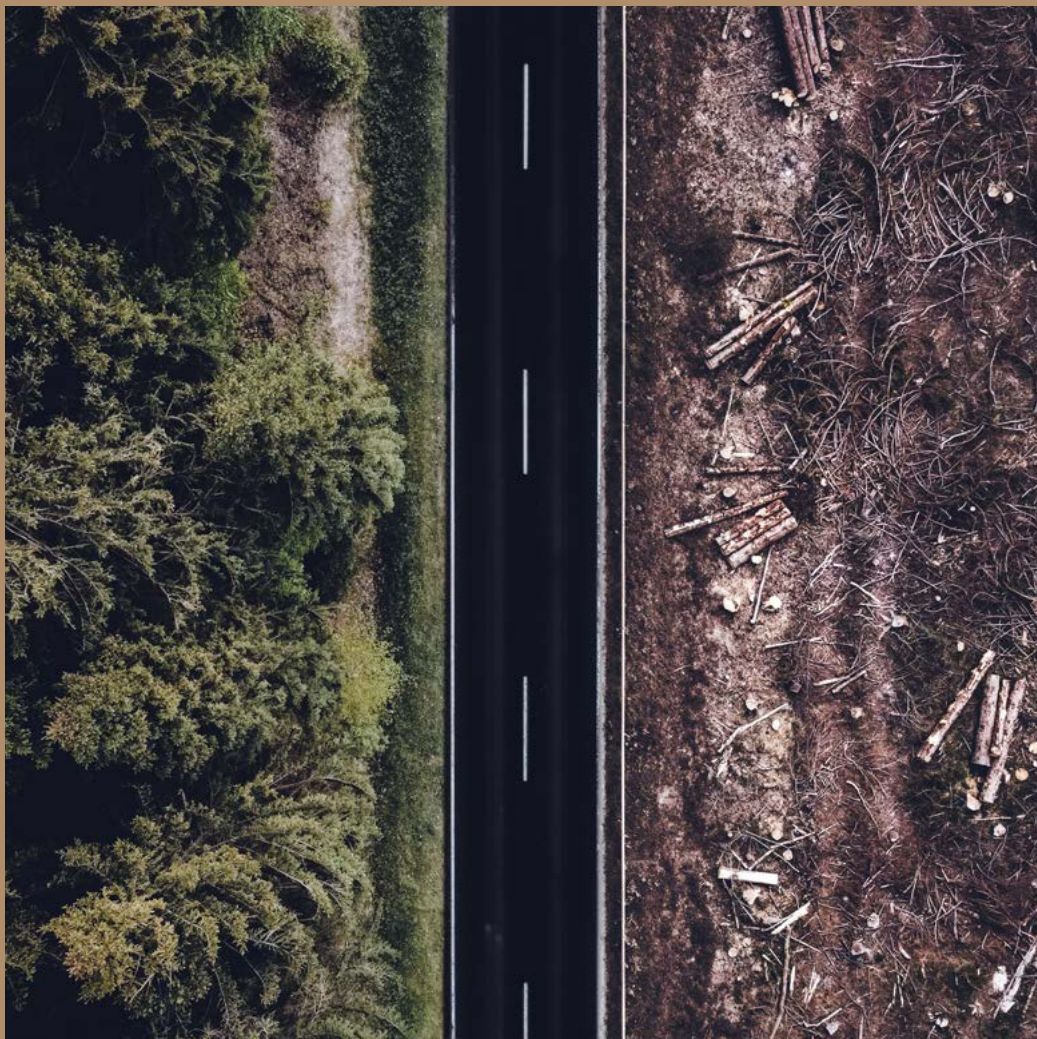


Spillover Effects of the EU Supply Chain Legislations



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Contents

Executive summary	3
Introduction.....	4
Methodology.....	7
The Global Network Against Forced Labour (NForce)	8
Partner interviewee selection	9
Supply chain laws developed by EU member states and beyond	10
National due diligence legislation in the EU.....	11
Other countries and international standards.....	12
Spillover effects in third countries	16
Brazil.....	16
Chile.....	21
Kenya.....	27
Uganda.....	32
Conclusion.....	37
Recommendations	39
List of interviews and survey replies.....	40
References	41

Acknowledgements

This report was commissioned and funded by the Greens/EFA Group in the European Parliament. The author is grateful to Sian Lea, Rocio Domingo Ramos and Helene de Rengerve from Anti-Slavery International for providing inputs and critical comments to the report. All conclusions and opinions, as well as any factual errors, is the responsibility of the author.

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Executive summary

This report focuses primarily on the European Union's (EU) supply chain legislation, notably the EU's Corporate Sustainability Due Diligence Directive (CSDDD) proposal, and its implications for business and human rights in the Global South. In some cases, the report refers to other related EU legislation, such as the proposed Forced Labour Regulation, and to national due diligence laws of EU member states and to international supply chain standards.

The report draws on four country case studies to examine the impact of the EU's supply chain legislation:

- ▶ **Brazil:** EU supply chain legislation is generally seen in Brazil in a positive light. It is regarded as a crucial tool for ensuring transparency, enforcing human rights and investigating violations. Brazilian companies are proactively adapting to EU standards to maintain trade relations, and civil society views these regulations as opportunities for improving labour practices and environmental safeguards.
- ▶ **Chile:** Chile's economic connections with the EU, particularly European transnational corporations, make it susceptible to EU regulations. The EU–Chile Advanced Framework Agreement solidifies this relationship, with collaboration in various sectors. Although Chile historically lacked a strong culture of compliance and integrity, changes are occurring as the nation incorporates environmental and labour-related crimes into its legal framework. This aligns with international and European advocacy, making Chilean companies more conscious of human rights due diligence.
- ▶ **Kenya:** Business and human rights legislation in Kenya aligns with the UN Guiding Principles on Business and Human Rights, and Kenya launched its National Action Plan (NAP) in 2016. However, the NAP is not yet formally adopted into law, likely due to the potential implications of new EU supply chain legislation. Slow implementation of agricultural reforms, delayed because of the influence of powerful landowners and companies, poses challenges, and both multinational and local companies in Kenya express concerns about legislative demands.
- ▶ **Uganda:** Uganda bases its supply chain legislation on the UN Guiding Principles and has also created a NAP on business and human rights, aiming to serve as a procedural model for other African nations. The government actively focuses on NAP implementation and policy reform to enhance human rights and labour conditions. There is increased awareness in the private sector of mandatory human rights and environmental due diligence, including the CSDDD, and civil society supports these measures.

In summary, this report underscores the international interconnectivity of human rights and environmental due diligence in corporate practices. It emphasises the varying impacts of EU legislation on different countries and the role of international standards in promoting responsible business conduct and corporate accountability. The report further highlights the importance of considering country-specific contexts, engaging stakeholders and ensuring the involvement of stakeholders towards the base of the value chain in due diligence processes. It presents specific recommendations on these issues.



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Introduction

In the ever-evolving landscape of international trade and commerce, the European Union (EU) has emerged as a pioneering force, setting the stage for a new era of responsible business conduct. At the heart of this transformation lies the groundbreaking Corporate Sustainability Due Diligence Directive (CSDDD) proposal, an EU law that will compel companies to adopt an all-encompassing approach to sustainability, extending beyond profit margins to human rights and environmental concerns.

The CSDDD stands at the forefront of a new era in responsible business conduct, addressing critical dimensions of sustainability, human rights and environmental safeguards. This legislative framework will compel companies falling within its ambit to adopt an all-encompassing approach to sustainability. This will not only span their internal operations but extend deep into their suppliers and subsidiaries, where they must identify, prevent and mitigate any existing or potential adverse impacts on human rights and the environment in their value chains. Key to achieving these objectives is the introduction of mandatory human rights and environmental due diligence (mHREDD), and it is a duty for directors to set up and oversee implementation of due diligence and to integrate it into the corporate strategy to eradicate practices like forced and child labour, as well as environmental harm.

While the CSDDD primarily targets EU-based companies, its impact reverberates far beyond the boundaries of Europe, casting a spotlight on global supply chains and prompting a shift in corporate culture and accountability worldwide. This report delves into relations between the EU's supply chain legislation and countries of the Global South, examining the distinct experiences of Brazil, Chile, Kenya and Uganda.

The report focuses primarily on “supply chains” rather than “value chains”. The two are related but have different meanings in the context of EU supply chain law and value chain law. “Supply chain” refers to the sequence of activities and processes involved in the production and distribution of goods and services. It encompasses the flow of raw materials, components and finished products from suppliers to manufacturers, distributors, retailers and, ultimately, consumers. In the context of EU supply chain law, the concern is mainly with regulating and ensuring responsible practices within this sequence of activities. It addresses issues such as human rights violations, environmental harm, labour conditions and other negative impacts associated with the production and distribution of goods and services.

