



Response of Bayer AG

in the
OECD Complaint Procedure

ECCHR et al. vs. Bayer AG

before the German National Contact Point
for the OECD Guidelines for Multinational Enterprises

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July 13, 2024

Bayer AG

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I. Introduction

1. Bayer values the work of the OECD and the National Contact Points (NCPs), recognizes the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (Guidelines) and adheres to them. We appreciate the opportunity to offer our perspective on the Complaint, as well as the facts, legal view, and demands presented by the Complainants.
2. The global population has shown significant growth, reaching 8.0 billion in mid-November 2022 from an estimated 2.5 billion people in 1950, adding 1 billion people since 2010 and 2 billion since 1998, with projections indicating nearly 10 billion people by 2050. This rapid expansion, coupled with the strain on quality resources due to climate change and other negative factors, presents challenges to food security and the human right to an adequate standard of living and well-being. As a leading provider of innovative agriculture inputs, including seeds, traits, crop protection products, and digital solutions, Bayer is dedicated to providing solutions that address the challenges of feeding a growing population within the constraints of our planet's resources, particularly the limitations of arable land. Our innovations play a crucial role in enabling the production of more on less arable land, thereby averting a potential food crisis. Bayer's goal is to achieve food security while simultaneously combating climate change. We recognize the necessity for agriculture to undergo transformation, facilitating adaptation to climate change, increasing farm productivity, and enhancing food, feed, and fuel output for a growing population, all while promoting the renewal of nature.
3. Furthermore, all four countries – Argentina, Bolivia, Brazil, and Paraguay – have different economic profiles but share the same challenges related to income inequality, conflicts over land rights, and overall socio-economic disparities. These challenges further emphasize the need for sustainable agricultural practices and innovative solutions to address the specific socio-economic and environmental concerns within each country, while also contributing to the broader global efforts towards food security and environmental sustainability. Over the past decades, agricultural innovations have led to significant efficiency increases, contributing actively to the fight against hunger and the promotion of food security, ultimately saving hundreds of millions of lives. According to the OECD, from 1960 to 2020, food production increased by 390%, while the acreage used to produce this food only increased by 10%.
4. We are mindful that with any transformative process, inherent risks exist. We recognize the need to assess potential impacts, both positive and negative, of our industry on human rights and the environment. Bayer is committed to a due diligence approach that fosters responsible business practices throughout the value chain, aiming to make a positive contribution as a leading provider of innovative agriculture. Therefore, we are committed to proactively identifying potential risks at an early stage and addressing them appropriately for example by leveraging industry associations to work towards comprehensive industry-wide solutions. Our actions are guided by our Mission "Health for all, Hunger for none," reflecting our dedication to responsible action and the well-being of both people and the planet.
5. Bayer takes all information about potential adverse human rights and environmental impacts very seriously and follows-up appropriately. In the present case, however, based on the information available we could not identify any adverse impacts nor any form of Bayer's alleged non-

compliance with the Guidelines. In particular, based on the information provided by the Complainants and our intense research we conducted upon receiving this Complaint, we could not identify any connection between the adverse impacts and Bayer's business. However, we would like to invite the Complainants to a dialogue, unconstrained by the formalities of the NCP procedure, with us to better understand their position and to see how we can support them with our activities, as we perceive such a dialogue as best platform to setting up a meaningful stakeholder engagement.

6. We remain committed to thoroughly assessing any additional information we receive about the alleged incidents fully in line with our commitment to a diligent adverse incident management.

II. Facts

A. Our Mission and Business

1. Our Mission „*Health for all, Hunger for none*”

7. Bayer is a global corporation with core competencies in the life science fields of health care and nutrition. In line with our mission, “*Health for all, Hunger for none*”, our products and services are designed to help people and the planet thrive by supporting efforts to master major challenges presented by a growing and aging global population. Bayer is committed to driving sustainable development and generating a positive impact with its businesses while conducting our business in a responsible manner. At the same time, Bayer aims to create value through innovation and growth.
8. We promote inclusive growth, a responsible use of resources and responsible business practices. Inclusive growth means we are providing more people in all the regions of the world with access to health care and food security and devising solutions to environmental protection, especially decarbonization, climate adaptation, and biodiversity preservation. Our products, services and innovation expertise enable us to significantly contribute to the United Nations' Sustainable Development Goals on combating hunger (Goal 2) and providing health care (Goal 3). Our work also helps fight poverty (Goal 1). In addition, we are focusing on empowering women (Goal 5), working on the availability and sustainable management of water for all (Goal 6), redoubling our efforts to reduce greenhouse emissions along our value chain and build resilience towards the impacts of climate change (Goal 13) and protecting life on land (Goal 15).¹
9. With our Crop Science division, we are tackling two of the most important challenges of our times: Food security and climate change. Our integrated portfolio includes seeds, traits, crop protection, and digital solutions and supports farmers around the globe with solutions to produce enough food for a growing population while reducing the environmental impact of agriculture.

¹ See for more details: <https://www.bayer.com/sites/default/files/2024-03/bayer-sustainability-report-2023.pdf>

2. Our Presence in South America

10. Bayer has more than a century of history in South America with a strong presence in most of the countries of the region with its three business divisions: Pharmaceuticals, Consumer Health, and Crop Science. Bayer's business in South America is fully aligned with Bayer's global Mission: *"Health for all, Hunger for none"*.

a) Our Crop Science Business

11. With its seeds, traits, crop protection and digital solutions Bayer has a strong Crop Science business in South America and plays a key role in the development of modern agriculture in the region, which has brought enormous positive impacts to the agribusiness sector and to society and to the development of South American countries. Bayer's solutions have also contributed significantly to ensuring food security on a global scale.
12. In this sense, Glyphosate-based products, together with Bayer's Glyphosate tolerance crops, have been instrumental for the adoption of modern agriculture model in South America. No-till farming enabled by herbicide tolerant crop systems has been a game changer not only in South America enabling higher productivity rates with various environmental benefits. In the last 150 years, 50% of the earth's topsoil has been lost due to erosion. Plowing or tilling – a common method of weed control – disturbs the top layer of soil, which is essential for growing plants. Glyphosate has facilitated the adoption of conservation tillage, which consists of no-till agronomic practices that do not disturb the top layer of the soil. When used in conjunction with GM crops, Glyphosate reduces or altogether eliminates the need for tillage, resulting in reduced soil erosion, better soil moisture, lower carbon emissions,² and increases in the numbers and diversity of soil organisms. Additionally, with conservation tillage crop residue is left in the field creating a protective barrier that shields the soil's surface.³ Conservation tillage production systems exist with conventional crops as well, such as in burn-down and pre-harvest applications for small grains or other crops, or to manage cover crops and fallow ground.⁴ Two essential benefits of conservation tillage are improved soil health and carbon sequestration.
13. Bayer has a strong presence in the key markets of Argentina, Bolivia, Brazil and Paraguay with its crop protection products (including Glyphosate-based products), seeds, traits and digital solutions. What is called "area of interest" by Complainants (i.e. Province of Buenos Aires, Argentina; State of Paraná, Brazil; Department of San Pedro, Paraguay; and Santa Cruz de la Sierra, Bolivia) constitutes an important part of the core areas for agribusiness in the four countries.
14. As regards Bayer's GM-soy business in South America, it is important to mention that at present Bayer only has a GM-soy business in Brazil and Paraguay and, hence, any allegations by Complainants cannot be linked to any Bayer GM-soy business relating to Argentina and Bolivia.
15. In the case of Bolivia, so far Bayer has not identified viable business opportunities for GM-soy. Consequently, we never had a GM-soy business in the country. However, GM-soybean seeds

²<https://geneticliteracyproject.org/2016/06/02/no-till-agriculture-offers-vast-sustainability-benefits-so-why-do-organic-farmers-reject-it/>

³ Ibidem

⁴ <https://www.epa.gov/sites/default/files/2019-04/documents/Glyphosate-response-comments-usage-benefits-final.pdf>

are available from other companies and Bayer is engaged in the crop protection business including being one of many companies offering Glyphosate-based herbicides.

16. Regarding Argentina, Bayer suspended its GM-soy business (INTACTA RR2 PRO[®] technology) in July 2021 for business reasons, and from that date Bayer halted its sales of soybean seeds and stopped the collection of royalties for the use of INTACTA RR2 PRO technology in Argentina. Therefore, at present Bayer has no GM-soy business in the country. However, GM-soybean seeds are available from other companies and Bayer is engaged in the crop protection business including being one of many companies offering Glyphosate-based herbicides.

b) Our Social Responsibility

17. Bayer has created with its business in South America thousands of jobs improving household incomes, improving living standards for these employees and their families and lead to thousands of additional indirect employment opportunities throughout the supply chain and related businesses.
18. Bayer has been partnering with stakeholders in South America focused on research, and on actions to preserve biodiversity and forest cooperation.⁵ On top, Bayer engages in various environmental initiatives in the region.⁶
19. Further, Bayer has embarked on various social initiatives by which we aim to achieve positive social impact for local communities. Bayer has programs to support social innovators to solve problems that cannot be solved independently by governments, private companies, and non-governmental organizations. These programs allow innovators to scale up their solutions and make them available to more people quicker. We focus on projects with impact on vulnerable communities (e.g. people living below the poverty line, small farmers, communities geographically isolated from urban centers without access to basic services, older adults, people with disabilities, and minorities in general). Besides, Bayer has implemented specific programs targeted to local native communities, such as: Argentinean indigenous community Wichi, Bolivian peasant women in Quiabaya, and Paraguayan indigenous communities in Cerrito, Remansito and Benjamin Aceval. All of them with the purpose of training community members in self-production of food and micro-entrepreneurship with the double purpose of improving their family's nutrition, and their life quality through the sale of surpluses. Further, in Brazil Bayer implemented different programs

⁵ Among others, in Brazil: Embrapa, Fundação ABC, Esalq/USP, Round Table on Responsible Soy (RTRS), World Economic Forum (WEF), the Brazilian Business Council for Sustainable Development (CEBDS), Coalition Brazil Forest, Climate and Agriculture; in Argentina: National Institute of Agriculture Technology (INTA), University of Buenos Aires (FAUBA), Argentinean institute of Certification (IRAM), National Non-Till Association (AAPRESID); in Paraguay: National Institute of Agriculture Technology (IPTA); in Bolivia: National Association of Farmers (ANAPO)

⁶ Examples: (1) PRO Carbon and Carbon Commodities striving to reduce carbon emissions and to increase carbon sequestration in farmers' seed production fields through the adoption of sustainable agricultural practices. (2) Forward Farming to promote and amplified among farmers technological solutions and holistic regenerative agricultural practices. (3) Programs to promote and facilitate the adoption of best agronomical practices among its customers: (i) Bayer Green Credit, which aims to reward customers and dealers for the adoption of sustainable agricultural practices (i.e., wastewater management, plastic reduction, use of renewable energies, reduction of carbon footprint, etc.); (ii) Bayer Valora and other prescription programs oriented to encourage farmers to increase planting ratio and/or fertilizer use with the goal of producing more in the same arable land; (iii) GAP Certification (Good Agricultural Practices), which is oriented to promote the use of sustainable practices throughout the production chain; (iv) Bayer also promotes and facilitates to its customers the access to products and solutions with positive environmental impacts, such as: returnable bulk containers for agrochemicals, which allows 95% reduction in plastics and zero consumption of washing water; biological residues system, which enables biological degradation of phytosanitary residues; weather stations, which provides farmers with information on optimal weather conditions for the use of pesticides. (4) Bayer implements a series of food chain programs to promote partnerships among industry players to address food challenges. These programs bring farmers, food processors, retailers, traders, and other players along the food value chain to work together for sustainable agriculture. (5) Bayer has implemented different training programs oriented to small and medium-sized farmers on how to grow vegetables pursuant to good agricultural practices to obtain a GAP certification, for the benefit of all food chain.

such as Reflora Project of the Voto-rantim Institute, aim to empower smallholder farmers and reforestation in the Cerrado; Ipu Fund to guarantee basic sanitation and access to drinking water; Sitawi's Médio Juruá Program to support communities in the Médio Juruá region, in Amazonia.

B. Safeguarding Global Food Supply

20. Global food and nutrition security is a major concern, with over 700 million people facing hunger and 2.4 billion experiencing food insecurity. As the world's population approaches nearly 10 billion by 2050, it is crucial for all farms to sustainably increase food production. The need for innovative and regenerative agriculture systems⁷ is emphasized by projections of arable land loss and soil degradation.
21. Agriculture is vital to the global economy, employing about 25% of the workforce and contributing 4% to global GDP. Brazil and Argentina, key exporters of major crops like corn, soy, and tropical fruits, have transitioned from food importers to dominant players in the export market, significantly strengthening their economies⁸ and contributing to global food security.
22. The adoption of modern agricultural technologies, such as new crop varieties and biotechnology, has proven to provide benefits across multiple dimensions⁹. In Brazil, for example, embracing a complete package of tropical agriculture technologies¹⁰ has led to measurable gains in economic, environmental¹¹, and social aspects, boosting farmers' profits, contributing to the national GDP, improving export trade balance, reducing carbon emissions¹², optimizing pesticide use¹³, generating higher tax revenues, and creating jobs.
23. Increased agricultural production can result in two simultaneous outcomes¹⁴, influenced by factors¹⁵ such as public policies, infrastructure, credit systems, land ownership, technology, and labor. One possibility is expanding farmland (land sharing), potentially encroaching on native areas like forests. Alternatively, sustainable intensification, producing more with less land (land sparing). As a result, the impact of increased agricultural production on deforestation can vary, depending on the specific conditions. Agriculture, in general, is believed to have a significant role in altering land use and causing habitat loss through mechanization and other farming practices, generating social friction.
24. In light of climate change and food systems resilience concerns, inefficient land use is unsustainable. Both public and private sectors must invest in programs and incentives to promote economic growth while safeguarding ecosystems through enhanced land use policies. This involves maximizing existing farmland, employing sustainable intensification methods, and creating new revenue streams through ecosystem services like carbon sequestration.

⁷ <https://www.bayer.com/en/agriculture/regenerative-agriculture-definition>

⁸ *Evolution of agriculture's contribution to GDP Brazil and Argentina*. Source: <https://www.fao.org/faostat/en/#data>

⁹ https://biotec-latam.com/bibliografia/5_CIB_Agroconsult_2018_20_years_of_GMOs-environmental_economic_and_social_benefits_in_Brazil.pdf

¹⁰ The approval and introduction of GMOs in Brazil was a government led policy to strengthen agriculture competitiveness and is governed by a law approved in the national parliament: https://www.planalto.gov.br/ccivil_03/ato2004-2006/2005/lei/l11105.htm

¹¹ https://biotec-latam.com/bibliografia/1_Brookes_and_Barfoot_2020_Environmental_impacts_of_genetically_modified_GM_crops-1996-2018_pesticide_use_and_carbon_emissions.pdf

¹² https://link.springer.com/chapter/10.1007/978-981-16-9001-3_22

¹³ <https://croplifebrasil.org/wp-content/uploads/2019/10/Estudo-Impacto-BT-ING.pdf>

¹⁴ <https://www.econstor.eu/bitstream/10419/265572/1/1787304507.pdf>

¹⁵ <https://ainfo.cnptia.embrapa.br/digital/bitstream/item/81263/1/Embrapa-its-origins.pdf>

25. Notable examples include the Brazilian government's policy to restore degraded pasture lands¹⁶ and the national crop-livestock-forestry agriculture production system¹⁷. Additionally, Bayer is actively involved in empowering farmers to achieve these goals with the programs we presented in this document. These strategies align with the Global Biodiversity Framework's targets, emphasizing the conservation of natural habitats and the sustainable intensification of agriculture (e.g., Targets 1, 3, and 10).

1. Global Need to increased Food Production

26. Global food systems are under constant pressure. According to FAO, between 691 and 783 million people faced hunger in 2022¹⁸ including 43 million people in Latin America. In addition, 2.4 billion people are moderately or severely food insecure. Around 3.1 billion people (42% of the global population) cannot afford a healthy diet. The food security crisis is affecting multiple geographies, even those with a higher stake in global food supplies.
27. At the same time world population continues to grow. The global human population reached 8.0 billion in mid-November 2022 from an estimated 2.5 billion people in 1950, adding 1 billion people since 2010 and 2 billion since 1998. In 2050, nearly 10 billion people will be living on this planet. If we want to feed 10 billion additional people by 2050, we need all farms of all sizes to produce more.
28. Besides existing hunger and food insecurity as well as the constant need to feed more people available quality resources to feed this growing population are under pressure by climate change, wars, conflicts, and other negative factors like decrease of available arable land, droughts, floods and higher pest pressure. In this context, our products and services are a critical for avoiding shortages and ensuing food inflation. Bayer is investing approx. 2.5 billion euro every year on agricultural innovation to better adapt to and mitigate climate change in an effort to meet the growing global demand for food, fiber, fuel, and feedstock.

