

SECTOR DIALOGUE

**Respecting human rights along global supply and value chains
of the German automotive industry**

Cross-country recommendations for responsible lithium mining & recommended actions

Version 0 (June 2022)

Disclaimer

This paper has been produced as part of the Sector Dialogue “Respecting Human Rights along Global Supply and Value Chains of the German Automotive Industry” (Sector Dialogue Automotive Industry). The common recommendations for responsible lithium mining & recommended actions were drawn up jointly by representatives of companies, business associations, non-governmental organisations and politics. The following members of the Sector Dialogue were involved in drawing up the recommendations: Bosch, Mercedes-Benz, Porsche, Volkswagen, the German Association of the Automotive Industry (VDA), Germanwatch and the Federal Ministry of Labour and Social Affairs. This working version (Version 0) of the recommendations for responsible lithium mining & recommended actions reflects the state of the debate as at June 2022. It forms the basis for a series of discussion sessions to be held with additional external stakeholders. Subsequently, a final version of the recommendations for responsible lithium mining & recommended actions (Version 1) is to be published. This working version is published by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, in its capacity as secretariat for the NAP sector dialogues.

Introduction

Lithium is a **commodity of the future** for the automotive industry. As of today, no battery electric vehicle can do without it. That makes it a crucial commodity for the electrification of mobility and an important building block of the energy transition. Lithium extraction can generate opportunities in producing countries by creating jobs as well as tax revenue and through the development of processing industries. But it also causes social and ecological impacts that can have detrimental effects on the lives of the affected persons and violate their human rights. That is why companies in the German automotive industry and the broader group of members of the Sector Dialogue advocate for the implementation of preventive and remedial measures to ensure respect for human rights in lithium extraction.

Protecting human rights is a state duty. It cannot be transferred to other societal actors. At the same time, **companies** have a **responsibility** to respect human rights in their value chains. They must comply with national laws and respect decisions handed down by judicial and extrajudicial mechanisms regarding remedies in response to adverse impacts that have occurred. However, where national laws fail to adequately protect human rights, companies shall apply the higher standard of internationally recognised human rights as a benchmark for their actions under their human rights due diligence. In doing so, they should not come into conflict with local laws but, in accordance with the UN Guiding Principles on Business and Human Rights (UNGPs), are called upon in case of conflict to find ways to fulfil both standards.

The aim of the **cross-country recommendations for responsible lithium mining & recommended actions** is to address the human rights-related risks posed by lithium extraction as part of corporate due diligence processes. With these recommendations, the members of the Sector Dialogue formulate the expectation that lithium extraction companies implement the UNGPs, as well as recommendations for specific preventive measures. The recommended actions directed at companies of the German automotive industry outline activities to demand their implementation. They illustrate how individual preventive measures can be designed. The chosen approach and the recommended actions cannot be simply transferred to other raw material supply chains as the lithium supply chain constitutes an exception due to its relatively few intermediate stages and small number of actors as well as places of origin.

The cross-country recommendations for responsible lithium mining & recommended actions are based on a **baseline survey** conducted in advance within the context of the Sector Dialogue. It identified human rights risks of lithium extraction, taking into account the legal frameworks in six selected (potential) producing countries (Argentina, Australia, Bolivia, Chile, Mexico, Portugal). As an aggregate risk assessment, the baseline survey forms the basis for the development of the recommendations for responsible lithium mining but is not a substitute for the companies' individual risk analysis. Besides the countries under review there are other lithium producing countries such as China, for example, which were not included in the baseline survey but may have to be included in the companies' individual risk analysis.

Following a risk-based approach, the baseline survey has identified a particular need for action in four areas of risk: human rights and environmental impact assessments, water and environmental management, engagement with rightsholders, and protection of human rights and environmental defenders. In these areas, gaps have been identified in the state's duty to protect human rights in all six countries surveyed – with potential or actual, sometimes severe, human rights impacts. In some of the producing countries, corruption increases the likelihood of occurrence of the identified risks and was taken into consideration as a cross-cutting issue in selected passages. As the prioritisation of risks in the context of corporate human rights due diligence obligations takes place in relation to the other human rights impacts identified, this prioritisation can differ between companies. The following potentially affected human rights were identified in the baseline survey and the respective areas of risk:

Areas of risk	Potentially affected human rights ¹
Human rights and environmental impact assessments	<ul style="list-style-type: none"> ▶ Art. 1 of the International Covenant on Economic, Social and Cultural Rights <i>Right of all peoples to self-determination</i> ▶ Art. 19 of the International Covenant on Civil and Political Rights <i>Right to hold opinions without interference, right to receive information</i> ▶ Art. 25 of the International Covenant on Civil and Political Rights <i>Right to take part in the conduct of public affairs</i>
Water and environmental management	<ul style="list-style-type: none"> ▶ Art. 6 of the International Covenant on Economic, Social and Cultural Rights <i>Right to work and vocational training (right to life is derived from this)</i> ▶ Art. 7 of the International Covenant on Economic, Social and Cultural Rights <i>Right to the enjoyment of just and favourable conditions of work</i> ▶ Art. 11 of the International Covenant on Economic, Social and Cultural Rights <i>Right to an adequate standard of living (including the right to food and housing)</i> ▶ Art. 12 of the International Covenant on Economic, Social and Cultural Rights <i>Right to the enjoyment of physical and mental health</i>
Rightsholder engagement	<ul style="list-style-type: none"> ▶ Art. 1 of the International Covenant on Economic, Social and Cultural Rights <i>Right of all peoples to self-determination</i> ▶ Art. 19 of the International Covenant on Civil and Political Rights <i>Right to hold opinions without interference, right to receive information</i> ▶ Art. 25 of the International Covenant on Civil and Political Rights <i>Right to take part in the conduct of public affairs</i> ▶ ILO Convention 169 <i>Rights of indigenous groups</i>
Protection of human rights and environmental defenders	<ul style="list-style-type: none"> ▶ Art. 6 of the International Covenant on Economic, Social and Cultural Rights <i>Right to work and vocational education (right to life is derived from this)</i> ▶ Art. 9 of the International Covenant on Civil and Political Rights <i>Right to liberty and security of person</i> ▶ Art. 19 of the International Covenant on Civil and Political Rights <i>Right to hold opinions without interference, right to receive information</i> ▶ Art. 21 of the International Covenant on Covenant on Civil and Political Rights <i>Right of peaceful assembly</i>

The **recommendations for responsible lithium mining** relate to the supply chain stage of lithium extraction. They describe the joint expectations of the actors of the Sector Dialogue Automotive Industry for responsible lithium extraction within each of the identified areas of risk.

¹ For a more detailed description of the individual legal positions and their possible impairment by extractive activities, see Maximilian Spohr "Human Rights Risks in Mining – A Baseline Study", Max Planck Foundation for International Peace and the Rule of Law, 2016.

Because of the chosen cross-country approach, they need to be compared with the extraction and risk context in each separate use case. They were developed on the basis of international best practices. The international best practices used are listed in Annex II. The recommendations for responsible lithium mining were developed in collaboration with experts from the extractive sector and agreed upon within the Sector Dialogue by its members. Selected representatives of civil society from the producing countries were given the opportunity to comment on a draft version.

The **recommended actions** describe how the companies of the German automotive industry – considering the specific ways in which they are connected to the risk – can ask that lithium mining companies implement the recommendations for responsible lithium mining. The underlying UNGPs describe different needs for action with regard to preventive and remedial measures, depending on whether a company causes or contributes to adverse impacts or whether it is involved because the impact is directly linked to its business relationships (cf. UNGP 19).¹ The recommended actions were developed jointly with representatives of the German automotive industry, civil society, industry associations and trade unions following a multi-stakeholder approach. The measures already proactively adopted by the German automotive industry were discussed in this context and incorporated into the recommended actions. The focus is on preventing risks by using influence through the lever of the lithium procurement processes. Leverage is derived from many different factors such as purchase quantities, contractual terms and the global supply and demand situation. Leverage is not a fixed variable but can be proactively created and expanded to a certain extent through business conduct.

The **dissemination by the members** and the **demand for their implementation by the companies** will be accompanied by an exchange of experiences within the Sector Dialogue.

The recommendations for responsible lithium mining & recommended actions **differ from previous guidance in crucial points**, thereby offering significant added value for users:

- ▶ Their lithium-specific focus means they contribute significantly to implementing the international reference framework of the UNGP in relation to lithium extraction and procurement.
- ▶ The recommendations for responsible lithium mining are defined based on risk. Internationally recognised guidelines are integrated into the recommendations. The recommended actions are geared towards implementation.
- ▶ In order to develop the recommendations, the members of the Sector Dialogue participated in a one-year drafting process. The recommendations for responsible lithium mining & recommended actions were jointly agreed upon in the multi-stakeholder process in order to increase the influence of the German automotive industry and thus campaign for their acceptance and implementation.
- ▶ The recommended actions illustrate how the findings of the baseline survey as well as the recommendations for responsible lithium mining can be integrated into corporate human rights due diligence processes.

