



## **GUATEMALA**

The mapping of value chains in coffee, cacao, palm oil, sugar and wood products and their adaptation to EU requirements on environmental and social due diligence

TPSDE Facility

Executive Summary  
September 27<sup>th</sup>, 2022

Prepared by Luis Rodas, Javier Sánchez and Carlos Lacán







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This Facility is an advisory service of the European Commission (EC), managed by Unit E2 in charge of Trade and Private Sector Development and Engagement within the Directorate-General for International Partnerships (INTPA).

The TPSDE Facility is implemented by DAI Europe under the supervision of Paz Velasco Velázquez who is responsible for the programme within INTPA E2.

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# Executive Summary

The TPSDE Facility is a support service of the European Commission (EC), operated by Unit E2, responsible for Private Sector Development and Employment, within the Directorate-General for International Partnerships (INTPA). The Facility provides technical assistance services to EU delegations in order to improve their capacity with regard to the planning, design and implementation of actions aimed at improving the business environment in third-party countries.

The EU Delegation to Guatemala has instructed the Facility to perform an assessment of the situation with coffee, cacao, palm oil, sugar and wood products chains in relation to two recent EU draft regulations that feature new due diligence duties with regard to deforestation-free products, human rights and social responsibility, as well as to evaluate the readiness status and the potential impact of these regulations on value chains.

- The draft **Regulation on deforestation-free products**<sup>1</sup> outlines the prohibition of imports and sales on the European market of six types of agricultural products if they are not deforestation-free (coffee, palm oil, cacao, wood products, soy and beef). The first assessment of the potential impact of such legislation at the regional level<sup>2</sup> suggested that, in Guatemala it could, potentially, affect chains relating to coffee, cacao and wood products.
- To make companies respect human rights and the environment in global supply chains, a draft **Directive on corporate sustainability due diligence**<sup>3</sup> requires companies of a certain size (it is not applicable to SMEs) to prevent, tackle or mitigate the adverse impact of their activities on human rights (such as child labour, attacks/threats against environmental activists, judicial and extrajudicial evictions leading to the forced internal removal of indigenous peoples and exploitation of workers, among others) and the environment (for example, contamination or loss of biodiversity).

One of the conclusions of the first evaluation review at the regional level was the need to obtain specific information about each chain. Following this recommendation, the EUD has called for a mapping that clearly identifies the actors involved, stimulates public-private dialogue, and analyses the potential impact of such regulation on the value chains reviewed. The analysis of potential impact covers not only negative aspects (related to a lack of compliance) but also positive ones (for example, the positive image conveyed of Guatemalan products on international markets thanks to compliance with these provisions).

This study has been carried out in two phases. **The mapping of prioritised value chains** was performed in Phase 1. A mapping of the relevant actors, as well as of deforestation initiatives, CSR and human rights was needed so that consultants would be able to advise the sector-specific ecosystem where such regulations are to be implemented and to identify actors in public-private and corporate dialogue (civil society organisations, affected communities and traditional authorities). This mapping was carried out by means of desk research.

Based on the results of this Mapping, the **Analysis of the impact of European regulation on prioritised chains**, which also includes information provided by relevant actors selected in collaboration with the EU Delegation to Guatemala, was performed in Phase 2.

The **methodology** described in the corresponding section of this report was used for information analysis and systematisation. In order to systematize quantitative information on the size of the value chain, with homogeneous and comparable values across all five value chains, we employed six variables and thirty-four indicators validated by the EU Delegation to Guatemala. At the same time, qualitative information was gathered

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1 COM/706) on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 [EUR-Lex - 52021PC0706 - EN - EUR-Lex \(europa.eu\)](#)  
2 Study on Initial assessment of Latin American countries and value chains potentially affected by the future Deforestation-Free Products regulation, TPSDE Facility, April 2022  
3 [Proposal for a Directive on corporate sustainability due diligence and annex | European Commission \(europa.eu\)](#)

to perform a *prima facie* assessment of each chain's readiness with respect to compliance with requirements as set forth in the two European regulations analysed.

