Standing Against Harmful Business Practices

A Practical Guide to the OECD Complaint System for Indigenous Peoples

SIRGE COALITION
SECURING INDIGENOUS PEOPLES' RIGHTS IN THE GREEN ECONOMY

voices
Formerly Society for Threatened Peoples

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Content

Pataxó Hãhãhãe communities were victims of the dam collapse in Brumadinho. The Society for Threatened Peoples Germany filed a complaint against the certification company Tüv Süd. © Eliane Fernandes Ferreira, Society for Threatened Peoples, Germany

Introduction

When your community faces harm from a company—when your land is taken, your water polluted, or your rights ignored—it can feel like no one is there to support you. But there are tools available to help raise your voice beyond your country and be heard by international decision-makers.

One important tool comes from a group of 38 countries that work together through the Organisation for Economic Co-operation and Development (OECD). These countries have agreed on a set of standards called the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct. To date, 52 countries have endorsed the Guidelines.

These OECD Guidelines set expectations for companies to respect human rights, protect the environment, and pay special attention to Indigenous Peoples' rights. They refer to Free, Prior and Informed Consent (FPIC) in situations where business activities may affect land or resources.

If a multinational company harms your community and breaks these standards, you have the right to file a complaint. You can bring your case to an office called a National Contact Point (NCP), which exists in every country that follows and promotes the Guidelines (also called adherent countries).

This complaint system allows you to open up a dialogue with companies, raise public awareness, and sometimes achieve real change. Despite the fact that filing a complaint does not always result in direct compensation or stop harm immediately, it can still be a powerful tool to defend your community and demand justice

Who is this guide for?

This guide is for you—Indigenous Peoples, communities, and defenders who want to protect your lands, cultures, and rights when facing harm from business activities. It is especially useful if you are dealing with problems like mining, deforestation, or violations of your right to Free, Prior and Informed Consent (FPIC).

If you work with an Indigenous community, for example as part of a civil society organization, a legal advocacy group, or another ally group, this guide can also help you better support Indigenous leadership and their struggles.

What is in this guide?

This guide is divided into three parts:

Part 1: Understanding the OECD Guidelines and its complaint system. Learn what the Guidelines are, how NCPs work, and when you can use them to raise your concerns.

Part 2: Navigating the complaint process step-by-step. Get practical advice for each stage: deciding to file, preparing your complaint, going through mediation, and using the results to support your wider efforts.

Part 3: Making the complaint part of a bigger strategy. See how you can combine a complaint with public campaigns, alliances, and other actions to strengthen your movement for justice.

It also includes case studies that show how other Indigenous Peoples have used the OECD system, and at the end of the guide, you will find additional resources to help you learn more and take action.

A Note on Word Choice

*In this guide, you will often see the terms „**Indigenous Peoples,“** „Indigenous community,“ and **„community“** used interchangeably.*

These terms follow the United Nations' definitions of Indigenous Peoples. According to this definition, Indigenous Peoples are those who:

- *Self-identify as Indigenous*
- *Have a strong connection to their lands and natural resources*
- *Preserve distinct languages, cultures, and social, spiritual, economic and political systems*

Indigenous Peoples often live in ways that are different from the dominant society in their country. They also have a strong commitment to preserving their ancestral territories, environments, and traditions, and to continue existing as distinct Peoples and communities.

While this guide focuses on Indigenous Peoples with their specific rights, most of the tips and recommendations are also relevant and useful to traditional communities.

Part 1

Understanding the OECD Guidelines and its Complaint System

Indigenous Peoples protest in Brazil against the destruction of the rainforest. © Vinícius da Silva Machado

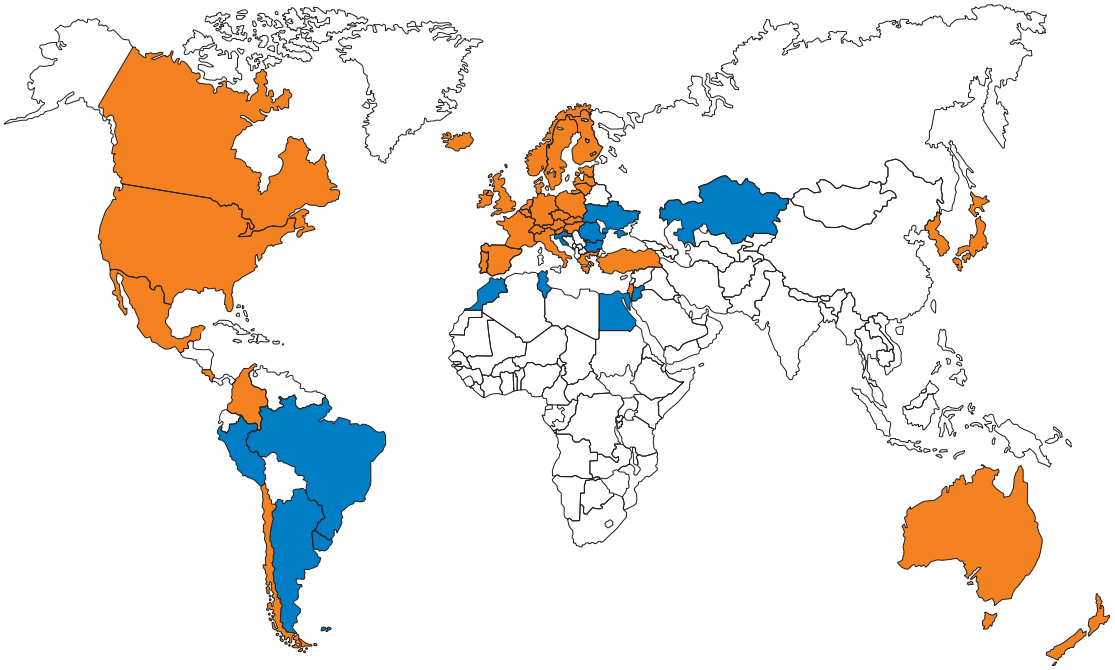
What is the OECD?

When your community is harmed by business activities, you might ask: Where can we turn for support? One place to find international help is through the **Organisation for Economic Co-operation and Development (OECD).**

The OECD is an international group of governments that work together to create and promote policies that support economic growth, sustainability, and social well-being.

It was founded in 1961, the OECD now includes 38 countries from all over the world, including Latin America, North America, Europe, Asia, and the Pacific.

OECD member countries and countries adhering to the Guidelines



OECD member countries:

Latin America:	Chile, Colombia, Costa Rica, Mexico
North America:	Canada, United States
Europe:	Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom
Asia-Pacific:	Australia, Israel, Japan, South Korea, New Zealand

OECD Guidelines adhering countries:

Latin America:	Argentina, Brazil, Peru, Uruguay
Europe:	Croatia, Bulgaria, Kazakhstan, Romania, Ukraine
Asia:	Jordan
Africa:	Egypt, Morocco, Tunisia

What are the OECD Guidelines for Multinational Enterprises?

One of the most important tools the OECD offers is the ***OECD Guidelines for Multinational Enterprises on Responsible Business Conduct*** (OECD Guidelines). These Guidelines are a set of international standards that explain how companies should act responsibly when doing business. They also give your community a way to raise concerns when companies cause harm.

Today, **52 countries, including 38 OECD member and 14 non-member countries**, have agreed to follow to the Guidelines.

The Guidelines are voluntary, which means they are not legally binding and companies cannot be forced to follow them. Still, they are an internationally recognized standard for responsible business conduct. Even though they do not have the force of law ("soft law"), they carry influence and can be used by communities through the OECD complaint mechanism to demand respect for their rights.

Companies that follow the Guidelines are expected to:

- **Respect human rights**, including Indigenous Peoples' rights
- **Protect the environment** and take action on climate change
- **Engage fairly with workers**
- **Avoid corruption** and unethical business practices
- **Act transparently** with consumers and communities

The OECD Guidelines recognize that companies must pay special attention to Indigenous Peoples' rights, especially when business activities may affect their lands, resources, or ways of life.

While the Guidelines do not explicitly require companies to obtain **Free, Prior and Informed Consent (FPIC),** they refer to it in the context of human rights due diligence, including through related OECD guidance. This means companies are expected to engage respectfully and meaningfully with Indigenous Peoples and take extra care when projects involve land, territories, or natural resources.

What is a multinational enterprise (MNE)?

Multinational enterprises are companies that operate in more than one country. They can be small or large, and they may work in many different industries like mining, agriculture, energy, tourism, or manufacturing.

What areas do the Guidelines cover?

The OECD Guidelines cover many important areas where companies must act responsibly. Some of these areas are especially important for Indigenous Peoples because they affect rights to land, water, culture, and decision-making.

In each of these areas, multinational enterprises (MNEs) are expected to:

General Policies
Respect internationally recognized human rights and act responsibly in all business activities.

Disclosure
Be honest and transparent, especially when their actions could harm people or the environment.

Human Rights
Avoid violating human rights, including the rights of Indigenous Peoples.

Employment and Industrial Relations
Treat workers fairly, avoid discrimination, and respect labor rights.

Environment and Climate Change
Protect nature, use resources responsibly, and take action to reduce climate harm.

Bribery and Corruption
Never offer or accept bribes or take part in corrupt practices.

Consumer Interests
Be fair and honest with consumers. Avoiding harmful or misleading products and practices.

Science, Technology, and Innovation
Use and develop technologies in ways that respect people and nature.

Competition
Compete fairly and avoid abusing power to harm others.

Taxation
Pay taxes fairly and avoid tricks that prevent them from contributing their share.

Depending on your situation, different parts of the Guidelines may apply when filing a complaint. In most cases involving Indigenous Peoples, the most relevant sections are **Human Rights, Environment,** and **General Policies**.

To see which chapters and paragraphs might apply to your case, see the table in the **Annex, page 72.**

What does responsible business conduct (RBC) mean?

Responsible business conduct (RBC) means that companies take responsibility for avoiding harm to people and the environment, and for fixing harm when it happens.

RBC means that companies should:

- *Identify risks linked to their business activities*
- *Prevent and reduce those risks*
- *Repair harm when it occurs*

Responsible companies also support sustainable development by respecting human rights, protecting the environment, and ensuring fair outcomes for workers and communities.

Why can the OECD Guidelines be relevant for Indigenous Peoples?

For Indigenous Peoples, MNEs often bring serious risks. These include being removed from ancestral lands, destruction of sacred places, pollution of rivers, lakes, and soil, loss of access to traditional hunting, fishing, or farming areas, and threats to health, culture, and survival.

When companies ignore Indigenous Peoples' rights—especially the right to Free, Prior and Informed Consent (FPIC)—the harm can last for generations. That is why MNEs must respect Indigenous Peoples' rights when they operate in or near Indigenous Peoples' territories.

The OECD Guidelines are important because they recognize your human rights and your rights as Indigenous Peoples. These rights are based on binding international laws, treaties, and standards, such as:

> The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

> The International Covenant on Civil and Political Rights (ICCPR)

> The International Covenant on Economic, Social and Cultural Rights (ICESCR)

> The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

United Nations treaty bodies have made it clear that Indigenous Peoples' rights include the right to your lands, territories, cultures, and natural resources. These bodies also affirm your right to FPIC when companies or governments plan projects in your territories.

