

01 **Aim of the meeting and introduction**

02 **Introduction by MoJ**

03 **Introduction of the international guidelines**

04 **Introduction of the EU requirements**

05 **Introduction Thai legal situation**

06 **Discussion mandatory due diligence**

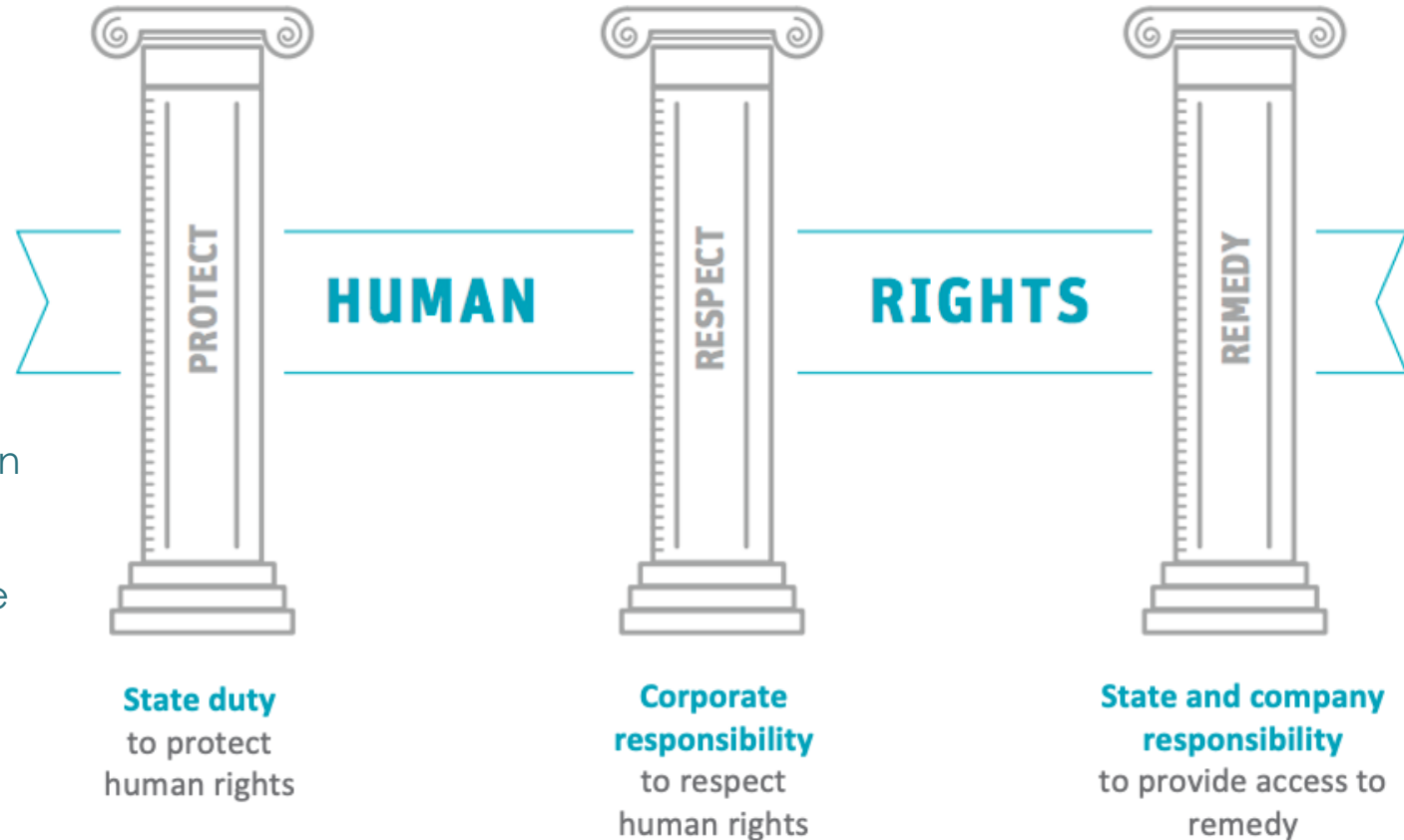
International frameworks: UN Guiding Principles

Corporate responsibility to respect human rights. How did it start?

UNITED NATIONS
GUIDING PRINCIPLES
ON BUSINESS
& HUMAN RIGHTS

In 2011 the UNGPs provide for the first time a clear blueprint for companies on how to prevent negative impacts on human rights:

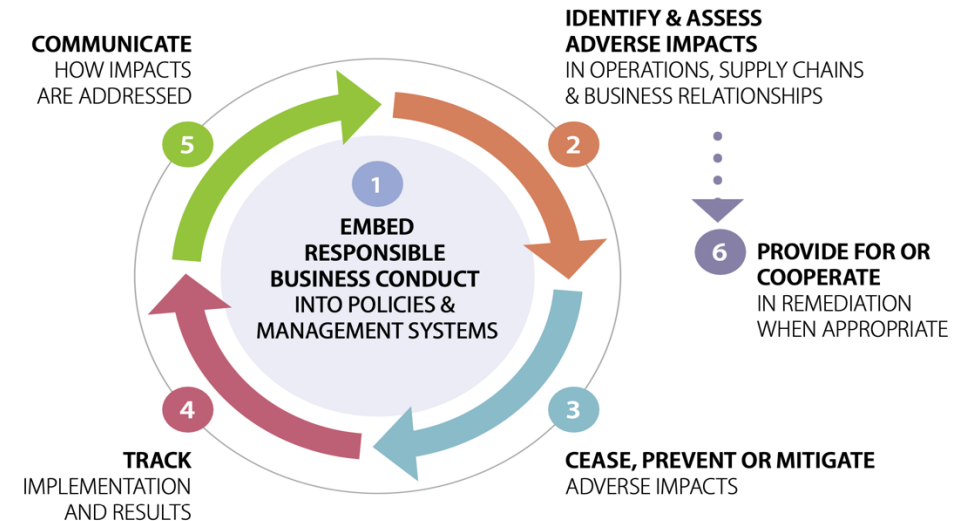
- **Public commitment** to respect human rights
- An **ongoing process of human rights due diligence** to assess and mitigate human rights risks
- Provide **remedy**



OECD guidelines for multinational enterprises on responsible business conduct:

- Recommendations jointly addressed by governments to multinational enterprises to enhance the
- business contribution to sustainable development and
- address adverse impacts associated with business activities on people, planet, and society.