2. Producing More on Less Land is Imperative to Mitigate Global Hunger Crises

29. Given the severe challenges outlined above, only science and innovation combined with improved access to innovations for hundredths of millions of smallholder farmers will enable farmers to feed our growing population. With a growing global population and the diminishing land that can be used for agriculture due to climate change, we need to produce more food with less resources. Agricultural innovations and crop protection at the intersection of AI, biology, and chemistry are essential tools to this end. Negative impact of climate change such as the rising pest and weed pressure on a global scale are an example for that. Therefore, farmers need resilient seeds and effective crop protection products to tackle these challenges and to safeguard their harvests. In general, to secure food supply in times of climate change, we need more openness to innovation.

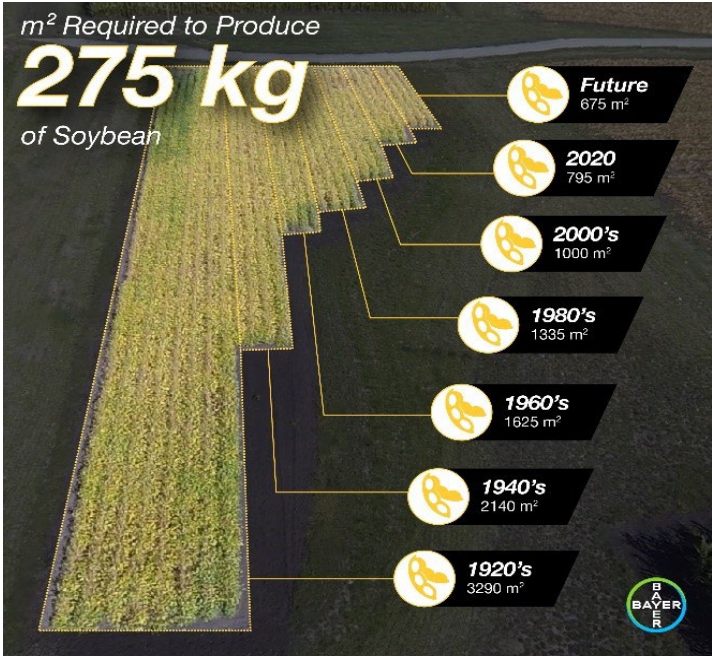
¹⁶<https://www.reuters.com/world/americas/brazils-lula-present-pastureland-recovery-policy-cop-28-2023-11-10/>

¹⁷<https://www.embrapa.br/en/tema-integracao-lavoura-pecuaria-floresta-ilpf/nota-tecnica#:~:text=It%20is%20an%20agricultural%20production,the%20activities%20are%20mutually%20beneficial.>

¹⁸<https://www.fao.org/newsroom/detail/122-million-more-people-pushed-into-hunger-since-2019-due-to-multiple-crises--reveals-un-report/en#:~:text=The%202023%20edition%20of%20the%20report%20reveals%20that,people%20compared%20to%202019%20C%20before%20the%20COVID-19%20pandemic,https://openknowledge.fao.org/items/2241e4d7-dbc4-46e9-ab05-70db6050ccf9>

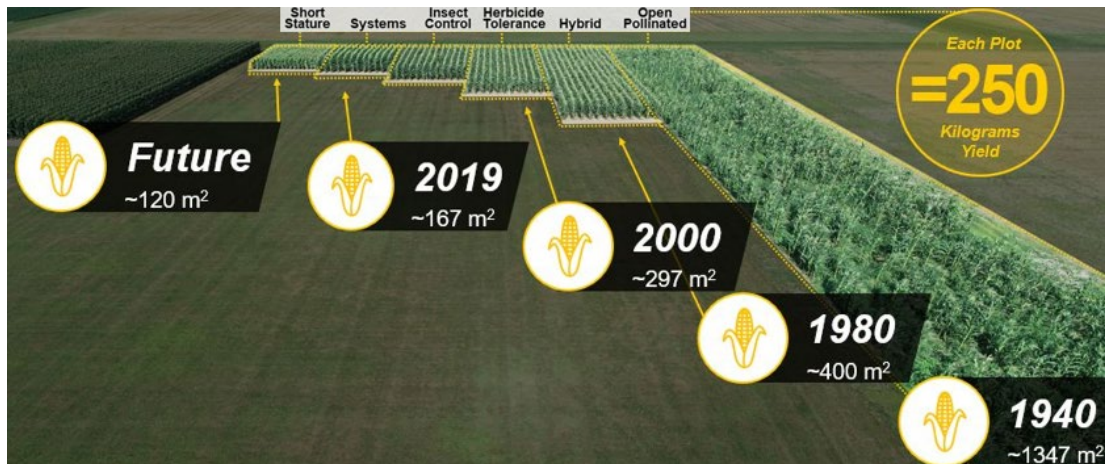
- 30. Over the past decades, innovations have led to huge efficiency increases in agriculture which is actively contributing to combat hunger and foster food security saving hundreds of millions of lives. According to the OECD from 1960 to 2020 food production has increased by 390%, while used acreage to produce this food has only increased by 10%.¹⁹ With annual temperatures increasing at a higher rate²⁰ and agricultural yield growth slowing in the last ten years compared to decades before,²¹ innovative tools of modern agriculture will grow in importance.
- 31. As leading provider of innovative agriculture inputs like seeds, traits, crop protection and digital solutions, Bayer provides solutions which help managing the challenges to feed the growing population within the boundaries of our planet including the limitations of arable land. Without our innovations to produce more with less (GM-soy and Glyphosate-based products play an important role here) already today, the world would face a food crisis even much worse.
- 32. The infographics below illustrate exemplary how innovation in production in corn and soybean intensified yield allowing to produce more on less arable land. Specifically for soybean, productivity has increased considerably over the past 50 years, especially in Brazil (and US) compared to other regions in the world.²²

This infographic shows how constant innovation, including GM-soy, allows to produce more soy on less arable land:²³



¹⁹ https://www.youtube.com/watch?v=uAM4Si_WhDk
²⁰ <https://www.climate.gov/news-features/videos/history-earths-temperature-1880#:~:text=For%20the%20last%2050%20years,over%20the%20previous%20half%2Dcentury>
²¹ <https://www.ers.usda.gov/amber-waves/2022/december/world-agricultural-output-growth-continues-to-slow-reaching-lowest-rate-in-six-decades/#:~:text=First%2C%20recent%20studies%20have%20shown,likely%20to%20become%20even%20larger>
²² https://ourworldindata.org/explorers/crop-yields?facet=none&country=GBR~BRA~OWID_AFR~USA~OWID_EUR~OWID_ASI&hideControls=false&Crop=Soybean&Metric=Actual+yield
²³ Source: Bayer internal Data

This infographic shows how constant innovation, including GM-corn, allows to produce more corn on less arable land²⁴:



C. Bayer is committed to acting responsibly along the entire value chain

33. Bayer is committed to acting responsibly along the value chain which is also based on the OECD Guidelines. Bayer respects human rights and has appropriate management systems in place. The human and environmental safety of our agricultural products is extensively assessed by Bayer applying safety standards going beyond statutory requirements and finally vetted by the respective governmental agencies in which the products are marketed. We also support the effective, safe and sustainable use of our products all the way down to the user with expansive product stewardship measures.

1. Bayer respects Human Rights

34. Bayer is a founding member of the UN Global Compact and respects the Universal Declaration of Human Rights and the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights of the United Nations (UN). Our human rights due diligence is based on the related principles described in the UN Guiding Principles on Business and Human Rights (UNGPs) and the OECD Guidelines. Our commitment to human rights is documented in a globally binding Policy, the Bayer Human Rights Policy²⁵. We are committed to meeting this responsibility along the entire value chain and within our scope of influence worldwide.

a) Human Rights Governance and Strategy

35. Human rights are among the responsibilities of Bayer's Chairman of the Board of Management (CEO). In his role as Chief Sustainability Officer, he is supported in the topic of human rights by the Public Affairs, Sustainability & Safety Enabling Function. Since 2022, Bayer has a dedicated Human Rights Officer who oversees the risk management in regard to human rights and reports regularly to the Board of Management about his or her work. The implementation of our human rights standards in business operations is regulated by numerous regulations, processes, and

²⁴ Source: Brower-Toland et al, A Crucial Role for Technology in Sustainable Agriculture, <https://pubs.acs.org/doi/10.1021/acsagscitech.3c00426>

²⁵ <https://www.bayer.com/sites/default/files/2020-04/bayer-human-rights-policy.pdf>

management and monitoring systems. These regulations include our Human Rights Policy²⁶, our Code of Conduct²⁷ as well as the Supplier Code of Conduct,²⁸ which are all publicly available. The Code of Conduct outlines Bayer's principles of business conduct. It defines how we as Bayer employees work together with our colleagues and external partners. The Supplier Code of Conduct specifies what we expect of our suppliers and obligates them to fully respect human rights.

36. In 2023, our external Sustainability Council,²⁹ which advises the Board of Management of Bayer and other functions in sustainability matters, has been expanded to include an expert from the area of human rights enhancing our engagement for human rights. Also in 2023, we looked at activities of our human rights due diligence approach such as facilitated access to our grievance mechanisms as well as our strategic positive contribution to our mission of "Health for all, Hunger for none."
37. The implementation of our human rights strategy is also overseen by the ESG (Environment, Social, Governance) Committee of the Supervisory Board.

b) Implementing Human Rights Due Diligence

38. To respect human rights in the value chain in a targeted manner, Bayer operates according to a due diligence approach that is based on the UNGPs and OECD Guidelines. Our due diligence process comprises of a declaration of principles (policy statement), risk identification and assessment processes, prevention/mitigation and remedial measures, and measures to determine effectiveness and reporting, along with access to grievance mechanisms. Group regulations and processes as well as management and monitoring systems regulate the implementation of human rights standards. We have put in place suitable directives and management systems to meet our product stewardship responsibility in regard to human rights, too. We see the implementation of human rights due diligence as a continuous process that must be constantly adapted and improved. In accordance with international human rights standards, we are mindful to respect the rights of disadvantaged or vulnerable groups throughout our value chain – from indigenous peoples to individuals and groups who can benefit from Bayer's innovations.

c) Policy statement

39. Our commitment to human rights is documented in a globally binding Bayer Human Rights Policy.³⁰ This commitment includes internationally recognized human rights in accordance with the International Bill of Human Rights and the Declaration on Fundamental Principles and Rights at Work of the International Labour Organization (ILO). This commitment was directly approved by the Board of Management. This Group regulation is regularly reviewed, the current version is of April 2024. It applies both internally and when dealing with external business partners of Bayer, (direct and indirect) suppliers, contractors, customers, consumers, members of local communities and government officials.

²⁶ <https://www.bayer.com/sites/default/files/v6bayer-human-rights-policy-en-2024-04-15.pdf>

²⁷ <https://www.bayer.com/sites/default/files/bayer-code-of-conduct-en.pdf>

²⁸ https://www.bayer.com/sites/default/files/supplier-code-of-conduct-english_1.pdf

²⁹ <https://www.bayer.com/en/sustainability/bayer-sustainability-council>

³⁰ [v6bayer-human-rights-policy-en-2024-04-15.pdf](https://www.bayer.com/sites/default/files/v6bayer-human-rights-policy-en-2024-04-15.pdf)

d) Risk identification and assessment

40. We conduct regular human rights risk analyses to identify and prioritize potential impacts of our business activities on human rights. Those risk analyses are conducted at least once per year and on an ad hoc basis. The process involves:
- identification of risks across the value chain considering the entire scope of involvement, i.e. cause, contribute and directly linked as described in the UNGP and OECD Guidelines
 - assessment of identified gross and net risks in terms of severity, materiality, and likelihood
 - development and documentation of adequate mitigation measures
 - integration into group-wide risk portfolio and management system if threshold values are exceeded
 - communication of results to relevant internal decision-makers
41. The Bayer Assurance Committee, a committee of the Board of Management, regularly discusses and reviews the risk portfolio and the status of risk control measures. Six human rights priorities³¹ have been identified, with the right to health and responsible use of natural resources being particularly relevant to the downstream value chain.

e) Prevention/mitigation and remedial measures

42. We have implemented multiple measures linked to the identified risks to ensure respect for human rights both within our own company and along our entire value chain. Further information on our human rights due diligence efforts for our workforce, supply chain and local communities can be found in our Sustainability Report.³²
43. Overall, we offer numerous training programs for all hierarchies and countries to enhance employees' awareness of the importance of human rights in their day-to-day activities and outside the organization. Training elements include product stewardship responsibilities. In 2023, more than 86% of our employees received training on aspects of our Human Rights Policy in sessions totaling more than 224,000 hours.
44. We verify the observance of human rights at our sites partly by means of Bayer audits. Bayer Internal Audit regularly conducts audits following the standards of the Institute of Internal Auditors (IIA). The annual audit planning follows a risk-based approach. If we determine that a human rights violation has occurred or is imminent within our own business activities or those of a supplier, we immediately take appropriate remedial measures to prevent or stop them or to minimize their scope.
45. Assuming responsibility for our products is always at the core of what we do. For us, product stewardship means that our products meet the highest safety and quality standards and that neither their development and manufacture nor their transport, use or disposal should cause damage to people or the environment. For this reason, we conform strictly to regulations and laws all over the world, and often go beyond, e.g., by following our commitment to the Food and Agriculture Organization of the UN (FAO) Code of Conduct for sustainable pesticide management and the Excellence through Stewardship guidelines for seeds and traits. Please refer to the following chapters for further information on our product stewardship efforts.

³¹ Our six human rights priorities: Right to health / Responsible use of natural resources / Protection against child labor / Right to freedom from slavery, servitude and forced labor / Right to fair and favorable working conditions / Right to freedom of association.

³² <https://www.bayer.com/sites/default/files/2024-03/bayer-sustainability-report-2023.pdf> Chapter: [Procurement](#), [Employees](#), [Climate](#) and [Environmental Protection](#), [Health and Safety](#)

f) Effectiveness review and reporting

46. We are working on a concept for measuring the effectiveness of our overall human rights due diligence approach, considering established measurement systems such as supply chain monitoring.
47. We regularly inform the public in an annually published Sustainability Report³³ about our strategy, approaches and results in connection with human rights due diligence and on our website.³⁴

g) Grievance mechanisms

48. If there are indications of violations of our Human Rights Policy, employees and members of the public can contact our worldwide Speak up Channel, which is operated by an independent, external provider and available in more than 300 languages. This can also be done anonymously, if desired. Our Speak Up Channel is promoted in various ways including our webpage, posters or references in trainings, policies and documents. For our agricultural products, people can also report or seek help in case of adverse incidents on human, animal and environmental health via telephone numbers printed on our product labels. These hotlines refer to national poison centers or qualified third-party support centers. Alternatively, employees can report suspected violations to the respective compliance functions, to our Internal Audit function, via an internal company email address or through a platform (also anonymously).

h) Stakeholder Engagement and Partnerships

49. We find it very important to consider the interests of people potentially impacted by our activities and included, for example, civil society organizations in our group-wide risk analysis in 2022. We also coordinate our human rights due diligence approach with the works council. We want to perform our due diligence for constructive stakeholder involvement and are working on a concept that further incorporates the interests of affected parties.
50. Further examples of how we are working with our peers and other companies to advance human rights for our industry and beyond, can be found in our Sustainability Report.³⁵

2. Statutory Due Diligence on Human and Environmental Safety of our agricultural products

51. Bayer operates in highly regulated industries, which imposes statutory obligations on human and environmental safety due diligence, which we thoroughly follow and even exceed with voluntary stricter standards.
52. The human and environmental safety of our agricultural products is extensively assessed first by Bayer and then vetted by regulators. Before crop protection products and biotechnologies can be introduced to the market, they undergo a thorough impact analysis, and it must be demonstrated that their label-compliant use is without harm for humans and does not expose the environment to an unjustifiable risk. They therefore require official approval, which is governed by numerous international and national laws and regulations.