The OECD Guidelines highlight the need to pay special attention to Indigenous Peoples and other vulnerable groups. They explain:

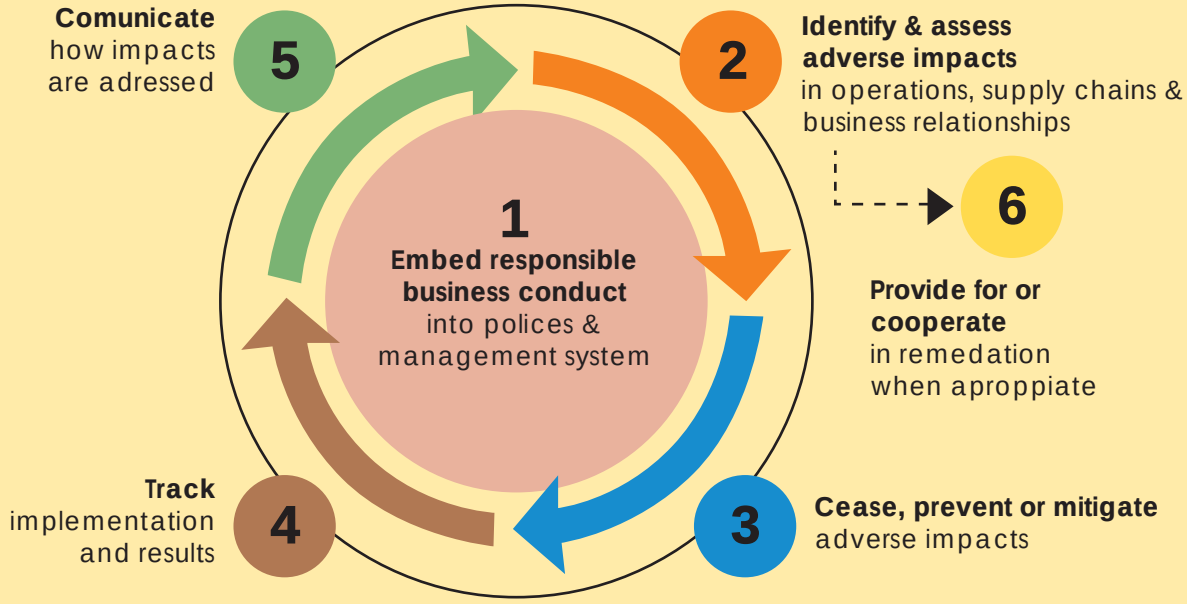
„Enterprises should pay special attention to any particular adverse impacts on individuals, for example human rights defenders, who may be at heightened risk due to marginalization, vulnerability or other circumstances, individually or as members of certain groups or populations, including Indigenous Peoples." (OECD Guidelines, Chapter IV, commentary 45)

This means companies must not only avoid harming Indigenous Peoples' rights, but must also take extra care to protect individuals and defenders within Indigenous communities.

What is due diligence?

Due diligence is the process companies must follow to respect human rights and protect the environment. It means companies must look closely at their actions and relationships to avoid causing harm and fix problems when they occur.

Companies are expected to:



***Human rights due diligence** is especially important for Indigenous Peoples. It means that companies carefully examine their activities and business relationships to make sure they are not violating Indigenous Peoples' rights or harming communities or the environment.*

If a company harms your community because it failed to carry out proper due diligence, you can include that failure in your complaint under the OECD Guidelines.

What is FPIC?

***Free, Prior and Informed Consent (FPIC)** is a key right recognized in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).*

*FPIC means that Indigenous Peoples have the right to say yes or no to activities that could impact their lands, territories, or resources. This right is a core part of **self-determination**: the right to make decisions about their own lives and futures.*

What does FPIC mean?

- ***Free:** Indigenous Peoples must give their consent voluntarily, without pressure, force, or manipulation.*
- ***Prior:** Consent must be asked for before any decisions are made or activities begin, with enough time for meaningful discussion and decision-making using Indigenous Peoples' own processes.*
- ***Informed:** Indigenous Peoples must receive all relevant information in a clear and accessible way so they can fully understand the project, its impacts, and their rights.*
- ***Consent:** Indigenous Peoples have the right to say yes, yes with conditions, or no, based on their own values, priorities, and decision-making systems.*

FPIC involves both a process and a right to decide:

- ***The process:** FPIC must follow Indigenous Peoples' own governance systems, customs, and decision-making protocols.*

  ***Governments** are responsible for making sure FPIC is carried out properly.*

  ***Companies** must not lead or design the FPIC process. Instead, they must respect the process defined by the affected Indigenous community and ensure that no project moves forward unless proper FPIC has taken place.*

- ***The right to decide:** Indigenous Peoples have **the right to accept**, **accept with conditions, or reject** a project. This decision must be made through their own governance systems and in line with their values, customs, and decision-making protocols.*

FPIC also provides a framework for Indigenous Peoples to set their own rules and protocols for how companies, governments, and others engage with their communities and lands.

By respecting FPIC, businesses and governments align with international human rights standards and uphold the principles outlined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Is the NCP complaint system binding?

No. The NCP system is not legally binding. NCPs help resolve problems through dialogue and mediation, not through courts. Companies are encouraged to participate, but they are not required to do so. NCPs also cannot force companies to follow the outcomes of a complaint.

However, NCPs and communities can use different pressure and advocacy strategies to encourage company participation. When companies engage, the process may lead to solutions, remedies, or other benefits for affected communities.

What happens if companies do not follow the Guidelines?

The OECD Guidelines are not legally binding for companies. But governments that follow the Guidelines—including OECD and non-OECD countries—expect companies based or operating in their territories to respect them.

When companies ignore the Guidelines, they risk:

- *Damaging their reputation*
- *Losing the trust of investors, suppliers, and business partners*
- *Taking financial losses, such as investors pulling out or missing new business opportunities*

To help enforce these expectations, governments have set up **National Contact Points (NCPs)**—offices that promote responsible business conduct.

NCPs are responsible for:

- Promoting and raising awareness about the Guidelines
- Receiving and addressing complaints about company behavior
- Helping resolve disputes through dialogue that is based on trust, transparency, and respect

When handling complaints, NCPs can:

- Make recommendations to companies to change their behavior
- Promote real dialogue and solutions between communities and companies
- Draw public attention to violations, putting pressure on companies to act

In addition to these duties, NCPs are encouraged to support their governments in developing stronger laws and policies that promote responsible business across all sectors.

Note on wording: "specific instances" or "complaints"?

Under the OECD Guidelines, what most people call a ***"complaint"*** *is officially called a* ***"specific instance."*** *You might also see the words* ***"case"*** *or* ***"grievance"*** *used in other documents or by different organizations.*

All of these terms refer to the same process of raising concerns about how the company has behaved, especially if it may have violated the OECD Guidelines.

Indigenous Tupinambá communities and activists protest on the Tapajós River in the Brazilian Amazon, opposing plans to expand the waterway for soy and timber transport. © Vinicius Brito Da Silva Machado

Who can file a complaint?

Anyone with a legitimate interest in the issue can file a complaint, even if they are not directly affected. This includes:

- Indigenous Peoples—as individuals, communities, federations, or associations
- Non-governmental organizations (NGOs)
- Workers or collective movements

You do not have to be a lawyer or part of an official institution to use this system. What matters is that you can show a clear connection to the issue and explain your concerns.

What issues can be raised in a complaint?

You can file a complaint about any harm related to a company's failure to follow the OECD Guidelines. This includes issues such as:

- Environmental damage
- Threats to cultural heritage
- Violations of Free, Prior, and Informed Consent (FPIC)
- Labor rights abuses
- Lack of transparency or corruption
- Displacement or loss of access to land or resources

If the harm relates to a topic covered by the Guidelines, you can raise it in your complaint.

Who can you file a complaint against?

A complaint can be made against any business involved in the harmful activity, including those indirectly connected through funding or partnerships:

- **Parent company**: The main company responsible for global policies or making decisions that caused harm
- **Subsidiaries and operators**: The branch or office directly involved in the harmful activity
- **Suppliers and buyers**: Companies in the supply chain that are connected to the harm
- **Investors and financiers**: Banks, pension funds, or other groups that funded the activity
- **Joint ventures or partnerships**: Companies working together on the harmful project
- **Consultants or advisors**: Individuals or firms that provided advice or services that contributed to the harm

What companies are covered by the Guidelines and where can you file a complaint?

You can file a complaint against a **multinational enterprise (MNE)** if:

- The company caused, contributed to, or is directly linked to the harm (for example, through a partner, supplier, or funder), and
- One of the following is true:
  - The harm happened in a country that follows the OECD Guidelines, or
  - The company's headquarters is located in a country that follows the Guidelines

This means that even if the harmful activity happens in a country that does not follow the Guidelines, you can still file a complaint in the country where the company is based, as long as that country has an NCP.

Where can you file a complaint?

You can file a complaint with the NCP in one or more countries, depending on your case:

- **In the country where the harm occurred**, if that country follows the OECD Guidelines and has an NCP
- **In the country where the company is based**, if that country follows the OECD Guidelines and has an NCP

Sometimes, it may be strategic to file in both countries or against multiple companies. This can show how different actors were involved and help raise more attention to your case.

Important:

Complaints can only be filed in countries that follow the OECD Guidelines, and ***only against multinational enterprises.***

Strengths and weaknesses of NCP complaint systems

The NCP system offers both opportunities and challenges for Indigenous communities seeking to hold multinational companies accountable.

Strengths

- **Open access** – Anyone with a legitimate interest can file a complaint: individuals, communities, or organizations.
- **Covers many issues** – Includes human rights, environmental harm, labor rights, and more — even areas not protected by national law.
- **More accessible than courts** – Filing a complaint costs less, involves less legal paperwork, and doesn't require a lawyer.
- **Focuses on dialogue** – Promotes dialogue and agreement instead of conflict.
- **Global reach** – Accepts complaints involving any country or company covered by the OECD Guidelines.
- **Flexible outcomes** – Mediation can lead to creative or practical solutions that courts might not offer.
- **Findings and recommendations** – Even without an agreement, the NCP can still publish conclusions and issue recommendations for the company to improve.
- **Faster than court** – Although NCP processes may take years, they are often shorter than full legal proceedings.

Weaknesses

- **Voluntary participation** – Companies cannot be forced to take part or follow the outcome.
- **No enforcement power** – NCPs cannot make companies act since their decisions are not legally binding.
- **Uneven quality** – Some NCPs lack independence, expertise, or resources to effectively handle complaints.
- **Uncertain results** – There is no guarantee of remedy, change, or even full participation.
- **Takes time and resources** – Filing a complaint can still take time, money, and effort, including translation, travel, and gathering evidence.
- **Can be slow** – The process may still take years, depending on the case and the country.

Overview of the complaint procedure

The NCP complaint process has **seven main steps**. Each step is explained in detail in **Part 2** of this guide, with tips, questions, and important considerations.

Most complaints take **1–3 years to complete**, plus up to a **year of follow-up**. Check the NCP's website for specific rules, and review its performance on the ***OECD Watch Website***.

Potential outcomes of a complaint

The results of an NCP complaint can vary greatly depending on the case. There are two main direct outcomes:

Direct outcomes

Agreement reached
The company and the community reach a **mutual agreement**. Outcomes may include:

- Restoring damaged lands
- A public apology
- Returning land taken without consent
- Stopping harmful activities
- Paying compensation
- Improvement of company policies
- Establishing a company-level complaints procedure
- Committing to respect FPIC in future projects

No agreement
Mediation fails or the company refuses to participate. Possible outcomes include:

Simple final statement by the NCP – indicating that no agreement was reached with only minimal further comments or explanations of the mediation process.

Recommendations – Some NCPs will examine the issues themselves and issue how the company can align with the Guidelines or improve its practices.

Determinations – Some NCPs will examine the issues themselves and issue determinations in the final statement on whether the company did or did not follow the Guidelines.

Consequences – In rare cases, some NCPs will request that their government penalize or withhold benefits from companies that did not comply with the Guidelines or engage in good faith in the complaint process.

Even without an agreement: positive outcomes are still possible

Although fewer than 10% of civil society-supported complaints lead to formal agreements, the process can still lead to meaningful results:

- **Public attention**
  Shines a spotlight on harmful business practices, builds public support, and increases pressure on the company.

- **Public accountability**
  An NCP finding that a company violated the Guidelines can influence investors, governments, media, and the public—and push for real change.

- **Improved dialogue**
  Even without an agreement, the process may open communication with the company, enabling future engagement.

- **Stronger networks**
  Builds new relationships among communities, NGOs, legal experts, and UN allies—expanding long-term support.

- **Advocacy support**
  Raises awareness of key issues, attracts new partners, and strengthens advocacy efforts.

- **Policy change**
  When these voluntary processes fail, it demonstrates the need for binding laws and stronger mechanisms when voluntary systems fall short.

Be strategic with complaints

*Filing an NCP complaint should be part of a **broader advocacy strategy**—not a stand-alone solution.*

Because agreements are rare, it's important to plan strategically. Even if the complaint does not stop the harm or bring immediate change, it can still move your community's goals forward.

For example, a complaint might:

- *Strengthen a legal case*
- *Push investors to act*
- *Contribute to new laws or regulations*

Possible downsides of filing a complaint

Filing a complaint can help your cause, but it's also important to think about potential risks and how to manage them:

- **Complaint rejected**
  If the NCP rejects your complaint—often for procedural or technical reasons—it may appear as if your concerns lack merit, even when they are valid.

- **Retaliation risks**
  Participants may face pressure, threats, or attempts to divide the community. Plan how to protect individuals and respond to pushback.

- **Harmful practices seen as acceptable**
  If the NCP finds the company followed the Guidelines, it could legitimize harmful actions and weaken your advocacy position.

- **Public campaigning limits**
  Some NCPs restrict what you can share publicly during the complaint. This may reduce momentum for your broader campaign for justice.