FIGURE 1. DUE DILIGENCE PROCESS & SUPPORTING MEASURES



Frameworks are aligned and serve as the basis for due diligence legislation

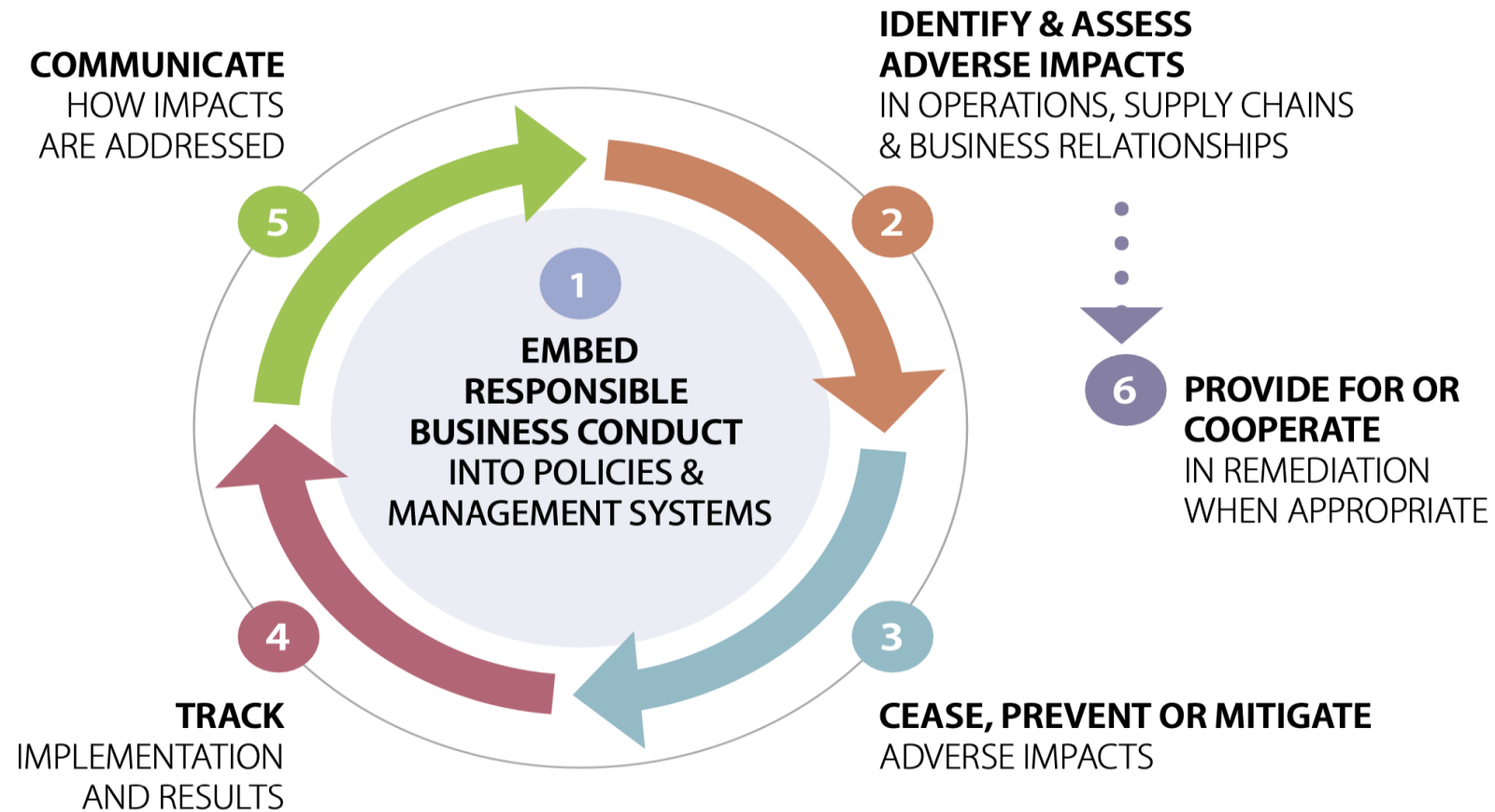
- The **main difference** between these two frameworks is that the OECD guidelines extend the expectations from business **to the environment**.
- Both guidelines **expect business to take a pro-active risk based approach** and manage their risks via **due diligence**
- Both guidelines are meant **to prevent harmful impact** and **provide remediation** where possible
- Both guidelines expect business **to take responsibility for the whole value chain**, not only their own operations.
- Both guidelines expect **different action depending on the level of contribution** to the harm.
- Both guidelines expect businesses to **engage with stakeholders**, especially the affected ones

Minimum contents of HREDD legislation as required by international frameworks

- 1) The HREDD legislation should expressly require business enterprises to **take all six steps of the due diligence process**.
- 2) The HREDD legislation should **extend the scope to the impacts** that business enterprises contribute to and to which they may be “”. **directly linked to its operations, products or services by its business relationships**
- 3) The HREDD legislation should expressly require business enterprises to **consult with stakeholders** for the purposes of due diligence.
- 4) As a reference framework for the rights to be protect, the HREDD legislation should use **internationally recognised human rights standards** in the Universal Declaration of Human, ICCCP, ICESCR, ILO Declarations and environmental principles enumerated in the OECD guidelines.