“Value chain” is a broader concept that encompasses the entire range of activities a company engages in to create, produce, market and deliver its products or services to customers. It includes the supply chain but also other activities like research and development, marketing and customer service. The value chain perspective places stronger emphasis on how a company creates and captures value at each stage of its business operations, from product conception to customer satisfaction. In the context of EU law, particularly in supply chain due diligence, the term “value chain” is often used interchangeably with “supply chain”. However, the EU's focus as discussed in this report is primarily on the regulation of supply chain activities related to human rights and environmental due diligence.

So, while the terms “supply chain” and “value chain” have distinct meanings in broader business contexts, in the context of EU supply chain law both can refer to the sequence of activities and interactions among entities involved in the production and distribution of goods and services, with strong emphasis on responsible and ethical business conduct.

EU supply chain legislation includes the CSDDD, the Forced Labour Regulation and the new Deforestation Regulation. As mentioned above, this report's main emphasis is on the CSDDD, and to a lesser extent the Forced Labour Regulation. We do not discuss the Deforestation Regulation due to its extensive coverage elsewhere.

The CSDDD has the potential to significantly impact a variety of foreign firms, extending the purview of the law to encompass not only EU-based companies meeting specified thresholds but also non-EU companies above a certain size doing business in the EU. Furthermore, it exerts pressure on companies in the value chain of entities subject to these regulations, irrespective of their size or activities, as long as they form part of the EU-based businesses supply chain. Participation in a supply chain connected to the EU thus effectively imposes EU standards on a broad spectrum of companies globally.

The Forced Labour Regulation is aimed at prohibiting the sale within the EU market of products manufactured through forced adult and child labour. It encompasses all goods available in the EU market, whether produced within the EU or imported, without discrimination based on product type or sector. This legislation is intended to target and prevent the use of forced labour, especially in the context of global supply chains.

Consequently, any enterprise seeking to place product in the EU single market or participate in the supply chain of an EU-based corporation is required to adhere to these standards. This embodies the extraterritorial reach of EU law, particularly in areas of political and commercial significance. This phenomenon exemplifies what has come to be known as the “Brussels effect”, whereby EU regulations resonate on a global scale, shaping corporate behaviour and standards worldwide.

The EU’s commitment to sustainability reflects a paradigm shift towards corporate accountability, seeking to ensure that business practices align with environmental and human rights standards. The spillover effects of this legislation, both intended and unintended, are profound. They challenge not only EU-based entities, but also foreign firms connected to the EU’s vast value chain, leaving an indelible mark on industries, economies and societies.

EU supply chain legislation, while designed to promote responsible business practices and protect human rights and the environment, can have negative spillover effects. For example, such negative effects could include increased compliance costs for companies in the Global South; trade disruption between Global South countries and the EU; increases in informal economic activity that might unintentionally lead to illegal or unethical practices, such as corruption; and complexity in coordination and harmonisation among different global supply chain legislations.

As this report unfolds, it explores the journey undertaken by the Global South countries as they navigate the intricate tapestry of international business and human rights legislation. Each country’s unique context, influenced by economic dynamics, political landscapes and historical trajectories, shapes their response to the far-reaching impact of the CSDDD. In examining the separate case studies, the aim is to shed light on how these countries adapt, innovate and confront the EU’s supply chain legislation.

This report also delves into the broader international standards that shape responsible business practices and corporate accountability, including the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises on Responsible Business Conduct, the United Nations Guiding Principles on Business and Human Rights, and the International Labour Organization’s Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

Methodology

This report's analysis of the spillover effects of EU supply chain legislation on Global South countries has been carefully constructed through a multifaceted research methodology, incorporating both desk research and consultations and interviews with a diverse array of stakeholders. The objective is to provide a holistic understanding of how the CSDDD and related legislation influence countries in the Global South, focusing on the experiences of Brazil, Chile, Kenya and Uganda.

- 1) **Desk research:** This commenced with an in-depth review of existing literature, policy documents and legislative texts related to the CSDDD and to national and international business and human rights legislation and standards. This entailed exploration of academic articles, governmental publications, reports from non-governmental organisations (NGOs) and EU legislation.
- 2) **Consultations and interviews:** In addition, the report methodology leaned heavily on insights gathered through consultations and interviews with key stakeholders. The primary interview subjects were civil society actors in and from the Global South, who often serve as the voices of marginalised communities most affected by corporate practices. The report presents findings from qualitative interviews and a survey with NGOs, trade unions and human rights advocacy groups (including those working on women's and children's rights) in the four selected Global South countries. The methodology also included representation from other sectors of society, including private-sector entities (companies), academic experts, media representatives and government officials.
 - a. Civil society organisations are instrumental in advocating for the rights of workers and communities impacted by corporate conduct. The research highlights data and stories from dialogue with prominent civil society organisations from the four countries, emphasising their perspectives on the CSDDD and related legislation, their roles in advancing human rights and environmental due diligence, and their efforts to ensure effective implementation.
 - b. To gain a comprehensive understanding of the impact of the CSDDD on businesses, the methodology involved discussions with representatives from the private sector. These consultations explored the challenges and opportunities arising from the EU's supply chain legislation and how businesses are adapting to the changing landscape of corporate accountability.
 - c. Academic experts offered valuable insights into the complexities of global supply chains and the potential influence of the CSDDD on sustainable business practices.
 - d. Government officials played a critical role as they are key agents in business and human rights legislation and its implementation. Interviews with government representatives provided insights into the challenges, strategies and objectives of national governments in responding to the EU's supply chain legislation.

Through this combined methodology, the report strives to capture a comprehensive range of perspectives and insights from stakeholders with diverse interests, thereby providing a nuanced understanding of the impact of the CSDDD on Global South countries and the evolving landscape of responsible business conduct. By synthesising desk research with stakeholder consultations and interviews, this report aims to provide a holistic and multifaceted analysis.



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The selection of partners, who can be considered co-authors of the report, was based on members of the Global Network Against Forced Labour (NForce). The NForce is a civil society network from Global South countries brought together by the UK-based international NGO Anti-Slavery International. Most of the selected interviewees were chosen based on NForce network partners' recommendations.

The Global Network Against Forced Labour (NForce)

Prior to the COVID-19 pandemic, the business and human rights space at the EU level had a limited number of stakeholders actively working on the topic, with few anti-slavery actors focusing specifically on the issue of forced labour in EU value chains. However, it was clear that the debate around mHREDD would progress, and Anti-Slavery International saw this as an opportunity to bring civil society groups working on forced labour around the world into policy and legislative conversations.

Anti-Slavery International has been working to increase the active participation of NGOs from producer countries in the EU mHREDD debate. They undertook this work with the aim of shifting the power dynamics between organisations based in the EU and those based in other countries working directly with affected workers and communities where forced labour occurs. In 2020, Anti-Slavery International set up a network of partners from several countries with the objective of coordinating the sharing of learning from experiences in countries heavily affected by corporate human rights abuse.

Anti-Slavery International has been integrating partners into EU policy and legislative debates related to forced labour in global value chains. This has included working with NForce partners to contextualise this effort in relation to upcoming business and human rights laws, while creating a platform for knowledge sharing. Anti-Slavery International has also promoted application of learning from EU-level advocacy in partners' country-level advocacy to advance strong legislation in their national contexts and vice versa.

Partner interviewee selection

Interviewee selection from the pool of partners sought to have as many regions and sectors as possible represented, and to hear from diverse countries with varying levels of relations with the EU. The effects of EU legislation on non-EU countries might often depend on how interconnected their respective trade systems are.

