



# The role of OECD instruments on responsible business conduct in progressing environmental objectives



Further to the priorities of the Working Party for Responsible Business Conduct (RBC), this Paper presents an overview of the role of the OECD Guidelines for Multinational Enterprises (OECD Guidelines) and OECD guidance on due diligence for RBC in progressing environmental objectives. The paper provides the foundations for on-going and future work of the OECD Centre for RBC on these issues – with a particular focus on climate change, biodiversity and the circular economy – and responds to increasing expectations for business to address environment related impacts and risks on people and the planet. Specifically, in highlighting provisions relevant to environmental considerations across key chapters of the OECD Guidelines, due diligence guidance, and cases decided by the National Contact Points for RBC (NCPs), the paper illustrates how environmental objectives, together with social dimensions, are at the core of OECD instruments on RBC.

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This work refers to trends and developments accurate at the time of drafting. In certain cases, it may be that further developments have taken place since the time of publication.

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# Introduction

This Paper provides a snapshot of the role of the OECD Guidelines for MNEs (OECD Guidelines) and OECD guidance on due diligence for Responsible Business Conduct (RBC) in progressing environmental objectives, and provides the foundations for on-going and future work of the OECD Centre for RBC on these issues.

Specifically, in highlighting provisions relevant to environmental considerations across key chapters of the OECD Guidelines and due diligence guidance, the paper illustrates how environmental objectives, together with social dimensions, are at the core of OECD instruments on RBC.

This paper also responds to increasing expectations for business to address environment related impacts and risks on people and the planet, and demonstrates how OECD tools and instruments on RBC offer internationally recognised standards and frameworks that are integral to addressing global environmental challenges.

Expectations related to environmental action by the private sector have been spurred by a number of policy, science and industry-led drivers.<sup>1</sup> The COVID-19 crisis provided an acute and recent example of how nature related shocks, or zoonotic diseases can have vast ranging impacts on people and the planet.<sup>2</sup> Global threats that are linked to environmental breakdown are continuing to pose on-going and future risks to people and the planet, and can be compounded by business activities.

With respect to climate change, further to the 2021 report of the Intergovernmental Panel on Climate Change (IPCC)<sup>3</sup>, and in addition to action by governments, achieving the goals of the Paris Agreement<sup>4</sup> requires ambitious action by the private sector to drastically reduce greenhouse gas (GHG) emissions, strengthen the resilience of companies to adapt to the impacts of climate change, and ensure finance flows are consistent with a pathway towards low greenhouse gas emissions and climate-resilient development. To this end, there have been significant developments and increasing expectations for business regarding better measurement and reporting of business impacts and dependencies on the environment, including metrics, benchmarks, and science-based targets – with a particular focus on net zero emissions commitments.<sup>5</sup>

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<sup>1</sup> This includes climate litigation with the recent 2021 judgement handed down in the District Court of the Netherlands highlighting the role of the OECD Guidelines for MNEs in understanding the duty of care owed by business on climate action and emissions reduction obligations: *Milieudefensie et al. v. Royal Dutch Shell plc*, <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2021:5339>

<sup>2</sup> OECD (2020), "Biodiversity and the economic response to COVID-19: Ensuring a green and resilient recovery", *OECD Policy Responses to Coronavirus (COVID-19)*, OECD Publishing, Paris, <https://doi.org/10.1787/d98b5a09-en>

<sup>3</sup> IPCC (2021), *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, [https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC\\_AR6\\_WGI\\_Full\\_Report.pdf](https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Full_Report.pdf)

<sup>4</sup> UNFCCC, The Paris Agreement, [http://unfccc.int/paris\\_agreement/items/9485.php](http://unfccc.int/paris_agreement/items/9485.php)

<sup>5</sup> For example, see: UN-backed Campaign "Race To Zero" which mobilizes climate action by non-state actors, including business, <https://racetozero.unfccc.int/>; IPCC (2021), *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, [https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC\\_AR6\\_WGI\\_Full\\_Report.pdf](https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Full_Report.pdf); World Economic Forum (WEF) (2021), *Why business and government must act on the IPCC climate change report*, <https://www.weforum.org/agenda/2021/08/ipcc-climate-change-report-business-response/>; Science-based Targets Network (2020), *Science-based Targets for Nature: Initial*

In addition to climate change, momentum in developing policy and industry-led initiatives driving the integration of nature-positive contributions by business has been increasing in response to trends in biodiversity loss.<sup>6</sup> There have also been advances in international initiatives on the role of business in the circular economy – particularly with respect to having regard to the full life cycle of a product and consumption and production practices.<sup>7</sup>

Furthermore, and largely driven by trends in regulating for mandatory human rights and environmental due diligence,<sup>8</sup> there has been a strengthened focus on the nexus between the environment and human rights. This includes the responsibilities of governments<sup>9</sup> and business in protecting environmental human rights<sup>10</sup>, including procedural rights and the protection of environmental and human rights defenders. In addition to human rights, the intersection between business driven environmental impacts and dependencies with a number of substantive chapters of the OECD Guidelines (including and going beyond the Environment and Human Rights Chapters), is becoming increasingly critical to private sector action on climate aligning with a just transition.

In responding to the above developments and in continuing to drive RBC in the face of environmental crises, there have been numerous calls to increase industry collaboration in addressing systemic and sector specific environmental challenges, with a focus on aligning climate action with the goals of Paris Agreement.<sup>11</sup>

To this end, and further to key trends referred to above, OECD instruments and standards on RBC play a critical role in guiding a comprehensive approach to private sector action on the environment, and in particular, mainstreaming internationally agreed standards and safeguards relating to RBC into business decisions and action relating to the environment.

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Guidance for Business, <https://sciencebasedtargetsnetwork.org/wp-content/uploads/2020/11/Science-Based-Targets-for-Nature-Initial-Guidance-for-Business.pdf>

<sup>6</sup> See for example PBES (2019), Summary for policymakers of the global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, <https://doi.org/10.5281/zenodo.3553579>

<sup>7</sup> For example, see Ellen MacArthur Foundation (2019), Completing the Picture: How the Circular Economy Tackles Climate Change, <https://ellenmacarthurfoundation.org/completing-the-picture>

<sup>8</sup> See chapter 5 of this Report for further detail.

<sup>9</sup> See for example, the Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2018), [https://www.ohchr.org/Documents/Issues/Environment/SREnvironment/A\\_HRC\\_37\\_59\\_EN.pdf](https://www.ohchr.org/Documents/Issues/Environment/SREnvironment/A_HRC_37_59_EN.pdf); Report of the Special Rapporteur on Right to a healthy environment: good practices (2019), <https://undocs.org/A/HRC/43/53>

<sup>10</sup> See for example, UNEP (2015), Factsheet on Human Rights and the Environment, <https://wedocs.unep.org/bitstream/handle/20.500.11822/9933/factsheet-human-rights-environment.pdf?sequence=1&isAllowed>

<sup>11</sup> For example, the UN Climate Change Fashion Charter for Climate Action and the Race to Zero and Race to Resilience Campaigns being led by the COP26 High Level Climate Champions, <https://unfccc.int/climate-action/sectoral-engagement/fashion-for-global-climate-action>; <https://racetozero.unfccc.int/join-the-race/>; <https://racetozero.unfccc.int/system/resilience/>

# 1 Overview of key environmental challenges and relevance of the OECD Guidelines for MNEs and OECD due diligence guidance

OECD instruments on RBC, namely the OECD Guidelines for Multinational Enterprises (OECD Guidelines) and related OECD due diligence guidance, lay out the expectation that business contribute to sustainable development, while avoiding and addressing adverse impacts of their activities on people and the planet.

The OECD Guidelines provide an international standard on RBC that is comprehensive in nature – covering all areas of business responsibility and including a dedicated chapter on the Environment (Chapter VI), in addition to a chapter on Human Rights (Chapter IV), amongst others. Importantly, a number of the expectations within the OECD Guidelines, including and extending beyond the Environment Chapter, are relevant to environmental objectives and challenges faced by business – including climate change, biodiversity, and the circular economy, as below.

The crosscutting nature of environmental risks in the context of RBC is demonstrated by the range of environment-related recommendations extending across different chapters of the OECD Guidelines. This has also been reinforced by the National Contact Points for RBC (NCPs) - the unique implementation mechanism of the Guidelines - which have been increasingly dealing with RBC in the context of environmental challenges through their promotional and non-judicial grievance mechanism role. Section 2 of this paper documents recent trends in environment-related cases filed with the NCPs, highlighting the important role of NCPs in driving environmentally responsible action by business in light of evolving challenges and stakeholder expectations.

Section 3 of this paper provides further detail on specific provisions across key Chapters of the Guidelines, as well as examples of cases filed with NCPs that address alleged breaches of environmentally relevant provisions of the OECD Guidelines.

As outlined in Section 4, the OECD Guidelines also include an expectation that business conduct supply chain due diligence to identify and address their risks and adverse impacts on people and the planet – and as a means to implement the RBC expectations outlined in the Guidelines. Following the last update of the OECD Guidelines in 2011, sectoral and non-sector specific due diligence guidance instruments have been issued<sup>12</sup> with many of them providing recommendations specific to environmental matters.

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<sup>12</sup> OECD (2017), [Due Diligence for Responsible Supply Chains in the Garment and Footwear Sector](#); OECD (2017), [OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector](#); OECD (2017), [Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises](#); OECD

Further to the above, there has been an increasing trend in strengthening the integration of environment - in addition to human rights - due diligence into various voluntary and mandatory regulations and policy initiatives. Section 5 provides some key examples, demonstrating growing global recognition of the role of RBC and OECD due diligence guidance in driving business action to address environmental challenges and objectives.

## Climate change

A number of provisions across different Chapters of the Guidelines intersect with climate related mitigation and adaptation considerations for business. For example, the Environment Chapter provides that enterprises should have an environmental management system in place, which includes establishing “measurable objectives and, where appropriate, targets for improved environmental performance and resource utilisation”. This expectation also includes periodically reviewing the continuing relevance of these objectives and that where appropriate, “targets should be consistent with relevant national policies and international environmental commitments”.

The Environment Chapter also provides that businesses should “continually seek to improve corporate environmental performance, at the level of the enterprise and, where appropriate, of its supply chain” and references a number of activities including: the “development and provision of products or services that [...] reduce greenhouse gas emissions”; “promoting higher levels of awareness among customers of the environmental implications of using the products and services of the enterprise, including, by providing accurate information on their products (for example, on greenhouse gas emissions [...]); and “exploring and assessing ways of improving the environmental performance of the enterprise over the longer term, for instance by developing strategies for emission reduction”.

Importantly, a number of the expectations related to climate change considerations by business extend beyond the Environment Chapter and are addressed in Chapters on General Policies, Disclosure, Science and Technology, Human Rights, Competition and Consumer Interests. Further discussion of some of these key provisions of the OECD Guidelines and guidance provided by NCP cases is provided at Section 3 of this paper.



### Box 1.1. Climate change and the Paris Agreement

The 2015 Paris Agreement entered into force on 4 November 2016 and sets out global commitments to limit average temperature increase to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels. To implement these goals, the Paris Agreement requires parties to submit Nationally Determined Contributions (NDCs), includes the objective to mobilize finance flows towards low greenhouse gas (GHG) and climate-resilient development, as well as recognises non-party stakeholders, including business as an integral part of the global solution.<sup>13</sup>

The most recent 2021 report of the Intergovernmental Panel on Climate Change (IPCC)<sup>14</sup> echoed the findings of the 2020 UNEP Emissions Gap Report,<sup>15</sup> highlighting that achieving a “minimum” target of net zero emissions by 2050 is critical in order to reach the 1.5°C goal. This would require at least halving global emissions by 2030 as an interim ambition. The report also made strong reference to the need to build resilience and adapt to the on-going and known future impacts of climate change, noting that even with strong emissions reductions, it may take 20-30 years for global temperatures to stabilise. For a trajectory of 1.5°C of global warming, the report highlights that there will be increasing heat waves, longer warm seasons and shorter cold seasons causing impacts across all regions of the world. In this regard, and for the first time, the report provides a detailed regional assessment of climate change, including information relevant to informing risk assessments, adaptation responses, and related climate policy and private sector decision-making. This includes a new framework that helps translate physical impacts of climate change, i.e. heatwaves, colder temperatures, increasing rainfall or drought, into what they mean for society and natural ecosystems.<sup>16</sup>

The most recent developments under the UNFCCC and the above findings have significant implications for business in terms of both mitigation and adaptation, and the urgent action that needs to be taken to align with the targets of the Paris Agreement. In the context of RBC, business’ have a responsibility to both: i) reduce greenhouse gas (GHG) emissions and thereby the adverse climate related impacts of their operations, on people and the planet; and ii) strengthen the climate resilience of companies and their supply chains in order to address and adapt to the physical impacts<sup>17</sup> of climate change on their direct operations and their supply chains - including impacts on workers, local communities and the natural environment.

With respect to emissions reductions, there has been a proliferation in net zero emissions targets by the private sector, with significant momentum as a result of the Race to Zero Campaign being led by the COP26 High Level Climate Champions.<sup>18</sup> However, as global attention is shifting to implementation of net zero goals, stakeholders are highlighting the importance of both government and business to ensure plans for implementation of targets and related actions align with the Paris Agreement and other global environmental objectives, including a just transition.<sup>19</sup>

<sup>13</sup> United Nations Framework Convention on Climate Change (2016), Decision 1/CP.21 Adoption of the Paris Agreement, FCCC/CP/2015/10/Add.1, par. 133, <https://undocs.org/en/FCCC/CP/2015/10/Add.1>

<sup>14</sup> IPCC (2021), Summary for Policymakers. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [MassonDelmotte, V., P. Zhai, A. Pirani, S. L. Connors, C. Péan, S. Berger, N. Caud, Y. Chen, L. Goldfarb, M. I. Gomis, M. Huang, K. Leitzell, E. Lonnoy, J. B. R. Matthews, T. K. Maycock, T. Waterfield, O. Yelekçi, R. Yu and B. Zhou (eds.)]. Cambridge University Press. In Press, <https://www.ipcc.ch/report/ar6/wg1/>

<sup>15</sup> UNEP (2020), <https://www.unep.org/emissions-gap-report-2020>

<sup>16</sup> See Chapter 12 “Climate Change Information for Regional Impact and for Risk Assessment” in IPCC (2021), Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, [https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC\\_AR6\\_WGI\\_Chapter\\_12.pdf](https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Chapter_12.pdf)

<sup>17</sup> The Taskforce on Climate-related Financial Disclosures (TCFD) defines physical risk as: risks resulting from changes in climate patterns as a result of GHG emissions. These risks can be event driven or longer-term shifts, resulting in a range of impacts associated with water availability, sourcing, and quality; food security; and extreme temperature changes. Transition risks are defined as risks resulting from policy, legal, technology and market changes to address climate mitigation and adaptation – these types of risks can pose varying levels of financial and reputational risk to business, <https://www.fsb-tcfd.org/publications/final-recommendations-report/>

<sup>18</sup> UNFCCC, Race to Zero, <https://racezero.unfccc.int/>

<sup>19</sup> See for example Oxfam (2021), Tightening the net: the implications of net zero climate targets for land and food equity, <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621205/bp-net-zero-land-food-equity-030821-en.pdf>; EDF+Business (2020), Pathways to Net Zero: A Guide for Business, <https://business.edf.org/files/Pathways-to-Net-ZeroFINAL-1.pdf>

## Biodiversity

In addition to a number of recommendations relevant to climate action by business, the Guidelines also include expectations that guide business action in responding to and addressing the biodiversity loss crisis; with many of the climate change related considerations also relevant to and intersecting with biodiversity related risks and adverse impacts by business activities.

In particular, the Environment Chapter includes recommendations to promote “higher levels of awareness among customers of the environmental implications of using the products and services of the enterprise” – for example by “providing accurate information on their products” on biodiversity in addition to other environmental issues. The Environment chapter also recommends businesses explore and assess “ways of improving the environmental performance of the enterprise over the longer term, for instance by developing [...] strategies on biodiversity”.

In addition, the commentary to the Disclosure Chapter refers to biodiversity in the context of encouraging disclosure in areas “where reporting standards are still evolving” and mentions biodiversity a specific example.

### Box 1.2. Biodiversity loss and the Convention on Biological Diversity

Recent reports stress that biodiversity is declining faster than at any time in human history, with current extinction rates continuing to increase.<sup>20</sup> A number of ecosystems have experienced irreparable damage and while others are at tipping points, these declines in biodiversity are undermining “nature’s productivity, resilience and adaptability, and are in turn fuelling extreme risk and uncertainty for our economies and well-being”.<sup>21</sup> The impacts of COVID-19 and other emerging infectious diseases – of which land-use change and species exploitation are major drivers, are just a few examples.

The UN Convention on Biological Diversity (CBD) entered into force on 29 December 1993 with the overarching objectives of conservation of biological diversity, the sustainable use of the components of biological diversity and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources. In 2010, the Parties adopted and revised updates for the Strategic Plan for Biodiversity, including the Aichi Biodiversity Targets, for the 2011-2020 period. The Aichi Biodiversity Targets are a set of five strategic goals and 20 targets that Parties to the CBD were intended to use as a guiding framework for their national commitments.<sup>22</sup>

The CBD Secretariat has promoted engagement of business and industry; encouraging the adoption of “practices and strategies that contribute to achieving the goals and objectives of the Convention and the Aichi Biodiversity Targets”. The Convention also established the Global Partnership for Business and Biodiversity to further promote business involvement in the development, revision and implementation of national and international biodiversity strategies and action plans.

