

# Handout for Human Rights and Environmental Due Diligence Workshop for National level Trade Unions

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## INTRODUCTION

With the increasing need for companies to stop, prevent, and/ or mitigate their negative impacts on people and planet in international value chains, the role of trade unions becomes more relevant every day. Since the endorsement of the [United Nation Guiding Principles on Business and Human Rights](#) in 2011 and the incorporation of these guidelines in the [OECD Guidelines for Multinational Enterprises](#) (updated in 2023), companies worldwide are expected to do due diligence, showing their accountability in regard to human rights, including labour rights, throughout their entire value chain. Currently, more and more governments are introducing legislation that incorporates these guidelines, compelling companies to do Human Rights and Environmental Due Diligence (HREDD).

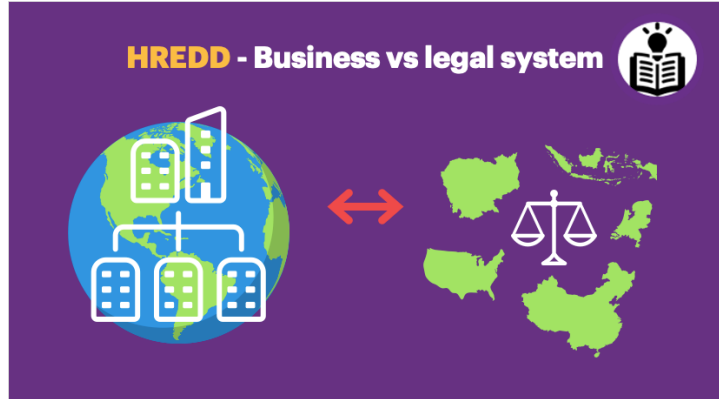
**This offers trade unions, especially those in production countries, a unique opportunity to claim their role as a key stakeholder in HREDD processes.** But trade unions can only fulfill this role, if they have a profound knowledge of the due diligence process. This training was developed for trade unions to build their understanding of HREDD, but also of the role they can play in each step of due diligence. This manual is meant both as a reference guide and as a notebook for the duration of the training. At the end of the manual, we have listed additional resources for more in-depth learning.

## THE HREDD WORKSHOP

## General Introduction

The phone you use, the pen you write with, the clothes you wear, even the soup you eat: it is very likely that ingredients or maybe even the whole product come from abroad. Business operates more and more internationally. There is hardly any value chain without an international actor. On the other hand, judicial systems are still mainly organized nationally (or sometimes partly regionally like in the European Union). This leads to a governance gap: businesses can be held accountable for negative impacts on human rights caused by their activities in their home country but not when they decide to shift some of their business activities to other countries with maybe less well functioning judicial systems.

The diagram, titled "HREDD - Business vs legal system", illustrates the disconnect between global business operations and national legal systems. On the left, a globe is shown with white icons of buildings and a factory, representing international business activities. On the right, a map of China is shown with a white icon of a balance scale, representing the legal system. A red double-headed arrow connects the two, highlighting the tension between global business and local legal frameworks.



## NOTES

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## Due Diligence

The United Nations tried to solve this governance gap by developing guidelines for businesses all over the world on how to respect human rights in international supply chains. These guidelines apply to all companies worldwide who operate internationally, so also to companies in production countries, like Cambodia, who source for example textiles from China or Bangladesh to make clothes. These guidelines were developed after intense consultations with businesses (small and large), governments, local communities, NGOs and trade unions, and endorsed by the UN in 2011. HREDD is a central element in the guidelines.