- **Misinterpretation of Indigenous Peoples' rights**
  Some NCPs may lack proper understanding of Indigenous Peoples' rights and issue statements that downplay or misrepresent key principles like FPIC. This can make it harder to push for rights-based approaches elsewhere.

Part 2

Navigating the Complaint Process: Practical Considerations and Tips

To get the most from the NCP complaint process, it is essential to plan ahead and think strategically. The NCP process is just one tool among others that Indigenous communities can use to push for change. To achieve the best results, a complaint should always be part of a broader strategy that may include public campaigns, legal actions, direct negotiations or community organizing.

This section offers **seven key steps** to help your community prepare and move through the NCP process in a way that supports your long-term goals.

Representatives of the South Sámi people, together with Voices, present a Christmas card to the Swiss energy company BKW demanding respect for the rights of the Indigenous Peoples in the Fosen wind power project. © Franziska Rothenbühler

Step 1: Deciding Whether to File a Complaint

Before filing, take time to decide whether the OECD Guidelines complaint process is the right tool for your community. A complaint can be powerful—but it requires time, energy, and resources.

Use the guiding questions below to evaluate your situation:

Do the OECD Guidelines apply to your situation?

To answer this, you will need to:

- **Identify the harm** – Hold community discussions to map the impacts you are facing, such as land loss, pollution, destruction of sacred sites, or threats to health. Check whether the Guidelines cover these harms.
- **Identify the companies involved** – Find out which multinational enterprises are causing the harm, contributing to it, or connected through their partners, suppliers, or investors.
- **Check the OECD connection** – Make sure the company operates in, or is based in, a country that follows and promotes the OECD Guidelines.

Tip: If your community's right to Free, Prior and Informed Consent (FPIC) was not respected, this alone is often a strong basis for a complaint. Even when the government was involved, companies still have their own responsibility to respect FPIC.

What changes does your community hope to achieve?

It's important to clearly define what your community hopes to achieve by filing a complaint. Your goals might include public recognition of harm, remedy, changes in company behavior, or policy reform.

Before filing, set clear goals that align with both your immediate needs and long-term aspirations:

- **Immediate needs** – Identify urgent issues that require fast action, such as stopping harmful activities, ensuring access to clean water or resources, or addressing environmental damage.
- **Long-term goals** – Define broader changes your community hopes to see, like requiring companies to respect Indigenous Peoples' rights, adopt sustainable practices, ensure fair benefit-sharing, or improve consultation processes.

Each Indigenous community has its own governance systems and decision-making protocols, shaped by cultural values, traditions, and social structures. These systems guide collective decision-making and ensure that outcomes reflect the priorities of the whole community.

Case Study 1: Norwegian Mining Company Intex Resources and FPIC in the Philippines

In early 2009, Indigenous Peoples communities in the Philippines, supported by the Norwegian NGO Future in Our Hands, filed a complaint with the Norwegian NCP against the Norwegian mining company Intex Resources.

What were the issues?

The complaint argued that the Philippine government had granted Intex a prospecting permit for nickel mining on 9,720 hectares of land on Mindoro island, home to several Mangyan Indigenous tribes, through a flawed FPIC process:

- Two affected tribes were not consulted or gave consent, despite legal requirements.
- Intext excluded some tribes and only engaged with those supportive of the project.
- The company shared incomplete information.
- A full list of tribal leaders who attended consultations were never disclosed.

What did the NCP do?

The Norwegian NCP accepted the complaint and commissioned external investigators to visit the site, despite the company's defense. Their report concluded that while Intex complied with national laws, it did not comply with several OECD Guidelines, including those on:

- Stakeholder engagement
- Environmental impact assessments
- Transparency

What was the result?

In 2011, following discussions with both sides, the Norwegian NCP issued a final statement. It found that Intex had failed to:

- Identify and consult all relevant tribes, even those with ancestral ties but no current residence on the land.
- Work with legitimate community leaders.
- Obtain informed consent at the right time—in some cases before final project plans existed.

The Norwegian NCP concluded: "The NCP expects Intex to engage in adequate and timely communication and consultation with the affected communities on environmental risks. Failing to do so constitutes a breach of the Environment Chapter of the OECD Guidelines."

What are the advantages and disadvantages of filling a complaint?

Before filing a complaint, assess the pros and cons of going through the NCP complaints process in your specific situation (see page 18). By understanding both the **limitations** and **strategic opportunities** of an NCP process, your community can better decide if filing a complaint is worth the effort and potential risks.

Managing expectations about potential outcomes

It is important to manage expectations within the community before deciding to file:

- Filing a complaint does **not guarantee** compensation, project cancellation, or full acknowledgment of harm. These outcomes are rare.
- NCPs **do not have the power** to punish companies or legally enforce remedies.

Instead, the complaint process should be seen as a **one tool** is one tool within a **broader strategy for justice**—not a final solution on its own.

Are there better or complementary options?

An NCP complaint can be a useful part of a broader strategy—but in some cases, other approaches may be more effective or better suited to your goals.

Other possible actions include:

- **Engaging directly** with the company, its business partners, shareholders or its investors (if safe)
- **Using the company's internal grievance processes**
- **Advocating through shareholders** to influence investor behavior
- **Taking legal action** in national, regional, or international courts
- **Filing complaints** with government agencies or national human rights institutions
- **Using accountability mechanisms** of development banks (such as the IFC or IDB)
- **Appealing to UN treaty bodies or Special Rapporteurs**, especially for human rights violations
- **Launching public campaigns** through media or social networks to raise awareness
- **Organizing grassroots resistance** and mobilization
- **Building alliances** with other affected communities, NGOs, or advocacy networks

In many cases, combining multiple strategies increases pressure and impact.

For more information on these strategies, see ***Corporate Accountability for Human Rights Abuses*** **by The International Federation for Human Rights (FIDH).**

Is your community collectively ready for the complaint process?

Filing a complaint is not easy. It requires time, financial resources, human capacity, and emotional resilience. Before filing, assess your community's readiness carefully.

Consider:

- **Financial resources** – The process may involve costs, such as travel for mediation sessions, translation of documents, and gathering evidence.
- **Human capacity** – Trusted representatives are needed to manage communications, attend meetings, and lead the process.
- **Emotional resilience** – The process can be long and frustrating. Be prepared for delays, challenges and possible retraumatization.
- **Community unity** – Internal divisions can weaken your case. Broad, informed support strengthens your position.
- **Information management** – Handling sensitive information with care to protect community members and ensure safety.

Taking time to prepare in all these areas increases your chances of navigating the process successfully and safely.

Is there collective consent?

Before filing, it is essential to ensure that the community has genuinely consented to the complaint.

- **Affected community members** must be fully informed about the strategy and possible outcomes.
- **Consent must reflect the collective will**, respecting the community's own governance systems and protocols.
- **External allies** supporting a complaint must never bypass community consultation and decision-making.

Rare acknowledgement of harm

It is uncommon for companies to formally acknowledge the harm they have caused. This can conflict with Indigenous Peoples' understanding of justice and healing. For this reason, it is essential to manage expectations early and have open discussions within the community about what outcomes are realistic.

What personal risks could your community face if a complaint is filed?

Filing can make your struggle more visible—but this also brings risks, especially in sensitive sectors like mining, agriculture, or infrastructure.

Risks can include:

- **Threats or intimidation** – Attempts to silence, scare, or retaliate against community members.
- **Legal harassment (SLAPP suits)** – Strategic lawsuits used to burden or discourage community action.
- **Community divisions or pressure from powerful actors** – Efforts to create conflict or coerce individuals into backing down.

Plan safety strategies early. When engaging the NCP, ask about confidentiality protections and take steps to safeguard your community from potential backlash.

What are reprisals?

Reprisals are acts of retaliation against individuals or groups who speak out or take action against companies or governments. These acts can include threats, harassment, intimidation, unfair legal charges, or even physical violence and killings. Reprisals are often used to silence communities or their leaders or defenders, and to discourage them from claiming their rights.

Stages when reprisals may occur:

Before filling	Your community, its leaders, or defenders may already have faced reprisals or conflict with the company, government, or other stakeholders. Filing a complaint can escalate existing tensions or expose your community to new risks.
During the complaint process	The act of filing a complaint and moving through the procedure can increase pressure or hostility. If tensions already exist, the complaint may intensify them. If none existed before, the complaint might bring unwanted attention and new risks. **Note:** Some NCPs allow complainants to remain anonymous to reduce these risks, but not all NCPs offer this protection.
After the complaint is resolved	Reprisals can still occur even after the process ends. These may include legal action against complainants, intimidation, or other forms of retaliation meant to silence further advocacy.

Assessing risks before filling

Before filing, it's essential to assess whether the potential benefits outweigh the risks.

You could use these questions to assess and address potential risks:

> **What is the company's track record?**
Investigate the company's history:

- Search public databases, media reports, and NGO publications for cases of intimidation, harassment legal action, or violence.
- Consult reports from organizations like ***OECD Watch***, ***Global Witness***, or ***Business & Human Rights Resource Centre***, which document corporate practices worldwide.
- Reach out to other communities or groups that have had prior dealings with the company for first-hand insights.

If the company has a history of harm it is very likely that there will be reprisals when you file a complaint.

> **What is the government's position?**
Assess whether government officials are likely to support your community's efforts or side with the company:

- Look for ties between government officials and the company (e.g., financial interests or partnerships)
- Review past conflicts between your community and the government
- Note public statements or policies that suggest alignment with corporate interests

> **Who are the potential allies and opponents?**
Identify allies and opponents in your advocacy efforts:

- Allies may include Indigenous networks, NGOs, supportive officials, and human rights defenders.
- Opponents may include companies, aligned authorities, or local actors benefiting from the project.

Use this mapping to build coalitions and anticipate potential sources of resistance.

> **What are the potential consequences of filing a complaint?**
Refer to the earlier sections on personal risks and stages when reprisals may occur.

Summarize key concerns to discuss with the community:

- Could the complaint increase threats, surveillance, or divide the community?
- Are leaders or defenders at greater risk of legal or physical attacks?
- What resources and support networks are available?

Support and visibility are essential for resisting retaliation.

To strengthen your safety and resilience throughout the complaint process, consider these steps:

- **Establish mutual and psychosocial support** – Ensure community members, especially those most exposed, have access to emotional and collective care.
- **Partner with trusted allies** – Work with Indigenous networks, NGOs, and legal advocates who can amplify your visibility and offer support.
- **Seek legal guidance** – Identify experts in human rights, environmental justice, and digital security who can help navigate risks and protect your rights.
- **Engage international mechanisms** – Keep regional human rights bodies or UN mechanisms (like Special Rapporteurs or Working Groups) informed of serious developments.
- **Report serious incidents** – Systematically document threats or reprisals, including dates, actions, and parties involved and notify OECD Watch, the NCP, or other advocacy platforms.

NCPs' policies on reprisals

Many NCPs recognize that complainants may face threats or retaliation and are committed to protecting participants in the complaint process. Before filing, carefully review the NCP's policy on reprisals to understand what protections and support are available.

*If there is any risk of retaliation, **inform the NCP in advance** so they can take appropriate measures. Some NCPs may offer options like keeping your identity confidential or limiting how information is shared to reduce exposure and protect your safety.*

International standards, such as the ***UN Declaration on Human Rights Defenders***, affirm the right of individuals and communities to defend human rights and fundamental freedoms. This includes the right to seek, share, and receive information related to human rights without fear of threats, retaliation or punishment.

Developing a Safety Plan

Filing a complaint can increase your community's visibility, and with it, the risk of reprisals. A strong safety plan helps protect individuals and strengthens collective resilience. Your plan should include the following:

- **Legal security** – Work with legal organizations experienced in Indigenous People's rights or human rights law. They can advise you on protections available under national and international law.
- **Digital security** – Use encrypted communication tools and follow digital safety protocols to protect sensitive information and prevent surveillance or data breaches.
- **Psychosocial security** – Establish emotional and peer support systems to help community members, especially leaders or defenders, cope with stress, fear, or intimidation.
- **Threat documentation** – Record incidents of threats, harassment, or acts of violence systematically. Note dates, times, actions taken, and individuals or groups involved.

For practical tools and guidance, refer to the ***Workbook on Security*** by **Front Line Defenders**. It offers tailored strategies for assessing risk and building protection systems for human rights defenders and communities.

Lithium mining is planned in the Maricunga salt lake in Chile, threatening the water supply of the Indigenous Colla communities.
© Silvia Schönenberger, Voices

What other challenges could rise—and how can you address them?

In addition to safety risks, your community may face other obstacles — especially in processes shaped by power and inequality.

