in German). Information and tools to help enterprises design and improve their human rights due diligence processes. Some of the materials relate specifically to the automotive industry and SMEs.
- **Stakeholder Engagement in Human Rights Due Diligence**, published by the UN Global Compact Network Germany and twentyfifty. A guide to engaging effectively with stakeholders in the area of human rights due diligence.
- **ITUC Global Rights Index 2021**, published by the International Trade Union Confederation, with ratings for 149 countries based on their observance of workers’ rights. The 2021 ITUC Global Rights Index comes for the first time with a dedicated interactive website (www.globalrightsindex.org) that examines legal violations and provides both regional and national ratings.
- A **report** (in German), commissioned by Transparency International Germany, entitled ‘Einführung korruptionspräventionsbezogener Pflichten im Rahmen eines Sorgfaltspflichtengesetzes für transnationale Wertschöpfungsketten’ (Introducing anti-corruption obligations as part of due diligence legislation for transnational value chains) by Prof. Carsten Momsen at the Free University of Berlin.

6.2 Similarities and differences between the NAP and the LkSG

Both the NAP and the LkSG are based on the UN Guiding Principles (2011) as a reference framework. It follows that the steps set out in these guidelines for meeting the NAP requirements will also help you to fulfil the due diligence processes stipulated in the LkSG. Although the fundamental requirements of the NAP and the LkSG are comparable, the rights and obligations they establish are not identical.

One of the key differences between the two regulatory frameworks is that the NAP is voluntary, reflecting a basic expectation of the German Federal Government that enterprises will take appropriate action to fulfil their responsibilities at every point in their supply and value chains. By contrast, the LkSG is mandatory for all enterprises that fall under its scope of application. It obliges them to meet clearly defined due diligence obligations in their own area of business and in their dealings with both direct and indirect suppliers.

This guideline is designed to help enterprises understand and implement generally accepted and appropriate due diligence obligations. With this goal in mind, it covers all the requirements of the NAP core element ‘Policy statement’. Additional references in this guideline to LkSG requirements also draw attention to the due diligence obligations imposed by the legislation. This will help enterprises that fall under

the scope of the law to meet their statutory obligations at the same time. In certain areas, the guidelines go beyond the above policy frameworks and regulatory requirements.

The Federal Office for Economic Affairs and Export Control (BAFA) will assess each case individually to determine whether an enterprise is meeting the requirements of the LkSG. In deciding whether the measures taken are appropriate, it will consider the enterprise’s specific business model. BAFA will publish information, aids and recommendations to facilitate compliance with the LkSG.

Section 3 of this guideline sets out both the NAP specifications and the LkSG requirements. The following overview illustrates which steps in the guideline can be used to help fulfil the LkSG obligations.

Step	Page	Corresponding NAP requirement ⁸	Link to LkSG requirements
1) Prepare, conduct a baseline assessment and use it as a starting point	13	No explicit requirement, merely established good practice	No corresponding legal requirement
2) Make a public commitment and cite reference instruments	16	A	Section 6 (Preventive measures) (2) sentences 1 and 2
3) State which human rights issues and groups you are addressing	19	B	Section 6 (Preventive measures) (2) sentence 3 no. 2
4) Specify procedures and responsibilities	22	C, E	Section 4 (Risk management) (3) Section 6 (Preventive measures) (2) sentence 3 nos. 1 and 3
5) Describe your training measures	27	D	No corresponding legal requirement
6) Adopt and communicate your policy statement	28	F, G	Section 6 (Preventive measures) (2) sentences 1 and 2
7) Establish a continuous development process	30	H	Section 6 (Preventive measures) (5) sentence 3 Section 9 (Indirect suppliers) (3) no. 4
8) Prepare an extended policy statement (optional)	31	No explicit requirement, extended commitments based on the Sector Dialogue	No corresponding legal requirement

⁸The NAP requirements are in alphabetical order as shown in section 3 of this guideline.

6.3 Glossary

Civil society organisations

See ‘Non-governmental organisations (NGOs)’.

Conflict-affected and high-risk areas (CAHRAs)

This term applies to areas currently in a state of armed conflict or a fragile post-conflict setting. It also includes areas affected by weak or absent governance and security, and by widespread and systematic violations of international law and human rights.