## HREDD - Central concept

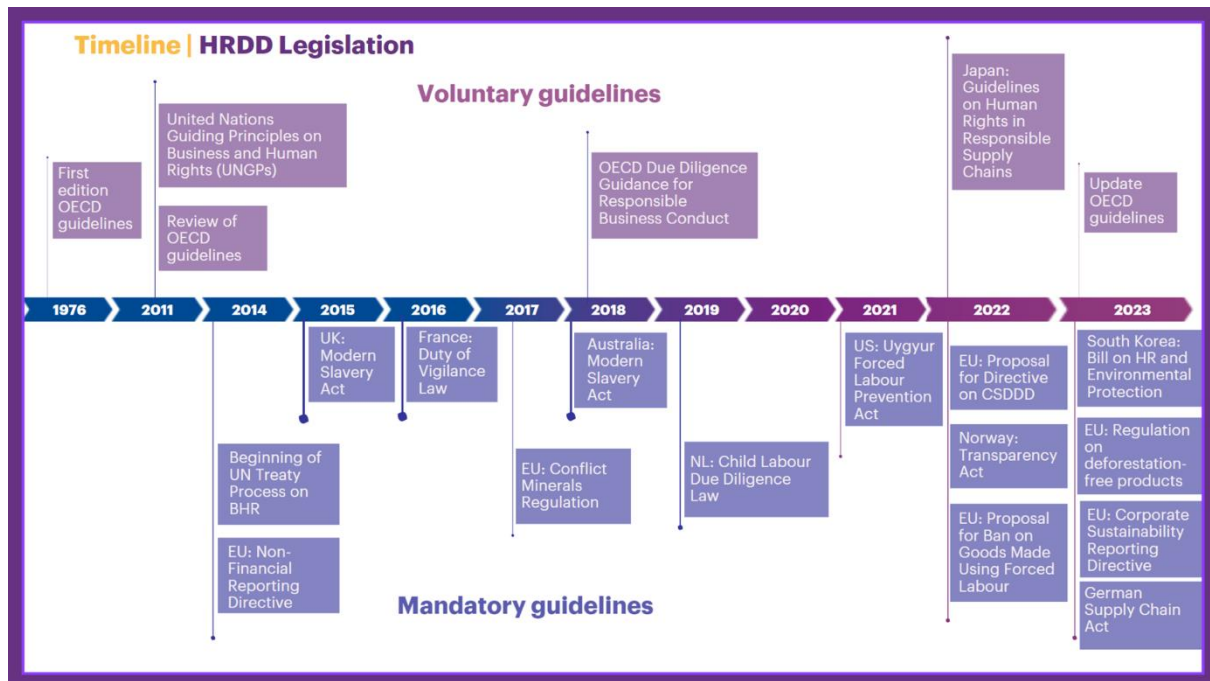
Human Rights and Environmental Due Diligence

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graph TD; B1[Building] --> P1[Person Digging]; P1 --> T1[Truck]; T1 --> F1[Factory]; F1 --> S1[Ship]; S1 --> R1[Recycling]; R1 --> P2[Person with Cart]; P2 --> C1[Car]; C1 --> S2[Storefront]; S2 --> B1; G1[Gear with Person] --- P1; G1 --- P2;
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## This image shows a single sheet of white paper with horizontal blue or grey ruling lines, typical of notebook paper. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Although companies are supposed to be doing due diligence for human rights and the environment since 2011, many are not implementing it sufficiently yet. So, since 2014 there is an increasing call for legislation, to make due diligence for human rights a legal obligation for companies. So, the voluntary HREDD is becoming mandatory for companies in certain jurisdictions like the European Union.

This slides clearly show this trend of moving from voluntary to mandatory: In France the first broad due diligence law was adopted in 2016; from 2022, Norway and Germany followed suit. All of these laws are based on the OECD Guidelines and the UNGPs.



After several European countries set out to develop legislation, the European Union (EU) decided it would be better to have broad due diligence legislation on a European level. So, the European Commission developed a legislative proposal, based on the OECD Guidelines. This proposal is called the Corporate Sustainability Due Diligence Directive (CSDDD), and was adopted in 2023. But before this, the EU already developed legislation which requires companies to report on sustainability and their due diligence efforts called the Corporate Sustainability Reporting Directive (CSRD). Next to that, the EU developed legislation on deforestation: when importing certain products like soy, palm oil or cocoa, companies need to prove with GPS location coordinates that these products were not grown on lands that were deforested since 2019 or 2020. And concluding, there is upcoming legislation on forced labor which was also adopted in 2023. If it can be proven that products on the EU market are made with forced labor, the products will be taken off the market only to be readmitted when forced labor is eliminated in the supply chain.