<sup>20</sup> IPBES (2019), Summary for policymakers of the global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. S. Díaz, J. Settele, E. S. Brondizio E.S., H. T. Ngo, M. Guèze, J. Agard, A. Arneth, P. Balvanera, K. A. Brauman, S. H. M. Butchart, K. M. A. Chan, L. A. Garibaldi, K. Ichii, J. Liu, S. M. Subramanian, G. F. Midgley, P. Miloslavich, Z. Molnár, D. Obura, A. Pfaff, S. Polasky, A. Purvis, J. Razzaque, B. Reyers, R. Roy Chowdhury, Y. J. Shin, I. J. Visseren-Hamakers, K. J. Willis, and C. N. Zayas (eds.). IPBES secretariat, Bonn, Germany. 56 pages, <https://doi.org/10.5281/zenodo.3553579>

<sup>21</sup> The Economics of Biodiversity: The Dasgupta Review (2021), [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/962785/The\\_Economics\\_of\\_Biodiversity\\_The\\_Dasgupta\\_Review\\_Full\\_Report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/962785/The_Economics_of_Biodiversity_The_Dasgupta_Review_Full_Report.pdf)

<sup>22</sup> OECD (2019), The Post-2020 Biodiversity Framework: Targets, indicators and measurability implications at global and national level, November version, <http://www.oecd.org/environment/resources/biodiversity/report-the-post-2020-biodiversity-framework-targets-indicators-and-measurability-implications-at-global-and-national-level.pdf>

Implementing an effective Post-2020 Global Biodiversity Framework, which is due to be agreed upon at the fifteenth meeting of the Conference of the Parties (COP15) of the CBD, will demand ambitious and widespread use of biodiversity policy instruments, and other measures, to promote sustainable patterns of production and consumption. It will also require governments and the private sector to scale up biodiversity finance and reduce finance flows that harm biodiversity<sup>23</sup> - and to mainstream biodiversity into decision making and policies across all economic sectors.<sup>24</sup> The first draft of the Framework published in July 2021 includes a call for action by business, with Target 15 demanding business of all sizes to assess and report on their dependencies and impacts on biodiversity, reduce negative risks and impacts and increase positive action to achieve more sustainable “extraction and production practices, sourcing and supply chains, and use and disposal”.<sup>25</sup> Further to this, Target 19 asks to increase financial resources from all sources to USD 200 billion per year, to ensure implementation of the Frameworks’ goals and targets.

Positive signs for more business engagement in support of the Framework have already been observed in advance of COP15, with more than 50 companies expressing their joint commitment to responsibly sourcing ingredients from biodiversity as part of the CBD’s Action Agenda for Nature and People.<sup>26</sup> The OECD 2021 report prepared for the G7 Presidency of the United Kingdom on Biodiversity, Natural Capital and the Economy: A Policy Guide for Finance, Economic and Environment Ministries, provides further information on the role of the private sector in embedding biodiversity risks with a particular focus on the financial sector. The Report also highlights further work to be done in understanding and mainstreaming biodiversity risk, impacts and dependencies into core decision making, and the need to embed biodiversity considerations into due diligence risk management processes in line with the recommendations of the OECD Guidelines.<sup>27</sup> In addition, the Taskforce on Nature-related Financial Disclosures (TNFD) was launched in June 2021 to provide a framework for corporates and financial institutions in reporting and acting on evolving nature-related risks.<sup>28</sup>

## Circular Economy

With respect to the circular economy, similar provisions of the Guidelines are also relevant. In particular, the Environment Chapter recommends that enterprises promote “higher levels of awareness among customers of the environmental implications of using the products and services of the enterprise”, and explore “ways of improving the environmental performance of the enterprise over the longer term.”

The latter lists “developing strategies for emission reduction, efficient resource utilisation and recycling, substitution or reduction of use of toxic substances, or strategies on biodiversity” as examples. The Environment Chapter also includes recommendations for businesses to address impacts of goods and services “over their full life cycle,” as well as the “development and provision of products or services that... reduce greenhouse gas emissions; are efficient in their consumption of energy and natural resources; can be reused, recycled, or disposed of safely.”

<sup>23</sup> OECD (2020), A Comprehensive Overview of Global Biodiversity Finance, <https://www.oecd.org/environment/resources/biodiversity/report-a-comprehensive-overview-of-global-biodiversity-finance.pdf>

<sup>24</sup> Global Biodiversity Outlook 5, <https://www.cbd.int/gbo5>

<sup>25</sup> Convention on Biological Diversity (2021), First Draft of the Post-2020 Global Biodiversity Framework, <https://www.cbd.int/doc/c/914a/eca3/24ad42235033f031badf61b1/wg2020-03-03-en.pdf>

<sup>26</sup> Convention on Biological Diversity (2021), Leading companies respond to biodiversity loss by committing to the Action Agenda for Nature and People, Press Release, <https://www.cbd.int/doc/press/2021/pr-2021-06-09-business-en.pdf> ; For more information – see Convention on Biological Diversity, CBD and Business Engagement; <https://www.cbd.int/business/bc.shtml>

<sup>27</sup> OECD (2021), Biodiversity, Natural Capital and the Economy: A Policy Guide for Finance, Economic and Environment Ministers. Report prepared by the OECD for the G7 Presidency of the United Kingdom, 2021, OECD Environment Policy Paper No. 26, <https://www.oecd-ilibrary.org/docserver/1a1ae114-en.pdf?expires=1623316691&id=id&accname=ocid84004878&checksum=4E2C5C07783E90CA06759CDF5A32F9E9>

<sup>28</sup> Taskforce on Nature-related Financial Disclosures (TNFD), <https://tnfd.info/> ; Taskforce on Nature-related Financial Disclosures (TNFD) (2021), Proposed technical scope. Recommendations for the TNFD, <https://tnfd.info/wp-content/uploads/2021/06/TNFD-%E2%80%93Technical-Scope-2.pdf>

Moreover, the Consumer Interests Chapter recommends companies promote “consumer education in areas that relate to their business activity, with the aim of *inter alia*, improving the ability of consumers to: i) make informed decisions involving complex goods, services and markets, ii) better understand the economic, environmental and social impact of their decisions and iii) support sustainable consumption.” The same Chapter also recommends business “co-operate fully with public authorities to prevent and combat deceptive marketing practices... and to diminish or prevent serious threats to public health and safety or to the environment deriving from the consumption, use or disposal of their goods and services.”

Further detail on key provisions of the OECD Guidelines across relevant Chapters and example NCP cases is provided at Section 3 of this paper.

### Box 1.3. International initiatives on the circular economy

Although there is no one accepted definition of the circular economy, a circular economy seeks to: (i) maximise the value of the materials and products circulating within the economy; (ii) minimise material consumption, with particular attention to virgin materials, hazardous substances, and certain waste streams (such as plastics, food, electric and electronic goods); (iii) prevent the generation of waste; and (iv) reduce hazardous components in both waste and products.<sup>29</sup>

In pursuing a circular economy, there are a variety of mechanisms that can modify the flow of products and materials through the economy, and ultimately result in lower rates of natural resource extraction. The OECD has highlighted three main mechanisms including:

- Closing resource loops - the diversion of waste from disposal and subsequent transformation into secondary raw materials.
- Slowing resource loops or flows - the retention of products, and their constituent materials, in the economy for longer periods.
- Narrowing resource flows - generating additional economic value from a fixed amount of natural resources.<sup>30</sup>

Population growth and improved standards of living are likely to only increase the unprecedented growth in demand for natural resources and the materials derived from them. The OECD reported approximately 80 billion tonnes of minerals, fossil fuels, and biomass were fed into the global economy in 2011 – with modelling indicating resource use likely to more than double by 2060 under business as usual.<sup>31</sup>

These trends have led to increased international attention to improve resource efficiency and promote the transition to a circular economy – having regard to the full life cycle of a product and consumption and production practices. Recent developments include the creation of the G7 Alliance on Resource Efficiency at Schloss Elmau in 2015, the adoption of the Toyama Framework on Material Cycles, the inclusion of specific goals related to resource efficiency in the 2030 Agenda for Sustainable Development, and the introduction of resource efficiency into the G20 agenda in 2017.

At the national level, transitioning to a more circular economy is also receiving considerable attention. Circular economy roadmaps and in some cases, implementing legislation, have been introduced in the People's Republic of China, the EU, Finland, France, the Netherlands and Scotland.<sup>32</sup>

<sup>29</sup> OECD (2020), Environment at a Glance 2020, OECD Publishing, Paris, <https://doi.org/10.1787/19964064>; OECD (2021), Policy scenarios for a transition to a more resource efficient and circular economy, OECD Environment Working Papers No. 169, OECD Publishing, Paris, <https://doi.org/10.1787/19970900>

<sup>30</sup> OECD (2019), Business Models for the Circular Economy: Opportunities and Challenges for Policy, OECD Publishing, Paris, <https://doi.org/10.1787/g2g9dd62-en>

<sup>31</sup> OECD (2019), Global Material Resources Outlook to 2060, OECD Publishing, Paris, <https://www.oecd.org/environment/global-material-resources-outlook-to-2060-9789264307452-en.htm>

<sup>32</sup> For example, France has introduced the Anti-waste Law for a Circular Economy which includes, the prohibition of incinerating unsold clothing; [https://www.ecologie.gouv.fr/sites/default/files/en\\_DP%20PJL.pdf](https://www.ecologie.gouv.fr/sites/default/files/en_DP%20PJL.pdf). For more information, see OECD (2019), Business Models for the Circular Economy: Opportunities and Challenges for Policy, OECD Publishing, Paris,

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<https://doi.org/10.1787/g2g9dd62-en>. The EU introduced the 2020 Circular Economy Action plan, a key component of the European Green Deal, [https://ec.europa.eu/environment/circular-economy/pdf/new\\_circular\\_economy\\_action\\_plan.pdf](https://ec.europa.eu/environment/circular-economy/pdf/new_circular_economy_action_plan.pdf). China passed the Circular Economy Promotion Law in 2008 and the Five-Year Plan for the Development of Circular Economy in 2021, [https://ppp.worldbank.org/public-private-partnership/sites/ppp.worldbank.org/files/documents/China\\_CircularEconomyLawEnglish.pdf](https://ppp.worldbank.org/public-private-partnership/sites/ppp.worldbank.org/files/documents/China_CircularEconomyLawEnglish.pdf); [https://www.ndrc.gov.cn/xwdt/tzqg/202107/t20210707\\_1285530.html?code=&state=123](https://www.ndrc.gov.cn/xwdt/tzqg/202107/t20210707_1285530.html?code=&state=123). Finland published its roadmap to a circular economy in 2016 and passed a government resolution for the promotion of the Strategic Programme for Circular Economy in 2021, <https://media.sitra.fi/2017/02/28142644/Selvityksia121.pdf>; <https://ym.fi/documents/1410903/42733297/Government+resolution+on+the+Strategic+Programme+for+Circular+Economy+8.4.2021.pdf/309aa929-a36f-d565-99f8-fa565050e22e/Government+resolution+on+the+Strategic+Programme+for+Circular+Economy+8.4.2021.pdf?t=161943221>. The Netherlands introduced a circular economy strategy and, with help of the Circular Economy Implementation Programme (2019-2023), is investigating which legislative amendments may be necessary to advance a circular economy, <https://www.government.nl/documents/policy-notes/2016/09/14/a-circular-economy-in-the-netherlands-by-2050>; <https://www.rijksoverheid.nl/onderwerpen/circulaire-economie/documenten/rapporten/2019/02/08/uitvoeringsprogramma-2019-2023>. In 2019, the Scottish Government undertook a public consultation on a proposed Circular Economy Bill and secondary legislation. The Government announced in April 2020 that the Bill would be postponed due to the COVID-19 pandemic. See: <https://consult.gov.scot/environment-forestry/circular-economy-proposals-for-legislation/>



## 2 Environment-related NCP cases

NCPs play a key role in not only resolving cases and promoting the OECD Guidelines, but also facilitating dialogue and progressing the understanding among all stakeholders of the intersections between RBC and evolving areas of risk and responsibility. This is particularly the case in regard to global environmental challenges.

The number of NCP cases referencing the Environment Chapter of the OECD Guidelines since 2011 indicate the significance of environment-related recommendations on RBC (See Annex A).

Since 2011, 24% of all specific instances submitted to NCPs made reference to provisions of the Environment Chapter (77 out of 322); with the Environment Chapter being the 4th most cited Chapter of the OECD Guidelines following the Human Rights (61%), General Policies (57%) and Disclosure (25%) Chapters. This signals an important trend in enterprises being held to account on matters relating to RBC and the environment (where impacts have occurred within both adherent and non-adherent countries), as well as the critical role of NCPs in providing guidance on how the Guidelines are to be interpreted and applied in such circumstances. Out of the 77 specific instances referring to the Environment Chapter, 42% refer to impacts/activities in non-adherent countries, and 57% refer to impacts/activities that took place in adherent countries (one case referred to activities in both adherent and non-adherent countries).<sup>33</sup>

The majority of cases citing provisions of the Environment Chapter concern alleged environmental impacts of large-scale projects or operations in the mining, manufacturing and energy sectors; being the three most commonly referenced sectors and accounting for 39% (mining and quarrying), 16% (manufacturing) and 13% (electricity, gas, steam and air conditioning supply activities) of cases filed respectively (see Figure 2.1).<sup>34</sup>

With respect to climate change-related cases specifically, the number of case submissions has increased in recent years. Since 2011, a total of seven specific instances concerning climate change were filed, of which five were filed between 2017 and September 2020.<sup>35</sup>

A number of environmental NCP cases concern impacts on biodiversity or biodiversity loss considerations. However, in many instances the cases may not explicitly reference biodiversity *per se*. A similar situation arises with respect to the circular economy. Although the term 'circular economy' is not expressly referenced in the OECD Guidelines, a number of the recommendations and related NCP cases address circular economy objectives or related actions.

<sup>33</sup> Data based on [OECD Database of Specific Instances](#). Accessed 26 August 2021. See Annex A for list of all NCP cases citing the Environment Chapter filed between 2011-2021.

<sup>34</sup> Data based on [OECD Database of Specific Instances](#). Accessed 26 August 2021. See Annex A for list of all NCP cases citing the Environment Chapter filed between 2011-2021.

<sup>35</sup> Data based on [OECD Database of Specific Instances](#). Accessed 26 August 2021. See Annex A for list of all NCP cases concerning to climate change filed between 2011-2021.

**Figure 2.1. Specific instances referencing the Environment Chapter across industry sectors (Since 2011)**



*Note:* Sectors defined by the UN ISIC top-level industry sectors, data corresponds to cases filed since 2011.

*Source:* OECD, [OECD Database of Specific Instances](#). Accessed 26 August 2021.

# 3

## Chapters of the OECD Guidelines and provisions relevant to environmental challenges

The following section features key provisions across relevant Chapters of the OECD Guidelines<sup>36</sup> together with examples of NCP cases. The NCP case examples demonstrate how key provisions of the Guidelines have been applied in practice and the relevance of recommendations within and beyond the Environment Chapter of the Guidelines to RBC in the context of environmental challenges and objectives.<sup>37</sup>

### Environment (Chapter VI)

The Environment Chapter provides a set of recommendations for enterprises to raise their environmental performance and help maximise their contribution to environmental protection through improved internal management and planning.

The commentary to the Environment Chapter provides that the text of the Chapter “broadly reflects” the principles and objectives contained in the 1992 Rio Declaration on Environment and Development,<sup>38</sup> Agenda 21,<sup>39</sup> the 1998 Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, and in instruments such as the ISO Standard on Environmental and Management Systems.

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<sup>36</sup> Key provisions from the OECD Guidelines have been selected and summarised by the Secretariat. This is not intended to be an exhaustive list of all possible relevant provisions or recommendations. For a more thorough examination, please see the OECD (2011), OECD Guidelines for Multinational Enterprises, <http://mneguidelines.oecd.org/guidelines/>

<sup>37</sup> These cases have been selected by the Secretariat for the purposes of providing examples where relevant.

<sup>38</sup> The Rio Declaration on Environment and Development enshrines the principles of sustainable development - which have been reaffirmed in a number of subsequent international instruments. The principles include reference to fundamental rights relating to the right to a healthy and productive life in harmony with nature, as well as access to information, access to public participation and access to justice. Such rights are also reflected in the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_CONF.151\\_26\\_Vol.I\\_Declaration.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf)

<sup>39</sup> Agenda 21 as well as the Rio Declaration on Environment and Development were adopted by more than 178 Governments at the United Nations Conference on Environment and Development held in Rio De Janeiro Brazil 1992. Agenda 21 is a comprehensive plan of action to be taken globally, nationally and locally across all areas in which human activity impacts on the environment, <https://sustainabledevelopment.un.org/outcomedocuments/agenda21>

As referred to above, a number of the recommendations in the Environment Chapter make reference, specifically or in general terms, to key global environmental challenges including climate change, biodiversity, and the circular economy. Key recommendations are summarised in Box 3.1.

Specific instances citing the Environment Chapter span a range of sectors and environmental matters, demonstrating the relevance of the Chapter's recommendations to diverse environmental challenges both globally and at sector or regional levels.

As mentioned above, the majority of cases referencing the Environment Chapter arise within the mining, quarrying and manufacturing sectors. The specific instance, "ENI S.p.A., ENI International BV, and CWA and ACA," referred to below, provides an example of the types of cases that can arise with respect to large-scale extractives and infrastructure projects in particular.

### Box 3.1. Key provisions of Chapter VI of the OECD Guidelines on Environment

- Establish and maintain a system of environmental management – including (art 1):
  - a the collection and evaluation of information regarding the environmental, health and safety impacts of their activities;
  - b establishment of measureable objectives and, where appropriate, targets for improved environmental performance that are periodically reviewed and consistent with relevant national policies and international environmental commitments;
  - c regular monitoring and verification of progress toward environmental, health and safety objectives or targets.
- Provide adequate, measureable, verifiable and timely information on the potential environment, health and safety impacts of the activities of the enterprise; and engage in communication and consultation with the communities directly affected (art 2).
- Assess, and address the foreseeable environmental, health, and safety-related impacts associated with the processes, goods and services of the enterprise over their full life cycle. Where appropriate, prepare an environmental impact assessment (art 3).
- Not use the lack of full scientific certainty as a reason for postponing cost-effective measures to prevent or minimise damage (art 4).
- Maintain contingency plans for preventing, mitigating, and controlling serious environmental and health damage from their operations, including accidents and emergencies; and mechanisms for immediate reporting to the competent authorities (art 5).
- Continually seek to improve corporate environmental performance by encouraging such activities as (art 6):
  - a adoption of technologies and operating procedures;
  - b development and provision of products or services that have no undue environmental impacts; are safe in their intended use; reduce greenhouse gas emissions; are efficient in their consumption of energy and natural resources; can be reused, recycled, or disposed of safely;
  - c Promoting higher levels of awareness among customers of the environmental implications of using the products and services of the enterprise, including, by providing accurate information on their products (for example, on greenhouse gas emissions, biodiversity, resource efficiency, or other environmental issues); and
  - d Exploring and assessing ways of improving the environmental performance of the enterprise over the longer term, for instance by developing strategies for emission reduction, efficient resource utilisation and recycling, substitution or reduction of use of toxic substances, or strategies on biodiversity.
- Provide adequate education and training to workers in environmental health and safety matters, including environmental impact assessment procedures, public relations, and environmental technologies (art 7).

