Annex 3: Structural Basis for ESG Downgrade (Two-Notch Scenario)

■ 1. Overview: International Positioning of This Case

This case constitutes a **structural and cross-cutting violation** of international obligations (OECD Guidelines for Multinational Enterprises – 2023 revision; UNCAC Article 33) and therefore entails a **serious and continuing ESG downgrade risk** (MSCI, Sustainalytics, etc.). Key elements include:

- **Concealment of 52 industrial accidents** (Evidence No.04, No.09)
- **Three consecutive years of falsified accounting** (Evidence No.03, No.05)
- **Suppression of whistleblower systems; retaliatory dismissal and defamatory labeling** (Evidence No.06, No.09, No.10, No.12–13)
- **Complete disregard of corrective notices and NCP submissions** (Evidence No.23, No.58–60)
- **Institutional silence by media (NHK) and financial institutions (MUFG)** (Evidence No.34–47, No.48–57)

Under MSCI methodology, these practices qualify as **"Red Flag Tier" violations**—systemic non-compliance, human rights neglect, and material misreporting—technically justifying a **downgrade from the current "AA" rating to "BBB" or lower**.

■ 2. ESG Category–Based Downgrade Risks (with Evidence References)

ESG Category	Current Corporate Conduct	Key Evidence	Anticipated Impact
G – Governance	Suppression of whistleblowing; audit dysfunction	No.01–03, No.05, No.09, No.48–52	Lack of internal controls → downgrade trigger
S – Social	Industrial accident concealment; retaliatory dismissal	No.04, No.06, No.10, No.12–13, No.56–57	Labor & human rights score decline
E – Environment	Chronic breach of occupational safety duties (construction sector)	No.04, No.33	Indirect environmental risk / ESG safety score pressure
T – Transparency	Zero ESG disclosure; misreporting of material facts	No.03, No.05, No.09, No.23, No.60	Accountability failure → rating deterioration

➞ **Structural continuity confirmed:** downgrade from “AA” to “BBB or below” is both reasonable and foreseeable under current ESG risk models.

■ 3. Causal Chain of Score Deterioration (Visual)

Suppression of whistleblower system (No.09)

↓

Retaliation and dismissal of whistleblower (No.10, No.12–13)

↓

Unreported accidents / falsified financial data (No.04, No.05)

↓

Ignored administrative correction notices (No.23) and non-engagement by media/finance (No.34–57)

↓

Formal record of NCP non-responsiveness (No.58–60)

↓

📉 ESG rating downgrade (AA → BBB or below)

↓

⚠ Loss of shareholder confidence; credit risk and reputational exposure

---

■ 4. International Precedents: Ranking Shifts

Company	Issue Summary	Downgrade	Rating Agency
EU **D Company (Europe)**	Labor violations; whistleblowing ignored	A → BB	MSCI
US **Z Company (North America)**	Governance breaches; OECD mediation refusal	AA → B	Sustainalytics
This Case (Projected)	Accident concealment; accounting fraud; whistleblowing suppression	AA → BBB or lower (anticipated)	MSCI / Others

➞ This case exemplifies a **"worst-practice" multi-layered failure**—silence + rejection + retaliation + falsification + institutional non-engagement—likely to be classified under **Red Flag Tier** by ESG evaluation bodies.

■ 5. Linkage to NCP Procedural Guidance

OECD Guidelines – Procedural Guidance §25–26:
"The NCP will respond to all submissions in a timely manner and explain its decision on whether it accepts the specific instance for further examination, with clear and publicly accessible reasoning."

🟠 **Current Status:**

- The complainant (Evidence No.58–60) submitted full documentation, legal analyses, remedial proposals, and structural damage models.
- Despite this, the **Japanese NCP remained silent beyond the deadline of 15 October 2025**.

🟥 **Structural Risks of Refusal:**

- Foreseeable ESG downgrade
- Increased shareholder activism and ESG fund pressure
- Collapse of NCP credibility → potential OECD **re-audit** under ¶II.16 / ¶II.20
- Likelihood of **joint monitoring or action request** from other NCPs, NGOs, or watchdog bodies

---

■ 6. Conclusion and International Implications

This case is **not a mere procedural failure**, but a **systemic breakdown of institutional design, transparency, oversight, and whistleblower protection**.

Accordingly, the U.S. NCP is urged to:

- ✅ **Accept this case as a symbolic and institutional Specific Instance**
- ✅ **Pursue joint mediation with third-party actors such as CBI (Center for Business & Internationalism)**
- ✅ **Consider early notification to ESG rating agencies (MSCI, Sustainalytics) as part of remedy structure**

📌 **Purpose of Annex 3**:
To demonstrate to the OECD, NCPs, ESG investors, and civil society that **institutional inaction is itself a structural ESG downgrade trigger**—thus requiring **timely and proactive engagement** as a necessary countermeasure.

🔸 Failure to do so will likely be cited in subsequent OECD peer-review cycles as evidence of institutional non-responsiveness, further reinforcing the rationale for an international monitoring or downgrade review.
