



Technical and statistical report

The future of sustainable trade

Due diligence initiatives,
voluntary sustainability standards
and developing countries



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Nations**

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About this publication

For more than 10 years, the United Nations Conference on Trade and Development (UNCTAD) has led the United Nations Forum on Sustainability Standards (UNFSS), publishing a biannual report covering key themes related to voluntary sustainability standards (VSS). Previous documents have explored the themes: opportunities for VSS in developing countries, the role of Governments in scaling up VSS potential through sustainable public procurement and trade policy, and the relationship between VSS and trade, particularly on the issue of market access.

UNCTAD serves as the secretariat of UNFSS, which is coordinated by a steering committee consisting of the Food and Agriculture Organization of the United Nations (FAO), the International Trade Centre (ITC), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Environment Programme (UNEP), the United Nations Industrial Development Organization (UNIDO) and the Economic Commission for Europe (ECE) of the United Nations. UNFSS works in partnership with experts from civil society, producer associations, processors and traders, standard-setting organizations and certifiers, trade negotiators, consumers and researchers. It informs and facilitates dialogue among various stakeholders by providing impartial information and analysis on VSS, highlighting their benefits in opening markets and achieving the Sustainable Development Goals, while also addressing the challenges they pose, particularly for small and medium-sized enterprises and developing countries. UNFSS conducts systematic analytical, empirical and capacity-building activities without endorsing any specific standard, leveraging the mandates and activities of participating United Nations entities to ensure policy coherence and collaboration. For further information, see <https://unfss.org/>.

The present publication aims to contribute to the ongoing debate on the regulatory shift global governance is experiencing, from voluntary to regulatory approaches, and to shed light on the implications of this shift for developing countries.

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Abbreviations

CBD	Convention on Biological Biodiversity
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CGM	Corporate Grievance Mechanisms
CSDDD	Corporate Sustainability Due Diligence Directive
EU	European Union
EUDR	European Deforestation-free products Regulation
FAO	Food and Agriculture Organization
FLA	Fair Labor Association
FLEGT	Forest Law Enforcement, Governance and Trade
FPIC	Free, Prior and Informed Consent
FSC	Forest Stewardship Council
FT	Fairtrade International
GIS	Geographic information system
GM	Grievance Mechanisms
GPS	Global Positioning System
GVC	Global Value Chain
HCV	High Conservation Value
ILO	International Labour Organization
ISO	International Organization for Standardization
ITC	International Trade Centre
IUCN	International Union for the Conservation of Nature
NFRD	Non-Financial Reporting Directive
NGO	Non-governmental Organisation
OECD	Organisation for Economic Co-operation and Development
PEFC	Programme for the Endorsement of Forest Certification
RSPO	Roundtable on Sustainable Palm Oil
RTRS	Roundtable for Responsible Soy
SDG	Sustainable Development Goal
SME	Small and Medium Enterprises
TCFD	Task Force on Climate-Related Financial Disclosures
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNFCCC	United Nations Framework Convention on Climate Change
UNFSS	United Nations Forum on Sustainability Standards
US	United States of America
VSS	Voluntary Sustainability Standards
WHO	World Health Organization
WTO	World Trade Organization



Executive summary

International trade has been linked to various sustainability issues, such as deforestation, climate change, economic inequalities and human rights violations. In response, private, voluntary trade governance instruments, such as Voluntary Sustainability Standards (VSS), have emerged to promote sustainable practices within global value chains (GVCs). These standards have gained significant traction, particularly in land-use sectors. In its first five biannual reports, the United Nations Forum on Sustainability Standards (UNFSS) has analysed developments in the realm of VSS as primarily private, voluntary initiatives aimed at making international trade more sustainable.

However, recently, several governments and the European Union have introduced mandatory, regulatory approaches to address sustainability concerns. Even if not yet in full swing, and under contestation, such regulations would require companies to implement due diligence-based management systems to address sustainability issues within their operations and throughout global value chains (GVCs). This regulatory shift raises numerous questions about the complex, often not fully understood relationship between these mandatory due diligence measures and existing VSS. Due diligence measures also bear direct and indirect implications for least developed, developing, and -transition countries where many livelihoods depend on GVCs. Against the backdrop of such shift in global trade governance, this report aims to:

1. Map the new regulatory landscape of sustainability due diligence and its relationship with VSS.
2. Draw lessons from VSS on embedding sustainability concerns in management procedures and processes to inform the implementation of due diligence measures.
3. Identify and assess the potential impact of sustainability due diligence measures on producers in developing countries.
4. Offer recommendations to make sustainable trade governance initiatives such as due diligence measures and VSS, more inclusive.