- Contribute to the development of environmentally meaningful and economically efficient public policy, for example, by means of partnerships or initiatives that will enhance environmental awareness and protection (art 8).

Source: OECD (2011), OECD Guidelines for Multinational Enterprises, OECD Publishing.

This box provides a summary of key text from the Environment Chapter, selected by the Secretariat. See the OECD Guidelines for a more thorough examination.

### Box 3.2. ENI S.p.A., ENI International BV, and CWA and ACA

NCP: Italy

Cited chapters of the OECD Guidelines:

- The case concerned alleged non-observance of the chapters of the OECD Guidelines on General Policies (Chapter II), Human Rights (Chapter IV), and Environment (VI).
- The specific provisions of the Environment Chapter that were cited include:
  - Assessing and addressing foreseeable environmental, health, and safety-related impacts associated with the processes, goods and services of the enterprise over their full life cycle with a view to avoiding or, when unavoidable, mitigating them, and where appropriate, preparing an environmental impact assessment (art 3); and
  - Maintaining contingency plans for preventing, mitigating, and controlling serious environmental and health damage from their operations, including accidents and emergencies; and mechanisms for immediate reporting to the competent authorities (art 5).

Case Summary:

- On 15 December 2017, Egbema Voice of Freedom, an NGO, supported by Chima Williams Associates (CWA), a law firm, and NGOs Advocates for Community Alternatives (ACA) and the International Federation for Human Rights (FIDH), submitted a case to the Italian NCP.
- The complainants alleged that since 1970, construction and road infrastructure development undertaken as part of oil drilling operations by ENI S.p.A. (as well as its affiliate ENI International BV and local subsidiary Nigeria Agip Oil Company Limited), caused violent flooding. It was claimed that the flooding had significant adverse impacts on local communities of Aggah in Rivers State, Nigeria. The alleged impacts disrupted the livelihoods, property, health, and environment of the Aggah community.
- On 26 July 2018, the Italian NCP accepted the specific instance for further examination and offered the Parties its good offices, which the Parties accepted. The good offices and conciliation process resulted in a Terms of Settlement signed on 8 July 2019. The Terms of Settlement noted that the company would study and construct a drainage system and that the Parties would keep the NCP informed of its implementation. It was also noted that the submitters would play an active role in the planning and monitoring of the drainage system's functioning. The Parties did not seek assistance from the NCP in the follow-up phase of the implementation of the settlement agreement. According to the OECD Watch Database, since the announcement of the agreement, ENI has "conducted engineering surveys to design a new drainage system through Aggah, but work is suspended due to the COVID-19 crisis."

Source: OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/it0013.htm>, and OECD Watch Case Database, [https://complaints.oecdwatch.org/cases/Case\\_489](https://complaints.oecdwatch.org/cases/Case_489).

Following the mining and manufacturing sectors, the financial sector is the third largest in terms of cases that cite provisions of the Environment Chapter of the OECD Guidelines. Financial sector related cases



typically concern the financing of, or provision of export credit services for business activities with alleged adverse environment-related impacts.<sup>40</sup>

An example of a case concerning the provision of export credits is “Atradius Dutch State Business (ADSB) and NGOs,” where submitters asserted that the official export credit agency of the Netherlands (ADSB), was linked to alleged adverse environmental and human rights impacts as a result of its provision of export credits to Van Oord and its dredging projects in Brazil.<sup>41</sup>

The NCP cases “ING Bank and NGOs concerning climate policy” and “ANZ Banking Group and Friends of the Earth, Egan, Dodds and Simons” provide recent examples of matters relating to the financial sector, climate change, and that cite provisions of the Environment Chapter of the OECD Guidelines.<sup>42</sup>

As referred to above, a number of the provisions of the OECD Guidelines intersect with climate change related matters.<sup>43</sup> The recent Final Statement issued by the Dutch NCP in the “ING Bank and NGOs concerning climate policy” case clarified how key recommendations apply to climate change related responsibilities in particular (Box 3.3.).<sup>44</sup>

### Box 3.3. ING Bank and NGOs concerning climate policy

NCP: Netherlands

Cited chapters of the Guidelines:

- The case concerned alleged non-observance of the chapters of the Guidelines on Disclosure (Chapter III), Environment (Chapter VI) and Consumer Interests (Chapter VIII).
- The Final Statement drew attention to the specific recommendations of the OECD Guidelines which frame responsibilities related to climate change.<sup>45</sup> With respect to the Environment Chapter, these included the recommendation that enterprises should: “establish and maintain a system of environmental management appropriate to the enterprise”, including the “establishment of measurable objectives and, where appropriate, targets for improved environmental performance (...), including periodically reviewing the continuing relevance of these objectives; where appropriate, targets should be consistent with relevant national policies and international environmental commitments” (Art. 1(b)).
- The Final Statement also reaffirmed the application of the “cause, contribute, directly linked” language of the OECD Guidelines to climate change related matters. This language of the OECD Guidelines specifically concerns the scope of business activity to which the general recommendation to carry out supply chain due diligence should apply.

Case summary:

<sup>40</sup> OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/nl0026.htm>

<sup>41</sup> OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/nl0026.htm>

<sup>42</sup> OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/nl0029.htm>; <http://mneguidelines.oecd.org/database/instances/au0016.htm>

<sup>43</sup> Some of these provisions were also referred to in more detail in OECD (2010), Transition to a Low-carbon economy: public goals and corporate practices, <https://www.oecd.org/daf/inv/mne/transitiontoalow-carboneconomy.htm>

<sup>44</sup> OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/nl0029.htm>

<sup>45</sup> Dutch National Contact Point for the OECD Guidelines for Multinational Enterprises (2019), Final Statement Oxfam Novib, Greenpeace Netherlands, BankTrack and Friends of the Earth Netherlands (Milieudefensie) versus ING, <https://www.oecdguidelines.nl/documents/publication/2019/04/19/ncp-final-statement-4-ngos-vs-ing>

- On 8 May 2017, Oxfam Novib, Greenpeace, BankTrack and Friends of the Earth Netherlands (Milieudefensie) submitted a case to the Dutch NCP alleging non-observance of the OECD Guidelines by ING Bank. The complainants requested the NCP examine ING's climate policy. It was claimed that ING did not report publicly on the emissions of the companies and the projects that it finances, and the complainants requested the NCP to urge ING to align its climate and other policies with the OECD Guidelines.
- The Dutch NCP accepted the case for further examination and offered its good offices to the Parties, which the Parties accepted. On 19 April 2019, the Dutch NCP published its Final Statement. Regarding the cited provisions of the Environment Chapter relating to targets, the NCP noted:
  - ING, and other commercial banks, should "put effort into defining, where appropriate, concrete targets to manage its impact towards alignment with relevant national policies and international environmental commitments."
  - Concerning the provision of the Environment Chapter that such targets be consistent with "international environmental commitments", the NCP noted that "the Paris Agreement is currently the most relevant international agreement between states, a landmark for climate change, signed by the State of the Netherlands."
  - Concerning the provision of the Environment Chapter referring to "periodically reviewing the relevance of objectives or targets" the NCP encouraged ING to set intermediate targets – taking into account the "long term objectives of the climate debate".
- Following the case, ING committed to align its portfolio with the Paris Agreement and published its Build Back Better statement re-confirming this commitment even under COVID 19. In addition and pursuant to the continued dialogue between the Parties, the Parties jointly called on the Dutch government to request the International Energy Agency (IEA) develop 1.5 °C scenarios which provide a 66% chance of limiting global warming below 1.5 degrees.

Source: OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/nl0029.htm>; Dutch National Contact Point for the OECD Guidelines for Multinational Enterprises (2019), Final Statement: Oxfam Novib, Greenpeace Netherlands, BankTrack and Friends of the Earth Netherlands (Milieudefensie) versus ING, <https://www.oecdguidelines.nl/documents/publication/2019/04/19/ncp-final-statement-4-ngos-vs-ing> and Dutch National Contact Point (2020), Evaluation of the NCP Final Statement dated 19 April 2019 regarding the notification Oxfam Novib, Greenpeace, BankTrack, Milieudefensie vs. ING, <https://www.oecdguidelines.nl/documents/publication/2020/11/25/evaluation-final-statement-oxfam-e-o-vs-ing>

A number of environmental NCP cases also relate to impacts on biodiversity. Although biodiversity may not always be specifically stated, these impacts can be a consequence of activities causing changes in land use, exploitation of species, climate change, pollution and waste management.<sup>46</sup> The NCP case "The Future In Our Hands (FIOH), Intex Resources Asa and The Mindoro Nickel Project" (Box 3.4.)<sup>47</sup> provides an example that covers a number of these drivers.

<sup>46</sup> IPBES (2019): Summary for policymakers of the global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. S. Díaz, J. Settele, E. S. Brondízio E.S., H. T. Ngo, M. Guèze, J. Agard, A. Arneth, P. Balvanera, K. A. Brauman, S. H. M. Butchart, K. M. A. Chan, L. A. Garibaldi, K. Ichii, J. Liu, S. M. Subramanian, G. F. Midgley, P. Miloslavich, Z. Molnár, D. Obura, A. Pfaff, S. Polasky, A. Purvis, J. Razzaque, B. Reyers, R. Roy Chowdhury, Y. J. Shin, I. J. Visseren-Hamakers, K. J. Willis, and C. N. Zayas (eds.). IPBES secretariat, Bonn, Germany. 56 pages, <https://doi.org/10.5281/zenodo.3553579>

<sup>47</sup> OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/no0004.htm>

### Box 3.4. The Future In Our Hands (FIOH), Intex Resources Asa and The Mindoro Nickel Project

NCP: Norway

Cited chapters of the OECD Guidelines:

- The case concerned alleged non-observance of the chapters of the Guidelines on General Policies (Chapter II), Disclosure (III) Employment and Industrial Relations (V), and Environment (Chapter VI).
- Regarding the Environmental Chapter, the complainant referred to the recommendation that enterprises should: “Establish and maintain a system of environmental management appropriate to the enterprise”, including: “collection and evaluation of adequate and timely information regarding the environmental, health, and safety impacts of their activities”; establishing “measurable objectives and, where appropriate, targets for improved environmental performance and resource utilisation, including periodically reviewing the continuing relevance of these objectives”; and “regular monitoring and verification of progress toward environmental, health, and safety objectives or targets” (art 1).

Case summary:

- On 26 January 2009, Future In Our Hands (FIOH) submitted a specific instance to the Norwegian NCP concerning alleged non-observance of the OECD Guidelines by Intex Resources ASA (Intex). The submission related to the Mindoro Nickel Project (MNP), located in the Philippines. The complainant alleged breaches of the OECD Guidelines for MNEs on the grounds that, *inter alia*: consultations with indigenous people were flawed; the project contravened the wishes of the affected community and peoples; and there was a risk of severe environmental damage – which had not been communicated appropriately to affected stakeholders.
- The NCP found that the Environmental Impact Assessment (EIA) conducted by Intex did not provide adequate information or level of detail required by the IFC Performance Standards. For example and in the context of biodiversity, there was an absence of detail on the potential for marine pollution, the environmental and social implications of the maintenance of roads and bridges or whether the route would run through wetlands and other key biodiversity areas.
- On 4 March 2009, the NCP accepted the case for further examination and offered its good offices to help the Parties reach a solution. A series of meetings were held and in 2010 the NCP solicited fact-finding from the Norwegian Embassy in Manila. The case was concluded by the NCP in November 2011. The final statement noted that the EIA was lacking, more detailed management and monitoring plans should be prepared and that the company failed to appropriately share information with concerned stakeholders. The NCP made a number of recommendations on the implementation of the OECD Guidelines and Intex Resources expressed its commitment to develop the project in accordance with international standards.

Source: OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/no0004.htm>; Norwegian National Contact Point (2009), Final Statement: Complaint from The Future In Our Hands (FIOH) Against Intex Resources Asa And The Mindoro Nickel Project, [http://www.oecd.org/daf/inv/mne/Norwegian%20NCP%20intex\\_final.pdf](http://www.oecd.org/daf/inv/mne/Norwegian%20NCP%20intex_final.pdf)

Note: this case was decided before the 2011 revisions to the OECD Guidelines. For ease of reference, current Chapter numbers of the OECD Guidelines are used.

As mentioned above, a number of NCP cases citing the Environment Chapter also refer to other substantive chapters of the OECD Guidelines.<sup>48</sup> Provisions of the OECD Guidelines that are relevant to environmentally responsible behaviour and that sit outside of the Environment Chapter are outlined below.

<sup>48</sup> The intersections between the Environment Chapter and the General Policies Chapter in the 2000 version of the Guidelines were outlined in OECD (2005), Environment and the OECD Guidelines for Multinational Enterprises: Corporate tools and approaches, <https://www.oecd.org/env/environmentandtheoecdguidelinesformultinationalenterprisescorporatetoolsandapproaches2005.htm>

## Disclosure (Chapter III)

The Disclosure Chapter of the OECD Guidelines is aligned with the provisions of the Environment Chapter recommending that enterprises should “provide the public and employees with adequate and timely information on the potential environment, health and safety impacts” of their activities.

However, the Disclosure Chapter provides significantly more detail on the expectations relating to disclosure practices of a business, than does the Environment Chapter. In addition, some of the provisions of the Disclosure Chapter also include direct reference to environmental considerations. For example, it provides that Enterprises are encouraged to “apply high quality standards for (...) financial as well as non-financial disclosure, including environmental and social reporting”. They are also encouraged to communicate information that could include information on the enterprise’s environmental policies and codes of conduct, in addition to its social and ethical policies.

### Box 3.5. Key provisions of Chapter III of the OECD Guidelines on Disclosure

- Enterprises should ensure that timely and accurate information is disclosed regarding their activities, structure financial situation and performance. This information should be disclosed for the enterprise as a whole, and, where appropriate, along business lines or geographic areas (art 1).
- Disclosure policies of enterprises should include, but not be limited to, material information on, amongst others, foreseeable risk factors, issues regarding workers and other stakeholders, and governance structures and policies (art 2)
- Enterprises are encouraged to communicate additional information that could include (art 3):
  - Value statement or statements of business conduct intended for public disclosure including information on the social, ethical and other codes of conduct to which the company subscribes.
  - Information on systems for managing risks and complying with laws, and on statements or codes of business conduct.
  - Information on relationships with employees and other stakeholders.
- Enterprises should apply high quality standards for accounting, and financial as well as non-financial disclosure, including environmental and social reporting where they exist. The standards or policies under which information is compiled and published should be reported (art 4).

Source: OECD (2011), OECD Guidelines for Multinational Enterprises, OECD Publishing.

This box provides a summary of key text from the Disclosure Chapter, selected by the Secretariat. See the OECD Guidelines for Multinational Enterprises for a more thorough examination.

The Commentary to the Disclosure Chapter reflects the increasing demand for more transparency on environment-related matters and encourages companies to disclose information, particularly in “the case of greenhouse gas emissions, as the scope of their monitoring is expanding to cover direct and indirect, current and future, corporate and product emissions; biodiversity is another example”.<sup>49</sup>

The Commentary to the Disclosure Chapter also highlights that to “improve public understanding of enterprises and their interaction with society and the environment, enterprises should be transparent in their operations and responsive to the public’s increasingly sophisticated demands for information.”

<sup>49</sup> See also: C. Kauffmann, C. Tébar Less and D. Teichmann (2012), “Corporate Greenhouse Gas Emission Reporting: A Stocktaking of Government Schemes”, OECD Working Papers on International Investment, No. 2012/01, OECD Publishing, Paris, <https://doi.org/10.1787/5k97g3x674lq-en>.

In the “ING Bank and NGOs concerning climate policy” case referred to above<sup>50</sup>, and in the context of greenhouse gas emissions reporting, the Dutch NCP stressed that: “[A]bsence of a methodology or internationally accepted standard will not dismiss companies, including financial institutions, to seek measurement and disclosure of environmental impact in areas where reporting standards are still evolving such as, for example, social, environmental and risk reporting. This is particularly the case with greenhouse gas emissions”.<sup>51</sup>

Furthermore, the recent “ANZ Banking Group and Friends of the Earth, Egan, Dodds and Simons” case (Box 3.6.)<sup>52</sup> filed with the Australian NCP indicates increasing momentum in utilising provisions of the Disclosure Chapter (in addition to the Environment Chapter) in regard to climate change related matters. In this case, the complainant drew from the outcomes of the “ING Bank and NGOs concerning climate policy” case<sup>53</sup> in relying on particular provisions of the OECD Guidelines.<sup>54</sup>

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<sup>50</sup> OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/nl0029.htm>

<sup>51</sup> Dutch National Contact Point for the OECD Guidelines for Multinational Enterprises (2019), Final Statement Oxfam Novib, Greenpeace Netherlands, BankTrack and Friends of the Earth Netherlands (Milieudefensie) versus ING, <https://www.oecdguidelines.nl/notifications/documents/publication/2019/04/19/ncp-final-statement-4-ngos-vs-ing>

<sup>52</sup> OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/au0016.htm>

<sup>53</sup> OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/nl0029.htm>

<sup>54</sup> The Advocate (2020), Fire Victims join ANZ climate complaint, <https://www.theadvocate.com.au/story/6606225/fire-victims-join-anz-climate-complaint/>; see also OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/nl0029.htm>



### Box 3.6. ANZ Banking Group and Friends of the Earth, Egan, Dodds and Simons

NCP: Australia

This case is currently in progress.

Cited chapters of the OECD Guidelines:

- The case concerns alleged non-observance of the chapters on General Policies (Chapter II), Disclosure (Chapter III), Environment (Chapter VI) and Consumer Interests (Chapter VIII). Regarding the Disclosure Chapter specifically, the complainants cited article 3 and paragraphs 28 and 33 of the Commentary of the Disclosure Chapter of the OECD Guidelines:
  - “Enterprises are encouraged to communicate additional information” that could include “statements of business conduct intended for public disclosure”; “policies and other codes of conduct to which the enterprise subscribes”; or its “performance in relation to these statements and codes” (art 3).
  - “Clear and complete information on enterprises is important to a variety of users” (Paragraph 28 of Commentary).
  - “The Guidelines also encourage a second set of disclosure or communication practices in areas where reporting standards are still evolving such as, for example, social, environmental and risk reporting. This is particularly the case with greenhouse gas emissions.” (Paragraph 33 of Commentary).