³³ <https://www.bayer.com/sites/default/files/2024-03/bayer-sustainability-report-2023.pdf>

³⁴ <https://www.bayer.com/en/sustainability/human-rights>

³⁵ <https://www.bayer.com/sites/default/files/2024-03/bayer-sustainability-report-2023.pdf>, Chapter: [Human Rights](#), [Product Stewardship](#)

a) Safety assessment according to international standards

53. Our safety standards for crop protection products ensure that these products are safe for humans – from operators to consumers – and cause no undue harm to the environment when used according to label instructions. Our products meet regulatory requirements in all countries where they are registered and we apply additional safety measures aligned with the standards and guidelines of the FAO, the World Health Organization (WHO) and OECD. The OECD provides very thorough, harmonized guidelines for assessing the potential effects of chemicals on human health and the environment, meaning that studies and test results generated by companies in compliance with the OECD Test Guidelines and OECD Principles of Good Laboratory Practice (GLP) are accepted in all OECD countries. We also follow closely scientific approaches and risk assessment concepts from reference regulatory systems around the world, including the U.S., Canada, Brazil, EU, Australia, New Zealand, Japan and China. In low and middle income countries (LMIC) that do not have sufficient capacity to fully evaluate product safety, we raise the safety bar by following our internal guidelines on top of local regulations, while considering the unique needs of growers in those markets. For products already in the market, Bayer conducts portfolio screenings to determine if the product can continue to be used safely under local conditions. If needed, we derive additional stewardship measures to mitigate risk and to safeguard the effective and safe use of our products. When it comes to crop protection products, it is important to understand that their intended purpose is to be toxic to pests, weeds and plant diseases. Their inherent toxicity represents their hazard. The risk to people and the environment is not just a function of the products' hazard, but also of the level of exposure (e.g., pesticide application type, rate and timing, frequency, amount, etc.).

b) Safety Assessment by Regulators

54. Any crop protection product and its human and environmental safety assessment is intensively controlled by national authorities. This includes any product marketed in Argentina, Bolivia, Brazil and Paraguay. There are strict rules and approval processes in place to ensure the safety of crop protection products. These rules require companies to submit extensive scientific studies and data following the high standards as outlined in the previous section. Studies are generated under GLP³⁶-standard which adherence to is safeguarded by criminal law. We conduct hundreds of metabolism, residue, toxicological, eco-toxicological, environmental, physio-chemical, and efficacy studies. All this scientific information is compiled in registration dossiers complying with the local regulatory requirements, containing active ingredient and formulated product composition, individual study reports, summaries, and risk assessments, including proposals for risk mitigation. These dossiers are submitted to regulatory authorities around the world who review the submitted data and risk assessments, and grant or deny approval of active substances and products based on their specific regulations and conclusions.

55. The final approval of the authority includes the product label clearly defining the approved use, restrictions and use conditions (e.g. what crops, application rates and intervals, required risk mitigation measures including safety equipment, drift reduction measures, buffer zones and how to manage empty containers). The label is based on the detailed understanding of the human

³⁶ GLP= "Good Laboratory Practice", <https://www.oecd.org/env/ehs/testing/good-laboratory-practiceglp.htm>

safety and environmental impact, including toxicological and environmental limit values factoring in broad safety margins.

c) Voluntary Safety Commitments of Bayer

56. Standards across countries can be different for many reasons. Therefore, we have committed ourselves to some voluntary standards, which exceed the regulatory requirements in some countries.
57. Already in 2012, Bayer has stopped selling crop protection products that are classified as acute toxic (Classes 1a or 1b) by the World Health Organization.
58. Since 2016, Bayer has committed itself to only selling crop protection products whose active ingredients are registered in at least one OECD country, or, in the case of new active ingredients, for which an OECD equivalent data package has been compiled.
59. In addition, we are currently implementing the voluntary commitment announced in 2019, to only market crop protection products in developing countries that meet the regulatory requirements of a majority of renowned international approval authorities. These authorities include the USA, Canada, Brazil, the EU, Australia, New Zealand, Japan, and China.³⁷
60. Since 2021, we have shared our crop protection safety standards on our website.³⁸ Our voluntary standards reflect the guidelines and standards of international organizations, such as the FAO, the WHO and the OECD, as well as those of reference regulatory authorities around the world. These safety standards use information on the toxicological profile of the active ingredients and crop protection products, their behavior during and after use, and potential exposure of humans or the environment. They evolve continuously based on the latest scientific knowledge and we invite internationally respected researchers from academia and other expert groups to review them. As part of our commitment to ensure globally consistent safety standards for our crop protection products, we also published our Bayer Safety Standard for Operator Safety³⁹ (SURPASS), which we apply in the risk assessment of our crop protection products. The operator safety standards and the associated data acquisition exceed local regulations in many countries that have less regulation in place for crop protection products. We hereby particularly consider specific use and application scenarios that are mostly relevant in low to middle income countries.

3. Safety Due Diligence of Products in the Downstream Market

61. As outlined above, the approval of pesticide active substances and products containing them is based on the rigorous assessment conducted by industry and vetted by regulators concluding that they meet the applicable approval criteria, and their responsible use is safe. The safety due diligence, however, does not stop here. New relevant scientific information and safety signals from the real-world use of the product within the downstream market are adequately managed by both industry and regulators.

³⁷ <https://www.bayer.com/en/sustainability/raising-the-bar-on-crop-protection-safety-standards>

³⁸ <https://www.bayer.com/en/agriculture/information-about-our-crop-protection-safety-standards#:~:text=Our%20internal%20crop%20protection%20safety,those%20of%20regulatory%20authorities%20around>

³⁹ https://www.bayer.com/sites/default/files/210323_Bayer-Operator_Safety_Standard-FINAL_2.pdf

a) The role of Regulators and Lawmakers to safeguard the Downstream Use of Pesticide Products

62. In most countries, including Argentina, Bolivia, Brazil and Paraguay, misuse of pesticide is illegal and can be subject to law enforcement which can include criminal sanctions.
63. Product labels provide strict and mandatory requirements for the essential and safety relevant aspects of their use. Deviations and in particular use of pesticides outside of the approved label (as likely/potentially referred to in most of the descriptions of incidents the Complainants put forward) are illegal. By law, users are only allowed to use products if they adhere to the label. Illegal use can be subject to law enforcement and authority followed-up.
64. Moreover, authorities have the right to re-assess any authorization granted any time. Such re-assessment and potential withdrawals occur whenever the authorities receive information which indicate that the label and the requirements outlined are not sufficient. Such information can be new scientific data or information from real-world uses indicating unknown health or environmental adverse events or information about insufficient label requirements. Manufacturers like Bayer are legally required in most countries to notify any adverse information which indicate that the approval criteria are not met any longer.

b) Stewardship Measures of Bayer according to state-of-the-art standards

65. We have put in place suitable directives and management systems for product stewardship. We follow the principles laid out in the International Code of Conduct on Pesticide Management issued by the FAO and the WHO,⁴⁰ the guidelines of the crop protection association CropLife International,⁴¹ and the guidelines of the industry initiative Excellence Through Stewardship⁴² for seeds and plant traits. These guidelines promote a life cycle approach to product stewardship that begins at the research and development stage of a new product, continues through its production, marketing, and safe use, and ends with the final disposal of any waste. We have specified our principles of responsible product management in our publicly available Product Stewardship Commitment, Principles and Key Requirements.⁴³
66. In each of the four countries in scope of the Complaint, Bayer has a robust stewardship program in place oriented to ensure farmers are well-informed about the correct use of our products. Further, Bayer has strong incident management protocols to handle potential incidents, and functional communication channels to address questions, doubts and claims from users, dealers, and members of the community (II.C.3.b)).
67. Furthermore, Bayer is engaged in identifying and addressing relevant industry issues that require a comprehensive industry-wide solution by industry associations. In South America, a good example is the creation and roll-out of Campo Limpio, the industry system created for the management of empty agrochemicals containers (II.C.3.b)(4)).

(1) Adverse Incident Management

68. Bayer has appropriate systems in place to monitor and assess adverse incidents of products on the market. Our adverse incident management approach explicitly covers any activities by our

⁴⁰ <https://openknowledge.fao.org/server/api/core/bitstreams/66ed039d-7317-41e0-986d-c51e311dab00/content>

⁴¹ <https://croplife.org/our-work/promoting-stewardship/>

⁴² <https://www.excellencethroughstewardship.org/ets-guides>

⁴³ https://www.bayer.com/sites/default/files/2022-11/RZ_Stewardship_221108.pdf

direct customers or indirect downstream users. We will always take appropriate mitigation actions, in particular when it comes to proven misuse of our products.

69. At global scale, any external potential adverse incident that is or may be related to our products is tracked through our internal management system and followed up. Information on adverse incidents comes from various data sources including:
- direct information by our customers or anyone affected: Users of our products can contact us through a range of communication channels should they have inquiries or complaints, or if they wish to report any incidents. These channels include both direct contact with our sales staff and hotline numbers printed on our product packaging. Our sales staff is also trained and encouraged to report any incidents they get notice of.
 - national poison control centers (where available) and specialized service providers in the area. In Paraguay and Bolivia, we receive incident data from public national poison centers. In Brazil and Argentina, we collaborate with specialized poison control service providers. At global scale including the four countries mentioned, we work with national hospitals, poison control centers and service providers to further improve their incident management capability and data quality, also with the support of CropLife International.
70. In our safe use trainings, we encourage our customers and dealers to report and seek support in case of any adverse incidents. Respective telephone numbers are included on our product packaging.
71. Bayer works with well-known agencies in each of the four countries, who provide Bayer with information about media articles and reports connected to the company's activities and products, and to the agricultural industry in general. For this purpose, the agencies conduct regular thorough surveys of general and specialized media, at national and local level, as well as social media and other alternative digital forums.
72. We receive and request information via industry chambers and the industry network. Bayer has an active role in the relevant industry chambers in each of the four countries mentioned in the Complaint, as well as in other relevant industry forums. On top of that, Bayer has an extended network of contacts distributed along each of the countries that provides Bayer with a broad and updated perspective about the reality of local agribusiness.
73. Reported potential incidents are classified based on severity and risk. We analyze data to identify issues and hotspots, and we derive learnings and develop targeted stewardship measures if needed. Such measures may include enhanced training, formulation changes, revised application recommendations, use limitations or even product withdrawal following the FAO-WHO International Code of Conduct on Pesticide Management⁴⁴ guidelines, for example.
74. Incident management follows a defined standard process. This is also the case in the four countries mentioned in the Complaint: for any incident, as much information as possible is gathered, and the incident is classified for severity based on FAO/WHO definitions, which then determines the next steps as well as the functions involved in the process. The case is entered into our management system, and key Bayer functions at local, regional and global levels are informed. Next, impacts are assessed, and actions defined and implemented. In many cases, these include an intensified training for farmers in case of any relationship between the alleged

⁴⁴<https://www.fao.org/pest-and-pesticide-management/pesticide-risk-reduction/code-conduct/en/#:~:text=The%20Code%20of%20Conduct%20guides,national%20legislation%20to%20regulate%20pesticides>

incident and our products. Other measures may include formulation changes, revised application recommendations, use limitations or even product withdrawal.

75. As a result of all these efforts, Bayer has been able to detect and act on many relevant issues along the years, both alone and together with the industry, and has also been able to detect isolated incidents and/or news related to potential incidents, which allowed Bayer to apply its incident management protocol.

(2) Engagement with End Users via Safe Use Trainings that cover human and environmental health aspects

76. Through targeted training courses, we show distributors, farmers and other users how to use our products both effectively and safely. The training courses cover a broad range of aspects for the effective and safe handling of our products during use, transport, storage and disposal. Key topics which are also included on the product label include operator safety, drift management and water protection measures (e.g., by maintaining buffer strips and information to not spray in windy conditions).
77. Many countries in the world have national statutory certification requirements for farmers concerning the safe handling of crop protection products (it can be described as a “driver’s license” for such products). Brazil is currently rolling out a mandatory training course for all applicators, with the intent to reach two million people by the end of 2026.
78. We focus many of our training activities on countries in which there are no such statutory certification requirements. In the past years, we have been continuously increasing our outreach. In 2023, we reached almost 5.3 million external contacts worldwide (i.e. farmers, field workers, distributors, retailers etc.). In Latin America alone, we reached almost 300,000 people last year including tens of thousands of people in Argentina, Brazil, Bolivia and Paraguay.
79. In each of the four countries mentioned in the Complaint, additional customer-facing trainings provided training on the correct disposal of empty containers is supported at scale by Campo Limpio, the industry program for empty container management of which Bayer is a founding member.
80. Further, we collaborate with the medical sector and provide physicians and poison control centers with guidance about the hazards, toxicity and treatment of crop protection product poisoning. Beyond our own training efforts, we are collaborating within the industry to further increase reach and impact. Our industry association CropLife is a key partner here, via which supported as an example the Brazilian national training and other regional training programs like CuidAgro.

(3) Personal protective equipment (PPE):

81. Both our product labels and our trainings point out the importance of using appropriate PPE to ensure safe use for the operator. Many countries follow the ILO recommendation and have labor laws in place that oblige farmers to provide their farm labor with appropriate PPE. This is also the case for the four countries in scope of the Complaint.⁴⁵ Enforcement lies within the responsibilities of the respective national authorities.

⁴⁵ Argentina: Resolutions of the Labor Secretary # 299/2011 and # 367/2014; Bolivia: Decree Law # 16,998/1979, Labor Ministry Resolution # 823/2023 and Technical Regulation of the Labor Secretary # 014/2023; Brazil: NR 06 and NR 31; Paraguay: Decree 14,390/92; Law 213/1993 (Labor Code) and Law 3742/2009.

(4) Empty Container Management

82. Around the globe, we support the safe disposal of empty crop protection product containers in many countries together with our CropLife International industry association. As a result, around 1,3 million metric tons of plastic have been collected since 2005. This partnership has also facilitated the development of environmentally friendly packaging design programs, the implementation of training courses on the proper handling of crop protection product containers for distributors and farmers, and the testing of plastic recycling options.
83. In Brazil, more than 700,000 metric tons of empty crop protection product containers have been disposed of since 2002 through the InpEV (National Institute for Processing Empty Packages) program.⁴⁶ The program currently supports the environmentally correct disposal of about 94% of primary plastic packages (those in direct contact with the product) and 80% of the total empty crop protection packages sold,⁴⁷ being the most successful program worldwide. Bayer is a founding member of InpEV, together with other industry partners. Similar container management systems have been implemented through Campo Limpio in other countries in South America⁴⁸ including Argentina, Bolivia and Paraguay.
84. At global scale, Bayer is working closely with CropLife Partners to advise governments on the implementation of container management programs for the agricultural sector. Successful programs, like the one of Brazil, all have in common that they are a multi-stakeholder approach with national policy makers and enforcement bodies, industry, farmers, dealers and communities all pull on one string.
85. Users find instructions about how to safely dispose of our products through information on their labels. Globally, our safe use trainings include the safe disposal of empty containers. In the four mentioned South American countries, dedicated trainings for the correct disposal of empty containers are conducted by Campo Limpio as an industry effort.

D. The Incidents described in the Complaint

86. Complainants put forward for each of the four countries reports about alleged incidents to support their also alleged link between Bayer's products and the supposed adverse human rights and environmental impacts. However, they state no factual evidence which indicate any involvement of Bayer's products, and the alleged incidents show no pattern which can be generalized.

1. Missing relation to Bayer's portfolio

a) No causal link to Bayer's products

87. While Complainants filed the Complaint considering Bayer's GM-soy and Glyphosate business, there are no facts stated which evidence the use of Bayer's products and provide a causal link to Bayer. At several points in the Complaint, they only suggest Bayer's link to the alleged incidents by simply referring to Bayer's market position and to the fact that Bayer's products are sold in the so called "Areas of Interest" (i.e. Province of Buenos Aires, Argentina; State of Paraná, Brazil;

⁴⁶ https://www.inpev.org.br/relatorio-sustentabilidade/2022/assets/download/inpEV-RS22_en-us.pdf

⁴⁷ <https://www.inpev.org.br/en/campo-limpo-system/about-system/>

⁴⁸ <https://croplifela.org/en/sustainability-and-development/campolimpio>, <https://www.campolimpio.org.ar/>, <https://www.facebook.com/CampoLimpioBolivia/>

Department of San Pedro, Paraguay; and Santa Cruz de la Sierra, Bolivia), which are part of the core agribusiness areas in the four countries.

88. Nowhere in the Complaint any direct link between alleged (human health or environmental) adverse impacts and Bayer's GM-seeds are put forward. When Complainants link allegations to the use of pesticide products, they do not specify which pesticide products from which companies were involved. They simply blame it generally to the use of Glyphosate-based products or just pesticides.
89. Even if the incidents were related to Glyphosate-based products, it would be unclear what products of which manufacturers were actually used. As Glyphosate is a generic product, many different manufacturers market Glyphosate-based products. The same applies to GM-soy seeds. We pointed out above (II.A.2.a) that we have no GM-soy business in Argentina and Bolivia and any allegations relating to these two countries are obviously unfounded already for this reason.
90. Moreover, even if Bayer's products were proved to be involved in isolated cases of misuse, which is not the case in the Complaint, this would not be sufficient to create a link to a potential non-compliance of Bayer with the OECD Guidelines as it will be explained below.

b) Unclear origin of health impacts

91. Complainants suggest a causal link between Glyphosate-based products (e.g. Bayer's Roundup™) to various health impacts like, cancer, headaches, diarrhea, vomiting, itching etc. This, however, is inconsistent with the safety profile of Glyphosate.

