

Making mandatory human rights and environmental due diligence work for all

Highlights on effective and inclusive accompanying support to due diligence legislation

The European Commission's legislative proposal for a Corporate Sustainability Due Diligence Directive (CSDD) is an important contribution to the strengthening the private sector's contribution to the implementation of the European Green Deal, and achievement of the Sustainable Development Goals. It forms part of a larger set of policy initiatives on global value chain sustainability, which were adopted under the umbrella of the European Green Deal. This new directive complements, for example, the Corporate Sustainability Reporting Directive, Sustainable Product Initiative, and the Regulation on Deforestation-free Products.

The proposal advances an integrated framework for mandatory human rights and environmental due diligence (mHREDD) together with administrative sanctions and civil liability for in-scope companies active on the EU market and their global value chain partners. When fully in force, it has the potential to achieve system-level change in responsible business conduct and to improve livelihoods, working conditions, and respect for human rights and the environment in producer countries.

A legal due diligence obligation will not achieve these results alone, however. It must be bolstered by support and guidance to incentivize, facilitate and inform meaningful engagement of EU companies with suppliers and producers in developing countries, combined with capacity building for local producers to allow them adopt sustainable production practices. A partnership approach is crucial for the effective implementation of due diligence and must combine public and private sector efforts to ensure meaningful and inclusive outcomes.

The Directorate-General for International Partnerships (DG INTPA) and the International Trade Centre (ITC) joined forces to co-create this guidance on effective and inclusive accompanying support to due diligence legislation¹. The partnership builds on several years of collaboration in the promotion of sustainable and inclusive trade and development.

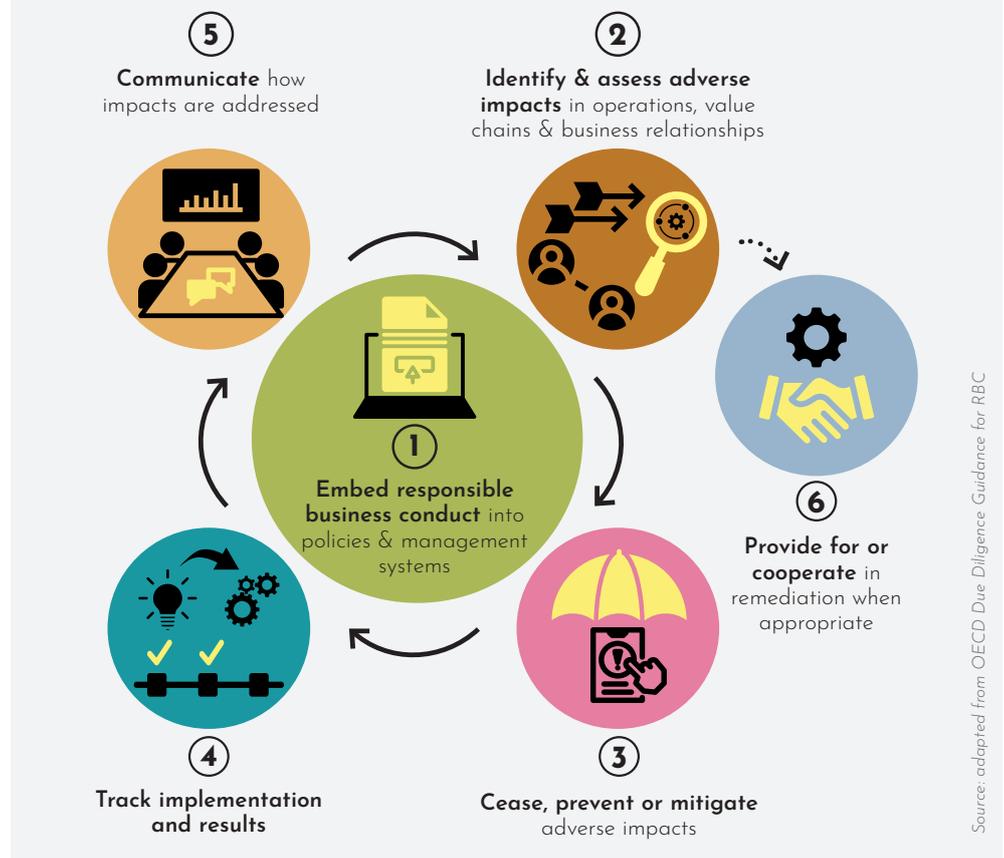
¹ This guidance has been developed in parallel to the preparations of the CSDD legislative proposal, and is building primarily on notions and definitions from existing international guidelines focusing on value chain due diligence. Although the final CSDD proposal is also based on international standards, it refers to value chain and uses different definitions in certain cases.

