

Template for comments on draft ESRS Delegated Act

The draft delegated on European Sustainability Reporting Standards (ESRS) comprises: the main text of the legal act; twelve draft standards (annex I); and a glossary of abbreviations and defined terms (annex II).

The twelve draft standards in Annex I are:

Group	Number	Subject
Cross-cutting	ESRS1	General Requirements
Cross-cutting	ESRS2	General Disclosures
Environment	ESRS E1	Climate
Environment	ESRS E2	Pollution
Environment	ESRS E3	Water and marine resources
Environment	ESRS E4	Biodiversity and ecosystems
Environment	ESRS E5	Resource use and circular economy
Social	ESRS S1	Own workforce
Social	ESRS S2	Workers in the value chain
Social	ESRS S3	Affected communities
Social	ESRS S4	Consumers and end users
Governance	ESRS G1	Business conduct

Each standard is divided into numbered paragraphs. Each standard also has an appendix A containing “application requirements” which are numbered as AR 1, AR 2 etc. Some standards also contain additional appendices.

To facilitate analysis of comments, respondents are kindly requested to use the simple template below when sending their comments.

Name of respondent/responding organisation IOGP Europe

1. General comments

- IOGP Europe and its members acknowledges the growing expectations of stakeholders for more transparency and communication on business activities and their impacts on climate, environment, social and governance issues, amongst others. Our industry supports the EU objective for meaningful corporate sustainability reporting policies and believes that effective non-financial reporting may be helpful to our investors, as much as broader societal stakeholders, such as the communities where we operate.
- We welcome the improved version of the Sector Agnostic ESRS proposed by the Commission in comparison to the previous EFRAG version. Although many modifications and simplification has been introduced, ESRS framework retain many detailed and prescriptive requirements that place a significant burden on companies to report on an enormous amount of data within a very limited timeframe. The introduction of more than 80 disclosure requirements including more than 1000 potential datapoints from throughout the value chain remains a significant volume and complexity of regulatory reporting requirements, representing a disproportionate burden for undertakings and members of their **value chain. impacted.**
- **We hope further improvements can be made, in line with the announced by the Commission President Ursula von der Leyen reduction of the reporting requirements by 25%**, as considerations involving the volume of the reporting obligations should take into account proportionality of the proposed measures, but also international developments such as the Inflation Reduction Act (IRA) in the United States. Further reflection and consideration is necessary to ensure the implementation of the CSRD is successful.

We encourage the stated intent of the EC in providing interpretation mechanisms, additional guidance and educational material for the standards and processes therein, and we recommend practitioner input to these to help meaningful and deliverable definitions, but it will be important to address the issues raised by this consultation with improved clarity and consistency in the standards themselves and, where necessary, additional time provided to implement, apply and assure reporting on sustainability matters to achieve a quality outcome in the first instance. We look forward to additional guidance from the European Financial Reporting Advisory Group (EFRAG) that will address the materiality assessment process and other issues. We further recommend that EFRAG publish an inventory of all mandatory and voluntary metrics and the standard for calculation, if applicable. Companies need to clearly understand the methods necessary to comply with the CSRD standards to undertake a complete gap analysis between their existing reporting procedures and the EU standards.

- We recommend that the Commission leads periodic reviews of the sector-agnostic and sector-specific standards. We believe a retrospective review of the standards is critical to right-size the reporting burden. The ESRS are very complex and extensive. We strongly support the Commission's efforts to lead a review

of the reporting standards at least every three years with the primary objective of identifying opportunities that improve cost-effectiveness. The review should seek to eliminate metrics that are not decision-useful. Specifically, the Commission would have the benefit of understanding interactions between its regulations and sustainability-related disclosures of other countries, with the potential to strengthen alignment. article 29a to the CSRD Directive it is now stated “The information referred to in the first subparagraph shall be clearly identifiable within the consolidated management report, through a dedicated section of the consolidated management report”. This would require companies to have two separate narratives when commenting on enterprise performance (financial and sustainability) in different sections of the report, rather than the flexibility to disclose performance in an integrated manner. We propose that the approach of the ISSB is chosen where in the IFRS S1 it is stated “An entity is required to provide disclosures required by IFRS Sustainability Disclosure Standards as part of its general purpose financial reports”. This solution could also facilitate that certain voluminous reporting requirements (listings, tables etc) could be placed in an appendix to the report rather than obstructing the usefulness of the management report. The option to have certain information at a data hub (@company.com), still subject to the same assurance requirements and clearly linked from the management report, and not part of the management report itself, could further facilitate and support a more relevant and user-friendly report.

- Due to significant anticipated challenges in obtaining and assuring complete, accurate and relevant sustainability-related information, especially from the value chain and equity-accounted JV and associates and for certain quantitative datapoints related to environmental and social matters, we believe significant additional phase-ins will be required in order for undertakings and entities to prepare and provide quality reporting.
- We recommend extending the deadline for full reporting to five years (FY 2030) and to allow preparers under the SFDR greater flexibility during this preparation period. Lengthening the phase-in period is essential to minimize risks with implementation. Companies need time to develop, resource, and implement effective procedures to collect, validate, and report the requisite data. Time is essential to collaborate with regulators, discuss questions, resolve unforeseen challenges, share best practices, and revise recommendations. The current timeline will require companies to move so quickly that many of these critical collaborations and clarifying actions will be foregone. This poses a significant risk to each company, undoubtedly leading to higher rates of non-compliance and likely lower quality and fidelity of the data. Further, we recommend prioritizing key metrics that align with existing ESG disclosure standards (e.g., scope 1 and 2 emissions), followed by more complex metrics and those with pending standards (e.g., Taskforce on Nature Related Financial Disclosures). Establishing a methodical and prioritized approach to implementation will enable companies to better understand the resource requirements for the short and mid-term time horizons and to provide higher quality output.
- A safe harbour is necessary. We strongly recommend the Commission add a five-year period after full reporting is required, during which time a legal “safe harbour” is applied to disclosures made in good faith. During such time and in accordance with “good faith” definitions, a company would not be found in violation of the standards underpinning the CSRD. During the period when the safe harbour is in place, companies would gain familiarity with each Member State’s transposition of the EU CSRD and regulators and auditors have time to build capacity and skills necessary.
- Regarding implementation timelines, it is important to underline that the capacity of auditors to provide limited assurance (and over time potential reasonable assurance) needs serious re-consideration.