(1) Summary of the Human safety profile of Glyphosate

92. Complainants are not able to establish a causal link between the described symptoms as well as illnesses and Glyphosate-based products.
93. The clear and very consistent conclusions, based on detailed weight of evidence assessments of all the scientific literature and multiple replicate OECD Test Guideline toxicology data sets note the following: Glyphosate is not carcinogenic, not genotoxic, not teratogenic, not a reproductive toxicant, not neurotoxic and not immunotoxic.
94. Also, other acute toxic effects like dizziness, headache or vomiting are not consistent with the safety profile of Glyphosate.
95. Glyphosate-based products are the most widely used and extensively tested herbicides on the market, which is a major reason why so many farmers and others around the world continue to rely on these products not only for effective weed control, but also to minimize tillage farming practices, reduce greenhouse gas emissions, preserve more land for native habitats, and provide enough food to meet the needs of a growing population worldwide. Like all approved herbicides, Glyphosate has been subject to rigorous testing and oversight by regulatory authorities. The leading health regulators around the world have repeatedly concluded that Glyphosate-based products can be used safely as directed. Most recently, in November 2023, the EU Commission re-approved Glyphosate for 10 years,⁴⁹ following the favorable scientific assessments by its

⁴⁹https://food.ec.europa.eu/plants/pesticides/approval-active-substances-safeners-and-synergists/renewal-approval/Glyphosate_en

agencies, including the European Chemicals Agency (ECHA)⁵⁰ and European Food Safety Authority (EFSA),⁵¹ which “*did not identify any critical areas of concern.*” The U.S. Environmental Protection Agency (EPA)⁵² and the regulatory authorities in Japan,⁵³ Australia,⁵⁴ Korea,⁵⁵ Canada,⁵⁶ New Zealand,⁵⁷ and elsewhere have also recently reaffirmed that Glyphosate-based products can be used safely as directed.

96. However, despite favorable safety assessments by numerous regulatory bodies and scientific organizations worldwide, and broad farmer acceptance, Glyphosate is seen by many as controversial and we have come to recognize that there is an information gap about food production and the technologies used to produce food, including herbicides like Glyphosate. At a time when food security is threatened by external forces ranging from wars to climate change, we believe that it is important to have a fact-based conversation about effective agricultural technologies such as Glyphosate.
97. The confusion about Glyphosate and human health, specifically cancer, primarily stems from one place: an opinion issued in 2015 by the International Agency for Research on Cancer (IARC), which is part of the World Health Organization (WHO). IARC’s classification of Glyphosate as a “probable carcinogen” drew a significant amount of attention because it is an outlier. It differs from that of every regulatory agency or authoritative body that has reviewed comprehensive sets of safety data (i.e., registration studies and public literature) on Glyphosate. It should be noted that IARC’s hazard classification system does not reflect real-world exposure levels and does not rely on a comprehensive review of all relevant data, both of which are essential to assess any risk to the human population. IARC also puts everyday substances like red meat and hot beverages in the same category as Glyphosate. Moreover, every global regulatory body that has evaluated the comprehensive toxicology and human safety data for Glyphosate since the IARC decision has concluded that Glyphosate does not cause cancer.

(2) Residues in blood or urine

98. Complainants’ references to cases with reported residues of Glyphosate in blood or urine do not include concrete values, except for the case related to family members in Villa Alicia, Argentina, which provides for specific measures of urinary concentrations of Glyphosate and its metabolite AMPA.
99. The three Glyphosate urine levels reported in Villa Alicia’s case are consistent with applicator backpack spraying inhalation exposures. Rapid excretion of unchanged Glyphosate in urine is well documented, with 24-hour post application urine levels indistinguishable from background levels.⁵⁸ It is important to note that the urine levels reported in the Complaint (range of 4.10 µg/L to 10.20 µg/L) are orders of magnitude below the recently scientifically established acceptable

⁵⁰ <https://echa.europa.eu/-/Glyphosate-no-change-proposed-to-hazard-classification>

⁵¹ <https://www.efsa.europa.eu/en/news/Glyphosate-no-critical-areas-concern-data-gaps-identified>

⁵² <https://www.epa.gov/ingredients-used-pesticide-products/Glyphosate>

⁵³ https://www.jstage.jst.go.jp/article/foodsafetyfscj/4/3/4_2016014s/_article

⁵⁴ <https://www.apvma.gov.au/resources/chemicals-news/Glyphosate>

⁵⁵ https://www.rda.go.kr/board/board.do?mode=view&prgId=day_farmprmninfoEntry&dataNo=100000731828

⁵⁶ <https://www.canada.ca/en/health-canada/services/consumer-product-safety/reports-publications/pesticides-pest-management/fact-sheets-other-resources/Glyphosate.html>

⁵⁷ <https://www.epa.govt.nz/assets/Uploads/Documents/Everyday-Environment/Publications/EPA-Glyphosate-review.pdf>

⁵⁸ Pierce JS, Roberts B, Kougiaris DG, Comerford CE, Riordan AS, Keeton KA, Reamer HA, Jacobs NFB, Lotter JT (2020): Pilot study evaluating inhalation and dermal Glyphosate exposure resulting from simulated heavy residential consumer application of Roundup®. *Inhal Toxicol.* 32(8):354-367

daily intake (ADI, 0.5 mg/kg body weight/day) and acceptable operator exposure levels (AOEL, 0.1 mg/kg body weight/day) values in both EU59 and Brazil60. ADI and AOEL values are defined as the level at which the general public and applicators, respectively, may be exposed to every day without any anticipated adverse health effect. Countries like Argentina which do not set own reference values often refer to the WHO/FAO Joint Meeting of Pesticide Residues (JMPR), which also evaluated the data and had set the ADI for the sum of Glyphosate and several metabolites to 1 mg/kg bw/d.⁶¹

100. As analytical methods and tools today are very advanced, Glyphosate is widely used and well documented in urine from human biomonitoring studies, and low ambient levels in human urine are not unusual. An extensive review of human exposure data confirmed that the general public, bystanders, and pesticide applicators have measured levels of Glyphosate which do not present any concerns for human health.⁶² The low oral absorption, very low dermal absorption (up to 1% Glyphosate exposed directly to skin from formulated products), distribution, lack of metabolism, and rapid excretion all lend to high confidence in a low potential for human systemic exposures, even in drinking water or for workers in the field. The fact that Glyphosate is eliminated from the body unchanged in urine, reassures that it does not undergo any biochemical changes to interact with cells within humans, and therefore will not cause adverse health effects. Further, the Environmental Protection Agency (EPA) studied exposure to Glyphosate and concluded that current dietary, drinking-water and home-use exposures to Glyphosate do not pose a risk to human health.⁶³ The JMPR came to the same conclusion regarding residues in food.⁶⁴

(3) Limitations of case reports

101. Complainants describe several case reports of adverse health outcomes that are alleged to have been caused by exposure to pesticides. While case reports can be instructive in generating hypotheses, they do not autonomously serve as a robust body of evidence based on which causation between an exposure and an outcome can be inferred.
- Case reports, by definition, do not provide sufficient information to assess replicability of findings; a case report is essentially an observation with a sample size of one study participant.
 - Because case reports describe observations pertaining to one individual, there is no information available regarding a comparison group, or the counterfactual (i.e., what the health outcome would have been given a different exposure scenario).
 - Individual observations often lack the assessment of all factors that potentially influence the observed effect/reaction.
102. Also, there is insufficient information available in the Complaint to assess causation. Scientifically there are several concepts proposed for consideration relevant interpreting a causal relationship between an exposure and an outcome.⁶⁵ Among these considerations are strength of the association, consistency, specificity, temporality, biological gradient, and plausibility. Health outcomes described throughout the Complaint are heterogeneous within and among individuals. This reduces the ability to assess consistency of findings. For alleged acute symptoms of

⁵⁹ <https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2023.8164>

⁶⁰ e6ea1928-7ab3-4712-8b19-f9dbd3c0e46c (anvisa.gov.br)

⁶¹ https://www.fao.org/fileadmin/templates/agphome/documents/Pests_Pesticides/JMPR/2016_JMPR_Summary_Special.pdf

⁶² Solomon, K.R. (2020), Estimated exposure to Glyphosate in humans via environmental, occupational, and dietary pathways: an updated review of the scientific literature. *Pest Manag Sci.* 76:2878-2885

⁶³ <https://www.federalregister.gov/documents/2013/05/01/2013-10316/Glyphosate-pesticide-tolerances>

⁶⁴ <https://www.who.int/publications/i/item/9789240069602>

⁶⁵ Hill, A. B. (1965). The environment and disease: association or causation?

pesticide applicators and workers like headaches, diarrhea, vomiting and itching during work seasons the description of products, extent of use, extent of exposure, and onset of symptoms are all lacking and do not provide any sound basis for analysis for the various acute health outcomes.

(4) Limited applicability of scientific references in Complaint

103. The statements throughout the Complaint are accompanied by references to publications with methodological characteristics which limit the ability to infer a causal relationship. Limitations include: (i) ecological study design (e.g., no individual-level data) reduces ability to assess consistency, (ii) indirect assessment of exposure (e.g., no biological evidence of exposure was collected; exposure classifications were instead based on spatial distance from a pesticide application, pesticide application rates in a particular geographic area, or job-exposure matrices) reduces ability to assess consistency if exposure might be misclassified, and (iii) categorization of exposure (e.g., exposure classified as binary) reduces ability to assess biological gradient.

c) Environmental impacts

104. The water related environmental effects described in the Complaint are contradicted by the environmental fate profile of Glyphosate as it shows that when applied in accordance with label instructions, it: (i) has only a limited run-off potential and (ii) dissipates within short time in surface water and soil and has limited non-target plants uptake from soil. This is scientifically supported by regulatory studies that inform on the environmental fate of the molecule in the environment as discussed in the following:

- To be effective Glyphosate-based herbicides need to be applied to the foliar surfaces of plants in accordance with the directions / instructions on product labels and following good agricultural practices. Principal exposure routes to surface water for spray applied pesticides are via surface run-off, via surface soil erosion or via spray drift. Drift can be avoided using drift reducing technologies and practices which include e.g., drift-reducing nozzles that increase droplet size or avoiding applications in windy conditions (detailed instructions in the label). When Glyphosate reaches the soil surface, the fate of the molecule is driven by physical and chemical properties of the molecule. Glyphosate is classified as slightly mobile to hardly mobile in soil due to a high absorption coefficient (Koc) average <1000 L/kg⁶⁶. The Koc gives an indication of the relative level of Glyphosate binding to soil organic matter when it comes into contact with soil particulates and the level of Glyphosate dissolved in the aqueous phase. This behavior of Glyphosate in soil has been determined in a range of environmental fate studies, that includes adsorption / desorption and soil degradation studies and column leaching studies in addition to residue analysis of soil cores from soil dissipation studies and soil runoff studies that show minimal movement from soil via runoff.⁶⁷
- Degradation of Glyphosate in soils and sediment has been evaluated with a range of soil types in multiple laboratory studies using radio-labelled material, where typically at the end of the studies, levels in soil are <10% of the applied radioactivity. The time taken for levels in soil to dissipate by 50% (DT50) in multiple laboratory studies are typically <20 days with a mean DT50 of about 10 days.⁶⁸ Field studies conducted under various climatic conditions show that Glyphosate dissipates in soil with DT50 values of <5 months and typically < 35 days.⁶⁹ Regulatory and literature studies demonstrate degradation of Glyphosate in aerobic and anaerobic water sediment systems.⁷⁰

⁶⁶ Geisy, J.P., Dobson, S. & Solomon K.R., (2000) Ecotoxicological Risk Assessment for Roundup® Herbicide. Rev. Environ. Contam. Toxicol 167 : 35-120

⁶⁷ 2 Geisy JP, Dobson S, Solomon KR. (2000); Duke & Powles (2008); Thomas & Lane (1996); Brightwell & Malik (1978); Völkel (2020); Baker, et al. (2006); Todorovic, et al. (2014); Lefrancq, et al. (2017); EU dossier (2015)

⁶⁸ Burgener (1992); McGinley (1992); Schneider (1991); McLaughlin & Schanné (1996); Waring & Purser (1992). Gjetterman, et al. (2011a); Gjetterman, et al. (2011b)

⁶⁹ EPA Prelim. Risk Assessment at T.6 (2015); Glyphosate Renewal Group (2020)

⁷⁰ 5 Baker, et al. (2006); Battaglin, et al. (2005); Todorovic, et al. (2014); Lefrancq, et al. (2017)

- In terms of uptake of Glyphosate from soil into plants, there are several lines of evidence that demonstrate this to be de minimis, demonstrated in plant metabolism⁷¹ and rotational crop⁷² studies where Glyphosate was added to soil, in crop residue studies where Glyphosate containing herbicides e.g., Roundup™ was applied pre-plant or pre-plant emergence.⁷³ In addition, in non-target seedling emergence studies, where seeds from multiples species of plants were sown into soil that was then applied with herbicidal product containing Glyphosate, resulted in no germination nor seedling growth effects.⁷⁴

d) Intentional misuse, i.e. those related to socio-territorial conflicts

105. Many of the alleged incidents put forward are framed as intentional misuse of pesticides by third parties (e.g. “using pesticides as weapon against people” or other incidents which are called “socio-territorial conflicts” in the Complaint). Same applies to non-compliance with buffer zones, illegal management of empty containers, illegal occupation of land, etc. Such cases outside of compliance and good faith handling of products are beyond the manufacturers’ control and responsibility. They require reporting to and management by law enforcement authorities.
106. As already mentioned earlier, Bayer takes appropriate actions if cases of unlawful handling of our products or any other in compliant behavior were conducted by our business partners.
107. Further, it is important to point out that pursuant to Bayer’s knowledge, based on the intense due diligence to collect information about industry incidents (including media surveys, consulting with external agencies, screening of public reports, industry forums, etc.), Bayer has no indications of the alleged overall abuse of its products. Moreover, Complainants did not provide any proof of the alleged systemic abuse; they only provided references to few alleged isolated incidents per country, which in many cases are vague and difficult to verify.

2. The concrete alleged incidents put forward in the Complaint by country

a) Argentina

108. Complainants referred to three incidents that took place in different locations of the Province of Buenos Aires, Argentina, and pointed out that the situation of the people in these locations is emblematic and representative of other rural communities neighboring soybean farms in core soybean areas of Argentina.

(1) Villa Alicia, Department of Pergamino, Province of Buenos Aires

109. The first incident is related to a judicial case filed by a group of neighbors of Villa Alicia, Department of Pergamino, Province of Buenos Aires. Pursuant to Complainants, this group of neighbors of Villa Alicia suffered a series of adverse health impacts because of constant exposure to pesticides in neighboring soybean farms. Complainants also referred to certain analysis presumably conducted in the framework of the proceedings, which pursuant to Complainants detected the presence of AMPA and Glyphosate among other pesticides.
110. Bayer learnt about this case from the media and has been following the development of the proceedings closely, and through the local Agrochemical Chamber (CASAFE). However, Bayer

⁷¹ Rueppel & Suba (1973); Suba & Georgieff (1974); Malik & Brightwell (1976); Hatterman (1998); Goure, et al (1994); Mehrsheikh (2000)

⁷² Block (2012a); Block (2012b); Block (2012)

⁷³ Glyphosate Renewal Group, Fate and Behavior in the Environment, Doc. M-CA Sec. 7 (2020)

⁷⁴ Glyphosate Renewal Group, Ecotoxicology, Doc. M-CP Sec. 8 (2020)

is not part of the legal case and has no access to the criminal proceedings, which are only available for the involved parties. Therefore, Bayer has no way to verify any of the Complainants allegations regarding the scope of the claim and the tests conducted in the proceedings. However, Bayer reviewed the information provided by Complainants and based on that we elaborated the observations described below.