Corruption

Criminological research defines corruption as the ‘abuse of a public office, a position in the economic sector or a political mandate in favour of a third party, upon their instigation or one’s own initiative to obtain an advantage for oneself or a third party, with the occurrence or in the expectation of the occurrence of damage to or a disadvantage for the general public (in official or political functions) or for an enterprise (if the offender holds a pertinent position in the economic sector).’

Definitions of terms used in the Supply Chain Act

- In some cases, the LkSG sets out obligations that must be fulfilled annually and, additionally, ‘**on an ad hoc basis**’. In sections 5 (4), 6 (5), 7 (4) and 8 (5) LkSG, the obligation to meet a requirement on an ad hoc basis depends on whether the enterprise should expect a significantly changed or expanded risk situation in that area of its business. By contrast, with regard to the enterprise’s due diligence obligations on the basis of ‘**substantiated knowledge**’ [section 9 (3) LkSG], the requirement applies if the enterprise has actual indications that suggest that a violation of a human rights-related or environment-related obligation at indirect suppliers may be possible. If this is the case, the enterprise must take action on an ad hoc basis.
- Section 3 (1) sentence 1 LkSG states that enterprises must exercise due regard for the human rights and environment-related due diligence obligations set out in that division of the Act which relate to their supply chains, with the aim of preventing or

minimising human rights or environment-related risks or of ending the violation of human rights-related or environment-related obligations. Section 3 (2) LkSG sets out criteria for determining whether actions to fulfil due diligence obligations are appropriate. This depends on:

- the nature and extent of the enterprise’s business activities;
- the ability of the enterprise to influence the party directly responsible for a human rights or environment-related risk, or for the violation of a human rights-related or environment-related obligation;
- the severity of the violation that can typically be expected, the reversibility of the violation, and the probability of the occurrence of a violation of a human rights-related or an environment-related obligation;
- the nature of the causal contribution of the enterprise to the human rights or environment-related risk, or to the violation of a human rights-related or environment-related obligation.

According to the Federal Government’s explanatory memorandum, all the due diligence obligations covered by the Act are subject to the general principle that the scale of the efforts to be made by an enterprise to prevent or end a violation should reflect its ability to exert influence, the likelihood and severity of the anticipated violation of a legal position and the extent of the enterprise’s causal contribution. Equally, the importance of efforts to monitor the supply chain should reflect the degree to which the products and production sites associated with a business activity are vulnerable to human rights risks.

- The term ‘**own business area**’ is defined in section 2 (6) as covering every activity of the company, as a legal entity representing the enterprise, to achieve the business objective. This includes any activity related to the creation and exploitation of products and services, regardless of whether it is carried out at a location in Germany or abroad. In affiliated enterprises, the parent enterprise’s own business area includes a group enterprise if the parent enterprise exercises a decisive influence on the group enterprise.
- The term ‘**direct supplier**’ is defined in section 2 (7) LkSG as any supplier or service provider with which the enterprise has a contractual relationship and whose supplies are required to produce the enterprise’s product or to provide and use the relevant service.

- The term ‘**indirect supplier**’ is defined in section 2 (8) as any enterprise which does not meet the definition for a direct supplier but whose supplies are nevertheless essential to the enterprise’s activities. This includes all suppliers with which your enterprise is linked through contractual relationships, business activities, products or services even if there is no direct contractual relationship.

Excerpt from the NAP setting out requirements for the core element ‘Policy statement’

‘With the aid of a policy statement, enterprises should state publicly that they are meeting their responsibility to respect human rights. This statement should be adopted by the senior management of the enterprise and be communicated both internally and externally. It should be used, on the one hand, to address human rights issues of particular relevance to the enterprise and/or the sector in which it operates, citing the international reference instruments in the field of human rights and, on the other hand, to describe the procedure used by the enterprise to exercise human rights due diligence. In particular, this includes the clear assignment of responsibilities within the enterprise, underpinned by the necessary training of staff employed in the relevant divisions. The statement should be continually revised and developed.’

Grievance mechanisms

In the context of this series of guidelines, the term grievance mechanism refers to any routine procedure, whether internal or cross-company, that can be used to submit complaints of human rights violations by the enterprise and to seek remedy.

Human rights

Human rights are fundamental rights held by all individuals regardless of any discrimination, e.g. on the grounds of nationality, place of residence, sex, national or ethnic origin, skin colour, religion, native language or other characteristics. They are brought together in key international standards. The goal of those standards is to ensure that all people worldwide are treated equally and with dignity. Among these rights are those set out in the United Nations International Bill of Human Rights and the fundamental rights established in the ILO’s Core Labour Standards.