Although the legislation debate is most advanced in the EU, other parts of the world are following. In Australia the Modern Slavery Act of 2018 is being updated to include more elements of due diligence. In Japan, Guidelines for Business and Human Rights are developed, and many expect these guidelines (based on the OECD Guidelines) to be further developed into legislation. Another example is the US Tariff act, an act that has already been in place for a long time but was recently updated to exclude import from all products from Xinjiang since the assumption is all of these products are made with modern slavery. In South Korea, a legislative proposal on broad due diligence was tabled in 2023. The expectation is that with the EU developing legislation based on the international norms, companies worldwide that export to the EU but also to other countries will make sure they have due diligence systems in place for all their products so they comply with the EU law and can therefore export to the EU and all other countries in the world.

covers their entire supply chain. If an adverse impact happens in their supply chain somewhere in the world and they did not respond in line with their due diligence obligation, they can be held accountable in Europe.

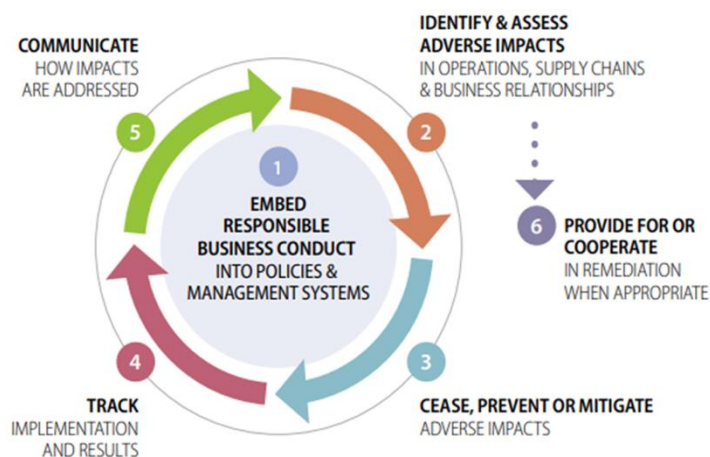


## NOTES

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## Due diligence continued

All legislation is based on the UN guidelines and this concept of HREDD. As said, this on-going due diligence process that companies need to implement consists of six steps, which will be further explained during this workshop. Step 1 is embedding responsible business conduct into policies and management systems. Step 2 is identifying and assessing adverse impacts on human rights and the environment in entire value chain: all of their own operations, those within the supply chain and those of business relationships. Step 3 is to cease, prevent or mitigate the adverse impacts found. In step 4 companies need to track their own performance on due diligence: is the process implemented in the right way and what are the results. Step 5 is about communication: how does the company address the negative impacts found? And finally step 6: if negative impacts are found, companies need to provide for or cooperate in remediation when appropriate.



### Step 1

When drafting a policy, the policy should be approved by senior management, contain concrete and measurable goals (interpretation of responsibilities and policy processes) and a description of external systems (e.g. certifications) and role they play in the due diligence process. The policy should be written in consultation with (external) experts and made public/shared with employees/suppliers and external parties. The policy should be evaluated periodically. To make sure the policy is not just a piece of paper that disappears into a drawer after it is written, it should be integrated into management systems. This is really a key step. Responsible business conduct should become an intrinsic part of the daily operation of a business.

### Step 2

Companies need to map the entire value chain for their products, including the source of the raw materials, and even the input needed to produce these raw materials. Then they need to identify all (potential) adverse impacts on workers, communities, suppliers, environment & climate for each of their products. They probably need to do some research to obtain this information: they can discuss internally with buyers or the sourcing department for example where ingredients or components are sourced. Other possible sources are audits, complaints, media and stakeholders like trade unions and suppliers.

### Step 3

To be able to prevent, cease and/or mitigate the adverse impacts found, a company should draw up an action plan. This action plan should be SMART (Specific, Measurable, Actionable/ Achievable, Realistic and Timebound) and the action plan should include who is responsible within the company for which actions and what budget is assigned to the action. The actions plan can be drawn up in any format the company already uses for other action plans in other areas.