111. In paragraph 94 Complainants alleged that Glyphosate, AMPA and several other pesticides were detected in water, soil and vegetation samples taken from Villa Alicia neighborhood. It is also claimed that residues of Glyphosate and AMPA were found in Pergamino's soil samples. However, the references linked to these statements provide no analytical results nor do they provide information relating to the analytical methodologies used to measure Glyphosate in the various matrices and therefore cannot be verified / placed into context.
112. In paragraph 96, reference is made to a water pollution study that analyzed Glyphosate levels in water samples from 20 stream locations near Pergamino, Argentina⁷⁵. The highest detected concentration was 6.77 µg Glyphosate/L. The Complaint does not place the measured levels into context, however, the study authors emphasized that none of the samples exceeded the Canadian Council of Ministers of the Environment (CCME⁷⁶) water quality threshold level for the protection of aquatic life. These guidelines set Glyphosate thresholds of 27,000 µg/L for short-term exposure and 800 µg/L for long-term exposure. The measured Glyphosate concentrations in the Pergamino streams were 118 times lower than the lowest CCME threshold value of 800 µg/L for the protection of aquatic life from long-term exposures.
113. Concerning paragraph 97, it is claimed that on the national level (in Argentina) similar impacts to those observed in Pergamino have been documented, which includes Glyphosate and other pesticides being found in raindrops in the city of La Plata. However, the citation included in the document provides no data to support the claim.
114. Paragraph 97 also states that Glyphosate residues were found in the Paraná-Paraguay River basin in Argentina. In the cited paper (Ronco et al, 2016⁷⁷) water samples were obtained from distal positions in the principal tributaries of the Paraná and the main watercourse during surveys conducted in 2011 and 2012 to monitor the basin. Only 15 % of the water samples contained detectable concentrations of Glyphosate at an average concentration of 0.60 µg/L, while no detectable levels of AMPA were observed. These values are substantially below the previously mentioned CCME⁷⁸ Water Quality Protection of Aquatic Life threshold values of 27,000 µg/L and 800 µg/L for short- and long-term exposures.
115. Paragraph 97 of the Complaint provides that similar presence of Glyphosate and AMPA residues in surface (SW) and ground water (GW) was measured in samples from Southeast Pampas, Argentina, citing Okada (2018)⁷⁹; however, the magnitude of the reported residues was not stated

⁷⁵ Clavijo et al., (2017) Water Quality and Toxicological Impact Assessment Using the Nematode *Caenorhabditis Elegans* Bioassay in a Long-Term Intensive Agricultural Area, "Water, Air, & Soil Pollution 228. <https://link.springer.com/article/10.1007/s11270-017-3512-4>

⁷⁶ <https://ccme.ca/en/current-activities/canadian-environmental-quality-guidelines>

⁷⁷ Ronco, A.E., et al (2016) Water Quality of the Main Tributaries of the Paraná Basin: Glyphosate and AMPA in Surface Water and Bottom Sediments. Environmental Monitoring and Assessment 188, <https://link.springer.com/article/10.1007/s10661-016-5467-0>

⁷⁸ <https://ccme.ca/en/current-activities/canadian-environmental-quality-guidelines>

⁷⁹ Okada, E. et al., (2018) Non-Point Source Pollution of Glyphosate and AMPA in a Rural Basin from the Southeast Pampas, Argentina," Environmental Science and Pollution Research 25, <https://link.springer.com/article/10.1007/s11356-018-1734-7>

in the Complaint. In fact, the measured residues from this work were extremely low, with Glyphosate detected in 24% of the 81 groundwater samples at levels ranging from 0.1 to 8.5 µg/L, whilst AMPA was detected in 33% of samples at levels ranging from 0.1 to 1.9 µg/L. The Complainants did acknowledge that values of Glyphosate levels in drinking water do not exceed the Canadian Drinking Water Quality Guidelines limit of 280 µg Glyphosate/L or the US EPA maximum allowable concentration of 700 µg Glyphosate/L, which means the achieved residues were between 30 and 80 times lower than recognized thresholds. Similarly, the residue levels of Glyphosate and AMPA reported in Okada (2018) for surface water were also very low and comparable to those for groundwater. Of the 64 surface water samples analyzed, 28% gave detections of Glyphosate ranging from 0.1 to 8.2 µg/L and 50% detections of AMPA ranging from 0.1 to 3.7 µg/L.

116. Concerning paragraph 98, the claimed link between the use of Glyphosate-based products and the adverse environmental impacts suffered by inhabitants of Pergamino would appear to be unfounded based on the review of the data provided in the Complaint.

(2) Department of La Matanza, Province of Buenos Aires

117. The second incident is related to a legal case filed by a family from Nicole neighborhood, Department of La Matanza, Province of Buenos Aires for the alleged pollution of water well. Pursuant to Complainants, tests conducted in the framework of these proceedings revealed the presence of Glyphosate residues in the water well of the family.
118. Despite Bayer not being part of the legal case, we learnt about it from the media and have followed the development of the proceedings closely through CASAFE.
119. Regarding the test conducted on the water well, the Scientific Commission of CASAFE, in which Bayer has an active role, reviewed the results of the test conducted by University of Buenos Aires, which concluded that the levels of agrochemicals detected in the water well were below the threshold provided by the local regulations (i.e. Regulatory Decree #831/93 of Law #24,051). The company and CASAFE continue to follow up the proceedings, which are still open.

(3) City of Baradero, Province of Buenos Aires

120. The last incident is connected to a series of tests conducted in 2022 in the City of Baradero, Province of Buenos Aires on two girls and an adult, which detected the presence of Glyphosate and AMPA.
121. Bayer also learnt about this incident from the media and has been following the development of the news closely through CASAFE. However, pursuant to the information available in the media, the Scientific Commission of CASAFE concluded that the levels of agrochemicals detected were below the threshold provided by local authorities.

b) Paraguay

122. Complainants raised a series of allegations concerning presumably adverse effects suffered by the communities of Yeruti Ñu and Yvypé located in the Departments of San Pedro, Canindeyú and Caaguazú in Paraguay, and pointed out that the situation of these two specific communities would be representative of other peasant and indigenous communities located in the area.

123. Pursuant to Complainants, soybean farmers in the area do not respect mandatory distances and appropriate weather conditions for the use of agrochemicals jeopardizing communities' self-subsistence crops and domestic animals and affecting the health of the communities' members. Further, Complainants alleged that big soybean farmers polluted communities' water well with pesticides and empty containers.
124. Complainants also alleged severe land conflicts in the area between the native communities and the big soybean farmers, including acts of intimidation and violent disputes with members of the communities.
125. Complainants also said that due to the situation described above, members of these communities filed several complaints with local authorities. However, Complainants did not provide any detail about the result or status of the referred complaints. Complainants also referred to the case Portillo Caceres and Others vs Paraguay filed before the United Nations Human Rights Committee.
126. Bayer reviewed Complainants allegations carefully and verified that the company has no information about the situations referred by the Complainants neither regarding the communities of Yeruti Ñu and Yvypé, nor regarding any other peasant or indigenous communities located in the area.
127. In fact, Bayer has never received any formal or informal complaint or report regarding the alleged situations neither from the referred communities, nor from public authorities or third parties. Further, neither of these topics were mapped in the media surveys conducted regularly and/or were mentioned in public reports and/or in industry forums.
128. The only case Bayer was aware of because of its repercussion in local media is the Portillo Case filed before the United Nations Human Rights Committee, in which Bayer is neither a party nor are its products involved.
129. Moreover, after receiving the Complaint Bayer conducted intense research to get information about Complainants' allegations. It was not possible, however, to find any related article or reference in the media at least in the last 12 months about the Complainants' allegations. Bayer also requested information to its sales force and to Bayer's dealers with activities in the Department of San Pedro but neither of them were aware of these conflicts. Same response came from the National Agrochemical Chamber (CAFyF).
130. Further, as most of the allegations are based on interviews with community members, who are not identified in the Complaint, it is not possible for Bayer to gather more information about them.

c) Bolivia

131. Complainants raised a series of allegations concerning presumably adverse effects suffered by peasant families and indigenous people living in the area of Santa Cruz de la Sierra. Specifically, Complainants referred to the communities Portoncito and San Antonio located in the Municipalities of San José de Chiquitos, San Julián, and Cuatro Cañadas. Complainants also pointed out that the situation of these specific native communities would be representative of other peasant communities in Santa Cruz de la Sierra.

132. Pursuant to Complainants' allegations, these communities are placed very close to soybean farms, and due to the fumigations communities' self-subsistence crops are destroyed affecting their food security. Complainants also alleged that these communities have a high land dispossession risk, since they face increasing pressure to sell or lease their lands to big soybean farms. Further, they alleged that local inhabitants suffered from intoxication and other health issues due to fumigations and due to the pollution of water courses resulting from the intensive use of pesticides and the poor management of empty containers.
133. Additionally, Complainants alleged that some members of these communities were hired as fumigators by neighboring soybean farms and were not provided with safety equipment. Also, they said that Bayer failed to provide advice and safety guidelines about the correct use of its products.
134. Bayer reviewed the Complainants allegations carefully and verified that the company has no information about none of the situations referred by the Complainants neither regarding the communities of Portoncito and San Antonio, nor regarding any other peasant or indigenous community in Santa Cruz de la Sierra.
135. In effect, Bayer has never received any formal or informal complaint or report regarding the alleged issues neither from the referred communities, nor from public authorities or third parties. Further, neither of these topics were mapped in the media surveys conducted regularly, and/or were mentioned in public reports and/or in industry forums.
136. Moreover, after receiving the Complaint, Bayer conducted intense research in the media about Complainants allegations, but it was not possible to find any related article in the last 12 months. Bayer also requested information from its sales force and from Bayer's dealers with activities in Santa Cruz de la Sierra, but none of them were aware of these conflicts. The same response came from the local Association of Agricultural Providers (APIA).
137. Further, as most of the allegations are based on interviews with community members, who are not identified in the Complaint, it is not possible for Bayer to gather more information about them.

d) Brazil

138. Complainants made a series of allegations related to an extensive number of adverse impacts presumably suffered by the indigenous communities Pohã Renda, Y'Hovy, and Tekoha Ocoy located in the State of Parana. The allegations include: (i) the absence of buffer zones between the communities and soybean farms; (ii) the constant exposure of communities' members to agrochemicals with the consequent adverse health impacts; (iii) the existence of water and soil pollution with agrochemicals and empty containers; (iv) the loss of biodiversity due to the expansion of the arable land; (v) food security issues connected to the constant spaying of agrochemicals that turned family agriculture non-viable; and (ii) series of acts of intimidation and violence against local communities' members by neighboring farmers. The Complainants also alleged that the situation of these specific native communities is representative of other communities also located in the so called "Indigenous Land" within the State of Parana.
139. Bayer reviewed the Complainants allegations carefully and verified that we have no information about any of the situations referred by the Complainants neither regarding Pohã Renda, Y'Hovy,

and Tekoha Ocoy indigenous communities, nor regarding any other community in the State of Parana.

140. In effect, Bayer has never received any formal or informal complaint or report regarding the alleged issues neither from the referred communities, nor from public authorities or third parties. Further, neither of these topics were mapped in the media surveys conducted on regular basis, and/or were mentioned in public reports and/or in industry forums.
141. Moreover, after receiving the Complaint, Bayer conducted a intense research in the media to get information about Complainants allegations, but it was not possible to find any related article in the last 12 months. Bayer also requested information to its sales force and to Bayer's dealers with activities in the State of Paraná and none of them was aware of these conflicts. Same response came from CropLife Brazil and Brazilian Association of Agribusiness (ABAG).
142. Further, most of the allegations are based on interviews of community members, who are not identified in the Complaint. It is not possible for us to gather more information about them or the allegations in this respect.
143. Regarding the two scientific reports invoked by Complainants about water and soil pollution (i.e. report from Larissa Mies Bombardi and Flavio Zambrone), those reports were analyzed by Bayer at the time they were released and dismissed based on their lack of scientific accuracy.

3. No pattern and no tip of the iceberg

144. Bayer conducted an intensive media research and consulted other sources like our local sales force, dealer's network, and industry Associations and we were not able to identify any support or prove for the Complainants' attempted to frame the isolated (and as shown inconsistent) alleged incidents they put forward as a pattern or "tip of the iceberg". On the contrary, based on the information available to Bayer, we have no elements to conclude that there is systemic misuse of agrochemical products in Argentina, Brazil, Bolivia or Paraguay.
145. In effect, considering the amount of farmers registered in each of the countries (250,000 in Argentina; 250,000 in Paraguay; 12,000 in Bolivia; 5,000,000 in Brazil), and the extension of the arable land in each of the four countries (Argentina: 1,500 km from north to south, 800 km from east to west; Paraguay: 1,000 km from north to south and 400 km from east to west; Bolivia: 800 km from north to south and 1000 km from east to west; Brazil: 2,700 km from north to south and 2,500 km from east to west), it is not reasonable to conclude that the reduced number of incidents that came to the attention of Bayer during the last decades – even considering the limited alleged incidents identified by the Complainants – is representative of the reality of the agribusiness in these four countries and/ or in South America region.

E. Intensified Agriculture and Deforestation

146. Arable land is a limited resource, and there is strong competition between anthropogenic land use like farming and preservation of natural habitats like pristine forests to the need to produce enough food leads to pressure to convert land into arable land. This land conversion, which can lead to deforestation, happens both illegally and fully legally as the case may be.

147. The expansion of soybean and corn production in South America was facilitated by new crop varieties and biotechnology. These technologies helped meet global food demand without causing even higher deforestation rates.⁸⁰
148. To exemplify how complex this topic is, in the past decade, deforestation for agriculture in Brazil followed a fluctuating trajectory. It initially slowed significantly after the 'soybean moratorium' and the introduction of the forest code. However, it later accelerated before recently reversing course due to enhanced enforcement of forest protection laws.⁸¹
149. Bayer vehemently opposes illegal deforestation and advocates for heightened public enforcement to end it.⁸² Our global focus is on scaling regenerative agriculture, prioritizing soil health, climate change mitigation, biodiversity, water optimization, and enhancing farmers and community well-being. In South America, our ProCarbono programs exemplify this commitment by promoting low-carbon agriculture and striving for zero deforestation, both legal and illegal. Furthermore, in our seed supply chain, we do not clear rainforests for farming and support our upstream partners in pursuing net-zero deforestation.⁸³

1. Illegal Deforestation

150. While deforestation has a detrimental effect to biodiversity and climate, in the context of this complaint, there is a need to distinguish illegal and legal deforestation. Conversion of land is governed by applicable laws and regulations and, if illegal, within the competencies of law enforcement authorities.
151. Complainants link Bayer to illegal deforestation and try to establish a connection between Bayer and alleged third party agricultural activities in South America, which Complainants make responsible for such deforestation. Bayer condemns and does not support any illegal practices, and if we become aware of illegal practices of our business partners, we appropriately follow-up and take suitable actions.

2. Intensification of Land Use protects the Rainforest and Biodiversity

152. Complainants wrongly attribute our products to foster deforestation. After the rapid expansion of agriculture in the region, today, it is rather the opposite: intensification of land use enabled by modern agriculture (including Bayer's GM-soybean seeds or Glyphosate-based products) decreases the pressure to have more arable land for the need to increase food production. Any decreased pressure to have more arable land also minimizes the pressure to have land conversion and (legal or illegal) deforestation. Preservation of rainforest preserves biodiversity.
153. Species and thus biodiversity rely strongly on availability of suitable habitats. Indeed, during an assessment of >2,500 species of vertebrates, plants, and insects across five continents, most species have been found to decline under farming.⁸⁴ Therefore, they would fare least badly under a land-sparing approach, where natural habitats are protected while farm yields are improved on

⁸⁰ https://biotec-latam.com/bibliografia/5_CIB_Agroconsult_2018_20_years_of_GMOs-environmental_economic_and_social_benefits_in_Brazil.pdf

⁸¹ <https://research.wri.org/gfr/latest-analysis-deforestation-trends>

⁸² <https://iba.org/eng/business-sector-demands-action-from-the-brazilian-government-on-the-sustainability-agenda>

⁸³ Bayer supports the 'Glasgow Leaders Declaration on Forests and Land Use [https://www.unccd.int/news-stories/statements/glasgow-leaders-declaration-forests-and-land-use] from 2021.