¹This grading refers to the “cause, contribute, directly linked” framework of the UNGP. An attribution to the relevant category must take into account different factors such as predictability of negative impacts or effectiveness of the company’s own measures. John Ruggie has outlined the basic ideas of the framework in a [Letter to the OECD](#).

Global demand for lithium is currently projected to grow by 12–32% annually until 2025.² This global increase in demand is expected to lead to a massive and rapid expansion of extraction sites around the world. Recirculation strategies will reduce demand for primary materials in the long term and can thereby preventively reduce potential adverse human rights impacts of extraction. A responsible use of lithium as a commodity also includes increasing reutilisation rates and prolonging the life cycles of lithium batteries. However, these aspects do not form part of the present cross-country recommendations for responsible lithium mining & recommended actions.

² <https://www.sciencedirect.com/science/article/abs/pii/S089268752030563X>

Recommendations for responsible lithium mining

Area of risk 1: Human rights and environmental impact assessments

Recommendation: Human rights and environmental impact assessments are undertaken at all stages of new and existing lithium extraction projects. To prevent conflicts of interest and corruption, the impact assessments are performed by external experts in on-site consultations together with those affected by actual or potential adverse impacts. It is recommended to pilot alternative financing models to promote the financial independence of impact assessments. Based on the impact assessments, prevention and mitigation strategies, as well as remedial measures for possible adverse impacts have to be developed, made public and monitored in collaboration with those (potentially) affected and rightsholders. The findings of the impact assessments must be communicated to the affected communities in appropriate language, contextualised, and made permanently available for inspection, including by third parties. As part of the licence award procedure, they help to make decisions of state regulators transparent and to approve extraction projects in compliance with local legislation. Groups at heightened risk of vulnerability should be identified during the impact assessment, and adverse impacts listed separately by group affiliation and taken into account in the development of measures. Lithium extraction companies continuously report on human rights and environmental impacts as well as the effectiveness of the prevention and mitigation strategies in place. If impact assessments carried out by external experts determine that planned lithium extraction projects would lead to severe, non-preventable human rights violations, lithium extraction should not proceed.

Area of risk 2: Water and environmental management

Recommendation: Lithium extraction projects prevent and minimise adverse impacts on the availability and quality of drinking and industrial water as well as on the overall functionality of regional ecosystems. This includes taking into account possible interactions between brine extraction and the hydrological cycle in extraction from salars. Where environmental offences do occur, lithium extraction companies follow national legislation on remediation. They have an environmental management strategy and system that mitigates environmental impacts and includes a closure plan including a regeneration strategy (and financing plan). Water management is based on a comprehensive analysis of water impacts, including an independent environmental impact assessment. A fair balance of interests is to be agreed jointly between all water users by adopting an integrated water resource management approach. Lithium extraction should not adversely affect access to water for other user groups, particularly the local population. The aim is to ensure human rights-compliant and socially and ecologically sustainable resource extraction. Any necessary prevention measures are developed and implemented jointly with the rightsholders. Lithium extraction projects communicate the extractions and their impacts transparently, continuously and in a manner that is suited to the target groups. Surrounding communities are involved and supported in an appropriate manner, for example

through community-based monitoring approaches. Licences and usage rights for water and other resources are awarded without corruption and in accordance with objective and verifiable criteria, and are in line with current national regulations. To minimise environmental impacts, extraction projects seek to reduce the water footprint and, where appropriate, brine quantities extracted from salars, including through the use of best available technologies. The management of tailings dams in extraction from hard rock deposits complies with international standards.

Area of risk 3: Rightsholder engagement

Recommendation: Lithium extraction projects engage with actual and potentially affected rightsholders in an appropriate manner and on a continuous basis in decision-making processes and decisions that have significant impacts on their rights, livelihoods, culture, social dynamics and environment. The engagement process follows international best practices and takes into account any existing community protocols. Local expert knowledge is drawn upon for the purposes of comprehensive planning as well as the early identification and selection of rightsholders. The entire process is free of manipulation, coercion or threats. Engagement begins prior to the exploration phase before any activities are undertaken in the affected area. Lithium extraction companies report continuously about the implementation of agreed measures. Indigenous communities have a right to free prior and informed consent (FPIC), including by following their own FPIC protocols. This explicitly includes the right to say “No”. The need for FPIC-compliant agreement is taken into account in new and existing extraction projects wherever relevant. This should adequately consider not just the legally recognised indigenous groups but also local conditions and the self-designation of groups. In order to involve rightsholders, a grievance mechanism should also be available at the level of the extraction project in accordance with the UNGP 31 effectiveness criteria.