- We are concerned about the obligation to report on physical and transitional risks along the value chain, as often such information is controlled by third parties and not fully accessible or verifiable by IOGP Europe Member Companies. Care should also be given to ensure Small and Medium Enterprises (SMEs) in the supply chain do not suffer unintended consequences due to a lack of capacity to provide the requested **data**. More generally on the value chain: the ESRS should not include provisions relating to the scope or modalities of sustainability due diligence, as these matters will be governed by the Corporate Sustainability Due Diligence Directive (CSDDD). Overall, we believe that reporting should focus on tier 1 suppliers. Reporting by additional parts of the value chain should be assessed as part of the regular review of the implementation of the Directive by the European Commission.
- Moreover, concern remains regarding proposed (even through there is phase in approach), disclosure of data for methodologies and KPIs that do not exist yet or are at very premature stage of development. In general, requirements on targets that an undertaking has set on all the different ESG aspects could pose a significant problem for companies, considering that in many cases there are not available methodologies/frameworks already fully developed to set targets that possess the required characteristics. For example, there is no commonly accepted methodology for transition plans that are “compatible” with Paris Agreement.
- The extension of reporting undertaking boundaries for sustainability-related disclosures to include information connected to the undertaking through its direct and indirect business relationships in the upstream and/or downstream value chain, is extremely broadly defined, will significantly increase the reporting burden for companies beyond the reporting undertaking itself, and in some cases will make obtaining and assuring such information extremely difficult if not impossible. **We believe that these requirements will create increased commercial, regulatory and social risks** (e.g., certain forward-looking information may be commercially sensitive and/or non-compliant with other regulations including the release of jointly held JV data by non-operating parties), **and challenges in application in a timely manner**. We also believe disclosure of certain granular quantitative and qualitative information across a company’s full value chain provides limited value for users, leading to potential confusion and/or more important information being obscured from their view.
- A principles-based framework for sustainability reporting, combined with requirements for entity-specific disclosures, mean there is limited need for or benefit from sector specific standards. There also could be other challenges and issues stemming from sector-specific standards, including lack of alignment with ISSB (which include SASB) standard-setting, further proliferation of the reporting burden with limited value to end users, and complexity in reporting for undertakings spanning multiple industry sectors in their business activities.
- Please find further IOGP Europe general comments:
 - Interoperability and consistency with the ISSB Standards and other international frameworks are key and should be a top priority for the way forward. Further convergence of and interoperability with developing sustainability reporting standards will be necessary to prevent splintered and ever-

increasing corporate sustainability reporting outcomes. This means going beyond alignment on terminology and equivalence regimes toward true convergence through direct engagement to drive toward a common outcome on a common timeframe. If the EU is to meet its objective of increased transparency driving investment flows to Europe, rather than other jurisdictions, this will be a critical element.

- The ESRS should provide more guidance on allowing a focused risk-based approach towards value chains for companies to prepare and execute a valuable reporting process.
- The definition of value chain and especially the Upstream Value Chain remains extremely broadly defined and will significantly increase the reporting burden for companies beyond the reporting company itself. It will be very difficult if not impossible to obtain and **assure** such information. A company may have several layers or tiers of suppliers well beyond those with whom the company have direct transactions with. It is not very clear whether a company should be including all suppliers within the value chain or should employ a reasonable cut-off methodology, such as an initial focus on Tier 1 supplies.
- We would like to highlight that a typical company in the oil and gas industry may have around 100,000 first tier suppliers. The value chain includes not only suppliers, but also joint venture (JV) partners and customers. Even if supply chain reporting is simplified, gaining input from joint venture operators with differing views of metrics and materiality and different contracts in place between counterparties to a JV, or with the government, that govern data release requirements will remain and create significant implementation challenges.
- To deliver quality sustainability reporting standards that are as functional, meaningful and useful to investors as possible, the European Commission will need to employ elements of their Better Regulation Guidelines in the development and implementation of the ESRS. Specifically, the effective application timeline of the final standards less than four months from publication and approval presents challenges for preparers in readying themselves to implement numerous new disclosure requirements. As such, we believe that further time for standards implementation (i.e., phasing in of requirements, considering focus on more mature topics such as climate change at the start, similar to the ISSB's approach) and appropriate support for implementation and application of the standards will be necessary. The significant incorporation by reference to external regulations, standards and guidelines throughout the ESRS introduces significant issues with application, compliance and assurance of sustainability-related disclosures. IOGP Europe encourages the adoption of self-contained requirements within ESRS rather than incorporating external standards and guidelines by reference. Many issues arise when cross-referenced materials are used but are not developed using the same conceptual framework, leading to confusing and sometimes conflicting requirements. As these external standards and guidelines change over time, sometimes without the involvement or awareness of the EC, this may lead to further misalignment. There is further complexity introduced when entities pulled into the reporting scope of CSRD are not directly subject to EU laws referenced throughout ESRS.

2. Specific comments on the main text of the draft delegated act

The ESRS directly contradict the CSRD's requirements:

- **(i), (v), (vi) & (vii)** Quality of information challenged especially for value chain reporting, where there will still be significant difficulty gathering information, including additional challenges for SMEs in the value chain
- **(ii)** Avoiding disproportionate burden for undertakings challenged by volume and complexity of disclosure requirements
- **(iii) & (iv)** Information to be disclosed lacking sufficient specificity, definitions and guidance
- **(viii)** Appreciate the work done to align ESRS 1 & 2 with ISSB S1, and ESRS E1 with ISSB S2, **but non-alignment still exists**, and considering E2-E5, S1-S4 and G1 are going forward, significant issues may arise as ISSB attempts to develop standards on these topics at a more measured pace.

