



Chapter 5: International  
Investments, Trade  
Agreements and  
Transnational  
Corporations (TNCs)

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**MANUSHYA**  
Empowering Communities / Advancing Social Justice

Manushya Foundation  
& Thai BHR Network,  
*Chapter 5: International  
Investments, Trade Agreements  
and Transnational Corporations  
(TNCs). Comments on the final draft  
National Action Plan (NAP) on Business and  
Human Rights (BHR) in Thailand, (March 2019).*



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NAP on BHR:



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## *About the Thai BHR Network*

The Thai Business and Human Rights Network (TBHRN) is an informal, inclusive and intersectional coalition of human rights defenders, community leaders, researchers, academics, and non - governmental organisations from the local, national and regional spheres, who are joining hands to ensure local communities are central to the business and human rights response in Thailand. The Network engages in advocacy, dialogue, and monitoring of business and human rights commitments made by the Royal Thai Government, in particular in engaging in the development and monitoring of the National Action Plan on Business and Human Rights. More information on the TBHRN and its role can be accessed at:  
<https://www.manushyafoundation.org/coalition-building-workshop-report>

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**Towards a strong Thai National Action Plan (NAP) on Business and Human Rights (BHR) to regulate corporate activity, that is inclusive of communities voices' affected by the adverse impacts of businesses conducts and operations, communities' challenges and their recommendations**

## **Comments on the final draft National Action Plan (NAP) on Business and Human Rights (BHR) in Thailand**

by Manushya Foundation & Thai BHR Network  
15 March 2019

[Manushya Foundation](#)<sup>1</sup> and the Thai Business & Human Rights Network ([Thai BHR Network](#)), its inclusive and intersectional coalition of human rights defenders, community leaders, researchers, academics, and non-governmental organisations together ensure local communities are central to the business and human rights response and discourse in Thailand. This is achieved through advocacy, dialogue and monitoring of business and human rights commitments made by the Royal Thai Government (RTG), in particular by engaging in the development and monitoring of the National Action Plan (NAP) on Business and Human Rights (BHR). The Thai BHR Network is an inclusive and intersectional network of grassroots communities, civil society, academics and experts, including representatives from and/or working on the following issues: *rights of migrant workers, labour rights (formal and informal workers), trade unions, indigenous peoples, stateless persons, community rights, land-related rights, environmental rights, people with disabilities, LGBTI individuals, sexual and reproductive health, drug users, people living with HIV, sex workers, women's rights, the protection of human rights defenders, the impact of Thai outbound investments and trade agreements.*

We sincerely appreciate the efforts of the Rights and Liberties Protection Department (RLPD) of the Ministry of Justice (MoJ) towards the drafting of a National Action Plan (NAP) on Business and Human Rights (BHR), in accordance with its international commitments under the second Universal Periodic Review (UPR) of Thailand that took place on 11 May 2016 and to comply with the United Nations Guiding Principles on Business and Human Rights (UNGPs). We also welcome the efforts of the RLPD in ensuring a transparent process through a publicly available

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<sup>1</sup> Manushya Foundation is a women-led organization promoting community empowerment to advance social justice, peace and human rights. One core area of Manushya Foundation focuses on Business and Human Rights with the goal to ensure communities are at the center of the Business & Human Rights discourse, speaking with one strong unified voice, following a bottom-up approach to tip the balance of power and hold private actors and ASEAN governments accountable for their human rights obligations and business-related actions, using the lens of the UNGPs to do so. In Thailand, Manushya Foundation supported the creation and is working with an inclusive and intersectional coalition, the 'Thai Business & Human Rights Network' (TBHRN). Manushya Foundation builds the capacity of the network members to enable them to all advocate together serving as Agents of Change, bringing about positive change to the lives of their communities, through awareness raising campaigns, community-led and participatory research, BHR capacity building and sub-granting. More info on Manushya Foundation can be accessed here: <https://www.manushyafoundation.org/>

[draft of the NAP on BHR](#), while opening it for [comments](#) from civil society and other relevant stakeholders. Furthermore, with respect to the content of the NAP, we acknowledge and appreciate the significant efforts made by the RLPD to strengthen the provisions that comprise the overview, challenges and the action plan that reflect aspects, laws, policies and practices to be undertaken.

However, in our role as independent civil society and grassroots organisations and while representing, and working with as well as for communities affected by the adverse impacts of business activities; we believe that it is essential for us to address all shortcomings to ensure the adoption of an effective NAP on BHR that is inclusive of all the issues faced by affected communities, resulting in the creation of a policy document that reiterates already existing business and human rights commitments while holding the State and businesses accountable for them; through a process of protecting rights, ensuring respect for these rights, and providing for the access to remedy for the violation of rights.

**Gender Lens:** Additionally our analysis of the final draft of the NAP on BHR, led us to the conclusion that it fails to provide an effective gender lens. As a women-led organisation that recognises the importance of protecting and empowering women to guarantee a dynamic response to business and human rights activities and their impacts, we have ensured to include a strong gender lens<sup>2</sup> throughout our comments. This we do by addressing all women groups that participated and contributed to the [Regional National Baseline Assessment Dialogues](#)<sup>3</sup>, the [first experts meeting](#) to inform the independent national baseline assessment on business and human rights in Thailand<sup>4</sup>, and the [second experts meeting](#) to discuss the findings and recommendations of the independent national baseline assessment on business and human rights in Thailand.<sup>5</sup> This gender lens has been applied throughout our comments, including with respect to labour rights and protections guaranteed to women workers and sex workers; discrimination of women and LGBTI individuals; rights of rural and indigenous women including access to information and participation in decision-making processes related to the management of land, natural resources and the environment; and protection of women human rights defenders.

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<sup>2</sup> For a more in-depth analysis and understanding of the application of a gender lens to the implementation of the UN Guiding Principles of Business and Human Rights (UNGPs) in Thailand, please refer to the **Working Paper on 'Applying a Gender Lens to the UN Guiding Principles on Business and Human Rights in the context of Thailand' developed by Manushya Foundation** to guarantee the inclusion of women's concerns and solutions to regulate the negative gender impact of corporate activities. The paper is available at: <https://www.manushyafoundation.org/bhr-cso-nba-thailand>

<sup>3</sup> The four regional NBA dialogues were conducted by Manushya Foundation as follows: The Northern Regional NBA Dialogue in Chiang Mai (29 - 30 January 2017), The Northeastern Regional NBA Dialogue in Khon Kaen (23 - 24 February 2017), The Southern Regional NBA Dialogue in Hat Yai (20 - 21 March 2017) and The Eastern and Central Regional NBA Dialogue in Rayong (30 - 31 March 2017). Please access the NBA Regional Dialogues Report here: Manushya Foundation, *Meeting Report: Regional Dialogues for the CSO National Baseline Assessment (NBA) on Business and Human Rights*, (2017), available at: <https://www.manushyafoundation.org/nba-dialogues-report>

<sup>4</sup> Manushya Foundation, *Executive Summary: First Experts Meeting to inform the independent national baseline assessment on business and human rights in Thailand, 2-3 September 2017*, (2017), available at: <https://www.manushyafoundation.org/single-post/RELEASE-OF-FIRST-BHR-NBA-EXPERTS-MEETING>

<sup>5</sup> Manushya Foundation, *Executive Summary: Second Experts Meeting to discuss the findings and recommendations of the independent national baseline assessment on business and human rights in Thailand, 28 February-1 March 2018*, (2018), available at: <https://www.manushyafoundation.org/single-post/2018/07/31/RELEASE-OF-SECOND-BHR-NBA-EXPERTS-MEETING>



## 1. Sharing our Story & Perspective on the Process to develop the NAP on BHR:

We, Manushya Foundation and Thai BHR Network welcome the acknowledgment by the RLPD of our work and the contributions made by representatives from our BHR coalition, who work on aspects related to the rights of migrant workers, labour rights (formal and informal workers), trade unions, indigenous peoples, stateless persons, community rights, land-related rights, environmental rights, people with disabilities, LGBTI individuals, sexual and reproductive health, drug users, people living with HIV, sex workers, women's rights, the protection of human rights defenders, the impact of Thai outbound investments and trade agreements. We also were grateful to the RLPD for the safe space provided by cooperating in implementing Manushya Foundation's business and human rights' [strategy](#); in particular, the co-hosting of four [Regional National Baseline Assessment Dialogues](#) (January-March 2017), the [first experts meeting](#) to inform the independent national baseline assessment on business and human rights in Thailand (2-3 September 2017), and the [second experts meeting](#) to discuss the findings and recommendations of the independent national baseline assessment on business and human rights in Thailand (28 February-1 March 2018). We are truly grateful for our mutual cooperation in ensuring that concerns and solutions of affected communities are central to the NAP on BHR.