⁸⁴ <https://zslpublications.onlinelibrary.wiley.com/doi/full/10.1111/jzo.12920>

the existing agricultural lands. Consequently, the Global Biodiversity Framework considers besides conservation of natural habitats (Targets 1 and 3) sustainable intensification of agriculture among its major targets (e.g. Target 10).⁸⁵

3. Bayer's ProCarbono Programs

154. With Bayer's ProCarbono programs, Bayer takes voluntary actions to strive for environmental benefits within the farmers' downstream value chain. In addition, the ProCarbono programs fight illegal and legal deforestation by establishing traceability requirements for commodities like soybeans in the farmers' downstream value chain, which means that there has to be a consistent chain of evidence that soybean commodities originate from farmland which is not subject of deforestation. The approach is to simultaneously meet joint goals for climate, nature, and food security, and provide a basis and the tools to enable sustainable intensification. Key is to connect carbon footprint (aiming towards reducing greenhouse gas emissions and sequestering carbon) as well as traceability and deforestation-free production fields in a broader regenerative agriculture effort.
155. Major efforts on ProCarbono programs take place in a comparatively dynamic market landscape in South America, with focus on Brazil and Argentina; and we also considering extension to other countries of the region, including Paraguay.
156. In 2023, Bayer implemented its ProCarbono Commodities Program in Brazil and extended it to Argentina in 2024 reaching around 1,250,000 hectares with measured carbon footprint and assured deforestation-free traceability.⁸⁶ Participating soybean growers register carbon emissions that are 70% lower than the national average in Brazil and 80% lower than the global average per ton of soybeans produced.

4. Bayer aims for net-zero deforestation in its supply chain

157. Bayer aims for net-zero deforestation in its supply chain – and demands from our licensees to do the same.⁸⁷ As the most prominent example, we expect full compliance with the Brazilian Forest Code in our production fields. We are committed to using Bayer's expertise and technologies to support Brazil's goal of restoring 12 million hectares of native forest by 2030. As of 2022, we were able to apply and monitor 15 socio-environmental assessment parameters to the commercial soybean and corn seed supply chain. This monitoring covers 100% of our Agroeste soybean seed production area (Bayer direct brand) and 50% of our own corn seed production. In our pursuit of sustainable upstream value chains, we are intensifying our focus on forest risk-related products and actions. Our commitment extends to promoting sustainable production, transparency, traceability, and certification within our upstream operations.
158. Further, in the case of Argentina, Bayer's production sites are 100% certified under IRAM 14.130 Standard, which certifies that our seed production activities are conducted in a safe, standardized, and responsible way.

⁸⁵ <https://www.cbd.int/doc/c/e6d3/cd1d/daf663719a03902a9b116c34/cop-15-l-25-en.pdf>

⁸⁶ See also: <https://news.agropages.com/News/NewsDetail---46611.htm>

⁸⁷ Learn more about our commitment to sustainable procurement (<https://www.bayer.com/en/procurement/our-approach> & https://www.bayer.com/sites/default/files/supplier-code-of-conduct-english_1.pdf)

III. No violation of the OECD MNE Guidelines

A. Complaint does not merit further assessment

159. Bayer values the work of the OECD and the NCPs, recognizes the Guidelines and adheres to them while conducting business globally. Bayer also takes all indications of potential adverse human rights and environmental impacts very seriously and follows-up appropriately. In the present case, however, the Complainants do neither plausibly substantiate any adverse impacts nor any form of Bayer's alleged non-compliance with the Guidelines.
160. In particular, based on the information that we received from the Complainants, it is unclear how Bayer and Bayer's products have caused or contributed to the alleged adverse impacts or are directly linked to them. However, as this NCP itself pointed out in 2015 in *NGO vs. Company* in the field of communication technologies, plausibly demonstrating that a causation, contribution or direct link exists is necessary to accept a complaint for further assessment. We kindly ask the NCP to apply the same principles to the present Complaint.
161. According to Q29 of the OECD Due Diligence Guidance,⁸⁸ an enterprise "causes" an adverse impact if its activities on their own are sufficient to result in the adverse impact. An enterprise "contributes to" an impact if its activities, in combination with the activities of other entities cause the impact, or if the activities of the enterprise cause, facilitate or incentivize another entity to cause an adverse impact. Contribution must be substantial, meaning that it does not include minor or trivial contributions. Direct linkage is defined by the relationship between the adverse impact and the enterprise's products, services or operations through another entity (i.e. business relationship). I.e. even if a company does not cause or contribute to an adverse human rights and environmental impact, a direct link can exist if its products are involved in the adverse human rights or environmental impact.
162. However, as we will elaborate in the following, the Complaint does not show that any of the above requirements are fulfilled in the present case. Causation does not exist – and is also not raised by the Complainants. The production and distribution of Bayer's Glyphosate-based products and the GM-soy as well as Bayer's overall business are not in themselves sufficient to cause the alleged adverse human rights and environmental impacts.
163. Contrary to what the complainants claim, there is also no contribution from Bayer or Bayer's Glyphosate-based products and GM-soy to the alleged adverse human rights and environmental impacts. First, contrary to the information provided in the Complaint, Bayer does not have a GM-soy business in Argentina anymore and never had a GM-soy business in Bolivia (1.b)(1)); so that Bayer's GM-soy business cannot be involved in the alleged adverse human rights and environmental impacts in these countries. Similarly, a strong market position – insofar as it exists – is not in itself sufficient to show that Bayer's products have actually been involved in the adverse human rights and environmental impacts. Moreover, as explained in detail under II.D.1, above, the alleged impacts on health and the environment claimed by the Complainants do not

⁸⁸ OECD Due Diligence Guidance: <https://mneguidelines.oecd.org/due-diligence-guidance-for-responsible-business-conduct.htm> ("Guidance")

correspond to the risk profile of Glyphosate. The same applies to the socio-territorial conflicts addressed by the Complainants. Even if these conflicts existed, they are not triggered by or associated with Bayer's products. In addition, it would be primarily the competence and responsibility of the relevant states to address such conflicts (1.b)(2) and 1.c)).

164. For the same reasons, a direct link between Bayer's products and the alleged human rights and environmental impacts cannot be established. The information provided by the Complainants is neither suitable to plausibly demonstrate that Bayer's products were at all involved in the described limited alleged incidents, nor that Bayer's products can contribute to the alleged adverse human rights and environmental impacts if they are used according to label instructions. Incidents based on intentional misuse of Bayer's products were neither foreseeable for Bayer in the past nor at the present time, so that it could not or cannot trigger any due diligence obligations in accordance with the Guidelines. Chapter II, commentary 20 of the Guidelines explicitly states that companies shall "take into account known or reasonably foreseeable circumstances related to the use of the product or service in accordance with its intended purpose, or under conditions of reasonably foreseeable improper use or misuse". However, several of the alleged adverse human rights and environmental impacts described by the Complainants, are – if at all – caused by a deliberate misuse of Bayer's products that was not foreseeable for Bayer.
165. Furthermore, the Complainants' allegations claiming that Bayer – by distributing its products – contributed or will contribute to deforestation in the future are not accurate. First, Bayer vehemently condemns all forms of illegal deforestation and does to no extent incentivize or foster illegal deforestation. Bayer neither contributes to illegal deforestation nor is it directly linked to such. If Bayer becomes aware of any incidents of illegal deforestation, it investigates such cases thoroughly and takes appropriate actions. Secondly, even if one assumes a direct link to legal deforestation, Bayer demonstrates above that it has appropriate measures in place to address deforestation, in particular through its ProCarbano Programs. Hereby, Bayer fulfils its due diligence obligations under the Guidelines.
166. Lastly, as set out in detail under III.B, Bayer acts in the spirit of the Guidelines and follows the due diligence obligations set out there in which ultimately also leads to the fact that this Complaint is unsubstantiated and not suitable for further assessment by the NCP. However, we invite Complainants to start a dialogue, unconstrained by the formalities of the NCP procedure, with us to better understand their position and to see how we can support them with our activities, as we perceive such a dialogue as best platform to setting up a meaningful stakeholder engagement.

In detail:

1. Bayer is neither contributing to nor directly linked to alleged adverse impacts

167. Bayer fully respects and supports the right of all stakeholders to engage with the NCP and other institutions and to initiate proceedings if facts arise which indicate that potential adverse human rights and environmental impacts have occurred or that companies are not compliant with the

Guidelines. However, the Guidelines and the related practice by NCPs also show that certain minimum requirements need to be fulfilled for a complaint to be admitted for further assessment.⁸⁹

168. After carefully reviewing the information provided by the Complainants and conducting own investigations on the alleged adverse human rights and environmental impacts referred to in the Complaint (e.g. by conducting targeted survey in media and intensifying the already close dialogue with the industry chambers, our sales force and dealers on the ground in the four countries), we concluded that Bayer, Bayer's Glyphosate and our GM-soy business neither contributed to, nor are directly linked to the alleged adverse impacts. We therefore kindly ask the NCP to not continue the proceedings initiated by the Complainants. Irrespectively, Bayer would welcome to continue the dialogue with the Complainants outside of the formal NCP proceedings.
169. In this sense, the Procedural Guidelines of the German NCP⁹⁰ determine that for a complaint to be accepted for further assessment, the complainant must at least plausibly demonstrate that a direct link exists between the responding party's business and the issues raised in the complaint.⁹¹ This is also confirmed by the OECD's Guide for National Contact Points on the Initial Assessment of Specific Instance, which sets out the criteria for the NCP to determine whether a complaint is admissible for decision or not and on which the Procedural Guidelines of the German NCP are based.⁹² As we will elaborate in more detail below, this requirement is not fulfilled by the Complainants.
170. But even if there was a direct link, this would not automatically suffice to accept the complaint for decision as the German NCP itself held in 2015. In *NGO vs. Company* in the field of communication technologies, the German NCP explicitly stated that "*the NCP takes the view that not every potential causal contribution to a human rights violation should be seen as a direct link as defined in Chapter IV, Human Rights, paragraph 3, of the OECD Guidelines. Whether or not a "direct" link has been made must be assessed and decided upon on a case-by-case basis.*" Against this background, the German NCP decided that the complaint could not be accepted for further consideration, i.e. the complaint was inadmissible.
171. In our view the same considerations apply in the present case, and we therefore ask the NCP to apply these principles to the present Complaint for the following reasons:

a) General principles

172. Chapter II, section A. 12 and A. 13 of the Guidelines provide for the following general policies:

"Enterprises should: [...]"

⁸⁹ Cf. in particular the Procedural Guidelines of the German National Contact Point for the OECD Guidelines for Multinational Enterprises on responsible Business Conduct at the Federal Ministry for Economic Affairs and Climate Action, 1 January 2024; available under <https://www.bmwk.de/Redaktion/EN/Dossier/Aussenwirtschaft/Nationale-Kontaktselle-NKS/nks-aktuelles-und-termine.html> ("**Procedural Guidelines of the German NCP**"); and OECD, Guide for National Contact Points on the Initial Assessment of Specific Instance, 2019, available under <https://mneguidelines.oecd.org/Guide-for-National-Contact-Points-on-the-Initial-Assessment-of-Specific-Instances.pdf>. See in particular para. 44: "*Where a company did not cause or contribute to a negative effect itself, there may nevertheless be a relationship because the negative effect is **directly linked** to the company's operations, products or services through a business relationship.*"

12. Avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur, including through providing for or co-operating in the remediation of adverse impacts.

13. Seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship. This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship." (emphasis added)

173. Chapter II, commentary 16 of the Guidelines confirms that "[t]he Guidelines concern those adverse impacts that are either caused or contributed to by the enterprise, or are directly linked to their operations, products or services by a business relationship, as described in paragraphs A.12 and A.13." (emphasis added)

174. Based on the information available to Bayer and the outcome of intense research by Bayer, we did not find information confirming the allegations made by the Complainants. In particular, we are not aware of any information that plausibly confirms that Bayer contributed to the alleged adverse human rights and environmental impacts (III.A.1.b) or that Bayer's business is to any extent directly linked to the alleged impacts.

b) Bayer has not contributed to the alleged adverse human rights and environmental impacts and it is not directly linked to them

175. The Complainants argue that Bayer contributed to the alleged adverse human rights and environmental impacts.⁹³ However, based on the information available to Bayer, this is not the case.

176. When analyzing whether Bayer contributed to the alleged adverse human rights and environmental impacts, we relied on the directions on how to determine whether a company contributed to an adverse impact as provided in the Guidance. Q29 of the Guidance determines the following:

"An enterprise "contributes to" an impact if its activities, in combination with the activities of other entities cause the impact, or if the activities of the enterprise cause, facilitate or incentivise another entity to cause an adverse impact. Contribution must be substantial, meaning that it does not include minor or trivial contributions. The substantial nature of the contribution and understanding when the actions of the enterprise may have caused, facilitated or incentivised another entity to cause an adverse impact may involve the consideration of multiple factors. The following factors can be taken into account:

- *the extent to which an enterprise may encourage or motivate an adverse impact by another entity, i.e. the degree to which the activity increased the risk of the impact occurring.*
- *the extent to which an enterprise could or should have known about the adverse impact or potential for adverse impact, i.e. the degree of foreseeability.*
- *the degree to which any of the enterprise's activities actually mitigated the adverse impact or decreased the risk of the impact occurring.*

⁹³ Complaint, paras. 240 et seq.

The mere existence of a business relationship or activities which create the general conditions in which it is possible for adverse impacts to occur does not necessarily represent a relationship of contribution. The activity in question should substantially increase the risk of adverse impact." (emphasis added)

177. Since there is no causation and contribution of Bayer and its products to the alleged adverse human rights and environmental impacts (as will be shown in more detail hereafter), the only other trigger for downstream due diligence obligations would be a direct link. According to the Guidance, "[direct] linkage is defined by the relationship between the adverse impact and the enterprise's products, services or operations through another entity (i.e. business relationship)."⁹⁴ To illustrate a situation under which a direct linkage exists, the Guidance provides for the following example:

*"For example, if an enterprise sources cobalt mined using child labour which is then used in its products the enterprise can be directly linked to the adverse impact (i.e. child labour). In this case, the enterprise did not cause or contribute to the adverse impact itself, but nevertheless there still can be a direct link between the enterprise's products and the adverse impact through its business relationships with the entities involved in its sourcing of the cobalt (i.e. with the smelter, minerals trader, and mining enterprise using child labour)."*⁹⁵

178. However, such a direct link does not exist in the present case. As explained in detail, the Complainants may not even demonstrate that Bayer's products are involved in the adverse impacts described in the Complaint (see under II.D, above).
179. Based on the information we received these requirements are not fulfilled in the cases referred to in the Complaint.
180. In particular, the Complainants' attempt to base their argumentation primarily on the fact that Bayer has a strong market presence in the relevant regions is not sufficient. However, even though Bayer is very active on the markets of these four countries, it does not have a market presence with regard to GM-soy business in Argentina anymore and never had in Bolivia. Where Bayer has a strong market position, this can in some cases include a business relationship with farmers. However, the mere business relationship does not also automatically include a causation or contribution to violations of the Guidelines and neither it establishes a direct link with such violations. Rather, the direct link that the Complainants are trying to establish is of a purely hypothetical nature (III.A.1.b)(2)). Besides the fact that Bayer does not even have a GM-soy business in Argentina and Bolivia (III.A.1.b)(1)) this is also confirmed by the observation that the adverse impacts alleged by the Complainants do not match the risk profile of Bayer's Glyphosate-based products and GM-soy (III.A.1.b)(3)).

(1) No GM-soy business in Argentina and Bolivia

181. As already explained under II.A.2.a), above, and contrary to the information provided by the Complainants, Bayer does no longer have any GM-soy business in Argentina and never had one in Bolivia. This shows that the mere allegation of a market presence is not sufficient to conduct

⁹⁴ Guidance, p. 71

⁹⁵ Guidance, p. 71

NCP proceedings because this allegation is – in its entirety – not true and does moreover not suffice to establish a causation, contribution or direct link.

182. In the case of Bolivia, so far Bayer was not able to identify a viable business case for GM-soy. Consequently, Bayer never had a GM-soy business in the country. In fact, Bayer has never filed a dossier with the local regulatory agency for the approval of any biotechnology in soybeans. Indeed, the only biotechnology approved in Bolivia so far is Roundup Ready 1 (RR1), whose approval was made de facto by the Bolivian authorities in 2005, without any intervention by Bayer. Moreover, even after the referred approval, Bayer has not sold GM-soy, and Bayer has not collected royalties for the use of RR1 technology in Bolivia.
183. Moreover, Bayer does not have any GM-soy business in Argentina anymore. Bayer suspended its GM-soy business (INTACTA RR2 PRO[®] technology) in Argentina already in July 2021 for business reasons. From that date, Bayer halted its sales of GM-soybean seeds and stopped the collection of royalties for the use of INTACTA RR2 PRO[®] technology. Further, on the referred date, Bayer triggered the early termination of the commercial licenses executed with seed companies, whose last sales of soybean seed containing INTACTA RR2 PRO[®] technology occurred in December 2022. As regards RR1 soybean, Bayer stopped its business in the early 2000's and never collected royalties in Argentina for the use of its RR1 technology, which is currently off-patent. Therefore, at present Bayer has no GM-soy business in Argentina.
184. Against this background it is obvious that there cannot be any direct link between Bayer's GM-soy business and the alleged adverse human rights and environmental impacts in these countries.