Case summary:

- On 30 January 2020, Friends of the Earth and three individuals (Egan, Dodds and Simons) submitted a specific instance to the Australian NCP concerning the Australia and New Zealand Banking Group (ANZ). The submitters, being Australian bushfire victims, alleged that ANZ’s lack of full disclosure regarding its climate change impacts prevented consumers from making informed decisions as to whether or not to engage with the bank.
- Specifically, the complainants alleged that the following conduct was in breach of the above provisions of the OECD Guidelines in addition to provisions contained in the General Policies, Environment and Consumer Interests Chapters:
  - Non-disclosure of scope 3 (including lending) emissions throughout ANZ sustainability reports and climate change disclosures.
  - Inadequate systems of due diligence and environmental management due to ANZ’s continued investment in fossil fuels, and lack of policies to reduce investment in major fossil fuel industries such as coal, oil and gas.
  - Misleading the public and consumers by publicly supporting the Paris Agreement targets, while continuing to invest in projects that undermine the meeting of those targets.
- The Initial Assessment<sup>55</sup>, published on 24 November 2020, sets out that the Australian NCP will offer its good offices to facilitate the exchange of information between the parties with the aim of arriving at a mutually agreed resolution.<sup>56</sup>

Sources: OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/au0016.htm>; Australian NCP, <https://ausncp.gov.au/>; Business and Human Rights Resource Centre, <https://www.business-humanrights.org/en/australia-bushfire-victims-file-oecd-complaint-against-anz-bank-for-financing-fossil-fuel-projects>; Friends of the Earth Australia (2020), [https://www.foe.org.au/bushfire\\_survivors\\_launch\\_claim\\_against\\_anz](https://www.foe.org.au/bushfire_survivors_launch_claim_against_anz);

## Human Rights (Chapter IV)

The Environment and Human Rights Chapters of the OECD Guidelines are particularly inter-linked. Specifically, the Human Rights Chapter inherently captures environmental matters where such matters intersect with risks or adverse impacts on human rights, related to business activity.

Moreover, and of relevance to the social impacts of global environmental crises such as climate change and biodiversity loss, the OECD Guidelines Commentary to the Human Rights Chapter provides: “In practice, some human rights may be at greater risk than others in particular industries or contexts, and therefore will be the focus of heightened attention [...] Depending on circumstances, enterprises may need to consider additional standards.”

Environmental human rights, include procedural obligations (i.e. duties to provide access to information, facilitate participation and provide access to justice), and substantive obligations.<sup>57</sup> Both aspects of environmental human rights are reflected across a number of areas of the OECD Guidelines, including the Human Rights Chapter and the Environment Chapter, which refers to the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.<sup>58</sup> These interlinkages are also demonstrated by the number of NCP cases referencing both Chapters of the OECD Guidelines.

The intersection of human rights with climate change matters and business practices is receiving increasing attention.<sup>59</sup> The Paris Agreement expressly refers to human rights whereby the preamble acknowledges “that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights...” In addition, the United Nations Environment Programme (UNEP) and the Office of the High Commissioner of Human Rights (OHCHR) have issued a number of reports highlighting this intersection, including the Statement by the United Nations High Commissioner for Human Rights at the 2019 United Nations Climate Change Conference 25<sup>th</sup> Conference of the Parties (COP25).<sup>60</sup>

The 2019 report of the United Nations Human Rights Council Special Rapporteur on Human Rights and the Environment,<sup>61</sup> refers to the global agreement that human rights apply to the vast range of

<sup>55</sup> The Initial Assessment is not a determination on the merits of the claims presented, nor is it an assessment of whether ANZ's actions are consistent with the OECD Guidelines. See Australian National Contact Point for the OECD Guidelines for Multinational Enterprises (2020), Initial Assessment, [https://ausncp.gov.au/sites/default/files/inline-files/FOTE\\_initial\\_assessment.pdf](https://ausncp.gov.au/sites/default/files/inline-files/FOTE_initial_assessment.pdf)

<sup>56</sup> Australian National Contact Point for the OECD Guidelines for Multinational Enterprises (2020), Initial Assessment, [https://ausncp.gov.au/sites/default/files/inline-files/FOTE\\_initial\\_assessment.pdf](https://ausncp.gov.au/sites/default/files/inline-files/FOTE_initial_assessment.pdf)

<sup>57</sup> Human Rights Council (2018), Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment [https://www.ohchr.org/Documents/Issues/Environment/SREnvironment/A\\_HRC\\_37\\_59\\_EN.pdf](https://www.ohchr.org/Documents/Issues/Environment/SREnvironment/A_HRC_37_59_EN.pdf)

<sup>58</sup> Convention on access to information, public participation in decision-making and access to justice in environmental matters (1998), <https://unece.org/DAM/env/pp/documents/cep43e.pdf>

<sup>59</sup> A Report of the Special Rapporteur on Human Rights and the Environment (2019), Safe Climate, [https://wedocs.unep.org/bitstream/handle/20.500.11822/30158/Safe\\_Climate\\_Report.pdf?sequence=1&isAllowed=y](https://wedocs.unep.org/bitstream/handle/20.500.11822/30158/Safe_Climate_Report.pdf?sequence=1&isAllowed=y)

<sup>60</sup> Michelle Bachelet, UN High Commissioner for Human Rights (2019), 25th Conference of the Parties High Level Event “We Dare”: Children and Youth vs Climate Change Statement, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25407&LangID=E>. In addition, at COP25 the OECD held a joint side session with OHCHR highlighting the business and human rights dimension of climate change, <https://mneguidelines.oecd.org/Concept-note-COP25-The-business-and-human-rights-dimension-of-climate-change.pdf>

<sup>61</sup> Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2019), Right to a healthy environment: good practices, <https://undocs.org/A/HRC/43/53>

environmental issues.<sup>62</sup> In addition, the Special Rapporteur confirms that all “States have obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, including States that have not yet recognized the right to a healthy and sustainable environment.”<sup>63</sup>

These obligations are set out in the Framework Principles presented to the Human Rights Council by the previous Special Rapporteur in 2018.<sup>64</sup> Specifically, the 16 principles outline the “basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment.” The Framework Principles serve the purposes of reflecting “the application of existing human rights obligations in the environmental context.”<sup>65</sup>

### Box 3.7. Key Provisions of Chapter IV of the OECD Guidelines on Human Rights

- Avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved (art 1).
- Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur (art 2).
- Seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts (art 3).
- Have a policy commitment to respect human rights (art 4).
- Carry out human rights due diligence (art 5).
- Provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts (art 6).

Source: OECD (2011), *OECD Guidelines for Multinational Enterprises*, OECD Publishing.

This box provides a summary of key text from the Human Rights Chapter, selected by the Secretariat. See the OECD Guidelines for Multinational Enterprises for a more thorough examination.

The interlinkages between provisions of the Environment and Human Rights Chapters of the OECD Guidelines are highlighted in the recent case “Nuon Energy N.V. and/or Nuon Wind Development B.V., and Stichting Hou Friesland Mooi” concerning the right to a healthy living environment and provisions relating to environmental management systems.<sup>66</sup>

<sup>62</sup> The Special Rapporteur on human rights and the environment is currently working to provide additional clarity regarding the substantive rights and obligations that are essential to the enjoyment of a safe, clean, healthy and sustainable environment. Reports have already been submitted on clean air, a safe climate, and good practices on the promotion and implementation of the right to a safe, clean, healthy and sustainable environment, <https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/SREnvironmentIndex.aspx>

<sup>63</sup> Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2019), Right to a healthy environment: good practices, <https://undocs.org/A/HRC/43/53>

<sup>64</sup> Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2018), [https://www.ohchr.org/Documents/Issues/Environment/SREnvironment/A\\_HRC\\_37\\_59\\_EN.pdf](https://www.ohchr.org/Documents/Issues/Environment/SREnvironment/A_HRC_37_59_EN.pdf)

<sup>65</sup> Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2018), [https://www.ohchr.org/Documents/Issues/Environment/SREnvironment/A\\_HRC\\_37\\_59\\_EN.pdf](https://www.ohchr.org/Documents/Issues/Environment/SREnvironment/A_HRC_37_59_EN.pdf)

<sup>66</sup> OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/nl0032.htm>

Provisions of the Human Rights Chapter of the OECD Guidelines related to consultation with local communities and the intersection with environment related matters is demonstrated by the case “Statkraft AS and the SAMI reindeer herding collective in Jijnjevaerie Sami Village”.<sup>67</sup>

### Box 3.8. Nuon Energy N.V. and/or Nuon Wind Development B.V., and Stichting Hou Friesland Mooi

NCP: Netherlands

Cited chapters of the OECD Guidelines:

- The case concerned alleged non-observance of the chapters of the Guidelines on General Policies (Chapter II), Human Rights (IV), and Environment (Chapter VI). Regarding the Human Rights Chapter, the complainant referred to articles 1, 2, and 5.

Case summary:

- On 12 December 2017, Stichting Hou Friesland Mooi (HFM) submitted a specific instance to the Dutch NCP concerning alleged non-observance of the OECD Guidelines by Nuon Energy N.V. and/or Nuon Wind Development B.V. The submission related to the construction of a wind energy park and the alleged failure of the enterprise and the local authorities to consult appropriately with the local communities on environmental and health impacts. The submitters also claimed that the company did not establish an environmental management system.
- Concerning articles 1 and 2 of the Human Rights Chapter, the submitters alleged that the company should respect human rights and avoid and address adverse human rights impacts. In regard to article 5 of the Human Rights Chapter, the submitters stated that Nuon did not undertake adequate due diligence as its environmental impact assessment allegedly disregarded the health effects of the wind park.
- On 19 June 2018, the Dutch NCP accepted the case for further examination and offered its good offices to help the Parties reach a solution. The Parties reached agreement on a number of points, including that in the new phase of the project, consultation with the local community would begin anew with the aim of restoring confidence.
- On 18 December 2018, the Dutch NCP concluded the specific instance and published its final statement in which it stated although there was a lack of clarity regarding Nuon’s role in relation to the provincial authority and the engagement of project stakeholders, Nuon is still obliged to comply with the provisions of the OECD Guidelines. Additionally, the NCP recommended that Nuon should communicate more clearly and publically on its role in relation to the provincial authority and local community.
- On 21 October 2020 the Dutch NCP published an Evaluation Report noting that although dialogue between the parties did not continue due to the construction phase of the wind farm having already been completed, Nuon, and its parent company Vattenfall, did commit to improving their stakeholder engagement practices. The NCP re-emphasized the importance of due diligence and meaningful stakeholder engagement throughout the entire project cycle, including in the planning and construction phase, even if another party is formally responsible for communication with stakeholders.

Sources: OECD Database of Specific Instances, <http://mnequidelines.oecd.org/database/instances/nl0032.htm>, and Dutch National Contact Point (2018), *Eindverklaring Melding Hou Friesland Mooi vs. Nuon Energy N.V.*, <https://www.oecdguidelines.nl/notifications/documents/publication/2018/12/18/fs-hou-friesland-mooi-vs-nuon-energy-n.v.-en> and Dutch National Contact Point (2020), *Evaluatie van de NCP-Eindverklaring van 18 december 2018, Hou Friesland Mooi vs Nuon Energy N.V.*, <https://www.oesorichtlijnen.nl/documenten/publicatie/2020/10/21/evaluatie-eindverklaring-hfm-vs-nuon>

<sup>67</sup> OECD Database of Specific Instances, <http://mnequidelines.oecd.org/database/instances/se0004.htm>

**Box 3.9. Statkraft AS and the SAMI reindeer herding collective in Jijnjevaerie Sami Village**

NCP: Sweden and Norway

Cited chapters of the OECD Guidelines:

- The case concerned alleged non-observance of the chapters of the OECD Guidelines on General Policies (Chapter II), Human Rights (IV), and Environment (Chapter VI). Regarding the Human Rights Chapter, the complainant referred to articles 1, 2, and 5.

Case summary:

- In October 2012 the Swedish and Norwegian NCPs received a submission from the Sami reindeer herding collective in Jijnjevaerie Sami Village alleging that Statkraft AS, a Norwegian multinational enterprise, had not observed provisions of the OECD Guidelines by planning to build a wind power plant on a reindeer herding ground in Sweden. Regarding the Human Rights Chapter, the submitters stated that the company did not undertake the necessary and adequate steps to prevent the adverse impacts which allegedly affected the traditional Saami livelihoods which are dependent on reindeer herding practices.
- The submitters alleged that the project would likely dislocate “community members from the environment that provides them with their cultural identity” and restrict the “Jijnjevaerie Saami village’s possibility to continuously pursue reindeer husbandry.” More specifically, research showed that project construction and development would force reindeer to avoid areas of development and that “the animals show no adaptation to the source of disturbance over time.”
- The Sami reindeer herding collective acknowledged that Statkraft had consulted with the community during the planning stages of the wind power plant, but asserted that “meaningful engagement” had not taken place. Specifically, it was alleged that the risk of environmental damage had not been communicated appropriately. They requested that the NCPs mediate between the Parties to reach a positive solution.
- The NCPs of Sweden and Norway accepted the specific instance and mediation took place during the course of 2014. No agreement was reached. As a result, the NCPs of Sweden and Norway assessed the company’s observance of the OECD Guidelines. Although the NCPs did not find any grounds for non-observance, they noted that the company could further improve its promotion of indigenous people’s rights and implementation of the OECD Guidelines. In a press release on 24 August 2016, the NCPs of Sweden and Norway congratulated the Parties on reaching an agreement on their own following the conclusion of the NCP process, stating that the “content of the agreement regulates the impact of and the preventive measures in the wind power projects, in order to reduce the negative effects on the Jijnjevaerie Saami village and reindeer herding.”

Source: OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/se0004.htm>, Swedish and Norwegian National Contact Point (2016), *Press Release*, [https://www.responsiblebusiness.no/files/2016/08/ENG\\_Press-release-on-agreement\\_FINAL-1.pdf](https://www.responsiblebusiness.no/files/2016/08/ENG_Press-release-on-agreement_FINAL-1.pdf).

**Employment and Industrial Relations (Chapter V)**

The Employment and Industrial Relations Chapter includes a number of provisions that are relevant to environment related matters including consultation, occupational health and safety and mitigating adverse impacts on the workforce as a result of changes in operations. The Environment Chapter includes similar provisions in that it refers to health and safety impacts throughout, providing workers with timely information (art 2(a)), providing “adequate education and training to workers in environmental health and safety matters” (art 7), and “contribute to the development of environmentally meaningful and economically



efficient public policy...by means of partnerships or initiatives that will enhance environmental awareness and protection” (art 8).<sup>68</sup>

Through consultation and communication with stakeholders, companies can gain additional insights on their actual or potential environmental impacts, as well as public perception regarding their social licence to operate. The workforce is an important stakeholder group with respect to information sharing, particularly in the context of global environmental challenges like the impacts of climate change, ensuring a just transition and protecting social licence to operate.<sup>69</sup> In this regard, the provision that enterprises should “promote consultation and co-operation between employers and workers and their representatives on matters of mutual concern”, as outlined at article 3 of the Employment and Industrial Relations Chapter, is particularly relevant.

### Box 3.10. Key Provisions of Chapter V of the OECD Guidelines on Employment and Industrial Relations

- Promote consultation and co-operation between employers and employees and their representatives on matters of mutual concern (art 3).
- Take adequate steps to ensure occupational health and safety in their operations (art 4 (c)).
- In considering changes in their operations which would have major employment effects: Provide reasonable notice of such changes to representatives of the workers in their employment and their organisations, and, where appropriate, to the relevant governmental authorities; and co-operate with the worker representatives and appropriate governmental authorities so as to mitigate to the maximum extent practicable adverse effects. In light of the specific circumstances of each case, it would be appropriate if management were able to give such notice prior to the final decision being taken. Other means may also be employed to provide meaningful co-operation to mitigate the effects of such decisions (art 6).

Source: OECD (2011), *OECD Guidelines for Multinational Enterprises*, OECD Publishing.

This box provides a summary of selected key text from the Employment and Industrial Relations Chapter by the Secretariat. See the *OECD Guidelines for Multinational Enterprises* for a more thorough examination.

The specific instance, “Vale and BHP Billiton and SITICOP, CNQ-CUT, BWI, and IndustriALL” provides an example of the intersection between adverse environment-related impacts from large-scale infrastructure, and impacts on workers and workers’ rights.<sup>70</sup>

### Box 3.11. Vale and BHP Billiton and SITICOP, CNQ-CUT, BWI, and IndustriALL

NCP: Brazil

Cited Chapters of the OECD Guidelines:

- The case concerned alleged non-observance of the chapters of the OECD Guidelines on Concepts and Principles (Chapter I), General Policies (Chapter II), Disclosure (Chapter III), Human Rights (IV), and Employment and Industrial Relations (Chapter V). In regard to the Employment and Industrial Relations Chapter, the complainants cited the following recommendations:
  - “Respect the right of workers ... to establish or join trade unions and representative organisations of their own choosing” (art 1).

<sup>68</sup> See also OECD (2005), *Environment and the OECD Guidelines for Multinational Enterprises: Corporate tools and approaches*, <https://www.oecd.org/env/environmentandtheoecdguidelinesformultinationalenterprisescorporatetoolsandapproaches2005.htm>

<sup>69</sup> OECD (2005), *Environment and the OECD Guidelines for Multinational Enterprises: Corporate tools and approaches*, <https://www.oecd.org/env/environmentandtheoecdguidelinesformultinationalenterprisescorporatetoolsandapproaches2005.htm>

<sup>70</sup> OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/br0025.htm>

- “Provide such facilities to workers’ representatives as may be necessary to assist in the development of effective collective agreements”; “Provide information to workers’ representatives which is needed for meaningful negotiations on conditions of employment”; and “Provide information to workers and their representatives which enables them to obtain a true and fair view of the performance of the entity or, where appropriate, the enterprise as a whole” (art 2).
- “Take adequate steps to ensure occupational health and safety in their operations” (art 4).