3. Specific comments on Annex I

Standard	Paragraph or AR number or appendix	Comment
ESRS 1	6.2 Linking past, present and future (item 74) – pg.13	<p>Text from the draft Delegated Regulation: <i>“74. The undertaking shall establish appropriate linkages in its sustainability statement between retrospective and forward-looking information, when relevant, to foster a clear understanding of how historical information relates to future-oriented information.”</i></p> <p>We wish to reiterate the importance of understanding the uncertainty around forward-looking statements, especially as they pertain to new, non-financial metrics with which companies are relatively unfamiliar. We refer to our comments regarding a 5 year "safe harbour" subsequent to the effective date for full reporting, to allow for companies to gain experience with making forward-looking statements.</p>

ESRS 1	6.4 Definition of short-, medium- and long-term for reporting purposes	<p>Text from the draft Delegated Regulation: <i>“77. When preparing its sustainability statement, the undertaking shall adopt the following time intervals as of the end of the reporting period: (a) for the short-term time horizon: the period adopted by the undertaking as the reporting period in its financial statements; (b) for the medium-term time horizon: from the end of the short-term reporting period per (a) above to five years; and (c) for the long-term time horizon: more than five years.”</i></p> <p>This is one aspect where more specificity would improve consistency in implementation. We recommend aligning the time periods with those of the Task Force on Climate Related Financial Disclosures (TCFD) (short-term: 5 years; medium-term 5-10 years and long-term beyond 10 years).</p> <p>We also note that there are established practices for reporting on climate change as a financial risk and opportunity during the short-, medium- and long-term, but there are no similar guidelines for other subjects such as affected communities or circular economy. We, therefore, recommend the Commission make it voluntary to distinguish impacts according to time horizons for standards that lack established practices. For example, ESRS 3 on marine resources should be revised to state that companies <i>“may include an assessment of its related products and services at risk over the short-, medium- and long-term”</i>.</p>
ESRS 1	Par. 25-61	<p>There is a fundamental lack of clarity and guidance about how to apply the concept and processes of double materiality assessments and sustainability due diligence Specifically, we expect issues in application of the topical standards regarding the process for defining and using criteria and thresholds in determining materiality, and the materiality assessment and aggregation processes for locally specific matters at a globally consolidated level. As this is a foundational process for identifying and assessing what and how to report on sustainability matters, it will be critical for undertakings to fully understand how to apply the process to meet expectations in reporting. Furthermore, if guidance documents will not be made available soon, the risk is to create not useful instruments for companies. Basic definitions should be simplified and streamlined due to their relevance and the fact that they are applied across all ESRS. For example: “the term impacts refer to positive and negative sustainability-related impacts [...] to be identified through an impact materiality assessment which must conform with the principle of double materiality. Double materiality has two dimensions: impact materiality is fulfilled when a sustainability matter is material from an impact perspective when it pertains to the undertaking’s material [...] impacts. The term “impact” is overused to the point that it becomes difficult to understand what undertakings should report on. It would be simpler and direct to formulate like this: Undertakings shall disclose those sustainability matters that are material to them based on an assessment that considers both the ESG and the financial impacts.</p>

ESRS 1	Par. 34 b)	This disclosure appears to conflict the first delegated act, which states "All standards and all disclosure requirements and data will be subject to materiality assessment." Bigger concern is that the general disclosure requirements are not subject to materiality assessment outcomes (per paragraph 29).
ESRS 1	Par 45	Request freedom to select a reasonable methodology to characterize impact, and include methodology used.
ESRS 1	Par 54-57	Recommend flexibility to aggregate. Difficulty in managing different levels of data which brings with it the risk of inconsistency and challenges to interpret accurately. Recommend to use language from paragraph 103 is used for paras 56-57 to ensure greater consistency.
ESRS 1	Par 58	Inconsistent language: references to "no conduct requirements in relation to due diligence" are followed by definitions in paragraph 59 that reference actions, such as "prevent" and "mitigate". See also para 61(d) for further inconsistency.
ESRS 1	Par 59	Please consider removing "prevent, mitigate and account". Due diligence is a <i>process to identify risks</i> . The current description represents a non-standard view outside human rights context. Prevention, mitigation, and accounting extend significantly past typical due diligence exercises to strategy and operational tactics.
ESRS 1	Par 61 d, e	Please consider removing the link between items (d) and (e) to due diligence. "Taking action" and "tracking the effectiveness of [...] efforts" extends significantly beyond the standard concept of due diligence.
ESRS 1	Par. 62 – 67	<p>The "reporting undertaking" (i.e., boundary) definition requiring companies to report sustainability statements in the same manner as the related financial statements (i.e., report on a financial consolidation boundary) is not clear or consistently applied across general and topical ESRS, especially related to metrics and targets. For certain environmental and social quantitative datapoints, this can lead to significant challenges and issues with collection, aggregation/disaggregation and reporting of datapoints, and in some cases would render such quantitative metrics and targets reports irrelevant or meaningless.</p> <p>The extension of reporting undertaking boundaries for sustainability-related disclosures to include information connected to the undertaking through its direct and indirect business relationships in the upstream and/or downstream value chain, is extremely broadly defined, will significantly increase the reporting burden for companies beyond the reporting undertaking itself, and in some cases will make obtaining and assuring such information extremely difficult if not impossible. We believe that these requirements will bring increasing commercial, regulatory and social risks (e.g., certain forward-looking information may be commercially sensitive and/or non-compliant with other regulations), and challenges in application in a timely manner. We also believe disclosure of certain granular quantitative and qualitative information across a company's full value chain provides limited value for users, leading to potential confusion and/or more important information being obscured from their view.</p> <p>Furthermore, the reporting boundary needs to be clearly defined in the standards, better specifying the levels/companies of the Value Chain for which it is deemed useful to obtain specific disclosure. A definition of Value Chain which is too broad would, moreover, create clear difficulties in reporting data outside the direct control of an undertaking (problems of verifiability, quality and control of the data). It would be unfair to ask a company to be accountable for something that it doesn't directly control. It would be also difficult to ask and</p>