### 1.1. Clarification on Manushya Foundation and the Thai CSOs Coalition for the UPR's role in the First National Dialogue on Business and Human Rights, 22 December 2016

We would like to provide some clarity on the information shared in the introduction to the final draft NAP on BHR. The First National Dialogue on Business and Human Rights was organised by the Rights and Liberties Protection Department (RLPD) of the Ministry of Justice (MoJ), along with the Representative of Thailand to AICHR, Global Compact Network Thailand and the National Human Rights Commission of Thailand on 22 December 2016. Manushya Foundation and its community coalition, the Thai CSOs Coalition for the UPR, were not co-organisers. Manushya Foundation and communities we work with were merely present as participants only. As a reminder, Manushya Foundation was still in the process of being established end of December 2016 and was officially founded in January 2017. Moreover, we would like to highlight the fact that there was no civil society representative on the panel discussion that took place during this meeting. In addition, at that stage, civil society was not included in the NAP Committee that was established for the purpose of overseeing the drafting of the NAP.

### 1.2. Our Independent CSO National Baseline Assessment (NBA) on Business and Human Rights to inform the four key priority areas of the NAP on BHR and center community voices in the business and human rights discourse

Manushya Foundation decided to push back on the absence of critical community voices through our [business and human rights strategy](#)<sup>6</sup> and we invited the Rights and Liberties Protection Department (RLPD) of the Ministry of Justice (MoJ) to collaborate on the process to inform the NAP, by ensuring communities are at the center of this process and to provide them with a safe space to share evidence-based information on the issues they face and their recommendations to resolve these challenges. For that purpose, we decided to develop our own [Independent CSO National Baseline Assessment \(NBA\) on business and human rights in Thailand](#)<sup>7</sup> to identify the key priority issues to inform the NAP on BHR,

<sup>6</sup> Manushya Foundation, *Business & Human Rights Strategy*, (2017), available at: <https://www.manushyafoundation.org/thailand-bhr-strategy>

<sup>7</sup> Manushya Foundation & ThaiBHRNetwork, *Independent CSO National Baseline Assessment on Business and Human Rights in Thailand*, (2019), available at: <https://www.manushyafoundation.org/bhr-cso-nba-thailand>

ensuring the most challenging human rights issues and adverse impacts of business conducts could be addressed in the next five years plan (2019-2023).

This collaboration resulted in the [Regional National Baseline Assessment \(NBA\) Dialogues](#)<sup>8</sup>, co-organised by Manushya Foundation along with the Rights and Liberties Protection Department (RLPD) of the Ministry of Justice (MoJ), and the Global Compact Network Thailand, with communities directly sharing with the government and businesses the issues they face related to business and human rights in Thailand and identifying challenges, gaps and ways to implement the UNGPs at the domestic level through the provision of action-oriented recommendations. These dialogues that took place in the four regions of Thailand, Chiang Mai on 29 and 30 January 2017; Khon Kaen on 23 and 24 February 2017; Hat Yai on 20 and 21 March 2017; and Rayong on 30 and 31 March 2017, were organised as a result of equal monetary contributions by both Manushya Foundation and the RLPD. As previously explained, these dialogues informed our independent CSO NBA and not an official government NBA, ensuring voices and evidence from the ground are captured to inform an evidence-based National Action Plan (NAP), and led to the identification of three main priority areas by communities and Manushya Foundation.

We are grateful to the RLPD for following the three priority areas in their drafting of the NAP, as identified by Manushya Foundation and the affected and marginalized communities involve in our strategy during our four National Baseline Assessment (NBA) Regional Dialogues, which includes the priority areas of:

- Violation to Labour Rights and Standards;
- Community Rights, Indigenous Peoples, Land-related Rights, Natural Resources and the Environment; and
- Protection of Human Rights Defenders.

Following this, on 2-3 September 2017, a [First Experts Meeting on Business and Human Rights \(BHR\) in Thailand](#)<sup>9</sup> was organised to bring together national, regional, and international experts in the field of Business and Human Rights. At this meeting, Manushya Foundation presented its methodology to develop an Independent CSO National Baseline Assessment (NBA) on business and human rights in Thailand, including findings of its desk review, findings of the Regional NBA dialogues and community led-research involving local communities and members of the Thai CSOs Coalition for the UPR. At this meeting, a fourth priority area was identified related to **‘trade agreements and Thai outbound investments’**. We appreciate the addition of this priority area as well through the development process of the draft National Action Plan (NAP) on Business and Human Rights (BHR).

From 28 March to 1 February 2018, we organised a [Second Experts Meeting to discuss the Findings and Recommendations of the CSO National Baseline Assessment \(NBA\) on Business and Human Rights](#)<sup>10</sup> which brought back together relevant stakeholders to discuss the findings and recommendations of the CSO NBA on BHR in Thailand. While co-hosted with the Rights and Liberties Protection Department (RLPD) of the Ministry of Justice and Thailand's Representative to the ASEAN Intergovernmental Commission on Human Rights (AICHR), this event was entirely

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<sup>8</sup> Supra Note 3.

<sup>9</sup> Supra Note 4.

<sup>10</sup> Supra Note 5.



organised by Manushya Foundation. Professor Surya Deva, member of the UN Working Group on the issue of human rights and transnational corporations and other business enterprises (also referred to as the Working Group on Business and Human Rights), was invited as a key expert to provide input into the CSO NBA on BHR.

### 1.3. A zero draft NAP on BHR not taking into consideration voices from the ground

Subsequently, the Right and Liberties Protection Department (RLPD) uploaded the zero draft NAP on BHR on its website for the public to give comments between 27 June and 31 July 2018. The challenge herein remained that those most affected by the adverse impact of business activities who are thus important stakeholders in this process, often do not have access to such online forums whereby submission of comments can be made. Thus, we urged the RLPD to ensure it engages those communities that are most affected through inclusive, accessible processes by following other good practices such as seen in the case of [India's Scheme for Para-Legal Volunteers \(PLVs\)](#)<sup>11</sup>, whereby the government empowers PLVs to serve as a bridge with people at the grassroots level by reaching out to individuals at their doorstep to impart awareness on the law and access to systems and services.

### 1.4. Consecutive Draft NAPs not made public for comments and not widely disseminated

Furthermore, the NAP was further amended to create a second and [third draft of the NAP](#) (version of 22 August 2018) that was to be deliberated upon. However, this information was only shared with a few community members and CSOs by the RLPD through unofficial channels without any effort to widely disseminate it. Additionally, this draft NAP (version of 22 August 2018) was shared only two hours prior to a CSO consultation organised by the RLPD. This CSO consultation to discuss the draft National Action Plan (NAP) on Business and Human Rights (BHR) was organised by the RLPD along with the National Human Rights Commission of Thailand (NHRCT), UNDP and OHCHR on 23 August 2018. While Manushya Foundation and the Thai BHR Network welcomed the initiative, to protest the lack of transparency in the process of drafting the NAP and sincerity towards the adoption of community input on priority issues, challenges, recommendations and action towards implementation; we did not attend the event during the morning and organised a [press conference](#)<sup>12</sup> [calling on the government](#)<sup>13</sup> to:

- Ensure information of consultations, particularly the drafts of the NAP, are circulated widely and well in advance so that the concerned communities and civil society groups can provide comments and meaningfully participate in the drafting process.
- Include representation of the concerned communities and civil society groups in the NAP drafting committee, so as to secure sincere participation and transparency in the process.

<sup>11</sup> National Legal Services Authorities (NALSA) of India, *Scheme for Para-Legal Volunteers (Revised)*, (2014), available at: [https://nalsa.gov.in/sites/default/files/scheme/Scheme\\_%28Para\\_Legal\\_Volunteers%29.PDF](https://nalsa.gov.in/sites/default/files/scheme/Scheme_%28Para_Legal_Volunteers%29.PDF)

<sup>12</sup> Manushya Foundation, *'We Are Not Quiet, You're Just not Listening': Morning Press Conference*, (23 August 2018), available at: <https://www.manushyafoundation.org/single-post/Morning-Press-Conference-%E2%80%9CWe-Are-Not-Quiet-You-Are-Just-Not-Listening%E2%80%9D>

<sup>13</sup> Manushya Foundation, *'Nothing About Us, Without Us' Thai BHR Network delivers its Statement calling on a Transparent & Sincere NAP process and content*, (23 August 2018), available at: <https://www.manushyafoundation.org/single-post/%E2%80%9CNothing-About-Us-Without-Us%E2%80%9D-Thai-BHR-Network-delivers-its-Statement-calling-on-a-Transparent-Sincere-NAP-process-and-content>

- Undertake additional regional consultations with meaningful engagement of all relevant stakeholders on successive draft NAPs developed, to ensure the formulation of a NAP that addresses all relevant concerns and adopts concrete actions with respect to the actual situation on the ground.