After the analysis was approved by the EUD, two important **results presentation workshops** were conducted for government and private sector and civil society representatives. Both were held in Guatemala City. In addition, we took part in a workshop organised by EUD Guatemala in collaboration with the UN High Commissioner for Human Rights' office and AGEXPORT, presenting the scope of regulations analysed and the main challenges evaluated.

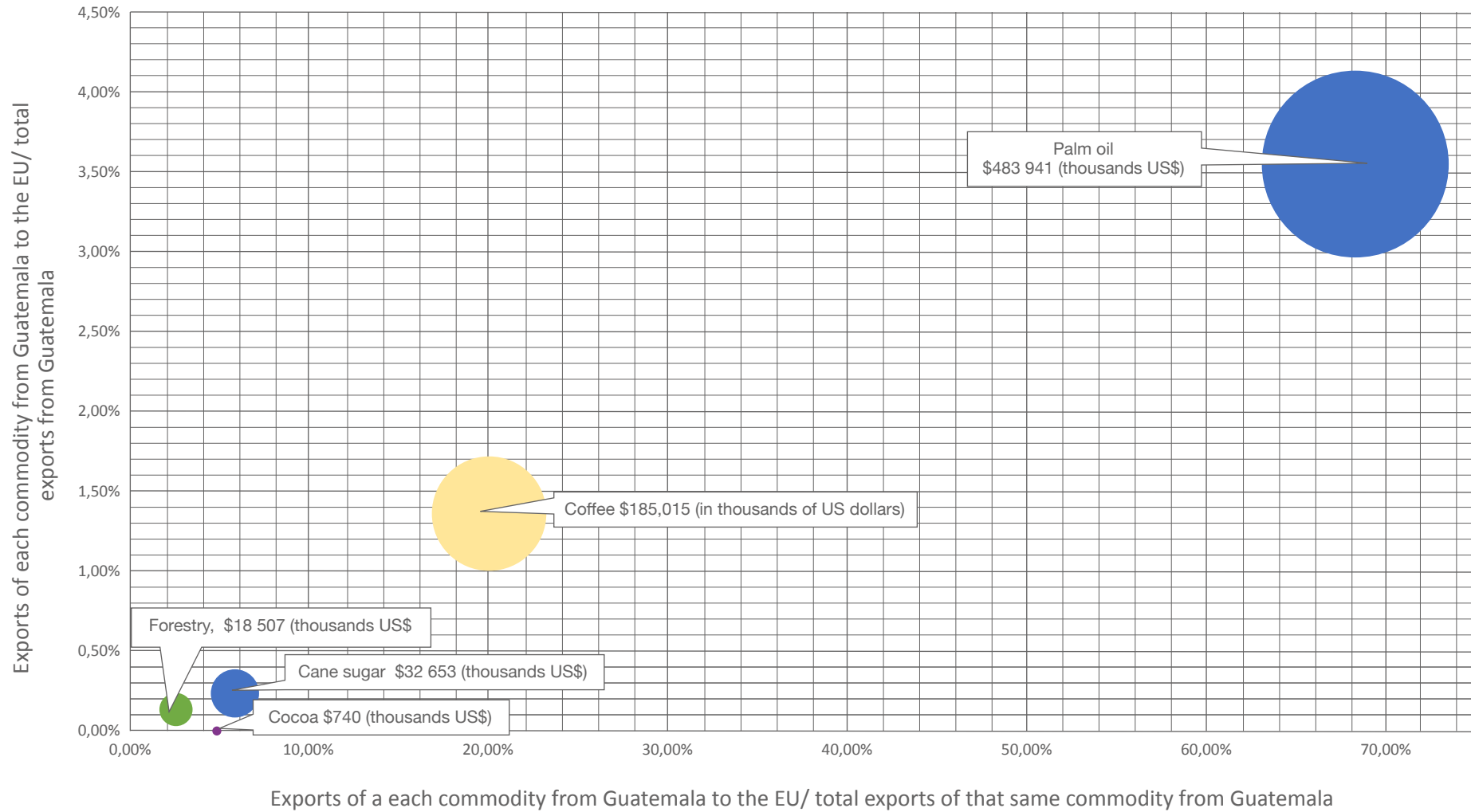
Total potential impact was calculated based on the value of exports from Guatemala to the EU for each of these five value chains. For this analysis, three variables were selected and analysed in a complementary manner:

- 1. Product exports from Guatemala to the EU/total product exports from Guatemala.** This variable reflects each value chain's export exposure to the European market.
- 2. Product exports from Guatemala to the EU/total exports from Guatemala.** This variable expresses the export of each product to the EU as a percentage of total exports from Guatemala and thus an estimate of the potential impact on the country's trade balance.
- 3. Total volume of product exports to the EU.**

The results of the analysis show that **palm oil and coffee are the value chains that are most sensitive** to changes in the regulation of the European market. More than 60% of Guatemalan exports of palm oil and almost 20% of coffee exports are to the EU.

The following chart shows the results of analysis of the above three variables with regard to exports in five selected chains.

## Potential impact of EU regulations on exports from Guatemala



At the same time, the **five prioritised value chains have great significance from the economic perspective** (close to 7.97% of domestic GDP) **and for employment** (about 5.38% of the country's economically active population). The data gathered for the cacao, coffee, and forest product chains demonstrate the engagement of a very high number of producers, the majority of whom are small and microfarmers. These chains also significantly contribute to the economic structure in regions of Guatemala that are particularly vulnerable from a social and environmental standpoint because of their geographic distribution.

The following observations are obtained from the study of each chain's readiness for compliance with the new regulations.

1. The readiness of each value chain to comply with new requirements depends, to a large extent, on what was referred to in this study as the **"complexity" of the chain**, as defined in the Methodology section. Chains with (1) less vertical integration, (2) numerous intermediaries, (3) a greater number of small and micro-producers and (4) a weaker institutional ecosystem (greater complexity) may find it very difficult to implement strict traceability from the point of production or to perform due diligence throughout the entire length of the supply chain.
2. The existence of very small production farms, which often lack registered borders or ownership titles, poses an objective restriction on the stringent traceability implementation stipulated in the Regulation on deforestation-free products.
3. Furthermore, due to a **very high degree of informality in the agricultural sector**, some small and micro-producers may resist the implementation of traceability and due diligence mechanisms focused on the transparency of their economic activity by subjecting it to a greater or lesser degree of formality.
4. **Coffee** appears to be a value chain that could suffer a **greater negative impact** from the implementation of new European regulations because of both its exposure to the European market and the complexity of its structure. With regard to the deforestation-free regulation, even though the majority of production may comply with the required environmental sustainability conditions (production through an agroforestry system), there are significant challenges from the perspective of implementing strict traceability (low integration, very high involvement of small and micro-producers, small average farm size, the very scattered distribution of farms, issues about land boundaries and ownership and a high level of informality). Furthermore, the Directive on sustainability could affect the chain objectively (child labour and the invisibility of women's work, for example, with the family being the productive unit). It is important to keep in mind that it will be hard for this chain to transform itself in the short-term in order to comply with requirements of the new regulations analysed. Even though the modernisation of the sector is desirable, not only in terms of sustainability, but also with regard to production and the improvement of producers' negotiation capacities, there are also highly constrictive structural challenges and, therefore, the risk that the implementation of both European regulations will have a negative effect on exports, production and employment. It is of fundamental importance that priority be given to support actions addressing the vulnerabilities of this chain and to confront issues about the prevention of child labour, employment rights and participation by women, especially in highly informal structures.
5. **Palm oil** is the chain with the greatest potential impact in quantitative terms due to its enormous dependence on the European market. Nonetheless, the analysis shows that, because of the sustainability practices implemented and the satellite georeferencing system covering almost the entire domestic production, it is the chain that is best positioned to comply with the new requirements of the Regulation on deforestation-free products. Therefore, we consider that the net effect of this regulation on the activity of the sector will be limited. With regard to the Directive on sustainability, we believe that it could have a passing negative effect, limiting exports to the EU and, consequently, production and employment levels. However, we consider that in the medium-term this Directive will have a significant positive effect on improvements in the defence of human rights across this chain. Companies should view the Directive on sustainability as an excellent opportunity for opening up to social dialogue, reviewing the employment conditions of workers, listening to civil society and human rights advocates and working on improving their due diligence processes in the environmental and social areas.



