

Understanding the OECD Guidelines and due diligence guidance

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Overview

1. OECD Watch network
2. The OECD Guidelines
 - a. Guidelines due diligence
 - b. Guidelines and EU CSDDD
 - c. Bonus: Guidelines and OECD Accession
3. Q&A, Discussion

OECD Watch network



- **Global network** of 150+ CSOs in 54 countries
 - Coordination committee: 9 global members
- **Official representative of civil society** at the OECD Investment Committee
- Our work: capacity building, complaint- and policy-advicing (at the OECD and other fora)



For more information click here

[About us](#)

What is OECD? And what are the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct?

- OECD:
 - Multilateral institution
 - (Conservative) forum for States to resolve economic, social, and development challenges
- OECD Guidelines:
 - Recommendations (voluntary) from OECD governments to companies setting leading international standards on responsible business conduct
 - Drafted 1976, updated June 2023

Who promotes and implements the Guidelines?

- **OECD Investment Committee and Working Party on RBC**
 - Develop policy to guide government implementation
- **Government *National Contact Points*** with 2.5 functions:
 - (1) Promote the Guidelines
 - (2) Handle complaints against companies alleged not to have met the Guidelines' standards
 - (.5) Support development of national RBC law & policy
- **Companies** (voluntarily)



What is in the Guidelines?

- Part I: Standards for companies
 - Part of 3-part international “normative framework” including UN Guiding Principles and ILO
- Part II: Instructions for government implementation
 - Focus on complaints: NCPs provide a platform and guidance to help parties (mediate) mutually agreeable and Guidelines-compatible solutions to companies’ alleged failure to observe the Guidelines
 - Company jurisdictional rules



Part I: Guidelines chapters



Issues

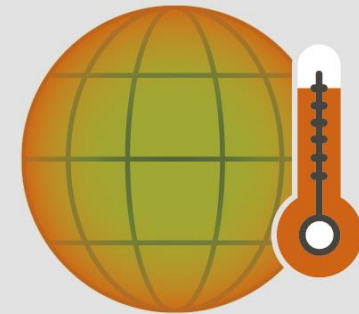
ANIMAL WELFARE



ANTI-CORRUPTION



CLIMATE CHANGE



COMPETITION



DISCLOSURE



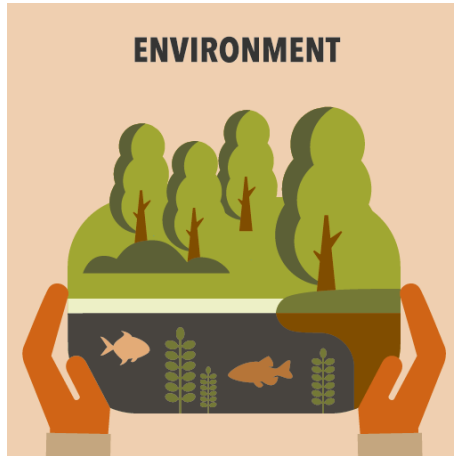
DUE DILIGENCE



For more information click here

[What's in the Guidelines](#)

Issues (cont)



For more information click here

[What's in the Guidelines](#)

Issues (cont)