Furthermore, the [statement](#)<sup>14</sup> also urged the government to ensure that the process of finalisation of the NAP is not rushed; and that communities, as well as involved government authorities and companies are educated about the rights and processes of business and human rights to contribute to the development and future implementation of the NAP. This statement was also presented to the government and international organisations during the afternoon session of the public consultation.

#### 1.5. We Welcome a non-rushed NAP process but note that the final Draft NAP on BHR is still excluding affected communities

As a result of these community led endeavours, we are glad to note and are deeply obliged that the RLPD did not rush the process to release the National Action Plan (NAP) on Business and Human Rights (BHR) by September 2018, as announced during the 23 August 2018 CSO consultation. We also welcome the efforts of the RLPD, to fulfil our other calls by ensuring that the content of the National Action Plan (NAP) on Business and Human Rights (BHR) is more detailed in comparison to previous drafts. However, following our review of the final draft NAP on BHR, we were disappointed to find that the draft NAP on BHR fails to acknowledge and address the circumstances of all communities, through its failure to capture certain challenges and recommendations made by them or by ignoring whole communities and their rights altogether, or addressing these communities in a manner that is detrimental to addressing the adverse impacts they face as a result of business activities. Further, we also welcome the attempt by the RLPD to adopt a more transparent process, through the provision of a publicly available draft of the NAP on BHR, while opening it for comments from civil society, from 15 February 2019 to 15 March 2019. **Nevertheless, we remain disappointed that the RLPD will not be undertaking additional regional consultations with meaningful engagement of all relevant stakeholders, as requested in our statement<sup>15</sup> of 23 August 2018.** .

As an independent CSO, Manushya Foundation recognises the importance of [engaging, mobilising and empowering communities](#) at the grassroots level; to ensure that their voices are at the center of the response to engage constructively with and provide effective solutions to address concerns related to the enjoyment of and the violation of their rights due to the negative impact of business conducts and activities. Therefore, throughout the process on the development of the NAP, Manushya Foundation and the Thai BHR Network have constantly contributed to and ensured the engagement of local communities in Thailand through their substantive contributions in the development process and the content of the NAP. However, we would like to highlight that the duty to obtain input from affected communities on the challenges they face owing to the adverse impact of business conducts and activities, is one that should be undertaken by the government. It is unfortunate that the resources dedicated to the development of the NAP were redirected to other aspects in the development process that were considered more important, with the monetary resources thus being insufficient for such community consultations.

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<sup>14</sup> Thai BHR Network, *Statement to the government: 'Thailand: Call On The Government To Be Sincere And Transparent In The Drafting Process Of The National Action Plan On Business & Human Rights With Respect To The Process And Content'*, (23 August 2018), available at: <https://www.manushyafoundation.org/nap-statement>

<sup>15</sup> *Ibid.*

## 2. Sharing our Comments on the Final Draft NAP on BHR to ensure a strong NAP on BHR to regulate corporate activities in Thailand

We submit these comments as a means to ensure a constructive engagement with the RLPD, in order to ensure the development of an effective and inclusive NAP that is representative of all communities and the issues faced by them, and that adequately address all these challenges through the provision of detailed step by step and timebound actions, which are comprehensive while ensuring the smooth operation and implementation of the NAP at all levels of society. To achieve this, as part of our comments to the NAP, we are providing changes and additions to the NAP to ensure compliance with international human rights standards and the UNGPs, and address the concerns, gaps and needs as identified by grassroots communities, civil society, academics and experts, throughout the implementation of Manushya Foundation's business and human rights [strategy](#), and analysed in Manushya Foundation and the Thai BHR Network's [Independent National Baseline Assessment on Business & Human Rights in Thailand](#). For that purpose, we are suggesting the following comments below:

- changes to the wording of the NAP in **red colour**,
- additions to the wording based on concerns and gaps identified in **blue colour**, and
- additional action points (in **blue colour**) to enable and ensure that this document is actionable as a whole in order to guarantee the compliance of State actions and business practices with the UNGPs and other international commitments made and obligations set out therein. In order to produce a more-accessible and user-friendly NAP, we also suggest that the government includes the table of the 'action plan' as an annex or appendix, rather than inside the content of the NAP itself, as it has been applied with success in other countries including [France](#)<sup>16</sup> and [Switzerland](#).<sup>17</sup>

While we submit these comments, we are cognisant of a fact related to the structure of the final draft of the NAP that must be highlighted. Structurally, a National Action Plan (NAP) should not be a replication of a National Baseline Assessment (NBA). Instead, it should be developed following the guidance of the UN Working Group (UNWG) on Business and Human Rights (BHR), as set out in the [2016 Guidance on National Action Plans on Business and Human Rights](#).<sup>18</sup> According to this guidance, a NAP must explain what constitutes government action with a good mix of mandatory and voluntary measures that clearly and effectively outlines current and planned activities by the government. This should be compiled under each guiding principle of the UNGPs; through the provision of the text of the guiding principle, current activities, and planned activities with an inclusion of specific objectives, activities to be carried out, an attribution of clear responsibilities of relevant entities, a timeframe for implementation, and performance indicators to evaluate the implementation and impact of the action. Under each guiding principle, the NAP should also endeavour to address each of the priority areas identified.

<sup>16</sup> Ministère des Affaires Etrangères et du Développement International, "National Plan for the Implementation of the United Nations Guiding Principles on Business and Human Rights", (2017), available at: <https://www.diplomatie.gouv.fr/en/french-foreign-policy/human-rights/business-and-human-rights/article/the-national-plan-for-the-implementation-of-the-united-nations-guiding>

<sup>17</sup> Confédération Suisse, *Report on the Swiss strategy for the implementation of the UN Guiding Principles on Business and Human Rights*, (2016), available at: <https://www.news.admin.ch/news/message/attachments/48579.pdf>

<sup>18</sup> UN Working Group on Business and Human Rights, *Guidance on National Action Plans on Business and Human Rights*, (2016), available at: [https://www.ohchr.org/Documents/Issues/Business/UNWG\\_NAPGuidance.pdf](https://www.ohchr.org/Documents/Issues/Business/UNWG_NAPGuidance.pdf)

Although aware of this shortcoming in the structure of the final draft of the NAP, owing to the time constraint we are just providing comments within the framework of the government developed final draft of the NAP. Additionally, we are aware and acknowledge the fact that this is the first NAP being drafted by the Royal Thai government and that it is due within a short timeframe, by 2019. Therefore, we instead express our hope that this is resolved in the next NAP drafted by the government that will be operational from 2024-2029, and that it will follow the guidance of the UNWG; identifying new priority areas and planning actions, guiding principle by guiding principle, with the comprehensive activities of the action plan indexed as an annex.

While clear gaps remain to be resolved in the final draft NAP on BHR in order to guarantee that Thai businesses are not committing or involved with human rights abuses wherever they operate, we strongly believe that our comments, if taken into consideration for the finalisation of the NAP on BHR, could strengthen it and could create a starting point to address corporate accountability and ensure responsible business conduct. We see the Thai NAP on BHR as a critical opportunity for civil society and grassroots communities to engage collectively to promote a Thai economy that is sustainable and respectful of human rights, while building understanding of private actors on the adverse impacts of their activities. We hope the final Thai NAP on BHR will allow for open, frank, transparent and constructive dialogues among all relevant sectors, so that we could all work together to ensure that Thai corporations respect human rights at home and/or abroad.

## Chapter 5: International Investments and Transnational Corporations (TNCs)

### Suggested Title: Chapter 5: International Investments, Trade Agreements and Transnational Corporations (TNCs)

**Explanation:** We, Manushya Foundation and Thai BHR Network welcome the efforts of the Royal Thai Government (RTG) to adhere to international rights and standards with respect to extraterritorial obligations arising from business activities, investments and the negotiation of agreements as seen from its national endeavours including the Cabinet Resolution of 16 May 2016 and the Cabinet Resolution of 2 May 2017. However, it is vital that these practices continue in a more sustained manner and are complemented by regional efforts, and stronger legislative and regulatory frameworks domestically. In this respect, it is important that while addressing international investments and transnational corporations; this chapter 5 provides such guarantees and protections in domestic and regional frameworks with the involvement of all relevant stakeholders in the process.