To achieve these objectives, this report is structured around three chapters followed by a concluding section. Each chapter provides in-depth analysis and includes targeted recommendations.

Chapter 1 maps out the landscape of sustainability due diligence. Section 1.1 focuses on the emergence of and development of due diligence as a concept focusing on its evolution toward mandatory due diligence obligations. Section 1.2 introduces a typology of due diligence measures, classifying them into three categories: commodity-specific or issue-specific trade-based due diligence legislation, disclosure-based legislation, and general due diligence legislation. The section further distinguishes these measures by their potential impact on international trade, noting that some may have direct trade effects, while other measures might impact trade indirectly since they do not restrict access to markets. Chapter 2 outlines the relationship between due diligence and VSS by highlighting key similarities that create opportunities to draw insights from VSS for due diligence measures. The analysis focuses on three shared dimensions: (1) the alignment of sustainability commitments with existing international frameworks (substantive dimension), (2) the monitoring of compliance through audits and grievance mechanisms (procedural dimension), and (3) the importance of stakeholder involvement. These three elements are analysed in three sections. Section 2.1, addresses the substantive sustainability focus of VSS and due diligence measures, shows that there is significant overlap in how both approaches



integrate existing international commitments based on international treaties and conventions. Nonetheless, notable differences are identified when two specific due diligence measures are analysed against VSS, which shows that alignment between them might prove to be a complex task. Section 2.2 shows that procedurally, both approaches rely on the use of audits and grievance mechanisms to monitor compliance. Insights from research on VSS concerning the possibilities and limitations of both monitoring mechanisms are discussed. Section 2.3 demonstrates that both approaches stress the importance of stakeholder involvement, but that this latter also has limitations. VSS have been prominent in developing approaches towards involving stakeholders in their regulatory processes, giving due diligence measures a foundation to build on regarding consultation. Key findings from VSS research provide practical lessons for due diligence. Chapter 3 examines the potential trade and socio-economic implications of due diligence measures for developing countries. Section 3.1 addresses macro-level effects, identifying several potential trade effects of due diligence measures, such as sourcing divergence, export diversion, and export segregation as noted in research on VSS. Section 3.2, in turn, analyses micro-level impacts on developing countries, including possible exclusionary effects, increased compliance costs, and price premiums erosion for developing country producers. Section 3.3 concludes the chapter by providing an overview of producer inclusiveness in standard setting, taking lessons learned from VSS and transposing them to the logic of due diligence measures

Chapter 4 presents overarching conclusions for each chapter. It also offers four main recommendations to enhance inclusivity in sustainable trade governance initiatives. First, the fragmentation in the sustainable trade governance landscape and between VSS and due diligence measures should be addressed through harmonization. Second, supporting measures alongside due diligence legislation to aid vulnerable actors, especially in developing countries, ensuring compliance and inclusivity should be introduced. Third, collaboration to secure fair value distribution along global value chains (GVCs) and to establish financial support mechanisms for smallholders in developing countries needs to be fostered. Finally, the participation of producers and stakeholders from developing countries in due diligence initiatives, ensuring their voices are included in the process, needs to be safeguarded.





Introduction

Developments in sustainable trade governance: voluntary sustainability standards and the emergence of due diligence

International trade has been linked to several significant sustainability issues. As a response, private, voluntary trade governance instruments, such as Voluntary Sustainability Standards (VSS), have emerged and proliferated to promote innovation and facilitate global value chains (GVCs) integration. The first five Flagship reports of the United Nations Forum on Sustainability Standards (UNFSS) mapped and analysed the most important developments regarding VSS, which primarily remain private and voluntary initiatives to make international trade more sustainable.

More recently, new mandatory regulatory approaches have increasingly been developed by several governments and international organisations which also aim to address sustainability concerns related to international trade. These include, for example, deforestation, climate change, and human rights violations such as the use of child labour, forced labour, and the neglect of health and safety impacts, related to the production and trade of international commodities.