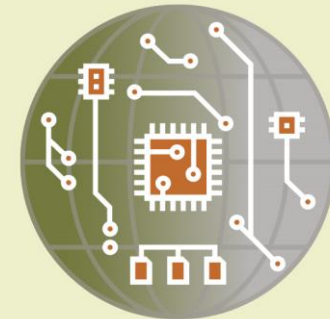
STAKEHOLDER ENGAGEMENT



TAXATION



TECHNOLOGY



WORKERS' RIGHTS



REMEDY



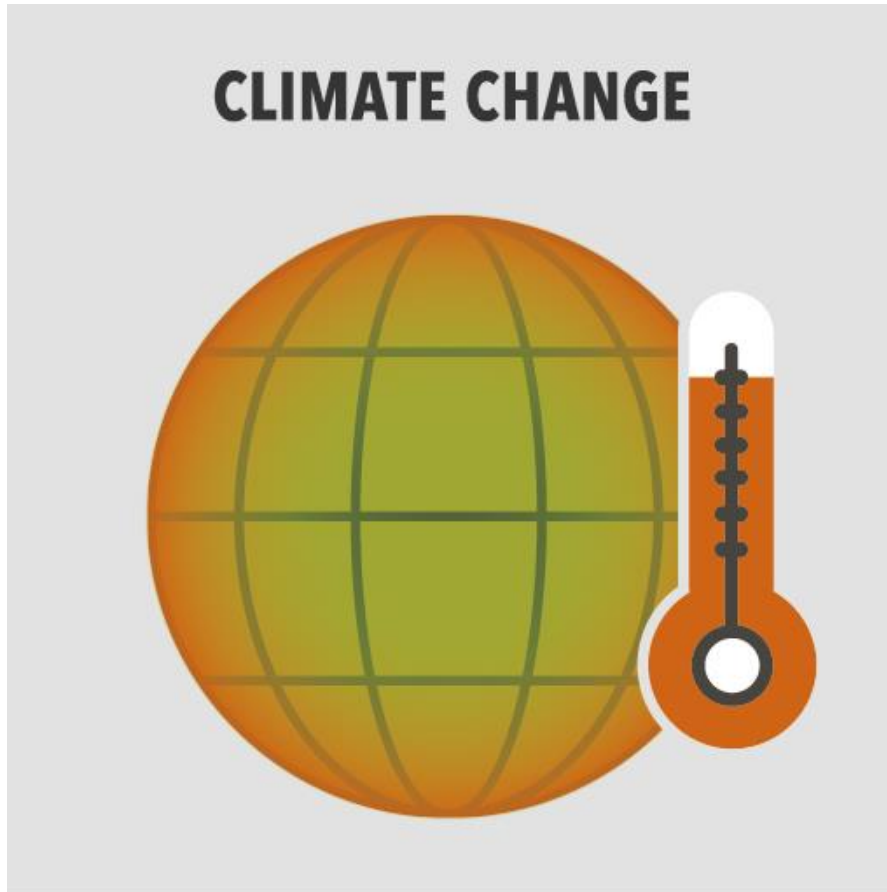
COMPLAINTS



For more information click here

[What's in the Guidelines](#)

What do the Guidelines say on climate change?



- Take action against CC
- GHG emissions consistent with **Paris Agreement and international goals**
- Implement CC **policies, transition plans and mitigation targets**
- Prioritise reducing and eliminating emissions over **offsetting**

For more information click here

[Factsheet on climate change](#)

What do the Guidelines say on human rights defenders?



Companies must:

- Refrain from taking **reprisals**
- Provide or contribute to **remedy for harm from reprisals**
- Promote **safe space** for defenders, including by monitoring partners (including states)

For more information click here

[Factsheet on human rights defenders](#)

Part II: NCP Implementation: Complaints

Complaint process

1. **Basic steps:**

1. Interested party alleges company didn't meet standard(s)
2. NCP accepts/rejects based on six eligibility criteria
3. If accepted, complaint enters “good offices” (mediation, conciliation)
4. Agreement? Final statement explains the outcome
5. No agreement? NCP may evaluate on its own, and final statement explains what happened
6. Follow-up

2. **Strategy/rationale:** Seeing NCP complaints within the full remedy landscape – follow OECD Watch Guidance

For more information click here

[Filing complaints](#)

[NCP evaluations](#)

Guidelines: strengths & weaknesses

Strengths

- Government backed, binding on government
- Broad coverage
 - All sectors
 - All issues
 - All countries*
 - Whole value chain
- Complaint mechanism
- Associated due diligence guidance