		<p>perform an assurance activity for data that are not directly managed by the undertaking; this would also lead to cases of potential duplication of information.</p> <p>In addition to that, the boundaries/own operations contained (paragraphs 62-67) are not clearly defined. Especially for large companies with different subsidiaries, joint ventures, joint operations and associates it is very difficult to understand which of these have to be considered as part of the company own operations or as part of the Value Chain.</p> <p>It is hard to understand, in these two different cases (own operations or Value Chain), what is the percentage/quantity of related operations/metrics to report. Therefore, it should be, first of all, very clear what has to be included in the concept of “own operations”, especially in those contexts that are difficult to define (which are numerous, especially in the Oil&Gas industry) and then the extension to the Value Chain could be discussed.</p>
ESRS 1	Par 94	<p>Please consider specifying if the intent "to be consistent over time" encapsulates needing to re-baseline metrics and targets for acquisitions and divestitures.</p> <p>As general rule, joint ventures, associates, and other non-controlled entities should not be mandatorily included in the reporting boundary. This is because the level of control of the undertaking is weaker and involves matters like access to and reliability of data, timing of reporting processes, in the case of listed associates, issues of compliance with listing standards, double counting, and so on. Undertakings should be set free to include in the reporting boundary those non-controlled entities that they deem material to offer a true and fair view of sustainability matters.</p>
ESRS 1	Par. 95 – 100	The errors to be reported should be only material ones and while the term “material” it is often stated in the wording of these paragraphs it is not always the case. Please refer only to “material errors”.
ESRS 1	Par 119 c	Addition of "in English or the same language as the sustainability report" would help to have an international baseline language for incorporation
ESRS 1	Par. 119 (d)	The same level of assurance for the incorporation by reference is required for the entire document to which the reference is made or just for the information incorporated? The first case (same level of assurance required for the entire referenced document) would be very problematic and in many cases will make the possibility of incorporation by reference not applicable. It is often the case that, even when the datapoints are incorporated by documents not subject to the same level of assurance, external auditors provide assurance, and check, only the specific data incorporated by reference from those documents.
ESRS 1	Par 131-134	Recommend longer phase in period to incorporate value chain given the time it will take to build information rights into contracts and development of reliable proxy data.

ESRS 1	Par. 133	Typo at paragraph 133: "Paragraphs 1131 and 132..."
ESRS 2	Par. 46	Such forward-looking quantitative information depends on so many uncertain factors, among which many are beyond the company's control, that it will necessarily be subject to errors, exposing EU companies to risks of litigation and liability when forward-looking sustainability information finally turns out to be inaccurate. Making public such information would also raise confidentiality issues. Mitigating language should therefore be introduced to allow companies to disclose only qualitative information when disclosing quantitative information is prejudicial to the company.
ESRS E1	Par. 38	Please leave the possibility of expressing energy consumption also in "toe".
ESRS E1	E1-6. Par. 47	<p>The paragraph states that "For its associates, joint ventures, unconsolidated subsidiaries (investment entities) and contractual arrangements that are joint arrangements not structured through an entity (i.e., jointly controlled operations and assets), the undertaking shall include the GHG emissions in accordance with the extent of the undertaking's operational control over them". It is not clear if for these typologies of entities the GHG emissions should be included in the reporting only to the extent of the operational control or fully as it is stated in AR. 41 "When preparing the information for reporting GHG emissions from its associates, joint ventures, unconsolidated subsidiaries (investment entities) and contractual arrangements as required by paragraph 51, the undertaking shall consolidate 100% of the GHG emissions of the entities it operationally controls".</p> <p>Is the differentiation here related to the fact that associates and joint ventures that are part of the Value Chain "are not limited to the share of equity held" while the second part of paragraph 47 ("in accordance with the extent of the undertaking's operational control over them") only refers to associates and joint ventures not part of the Value Chain and those agreements that are not structured through an entity?</p> <p>This paragraph should, therefore, be clarified and we suggest aligning it with the accounting methodologies requested for joint ventures and joint operations in financial reporting.</p> <p>Besides, we would refrain from providing another definition of control, like "operational control" whose meaning is unclear. The term "control" should be unequivocally referred to IFRS where is defined as "the power to direct an investee's relevant activities that significantly affect the investee's returns". There is no such kind of control over joint ventures and associates, which are characterized by a certain degree of autonomy from the investor. Therefore, our suggestion is to leave joint ventures and associates out of the reporting boundary, while requesting undertakings to include in the reporting boundary all those entities as they deem relevant to provide a true and complete picture of their emissions. Joint arrangements not structured through an entity are a very different matter from associates/JVs; when they are participated through a subsidiary of the undertaking, they end up in the reporting boundary because they are part of the subsidiary's revenues, expenses, assets and liabilities, independently of who is controlling the arrangement.</p>
ESRS 1	QC 5 and Q5 (a)	Recommend "free from error" to be revised to say "free from material misstatement"
ESRS 1	QC 13	Recommended updating to say: Verifiability helps to give users confidence that information is free from material misstatement

