

# Serious Environmental Harm

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This document describes the criteria DNB expects companies to meet regarding serious environmental harm.

## Objective

DNB's guidelines for responsible investments shall ensure that DNB does not contribute to human or labour rights violations, corruption, serious environmental harm or other actions which may be perceived to be unethical. DNB Asset Management (DAM) bases its exercise of ownership rights on the UN Global Compact, the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights. The exercise of ownership rights is ensured by active ownership through dialogue, voting and engagement.

Companies may be excluded from DAMs investment universe if there is an unacceptable risk that a company contributes to or is responsible for grave harm to the environment. The purpose of this document is to define our criteria and expectations towards companies in terms of their obligation to respect the environment (air, water and soil). The document is a description of our interpretation of the guidelines for responsible investments and defines our criteria and expectations towards companies we invest in or plan to invest in, and further, describes how DAM assesses companies once an issue has occurred.

Companies' water management and in particular the risks and opportunities of freshwater management, are important for us as a long-term investor. DAM has defined three focus areas, water, climate and human rights, to ensure that companies take a long-term approach to related risks and opportunities within these areas.

## Definition

Serious environmental harm is damage caused by polluting activities that have a significant negative impact on species and habitat.

## Introduction to environmental issues

International environmental issues emerged as a major focus area in international politics in the last few decades of the twentieth century. Environmental issues are not new, the first international treaty was signed as early as in 1889, but concerns have increased as a result of industrialisation, rapid population growth, the over-exploitation of natural resources and environmental degradation, all generating a wide range of urgent international and global problems. The 1972 UN conference on the Human Environment marked a turning point in the development of international environmental politics. In subsequent years, dozens of environmental agreements and programmes were established. Twenty years later, the 1992 Rio conference resulted in the Rio declaration on the Environment and Development, proclaiming 27 principles, including two important principles within international environmental law.

## International environmental laws, norms and standards

DNB's assessment of companies is based on international standards and norms. The interpretation is that companies have a responsibility to comply with international standards and norms even though they are not legally bound to do so. DNB's engagement with companies and the exercise of ownership rights are both based on the OECD Guidelines for Multinational Enterprises and on the UN Global Compact. These initiatives are operationalised through international treaties and principles, and form the basis for many national laws, emissions permits and concessions and licences.

There are two important principles within international environmental law:

1. The precautionary principle: "the lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation".<sup>1</sup>
2. The polluter pays principle

The precautionary principle is one of the founding principles of environmental law and is stated in principle 15 in the Rio Declaration on the Environment and Development (1992).<sup>2</sup> The principle has been incorporated into numerous international instruments, such as the Convention on Biological Diversity and the United

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<sup>1</sup> Unitednations.no, General Assembly, Rio Declaration on the Environment and Development, <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>

<sup>2</sup> Ibid <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>

Nations Framework Convention on Climate Change, in addition to regional and national law.<sup>3</sup> The polluter pays principle is stated in principle 16 of the Rio Declaration on Environment and Development (1992).<sup>4</sup> The principles are considered a regional custom due to its strong support from most OECD countries.

### **DNB's expectation towards companies**

DNB's engagement with companies and the exercise of DNB's ownership rights are based on the OECD Guidelines for Multinational Enterprises and on the UN Global Compact, and shall be consistent with the United Nations Guiding Principles on Business and Human Rights. DNB's engagement with companies is based on the UN Guiding principles. We expect companies to understand their responsibilities, obligations and risks regarding environmental issues (air, water and soil) in business operations, including supply chain and contracts with subcontractors. We expect companies to carry out an environmental assessment and integrate this in their business strategies, policies, procurement and risk management, and lastly, that they disclose related material information.

### **Assessment criteria**

Often a reported violation or potentially serious environmental damage is based on a breach or potential breach of the UN Global Compact Principles linked to the underlying conventions and guidelines listed in the attachment. DNB's guidelines for responsible investments states that DNB shall not contribute to serious environmental harm. The definition of serious is based on a number of factors and the assessment of a reported serious violation of the environment is based on the following criteria defined by NBIM:<sup>5</sup>

- *The damage is great*
- *The damage entails irreversible or long-term effects,*
- *The damage has major negative consequences for human life and health,*
- *The damage is a result of a breach of national legislation or international norms*
- *The company has failed to act to prevent damage,*
- *The company has implemented measures to rectify the damage to a sufficient extent*
- *Is it likely that the company's practice will continue*

Environmental damage is the act of discharging substances or energy into the environment in such quantities that it leads to damage of the environment or causes a significant risk of harm to human health or has a significant harmful effect on the ecosystem, animal life and natural habitats. To what extent the pollution is reversible depends on the amount, concentration and properties of the contaminated substance. Incidents are considered to be more severe in geographical areas where the population is dependent on natural resources such as access to food, water, forest and where the local economy and political system is vulnerable (e.g. indigenous people). In addition to the criteria above, we apply relevant international treaties to our assessment of companies, see attached list at the end of this document.

### **Important international treaties**

UNESCO World Heritage Sites are internationally recognised as sites with "outstanding universal value" and operations in these areas may be considered to be more serious.<sup>6</sup> Areas of great ecological or biological value are regarded as vulnerable and DNB expects companies to be compliant with important international treaties such as the Ramsar Convention, the Convention of Biological Diversity, the Convention of International Trade in Endangered Species of Wild Fauna and Flora and the IUCN Red List of Threatened Species<sup>7</sup>. Business operations in areas comprised by these treaties are considered to have a higher risk and this requires that companies deal with these risks.

