



# Strengthening The ‘E’ In HREDD

Why the environmental dimension of  
sustainable supply chains matters

# Imprint

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# Abstract

The overview of developments in the field of supply chain Human Rights and Environmental Due Diligence (HREDD) shows that there is a growing momentum for national and international legislative due diligence action. In most cases, legislation focuses on human rights aspects. At the same time, legislation on specific environmental aspects in the supply chain (e.g. on timber) is increasing in number and importance. Policy-makers also increasingly recognise the links and interdependencies between human rights and environmental issues in supply chains (e.g. the draft of EU Directive on Corporate Sustainability Due Diligence, CSDD). Companies are also moving towards more environmentally friendly supply chains, with pioneers paving the way for others and a larger group being required to integrate environmental issues into their due diligence systems based on (upcoming) regulatory requirements. However, to make true progress towards a holistic HREDD approach, these efforts must intensify and accelerate. While common reference points are central to the effective implementation of HREDD (e.g. recognised international standards), it is foremost time to move from a debate on appropriate standards to large scale implementation on the ground.

Drawing on existing literature and discussions, this paper aims to support the exchange within the G7 (and beyond) by providing an overview of the status quo of measures that encourage due diligence regarding environmental protection, including the link to supporting human rights, and options to advance the effectiveness of these measures.

# 1. Why environmentally sound supply chains matter for the G7

There is clear evidence that adverse climate change and environmental impacts are increasing in frequency and effect: The most recent IPCC Assessment Report, published in April 2022, shows that anthropogenic greenhouse gas (GHG) emissions and global average temperatures are increasing worldwide (Working Group III 2022). The United Nations' (UN) Global Biodiversity Outlook, most recently published in 2020, reports an unprecedented loss of biodiversity and highlights that none of the targets set in 2010 for the UN Decade of Biodiversity have been met (UN News 2020). The UN World Water Report 2022 warns that groundwater is dramatically overexploited in many places and calls on the global community to counteract this with better management and environmental regulations (UN Water 2022). **Reports like these suggest that the global community is at risk of failing to meet the environmental targets of the Sustainable Development Goals (SDGs) and international agreements such as the Paris Climate Agreement.**

Failure to meet these environmental and climate targets and to respond to ongoing environmental degradation could, as the IPCC warns, lead to “irreversible impacts” (Working Group II 2022) that affect the entire planet. Ongoing climate change and environmental degradation threaten the quality of life and ecosystems worldwide, for example through rising sea levels and increased storms or heat waves. In particular, ecosystems such as soils and forests, oceans, rivers and lakes – already facing severe stress – could be destroyed by pollution and climatic change, which contribute, among other things, to the global loss of species (UBA 2022). Further, the protection of the environment and the protection of human rights are inextricably linked: “Ecosystems and the services they provide [...], are preconditions for the full enjoyment of human rights [...]. At the same time, efforts to promote environmental sustainability can only be effective if they occur in the context of conductive legal frameworks, and are greatly informed by

the exercise of certain human rights” (UNEP 2015). For example, water extraction and the resulting reduction in water levels not only threaten local ecosystems, but can also curtail the local population's right of access to water (UN Water 2022). Conflicts over natural resources such as land, water and forests are increasing all over the world (Mosello et al. 2021). Finally, environmental instability and the impacts of climate change also destabilise existing global trade flows. The COVID-19 crisis has painfully demonstrated that highly complex global value chains are particularly vulnerable to external disruptions (Woetzel et al. 2020). **Environmental sustainability is a precondition for lasting resilience.**

At the same time, global supply chains are a central driver for climate change and environmental degradation: **The majority of environmental impacts caused by companies today occur along their global supply chains, not at their own production sites** (Jungmichel et al. 2017). Depending on the sector, around 80 percent of all CO<sub>2</sub> emissions occur in supply chains (World Economic Forum 2022). For example, in the garment industry and food retailing, the supply chain accounts for almost 100 percent of water consumption, of which a significant share is consumed in regions with high water stress, increasing the likelihood of droughts (Jungmichel et al. 2017). The extraction of raw materials is increasingly using large areas of land along global supply chains, leading to the destruction of natural areas and the loss of ecosystems and biodiversity worldwide (Jungmichel et al. 2017; Weiss et al. 2022). The production processes in the value chain themselves are resource-intensive in many cases. Moreover, the value chains of companies from industrialised countries are often linked to insufficient or weak environmental standards and harmful resource extraction, including the mistreatment of chemicals and degradation of soils and waters (Heinz and Sydow 2021). Corporate misconduct can result in irreversible environmental damage to all key environmental goods (air, water, soil,

climate, biodiversity, raw materials) on the national and international scale: Almost one fourth of the 500 specific instances of alleged misconduct reported to the National Contact Points (NCPs) established under the OECD Guidelines for Multinational Enterprises between 2000 and 2019 were related to environmental misconduct (OECD 2022).

The motto of this year's German G7 Presidency is "Progress towards an equitable world" (G7 Germany 2022a). A prerequisite for an equitable world is a "sustainable planet" (G7 Germany 2022b). Reaching this goal requires the active participation of all actors. Companies play a prominent role. **Multinational companies have far-reaching influence through their involvement in global trade flows. Through their supply chains, they can have positive impacts on the environment and human rights (G7 Germany 2022a).** Many companies have recognised this connection and implemented environmental standards along their supply chains (Business & Human Rights Resource Centre 2022). Many governments have also enacted legislation in recent years to encourage and enable companies to meet their environmental and human rights obligations along their supply chains (Business & Human Rights Resource Centre 2022). In many cases, supporting (voluntary) activities such as dialogue series, guidance documents and helpdesks have been used as a "smart mix"<sup>1</sup> of measures (WBCSD & HRL 2022). **This trend of legislative action (as part of a "smart mix") should continue and be strengthened in order to reach those companies that have not yet taken the initiative to protect the environment in their supply chains.**

The importance of sustainable supply chains was already recognised in the 2015 G7 Summit in Elmau under the German Presidency, which ended with a strong commitment to responsible supply chains. The G7 acknowledged their important role and responsibility as major global economies in "promoting labour rights, decent working conditions and environmental protection in global supply chains" (Germany 2015: 6), while focusing on promoting human rights due diligence. Since then, the concept of supply chain due diligence has been continuously integrated into various voluntary and binding regulations, policies and initiatives (WBCSD & HRL 2022), recognising that supply chains constitute our economic as well as our social and environmental interdependence, making them

an important cause – as well as an important means – to achieve common goals (Grumiller et al. 2022).