Cultural considerations

The NCP complaint process is based on Western approaches to dispute resolution, which may not reflect Indigenous Peoples' values or customs. Many Indigenous communities prioritize collective decision-making and cultural protocols that differ from formal mediation procedures. When harm is not acknowledged, the process may feel incomplete or unjust.

Tips to protect your cultural values:

- **Communicate early** – Tell the NCP early how your community makes decisions and ask that these customs be respected throughout this process.
- **Include cultural protocols in mediation** – Make sure the Terms of Reference (TOR) for mediation reflect your community's practices, such as collective consultation or the participation of traditional authorities.
- **Discuss acknowledgement of harm** – If meaningful to your community, ask the company to recognize and apologize for the harm done, while preparing for the possibility that this may not happen.
- **Seek support if needed** – If your cultural practices are not being respected, reach out to OECD Watch or trusted allies for assistance.

Language barriers

Many NCPs do not provide websites, guidance documents, or communications in multiple languages. This may make it harder to understand the process or to file a complaint. Translation and interpretation services are often necessary, which can be expensive.

For Indigenous Peoples, language barriers can be even greater. Some NCPs may not accommodate Indigenous languages or claim they lack the resources to provide interpreters.

Tips to overcome language barriers:

- **Ask the NCP which languages they accept** – Submit your complaint in a language your community is comfortable using, if possible.
- **Request language support** – Ask the NCP to provide or fund translation and interpretation services.
- **Seek help from allies** – If the NCP cannot provide support, reach out to organizations or allies who can help with translation.
- **Consider working with a partner organiation** – Partnering with someone who speaks the NCP's language can improve communication. OECD Watch may help you find a trusted partner.

Obstacles to accessing information

Accessing information needed to file a strong complaint can be difficult. Some NCPs may not clearly explain their procedures, and it can be challenging to identify the companies involved or understand their activities and impacts.

Tips to access the information you need:

- **Reach out to OECD Watch** – They offer support to communities navigating the NCP process and can help clarify steps and requirements.
- **Contact the NCP directly** – Each NCP's contact information is listed on the OECD Guidelines website.
- **Inform the NCP if the company is not cooperating** – If the company refuses to share key information, ask the NCP to intervene or adjust expectations accordingly.

Power imbalances between communities and companies

Companies often have more power than communities. They typically have more financial resources, legal teams, and access to government officials. These advantages can make it harder for Indigenous Peoples to be heard, to receive fair treatment, or to influence outcomes. In some cases, companies may try to dominate the process or silence your community's voice.

Strategies to address power imbalances

- Build alliances with other communities, Indigenous networks, NGOs, or international partners to strengthen your position.
- Hold trainings or workshops to build your community's knowledge, skills, and confidence in navigating complaint processes and asserting your rights.
- Raise the issue early with the NCP. Clearly explain any power imbalance and ask the NCP to ensure fairness and create a safe, respectful process for all parties.

Cost

While submitting a complaint to an NCP is free, participating in the process can involve other expenses. These may include travel for mediation meetings, translation or interpretation services, document preparation, or reliable internet access for virtual sessions.

Tips to manage costs:

- **Ask the NCP about financial support** – Some NCPs may be able to help cover costs such as travel or interpretation.
- **Collaborate with others** – If multiple communities are involved, consider sharing expenses and coordinating efforts.
- **Seek external support** – Human rights, Indigenous Peoples' rights, or environmental advocacy organizations may offer legal aid, funding, or other forms of assistance.

Step 2: Preparing and Filing the Complaint

Once your community decides to move forward, the next step is to prepare the complaint carefully and strategically. A strong, well-organized complaint increases your chances of the National Contact Point (NCP) accepting the case and increases the potential for achieving meaningful outcomes.

Center the process on the community

The complaint should reflect your community's values, priorities, and voice. Keep the community actively involved and informed every step of the way. Consider the following tips:

- **Organize a community-driven plan** – Set a timeline for collective discussions and decisions. Clearly define how the process will be managed and who is responsible for each task.
- **Secure full community consent** – Ensure that everyone understands the strategy and supports the decision to file. Include other relevant groups, traditional authorities, or allies as needed.
- **Agree on community representation** – Select representatives to draft and present the complaint. For Indigenous Peoples, NCPs may question whether representatives truly speak for the community. To strengthen legitimacy:
  - Provide written or public expressions of community support.
  - Align with traditional governance or decision-making systems when possible.
  - Be aware that some NCPs may restrict how much information representatives can share from the mediation process.
- **Build strong alliances** – If working with other communities or organizations, define shared goals and responsibilities. Clear agreements and mutual trust are key.
- **Discuss risks openly** – Revisit and assess any potential risks of filing, including personal or community-level consequences. Develop plans to mitigate those risks.
- **Strengthen knowledge and skills** – Identify areas where additional training or support is needed, including legal literacy, documentation, advocacy, or digital security.
- **Address internal tensions** – Differences of opinion may arise. Take time to listen, discuss, and resolve issues to ensure unity and resilience throughout the compliant process.

Decide who will act as the complainant

Carefully decide who will officially submit the complaint on behalf of your community. This decision affects who can participate in mediation and how your interests will be represented.

- **Consider filing as a group** – You may submit the complaint jointly with other affected communities, Indigenous Peoples networks, or allied organizations.
- **Include Indigenous Peoples' representation** – Ensure that at least one member of the complainant group is from the affected Indigenous community.
- **List all participants** – Only individuals or groups named in the complaint can take part in the mediation. If you want a federation, organization, or supporting group to join, make sure they are officially included.
- **Show community support** – Use a sign-on letter to demonstrate that the complainant(s) are authorized to speak and act on the community's behalf.
- **Protect safety if needed** – If risks are high, consider requesting anonymity or ask a trusted NGO to file the complaint on the community's behalf.

Identify and map the companies involved

When preparing your complaint, it's important to identify which companies are involved in the harm and which ones make the most sense to include in your complaint.

Questions to guide your decision

- How closely is the company connected to the harm? Did it cause it, contribute to it, or is it directly linked through a business relationship?
- Would including this company help advance your community's broader goals for justice or visibility?
- Could this company be influenced by public pressure, legal risk, or reputational damage?
- What is the company's history with Indigenous Peoples or Responsible Business Conduct (RBC)?
- Could media coverage or government interest help amplify your case?
- Is the company based in a country with an active and responsive NCP?

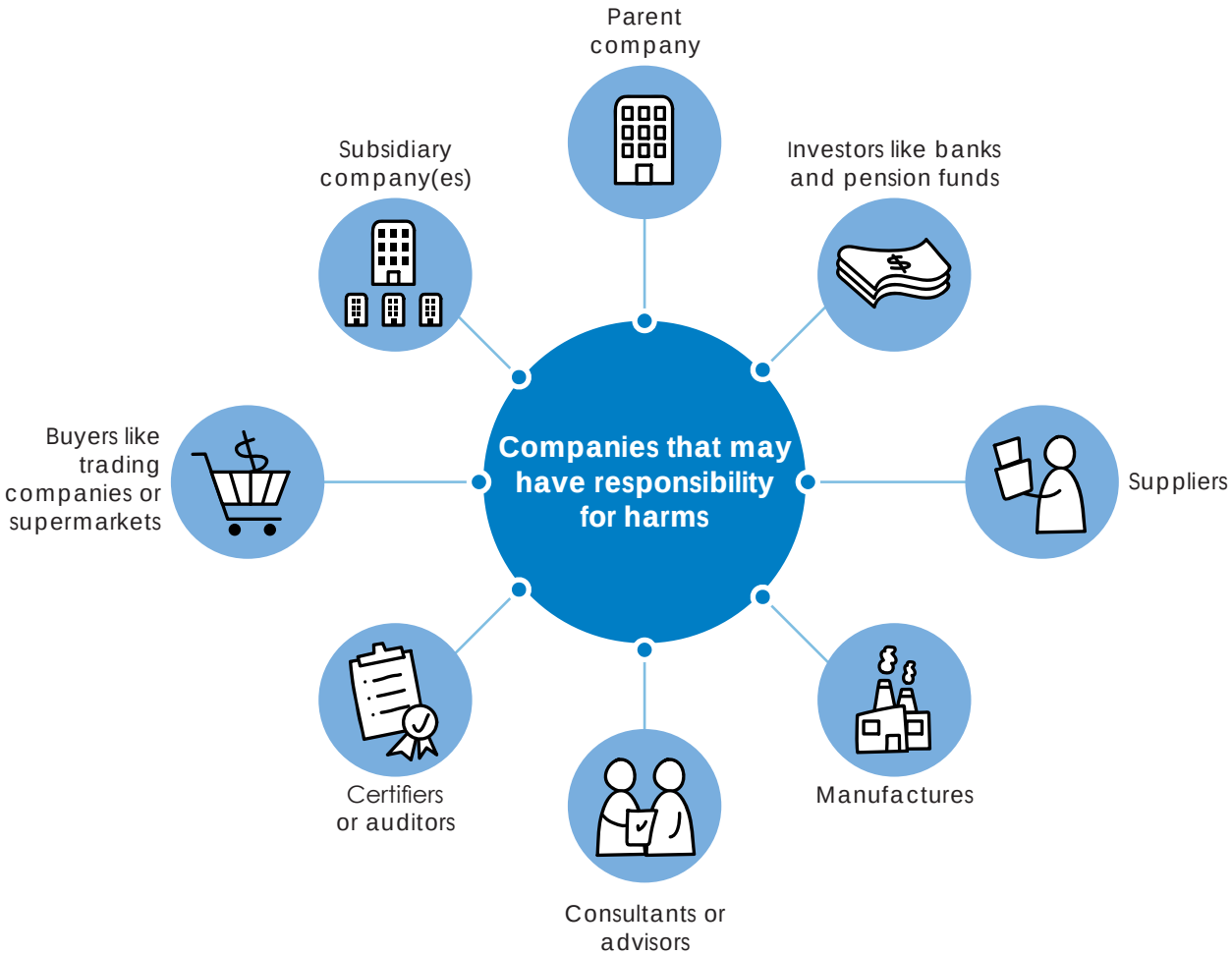
Mapping company connections

Start by identifying the company on the ground—the one most directly responsible for the harm. Then map outward to find other actors that may be linked or benefitting, such as investors, buyers, auditors, or contractors.

Key steps:

- **Start with direct actors** – Focus first on those carrying out or managing the harmful activity, like local operators or parent companies.
- **Expand to connected actors** – Look at investors, buyers, or other companies in the supply chain that may profit or exert control.
- **Use research tools** – Platforms like ***The Counter*** (by SOMO) and resources from ***Inclusive Development International (IDI)***. Partnering with NGOs can help uncover hidden links.
- **Work with allies** – NGOs or research organizations may already have insight into corporate structures and relationships.

Typically, connected companies may include:



Determine each involved company's responsibility for the harm

Under the OECD Guidelines and UN Guiding Principles on Business and Human Rights, a company's responsibility depends on how it is involved in the harm. There are three types of involvement:

Causing harm	Contributing to harm	Directly linked to harm
Definition: The company's own actions or decisions directly caused the harm. **Example:** A company builds a power line that destroys sacred Indigenous site.	**Definition:** The company played a role in enabling or encouraging the harm, even indirectly. **Example:** A bank provides major financing for the project, knowing the risks to Indigenous lands have not been addressed.	**Definition:** The company is connected to the harm through a business relationship (e.g., as an investor, buyer, or supplier) but did not directly cause it. **Example:** An electricity company buys power from the project that destroyed sacred sites.

Understanding what companies are expected to do

> **Companies that cause or contribute to harm** are expected to:

- Stop or avoid further harm
- Mitigate ongoing impacts
- Provide or contribute to remedy for the harm caused

> **Companies that are only directly linked** (not directly responsible) are not required to provide remedy, but they must use their influence to encourage others in their business network to prevent or address harm.

For more on company responsibility, see: ***OECD Watch website: Company Responsibility for Harm.***

Case Study 2: Peruvian Indigenous Leaders File Complaint Against Illegal Palm Oil Plantations

In December 2022, Indigenous leaders from AIDESEP and FECONAU, supported by five Peruvian and international NGOs, jointly filed a complaint against Louis Dreyfus Company B.V. at the Dutch NCP. Louis Dreyfus is a major Dutch trader of agricultural commodities.

What were the issues?

The complaint alleges that the company's supplier, the Ocho Sur Group, operates on unlawfully appropriated lands in the Peruvian Amazon that form part of the ancestral territory of the Indigenous Community of Santa Clara de Uchunya and the Shipibo-Konibo people. The supplier is also accused of causing over 12,000 hectares of illegal deforestation and operating without required environmental certifications.

