



## POLICY PAPER

April 2023

# A little downstream goes a long way

## How downstream due diligence can prevent and mitigate harm

Companies have a responsibility to conduct due diligence along their entire value chains, both upstream and downstream, according to authoritative international standards on business, human rights and the environment. However, studies have shown that companies across sectors are failing to conduct adequate human rights and environmental due diligence for their downstream value chains,<sup>1</sup> resulting in numerous examples of adverse human rights and environmental impacts connected to their downstream activities. From equipment used for unlawful surveillance by authoritative regimes to heavy machinery causing catastrophic environmental destruction and dangerous chemicals used in agriculture, these examples are having an adverse impact on the planet and on people's livelihoods.

In the December 2022 publication *Setting the Record Straight*, a group of non-governmental organisations<sup>2</sup> reminded policy-makers that international standards for responsible business – such as the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights (UNGPs) – expect businesses to address the risks associated with human rights abuses along their entire value chains, meaning both upstream and downstream in the value

chain.<sup>3</sup> The same concepts in the international standards that make due diligence feasible in an upstream context – including focusing on the most severe risks and on how a company's own activities can heighten or reduce risks across value chains – make due diligence feasible in a downstream context.<sup>4</sup> Companies from a diverse range of sectors, including the financial sector, have already been putting this risk-based approach into practice.<sup>5</sup>

This paper discusses businesses' responsibility to conduct risk-based downstream value chain due diligence by examining five case studies through the lens of the OECD Guidelines and UNGPs. The aim is to provide recommendations to inform debates on the European Union (EU) Corporate Sustainability Due Diligence Directive (CSDDD). The selected case studies cover various sectors and situations where businesses' downstream impacts are particularly prevalent.<sup>6</sup> These examples are used to demonstrate where businesses went wrong, what they should have done and how they could have prevented or mitigated against adverse impacts. While many of the specific steps expected will depend on the sector and the company's position in the value chain, there are some actions that are relevant for all companies, in line with the six steps of due diligence highlighted by the OECD.<sup>7</sup>

# The six steps of due diligence

## STEP 1 EMBED IN POLICY

- Make a policy commitment to conduct downstream due diligence and address downstream risks and impacts.
- Develop clear downstream due diligence processes and protocols, including a multi-level escalation procedure for cases of human rights violations or severe environmental impact.

## STEP 2 IDENTIFY

- Conduct risk mapping to identify the risks and impacts in downstream business relationships. Determine the severity of each downstream risk and impact and prioritise for addressing, based on severity. Determine relationship (contributing or directly linked) to each downstream risk and impact.

## STEP 3 PREVENT AND MITIGATE

- Prior to entering new business relationships or renewing existing ones, conduct a “know your customer” (KYC) risk analysis of potential clients, customers and other downstream business relationships, taking into account sector, product, country and client-specific risks. Insert binding agreements on prevention and/or mitigation measures into contracts if necessary. Risk assessments should be repeated regularly in long-term business relationships.
- Embed respect for human rights and due diligence commitments as contractual provisions in sales and services agreements with downstream business relationships. This should also include a requirement for downstream business relationships to disclose their own business relationships further downstream.

- Use leverage with customers and clients to encourage the party causing the risk or impact to cease doing so. If leverage is insufficient, seek to build leverage by, for example, collaborating with other business, labour or civil society actors who have a stake or interest in the situation. If leverage is still insufficient, responsibly disengage from any downstream business relationship that refuses to respect human rights or the environment or fails to carry out due diligence to adequately address risks and impacts.
- Establish the highest available standards for the company’s products and services, in particular regarding emission intensity, product safety and environmental impact.

## STEP 4 TRACK

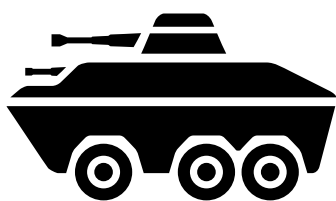
- Track the implementation and results of downstream due diligence efforts undertaken in step 3.

## STEP 5 COMMUNICATE

- Communicate to the public and, in particular, to rights holders how downstream risks and impacts are addressed.

## STEP 6 REMEDIATE

- Contribute to the remediation of any impacts to which the company contributed. Use leverage to encourage downstream business relationships causing or contributing to impacts to take actions to remediate an impact.



## Case 1

### Export of Italian Arms

**COUNTRY:** YEMEN

**SECTOR:** MANUFACTURE AND EXPORT OF MILITARY EQUIPMENT USED BY THE SAUDI-LED COALITION

**Background:** In 2015, a coalition<sup>8</sup> led by Saudi Arabia became involved in the internal conflict in Yemen. The coalition initiated a campaign of airstrikes consisting of indiscriminate attacks on civilian targets and infrastructure such as marketplaces, schools and civilian homes with no military objectives and serious civilian casualties. The European Parliament condemned the attacks<sup>9</sup> and urged the launch of an initiative to impose an arms embargo against Saudi Arabia given the serious allegations of breaches of international humanitarian law in Yemen, widely reported by NGOs, the UN Panel of Experts on Yemen, and national and international media.