Partner organisations selected for this report are¹:

1. **Brazil: Repórter Brasil (Victoria Perino)**
Repórter Brasil was founded in 2001 by journalists, social scientists and educators with the aim of fostering reflection and action on the violation of the fundamental rights of peoples and workers in Brazil. It has become one of the most important sources of information about forced labour in the country. Repórter Brasil's reports, journalistic investigations, research and educational methodologies have been used by government leaders, the business sector and civil society as instruments to combat modern slavery.
2. **Chile: LIBERA Foundation against Human Trafficking and Slavery in All its Forms, (Carolina Rudnick Vizcarra)**
LIBERA is a non-profit foundation that fights to prevent and combat human trafficking and slavery in all its forms, promoting freedom and human dignity in Chile, Latin America and the world. The organisation was founded in 2015, thanks to the efforts of professionals from different areas concerned about the urgent need to combat human trafficking and slavery in the country.
3. **Kenya: Workers' Rights Watch (Eunice Waweru)**
Workers' Rights Watch is an independent non-profit civil society organisation founded in 2009. It exists primarily to promote healthy worker environments in Kenya's horticulture sector and other businesses. Its work is based around four thematic areas: responsible governments, responsible businesses, responsible organisations and responsible citizenship. Workers' Rights Watch has undertaken several initiatives promoting participatory governance and democracy in the cut-flower sector to ensure women workers are free from a range of violations.
4. **Uganda: Uganda Consortium for Corporate Accountability (UCCA) (Joseph Byomuhangyi)**
The UCCA was established in 2015 as a civil society corporate accountability consortium to enhance accountability on the part of corporations, states, international finance institutions and development partners for violations or abuses of economic, social and cultural rights. The UCCA has a current membership of 23 organisations specialising in different areas of rights protection. These include the four founding members: the Initiative for Social and Economic Rights (ISER), the Public Interest Law Clinic at Makerere University Law School (PILAC), Legal Brains Trust (LBT) and the Center for Health Human Rights and Development (CEHURD).

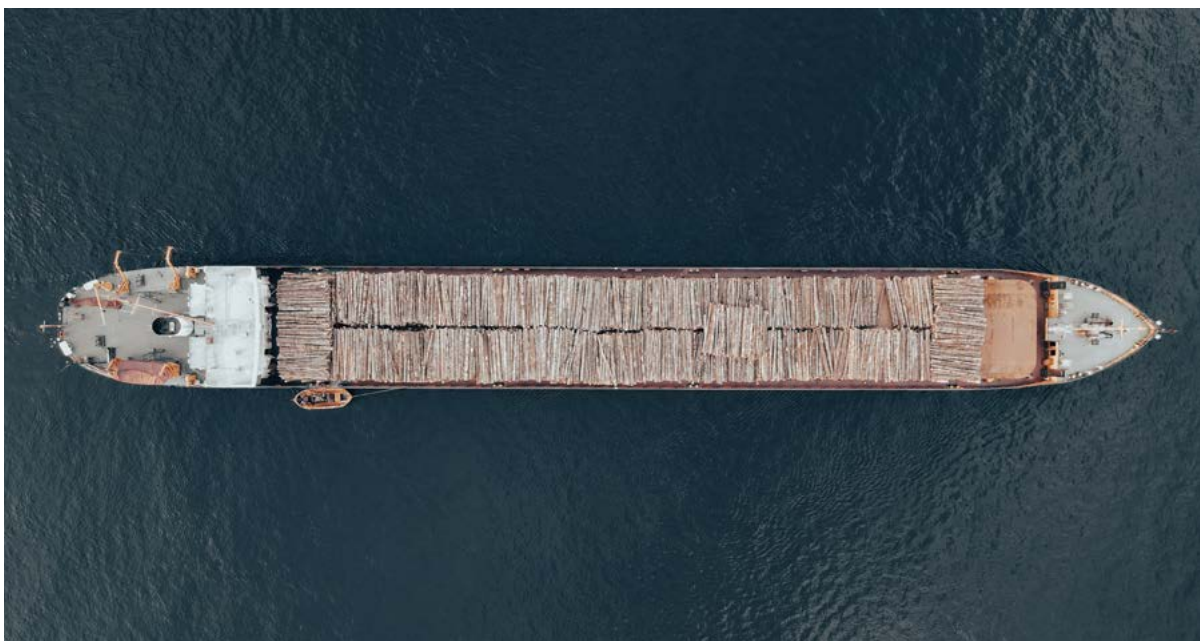
¹ Other NForce partners that are part of the network but were not included in this report are ASTRA, Serbia; Ovi bashi Karmi Unnayan Program (OKUP), Bangladesh; Social Awareness and Voluntary Education (SAVE), India; The Remedy Project, Hong Kong; Turkmen.news, Turkmenistan.

Supply chain laws developed by EU member states and beyond

Current national supply chain legislation and international supply chain due diligence standards are less comprehensive in terms of engagement with Global South trading partner countries than the EU's upcoming CSDDD and Forced Labour Regulation aim to be. Yet some supply chain laws and standards have had effects in Global South countries, especially in countries with widely developed trade relations.²

Several EU member states, such as Germany and France, have implemented domestic human rights and environmental due diligence regulations. Additionally, Austria, Belgium and the Netherlands are considering national due diligence frameworks, as are several countries outside the EU.

Those EU member states that have established corporate accountability laws will be required to amend their domestic legislation to align with the new EU supply chain legislation. This harmonisation process is aimed at ensuring consistency and uniformity in corporate accountability standards across the union.



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Because the new CSDDD and Forced Labour Regulation have not yet passed into EU law, this report considers spillover effects from EU member state domestic legislation and international supply chain standards that have been in place for some time. Thus, we consider the basics of current domestic laws and global standards and their potential differences from upcoming EU law.

National due diligence legislation in the EU

France

In 2017, France adopted the Duty of Vigilance Law (Loi de Vigilance).³ The French due diligence law focuses on the duty of care on the part of parent companies and their subsidiaries, subcontractors and suppliers. It applies to companies with more than 5,000 employees in France or more than 10,000 employees worldwide, including those in France.

Since the law's coming into force in 2019, in-scope companies have been mandated to publish a "vigilance plan" to identify risks and prevent severe impacts on human rights and the environment resulting from the company and throughout its network of subcontractors and suppliers. The vigilance plan must encompass a thorough mapping of these risks, outline appropriate mitigation actions to prevent severe harm, and establish a mechanism for issuing warnings and reporting issues. In case of non-compliance, companies may be subject to prosecution initiated by individuals with a legitimate interest in pursuing such actions.

Germany

In Germany, in 2021 the Bundestag passed the Act on Corporate Due Diligence Obligations for the Prevention of Human Rights Violations in Supply Chains, which came into force in January 2023.⁴

The Act places obligations on enterprises with a central presence in Germany to implement due diligence measures for human rights and environmental protection. These obligations encompass establishing a risk management system to identify, prevent or mitigate the risks of human rights violations and environmental harm. The Act also mandates complaint procedures and regular reporting. These obligations extend from an enterprise's own operations to include those of contractual partners and other indirect suppliers throughout the supply chain.⁵

To ensure compliance, the Act includes an exhaustive list of internationally recognised human rights conventions protecting legal interests as the basis for requirements and prohibitions, such as the prohibition of child labour and forced labour. Non-compliance with legal obligations can lead to administrative fines, with the possibility of exclusion from public contracts for severe violations. The enforcement authority, the Federal Office for Economic Affairs and Export Control, has substantial supervisory powers to monitor and enforce an enterprise's supply chain management.⁶

Other countries and international standards

Beyond the EU, similar supply chain legislation on business and human rights has been adopted or is under discussion in Brazil, the USA, Japan, Norway, New Zealand, Canada, Mexico and Switzerland; and numerous other countries have developed a National Action Plan (NAP) on business and human rights. The effects of such current or planned legislation and NAPs depend mostly on trade relations between countries.

There are also influential international standards on business, human rights and the environment that we turn to now.

OECD Guidelines for Multinational Enterprises

The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct have been embraced by 51 governments, including all EU member states except Bulgaria, Cyprus and Malta. These guidelines establish a framework of voluntary principles and standards designed to ensure that multinational corporations incorporate due diligence practices. They are aimed at helping companies identify and mitigate risks and address any adverse impacts throughout their value chain.

In conjunction with the UN Guiding Principles on Business and Human Rights⁷ and the ILO Tripartite Declaration⁸ (both discussed below), the OECD guidelines serve as a key international reference point for due diligence practices. Together, these frameworks provide comprehensive guidance on how businesses should conduct due diligence to address human rights, environmental and labour issues.

Allan Jorgensen, who leads the OECD Centre for Responsible Business Conduct, has emphasised the significance of updating these guidelines. He noted that they serve as a global foundation for due diligence initiatives and are endorsed by governments that collectively represent approximately two-thirds of global trade. In essence, the guidelines are instrumental in shaping responsible business practices on a global scale.

Unlike national and EU laws, the OECD guidelines are not legally binding and remain voluntary. The recent update to these guidelines, the first since 2011, took effect in June 2023 and primarily focuses on due diligence recommendations related to certain aspects:

- ▶ **Climate:** The updated guidelines emphasise that companies should set emission reduction targets based on scientific evidence and aligned with the temperature objectives outlined in the Paris Agreement. These targets should also stay current with assessments from the Intergovernmental Panel on Climate Change (IPCC).
- ▶ **Technology:** Given the increasing relevance of technology, especially in the context of social media and artificial intelligence, the updated guidelines provide recommendations related to technology use.
- ▶ **Use of products and services:** The guidelines broaden the scope of due diligence checks to encompass the downstream part of the value chain. This includes assessing how a product will be used and considering its potential impact as part of the due diligence process.