Area of risk 4: Protection of human rights and environmental defenders

Recommendation: Lithium extraction projects respect the national legal framework, officially recognise the particular need for protection of human rights and environmental defenders and actively advocate for their civil and political rights in accordance with the UNGPs, including vis-à-vis their external service providers and suppliers. They integrate impacts and risks for human rights and environmental defenders in their risk analyses, proactively condemn any form of violence and reprisals and take responsibility for the identification and prevention of cases. They support investigations of cases of violence or reprisals and train their security services in cooperative and non-violent interactions with human rights and environmental defenders.

Recommended actions

The UNGPs set out both the duty of the state to protect and the responsibility of corporations to respect human rights. To this end, due diligence processes should be established in order to identify risks and develop, implement and monitor preventive and remedial measures. Engaging with those potentially affected (rightsholders) is important here. The Sector Dialogue Automotive Industry develops, among other things, sector-specific guidelines for companies to fulfil their due diligence obligations. The following recommended actions detail these guidelines for lithium procurement.

The recommended actions show how German automotive companies can integrate the risks that arise from the use of lithium into their own human rights due diligence processes. They provide for a risk-based step-by-step approach to demanding the implementation of the recommendations for responsible lithium mining.

Each recommended action begins with the general recommendation, followed by an extensive description with detailed information. If needed, specific proposals are added to the recommendations in a table in the annex.

1. Integrate the four areas of risk identified for lithium extraction and the associated human rights risks into the company's own continuous risk analysis

The first step is to determine how a company is related to the identified potential adverse human rights impacts of lithium mining by its business relationships (cause, contribute, directly linked). The risk analysis focuses on the perspective of potentially affected stakeholders. Thus, companies should not just avail themselves of internal and external specialist knowledge but also consult potentially affected stakeholders directly or indirectly wherever possible. The cross-national areas of risk and the associated risks are not necessarily relevant for every German automotive company with its own individual procurement circumstances.

2. Assess the severity of the risks associated with the company's own lithium procurement and prioritise them individually

All human rights should be respected equally, but in some cases prioritisation is required in practice. The UNGPs allow for risks that may cause the most severe impact to be addressed first. The severity of impact can be assessed based on the three criteria of scale, scope and irremediable character. Irremediable impacts, in particular, must be prevented from occurring.

3. Establish and maintain communication channels, including in collaboration, for the longer-term engagement of potentially affected stakeholders in extraction regions that are of great importance to the company's own lithium procurement

Engagement with potentially affected groups is an important element with respect to all core elements of human rights due diligence. It makes sense, therefore, to select and include potentially affected stakeholders or their representatives for the long term and to

rely on established communication channels. Relevant affected stakeholders should be identified and selected using local expert knowledge. Cultural sensitivity, accessible procedures, an appropriate presentation of information for each target group, support measures for self-organisation and local networks are necessary in order for this to succeed. The independence of the consulted affected stakeholders should be ensured at all times. Cross-company formats could be used here with a view to pooling resources and capacities, as well as reducing the time demands on external stakeholders. In order to facilitate access to remedial measures and the flow of information about possible human rights risks, it should be possible to disclose the company's own supply chains in specific cases, taking into account competition law, data protection and business secrets.

4. Establish and maintain dialogue forums with companies in the area of lithium extraction, including in collaboration, for acceptance of the recommendations for responsible lithium mining and the identification of possible connecting factors

To promote respect for human rights, companies must use their leverage. Developing and using leverage expressly includes dialogue-based aspects of persuasive efforts, which often achieve the greatest effect jointly and in collaboration with other stakeholder groups. The areas of risks and recommendations for responsible lithium mining can be strategically placed in dialogue with, for example, sectoral and extractive initiatives, national or international business associations, theme-based industrial alliances or in the framework of international conferences. Possible future suppliers or exploration companies can also be addressed in this way. Such dialogues can mark the start of joint activities aimed at securing respect for human rights and form the basis for active remediation efforts in the event that adverse impacts actually occur.

