

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

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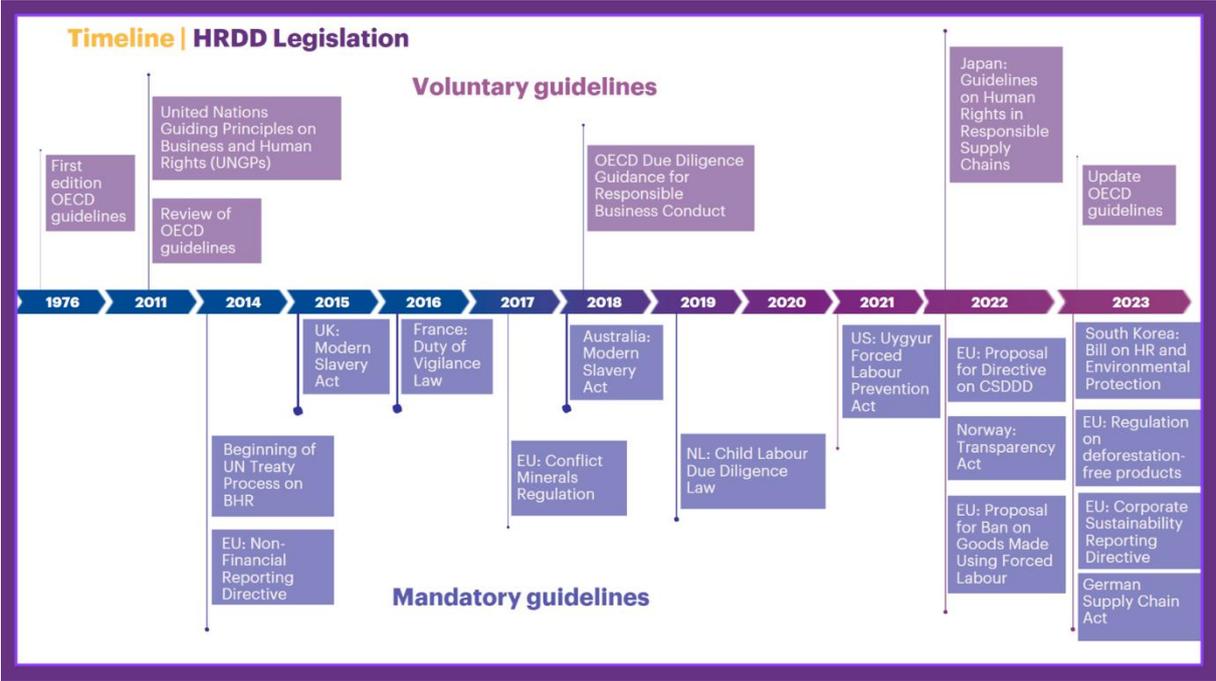
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INTRODUCTION

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).

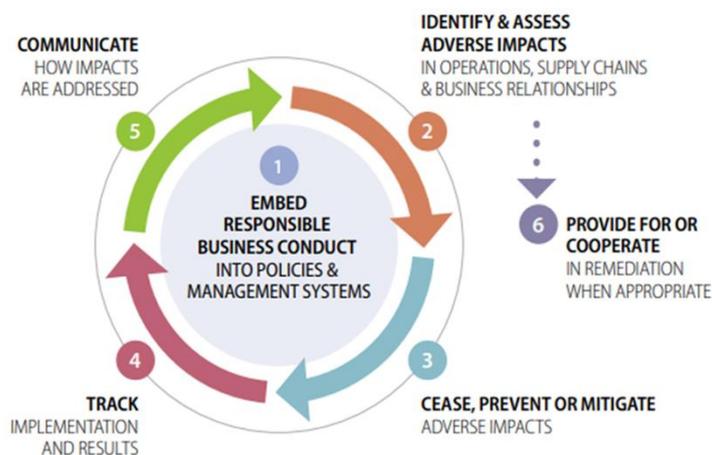
This offers trade unions, especially those in production countries, a unique opportunity to claim their role as a key stakeholder in HREDD processes. But trade unions can only fulfill this role, if they have a profound knowledge of the due diligence process. This training was developed for trade unions 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.

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.



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.

- 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.

NOTES

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.

NOTES

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,

- 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

- 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
- 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>