6. The **impact on the cacao value chain should be limited**, essentially because of the low production and export levels, but also given the very low exposure level of its exports to the European market. At the same time, it should be mentioned that, in general, cacao in Guatemala complies with the conditions for deforestation-free products because it is cultivated in agroforest systems and the forest is a fundamental factor for facilitating higher productivity conditions for cacao. Nonetheless, of all the value chains analysed, this is the one that shows the greatest fragility. Accordingly, we believe that the European regulations could have a negative “hidden impact” on the sector due to the existing risk of discouraging the adoption of sustainable practices among producers who consider the new requirements to be too strict and, thus, might exclude the EU from their expansion strategy. Due to the fragility of this chain, attention should also be paid to potential negative effects at the social level and among vulnerable groups.
7. As far as the **wood products chain** is concerned, the analysis points to great difficulty in promoting compliance with the European regulations in the sector. Even though there is a group of large producers who export - mainly wood - and comply or could comply in the short term with the new requirements, attention should be paid to the difficulties faced by most small and medium-size producers. In addition, traceability and due diligence will be more complex for transformed products, such as furniture. Despite this, due to the low level of exports to the EU in this value chain, we consider that the net effect in terms of production and employment will be limited. Similarly, we believe that, with respect to social and environmental sustainability, the effect will be low and its relation or link will remain dependent on requirements imposed by certifiers with regard to human and employment rights.
8. **Sugar cane** is not included on the list of products covered by the Regulation on deforestation-free products. In any case, the potential effect of its inclusion in this legislation should be limited because the volume of exports from Guatemala to the EU has decreased. Moreover, there is growing demand for sugar cane by countries with lower environmental standards, so that it is possible that current exports to the EU could be re-routed to these markets if sugar cane producers consider it difficult to comply with the deforestation-free requirements. For the same reasons, we believe that the potential impact of the Directive on sustainability should also be limited in terms of the environment and human rights. Despite this, the sugar sector, just like other value chains, should view the Directive on sustainability as an excellent opportunity to open up to social dialogue, review the employment conditions of workers, listen to civil society and human rights advocates and work on improving their due diligence processes in the environmental and social areas.

The following two tables contain a brief summary of the results of the analyses performed with regard to each value chain.

### Readiness of each chain to comply with regulations analysed

	Regulation on deforestation-free products	Directive on sustainability
Cacao	VERY LOW	LOW
Coffee	LOW	LOW
Sugar cane	LOW	MEDIUM
Palm oil	HIGH	MEDIUM
Forest products	VERY LOW	LOW

### Potential impact matrix on the variables selected for each value chain<sup>4</sup>

	Export	Production	Employment	Human rights	Other
<b>Cacao</b>	LIMITED	LIMITED	LIMITED	LIMITED	Limited or none in relation to the environment
<b>Coffee</b>	VERY HIGH	VERY HIGH	VERY HIGH	LIMITED	Limited or none in relation to the environment
<b>Sugar cane</b>	LIMITED	LIMITED	LIMITED	LIMITED	Limited or none in relation to the environment
<b>Palm oil</b>	LIMITED (Deforestation)	LIMITED (Deforestation)	LIMITED (Deforestation)	HIGH	High in relation to the environment
	HIGH (Sustainability)	HIGH (Sustainability)	HIGH (Sustainability)		
<b>Forest products</b>	LIMITED	LIMITED	LIMITED	LIMITED	Limited or none in relation to the environment

<sup>4</sup> Potentially negative effects are highlighted in orange and those that are considered positive are highlighted in green.