The Indigenous Peoples leaders argue that Louis Dreyfus Company:

- Failed to conduct appropriate due diligence
- Contributed to environmental and human rights harms
- Made misleading claims about palm oil sustainability, violating the OECD Guidelines

The complainants call on the company to:

- Acknowledge its role in the harms experienced by Indigenous Peoples communities
- Immediately stop contributing to these harms
- Use its influence to prevent further damage through its business ties with the Ocho Sur Group

What did the NCP do?

In September 2023, the Dutch NCP published an initial assessment accepting the complaint. Both parties agreed to the NCP's offer of „good offices", meaning that the NCP will now facilitate mediation between the Indigenous leaders and the company.

Why this case matters

Although the complaint is ongoing, it highlights a growing awareness that buyers and traders—not just land users and direct operators—can be held responsible under OECD due diligence expectations.

Identify and document the harm

At the heart of your complaint is the harm your community has experienced due to the actions or business relationships of a multinational enterprise.

Types of harm may include:

- **Environmental damage** – Water pollution (rivers, lakes, groundwater); deforestation; biodiversity loss; soil contamination.
- **Cultural and social impacts** – Desecration of sacred sites; disruption of Indigenous knowledge systems; displacement from ceremonial lands.
- **Loss of livelihoods and subsistence** – Harm to hunting, fishing, gathering, or herding activities vital to survival and cultural identity.
- **Health consequences** – Illness from pollution; psychological distress, trauma, or anxiety due to displacement or cultural loss.

Why this matters

When documenting harm, describe both the **immediate impacts** and the **long-term consequences** for your community's well-being, cultural survival, and selfdetermination. For example, a polluted river may not only damage fish populations but also disrupt traditional fishing practices and sever spiritual ties to the water.

Taking this full-context approach makes your complaint stronger and reflects the unique perspectives and priorities of Indigenous Peoples.

Past and current harm

*Harm can include issues the community is currently experiencing, as well as past harms that were never properly addressed. You may also include **future risks** if the company failed to carry out proper Due Diligence and those risks are likely to lead to harm.*

Gather evidence and organize documents

While the NCP process is less formal than a court proceeding, your complaint must still be **clear, credible, and well supported**. Many complaints are rejected because they do not include enough evidence to show a company violated the OECD Guidelines.

The stronger and more organized your evidence, the more seriously your complaint will be taken.

Steps to strengthen your evidence

- **Show the company's connection to the harm** – Demonstrate how the company was involved, whether through direct actions, financial support, supply chains, or partnerships.
- **Identify OECD-linked actors** – If the company directly causing harm is not based in an OECD country, look for related entities that are, including investors, buyers, contractors, or shareholders.
- **Demonstrate failure to act responsibly** – Highlight how each business actor ignored signs of harm, failed to conduct due diligence, or continued partnerships despite risks.

Types of evidence to include

To clearly show both what happened and how it affected your community, gather a range of sources such as:

- **Photos, videos, or maps** showing environmental damage or other impacts
- **Media articles or scientific studies** that confirm or explain the harm
- **Company documents or statements** including sustainability reports, emails, or public declarations
- **Community monitoring records**, such as notes, logs, or observations made by community members
- **Oral testimony or traditional knowledge** that provides historical or spiritual context
- **Reports from civil society or international bodies** including UN findings or NGO documentation
- **Correspondence with the company**, including meeting notes, emails, or written complaints

Where possible, link each piece of evidence to both:

- The **company's role or failure**, and
- The **harm's impact**, including cultural, spiritual, or livelihood consequences (e.g., destruction of a sacred site or loss of traditional land use).

Including Indigenous Peoples' knowledge

Oral histories and traditional knowledge are valid and powerful forms of evidence. When including them in your complaint, explain their significance and cultural context so the NCP can understand their value, especially if they are unfamiliar with Indigenous knowledge systems.

Describe prior efforts to raise concerns

Explain whether and how your community tried to resolve the issue before filing the complaint. NCPs generally look for signs that some form of engagement was attempted, or a clear reason why it wasn't possible.

- **Summarize past efforts** – Include any communications with the company, its investors, or government authorities.
- **Describe obstacles to engagement** – If your community could not safely raise concerns, explain the risks or barriers that prevented you from doing so.

Even if no direct dialogue occurred, showing that you considered engagement, or explaining why it was not feasible, can support your case.

Define what outcomes your community seeks

Your complaint should include **clear goals**. These will guide the NCP process and help ensure the mediation addresses your community's needs.

Examples of possible outcomes include:

- Stop the harmful activities
- Repair environmental or cultural damage
- Receive acknowledgment or a formal apology
- Secure stronger company policies that respect Indigenous Peoples' rights
- Establish benefit-sharing schemes
- Improve future consultation processes

Be as specific as possible. Concrete requests help focus the complaint and strengthen your community's position in discussions.

Determine which claims to raise

Before filing, work with your community to decide which claims to include in the complaint. This step should be grounded in your evidence and aligned with the OECD guidelines.

- **Ensure relevance** – Every claim should directly relate to provisions in the OECD Guidelines.
- **Focus on strong claims** – Choose the claims for which your community has the clearest and strongest evidence.
- **Prioritize impact** – It's often more effective to raise a few well-documented claims than to include many weaker ones

Consider the attributes of potential NCP(s)

Each NCP functions differently. Their independence, transparency, and commitment to accountability can vary significantly — and this may affect the outcomes of your complaint.

Use tools such as **OECD Watch's NCP Evaluations** to assess NCPs based on 38 performance indicators. When comparing NCPs, consider the following questions:

- Does the NCP issue **formal determinations** when mediation fails?
- Does it recommend **consequences** for companies that act in bad faith?
- Does it have a **zero-tolerance policy on reprisals** and safeguards to protect complainants?
- Will it **make mediation accessible**, including traveling to the community if needed?
- Does it cover **costs** such as translation, transportation, or mediation fees?
- Can complainants remain **anonymous** for safety reasons?
- How does it manage **confidentiality and transparency**— and will these rules support your broader advocacy goals?
- Does the NCP accept complaints that are **clearly relevant** to the Guidelines and supported by credible evidence?
- Does the NCP generally follow the **expected timelines** for processing complaints?

You can find examples of how different NCPs handle complaints by consulting the ***OECD Specific Instance Database*** and the ***OECD Watch Complaints Database.***

Learn from past cases and engage early with the NCP

Before filing, it is helpful to review how the relevant NCP(s) have handled similar complaints in the past. This can offer valuable insights into their responsiveness, approach to mediation, and willingness to issue strong outcomes.

- Consult the OECD Specific Instance Database and the OECD Watch Complaints Database to find examples related to your issue, industry, or region.
- Analyze how the NCP responded to complaints involving harm to Indigenous Peoples or environmental and human rights violations.
- Consider reaching out to groups who previously filed complaints with the same NCP to learn from their experiences.

Once you have identified which NCP(s) have jurisdiction over your complaint, assess how your choice may impact your broader justice strategy. For example:

- Will this NCP likely issue strong recommendations or a final determination?
- Will filing in this country attract more public attention or investor concern?

If helpful, engage with the NCP(s) before filing. Contacting the NCP in advance can clarify expectations and help your community better prepare.

Ask questions such as:

- What are the NCP's **submission procedures** and processing timelines?
- Are there any **required formats, templates, or guidance documents**?
- What kind of **evidence and documentation** is expected?
- What **safeguards or protocols** are in place for protecting complainants at risk of reprisals?

You can also consult OECD Watch or other complainant support organizations for strategic guidance before proceeding.

RENACE hydroelectric complex and the grabbing of the Cahabón River, affecting the Q'eqchi' Maya people. © Pedro Armestre for Alianza por la Solidaridad-ActionAid

Case Study 3: Peruvian Indigenous Federations Seek Remediation from Pluspetrol for Oil Contamination

What happened?

In March 2020, four Indigenous federations from the Loreto region of the Peruvian Amazon — FEDIQUEP, FECONACOR, OPIKAFPE, and ACODECOSPAT — filed a complaint against Pluspetrol, a Netherlands-based oil company, at the Dutch NCP. The federations were supported by Peru EQUIDAD, SOMO, Oxfam Peru, and Oxfam Novib.

What were the issues?

The complaint alleged that Pluspetrol failed to conduct proper due diligence to prevent and address environmental and human rights harms linked to its oil extraction activities in the Amazon rainforest. The complainants sought remediation for the damage caused and called on the company to uphold its responsibilities under the OECD Guidelines.

What did the NCP do?

In April 2021, the Dutch NCP accepted the complaint and invited both parties to mediation. When Pluspetrol declined to participate, the NCP launched its own investigation. In September 2025, the Dutch NCP published its Final Statement, concluding that Pluspetrol is not compliant with the OECD Guidelines in several areas. The company failed to ensure transparency about its activities, structure, and taxation, and did not act in the spirit of tax laws. It signed agreements with Indigenous communities containing potentially harmful clauses, violating standards for meaningful stakeholder engagement. Pluspetrol also failed to take adequate measures to prevent environmental harm or protect public health, and its efforts to remediate past pollution were ineffective and led to further damage. The NCP issued recommendations related to transparency, Indigenous Peoples rights, environmental protection, and access to remedy, and will assess the company's progress after one year.

Why this case matters

First NCP complaint against a "mailbox company": This is the first time that the Dutch NCP has held a letterbox company accountable for environmental and human rights violations. Although Pluspetrol's headquarters are located in the Netherlands, it has minimal staff or operations there. The case set an important precedent that companies formally registered in an OECD country, even with limited presence, can still be held accountable through that country's NCP.

According to the NCP statement, the complaint filed by the Indigenous federations shows evidence of violations of fundamental rights such as access to safe water, food security, health, territory, and self-determination.

The statement validates the struggle of Indigenous Peoples and reinforces the need for companies to be held accountable, even in contexts of weak regulation.

Draft and submit your complaint

Once your community is fully prepared, the next step is to draft and file your complaint. A well-structured complaint increases the chances that the NCP will accept the case and support your pursuit of justice. This is your opportunity to present the harm clearly and explain why the company should be held accountable under the OECD Guidelines.

Your complaint should include the following elements:

- **Who is filing the complaint** – Identify each complainant, explain their connection to the harm, and their role in the complaint.
- **What harm has occurred** – Describe the harm in detail and link it clearly to the relevant provisions of the OECD Guidelines.
- **How the company is involved** – Explain whether the company caused, contributed to, or is directly linke to the harm.
- **Why the company falls under the OECD Guidelines** – Show how the NCP has jurisdiction (e.g., the company is headquartered or operating in the country of the NCP).
- **Whether other processes are underway** – Disclose any other legal, administrative, or advocacy actions and explain how this complaint complements those efforts (→ See Part 3, page 64 on parallel proceedings).
- **Why the case is important for the Guidelines** – Explain how it can help promote responsible business conduct and corporate accountability.

Also include:

- **What you are asking from the company** – For example, stop harmful activity, acknowledge or apologize for harm, repair damage, or change policies.
- **What you are asking from the NCP** – For example, issue a public statement, facilitate accessible mediation, or allow transparent communication with the broader community.

This is not a legal document, but it should still be clear, organized, and persuasive. Use respectful, firm language. If possible, ask trusted allies or organizations to review the draft before submission.

The ***OECD Watch complaint template*** is a helpful guide to structure your submission.

Language and translation

Some NCPs can provide translation or interpretation support—but not all. If your community primarily speaks an Indigenous language and cannot write the complaint in English or the national language of the NCP, request translation assistance. If language is a barrier, advocacy groups such as OECD Watch or other allies may be able to help ensure your voice is heard.

Step 3: Coordination Between National Contact Points (NCPs)

If your complaint involves more than one country, it may be handled by several NCPs. These NCPs will co-ordinate to decide how to divide responsibilities. This is known as the coordination phase.

How does coordination work?

During this phase, the NCPs involved usually take a few months to:

- Decide which NCP will take the lead
- Assign supporting roles to the others
- Agree on how they will work together

Sometimes, one NCP may hand over responsibility to another, which can lead to delays.

Can you provide input?

Yes. While you may not be directly involved in the coordination discussions, you can **share your preference** for which NCP should lead the process. The NCPs are expected to:

- Keep you informed
- Consider your views when making decisions

What if the lead NCP changes?

If the lead role shifts to another NCP:

- You should be consulted
- The NCPs should explain the change clearly
- If you lose confidence in the process, **you have the right to withdraw your complaint**.

Step 4: Initial Assessment Phase

After you file your complaint, the National Contact Point (NCP) should confirm receipt within a few weeks. If more than one NCP is involved, coordination may happen first. After that, the NCP will begin its initial assessment to decide whether to accept or reject your complaint.

