

INSIGHT

Fitting the Pieces of the Puzzle

Making sense of due diligence regulations across the globe

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State of Play

Governments across the globe are increasingly recognizing the implications of supply chain interconnectedness and their dependence on global value chains (GVCs) for achieving economic and sustainable development objectives. At the same time, multiple adversities, like the Rana Plaza disaster in Bangladesh, the Pakistan garment factory fire, and high deforestation rates linked to export-commodity production in forest-rich countries, have highlighted the need for embedding sustainability-related standards in GVCs operations (Clean Clothes Campaign, n.d.; European Center for Constitutional and Human Rights, n.d.; Kimbrough, 2024; Koenig & Poncet, 2022).

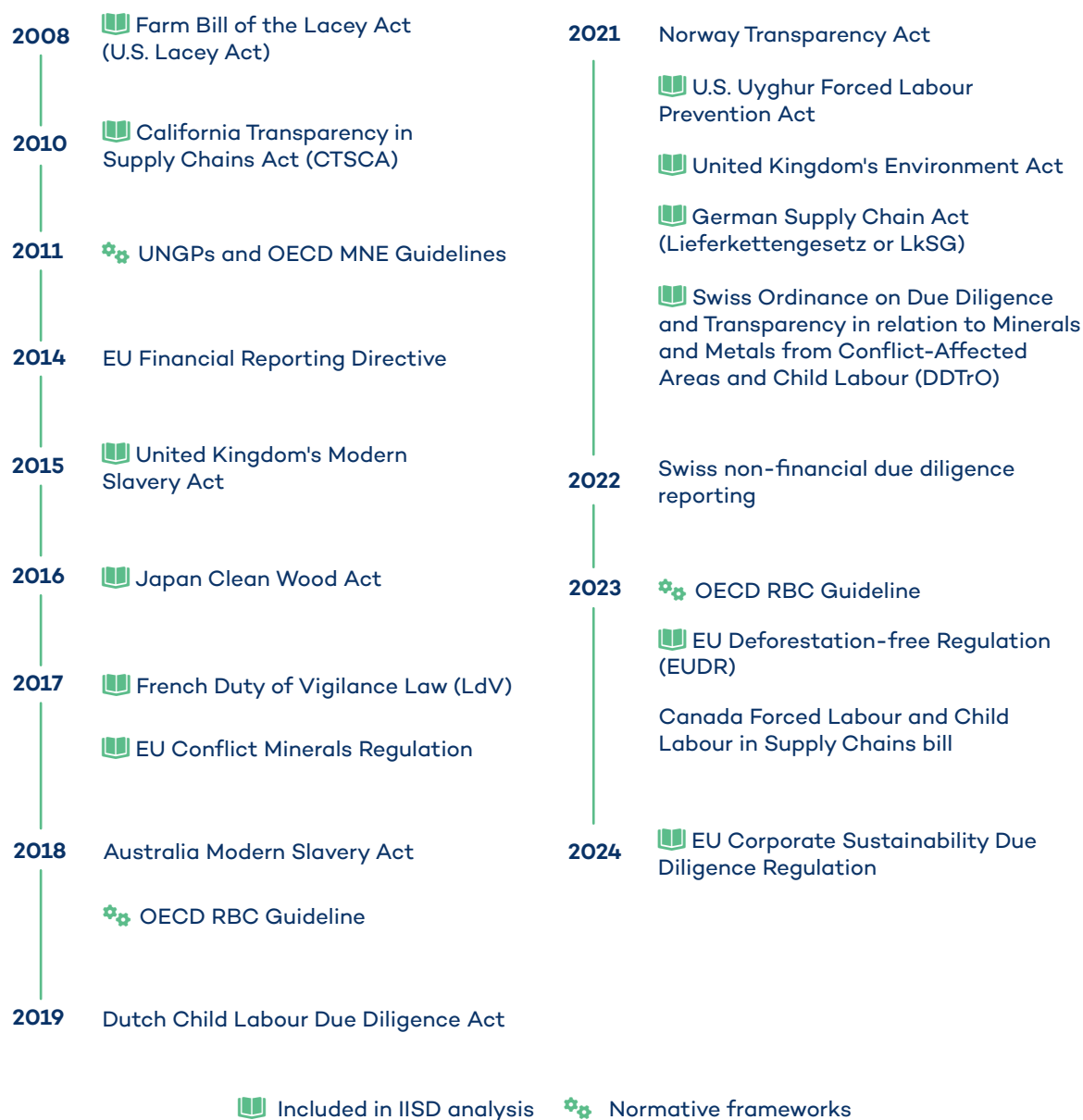
Consumers are increasingly becoming aware of businesses' poor social and environmental performance. As a result, the private sector is experiencing increasing pressure to uphold high standards of accountability and transparency regarding the impacts of their business practices on communities, nature, and the environment (Berger, 2023; Lestari et al., 2021; McKinsey & Company, 2023; Onjewu et al., 2023; Reichheld et al., 2023).