ESRS 1	Appendix E	In the flow chart, question 2 "has the undertaking established policies, taken", should come after what is currently question 3 "is the disclosure requirement material? So, the order of the flow chart questions should be: Is the topic covered by a topical standard? 1) Is the Disclosure Requirements material? 2) Has the undertaking established policies, taken?
ESRS 2	E2-4	<ul style="list-style-type: none"> • In the absence of standard to characterize / measure microplastics, could the requirement be postponed to match ECHA's reporting requirements and norms availability (2025) • The meaning of « emit » should be explained for soils and make clear how to deal with historical pollution that could have happen long ago in the soil or groundwater, but are still there. • Regarding the 91 pollutants listed in Annex II of E-PRTR regulation, the analysis for assets located outside of EU will be cumbersome at best due to the absence of historical data and may take years to perform where specific protocols (screening, sampling, analysis etc.) and related hardware investments will need to be implemented.
ESRS 2	Par. 42 b,c)	These requirements are confidential and sensitive business information for many companies and disclosure would be unreasonable. Might be more reasonable to request disclosure of the methodology for defining value chain
ESRS 2	Par. 79 g)	Please consider removing the word "conclusive". It is difficult for non-academic experts to determine the conclusive position of scientific evidence, and a range of literature and estimation methodologies may be appropriate.
ESRS 2	Par 79 h)	Please consider removing this ("whether and how stakeholders have been involved in target setting for each material sustainability matter"). This is: <ol style="list-style-type: none"> 1) impractical, 2) would disclose confidential business information , potentially creating significant insider trading concerns and/or selective disclosure which is against the securities laws in certain nations.
ESRS E1-9	Par. 68(e)	Proposed disclosure of net revenue over short, medium and long-term from operating in fossil-based business should not automatically be assumed to be "at material transition risk." Much of the forward-looking information requested in E1-9 is highly speculative and is unlikely to meet ESRS 1 Appendix B Qualitative characteristics if information and has potential to indicate a greater level of accuracy and quality of information than is available.
ESRS E1-1 Appendix	AR-1	Inaccurately assumes that all undertaking will develop a transition plan to a limiting of warming to 1.5 degrees
ESRS E1-4	Par. 35 a)	Request freedom to disclose targets regardless of methodology used and include disclosure of methodology used
ESRS E1-4	Par. 35 b)	Request freedom to use GHG Protocol and transparent methodology to report GHG emissions data
ESRS E2	-	In the Pollution Standard there is no definition of "water", as per Standard E3 paragraph 2. It is not explicit whether the standard requires reporting of groundwater contamination and/or superficial water bodies.

ESRS E2-2	Par. 18	<p>To propose additional safeguards regarding disclosures that could risk company security or require exposure of commercially sensitive or valuable information. We strongly believe that broadening sustainability disclosures under the ESRS should not come at the expense of compromising company security, commercially sensitive or confidential information.</p> <p>While we welcome the amendments related to classified and sensitive information introduced in ESRS 1 - 7.7, we continue to be concerned by the expansive nature of some disclosure requirements and believe the types of information protected in these paragraphs should be expanded beyond sensitive and classified information in order to sufficiently protect other confidential information, including commercially and competitively sensitive or valuable information.</p> <p>For example, certain proposed biodiversity disclosures could divulge the exact locations of critical infrastructure, which are highly confidential and, if public, could lead to security risks. Requirements to disaggregate data by location and include electricity use, and other, will expose details of R&D centers, quantum centers, and other confidential business information. As such, we recommend reporting site data in the aggregate, as opposed to listing specific site locations.</p> <p>Under ESRS E5 (paragraphs 2 and 31), we are concerned by the fact that the disclosure of material inflow including packaging is commercially sensitive business information; disclosure of such information can cause competitive harm if publicly disclosed because entities, including competitors, can back-calculate products sold. The same applies to property, plants and equipment. Therefore, we propose it is removed or allowed to be reported only on aggregate level.</p> <p>Similarly, while ESRS 1 provides grounds for an undertaking to omit certain information based on the designation that such information is secret, the criteria should also include information deemed “commercially and competitively sensitive or valuable.” While ESRS 1 mentions “commercial value” the definitions of confidential and security relevant information should be improved to also apply to commercially and competitively sensitive or valuable information.</p>
ESRS E2	Par. 26	<p>The Standard seems to require only the reporting of contaminations that occurred in the reporting period. It is unclear whether historical contamination is therefore excluded (for soil and GW receptors). For example, what happens if the contamination occurred some years before but you only find out in the reporting year? Please clarify</p>
ESRS E2	Par. 28	<p>It is not specified if it is possible to omit substances not relevant for the business.</p> <p>The Annex II referred to includes a list of about a hundred pollutants. It is necessary to significantly reduce the list of pollutants, otherwise there is the risk of greatly complicating the disclosure.</p>
ESRS E2-4	Par. 28	<p>Substances of Concern</p> <p>We suggest the Commission clarify the terms “substances of concern” and “substances of very high concern,” adding context as to how they are defined and measured. These definitions should be included within the ESRS themselves rather than through references</p>

		<p>to other EU directives, which some undertakings may not be subject to.</p> <p>Extraterritoriality</p> <p>Numerous ESRS refer to various EU directives that may not be applicable or relevant to operations or activities of non-EU based entities within the scope of the Directive. Many of the US multinationals potentially pulled in scope are non-EU domiciled, with often very complex legal entity structures. We expect many non-EU legal entities to be pulled into the scope of the ESRS reporting. For example, a parent entity operating as a holding company may be domiciled in the EU and have numerous non-EU subsidiaries which have no operations, customers or other activities in the EU. The EU-domiciled parent entity itself may only be meeting the CSRD scoping criteria due to the activities occurring at the non-EU subsidiaries, thus indicating the collective group of the parent and the subsidiaries are in scope for CSRD compliance due to the complex legal entity structure. We are concerned the references to other EU directives could be interpreted as levers to affect the extraterritoriality of such directives beyond the EU's legal jurisdiction. We ask the Commission to clarify that EU directives are applicable only to transactions, activities, or undertakings subject to EU Law. Without such clarification, it may not be clear whether an entity based outside of the EU doing business with another entity outside of the EU is subject to EU Law by virtue of references within ESRS disclosure requirements.</p>
ESRS E2	E2-5 Substances of concern and substances of very high concern	<p>Text from the draft Delegated Regulation:</p> <p><i>“The undertaking shall disclose information on the production, use, distribution, commercialisation and import/export of substances of concern and substances of very high concern, on their own, in mixtures or in articles.” “The disclosure required by paragraph 32 shall include the total amounts of substances of concern that are generated or used during the production or that are procured, and the total amounts of substances of concern that leave its facilities as emissions, as products, or as part of products or services split into main hazard classes of substances of concern.”</i></p> <p>We note that the reporting and disclosure of the use of chemicals is regulated by existing EU legislation including the REACH and the Waste Directives. The proposed requirement will necessitate substantial resources to conduct the detailed analyses that are necessary to comply at a level of limited assurance. Additionally, the chemical composition of products and their use during the manufacturing processes are often classified as trade secrets and therefore this requirement may compel disclosure of proprietary information. We wish to further emphasize that the term “substances of concern” has not yet been formally defined. Although the definition was proposed in the Regulation establishing a framework for setting eco-design requirements for sustainable products and repealing Directive 2009/125/EC, the legislative process remains pending. Therefore, we strongly recommend deleting this disclosure requirement. New and additional disclosure requirements that are similar to existing requirement create confusion and unnecessary administrative burden.</p>
ESRS E2	Par. 29	<p>Although the definition of "operational control" is present in the glossary, it is unclear the following sentence “The consolidated emissions amount shall include in the basis for calculation both the assets or sites on which the undertaking has financial control and those on which the undertaking has operational control”. Operational and financial control seems two different scenarios.</p>