**Adverse impacts:** On 8 October 2016, an airstrike – alleged to have been carried out by the Saudi-led coalition – struck a civilian home in the village of Deir Al-Hajari, in northwest Yemen. The airstrike killed a family of six, including a pregnant mother and her four children. At the site of the airstrike, bomb remnants were found that indicate the type of bomb used was a guided bomb of the MK80 family. The serial marks on the suspension log clearly indicate that it was manufactured by RWM Italia SpA, an Italian subsidiary of German Rheinmetall AG. There is no evidence that RWM Italia SpA conducted adequate due diligence to identify (step 2) or take steps to mitigate or prevent (step 3) potential adverse impacts from the sale of its products to the Saudi-led coalition. Violations committed by the coalition had been widely reported at the time of export.<sup>10</sup>

### What do authoritative international standards say?

The OECD Guidelines<sup>11</sup> and UNGPs<sup>12</sup> expect businesses to adopt a risk-based approach to due diligence across the full value chain. Moreover, both the OECD Guidelines and UNGPs expect businesses to take extra precautions regarding downstream business relationships and ‘respect the standards of international humanitarian law’ in situations of armed conflict when the risk for human rights violations is severe.<sup>13</sup> Compliance with national and international laws cannot replace the separate corporate responsibility to carry out human rights due diligence.<sup>14</sup>

### How downstream due diligence steps could have prevented or mitigated the harm

RWM is exporting arms under an export licence granted by the Italian Government. However, export licences do not represent an obligation to export. Due diligence is an ongoing and iterative process, and RWM could and should have identified the severe human rights risks (step 2 of due diligence) associated with the sale of their products to a military potentially engaged in international crimes.

To prevent and mitigate these risks (step 3 of due diligence), RWM should have conducted extensive risk analysis considering the lethal nature of the product and the deteriorating situation in the country. This would have made it clear that there was a high risk that the Saudi-led coalition was violating international humanitarian law and potentially committing war crimes by indiscriminately targeting civilians. Given the probable lack of leverage and the salient risk of severe adverse human rights impacts associated with the sale, the only realistic step would have been to refuse further export to the coalition, thus diminishing its capacity to continue as usual.



## Case 2

### Jade mining equipment implicated in human rights impacts in Myanmar<sup>I, II</sup>

**COUNTRY:** MYANMAR

**SECTOR:** MANUFACTURE OF EQUIPMENT USED IN MINING/EXTRACTIVES

**Background:** Since the early 2000s, an influx of heavy mining machinery has accelerated jade extraction in Myanmar's conflict-affected Kachin State. Irresponsible mining practices have led to serious human rights impacts. The impacts of these mining operations could not have occurred without the more than 10,000 machines used in the jade mines, many produced by Caterpillar, Komatsu and Volvo CE.<sup>15</sup>

**Adverse impacts:** Rightsholders in the Kachin State have been negatively impacted by the irresponsible business practices of jade mining companies, including loss of land and livelihoods. In this case from 2018, there is no evidence that the mining equipment manufacturers adequately identified the risks prior to the sale of their products (step 2 of due diligence), or that they took adequate steps to mitigate or prevent possible human rights impacts (step 3 of due diligence). There is no evidence that the companies have taken steps to encourage mining companies to remediate the harms to affected rightsholders (step 6 of due diligence).

#### What do authoritative international standards say?

Authoritative standards such as the OECD Due Diligence Guidance for Responsible Businesses Conduct (RBC) provide guidance on the additional risk factors that companies should consider

and identify the extractives sector to be associated 'with risks related to a large environmental footprint and impacts on local communities'.<sup>16</sup> The OECD Due Diligence Guidance on Minerals from Conflict-Affected and High-Risk Areas notes that the presence of conflict may increase the likelihood of adverse impacts.<sup>17</sup>

#### How downstream due diligence steps could have prevented or mitigated the harm

In line with step 2 of due diligence (identify), the three companies could have identified and assessed the risks that their mining machines could have in a volatile downstream context such as Myanmar, as they were selling products into a sector and political context that warranted heightened care to minimise the risk of human rights impacts. Rightsholder engagement could, and should, have been part of the risk identification process.

To prevent and mitigate downstream risks (step 3 of due diligence) prior to the sale of the machinery, companies could have conducted additional screening to ensure the prospective customer had not previously contributed to adverse impacts or resold the machinery to companies causing harm. The companies could have considered including contractual clauses to limit buyers from using their products in a way that causes or contributes to human rights impacts, or further distributing the equipment to actors that were likely to do so. Regularly reviewing distributors and resellers human rights performance could have helped to prevent harm in this case.