Case summary:

- On 23 March 2018, the Brazilian NCP received a specific instance from the International Building and Wood Workers International (BWI), IndustriALL Global Union, Sindicato dos Trabalhadores nas Indústrias de Construção Pesada de Minas Gerais (SITICOP) and Confederação Nacional do Setor Químico (CNQ/CUT) trade unions. The complainants alleged that Samarco (a Brazilian company and joint venture between Vale S.A. and BHP Billiton), did not observe provisions of the OECD Guidelines with regard to the 2015 Fundão dam collapse causing alleged adverse impacts on the environment and workers. It was alleged that Samarco failed to fully compensate the families of the victims and that the company did not respect workers’ rights or work and safety conditions. Concerning the Employment and Industrial Relations Chapter, the complainants alleged that the company did not respect workers’ rights in that it did not allow Union access to the workplace “in order to inform workers about their rights, especially those related to health and safety conditions” and that the company “failed to respect the Collective Bargaining Agreement of outsourced workers.” In regard to article 4, the complainants alleged that the company did not make proper health and safety measures available.
- On 1 November 2019, the NCP published its final statement. Vale S.A. requested the termination of the specific instance, and as a result of a lack of engagement from the company, no mediation took place. In its final statement, the NCP published a number of recommendations to the company, including that it should carry out and increase resources for due diligence, and exercise its leverage over Samarco in order to align its conduct with the OECD Guidelines. The NCP also recommended that the company’s “decisions take into consideration not only economic but also social and environmental aspects.” While there was no agreement between the parties, the Brazilian NCP viewed the case as an opportunity to highlight the importance of RBC in the mining sector in Brazil, which includes the application of due diligence. The Fundão dam collapse also led the Brazilian Government to adopt a set of measures for the mining sector to prevent further accidents.

Source: OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/br0025.htm>, and Brazil National Contact Point (2019), Final Statement: <https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/camex/pcn/produtos/relatorios-finais/final-declaration-vale--bhp-billington.pdf>

## Consumer Interests (Chapter VIII)

The Consumer Interests Chapter provides that enterprises should make accurate and clear information available to consumers regarding a number of aspects of their goods and services, including their content. The Environment Chapter includes provisions of a similar nature, namely that enterprises should improve their performance in areas such as “promoting higher levels of awareness among customers of the environmental implication of using the products and services of the enterprise” (art 2 (c)).

In regard to the Consumer Interests Chapter, the specific mention of “disposal” and “sustainable consumption” reflect alignment with objectives related to the circular economy (as do a number of other provisions across other chapters of the OECD Guidelines).

The growing interest in the circular economy in the context of RBC has led to increased recognition of due diligence as a tool to support companies wishing to limit resource use and environmental impacts through products’ life-cycles.

### Box 3.12. Key Provisions of Chapter VIII of the OECD Guidelines on Consumer Interests

- Ensure that the goods and services they provide meet all agreed or legally required standards for consumer health and safety, including those pertaining to health warnings and safety information (art 1).
- Provide accurate, verifiable and clear information regarding their content, safe use, environmental attributes, maintenance, storage, and disposal, sufficient to enable consumers to make informed decisions (art 2).
- Not make representations or omissions, nor engage in any other practices that are deceptive, misleading, fraudulent or unfair (art 4).
- Support efforts to promote better consumer education in areas that relate to their business activity including improving the ability of consumers to: make informed decisions; better understand the economic, environmental and social impacts of their decisions; and support sustainable consumption (art 5).
- Co-operate fully with public authorities to prevent and combat deceptive marketing practices and to diminish or prevent serious threats to public health and safety or to the environment deriving from the consumption, use or disposal of their goods and services (art 7).

Source: OECD (2011), *OECD Guidelines for Multinational Enterprises*, OECD Publishing.

This box provides a summary of selected key text of the Consumer Interests Chapter by the Secretariat. See the OECD Guidelines for Multinational Enterprises for a more thorough examination.

The following NCP case “Grupa OLX and Frank Bold Foundation”<sup>71</sup> demonstrates how provisions of the Consumer Interests Chapter have been applied with respect to environmental protections and more specifically; advertising on online platforms in relation to generation of hazardous waste – thereby addressing circular economy related considerations.

### Box 3.13. Grupa OLX and Frank Bold Foundation

NCP: Poland

Cited chapters of the Guidelines:

- The case concerned alleged non-observance of the chapters of the OECD Guidelines on General Policies (Chapter II), Environment (Chapter VI), and Consumer Interests (VIII). The complainants submitted that the company did not observe Articles 2 and 5 of the Consumer Interests Chapter:
  - “Provide accurate, verifiable and clear information that is sufficient to enable consumers to make informed decisions, ...” (art 2); and
  - “Support efforts to promote consumer education in areas that relate to their business activities, ...” (art 5).

Case summary:

- On 9 April 2018, Frank Bold Foundation, an NGO, submitted a specific instance to the Polish NCP alleging non-observance of the OECD Guidelines by Grupa OLX, an internet service company.
- Frank Bold (the submitter) alleged that the company did not observe the above mentioned Chapters of the OECD Guidelines by allowing customers to sell furnaces used to burn processed oil and discarded wooden railway sleepers on its portal. The submitter asserted that the burning of these objects violated environmental protection provisions, as they are considered hazardous waste.

<sup>71</sup> OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/pl0005.htm>

- On 25 June 2018, the Polish NCP accepted the case for further examination and offered its good offices to the parties. The parties signed a letter of intent on 25 April 2019, and agreed that the submitter would monitor the content of advertisements and the company would delete advertisements violating environmental protection provisions. Furthermore, the parties agreed that the submitter would support the company in its actions aimed at protecting the environment, aligned with environmental protection and sustainable development principles.
- The Polish NCP noted in its final statement that it would plan to follow up with the parties in April 2020. On 29 April, 2020, the Polish NCP requested the parties provide information on their cooperation and the implementation of the agreement. The company stated that it removed a number of advertisements containing offers for furnaces burning processed oil. In addition, the company removed or had amended a further advertisements where it found advertisements contained too limited a product description. The company reported that it had also undertaken additional actions, including training and outreach, to increase the awareness and knowledge of its employees and platform users on trade in goods that pose threats to the environment.
- In a follow up statement published on 28 July, 2020 the NCP recommended Grupa OLX keep up its improved approach in the context of both internal and external activities and further recommended Frank Bold maintain long-term cooperation with the company.

Source: OECD Database of Specific Instances, <http://mneguidelines.oecd.org/database/instances/pl0005.htm>, Poland National Contact Point (2019), Polish OECD NCP Final Statement of alleged breach of the OECD Guidelines for Multinational Enterprises, <https://www.gov.pl/web/fundusze-regiony/notifications>; Poland National Contact Point (2020), Note of the Polish OECD NCP concerning the monitoring of the case involving Grupa OLX Sp. z o.o. submitted by Frank Bold Foundation, <https://www.gov.pl/web/fundusze-regiony/notifications>

In the context of climate change matters and in particular the green economy transition, provisions of the Consumer Interests Chapter are becoming increasingly relevant. An example is the recent “Complaint against BP in respect of violations of the OECD Guidelines” submitted to the UK NCP on 5 December 2019.<sup>72</sup> The case concerns the alleged breach of a number of provisions of the OECD Guidelines - including the Consumer Interests Chapter, in regard to marketing communications and environmental statements on BP’s renewable energy projects.<sup>73</sup> Following the complaint being filed, BP issued an announcement regarding their wider net zero carbon emission aims, and as part of this announcement, committed to stop global corporate reputation advertising campaigns and re-direct resources towards promoting climate policies.<sup>74</sup> The case was concluded shortly thereafter. Importantly, the case highlights the role of NCPs in handling green washing related complaints; with greenwashing being key in light of COVID recovery measures and activities seeking alignment with the concept of “building back better” and the net zero transition.

## Science and Technology (Chapter IX)

The Science and Technology Chapter of the OECD Guidelines highlights the importance of knowledge and technology transfer as part of RBC. The diffusion of new technology, often transmitted via global supply chains, is an important channel for addressing environment related risks and adverse impacts – as well as

<sup>72</sup> OECD Watch Database, [https://complaints.oecdwatch.org/cases/Case\\_556](https://complaints.oecdwatch.org/cases/Case_556)

<sup>73</sup> ClientEarth (2019), <https://www.clientearth.org/our-oecd-complaint-against-bp-explained/>

<sup>74</sup> UK National Contact Point for the OECD Guidelines for Multinational Enterprises (2020), Decision: Initial Assessment: ClientEarth complaint to the UK NCP about BP, <https://www.gov.uk/government/publications/client-earth-complaint-to-the-uk-ncp-about-bp/initial-assessment-clientearth-complaint-to-the-uk-ncp-about-bp>

contributing positively to global challenges including circular economy principles (i.e. energy efficiency) and climate change mitigation and adaptation.<sup>75</sup>

In the context of climate change, the transition to a low carbon economy relies heavily on new technology and its transfer.<sup>76</sup> As noted in the Commentary to the Environment Chapter, “multinational enterprises often have access to existing and innovative technologies...which could..., help raise environmental performance overall. Ensuring that the environment of the countries in which multinational enterprises operate also benefit from available and innovative technologies and practices, is an important way of building support for international investment activities more generally”.<sup>77</sup> Similar parallels can be drawn in the context of the circular economy and biodiversity – particularly in regard to collecting data and reporting.

Key provisions of the Science and Technology Chapter that are relevant to environmental matters are outlined below. The Environment Chapter also includes similar provisions in that it recommends enterprises encourage the “adoption of technologies and operating procedures in all parts of the enterprise that reflect standards concerning environmental performance ...” (art 6(a)).

#### Box 3.14. Key Provisions of Chapter IX of the OECD Guidelines on Science and Technology

- Adopt, where practicable in the course of their business activities, practices that permit the transfer and rapid diffusion of technologies and know-how (art 2).
- When granting licenses for the use of intellectual property rights or when otherwise transferring technology, do so on reasonable terms and conditions and in a manner that contributes to the long term sustainable development prospects of the host country (art 4)
- Where relevant to commercial objectives, develop ties with local universities, public research institutions, and participate in co-operative research projects with local industry or industry associations (art 5).

Source: OECD (2011), OECD Guidelines for Multinational Enterprises, OECD Publishing.

This box provides a summary of key text from the Science and Technology Chapter, selected by the Secretariat. See the OECD Guidelines for Multinational Enterprises for a more thorough examination.

<sup>75</sup> See also OECD (2005), Environment and the OECD Guidelines for Multinational Enterprises: Corporate tools and approaches, <https://www.oecd.org/env/environmentandtheoecdguidelinesformultinationalenterprisescorporatetoolsandapproaches2005.htm>

<sup>76</sup> OECD (2010), Transition to a Low-carbon Economy: Public Goals and Corporate Practices, OECD Publishing. <http://dx.doi.org/10.1787/9789264090231-en>

<sup>77</sup> OECD (2011), Environment Chapter Commentary, in OECD Guidelines for Multinational Enterprises, OECD Publishing, <http://mneguidelines.oecd.org/guidelines/>

## 4 OECD Due Diligence guidance relevant to addressing environmental challenges across supply chains

As referred to in Section 3 above, the expectation that enterprises carry out due diligence to identify, prevent and mitigate real and potential adverse impacts across their operations and business relationships - and to account for how those impacts are addressed - is clearly set out in the OECD Guidelines (General Policies Chapter, art 10).

In regard to environment-related matters, guidance from the OECD on due diligence<sup>78</sup> provides companies with clarity on ways in which they can contribute to broader environmental objectives and look to address related threats and challenges including those related to pursuing a circular economy and the impacts of climate change and biodiversity loss.

Environmental examples are featured throughout the OECD Due Diligence Guidance for RBC. For example, Table 2 of the Due Diligence Guidance for RBC outlines examples of adverse impacts on matters covered by the Guidelines, and includes references to *inter alia* biodiversity and waste management. Table 3 outlines examples of environmental indicators of scale, scope and irremediable character. A number of the OECD sector specific due diligence guidances also refer to environmental risks and adverse impacts relevant to that sector (these are outlined in further detail below). In addition, many of the recommendations in the OECD Due Diligence Guidance are relevant to cross sector collaboration including through multi-stakeholder initiatives (MSIs). Collaboration is encouraged as a means of applying due diligence, with MSIs often being established to facilitate collaboration between stakeholders to address specific risks or implement specific steps in the due diligence process. This is particularly relevant to identifying, addressing or mitigating environmental risks – where challenges can be prevalent to a particular sector, country or region, or commodity or process.

In regard to human rights and the environment, the OECD Due Diligence Guidance for RBC makes specific reference to human rights defenders. In the context of environmental damage, human rights defenders are often striving to protect those human rights relating to the environment, including water, air, land, flora and

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<sup>78</sup> For the most recent non-sector specific guidance, see the OECD Due Diligence Guidance for Responsible Business Conduct, <http://mneguidelines.oecd.org/duediligence/>.



fauna (i.e. ‘environmental human rights defenders’).<sup>79</sup> The Guidance refers to “reprisals against civil society and human rights defenders who document, speak out about, or otherwise raise potential and actual human rights impacts associated with projects” as an example of human rights related adverse impacts of business activities. In addition, the Guidance refers to human rights defenders as a key stakeholder for consultation, particularly in “circumstances where directly consulting with rights holders is not possible”.

In the context of climate change and a just transition, OECD due diligence guidance provides an important framework and related safeguards to ensure business action on climate also takes into account social and human rights implications, possible trade-offs (or unforeseen adverse impacts across different risk areas as a result of taking action to address climate related risk areas), and risk prioritisation considerations.

For example, actions to mitigate climate risks or transition to net zero can have unforeseen negative impacts on human rights and livelihoods. This is particularly relevant having regard to the increasing demand for critical raw materials, and related increases in instances of corruption, political instability, violence and human rights abuses linked to mining in mineral-rich countries.<sup>80</sup>

Further to the above, the OECD Centre for RBC has been working to highlight the role of the OECD Guidelines and in particular, due diligence guidance in addressing key environment-related challenges – with a focus on climate change.

This work includes the development of a suite of practical tools on the implementation of OECD Due Diligence Guidance in progressing environment and climate objectives - in addition to awareness raising events, coordinating with on-going private sector-led and international initiatives, and on-going partnerships with UNEP and the UNFCCC.

The suite of tools seek to support business in implementing the recommendations of the OECD due diligence guidance in the context of environmental considerations across specific sectors and areas of risk. In doing so, the tools will not create new standards of conduct, but rather support business and policy makers in demonstrating how the OECD due diligence framework for RBC can be applied to address environmental risks and adverse impacts, and progress global environmental objectives. Tools currently under development are outlined below. Each tool will build on the relevant sector specific OECD due diligence guidance as well as the most recent OECD Due Diligence Guidance for RBC.

- OECD Practical Tool on Environmental Due Diligence in Mineral Supply Chains. The development of this tool by the OECD was initiated by the German Federal Ministry for Environment, Nature Conservation and Nuclear Safety pursuant to the Federal Government’s 2020 Raw Materials Strategy.
- OECD Practical Actions for Companies to Identify and Address Climate Risks in Garment and Footwear Supply Chain. This tool is being developed in collaboration with UNEP and UNFCCC.
- OECD-FAO Practical Business Tool on Deforestation, Forest Degradation and Due Diligence in Agricultural Supply Chains.

<sup>79</sup> See UN Environment Programme on Environmental human rights defenders, <https://www.unenvironment.org/explore-topics/environmental-rights-and-governance/what-we-do/advancing-environmental-rights/who#:~:text=The%20UN%20defines%20environmental%20human,land%2C%20flora%20and%20fauna%E2%80%9D>

<sup>80</sup> OECD (2019), Interconnected supply chains: a comprehensive look at due diligence challenges and opportunities sourcing cobalt and copper from the Democratic Republic of the Congo, <https://mneguidelines.oecd.org/interconnected-supply-chains-a-comprehensive-look-at-due-diligence-challenges-and-opportunities-sourcing-cobalt-and-copper-from-the-drc.htm>; OECD (2021), Trends in Stakeholder Reporting: Mineral Supply Chains, <https://mneguidelines.oecd.org/trendsinstakeholderreportingmineralsupplychains.htm>

- Managing Climate Impact through RBC Due Diligence: A Tool for Institutional Investors (forthcoming).

## OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector

The OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector (the OECD Garment Guidance)<sup>81</sup> encourages enterprises to consider the environmental impacts of a product across its full life cycle to the extent possible – thereby integrating circular economy considerations with a risk-based approach - as companies may prioritise the most severe risks. The Guidance also includes focused modules<sup>82</sup> on prevalent environmental risks - hazardous chemicals, water and greenhouse gas emissions in the raw material production and manufacturing stages of the supply chain. Sector risks are not limited to these categories. Some sub-sectors, products and geographies may face unique risks that should be considered, if relevant, and companies should account for changing circumstances and be ready to respond to emerging risks.

Climate change is recognised in the Guidance as an overarching challenge that concerns society as a whole. Within that context, as important users of energy and large sources of emissions, enterprises have a role to play in transitioning to a low-carbon economy. As with other issues in the enterprise's supply chain, the enterprise may take a risk-based approach to addressing its emissions by focusing its resources where greenhouse gas emissions are greatest. In application of the precautionary principle, enterprises are encouraged to avoid reference to the lack of full scientific evidence as a reason for inaction to prevent or minimise GHG emissions.

In considering the environmental impacts of a product across its full life cycle, as recommended in the Guidance, it may be necessary for a company to also prevent, cease and mitigate severe harms downstream in the value chain. This could take place, for example, by providing washing instructions to end consumers to reduce water impacts, or to take preventative action to avoid and reduce microplastic shedding and pollution. As a further example, considering the full life cycle impacts of its products may lead a company to consider different business models to mitigate the concentrated impacts of a short product life span, such as increasing product quality and providing repair, rental or resale services.

The OECD Garment Guidance also recognises the deleterious role that bribery and corruption play as an enabler of other forms of wrongdoing including violation of environmental standards.<sup>83</sup>

## OECD-FAO Guidance for Responsible Agricultural Supply Chains

Given the potential impact for good and harm that agricultural investments and business activity can have on the environment, the OECD-FAO Guidance for Responsible Agricultural Supply Chains (OECD-FAO Guidance) refers to a number of critical environmental matters spanning environmental protection and the sustainable use of natural resources, climate change and biodiversity.

