

Serious Environmental Harm

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

Objective

The DNB Group's Standard for Responsible Investments shall ensure that DNB does not contribute to the infringement of human or labour rights violations, corruption, serious environmental harm or other actions which may be perceived to be unethical and/or unsustainable.¹ They shall also ensure that assessments of risks and opportunities arising from Environmental, Social and Governance (ESG) factors are integrated into the investment decision-making process. At DNB Asset Management (DAM) we exercise our ownership rights in line with international norms and standards, including the UN Global Compact, UN Guiding Principles on Business and Human Rights, the G20/OECD Principles of Corporate Governance, and the OECD Guidelines for Multinational Enterprises. We practice active ownership using tools such as screening, dialogue, engagement and voting. Companies may be excluded from the 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 Standard 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.

Definition

The rate of Environmental Damage is increasing across the planet and environmental changes are occurring at a fast pace, with some regions affected harder than others.² Environmental changes are consequences of globalization and related to population growth, urbanization and socioeconomic development which raise the level of consumption and leads to an unsustainable management of the environment. However, some activities including the exploration for natural resources may be more severe than others. Serious environmental harm is defined as damage caused by polluting activities that have a significant negative impact on species and habitat. The severity of the activity depends on the degree, duration and reversibility related to it. Companies operating within sectors such as energy, materials, and industrials have a higher risk of causing pollution to air, soil, and water.

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 regarding environmental issues was signed in 1889, however 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

DAM'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. DAM'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 [www.DNB.no](https://www.dnb.no/portalfront/nedlast/en/about-us/corporate-responsibility/2019/190327_Standard_Responsible_Investments.pdf), Standard for Responsible Investments, https://www.dnb.no/portalfront/nedlast/en/about-us/corporate-responsibility/2019/190327_Standard_Responsible_Investments.pdf

² [www.un.org](https://www.un.org/sustainabledevelopment/blog/2016/05/rate-of-environmental-damage-increasing-across-planet-but-still-time-to-reverse-worst-impacts/), Rate of environmental damage increasing across planet, but still time to reverse worst impacts, <https://www.un.org/sustainabledevelopment/blog/2016/05/rate-of-environmental-damage-increasing-across-planet-but-still-time-to-reverse-worst-impacts/>

RESPONSIBLE INVESTMENTS

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”.³
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).⁴ The principle has been incorporated into numerous international instruments, such as the Convention on Biological Diversity and the United Nations Framework Convention on Climate Change, in addition to regional and national law.⁵ The polluter pays principle is stated in principle 16 of the Rio Declaration on Environment and Development (1992).⁶ The principles are considered regional customs due to its strong support from most OECD countries.

Expectations towards companies

DAM's engagement with companies and the exercise of DAM'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. DAM'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 within their supply chain and in contracts with subcontractors. We expect companies to carry out an environmental impact 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. In cases where a company might be in breach with our standard⁷, our assessment criteria, among other things, are based on the following criteria defined by NBIM:⁸

- *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 above criteria, 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.⁹ Areas of great ecological or biological value are regarded as vulnerable and DAM expects companies to be compliant with important international

³ Unitednations.no, General Assembly, Rio Declaration on the Environment and Development, <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>

⁴ Ibid <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>

⁵ Intergovernmental Panel on Climate Change, 10.4.2.2 *Precautionary Considerations*, <http://www.ipcc.ch/ipccreports/tar/wq3/index.php?idp=437>

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

⁶ 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>

⁷ [www.DNB.no](http://www.dnb.no), Standard for Responsible Investments, https://www.dnb.no/portalfont/nedlast/en/about-us/corporate-responsibility/2019/190327_Standard_Responsible_Investments.pdf

⁸ 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)

⁹ Unesco.org, World Heritage List, <http://whc.unesco.org/en/list/?&type=natural>

treaties such as the Ramsar Convention, the Convention of Biological Diversity, the Convention of International Trade in Endangered Species (CITES) of Wild Fauna and Flora, and the IUCN Red List of Threatened Species¹⁰. Companies should not trade in endangered plant and animal species that are on the CITES lists. Business operations in areas where these treaties apply are considered to have a higher risk, and therefore require companies to have practices in place to manage these risks.

High Conservation Value Methodology

The methodology consists of six categories. The High Conservation Values are biological, ecological, social and cultural values which are defined as outstandingly significant or critically important at a national, regional or global level. For the relevant sectors, we expect companies within these sectors as part of their risk management, to carry out an environmental impact assessment in order to identify risks that might be in breach with the HCV approach. The HCV methodology is for example relevant for companies within palm oil and other soft commodities such as cocoa, soy, sugar, corn, livestock and timber. Forestry is a relevant sector for applying the HCV methodology, where companies should prevent negative impacts on High Carbon Stock within their business operations and prevent the use of illegally cut and traded timber. Companies should not convert peatland and High Carbon Stock for agricultural development. Further, production forests and timber plantation should be certified according to the Forest Stewardship Council (FSC) forest management certification. Companies operating in the forest sector should follow the best practice as outlined by the Forest Stewardship Council, including in their supply chains.

Companies' water management

Water scarcity affects a significant part of the global population and is projected to rise in the future.¹¹ 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. Access to water is in some places becoming less predictable, and it is likely high water stress will increase as the effects of climate change intensify. Water scarcity poses a high business risk for companies that rely on access to water in their operations. Companies should not start new business operations in water stressed regions without an adequate water management plan. We also 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.¹² 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 impact 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.

Companies' pollution management

Companies operating in the materials, industrials, and energy sectors have a higher risk of being involved in activities that might cause severe environmental damage through pollution to air, soil or water. Our assessment of risks and opportunities of companies within these sectors are based on international standards, conventions, and guidelines. All companies should minimize the risk of pollution to air, water and soil and continually improve their operations in order to reduce their environmental footprint. This is particularly relevant for those companies operating within the sectors mention above including their supply chain.