Importantly, some of the concepts introduced or strengthened in the OECD guidelines update, such as science-based climate targets and due diligence requirements concerning product and service use, were excluded from the European Parliament's stance on the CSDDD. It is unlikely that these concepts will be reintroduced during negotiations with EU member states regarding the CSDDD.⁹

The updated guidelines also place greater emphasis on combating corruption, which is viewed as a significant contributor to adverse impacts along value chains. In addition to addressing traditional forms of corruption like bribes, the guidelines now include other forms such as trading in influence, embezzlement and misuse of donations.

The OECD guidelines also encourage companies to pay closer attention to adverse impacts on human rights, environmental defenders and Indigenous communities. Companies are urged not to take reprisals against individuals who raise concerns or investigate their activities. The guidelines also provide increased guidance on respecting the principle of free, prior and informed consent, which allows Indigenous peoples to grant or withhold consent for projects that affect them or their territories.

UN Guiding Principles on Business and Human Rights

The UN Guiding Principles on Business and Human Rights (UNGPs) serve as a framework of recommendations aimed at helping both governments and companies prevent, tackle and rectify human rights violations that may occur within the sphere of business activities.

These principles were introduced by John Ruggie, the UN's Special Representative on business and human rights, and gained the approval of the UN Human Rights Council in 2011. As part of the same decision, the UN Human Rights Council set up the UN Working Group on Business and Human Rights.¹⁰

A fundamental concept outlined in the UNGPs regarding a company's obligation to respect human rights is the practice of human rights due diligence. This process involves risk management efforts to identify, prevent, mitigate and be accountable for addressing a company's negative impacts on human rights. It consists of four essential steps: evaluating real and potential human rights consequences; incorporating and acting on the findings; monitoring responses; and disclosing how these impacts are managed. Due diligence is a comprehensive procedure that extends beyond social audits.

In the UNGPs, human rights due diligence is not a goal in itself; instead, it is a method to achieve the broader objectives of respecting human rights and averting harm. A vital element of human rights due diligence involves substantive interaction with stakeholders, with a particular emphasis on rights-holders. These can include employees, community residents, human rights advocates, supply chain labourers and consumers.

Although the UNGPs are primarily aimed at business undertakings (companies), including investors, the methodologies for human rights due diligence (HRDD) are adaptable for assessing the human rights consequences of government policies and other initiatives. In some instances, communities and non-governmental organisations (NGOs) may choose to conduct their own due diligence to evaluate the human rights ramifications of business activities that have had an impact on community livelihoods.

The UNGPs are not binding under international law. Nevertheless, they hold the highest level of authority in the realm of international guidance on the obligations of businesses in relation to human rights.¹¹



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**International
Labour
Organization
Tripartite
Declaration**

The Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) is a unique International Labour Organization (ILO) instrument that offers direct guidance to both multinational and national enterprises concerning social policy and the promotion of inclusive, responsible and sustainable workplace practices.¹²

The MNE Declaration is the sole global instrument of its kind, developed and approved by representatives of governments, employers and workers from around the world. The declaration was originally adopted over 40 years ago and has been updated multiple times, with the most recent revision in 2022. The principles outlined in the MNE Declaration apply to both multinational and national enterprises, as well as to the governments of home and host countries, and employers' and workers' organisations. These principles cover various areas, including employment, training, working conditions, industrial relations and general policies. The guidance provided is largely based on principles found in international labour standards.¹³

While ILO declarations are not subject to ratification and do not hold binding authority, they are designed to have broad relevance and encompass symbolic and political commitments made by ILO member states.

Various international organisations and bodies, such as the OECD, the G7, the G20 and the UN Framework Convention on Climate Change Conference of the Parties (COP), recognise the significance of the MNE Declaration. They incorporate this declaration into their findings and activities. The EU and its member states have also mentioned the ILO MNE Declaration in important initiatives, such as the 2020 Council Conclusions addressing human rights and decent work within global supply chains, and the 2022 ‘Just and Sustainable Economy’ package. These include a communication on promoting decent work globally and the proposal for the CSDDD.

The next chapter explores in more depth the effects of the EU supply chain proposals and of national supply chain legislation and international standards on countries in the Global South.

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Spillover effects in third countries

Brazil

Overall, the perception and effects of the EU CSDDD in Brazil are positive. It is perceived to be an important tool to ensure transparency, enforce human rights and investigate human rights violations, as well as to provide data and ensure transparency.

In terms of the forthcoming effects of the EU CSDDD in Brazil, these depend on how the legislation will come into force, the type of information to be requested from the government and companies, mechanisms for complaints, and the tools that will be provided for workers to access remediation. In Brazil, the CSDDD is welcomed legislation, and it has huge potential to reinforce human rights globally, as it will set a bar for what is acceptable and, more importantly, what is not in terms of business conduct.¹⁴



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Effects on the government

Currently in Latin America, there are no laws comparable to the CSDDD. Brazil has some important laws intended to ensure a supply chain free from human rights and environmental violations, but the practical implementation of these regulations often falls short of expectations. Furthermore, the government is apprehensive about the potential utilisation of this legislation as a trade barrier.¹⁵ Currently, Brazil does not have specific measures in place to align with the EU's supply chain legislation.¹⁶

In terms of Brazilian labour law, a company in the value chain may be jointly liable with a company that violates labour rights, but this is still a one-off issue and needs to be extended to other indirect suppliers in the chain and to other human rights violations.¹⁷ The recent laws on due diligence in France and Germany (described above) have played a role in helping advance discussions on corporate responsibility and transparency. Additionally, the French and German laws have been helpful, serving as a mechanism of complaint for civil society once a violation has taken place, and there are cases going to the courts.¹⁸ Thus, the laws are an effective tool that brings results on the ground.

Active efforts by civil society, as well as EU member states' laws, have also led to the start of conversations on due diligence and corporate responsibility at governmental level in the Federal Senate of Brazil. More concretely, there are conversations on the national law proposal known as Bill 572/22,¹⁹ which intends to create a national framework on human rights and business and to establish guidelines for the promotion of public policies on the subject. The conversations which have started touch on the topic of corporate sustainability legislation, which is not as comprehensive as legislation based on a due diligence duty. Yet the national law proposal can be seen as the first step, and corporate sustainability is well articulated and advanced in the proposal.²⁰

Consequently, the current focus in Brazil is to build awareness and strengthen the capacity of civil society on due diligence. In this case, the future effects of the EU supply chain legislation can be helpful and timely to enable national and international legislation to complement each other.

Effects within the private sector

There is growing interest among private-sector companies at the top of the production chain in gaining a deeper understanding of the local context and the practices of suppliers in Brazil. This is evident in their engagement in discussions and knowledge sharing with civil society organisations and trade unions, as well as their involvement in research initiatives and on-site visits. Brazilian suppliers are also showing increased interest in comprehending the law and ensuring compliance with its stipulations. In civil society, there are courses and training programmes aimed at enhancing awareness and comprehension of the legislation.²¹

There could be some important impact in terms of trade with the EU, but there could also be “double standards” in practice from companies, where they would adapt to the EU standards but keep selling goods produced without fulfilling those standards on the Brazilian market, and on other markets, such as China and the USA. For now, the EU has been Brazil's second biggest trading partner, accounting for 18.3% of its total trade, and Brazil has been the EU's 11th biggest trading partner, accounting for 1.7% of total EU trade.²²

Public opinion about corporate activities has the biggest impact, as it helps to shed light on violations and, consequently, has potential to elevate the human rights agenda in the corporate sector. Most importantly, for affected workers and communities, the CSDDD has the potential to serve as a useful tool for access to remediation and for holding companies accountable, as today there is no such possibility in most cases.²³ However, obstacles and barriers to access such remediation need to be considered both when designing the legislation and when analysing it.

Repórter Brasil predicts that there might be two movements happening at the same time:

- 1) Companies that are willing to adopt and comply with the CSDDD perceive it as a tool to achieve transparency. This would be the case with companies that believe they are not causing human rights harm and are worried about their reputation. Increasingly, companies in Brazil are becoming more aware and careful about transparency and the human rights impacts of their operations. These companies feel responsibility and are concerned about being held accountable.²⁴
- 2) In the short term, and particularly for companies unfamiliar with the process, the implementation of human rights due diligence can be a challenging and daunting process. Uncertainty around requirements and potential impacts on trade can lead to companies opposing such law as the CSDDD. However, the enactment of legislation will foster conversations on the topic, including awareness-raising training with different stakeholders.²⁵

In the long term, there will be less disagreement and resistance²⁶ – especially considering that corporate responsibility conversations are evolving, and due diligence regulations are being discussed globally.²⁷ Companies increasingly understand that this is also a reputational issue. Therefore, the CSDDD could be used as a tool by civil society to highlight the financial repercussions of companies overlooking their human rights impacts.