It has been observed that developments in recent years have focused mainly on social risks and the protection of human rights along global supply chains (Heinz and Sydow 2021). Hence, the main argument of this policy paper is that there is still great potential (and need) to strengthen environmental and climate protection through supply chain due diligence: **The 2022 G7 Summit offers the opportunity to strengthen the "E" – the environmental aspects – of Human Rights and Environmental Due Diligence (HREDD) in supply chains.**

The G7 should use their power as leading economies to advocate for environmentally sustainable supply chains that support the fight against the triple crisis of climate, biodiversity and pollution (UNFCCC 2022a).

#### The concept of Human Rights and Environmental Due Diligence (HREDD) – a means to foster sustainable supply chains

Corporate due diligence describes a process that companies should undertake to "identify, prevent, mitigate and account for how they address [the] actual and potential adverse impacts [on people, society or the environment] in their own operations, their supply chain and other business relationships".

The OECD Due Diligence Guidance for Responsible Business Conduct describes a six-part process for companies to fulfil their duty of care: 1) embed responsible business conduct into policies and management systems, 2) identify and assess adverse impacts in operations, supply chains and business relationships, 3) cease, prevent or mitigate adverse impacts, 4) track implementation and results, 5) communicate how impacts are addressed and 6) provide for or cooperate in remediation when appropriate.

This concept aims at prevention: Businesses should be enabled to avoid causing or contributing to adverse impacts on people, the environment and society, and strive to prevent these impacts. Where involvement in adverse impacts cannot or could not be avoided, due diligence should enable companies to mitigate these impacts, prevent their recurrence and, where appropriate, remediate them.

Source: OECD Due Diligence Guidance for Responsible Business Conduct (2018).

## 2. Trends in the G7 towards environmental due diligence in supply chains

The concept of due diligence found universal acceptance in 2011, when the UN Human Rights Council (UNHRC) adopted the UN Guiding Principles on Business and Human Rights (UNGPs) (United Nations 2011). The adoption of the voluntary UNGPs clarified the basic obligations and responsibilities of states and companies with regard to human rights and has since postulated an authoritative reference point (Triponel et al. 2021). They also established expectations for companies to seek to prevent or mitigate adverse human rights impacts in their supply chain that are directly linked to the company's operations, products or services (Initiative Lieferkettengesetz 2021). 2011 also saw the revision of the OECD Guidelines for Multinational Enterprises with the inclusion of due diligence (OECD Guidelines). The guidelines are another key international soft law document that promotes responsible corporate governance. The OECD Guidelines echo the UNGPs' expectations for human rights but extend the due diligence framework to address, among other aspects, environmental impacts and risks (Triponel et al. 2021).

Another landmark for the international acceptance of the due diligence approach was at the 2015 summit in Elmau, when the G7 Heads of State and Government jointly declared the will to create a common understanding of due diligence (Germany 2015). In 2018, the OECD published their "Due Diligence Guidance for Responsible Business Conduct (OECD Guidance)" (OECD Due Diligence Guidance for Responsible Business Conduct 2018). Further, countries set up national action plans (NAPs) in the 2010s to fulfil the UNGPs. These plans mainly created voluntary options for the private sector to implement a process for respecting human rights along their supply chains (e.g. the United States' National Action Plan on Responsible Business Conduct [2016] or Italian National Action Plan on Business and Human Rights 2016-2021 [2016]) (UN Working Group on Business and Human Rights 2016). As of today, several states have even introduced legislation that requires due diligence in supply

chains, often on selected or general human rights issues (WBCSD & HRL 2022).

The following section illustrates how the concept of due diligence is now firmly anchored in the national and international context. Chapter 4 includes a compact overview of this evolution.

### 2.1 National legislation

**Until recently, few laws in G7 member states made direct reference to environmental due diligence (EDD).** Comprehensive corporate due diligence laws focused mostly on human rights aspects along the supply chain and only marginally addressed environmental impacts (e.g. the UK Modern Slavery Act [2015] and US Dodd-Frank Act [2010]) (WBCSD & HRL 2022).

**However, this trend is changing in G7 member states: Recent developments show that legislation on specific environmental aspects is increasing in number and importance,** such as the Japan Clean Wood Act (2016) (Act on Promotion of Use and Distribution of Legally-harvested Wood and Wood Products [Act No. 48 of 2016]), and the UK Environment Act 2021 (OECD 2021b). For instance, the UK Environment Act aims to improve national environmental protection through clear targets and implementation requirements in the areas of air quality, biodiversity, water and waste. The Act will make it illegal for large companies in the UK, among others, to use forest risk commodities produced on land illegally occupied or used (Environment Act 2021).