With regard to step 6 of due diligence (remediation), the companies could have used their leverage as major global manufacturers of mining machinery to influence distributors and mining companies to remediate the harms and ensure that effective and meaningful grievance mechanisms were in place and adequately advertised to rightsholders.

I. In response to NGOs request for feedback, Volvo noted that "we have improved our due diligence in our sales process, including more robust risk screenings, operation dealer standards and escalation routines, which are part of the Volvo Group's overall Human rights program and governance" and following an in-depth analysis of the situation in Myanmar "the decision was made to stop selling to jade mining and to certain other sectors with elevated human rights risks in Myanmar". See Swedwatch's website for full statement.

II. Komatsu noted that they now have a Human Rights Policy in place and that "since 2019 we have conducted due diligence in the region with the support of external experts to identify issues and discuss how we approach those issues. As a result, we made a decision in 2019 to terminate sales of mining equipment to the jade mining market in Myanmar". See Swedwatch's website for full statement.



## Case 3

### Danish equipment supplied to Russian Navy's Black Sea Fleet

**COUNTRY:** RUSSIA (TO WAGE WAR IN UKRAINE)

**SECTOR:** MANUFACTURE OF EQUIPMENT USED BY THE MILITARY

**Background:** In February 2014, Russia invaded and illegally annexed the Crimean Peninsula from Ukraine. Following the annexation, the EU imposed sanctions and an arms embargo on Russia in response to its military aggression.<sup>18</sup> In December 2016, the UN accused Russia of a series of gross human rights violations.<sup>19</sup> Investigative research revealed that, in 2017, the Danish industrial group Danfoss, via a 100 percent owned Russian subsidiary, supplied heat exchangers for two weapons transport ships, one of which would serve in the Russian Navy's Black Sea Fleet based in the Crimean Peninsula.<sup>20</sup> The transaction took place after the EU imposed sanctions and the UN accused Russia of human rights violations.

**Adverse impacts:** Russia's annexation of Crimea violated fundamental freedoms and human rights of the people residing on the peninsula. Rights holders experienced various human rights violations and abuses including killings, abductions, discrimination and harassment. There is no evidence that Danfoss or its subsidiary conducted adequate due diligence to identify (step 2) or take steps to mitigate or prevent (step 3) potential adverse impacts from the sale of their products (heat exchangers) to the Russian military.

#### What do authoritative international standards say?

The OECD Guidelines<sup>21</sup> and UNGPs<sup>22</sup> expect businesses to adopt a risk-based approach to due diligence across the full value chain. This approach is built on the idea of proportionality, meaning

that companies should focus their efforts where the risk for severe adverse impacts is greatest and periodically review the risks in their value chain.<sup>23</sup> Both the OECD Guidelines and UNGPs expect businesses to take extra precautions with regard to downstream business relationships and 'respect the standards of international humanitarian law' in situations of armed conflict when the risk for human rights violations is severe.<sup>24</sup>

#### How downstream due diligence steps could have prevented or mitigated the harm

Danfoss claimed it acted legally in supplying the Russian navy.<sup>25</sup> However, due diligence is an ongoing and iterative process, and Danfoss could and should have identified the severe human rights risks (step 2 of due diligence) associated with the sale of their products to a military engaged in international crimes.

To prevent and mitigate the clear and severe risks (step 3 of due diligence), ahead of the sale Danfoss and its subsidiary should have conducted extensive 'know your customer' risk analysis taking into account sector, product, country and client-specific risks. This would have made it clear that the Russian military was the intended end-user and that the product (heat exchangers) was planned for use on a weapons transport ship stationed in Crimea. Given the lack of leverage Danfoss and its subsidiary were likely to have or be able to gain over their business relationship (with the Russian navy) and the salient risk of severe adverse human rights impacts associated with the sale, the only realistic step for Danfoss to take would have been to refuse to sell the heat exchangers to the Russian military or any party likely to be doing business with the military. Although this is unlikely to have changed the course of the war, taking such a step might have at least slowed and potentially mitigated, to some degree, the harm caused by Russia's navy in Ukraine.