These new regulatory measures are not yet a given and are contested and fiercely debated, since they might negatively affect trade partners. Yet, one can observe an increase in these measures which will likely have a significant impact on international trade.

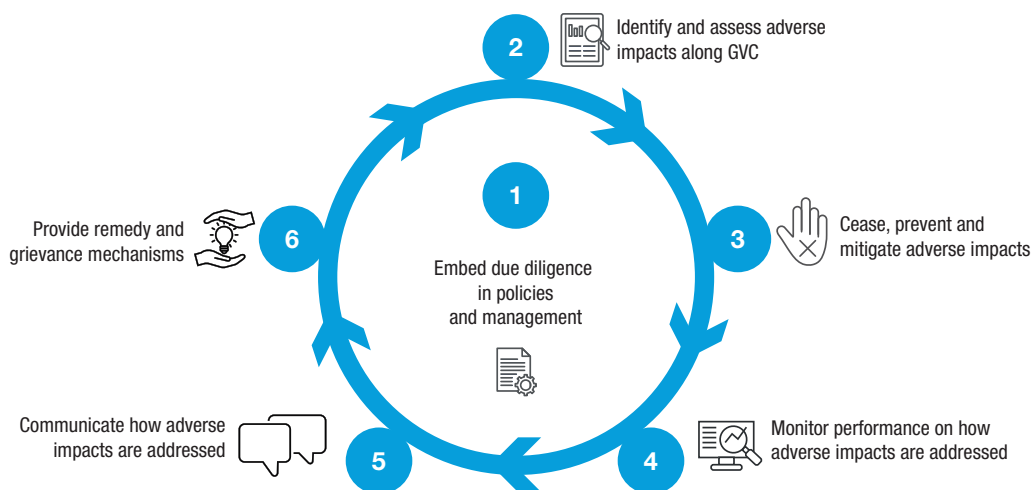
These regulatory measures differ in design, scope, and reach (Bright et al., 2020; Deva, 2023) but have several elements in common. First, they require companies to address sustainability issues in their own operations and along their GVCs. Second, they oblige firms to address sustainability concerns through the establishment of due diligence-based management systems.

The idea of sustainability due diligence emerged in the context of the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises on Responsible





Figure 1
The 6-steps of the due diligence process



Source: Authors based on OECD (2023).

Business Conduct (OECD, 2023, first introduced in the 2011 (6th edition) and the United Nations Guiding Principles on Business and Human Rights (see also Section 1.1). The recognition of the potential of regulating adverse impact of business practices through GVCs has led to the application of human rights and sustainability due diligence obligations for companies. Sustainability due diligence refers to an on-going, proactive and reactive process through which companies can identify and address actual or potential sustainability risks to prevent or mitigate risks of contributing to adverse impacts associated with their activities or sourcing decisions (OECD, 2023: 17). The shift towards mandatory regulatory measures signifies an important new phenomenon in the domain of sustainable trade and links directly to VSS and current debates on VSS. These links are threefold.

First, due diligence approaches and VSS both require companies to take similar actions and steps to comply with their respective obligations. Accordingly, companies need to embed responsible commitment in their management systems; identify and assess sustainability risks in their own operations and value chains; cease, prevent and mitigate sustainability risks; assess implementation through audits, traceability systems and other tools; involve stakeholders and publicly communicate on actions taken; and provide grievance and remediation mechanisms (see the 6 steps of the due diligence process in Figure 1). Many of these actions and steps have been analysed extensively in the context of VSS. As a result, significant lessons can be learned from research on VSS that are relevant for due diligence measures.

Second, VSS are likely to play an important role in the implementation of due diligence measures. This is not to argue that VSS and due diligence are completely aligned. Overall, there is an understanding that VSS should not be recognised as full proof of compliance with due diligence obligations (the so-called “green lane” or “fast access” for certified companies). While VSS could provide support, expertise, and lower costs for companies to implement due diligence obligations, they should not waive companies’ responsibilities on their obligations, whereas the ultimate burden of compliance proof should remain on the companies. However, it can be expected that VSS will also align with due diligence requirements and, hence, that such measures will have a significant impact on the world of VSS.