**Among legislative initiatives, a recent emergence of more holistic HREDD approaches can be observed.<sup>2</sup>**

Some legislation refers to both human rights and environmental issues through supply chain due diligence, including the French Corporate Duty of Vigilance Law

(2017) and the German Act on Corporate Due Diligence Obligations for the Prevention of Human Rights Violations in Supply Chains (2021). The French law, the first comprehensive body of legislation to legally require companies to comply with due diligence obligations, contains general negative clause-like wording in relation to environmental obligations. The law refers to environmental damage in general terms, without further concretising and specifying the resulting corporate obligations (Heinz and Sydow 2021). The French legal text stipulates that companies must identify and prevent “risks involving serious violations of [inter alia] the environment” (Loi n° 2017-399 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d’ordre 2017). The German Act, which is based on the realisation that voluntary measures alone are insufficient, explicitly refers to the enforcement of three environment-related multilateral agreements: the agreements on the use of persistent organic pollutants (Stockholm Convention), mercury (Minamata Convention) and hazardous waste (Basel Convention). Apart from this, the law addresses environmental damage if it directly leads to a violation of human rights (BMZ 2021; Gesetz über die unternehmerischen Sorgfaltspflichten in Lieferketten 2022).<sup>3</sup> The EU’s draft Corporate Sustainability Due Diligence Directive (CSDD) goes beyond the scope of the German Act to cover environmental impacts more extensively. The draft contains provisions for further environmental due diligence requirements along value chains, e.g. biodiversity. The Annex to the proposal provides a list of environmental conventions on biodiversity, chemicals and waste. The draft CSDD also defines climate-related due diligence obligations (European Commission 2020).

**Other countries are also currently making efforts to (further) enshrine HREDD into domestic law.** In Belgium in April 2021, the federal parliament voted in favour of a supply chain due diligence bill (Business & Human Rights Resource Centre 2022c). First steps towards mandatory national supply chain due diligence laws are also being taken in Austria, Luxembourg and Finland (Gambetta 2021; ECCJ 2022a). In the Netherlands, the Foreign Trade and Development Minister announced in December 2021 that the government will introduce a national law on human rights and environmental due diligence. The new regulation is intended to

cover environmental aspects, which were excluded by the Netherlands’ Child Labour Due Diligence Act (Business & Human Rights Resource Centre 2022b).

## 2.2 Developments in international organisations

Simultaneous to the trend of more due diligence legislation on a national level, international standards and treaties are also evolving to consider to a great extent environmental issues.

**The ongoing stocktaking of the OECD Guidelines<sup>4</sup> identifies gaps in the environmental chapter**, insofar as they do not reflect recent developments in multinational environmental agreements or the urgency to address environmental issues, **and offers opportunities for improving environmental aspects** in a key reference document for supply chain due diligence. Almost all (national) due diligence legislations are built upon the OECD Guidelines (as well as the UNGPs and the ILO Tripartite Declaration). The OECD Guidelines and the additional sectoral guidance documents also play an important role for sectoral initiatives as well as for individual companies.

**The close interdependence between human rights, environmental and climate-related risks is increasingly recognised** – for example by the recent Resolution (48/13)<sup>5</sup> for a right to a clean, healthy and sustainable environment adopted by the UNHRC.<sup>6</sup> The Third Revised Draft of the UN Treaty on Business and Human Rights includes a specific reference to and recognition of the right to a safe, clean, healthy and sustainable environment (OHCHR 2021), which represents a concretisation compared to the Second Draft, which only mentioned the term “environmental rights” (OHCHR 2021). As with increasing numbers of national due diligence, the UN recognises the close link between human rights and environmental issues, either by connecting human rights and environmental impacts or by addressing environmental impacts by themselves.

**International organisations increasingly recognise the need to establish a holistic framework** to measure,

prevent and mitigate social, environmental and climate risks. For instance, the OECD is currently working with the United Nations Environment Programme (UNEP) and the United Nations Framework Convention on Climate Change (UNFCCC) to promote a “unified message on RBC [Responsible Business Conduct] expectations as they relate to climate change” (UNFCCC et al. 2022b). The initiative explicitly recognises the potential negative impacts of climate action on human rights and the environment and calls for a holistic approach (UNFCCC et al. 2022b).

## 2.3 Business initiatives

**The private sector is raising its ambitions and setting standards to voluntarily achieve concrete improvements in the global supply chain – sometimes going beyond the requirements of regulatory standards.**

Companies that already demonstrate best practice can inspire other companies and demonstrate that policy requirements for companies to comply with environmental and human rights standards can already be implemented in practice in many cases. For example, United Nations Environment Programme - Finance Initiative, a partnership between UNEP and the global financial sector, aims to collectively transform the sector so that it contributes to the sustainable development of society (UNEP FI 2022). Further, many companies report on water risks, impacts and measures they take through the CDP. A Taskforce on Nature-related Financial Disclosures (TNFD) was launched in 2021. A framework which seeks to enable organisations to report and act on evolving nature-related risks is planned for 2023.

**However, the overall impression is that the impact and scale of companies' HREDD activities need to be further strengthened.** For example, in the EU, only one in three businesses participating in a survey conducted for a study on due diligence requirements through the supply chain claim to undertake due diligence that takes into account all human rights and environmental impacts (Smit et al. 2020). In the monitoring of the implementation of the German NAP, a survey commissioned by the German government found that only 13 to 17 percent of the companies considered complied with the due diligence requirements. The