<sup>3</sup> Intergovernmental Panel on Climate Change, 10.4.2.2 *Precautionary Considerations*, <http://www.ipcc.ch/ipccreports/tar/wg3/index.php?idp=437>

Cbd.int, Precautionary approach, <https://www.cbd.int/marine/precautionary.shtml>

<sup>4</sup> National authorities should endeavor to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment. <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>

<sup>5</sup> The assessment criteria are in line with the Council on Ethics assessment criteria for exclusion of companies for breach of the criterion of severe environmental damage.

Etikkraadet.no, *Recommendation to exclude Duke Energy Corp., Duke Energy Carolinas LLC, Duke Energy Progress LLC and Progress Energy Inc. from the Government Pension Fund Global (GPF)* <http://etikkradet.no/files/2017/05/Rec-Duke-Eng-17486.pdf> (April 2016)

<sup>6</sup> Unesco.org, World Heritage List, <http://whc.unesco.org/en/list/?&type=natural>

<sup>7</sup> The IUCN Red List of Threatened Species, <http://www.iucnredlist.org/>

The Convention on Wetlands, <http://www.ramsar.org/>

Convention on Biological Diversity, <https://www.cbd.int/>

Convention on International Trade in Endangered Species of Wild Fauna and Flora, <https://www.cites.org/>

### **High Conservation Value Methodology**

For relevant sectors, we apply the HCV methodology in our work. Sectors to which we apply the HCV methodology are mainly palm oil and other soft commodities such as cocoa, soy, sugar, corn, livestock and timber.

### **Companies' water management**

Water scarcity affects a significant part of the global population and is projected to rise in the future.<sup>8</sup> Water is an input factor in a number of processes for many sectors and is a crucial part of companies' management of risks and opportunities. Water stress from high water use, pollution, low water quality or droughts may affect business profitability and should therefore be a part of companies' strategy and management. We therefore expect companies to integrate material water management challenges and opportunities into strategies, policies, procurement and risk management. Disclosure and transparency are two important actions companies should aim for, in addition to monitoring material water data. DNB supports CDP's water programme to motivate companies to disclose material water data.<sup>9</sup> Disclosure and transparency are linked to understanding the risks and opportunities companies face.

### **Companies' waste management**

We expect companies within extractive industries to have a higher standard regarding how they manage their risks, and in particular related to waste management. Companies should demonstrate their waste management by carrying out an environmental assessment and include the risk in their business strategies, policies, procurement, risk management and disclosure of material information. Companies should aim to reduce extractive waste, and manage and process this waste in a responsible way.

### **Summary**

DNB shall not contribute or be responsible for grave harm to the environment. DNB's work on screening for violations of the environment is based on the global initiatives UN Global Compact and the recommendations from government, the OECD Principles for Multinational Enterprises.

The UN Guiding Principles on Business and Human Rights have become the prevailing international standards and advice companies on how to avoid causing or contributing to human rights abuses. DNB's expectations are based on prerequisite that companies have a responsibility to comply with international norms even though they are not legally bound to do so. Companies are expected to comply with national jurisdiction and this is particularly important in countries and regions with a weak political system and lack of practice of jurisdiction within environmental pollution. The management of the company should ensure that adequate policies and management principles to protect the environment are in place and integrated into corporate business strategy. This document forms the basis of the dialogues with companies on environmental issues and defines our criteria for companies we invest or might invest in.

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<sup>8</sup> Un.org, Water, <http://www.un.org/en/sections/issues-depth/water>

<sup>9</sup> Cdp.net, *Thirsty business: Why water is vital to climate action 2016 Annual report on corporate Water Disclosure*, p. 4  
<https://www.cdp.net/en/water>

## RESPONSIBLE INVESTMENTS

**Attachment 1:** In the assessment, violations of (the UN Global Compact principles) on the environment are linked to the underlying conventions, protocols, declarations and guidelines. We expect companies to be compliant with the listed conventions, protocols, declarations and guidelines.

Conventions, protocols, declarations and guidelines
The Convention on Biological Diversity
The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal
The Rio Declaration on Environment and Development
Vienna Convention for the Protection of the Ozone Layer
The Montreal Protocol on Substance that Deplete the Ozone Layer
The UN Convention on the Law of the Sea
CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora)
The OSPAR Convention
The Aarhus Convention
Convention for the Protection of the Marine Environment of the North-East Atlantic
The Cartagena Protocol on Bio safety
Kyoto Protocol to the United Nations Framework Convention on Climate Change
The United Nations Framework Convention on Climate Change
Vienna Convention for the Protection of the Ozone Layer
The Convention on Nuclear Safety
The Bern Convention on the Conservation of European Wildlife and Natural Habitats
The Convention on Wetlands of International Importance (the Ramsar Convention)
The Stockholm Convention on Persistent Organic Pollutants,
The Convention on Long-range Transboundary Air Pollution
The Rio Declaration on Environment and Development
UN Convention on International Trade in Endangered Species of Wild Fauna and Flora
UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)
UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage
The UN forest principles
UN Stockholm Declaration on the Human Environment
Europe convention on the Protection of animals kept for Farming Purposes
International convention for the Prevention of pollution from Ships

**Document updated: September 2017**

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