<sup>81</sup> OECD (2017), OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, <http://mneguidelines.oecd.org/responsible-supply-chains-textile-garment-sector.htm>

<sup>82</sup> OECD (2017), OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, (modules 8-10), <http://mneguidelines.oecd.org/responsible-supply-chains-textile-garment-sector.htm>

<sup>83</sup> OECD (2017), OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, p178., <http://mneguidelines.oecd.org/responsible-supply-chains-textile-garment-sector.htm>

Specific recommendations include, for example, preventing or minimizing pollution and negative impacts on air, land, soil, water, forests and biodiversity; reducing greenhouse gas emissions; avoiding or reducing the generation of hazardous and non-hazardous waste; substituting or reducing the use of toxic substances and ensuring safe disposal of waste; ensuring the sustainable use of natural resources; increasing the efficiency of resource use and energy; reducing food loss and waste; promoting recycling; supporting and conserving biodiversity; and increasing the resilience of agriculture and food systems. The OECD-FAO Guidance also encourages companies to contribute to the development and diffusion of environmentally-friendly technologies.

The OECD-FAO Guidance references key international environmental agreements, policies and voluntary frameworks spanning biodiversity, environmental rights and responsible investment (amongst other areas). Specific agreements referenced include: the Principles for Responsible Investment in Agriculture and Food Systems of the Committee on World Food Security (CFS- RAI Principles), the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security of the Committee on World Food Security (VGGT), the Principles for Responsible Agricultural Investment (PRAI), the Convention on Biological Diversity (CBD), including the Akwé: Kon Voluntary Guidelines and the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters of the UN Economic Commission for Europe (Aarhus Convention). The OECD-FAO Guidance also references IFC Performance Standards and the United Nations Framework Convention on Climate Change (UNFCCC).

The Guidance also recommends enhanced due diligence in 'red flag' contexts, including for example when operating in areas affected by environmental degradation or protected areas (red flag locations), producing or sourcing commodities with adverse environmental outcomes (red flag products) and business partners linked to red flag locations or red flag products (red flag business partners). It also encourages companies to use existing impact and risk assessments to identify and assess environment related risks such as Environmental Impact Assessments (EIAs), Environmental, Social, and Human Rights Impact Assessments (ESHRIAs) and tools developed by environment groups such as the World Wildlife Fund (WWF).

## OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector

Often environmental risks can be avoided, better mitigated and/or remediated where proper stakeholder consultation has taken place throughout the supply chain due diligence process.

Although sector specific, the OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector (Guidance for Stakeholder Engagement)<sup>84</sup> includes a number of recommendations relevant to conducting stakeholder consultations across all sectors. These recommendations are particularly relevant for business in identifying, understanding and mitigating environment-related risks or adverse impacts, as well as intersections with human rights.

Specifically, the Guidance includes: a due diligence framework for meaningful stakeholder engagement; recommendations to management and on-the-ground personnel; an illustrative monitoring and evaluation framework for overseeing stakeholder engagement activities; and specific thematic guidance on engaging with indigenous peoples, women, workers, and artisanal and small-scale miners.

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<sup>84</sup> OECD (2017), OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, OECD Publishing, Paris, <https://doi.org/10.1787/9789264252462-en>

In the context of identifying human rights impacts, the Guidance references the example of environmental degradation resulting from loss of soil quality, air and water pollution threatening resources upon which people depend for subsistence and threats to biodiversity- as an example that can impact rights to health or rights to food. The same example highlights factors increasing the likelihood of human rights impacts (such as the area is ecologically fragile or the presence of cumulative environmental impacts), and relevant stakeholders/stage of project lifecycle where consultations should take place (i.e. stakeholders relying on resources within the area of impact and that consultations should take place during operations as well as construction phase).<sup>85</sup>

The Guidance for Stakeholder Engagement also includes a recommendation that “enterprises should consider how certain impacts may vary amongst different stakeholder groups and prioritise the most vulnerable and severely impacted groups for engagement”. In addition, it is recommended that timelines should allow for “engagement to begin as early as practicable, provide stakeholders with sufficient time to engage meaningfully and are flexible enough to be adjusted to changes in the local context or operating environment”.

In regard to ensuring that indigenous people are appropriately identified and prioritised, the Guidance provides that enterprises “should consider the unique characteristics of indigenous peoples and identify the collective rights claimed by indigenous peoples, as well as the human rights of indigenous individuals who are potentially impacted by activities.” The Guidance also makes specific reference to the connection of indigenous peoples and/or customary rights to ancestral lands, noting that “impacts related to land such as reduced or loss of access to land, or environmental degradation, may affect indigenous peoples, their livelihoods and culture, more severely than other, nonindigenous stakeholder groups.”

## Responsible Business Conduct for Institutional Investors and Due Diligence for Responsible Corporate Lending and Securities Underwriting

The OECD guidance on responsible business conduct for financial sector practitioners recognises that environmental – including climate impacts associated with investment or lending activity will be a priority issue for banks and institutional investors. In addition, and in the context of climate in particular, the fact that these risks are increasingly financially material, the scale, scope and irremediable quality of climate impacts makes them an issue that financial practitioners, who are linked to a broad diversity of industries and issues, must pay specific attention.<sup>86</sup>

As such, the OECD due diligence guidance recommends that policies can be used as a tool to communicate why and how environmental issues are being prioritized. For example, in terms of prevention and mitigation in the context of climate related risk, they recommend participation in industry or multi-stakeholder initiatives with climate objectives, for example those which seek to align activity of the financial sector with objectives of the Paris Agreement or enhance disclosures related to GHG emissions and climate-related risks as a way of tackling these systemic risks and as a complement to other approaches.

<sup>85</sup> See Table 4; OECD (2017), OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, OECD Publishing, Paris, <https://doi.org/10.1787/9789264252462-en>.

<sup>86</sup> OECD (2019), Due Diligence for Responsible Corporate Lending and Securities Underwriting, OECD Publishing, Paris, <https://mneguidelines.oecd.org/due-diligence-for-responsible-corporate-lending-and-securities-underwriting.htm>

# 5 Policy trends in environmental supply chain due diligence

Strengthening the integration of environmental - in addition to human rights - supply chain due diligence into various voluntary and mandatory regulations and policy initiatives is on the rise. These efforts also point to a growing global recognition of RBC standards and OECD guidance on supply chain due diligence in addressing environmental threats, dependencies and adverse impacts. Some of these recent initiatives are highlighted below.<sup>87</sup>

## *Legislative developments:*

- a **EU Mandatory Due Diligence Law:** The EU Commission is expected to publish a legislative proposal for mandatory environmental and human rights due diligence in November/December 2021.<sup>88</sup> The proposal was initially announced by the EU Justice Commissioner in April 2020 and is being closely linked to the European Green Deal.<sup>89</sup> The Justice Commissioner has indicated that future rules will be rooted in the OECD Guidelines and recommendations of OECD due diligence guidance. The European Parliament's resolution which contains recommendations to the Commission also refers to and is broadly aligned with OECD standards.<sup>90</sup>
- b **French "Duty of Vigilance Law":** France's 2017 law on the duty of vigilance makes the establishment of a due diligence plan by large companies mandatory. The plan must outline measures related to both human rights and environmental risks and adverse impacts.<sup>91</sup>
- c **French Anti-Wastage & Circular Economy Law:** Law no. 2020-105 on combating wastage and on the circular economy ("Anti-Wastage & Circular Economy Law" 2020) aims to transform certain

<sup>87</sup> This list is not intended to be exhaustive and reflects updates as of August 2021.

<sup>88</sup> Speech by Commissioner Reynders (2020), <https://responsiblebusinessconduct.eu/wp/2020/04/30/speech-by-commissioner-reynders-in-rbc-webinar-on-due-diligence>, and EU Legislative Schedule on Corporate Due Diligence and Corporate Accountability, <https://www.europarl.europa.eu/legislative-train/theme-an-economy-that-works-for-people/file-corporate-due-diligence>

<sup>89</sup> A number of the objectives under the European Green Deal and the OECD instruments and standards on RBC are mutually reinforcing. Both encompass strategies that hinge on private sector and policy action across a number of public policy portfolios and areas of business risk and responsibility. In addition, RBC instruments are already integrated into a number of EU Directives, as well as legislation and initiatives of EU member states, <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1588580774040&uri=CELEX:52019DC0640>

<sup>90</sup> European Parliament resolution of 10 March 2021 with recommendations to the Commission on corporate due diligence and corporate accountability, [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0073\\_EN.html#def\\_1\\_31](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0073_EN.html#def_1_31);

<sup>91</sup> France, Duty of Vigilance Law, <https://www.legifrance.gouv.fr/eli/loi/2017/3/27/2017-399/jo/texte>. The French Government also introduced the 2019 French PACTE Act no. 2019-486 (the Action Plan for Business Growth and Transformation): The PACTE Act includes the addition of provisions to the French Civil Code that allow for the integration of social and environmental objectives in corporate by-laws. The PACTE Act creates "mission businesses" (entreprises à mission) which are required to pursue social and environmental objectives. It also introduces new measures that support employee participation in corporate decision-making through labour representation and social dialogue, <https://www.gouvernement.fr/en/pacte-the-action-plan-for-business-growth-and-transformation>.

production and consumption habits. The law includes new obligations on companies to inform consumers about the environmental characteristics of products and recyclability, and new measures on producer responsibilities, prohibitions on single-use plastics and food waste, and tools to support companies in eco-design initiatives.<sup>92</sup>

- d **German Due Diligence Act:** On 11 June 2021, the "Act on Corporate Due Diligence in Supply Chains" was adopted by the German Federal Parliament.<sup>93</sup> The law introduces requirements for German companies to conduct due diligence in global supply chains to prevent human rights and environmental abuses. These expectations extend to environmental impacts where they intersect with human rights issues, as well as specific environment-related obligations under the Basle Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the Stockholm Convention on Persistent Organic Pollutants and the Minamata Convention on Mercury. The Act will enter into force in 2023 and initially apply to companies with 3,000 or more employees with a registered office or branch in Germany.
- e **Dutch Bill on Responsible and Sustainable International Business Conduct:** In March 2021, four political parties submitted a bill on Responsible and Sustainable International Business Conduct to the Dutch Parliament. The bill proposes a duty of care to prevent negative impacts on the environment – including climate change - in all sectors and with companies registered in the Netherlands or who sell products or services on the Dutch market. The Bill proposes an obligation to conduct due diligence in accordance with the OECD Guidelines and will apply to corporations which meet at least two of three criteria: a balance sheet total of €20 million, a net revenue of €40 million, and/or an average workforce of 250 employees.<sup>94</sup>
- f **EU initiative on deforestation:** The European Commission has indicated that it will 'take measures, both regulatory and otherwise, to promote imported products and value chains that do not involve deforestation and forest degradation'.<sup>95</sup> A legislative-initiative report adopted by the European Parliament calls on the Commission to propose an EU legal framework based on mandatory requirements for due diligence, reporting, disclosure and third-party involvement for companies placing forest and ecosystem-risk commodities and derived products on the EU market.<sup>96</sup> The Commission is finalising a legislative proposal which is due to be published in November/December 2021.
- g **UK Proposal on due diligence on forest risk commodities (currently under consultation):** The UK government is introducing legislation through the Environment Bill to tackle illegal

<sup>92</sup> LOI n° 2020-105 du 10 Février 2020 relative à la lutte contre le gaspillage et à l'économie circulaire, <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000041553759?r=er7iciZ11M>

<sup>93</sup> Deutscher Bundestag (2021), Supply Chain Due Diligence Act, [https://www.bmas.de/SharedDocs/Downloads/DE/Internationales/act-corporate-due-diligence-obligations-supply-chains.pdf;jsessionid=772C8DD6EE49B5722DA75D1294832322.delivery1-replication?\\_blob=publicationFile&v=3](https://www.bmas.de/SharedDocs/Downloads/DE/Internationales/act-corporate-due-diligence-obligations-supply-chains.pdf;jsessionid=772C8DD6EE49B5722DA75D1294832322.delivery1-replication?_blob=publicationFile&v=3). OECD instruments were considered in the preparation of the law as evidenced by the parliamentary documents supporting the decision. See <https://dserver.bundestag.de/btd/19/286/1928649.pdf>

<sup>94</sup> Dutch private members' bill of March 11th, 2021: Kamerstuk 35761, nr. 2., [https://zoek.officielebekendmakingen.nl/kst-35761-1.html#related\\_documentsAnchor](https://zoek.officielebekendmakingen.nl/kst-35761-1.html#related_documentsAnchor)

<sup>95</sup> Minimising the risk of deforestation and forest degradation associated with products placed on the EU market. European Commission, [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12137-Deforestation-and-forest-degradation-reducing-the-impact-of-products-placed-on-the-EU-market\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12137-Deforestation-and-forest-degradation-reducing-the-impact-of-products-placed-on-the-EU-market_en)

<sup>96</sup> An EU Legal Framework To Halt And Reverse EU-Driven Global Deforestation (2021), <https://www.europarl.europa.eu/legislative-train/theme-environment-public-health-and-food-safety-envi/file-eu-driven-global-deforestation>. See also European Parliament (2020), Binding legislation needed to stop EU-driven global deforestation, say MEPs, <https://www.europarl.europa.eu/news/en/press-room/20201001IPR88302/binding-legislation-needed-to-stop-eu-driven-global-deforestation-say-meps>.



deforestation in UK supply chains.<sup>97</sup> The proposed approach looks to prohibit larger businesses from using “forest risk” commodities or commodities that cause wide-scale deforestation. It would mandate supply chain due diligence and public reporting on risks of illegal deforestation in supply chains. The UK Government is fast-tracking legislation through amendments to the Environment Bill 2019-21, which is expected to pass in late-2021.<sup>98</sup> The secondary legislation needed to operationalise the law is due to be adopted in 2022 after the November COP26 Climate conference.

- h **EU Sustainable Finance Disclosure Regulation (SFDR):** In April 2019, the European Parliament adopted an EU Regulation for Sustainability-related Disclosures in the Financial Services Sector.<sup>99</sup> The regulation entered into force on 29 December 2019 and became applicable as of March 2021. In calling on financial institutions to disclose sustainability risks and impacts, the Regulation represents a milestone in efforts to encourage financial institutions to take into account impacts to both society and the environment.<sup>100</sup> Specifically, the regulation introduces transparency rules for financial institutions on the integration of sustainability risks and impacts in their processes and financial products, including reporting on adherence to internationally recognised standards for due diligence. It also notes that when reporting on due diligence, practitioners “should consider the due diligence guidance for responsible business conduct developed by the OECD.”<sup>101</sup>
- i In December 2019, a political agreement was also reached on the **EU Regulation on the Establishment of a Framework to Facilitate Sustainable Investment**, also known as the ‘**Taxonomy regulation**’. The Taxonomy regulation articulates environmental objectives and standards that should be met when evaluating how sustainable an economic activity is. Additionally, it notes that “economic activities should only qualify as environmentally sustainable where they are carried out in alignment with the OECD Guidelines for Multinational Enterprises [...]”.<sup>102</sup>
- j **Revised EU Non-Financial Reporting Directive:** The European Commission committed itself to proposing a revision of the Non-Financial Reporting Directive in the European Green Deal and its 2020 Work Programme.<sup>103</sup> The legislative proposal for a new Corporate Sustainability Reporting Directive was published by the European Commission in April 2021 and seeks to revise sustainability reporting requirements in order to make them more consistent with the broader sustainable finance legal framework, including the SFDR and the Taxonomy Regulation, and to

<sup>97</sup> UK Department for Environment, Food and Rural Affairs (2020), Due diligence on forest risk commodities, <https://consult.defra.gov.uk/eu/due-diligence-on-forest-risk-commodities/>

<sup>98</sup> UK Parliament (2021), Environment Bill, <https://bills.parliament.uk/bills/2593>

<sup>99</sup> European Parliament and Council of the European Union (2019), Regulation of the European Parliament and of the Council on sustainability-related disclosures in the financial services sector, <https://data.consilium.europa.eu/doc/document/ST-7571-2019-ADD-1/en/pdf>

<sup>100</sup> See also Forum on Green Finance and Investment (2019), Session Note on Enhancing Disclosure and Due diligence for Climate-related Risks, <http://www.oecd.org/cgfi/forum/Disclosure-and-Due-diligence-for-Climate-related-Risks-background-session-note-CGFI-Forum-2019.pdf>

<sup>101</sup> See also Forum on Green Finance and Investment (2019), Session Note on Enhancing Disclosure and Due diligence for Climate-related Risks, <http://www.oecd.org/cgfi/forum/Disclosure-and-Due-diligence-for-Climate-related-Risks-background-session-note-CGFI-Forum-2019.pdf>

<sup>102</sup> See Article 13, Regulation of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52018PC0353>

<sup>103</sup> See Communication from the Commission on the European Green Deal, COM (2019) 640 final, <https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=CELEX%3A52019DC0640>; Adjusted Commission Work Programme 2020 COM (2020) 440 final, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM:2020:0440:FIN>

tie in with the objectives of the European Green Deal.<sup>104</sup> The proposals aim to ensure that there is adequate publicly available information about the risks that sustainability issues present for companies, and the impacts of companies themselves on people and the environment. The proposals set out that sustainability reporting standards should include more detailed due diligence reporting requirements and take account of internationally recognised principles and frameworks on responsible business conduct including the OECD Guidelines, the OECD Due Diligence Guidance for Responsible Business Conduct and related sectoral guidance. The legislative proposal envisages the adoption of EU sustainability reporting standards, to be developed by the European Financial Reporting Advisory Group (EFRAG) and the Global Reporting Initiative (GRI).<sup>105</sup>

*Policy and related initiatives:*

- k **EU Strategy for Sustainable Textiles:** The Strategy sets out a comprehensive framework to create conditions and incentives to boost the competitiveness, sustainability and resilience of the EU textile sector, whilst addressing its environmental and social impacts. The Strategy will propose actions to make the textile ecosystem fit for the circular economy by identifying textile-specific and horizontal actions along the whole value chain. Specifically, it will explore how to reinforce the protection of human rights, environmental duty of care and due diligence across value chains, including improving traceability and transparency. A public consultation was completed in August 2021 and the Commission is expected to adopt the strategy later in 2021.<sup>106</sup>
- l **Japan's Introductory Guide for Implementation of Environmental Due Diligence in Value Chain Management:** In August 2020, the Ministry of the Environment in Japan published an Guide to support companies in the implementation of environmental due diligence. The guide refers to the OECD Guidelines and OECD Due Diligence Guidance for Responsible Business Conduct, and builds on the Ministry's commitment to promoting environmentally-conscious activities by Japanese businesses.<sup>107</sup>
- m **European Central Bank's Guide on climate-related and environmental risks.** In November 2020, the European Central Bank (ECB) published a Guide on managing climate-related and environmental risks. It describes how the ECB expects institutions to consider climate-related and environmental risks when formulating and implementing business strategies and governance and risk management frameworks. Under the Guide, institutions are expected to conduct climate-related and environmental due diligence, both at the inception of a client relationship and on an ongoing basis. The scope and depth of due diligence is to be defined in relation to the sector and