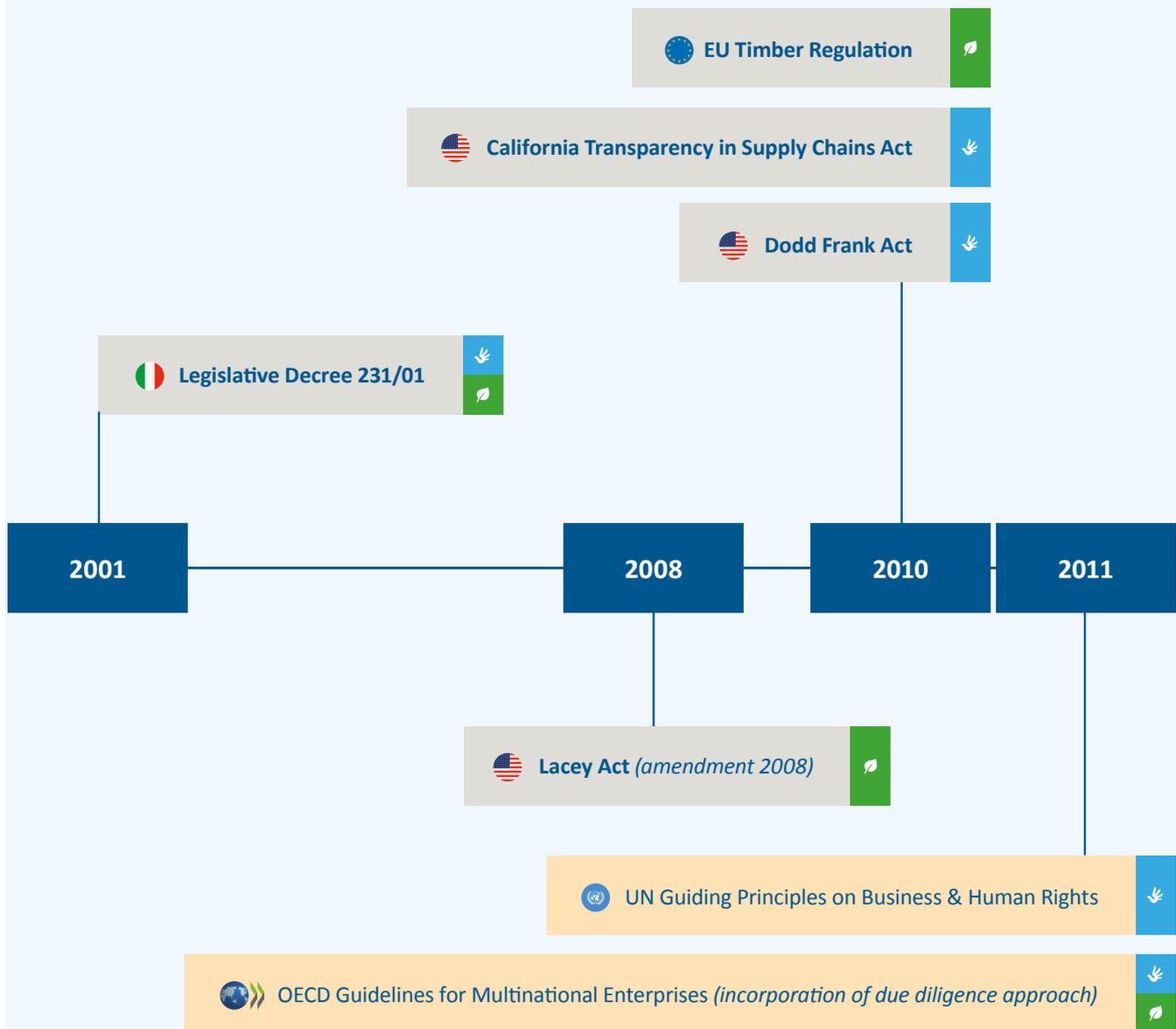
target of at least 50 percent “NAP compliers” set by the Federal Government has therefore not been achieved (Auswärtiges Amt 2020).

**In many sectors, business initiatives have been launched or expanded to address HREDD beyond individual company activities.** In fact, the number of business initiatives targeting sustainable supply chains is increasing.<sup>7</sup> Sector initiatives contribute to the implementation of mandatory HREDD by defining standards for sustainability within a sector, triggering a broad awareness of the issue among companies and suppliers. Such associations also offer the potential to develop common standards, exchange knowledge and best practices, or even build joint pressure – for example on suppliers to implement environmental or human rights requirements along the supply chain (BMAS 2017; Weiss et al. 2019).

However, the multiplicity of expectations and requirements formulated by the business initiatives themselves can lead to **fragmentation and a lack of standardisation and comparability of progress in the business sector on HREDD.**

**Many company representatives have recognised the potential of effective mandatory HREDD** in protecting the environment and people and in creating a level playing field for companies operating in a globalised context. Various companies have publicly called for effective mandatory due diligence legislation. In February 2022, more than 100 companies, investors, business associations and initiatives released a joint statement asking the EU to adopt the above mentioned CSDD.<sup>8</sup>

# Milestones on the road to HREDD in the supply chain\*



Legende:

Hard law

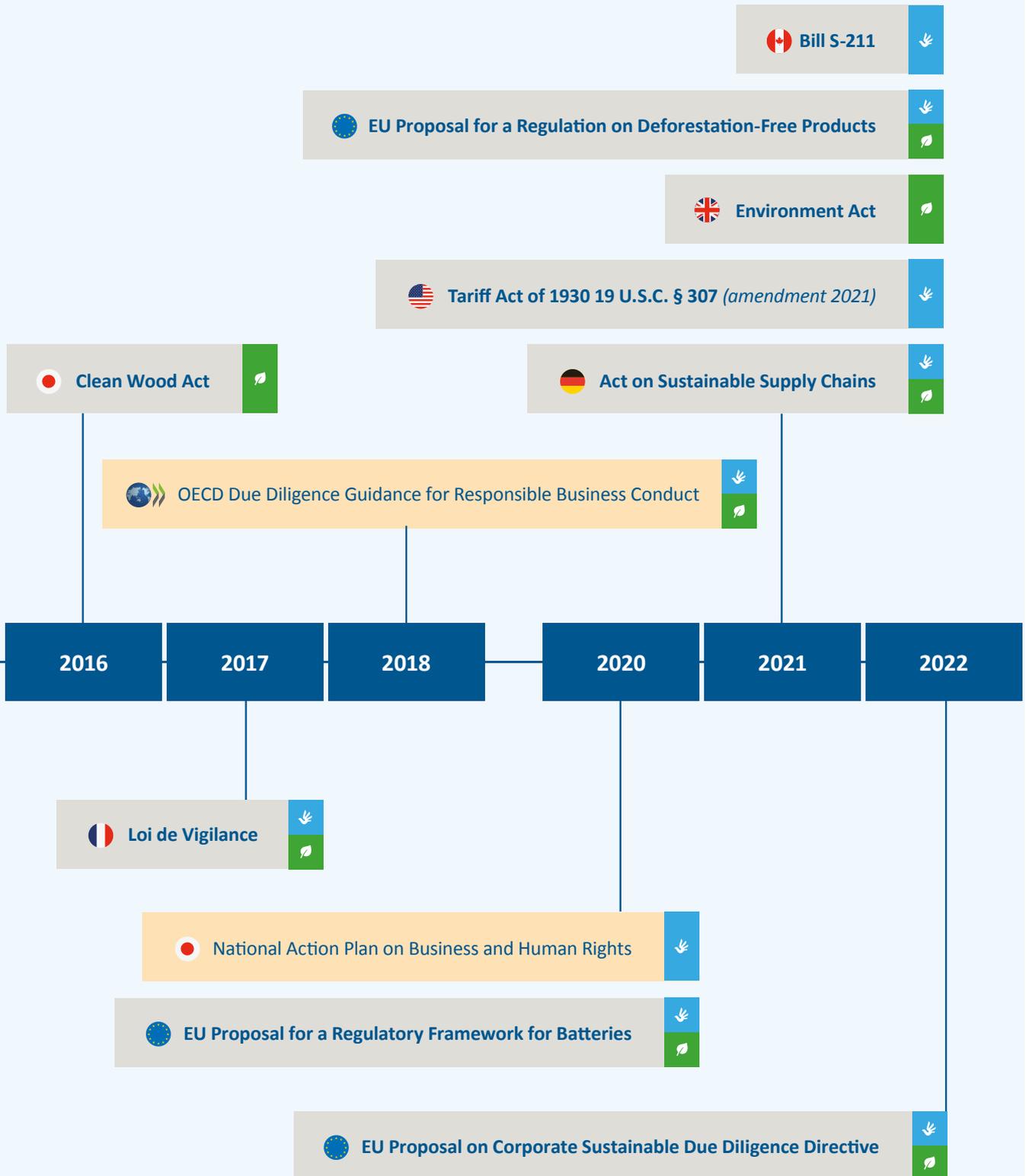
Soft law



Human Rights



Environment



\* Some laws or initiatives depicted in this graphic are not mentioned in the text.

Source: own representation

## 3. A call for concerted action towards comprehensive HREDD

The development of HREDD so far shows that various activities aim at achieving a “smart mix” of mandatory and voluntary due diligence measures. There is a growing momentum for national and international legislative and regulatory due diligence action, as policy-makers increasingly recognise that voluntary standards alone are insufficient to convince and support a broad number of companies to conduct due diligence. International standards (especially the UNGPs and the OECD Guidelines) play a key role in the development of the HREDD debate and in establishing common goals and methods that can be translated into national policy measures as well as practical action of companies. On an individual and sectoral level, HREDD practices of companies have evolved.

In order to strengthen the HREDD “smart mix” with a strong environmental component, action is recommended on three main levels. Firstly, legislative and regulatory measures need to define and align clear HREDD requirements that, among other things, address environmental and human rights issues in a holistic way. Secondly, all activities – either mandatory requirements or voluntary measures – need to aim at achieving real progress on environmental and human rights matters on the ground. And thirdly, an enabling environment for impact-driven HREDD implementation needs to be created that encourages companies to go beyond compliance.

### 3.1 Defining and aligning obligations to provide greater clarity for companies

**There is a need for a so-called “sustainability due diligence” umbrella.** Human rights and the protection of the environment are interconnected (OHCHR 2018) and their concerns often overlap; sustainability encompasses environmental and human rights aspects. Adopting

a holistic due diligence approach that considers human rights and the protection of the environment would allow companies clearer guidance on how to identify, understand, assess and address social and environmental sustainability impacts in an integrated way (Triponel et al. 2021). This chapter addresses different aspects to be considered when adopting HREDD.

#### Considering the particularities of environmental obligations

**Policy-makers need to consider the particularities of the protection of the environment when defining the scope of corporate sustainability due diligence.** If these particularities are not fully addressed, there is a risk of not giving the necessary attention to environmental issues. Human rights and the protection of the environment may also lead to trade-offs – e.g. employment in activities with adverse environmental impacts such as mining (Scherf et al. 2019b). If the link between the identified human rights and environmental risks is considered, measures can also be taken to avoid/address trade-offs.

Defining environmental obligations requires considerations different of human rights obligations. When considering what constitutes an adverse environmental impact that triggers due diligence obligations, there needs to be adequate flexibility in the following specifics related to environmental issues (Scherf et al. 2019b):

**The timeframes for assessing adverse environmental impacts and human rights impacts differ.** While the timeframe for the assessment of potential adverse environmental impacts tends to be longer (e.g. biodiversity loss), the timeframe for assessment of human rights impacts tends to be immediate (e.g. child labour) (Triponel et al. 2021).

**Adverse environmental impacts may become adverse only once a certain threshold is crossed,** e.g. the ecosys-

tem of a body of water may deal with certain effluents up to a certain level without detrimental effect, but beyond a certain threshold has strong adverse impacts on the local biodiversity. In addition, an adverse impact may be due to the activities of multiple businesses. As a result, collective action may be needed to address these impacts successfully (Impact Management Platform 2022).

**Adverse environmental impacts may strongly differ according to the local context.** The withdrawal of a certain amount of water in a location with severe water stress is to be assessed differently compared to a region with no water stress.

**Environmental issues often have cross-border/global origins.** This is especially important when it comes to climate change: specific, locally emitted GHG emissions alone do not usually have a direct/immediate impact on the environment or the people in the local vicinity of a business. Rather, the vicinity, as well as every other place, suffers from the global effect (Deva 2021).

### Ensuring coherence

**An international, substantive and normative environmental policy approach** (comparable to the Human Rights Charter or the ILO Core Labour Standards for social topics) **would support the consistent integration of environmental issues in supply chain due diligence law across different jurisdictions.** Currently, international environmental policy is instead characterised by a “patchwork of international agreements and bilateral and multilateral arrangements” (Heinz and Sydow 2021, p. 15). Germany alone is party to 303 international environmental agreements (252 multilateral and 51 bilateral), including 113 agreements with global scope. The majority of these agreements address environmental obligations of states, not of companies. This alignment barrier applies in particular to agreements regarding overarching and global environmental goals, such as emission reduction and biodiversity targets (Heinz and Sydow 2021).