What is a due diligence process?

Due Diligence means that companies must take appropriate measures to prevent, end or mitigate impacts on the rights and prohibitions included in international human rights agreements. This could be, for example, ensuring workers' access to adequate food, clothing, and water and sanitation in the workplace. Companies are also required to take measures to prevent, end or mitigate negative environmental impacts that run contrary to a number of multilateral environmental conventions.

The new proposal also requires certain large companies to adopt a plan to ensure that their business strategy is compatible with limiting global warming to 1.5 °C, in line with the Paris Agreement.

The due diligence process - 6 key steps

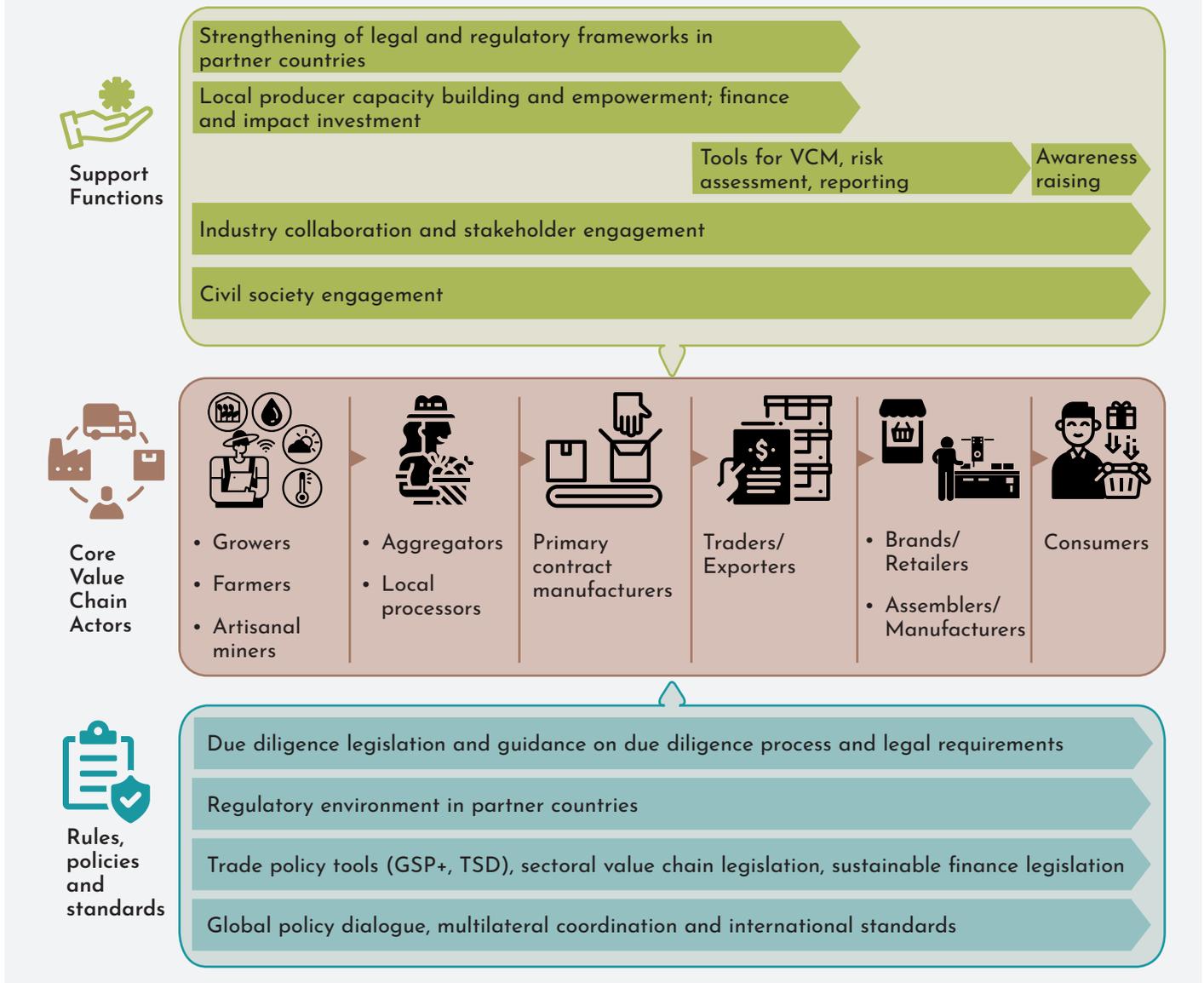


Source: adapted from OECD Due Diligence Guidance for RBC

How does a value chain system work?