Civil society

For civil society, the CSDDD is an opportunity to leverage legal measures to pressure companies to improve labour practices and environmental safeguards while enhancing human rights protection. Additionally, these legal mechanisms can ensure accountability in cases of company wrongdoing.²⁸

Consequently, there will be a need for training, engagement and communication with companies on the CSDDD. The more awareness is raised on human rights and due diligence among the public, the more non-compliant companies will be “named and shamed”. Therefore, there is an opportunity for civil society organisations to undertake work to address the current lack of knowledge on the issue. For example, civil society has organised a training event for concerned citizens on due diligence.²⁹

There is insufficient engagement between the EU and the civil society sector in Brazil on topics related to supply chain legislation. Relevant topics are not directly discussed with people on the ground but in most cases only discussed with corporations, government bodies and embassies. Yet there are still demands from civil society, trade unions and social movements that should be considered. There is a need to increase meaningful engagement with workers. The engagement required should involve long-term relations at every step of the legislative process.³⁰

Failing to engage with civil society in Brazil leads to legislative gaps left unaddressed. For example, the current scope of the CSDDD proposals falls short of providing affected communities with the necessary tools to address human rights harms perpetrated by companies. The law should include:

1. A comprehensive mandate for transparency and accountability throughout the entire value chain, encompassing both the production and use of products;
1. A provision for shifting the burden of proof from the claimant to require the company to prove it did not cause the harm in the first place;³¹ and
2. The establishment of an accessible complaint mechanism.

Without these elements, the ability of civil society to raise concerns remains limited.

“There needs to be more listening to, and participation from, the Global South in the drafting, discussion and improvement of the law so that the EU understands the reality at the bottom of the production chain and the reality in the countries of the Global South.”³²

The potential of the law to generate positive spillover effects depends on the EU's willingness to incorporate the demands of affected people on the ground and their representatives into the final text. For the CSDDD to achieve meaningful impact, it has to provide effective tools for workers and their representatives to elevate their voices and to hold companies accountable. And it should also provide adequate remediation to ensure better working conditions for the most vulnerable.³³

“The EU supply chain law will be a key measure in ensuring transparency and traceability (to direct and indirect suppliers), in holding companies accountable and in making sure they can be held liable for harmful practices in Brazil and globally.”³⁴

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- 32 Interview with Fernanda Drummond Pinheiro, socio-environmental rights adviser at Conectas Human Rights, October 2023.
- 33 Interview with Victoria Perino, Repórter Brasil, September 2023.
- 34 Interview with Victoria Perino, Repórter Brasil, September 2023.



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Chile

Chile's strong economic ties with the EU and its position in global supply chains make the country highly susceptible to EU regulations concerning transnational corporations. The EU–Chile Advanced Framework Agreement³⁵ solidifies this relationship, with significant collaboration in sectors such as vegetable products (38.5%), mineral products (20.3%) and base metals (21.4%).³⁶

Regrettably, a situation common not only in Chile but potentially worldwide is the absence of a corporate culture promoting compliance and integrity in the absence of legal mandates. Surveys conducted in Chile reveal that the primary motivator for companies to change their behaviour is the fear of sanctions. Consequently, the prospect of stringent regulations and the possibility of real sanctions can serve as catalysts for change in the country, aligning with survey findings.³⁷

Chile has a history of leniency when it comes to holding companies accountable, particularly in cases involving corruption rather than supply-chain-related transgressions. The country has witnessed numerous corruption scandals with companies receiving minimal penalties, fostering a culture of impunity. Therefore, the presence of legal regimes enforceable by foreign courts and tribunals introduces an element that could guarantee sanctions instead of impunity.³⁸

Moreover, provisions that facilitate access to justice and remedies for victims, including the reversal of the burden of proof and streamlined mechanisms for filing complaints and lawsuits, have positive implications for addressing human rights violations in the supply chain. In Chile, access to justice for such violations is complex, as the availability of legal aid for victims in this context is limited.³⁹ Therefore, laws with provisions ensuring access to justice can significantly benefit the situation.

Effects on the government

Chile's experience demonstrates how foreign legislation has induced change in the country. For example, when Chile sought to join the OECD in 2009, it was a mandatory requirement to adhere to the OECD Anti-Bribery Convention.⁴⁰ This obligation led to the establishment of the criminal liability of legal entities.⁴¹ This development is noteworthy as the Criminal Liability Law also requires a human rights due diligence law, considering that crimes leading to legal entity liability encompass various economic, corruption, environmental and labour-related offences.⁴²

The year 2023 marked a significant milestone in the incorporation of environmental and labour-related crimes into the legal framework of the Criminal Liability Law.⁴³ Since these additions, it can be argued that the Criminal Liability Law has sown the seeds or laid the foundation for a comprehensive human rights due diligence law.⁴⁴

In August 2023, the Undersecretary of Human Rights in Chile made a significant announcement. He declared that the government intends to introduce a Bill for human rights due diligence legislation in March 2024. This announcement represents a promising step towards formalising and enforcing human rights due diligence practices in Chile. This was also part of the Governmental Plan of the current President of Chile.⁴⁵

Furthermore, criminal liability under the upcoming human rights due diligence legislation necessitates risk matrices and due diligence plans, aligning with human rights due diligence objectives. While there is a growing trend, primarily driven by NGOs, towards human rights and due diligence awareness, it remains relatively unfamiliar to many companies in Chile, except those involved in international alliances such as the Global Compact or Alliance 8.7.⁴⁶

Alliance 8.7 serves as a platform for a wide range of partners, including governments, international and regional organisations, workers' groups, employers' associations, civil society organisations, academic institutions and other stakeholders. These partners come together to exchange information, share best practices, learn from their experiences, collaborate and showcase advancements in the fight against forced labour, modern slavery, human trafficking and child labour. The UN Sustainable Development Goals' target 8.7 aims to eliminate forced labour, modern slavery, human trafficking and the worst forms of child labour by taking prompt and efficient measures. Additionally, it sets the goal of completely eradicating child labour in all its manifestations by the year 2025.

The announcement of the human rights due diligence law is closely tied to the international and EU movement advocating for such laws. The NGO platform for human rights and business in Chile, which comprises numerous NGOs, has engaged with the government on this matter since 2019. The process of the CSDDD and its prominence in the news have exerted pressure on the government, leading to the announcement of the national human rights due diligence law.⁴⁷

Conversely, when it comes to the Criminal Liability Law, this has not been directly influenced by the human rights due diligence movement in Chile. The government has not yet made the connection. NGOs are the ones showing this connection and emphasising that the groundwork for human rights prevention and compliance – in essence, the required matrix – already exists, because companies must address human rights violations as part of their criminal compliance efforts. The convergence of these paths is becoming increasingly evident.

What has provided some room for these ideas to develop is the pressure on Latin American countries to join organisations such as the OECD and comply with the UN Anti-Corruption Convention. Initially, this pressure focused on compliance with anti-corruption and anti-money-laundering measures. However, it has evolved into a broader Latin American culture that recognises the importance of comprehensive compliance programmes. There is growing awareness and recognition of the parallels between compliance in areas like corruption and money laundering and the need for human rights due diligence.⁴⁸

Furthermore, the adoption of national laws in the EU, particularly the German supply chain law, has played a significant role. The German-Chilean Chamber of Commerce, as an example, has introduced its national programmes in Chile. One such programme, known as the Alliance for Integrity, encourages member companies to incorporate anti-corruption compliance models into their operations and has expanded to include human rights due diligence.⁴⁹ Both the EU CSDDD's influence and national initiatives in EU member states have contributed to the evolving landscape of compliance and human rights due diligence in Chile.