**Coherent approaches in defining what constitutes a relevant adverse environmental impact provide greater clarity for companies.** Defining the adverse environmental impacts that companies should be assessing as part of their due diligence would help companies implement

environmental due diligence and foster legal certainty and the emergence of a true “level playing field.” Coherent legislative approaches would also allow companies in producing countries to adapt to HREDD standards.

**The OECD Guidelines should be revised to incorporate clearer reference to environmental issues.** In order for environmental protection along supply chains to be impactful, international standards need to be adjusted to include greater emphasis for and clarity on environmental protection. Updating expectations on business concerning environmental protection in the OECD Guidelines will create orientation and a common frame of reference. This update should be accompanied by increased promotion of these reference documents, through legislation or other encouraging measures. Only if they are up to date can international standards help harmonise and standardise action.

### Considering practicability for business

**National regulatory requirements should be harmonised to reduce risks and costs.** Generally, a horizontal, cross-sectoral approach to HREDD for all companies eases implementation, mitigates sustainability and liability risks, and reduces compliance costs for companies. According to the EU study on due diligence requirements through the supply chain, a cross-sectoral regulatory measure at EU level is preferred over (sector-specific) national frameworks (Smit et al. 2020). National legislation should ideally be aligned on key provisions, including the key due diligence process requirements and clear definitions of human rights and environmental topics to be addressed by companies in their risk assessments. International standards should further promote harmonization, based on national legislation.

**Proven environmental management tools should be adapted for businesses to implement EDD along the supply chain.** Rather than “reinventing the wheel”, the operationalisation of environmental due diligence through the chain can capitalise on a solid foundation of established environmental management approaches for integrating environmental due diligence into production processes. For example, tools such as EMAS or ISO 14001 can be extended or improved to map due diligence obligations along the supply chain.

**Further guidance is needed to help companies better understand and implement HREDD along the supply chain.** Guidance on HREDD to companies can take different forms, e.g. through the creation of multi-stakeholder forums, (government-driven) help-desks, or reports and guidelines. Report and guidelines should be practice-oriented and focus on specific stakeholders, e.g. smaller companies or specific environmental (and human rights) topics. Information adjusted to different target groups within companies (e.g. procurement department and human resources) would further help them integrate HREDD into their strategies.

### 3.2 Creating and monitoring impact

The goal of a “smart mix” on HREDD is to prevent or address negative impacts on the environment, climate and people along global supply chains. Activities to strengthen HREDD (and the environmental component in it) should therefore be measured against their ability to achieve **impact at scale**, and consider ways in which progress can be monitored. In order to create lasting impact through supply chain due diligence, the following factors should be taken into account.<sup>9</sup>

#### Identifying and prioritising environmental risks

**A company’s response to environmental (and human rights) risks should be grounded in the sound identification and prioritisation of those risks.** According to the UNGPs and the OECD Guidelines, a company should focus their due diligence processes on where the most serious risks and impacts occur in order to prioritise action and create lasting impact. This requires a deeper understanding of the types of environmental (and human rights) risks. For example, companies need to be able to understand the practical differences and links between potential and factual risks (see above).

In addition to a company’s internal research and dialogue with relevant stakeholder groups (see below), (publicly available) **information on industry- and country-specific, product- and company-related**

**environmental “hot-spots” and risk factors needs to be used and enhanced.**

**Tools can help to identify and understand environmental risks.** It will be important to create both awareness of existing tools as well as encourage the development of new tools. As a matter of fact, a variety of online tools and databases are already available. For example, companies can use databases on raw material-related environmental (and human rights) risks as well as on intermediate goods sectors. In addition, country-specific information on local pollution, environmental damage and related conflict is available in the form of databases. The same applies to tools for specific environmental issues, e.g. on water risks. Tools that can play an important role in HREDD risk analyses need to be promoted (further) and made available to companies. Furthermore, civil society organisations, associations and research institutions should be encouraged and supported to either update existing tools according to HREDD requirements or develop new tools for risk analysis.

**Governments should support the creation and exchange of information and data.** National governments should help clarify as much as possible the sectoral and geographic risks and the comparability of data. Information on these risk categories can be a starting point for company-specific risk identification and prioritisation processes. Information should also be exchanged between states and bundled wherever possible, e.g. through international sector dialogues (see below).

#### Measuring and reporting progress on environmental due diligence

**Public reporting is a key element of an (ambitious) HREDD implementation.** Reporting that builds on companies’ due diligence processes helps companies identify, prevent, reduce and address their risks along the supply chain, and to improve their social, environmental and financial performance. In addition, stakeholders inside and outside of companies (e.g. consumers and civil society, and even investors) need the “right” information to be collected, analysed and disclosed to understand the impacts of companies and to hold them accountable (ECCJ 2022b).

**Reporting standards need to be clear and coherent.**

Currently, there are various reporting frameworks, principles, certifications and standards available for use. And not all of them embed HREDD principles as they are expressed in the UNGPs and OECD Guidelines. Among other things, this affects the understanding and scope of materiality (based on “impact on human and the environment” and/or “impact on the company”). Furthermore, many of those initiatives do not sufficiently define which specific information and indicators companies must disclose. Convergence work is to build upon and learn from existing initiatives. For example, reporting on climate risks is/will be mandatory in many countries.

- For many companies, it can be challenging to obtain information on how much water is reused and which water sources are affected in their supply chain. Online tools and databases (such as the Water Risk Filter by WWF) can help assess current water risks across global supply chains.
- There are environmental impacts where technology can help. For example, in the EU timber regime, regulators assess deforestation through satellite imagery. In order to facilitate this, governments, civil society organisations and business associations should support establishing contacts with (local) stakeholders.

**Meaningful stakeholder engagement**

**Stakeholder engagement is an important element of impactful due diligence.** According to the UNGPs and OECD Guidelines, meaningful stakeholder engagement is a core component of due diligence. This engagement is particularly important to understanding and taking into account the perspective of (potentially) affected groups – but it can also serve as a way to get started with corporate due diligence and benefit from expert knowledge.