		Does a company with 10 assets, of which only one exceeds the threshold for a pollutant, report only the latter even if the other 9 added together could exceed the mandatory disclosure threshold ? Is it necessary to list the assets included in the disclosure for each pollutant? If this is the case, disclosure would be excessively burdensome, especially for companies that have thousands of assets around the world.
ESRS E2	Par. 32	How can a company that uses, processes, manufactures and markets hundreds of products disclose all assets? Do you have to make a list of substances? This type of disclosure is not feasible.
ESRS E2	Par. 72-80	The disclosure requirements on metrics are primarily focused on what to disclose, which is sometimes poorly defined , while providing limited or in some cases no direction on how to measure and calculate . We believe that clearer and more consistent definitions are required for the “what” to report and a better balance with the “how” in most metrics' disclosure requirements will be important for consistency and comparability. Additionally, there are a significant number of granular metrics and targets disclosure requirements for environment and social matters where the subject is early on in its development from a scientific and/or social (e.g., political) standpoint , and/or the information is either not considered or not available globally and throughout the full value chain. Consideration should be given to ongoing scientific and/or regulatory developments across all ESG topics to determine if there is enough available and useful information on an ESG subject to warrant detailed disclosures or not, and to consider qualitative disclosure requirements on the subject where quantitative measures may not be ready.
ESRS E2	AR 20-AR 24	In the numbering of Application Requirement, no. 20 to 24 are missing.
ESRS E2	AR 36	It is unclear if the Standard requires to disclose remediation costs of historical contaminations (for soil and GW receptors). Please see also previous comment to ESRS E2 Par. 26
ESRS E3-2	Par 15	We support the revisions to draft ESRS 2 paragraph 12 which we hope would apply to this disclosure requirement, which now states: "When disclosing forward-looking information, the undertaking may indicate that it considers such information to be uncertain." This will help companies convey to readers that forward-looking information is based on current estimates, expectations and projections, are not guarantees of future performance, and are subject to change for various reasons beyond a company's control
ESRS E3-3	Par 24	ESRS should not require specific methodologies particularly when there is no common industry practice. Companies should have flexibility to utilize methodologies that suit their business footprint and materiality assessment.
ESRS E3	Par. 28	Operated boundary as for GHG, energy and pollutions? Please clarify and make it explicit also in this standard
ESRS E3		When indexes are required (e.g. E3-4 “29. The undertaking shall provide information on its water intensity: total water consumption in m3 per net revenue on own operations”) it will be better not to link the index to a denominator represented by revenues because this could lead to a misleading information (for example if a company consumes the same amount of water in two different years but it obtains more revenues in one year respect to the other only due to price increases). The same reasoning should be applied to every index required in the standards avoiding the use of revenues at the denominator. It is profoundly wrong to compare a physical quantity (total energy consumption, GHG emissions, water consumption, etc.) with a financial quantity:

		<ul style="list-style-type: none"> ○ the financial size is influenced by elements exogenous to production (inflation, exchange rates, prices of raw materials sold, etc.) and for this reason the intensity index cannot be compared between different years; ○ based on our experience the only instance where a physical quantity is correlated to revenues is to determine unit prices, which are not a performance indicator. In macroeconomics, one of the most widely used indicator of relative competitiveness is the wage cost per unit of production which nonetheless correlates a monetary amount (the cost of wage per unit of production) to another monetary amount (the value added per unit of production). It is very uncommon to have efficiency indicators that correlate volumes and revenues, whereas revenues are most widely used in determining profitability indicators (revenues per customer, revenues per square metre, etcetera). Therefore, amounts of GHG or water consumption or any other physic measures per each €amount of revenues does not provide useful information to investors ○ the compared quantities may have different domains (operated domain for energy consumption, GHG emissions, water consumption, etc. while based on IFRS, revenues include the undertaking’s share of non-operated arrangements governing undivided properties <p>To this end, intensity indexes must be calculated per unit produced.</p>
ESRS E4	Interaction with other ESRS – pg.129, number 4	Clarify the “main direct drivers” sentence. Are the “direct exploitation of organisms and invasive alien species” supposed to be a single set or are they supposed to be separated such that the last main direct driver is “alien species?”
ESRS E4	Impact, risk, and opportunities – pg.131, number 16 (a) (b) (e) III	Clarification needed on what the intention and/or definition of the phrase “own site locations.” Does this mean sites owned by the entity engaging in the undertaking? Is it meant to be more general where it is not legal ownership?
ESRS E4	Impact, risk, and opportunities – pg.132, number 17 (b) (d)	Clarification needed on what is meant by “it” in the context of number 17. Is the “it” the entity’s undertaking or the site or something else?