Effects within the private sector

One of the trends relevant to the supply chain legislation is the concentration of ownership within companies along the supply chain. There is a tendency for Chilean companies to delist from the stock exchange. When major companies do this, it poses a potential challenge because it limits future access to information, especially for NGOs. In such cases, civil society would rely solely on potential reports related to environmental, social and governance (ESG) factors.⁵⁰

This trend of delisting and concentration of ownership can be addressed by the EU legislation. If Chilean companies are willing to operate under the radar, changing partnerships and being sold to pension funds, it creates a lot of movement and secrecy. The existence of EU legislation can be useful in confronting this trend. These laws can provide incentives for transparency and prevent the concealment of human rights abuses.⁵¹

Additionally, such legislation can have a spillover effect on how Chilean companies understand outsourcing and subcontracting of workers. Human rights violations, particularly those related to contemporary forms of forced labour, are often linked to subcontracting. Subcontracting can be legally applied to any company activity, including the core business, which is concerning. EU supply chain legislation can shed light on the risks associated with the entire outsourcing and subcontracting chain.⁵²

Another crucial aspect highlighted by NGOs in the CSDDD discussion relates to consultation with relevant stakeholders. Meaningful stakeholder consultation is essential because many companies in Chile do not contact NGOs, which means they have no insight into what is happening on the ground. Therefore, the requirement for meaningful stakeholder engagement is critical, as it can pressure companies to open the doors to NGOs around their operations. Interestingly, there is a much warmer welcome for this engagement from EU authorities and companies than from Chilean authorities and national companies.

Civil society

Regarding the EU proposal for a Forced Labour Regulation, civil society in Chile may not be fully aware of its implications. In July 2023, Chile's representatives in Geneva at the ILO secured Chile's presidency of Alliance 8.7.⁵³ This achievement is significant because Chile does not have a strong track record in addressing forced labour. Despite its excellent strategies against child labour, there has been no serious effort to tackle forced labour in the country.⁵⁴

In 2019, a national commission was established to create an action plan against forced labour, but progress has been slow.⁵⁵ Nevertheless, securing the presidency of Alliance 8.7 could be a sign of genuine interest and commitment. The positive aspect is that this sort of social responsibility and public commitment on the international stage provides civil society with a tool to exert pressure and demand coherence. When a country holds the presidency of an organisation like Alliance 8.7, it cannot ignore the issues of forced labour within its own borders. This situation underscores the importance of ensuring that a country's actions align with its international commitments.⁵⁶

Whether there will be a spillover effect depends on the specific provisions, but if there is a provision for remedies in the Forced Labour Regulation or the CSDDD, it would have a positive spillover effect. This would likely lead to increased litigation by NGOs. However, it appears that the threat of sanctions is the primary motivator for companies in Latin America.

“Our experience engaging with EU authorities through the NForce as been quite positive. We had the opportunity to meet with representatives from the European Parliament, the European Commission and European ambassadors. During these meetings, we were able to shed light on the human rights violations occurring in supply chains, explain their dynamics and discuss the potential positive outcomes and effects that legislation of this nature could bring to Chile and Latin America as a whole.

One notable achievement was when the LIBERA's work was cited in the report on forced labour presented to the European Parliament. This was positive recognition of our efforts. The NForce also had the chance to meet with representatives of the European Parliament who were leading the CSDDD negotiations. While there's often room for improvement, we were generally satisfied with our engagement with EU authorities, and the human rights community was pleased with the outcomes.

Following these interactions, NGOs have come together to form collectives and networks. For instance, when Spain initiated its Council Presidency, there was a collaboration with Spanish and European NGOs, as well as Latin American NGOs, to draft a letter to the Spanish Presidency outlining our recommendations regarding supply chain law. Additionally, civil society engaged with European embassies in Chile, sharing information and scheduling meetings to continue our lobbying and advocacy efforts within Chile. Thus far, this experience has been positive.”⁵⁷

Chile’s relationship with the EU and its exposure to EU law have prompted the country to reassess its approach to human rights due diligence. Influenced by international legislation and standards and by pressure, Chile is taking steps to align its legal framework more closely with EU standards. The engagement of Chilean NGOs with EU institutions has been instrumental in pushing for stronger human rights law. As Chile progresses on this path, it seeks to harmonise its domestic laws with EU legislation and establish a more comprehensive human rights due diligence framework, underlining the global impact of EU legislation and initiatives.



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Kenya

When it comes to business and human rights in Kenya, the UNGPs play a key role. The UNGPs are central to the context of corporate responsibility and seeking redress, as well as to the commitment of states to ensure their ethical adoption and implementation. These principles play a significant role and serve as a national framework within the scope of human rights due diligence.⁵⁸

In line with the UNGPs, the official launch of the Kenyan National Action Plan (NAP) process on business and human rights started in February 2016, with the Attorney General presiding over it. Subsequently, in July 2019, a NAP was issued by the Attorney General. In April 2021, the NAP underwent a presentation to the cabinet, which sanctioned a final NAP, albeit with some modifications from the 2019 version. The NAP has been submitted to Parliament in July 2021 where it has remained since. This action is primarily aimed at sharing the NAP with parliamentarians and does not constitute a formal approval process.⁵⁹

In October 2021, the Implementation Committee for the NAP was formed with the primary responsibility of supervising the execution of the policy actions outlined in the NAP.

Effects on the government

The Kenyan NAP was developed involving various stakeholders, including civil society. However, the plan has not been officially endorsed or signed into law in Kenya and is currently awaiting approval, two years after the plan was published (as mentioned by a civil society representative). The Kenya Human Rights Commission and the Gender Commission are actively advocating for the adoption of the NAP. This delay might be related to the new EU legislation on human rights and environmental due diligence.⁶⁰ In fact, the EU is the second largest trading partner of Kenya and holds a crucial position as Kenya's primary export market. Notably, the EU's imports from Kenya amounted to €1.2 billion in 2022, primarily consisting of vegetables, fruit and flowers.⁶¹ It is possible that the Kenyan government is taking its time to align the NAP with the requirements of the new EU legislation.⁶²



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The Kenyan government tends to be slow in implementing laws related to agriculture, and one of the reasons for this delay is the political influence of some producers who own farms and businesses in the agriculture sector. Many of these producers are also politicians and have a vested interest in maximising their profits. As a result, they resist any laws that may affect their profits. However, when legislation such as the CSDDD is pushed from the EU or demanded by consumers, the Kenyan government would have to enforce current laws in order to ensure businesses are in alignment with the intention of the CSDDD in order to maintain access to the EU market.⁶³

Effects within the private sector

Multinational corporations and private local companies present in Kenya often prioritise their interests and profit margins over human rights and social responsibility. While they are willing to collaborate with civil society when necessary, they are more comfortable working with the government. According to the interview with Kenyan civil society, these companies are trying to stay ahead of civil society by developing their own indicators and measures to address human rights and social responsibility issues, so they can align with the requirements set by human rights due diligence legislation. This is seen as an attempt to pre-emptively respond to potential legal requirements. Multinational companies are working on initiatives to bridge gaps in their practices and demonstrate compliance before any regulations are formally established.⁶⁴

Numerous multinational corporations and private local companies are concerned about the demands of the CSDDD and are proactively strategising for its implementation. Many large companies are considering outsourcing services to circumvent compensating workers and to sidestep the obligation of offering higher wages to their employees.⁶⁵

“EU supply chains affect my organisation as we work to strengthen the floriculture supply chain to be gender responsive. The legislation positively affects my country as we trade with the European countries, the country works towards meeting the legislation in order to ensure economic stability and growth. The legislation comes with a cost where the burden of the cost falls on businesses.”⁶⁶

Despite worries, in the past there were some positive examples of the effects of similar types of EU legislation. Overall, the agricultural sectors, especially floriculture and horticulture, have been significantly affected by EU legislation over the years.⁶⁷

Another issue that might appear is that of compliance, particularly in the workplace and in the relationship between small-scale traders and large-scale sourcing companies, for example in the agricultural sector. There is both hope and concern regarding the new legislation, as it could potentially be used as a trade barrier when exporting. This is mainly due to the fact that EU-based legislation often fails to consider the market conditions and structures in Global South countries, which can pose challenges for Kenyan organisations, according to the position of civil society organisations.⁶⁸

“Many sectors in our country usually wait until the last minute to proceed with compliance and then they will ask for an extension of the compliance period. It is when they get the extension of the compliance period that they will start ‘running around’. In the past, there were calls for staggered compliance periods, and ... this pattern remains consistent. Compliance and adjustments are typically addressed later when it becomes apparent that it’s a matter of necessity.”⁶⁹

Civil society

There is a belief among civil society in the potential effectiveness of EU legislation in addressing human rights issues within supply chains. Civil society actors highlight the importance of several factors in this legislation, including different frameworks, improved communication and stakeholder involvement, particularly for workers. Allowing workers to speak out about abuses and ensuring that these concerns are taken seriously are a critical element of creating positive change, without fear of intimidation or losing their jobs.