Human rights due diligence obligations and processes

Human rights due diligence obligations are those obligations which an enterprise must fulfil in order to satisfy its responsibility to respect human rights in its global supply and value chains. These obligations are specified in particular in the UN Guiding Principles. Human rights due diligence processes constitute a continuous risk management process that enterprises must establish in order to identify, prevent, mitigate and provide redress for adverse human rights impacts and demonstrate accountability for the way they deal with such impacts. The five core elements of the NAP set out the main steps involved in fulfilling human rights due diligence obligations.

Human rights impacts (adverse, severe)

Adverse human rights impacts occur when an enterprise directly or indirectly contributes to a situation in which individuals are prevented from exercising their human rights or restricted in the exercise of those rights. The focus of this concept is on the risk to the individual rather than the risk to the enterprise. However, there is a recognised correlation between the highest levels of risk to human rights and the risk to the enterprise. Adverse human rights impacts are assessed as severe if they meet the criteria for severity in terms of their scale, scope or irremediability. These criteria may be fulfilled whether or not the enterprise is in a position to exert any influence on the situation. The potential severity of human rights impacts is specific to an enterprise’s activities or business relationships and therefore varies between enterprises.

Human rights risks and risk analysis

The term ‘human rights risks’ refers to the potential adverse impacts of an enterprise’s activities on human rights. They should always be understood as risks to those affected and not primarily as a risk to the enterprise itself. In order to assess such human rights risks, the enterprise should conduct a risk analysis. The purpose of the risk analysis is to identify and assess any actual or potential adverse human rights impacts with which the enterprise may be involved either through its own activities or as a result of its business relationships.

ILO Core Labour Standards

The ILO Core Labour Standards are eight conventions of the International Labour Organization (ILO) that provide a basic framework of global labour and welfare standards. They have the status of international legal instruments and are therefore binding on all states that have ratified them. The eight conventions are: Convention No. 87 – Freedom of Association and Protection of the Right to Organise (1948), Convention No. 98 – Right to Organise and Collective Bargaining (1949), Convention 29 – Forced Labour (1930), Convention 105 – Abolition of Forced Labour (1957), Convention 100 – Equal Remuneration (1951), Convention 111 – Discrimination (Employment and Occupation) (1958), Convention 138 – Minimum Age (1973), and Convention 182 – Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999).

International human rights reference instruments

International human rights reference instruments are agreements under international law, conventions, regulations, policies, guidelines, standards and other provisions designed to promote CSR in the area of human rights. These documents serve as an important point of reference for a shared understanding of human rights, and an obligation to respect them.

International law

International law is a supranational legal system imposed by states on themselves as subjects of international law. Among the main sources of international law are the United Nations International Bill of Human Rights, bilateral and multilateral agreements under international law, customary international law and court rulings. Enterprises are not subjects of international law and are not directly bound to observe international law agreements. Nevertheless, within their own context and in accordance with the UN Guiding Principles, they are obliged to respect the human rights specified in international treaties.

Local communities

In the context of human rights due diligence, the term ‘local communities’ is used for communities that are located in close proximity to the sites operated by business enterprises or that are or could be directly

impacted by the activities of those sites. Such impacts can be positive (e.g. job creation) or negative (e.g. groundwater pollution). Local communities are not necessarily homogeneous. In most cases there are overlaps with indigenous communities and vulnerable individuals.

Mitigation measures

The term ‘mitigation measures’ refers to all measures that can be taken to reduce the scale of actual adverse human rights impacts or the probability that potential adverse human rights impacts will occur.

National Action Plan for Business and Human Rights (NAP)

The NAP was established by the German Federal Government to implement the UN Guiding Principles. It was adopted by the Federal Cabinet in 2016. This is the first time that the German Federal Government has embedded the responsibilities of German enterprises to respect human rights into an established framework (the Action Plan). In the NAP, the Federal Government sets out its expectation that enterprises must exercise their human rights due diligence obligations and respect human rights at all points in their supply and value chains. The NAP consists of five ‘core elements’: a human rights policy statement; procedures for the identification of actual or potential adverse impacts on human rights; measures to ward off potential adverse impacts and reviews of the effectiveness of these measures; reporting; and a grievance mechanism.