<sup>104</sup> Proposal for a Directive of the European Parliament and of the Council amending Directive 2013/34/EU, Directive 2004/109/EC, Directive 2006/43/EC and Regulation (EU) No 537/2014, as regards corporate sustainability reporting, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC0189>

<sup>105</sup> Sustainability Reporting Standards Interim Draft, European Financial Reporting Advisory Group (EFRAG), 2021, <https://www.efrag.org/Activities/2105191406363055/Sustainability-reporting-standards-interim-draft#>

<sup>106</sup> EU Roadmap on Strategy for Sustainable Textiles, [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12822-EU-strategy-for-sustainable-textiles\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12822-EU-strategy-for-sustainable-textiles_en)

<sup>107</sup> Japan Ministry of the Environment (2020), Introductory Guide on Environmental Due Diligence along the Value Chain – Referring to the OECD Due Diligence Guidance for Responsible Business Conduct, <https://www.env.go.jp/press/108293.html> and <https://www.env.go.jp/press/files/jp/114470.pdf>

geographic location in which the client is located. Institutions are advised to ensure compliance with the OECD Guidelines for Multinational Enterprises.<sup>108</sup>

- n **Costa Rica's National Decarbonization Plan.** In February 2019, Costa Rica launched its National Decarbonization Plan 2018-2050, which lays out the process for becoming a net-zero emission economy by 2050. The Plan maps the institutional, fiscal, regulatory and social changes necessary to achieve Costa Rica's decarbonization goals, and includes 10 priority areas focusing on transport and sustainable mobility, energy, green buildings, industry and agriculture, land use changes and nature-based solutions. The Plan includes strategies for a just transition, which aims to help communities and companies adapt to opportunities and challenges in the labour market, an energy matrix focused on clean and renewable energy, and a strengthened FDI strategy to attract companies that are committed to environmental conservation and sustainability.<sup>109</sup>
- o **Dutch National Plan on Socially Responsible Procurement:** In January 2021, the Dutch Government published the National Plan on Socially Responsible Procurement 2021-2025: "Commissioning with ambition, purchasing with impact". The Plan aims to stimulate all Dutch authorities to use their purchasing power to achieve an inclusive labour market and to tackle abuses for people and the environment in international supply chains.<sup>110</sup>
- p **German Raw Materials Strategy:** Under the new Federal Government's 2020 Raw Materials Strategy, the German Federal Ministry for Environment, Nature Conservation and Nuclear Safety committed to initiate an international process to develop international guidance on environmental due diligence in mineral supply chains.<sup>111</sup> The German Environment Agency (UBA) and the Federal Institute for Geosciences and Natural Resources (BGR) supported the Ministry of Environment in initiating the development of an OECD Practical Tool on Environmental Due Diligence in Mineral Supply Chains.<sup>112</sup>
- q **Swiss Supply Chain Studies:** The Swiss Federal Office for the Environment, working closely with the private sector, has carried out a series of studies to identify environmental hotspots in the supply chains of eight key Swiss industries. An Environmental Atlas of Swiss Supply Chains (Umweltatlas Lieferketten Schweiz) was published in 2019 setting out the study's findings and proposing steps that could be taken to design and optimise more sustainable supply chains.<sup>113</sup>

<sup>108</sup> European Central Bank (2020), European Central Bank's Guide on climate-related and environmental risks, <https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm.202011finalguideonclimate-relatedandenvironmentalrisks~58213f6564.en.pdf>

<sup>109</sup> Government of Costa Rica (2019), Costa Rica National Decarbonization Plan 2018-2050, <https://cambioclimatico.go.cr/wp-content/uploads/2020/01/NationalDecarbonizationPlan.pdf?x71265>

<sup>110</sup> Dutch National Plan on Socially Responsible Procurement (2021-2025), [https://www.pianoo.nl/sites/default/files/media/documents/2021-02/plan\\_mvi\\_opdrachtgeven\\_met\\_ambitie\\_inkopen\\_met\\_impact\\_2021-2025-jan2021.pdf](https://www.pianoo.nl/sites/default/files/media/documents/2021-02/plan_mvi_opdrachtgeven_met_ambitie_inkopen_met_impact_2021-2025-jan2021.pdf)

<sup>111</sup> The German Federal Ministry for Environment, Nature Conservation and Nuclear Safety (2020), Rohstoffstrategie der Bundesregierung. Raw Materials Strategy, <https://www.bmwi.de/Redaktion/DE/Publikationen/Industrie/rohstoffstrategie-der-bundesregierung.html>

<sup>112</sup> The German Federal Ministry for Environment, Nature Conservation and Nuclear Safety, German Resource Efficiency Programme (ProgRess), <https://www.bmu.de/en/topics/water-resources-waste/resource-efficiency/german-resource-efficiency-programme-progress-an-overview>

<sup>113</sup> Swiss Federal Office for the Environment (2019), Environmental hotspots in the supply chain of Swiss companies, <https://www.bafu.admin.ch/bafu/en/home/topics/economy-consumption/info-specialists/resource-consumption.html#-2099368005>

## 6 Conclusion

The OECD Guidelines for MNEs and OECD due diligence guidance offer government-backed soft law and consensus-built standards to guide business action in the face of environmental challenges. These instruments can support business in responding to the urgent need to scale action towards global environmental objectives - most notably those relating to the climate and biodiversity loss crises – whilst also taking into account social expectations and a just transition.

As Governments continue to respond to the impacts of COVID-19 whilst also prioritising climate and related environmental action, OECD instruments on RBC are critical policy levers when it comes to directing private sector behaviour - including in building resilience within economies and across supply chains.

Further to the examples set out in this paper, and particularly trends in embedding OECD RBC instruments into policy and legislation relevant to environmental objectives, there has been increasing interest and demand for stronger engagement on OECD RBC instruments in the context of the environment, and in particular climate change. This includes the role of OECD RBC due diligence recommendations in the context of mainstreaming and progressing environmental objectives by business, and a just transition, as well as policy coherence on RBC in driving business action on global environmental objectives by governments.

The OECD will continue to build on the on-going work mentioned in this paper while strengthening partnerships and collaboration with international organisations, industry groups as well as governments and CSO to improve the effectiveness of the OECD RBC instruments in tackling environmental challenges.

## Annex A. Data on trends in environment-related specific instances

Table A.1. outlines the number of cases referencing the Environment Chapter (referred to here as 'Environmental Case Submissions') that also reference other key chapters of the OECD Guidelines. The data demonstrates the interlinkages between cases citing the Environment Chapter and other key areas of risk and responsibility covered by the OECD Guidelines for Multinational Enterprises (OECD Guidelines).

Table A.2. provides a list of all cases that cite provisions of the Environment Chapter filed with NCPs since 2011 (officially reported by NCPs to the OECD Secretariat).

Table A.3. provides a list of recent cases filed concerned with climate change-related matters, based on the OECD Specific Instance database and the OECD Watch database.

The data included in this Annex is accurate as of 26 August 2021.

**Table A.1. Chapters of the OECD Guidelines for Multinational Enterprises cited in Environmental Case Submissions (Since 2011)**

Chapter of the OECD Guidelines	Number of environmental case submissions referencing key chapters of the Guidelines	Percentage of environmental case submissions referencing key chapter of the Guidelines
General policies	51	66%
Human rights	48	62%
Disclosure	36	47%
Employment and industrial relations	19	25%
Concepts and principles	12	16%
Consumer interests	9	12%
Combating bribery, bribe solicitation and extortion	5	6%
Science and technology	2	3%
Competition	1	1%
Taxation	1	1%

Note: The data in this Table corresponds to cases filed during the period of Jan 2011 to August 2021, and that have been officially reported to the OECD Secretariat. The total number of Environmental Case Submissions filed during this period is 77. The total number of cases in this table exceeds 77 as multiple chapters can be referenced alongside the environment chapter in each case (see column "Chapters Referenced" in Table A.2 below).

Source: OECD Database of Specific Instances. Accessed 26 August 2021.

The term "Environmental case submissions" is used here to refer to those cases that cite provisions of the Environment Chapter of the OECD Guidelines. The total number of cases in this table exceeds 77 as multiple chapters can be referenced alongside the environment chapter for each case (see column "Chapters Referenced" in Table A.2 below).

Table A.2. Table of Specific Instances Referencing the Environment Chapter (2011-2020)

Number	Title	Lead NCP	Year Submitted	Current Status	Submitters	Chapters Referenced	URL
1	Environmental issues in the Netherlands, the UK, and the USA	United States	2011	Not accepted	Individual	Environment, Human rights, General policies, Competition, Consumer interests, Disclosure, Science and technology.	<a href="http://mneguidelines.oecd.org/database/instances/us0029.htm">http://mneguidelines.oecd.org/database/instances/us0029.htm</a>
2	Human rights in Kosovo	Norway	2011	Not accepted	Individual	Environment, Human rights, General policies.	<a href="http://mneguidelines.oecd.org/database/instances/no0006.htm">http://mneguidelines.oecd.org/database/instances/no0006.htm</a>
3	Oil sector in Nigeria	Netherlands	2011	Concluded	NGO	Environment, Human rights, Consumer interests, Disclosure.	<a href="http://mneguidelines.oecd.org/database/instances/nl0020.htm">http://mneguidelines.oecd.org/database/instances/nl0020.htm</a>
4	Doe Run Peru S.R.L., The Renco Group Inc., and Cooperacion, Oxfam America in Peru and Oxfam America in Washington and other NGOs	Peru	2011	Concluded	NGO	Environment, General policies, Disclosure.	<a href="http://mneguidelines.oecd.org/database/instances/pe0006.htm">http://mneguidelines.oecd.org/database/instances/pe0006.htm</a>
5	Pollution and health issues in Peru	Peru	2011	Concluded	NGO	Environment, Disclosure, General policies.	<a href="http://mneguidelines.oecd.org/database/instances/pe0003.htm">http://mneguidelines.oecd.org/database/instances/pe0003.htm</a>
6	Mining in Papua New Guinea	Canada	2011	Concluded	NGO	Environment, General policies, Disclosure.	<a href="http://mneguidelines.oecd.org/database/instances/ca0010.htm">http://mneguidelines.oecd.org/database/instances/ca0010.htm</a>
7	Mining exploration activities in the USA	United States	2011	Not accepted	NGO	Environment, General policies, Disclosure.	<a href="http://mneguidelines.oecd.org/database/instances/us0026.htm">http://mneguidelines.oecd.org/database/instances/us0026.htm</a>
8	Barrick Gold Corporation and FOCO in Argentina	Argentina	2011	Concluded	NGO	Environment, General policies, Disclosure.	<a href="http://mneguidelines.oecd.org/database/instances/ar0009.htm">http://mneguidelines.oecd.org/database/instances/ar0009.htm</a>
9	Water supply in the USA	United States	2011	Concluded	NGO and Trade Union	Environment, Employment and industrial relations.	<a href="http://mneguidelines.oecd.org/database/instances/us0027.htm">http://mneguidelines.oecd.org/database/instances/us0027.htm</a>
10	Oil spills in the Niger Delta	Netherlands	2011	Concluded	NGO	Environment, Consumer interests, Disclosure.	<a href="http://mneguidelines.oecd.org/database/instances/nl0018.htm">http://mneguidelines.oecd.org/database/instances/nl0018.htm</a>
11	Environmental issues in Australia, Switzerland, and the UK	United States	2011	Concluded	NGO	Environment.	<a href="http://mneguidelines.oecd.org/database/instances/us0030.htm">http://mneguidelines.oecd.org/database/instances/us0030.htm</a>
12	Lead production in the UK	United Kingdom	2011	Concluded	NGO	Environment.	<a href="http://mneguidelines.oecd.org/database/instances/uk0026.htm">http://mneguidelines.oecd.org/database/instances/uk0026.htm</a>
13	Oil sands extraction in Canada	Norway	2011	Not accepted	NGO	Environment.	<a href="http://mneguidelines.oecd.org/database/instances/no0008.htm">http://mneguidelines.oecd.org/database/instances/no0008.htm</a>



Number	Title	Lead NCP	Year Submitted	Current Status	Submitters	Chapters Referenced	URL
14	Environmentally harmful products in the UK	United Kingdom	2011	Not accepted	NGO	Environment.	<a href="http://mneguidelines.oecd.org/database/instances/uk0027.htm">http://mneguidelines.oecd.org/database/instances/uk0027.htm</a>
15	Michelin Group, and four NGOs and a trade union	France	2012	Concluded	NGO and Trade Union	Environment, Human rights, General policies, Combating bribery, bribe solicitation and extortion, Disclosure, Employment and industrial relations.	<a href="http://mneguidelines.oecd.org/database/instances/fr0016.htm">http://mneguidelines.oecd.org/database/instances/fr0016.htm</a>
16	Gold mining in Mongolia	Canada	2012	Not accepted	NGO	Environment, Human rights, General policies, Concepts and principles.	<a href="http://mneguidelines.oecd.org/database/instances/ca0013.htm">http://mneguidelines.oecd.org/database/instances/ca0013.htm</a>
17	Statkraft AS and the Sami reindeer herding collective in Jijnjevaerie Sami Village	Sweden	2012	Concluded	Other interested parties	Environment, Human rights, General policies.	<a href="http://mneguidelines.oecd.org/database/instances/se0004.htm">http://mneguidelines.oecd.org/database/instances/se0004.htm</a>
18	Xayaburi Dam in Laos	Finland	2012	Concluded	NGO	Environment, Human rights, General policies.	<a href="http://mneguidelines.oecd.org/database/instances/fi0003.htm">http://mneguidelines.oecd.org/database/instances/fi0003.htm</a>
19	Mining in Mexico	Mexico	2012	Not accepted	NGO, Trade Union, and Other interested parties	Environment, Human rights, Combating bribery, bribe solicitation and extortion, Disclosure, Employment and industrial relations.	<a href="http://mneguidelines.oecd.org/database/instances/mx0003.htm">http://mneguidelines.oecd.org/database/instances/mx0003.htm</a>
20	Mining in South Africa	Australia	2013	Not accepted	Individual and Other interested parties	Environment, Human rights, General policies, Disclosure, Employment and industrial relations.	<a href="http://mneguidelines.oecd.org/database/instances/au0005.htm">http://mneguidelines.oecd.org/database/instances/au0005.htm</a>
21	Copper mining in Ecuador	Canada	2013	Not accepted	Individual and NGO	Environment, Human rights, General policies, Concepts and principles.	<a href="http://mneguidelines.oecd.org/database/instances/ca0011.htm">http://mneguidelines.oecd.org/database/instances/ca0011.htm</a>
22	Kinross Brasil Mineração and Paracatu neighboring associations	Brazil	2013	Concluded	Other interested parties	Environment, Human rights, General policies.	<a href="http://mneguidelines.oecd.org/database/instances/br0020.htm">http://mneguidelines.oecd.org/database/instances/br0020.htm</a>
23	Impacts of oil exploration in an area of the Virunga National Park in the DRC	United Kingdom	2013	Concluded	NGO	Environment, Human rights, General policies.	<a href="http://mneguidelines.oecd.org/database/instances/uk0038.htm">http://mneguidelines.oecd.org/database/instances/uk0038.htm</a>
24	Financial and insurance sector in Brazil	Brazil	2013	Concluded	Trade Union	Environment, Employment and industrial relations.	<a href="http://mneguidelines.oecd.org/database/instances/br0018.htm">http://mneguidelines.oecd.org/database/instances/br0018.htm</a>
25	Environmental issues relating to the construction of a harbour	Belgium	2013	Concluded	NGO	Environment.	<a href="http://mneguidelines.oecd.org/database/instances/be0015.htm">http://mneguidelines.oecd.org/database/instances/be0015.htm</a>

Number	Title	Lead NCP	Year Submitted	Current Status	Submitters	Chapters Referenced	URL
26	Gold mining in China's Tibet Autonomous Region	Canada	2014	Concluded	Individual and NGO	Environment, Human rights, General policies, Concepts and principles, Disclosure, Employment and industrial relations.	<a href="http://mneguidelines.oecd.org/database/instances/ca0012.htm">http://mneguidelines.oecd.org/database/instances/ca0012.htm</a>
27	Andritz Hydro GmbH and Finance and Trade Watch Austria	Austria	2014	Concluded	NGO	Environment, Human rights, General policies.	<a href="http://mneguidelines.oecd.org/database/instances/at0005.htm">http://mneguidelines.oecd.org/database/instances/at0005.htm</a>
28	Environmental issues in Denmark	Denmark	2014	Concluded	NGO	Environment, Employment and industrial relations.	<a href="http://mneguidelines.oecd.org/database/instances/dk0013.htm">http://mneguidelines.oecd.org/database/instances/dk0013.htm</a>
29	Mining in Chile	Chile	2014	Concluded	Other interested parties	Environment	<a href="http://mneguidelines.oecd.org/database/instances/cl0010.htm">http://mneguidelines.oecd.org/database/instances/cl0010.htm</a>
30	Nordex SE and individuals	Germany	2014	Concluded	Individual	Environment	<a href="http://mneguidelines.oecd.org/database/instances/de0021.htm">http://mneguidelines.oecd.org/database/instances/de0021.htm</a>
31	Wind energy project in Turkey	Turkey	2014	Not accepted	Individual	Environment	<a href="http://mneguidelines.oecd.org/database/instances/tr0002.htm">http://mneguidelines.oecd.org/database/instances/tr0002.htm</a>
32	Electricity supplier in Chile	Chile	2014	Not accepted	Business	Environment	<a href="http://mneguidelines.oecd.org/database/instances/cl0007.htm">http://mneguidelines.oecd.org/database/instances/cl0007.htm</a>
33	Atradius Dutch State Business (ADSB) and NGOs	Netherlands	2015	Concluded	NGO	Environment, Human rights, General policies, Disclosure.	<a href="http://mneguidelines.oecd.org/database/instances/nl0026.htm">http://mneguidelines.oecd.org/database/instances/nl0026.htm</a>
34	Van Oord Marine Operations Services, and Forum Suape Environmental Association, Conectas Human Rights, Fishermen colony of the city of Cabo de Santo Agostinho, and Both ENDS (Dutch NGO)	Brazil	2015	Concluded	NGO	Environment, Human rights, General policies, Disclosure.	<a href="http://mneguidelines.oecd.org/database/instances/br0023.htm">http://mneguidelines.oecd.org/database/instances/br0023.htm</a>
35	Human rights and environment issues involving Japanese MNEs operating in Indonesia	Japan	2015	In progress	Individual	Environment, Human rights, General policies, Concepts and principles.	<a href="http://mneguidelines.oecd.org/database/instances/jp0007.htm">http://mneguidelines.oecd.org/database/instances/jp0007.htm</a>
36	Lafarge Holcim and Ricardo Molina, a electromechanical engineer and inventor	Argentina	2016	Concluded	Individual	Environment, Concepts and principles, Science and technology.	<a href="http://mneguidelines.oecd.org/database/instances/ar0011.htm">http://mneguidelines.oecd.org/database/instances/ar0011.htm</a>
37	Seabridge Gold and the Southeast Alaska Conservation Council	Canada	2016	Concluded	NGO	Environment, Human rights, General policies, Disclosure.	<a href="http://mneguidelines.oecd.org/database/instances/ca0019.htm">http://mneguidelines.oecd.org/database/instances/ca0019.htm</a>