We thank the RLPD for following our fourth priority area as identified during our [National Baseline Assessment \(NBA\) Regional Dialogues](#) held in January-March 2017 to address violations to labour rights and standards, and we appreciate its efforts to ensure it is more detailed in comparison to the previous drafts of the National Action Plan (NAP) on Business and Human Rights (BHR). Nevertheless, following our review of the action plan and for the UNGPs to be upheld on the ground, we believe that this has to be further broken down into detailed step by step and timebound actions, which are comprehensive while ensuring the smooth operation and implementation of the NAP at all levels of society. To achieve this, as part of our comments to the NAP, we are providing changes and additions to the NAP to ensure compliance with international human rights standards and the UNGPs, and address the concerns, gaps and needs as identified by grassroots communities, civil society, academics and experts, throughout the implementation of Manushya Foundation's business and human rights [strategy](#), and analysed in Manushya Foundation and the Thai BHR Network's [Independent National Baseline Assessment on Business & Human Rights in Thailand](#). For that purpose, we are suggesting the following comments below:

- changes to the wording of the NAP in **red colour**,
- additions to the wording based on concerns and gaps identified in **blue colour**, and
- additional action points (in **blue colour**) to enable and ensure that this document is actionable as a whole in order to guarantee the compliance of State actions and business practices with the UNGPs and other international commitments made and obligations set out therein. In order to produce a more-accessible and user-friendly NAP, we also suggest that the government includes the table of the 'action plan' as an annex or appendix, rather than inside the content of the NAP itself, as it has been applied with success in other countries including [France](#) and [Switzerland](#).

**General Comments:** This chapter on International Investments and Transnational Corporations has addressed most aspects of international investments in a comprehensive and detailed manner, including with respect to Thai Direct Investments (TDI) abroad and Foreign Direct Investments (FDI) flowing into Thailand. However, as has been observed this chapter fails to deal with trade agreements in their entirety, particularly those of the Regional Comprehensive Economic Partnership (RCEP) and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) with their resultant adverse impacts on livelihoods, agriculture, food security and the right to health. Therefore, these trade agreement and aspects relevant to them have been reflected in the overview, challenges and the action plan below. Finally, to ensure compliance with the State duty to protect under Principle 3 of the UNGPs, effective guidance must also be provided to business enterprises on how to address and mitigate human rights impacts throughout their operations. While the draft NAP attempts to regulate the activities of the public sector and private business entities in relation to the Securities and Exchange Commission (SEC), we note that the draft NAP lacks mandatory measures to hold businesses accountable for the adverse impacts of their actions in relation to extraterritorial obligations, and should be inspired by global good practices, such as the [UK Modern-Slavery Act 2015](#), and the [French Corporate Duty of Vigilance Law 2017](#). Finally, the draft NAP fails to provide a detailed action plan for businesses which could guide their actions to be in compliance with the UNGPs; and these comments seek to remedy this shortcoming by providing such a detailed action plan.

I. Overview

Suggested additions to address gaps in the NAP

**Page 87:** Bilateral or multilateral trade and investment agreements seek to expand the scope of global governance over various economic issues outside of the UN and WTO systems. Trade agreements claim to reduce barriers to trade; however, such agreements tend to facilitate the displacement of small local businesses by large multinational corporations with predictions that this could exacerbate existing inequalities and increase rights violations. The Regional Economic Partnership (RCEP) and Trans-Pacific Partnership (TPP) are two examples of such agreements. The Regional Comprehensive Economic Partnership (RCEP) has been negotiated since 2012 between the 10 ASEAN countries and their six FTA partners. The goal is to “boost economic growth and equitable economic development, advance economic cooperation and broaden and deepen integration in the region”. If the RCEP will be adopted, half of the world’s population will be covered by it, including 420 million small family farms, producing 80% of the region’s food. As of December 2018, a roadmap is being drafted to conclude negotiations on RCEP by 2019. In early 2019, Thailand enhanced talks with India in order to conclude the RCEP within the year.

Following the United States’ 2017 exit from the TPP, a newly formed bloc of eleven Pacific Rim countries revised the agreement and renamed it the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which was signed on 8 March 2018. This treaty requires member states to ratify the International Convention for the Protection of New Varieties of Plants 1991 (UPOV 1991) and has provisions for regulatory coherence, which requires signatory governments to engage with ‘interested persons’ while strengthening public policies, meaning that companies from TPP countries are given the space to provide input to national policy-making in other member states. The CPTPP is supposed to lower or remove barriers of trade between member States; and remove tariffs on 95% of the goods traded amongst signatory countries. As of late 2018, Thailand is still not a signatory member to the CPTPP, though it is in talks to do so in 2019. A series of public hearings were conducted in all regions throughout Thailand between August and September 2018 to gather feedback from stakeholders with outcomes passed on to the CPTPP working. Concerns highlighted by stakeholders included market access for goods, services and investment, intellectual property protection, public health, investor-state dispute settlement mechanisms, and government procurement. Thai farmers and civil society organizations raised concerns about the intellectual property chapter that enforces regulations on seeds, preventing them to use patented plants’ seeds. However, in response it was highlight that farmers could still collect and reuse seeds only for a non-commercial purpose and that the CPTPP does not stipulate mandatory imports of GMOs, another concern from farmers, and Thailand’s Plant Quarantine Act bars imports of GMOs. Additionally, it was asserted that Thailand will benefit from the larger market created.



## II. Challenges

### Suggested additions to address gaps in the NAP

**Page 89: Impact of Investments and Free Trade Agreements on the Rights and Livelihoods of Communities:** Bilateral and regional trade agreements, such as the Regional Comprehensive Economic Partnership (RCEP) and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the investments and activities associated with them often result in adverse impacts. These arise due to content of these agreements as well as their process of negotiation. To elucidate, since the drafting and negotiation process of these agreement lacks transparency and excludes public participation; their terms and content affect the livelihood, food security and right to health of individuals and communities. This arises due to the negative impact on jobs by reduce wages to attract investments; reduced food security owing to the exploitation of resources and biodiversity due to these agreements; and a threat to the right to health as a result of difficulty in accessing lifesaving medicines at affordable prices and its resultant effect in other countries, limitations placed on public health safeguards, and barriers placed on universal coverage due to the inclusion of Trade Related Aspects of Intellectual Property Rights (TRIPS) provisions and Investor State Dispute Settlement (ISDS) mechanisms in trade agreements. These agreements are found to have a disproportionate negative impact on the rights of women and indigenous peoples. On access to remedy, grievance redressal mechanisms such as the ISDS mechanism have been found to generally favour investors over the protection of public interests, which results in a failure to redress the effect of adverse actions on individuals and communities.

For a deeper understanding of challenges faced by those affected by the adverse impact of businesses related to outbound investments and transnational corporations, please refer to the [thematic assessment chapters developed as part of the Independent National Baseline Assessment on Business & Human Rights in Thailand, by Manushya Foundation](#) and the Thai BHR Network.

## III. Action Plan

### Pillar I: State duty to Protect (Protect)

No.	Issue	Activity	Responsible agencies	Timeframe	Indicator	Compliance with National strategy, SDGs and UNGPs
1	<b>Amendment and adoption of relevant laws, rules, regulations, policies, and measures</b>	Develop guidelines and processes in checking contracts for cases where the government sector does business with TNCs, while taking into consideration Human Rights Due Diligence (HRDD)	The Office of Attorney General	2562-2566 B.E. (2019-2023)	Guideline and process in checking the contract for cases where the government sector does business with TNCs, while taking into consideration of Human Rights Due Diligence (HRDD)	- National strategy for creating competitive capability - National strategy for balancing and developing the public administration system SDG No. 8,16 UNGP No. 1,3,4,5,7,8,9,10