It is important to acknowledge that the strict traceability required by the Regulation on deforestation-free products and due diligence outlined in the Directive on sustainability could contribute to **value chain strengthening, greater levels of formality in the productive sector** and, ultimately, a desirable **modernisation of farming** in the producer countries.

However, it is also clear that this process, while pursuing legitimate objectives, also entails **risks that, despite being transient, could have a significant effect not only in economic, but also in social, terms**. Attention should be paid to ensuring that the implementation of these European regulations does not harm the weakest (mSMEs), which have fewer means and resources to learn about and comply with the new requirements.

From this perspective and in order to promote and facilitate the implementation of the requirements in the two regulations analysed, a number of recommendations are made:

### **1. Disseminate the content of the regulations**

There is very limited knowledge about the scope and specific requirements of the new regulations, especially in the weakest value chains. Workshops should be held in order to inform people about the requirements in both regulations and favourably raise awareness among the actors involved about the objectives pursued. This will facilitate compliance with the new statutory requirements and, at the same time, promote the empowerment of civil society and, in particular, vulnerable groups with regard to the content of these two regulations.

### **2. Promote sectoral dialogues**

The above issues represent a collective challenge that requires collaboration across a broad spectrum of actors. There are no dialogue and collaboration structures making it possible to tackle collectively and comprehensively the challenges faced. The implementation of the regulations analysed represents an opportunity to promote sectoral dialogue processes and configure comprehensive structures and road maps with shared objectives. This dialogue could be carried out in a variety of formats, such as technical tables or platforms that have been described for different chains. These spaces will feature, ideally, participation by producers from Guatemala, trade associations and European buyers, as well as representatives of civil society, labour unions, indigenous villages, human rights advocates, academia and directly related public institutions.

### **3. Support for and dissemination of best practices**

There are good practices in the country with regard to georeferenced traceability, such as the tools developed by GREPALMA for palm oil and by ANACAFE and AGEXPORT, respectively, for coffee. Also, there are good community practices in forest and wood management, as well as the involvement of and participation by women in coffee-producing cooperatives. These can be strengthened with technical assistance and the possibility of replicating them in other value chains should be analysed.

### **4. Training**

Small and micro producers will need training in order to comply with the new requirements. This is not only about traceability, but also about compliance with administrative or documentation tasks that may be necessary for performing due diligence. Similarly, training can be provided to producers on sustainable practices and “zero-deforestation”. It is suggested that work be performed at the organised group level (cooperatives, associations, federations, etc.) to create new capacities specifically related to the requirements set out by both the European regulations analysed.

Training initiatives aimed at managers, employees, labour unions, social auditors, environmental assessors, civil society organisations, indigenous communities and governments should be promoted in order to achieve a better social and environment performance.

At the same time, in order to facilitate interpretation of the scope of the Directive on sustainability, it is suggested that work be done on the standardisation of codes enshrining responsible business conduct, in accordance with the UN, the ILO, the OECD and the EU, as well as with the requirements imposed by private certification. This would make the concept of business due diligence more comprehensive and practical for medium and small companies.

## **5. Strengthen and promote the implementation of existing sectoral policies**

Generally speaking, there are already sectoral policies in Guatemala on human rights, although their level of conceptual development varies, as well as their incorporation of international human rights standards (Guiding Principles), with very limited implementation as well. These policies could be studied and strengthened in order to expand their scope, improve their design and provide them with an operating plan to facilitate their implementation.

Some type of support could start being provided with regard to Human Rights Policy for the Implementation of the Guiding Principles of the United Nations on Business and Human Rights in the agricultural sector, the Human Rights Policy of GREPALMA and its members and the Institutional Policy on Human and Business Rights for export sector competitiveness in Guatemala (AGEXPORT). With regard to all other policies, perhaps some thought should be given to processes of updating and adjusting to new standards in human and business rights.