6 steps of the due diligence process

FIGURE 1. DUE DILIGENCE PROCESS & SUPPORTING MEASURES



National legislation related to due Diligence worldwide

For informative purposes only

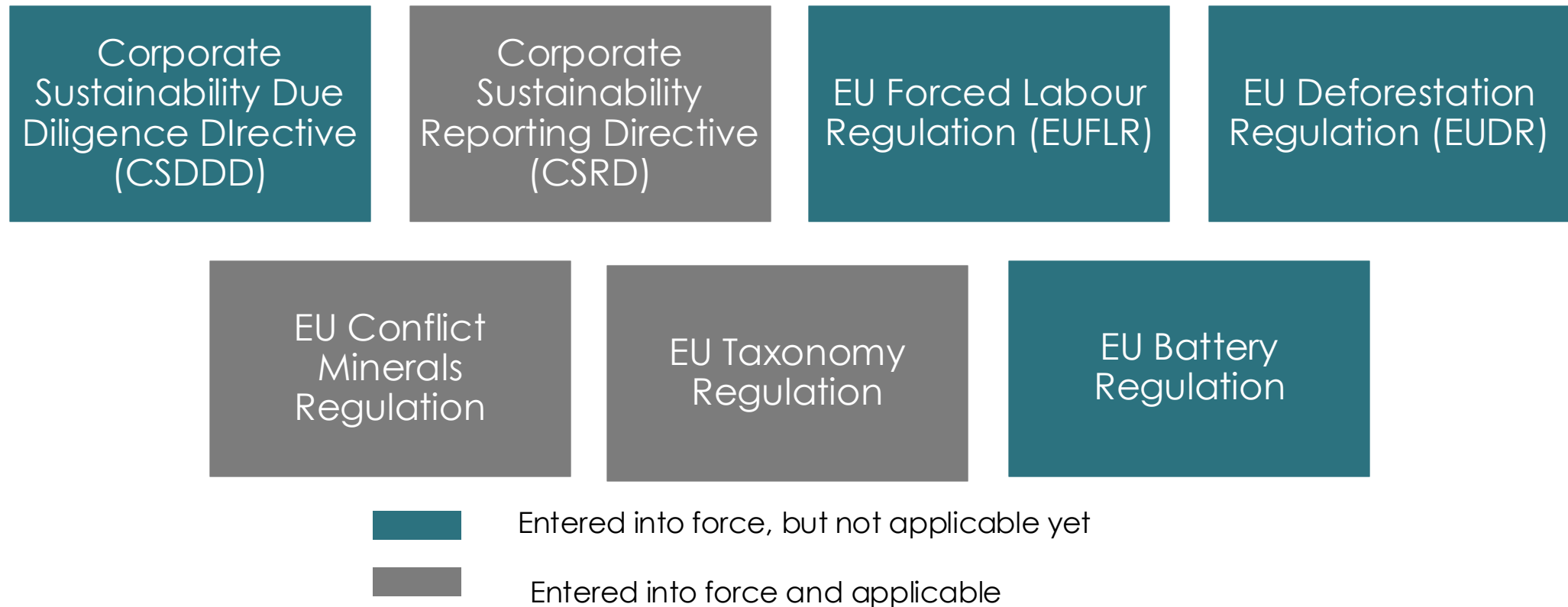
<p>France</p> <p>Corporate Duty of Vigilance Law (<i>Loi de vigilance</i>, 2017)</p>	<p>Belgium</p> <p>Duty of vigilance and responsibility along value chain proposal (2021) – Parliament voted in favour</p>	<p>Sweden</p> <p>Mandatory HRDD proposal: <i>government agency recommends adopting legislation</i> (2018); CSO campaign (2020)</p>	<p>Japan</p> <p>Draft Guidelines on the Respect for Human Rights in Responsible Supply Chains (2022)</p>
<p>Germany</p> <p>The Act on Corporate Due Diligence Obligations in Supply Chain (LkSG, 2021)</p>	<p>Denmark</p> <p>Mandatory HRDD proposal (2019) – <i>parliamentary motion requesting law</i></p>	<p>United Kingdom</p> <p>– UK MSA (2015) – <i>only reporting</i> – Mandatory HRDD proposal: <i>MP put forward amendment to Environmental Bill which required gov. to publish draft bill on mHRDD</i> (2020); CSO release <i>principal elements to be considered</i> (2021) – Environment Bill (2021) – <i>passes into law, issue-specific</i></p>	<p>Mexico</p> <p>General Law of Corporate Responsibility and Corporate DD (2020) – <i>draft law</i></p>
<p>Norway</p> <p>Transparency Act (2021)</p>	<p>Finland</p> <p>Mandatory HRDD proposal: <i>government commitment</i> (2019); <i>drafting begins w. support of working group</i> (2022)</p>	<p>Australia</p> <p>Modern Slavery Act (2018)</p>	<p>US</p> <p>– US Section 307 of the Tariff Act of 1930 (as amended by the Trade Facilitation and Trade Enforcement Act of 2015) – Uyghur Forced Labor Prevention Act (2021) – US Dodd-Frank Act Section 1502 – US California Transparency in Supply Chains Act (2010) – Slave-Free Business Certification Act (2022) – <i>draft law</i></p>
<p>Switzerland</p> <p>Indirect counter-proposal to the Responsible Business Initiative (RBI, 2022)</p>	<p>Luxembourg</p> <p>Mandatory HRDD proposal: <i>coalition of CSO requests legislation</i> (2018); Ministry of Foreign Affairs commissions study to value possibilities (2021)</p>	<p>Canada</p> <p>Minister backs Senate forced labour bill (Bill 211: An Act to enact the Fighting against Forced Labour and Child Labour in Supply Chains Act and to amend to Customs Tariff, 2022)</p>	<p>South Korea</p>
<p>Austria</p> <p>– Bill on Social Responsibility (2020) – <i>issue-specific, draft law</i> – Supply Chain Law (2021) – <i>draft law</i></p>	<p>Spain</p> <p>– Draft Law for the Protection of Human Rights, Sustainability and Due Diligence in Transnational Business Activities (2022) – <i>public consultation</i> – Catalan Center for BHR Law (2022) – <i>Catalan Parliament greenlights law</i></p>		