(2) Market-position per se does not lead to adverse impacts

185. Further, the Complainants argue that Bayer's "dominant market position in the transgenic soy seed sector in the four countries and a relevant market share of Glyphosate-based pesticides"⁹⁶ is sufficient to fulfil the requirements for "contribution" as defined in the Guidelines and the Guidance. Even where Bayer has a strong market position, this alone does not imply that Bayer's business is in any kind linked to the alleged incidents.

(3) No facts that Bayer's products were used in the context of alleged incidents

186. The information provided to us does not substantiate that Bayer's products contributed to the adverse impacts referred to in the Complaint or are directly linked to them. The Complainants therefore do not even argue that this is the case but they merely state that "*[i]n sum, Bayer's strong market position and the design of its business operations make it a very powerful actor in the downstream production and distribution value chain that strongly encourages and fosters the widespread cultivation of its transgenic soy seeds including the necessary treatment of plants with Glyphosate-based products.*"⁹⁷
187. Further, in the few cases in which the Complainants provide more details on the factual circumstances of the alleged adverse human rights and environmental impacts, the facts provided by the Complainants are also not sufficient to plausibly demonstrate that Bayer's products were at all used in the context of the alleged adverse human rights and environmental impacts, much

⁹⁶ Complaint, para 243

⁹⁷ Complaint, para 245

less that there is a systemic misuse of Bayer's products. Even if Bayer is present on the market with its products in the relevant areas, this does not mean that Bayer's products are in any way directly linked to the alleged incidents. The Complainants themselves acknowledge that other companies also have a significant market share in the GM-soy business in the four countries and distribute their products in the relevant areas in which the alleged adverse impacts have been identified.

(4) Improperly disposed pesticide containers are not related to Bayer

188. The Complainants' statements regarding improperly disposed pesticides containers, from which a connection to Bayer's products is supposed to arise, are also not convincing. The Complainants argue that empty pesticide containers were found in soy fields or roadsides etc., i.e. the containers were not disposed of properly. However, not even the Complainants claim that these were containers of Bayer products. Rather the Complainants merely state that "pesticide containers" were found. As Bayer's products are not the only products sold and used in the relevant areas, the fact that "pesticide containers" have been found does not plausibly explain how Bayer and Bayer's products respectively contributed to the alleged adverse human rights and environmental impacts.

(5) Pesticide container disposal highly regulated

189. In any event, we would like to emphasize that pesticide container disposal is highly regulated in all four countries and that Bayer is highly engaged in offering systems allowing environmental-friendly disposal. As already described in detail under II.C.3.b)(4), we support the safe disposal of empty crop protection product containers in many countries around the globe together with our CropLife International Industry Association. As part of this partnership, the development of environmentally friendly packaging design programs has been facilitated as well as the implementation of training courses on the proper handling of crop protection product containers for distributors and farmers, and the testing of plastic recycling options. For example, in Brazil, more than 700,000 metric tons of empty crop protection product containers have been disposed of since 2002 through the InpEV (National Institute for Processing Empty Packages) program⁹⁸. The program currently supports the environmentally correct disposal of about 94% of primary plastic packages (those in direct contact with the product) and 80% of the total empty crop protection packages sold⁹⁹, being the most successful program worldwide. Bayer is a founding member of InpEV, together with other industry partners. Similar container management systems have been implemented through Campo Limpio in other countries in South America¹⁰⁰ including, among others, Argentina, Bolivia and Paraguay.

190. Moreover, even if it had been a misuse of Bayer's products or an improper disposal of containers from Bayer's products, this would not be sufficient to create a direct link to a potential non-compliance of Bayer with the Guidelines, mostly considering that there is no indication at all of a systemic misuse in any of the countries. As set out in detail above, the health (II.D.1.b)) and

⁹⁸ https://www.inpev.org.br/relatorio-sustentabilidade/2022/assets/download/inpEV-RS22_en-us.pdf

⁹⁹ <https://www.inpev.org.br/en/campo-limpo-system/about-system/>

¹⁰⁰ <https://croplifela.org/en/sustainability-and-development/campolimpio>,
<https://www.facebook.com/CampoLimpioBolivia/>

<https://www.campolimpio.org.ar/>,

environmental (II.D.1.c)) impacts Complainants describe and link to Glyphosate-based products are inconsistent with the safety profile of Glyphosate.

(6) Bayer complies with all safety due diligence requirements

191. In addition, as already explained in detail under I.C.3, above, Bayer complies with all safety due diligence requirements of products in the downstream market. The approval and placing on the market of pesticides is subject to strict regulatory frameworks in all relevant jurisdictions. Thus, Bayer is legally required to meet the applicable approval criteria and must take the necessary measures to ensure that farmers are well-informed about the proper use of its products. Bayer complies with all these requirements as confirmed by their product approvals and monitored by the competent authorities. In addition to that, Bayer has put in place stewardship measures according to state-of-the-art standards (see II.C.3, above), to educate and train customers to use Bayer's products in compliance with the applicable law and to prevent misuse. Just to emphasize one aspect of Bayer's stewardship program: through targeted training courses, Bayer shows distributors, farmers and other users how to use its products both effectively and safely. The training courses cover a broad range of aspects for the effective and safe handling of our products during use, transport, storage and disposal. Key topics which are also included on the product label include operator safety, drift management and water protection measures, e.g., by maintaining buffer strips and information to not spray in windy conditions. With all of these measures, Bayer adheres to the highest industry standards and invests a lot of resources in an efficient incident management system.

(7) Bayer has not received any information on alleged incidents

192. Further, Bayer can be informed through its Speak-up channel, product-related hotlines or other sources. This has not happened and thus we have not obtained knowledge of the specific alleged incidents described by Complainants.

(8) Interim conclusion

193. Consequently, the information brought forward by the Complainants is not sufficient to demonstrate that the adverse human rights and environmental impacts are directly linked to Bayer's Glyphosate-based products and/or GM-soy business. Even in cases where the possible direct link was much more obvious, the NCP in the past rejected a contribution or a direct link due to a lack of solid evidence. In this context we would like to draw the NCP's attention to *Lawyers for Palestinian Human Rights vs. J.C. Bamford Ltd* which was filed before the UK NCP in 2019. On 10 December 2019, the UK legal organization Lawyers for Palestinian Human Rights ("LPHR") filed a specific instance against J.C. Bamford Excavators Limited ("JCB") at the UK NCP. The complaint related to the proven use of JCB's products and construction machinery in the demolition of Palestinian property and settlement-related construction in the occupied West Bank, including East Jerusalem. While the UK NCP agreed with LPHR that JCB had sold its products to a company called "Comasco", which was the exclusive distributor of JCB's products in Israel,

the NCP disagreed with the assumption that this was sufficient evidence to assume a direct link between JCB's products and the adverse human rights impacts.¹⁰¹ The UK NCP held:

*"The UK NCP understands that Comasco could have sold JCB products to third parties, individuals, small dealers, construction companies, or the Israeli Government (or its public authorities). The JCB products being used to demolish Palestinian properties in the OPT may be owned by those who have commissioned the demolition, be on hire, or be equipment owned by contractors employed to do the work. This creates a complex web of supply chain which goes beyond the business relationship between JCB and Comasco. [...] The UK NCP cannot verify whether the JCB products used in demolition as depicted in photographs and videos were directly bought from Comasco, unless a clear business relationship can be evidenced between Comasco and those operating JCB products in the OPT to demolish Palestinian properties. [...] The complex web of supply chain, and the nature of the business relationship between JCB and Comasco, as indicated above, means that JCB does not have any leverage over suppliers and customers beyond the first tier of its business relationship with Comasco. The UK NCP cannot decisively establish the source of the JCB products used in the alleged adverse human rights impacts; therefore, has not found that JCB can influence those who sold the products to those committing the alleged human rights impacts in the Occupied Palestinian Territories."*¹⁰²

194. Against this background, we kindly ask the German NCP to consider the principles set out by the UK NCP and apply them to this Complaint. Our main consideration in this context is that if the direct link is denied in a situation in which it is clear that the products of a company are used for adverse human rights impacts, but it cannot be determined how the end users obtained these products, then this should also apply *a fortiori* in the present situation. In the case at hand, the Complainants can neither substantiate that the adverse human rights impacts were actually caused by Bayer's products, nor that the users of these products have ever used Bayer's products or from whom they purchased these products. The argument that Bayer has a strong market position in the affected area is not sufficient. This is even more true against the background that there is no scientific evidence available that Bayer's products can cause the adverse human rights and environmental impacts described by the Complainants.
195. The type of health impacts described by the Complainants does also not allow the conclusion to be drawn that these were caused by Glyphosate-. The nature of the health issues described by the Complainants do not match the safety profile of Glyphosate.
196. Further, as already demonstrated under II.D.1.c) above, the environmental fate profile of Glyphosate shows that it has only limited run-off potential, dissipates within short time in surface water and has limited non-target plants uptake from soil. Consequently, the (environmental) effects described in the Complaint do not match the risk profile of Glyphosate-
197. Lastly, the Complainants do not provide any substantiation that there exists a systemic misuse of our Glyphosate-based products in neither of the four countries. On the contrary, Complainants only provide very few examples of alleged incidents, which in many cases are based on vague references impossible for us to verify.

¹⁰¹ The fact that the UK NCP continued the proceedings and issued a final statement and eventually held that JCB was not fully compliant with the Guidelines was not based on the use of JCB's products. This aspect was not part of the further assessment. Rather the NCP referred to a different topic, namely the lack of a proper human rights due diligence process and a policy commitment to respect human rights.

¹⁰² UK NCP, *Lawyers for Palestinian Human Rights vs. J.C. Bamford Ltd*, Final Statement, 12 November 2021, p. 11.

c) Bayer's products do not cause the alleged socio-territorial conflicts and violations of the right to land and the right to food

198. The Complainants' accusations that Bayer contributes to socio-territorial conflicts are unfounded and lack any substantiation. It is unclear to us to what extent the fact that Bayer produces and commercializes GM-soybean seeds and traits and Glyphosate-based products should contribute or be directly linked to the conflicts described by the Complainants. It is legal to manufacture, sell, purchase and use these products in all relevant countries. Bayer complies with all regulatory requirements. As described in detail under II.B, above, in particular the existence and use of GM-soy is essential to limit food inflation and combat the global food crisis. Should the conflicts described by the Complainants arise in this form, it is primarily the responsibility of the governments of the respective countries to address them appropriately and create the necessary legal framework to prevent or remedy these conflicts. It is one of the guiding principles of the Guidelines (Chapter IV) that states have the duty to protect human rights while enterprises should respect human rights. In this respect, it is not within the power and remit of companies like Bayer – which adhere strictly to the legal framework – to intervene in such conflicts. In doing so, the companies would rather overstep their authority vis-à-vis the sovereign states in which they operate.

d) Unforeseeable misuse does not trigger due diligence obligations

199. Further, there is no direct link between Bayer's business and the alleged abuse of its products.
200. First, the information provided by the Complainants and assessed by us is not sufficient to substantiate that a misuse of Bayer's products even took place, much less than a systemic misuse of Bayer's products exists. Rather there are no factual indications that the misuse claimed by the Complainants exists. As laid out in detail under II.C.3.b)(1), above, Bayer conducts a thorough due diligence to collect information about industry incidents and carried out an active search for reliable incidents including media surveys, consulting with external agencies, screening of public reports, etc. However, to date – i.e. before and after the Complaint was filed – Bayer has not received any indications that the alleged overall abuse of its products and/or other Glyphosate-based products took place in neither of the four countries mentioned in the Complaint.
201. Moreover, the isolated alleged incidents cannot be directly linked (in the meaning of the Guidelines) to Bayer.
202. Chapter II, commentary 20 of the Guidelines explicitly states that "[r]isk-based due diligence related to an enterprise's products or services should take into account known or reasonably foreseeable circumstances related to the use of the product or service in accordance with its intended purpose, or under conditions of reasonably foreseeable improper use or misuse, which may give rise to adverse impacts. Specific recommendations for due diligence related to specific issues are provided in the relevant chapters." (emphasis added)
203. The information provided by the Complainants does not show that either of the above-mentioned requirements are met. To the contrary, as already outlined under II.D.1.b)(1), the leading health regulators around the world have repeatedly concluded that Glyphosate-based products can be used safely as directed. In addition to this and as outlined in detail under I.D, above, Bayer fulfils all applicable product-related and safety-related regulatory requirements, including requirements on the proper labelling of products. Further, Bayer provides training for its end-users in which

Bayer demonstrates how the Glyphosate-based products shall be used in order to avoid any harm for the health and safety of the users.

2. Deforestation

204. Bayer is aware of the fact that deforestation exists and acknowledges that deforestation constitutes a serious problem. However, the situation surrounding deforestation is far more complex than presented by the Complainants. As already described under **Error! Reference source not found.**, above, a clear distinction must be made between illegal and legal deforestation – the Complainants, however, do not make this distinction.

a) Illegal deforestation

205. Bayer vehemently opposes illegal deforestation and advocates for heightened public enforcement to end it. Our global focus is on scaling regenerative agriculture, prioritizing soil health, climate change mitigation, biodiversity, water optimization, and enhancing farmers and community well-being. The conversion of land if governed by applicable laws and regulations and, if illegal, within the competencies of law enforcement authorities.

206. Contrary to the Complainant's allegations, neither Bayer nor its Glyphosate-based products or GM-soybean seeds contribute to illegal deforestation or are directly linked to such.

207. As already explained under III.A.1.a), according to the Guidelines a company "contributes" to an impact if its activities "facilitate or incentivize another entity to cause an adverse impact. Contribution must be substantial, meaning that it does not include minor or trivial contributions. [...] The mere existence of a business relationship or activities which create the general conditions in which it is possible for adverse impacts to occur does not necessarily represent a relationship of contribution."

208. Neither Bayer nor its products facilitate or incentivize illegal deforestation. Bayer manufactures its products in accordance with all legal frameworks and in compliance with all applicable legal requirements. As the Complainants themselves confirm, Bayer obtained the necessary permits in all the countries in question. In addition, Bayer has limited influence on whether the farmers conduct illegal deforestation. If Bayer becomes aware of any form of illegal deforestation conducted in its value chain, these cases are followed-up and suitable actions are taken if necessary. This shows that neither Bayer nor its products offer an incentive to engage in illegal deforestation.

209. It would not even prevent illegal deforestation if Bayer stopped selling its products despite having all authorizations and fulfilling all regulatory requirements. Even if Bayer did not sell its products anymore, the deforestation for livestock breeding could be ongoing, other soybean seed and trait companies could take the market share of Bayer and/or other crops would be produced on deforested land. This shows that the only effective way to stop illegal deforestation is regulating the final commodities and products which are typically made on deforested land as the EU Deforestation Regulation is doing now (for more details see below). Moreover, it confirms that there is no direct link between illegal deforestation and Bayer's soybean and crop protection business.

b) Bayer's (voluntary) actions to tackle deforestation

210. Complainants wrongly attribute Bayer's products to fostering deforestation. After the rapid expansion of agriculture in the region, today it is rather the opposite: Intensification of land use enabled by modern agriculture (including products like GM-soybean seeds or Glyphosate-based products) decreases the pressure to have more arable land for the need to increase food production. Any decreased pressure to have more arable land also minimizes the pressure to have land conversion and (legal or illegal) deforestation. Protecting the rainforest helps to preserve biodiversity.

211. Even if one would assume a direct link between legal deforestation and Bayer's Glyphosate-based products or GM-soybean seeds and traits, Bayer always acts in the spirit of the Guidelines and complies with its due diligence obligations under the Guidelines. In this context we kindly ask the NCP to bear in mind that the Guidelines explicitly state that there is no one-size-fits-all solution when it comes to the questions which due diligence obligations must be taken in the individual case:¹⁰³ *"The nature and extent of due diligence, such as the specific steps taken, appropriate to a particular situation will be affected by the factors such as the context of the enterprise's operations, [...] [and] its involvement with an adverse impact."*

212. As described in more detail in the Guidance, the influence of a company and its proximity to the adverse impact are particularly decisive in the context of the appropriateness of measures.¹⁰⁴ Especially when there is only a direct link, the appropriateness requirements are lower than when a company e.g. causes the adverse impact itself¹⁰⁵. In particular, there shall be no shift of responsibilities from the person/company causing the adverse impact to the person/company merely directly linked to the adverse impact.¹⁰⁶ Q34 of the Guidance provides for the following principles:

"The expectation that enterprises seek to prevent or mitigate adverse impacts directly linked to their operations, products or services by a business relationship is not intended to shift responsibility from the entity causing or contributing to an adverse impact to the enterprise with which it has a business relationship. The responsibility for the impact remains with the entity or entities that are causing or contributing to the impacts. However, while the enterprise may not be able to address the impact itself, it should seek to influence its business relationship to prevent or mitigate the adverse impacts."