## Case 4

### French banks' involvement in harmful Mozambique fossil fuel project<sup>III</sup>

**COUNTRY:** MOZAMBIQUE

**SECTOR:** GAS EXTRACTION AND LIQUEFACTION

**Background:** The Mozambique Liquefied Natural Gas (LNG) project involves the extraction of offshore gas and its liquefaction at onshore facilities such as the Afungi LNG Park.<sup>26</sup> The project is initially expected to produce 12.88 million tonnes of LNG annually, which is projected to increase to 43 million tonnes each year at maximum capacity.<sup>27</sup> The project is financed by numerous commercial banks, including French banks Société Générale and Crédit Agricole. Société Générale is also the project's lead financial advisor.<sup>28</sup>

**Adverse impacts:** The project is expected to displace 733 households; 556 families have already been displaced, contributing to a loss of land and livelihoods.<sup>29</sup> Displaced communities have reportedly not been meaningfully consulted nor have they been provided with adequate and fair compensation.<sup>30</sup> Increased conflict and violence in the region, partly fuelled by the gas project, has led to violent attacks on and harassment of communities by insurgents, the Mozambican army, and private security contractors.<sup>31</sup> The project will also have severe environmental consequences, threatening plant and animal species, and contributing to global warming through the large volume of fossil fuels it places on the market.<sup>32</sup> There is no evidence that Société Générale and Crédit Agricole have adequately identified (step 2) the risks or taken appropriate steps to prevent and mitigate the potential adverse impacts (step 3).

#### What do authoritative international standards say?

The OECD Guidelines<sup>33</sup> and UNGPs<sup>34</sup> expect financial institutions to conduct downstream risk-based due diligence to prevent risks arising from their investments. The OECD Investment Committee has explicitly clarified that downstream business relationships in the financial sector are in scope of the OECD Guidelines due diligence provisions.<sup>35</sup> To that end, the OECD has developed three due diligence guidance documents specifically for the financial sector – more due diligence guidance than it has for any other sector.<sup>36</sup> Banks are expected to take a practicable, risk-based approach and focus their efforts where the risk for severe adverse impacts is greatest, and periodically review the risks.<sup>37</sup>

#### How downstream due diligence steps could have prevented or mitigated the harm

Without financing by financial institutions projects like the Mozambique LNG project would not get off the ground. Prior to initiating the financing, Société Générale and Crédit Agricole could have easily identified (step 2 of due diligence) the numerous severe human rights and environmental risks associated with the project and identified it as high-risk.

To prevent and mitigate (step 3 of due diligence) these risks, the banks should have used their leverage to ensure that their downstream business relationships (the project developers) prevented the risks from materialising. As a lead financial advisor, Société Générale in particular could have used its significant leverage to prevent harm. The banks could have increased their leverage by collaborating with other financial institutions involved. If that effort failed, the banks could have decided that funding was not in line with international standards for RBC and pulled out of the project. Such a step, particularly by Société Générale as financial advisor, could have convinced counterparts to follow suit, and prevented harm.

III. In response to NGOs request for feedback, Crédit Agricole provided a statement commenting on the case study and noted "Crédit Agricole takes full consideration of the possible negative environmental and/or social impacts from its financing or investing activities". See Swedwatch's website for full statement.



## Case 5

### Exposure to hazardous pesticides in India

**COUNTRY:** INDIA  
**SECTOR:** PESTICIDES

**Background:** In 2017, hundreds of farmers working in the central Indian region of Yavatmal were poisoned, some fatally. A 2020 complaint submitted to the Swiss National Contact Point (NCP) for the OECD Guidelines argued that the pesticide Polo from the Swiss agrochemical company Syngenta played a role in the poisonings of a number of farmers.<sup>38</sup> However, this process ended without agreement or remedy for the plaintiffs due to three pending lawsuits in connection with the incidents at the Civil Court of Basel.<sup>39</sup> The registration of Polo was discontinued in the EU and Switzerland in 2002<sup>40</sup> and 2009<sup>41</sup>, respectively. Syngenta continues to sell the pesticide Polo to countries in the Global South.<sup>42</sup> Syngenta has repeatedly denied allegations, including in a reaction to this paper, to be found on our website.<sup>43</sup>

**Adverse impacts:** Farmers in the Global South often use pesticides without proper training or protective equipment.<sup>44</sup> The 2020 NCP complaint alleged that the farmers' exposure to the Polo pesticide resulted in negative health impacts that contributed to a loss of livelihood for families.<sup>45</sup> Pesticide use is also a primary contributor to ecosystem destruction and biodiversity loss.<sup>46</sup> When asked by Swedwatch about their due diligence procedures, Syngenta noted that it has a target of training 8 million workers per year on the safe use of crop protection chemicals and other farm work risks. However, it did not expand on specific steps taken to identify, prevent or mitigate (step 2 and 3 of due diligence) risks related to the sale of Polo to third countries.

### What do authoritative international standards say?

Authoritative standards, such as the Due Diligence Guidance for Responsible Agricultural Supply Chains from the OECD and the FAO provide detailed instructions on downstream due diligence in agricultural value chains and identify 'extensive use of chemical products' as a key downstream risk to the health and safety of workers that companies in agricultural value chains should address.<sup>47</sup> The OECD insists that the Guidance should be followed and actively used by companies throughout the agricultural value chain, 'including on-farm, downstream and upstream enterprises'.<sup>48</sup>

### How downstream due diligence steps could have prevented or mitigated the harm

Under step 2 of due diligence (identify), a company should identify the risk of its product being used in a way that could negatively impact human health and the environment. Pesticide companies should be aware that the misuse of their products can have severe and even fatal consequences. There is substantial evidence illustrating the improper use of pesticides to draw on to identify risks.<sup>49</sup> Stakeholder consultation can also provide information on potential risks for end-users.