“EU supply chain legislation has had positive and negative effects on the workers whose rights we advocate for. On one hand we have succeeded in defending the rights of the workers due to the legislation on supply chains, and on the other hand workers have lost their contracts due to the same legislation. For example, when we did a campaign on good terms and conditions of employment in the flower farms in Naivasha in Kenya, we succeeded because of the EU CSDDD. But after that, many workers were laid off on flimsy grounds because they were seen as our supporters. The same happened to other farms in Central Kenya and Rift Valley. As a result, some workers have lost faith in our activities because they feel that they are not protected.”⁷⁰

There is a need for monitoring mechanisms, communication management and ownership

of the process by the workers to drive impactful results. Without these components, the legislation may not bring about significant change.⁷¹

“We shall be able to reach that level where the worker should be saying, ‘we don’t want so and so to an audit (certification bodies) in our farm, we want so and so’. If we ever reach such a point, then I think it will all be freedom to choose, freedom to work, freedom to speak.”⁷²

Yet civil society also shares a point of view that the CSDDD has not adequately considered perspectives from Kenya overall and civil society in particular.

The CSDDD also targets multinational corporations operating in the Global South. However, these multinationals often collaborate with numerous small companies that employ a substantial workforce, which falls outside the protection of the supply chain legislation. It was mentioned that when some of these multinational companies face threats or legal actions, they tend to relocate to other countries, resulting in significant job losses. Therefore, it is crucial for this legislation to extend its protective measures to cover Kenyan workers, including those employed by small contracted companies. Employers typically have access to skilled legal counsel who advise them on evading responsibilities towards their workers. In contrast, the workers lack the financial means to secure the services of experienced lawyers, leaving them at a significant disadvantage and leading to unfavourable outcomes for them.⁷³

Consultations regarding the EU or national legislation concerning due diligence are rarely observed, especially at the grassroots or civil society level. Most of these discussions appear to happen at the government-to-government level, mainly focusing on market requirements and standards. Civil society organisations are not usually part of these consultations but tend to engage with international partners and NGOs to advocate for specific issues to be included in the law.⁷⁴ The focus is on advocacy from a civil society perspective rather than direct participation in the legislative process.



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Uganda

Similar to Kenya, work in Uganda on supply chain legislation starts from adopting and implementing the UNGPs. The UNGPs serve as global benchmarks, offering contextualisation for issues pertaining to business and human rights. They streamline the responsibilities of states in protecting human rights, the obligations of corporations to respect these rights, and the avenues for individuals and communities to seek remedies in cases of corporate or state violations.

Furthermore, Uganda has also domesticated the UNGPs as it stands as the second African nation to establish a National Action Plan on business and human rights.⁷⁵ Currently, 15 additional African countries are in the process of formulating their NAPs.⁷⁶ Uganda leverages the experience to guide other African nations, demonstrating that formulating a NAP is feasible and offering them a procedural blueprint.

In essence, the motivation for establishing a NAP on business and human rights stems from the recognition that in a market-driven economy where supply and demand dictate outcomes, unchecked capitalism can often lead to the disregard of human rights. There is acknowledgement of the beneficial impact of business activities, particularly in facilitating the right to work by creating employment opportunities. However, it is imperative to set clear regulations to ensure that such work is “decent” and encompasses the necessary safeguards for workers’ rights and safety.⁷⁷

Effects on the government

At present, the primary focus in Uganda centres on the diligent implementation of the NAP.⁷⁸ The NAP serves as a catalyst for instigating comprehensive reforms within Ugandan legal and policy frameworks. Additionally, the Ugandan government has initiated the development of a Social Impact Assessment and Accountability Bill,⁷⁹ which aims to provide enhanced protection for individuals at all levels, including within business activities.⁸⁰

“Policies are most effectively put into practice when there is government involvement in the implementation process, driven by the best interests of the people. However, in some countries, we observe a troubling phenomenon: corporate capture and state capture. In such instances, policies may remain on the shelf and not be effectively implemented, as I’ve witnessed in various investment and corporate dealings in our region.”⁸¹

Efforts to improve labour conditions extend to legislative changes such as the Employment Amendment Act, which intends to address the issue of casualisation and protect workers' rights.⁸² While individuals may be employed, they often face casualisation, depriving them of vital protections, including social security and the rights associated with stable employment. Eradicating casualisation has become a core focus of civil society work, aiming to ensure that workers receive the necessary safeguards and benefits associated with formal employment.⁸³

Considering Africa's role in global trade as a major producer of agricultural raw materials, including cocoa and coffee, it is vital for the countries to closely monitor and engage with legal and policy frameworks developed by the EU, such as the CSDDD. In Uganda, the primary destination for coffee bean exports is Italy, amounting to \$178 million, followed by Germany at \$100 million as of 2021.⁸⁴ Approximately 75% of Uganda's coffee exports are directed to the EU.⁸⁵ Thus, EU legislation has a direct impact on host communities, with these investments and households deriving income from the sale of raw coffee beans exported to Europe.

For example, during a recent engagement at the East African Business and Human Rights Forum in June 2023,⁸⁶ discussions centred on the CSDDD, where an EU delegate provided insights into the Directive's progress.⁸⁷ Concerns were raised within various sectors of the supply chain, particularly regarding the allocation of implementation costs. The prevailing practice has often been to shift compliance costs down the supply chain, ultimately burdening small-scale farmers, intermediaries and others involved. Questions arose regarding the practical implications of the CSDDD, including whether it would lead to a suspension of supply until all human rights issues are resolved and who would bear the financial burden of compliance. There were also uncertainties about how EU companies would support entities in adhering to the Directive's requirements. This kind of support is essential for private-sector engagement.⁸⁸

Effects within the private sector

Given the EU's significant market presence, particularly for countries like Uganda, there is a strong motivation to ensure compliance with the CSDDD to maintain trade relations with the EU. Consequently, discussions and preparations within the private sector have already commenced, and several notable shifts have occurred. The government has begun capacity-building training and discussions for the private sector to respect human rights in business activities.⁸⁹ Once people in Uganda became aware of the Directive's development, companies such as TotalEnergies began aligning their operations with the anticipated requirements of the CSDDD. They are also exploring ways to support various stakeholders within their value chains to ensure compliance. For instance, in the coffee sector, the Coffee Development Authority, a government agency, organised a roundtable meeting with various stakeholders in the coffee supply chain to discuss the implications of the CSDDD.⁹⁰ This proactive response to the Directive signifies a changing landscape where stakeholders are preparing for its implementation.

Moreover, there is a broader global shift in discussions and initiatives surrounding mandatory human rights and environmental due diligence, extending beyond continental or regional boundaries. The African Coalition on Corporate Accountability (ACCA), in collaboration with international partners such as the International Corporate Accountability Roundtable (ICAR) and the European Coalition for Corporate Justice, has initiated a project specifically focusing on mandatory human rights and environmental due diligence. This project aims to engage civil society in addressing these topical issues and adapting to the changing legal landscape.⁹¹

While other laws, such as the US Tariff Act and Canada's legal framework, exist in the realm of corporate accountability, their impact on African nations may not be as profound as that of the EU due to the significant trade in agricultural products like coffee, cocoa, fish and flowers with the EU. Additionally, minerals such as lithium and copper, sourced from Africa, play a crucial role in discussions about the just transition to a low-carbon future. As these resources are integrated into the value and supply chains of EU companies, African countries find themselves closely interconnected with the CSDDD.⁹²

In summary, awareness of the CSDDD has prompted various stakeholders to adapt their operations and engage in preparations for its implementation. Global conversations and initiatives are emerging around mandatory human rights and environmental due diligence, transcending regional boundaries. Africa is taking proactive steps to ensure compliance and participation in this changing landscape, given its significant trade ties with the EU and the influence of EU policies on its resource-rich sectors.

