BIAC Comments

OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector

BIAC appreciates the opportunity to submit comments on the OECD Due Diligence Guidance, which should serve as a practical guide, taking into account the practical experiences of the private sector. The guidance should reflect realistic opportunities and limitations companies face in impacting global supply chains. As the Guidance is further developed, we believe it is crucial to keep in mind the overarching criteria for “proactive agenda” projects under the OECD Guidelines for Multinational Enterprises (MNEs). In this respect, we would like to underline that:

• The proactive agenda is essentially an approach to develop, on the basis of the 2011 Guidelines, practical tools for addressing specific challenges, products, sectors or countries, or combinations of these, with a view to addressing potential future risks.

• As such, it is not intended to create any additional expectations and obligations on enterprises and should not introduce prescriptive guidance that would go beyond the 2011 Guidelines agreement. The guidance is intended to help companies implement due diligence, but should not be considered as an interpretation Guidelines introducing additional obligations. The OECD Guidelines are the document applicable for National Contact Point procedures.

• The objective of the proactive agenda should thus be to remain prospective in nature, foster multi-stakeholder dialogue in close cooperation with member and non-member countries, take stock of existing information, and develop practical tools that would be of concrete value to companies as they conduct due diligence.

Keeping these overarching goals in mind, BIAC is pleased to submit both strategic comments and specific comments on the various sections:

• We generally recommend that the guide should be simplified to be of practical use to companies on the ground. Business would benefit from clear and consistent guidance, allowing at the same time for flexibility recognizing the variety of supply chains.

• The guide should acknowledge the complexity of supply chains and different products: It currently expects companies to perform due diligence regarding every single component of a ready-made garment. Considering the amount of components flowing into one single piece of garment (fabrics, buttons, threads, lining, interlining, parts made of different fabrics, labels, etc.) and the complexity of the supply chains of each of these components, this seems an unfeasible task. Companies must be in a position to prioritize already at the stage of the mapping.
Enterprises have an important role in the development of a sustainable supply chain. However, some aspects that influence this process are part of the government’s duties and cannot be replaced by private actions. The guide should emphasize the importance of the government to establish and enforce the rule of law, including laws that protect workers and the environment.

Scope and Purpose:

As the guidance is being developed under the “proactive agenda” of the OECD MNE Guidelines, the scope and expectations should not be expanded beyond the Guidelines. Otherwise, the guidance would create new obligations, which is not intended under the proactive agenda.

The voluntary nature of the guidance has to be clearly highlighted. The guidance is a set of practical recommendations for companies, explaining how they can implement Due Diligence according to the OECD Guideline. It should not be a set of guidelines leading into a “tick the box” exercise, expecting companies to implement one by one a given set of provisions. Where language is too prescriptive, the wordings should be more often changed from should” to “can”, “consider”.

The apparel market is very competitive worldwide, which makes increasingly necessary that minimum standards concerning labor and environment are respected by all countries and private players, taking into account the level of development of each country. If the products are global, the production methods must be increasingly global to minimize the actual unfair competition to the companies that are operating in a responsible supply chain.

Roles and target audience:

The role of intermediaries in the supply chain should be emphasized.

The target audience is not always clearly identified. While the OECD Guidelines are applicable for MNEs, the Guidance should underline that both MNEs and SMEs have responsibilities in the area of responsible business conduct, while also pointing out the practical limitations.

Although MNEs are used to operating in an expansive space of stakeholder expectations, for SMEs, responsibilities that extend to their own upstream supply chains may be a daunting prospect, even if the outlined risk-based due diligence recognizes that expectations are moderated by considerations of complexity and reasonableness. The practical implementation of the Guidance beyond large MNEs to other enterprises in the supply chain remains a challenge. Small or mid-scale business operators often lack the necessary resources to invest in an open-ended due diligence process.