ESRS E4	ESRS 2 IRO-1 and AR 4 – 10	The approach requiring site-specific disclosure, which results in providing very specific and detailed information on every site, is not adequate for the inclusion in a management report and should be avoided. Providing this type of information for all the sites of a company could result in an excessive burden for large groups, without adding any real value and leading to extremely long reports that would be less understandable and less useful for the readers. The reference to site-specific disclosure should be eliminated
ESRS E4	ESRS 2 IRO-1, pg.139 AR 7	Clarification needed on the definition/intention of “relevant sites.”
ESRS 4	ESRS 2 IRO-1, AR. 9 pg.140	Recommend removal of this disclosure as this type of assessment would not be achievable by companies but would have to rely on governmental or other analyses that identify ecosystems at risk of collapse and the specific impacts that will drive this change.
ESRS E4	Disclosure Requirement E4-1	ESRS should not require specific methodologies particularly when there are no common industry practice. Companies should have flexibility to utilize methodologies that suit their business footprint and materiality assessment
ESRS E4	Disclosure Requirement E4-2, pg.141 AR 11	Recommend specifying who (entity?) or what (government?) “may” integrate in broader environmental or sustainability policies covering different subtopics. Side note – there is no definition of undertaking and within the following ARs (e.g., AR12, AR13, AR16), it states that an “undertaking may” proposes, disclose, etc. Suggestion clarification on relationship between the undertaking and the entity.
ESRS E4	Disclosure Requirement E4-3 (pg. 134, number 24)	What “policy objectives and targets” is this statement referring to? Is it the company engaged in the undertaking or is it a governmental authority? Suggest clarifying.
ESRS E4	E4-4	Paragraph 30 “The disclosure required by paragraph 27 shall include the following information: (a) whether ecological thresholds and allocations of impacts to the undertaking were applied when setting targets. If so, the undertaking shall specify:...” is not coherent with paragraph 31 “31. The undertaking may disclose whether ecological thresholds and allocations of impacts to the undertaking were applied when setting targets. If so, the undertaking may specify:”. It is not clear if the requirement is mandatory given the fact that is repeated with two different formulations.
ESRS E4	Disclosure Requirement	

	ment E4-5 – Impact metrics related to biodiver sity and ecosyst ems change (pg. 135, number 37 (e)	Recommend considering whether “genetic material” is a better description than “genes” in letter (e) (“the functional connectivity (e.g. how well genes or individuals move through land, freshwater and seascape)”).
ESRS E4	Disclosur e Require ment E4- 5 - Impact metrics related to biodivers ity and ecosyste ms change (pg.145-	Recommend to limit this disclosure to what is in the control of the undertaking - we can evaluate and reduce the risk of IAS introduction from our activities, but we may not be able to control the number of invasive species present across the landscape.
ESRS E5-	E5-3 24 e	Given there is not a definition for "proper treatment", suggested rewriting to say ""the waste management, including the proper waste management methods."
ESRS E5-	E5-3 24	Where requested information is subject to national or subnational regulation, companies have the ability to report that data
ESRS E5	E5-3	Text from the draft Delegated Regulation:

		<p><i>"The undertaking shall specify as part of the contextual information, whether the targets it has set and presented are mandatory (based on legislation) or voluntary."</i></p> <p>We note that the policy landscape is complex and subject to continuous change, and there is significant paperwork burden to regularly update this information. Further, we question the value of this information to investors and other stakeholders. For these reasons, <u>we recommend</u> deleting the provision.</p>
ESRS E5	E5-4	For what concerns "resource inflows" it would be difficult for Oil&Gas companies to provide this type of information, but it will be probably considered not material (it is probably a DR more related to the manufacture industry). This disclosure is very burdensome and it is not very clear what is the purpose of requiring this level of detail for resource inflows in a company. Considering also the experiences of other reporting activities, like the one conducted on "conflict minerals" it will be better to restrict the scope of application only to certain categories of materials.
ESRS	E5-5 37 (c)	Suggestion to replace waste treatment type by waste disposal operation type - "(c) the amount by weight directed to disposal by waste treatment type'
ESRS E5	E5 – 37 (b)	<p>Suggestion to remove "preparation for" and just say "reuse". The definition of preparation is broad, undefined and has many considerations such as –</p> <ol style="list-style-type: none"> 1. For how long will the waste be prepared? 2. Where to prepare? <p>Does the accumulation date of waste apply during the preparation?</p>
ESRS E5	E5-5 39	<p>Hazardous waste generated is already disclosed in paragraph 37. Clarity on what the intention is of this disclosure is needed.</p> <p>(e.g. we request clarity between para 37 and 39 - if there is intended to be a delineation in these two disclosure requirements)</p>
ESRS E5	E5-5 40	Recommend clarifying disclosure to say "determine and classify wastes whether it is hazardous or non-hazardous"
ESRS E5	ESRS 2 IRO-1 AR 6 (a) I – pg.154	Recommend broadening to "regulations on waste" so that all regulations applicable to waste including the waste treatment, waste classifications, etc are included
ESRS S1	S1-8 Par. 60, S1-10 Par. 70, S1-11 Par. 73-	Where requested information is subject to national or subnational regulation, companies have the ability to report that data