Governments have implemented, or are implementing, institutional frameworks that aim to encourage businesses to perform better—for instance, by identifying risks, mitigating and responding to them, and holding the private sector accountable for the impacts of its practices. In that context and specifically in the last 2 decades, due diligence regulations have taken centre stage, with several regulations being adopted by governments, mainly in the Global North, that promote responsible business conduct and respect for human rights and environmental standards (Figure 1).

However, most regulations have been developed unilaterally without much collaboration between companies/governments of potentially affected countries or other value chain actors—even though impacts are expected to be felt along the entire value chain, including companies based in the Global South, which have to comply with the sustainability demands placed on them (Hoekman et al., 2023; Mares, 2024; Monnheim, 2021).



Figure 1. Environment and human rights due diligence over the years



Source: Author.

The proliferation of due diligence regulations can have implications for value chain actors in the Global South, who might face challenges in complying with their requirements (Ellena, 2023; United Nations Conference on Trade and Development [UNCTAD], 2024). Vulnerable actors, like micro, small, and medium-sized enterprises, might find it challenging to comply due to a lack of understanding of the requirements and the measures they can adopt to comply with each of them (Hanley et al., 2023; UNCTAD, 2024).



Most of these regulations have requirements in line with the Organisation for Economic Co-operation and Development (OECD) *Due Diligence Guidance for Responsible Business Conduct*¹ and aim to help companies understand their supply chains to identify and address risks like deforestation and forced labour; however, there are differences among these regulations and particularities that require attention. Up until now, there have been limited efforts to map out the commonalities, differences, or interoperability among these regulations.

To address this gap, we at IISD are exploring the commonalities between selected due diligence regulations and how various tools, like sustainability standards, can support compliance to further uncover the possibilities of interoperability among these measures. In this paper, we present some initial findings of our analysis so far, share an overview of identified common themes across the selected due diligence regulations, and highlight some existing tools that can support compliance.

Navigating the Puzzle: Unpacking due diligence regulations

Our analysis of selected due diligence regulations (Figure 1) indicated the following recurring themes: risk management, transparency, traceability, legality, accountability, and stakeholder engagement, which we present below.

Risk Management

Due diligence is a “preventative approach” to avoid causing or contributing to adverse environmental and social impacts (OECD, n.d.). Risk management was a key component in the due diligence regulations analyzed, stressing the need for proactive and continuous vigilance for environmental and social risks in GVCs. While most of the regulations examined focused on identifying risks in the supply chain, many also focused on addressing, mitigating, and preventing such risks. Some due diligence regulations also involved risk prioritization, acknowledging that it may not be feasible to equally mitigate and simultaneously address all possible risks in a company’s value chain.

EXAMPLES

- The European Union Deforestation-free Regulation (EUDR) requires companies to conduct risk assessments to comply with the deforestation-free and legality requirements mentioned in the regulation. It also calls for risk mitigation through the implementation of measures that can ensure the products are deforestation-free and meet legal requirements (Regulation (EU) 2023/1115, 2023, Article 10, 11).
- The German Supply Chain Act (Lieferkettengesetz [LkSG]) mandates companies to establish a risk management system and conduct annual risk analyses to minimize human rights and environmental risks, extending these requirements to indirect suppliers (LkSG, 2021).

¹ The OECD guidance for responsible business conduct is available at: https://www.oecd-ilibrary.org/finance-and-investment/oecd-due-diligence-guidance-for-responsible-business-conduct_15f5f4b3-en



- The recently adopted EU Corporate Sustainability Due Diligence Directive (CSDDD) requires companies to “identify actual and potential adverse human rights impacts and adverse environmental impacts arising from their operations or those of their subsidiaries and, where related to their value chains, from their established business relationships” (Directive (EU) 2019/1937, 2022, Article 6(1).166, p. 237).
- The French Duty of Vigilance Law (LdV) specifically requires companies to conduct risk mapping to identify, analyze, and rank (prioritize) risks related to human rights, health, and environmental impacts, based on which they need to form their vigilance plan (Respect International, 2017).