Acknowledge differences between SMEs and MNEs: While the overall level of detail of the technical requirements for due diligence is high, the degree of details of the explanations, especially for SMEs, how to operationalize these requirements in practice is often very low. SMEs are often left with general suggestions that fail to consider practicalities, such as the limits of implementing those requirements into practice. (e.g. p.19 “consolidate the number of suppliers in their supply chain ... in order to increase control”. It is not acknowledged that for some SMEs this might be a difficult task as it may have effects on their range of products offered).
In particular for countries where suppliers are located, it is important to have **SMEs as a target audience**. The draft Guidance mentions and recognizes that SMEs face challenges to implement due diligence, but the format and the level of complexity of the guide may prevent its use by these companies. Considering the profile of the garment sector, special attention should be paid to SMEs. We therefore recommend the guide to be simplified recognizing challenges related to resources, knowledge and capacity to implement due diligence for many companies in the apparel sector.

**Dissemination and communication:**

- Some thought should already be given to how the guidance document will be disseminated and used. Business therefore underlines the need to make the language more direct and provide specific steps for implementation, including for SMEs, and on tailoring due diligence for helping enterprises manage the process.
- Business is interested in understanding how the final guide will be disseminated, e.g. workshops, some kind of orientation for implementation, a forum to address specific questions, etc. It is also important to have the guide and other services available in the local language, in particular in countries where there are large suppliers.
- To facilitate communication, we recommend giving careful consideration to the overall length, level of detail, format and readability. The number of pages and level of detail is in our view still too high. It will be difficult for company representatives, especially from SMEs, to read over 100 pages and internalize what is relevant for them. Practical applicability is essential. In the current format, the guide is still rather intellectual, but difficult for an SME to practically apply.
- It would be useful to complement the guidance by a scheme visualizing the steps of Due Diligence and clarifying causal connections between facts and required actions, particularly targeted towards SMEs. This might also facilitate removing redundancies from the text and increase readability.

**Comments by Section:**

**Introduction and Core Due Diligence Guidance (Part 2)**

- The issue of “**direct**” and “**indirect**” suppliers is an important distinction in the due diligence guidance that varies depending on the business model and the practical experiences of outsourcers. Where an entity is **directly** linked, through a business relationship to a multinational enterprise, the multinational enterprise should take steps to prevent or mitigate any adverse impacts. Such impacts can be discovered through an effective due diligence process. However, some of the language is less clear when the term “**directly linked**” is defined as including: “… all enterprises that are in an enterprise’s supply chain or linked to the enterprise through a business relationship.” The first part of the definition is expansive and departs from the general requirement, changing the scope and intent of the OECD Guidelines.
• **Directly linked ...by a business relationship (p.7):** is this an extension of the scope? There is no business relationship between the enterprise and the cotton merchandiser.

• The definition of “business relationship” is given a broad interpretation in the Guidance. It means more than a direct or transactional relationship, but includes any relationship with any supply chain entity which has a direct link to an enterprise’s operations, products or services. “The description of the term ‘directly linked’ to an MNEs’ operations, services or products by a business relationship ... has a higher level of complexity... The Guidelines provide the following description of business relationships: “The term ‘business relationship’ includes relationships with business partners, entities in the supply chain and any other non-State or State entities directly linked to its business operations, products or services”. The use of the word ‘includes’ indicates that this is a non-exhaustive and illustrative list of examples; hence business relationships can go beyond the examples given. It is precisely because the Guidelines are recommendations and not legally enforceable that open-ended descriptions of what is meant by business relationships can be used. A legal understanding would require more precision with regard to scope and applicability.

• Severity is poorly understood in the context of human rights and certainly from an international legal perspective, rights, such as protection against torture and slavery, are preeminent. Supply chain assessment and traceability are built around a growing expectation of stakeholders, and are already a common approach adopted by brands. However, it is more challenging for MNEs to hold direct relationships, leverage or contract beyond the first tier of the supply chain.

• Chart on p. 6 – think the box under "directly linked" should read “seek to prevent or mitigate” (see Guidelines Ch. 2, para. 12)

• **Classification of the stages of the supply chain** as “stage-one upstream from the enterprise”, while “stage” is defined as value adding function (p. 10): Weavers and finishers are on the same stage which is unfortunate as there is value added between those 2 stages.