- Approved due diligence law
- Draft law
- MP initiative / Civil society action
- Legal developments outside of Europe



Sources: [the European Coalition for Corporate Justice \(ECCJ\) 2022](#); [The Business & Human Rights Resource Centre \(2022\)](#)

Now several overarching legislation, harmonizing national initiatives



Zooming in at 4 important and recent pieces of legislation

Legislation	Entered into force	Applicable	Aim	Scope	Value chain
CSDDD	25 July 2024	26th of July 2027 (in phases), fully phased in by 2029	Setting standards for HREDD	Largest first: from 2027 All companies more than 1000 employees and turnover €450 million from 2029	<ul style="list-style-type: none"> • own operations • subsidiaries • upstream business partners that relate to the products and services of the company
CSRD	5 January 2023	2025 (reporting over 2024)	The reporting requirement covers the way companies deal with environmental and social topics.	All listed companies with over 500 employees on EU-regulated markets from 2025	Whole value chain, including downstream
EUDR	29 June 2023	30th of December 2025 for large operators and traders 30th of June 2026 for SMEs	Minimization of the risk of deforestation and forest degradation associated with products that are placed on or exported from the EU market.	Operators and traders of relevant commodities or products that place the product on the market or export it.	Supply chain upstream
EUFLR	19 November 2024	14th of December 2027	Prohibits companies to place and make available on the EU market any goods that were made with forced labour.	The whole supply chain is covered	Supply chain upstream

What topics are covered by EU legislation?

CSDDD

- Abuses of 16 human rights based on international human rights treaties
- Sixteen obligations and prohibitions based on environmental international treaties
- Climate transition plan

CSRD

- Social factors: (1) **equal treatment and opportunities**, (2) **working conditions**, (3) **respect for human rights**
- Environmental factors: climate change, climate change adaptation, water and marine resources, resource use and circular economy, pollution, biodiversity
- Governance factors

EUDR

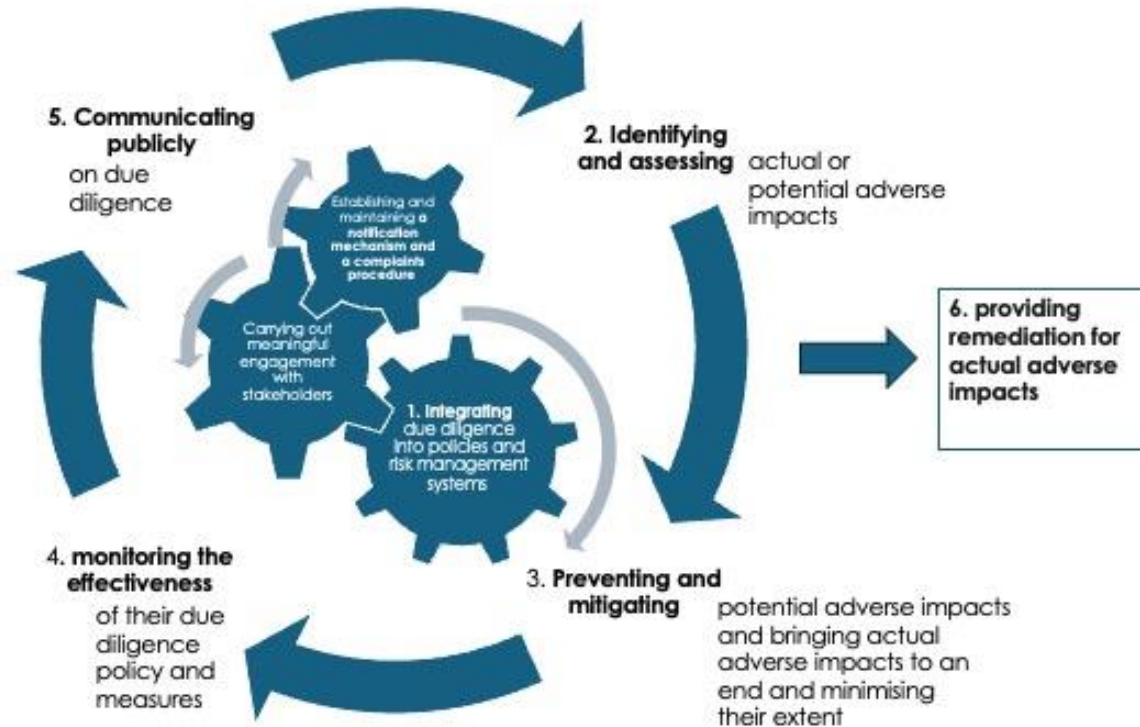
- **deforestation and forest degradation** as well as **greenhouse gas emissions** and **biodiversity loss**
- focus of the regulation is on the relevant commodities which run a risk of having impact on deforestation: **cattle, cocoa, coffee, oil palm, rubber, soya and wood** and a relevant list of products