Number	Title	Lead NCP	Year Submitted	Current Status	Submitters	Chapters Referenced	URL
38	Imperial Metals Corporation and the Southeast Alaskan Conservation Council	Canada	2016	Concluded	NGO	Environment, Human rights, General policies, Disclosure.	<a href="http://mneguidelines.oecd.org/database/instances/ca0017.htm">http://mneguidelines.oecd.org/database/instances/ca0017.htm</a>
39	World Wide Fund for Nature International (WWF) and Survival International Charitable Trust	Switzerland	2016	Concluded	NGO	Environment, Human rights, General policies.	<a href="http://mneguidelines.oecd.org/database/instances/ch0014.htm">http://mneguidelines.oecd.org/database/instances/ch0014.htm</a>
40	Salini Impregilo S.p.A and Survival International Italia concerning activities in Ethiopia	Italy	2016	Concluded	NGO	Environment, Human rights, General policies.	<a href="http://mneguidelines.oecd.org/database/instances/it0009.htm">http://mneguidelines.oecd.org/database/instances/it0009.htm</a>
41	Jamaa Resources Initiatives and a U.S. company for conduct in Kenya	United States	2016	Concluded	NGO	Environment, Human rights, Disclosure, Employment and industrial relations.	<a href="http://mneguidelines.oecd.org/database/instances/us0048.htm">http://mneguidelines.oecd.org/database/instances/us0048.htm</a>
42	Nuon Energy N.V. and/or Nuon Wind Development B.V., and Stichting Hou Friesland Mooi	Netherlands	2017	Concluded	Multi-stakeholder and other interested parties	Environment, Human rights, General policies.	<a href="http://mneguidelines.oecd.org/database/instances/nl0032.htm">http://mneguidelines.oecd.org/database/instances/nl0032.htm</a>
43	Crédit Suisse and Society for Threatened Peoples Switzerland (North Dakota Access Pipeline)	Switzerland	2017	Concluded	NGO	Environment, Human rights, General policies.	<a href="http://mneguidelines.oecd.org/database/instances/ch0016.htm">http://mneguidelines.oecd.org/database/instances/ch0016.htm</a>
44	Due diligence of a company financing a mining company in Armenia	Denmark	2017	Not accepted	NGO	Environment, Human rights, General policies.	<a href="http://mneguidelines.oecd.org/database/instances/dk0016.htm">http://mneguidelines.oecd.org/database/instances/dk0016.htm</a>
45	ENI S.p.A., ENI International BV, and CWA and ACA	Italy	2017	Concluded	Multi-Stakeholder	Environment, Human rights, General policies.	<a href="http://mneguidelines.oecd.org/database/instances/it0013.htm">http://mneguidelines.oecd.org/database/instances/it0013.htm</a>
46	Environmental issues in Spain concerning a Spanish Multinational Energy supplier and an individual	Spain	2017	Concluded	Individuals	Environment.	<a href="http://mneguidelines.oecd.org/database/instances/es0009.htm">http://mneguidelines.oecd.org/database/instances/es0009.htm</a>
47	Environment and indigenous issues in Guatemala concerning a Spanish NGO and a Spanish construction Multinational	Spain	2017	Concluded	NGO	Environment, General policies.	<a href="http://mneguidelines.oecd.org/database/instances/es0008.htm">http://mneguidelines.oecd.org/database/instances/es0008.htm</a>
48	Teck-Quebrada Blanca Mining Company and Mineworkers Union	Chile	2017	Concluded	Trade Union	Environment, Employment and industrial relations.	<a href="http://mneguidelines.oecd.org/database/instances/cl0013.htm">http://mneguidelines.oecd.org/database/instances/cl0013.htm</a>

Number	Title	Lead NCP	Year Submitted	Current Status	Submitters	Chapters Referenced	URL
49	ING Bank and NGOs concerning climate policy	Netherlands	2017	Concluded	NGO	Environment, Consumer interests, Disclosure.	<a href="http://mneguidelines.oecd.org/database/instances/nl0029.htm">http://mneguidelines.oecd.org/database/instances/nl0029.htm</a>
50	Perenco, and Avocats Sans Frontières (ASF) and I Watch	France	2018	In progress	NGO	Environment, Human rights, General policies, Disclosure, Employment and industrial relations, Taxation.	<a href="http://mneguidelines.oecd.org/database/instances/fr0029.htm">http://mneguidelines.oecd.org/database/instances/fr0029.htm</a>
51	Shell Petroleum Development Company of Nigeria Limited (SPDC), Royal Dutch Shell (RDS) and Obelle Concern Citizens (OCC)	Netherlands	2018	Concluded	Other interested parties	Environment, Human rights, General policies, Concepts and principles, Disclosure, Employment and industrial relations.	<a href="http://mneguidelines.oecd.org/database/instances/nl0036.htm">http://mneguidelines.oecd.org/database/instances/nl0036.htm</a>
52	Victoria Oil & Gas plc (VOG) and Association des Habitants de Ndogpassi I, II et III (AHN), and Cercle de Bon Voisinage de Logmayangui (CBVL)	United Kingdom	2018	In progress	NGO	Environment, Human rights, General policies, Disclosure, Employment and industrial relations.	<a href="http://mneguidelines.oecd.org/database/instances/uk0051.htm">http://mneguidelines.oecd.org/database/instances/uk0051.htm</a>
53	Group PZU S.A. and Development YES – Open-Pit Mines NO Foundation	Poland	2018	Concluded	NGO	Environment, Human rights, General policies, Consumer interests, Disclosure.	<a href="http://mneguidelines.oecd.org/database/instances/0006.htm">http://mneguidelines.oecd.org/database/instances/0006.htm</a>
54	KEXIM, Daewoo E&C and JRPM, PSPD, KTNC WATCH	Korea, Republic of (South)	2018	Not accepted	NGO	Environment, Human rights, General policies.	<a href="http://mneguidelines.oecd.org/database/instances/ke0016.htm">http://mneguidelines.oecd.org/database/instances/ke0016.htm</a>
55	Grupa OLX and Frank Bold Foundation	Poland	2018	Concluded	NGO	Environment, General policies, Consumer interests.	<a href="http://mneguidelines.oecd.org/database/instances/pl0005.htm">http://mneguidelines.oecd.org/database/instances/pl0005.htm</a>
56	PricewaterhouseCoopers Global Network (PwC) and UK Lawyers for Israel (UKLFI) 2	United Kingdom	2019	In progress	NGO	Environment, General policies, Disclosure, Employment and industrial relations, Human rights.	<a href="http://mneguidelines.oecd.org/database/instances/uk0055.htm">http://mneguidelines.oecd.org/database/instances/uk0055.htm</a>
57	Pharmakina SA, Pharmeg SA, and a group of individuals	Luxembourg	2019	Not accepted	Individual	Environment, Human rights, General policies, Combating bribery, bribe solicitation and extortion, Concepts and principles, Disclosure, Employment and industrial relations.	<a href="http://mneguidelines.oecd.org/database/instances/lu0003.htm">http://mneguidelines.oecd.org/database/instances/lu0003.htm</a>
58	SK Engineering & Construction and Korean Civil Society Task Force Team	Korea, Republic of (South)	2019	Concluded	NGO	Environment, Human rights, General policies, Disclosure.	<a href="http://mneguidelines.oecd.org/database/instances/ke0017.htm">http://mneguidelines.oecd.org/database/instances/ke0017.htm</a>

Number	Title	Lead NCP	Year Submitted	Current Status	Submitters	Chapters Referenced	URL
59	German company and individuals concerning employment and environmental issues in the Democratic Republic of Congo	Germany	2019	Not accepted	Individual	Environment, Human rights, Combating bribery, bribe solicitation and extortion, Concepts and principles, Disclosure, Employment and industrial relations.	<a href="http://mneguidelines.oecd.org/database/instances/de0029.htm">http://mneguidelines.oecd.org/database/instances/de0029.htm</a>
60	BP and ClientEarth	United Kingdom	2019	Not accepted	NGO	Environment, General policies, Consumer interests.	<a href="http://mneguidelines.oecd.org/database/instances/uk0054.htm">http://mneguidelines.oecd.org/database/instances/uk0054.htm</a>
61	Vale S.A., and Mr. Carlos Cleber Guimarães Júnior and Ms. Carla de Laci França Guimarães	Brazil	2020	In progress	Individuals	Environment, General policies, Disclosure, Human rights.	<a href="http://mneguidelines.oecd.org/database/instances/br0030.htm">http://mneguidelines.oecd.org/database/instances/br0030.htm</a>
62	ANZ Banking Group, and Friends of the Earth and Individuals	Australia	2020	In progress	NGO, Individuals	Environment, General policies, Disclosure, Consumer interests.	<a href="http://mneguidelines.oecd.org/database/instances/au0016.htm">http://mneguidelines.oecd.org/database/instances/au0016.htm</a>
63	Vale S.A. and Multiple Individuals	Brazil	2020	In progress	Individuals	Environment, General policies, Disclosure, Human rights.	<a href="http://mneguidelines.oecd.org/database/instances/br0029.htm">http://mneguidelines.oecd.org/database/instances/br0029.htm</a>
64	Teleperformance and UNI Global Union	France	2020	In progress	Trade Union	Environment, General policies, Human rights, Employment and industrial relations.	<a href="http://mneguidelines.oecd.org/database/instances/fr0030.htm">http://mneguidelines.oecd.org/database/instances/fr0030.htm</a>
65	Global Witness and UK Export Finance (UKEF)	United Kingdom	2020	Not accepted	NGO	Environment, Disclosure.	<a href="http://mneguidelines.oecd.org/database/instances/uk0056.htm">http://mneguidelines.oecd.org/database/instances/uk0056.htm</a>
66	Rio Tinto and Human Rights Law Centre (HRLC)	Australia	2020	In progress	NGO	Environment, General policies, Human rights.	<a href="http://mneguidelines.oecd.org/database/instances/au0017.htm">http://mneguidelines.oecd.org/database/instances/au0017.htm</a>
67	Vale S.A. and Rogério Mário Ziviani Gomes	Brazil	2020	Concluded	Individuals	General policies, Disclosure, Human rights.	<a href="http://mneguidelines.oecd.org/database/instances/br0031.htm">http://mneguidelines.oecd.org/database/instances/br0031.htm</a>
68	Individual & Valeo Autosystemy Sp. z o.o.	Argentina	2020	In progress	Other interested parties	Environment, General policies, Human rights.	<a href="http://mneguidelines.oecd.org/database/instances/pl0007.htm">http://mneguidelines.oecd.org/database/instances/pl0007.htm</a>
69	Subsidiary of an MNE and two individuals	Hungary	2020	Not accepted	Individuals	Environment, General policies, Human rights.	<a href="http://mneguidelines.oecd.org/database/instances/hu0003.htm">http://mneguidelines.oecd.org/database/instances/hu0003.htm</a>
70	Aminigboko Community & The Shell Petroleum Development Company of Nigeria Limited (SPDC) and Shell Headquarters	Netherlands	2019	In progress	Other Interested Parties	Environment, Concepts and principles, General provisions, Disclosure, Human rights, Employment and industrial relations, Combatting bribery, Consumer interests.	<a href="http://mneguidelines.oecd.org/database/instances/nl0040.htm">http://mneguidelines.oecd.org/database/instances/nl0040.htm</a>

Number	Title	Lead NCP	Year Submitted	Current Status	Submitters	Chapters Referenced	URL
71	Korean Transnational Corporations Watch (KTNC Watch), PUSAKA, SKP-KAMe, and WALHI Papua & POSCO INTERNATIONAL, the National Pension Service (NPS) and the Export-Import Bank of Korea (KEXIM)	Korea, Republic of (South)	2019	In progress	NGO	Environment, General provisions, Disclosure, Human rights.	<a href="http://mneguidelines.oecd.org/database/instances/ke0020.htm">http://mneguidelines.oecd.org/database/instances/ke0020.htm</a>
72	West Virginians for Sustainable Development & Rockwool International A/S	Denmark	2019	Concluded	NGO	Environment, General provisions, Human rights.	<a href="http://mneguidelines.oecd.org/database/instances/dk0019.htm">http://mneguidelines.oecd.org/database/instances/dk0019.htm</a>
73	"Centre d'Actions pour la Vie et la Terre" and "les Comités Riverains de Veille" & COPAGEF, SOMDIAA and SOSUCAM	France	2020	In progress	Individual(s)	Environment, Concepts and principles, General provisions, Disclosure, Human rights, Employment and industrial relations.	<a href="http://mneguidelines.oecd.org/database/instances/fr0034.htm">http://mneguidelines.oecd.org/database/instances/fr0034.htm</a>
74	LSD et al. & Tosyali Holding Ltd	Turkey	2020	In progress	NGO	Environment, General provisions, Human rights.	<a href="http://mneguidelines.oecd.org/database/instances/tr006.htm">http://mneguidelines.oecd.org/database/instances/tr006.htm</a>
75	Mr. Lee & Häagen-Dazs Korea and General Mills Korea	Korea, Republic of (South)	2020	Not accepted	Individual(s)	Environment, Concepts and principles, General provisions, Disclosure, Human rights, Employment and industrial relations, Consumer interests.	<a href="http://mneguidelines.oecd.org/database/instances/kr0021.htm">http://mneguidelines.oecd.org/database/instances/kr0021.htm</a>
76	Bracell Bahia Specialty Cellulose SA, Bracell Group & Izabel Lopes Soares da Silvas	Brazil	2020	In progress	Individual(s)	Environment, Disclosure, Human Rights	<a href="http://mneguidelines.oecd.org/database/instances/br0028.htm">http://mneguidelines.oecd.org/database/instances/br0028.htm</a>
77	Port Hedland Community Progress Association Inc & Australian-based enterprise	Australia	2021	In progress	NGO	Environment	<a href="http://mneguidelines.oecd.org/database/instances/au0019.htm">http://mneguidelines.oecd.org/database/instances/au0019.htm</a>

Note: This table lists all NCP cases filed during the period of January 2011 and August 2021 and that reference the Environment Chapter of the OECD Guidelines. All cases filed since 2011 and that are included in the Table have been officially reported to the OECD Secretariat.

Source: [OECD Database of Specific Instances](#). Accessed 26 August 2021.



Table A.3. Table of Specific Instances Filed since 2011 related to Climate Change Matters

Number	Title	Lead NCP	Year Submitted	Current Status	Submitters	Chapters Referenced	URL
1	Oil sands extraction in Canada	Norway	2011	Not accepted	NGO	Environment	<a href="http://mneguidelines.oecd.org/database/instances/no0008.htm">http://mneguidelines.oecd.org/database/instances/no0008.htm</a>
2	ING Bank and NGOs concerning climate policy	Netherlands	2017	Concluded	NGO	Environment, Consumer interests, Disclosure,	<a href="http://mneguidelines.oecd.org/database/instances/nl0029.htm">http://mneguidelines.oecd.org/database/instances/nl0029.htm</a>
3	Group PZU S.A. and Development YES – Open-Pit Mines NO Foundation	Poland	2018	Concluded	NGO	Environment, Human rights, General policies, Consumer interests, Disclosure,	<a href="http://mneguidelines.oecd.org/database/instances/0006.htm">http://mneguidelines.oecd.org/database/instances/0006.htm</a>
4	BP and ClientEarth	United Kingdom	2019	Not accepted	NGO	Environment, General policies, Consumer interests	<a href="http://mneguidelines.oecd.org/database/instances/uk0054.htm">http://mneguidelines.oecd.org/database/instances/uk0054.htm</a>
5	ANZ Banking Group, and Friends of the Earth and Individuals	Australia	2020	In progress	NGO, Individuals	Environment, General policies, Disclosure, Consumer interests	<a href="http://mneguidelines.oecd.org/database/instances/au0016.htm">http://mneguidelines.oecd.org/database/instances/au0016.htm</a>
6	Global Witness and UK Export Finance (UKEF)	United Kingdom	2020	Not accepted	NGO	Environment, Disclosure	<a href="http://mneguidelines.oecd.org/database/instances/uk0056.htm">http://mneguidelines.oecd.org/database/instances/uk0056.htm</a>
7	Indigenous women and Divest Invest Protect vs. Credit Suisse	United States	2020	In progress	Multi stakeholders	Environment, General Policies, Human rights	<a href="https://www.oecdwatch.org/complaint/indigenous-women-and-divest-invest-protect-vs-credit-suisse/">https://www.oecdwatch.org/complaint/indigenous-women-and-divest-invest-protect-vs-credit-suisse/</a>

Note: This table lists cases filed since 2011 related to climate change matters.

Source: [OECD Database of Specific Instances](#) (Accessed 26 August 2021) and OECD Watch Database (Accessed 26 August 2021).

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