		<p>In consultation with concerned stakeholders including affected individuals and community groups, study ways to adopt, amend or improve laws, policies, measures that are concrete in examining the violation of adverse transboundary human rights impacts in order to ensure protection, remedy, and transboundary accountability that is in line with international standards, such as the OECD Guideline for Multinational Enterprises. This should include the enactment of a law on the basis the 2016 cabinet resolution to expand the scope and better regulate Thai outbound investments, including through the provision of a singular oversight body for all transboundary projects.</p>	<ul style="list-style-type: none"> <li>- Ministry of Foreign Affairs</li> <li>- Ministry of Justice</li> </ul>	<p>2562-2566 B.E. (2019-2023)</p>	<ul style="list-style-type: none"> <li>- Improvement of laws, policies, or mechanisms in order to examine the adverse transboundary human rights impacts in order to censure protection, remedy, and transboundary accountability that is in line with international standards, such as the OECD Guideline for Multinational Enterprises</li> <li>- Impact analysis of development projects is carried out prior to and following the implementation of laws that regulate transboundary investments, both at the State and regional level with sharing of information obtained</li> </ul>	<ul style="list-style-type: none"> <li>- National strategy for creating competitive capability</li> <li>- National strategy for balancing and developing the public administration system</li> <li>- SDG No. 8,16</li> <li>- UNGP No. 1,3,4,5,7,8,9,10</li> <li>- ICCPR</li> <li>- ICESCR</li> <li>- General Comment no. 24 of the CESCR</li> </ul>
		<p>Study ways to amend the Securities and Exchange Act B.E. 2535 (1992) in order to include regulation, control, oversight, and punishment; in the case of investment by companies registered in the Stock Exchange of Thailand, whether or not the investment is in the form of a subsidiary or a joint venture. Develop a Good Governance Code (CG code) to provide a legal obligation</p>	<p>Securities and Exchange Commission</p>	<p>2562-2566 B.E. (2019-2023)</p>	<ul style="list-style-type: none"> <li>- Result of the study on ways to amend the Securities and Exchange Act B.E. 2535 (1992) in order to include regulation, control, oversight, and punishment; in the case of investment by companies registered in the Stock Exchange of Thailand, whether or not the investment is in the form</li> </ul>	<ul style="list-style-type: none"> <li>- National strategy for creating competitive capability</li> <li>- National strategy for balancing and developing the public administration system</li> <li>- SDG No. 8,16</li> <li>- UNGP No. 1,3,4,5,7,8</li> </ul>



					of a subsidiary, or a joint venture and - Develop a Good Governance Code (CG code) to provide legal obligation	
		Consider reviewing laws and regulations related to the Eastern Economic Corridor (EEC), such as <a href="#">NCPO Order 47/2017</a> . There should be clear regulation of the activities of businesses and investors and punishment in this case, when there are violations or adverse impacts that arise as a result of their activities. Affected individuals and communities should be consulted to determine such impacts	- Office of the National Economic and Social Development Council - Neighbouring Countries Economic Development Corporation Agency (public organisation) - Eastern Economic Corridor (EEC) Office	2562-2566 B.E. (2019-2023)	A meeting is convened to review laws and regulations related to the Eastern Economic Corridor (EEC), with the participation of affected individuals, communities and other stakeholders, with the input of independent experts in the process.	- National strategy for creating competitive capability - National strategy for creating growth on the quality of life that is environmentally friendly. - National strategy for balancing and developing the public administration system - SDG No. 8,16 - UNGP No. 1,3,4,5,7,8
		Create a channel to disclose information about the Eastern Economic Corridor Project (EEC), including in all border economic zones, and mechanisms to consult with affected communities; without any restrictions or measures taken to regulate the content of the information that can be accessed.	- Office of the National Economic and Social Development Council - Neighbouring Countries Economic Development Corporation Agency (public organisation) - Ministry of Interior - Ministry of Industry - Eastern Economic Corridor (EEC) Office	2562-2566 B.E. (2019-2023)	A channel is established to disclose information about the Eastern Economic Corridor Project (EEC), including in all border economic zones, and on mechanisms to consult with affected communities.	- National strategy for creating competitive capability - National strategy for creating growth on the quality of life that is environmentally friendly. - National strategy for balancing and developing the public administration system - SDG No. 8, 16 - UNGP No. 1,3,4,5,7,8
		Reconsider the draft legislation that seeks to amend the Plant Variety Protection Act B.E. 2542	Department of Agriculture	2562-2564 B.E. (2019-2021)	Consultation with the National Human Rights Commission, local civilian	



	(1999) in order to comply with UPOV91 (International Convention for the Protection of New Varieties of Plants) due to its adverse impact on farming and indigenous communities.			agencies, and with the participation of indigenous people in these decisions that directly affect them and their rights through prior consultation utilising participatory approaches.	
	Adopt and enforce necessary laws, policies and regulations that require human rights due diligence by Thai multinational companies to prevent, mitigate and address their human rights impacts in operations abroad, including by their sub-contractors, and in their supply chain; with adverse impacts and failure to act resulting in criminal and administrative sanctions. This must follow the example of the French Corporate Duty of Vigilance Law, 2017	<ul style="list-style-type: none"> <li>- Ministry of Labour</li> <li>- Ministry of Justice</li> <li>- Ministry of Environment and Natural Resources</li> </ul>	2562-2564 B.E. (2019-2021)	Re-evaluation of the impact of businesses through monitoring is carried out on a regular basis, and carried out in businesses, their subsidiaries and their supply chain	General Comment 24 of the CESCR
	Incorporate mechanisms stated in Article 190 of the 2007 Constitution into the new Constitution, in order to ensure transparency and public participation in bilateral and regional trade agreement negotiations. Also, allow for these agreements to be scrutinised by the Parliament.	<ul style="list-style-type: none"> <li>- National Council for Peace and Order (NCPO)</li> <li>- National Legislative Assembly</li> <li>- Negotiating parties of FTAs</li> </ul>	2562-2564 B.E. (2019-2021)	Participation of individuals and affected communities in negotiations for trade agreements, at every stage	2013 Report of the Special Rapporteur on the human right to safe drinking water and sanitation
	Ensure bilateral and regional trade agreements do not have a negative impact on the right to health. Use public	Trade Negotiation Department	2562-2564 B.E. (2019-2021)	Trade agreements that support the right to health	2006 Concluding Observations on the Committee to the Rights of the Child to Thailand



		health safeguards under WTO’s TRIPs Agreement and the Doha Declaration to promote access to affordable medicines and right to health, and withdraw TRIPs plus provisions and investor-state dispute settlement (ISDS) provisions from the trade agreement negotiations				
		Publish the text of the RCEP agreement for scrutiny and review of the parliament and civil society, to enable a transparent and efficient negotiation process that involves the communities and individuals affected by RCEP and that their views and needs are taken into considerations	Trade Negotiation Department	2562-2564 B.E. (2019-2021)	Inclusive and participatory negotiation process is undertaken, with the views of affected communities taken into consideration	2013 Report of the Special Rapporteur on the human right to safe drinking water and sanitation
		Enact, adopt and enforce anti - SLAPP legislation to regulate the impact of laws such as the Computer Crimes Act and NCPO orders, for the decriminalisation of defamation with respect to development projects, where there are violations extraterritorially or where they arise as a result of transboundary investments. In these cases, burden of proof must not be placed on the defendant/affected individual	Ministry of Justice	2562-2564 B.E. (2019-2021)	Enforceable legislation that decriminalises legitimate responses and access to grievance redressal by individuals and communities, with respect extraterritorial impacts and/or transboundary investments	<ul style="list-style-type: none"> <li>- National strategy for creating competitive capability</li> <li>- National strategy for balancing and developing the public administration system</li> <li>- SDG No. 8,16</li> <li>- UNGP No. 1,3,4,5,7,8,9,10</li> <li>- ICCPR</li> <li>- ICESCR</li> <li>- General Comment no. 24 of the CESCR</li> </ul>
<b>2</b>	<b>Creating awareness of the investor</b>	Disseminate the UNGPs to the business sector, or to entrepreneurs, by establishing a channel to communicate with the	- Securities and Exchange Commission - Stock Exchange of	2562-2566 B.E. (2019-2023)	Trainings and meetings are convened to disseminate the UNGPs	<ul style="list-style-type: none"> <li>- National strategy for creating competitive capability</li> <li>- National strategy for balancing and developing the public</li> </ul>



	Securities and Exchange Commission and Stock Exchange of Thailand	Thailand - Bank of Thailand - The Joint Standing Committee on Commerce, Industry and Banking - Ministry of Justice - Ministry of Commerce (Department of Business Development)			administration system - SDG No. 8,16 - UNGP No. 1,3,4,5,7,8
	Encourage the business sector to place importance on the relationship between large companies and their supply chain, outsourced services and subcontractors that may cause an adverse impact on human rights	Securities and Exchange Commission	2562-2566 B.E. (2019-2023)	Training of the business sector to have knowledge and understanding on human rights and the connection between large companies and their supply chain, outsourced services and subcontractors that may cause an adverse impact on human rights	- National strategy for creating competitive capability - National strategy for balancing and developing the public administration system - SDG No. 8,16 - UNGP No. 1,3,4,5,7,8
	Ascribe a duty on the Bank of Thailand to require Thai banks to have a policy, to protect the environment and society (Bank's Environmental and Social Safeguards Policies), especially while giving loans to large investment companies, both in Thailand and neighbouring countries, by applying the Equator Principles (an international standard for credit approval)	- Ministry of Finance - Bank of Thailand	2562-2566 B.E. (2019-2023)	- Have environmental and social safeguard policies, for measures such as giving loans to the businesses in Thailand and abroad - A meeting is convened on implementing the Equator Principle	- National strategy on creating growth on the quality of life that is environmentally friendly - National strategy on developing and building the capacities of human resources - SDG No. 8,16 - UNPG No. 1,3,4,5,7,8