EUFLR

- Forced labour and forced child labour

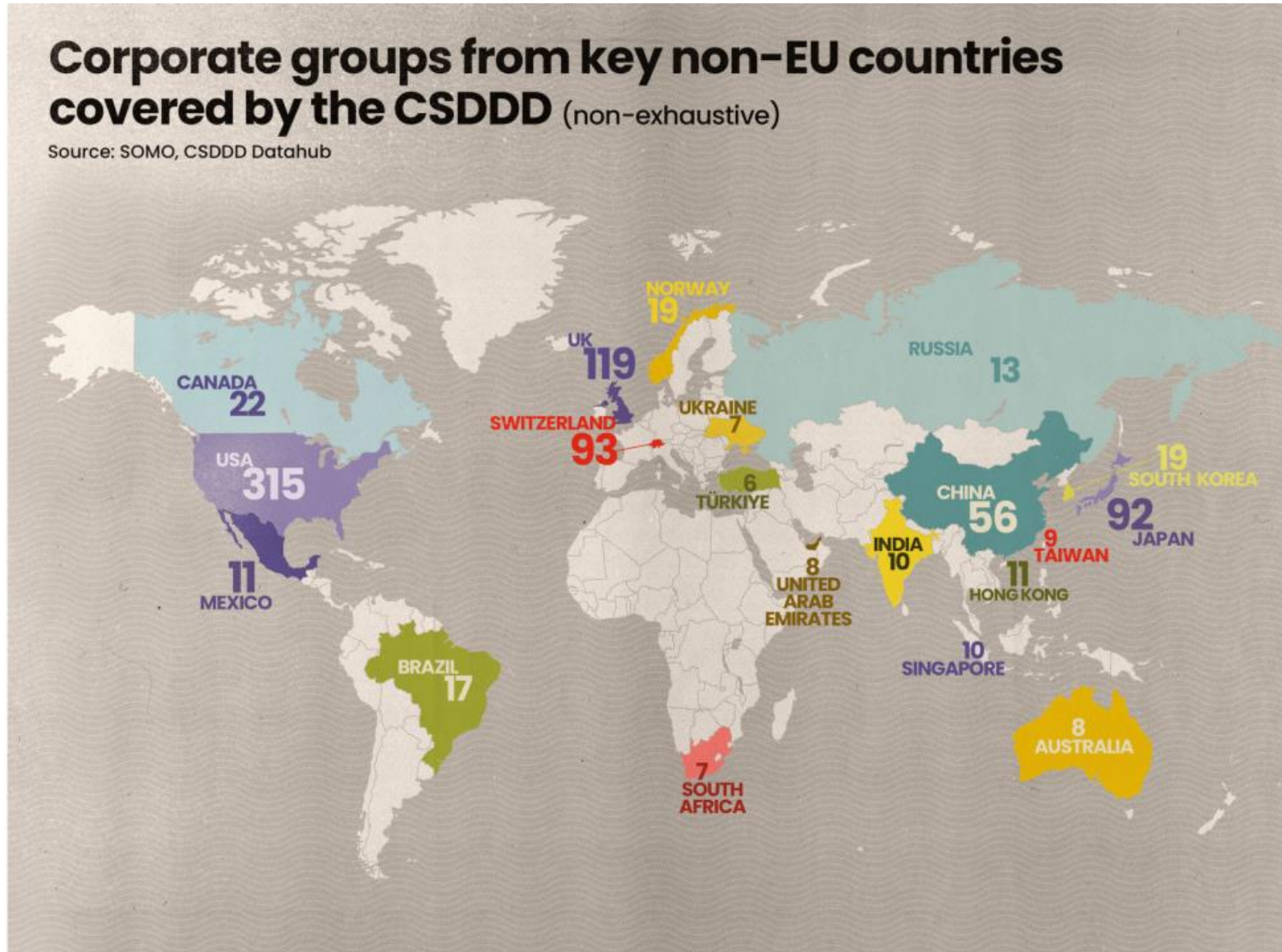
Due diligence requirements: CSDDD

Risk based due diligence as required by the CSDDD



- Having a due diligence policy in place
- Integrate this into relevant policies and processes
- make necessary modifications, or improvements to the company's own business plan, overall strategies and operations, **including purchasing practices, design and distribution practices**
- **Take a risk based approach in identifying and assessing risks for people and environment**
- **Prioritisation based on severity and likelihood**
- **Appropriate action to prevent and to mitigate are spelled out**
- **Responsible disengagement described**
- **No new reporting obligations**

Companies in non-EU countries covered



Analysis of Thai law related to business and human rights

- Many of Thai laws can be used to protect stakeholders:
 - Workers
 - Consumers
 - Communities
 - CSOs
- These laws can be used as a basis for the HREDD legislation if they are compatible with international standards.

Thai Labour Law

<u>Categories</u>	<u>Relevant Statutory Acts</u>
Individual Protection	Labour Protection Act, BE 2541 (1998)
	Employment Arrangement and Jobseeker Protection Act, BE 2528 (1985)
	Social Security Act, BE 2533 (1990)
	Promotion of Skill Development Act, BE 2545 (2002)
	Occupational Safety, Health and Environment Act, BE 2554 (2011)
Collective Protection	Labour Relations Act, BE 2518 (1975)
Protection of Specific Categories	Home Workers Protection Act, BE 2553 (2010)
	Maritime Labour Act, BE 2558 (2011)
	Emergency Decree on Foreigners' Working Management, BE 2560 (2017)
	Labour Protection in Fishing Work Act, BE 2562 (2019)
	State Enterprise Labour Relations, BE 2543 (2000)

Review of Thai Labour Law

International Labour Organization

Advancing social justice, promoting decent work
ILO is a specialized agency of the United Nations

English

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ILO Supervisory system

Committee of Experts on the Application of Conventions and Recommendations (CEACR)

The Committee of Experts is an independent body composed of 20 high-level national and international legal experts, who are charged with examining the application of ILO Conventions, Protocols and Recommendations by ILO Member States.

Consumer Protection Law

Categories	Subject-Matter	Statutory Acts
General Protection	General and Direct Protection of Consumer's Rights	Consumer Protection Act, BE 2522 (1979)
		Prices of Goods and Services Act, BE 2542 (1999)
		Consumer Case Procedure Act, BE 2551 (2008)
Specific Protection	Specific Goods	Food Safety Act, BE 2522 (1979); Cosmetics Act, BE 2558 (2015)
		Cosmetics Act, BE 2558 (2015)
	Contract Formation	Unfair Contract Terms Act, BE 2540 (1997)
	Means and Ways of Selling	Electronic Transactions Act, BE 2544 (2001)
		Direct Sales and Direct Marketing Act, BE 2545 (2002)
	Data Protection	Personal Data Protection Act, BE 2562 (2019)
	Property	Land Development Act, BE 2543 (2000)
		Condominium Act, BE 2522 (1999)

Review of Thai Consumer Protection Law



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Voluntary peer review of consumer protection law and policy: Thailand



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United Nations General Assembly mandated the Intergovernmental Group of Experts on Consumer Protection Law and Policy to conduct voluntary peer reviews of national consumer protection laws and policies of member States, as implemented by national consumer protection authorities.