¹⁰ The IUCN Red List of Threatened Species, <https://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/>

¹¹ Un.org, Water, <https://www.un.org/en/sections/issues-depth/water/>

¹² 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>

Case:

DAM's expectation towards companies within metals & mining

The metals and mining industry may face a high exposure to ESG risks, as extraction and processing of these materials can entail both environmental and social risks. Our expectations call for a high level of transparency around how companies identify, assess and manage these risks. Our expectations regarding the management of these risks are as follows:

- Companies should operate in accordance with industry standards and strive for best practice including the use of best available technologies. Companies should also have management plans in place in case of a crisis.
- Companies should not operate in locations where the consequences of an accident are unmanageable.
- Companies should reduce extractive waste, and manage and process any waste in a responsible way.
- Companies should identify and consider relevant adaptation and mitigation measures and work with relevant standards and initiatives for certain minerals. These could include creating/joining internal and/or external initiatives/industry collaborations to address risks and opportunities.

Summary

DNB shall not contribute to or be responsible for grave harm to the environment. DAM will screen and engage with companies, where appropriate, to help prevent future incidents of serious harm to the environment. In the worst cases, companies may be excluded from our investment universe, in line with DNB's Group Standard for Responsible Investments. 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. Our 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 without a history of enforcement regarding 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.

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: an international legally-binding treaty with three main goals: conservation of biodiversity, sustainable use of biodiversity, fair and equitable sharing of the benefits arising from the use of genetic resources.
The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal: The object is to protect human health and the environment against the adverse effects of hazardous waste.
The Rio Declaration on Environment and Development: The goal of establishing a new and equitable global partnership through the creation of new levels of cooperation among States, key sector of societies and people.
Vienna Convention for the Protection of the Ozone Layer: determined to protect human health and the environment against adverse effects resulting from modifications of the ozone layer.
The Montreal Protocol on Substance that Deplete the Ozone Layer: an international treaty designed to protect the ozone layer by phasing out the production of numerous substances that are responsible for ozone depletion.
The UN Convention on the Law of the Sea: defines the rights and responsibilities of nations with respect to their use of the world's oceans.
CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora): is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival.
The Aarhus Convention: a multilateral environmental agreement through the opportunities for citizens to access environmental information, increased and transparent and reliable regulation procedure is secured.
Convention for the Protection of the Marine Environment of the North-East Atlantic: is the current legislative instrument regulating international cooperation on environmental protection in the North- East Atlantic.
The Cartagena Protocol on Biosafety: is an international agreement which aims to ensure the safe handling, transport and use of living modified organisms (LMOs) resulting from modern biotechnology that may have adverse effects on biological diversity, taking also into account risks to human health
Kyoto Protocol to the United Nations Framework Convention on Climate Change: an international agreement linked to the United Nations Framework Convention on Climate Change, which commits its Parties by setting internationally binding emission reduction targets.
The United Nations Framework Convention on Climate Change: an international treaty with aim to reduce the global emission of greenhouse gases
The Convention on Nuclear Safety: is a 1994 International Atomic Energy Agency (IAEA) treaty that governs safety rules at nuclear power plants in state parties to the Convention. These include issues of site selection; design and construction; operation and safety verification; and emergency preparedness
The Bern Convention on the Conservation of European Wildlife and Natural Habitats: The Convention is a binding international legal instrument in the field of nature conservation, covering most of the natural heritage of the European continent and extending to some States of Africa
The Convention on Wetlands of International Importance (the Ramsar Convention): an international treaty for the conservation and sustainable use of wetlands. It is also known as the Convention on Wetlands.
The Stockholm Convention on Persistent Organic Pollutants: a global treaty to protect human health and the environment from chemicals that remain intact in the environment for long periods, become widely distributed geographically, accumulate in the fatty tissue of humans and wildlife, and have harmful impacts on human health or on the environment
The Convention on Long-range Transboundary Air Pollution: is intended to protect the human environment against air pollution and to gradually reduce and prevent air pollution, including long-range transboundary air pollution. It is implemented by the European Monitoring and Evaluation Programme (EMEP), directed by the United Nations Economic Commission for Europe (UNECE).

<p>The Rio Declaration on Environment and Development: With the goal of establishing a new and equitable global partnership through the creation of new levels of co-operation among States, key sectors of societies and people, Working towards international agreements which respect the interests of all and protect the integrity of the global environmental and developmental system, Recognizing the integral and interdependent nature of the Earth, our home.</p>
<p>UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage: The Convention sets out the duties of States Parties in identifying potential sites and their role in protecting and preserving them</p>
<p>The UN forest principles: It is a non-legally binding document that makes several recommendations for conservation and sustainable development forestry</p>
<p>UN Stockholm Declaration on the Human Environment: In the declaration, the nations agreed to accept responsibility for any environmental effects caused by their actions.</p>
<p>Europe convention on the Protection of animals kept for Farming Purposes: The Convention applies to animals bred or kept for the production of food, wool, skin or fur or for other farming purposes. It concerns in particular animals in intensive stock-farming systems.</p>
<p>International convention for the Prevention of pollution from Ships: The International Convention for the Prevention of Pollution from Ships (MARPOL) is the main international convention covering prevention of pollution of the marine environment by ships from operational or accidental causes</p>
<p>The Convention on Biological Diversity: an international legally-binding treaty with three main goals: conservation of biodiversity, sustainable use of biodiversity, fair and equitable sharing of the benefits arising from the use of genetic resources.</p>

Document updated: September 2019

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