213. This is exactly what Bayer has been doing (voluntarily), especially through its ProCarbano Programs and its net-zero deforestation strategy:

(1) Bayer's ProCarbano Programs

214. As already explained under II.E.3, with Bayer's ProCarbano programs we take voluntary actions to strive for environmental benefits within the farmers' downstream value chain. In addition, the ProCarbano programs fight illegal and legal deforestation by establishing traceability requirements for commodities like soybeans in the farmers' downstream value chain, which means that there has to be a consistent chain of evidence that soybean commodities originate from farmland which is not subject of deforestation. The approach is to simultaneously meet joint

¹⁰³ Guidelines, Chapter II, commentary no. 19

¹⁰⁴ Guidance, Q30

¹⁰⁵ Guidance, Q30

¹⁰⁶ Guidance, p. 17; Q34

goals for climate, nature, and food security, and provide a basis and the tools to enable sustainable intensification. Key is to connect carbon footprint (aiming towards reducing greenhouse gas emissions and sequestering carbon) as well as traceability and deforestation-free production fields in a broader regenerative agriculture effort.

215. Major efforts on carbon programs take place in a comparatively dynamic market landscape in South America, with focus on Brazil and Argentina; and we also considering extension to other countries of the region including Paraguay.
216. In 2023, Bayer implemented its ProCarbono Commodities Program in Brazil and extended it to Argentina in 2024 reaching around 1,250,000 hectares with measured carbon footprint and assured deforestation-free traceability.¹⁰⁷ Participating soybean growers register carbon emissions that are 70% lower than the national average in Brazil and 80% lower than the global average per ton of soybeans produced.

(2) Bayer's net-zero deforestation strategy

217. In addition, Bayer aims for net-zero deforestation in its supply chain and demand from our licensees to do the same. The most prominent example is that Bayer expects full compliance with the Brazilian Forest Code in its production fields. We are committed to using Bayer's expertise and technologies to support Brazil's goal of restoring 12 million hectares of native forest by 2030. As of 2022, we were able to apply and monitor 15 socio-environmental assessment parameters to the commercial soybean and corn seed supply chain. This monitoring covers 100% of our Agroeste soybeans seed production area (Bayer direct brand) and 50% of our own corn seed production. In our pursuit of sustainable upstream value chains, we are intensifying our focus on forest risk-related products and actions. Our commitment extends to promoting sustainable production, transparency, traceability, and certification within our upstream operations.
218. Further, in the case of Argentina for example, Bayer's production sites are 100% certified under IRAM 14.130 Standard, which certifies that our seed production activities are conducted in a safe, standardized, and responsible way.

(3) Termination of business neither required nor in line with Guidelines

219. If one follows the Complainants' arguments, the only way to eliminate the dangers allegedly posed by Bayer's products would be for Bayer to stop its Glyphosate-based products and GM-soy business in the four countries. However, as already explained above, this is not required by the Guidelines, in particular not if Bayer's Glyphosate-based products and GM-soy is – if at all – merely directly linked to the alleged adverse impacts.
220. But even more: Such an approach would run counter to the Guidelines' goal of improving human rights and environment. Not only would hundreds of jobs be lost, but Bayer's voluntary programs to fight deforestation would also cease to exist. However, the problem of legal and illegal deforestation would not be solved, because Bayer is not the only player on the market in the four countries.

¹⁰⁷ See also: <https://news.agropages.com/News/NewsDetail--46611.htm>

221. In addition, we kindly ask the NCP to bear in mind that Bayer's products help combat another crisis: hunger. As explained in detail under **Error! Reference source not found.**, global food and nutrition security is a major concern, with over 700 million people facing hunger and 2.4 billion experiencing food insecurity. As the world's population approaches nearly 10 billion by 2050, it is crucial for all farms to sustainably increase food production. The need for innovative and regenerative agriculture systems¹⁰⁸ is emphasized by projections of arable land loss and soil degradation. The adoption of modern agricultural technologies, such as new crop varieties and biotechnology, has proven to provide benefits across multiple dimensions¹⁰⁹. In Brazil, for example, embracing a complete package of tropical agriculture technologies has led to measurable gains in economic, environmental¹¹⁰, and social aspects, boosting farmers' profits, contributing to the national GDP, improving export trade balance, reducing carbon emissions¹¹¹, optimizing pesticide use¹¹², generating higher tax revenues, and creating jobs.

c) Deforestation-mitigation is closer to the commodities value chain

222. The fact that companies like Bayer have limited influence on potential deforestation by the farmers is also clearly acknowledged in the OECD-FAO Guidance for Responsible Agricultural Supply Chains ("OECD-FAO Guidance")¹¹³ and the OECD-FAO Business Handbook on Deforestation and Due Diligence in Agricultural Supply Chains ("OECD-FAO Handbook").¹¹⁴ While it is true, that these documents identify deforestation as one of the major risks in agricultural supply chains, they do refer to the situation at hand, i.e. to the traders and deforestation conducted by the farmers. As can be seen from the graph below, the OECD-FAO Guidance is based on the understanding that the agricultural supply chain starts with on-farm agricultural production (incl. farmers and companies that invest in land and directly manage farms) and ends with the distribution of the agricultural product to wholesalers, traders, retails etc.:

¹⁰⁸ <https://www.bayer.com/en/agriculture/regenerative-agriculture-definition>

¹⁰⁹ https://biotec-latam.com/bibliografia/5_CIB_Agroconsult_2018_20_years_of_GMOs-environmental_economic_and_social_benefits_in_Brazil.pdf

¹¹⁰ https://biotec-latam.com/bibliografia/1_Brookes_and_Barfoot_2020_Environmental_impacts_of_genetically_modified_GM_crops-1996-2018_pesticide_use_and_carbon_emissions.pdf

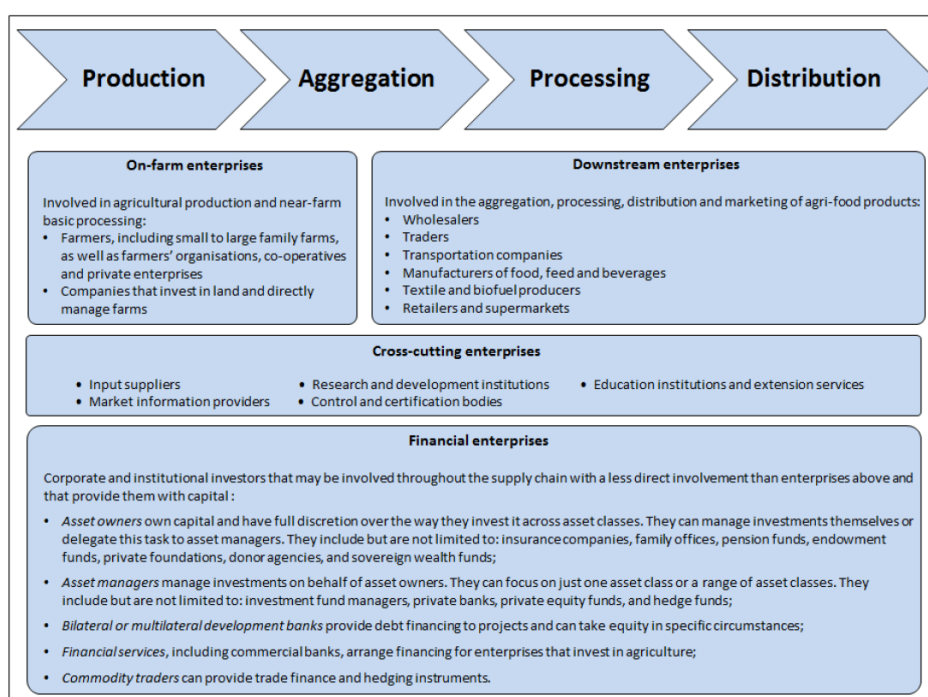
¹¹¹ https://link.springer.com/chapter/10.1007/978-981-16-9001-3_22

¹¹² <https://croplifebrasil.org/wp-content/uploads/2019/10/Estudo-Impacto-BT-ING.pdf>

¹¹³ OECD-FAO Guidance for Responsible Agricultural Supply Chains, 14 October 2016, available under: https://www.oecd-ilibrary.org/agriculture-and-food/oecd-fao-guidance-for-responsible-agricultural-supply-chains_9789264251052-en

¹¹⁴ OECD-FAO Business Handbook on Deforestation and Due Diligence in Agricultural Supply Chains, 7 July 2023, available under https://www.oecd.org/en/publications/oecd-fao-business-handbook-on-deforestation-and-due-diligence-in-agricultural-supply-chains_c0d4bca7-en.html

Figure 1.1. Various stages of agricultural supply chains and enterprises involved



Note: This diagram is for reference only and does not aim at being comprehensive.

223. Companies that directly or indirectly supply seeds – or GM-soybeans seeds as in this case – to the farmers are not part of the agricultural supply chain.
224. In the context of the risk assessment, the OECD-FAO Handbook further states:
225. "Once the sources of the commodities and products covered by the enterprise's deforestation policy are identified, and the sourcing area is known, it becomes possible to assess the risk that their production has been associated with deforestation."¹¹⁵
226. Stakeholders of the commodity value chain that directly and/or indirectly source commodities such as soy grain, have the best mitigation leverage to address that the products they source and use for their own processing, trade or export are deforestation-free.
227. International bodies such as the European Union ("EU") share this understanding and manifested it in the EU Deforestation Regulation. The Deforestation Regulation lays down rules regarding the placing and making available on the Union market as well as the export from the Union of relevant products that contain, have been fed with or have been made using relevant commodities, namely cattle, cocoa, coffee, oil palm, rubber, soya and wood. These commodities may only be placed and made available on the Union market or exported if they are inter alia deforestation free. To ensure that the captured commodities are indeed deforestation-free, strict due diligence obligations are placed on operators and traders of these products, i.e. such natural and legal persons that in the course of a commercial activity make the products available on the Union market. The due diligence obligations under the Deforestation Regulation therefore lie with the commodity users in the agricultural supply chain as they have the best mitigation leverage to

¹¹⁵ OECD-FAO Handbook, p. 34

influence whether deforestation occurs since they may exercise leverage over their business partners.

3. Bayer adequately fulfils its duty of care in accordance with the Guidelines

228. Lastly, in the following sections Bayer demonstrates that contrary to the Complainants' view, Bayer indeed acts in spirit of the Guidelines, i.e. that the Complaint is without merit. Consequently, as the German NCP held in the past, the Complaint is inadmissible.

229. In this context we would like to draw the NCP's attention to *NGO vs. Company in the field of communication technologies* in which the NCP in 2015 held that "[t]he NCP is of the opinion that the company adequately demonstrates in its comments that it fulfils its duty of care (due diligence) in accordance with the requirements of the Guidelines"¹¹⁶ and therefore declared the complaint to be inadmissible. To be OECD coherent we kindly ask the NCP to consider applying the same principles in the present case.

230. To avoid repetitions, we refer to the following further information on how Bayer complies with the Guidelines.

B. Bayer acts in accordance with the due diligence framework set out by the Guidance

231. The Guidance which complements the Guidelines has the objective to provide practical support to companies on the implementation of the Guidelines by providing explanations of its due diligence recommendations and associated provisions. Hereby the Guidance acknowledges that there is no one-size-fits-all approach when it comes to how companies set and implement their due diligence process. Rather whether a due diligence process is appropriate depends on the individual circumstances of each company.¹¹⁷

232. Bearing this in mind, the Guidance sets out a six-step-program with measures that companies shall follow when setting up their responsible business concept and conduct their due diligence.

233. Contrary to the Complainant's opinion, Bayer's risk management system follows the approach set out by the Guidance as described in detail under I.D.

234. For example, the Guidance determines that companies "[d]evelop, adopt and disseminate a combination of policies on RBC issues that articulate the enterprise's commitments to the principles and standards contained in the OECD Guidelines for MNEs and its plans for implementing due diligence, which will be relevant for the enterprise's own operations, its supply chain and other business relationships."¹¹⁸

235. As elaborated in detail under II.C.1.a), above, and also acknowledged by the Complainants,¹¹⁹ Bayer has set up a number of policies including its Human Rights Policy, which defines the human rights requirements within the company and obliges Bayer to respect and foster human rights within its own business activities and business relations. Further, Bayer has also developed a

¹¹⁶ German NCP, *NGO vs. Company in the field of communication technologies*, Final Statement, 13 July 2025, p. 2

¹¹⁷ Guidance, p. 18

¹¹⁸ Guidance, p. 22

¹¹⁹ Complaint, p. 53

Code of Conduct applicable to its own employees and a Supplier Code of Conduct which both reflect the principles set out in the Human Rights Policy.¹²⁰

236. However, as Bayer is a multinational company that operates globally as well as in various sectors, it is not possible for the overall group policies to address each individual human rights-related risk and situation that Bayer might encounter. Rather, the existing policies set the applicable framework for Bayer's employees and business partners all over the world to act with integrity and to make informed decisions, focus on the essentials and reinforce Bayer's identity. The fact that Bayer does not explicitly mention each and every potential human right and environment-related adverse impact in its policies does – contrary to the Complainants' arguments – not show any form of non-compliance with the Guidelines. Rather, this is precisely the approach proposed by the Guidelines which states that the companies' policies shall address their "*most significant risks*".¹²¹ As provided above, Bayer adheres to this guidance as it has explicitly addressed its six human rights priorities in its Human Rights Policy.¹²²
237. As explained in detail under II.C.1.a), above, Bayer's policies are also embedded into Bayer's oversight bodies and its management system and are incorporated in Bayer's engagement with suppliers and other business relationships via the Supplier Code of Conduct.
238. Furthermore, we would like to emphasize that the Guidelines do not require that all due diligence measures taken by a company are explicitly reflected in detail the policies. From Bayer's point of view and in line with the Guidelines, it is much more important to address adverse impacts on human rights and the environment appropriately to improve the global human rights situation. For this reason, Bayer adheres to all regulatory requirements without undue delay and implements them in its risk management system. This includes the implementation of the German Supply Chain Due Diligence Act (*LkSG*) as well as OECD-FAO Guidance and the OECD-FAO Handbook which in particular deal with deforestation. In this way, Bayer ensures that its risk management system complies with current legal requirements at all times and addresses all identified risks. Policies are living documents that must be constantly adapted to current developments. Bayer does this conscientiously; however, as human rights due diligence is a continuous moving process, it sometimes takes time to adopt the policies and bring them in line with the human rights due diligence actually practiced.
239. Against this background, Bayer has implemented human rights due diligence in its risk management system (II.C.1.b)), regularly identifies risks (II.C.1.d)), takes the appropriate preventive measures and remedial actions (II.C.1.e)) and has established a global grievance mechanism (II.C.1.g)).
240. This demonstrates that, contrary to the impression that the Complainants try to create, Bayer acts in the spirit of the Guidelines.
241. Against this entire background, the Complaint does not merit further examination. Even though Bayer is always willing to engage in a constructive dialogue with NGOs and other stakeholders and to improve its processes where necessary and possible, this is not the right case as there is

¹²⁰ Guidance, p. 25 – 25

¹²¹ Guidance, p. 22

¹²² As already stated above, our six human rights priorities are: Right to health / Responsible use of natural resources / Protection against child labor / Right to freedom from slavery, servitude and forced labor / Right to fair and favorable working conditions / Right to freedom of association.

no link between the allegations and Bayer's business. It is therefore obviously not possible for Bayer to take action since the allegations are not substantiated and since they concern issues, such as deforestation and a deliberate abuse of products, on which Bayer has limited influence. We therefore do not see a need to continue the proceedings and end them already during the initial assessment.

IV. Language and Admission of Facts

242. On NCP's request this response is submitted in English. However, we would like to reserve the right to conduct further communication, in particular oral procedural communication, in German. The Complaint contains extensive factual submissions and allegations, either directly or referenced in footnotes. If facts have not been addressed in this response, this does not mean that Bayer considers the facts to be correct. All facts that have not been expressly confirmed are not admitted.

V. Final Note

243. Finally, we would like to reiterate that Bayer takes all information about potential adverse human rights and environmental impacts very seriously and follows-up appropriately and we will thoroughly assess any additional information we receive about the alleged incidents fully in line with our commitment to a diligent adverse incident management.

244. As already emphasized in the course of this document, Bayer is always eager to further improve its due diligence system if necessary. We are therefore open to continue a constructive dialogue with the Complainants outside of the formal NCP proceedings.