5. Strengthen and demand the development of human rights due diligence processes in companies operating in lithium extraction with close links to the four identified areas of risk

a. In the direct contractual relationship

Companies have a range of options for establishing preventive measures vis-à-vis direct suppliers. Preventive measures aim to prevent adverse impacts from occurring in the first place or repeatedly. They help to largely mitigate the extent of such impacts. In addition to appropriate selection criteria for the awarding of new contracts, these preventive measures include conducting dialogues at various levels for awareness-raising, training and capacity development as support offers, specifying contractual obligations to enforce verifiable expectations, and audits as control mechanisms and links for adjustments. Table 1 in Annex I shows examples of how some of these measures can be designed for the individual areas of risk.

b. Jointly with intermediary suppliers or through initiatives

If no direct contractual relationships exist with lithium extraction companies, contractual transfer provisions in contracts with direct suppliers (e.g. battery cell manufacturers) and appropriate selection criteria for the awarding of new contracts can be used to exercise leverage for the implementation of preventive measures in lithium extraction. Transfer clauses serve to require direct suppliers to undertake efforts to implement the material demands, stipulated in the code of conduct for suppliers or under a voluntary commitment, in the supply chain. In addition, certified commodity supply chains can be an effective means of following up on the implementation of appropriate preventive measures beyond direct suppliers. The selected certification should satisfy the expectations laid down in the recommendations for responsible lithium mining. In this case, companies remain under the obligation to monitor the effectiveness of the certification. In order to ensure the cascading of the requirements, direct suppliers' due diligence processes and the integration of the recommendations for responsible lithium mining must be verified, for example through audits. Table 1 in Annex I can provide orientation on this. The recommendations for responsible lithium mining can be disseminated and communicated jointly with intermediate suppliers or through initiatives. For companies with little influence, the latter can be important partners for building leverage.

6. Undertake activities specific to particular areas of risk individually or in cooperation with other companies, civil society organisations and/or state agencies to complement the other measures

Local engagement in the form of studies, the company's own projects or financial support for established networks can be effective preventive measures for particular risks. They are directed towards other local stakeholders and can contribute to building knowledge within the company and minimising risk on the ground. They are therefore specific to particular risks as well as contexts and need to be addressed in detail and planned meticulously together with local stakeholders. They are often particularly effective when conducted in partnership, for example with sector initiatives or multi-stakeholder partnerships. Table 2 in Annex I summarises ideas for measures specific to particular areas of risk.

Annex I: Examples of measures and activities specific to particular areas of risk

Table 1: Measures to strengthen and demand the development of human rights due diligence processes

The following table shows examples of how measures specific to particular areas of risk can be designed in order to strengthen and demand the development of human rights due diligence processes in lithium extraction companies (recommended action 5). This table can be applied in the direct contractual relationship with lithium extraction companies but also used jointly for the dialogue with intermediate suppliers in order to pass on expectations to lithium extraction companies. The way the various instruments are used and the detailed design of the instruments depend on each company's individual influence and its connection to the risk.

Areas of risk	Contracts	Audits	Training	Dialogues
Human rights and environmental impact assessments (HRIA and ESIA)	<p>Use various tools (certifications (IRMA Ch. 1.2., 1.3.), code of conduct for suppliers or voluntary commitment) to include material demands from the recommendations for responsible lithium mining, establish control mechanisms and define options for sanctions</p> <p>Priority: Publication of the findings of the impact assessments</p>	<p>Possible control points for audits: result of the identification process, implementation of measures based on the impact assessments</p> <p>Verification of the implementation of measures through consultation with potentially affected groups</p>	<p>Training provided by human rights experts based on the Human Rights Impact Assessment Guidance and Toolbox of the Danish Institute for Human Rights</p>	
Water and environmental management	<p>Use various tools (certifications (IRMA Ch. 2.1., 2.6., 4.1., 4.2., 4.6. or AWS), code of conduct for suppliers or voluntary commitment) to include material demands from the recommendations for responsible lithium mining, establish control mechanisms and define options for sanctions</p> <p>Priority: Regeneration plans and financing as well as methodologically robust environmental monitoring systems</p>	<p>Possible control points for audits: existence of an environmental management system, public reporting, implementation of measures</p> <p>Verification of the implementation of measures through consultation with potentially affected groups and review of data from community monitoring approaches where applicable</p>		<p>Raise awareness about the issue against the background of growing public reporting in sales markets, where appropriate also together with regional/national research facilities and universities</p>