• The draft usefully recognizes that due diligence is expected to be “reasonable” and presents a helpful guide (p. 13) to the process of identifying adverse impacts with prevention and mitigation measures driven by a severity analysis; it is important that the draft consistently emphasizes that the severity analysis must always guide prioritization of addressing impacts and that the enterprise size and operating context will be restraints on the ability to fully prevent and mitigate adverse impacts, particularly those occurring upstream. Accordingly, full implementation of the due diligence process may be a challenge due to the required resources, cost and experience that will be needed. Many smaller facilities probably will not have the resources to implement the details of due diligence as laid out in the Guide.

• Any referenced global framework agreements should only be considered if they are specifically relevant to the garment and footwear work. There is a very limited number of global framework agreements with supply chain provisions and this can therefore not be considered as an exclusive tool to implement the due diligence guidance of the OECD’s MNE Guidelines.

• In section 2.1 for impacts of greatest severity beyond stage 2, companies have to **conduct DD on control points (e.g. point 53):** for an SME it seems impossible to establish direct contact with
control points, such as commodities merchandisers (cotton) and smelters/refiners. The suggestion to direct sourcing towards control points seems far away from practice.

- Box 2 pg 14: the wording of the issues should reflect international agreements. For instance, ‘low-wage’ can refer to ‘wage levels as reflected in international multi-stakeholder agreements.’

- In section 2.2 Point 63.d: Could the secretariat refer to the relationship between the obligations for companies stemming from the OECD Guidelines etc. and the boundaries companies have to respect stemming from EU Competition Policy and Law?

- Classification of leverage criteria (p.27) is not appropriate: the criteria named for “medium leverage” do rather apply for “low leverage”. An enterprise with indirect sourcing, short-term business relationship and representing a low portion of the supplier’s business has de facto low leverage and not medium leverage.

- Engagement with government (point 62): is this really a task of the company or rather a task of governments? It seems like this undermines the duties of the states, while the responsibilities and the sphere of influence of companies are exhausted beyond what is expected by the UN guiding principles.

- In section 2.3 on accounting how impacts are assessed, reporting is not required in the MNE Guidelines. The Guidelines only ask companies to be able to communicate on how impacts are being addressed.

- Verification methodology (p.35, Box 7): “Enterprises should consult with issue experts, trade unions and other stakeholders”. This is a very strict formulation, for SMEs it is very difficult to verify that adverse impacts have been prevented and mitigated in person, and there is often a lack of resources for verifying impacts on site on top of establishing the whole DD Process and joining collaborative initiatives to increase leverage. Enterprises have to be able to rely on the verification processes of these initiatives.

- Ensure that initiatives / control points etc. perform due diligence in conformance with this guidance (e.g. P. 38, point 86): it is accepted that companies, in order to increase their leverage, adhere to collaborative initiatives. However, before doing so, companies are expected to assess whether an initiative is performing due diligence according to this guidance. This is a highly complex if not unfeasible task for an SME. This expectation should be addressed at those initiatives / control points directly, and not at companies.

- Grievance mechanisms: The OECD Guidelines do not require companies to establish internal grievance mechanisms. With this, the guidance would go beyond the scope of the OECD Guidelines. It has to be clear that internal grievance mechanisms are one possibility, but not a generally accepted requirement to ensure access to remedy.

- “Should” recommendation to integrate expectations of suppliers on matters covered by the OECD Guidelines into supplier contracts / incorporate the expectations and requirements of suppliers and licensors regarding responsible business conduct into commercial contracts and/or written agreements (on several accounts throughout the document, e.g. 93 c, Annex 1: S. 47 (direct sourcing): given current pending court cases on the matter of legal liability for injury
to third parties and the fact that legal liability for third parties is depending on national legislations case by case, we see this recommendation as highly critical and advise the OECD to contact an experienced lawyer in this field. Therefore, we suggest to replace the existing phrase by the following phrase as a “Can”-requirement: “Incorporate the expectations and requirements of suppliers and licensors regarding responsible business conduct into the company's general principles and guidelines, which can be applied and monitored. Such principles should include...”

