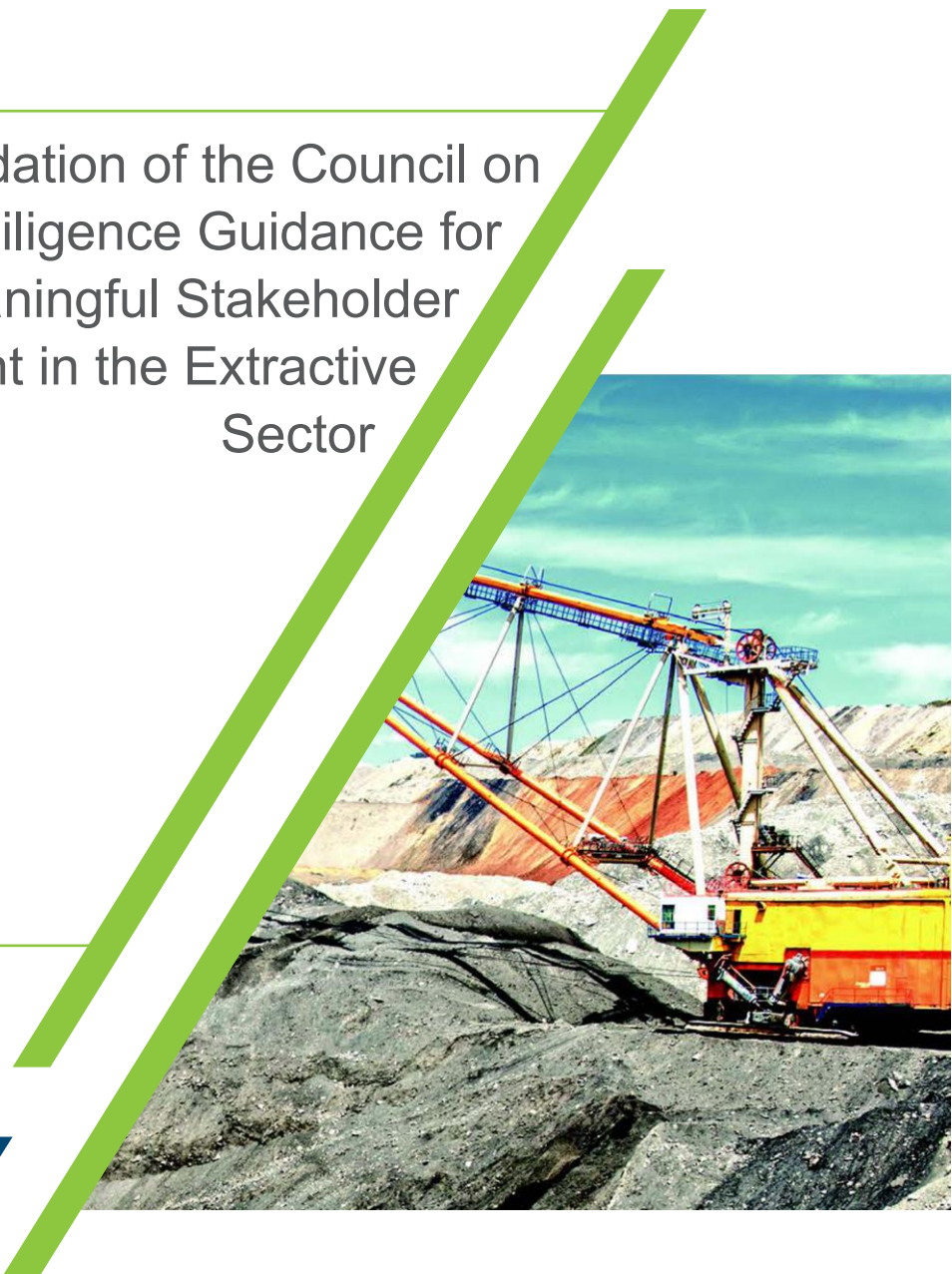




Recommendation of the Council on the Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector



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Background Information

The Recommendation on the due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector (hereafter the “Recommendation”) was adopted by the OECD Council on 13 July 2016 on the proposal of the Investment Committee (IC). The main purpose of the Recommendation is that Members and non-Members having adhered to it (hereafter the “Adherents”) and, where relevant, their National Contact Points (hereafter the “NCPs”) disseminate and promote the observance of the Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector (hereafter the “Guidance”).