### Step 4

The due diligence tool provides a system to monitor applications and results. Companies should monitor their own internal efforts, activities and goals through in-house or external reviews or audits by using:

- quantitative and qualitative indicators
- internal and external sources
- periodic reviews

Furthermore, business relationships should be assessed periodically, and the conclusions should be used to improve policies, processes and the action plans.

### Step 5

Companies need to communicate all relevant information on adverse impacts found, actions plans and implementation progress, remedy etc. with the relevant stakeholders in a relevant way. This means companies need to think about what communication tool to use when communicating with specific stakeholders. For some stakeholders, communication via the website might be best or at least a first step (f.e. the media or NGOs). For others, you want to organize meetings (f.e. with trade unions and NGOs, you can organize yearly meetings on how the company is performing when it comes to respecting human rights, the environment and climate, or when you need to communicate to a local community on certain impacts your activities will have on the community, you might want to organize town hall meetings).

It is important to understand that communication is not the same as reporting. Companies need to report yearly on their due diligence efforts achievements, like they do each financial year. But communication in the due diligence cycle means continuously communicate with stakeholders when necessary. This communication should always be meaningful, so with an open mind, before major decisions are taken, and with the intention of sharing information back and forth between two parties.

### Step 6

Individuals or groups that have been harmed by a business' activities have a right to remedy:

1. Officially, remedy means to restore to the situation they would have been in had the impact not occurred. This of course is nearly impossible, but it is key to strive to restore as much as possible to the situation they would have been in.
2. A company should try to make amends for the harm caused.
3. They can use various measures. Remedy is not about money per se, it can include apologies, restitution, rehabilitation, financial or non-financial compensation, and punitive sanctions (whether criminal or administrative, such as fines), as well the prevention of harm through, for example, injunctions or guarantees of non-repetition.
4. A vital part of step 6 is the obligation for companies to set up grievance mechanisms.

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## Key elements of due diligence

To sum up: key elements of due diligence are:

- HREDD is based on internationally recognized RBC standards, recognized not only by the OECD but also by the UN, and therefore this is a universal concept, applicable to all companies with international value chains, thus also for companies in production countries.
- Main goal of HREDD is preventing negative impacts. Of course, remediation of negative impacts is an important element, but first and foremost it is about prevention.
- HREDD is a dynamic, ongoing, reactive and flexible process: adaptable to the context in which the company operates.
- HREDD is about risks: not about risks for the company, but about risks for the surroundings of the companies and for others outside of the company.
- When doing HREDD, there should be extra attention for gender and vulnerable groups. Women and girls are often impacted more by human rights violations and are often more difficult to reach. Children or people with a disability are extra vulnerable.
- HREDD is proportional in itself, meaning that what a company is supposed to do depends amongst others on the size of the company, where it is located in the value chain and the degree/extent of the negative impact (the more impactful the negative impact, the greater the responsibility).
- Stakeholder involvement is key in every step of HREDD.
- And lastly: HREDD is really about *shared responsibility*: companies are responsible for their value chain, together with all value chain partners. Partners in the value chain should support each other in respecting human rights, climate and environment.

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### Stakeholder consultation

Due diligence is all about adverse impacts on others, outside of the company, on the environment, on local communities, on workers etc. Therefore, stakeholder consultation is a central element of due diligence in all of the six steps of due diligence. Involving the right stakeholders at every stage of due diligence is a prerequisite for achieving a process that has a positive impact in producing countries and thus also adds value for companies. Stakeholders, according to the OECD guidelines, are people or groups of people with interests that can be harmed by the company's activities. This is a very diverse group that includes, for example, farmers, workers, trade unions, local communities, civil society organizations, investors and industry associations.