Annex 3 - Homeworkers:

- The guidance stresses the criticality of organizing, formalizing and legalization homeworkers, which might not be broadly applicable to all homeworking situations. In the footnotes, it is stated that “it is imperative that any formalization scheme takes the local context into consideration,” but this sentiment is not evident in the body of the text.
- To state that homeworkers need to be ‘legalized’ implies that they are all working illegally. A practical way forward might be to be working with homeworkers to ensure that they are not disenfranchised, rather than encouraging a new system that may be neither desired nor necessary.
- The guidelines advise companies to identify actual and potential adverse impact after suggesting a solution. The problem should be stated clearly before a solution is proposed.
- We recommend substantiating the statement that it is “widely accepted that informality represents significant loss for the individual and his/her family” with footnotes.

Annex 4 - Child Labor:

- Child labor is defined here as below the legal working age. We would suggest that the guidance follows the ILO on minimum working age or local law, whichever is older.
- The guidelines state that if children are found to be engaged in the worst forms of child labor, the crime may to be reported to relevant authorities. It would be helpful to clarify who is responsible for reporting.

Annex 6 - Forced Labor:

- The forced labor definition is too narrow and does not fully encompass all aspects of forced labor.
- Enterprises are expected to identify legal remedies available to victims of forced labor. While it is unclear how exactly an enterprise would satisfy this requirement, we would suggest a mechanism be put in place first to report the crime and then to cooperate with authorities and other enterprises, where relevant, to help provide appropriate forms of remedy.
Guidelines do not establish an expectation regarding fees for migrant workers issued by home countries (labor agents nor government fees). If no guidance is provided, we suggest noting that these fees are out of scope.

Transportation and warehousing are listed as in-scope. We suggest noting that these are tier 2 or subcontracted facilities to appropriately allocate oversight responsibility.

### Annex 8 - Health and Safety:

- It seems unrealistic that Health and Safety Corrective Action Plans will be developed in partnership with and signed off by qualified professionals (structural engineers, electrical engineers, etc). While this may be necessary for very severe issues, the majority of health and safety issues would not require this level of oversight.

- In cases where corrections are estimated to be very costly, it is suggested that companies support suppliers in seeking financing. This may not always be feasible or realistic.

- It may not be feasible for companies to provide workers access to remedy/compensation for medical care, missed work, pain, emotional damages, etc. on an individual basis. A collective effort (i.e., the Alliance) may be more realistic.

- There is little reference to a chemical management audit and using and managing chemicals safely. The main emphasis is placed on building safety, structural integrity, electrical safety etc. A qualified professional should if possible also understand how to store and use chemicals safely.

### Annex 9 – Right to join a trade union / right to collective bargaining

- Box 1, 2nd bullet: if the supplier (rather than the enterprise) does not cooperate or make sufficient progress, the enterprise should not be forced to break up its relationship after 6 months, but rather have some reasonable period (6-9 months) to reconsider its relationship with the supplier concerned.

- The notion that companies can form or join collectivities to address specific issues should be better integrated and / or elaborated in the Annexes. Whereas each company has an individual responsibility, it should be made clearer that companies, especially SMEs, can form or join collectivities (like multi-stakeholder initiatives) to cover issues like supply chain assessment and context assessment as visualized in the scheme on p. 19.

### Annex 10 – Wages:

- References to labor codes and conducts should be in line with multi-stakeholder agreements.
Whereas it is clear that the issues ‘hours of work’ and ‘wages’ are linked and / or partially overlap, we do not agree that it should be one integrated Annex as if they were one issue. Rather, they should be placed next to each other and adequate cross-reference should be made.

P. 94, Footnote 98 states that: “The OECD Guidelines, Chapter V, Para 4.b state that “When multinational enterprises operate in developing countries, where comparable employers may not exist, provide the best possible wages, benefits and conditions of work, within the framework of government policies. These should be related to the economic position of the enterprise, but should be at least adequate to satisfy the basic needs of the workers and their families.” And adds that “Enterprises operating in global supply chains are considered to be multinational enterprises, as such, enterprises should conduct due diligence on their suppliers in relation to the above.” The paragraph in the OECD Guidelines is drawn directly from Principle 34, contained in ILO’s Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (last updated in 2001). The Tripartite Declaration states that “Unless otherwise specified, the term “multinational enterprise” is used in this Declaration to designate the various entities (parent companies or local entities or both or the organization as a whole) according to the distribution of responsibilities among them, in the expectation that they will cooperate and provide assistance to one another as necessary to facilitate observance of the principles laid down in the Declaration. The scope of Principle 34 in Tripartite Deceleration is therefore confined only to an MNE’s own employees or workforce, and the interpretation given here by the OCED extends the meaning beyond the original source document. The scope and content of the Tripartite Agreement for MNEs will be the subject of debate at the upcoming ILO Congress in Geneva in June 2016. The wording adopted by the OECD, mirrors the demands currently tabled by the Worker organizations, which has yet to be agreed to by Employers and Governments.