NCPs are expected to make this decision within three months, **but in practice it often takes longer**.

Acceptance or rejection of the complaint

- **If the NCP accepts the complaint** – It will invite the parties to proceed to the next stage (mediation). The NCP may accept all or only some of the claims included in your complaint.
- **If the NCP rejects the complaint** – It must explain its reasons for rejection and issue a final statement.

The NCP's initial assessment should be based on the six admissibility criteria set out in the OECD Guidelines. If the complaint meets these criteria, the NCP should accept it for further examination. Most NCPs share an initial assessment with the parties and may also publish it. This statement usually includes:

- A summary of the complainant
- A summary of the company's response
- The NCP's decision to accept or reject the complaint
- The reasons for the decision, based on the **six admissibility criteria**

The NCP should evaluate only information shared with both parties, ensuring each side has the opportunity to respond or refute points.

Responding to NCP requests

During its initial assessment, the NCP may ask you to clarify parts of your complaint or provide additional evidence through written submissions, phone calls, or meetings. Be prepared to:

- Respond quickly to requests to avoid delays
- Provide relevant documents, community testimonies, or evidence showing the connection between the harm and the company's actions
- Request translation or other support if language barriers make it difficult for your community to engage fully

Delays or incomplete responses can hinder the progress of your complaint, so stay organized and prepared during this phase.

Commenting on the draft initial assessment

Sometimes the NCP will invite you to review a draft of its initial assessment before it becomes final. **If you're not invited, you can ask for the chance to comment**.

This step helps make sure your views, cultural context, and evidence are presented accurately.

Step 5: Mediation Phase

If your complaint is accepted, the National Contact Point (NCP) will offer assistance—officially called good offices—usually through mediation or conciliation. The goal is to create space for dialogue and reach an agreement on the issues raised in your complaint. An agreement may be reached on all, some, or none of the issues.

How mediation works

NCPs may lead the mediation themselves or bring in a professional mediator. Mediation typically takes place by video call, but can also happen in person, either at the NCP office, an embassy, or another location agreed upon by both parties.

Some meetings may include both parties together, and others may be held individually with the mediator. The process might involve one session or several meetings over time.

Choosing the right mediator

You should be involved in selecting the mediator. The mediator must be:

- Neutral and trustworthy
- Culturally sensitive
- Experienced in Indigenous Peoples' rights and human rights

If the proposed mediator does not meet these expectations, you can suggest alternatives or ask the NCP to include an outside expert.

The NCP may stop the process:

- If an agreement is reached
- If no more progress is possible
- If either party decides to withdraw

Important

Prepare carefully before mediation begins. Good preparation is essential to protecting your community's interests.

Negotiate respectful Terms of Reference (TOR)

Before mediation begins, many NCPs work with the parties to develop a Terms of Reference (TOR). This document outlines expectations for how the mediation will proceed. It is important that the TOR reflects your community's priorities and practices. Early decisions made in the TOR can shape the entire process—so take this step seriously.

Make sure the TOR:

- Outline the key issues you want to address in the complaint and the outcomes your community is seeking.
- Include provisions for consulting the community throughout the process and, and for respecting collective decision-making or traditional leadership structures.
- Define the roles and responsibilities of all parties, including the NCP, the company, the community representatives, and the wider community.
- Ensure the confidentiality clause is limited to what is recommended in the OECD's Procedural Guidance—and is not more restrictive than necessary (see also Part 3).
- Clarify how interpretation will be provided and how translation of key documents will be handled.

Plan for a challenging process

Power imbalances often emerge during mediation. Companies may arrive with legal teams and technical advisors, while communities may face constraints in resources and access. Careful preparation can help ensure a more balanced and respectful process.

Before mediation begins:

- **Organize community representation and external support**
  - Companies often bring several representatives. You can do the same. Include multiple community members with diverse knowledge and lived experience.
  - Invite external support, such as legal advisors or advocacy partners, especially those familiar with the NCP system or based in NCP's country.
  - Ensure your support team understands your community's values and offers culturally respectful guidance.
- **Prepare thoroughly**
  - Make sure everyone in your delegation understands the complaint, anticipated company arguments, and the key messages to convey.
  - Agree on shared goals, "red lines" (non-negotiables), and each person's role during the discussions.
  - Think ahead about possible solutions that might meet both sides' needs—without compromising your priorities.

> Build negotiation skills

- Even brief training on negotiation can help build confidence. Consider consulting experts or practicing role plays in advance.

> Ensure equal representation

- Request the same number of seats as the company. Present a united and well-organized delegation.

> Request decision-makers attend

- Ask the NCP to encourage the company to send staff with real authority to commit to agreements—not only legal representatives.

During mediation:

> Expect pushback

- The company may deny your claims, challenge your evidence, or try to divide your group. Stay calm and focused. Present your case clearly and show unity in your delegation.

> Stand firm on priorities

- Don't accept pressure to agree to proposals that cross your red lines. Be respectful and assertive.

> Look for constructive voices

- Some company representatives may be open to dialogue. Explore shared solutions, but never at the expense of your core goals.

> Claim your right to speak

- Make sure each voice is heard. Don't let the company interrupt or dominate the conversation.

> Use time-outs when needed

- Ask for breaks to consult with your team. Use this time to reflect, regroup, or clarify strategy.

> Consult the community before agreeing

- Always return to the community for input before making any commitments. The Terms of Reference (TOR) should allow enough time for full consultation and consent.

> Keep detailed records

- Document all discussions and agreements. Maintain clear notes and copies of key materials.

> Request private meetings with the mediator

- You have the right to speak to the mediator alone. Use these moments to share concerns or clarify issues.

> Reflect and adapt as you go

- Check in regularly with your team. Ask: Is this process helping us reach our goals? Adjust your approach as needed.

Stop the process if needed

If the company fails to engage seriously, refuses to make meaningful changes, or if your community loses trust in the National Contact Point (NCP), you have the right to withdraw from the process at any time.

Before withdrawing, inform the NCP of your decision and, if possible, try to secure the strongest possible outcome. This could include:

- *A strong final statement from the NCP including clear recommendations, determinations, or consequences for the company*
- *A written commitment from the NCP to follow up on the case in the future*
- *An agreement with the company to carry out an independent investigation on the ground*

Ending the process does not mean your efforts were in vain. You may use what you have learned to inform future advocacy or legal strategies.

Step 6: Final Statement Phase

Approximately three months after the end of the mediation, the National Contact Point (NCP) will publish a final statement. This statement may:

- Summarize the agreements reached (if both parties consent)
- Or, if no agreement was reached, explain the issues raised and the steps taken
- If your complaint was rejected during the initial assessment, the NCP will still issue a final statement explaining why.

The final statement is important. It is a tool for transparency, accountability, and public pressure. Your engagement during this phase can help ensure the final statement reflects your community's experience and concerns.

Actions you can take:

Review and comment on the draft final statement
Most NCPs will invite you to review the draft before publication. Use this opportunity to:

- Verify that the statement accurately reflects your community's position, the key issues raised, and the process followed.
- Identify and correct any inaccuracies, omissions, or misrepresentations.
- Ensure any agreements are clearly documented, including company commitments and NCP follow-up actions.
- Highlight the cultural and spiritual dimensions of the harm, such as the impacts on sacred sites, traditional practices, or Indigenous Peoples' governance systems. If these are missing, explain why they matter and should be included.

Advocate for strong recommendations and accountability
If no agreement was reached, ask the NCP to:

- Make clear recommendations for what the company should do.
- Commit to following up and checking whether the company takes those actions.
- Issue findings on whether the company breached the Guidelines—this helps build precedent and pressure.
- Recommend consequences if the company refuses to engage in good faith (such as exclusion from public contracts or trade missions).

If an agreement was reached, advocate for the NCP to:

- Include a commitment to follow up on the implementation to ensure the company follows through and stays accountable.

Publish your own statement
You may also release a public statement from your community to share your perspective. If you do:

- Respect confidentiality rules. Do not share any non-public information from mediation without consent.
- Focus on the final statement, the process, and your broader concerns.
- Use this opportunity to raise awareness about key issues, such as corporate accountability, environmental justice, or Indigenous Peoples' rights to FPIC.

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Case Study 4: Hydroelectric Project in Guatemala Harms Q'eqchi Indigenous Peoples

What happened?

The RENACE hydroelectric project in Guatemala, one of the largest in Central America, includes multiple dams along the Cahabón River. Though presented as a renewable energy initiative, it led to serious environmental damage and disrupted the livelihoods and cultural practices of the Q'eqchi Indigenous Peoples who rely on the river.

Who was involved?

Grupo Cobra (part of the Spanish Grupo ACS) served as a contractor on the project. On November 16, 2017, the Spanish NGO Alianza por la Solidaridad (AxS) filed a complaint with the Spanish National Contact Point (NCP), arguing that Grupo Cobra breached the OECD Guidelines.

What were the issues?

AxS alleged that Grupo Cobra:

- Failed to conduct an adequate environmental and social impact study
- Did not consult the Q'eqchi Indigenous Peoples

These omissions violated the communities'right to Free, Prior and Informed Consent (FPIC).

What did the NCP decide?

The Spanish NCP found that Grupo Cobra, despite being "just" a contractor, was not exempt from responsibility under the OECD Guidelines. The NCP issued the following recommendations:

- Grupo Cobra should take responsibility for the harm caused by its failure to conduct proper due diligence
- It should also cooperate with Guatemalan judicial authorities to mitigate the harm done to Indigenous Peoples' territories and rights

Step 7: Follow-Up Phase

After the National Contact Point (NCP) issues the final statement, there is usually a follow-up period. During this time, the NCP checks whether the company is doing what it agreed to—or responding to the NCP's recommendations.

This may include:

- Asking the company and complainants for updates
- Conducting further investigation
- Publishing a follow-up statement, usually 12 to 18 months later

Staying active during this phase is important. It helps make sure the company follows through and keeps pressure on the NCP to monitor properly.

Key actions to take:

- **Continue monitoring and advocacy**
  - Track what the company does—document any harm, improvement, or inaction
  - Stay vocal—speak with NGOs, media, or international bodies if needed
  - Keep raising unresolved issues, such as ongoing violations of FPIC
- **Request a follow-up meeting**
  - Ask the NCP for a check-in meeting about 6 to 12 months after the final statement
  - Bring updates—both positive and negative
  - Highlight what matters most to your community—for example, restoring sacred sites or respecting Indigenous Peoples' traditional governance systems
- **Submit an updated report**
  If the NCP asks for an update:
  - Share new documentation of harm, progress, or broken promises
  - Be specific. For example, has the company failed to follow through on consultation, compensation, or cultural protections?

> Comment on the draft follow-up statement

If the NCP prepares a draft:

- Check it carefully to make sure it reflects your views and the current situation
- If you're not invited to comment, ask to be included
- Suggest stronger actions if needed—especially if the company has not improved

> Push for publication of the follow-up

- Encourage the NCP to publish the follow-up statement
- If the company didn't follow through, ask the NCP to:
  - Name the failures clearly
  - Recommend consequences, such as excluding the company from government support

> Release your own follow-up statement

You may also publish your own update. If so:

- Follow confidentiality rules—don't share non-public information
- Highlight what the process has meant for your community
- Use this moment to talk about broader concerns—such as Indigenous Peoples' land rights or environmental harm

> Keep your community engaged

- Talk with the community about what has changed, what still needs to change, and what should come next
- Make decisions together, following your own governance systems
- Continue using traditional ways of decision-making, especially when planning future steps

Engage beyond the NCP process

If the company ignores the NCP's recommendations or fails to follow through on commitments, consider taking additional steps to keep the issue visible and pressure ongoing.

You can:

- *Work with civil society organizations to advocate for justice and amplify your community's voice*
- *Speak with journalists to share your story and highlight the company's lack of accountability*
- *Reach out to international bodies such as United Nations mechanisms or regional human rights systems to pursue parallel strategies*

These efforts can strengthen your case, raise awareness of broader issues affecting Indigenous Peoples' rights and territories, and help drive meaningful change.

Part 3

Strategic Considerations

The OECD Guidelines are voluntary, and National Contact Points (NCPs) do not have the power to force companies to take action. For this reason, filing a complaint is most effective when it's part of a broader strategy.

This section offers ideas on how to strengthen your complaint by combining it with other tools, such as public campaigns, legal advocacy, engagement with government bodies, and outreach to investors. These additional efforts can increase pressure on companies and help bring about meaningful, lasting change.