As part of step 3 of due diligence (prevent and mitigate), companies can adopt numerous approaches to mitigate or prevent risks. For example, conducting more stringent counterparty screening ahead of sales to customers in countries where the risk for improper use of pesticides is greater. Another step is the provision of protective equipment or other measures that ensure appropriate equipment is available for the working environment. Companies could also stop selling pesticides that require protective equipment to small-scale farmers in hot and humid climates. Distributors of such products should also be encouraged to take the same steps to prevent and mitigate risks. In line with step 6 of due diligence (remediate), pesticide companies could and should facilitate and enable the remediation of the impacts on the farmers and their families poisoned by the pesticides.

# Conclusions and Recommendations for the EU on the Corporate Sustainability Due Diligence Directive

The UNGPs and OECD Guidelines have always called for businesses to take a risk-based approach to due diligence along their full value chain. The case studies presented above clearly demonstrate how companies could have prevented or mitigated adverse human rights and environmental impacts by introducing practicable downstream due diligence steps. The practical steps suggested in this paper dispel any claims that downstream due diligence is unfeasible and confirm that the same logic and due diligence steps that are relevant for upstream due diligence also apply to downstream due diligence. It is therefore crucial that EU lawmakers ensure that the Corporate Sustainability Due Diligence Directive includes the following key elements:

## **FULL VALUE CHAIN COVERAGE:**

The due diligence obligations under the CSDDD must apply to the full value chain. It should cover all types of business relationships and should not be limited by concepts such as ‘established business relationships’ (as proposed by the European Commission) or ‘chain of activities’ (currently suggested by the European Council). This would ensure the CSDDD is in line with authoritative international standards, namely the UNGPs and the OECD Guidelines.<sup>50</sup>

## **A RISK-BASED APPROACH:**

The CSDDD should reflect the international consensus that exists on the risk-based approach in downstream value chain due diligence expectations. A risk-based approach ensures that companies can focus their due diligence efforts in the parts of their value chain where the likelihood of risks materialising is most significant, irrespective of whether the risks are in the upstream or downstream parts of their value chain.

## **INCLUSION OF THE FINANCIAL SECTOR:**

Recognising the central role that the financial sector plays in the global economy, it is key that the financial sector is not excluded from the scope of the CSDDD, nor should special regulations apply to the sector. Leaving the inclusion of the financial sector up to the EU Member States, as suggested in the General Approach adopted by the Council, would lead to a fragmentation of legislation across the EU.

## **INCLUSION OF THE ARMS SECTOR AND DUAL USE ITEMS:**

The sale and use of arms and dual use items poses specific high risks to human rights violations. Abiding national and regional export control legislation governing the arms and dual use items sectors cannot replace the standalone responsibility of all businesses in the sector to conduct human rights due diligence in line with the UNGPs and OECD Guidelines. Leaving the inclusion of the arms and dual use items sectors outside the scope, as suggested in the General Approach adopted by the Council, would result in a carve out with significant human rights impacts.<sup>51</sup>