The purposes of a peer review are to provide an external and independent assessment of the effectiveness of consumer protection law and policy in a given country, with the following three objectives:

- Analysing the legislative, institutional and public policy frameworks and the enforcement of legislation in order to identify the challenges to be addressed and the areas to be improved in the legislative and institutional frameworks.
- Assessing the consumer protection awareness of relevant stakeholders and their contributions in this area.
- Formulating and recommending appropriate measures and assisting countries in implementing the recommended measures by developing a capacity-building project.

Related

Topic



[Competition and consumer protection](#)

Project

- [Delivering digital trading infrastructure and online dispute resolution for consumers as means to improve international trade and electronic commerce](#)

Thai Environmental Law

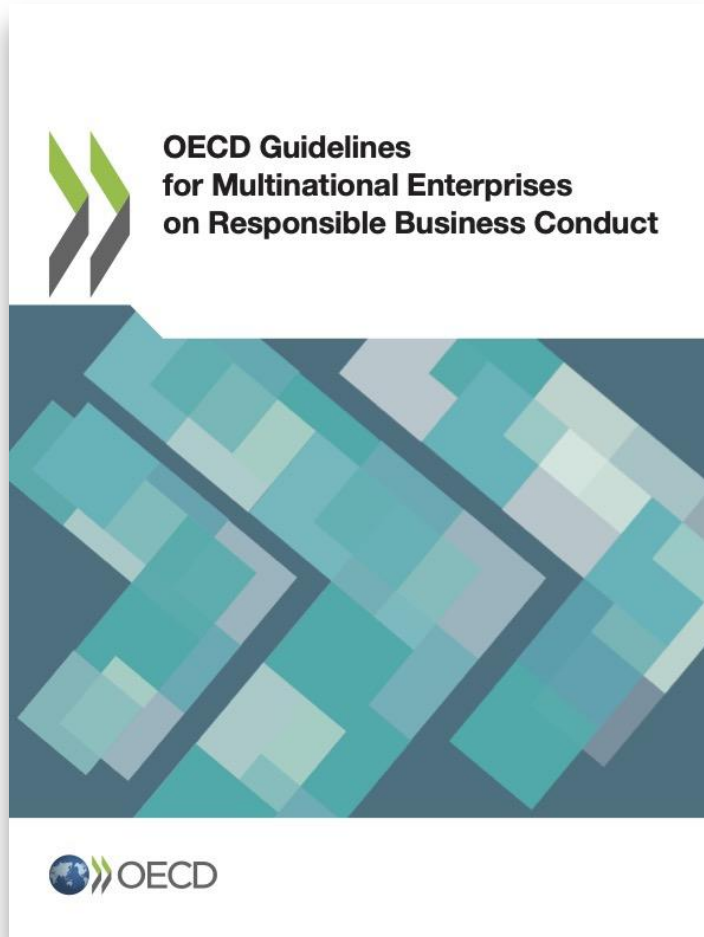
<u>Types of Pollution</u>	<u>Relevant Statutory Acts</u>
General Legal Framework	Enhancement and Conservation of National Environmental Quality Act, BE 2535 (1992)
Pollution in the rivers and the seas (Exempl	Navigation in Thai Waters Act, BE 2546 (2003)
	Fisheries Act, BE 2558 (2015)
	National Park Act, BE 2562 (2019)
	Minerals Act, BE 2560 (2017)
	Petroleum Act, BE 2514 (1981)
	Ground Water Act, BE 2520 (1977)
	Public Health Act, BE 2535 (1992)
	Industrial Estate Authority of Thailand Act, BE 2522 (1979)
	Building Control Act, BE 2522 (1979)
	Factory Act, BE 2535 (1992)
	Land Development Law, BE 2543 (2000)

<u>Types of Pollution</u>	<u>Relevant Statutory Acts</u>
Air Pollution	Industrial Product Standards Act, BE 2511 (1968)
	Road Traffic Act, BE 2522 (1979)
	Land Transportation Act, BE 2522 (1979)
	Car Act, BE 2522 (1979)
	Public Health Act, BE 2535 (1992)
	Factory Act, BE 2535 (1992)
Hazardous Substance	Hazardous Substance Act, BE 2535 (1992)
Hazardous Waster	Factory Act, BE 2535 (1992)

Under consideration:

- ❖ Clean Air Bill
- ❖ Climate Change

Review of Thai Environmental Law?



VI. Environment

Enterprises play a key role in advancing sustainable economies and can contribute to delivering an effective and progressive response to global, regional and local environmental challenges, including the urgent threat of climate change. Within the framework of laws, regulations and administrative practices in the countries in which they operate, and in consideration of relevant international agreements, principles, objectives, and standards, enterprises should conduct their activities in a manner that takes due account of the need to protect the environment, and in turn workers, communities and society more broadly, avoids and addresses adverse environmental impacts and contributes to the wider goal of sustainable development. Enterprises can be involved in a range of adverse environmental impacts. These include, among others:

- a) climate change;
- b) biodiversity loss;
- c) degradation of land, marine and freshwater ecosystems;
- d) deforestation;
- e) air, water and soil pollution;
- f) mismanagement of waste, including hazardous substances

Important differences across environmental impacts are outlined in the commentary to this chapter, including with respect to climate change and how an individual enterprise's relationship to such impacts should be considered in the context of relevant frameworks.