3	Promoting investment	<p>Certify that the state gives priority to promoting and encouraging investors and business organisations located in Thailand, to respect and comply with laws and domestic regulations. This will reflect the government's policy in managing and protecting public interests, as well as protecting basic human rights, the environment, public health, favourable conditions at work, social security provision etc.</p>	<ul style="list-style-type: none"> <li>- Ministry of Foreign Affairs</li> <li>- Ministry of Commerce (Department of Trade Negotiations)</li> </ul>	2562-2566 B.E. (2019-2023)	<p>Negotiating agreements to promote and protect an investment and stabilisation clause in the Free Trade Agreement, which adheres to the principles of protection and respect for human rights and avoids negative impacts</p>	<ul style="list-style-type: none"> <li>- National strategy on creating competitive capability</li> <li>- National strategy on balancing and developing the public administration system</li> <li>- SDG No. 8,16,17</li> <li>- UNGP No. 1,3,4,5,7,8</li> </ul>
		<p>Consider measures to encourage businesses located at the border of sovereignty of Thailand, to implement the UNGPs. The initiative or the development of the project should take into consideration public interest, the right to participation of persons, and the effect on the local population; before deciding to implement the project</p>	<p>Securities and Exchange Commission</p>	2562-2566 B.E. (2019-2023)	<p>Training for business organisations located at the border of sovereignty of Thailand, to comply with the UNGPs</p>	<ul style="list-style-type: none"> <li>- National strategy on creating competitive capability</li> <li>- National strategy on balancing and developing the public administration system</li> <li>- SDG No. 8,16</li> <li>- UNGP No. 1,3,4,5,7,8,9 &amp; 10</li> </ul>
		<p>Create awareness, promote and facilitate Thai entrepreneurs to invest abroad while respecting human rights, as well as complying with various rules and regulations; which include rules related to human rights of the country of investment (host country). Consider creating a guideline on investing in each country</p>	<ul style="list-style-type: none"> <li>- Securities and Exchange Commission</li> <li>- BOI</li> <li>- Exim Bank</li> <li>- Ministry of Commerce (Department of International Trade Promotion)</li> </ul>	2562-2566 B.E. (2019-2023)	<p>Training or provision of knowledge to entrepreneurs who are going to invest abroad in order for them to respect human rights principles.</p>	<ul style="list-style-type: none"> <li>- National strategy on creating competitive capability</li> <li>- National strategy on the development and strengthening of human resources</li> <li>- SDG No. 8,16,17</li> <li>- UNGP No. 1,3,4,5,7,8,9,10</li> </ul>



		<p>Adopt and enforce necessary laws, policies and regulations that require Human Rights Due Diligence to be conducted by independent academics that the local population and society accepts, before implementing a large-scale development project or projects related to the provision of public services. This also includes joint investments between the government and private sector to develop projects about infrastructures and public services that are the duty of the state, including in cases where the state has assigned the private sector to undertake such project for it</p>	<ul style="list-style-type: none"> <li>- Office of the National Economic and Social Development Council</li> <li>- Ministry of Natural Resources and Environment (Office of Natural Resources and Environmental Policy and Planning)</li> <li>- Ministry of Transport</li> <li>- Ministry of Finance (State Enterprise Policy Office)</li> <li>- Ministry of Energy</li> <li>- Ministry of Industry</li> <li>- Neighbouring Countries Economic Development Corporation Agency (public organisation)</li> </ul>	<p>2562-2566 B.E. (2019-2023)</p>	<p>Human Rights Due Diligence is conducted by independent academics before undertaking large-scale projects.</p>	<ul style="list-style-type: none"> <li>- National strategy on creating competitive capability</li> <li>- National strategy on balancing and developing the public administration system</li> <li>- National strategy on the development and strengthening of human resources</li> <li>- SDG No. 8,16,17</li> <li>- UNGP No. 1,3,4,5,7,8,9,10,17,18,19</li> </ul>
		<p>Commit to holding a deliberative referendum, in the case of sensitive issues or for actions that will have severe impacts on human rights especially on issues related to Intellectual Property Rights, Investment and Investor State Dispute Settlement (ISDS). Insist that arrangements for the privatisation of public goods specifically address human rights implications</p>	<ul style="list-style-type: none"> <li>- Ministry of Justice</li> <li>- Trade Negotiation Department</li> </ul>	<p>2562-2563 B.E. (2019-2020)</p>	<ul style="list-style-type: none"> <li>- Steps are taken in consultation with the National Human Rights Commission and the negotiating countries in trade agreements, with the participation of business organizations and potential investors.</li> <li>- Balance of human rights and investments are ensured</li> </ul>	



		Develop sustainable investment guidelines to regulate foreign investors, at every stage of the investment. These must specify what companies must do in order to comply with domestic legislation and international human rights standards by providing for the principles of ‘do not harm’, due diligence, and the right of communities to access remedies	Ministry of Industry	2562-2563 B.E. (2019-2020)	Mechanisms and remedies address community specific needs, based on the harm caused and the differing requirements of those affected based on this	
4	<b>Preventing human rights violations abroad or as a result of extra-territorial activities</b>	Promote Thai businesses abroad to respect human rights	- Ministry of Foreign Affairs - Ministry of Finance	2562-2566 B.E. (2019-2023)	A handbook for Thai businesses in operating abroad, while respecting human rights according to the UNGPs.	- National strategy on developing and building the capacities of human resources - National strategy on balancing and improving the public administration system - SDG No. 8,16,17 - UNGP No. 1,3,4,5,7,8,9,10
		Consider the possibility of developing <b>Develop enforceable</b> guidelines or agreements regarding transboundary Environmental Impact Assessments, <b>Environmental Health Impact Assessments, Human Rights Impact Assessments, Social Impact Assessments, Gender Impact Assessments and Regulatory Impact Assessments</b> and monitor the transboundary impact on health, agriculture, society, <b>land, natural resources</b> , and the environment	- Office Of Natural Resources and Environmental Policy and Planning - <b>Negotiating parties of FTAs</b>	<del>2562-2566 B.E. (2019-2023)</del> <b>2562-2563 B.E. (2019-2020)</b>	- A consultation or feasibility study is organised to develop a guideline or agreement regarding transboundary Environmental Impact Assessments - A consultation or establishment measure to monitor the transboundary impact on health, agriculture, society, and the environment - <b>inclusivity, meaningful and effective participation</b>	- National strategy on balancing and developing the public administration system - SDG No. 8,13,14,15,16 - UNGP No. 1,3,4,5,7,8,9,10 - <b>2012 concluding observations on the Committee on the Rights of the Child to Thailand</b>



		Conduct these impact assessments, produce and publish reports and data on their results taking into consideration the impact on marginalised communities, and small and medium-sized enterprises for the framework and negotiations of FTAs and other trade and investment related agreements, including those under the RCEP			in policymaking and engagement of all stakeholders such as local communities and CSOs that are either directly involved, or directly or indirectly affected by partnerships or agreements. Expression of views and concerns on the impact of projects and investments - Confidentiality carve-outs in impact assessment reports are strictly limited	
		Establish measures to prevent human rights violations in state enterprise investment projects (and Thai businesses abroad), as well as complaint mechanisms	- Office of the National Economic and Social Development Council - State Enterprise Policy Office (Ministry of Commerce)	2562-2566 B.E. (2019-2023)	A consultation and the establishment of measures and complaint mechanisms for cases of human rights violation in state enterprise investment projects (and Thai businesses abroad)	- National strategy on balancing and developing the public administration system - SDG No. 8,16,17 - UNGP No. 1,3,4,5,7,8,9,10
		Ensure transparency and the respect for community and individual rights to public information that impacts the community, environment and development, even if it involves the rights of those from other countries; by providing information on upcoming projects in a systematic manner and that allows communities to access information without restriction through a responsible agency	Ministry of Natural Resources and Environment	2562 B.E. (2019)	- This transparency mechanism is the shared responsibility of businesses and the government to inform the communities prior to the development of a project - Information related to well-being and the environment sought by affected individuals or communities is made available	- Article 1 of ICCPR and ICESCR - CCPR General Comment No. 12