Third, both VSS and due diligence measures will have effects on producers and exporters in developing countries. Identifying these repercussions will be important to address possible negative unintended consequences of sustainable trade initiatives and to ensure that they live up to their promises of addressing sustainability concerns, not by excluding the most vulnerable producers and countries, but by improving production processes worldwide while also being inclusive.

Given the criticality of due diligence measures and their forecasted impacts on the global trade governance landscape, this report aims to:

1. Map the new regulatory landscape of sustainability due diligence and its relationship with VSS.
2. Learn lessons from VSS on embedding sustainability concerns in management procedures and processes to inform the implementation of due diligence measures.
3. Identify and assess the potential impact of sustainability due diligence measures on producers in developing countries.
4. Draw recommendations to make sustainable trade governance initiatives such as due diligence measures and VSS more inclusive.





Chapter 1

Due diligence: Approaches and trends



Due diligence: Approaches and trends

A significant shift towards due diligence measures for sustainable development has been occurring in the past few years. Depending on the sources, one can identify around 30 proposed or adopted regulatory initiatives, which differ in scope and approach.

Notable examples of these regulations include the French Duty of Vigilance Law (2017), the German Supply Chain Due Diligence Act (2021), the United Kingdom's (UK) Environment Act (2021), the United States (US) Uyghur Forced Labor Prevention Act (2022), or the European Union (EU) Deforestation Regulation (2023). Some of the measures directly affect trade (market access), while others have an indirect effect on trade through global value chains. This chapter maps out the emergence and the most important developments on sustainability due diligence.

1.1 Due diligence: Emergence and evolution

The persistence of environmental and social effects embedded in global value chains, linking consumers and producers in developed countries inter alia to deforestation, poverty, and labour exploitation, is a long-standing policy challenge. In the context of globalisation and the rise of multinational enterprises with complex supply chains and subsidiaries in multiple countries, it is widely recognised that both states and businesses share responsibility for improving production conditions on the ground. Following sometimes contentious negotiations on the role of businesses within the United Nations framework, the United

Nations Global Compact (2000) recruited businesses as partners in solving global challenges (Rasche et al., 2013).

A further milestone towards due diligence was the development of the United Nations Guiding Principles on Business and Human Rights. Building on the 2008 “Protect, Respect and Remedy” framework, Special Representative of the Secretary General John Ruggie led a three-year, multi-stakeholder consultation process to develop, the Guiding Principles on the issue of Human Rights and Transnational Corporations published and unanimously endorsed by the United Nations Human Rights Council in 2011. The Guiding Principles consist of 31 principles which operationalise the responsibility of states to protect their citizens from business-related human rights violations, the responsibility of business to respect human rights in their operations and supply chains and the rights of victims of business-related abuses to effective remedy and remediation (United Nations, 2011).

In the first years of their implementation, the Guiding Principles were mainly regarded as soft law to be adopted voluntarily by businesses. The Principles were included into guidance such as the OECD Guidelines for Multinational Enterprises (updated in 2023). Twenty-six countries created National Action Plans on Business and Human Rights¹, with additional efforts

Due diligence initiatives have evolved, ranging from soft approaches towards a complex and diverse landscape of mandatory measures encompassing broader sustainability concerns

¹ National Action Plans whether active or under development can be found at <https://globalnaps.org/country/>.

underway (OHCHR, 2024). In many cases, such National Action Plans highlighted the expectation of states that business would align with the Principles on their own accord, subject to additional awareness raising, training, and encouragement, and governments, NGOs, unions, and firms accompanied or followed the establishment of multi-stakeholder partnerships (Bordignon, 2020; Evans, 2020). Where states created binding requirements for companies, those tended to focus on reporting action alone – for instance, in the United Kingdom, the 2015 Modern Slavery Act required businesses to report on voluntary efforts to prevent and address slavery (LeBaron and Rühmkorf, 2019), while the 2014 European Union Non-Financial Reporting Directive required companies to

regularly provide information on a range of environmental, social, and governance indicators (Testarmata et al., 2020).

As of the early 2010s, mandatory regulation of corporate supply chain responsibility and associated liability was unlikely, given the opposition from business associations concerned about compliance costs and the collective action problem of business regulation in a globalised economy. The first-mover state would incur higher costs and decreased competitiveness for businesses in its jurisdiction unless other states followed along in setting higher expectations (Evans, 2020).