Annex 11 - Chemicals:

- Mapping a whole supply chain from a chemicals perspective might be overly ambitious; a sequential approach may be required based on the size and complexity of the enterprise as well as the type of products made; developing a chemical inventory of all chemicals is not feasible because it would require full disclosure that could conflict with business confidentiality concerns around product development; emphasis should be on hazardous chemicals.

- Terminology regarding who is accountable is inconsistent. In some cases it is the “enterprise” while in others it is “brand/retailer”. Similarly, terminology fluctuates in the draft: is a Tier 1 supplier a stage 1 supplier? Be consistent in terms. What is meant by chemical groups? Is it by chemical class or function? (p.100)

- Details requested within the chemical inventory list are not accessible to the supplier (example: heavy metals). Regulations regarding the detail provided on an MSDS by the chemical producer would need to change in order for dyeing/finishing factories to provide this information.

- Need to define: Higher-risk stages of the supply chain
• Scope of this section referenced only dyeing/finishing, recommended that printing be included as well

• There is not enough emphasis on industry wide collaboration and the adoption of best available technologies (BAT) to reduce the environmental impact of textile processing.

• We suggest adding Key Due Diligence points on p. 99 that more clearly represent what industry stakeholders are doing in the area of chemicals management, including: Industry wide collaboration as a leading best practice; chemical management training to users of chemicals; a common RSL (p99) such as AAFA or AFIRM RSL; and safe chemical storage, labeling of chemicals, use of PPE and availability of SDS’s (p99.).

• Figure 11.1 General chemical management could be replaced with the Zero Discharge of Hazardous Chemicals Prioritization Framework, which clearly references the MRSL and the Research list or perhaps the OIA Chemical management diagram.

• Provide a definition of an MRSL and Research list in the Definitions box. If you add RSL to the definitions, it means you can eliminate the box on p 101 that explains the differences between an MRSL and RSL. The alternatives assessment (AA) should be introduced within the Research list definition so that it isn’t taken out of context.

• Identifying a chemical inventory is a really lofty goal and not feasible. Identifying a hazardous chemical inventory may be a good starting point.

• It would be beneficial specifically in this section to call out with greater emphasis leather tanning, printing and shoe manufacture.

Additional specific comments on Chemicals:

<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Text</th>
<th>Comment</th>
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</thead>
<tbody>
<tr>
<td>General</td>
<td>While the inclusion of exposure as part of understanding potential risks posed by chemicals in the workplace, the management of exposure potential as a critical factor in managing risk.</td>
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<tr>
<td>28a</td>
<td>Extensive use of chemicals and water (textiles and tanneries).</td>
<td>To be more encompassing of chemicals management in manufacturing facilities, recommend changing the language to “The extensive use, handling, storage, and disposal of chemicals . . .”</td>
</tr>
<tr>
<td>Box 2</td>
<td>“Use of hazardous chemical” in the Envi-</td>
<td>See comment for paragraph 28a.</td>
</tr>
<tr>
<td>Section</td>
<td>Supplier Assessment</td>
<td>Annexes 8 and 11 should be added to this list, which appears to identify issues for which there should be “direct engagement with suppliers and workers and broader engagement with government, industry, and the community…”</td>
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<tr>
<td>Section C (@ para 35)</td>
<td>Supplier Assessment</td>
<td>Consider adding reference and text concerning the Higg® Index Facility Environmental and Social Modules. See: <a href="http://apparelcoalition.org/the-higg-index/">http://apparelcoalition.org/the-higg-index/</a>.</td>
</tr>
<tr>
<td>Annex 8</td>
<td>Key points box “use of hazardous chemicals with high health risks”</td>
<td>As noted above (see comment on para. 28), the issue is larger than use. Consider expanding the language to cover “handling, storage, use, and disposal of chemicals, among others”.</td>
</tr>
<tr>
<td>Annex 8</td>
<td>In key points box, after “electrical engineers”</td>
<td>Consider adding “, safety, health and environment specialist for handling chemicals” in order to complete the list of professionals needed to manage properly the list of risk sources presented at the beginning of the paragraph.</td>
</tr>
<tr>
<td>Supplier Assessments (p 83)</td>
<td>Phrase between hyphens</td>
<td>See comments for paragraph 28, first comment for Annex 8.</td>
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<tr>
<td>Supplier Assessments</td>
<td>List in parentheses at end of</td>
<td>See second comment above for Annex 8.</td>
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<tr>
<td>Section</td>
<td>Comment</td>
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<tr>
<td>II a (p. 84)</td>
<td>See both comments for Annex 8.</td>
<td></td>
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<tr>
<td>III a (p. 85)</td>
<td>See second comment above for Annex 8.</td>
<td></td>
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<tr>
<td>References, p. 87</td>
<td>Please see the comment for paragraph 91. Also, consider being more specific about the ZDHC resource: ZDHC <em>Chemical Management System Guidance Manual</em>.</td>
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<tr>
<td>Annex 11 Title</td>
<td>See comment for paragraph 28a.</td>
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<tr>
<td>Annex 11 Key Points Box (p. 99)</td>
<td>Consider adding one point here: The enterprise should support the adoption of common Best Environmental Practices for the Global Apparel Industry.</td>
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<tr>
<td>Annex 11 Key Points Box (p. 99)</td>
<td>The box does not contain any element that speaks to proper occupational hygiene and protection. At the very least there should be a reference to Annex 8 in this box.</td>
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<tr>
<td>Annex 11 Select International Standards</td>
<td>Add references in comment for p. 91.</td>
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</tr>
<tr>
<td>Annex 11 Inclusion of REACH</td>
<td>REACH is not a standard. It is a regulation. If the EU’s chemical regulation is noted, then it is also necessary to note the overriding chemical legislation of all other OECD countries. Calling out one appears will be interpreted as OECD bias for one regulatory approach over all others. Suggest deleting.</td>
<td></td>
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<tr>
<td>Annex 11 Definitions</td>
<td>Suggest putting definitions in alphabetical order.</td>
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</table>
| Annex 11 Definitions | Consider adding the following definitions:  
Best Practices: Best Available Technology (BAT) and Best Environmental Practices (BEP) constitute a sound chemical management system that is paramount to worker safety, to minimize chemical usage and to reduce environmental impacts to the community and the broader environment.  
Disposal of Chemicals: All chemicals used should be disposed of according to guidance provided in the respective Safety Data Sheet.  
Safety Data Sheet (SDS): Contains information on safe handling, storing, use and disposing of chemicals and should be available to all employees handling them. In case a SDS is not available or does not contain |
information on health and safety, the chemical should not be used. Chemicals without a proper SDS pose a risk to workers, facility and environment.

Annex 11

Definition of hazard

Period at the end of the paragraph.

Annex 11 Definitions

Definitions exposure, chemical substitution alternatives assessment

If these definitions are direct quotes, the source should be cited (per the previous definitions in the list).

Annex 11

Consider adding a box that summarizes Best Environmental Practice. See for example page 1 of the reference Best Environmental Practices for the Global Apparel Industry.

Annex 11, Roman I

Point c

In some cases there will be chemicals or materials used that the supplier rightfully needs to protect as confidential business information (CBI). In these instances, the inventory should be checked by a 3rd party that can verify it is appropriate for use and meets all laws and restricted substance lists. There are a number of organizations available in the apparel and footwear supply chain that can service as this 3rd party assessor they include but are not limited to Bluesign, SciVera, Oekotex, Bureau Veritas, etc.