Transparency

Another common element of the regulations analyzed was transparency, referring to sharing information about the company’s policies and practices implemented across the value chain. This information sharing could be defined by one or more of the following—what data will be shared, to whom, and how often, or when. The most common way transparency is established in due diligence regulations analyzed is by requiring the company to communicate disclosures or public statements, which could include information on steps taken to meet due diligence requirements and achieve compliance.

EXAMPLES

- The EUDR, LkSG, LdV, CSDDD, the United Kingdom’s Modern Slavery Act, and The California Transparency in Supply Chains Act, for example, all have some form of due diligence reporting, which asks for companies to provide statements, public reports, or vigilance plans that showcase their practices and indicate the measures taken to reduce, prevent, and mitigate the risks targeted by the regulation.
- As per the Swiss Ordinance on Due Diligence and Transparency in relation to Minerals and Metals from Conflict-Affected Areas and Child Labour (DDTrO), companies need to establish a supply chain policy for addressing both risks—the prevention of child labour and the origin of minerals and metals from conflict areas. They also need to provide up-to-date information to suppliers and the public and include respect for this policy in contracts and agreements with suppliers (Ordinance SR 221.433, 2021).

Traceability

Traceability, or the ability to track products and inputs throughout the entire value chain (end-to-end), is also a recurring theme in due diligence regulations. This entails being able to track and trace elements; for some regulations, it also includes conducting a supply chain mapping. According to Andrade and Voora (2015), “tracking allows the supply-chain stakeholders to follow the downstream path of a product; tracing enables the identification of the origins and characteristics of the product when following an upstream path in the supply chain” (p. 68). This involves documenting and sharing detailed information on products’ origins, processing, and movement. On the other hand, supply chain mapping involves having a complete overview of the entities within the supply chain at every tier (all the suppliers), enabling the visibility of all actors involved in the value chain (Conlon & Norton, 2019).



EXAMPLES

- Under the EUDR, operators and traders must provide the geolocation of relevant plots of land to trace the exact production location and ensure compliance with deforestation-free criteria (Regulation (EU) 2023/1115, 2023, Article 9).
- The US Lacey Act lists information that importers should include in Lacey Act declarations, which includes the country of origin of the harvest of plant or plant products and the species name, among other things, of all plants contained in their products, as well as container and shipment information (Animal and Plant Health Inspection Service, 2024). This allows one to trace the origin of the plant materials used in the imported products.
- The California Transparency in Supply Chains Act requires companies to conduct audits of suppliers to ensure compliance with human trafficking and anti-slavery standards for all companies subject to the act (The California Transparency in Supply Chains Act, 2015). This inherently requires supplier traceability.
- As per the DDTrO, a company needs to establish a supply chain traceability system for documenting key details, such as the description of the product or service, trade names of minerals or metals imported, supplier information, country of origin, smelters and refineries, mining volume and date for minerals, inspection reports, and production sites (Art.12, 13, Ordinance SR 221.433, 2021).

Legality

Legality, another theme covered in most due diligence regulations, requires companies to ensure that their products and inputs meet relevant national laws and standards. In most regulations, the national laws that companies need to meet are related to the specific risk that the regulation addresses and are applicable in the country of production or where companies are doing business. Further, some regulations also mandate respect for international human rights and environmental standards, mostly taken from existing international agreements.

EXAMPLES

- As per the EUDR, operators/traders are mandated to comply with relevant national laws of the country of production, including those related to land rights, environmental protection, forest-related regulation, human rights, labour rights, rights of Indigenous Peoples, and anti-corruption laws (Regulation (EU) 2023/1115, 2023, Articles 2, 3).
- As per The California Transparency in Supply Chains Act, direct suppliers are expected to “certify that materials incorporated into the product comply with the laws regarding slavery and human trafficking in the country or countries where they are doing business” (The California Transparency in Supply Chains Act, 2015).
- The LkSG calls for respect for international human rights and environmental standards and lists the relevant ones in the Annex of the regulation. These include the International Labour Organization (ILO) Conventions, the Minamata Convention on Mercury, the Stockholm Convention on Persistent Organic Pollutants, and the Basel Convention on the Control of Transboundary Movements of Hazardous Waste (LkSG, 2021).



- The EU CSDDD aims to cover human rights, including all five fundamental principles and rights at work, as defined in the 1998 ILO Declaration.² Moreover, the Directive establishes requirements “for companies to adopt and put into effect a transition plan for climate change mitigation, which aims to ensure compatibility of the business model and the strategy of the company with the transition to a sustainable economy and with the limiting of global warming to 1.5° C in accordance with the Paris Agreement” (Directive (EU) 2024/1760, 2024, Article 1(c)).