## **6. Strengthen private sector alliances**

Pilot due diligence systems could be implemented by working in collaboration with leading companies from Guatemala and the EU with the objective of creating better practices and promoting private sector initiatives, as an ally or ambassador of the new regulations.

## **7. Promote the development of agricultural land registries**

As was pointed out, the weakest chains have limitations because of plot size, a lack of legally defined boundaries and legal uncertainty related to land ownership on the part of many small and micro producers. Various technical assistance projects have been carried out in Guatemala aimed at the development of a Registry of Cadastral Information (RCI). An analysis of the scope of the RCI's Geoportal<sup>5</sup> could be performed, as well as an analysis of the possibilities of strengthening it as a contribution to resolving the above limitations and facilitating the traceability required by the Regulation on deforestation-free products.

## **8. Improve access to financing**

In terms of financial actions, there is a significant opportunity for designing and implementing financial tools that provide adequate incentives for promoting the best agricultural practices in all value chains. These tools should be designed in the light of geographical location, operational type, productive cycle and land ownership and should also include climate financing options for domestic and international public sectors. The target is not only to facilitate the implementation of the requirements set forth by the new regulations, but also, on a general level, to promote a process of modernisation and formalisation in the agricultural sector, which is essential for making sure that the most vulnerable groups are not the ones hardest hit.

## **9. Support initiatives promoting impact investment in most vulnerable value chains**

Impact investment is a tool for improving the financing of the value chains affected. These are investments aimed at producing attractive returns, as well as positive and quantifiable social or environmental impacts. Once a specific impact target is established, impact investments are expected to yield quantifiable socio-economic or environmental benefits. This adds an economic value to sustainability, taking it beyond mere compliance with regulatory requirements or private certifications.

## **10. Evaluate the contribution of each value chain to deforestation**

One of the factors that could be included as part of the impact of the Regulation on deforestation-free products is a risk rating system for producer countries with a simplified due diligence procedure for countries considered low-risk.

From this perspective, it has to be taken into account that not all value chains contribute equally to deforestation, so that the use of aggregate deforestation criteria to calculate the risk for a country like Guatemala may penalise value chains which, generally speaking, use forests in a sustainable way, as well as operators who have made highly significant investments in sustainability.

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<sup>5</sup> <https://portal.ric.gob.gt/geoportal>

At the same time, it is recommended that a distinction be drawn between the impact of licit and illicit activities. Accordingly, we suggest carrying out studies in order to assess the individual contribution of each value chain to deforestation in Guatemala.

### **11. *The role of the State***

The role of the State should be reinforced as an entity in charge of establishing policies throughout value chains, as well as with regard to its duty to establish and require compliance with internal legal regulations applicable to companies. Its support is of critical importance at this time, where priority is being given to environmental due diligence and human rights at the regional and global levels. It also has an important supporting function as a provider of financial and non-financial assistance to various actors in the business ecosystem, especially to those who may find themselves most affected by the new regulation. In the State of Guatemala, pursuant to Resolution A/HRC/RES/26/22 of June 2014 of the Human Rights Council, the development of the National Action Plan on Business and Human Rights (PAN), with participation by all the sectors involved, is pending. In this regard, the Regulation on deforestation-free products and the Directive on sustainability reinforce the need to revisit, once again, the development of the PAN based on the 2011 Guiding Principles of the United Nations on Business and Human Rights.

### **12. *The role of workers' organisations***

The virtual non-existence of workers' organisations (labour unions) within each of the chains assessed means that workers, taken as a group, have not been involved in the drafting and implementation of social and environmental standards. Putting into practice due diligence with regard to human rights and environmental matters will require a greater commitment by companies to their workers and their organisations, starting with, for example, guaranteeing their rights to free association, labour union freedom, collective bargaining freedom and greater participation in productive processes and necessary improvements. At the same time, individual and group access to complaint mechanisms should be eased, as well as judicial and extrajudicial resources that could be used to submit claims (and, possibly, take legal action) in the internal and international jurisdictions with regard to potential social and environmental damages arising from commercial activity.