Annex 11, Roman I

Point 2 / c

Suggest “An enterprise with numerous and diverse product lines may prioritize . . .”

Annex 11, Roman I

Point d

What should the enterprise do with this information? It is not obvious as it is with other points in this section?

Annex 11, Roman I

Point 1 n e

The language here is confusing and vague. Regarding “chemical tests”, what is the intention? To answer what question? Is the guidance suggesting doing testing, or reviewing testing data on the chemicals used at the site? Similarly, “quality certificates” for what, and for what purpose?

Annex 11, Roman I

Consider adding the following points:

a. Name a point of contact for chemical management and share that name with suppliers. In return, ensure the supplier has named a point of contact for chemical management and has shared that name with the brand/retailer/other buyer.
| Annex 11, Roman I, footnote 102 | Rewording suggestion | Suggest the following modifications:

The inventory should contain the commercial name, Chemical Abstract Service Registration Number (CAS RN#), the chemical formula composition, known hazard information hazardous chemicals, the annual consumption, information on biological degradation and elimination, and the content of nitrogen, phosphorous and heavy metals.

The “elimination” concept was deleted because it is vague (From what? Through what means?); OECD does not have methods to assess “elimination.” Suggest deletion of more clarity on the intent. |
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<tbody>
<tr>
<td>Annex 11, Roman II.</td>
<td>Suggest adding points about occupational hygiene and personal protective equipment. For example see the box on page 2-12 of the ZDNC report referenced above. See also points 4, 7, and 9 from Annex B of the same document.</td>
<td></td>
</tr>
<tr>
<td>Annex 11, Roman II.</td>
<td>Section a</td>
<td>The language confuses concepts. It says to base the MSRL on hazard, but then references risk in the parenthetical statement immediately thereafter. Suggest using “assessment of risks”, since it is logical that a MSRL could be based on concerns over hazard, but also on concerns about being able to adequately control exposure.</td>
</tr>
<tr>
<td>Annex 11, Box 11.1</td>
<td>These definitions should be incorporated into the definitions section. Note that the MSRL concept is mentioned in the second bullet of the annex. Suggest that the definition of that term should not appear 2 pages later.</td>
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</tr>
<tr>
<td>Annex 11, Box 11.1</td>
<td>Suggest adding language such as “It is possible to use hazardous chemicals in the manufacturing process that either react and thus functionally disappear or that are managed within the system properly and thus pose no risk to workers or consumers. This is why it is critical to understand the system and have a proper chemical management system in place.”</td>
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<tr>
<td>Annex 11, Box 11.1</td>
<td>Suggest deleting (ZDHC) from the end. Does not appear to be a direct quote. If so, it should be properly footnoted.</td>
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<tr>
<td>Annex 11, Roman II.</td>
<td>Section c, second sentence.</td>
<td>The sentence appears to suggest phasing a substance out even if a viable substitute is not available. That appears to suggest “cease operation” and provide no alternate means of producing the company’s product. Suggest a careful look at the wording to ensure OECD’s advice is practical and implementable.</td>
</tr>
<tr>
<td>Annex 11, Roman II.</td>
<td>Section d</td>
<td>Suggest phrasing as “prevent and mitigate the potential for adverse impacts.” It speaks to forward-looking planning and developing safe business practices.</td>
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<tr>
<td>Annex 11, Roman II.</td>
<td>Section d, second bullet, last sentence</td>
<td>We fully support this language and would hope that the importance of addressing all potential impacts (water, greenhouse gas intensity, material efficiency, etc.) could be emphasized elsewhere as appropriate in this guidance.</td>
</tr>
<tr>
<td>Annex 11, Roman II.</td>
<td>Section d</td>
<td>The list of bullets seems incomplete without some mention of educating/training suppliers about occupational health and safety.</td>
</tr>
<tr>
<td>Annex 11, Roman II.</td>
<td>Section e</td>
<td>Suggest “to mitigate the potential for adverse impacts stemming from the operations of subcontracted suppliers.”</td>
</tr>
<tr>
<td>Annex 11, Roman II.</td>
<td>Section f</td>
<td>What does “during measurable risk” mean here? Perhaps replace with “on implementing measurable prevention and mitigation practices.”</td>
</tr>
<tr>
<td>Annex 11, section on higher-risk stages (p. 102)</td>
<td></td>
<td>Many of the comments above apply to this section. That said, it is unclear why this materials is largely being repeated. What is fundamentally different in the content?</td>
</tr>
<tr>
<td>Annex 11, section on higher-risk stages</td>
<td>Roman I, section a.</td>
<td>See previous comment about need to protect confidential business information. Repeat here.</td>
</tr>
<tr>
<td>Annex 11, Resources</td>
<td></td>
<td>Not sure why the word “Identify” is hanging out by itself. Suggest changing heading “Substitution” to “Alternatives Assessment,” which is broader and process-focused. See comment about REACH above (in the standards section). Consider adding the following resources:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1. Outdoor Industry Association’s <strong>Chemical Management Module</strong> (comprehensive)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Material Data Safety Sheets (for Hazard information)</td>
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<td>3. <strong>The Higg® Index</strong> (applies to both Supplier Assessment and Environmental Assessment)</td>
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<td>4. <strong>Best Environmental Practices for the Global Apparel Industry</strong> (comprehensive)</td>
</tr>
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<td>5. <strong>GHS Column Model</strong> (Alternatives Assessment)</td>
</tr>
</tbody>
</table>
Annex 12 - Water:

- The water Annex mentions water use and water discharge, but not enough information is provided around solutions to these issues. This section does not encourage or even address responsible disengagement if egregious wastewater violations are found. We recommend that this be addressed as a priority. Furthermore, the possibility of disengagement for ongoing recalcitrance should be an option for any serious issue.

- It does not address transparency to industrial parks/centralized waste water treatment. In order to have full oversight on waste water performance this oversight is needed. This also becomes a challenge when trying to adopt best practices such as water recycling.

- There is no mention of leather tanneries. This part of textile processing uses a lot of water and should be mentioned earlier in the annex.

Annex 13 - Energy:

- This section only addresses CO2 and does not address the concerns of emissions/pollutants that impact human health. To truly address smog and air quality NOx and SOx should be addressed. There should be a clear understanding of the energy use as well as the amount of air pollutants

Annex 14 – Bribery and Corruption

- P. 121: The most recent version of the UN Global Compacts publication: *Fighting Corruption in the Supply Chain, A Guide for Customers and Suppliers*, is dated 2010, not 2000 as stated in the draft Guidance.

- In the body of the document, all illustrations are linked to human rights, labor and environmental concerns. It would be helpful to see how the formulation of risk, mitigation and prevention actually relates to tackling corruption and bribery beyond a Stage 1 level business relationship, where an enterprise has neither caused nor contributed to an identified adverse impact. Again it must be made clear to enterprises what is expected of them in managing bribery and corruption in their extended supply chains. Ultimately, as one moves away from the transactional nature of a buyer/supplier relationship, where there is direct influence and potential accountability, the situation becomes highly complex and dispersed.

- Global supply chains operate to a large extent in a developing world setting, where bribery and corruption challenges can be significant. Often such corruption is deep-seated and, regrettably, sometimes also part of State practice. Where corruption is endemic, a bottom-up process by local enterprises will unfortunately only have a limited impact. It must be tackled from the top, through government-to-government relations, the efforts of national and international business associations, transparency systems, etc. And in some of the least developed countries it demands a wholesale change in behaviors and culture, at a societal level.
Similarly, the OECD Guidelines require “consumer interests” to follow the risk-based due diligence approach. The apparel industry has a global consumer base, but there is limited commentary about end point retailing and consumer interests in the draft Guidance. Again some illustration of how the due diligence risk model applies to consumer interests would be helpful and would ensure a complete picture. Direct causality is understood, but how does leverage and influence work with respect to consumer interests? Product safety, for example, operates in a very complex space of overlapping legal duties and liabilities. It is highly regulated by national governments, and the EU. How does this fit with the expansive definition of business relationships, and responsibilities wherever there is a direct link to products? In short, the Guidance is very much directed at upstream affects, rather than downstream impacts in the value chain.