		Ensure public-participation on issues of environment and management of natural resources affected as a result of transboundary impacts. This is achieved by adopting a human-rights based approach in projects, through participatory mechanisms to ensure that no decision is made that may affect access to resources without consulting individuals and communities concerned, with a view to seeking their free, prior and informed consent (FPIC). Also, ensure local communities, including indigenous peoples and ethnic minorities play a vital role in the environmental management and development of their land, as their knowledge and local wisdom is essential and must be considered in decision-making processes.	- Ministry of Industry - Ministry of Natural Resources and Environment	2562-2563 B.E. (2019-2020)	- Guaranteed active, informed and meaningful participation of individuals, communities and CSOs from inception of projects through all the steps, including monitoring, evaluation and decision-making processes until the completion of the project - Assistance from the international community and regional experts working in the area of ETOs, community rights, environmental protection and business sustainability is sought	- 2015 Concluding Observations of the Committee on Economic, Social and Cultural Rights to Thailand - 2017 Concluding Observations of the Human Rights Committee to Thailand
5	<b>Improving the operation of the public sector</b>	Provide for the setting up of a central agency to control and monitor cases of international environmental impacts.	Ministry of Natural Resources and environment	2562-2566 B.E. (2019-2023)	Consultation and consideration for setting up a central agency to control and monitor cases of international environmental impacts	- National strategy on creating growth on the quality of life that is environmentally friendly - National strategy on balancing and developing the public administration system - SDG No. 8,13,14,15,17 - UNGP No. 1,3,4,5,7,8,9,10
6	<b>State enterprise</b>	Arrange for state enterprises to be a model for the business sector, by creating a guideline that is concrete and motivational, such as through indicators for the	- Ministry of Finance (State Enterprise Policy Office) - <b>Ministries and authorities involved</b>	2562-2566 B.E. (2019-2023)	- State enterprises have projects or activities to mobilise the UNGPs and Human Rights Due Diligence assessment, and	- National strategy on balancing and developing the public administration system - SDG No. 8,16 - UNGP No. 1,3,4,5,7,8,9,10



		operation of state enterprises in protecting and mitigating risks and human rights impacts, and doing so in their activities abroad undertaken by their subsidiaries, sub-contractors, or in joint ventures. This should extend to all activities including procurement, supply and recruitment in a transparent manner.	such as Ministry of Energy, Electricity Generating Authority of Thailand (EGAT)		share good practices and concrete measures to other business sectors - Transparency and accountability in all transboundary activities of state enterprises, guaranteeing protection of rights against adverse impacts	
7	<b>Operation of the business sector</b>	Promote the application of measures on the voluntary or compelled disclosure of information, in relation to the Securities and Exchange Commission (SEC)	Securities and Exchange Commission	2562-2566 B.E. (2019-2023)	A consideration of measure to promote agencies to apply measures on voluntary or compelled disclosing of information, in relation to the Securities and Exchange Commission	- National strategy on balancing and developing the public administration system - SDG No. 8,16 - UNGP No. 1,3,4,5,7,8,9,10
		Study and consider establishing incentive measures that are in line with activities of the business sector, to align these with the country's situation and their many small-scale enterprises. This can be done by establishing incentive measure for entrepreneurs and workers directly, such as by developing a project to support activities on the protection of human rights in small-scale enterprises	- Office of the National Economic and Social Development Council - The Office of SMEs Promotion	2562-2566 B.E. (2019-2023)	A study and establishment of incentive measure for the business sector, entrepreneurs or workers by taking into consideration the situation of Thailand which has many small-scale enterprises	- National strategy on balancing and developing the public administration system - SDG No. 8,16 - UNGP No. 1,3,4,5,7,8,9,10





8	<p><b>Promoting cooperation in the mobilisation of issues on business and human rights at the regional and international levels, while addressing them collectively</b></p>	<p>Exchange and disseminate good practices in mobilising issues related to business and human rights at the regional and international levels, particularly in the case of development projects. An example of this are the standards set out for water projects in the 1995 Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin.</p>	<ul style="list-style-type: none"> <li>- Ministry of Foreign Affairs</li> <li>- Ministry of Justice</li> </ul>	2562-2566 B.E. (2019-2023)	<p>Activities to exchange or disseminate good practices to mobilise the implementation of UNGPs, such as through the periodic preparation of courses for relevant officials in countries that are interested in workshops</p>	<ul style="list-style-type: none"> <li>- National strategy on creating competitive capability</li> <li>- National strategy on the development and strengthening of human resources</li> <li>- National strategy on balancing and developing the public administration system</li> <li>- SDG No. 8,16,17</li> <li>- UNGP No. 1,3,4,5,7,8,9,10</li> </ul>
		<p>Ensure regional cooperation, consultation and discussion while analysing the transboundary impacts of individual projects, carried out through a collaborative regional approach and with a view to studying consequences in all impacted countries and communities using due diligence mechanisms such as EIAs, EHIAs, HRIAs and gender impact assessments.</p>	<ul style="list-style-type: none"> <li>- Ministry of Foreign Affairs</li> <li>- Ministry of Justice (in association with ASEAN through AICHR)</li> </ul>	2562-2563 B.E. (2019-2020)	<p>Carried out with the participation of those affected by the development project, in all ASEAN countries; and taking into consideration their best interests</p>	
		<p>A responsible agency must be assigned to ensure the dissemination of the information on the impact analysis in an accessible manner</p>				



		Jointly provide for the protection and promotion of human rights and environmental rights under extraterritorial obligations, by leveraging the membership of regional organisations such as the ASEAN. This can be achieved by ASEAN promulgating law, policy and practice along with redressal mechanisms to address the violation of rights as a result of the adverse impact from/on countries in the region	- Ministry of Foreign Affairs - Ministry of Justice (in association with ASEAN through AICHR)	2562-2564 B.E. (2019-2021)	Monitoring the implementation of these provisions is undertaken regularly by ASEAN institutional mechanisms such as the AICHR	
		Negotiate, through a transparent and consultative process, an agreement that promotes regional economic cooperation that is based on equitable, fair, and sustainable development. These include provisions for investors to adopt standards of responsible business conduct, including the UNGPs	- Trade Negotiation Department - Ministry of Foreign Affairs - Ministry of Industry	2562-2564 B.E. (2019-2021)	The agreement ensures high levels of environment and labor protection, which are not lowered in order to encourage investment.	- UNGPs

**Pillar II: Corporate responsibility to respect (Respect)**

No.	Issue	Activity	Responsible agencies	Timeframe	Indicator	Compliance with National strategy, SDGs and UNGPs, and business-oriented standards and guidelines
1	<b>Fulfilment of International Obligations, including those</b>	Prevent or cease carrying out of any activity that causes environmental harm or that violates the rights of individuals	Businesses	2562-2563 B.E. (2019-2020)	- Inclusion of a local community representative in the project review team of the company.	



	<p><b>under the UNGPs</b></p>	<p>and communities, through operations and investments within the country and abroad.</p>			<ul style="list-style-type: none"> <li>- Inclusive and effective processes of consultation to determine the impact of business activities, within the country and abroad</li> <li>- Publicly available reports, with transparency in information and accessibility in terms of language, content and mode of dissemination</li> <li>- All adverse social and environmental as well as human rights impacts are addressed</li> <li>- Regular review of projects and investments for detrimental affect</li> <li>- Decommissioning of projects with negative impacts on society, livelihood, the environment and human rights.</li> </ul>	
		<p>Carry out periodic reviews of the project and share the reports with the representatives of the community, while ensuring transparency in the report.</p>				
		<p>Carry out need assessment studies to create a project plan without adverse impacts. Comply with international best practices on social and environmental safeguards and human rights principles, in this respect.</p>				
		<p>Regulated, periodic and frequent visits to the project location should be carried out by business representatives, to collect information on the detrimental effects of their business on the community and the environment.</p>				
		<p>Immediately decommission projects negatively affecting local populations and restore rivers and environment to re-establish livelihoods, in response to impacts arising out of domestic and transboundary business activities and investments</p>				