Areas of risk	Contracts	Audits	Training	Dialogues
Rightsholder engagement	<p>Use various tools (certifications (IRMA Ch. 1.2., 1.3., 1.4., 2.1., 2.2., 2.3), code of conduct for suppliers or voluntary commitment) to include material demands from the recommendations for responsible lithium mining, establish control mechanisms and define options for sanctions</p> <p>Priority: Effective grievance mechanisms in accordance with UNGP 31, identification process, documentation of consultation during risk analysis and development of measures</p>	<p>Possible control points for audits: findings of identification process, existence of a consultation process and review grievance mechanism against UNGP effectiveness criteria</p> <p>Assessment of engagement process through consultation with potentially affected groups</p>	<p>Training conducted by local organisations on requirements for target group-oriented communication</p>	<p>Dialogue on German and European due diligence obligations and the associated need for effective engagement of potentially affected groups</p> <p>Joint identification of remedial measures and support for justified grievances put forward by rightsholders to the extraction company, e.g. in the form of dialogue forums for arbitration of conflicts between affected groups and the extraction company</p>
Protection of human rights and environmental defenders	<p>Use various tools (code of conduct for suppliers or voluntary commitment) to include material demands from the recommendations for responsible lithium mining, establish control mechanisms and define options for sanctions</p> <p>Priority: Company policy with processes for their consideration and engagement in the overall due diligence process</p>	<p>Possible control points for audits: Existence of security personnel, selection process and decision-making criteria, reported incidents (where there are surrounding communities)</p> <p>Verification through consultation with potentially affected groups</p>		<p>Joint identification of measures (collective advocacy) for supporting the position of human rights and environmental defenders in local contexts</p>

Table 2: Activities in addition to the other measures

The following table summarises possible activities specific to particular risk areas (recommended action 6) that need to be adapted in detail to the relevant contexts and needs during implementation planning, with the involvement of potentially affected groups. In addition, to avoid duplication and parallel measures, it is advisable during the design development phase to gain a comprehensive picture of existing activities in the relevant local context. When activities are being implemented on the ground, continuous transparency should be ensured towards the target group and local stakeholders about supporters of the relevant activity and the objectives being pursued.

Human rights and environmental impact assessments	Water and environmental management	Rightsholder engagement	Protection of human rights and environmental defenders
<i>Develop and promote independent financing options (blind funds) for impact assessments</i>	<i>Promote research, trialling und scaling of water-saving technologies</i>	<i>Pilot FPIC-compliant engagement of indigenous communities and scale the findings</i>	<i>Company's own policy or signing of public statements on the protection of human rights defenders (zero tolerance)</i>
<i>Carry out joint HRIAs/ESIAs in key extraction regions</i>	<i>Promote extraction companies' regeneration plans</i>	<i>Promote measures identified in local development plans</i>	<i>Promote support networks on the ground and internationally</i>
<i>Build capacities for community monitoring and promote integration into existing processes</i>			<i>Engage in international initiatives (VPSHR, Business Network Civic Freedoms and Human Rights Defenders)</i>
<i>Develop/promote grievance mechanisms at the level of the extraction project in line with UNGP 31</i>			

Annex II: Information to guide implementation

Section	Point of discussion	Proposal for approach
Area of risk 1: Human rights and environmental impact assessments	Which international best practices were consulted in the development?	<ul style="list-style-type: none"> – Danish Institute for Human Rights: HRIA guidance and toolbox – ICHRDC: Getting it Right HRIA Guide – IBLF/IFC: Guide Human Rights Impact Assessment and Management – BSR: Guidelines on conducting an effective HRIA – IFC Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts – IRMA Standard (Chapters 1.2, 1.3, 2.1)
	To what extent do the formulated expectations differ from current practice in the lithium extraction projects?	The formulated expectations go beyond current standard practice and local legal regulations, especially with regard to the independence of studies, communication of their findings and effective rightsholder engagement (see baseline survey).
	Which proposals and approaches already exist for alternative financing models?	Based on a study by Germanwatch and others on ecological sustainability and environmental impact assessments in the context of human rights due diligence obligations , reference is made to the conflict of interests in carrying out environmental and social impact assessments (ESIA). Alternative financing models should lead to a separation between the contracting entity and the applicant for a mining licence. One example of this could be blind funds, which can commission impact assessments independently of extraction companies but obtain financial contributions from these companies.
	What is meant by listing impacts separately by group affiliation and taking them into account when developing measures?	A separate listing must take into account the fact that people who can be particularly affected by risks, owing to their sociodemographic affiliation (e.g. women, children, people with disabilities, etc.), must be considered explicitly in the impact assessments. Women may face different or greater risks than men. Findings must be broken down according to these groups so that targeted measures can be developed for the respective risks.
Area of risk 2: Water and environmental management	Which international best practices were consulted in the development?	<ul style="list-style-type: none"> – CEO Water Mandate’s Water Disclosure Guidelines – AWS International Water Stewardship Standard – UNEP/UNESCO Integrated Water Resources Management in Action – Global Industry Standard on Tailings – Guidelines for Responsible Mine Tailings – IRMA Standard (Chapters 2.1, 2.6, 4.1, 4.2, 4.6)
	To what extent do the formulated expectations differ from current practice in the lithium extraction projects?	The formulated expectations go beyond current standard practice and local legal regulations, especially with regard to effective rightsholder engagement, target group-oriented communication on key water management figures and integrated resources management (see baseline survey).