While due diligence legislation only mandates in-scope companies to conduct due diligence, all actors in the value chain have actually a responsibility to collect and share ongoing information on risks and impacts, and to communicate on how they are being addressed. All these actors have a role in ensuring that the due diligence process is carried out in inclusive and effective ways that meet the expectations of human rights and environmental due diligence.

The Value Chain System: Core value chain transactions, support functions, and rules



Companies in scope of the Directive

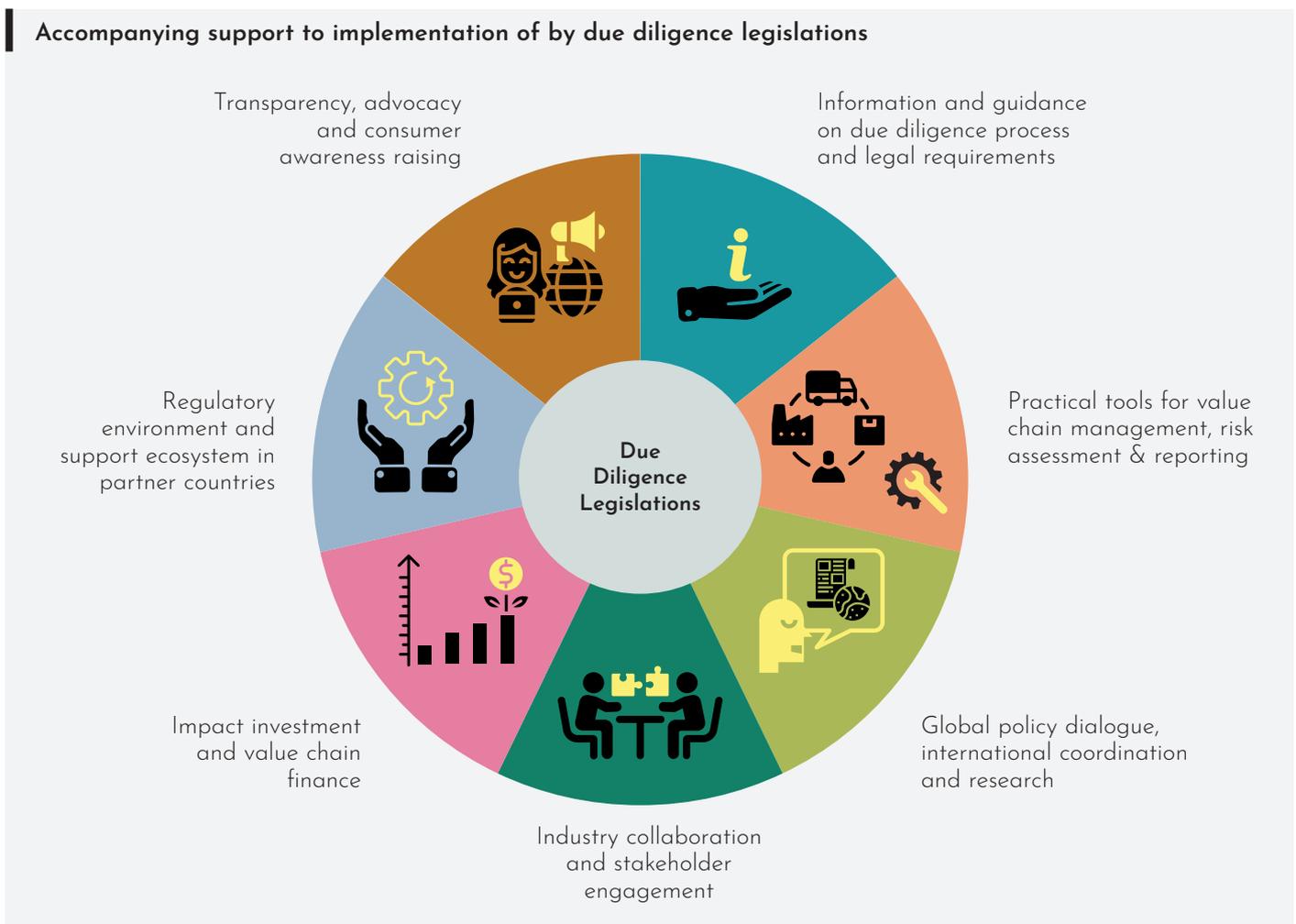
- Large EU companies: >500 employees and >EUR 150 Mio. turnover worldwide (ca. 13.000)
- Large non-EU companies: >EUR 150 Mio. turnover in the EU (ca. 4.000) OR >40 Mio. in EU provided 50% of the turnover is in high-risk sectors (garment and textile, agriculture, forestry, mineral etc...)
- Mid-sized companies: >250 employees and a >EUR 40 Mio. turnover worldwide operating in high-risk sectors (garment and textile, agriculture, forestry, mineral etc...)²