# Endnotes

- 1 European Commission, Directorate-General for Justice and Consumers, Torres-Cortés, F., Salinier, C., Deringer, H., et al., (2020) ‘Study on due diligence requirements through the supply chain: final report’, Publications Office, <https://data.europa.eu/doi/10.2838/39830> (Accessed: 7 March 2023).
- 2 Swedwatch, the Centre for Research on Multinational Corporations (SOMO), OECD Watch, the European Coalition for Corporate Justice (ECCJ) and the European Center for Constitutional and Human Rights (ECCHR).
- 3 Wilde-Ramsing, J., Åkerblom, A., Vanpeperstraete, B., Ingrams, M., Patz, C. (2022) ‘Setting the record straight: Downstream due diligence’, SOMO, OECD Watch, ECCJ, ECCHR, Swedwatch, <https://www.somo.nl/setting-the-record-straight/> (Accessed: 7 March 2023).
- 4 GBI. (2023) ‘Effective downstream human rights due diligence: Key questions for companies’, GBI, [https://gbihhr.org/images/docs/GBI\\_Effective-Downstream-HRDD\\_Key-Questions-for-Companies\\_-\\_Feb\\_2023.pdf](https://gbihhr.org/images/docs/GBI_Effective-Downstream-HRDD_Key-Questions-for-Companies_-_Feb_2023.pdf) (Accessed: 7 March 2023).
- 5 The Danish Institute for Human Rights (2023) ‘Due diligence in the downstream value chain: case studies of current company practice’, <https://www.human-rights.dk/publications/due-diligence-downstream-value-chain-case-studies-current-company-practice> (Accessed: 7 March 2023).
- 6 All companies mentioned in the paper were provided the opportunity to review a draft copy of the paper and their comments have been incorporated. Full statements from the companies that responded are available on Swedwatch’s website, <https://swedwatch.org/themes/new-policy-paper-a-little-downstream-goes-a-long-way/>. RWM Italia SpA, Caterpillar, Danfoss and Société Générale did not respond.
- 7 OECD (2018) ‘OECD Due Diligence Guidance for Responsible Business Conduct’, <http://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>, p. 21 (Accessed: 7 March 2023).
- 8 Coalition composed of Saudi Arabia, Bahrain, Kuwait, the United Arab Emirates, Egypt, Jordan, Morocco, Sudan and initially Qatar.
- 9 European Parliament, ‘Situation in Yemen’, Resolution adopted by the European Parliament on 9 July 2015, [http://www.europarl.europa.eu/doceo/document/TA-8-2015-0270\\_EN.html?redirect](http://www.europarl.europa.eu/doceo/document/TA-8-2015-0270_EN.html?redirect) (Accessed: 8 March 2023); European Parliament, ‘Humanitarian situation in Yemen’, Resolution adopted by the European Parliament on 25 February 2016, [http://www.europarl.europa.eu/doceo/document/TA-8-2016-0066\\_EN.html](http://www.europarl.europa.eu/doceo/document/TA-8-2016-0066_EN.html) (Accessed: 8 March 2023)
- 10 RWM Italia S.p.A.’s Board of Directors was aware of the Saudi Arabian intervention in Yemen in 2015. In its 2015 Annual Report, RWM listed the conflict in Yemen as one of the company’s main risks and uncertainties: “due to the ongoing conflicts in the Middle East, in particular in Syria and Yemen, in which, among others, Saudi Arabia and the Arab Emirates are involved, there is a possible risk that (...) export licences to these countries may be delayed or possibly arrested on the basis of the political positions to be taken by the Italian Government and the European Union”
- 11 OECD, ‘OECD Guidelines for Multinational Enterprises’, Chapter II - General Policies, A10.
- 12 UN Human Rights Council (2011) ‘United Nations Guiding Principles on Business and Human Rights’, Principle 13 & Principle 17.
- 13 UN Human Rights Council (2011) ‘United Nations Guiding Principles on Business and Human Rights’, Commentary Principle 12.
- 14 UN (2022) ‘Information Note by the UN Working Group on Business and Human Rights’, <https://www.ohchr.org/sites/default/files/2022-08/BHR-Arms-sector-info-note.pdf> (Accessed: 7 March 2023). <https://swedwatch.org/themes/new-policy-paper-a-little-downstream-goes-a-long-way/>
- 15 Swedwatch (2018) ‘Overlooked and Undermined: Communities affected by jade mining operations in Myanmar, and the responsibilities of companies providing machinery’, <https://swedwatch.org/wp-content/uploads/2021/01/91myanmar181003final.pdf> (Accessed: 7 March 2023).
- 16 OECD (2018) ‘OECD Due Diligence Guidance for Responsible Business Conduct’, p. 62.
- 17 OECD (2016) ‘OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition’, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264252479-en> (Accessed: 7 March 2023).
- 18 European Council, ‘EU restrictive measures against Russia over Ukraine (since 2014)’, <https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/> (Accessed: 7 March 2023).