Section	Point of discussion	Proposal for approach
	<p>What kind of water is discussed, and how should the difference between fresh and salt water be addressed?</p>	<p>The recommendations for responsible lithium mining with regard to water management apply to drinking water and industrial water. Lithium extraction should not adversely affect access to water for other user groups. Water can be used as drinking water or for other economic purposes (for example agriculture). At this point, reference should be made to the possible interaction between the salars and the regional water cycles, which has not yet been conclusively clarified scientifically. In cases where there is no scientific statement on the existence or non-existence of such interaction that is accepted by all stakeholders, conflict-sensitive mediation processes should be initiated.</p> <p>The cultural aspect of water as a resource (including saltwater) is an element of rightsholder engagement in FPIC-compliant processes with indigenous groups.</p>
	<p>What possibilities exist to control legally compliant processes for awarding extraction and usage rights?</p>	<p>As a general principle, it is necessary to consider anti-corruption and human rights due diligence obligations together and to link related processes. This is also discussed at the level of the UN OHCHR on the basis of a Report of the Working Group on Business and Human Rights. Other organisations such as the Basel Institute on Governance or the UN Global Compact have also developed relevant guidance notes.</p> <p>With regard to corruption risks in the extractive sector, particular emphasis should be placed on the instruments of the Transparency International Accountable Mining Programme, which are of great importance for the risk analysis of downstream companies.</p>
	<p>How are the best available water management technologies defined?</p>	<p>The best available water management technologies should reduce the water footprint of lithium projects, particularly in extraction from brine. These aspects of the recommendations for responsible lithium mining should contribute to promoting innovations. Possible technologies must be examined by an independent entity for their impacts on local ecosystems before they are put to use. These are currently being piloted and long-term impacts are difficult to predict.</p> <p>New technologies and procedures such as those listed by the Federal Institute for Geosciences and Natural Resources in the Information on the sustainability of lithium are already being trialled. The Karlsruhe Institute of Technologie is also researching new lithium extraction methods (see also baseline survey). There is no central institution that defines the best available technologies.</p>
	<p>What international standards exist for the management of tailings dams?</p>	<p>There are two international standards for the management of tailings dams. The Global Industry Standard on Tailings Management, developed by, among others, the UN Environmental Programme (UNEP) and the International Council on Mining and Metals (ICMM), and the Safety First Guidelines, developed by a coalition of more than 150 NGOs and scientists from 24 countries.</p>
<p>Area of risk 3: Rightsholder engagement</p>	<p>Which international best practices were consulted in the development?</p>	<ul style="list-style-type: none"> - OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector - IFC Stakeholder Engagement Good Practice Handbook - Danish Institute for Human Rights: Cross-Cutting Stakeholder Engagement - IIED Meaningful Community Engagement in the Extractive Industries - BSR: Legitimate and Meaningful Stakeholder Engagement in Human Rights Due Diligence - Deutsches Global Compact Network: Stakeholder Engagement in Human Rights Due Diligence. A Business Guide - AccountAbility AA1000 Stakeholder Engagement Standard - IRMA Standard (Chapters 1.2, 1.3, 1.4, 2.1, 2.2, 2.3)

