Recommendation of the Council on the Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector

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Background Information

The Recommendation on the Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector (the Guidance) was adopted by the OECD Council on 13 July 2016 on the proposal of the Investment Committee. The Recommendation recommends Adherents and, when relevant, their National Contact Points to actively promote the use of the Guidance which is addressed to enterprises operating in or from their territories. Enterprises involved in the extractive industries have the potential to sustain livelihoods, foster local development and generate significant revenues in the areas in which they operate. However, extractive operations can cause or contribute to adverse impacts. Meaningful stakeholder engagement and due diligence are critical to avoiding some of the potential adverse impacts of extractive operations, as well as optimising their potential positive contributions. They are also central components to responsible business conduct under the OECD Guidelines for Multinational Enterprises. The Recommendation and the Guidance contained therein provide a practical framework for identifying and managing risks with regard to stakeholder engagement activities to ensure companies avoid and address adverse impacts of their operation.

THE COUNCIL,

HAVING REGARD to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

HAVING REGARD to the Declaration on International Investment and Multinational Enterprises [C(76)99(Final)], the Decision of the Council on the OECD Guidelines for Multinational Enterprises [C(2000)96/FINAL as amended by C/MIN(2011)11/FINAL] (hereafter the "Decision on the Guidelines"), the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the Recommendation of the Council on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas [C/MIN(2011)12/FINAL as amended by C(2012)93], the Recommendation of the Council on the Policy Framework for Investment [C(2015)56/REV1] and the Recommendation of the Council on the OECD-FAO Guidance for Responsible Agricultural Supply Chains [C(2016)83];

RECALLING that the common aim of governments recommending the observance of the Guidelines for Multinational Enterprises (hereafter the "Guidelines") is to promote responsible business conduct;

RECALLING FURTHER that the Decision on the Guidelines provides that the Investment Committee shall, in co-operation with National Contact Points, pursue a proactive agenda in collaboration with stakeholders to promote the effective observance by enterprises of the principles and standards contained in the Guidelines with respect to particular products, regions, sectors or industries;

CONSIDERING the efforts of the international community and nations rich in oil, gas and mineral resources to promote responsible business conduct and meaningful stakeholder engagement in the extractive sector;

RECOGNISING that meaningful stakeholder engagement in the extractive sector is critical to sustainable development, promoting inclusive growth and respecting human rights;

RECOGNISING that governments, enterprises, civil society organisations and international organisations can draw on their respective competences and roles to promote meaningful stakeholder engagement in the extractive sector to benefit society at large;

NOTING that due diligence is an on-going, proactive and reactive process through which enterprises can identify and manage risks with regard to stakeholder engagement activities to ensure that they play a role in avoiding and addressing adverse impacts linked to extractive sector operations;

HAVING REGARD to the Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector [C(2016)100/ADD1] (hereafter "the Guidance") that may be modified, as appropriate, by the Investment Committee;

NOTING that this Guidance proposes a due diligence framework for meaningful stakeholder engagement in the extractive sector and provides recommendations on applying that framework to identify and manage risks to stakeholders impacted by extractive sector operations and specifically to indigenous peoples, women, workers and artisanal and small-scale miners;

On the proposal of the Investment Committee:

I. **RECOMMENDS** that Members and non-Members adhering to this Recommendation (hereafter the "Adherents") and, where relevant, their National Contact Points to the OECD Guidelines for Multinational Enterprises (hereafter the "NCPs"), actively promote the use of the Guidance by enterprises operating in or from their territories with the aim of ensuring that they observe internationally agreed standards of responsible business conduct with respect to stakeholder engagement in the extractive sector in order to prevent adverse impacts, such as human rights infringements and environmental degradation and promote economic growth and sustainable development;

II. **RECOMMENDS,** in particular, that Adherents take measures to actively support the adoption of the due diligence framework for meaningful stakeholder engagement set out in the Guidance;

III. **RECOMMENDS** that Adherents and where relevant their NCPs, with the support of the OECD ensure the widest possible dissemination of the Guidance and its active use by enterprises conducting exploration, development, extraction, processing, transport, and/or storage of oil, gas and minerals as well as promote the use of the Guidance as a resource for stakeholders such as affected communities and civil society organisations, and regularly report to the Investment Committee on any dissemination and implementation activities;

IV. **INVITES** Adherents and the Secretary-General to disseminate this Recommendation;

V. **INVITES** non-Adherents to take due account of and adhere to the present Recommendation;

VI. **INSTRUCTS** the Investment Committee to monitor the implementation of the Recommendation and to report to Council no later than five years following its adoption and as appropriate thereafter.

Adherents*

OECD Members

Australia
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Belgium
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Chile
Czech Republic
Denmark
Estonia
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Japan
Korea
Latvia
Luxembourg
Mexico
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Slovenia
Spain
Sweden
Switzerland
Turkey
United Kingdom
United States

Non-Members

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Kazakhstan
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- **Decisions**: OECD legal instruments which are legally binding on all Members except those which abstain at the time of adoption. While they are not international treaties, they entail the same kind of legal obligations. Adherents are obliged to implement Decisions and must take the measures necessary for such implementation.

- **Recommendations**: OECD legal instruments which are not legally binding but practice accords them great moral force as representing the political will of Adherents. There is an expectation that Adherents will do their utmost to fully implement a Recommendation. Thus, Members which do not intend to do so usually abstain when a Recommendation is adopted, although this is not required in legal terms.

- **Declarations**: OECD legal instruments which are prepared within the Organisation, generally within a subsidiary body. They usually set general principles or long-term goals, have a solemn character and are usually adopted at Ministerial meetings of the Council or of committees of the Organisation.

- **International Agreements**: OECD legal instruments negotiated and concluded within the framework of the Organisation. They are legally binding on the Parties.

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