² Special rules apply for high-risk sectors. See article 2 Paragraph 1 to 4 of Directive 2019/1937.

Which accompanying measures can support implementation of due diligence legislations?

The EU is developing accompanying measures at global, regional and local levels to support businesses, business support organizations, governments and civil society throughout global value chains (both in EU and third countries). The Corporate Sustainability Due Diligence (CSDD) can be a potential sustainable trade opportunity for producing countries, provided the measures are implemented inclusively. We identified eight different categories of support, while many measures span across more than one of those categories. When developing new accompanying support actions, a continuous dialogue and engagement with affected stakeholders must happen across the measures at different levels to capture successes and failures and application from theory to practice, from global to local and vice versa.

The following considerations should guide the design of accompanying measures capable of achieving system-level change:



This co-creation effort between ITC and DG INTPA is a good example of what partnerships built on a shared purpose can achieve to better respond to the requirements of micro, small and medium-sized enterprises (MSMEs) and development policies. ITC is well-positioned to partner with governments and private sector to build a bottom up enabling accompanying framework for MSMEs to become more competitive while minimizing risks and maximizing opportunities to connect to international and regional markets for trade and investment. It is our aim to leverage on CSDD to help raise incomes and creating decent job opportunities, especially for women, youth, and poor communities as well as to have a positive effect on the environmental impact of companies.

CASE STUDIES



CASE EXAMPLE: LOCAL

Textile and coffee in Eswatini: Pilot project

In the framework of a project in Eswatini implemented by the International Trade Centre's Alliances for Action programme, the EU has aligned existing programme activities to support uptake of the CSDD. The proposed Directive provides ideal conditions for the development of market opportunities for producers in Eswatini, many of whom are already supplying sustainable products to niche markets. This pilot project concludes that the following considerations must guide future programming of accompanying support actions:

- Ownership by all stakeholders (demand driven, co-creation)
- Focus on raising awareness and capacity building on CSDD
- Increased engagement between EU firms and suppliers and producers
- A bottom-up approach for policies that align with context needs, challenges and opportunities



CASE EXAMPLE: SECTOR-WIDE

UNECE and ITC Garment Traceability Project

This project provides tools for companies that are immediately relevant for their due diligence obligations. It has set a global standard for traceability in the garment sector by building a multi-stakeholder policy platform, developing policy recommendations traceability standards and implementation guidelines. It furthermore created a database where companies can share social audit information and it has harmonised audit formats.