Protests against a gold mine in Peru. © Daniel Schweizer

1. Engaging with Partners and Allies

If your community has decided to file an OECD complaint, you may wonder what else can help. One powerful step is to work with partners who support your goals. These might include other communities, Indigenous Peoples' networks, NGOs, or experts. Together, you can gather stronger evidence, access new resources, and increase public visibility.

Some examples can be:

Collaborating with other impacted communities

Company actions often affect more than one community. If so, consider co-filing your complaint with others—Indigenous or non-Indigenous. This helps:

- Combine your evidence and stories
- Share resources and skills
- Show a wider pattern of harm

You can also file complaints in parallel with other communities in different regions. For example, against the same company or industry that has caused harm in different places. Coordinated complaints make it harder for companies to deny or downplay their actions.

In some cases, industries like mining, forestry, or tourism create **cumulative impacts** across Indigenous Peoples' territory. For instance, in the case of Sámi territories in Europe, mining, forestry, agriculture, and tourism often overlap—and while each project may seem small in isolation, together they create significant harm. These sectors collectively threaten Sámi culture, Indigenous Peoples' rights, and the environment.

To effectively coordinate complaints in such situations:

- **Connect early –** Reach out to other affected communities or organizations to align your goals and strategies. If you lack contacts or ideas, consider reaching out to complaint advocates like OECD Watch.
- **Share evidence** – Combine documentation showing cumulative harm (as in the Sámi case) or widespread harm from a single company.
- **Raise your voice** – Use media campaigns and advocacy networks to draw attention to the scale of the harm and push for accountability.

Draw international attention

Partnering with international organizations can help raise the visibility of your case, both locally and globally. This increased attention can attract public support, bring media overage, and pressure investors, buyers, or other business partners. In some cases, this visibility may lead them to reconsider their involvement or withdraw from the project altogether.

Collaborating with CSOs and experts

Working with civil society organizations (CSOs), international NGOs, or independent experts can help strengthen your complaint. These partners may provide:

- **Legal advice** – Understanding national and international frameworks that apply to your case
- **Expert input** – On corporate accountability, NCP procedures, or local advocacy strategies
- **Research support** – To document company behavior, supply chains, or environmental and human rights impacts
- **Media connections** – Helping you share your story with local or international press

To maintain a healthy partnership, it must be clear that outside organizations are there to support—not speak for—your community. Their role should be to help amplify your voice while respecting your self-determination and leadership throughout the process.

Seeking support of UN bodies

Partnering with United Nations entities, such as Special Rapporteurs or with treaty monitoring bodies (e.g., National Human Rights Institutions), can bring valuable support to your complaint. These entities may help by:

- Providing expert opinions that support your case
- Sharing reports based on global standards like the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)
- Giving legal guidance on your rights and how they have been violated

For example, in the Philippines, Indigenous communities opposing the Tampakan Copper-Gold Project in Mindanao have sought support from the UN to address the destruction of their ancestral lands. The project threatens to displace over 4,000 members of the Blaan tribe and disrupt their cultural and traditional way of life. The involvement of UN Special Rapporteurs has brought international attention to this case, highlighting the failure to uphold Free, Prior and Informed Consent (FPIC) and the militarization of Indigenous Peoples' lands, which led to violence and human rights violations.

No government wants to be publicly criticized by the UN. Involving these bodies adds credibility to your complaint and increases pressure on companies and states

Engaging investors

Investors, especially those focused on environmental, social, and governance (ESG) values, can have a strong influence over companies.

Tips for working with investors:

- **Identify ESG-focused investors** – Especially those with ethical investment policies.
- **Show the harm clearly** – Explain how the company's behavior creates harm and violates ESG principles.
- **Suggest solutions** – Offer ideas that match both your community's needs and investor values, needs and expectations.

Lobbying government entities

Filing a complaint can also be a chance to reach out to government bodies—like embassies, national human rights commissions, or public agencies.

For example, contacting an embassy from the country where the company is based may:

- Encourage quiet diplomacy to resolve the situation
- Build international pressure on the company
- Get support from human rights or environmental agencies

Tips for engaging government entities:

- **Find the right office** – Look for agencies that deal with Indigenous Peoples' rights, land, environment, or business oversight
- **Explain clearly** – Show how the company's actions go against national or international standards
- **Talk about the complaint** – Share how you hope it will lead to change
- **Ask for support** – Request that they help raise your concerns or back your claims

Practical tips for working with external partners

Collaborating with external partners can strengthen your efforts. Here are some tips to make it work:

- **Choose the right partners**
  - If you partner with other communities, try to find those facing similar issues
  - If you work with organizations, look for groups focused on Indigenous Peoples' rights, human rights, responsible business, or environmental defense
- **Set clear roles and responsibilities**
  - **Decide who will do what** – Especially when it comes to evidence-gathering, communication, or legal work
  - **Stay in control** – Your community should always lead and make key decisions, including what outcomes are acceptable and when to stop or shift strategies

2. Transparency, Confidentiality, Public Campaigning

Transparency is a core principle of the OECD Guidelines, including how complaints are handled by NCPs. In general:

- Between parties, information should be shared openly whenever possible.
- With the public, the Guidelines support sharing general information about the complaint—while recognizing that some elements may need to remain confidential.

What kinds of information may be kept confidential

During the complaints process, certain information may require protection:

Personal identities: NCPs may keep names confidential to protect individuals' safety and prevent reprisals. If your community feels at risk, you can ask the NCP to withhold your identity from the company.

Sensitive business information: Companies may request that certain trade secrets or commercially sensitive details remain confidential. The NCP should evaluate whether the request is reasonable and should still ensure the other party has access to the information needed for a fair process.

Discussions and documents: Most information shared during the initial assessment, mediation, or meetings is considered private, unless already public. This includes emails, draft documents, and meeting notes exchanged during the process.

Confidentiality rules at different stages of the complaint process

The OECD Guidelines explain how confidentiality applies at different stages. Understanding these rules can help your community make informed decisions about what to share publicly, and when.

- **Before filing a complaint**
  You are free to speak publicly about the situation, the harm, the company involved, and the possibility of filing a complaint.
- **At the time of filing**
  You can publicly announce that a complaint has been filed. This moment can be powerful for raising awareness and gaining media attention.

The Guidelines encourage NCPs to allow publication for publication of the complaint text itself. Even if your NCP does not, you can still make a public statement describing the complaint's focus and your community's goals without revealing the full text.

Tip: Before announcing, check the NCP's confidentiality rules and ask if they have any objections or guidance.

> After filing the complaint

You may continue sharing general updates, for example, whether the company has responded, whether mediation is taking place, or when key phases begin or end.

However, **do not disclose**:

- What is said during meetings or mediation
- Draft or internal documents from the process
- Information the other party shared confidentially (unless that content is already public or you have permission to share)

Public campaigning and communication

Public campaigning means sharing your story to build support and raise awareness about harmful business practices. It can strengthen your NCP complaint by increasing pressure on the company to engage meaningfully in mediation.

Some companies and NCPs may claim that public campaigning undermines confidentiality or the spirit of good faith. However, the OECD Guidelines allow campaigning—as long as it respects confidentiality.

If you feel that the NCP's confidentiality rules are too strict or unclear, contact OECD Watch for advice.

Tips for campaigning in a strategic and respectful way

> Plan your main campaign around the time of filing—this is when interest may be highest

> Prepare smaller updates later, aligned with key moments in the case (e.g., when mediation starts or ends)

> Let the NCP know ahead of time if you plan to go public and explain how your communication supports a fair process

> Make sure your campaign materials:

- Do not exaggerate or misrepresent the facts, the complaint process, or what the NCP can do
- Emphasize your commitment to dialogue and resolution
- Respect any confidentiality rules set by the NCP

Be ready to show that your campaign follows the confidentiality guidance in the OECD Guidelines.

You can find this guidance in the section called Procedures of the Guidelines.

3. Filing Complaints with Multiple NCPs

Sometimes your complaint may involve more than one company—for example, a local operator and its parent company, or an investor and a buyer. In these cases, more than one NCP might be involved.

Filing with multiple NCPs can be helpful, but it also brings challenges. Before deciding, think carefully about your goals—and consider asking OECD Watch for guidance.

Advantages of filing with multiple NCPs

- **Hold multiple companies accountable** – Including parent companies, buyers, and investors, increasing chances of a remedial outcome
- **Increase pressure** – Complaints filed in different countries may get more attention from media, governments, and investors
- **Improve quality of process** – Working with a stronger NCP may help raise standards and support communityled outcomes in the overall case

Disadvantages of filing with multiple NCPs

- **Takes more time** – Managing complaints with several NCPs can slow down the process, especially if each one has different rules or timelines.
- **Risk leadership by less-effective NCPs** – A less experienced NCP may delay the case or lower the quality of the process; in some cases, all NCPs might agree to let one you do not prefer to handle the case, which could affect both key procedures and outcomes.
- **More resources needed** – Filing with multiple NCPs requires more coordination and effort, which can put extra demands on your community.

When and how multiple NCPs may become involved

There are different reasons complaints may be filed with more than one NCP:

Target the company causing the harm at different levels

- **Host country** – File with the NCP in the country where the harm is happening. This focuses on the local impact and the direct actions of the company.
- **Home country** – File with the NCP in the country where the company is headquartered. This targets the parent company, which oversees global operations, or other actors in the value chain, such as investors, buyers, or retailers.

File complaints against other companies linked to the harm

- In addition to the main company causing harm, you may file complaints against others connected to it, including those in its supply chain or those financing its operations.

Case Study 5: Chhaya Business Complex in Nepal built on Indigenous Peoples' Lands

Two anonymous Nepali organizations filed complaints against companies operating in the Chhaya Center business complex in Kathmandu, Nepal. The complex was built on Guthi lands—communal lands traditionally owned by the Indigenous Newar community, specifically the Pradhans. These lands included a sacred pond and surrounding areas used for religious and cultural purposes.

What were the issues?

The complainants allege that the complex's construction violated the rights of the Newar Peoples and that the land's conversion to private ownership was illegitimate. The land was acquired by developers in 2008, but legal disputes have persisted for decades. The case remains pending in Nepal's Supreme Court, and local activists have faced threats and harassment for opposing the development.

Which companies were involved?

- **Marriott International (U.S.)** – Its franchise hotel, Aloft Kathmandu Thamel, operates within the Chhaya Center.
- **VFS Global (Switzerland)** – The company leases a significant portion of the complex for visa processing services.

What actions were taken?

- **August 2023** – A complaint was filed with the U.S. NCP against Marriott International
- **August 2024** – A complaint was filed with the Swiss NCP against VFS Global.
- Both complaints highlighted the companies' link to land rights violations and cultural harm. They called on the companies to:
  - Acknowledge their involvement
  - Consult with the affected Indigenous community
  - Address harmful practices
  - Ensure protection for those facing retaliation

What was the outcome?

- VFS Global announced it would terminate its lease with the Chhaya Center.
- UN Special Rapporteurs expressed concern about reprisals and called for Marriott to suspend its involvement.
- The two complaints were handled separately, but together they showed how filing with multiple NCPs can support a strategic and coordinated advocacy effort.
- The complainants remained anonymous to protect their safety, which the NCPs respected.

Why this case matters

This case highlights the power of multi-pronged strategies—using the OECD Guidelines, UN involvement, and targeted complaints to different NCPs—to protect Indigenous Peoples' rights.

4. Engaging in Parallel Proceedings

You may choose to file a complaint with a National Contact Point (NCP) even if another complaint or legal process is ongoing. This situation is called a parallel proceeding.

Why you might choose to file despite a parallel proceeding

Filing an NCP complaint can be a strategic move, even when other complaints or lawsuits are underway:

- **The parallel proceeding is stalled** – If a court case or tribunal review is delayed, inefficient, or affected by corruption, an NCP complaint may offer a quicker or more transparent route toward resolution.
- **The OECD Guidelines cover broader issues** – The Guidelines may allow you to raise environmental and human rights claims that national laws do not adequately recognize.
- **Dialogue may be more effective than confrontation** – Legal cases are adversarial, but NCP complaints focus on mediation and constructive dialogue. This may open the door to more creative, mutually acceptable solutions.
- **The case involved multiple countries or companies** – If the harm involves more than one company or country, several NCPs may play a role. This can result in a broader set of findings and coordinated pressure.

Risks and challenges of parallel proceedings

Although useful, filing an NCP complaint alongside other processes can pose risks. Be aware of the following:

- **Risk of rejection by the NCP** – Companies often argue that accepting an NCP complaint could interfere with a court case. NCPs are cautious and may reject your complaint to avoid affecting the parallel proceeding.
- **Accusations of bad faith or defamation** – Companies may claim you are filing multiple complaints simply to damage their reputation. They could even threaten defamation lawsuits.