2	<b>Abstain from policies and actions that cause, contribute or are complicit in human rights violations; within the country or abroad</b>	Avoid contributing to any actions of land grabbing and forced eviction in any project; structural arrangements with corporate partners to ensure all parties uphold responsibilities with respect to these rights; and build leverage in pre-existing projects or business relations to prevent or mitigate adverse impacts of investments, development projects or other business activities, domestic or transboundary.	Businesses	2562 B.E. (2019)	All actions resulting from external interactions of the business should be without adverse actual and potential human rights impacts that the business causes, contributes to or is linked with through any operation, investment, product or service in the country or through extra-territorial investments.	
		Abstain from advocating for legislations that restrict rights, through corporate capture of the legislature in all countries of operation. Companies should understand and promote rights of individuals and communities, which are beneficial to them and their economic well-being, and refrain from dismissing extraterritorial obligations.	Businesses	2562 B.E. (2019)	Coordination with domestic civil society and those affected in every jurisdiction ensures a social license to operate.	
		With development in a sustainable manner as a priority in their investment profile, investors should ensure that they consider environmental and social risks as mitigating factors while investing in projects, within the country and abroad including in relation to RCEP. Internal policy should mandate the requirement of investment projects to address any negative	Businesses	2562 B.E. (2019)	- Independent assessment of mitigating factors should be undertaken before, during and after the project. - This is carried out in consultation with affected individuals and communities, through an inclusive and participatory process	



		<p>impacts that projects may have on the environment and at the social level.</p> <p>To determine mitigation factors, investors should undertake independent human rights impact assessments of their investments under various projects including the RCEP, through meaningful and effective participation of the local communities and CSOs. This must be seen as independent obligation unrelated to any state-imposed regulations.</p>				
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**Pillar III: Access to Remedy (Remedy)**

No.	Issue	Activity	Responsible agencies	Timeframe	Indicator	Compliance with National strategy, SDGs and UNGPs
1	<b>Complaint Mechanism</b>	Coordinate cooperation with foreign countries in order to set up an international mechanism, to examine and investigate business activities which have an impact on communities.	Ministry of Foreign Affairs	2562-2566 B.E. (2019-2023)	A meeting or discussion is organised with foreign countries to consider the possibility of establishing an international mechanism, to examine and investigate business activities which have impacts on communities	<ul style="list-style-type: none"> <li>- National strategy for balancing and developing the public administration system</li> <li>- SDG No. 8,16</li> <li>- UNGP No. 24,25,26,27,28,29,31</li> </ul>



2	<b>Monetary assistance or remedy</b>	Consider the possibility of establishing funds to compensate and restore affected persons in terms of occupation, livelihood, society, culture, health, food, housing, environment, and natural resources, in order to provide prompt assistance	Ministry of Natural Resources and Environment	2562-2566 B.E. (2019-2023)	A meeting is convened to consider the possibility of establishing a fund, to compensate and restore affected persons in terms of occupation, livelihood, society, culture, health, and natural resources, in order to provide prompt assistance	<ul style="list-style-type: none"> <li>- National strategy for balancing and developing the public administration system</li> <li>- SDG No. 8,16</li> <li>- UNGP No. 24,25,26,27,28,29,31</li> </ul>
3	<b>Preventing impacts</b>	Establish measures to handle potential impacts, such as having regular assessments to test the understanding of villagers, such as by having rehearsals or alarms, or having in place processes to prevent chemical leakage	<ul style="list-style-type: none"> <li>- Ministry of Interior</li> <li>- Ministry of Industry</li> </ul>	2562-2566 B.E. (2019-2023)	Establish measures to handle potential impacts	<ul style="list-style-type: none"> <li>- National strategy for balancing and developing the public administration system</li> <li>- SDG No. 8,16</li> <li>- UNGP No. 24,25,26,27,28,29,31</li> </ul>
4	<b>Remove practical and procedural barriers to legal remedies</b>	<p>Remove barriers to access effective judicial remedies through courts, by developing guidelines to prevent filing of SLAPP lawsuits against those who defend the violation of rights by outbound investments. Anti-SLAPP legislation should be implemented with the burden of proof on the business or prosecution.</p> <p>Address the lack of territorial and subject matter jurisdiction over violation of rights caused by the adverse impacts of transboundary investments or operations.</p>	Ministry of Justice	2562-2563 B.E. (2019-2020)	Presence of structural and functional barriers are reviewed periodically through a study of individual cases and overall patterns.	<ul style="list-style-type: none"> <li>- National strategy for balancing and developing the public administration system</li> <li>- SDG No. 8,16</li> <li>- UNGP No. 24,25,26,27,28,29,31</li> </ul>





		Address the absence of legal aid available to the indigent to address ETOs, by providing funding to make the claims financially viable.				
5	State based grievance redressal mechanisms	Establish specific remedies and grievance redressal mechanisms and strengthen existing ones for affected people and communities to submit complaints and seek remedies, particularly with respect to transboundary investments. Provide fair treatment, just compensation, and appropriate remedies to affected people, including in collaboration with Thai investors.	- Ministry of Foreign Affairs, - Ministry of Commerce - Ministry of Justice	2562 B.E. (2019)	- Determine the number of grievances received against the number resolved, to study effectiveness of redressal. - These mechanisms are culturally appropriate and take into consideration the local context, circumstances, and local languages.	- National strategy for balancing and developing the public administration system - SDG No. 8,16 - UNGP No. 24,25,26,27,28,29,31
		Strengthen the national judicial system to effectively adjudicate human rights violations in business contexts, including in transboundary cases, in line with the UNGPs	Ministry of Justice	2562-2563 B.E. (2019-2020)	- Remedies need to be effective, accessible and available for all persons affected, without discrimination - Restitution or compensation shall be provided	- National strategy for balancing and developing the public administration system - SDG No. 8,16 - UNGP No. 24,25,26,27,28,29,31
		In cases where rights are harmed by investments under RCEP, include a dispute settlement mechanism to decide claims against a government, which must take into account the investor’s non-compliance with the UNGPs. Herein also enable victims to bring claims in the court of the home state of the	Ministry of Justice	2562-2563 B.E. (2019-2020)	Results in effective remedies for people and communities affected, through accessible mechanisms with adequate compensation	- National strategy for balancing and developing the public administration system - SDG No. 8,16 - UNGP No. 24,25,26,27,28,29,31



		investors.				
6	<b>Non-state based grievance redress mechanisms</b>	Businesses should use associations or multi-stakeholder approaches including at the operational level of subsidiaries and in the supply chain. Requirements for such mechanisms can be included in the granting or renewal of licenses and/or agreements with consideration to the size, operation and experiences or potential of harms of the business, sector or country. Set up physically and virtually accessible mechanism, with effective remedies taking into consideration language barriers.	Businesses	2562 B.E. (2019)	- Determine the number of grievances received against the number resolved, to study effectiveness of redressal. - These mechanisms should be culturally appropriate and take into consideration the local context, circumstances, and local languages.	- National strategy for balancing and developing the public administration system - SDG No. 8,16 - UNGP No. 24,25,26,27,28,29,31
		Strengthen the effectiveness of existing non-judicial state-based grievance redressal mechanisms which are particularly relevant in the case of ETOs, including through independent oversight. In this respect, ensure that the NHRCT and the offices of ombudspersons have sufficient mandate and resources to admit complaints from affected individuals and communities.	Ministry of Justice	2562-2563 B.E. (2019-2020)	Adequate independent oversight mechanisms must be put in place to regularly test these mechanisms.	- National strategy for balancing and developing the public administration system - SDG No. 8,16 - UNGP No. 13,24,25,26,27,28,29, 31



		Ensure the effectiveness of OECD National Contact Points by raising awareness of their existence, increasing their mandate and providing increased finances. These must be bolstered through provisions in domestic law, such as the implementation of remedial action and appropriate consequence in the form of administrative penalties like fines or limiting access to state services.	Ministry of Justice	2562-2563 B.E. (2019-2020)	<ul style="list-style-type: none"> <li>- Number of cases in which the OECD National Contact Point was approached</li> <li>- Number of cases successfully resolved</li> </ul>	<ul style="list-style-type: none"> <li>- National strategy for balancing and developing the public administration system</li> <li>- SDG No. 8,16</li> <li>- UNGP No. 24,25,26,27,28,29,31</li> </ul>
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**MANUSHYA**  
Empowering Communities | Advancing Social Justice

Founded in 2017, Manushya Foundation serves as a bridge to engage, mobilise, and empower agents of change by: connecting humans through inclusive coalition building and; by developing strategies focused at placing local communities' voices in the centre of human rights advocacy and domestic implementation of international human rights obligations and standards.

Manushya Foundation strengthens the solidarity and capacity of communities and grassroots to ensure they can constructively raise their own concerns and provide solutions in order to improve their livelihoods and the human rights situation on the ground.