A special group are stakeholders whose human or collective rights are or may be violated, for example factory and plantation workers. They are called rightsholders. They are often difficult for international companies to reach, especially if they are located more upstream in the value chain. These workers, however, should be consulted in every step of due diligence. Trade unions that represent these workers are organised at various levels, from local (e.g. plantation, factory, and mine) to national. Companies can communicate more easily with trade unions than with individual workers. This means trade unions play a key role in advocating for workers' best interests, throughout the entire HREDD process.



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### Role of trade unions in HREDD

HREDD offers trade unions the **opportunity** to intensify their work in securing workers' rights. International buyers have very clear responsibilities. They need to examine their own purchasing practices. They have a shared responsibility to solve possible and actual negative impacts on labour rights in every part of their chains. They must not pass the responsibility on to another actor in the value chain. Nor should they just extricate themselves and start sourcing elsewhere. It is precisely this concept of **shared responsibility** that offers trade unions a real opportunity to secure safe, fair employment for their members and ensure that all companies in the entire value chain respect workers' rights.

An often-overlooked fact is that companies (in this case, suppliers to international buyers) can also benefit from HREDD legislation, especially when it comes to recognising the roles of unions. Involving trade unions in their HREDD process offers companies the opportunity to enhance the quality of their HREDD policies, making sure it is impactful. This can lead to the company becoming a preferred supplier for international buyers. Everyone profits in such relationships, so it is important for trade unions to be able to explain this win-win aspect to the company management they work with.

HREDD offers trade unions the opportunity to intensify their work in securing workers' rights, although this might require some changes in mindset and activities.

1. Trade unions should cooperate more with other stakeholders, like civil society organisations or local communities.
2. They need to strengthen their national and international connections in order to work effectively with different actors in the value chains. Trade unions at the factory level, for example, could intervene with factory management, while the national (con)federation might start interacting with the trader, and their international allies with international buyers. Trade unions in production countries and trade unions in the countries where the product is consumed play different, but very complementary roles. If they worked together, they would have more impact in securing labour rights.
3. At the same time, the core work of the trade unions should remain the same, as social dialogue always remains the key instrument for trade unions.

As trade unions you are a special stakeholder in the HREDD process. In each of the 6 steps there is a specific role for the trade unions/workers/ worker representatives. There is a push to engage more stakeholders in the HREDD process and it is important to be prepared for this role.

Companies are not only required to engage stakeholders, and thus trade unions, in every step of due diligence, but they should do so in a meaningful way. "Meaningful" in this context means that companies do not wait to reach out to trade unions when their constituencies are affected by business activities. Companies should provide them with transparent and accessible information, and parties should exhibit a genuine desire to understand each other (i.e., there is open, two-way communication). Meaningful engagement starts with trust,

As the process is continuous, the companies should have regular meetings. Having a bi- or tripartite Collective Bargaining Agreement (CBA) is an indicator dialogue took place. The revision of a CBA is an indicator of monitoring the process.

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1. Representation of employees
  - a. negotiate agreements with employers on pay and conditions. When trying to solve labour rights issues, like low salaries or unsafe working conditions, trade unions can negotiate on behalf of their members. These negotiations could lead to CBAs which are an important step in ensuring and safeguarding workers' rights.
  - b. discuss major changes to the workplace such as large-scale redundancy
  - c. discuss members' concerns with employers
  - d. contribute to develop internal policies, procedures and regulations on social dialogue and collective bargaining, but also on other issues that affect workers
2. Support of individual employees
  - a. in case of dismissal/reorganization, trade unions provide legal assistance and advice to members, or even file a complaint with a grievance mechanism
  - b. exchange with employers and find out feasible solutions to solve individual grievances
  - c. accompany members in disciplinary and grievance meetings
  - d. provide members with legal and financial advice, and consumer products like discounts on insurances
3. Training & raising awareness
  - a. trade unions often have extensive training programs, and possibility to inform and train their members
  - b. trade unions can train employees in how to use protective equipment, or how to engage in social dialogue with their employer

- c. provide consults, guidance, training support for grassroots trade unions (including negotiation about salary scale)
- d. communicating and explaining to employees and employers about compliance
- e. keep employees, employers, brands informed about the CBA, internal regulations, and other results via direct formats (meeting, conferences) or indirect formats (papers, internet, internal communication, multimedia communication)
- 4. Advocacy for social values and norms regarding people and labour with decisionmakers such as governments or companies so they create framework conditions for inclusive social dialogue and ensure ratification, implementation and compliance with ILO conventions.