Section	Point of discussion	Proposal for approach
	<p>What does engagement in shaping decision-making processes and in decision-making itself mean?</p>	<p>Engagement has to be more than just information and must be understood in the sense of negotiations (see also p.20 OECD Due Diligence Guidance for Meaningful Stakeholder Engagement). Indigenous groups, as well as other surrounding communities, should have a say in deciding about the nature of their engagement (shaping the processes) (see also community protocols in the case study of Argentina in the baseline survey) and be able to influence decisions.</p>
	<p>What is meant by self-determined protocols?</p>	<p>This applies especially to the design of FPIC processes. In the interest of cultural sensitivity, the right to FPIC means indigenous communities can shape this process as they see fit. In Argentina, for example, 33 indigenous communities set forth what they believe an FPIC-compliant engagement process should look like in the Kachi Yupi Protocol (see baseline survey, p. 18). Non-indigenous communities can also use such protocols to define how external stakeholders should be involved in decisions affecting them. UNEP has published a corresponding Description and list of principles.</p>
	<p>How should the need for FPIC be taken into account and how do the formulated expectations address the difference in options for action between new and existing extraction projects?</p>	<p>A distinction between new and existing extraction projects is not necessary for all formulated expectations. Many of the formulated expectations can also be retroactively implemented, or work can be done in earnest towards their fulfilment (e.g. impact assessments, water management). Supplements were added to individual passages (e.g. FPIC). In general, reference should be made to the wording of the IRMA standard, which points out in many places how the differences in options for action between new and existing projects (greenfield vs. brownfield) can be handled:</p> <p><i>“At existing mines, where FPIC was not obtained in the past, operating companies will be expected to demonstrate that they are operating in a manner that seeks to achieve the objectives of this chapter. For example, companies may demonstrate that they have the free, informed consent of indigenous peoples for current operations by providing evidence of signed or otherwise verified agreements, or, in the absence of agreements, demonstrate that they have a process in place to respond to past and present community concerns and to remedy and/or compensate for past impacts on indigenous peoples’ rights and interests. In alignment with this chapter, such processes should have been agreed to by indigenous peoples and evidence should be provided that agreements are being fully implemented by the companies. (...) Both new and existing mines shall obtain the free, prior and informed consent of indigenous peoples if there are proposed changes to a company’s plans or activities that may significantly change the nature or degree of an existing impact, or result in additional impacts on indigenous peoples’ rights, lands, territories, resources, properties, livelihoods, cultures or religions.”</i> (IRMA Standard, p. 50)</p>
<p>Area of risk 4: Protection of human rights and environmental defenders</p>	<p>Which international best practices were consulted in preparing the assessment?</p>	<ul style="list-style-type: none"> – Voluntary Principles on Security and Human Rights – International Service for Human Rights Business Support for Civic Freedoms – Zero Tolerance Initiative The Geneva Declaration – IRMA Standard (Chapters 1.3, 3.4, 3.5)
	<p>What can an official recognition of the need for protection look like, and what is necessary to achieve this?</p>	<p>This can be done in the form of publicly accessible company policies (Anti-Reprisal Policy, HRD Policy). As a suggestion, a Collection of existing policies of companies from a wide range of sectors of the Business and Human Rights Resource Center can be consulted.</p>
	<p>What cases of violence or reprisals are meant?</p>	<p>Possible forms of violence or reprisals against human rights and environmental defenders can be internal attacks, political persecution as well as loss of employment options and access to sources of project finance.</p>

Section	Point of discussion	Proposal for approach
Recommended action 1: Integration into risk analysis	How are the challenges of consulting with groups potentially affected directly or indirectly addressed in carrying out the risk analysis?	An effort at consultation should be made. It must be noted here that for various reasons (e.g. lack of willingness, rejection, lack of capacity) this is not always possible for companies to do alone. However, serious efforts should be made, as described in the risk analysis guidelines of the Sector Dialogue Automotive Industry.
Recommended action 2: Assessment of severity	What guidelines exist that can be helpful in putting prioritisation into practice?	The risk analysis guideline of the Sector Dialogue Automotive Industry refers to the publication Exploring the Concept of Prioritization: An Explanatory Note for the Dutch Sector Covenant Process . It presents relevant questions in connection with the prioritisation of human rights risks in a clear and concise manner. We also refer to the OECD Due Diligence Guidance for Responsible Business Conduct . It contains practical examples of the three severity criteria (see p. 45), which can serve as orientation for companies.
Recommended action 3: Developing and managing communication channels	What possibilities exist for a company to disclose its own supply chains in compliance with competition law?	A company may disclose its own supply chains to the secretariat of the Sector Dialogue Automotive Industry or another third party that is not active in the market in an entrepreneurial capacity. The secretariat may collect the data and make it available to the companies in an anonymised manner, that is, after deleting information that would allow individual contracting entities to be matched with individual contractors. In this way, the companies in the sector's supply chain can be identified without having to disclose specific individual contractual relations. In the case of direct cooperation between competitors, an exchange is possible in individual cases if the information relating to the supply chain does not involve sensitive competition-related information, e.g., because the existence of the supply relationship is already publicly known or is not a trade secret.

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