Weaknesses

- Not binding on companies
- States not required to enforce penalties
- Weak implementation (NCPs)

NCP complaints: Strengths and weaknesses

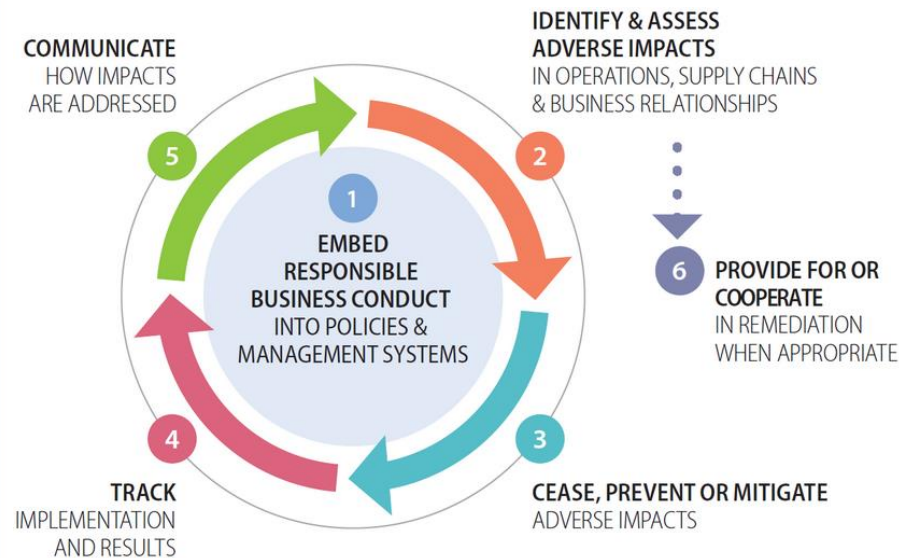
Strengths

- Cheaper, faster, less adversarial (compared to litigation)
- Flexible remedy/outcome options
- Speak directly to company during mediation

Weaknesses

- Voluntary and non-binding
- Differences in NCPs
- Few agreements
- Remedy not guaranteed

OECD Guidelines and due diligence



- **6-step** due diligence process
- Address impacts (from business relationships) across **whole value chain**
- Address distinct and intersecting risks to **vulnerable or marginalised groups**
- Ensure **meaningful stakeholder engagement**

OECD Guidelines and EU CSDDD

- Adhering governments **committed** to promoting state leadership on RBC, alignment with Guidelines
- OECD Watch advocacy at EU and other countries
- At EU: **Broad alignment achieved** on due diligence steps; weaker on scope
- Next opportunities to strengthen alignment:
 - Transposition, EU guidelines, review**

OECD Watch analysis

OECD GUIDELINES	ELEMENT	EU CSDDD
	PERSONAL SCOPE	
✓	Covers companies of all sizes	✗
✓	Covers all sectors	✓*
✓	Covers companies of all forms	~
	VALUE CHAIN SCOPE	
✓	Covers all upstream business relationships	✓
✓	Covers all downstream business relationships	✗*
	MATERIAL SCOPE	
✓	Covers all human rights	~
✓	Covers all environmental impacts	~
	CLIMATE	
✓	Covers climate change as an environmental impact	~
✓	Requires implementation and monitoring of climate plan covering scope 1, 2, and 3	~

Bonus: OECD Guidelines and OECD accession

- Bulgaria, Croatia, and Romania (plus 5 others..) are in process of acceding to the OECD
- New members must implement Guidelines and demonstrate standards aligned with OECD's
- OECD Watch is making two demands of OECD:
 - Substantive: require strong domestic RBC standards as condition of membership (Brazil test)
 - Process: ensure more transparency & inclusion of stakeholders during accession process
- Does CEE civil society want to engage?

For more information click here

[Work on Brazil's accession](#)

Questions?

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See our website by clicking here

OECD Watch

www.oecdwatch.org