Because of these essential, already existing roles of trade unions, they can support companies, buyers, and governments in:

1. Gathering information on workplace issues
  - a. Step 1 -> policies need to be informed: Trade unions can inform foreign buyers on current working conditions, but also participate in developing policies and procedures for companies to ensure a better protection of workers' rights.
  - b. Step 2 -> mapping value chain: Employees are often very well aware where raw materials or inputs come from, and know which brands or companies buy from their workplace.
  - c. Step 2 -> prioritize: Trade unions know which issues are most urgent to address on their work floor.
  - d. Step 3 -> cease/ prevent/ mitigate: Because of the extensive knowledge of current operations, trade unions are often capable of finding solutions to workplace issues, or of training their members on these solutions so that the possible negative impacts can be mitigated.
  - e. Step 5 -> communication: Trade unions can provide valuable input for the reporting requirements or for example on good practices.
  - f. Step 6 -> provide remedy: If individual or collective grievances are found, trade unions play an essential role in helping file complaints with grievance mechanisms or negotiate on remedy measures.
2. Monitoring: Because trade unions are well connected to the work floor, they can play a very valuable role in step 4 on monitoring of the implementation of policies and procedures, the effectivity of measures taken or the number of incidents that occur.
3. Support workers for example with grievances, awareness raising or skills improvement.
4. Connecting/ Linking
  - a. Trade unions are not only well connected the work floor, but also to other trade unions in the area and in other sectors, and to local decisionmakers.
  - b. For all steps of due diligence: Trade unions can put foreign companies in touch with possible "affected" stakeholders.
  - c. Work as connecting point between brand and enterprise to improve social dialogue and collective bargaining to further improve wages and working conditions for employees.
  - d. Coordinate with related organizations to settle certain disputes.

## NOTES

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## Group work: SWOT analysis

## This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on its right side, suggesting it's resting on a surface.

## General sources

- United Nations Guiding Principles on Business and Human Rights (2011): [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr_en.pdf)
- OECD Guidelines for multinational enterprises (2023): <http://mneguidelines.oecd.org/MNEguidelines/>
- OECD Guidance on due diligence for responsible business conduct (2018): <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>

- OECD Due Diligence Guidance for responsible supply chains in the garment and footwear sector (2017): <https://www.oecd.org/industry/inv/mne/responsible-supply-chains-textile-garment-sector.htm>
- Doing Business in a Responsible way (Oxfam/ Shift): <https://www.businessrespecthumanrights.org/>
- Responsible Business Hub Cambodia (GIZ/ Eurocham Cambodia 2023): <https://rbh-eurochamcambodia.com/>
- Asia Garment Hub: <https://asiagarmenthub.net/themes-1/due-diligence>

#### **Sources on specific instruments**

- CNV Internationaal's resources on Social Dialogue: <https://www.cnvinternationaal.nl/en/topics/field-of-work/social-dialogue>
- How trade unions use grievance mechanisms in the garment sector (cnvinternationaal.nl): [https://www.cnvinternationaal.nl/\\_Resources/Persistent/2/8/f/b/28fb930f80c35fd3e65e2de2de9a5ba11b9124c0/2022-11-02 - How trade unions use grievance mechanisms in the garment sector.pdf](https://www.cnvinternationaal.nl/_Resources/Persistent/2/8/f/b/28fb930f80c35fd3e65e2de2de9a5ba11b9124c0/2022-11-02-How-trade-unions-use-grievance-mechanisms-in-the-garment-sector.pdf)
- How trade unions can engage in Human Rights Due Diligence to safeguard worker's rights: <https://www.cnvinternationaal.nl/en/topical/news/new-publication-about-the-rol-of-trade-unions-in-hrdd>