	74, S1-11 Apr. 75	
ESRS S1	S1-11 Par. 75	“If not all of its employees are covered by social protection in accordance with paragraph 72, the undertaking shall in addition disclose the countries where employees do not have social protection with regard to one or more of the types of events listed in paragraph 72 and for each of those countries the types of employees who do not have social protection with regard to each applicable major life event”. This DR could be difficult to calculate for very large groups that operate in numerous Countries around the World, it should be a “may”.
ESRS S1	S1-13 par. 83 b	Where requested information is subject to national or subnational regulation, companies have the ability to report that data
ESRS S1	S1-13 Par. 83 (a)	The bolded term “development” is not defined. Further, it creates ambiguity. Depending on what career “development” refers to, it may not be feasible to review each performance review for indicia of career “development.” Because this is ambiguous, I would just delete and focus on performance assessments, which can equate to “development” in one’s career.
ESRS S1	S1-14 Par. 88 b	“the number of fatalities as a result of work-related injuries and work-related ill health”; it would be very difficult to provide data related to fatalities as a result of work-related ill health for non-employees because, even if the company provides the possibility to signal these cases, data are not always communicated to the undertaking by the third company providing workforce, especially for those cases that relates to workers that are not working anymore for the undertaking. On this aspect it would be more beneficial, especially for what concerns non-employees, to provide a broader disclosure in order not to lose the characteristics of quality, representativeness and comparability of the data.
ESRS 1	S1-15 Par. 92	Where requested information is subject to national or subnational regulation, companies have the ability to report that data
ESRS S1	S1-16	To calculate the gender pay gap it is asked to use the “gross hourly pay level”. For this KPI it would be better to use the total annual compensation which is easier to calculate and more in line with how this type of data is already calculated by companies.
ESRS S1	S1-16 Par. 97	Where requested information is subject to national or subnational regulation, companies have the ability to report that data
ESRS S1	S1-17 Par 102	This question focuses on discrimination, but is improperly expanded to include external “stakeholders,” which is defined in an extremely broad manner. Suggest deleting the reference to “external stakeholders,” which is not applicable to this question.
ESRS S1	S1-17 Par 103	Where requested information is subject to national or subnational regulation, companies have the ability to report that data
ESRS 1 – Appendix A	AR 3(a)	The definition of “self-employed persons” is overly broad and includes people who perform work “that would otherwise be carried out by an employee.” For example, many attorneys are self-employed, solo practitioners or in a partnership. If we engaged them for work, and they didn’t do it, then this work would have to be carried out by a Chevron employee at least in part. Most “normal employers” (unlike Uber) will not have significant numbers of self-employed workers. It may be covered in S1 already, but it would be

		nice if we could omit any reporting on self- employed workers if we don't consider them to meet materiality thresholds.
ESRS S2	11(a), IV	Recommendation to limit to workers within operational control (e.g. to tier1 actors)
ESRS S3	ESRS 2 SBM-3 Par. 9 a. ii	"communities along the undertaking's value chain (for example, those affected by the operations of suppliers' facilities or by the activities of logistics or distribution providers); it will be very difficult to provide even a brief description of this category with the adequate data quality/accuracy, considering that this type of information is out of the control of the undertaking.
ESRS S3	7	Could this requirement align with the requirements under ESRS S2? This requirement states "undertaking shall disclose how the views, interests, and rights of affected communities...inform it strategy and business model." which is more expansive than ESRS S2 which calls on disclosure of how certain social risks "interact" with strategy and business model
ESRS S3	9	Could this disclosure be limited to what is in the company's operational control? Expansion of "affected communities" to include "communities subject to material impacts by its own operations or through its upstream and downstream value chain" is burdensome and would be difficult to map, let alone disclose.
ESRS S4	10 a	Unclear how to categorize consumers
ESRS G1	G1-5, 29c; AR 14, 15	This reporting seems it would be better suited for the actual trade association and not the undertaking

4. Specific comments on Annex II

Defined term	Comment
Water	There is no definition of "water"
Non-GHG emissions	There is no definition of non-GHG gases such as NOx and SOx
Adequate wage	This term is okay at least in S1, because in S1, it is specifically tied to an applicable salary benchmark. But this may be a concern elsewhere. It refers to "satisfaction of the needs of the worker and his/her family in the light of national economic and social conditions." Taken literally, many people even in the U.S. could claim they are not receiving an adequate wage depending on the number of kids and other dependents in their family

Marine Resources	Needs clarification. Does this include oil and gas offshore resources extracted under the ocean floor or only minerals extracted from the top of the ocean floor?
Area of high-water stress	Companies should have the flexibility to use well established definitions such as WRI
Recycled/reused/reclaimed water	Further clarification of streams that are in scope would be helpful, particularly on condensate recovery, and cooling tower operations. For example, could water savings be claimed from cooling towers operated at higher than 2 cycles of concentration or higher cycles of concentration?
Climate-related physical risk	Recommend following: A measure of potential physical impacts to facilities and operations, in terms of both the likelihood and the consequence (magnitude) of the impact, based on projected future changes to physical environment parameters (i.e., ambient / extreme temperatures, sea level rise / coastal flooding, changes to precipitation patterns including increased frequency / intensity / duration or the reverse, and associated hazards such as water availability / scarcity, riverine flooding, and wildfire potential). These may also include potential changes to storm frequency / intensity and changes to ocean current patterns.
Non-virgin reused or recycled components	Needs definition: some definition can be found in 31 (c) but unclear if this means non-renewable energy components?
Products	Needs definition to specify the use of the word "product". Is it for manufactured/produced product when used as stand-alone word in a sentence and different from, i.e., intermediary products?
Biosphere integrity or ecosystem integrity	Current definition defines "ecosystem integrity". "Biosphere integrity" needs separate definition.
Threatened species	Need to define which IUCN Red List categories are considered "threatened". Clarify if this refers to IUCN "endangered", "critically endangered" and "vulnerable" categories?
Intermediate Products	Need to define "intermediate products" or flexibility to clearly state basis of own definition.
Waste hierarchy	Need to define what is waste hierarchy, : Suggestion could be to have it: A conceptual framework designed to guide and rank waste management decisions in priority order in waste management: (a) prevention; (b) preparing for re-use; (c) recycling; (d) other recovery, e.g., energy recovery; and (e) disposal [21]
Stakeholders	The current definition is very broad. Consider putting a bound-on degree of separation between "can be affected" and/or "indirect business relationships". Limiting to those who have experienced a direct impact of the company's operations (tier 1).
Value chain	Recommend a focus on Tier 1 only where companies have the greatest possibility to exert influence.

Indigenous Peoples	Recommend adding reference to the United Nations Declaration on the Rights of Indigenous Peoples as part of the definition.
Human rights	Recommend adding a definition of human rights that references well-established human rights conventions/frameworks, such as the Universal Declaration of Human Rights (UDHR). Further, the scope of human rights generally is rapidly evolving and there may be rights (e.g., right to water) that are not formally captured in the UDHR but should be explicitly clarified if included in references in the ESRS framework.