Accountability

While most elements in the due diligence regulations discussed above lead to building accountability, some of the due diligence regulations analyzed include few requirements to strengthen it further. These usually include elements like assigning responsibility for the due diligence process to a specific person(s), establishing internal audit systems, or having supplier certification requirements along the value chain. Further, the due diligence regulations include enforcement mechanisms indicating consequences of non-compliance, which also aim to strengthen the accountability of eligible companies.

EXAMPLES

- LkSG has a mandate to designate responsibility within the enterprise to an individual to monitor risks, ensure compliance with legal regulations, and promote human rights. Furthermore, there is a requirement to establish accountability mechanisms, such as internal and external complaints procedures (LkSG, 2021, Section 4). Failure to comply with the act’s obligations can result in fines, penalties, and even exclusion from being awarded public contracts.
- As per The California Transparency in Supply Chains Act, companies are required to “maintain internal accountability standards and procedures for employees or contractors” to prohibit slavery and trafficking (The California Transparency in Supply Chains Act, 2015).
- Under the EUDR, accountability is broadly established through the due diligence statement, as companies need to produce a statement that confirms their products are deforestation-free. Failure to meet the requirements of the regulation can lead to penalties ranging from fines proportionate to the environmental damage and confiscation of revenues gained by the importer to prohibitions on placing relevant commodities onto the market (Regulation (EU) 2023/1115, 2023, Article 25). Further, to increase the accountability of operators and traders, the EU Commission may “publish on its website the list of final judgments against legal persons for infringements of this Regulation and the penalties imposed on them” (Regulation (EU) 2023/1115, 2023).

² The five fundamental principles are available at: <https://www.ilo.org/ilo-declaration-fundamental-principles-and-rights-work#:~:text=freedom%20of%20association%20and%20the,of%20employment%20and%20occupation%3B%20and>



Stakeholder Engagement

Due diligence is informed by stakeholder engagement (OECD, n.d.), which is most often based on two-way communication—timely sharing of information with relevant stakeholders in an accessible format and meaningful engagement during the due diligence process. This could include, among other things, collaborative remediation or assessing the type of due diligence process to undertake. Some regulations specifically mention where stakeholder engagement must be conducted, like in developing risk management systems and designing grievance mechanisms.

EXAMPLES

- Under the CSDDD, meaningful engagement with affected stakeholders is required at each step of the due diligence process in order to identify risks and establish effective measures for the prevention and mitigation of potential adverse impacts (Directive (EU) 2024/1760, 2024).
- The LkSG mandates that the risk management system considers the interests of stakeholders (employees, employees within supply chains, and other directly affected individuals), and the complaints procedure should ensure stakeholder participation and engagement in addressing concerns (LkSG, 2021).
- Another example is the LdV, where the vigilance or risk mitigation plan is intended to be prepared in collaboration with stakeholders. The alert mechanism under the LdV requirements is also to be developed in partnership with the trade union organization representatives to collect information on potential or actual risks (Respect International, 2017).

Path to Solutions: Tools that can support compliance

While identifying commonalities might bring some clarity to this “due diligence soup,” value chain actors might still face challenges in complying with the regulations. For instance, the recently adopted EUDR faced considerable pushback from the exporting countries for being unilaterally enforced, and countries expressed concern about being unable to comply due to insufficient support, time, knowledge, and resources, and risk of market exclusion (Abnett, 2024b, 2024a; Hancock & Bounds, 2024; Marques da Silva, 2023).

While companies are in the process of understanding and exploring common requirements across regulations and as they look to work toward compliance, it becomes critical to identify the tools, platforms, services, and existing standards that can be used to support compliance. Effective due diligence will require companies to systemically improve their supply chain practices and adopt various tools, practices, and measures to address their specific risks and needs. With the evolving regulatory landscape, the possible solutions and services also keep evolving. There are tools that support mapping forest areas through satellite imagery and geodata, such as What IS in that Plot (Whisp), Starling, and Palmoil.io; others that help in establishing supply chain traceability, like TrusTrace, Koltiva, Hamurni, and Optel; and some that can support risk management by providing risk-related information, such as Sweat &



Toil, SoloVerde, and the Sedex Radar Tool. We have compiled a [non-exhaustive list](#) of a few resources and tools that can help companies if they are starting out.