We are looking at a *coherence* scenario here from the perspective of companies that are interested in being perceived and considered as respectful of human rights and, in this case, workers' rights. Coherence should also be demonstrated by the State and not just with regard to compliance with the provisions of the Labour Code and other laws, including international agreements. It should also act through the Labour Inspectorate to penalise employers who are non-compliant. At the same time, an important role is played by the courts in terms of acting in favour of workers and their rights, in order to ensure quick and proper justice while taking into account that the right to work is a protected right of workers.

A forum that identifies itself with promoting social dialogue and strengthening the role of labour unions is the National Tripartite Commission on Labour Relations and the Freedom of Association (created by Governmental Agreement 45-2018), which comprises, in a representative and equitable manner, representatives of the employer sector, the workers' sector and the government.

### **13. *The role of civil society organisations***

Civil society organisations, including community organisations, academic and research institutions, human rights advocates and mass media, play a crucial role in value chains because they provide a voice and support to interested parties whose rights and interests are affected. They can contribute by means of open and collaborative activities in the following manner: a) Spreading awareness about business activities that have a social and environmental effect, which also serves, in a preventive way, for risk identification, prevention and mitigation, as well as the rectification of adverse impacts; b) By using complaint mechanisms, civil society organisations give a voice to claims brought by individual or groups and resonate to get them addressed by companies and through official channels; c) Gaining access to judicial and extrajudicial mechanisms is not always an easy task, so civil society organisations may assist rights holders in accessing certain resources; d) Boosting the capacities of producers, workers and their communities is one of the main activities carried out by civil society organisations; e) Research and orientation services provide information and knowledge to all

the actors in a value chain; f) Transparency: civil society organisations play an important role in investigation, documentation, follow-up and the disclosure of information about actors in a value chain and their impact on society and the environment; and g) The formulation of policies: civil society organisations have a big role in policy definition, formulation, implementation, follow-up and evaluation.

In the next call-for-projects cycle under the European Instrument for Democracy and Human Rights, EIDHR, the DUE could reinforce its support for civil society organisations with regard to the strengthening of their capacity to implement the Guiding Principles, as well as their dialogue with companies, investment agents and State authorities to seek to mitigate the negative impact of business activities on human rights among the most vulnerable layers of the population (women, children, indigenous villages and human rights advocates).

#### **14. Linking of actions with the CERALC regional programme**

At present, Guatemala does not form part of the nine countries implementing the CERALC programme (<https://rbclac-fund.org/?lang=en>), but it is expected to be included in the second phase starting in 2023. In this regard, we expect that involvement of the CERALC programme in Guatemala to create and open multi-actor forums not only for the purposes of discussion, dialogue and support, but also for the sharing of lessons learned and the dissemination of good business practices. The first noteworthy development is the fact that Guatemala has been included within CERALC programme's framework as part of the community with intergovernmental practices on business and human rights in Latin America and the Caribbean.

The challenges of responsible business conduct or the implementation of due diligence in environmental and social matters require not only participation, but also joint work carried out by governments, companies, civil society organisations, labour unions, communities, human rights advocates and other interested parties.

On another level, we recommend that the country's efforts in business and human rights area be *connected to a regional and global agenda*.

#### **15. Link to the COPERNICUS programme**

The European Earth Observation Programme, COPERNICUS (<https://www.copernicus.eu/es/sobre-copernicus>) is to have a regional hub in Panama: It is suggested that relationships should be facilitated between the persons in charge of this hub and the associations of the value chains analysed in order to evaluate potential opportunities for cooperation or complementarity with this satellite system, reinforce georeferencing systems already established for some chains or establish such systems in the chains that do not have them yet.