The need for a standard on stakeholder engagement in the extractive sector

Enterprises involved in the exploration and extraction of oil, gas and minerals have the potential to generate income, sustain livelihoods, foster local development and generate significant revenues in the areas in which they operate. However, extractive operations can have a significant social and environmental footprint and thus are often at risk of causing or contributing to adverse impacts, such as human rights infringements, economic setbacks and environmental degradation. 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 as set out in the OECD Guidelines for Multinational Enterprises adopted as part of the Declaration on International Investment and Multinational Enterprises [OECD/LEGAL/0144] (hereafter the “MNE Guidelines”).

Process for developing the Recommendation

The Guidance was developed through an in-depth multi-stakeholder process with an Advisory Group co-chaired by representatives from Canada and Norway and comprised of over 40 experts from OECD Members and non-Members, the oil, gas, mining and metals sectors, civil society organisations, trade union bodies, international organisations and indigenous peoples’ representatives. Over a period of two years, three in-person meetings and multiple conference calls with the Advisory Group were organised, and a public, on-line consultation on the Guidance was held from 25 April to 5 June 2015, during which 35 sets of comments from governments, the private sector and civil society organisations were collected and used in finalising the Guidance. After its endorsement by the multistakeholder Advisory Group, the Guidance was approved by the IC.

After the approval of the Guidance, the IC proposed to Council the adoption of a draft Recommendation based on the Guidance in recognition of the need for governments to take appropriate measures to promote the wide dissemination and robust implementation of the Guidance. The Recommendation was adopted by the Council on 13 July 2016.

Scope of the Recommendation

The Recommendation focuses on the efforts that Adherents and, where relevant, their National Contact Points should make to actively promote the observance of the Guidance by companies operating in or from their territories, as well as to ensure the widest possible dissemination of the Guidance, in order to ensure that those companies observe internationally agreed standards of responsible business conduct with respect to stakeholder engagement in the extractive sector.

For further information please consult: <https://www.oecd.org/daf/inv/mne/stakeholder-engagement-extractive-industries.htm>.

The Guidance is available in the following languages: German, Norwegian, Polish, Spanish, Sami, Ukrainian at this [address](#).

Contact information: rbc@oecd.org.

Implementation

2022 Report to Council

The Recommendation instructs the IC to monitor its implementation and to report to Council no later than five years following its adoption and as appropriate thereafter. The first Report to Council on implementation of the Recommendation (hereafter the “[2022 Report to Council](#)”) covered the period from the adoption of the Recommendation to 2020, was approved by the IC on 15 April 2022 and was noted and declassified by the Council on 16 May 2022.

The 2022 Report to Council found that implementation of the Recommendation by Adherents has been very limited and that this has an impact on implementation of the Guidance by companies. Only a small handful of Adherents have reported any actions to support dissemination of the MSE Recommendation and observance of the Guidance, and such actions have been limited to translations of the Guidance and one-off promotional events. In this regard, while Adherents have made efforts to promote and disseminate the Guidance among companies, by for example translating it into German, Norwegian, Polish, Sami, Spanish, and Ukrainian, efforts to disseminate it and promote its implementation by companies should be increased.

Furthermore, the Recommendation can only be as relevant as the underlying Guidance. The lack of observance of the Guidance by companies raises the question of the continued relevance of the Guidance itself in light of ongoing developments on the ground. As such, the IC may wish to review how fit-for-purpose the Guidance is in its current form, given the relevance of the issue of meaningful stakeholder engagement beyond just the extractive sector.

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.

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- **Recommendations** are adopted by Council and are not legally binding. They represent a political commitment to the principles they contain and entail an expectation that Adherents will do their best to implement them.
- **Substantive Outcome Documents** are adopted by the individual listed Adherents rather than by an OECD body, as the outcome of a ministerial, high-level or other meeting within the framework of the Organisation. They usually set general principles or long-term goals and have a solemn character.
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- **Arrangement, Understanding and Others:** several other types of substantive legal instruments have been developed within the OECD framework over time, such as the Arrangement on Officially Supported Export Credits, the International Understanding on Maritime Transport Principles and the Development Assistance Committee (DAC) Recommendations.