Figure 2. A plethora of tools to support compliance

CGIAR's Supply Chain Risk Assessment and Management Toolkit **Swift Geospatial**
LandMark **Hamurni** **Farmer Connect** **Sweat & Toil** **CSR Risk Check** **WageIndicator**
Global Forest Watch **Starling** **Open Supply Hub** **Global Traceability** **SoloVerde**
Children's Rights and Business Atlas **Palmoil.io** **The Tree Map** **Optel** **IntegrityNext** **Trase**
Mapped in Bangladesh **Sedex Radar Tool** **Mighty Earth** **Cocoa Accountability map**
Source Intelligence's ChainPoint and Compliance map **Satelligence** **Koltiva** **Supply Trace**
Whisp-What IS in that Plot **TrusTrace** **SourceMap** **Responsible Contracting Project**

Source: Author.

Many stakeholders have also called for adopting a “smart-mix” approach—one where there is complementarity between public policies and private instruments (Rudloff, 2022; Schleifer & Fransen, 2022) to address supply chain risks and meet compliance requirements related to due diligence regulations.

Among these tools, we find voluntary sustainability standards (VSSs), which are systems that prescribe sustainability requirements that must be met (by producers in most cases) in order to comply and achieve sustainable development (ISEAL, n.d.; UN Forum on Sustainability Standards [UNFSS], 2013). VSSs also implement measures to ensure these requirements are met and provide support services like capacity building, training, and impact monitoring (Bermúdez & Sarmiento, 2023).

A preliminary analysis and literature review indicate that value chain actors could use VSSs as a tool to meet requirements set by due diligence regulations, as they can support risk assessment, establish traceability systems and the accountability of actors involved, and, in some cases, help meet legality requirements (Marx et al., 2024; UNCTAD, 2024; UNFSS, 2023).

For example, Rainforest Alliance offers automated risk assessment maps³ and GPS tracking for assessing deforestation-free commodity production; the Forest Stewardship Council (FSC) GIS Portal⁴ monitors forest borders and Indigenous lands; and the Roundtable on Sustainable Palm Oil Hotspot Hub⁵ uses satellite technology to detect potential fires, enabling risk assessment related to deforestation (UNFSS, 2023).

³ See here: <https://www.rainforest-alliance.org/business/certification/rainforest-alliance-tools-to-promote-deforestation-free-supply-chains/>

⁴ Available at: <https://fsc.org/en/newscentre/integrity-and-disputes/fsc-on-the-map-a-look-at-our-gis-portal-two-years-in>

⁵ Check here: <https://rspo.org/as-an-organisation/tools/rspo-hotspot-hub/>



Another example is the chain-of-custody model, which most VSSs employ,⁶ which establishes requirements to segregate certified and non-certified products, supporting traceability. Further, some VSSs also help producers and value chain actors understand and meet due diligence requirements. Fairtrade International, for example, updated its Trader and Hired Labour Standards to include human rights and environmental due diligence criteria.⁷ FSC introduced a new voluntary add-on regulatory module that supports compliance with the EUDR and has additional requirements related to forest management, chain of custody, and accreditation.⁸

However, VSSs have limitations, and there are concerns related to the effectiveness and transparency of their monitoring systems and complaint mechanisms (Jia, 2023; Marx et al., 2024; Nava & Tampe, 2023; UNCTAD, 2023). It is essential to understand that while they can certainly support meeting due diligence requirements and may evolve over time, it is yet to be ascertained to what extent they can help compliance and support various elements of due diligence and whether they can serve as “safe harbours”⁹ for certified companies.

Next Steps

This article shares the commonalities between selected due diligence regulations and highlights some tools, including sustainability standards, that can support compliance. A more detailed examination of the selected due diligence regulations will soon be available on the IISD SSI website.¹⁰ This examination will further elaborate on the shared themes across selected regulations and provide insights into the requirements of each. It will also illustrate how VSSs can help value chain actors comply with due diligence regulations. This resource could help businesses understand the requirements to comply and support them with some useful tools to reduce the compliance burden.

This brief is part of ongoing work by IISD’s SSI team, where we aim to continue working toward building transparency regarding compliance, promoting the interoperability of tools, and supporting stakeholders in improving sustainability practices.

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⁶ See, for example, [FSC](#), [Rainforest Alliance](#), [Fairtrade](#)

⁷ For more information on this update: <https://www.fairtrade.net/news/fairtrade-supports-partners-with-due-diligence-criteria>

⁸ For FSC work related to EUDR, see: <https://fsc.org/en/newscentre/eudr/fsc-aligned-certification-for-eudr-and-system-wide-changes-now-live>

⁹ For more information, see here: <https://data.consilium.europa.eu/doc/document/ST-15905-2022-REV-2/en/pdf>

¹⁰ See: <https://www.iisd.org/ssi/>



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