Non-governmental organisations (NGOs)

The term ‘non-governmental organisations’ is used for non-state organisations, institutions, associations, foundations and other private bodies that are not run for profit and whose purpose is to contribute to the common good in the broadest sense. NGOs may operate locally, regionally, nationally and even internationally. As such, the term includes both local civil society organisations and national and international NGOs. Church-based aid agencies, organisations that form part of the solidarity movement and foundations linked to political parties are also classed as NGOs. NGOs can pursue a wide range of interests. For the purposes of the UN Guiding Principles, enterprises and business associations are not treated as NGOs.

OECD Guidelines for Multinational Enterprises

The OECD Guidelines for Multinational Enterprises are recommendations by the Organisation for Economic Co-operation and Development (OECD) to states and enterprises. Their purpose is to promote sustainable business activity in global supply and value chains. They include recommendations on transparency, working conditions, the environment, corruption, consumer protection, reporting, technology transfer, competition and taxation.

Preventive measures

Preventive measures are measures designed to ensure that adverse human rights impacts do not occur.

Remedial measures

This term is used to describe both the processes by which actual or imminent adverse human rights impacts are ended and those which are intended to provide redress for those violations. Remedial measures and redress may take various forms, such as ending the violation, an apology, the restoration of rights, rehabilitation, financial or non-financial compensation, follow-up measures (e.g. criminal penalties against individuals or sanctions under administrative law, for example a fine imposed on the enterprise in question), a temporary legal remedy or a guarantee of non-recurrence.

Redress

See ‘Remedial measures’.

Rights holders

This term includes all people irrespective of their personal characteristics. In this series of guidelines it refers mainly to persons and groups who may potentially be affected by human rights violations (‘potentially affected groups/individuals’).

Stakeholders

Stakeholders are individuals or organisations that have actual or potential influence over the activities and decisions of an enterprise or that are or may be influenced by those activities and decisions.

United Nations Guiding Principles on Business and Human Rights (UN Guiding Principles)

The UN Guiding Principles are a framework of 31 principles that set out requirements for political and business actors. As such, they are the first generally recognised reference framework for the human rights obligations of states and the responsibilities of enterprises in global supply and value chains. The UN Guiding Principles are based on three ‘pillars’: the duty of the state to protect human rights, the responsibility of business enterprises to respect human rights, and access to remedy for those affected by human rights violations. The Guiding Principles were adopted in 2011 by the United Nations Human Rights Council.

United Nations human rights treaties

The UN human rights treaties are binding agreements under international law. They apply in those states that have signed and ratified the treaties. The UN’s human rights treaties are listed below: International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Convention on the Rights of the Child (CRC), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), Convention on the Rights of Persons with Disabilities (CRPD), International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).

United Nations Universal Declaration of Human Rights

The Universal Declaration of Human Rights was adopted by the United Nations General Assembly on 10 December 1948. As a resolution of the General Assembly, it is not legally binding. However, it is regarded as part of customary international law. The Universal Declaration sets out the fundamental rights held by all people regardless of their origin, religion, sex or other characteristics. It forms part of the United Nations International Bill of Human Rights, which also includes the International Covenant on Civil and Political Rights (Civil Covenant), the International Covenant on Economic, Social and Cultural Rights (Social Covenant) and their respective Optional Protocols.

Value chain

An enterprise’s value chain comprises all the activities linked to the manufacture, sale, use and disposal of its products or to the delivery of its services. In addition to its business activities, the enterprise’s value chain therefore includes other enterprises with which it has a direct business relationship, enterprises in its direct and indirect upstream supply chain (right up to the procurement of raw materials), its customers and any downstream business partners providing disposal services. Business support functions also form part of the value chain, e.g. investment and financing activities.

The automotive industry’s value chain is characterised by dynamic supplier networks based on reciprocal relationships between suppliers and customers. This means that indirect suppliers in particular can change frequently and in many cases are not known to the procuring enterprise. Furthermore, individual enterprises in the value chain can act simultaneously as each other’s suppliers and customers for different products.

Vulnerable groups

For the purposes of the UN Guiding Principles, vulnerability is a measure of both the extent to which a group is vulnerable to adverse human rights impacts as a result of a business activity, and of how it can overcome those impacts. Accordingly, vulnerable groups may experience adverse human rights impacts not only as a result of a specific business activity, since these impacts can be exacerbated by any existing cultural, social, environmental, political or economic disadvantages affecting those groups.

6.4 List of sources

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