**Central to this is exchange with groups that can be negatively affected by companies’ business relationships.** These groups are also referred to as “rights holders” who, according to the UNGPs, should be included in the risk analysis process through accessible consultations. However, direct exchange with these groups is not always immediately possible. This is especially the case in the early stages, when contact with (potentially) affected groups in international supply chains is the exception, rather than the rule.

**Stakeholder engagement is particularly relevant for addressing environmental risks or actual negative impacts.** Otherwise, environmental impacts: (a) can remain undetected; (b) the probability of occurrence of the impact in the specific case is unknown or difficult to assess; and (c) the severity of the impact in the specific case is unknown or difficult to assess (Weiss et al. 2022).

**3.3 Creating an enabling environment for impact-driven HREDD implementation**

**We must not fall behind what already exists.** Some companies already follow comparatively high environmental due diligence standards in their supply chain, in addition to and independent of human rights impacts. These approaches should be made more widespread. Policy-makers must help (ambitious) companies set ambitious and strong environmental targets. There are various ways to achieve so.

**Developing HREDD transition pathways**

**Creating transition pathways would help companies to adapt to new standards on HREDD.** Many companies are not yet able to demonstrate full alignment with regulatory requirements on HREDD (see above). The creation of “transition pathways” would provide orientation to companies implementing HREDD along the supply chain. The creation of transition pathways is an established practice in legislative processes that seek to drive large-scale economic transformation, e.g. in the EU Strategy for Sustainable and Circular Textiles. Relevant stakeholders should be encouraged to participate in the creation process, e.g. through a consultation process to define the transition pathway.

**There is need for a shared “bold” vision and concept that can help companies structure and communicate their environmental (and human rights) targets and transition.** Take “deforestation-free” supply chains or “emissions-free” supply chains as a good example – the debate on the environmental impacts of companies along their supply chains has long been about the specifics of how to reduce these impacts. What is needed is a clear and broader goal/vision and support from policy-makers for companies when it comes to implementation.

**Cost-sharing considerations should be made with regard to implementation of higher environmental standards in producing countries:** The costs of implementation must not and cannot be borne by the producing countries alone; they need support and the costs of compliance with environmental standards must be shared fairly.

### Strengthening the environmental dimension in NAPs

The NAP review processes in which some G7 member parties are engaged (e.g. Germany) provide an opportunity to incorporate or strengthen (further) relevant issues in global supply chains with regard to sustainability due diligence, i.e. the protection of the environment and circularity.<sup>10</sup>

In order for environmental protection along supply chains to be impactful, **G7 member parties should incorporate (clearer) references to environmental issues in NAPs** (see chapter 1).

Policy-makers should align circularity and due diligence policies and include circularity principles in due diligence legislation (and vice versa). The protection of the environment and the respect of human rights are a precondition for circular business models. At the same time, shifting to circular business models is critical to address prevalent human rights and environmental issues. For instance, a circularity approach can help avoid negative human rights and environmental impacts at the raw material level, e.g. working conditions and environment-related impacts on peoples' livelihood.

### International sectoral dialogues

**International sectoral dialogues allow national and international players to share views and information** about activities where collective action at the international level can produce the greatest leverage for implementing HREDD and which actions should be expanded.

**Sectoral dialogues should be subject to minimum requirements regarding content and procedures, for instance (García and Weiss 2020):**

- **International sector dialogues should be based on OECD Guidelines and the UNGPs:** OECD Guidelines and UNGPs should be taken into account in order to develop an understanding of what HREDD means in a particular industry or at industry level, which human rights and environmental challenges exist, and which activities could be undertaken to address them.
- **Using a multi-stakeholder approach** ensures a horizontal and collaborative exchange between key players (including civil society).
- **Industry studies** that cover sector-specific human rights and environmental risks and existing activities should be used **as the empirical starting point.**

## 4. Overview of relevant instruments on HREDD of the G7 member parties



Year	G7-Member	Regulation	Topic Focus
2001	 Italy	Legislative Decree 231/01	General
2008	 USA ( <i>amended</i> )	Lacey Act	Fish, wildlife, plants, timber
2010	 USA	Dodd-Frank Act	Conflict minerals
2010	 USA	California Transparency in Supply Chains Act	Slavery and human trafficking
2010	 EU	Timber Regulation <sup>13</sup>	Forest
2014	 EU	Non-Financial Reporting Directive	General
2015	 UK	Modern Slavery Act	General
2016	 Japan	Clean Wood Act	Forest
2017	 France	Corporate Duty of Vigilance Law	General
2017	 EU	Conflict Minerals Regulation	Conflict minerals
2020	 Japan	National Action Plan on Business and Human Rights	General
2020	 EU ( <i>proposal</i> )	Regulatory Framework for Batteries	Batteries
2021	 Germany	Act on Corporate Due Diligence Obligations for the Prevention of Human Rights Violations in Supply Chains	General
2021	 USA ( <i>amended</i> )	Tariff Act of 1930 19 U.S.C. § 307 <sup>19</sup>	Forced labour
2021	 UK	Environment Act <sup>20</sup>	Forest
2021	 EU ( <i>planned</i> )	Import ban on products made under forced labour	Forced labour
2021	 EU ( <i>proposal</i> )	Regulation on certain commodities and products associated with deforestation and forest degradation	Forest
2022	 Canada ( <i>proposal</i> )	Bill S-211 An Act to enact the Fighting Against Forced Labour and Child Labour in Supply Chains Act and to amend the Customs Tariff	Forced labour
2022	 EU ( <i>proposal</i> )	Directive on Corporate Sustainability Due Diligence CSDD	General

\* Aspects covered:



Human Rights



Environment: If connected to Human Rights

Aspects covered*				Due diligence	Reporting obligations	Value chain scope
						
X		X		X <sup>11</sup>	X	Entire supply chain
			X		X <sup>12</sup>	Entire supply chain
X						Entire supply chain for conflict minerals sourced from the Democratic Republic of Congo and surrounding areas
X					X	Direct supply chain
	X		X	X <sup>14</sup>	X	Upstream value chain
X			X		X	Entire value chain, as appropriate
X						Commercial organisation's own activities and own supply chain including foreign subsidiaries
			X	X	X	Entire domestic supply chain without retailers
X	X	X		X <sup>15</sup>	X	Entire supply chain
X				X <sup>16</sup>		Entire supply chain in conflict affected and high-risk areas
X				X		Company's business operations and supply chain
X			X	X <sup>17</sup>	X	Covers the entire lifecycle of the battery (including recycling)
X	X		X	X <sup>18</sup>		Entire supply chain (company's own operations, direct and indirect suppliers)
X				X	X	Direct suppliers
			X	X		Under consultation
X				X <sup>21</sup>	X	Company's operations, products or services, including their supply chains and business relationships
X	X		X	X	X	Entire supply chain
X					X	Entire supply chain
X	X		X	X		Established business relationships in the value chain

## 5. Endnotes and references

### Endnotes

- 1 Further information on the “smart mix” concept is available in e.g. Shift 2019.
- 2 A holistic approach takes into account the full range of social and environmental sustainability topics, compared to a more ‘silo’ approach which focuses on particular social or environmental topics in supply chains, such as e.g., modern slavery, deforestation or particular value chain steps, such as sustainability challenges related to mining.
- 3 The German parliament passed the mandatory due diligence law after results of a survey assessing the state of German companies’ due diligence processes indicated that companies’ voluntary measures need to be backed by mandatory requirements.
- 4 In 2020, the OECD Working Party on Responsible Business Conduct (WPRBC) launched a stocktaking exercise to assess the OECD Guidelines, their implementation and the OECD’s work on responsible business conduct and provide guidance for a potential revision of the Guidelines.
- 5 UN Resolution 48/14 of 8 October 2021, <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G21/270/15/PDF/G2127015.pdf?OpenElement>.
- 6 The resolution recognises that the right to a safe, clean, healthy and sustainable environment is a human right. Although the UNHRC’s Resolution 48/13 is not legally binding, its adoption shows consensus on the content and importance of this human right.
- 7 In line with the prevailing approach in the early years of due diligence measures of relying on voluntary commitment from companies, numerous private sector initiatives have emerged that aim to achieve concrete improvements in the supply chain. These are mostly sector initiatives, i. e. associations of different companies from the same sector that want to jointly address sector-specific social and environmental challenges. The approaches and thematic focuses as well as the ambition levels in the formulation of claims and actual implementation of measures vary greatly. Some of the initiatives aim at product or raw material certification, others work on the development of industry standards, while others focus on capacity building or information services for different target groups (e.g. Responsible Minerals Initiative, Responsible Care and Sustainable Agriculture Initiative Platform). There is also great heterogeneity with regard to instruments and the level of requirements for the implementation of concrete measures: existing approaches range from initiatives which offer exchange, learning and encouragement to implement certain supply chain management improvements to hard membership requirements such as commitment to a code of conduct or annual progress reports (BMAS 2017; Weiss et al. 2019).
- 8 In February 2022, over 100 companies, investors, business associations and initiatives signed a joint statement, urging the EU to “swiftly adopt a legislative proposal on mandatory human rights and environmental due diligence”. Prior to the adoption of the German Lieferkettensorgfaltspflichtengesetz, 50 German companies had called on the government to strengthen mandatory due diligence. And in the UK, over 30 companies called on the government to introduce HREDD legislation in October 2021. The Business & Human Rights Resource Centre (BHRRCC) counts over 70 statements made by companies and investors worldwide in support of mandatory due diligence.
- 9 Impact-driven HREDD requires action in more than those three areas. For a comprehensive discussion on areas of company practice, see Shift 2021.
- 10 Many countries have already developed a NAP, others are in the process of writing their first NAPs or revising the existing. For an overview, see <https://globalnaps.org/>.

- 11 Duty to adopt a “model of organisation, management and control” able to prevent the crime that occurred.
- 12 The company is required to report to the Securities and Exchange Commission (SEC) under the Securities Exchange Act (1934). Reports are made publicly available.
- 13 EU Timber Regulation will be repealed and replaced by the (Proposal for a) Regulation to curb EU-driven deforestation and forest degradation (2021). The Proposal addresses any deforestation (not only illegal deforestation) driven by agricultural expansion to produce the commodities in the scope of the regulation.
- 14 Companies must both comply with due diligence obligations (risk analysis and corresponding measures to minimise risk) and keep information available that confirms the legality of the timber sourced (duty to succeed, as there is an explicit ban on the import of illegally logged timber). The due diligence obligations can be outsourced to so-called monitoring organisations, which are recognised by the European Commission.
- 15 Core elements are the creation, implementation and publication of a “plan de vigilance” (contains, among other things, a risk analysis) for compliance with the duty of care.
- 16 Compliance with due diligence obligations (risk analysis and preventive measures, early warning system) as well as successful implementation (integration into supplier contracts), third party audit obligation.
- 17 Conduct a carbon footprint analysis, implementation of the specifications on the minimum rate of recycling of certain materials as well as specifications on performance and interchangeability.
- 18 Core elements for compliance with the duty of care (policy statement, risk analysis and management, preventive as well as remedial measures and evaluation). Obligations for direct suppliers are stricter than for indirect suppliers.
- 19 In line with the Tariff Act of 1930, Uyghur Forced Labor Prevention Act (2021) aims to prevent goods made with forced labor in Xinjiang Uyghur Autonomous Region in China from entering the U.S.
- 20 The UK is introducing provisions to tackle illegal deforestation in UK supply chains through the Environment Act 2021; the secondary legislation will be adopted in 2022. Schedule 17 of the Environment Act 2021 sets out that businesses in scope establish and implement a due diligence system with regard to regulated commodities that they use in their UK commercial activities.
- 21 Duty to implement due diligence is conceivable, possibly similar to the EU Timber Regulation or EU Conflict Minerals Regulation.

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