In particular, enterprises should:

1. Establish and maintain a system of environmental management appropriate to the enterprise associated with the operations, products and services of the enterprise over their full life cycle, including by carrying out risk-based due diligence, as described in Chapter II, for adverse environmental impacts, including through:
 - a) identifying and assessing adverse environmental impacts associated with an enterprise's operations, products or services, including through collection and evaluation of adequate and timely information regarding the adverse impacts associated with their operations, products and services and where activities may have significant adverse environmental impacts, preparing an appropriate environmental impact assessment;
 - b) establishing and implementing measurable objectives, targets and strategies for addressing adverse environmental impacts associated with their operations, products and services and for improving environmental performance. Targets should be science-based, consistent with relevant national policies and international commitments, goals, and informed by best practice;
 - c) regularly verifying the effectiveness of strategies and monitoring progress toward environmental objectives and targets, and periodically reviewing the continued relevance of objectives, targets and strategies;

Review of Thai Environmental Law?

The text of the Environment Chapter broadly reflects the principles and objectives contained in the **Rio Declaration on Environment and Development, in Agenda 21 (within the Rio Declaration) and the United Nations 2030 Agenda for Sustainable Development.** It is also consistent with the **UN Framework Convention on Climate Change (UNFCCC), the Paris Agreement, the Convention on Biological Diversity, Kunming-Montreal Global Biodiversity Framework, relevant regional conventions on access to information, public participation, and justice in environmental matters, the UN Convention to Combat Desertification,** relevant regional environmental agreements, and reflects standards contained in such instruments as the ISO Standard on Environmental Management Systems, the International Finance Corporation's Environmental and Social Performance Standards, and Strategic Approach to International

Other Areas

- Prevention and Suppression of Trafficking Act, BE 2551 (2008)
- Gender Equality Act, BE 2558 (2015)
- Criminal Procedure Code
 - Prosecutor's discretion not to prosecute persons

Conclusion

Thailand have been reviewed and regarded as compatible with international standards, especially in treaties.

- Some other laws have been criticised.
 - **Therefore, it is necessary to take into account international standards, especially in treaties.**

Elements of the HREDD Legislation

1. Scope of the due diligence

- Six-step process
- Do you have any comments or concerns?

2. The extent of due diligence in value chain

- What is the extent of the required due diligence?
- Full upstream, or only first-tier in the supply chain, or high-risk sector?

3. Scope of the rights to be protected by the law

- Should the law include the environmental component?
- If the law limits the rights, what topics should be definitively covered as the minimum requirement?

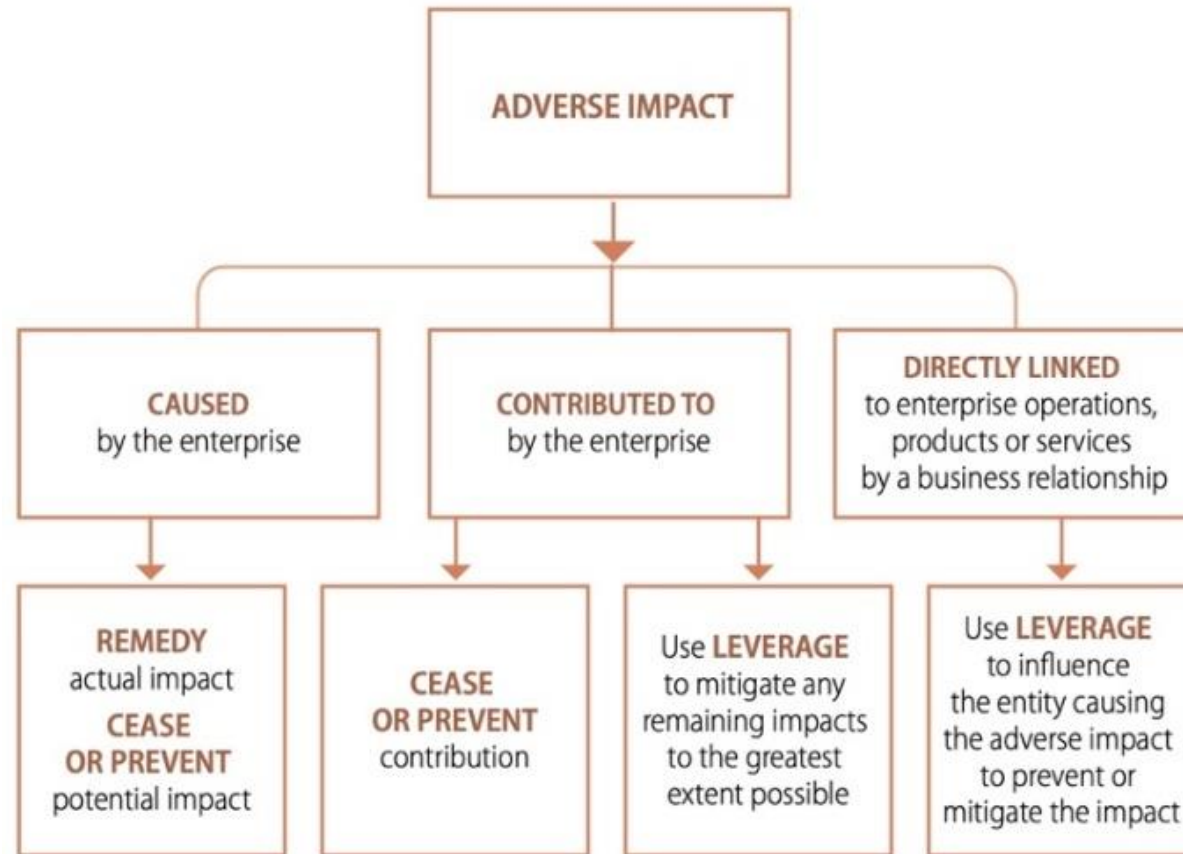
4. Size of companies that have the duty

- Which companies should have the duty to conduct due diligence?

5. Governmental support

- What kind of government support should the law envisage?

Level of involvement counts when taking action (OECD guidelines and CSDDD)



CSDDD requirements of business partners in the value chain

Support for SMEs:

To prevent shifting the responsibility for adverse impacts onto SMEs, companies must provide targeted and proportionate support, including:

- **Capacity-building:** Access to training or improved management systems.
- **Financial assistance:** Direct funding, low interest loans, guarantees of continued sourcing, or help securing financing if compliance would threaten the SME's viability.
- **Additional measures:** Engaging with SMEs on expectations, providing administrative or financial support, and considering their resources and constraints.
Contracts with SMEs must use fair, reasonable, and non-discriminatory terms.