- 19 UN General Assembly, 'Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)', Resolution adopted by the General Assembly on 19 December 2016, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F71%2F205&Language=E&DeviceType=Desktop&LangRequested=False> (Accessed: 7 March 2023).
- 20 Danwatch (2022) 'Danfoss har i årevis leveret komponenter til den russiske flåde', <https://danwatch.dk/undersogelse/danfoss-har-i-arevis-leveret-komponenter-til-den-russiske-flade/> (Accessed: 7 March 2023).
- 21 OECD, 'OECD Guidelines for Multinational Enterprises', Chapter II – General Policies, A10.
- 22 UN Human Rights Council (2011) 'United Nations Guiding Principles on Business and Human Rights', Principle 13 & Principle 17.
- 23 OECD, 'OECD Guidelines for Multinational Enterprises', Chapter IV, Commentary on Human Rights, 40.
- 24 UN Human Rights Council (2011) 'United Nations Guiding Principles on Business and Human Rights', Commentary Principle 12.
- 25 Danwatch (2022) 'Danfoss har i årevis leveret komponenter til den russiske flåde', <https://danwatch.dk/undersogelse/danfoss-har-i-arevis-leveret-komponenter-til-den-russiske-flade/> (Accessed: 7 March 2023).
- 26 BankTrack (2022) 'Mozambique LNG', [https://www.banktrack.org/project/mozambique\\_lng#about](https://www.banktrack.org/project/mozambique_lng#about) (Accessed: 7 March 2023).
- 27 Mozambique LNG (2023) 'About the project', <https://mzlng.totalenergies.co.mz/en/about-mozambique-liquefied-natural-gas-project> (Accessed: 7 March 2023); African Development Bank Group (2019) 'Mozambique – Mozambique LNG – P-MZ-FDO-003 – ESIA Summary', <https://www.afdb.org/fr/documents/document/mozambique-mozambique-lng-esia-summary-109044> (Accessed: 7 March 2023).
- 28 BankTrack (2022) 'Mozambique LNG', [https://www.banktrack.org/project/mozambique\\_lng#about](https://www.banktrack.org/project/mozambique_lng#about) (Accessed: 7 March 2023).
- 29 Justicia Ambiental & Friends of the Earth (2020) 'The Impacts of the LNG Industry in Cabo Delgado, Mozambique', [https://www.banktrack.org/download/the\\_impacts\\_of\\_the\\_lng\\_industry\\_in\\_cabo\\_delgado\\_mozambique/impacts\\_of\\_lng\\_in\\_mozambique\\_by\\_ja.pdf](https://www.banktrack.org/download/the_impacts_of_the_lng_industry_in_cabo_delgado_mozambique/impacts_of_lng_in_mozambique_by_ja.pdf) (Accessed: 7 March 2023).
- 30 Macau, L. (2021) 'Mozambique: Consultations for Total's project in the Afungi peninsula were marked by intimidation and limitation of freedom of expression of community members; says activist', <https://www.business-humanrights.org/en/latest-news/mozambique-consultations-of-totals-project-in-the-afungi-peninsula-were-marked-by-intimidation-and-limitation-of-freedom-of-expression-of-community-members-says-activist/> (Accessed: 7 March 2023). Justicia Ambiental & Friends of the Earth (2020) 'The Impacts of the LNG Industry in Cabo Delgado, Mozambique', [https://www.banktrack.org/download/the\\_impacts\\_of\\_the\\_lng\\_industry\\_in\\_cabo\\_delgado\\_mozambique/impacts\\_of\\_lng\\_in\\_mozambique\\_by\\_ja.pdf](https://www.banktrack.org/download/the_impacts_of_the_lng_industry_in_cabo_delgado_mozambique/impacts_of_lng_in_mozambique_by_ja.pdf) (Accessed: 7 March 2023).
- 31 Ewi, M., Louw-Vaudran, L., Els, W., Chelin, R., Adam, Y., Boerekamp, E. (2022) Violent extremism in Mozambique: Drivers and links to transnational organised crime, [https://issafrica.s3.amazonaws.com/site/uploads/sar-51\\_2.pdf](https://issafrica.s3.amazonaws.com/site/uploads/sar-51_2.pdf) (Accessed: 7 March 2023); Amnesty International (2021) 'What I saw is death', <https://stopmozgas.org/wp-content/uploads/2022/03/Amnesty-International-What-I-saw-is-death-War-crimes-in-Mozambiques-forgotten-cape-EN.pdf> (Accessed: 7 March 2023).
- 32 BankTrack (2022) 'Mozambique LNG', [https://www.banktrack.org/project/mozambique\\_lng#about](https://www.banktrack.org/project/mozambique_lng#about) (Accessed: 7 March 2023); Friends of the Earth (2021) 'Briefing: UK Export Finance – climate litigation', [http://climatecasechart.com/wp-content/uploads/sites/16/non-us-case-documents/2021/20210610\\_Claim-no.-2022-EWHC-568-Admin\\_points-of-claim-1.pdf](http://climatecasechart.com/wp-content/uploads/sites/16/non-us-case-documents/2021/20210610_Claim-no.-2022-EWHC-568-Admin_points-of-claim-1.pdf) (Accessed: 7 March 2023).
- 33 OECD, 'OECD Guidelines for Multinational Enterprises', Chapter II - General Policies, A10.
- 34 UN Human Rights Council (2011) 'United Nations Guiding Principles on Business and Human Rights', Principle 13 & Principle 17.
- 35 OECD Investment Committee (2014) 'Scope and application of 'business relationships' in the financial sector under the OECD Guidelines for Multinational Enterprises', Global Forum on Responsible Business Conduct, <http://mneguidelines.oecd.org/global-forum/GFRBC-2014-financial-sector-document-2.pdf> (Accessed: 7 March 2023).
- 36 OECD, 'Responsible business conduct in the financial sector', <https://mneguidelines.oecd.org/rbc-financial-sector.htm> (Accessed: 7 March 2023).
- 37 OECD, 'OECD Guidelines for Multinational Enterprises', Chapter IV, Commentary on Human Rights, 40.
- 38 PAN India, Public Eye, ECCHR and PAN Asia Pacific. 2020. 'Farmers' poisonings with the pesticide Polo, a product of Syngenta AG and Syngenta India Ltd: Complaint over violations of the OECD Guidelines for Multinational Enterprises. [https://www.publiceye.ch/fileadmin/doc/Pestizide/20200917\\_ECCHR\\_PAN\\_PublicEye\\_OECD-COMPLAINT.pdf](https://www.publiceye.ch/fileadmin/doc/Pestizide/20200917_ECCHR_PAN_PublicEye_OECD-COMPLAINT.pdf) (Accessed: 13 March 2023).
- 39 Public Eye website, 2022. 'Yavatmal pesticides poisonings - Swiss judicial system takes victims' complaints seriously', <https://www.publiceye.ch/en/news/detail/yavatmal-pesticides-poisonings-swiss-judicial-system-takes-victims-complaints-seriously> (Accessed: 29 March 2023).