How to reduce risks and strengthen your case

To reduce the risk of rejection and make the most of a complaint filed during a parallel proceeding consider the following strategies:

- **Refer to OECD Guidance**
  In your complaint, cite the Procedural Guidance (OECD Guidelines 2023, p. 70, para. 35), which encourages NCPs to accept complaints even when parallel proceedings exist. The Guidelines state that NCPs should only reject complaints if they seriously prejudice the parallel process.

- **Explain your reason for filing despite other claims**
  Clearly describe why you are pursuing the NCP process, such as:

  - The other proceeding is stalled, delayed, or compromised
  - A dialogue-based setting may support mutual understanding or uncover shared solutions
  - Previous enforcement has failed, and the NCP could provide new incentives for change

- **Clarify the differences between the two proceedings**
  Emphasize that the NCP complaint:

  - Addresses issues not covered in the parallel case
  - Involves different actors (e.g., parent companies, financiers)
  - Relies on different standards—namely, the OECD Guidelines, not national law

- **Demonstrate the added value of NCP involvement**
  Show how the NCP process can:

  - Address systemic or root causes
  - Offer space for community input and culturally appropriate participation
  - Lead to practical and forward-looking solutions that courts or tribunals may not provide

Filing complaints in stages

Some complainants choose to file in stages, using one process to support or build momentum for another. This strategy can help move toward a final solution over time.

Examples include:

- **Using one finding to support another** – If a tribunal finds the company acted irresponsibly, you can use that outcome to strengthen your NCP complaint.

- **Pushing for enforcement** – If you have won a court judgment that has not been enforced, filing an NCP complaint can create additional pressure on the company or government to follow through.

- **Using an NCP finding to advocate new law** – A strong NCP finding can support calls or national legal reform or encourage authorities to better enforce existing laws.

- **Targeting other companies** – Once one case is resolved, you might file additional complaints against investors, buyers, or other actors linked to the original harm.

Why strategic filing matters

Engaging with NCPs alongside other proceedings—or using NCPs when other paths are blocked—can be a powerful strategy. It is especially useful when:

- Legal systems are slow or corrupted
- Courts do not cover all the relevant issues
- Dialogue is more effective than confrontation
- You aim for systemic change beyond one case

There are some risks, such as rejection or accusations of bad faith, but these can often be avoided by preparing carefully, explaining your reasons clearly, and showing how the complaint complements rather than undermines other processes.

By using the strengths of the NCP system—such as its broader scope and emphasis on constructive dialogue—your community can keep advancing your goals and contribute to wider change.

Glossary

Complaint (NCP complaint): A formal submission to a National Contact Point (NCP) alleging that a company has not observed the OECD Guidelines. The NCP handles this complaint process through dialogue or, if both parties agree, mediation. The aim is to encourage resolution of the issues raised and promote responsible business conduct.

Confidentiality: The principle of keeping information shared during the complaint process private, in order to protect the safety and interests of the parties and the integrity of the process.

Consequences: Measures that NCPs can recommend other government ministries take when companies do not engage in the process in good faith. These can include, for example, limiting access to public contracts, export credits, or other forms of support.

CSOs (Civil Society Organizations): Non-governmental organizations that represent the interests of communities, workers, the environment, or other societal concerns. They often work on issues such as human rights, environmental protection, and development.

Determinations: A formal finding by an NCP that a company did or did not violate the OECD Guidelines. This occurs when mediation is not successful or is refused. It results in a public statement that acknowledges whether the Guidelines were respected.

UNDRIP (United Nations Declaration on the Rights of Indigenous Peoples): A non-binding human rights instrument adopted by the UN General Assembly in 2007. It affirms the individual and collective rights of Indigenous Peoples, including rights to culture, identity, language, employment, health, education, and self-determination.

Due diligence: An ongoing, proactive, and reactive process through which businesses identify, prevent, mitigate, and account for how they address actual and potential adverse impacts related to human rights, labor, the environment, and corruption.

FPIC (Free, Prior and Informed Consent): The right of Indigenous Peoples to give or withhold consent to projects or activities that affect their lands, territories, or resources. It is grounded in their right to self-determination. FPIC includes the right to be consulted in advance, with sufficient information and in a culturally appropriate way, and to say no.

Headquarters: The main office or central location of a company where strategic decisions are made and key leadership and administrative functions are based.

Indigenous Peoples: Peoples who self-identify as Indigenous, maintain strong connections to their ancestral lands, and retain distinct social, cultural, economic, and political systems. They are often descendants of populations that lived in a region before colonization or the formation of countries.

Multinational enterprise (MNE): A business entity with operations in more than one country. In the context of the OECD Guidelines, MNEs include companies of all sizes that may have complex ownership structures and operate across various sectors.

National Contact Point (NCP): A body established by a government to promote the OECD Guidelines and handle complaints regarding non-compliance. Each country adhering to the Guidelines must have an NCP, which can be structured in different ways (e.g., governmental or tripartite).

Organisation for Economic Co-operation and Development (OECD): An international organization that promotes policies to improve global economic and social well-being. It developed the Guidelines for Multinational Enterprises and oversees their implementation through member states.

Parallel proceedings: Legal or non-legal processes occurring at the same time as the NCP process, such as court cases, grievance processes, or ombudsman complaints, that address similar issues.

Remediation or remedy: The processes and outcomes aimed at addressing or repairing the harm caused by business activities. Remedy may involve restitution, rehabilitation, compensation, satisfaction, and guarantees of non-repetition.

Recommendations: Non-binding advice provided by the NCP at the end of a case, particularly when no mediated agreement is reached. These guide companies on how to align their practices with the OECD Guidelines.

Reprisals: Acts of retaliation or intimidation against individuals or groups who raise concerns or participate in complaint procedures. These may include threats, harassment, legal intimidation, or violence.

Responsible Business Conduct (RBC): A broad approach where businesses avoid causing harm and contribute positively to sustainable development. RBC includes respecting human rights, engaging in due diligence, and acting transparently.

Specific instance or grievance: Terms used to describe a complaint submitted to an NCP about a potential breach of the OECD Guidelines. "Specific instance" is the OECD's official term, while "grievance" is commonly used by civil society.

Supply chain: The system of organizations, people, activities, and resources involved in moving a product or service from supplier to customer. It includes extraction, manufacturing, logistics, and delivery.

Terms of Reference (ToR): An agreed-upon document between the parties and the NCP that outlines the goals, rules, and roles during mediation. It often includes confidentiality, timelines, and expectations.

Value chain: The full range of activities involved in bringing a product from conception to end use and beyond, including recycling and disposal. It includes both upstream and downstream actors.

Annex

Where to find some key elements of the OECD Guidelines relevant to Indigenous Peoples:

Chapter	Paragraphs and commentaries	Key standards for businesses	Relevance for complaints
II. General Policies	Paragraph 2	Respect internationally recognized human rights	Basis for advocacy for sustainable development and business practices that respect Indigenous Peoples' rights.
	Paragraph 10 Commentary 14	Prevent reprisals and remediate of adverse impacts of reprisals	Basis for advocacy in case of reprisals.
	Paragraphs 11, 12, 13 Commentary 15-25	Avoid adverse impacts, carry out risk-based due diligence to identify, prevent and mitigate, and remediate actual and potential adverse impacts	Basis for demanding rigorous due diligence processes to identify, prevent and mitigate, and remediate actual and potential adverse impacts.
	Paragraph 15 Commentary 28	Ensure meaningful stakeholder engagement	Ground for complaints related to human rights violations, including lack of FPIC.
V Human Rights	Paragraph 1-6 All commentaries, specially 45 and 50	Pay special attending to specific risks and human rights impacts for Indigenous Peoples and human rights defenders Specific mention of FPIC and UNDRIP (45) Human rights due diligence (50)	Basis for demanding human rights due diligence processes that specifically consider the rights of Indigenous Peoples and target the impacts on Indigenous communities. Ground for complaints related to human rights violations, including lack of respect for FPIC.
VI Environment	Paragraph 1 Commentary 66, 68, 70, 79, 80	Carry out risk-based due diligence on adverse environmental impacts	Ground for complaints regarding environmental degradation and adverse impacts on Indigenous communities.
	Paragraph 2 Commentary 70, 72	Ensure meaningful stakeholder engagement	Ground for complaints regarding lack of meaningful stakeholder engagement and remediation of adverse environmental impacts.

Additional Resources and Tools

OECD Guidelines

OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, available to download in several languages. https://mneguidelines.oecd.org/mneguidelines/

List of all countries with a National Contact Point (NCP), including a list of contacts for each NCP and a database of all complaints. https://mneguidelines.oecd.org/ncps/

The OECD Guidelines are complemented by other resources that can be useful for complainants. For instance, the OECD has developed specific guidance documents to help companies carry out responsible business practices in various sectors and supply chains. These documents include:

OECD Due Diligence Guidance for Responsible Business Conduct: Provides companies with guidance on how to conduct due diligence to identify, prevent, and mitigate adverse impacts on human rights and the environment across all sectors. https://www.oecd.org/en/publications/oecd-due-diligence-guidance-for-responsible-business-conduct_15f5f4b3-en.html

OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector (notably Annex B): Provides instructions for companies on how to engage with stakeholders, including Indigenous communities, in the context of mining, oil, and gas projects. It emphasizes the need for FPIC and outlines how companies should respect and protect the rights of Indigenous Peoples at all stages of their projects. https://www.oecd.org/en/publications/oecd-due-diligence-guidance-for-meaningful-stakeholder-engagement-in-the-extractive-sector_9789264252462-en.html

OECD-FAO Guidance for Responsible Agricultural Supply Chains: Focuses on the agricultural sector, addressing issues such as land rights, environmental protection, and engagement with local communities, including Indigenous Peoples. https://www.oecd.org/en/publications/oecd-fao-guidance-for-responsible-agricultural-supply-chains_9789264251052-en.html

OECD Watch Resources

Main Website: https://www.oecdwatch.org/

How to file a complaint (in English, French and Spanish):
https://www.oecdwatch.org/how-to-file-a-complaint/

Template for civil society complaints to National Contact Points under the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct:
https://www.oecdwatch.org/template-for-national-contact-point-complaints/

NCP Complaints Database: https://www.oecdwatch.org/complaints-database/

NCP Evaluations: https://www.oecdwatch.org/indicator/

The Role of OECD NCP in Protecting Human Rights Defenders: https://www.oecdwatch.org/use-with-caution-the-role-of-the-oecd-national-contact-points-in-protecting-human-rights-defenders/

Other Organizations that Offer Support

Business & Human Rights Resource Center – *https://www.business-humanrights.org/*

Global Witness – *https://globalwitness.org/en/*

The Counter – A helpdesk by SOMO for activists challenging corporate power – *https://www.somo.nl/the-counter/*

Inclusive Development International – *https://www.inclusivedevelopment.net/*

Further Resources

Corporate Accountability for Human Rights Abuses. A Guide for Victims and NGOs on Recourse Mechanisms. International Federation for Human Rights, published 2010, updated 2021: *https://corporateaccountability.fidh.org/*

Workbook on Security. Practical Steps for Human Rights Defenders at Risk. Front Line Defenders, published 2011: *https://www.frontlinedefenders.org/en/resource-publication/workbook-security-practical-steps-human-rights-defenders-risk*

SIRGE COALITION
SECURING INDIGENOUS PEOPLES' RIGHTS IN THE GREEN ECONOMY

The Securing Indigenous Peoples' Rights in the Green Economy (SIRGE) Coalition implements transformative solutions to secure the rights of Indigenous Peoples in the global transition to a green economy. With respect to the transition mineral supply chain, SIRGE Coalition focuses on the urgent need to operationalize Free, Prior and Informed Consent (FPIC) as enumerated in the United Nations Declaration on the Rights of Indigenous Peoples.

SIRGE's member organizations include Cultural Survival, Tallgrass Institute, Batani Foundation, Earthworks, and Voices. The Coalition is guided by an Indigenous Peoples' Council, which includes two representatives from each of the seven socio-cultural regions around the world.

www.sirgecoalition.org

voices
Together. Loud and Clear.
For Human Rights.

Voices (the former Society for Threatened Peoples Switzerland) is a human rights organization based in Switzerland. Voices empowers Indigenous Peoples and marginalized groups worldwide and mobilizes voices for their rights. Together and in partnership, we work for long-term structural change through campaigns, projects, and awareness-raising. We are active in the areas of climate justice, business and human rights, and protection and security. As a member of the umbrella organization Society for Threatened Peoples International, Voices has consultative status with the United Nations Economic and Social Council (ECOSOC) and the Council of Europe.

www.voices-ngo.ch