Adjustments to Business Practices:

Companies are required to modify their business plans, strategies, and operations as needed to prevent adverse impacts.

Ways of verification under the CSDDD

The articles in the CSDDD acknowledge that audits **can support due diligence efforts, but they cannot serve as a substitute for fulfilling those responsibilities.**

➤ **When is independent verification or audits appropriate?**

- To verify **contractual clauses** with business partners, which are mentioned as an appropriate measure for prevention and mitigation of potential impacts or for bringing adverse impacts to an end.

➤ **Who pays for the costs?**

- Suppliers bear the costs, but in case of SMEs the company/buyer must cover the costs

➤ **Quality of third party verification**

The CSDDD sets standards for the quality:

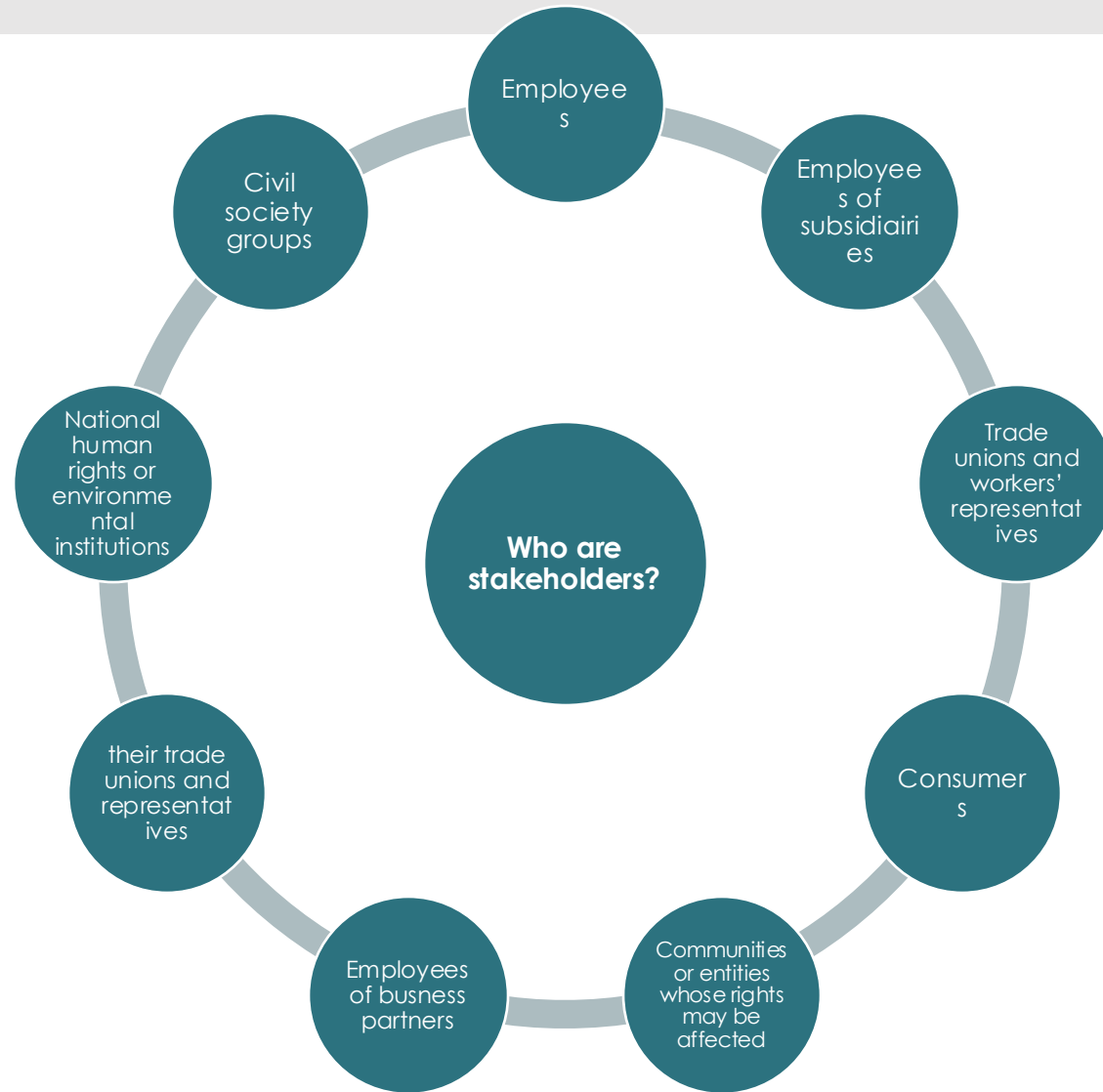
- Independent
- Objective
- Free from conflict of interest or external influence
- Expertise in environmental and human rights issues



Fitness criteria
Guidance for monitoring

➤ **Without prejudice to liability**

Involvement of stakeholders according to the CSDDD



When: Consultation in all stages of the DD process

Make it meaningful: provide relevant and comprehensive information to stakeholders to ensure consultations are effective and transparent (more restrictive than UNGP/OECD)

Protection:

- companies must recognise and remove any **obstacles to engagement**.
- They must also protect participants **from retaliation** or retribution **by ensuring confidentiality** or allowing them to remain anonymous.

Supporting architecture according to EU frameworks

- Guidance model contract clauses (CSDDD)
- Helpdesk (CSDDD)
- Guidelines, websites, platforms
- European single access point for reports (CSRD)
- Publication of Frequently Asked Questions (CSDDD, CSRD, EUDR))
- Business website (EUDR)
- Benchmarking system ranking countries by risk (EUDR, EUFLR)
- Lighter compliance regime for SMEs (EUDR, EUFLR)
- Forced Labour Single Portal (EUFLR)
- International cooperation (EUFLR)