- 40 Commission Regulation (EC) No 2076/2002 of 20 November 2002, online at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32002R2076&from=EN> (Accessed: 29 March 2023).
- 41 Bundesamt für Lebensmittelsicherheit und Veterinärwesen (2022). 'Zurückgezogene Wirkstoffe aus Anhang 1 PSMV' (Withdrawn active substances from Annex 1 PSMV), <https://www.blv.admin.ch/blv/de/home/zulassung-pflanzenschutzmittel/anwendung-und-vollzug/zurueckgezogene-pflanzenschutzmittel.html> (Accessed: 29 March 2023).
- 42 ECCHR website (2021) 'Poisoning in Yavatmal: Those affected take on pesticide conglomerate Syngenta', <https://www.ecchr.eu/en/case/poisoning-in-yavatmal-those-affected-take-on-pesticide-conglomerate-syngenta/> (Accessed: 7 March 2023).
- 43 See here: <https://swedwatch.org/themes/new-policy-paper-a-little-downstream-goes-a-long-way/>
- 44 Sarkar, S., Gil, J. D. B., Keeley, J., & Jansen, K. 2021. 'The use of pesticides in developing countries and their impact on health and the right to food', European Union, <https://www.europarl.europa.eu/cmsdata/219887/Pesticides%20health%20and%20food.pdf> (Accessed: 29 March 2023).
- 45 PAN India, Public Eye, ECCHR and PAN Asia Pacific. 2020. 'Farmers' poisonings with the pesticide Polo, a product of Syngenta AG and Syngenta India Ltd: Complaint over violations of the OECD Guidelines for Multinational Enterprises. [https://www.publiceye.ch/fileadmin/doc/Pestizide/20200917\\_ECCHR\\_PAN\\_PublicEye\\_OECD-COMPLAINT.pdf](https://www.publiceye.ch/fileadmin/doc/Pestizide/20200917_ECCHR_PAN_PublicEye_OECD-COMPLAINT.pdf) (Accessed: 13 March 2023)
- 46 ECCHR website (2021) 'Poisoning in Yavatmal: Those affected take on pesticide conglomerate Syngenta', <https://www.ecchr.eu/en/case/poisoning-in-yavatmal-those-affected-take-on-pesticide-conglomerate-syngenta/> (Accessed: 7 March 2023).
- 47 OECD-FAO (2016) 'OECD-FAO Guidance for Responsible Agricultural Supply Chains', p. 60.
- 48 OECD Investment Committee and OECD Agriculture Committee (2016) 'Recommendation of the Council on the OECD-FAO Guidance for Responsible Agricultural Supply Chains', <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0428> (Accessed: 7 March 2023).
- 49 ECCHR website (2021) 'Poisoning in Yavatmal: Those affected take on pesticide conglomerate Syngenta', <https://www.ecchr.eu/en/case/poisoning-in-yavatmal-those-affected-take-on-pesticide-conglomerate-syngenta/> (Accessed: 7 March 2023); Unearthed (2021) 'The Paraquat Papers: How Syngenta's bad science helped keep the world's deadliest weedkiller on the market', <https://unearthed.greenpeace.org/2021/03/24/paraquat-papers-syngenta-toxic-pesticide-gramoxone/>; ILO (2021) 'Exposure to hazardous chemicals at work and resulting health impacts: A Global Review', [https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---lab\\_admin/documents/publication/wcms\\_791876.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---lab_admin/documents/publication/wcms_791876.pdf) (Accessed: 7 March 2023).
- 50 Germanwatch website (2023). 'Downstream due diligence – A must-have for the EU's Corporate Sustainability Due Diligence Directive', <https://www.germanwatch.org/en/87962> (Accessed: 22 March 2023).
- 51 ECCJ website (2023) 'NGOs: corporate due diligence must cover arms sector', <https://corporatejustice.org/news/ngos-corporate-due-diligence-must-cover-the-arms-sector/> (Accessed 16 March 2023).

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