Civil society

One of the core objectives of civil society is to define and uphold the concept of “decent work”. This involves a comprehensive framework that includes social security provisions for workers, rigorous health and safety guidelines, and a mechanism for workers’ compensation in the event of injury. By carefully specifying these legal requirements, the aim is to prevent the exploitation of labour through casual and precarious employment, which would otherwise prioritise profit at the expense of worker wellbeing.⁹³

“The engagement of civil society has been facilitated through collaboration with NForce, an initiative that seeks to gather perspectives from the Global South and across the world. Personally, I am a member of the African Coalition for Corporate Accountability, an organisation that brings together civil society groups from across the African continent dedicated to addressing corporate accountability issues. This platform allows us to share insights and experiences, particularly regarding challenges related to human rights within supply chains.”⁹⁴

Support for the CSDDD among civil society stems from the firm belief in the necessity of a robust legal and policy framework for addressing issues related to business and human rights. The CSDDD is an opportunity for the EU to establish an international standard for corporate human rights due diligence. Given the EU's global influence and reach, setting such a standard would offer increased protection to individuals and communities in the Global South. This is particularly significant in regions where Ugandan mechanisms and institutions may not always effectively address challenges posed by capital-driven interests.⁹⁵



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Yet there is still lack of awareness about the legislation among all the societal groups that will potentially be affected. Information dissemination about the legislation should be targeted and intentional, focusing on the entities responsible for implementing and promoting such legislations as the CSDDD and EU Forced Labour Regulation in Uganda.⁹⁶ Civil society is closely examining the EU guidelines and their implications, particularly regarding potential amendments to existing legislation and how they can guide national discussions and actions. These discussions are progressing rapidly, and they aim to keep up with the pace of these developments, but it is not always easy.⁹⁷

“To some extent issues of human rights violations in business activities in my country are prominent and they need to be addressed. However, the EU supply chain legislation needs to take into consideration the knowledge gaps that need to be bridged before the full implementation of the law.”⁹⁸

To conclude, the CSDDD presents an opportunity. As the legislation of a collective entity (the EU), it carries the potential to operate without the biases inherent in national systems. By reporting a case involving an EU member state company to the EU, civil society hopes to avoid potential prejudices that might exist within the national legal framework. This perspective underscores the significance of having the CSDDD at the EU level, offering a layer of protection that can be instrumental in addressing corporate human rights violations more effectively.

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Conclusion

To conclude, it is still early to observe concrete spillover effects of the EU supply chain legislation, mainly the CSDDD and Forced Labour Regulation, as neither law has reached its final stage of adoption or been enforced. Yet, EU member states' domestic legislation, together with the international initiatives of the OECD, the UN and the ILO, provide us with some certainty in predicting the likely reactions of governments, the private sector and civil society organisations in the Global South.

Some common findings from the four country case studies researched for this report include:

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- 1) Governments:**
- a.** Different states are differently affected by existing legislation, depending on the country's engagement in trade relations with various countries, as well as the governments' involvement in business and human rights initiatives globally. Some countries have started adapting national laws to meet international standards on due diligence, in line with the OECD guidelines, UNGPs or ILO declaration. Others are aligning with German or French domestic laws or waiting for the upcoming EU legislation.
 - b.** In all cases, concrete steps are being taken, and none of the countries remains indifferent.
 - b.** The number of current business and human rights laws and standards globally, and particularly in the EU, creates confusion among researched countries as to which legislation to follow and focus on. Therefore, a need for better harmonisation of the EU laws with global initiatives would be crucial to ensure effective implementation by countries in the Global South.
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- 2) Private sector:**
- a.** The reaction of the private sector is divided not only country by country but also within different states, as there are already companies that have been aligning their activities with due diligence initiatives and legislation and that therefore are likely to align with the EU's CSDDD and Forced Labour Regulation. Yet there are also many companies confused and alarmed by what the EU supply chain laws will bring. The fear is related to being excluded from the market due to lack of resources and/or lack of willingness to implement the EU laws. Despite short-term challenges, there is hope that, with clear guidelines and support both from national governments and the EU, in the long term the EU supply chain legislation could serve as a key measure to enforce due diligence.
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- 3) Civil society:**
- a.** Inadequate inclusion of civil society throughout the design process of the EU supply chain legislation leads to civil society mainly becoming recipients rather than equal participants in the process. The exceptions are observed throughout such initiatives as the NForce, or engagements with EU delegations in several cases, yet this involvement is not enough to ensure that the opinions of those most likely to be affected are considered from the beginning.
 - b.** Lack of engagement also leads to lack of awareness and of concrete understanding about the upcoming EU supply chain legislation, mainly the CSDDD and Forced Labour Regulation. While governments and the private sector might have resources to access information about the EU legislation, this is not the case with civil society, which is largely excluded from the process of design and adoption of the laws.

In **Brazil**, the perception and effects of the EU supply chain legislation are generally positive. These laws are seen as important tools to ensure transparency, enforce human rights and investigate violations. In terms of spillover effects on the Brazilian government, discussions are under way regarding corporate responsibility and transparency. In the private sector, companies are proactively adapting to EU standards to maintain trade relations with the EU. Civil society views the EU legislation as an opportunity to exert more pressure on companies to improve labour practices and environmental safeguards.

In **Chile**, close economic ties with the EU and a role in global supply chains make the country responsive to EU regulations, even though corporate culture traditionally showed leniency towards compliance. Chile is adjusting as it incorporates environmental and labour crimes into its legal framework and works on a human rights due diligence law, in line with international and EU advocacy. Local firms are increasingly aware of human rights due diligence, and the private sector is addressing ownership concentration within supply chains. Under Chile's presidency of Alliance 8.7, civil society has a chance to push for coherence in addressing forced labour and human rights violations through collaboration with EU NGOs. Chile actively engages with EU supply chain regulations, aiming to improve transparency, protect human rights and enhance labour conditions.

In **Kenya**, business and human rights legislation is influenced by the UNGPs. The official launch of the Kenyan NAP on Business and Human Rights took place in 2016. However, the NAP has not been officially adopted into law, and the delay may be related to the upcoming EU CSDDD. The Kenyan government tends to be slow in implementing agricultural laws due to the political influence of large owners of farms and businesses. Many multinational corporations and private local companies in Kenya are concerned about the upcoming demands of the legislation.

In **Uganda**, similarly to Kenya, the adoption and implementation of supply chain legislation are rooted in the UNGPs. Uganda has also established a NAP on business and human rights, offering a procedural blueprint for other African nations. The government is focused on implementing the NAP and reforming legal and policy frameworks to enhance human rights and labour conditions. The EU's CSDDD has garnered attention due to the significant trade relations between Uganda and the EU. The private sector is preparing for the CSDDD's implementation, and awareness of mandatory human rights and environmental due diligence is growing. Civil society supports the CSDDD and views it as an opportunity to address business and human rights issues more effectively.

Overall, these four countries are engaged with the EU's supply chain legislation, with varying degrees of involvement and accompanying challenges. The laws are seen as tools to enhance transparency, protect human rights and improve labour conditions. The EU's influence on global trade is a motivating factor for compliance and engagement in these countries. Civil society plays a crucial role in advocating for the rights of workers and ensuring the effective implementation of this legislation.

Recommendations

To EU institutions in charge of legislation:

- 1) Ensure that EU supply chain legislation, such as the CSDDD and the Forced Labour Regulation, are effectively implemented and enforced. This includes holding companies accountable for violations of human rights and environmental standards in their supply chains.
- 2) Address the challenges posed by the multiplicity of regulations and standards from various entities by mapping out actors in the compliance network and assigning them appropriate responsibilities. This should include coordination with international organisations including the EU, the OECD, the United Nations and the International Labour Organization, as well as private actors, to harmonise disjointed norms and facilitate smoother compliance.
- 3) Actively engage with and sensitise civil society organisations through local offices when crafting legislation that may directly impact citizens and businesses. This proactive engagement would ensure that civil society is well informed and can provide valuable feedback on proposed legislation.
- 4) Maintain transparency in the development and implementation of EU legislation, while actively communicating with partner countries and stakeholders to address any concerns and clarify expectations.

To EU institutions and the private sector:

- 5) Establish mechanisms that give a seat at the table to stakeholders at all stages of the value chain, including workers, supervisors and managers. Make consultations with affected stakeholders mandatory throughout the due diligence processes of in-scope companies. These consultations should be ongoing, proactive and culturally sensitive, taking into consideration any barriers to participation and specific needs of vulnerable stakeholders. Ensure that stakeholders are free from retaliation and retribution, including by maintaining confidentiality and anonymity.
- 6) Engage in constructive dialogue with Global South partner countries to facilitate their understanding of and compliance with EU legislation. Collaboration and cooperation can lead to smoother transitions.
- 7) Recognise the importance of considering country-specific contexts when engaging with stakeholders and crafting and implementing legislation. Acknowledge variations in freedoms, such as freedom of speech and media, across different countries. Adapt legislation to fit the local context to ensure it is effective and aligned with the existing legal and cultural environment.
- 8) Provide support and guidance to partner countries and their governments in the form of capacity building, training and technical assistance to help them align with EU standards. Ensure that compliance is not burdensome and share best practices.
- 9) Deploy personnel in affected regions who are accessible to workers and the public. Local representatives should be available to assist with inquiries and ensure that affected parties are aware of their presence and role in the region.

To all stakeholders (governments, the private sector and civil society):

- 10) This report still has many gaps in assessing the spillover effects of EU supply chain legislation, most of which could not be addressed as legislation such as the CSDDD and Forced Labour Regulation has not yet entered into force, and consequently it is too soon to complete the assessment. Therefore, more time and broader scope are needed for research involving more stakeholders from across government, business and civil society to assess the effects as the legislation moves into its implementation phase.

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