In 2012, civil society campaigners in France drafted a Duty of Vigilance bill, tabled in Parliament in 2013. Over the following four



Box 1

Environmental and social risks in agricultural supply chains: The OECD-FAO guidance on responsible agricultural supply chains, the agricultural sector standard for due diligence

In 2016, following a multi-stakeholder process and a public consultation, the [OECD-FAO Guidance for Responsible Agricultural Supply Chains](#) was launched to socialising enterprises and other key actors with the responsible business conduct (RBC) standards, as well as facilitating and promoting their observation. This guidance incorporates established standards for RBC including the [OECD Guidelines for Multinational Enterprises](#), the [UN Guiding Principles on Business and Human Rights \(UNGPs\)](#), and the [UN Committee on World Food Security's Principles for Responsible Investment in Agriculture and Food Systems \(CFS-RAI\)](#), applying them to the agricultural sector.

The guidelines recommend actors in the agricultural sector to undertake risk-based due diligence, meaning that the adverse impact type and level of risk should determine the nature and extent of the due diligence process, so that higher risk areas should be subject to more rigorous assessments. It provides users with a framework for risk-based due diligence by describing the five steps to identify, assess, mitigate, and account for ways to address adverse impacts in agricultural supply chains.

In 2023, the FAO and OECD released the [OECD-FAO Business Handbook on Deforestation and Due Diligence in Agricultural Supply Chains](#) to assist users in addressing the growing challenges that deforestation and forest degradation pose. It builds on the risk-based due diligence framework, whilst introducing it in the context of global supply chains. It also adds one additional step – remediation - to the five steps previously showcased by the guidance (see Figure 1).

Understanding that companies' decisions in sourcing, processing, and selling agricultural products can negatively impact forests and ecosystems, due diligence is introduced as a tool to identify and respond to risks in their operations. Additionally, to the extent that many countries introduce import-based regulations aimed at curbing deforestation and forest degradation driven by agricultural expansion in various commodity supply chains, actors in low- and middle-income economies often struggle to understand how to meet these requirements while continuing to export and respecting both natural resources and planetary boundaries. Hence, the OECD and FAO developed this handbook to help companies integrate deforestation considerations into their responsible sourcing and (voluntary or mandatory) corporate due diligence efforts.



years of discussions, the public outcry after the Rana Plaza crisis in 2013 bolstered support for the bill (Evans, 2020), in 2017, the French Duty of Vigilance Law became the first legally binding regulation to mandate that large companies establish, implement, and publish a vigilance plan to prevent human rights violations and environmental damage caused by their activities, as well as their subsidiaries and suppliers (Savourey and Brabant, 2021).

This first success inspired other European countries to pursue their own campaigns and legislative initiatives on the topic (Evans, 2020). In Germany, the 2021 Supply Chain Due Diligence Law was elaborated after the country's National Action Plan specified the expectation that "at least 50 per cent of all enterprises based in Germany with more than 500 employees will have incorporated the elements of human rights due diligence described in this chapter into their corporate processes by 2020", and that if "the target is [...] missed, the German Federal Government will consider further action, which may culminate in legislative measures" (Federal Foreign Office of Germany, 2016:10). The results of the monitoring in 2020 showed that only 13-17% of companies had properly executed human rights due diligence (Weihrauch et al., 2022). At the same time, civil society had built a strong coalition in favour of supply chain regulation, and a cross-party and cross-ministry collaboration emerged (Weihrauch et al., 2022). Eventually, the Supply Chain Due Diligence Law was passed despite business opposition.

Similar processes emerged in Norway, the Netherlands (with a focus on child labour due diligence), Austria, Belgium, Spain, and Switzerland (Bueno & Kaufmann, 2021; McCorquodale, 2022). As more countries in Europe tabled national due diligence laws, it became clear that an EU-wide alignment process might be necessary to ensure a level playing field. In consequence, the European Commission adopted, in April 2021, the Corporate Sustainability Reporting Directive (CSRD) and, proposed, in February

2022, the Corporate Sustainability Due Diligence Directive (European Commission, 2022) in the context of the European Union Green Deal. The Corporate Sustainability Due Diligence Directive was adopted by the Council of the European Union in May 2024 and will need to be transposed into national law by European Union member states within two years (by 26 July 2026).

In conjunction with this crystallisation of business and human rights legislation in the European Union, both in the European Union and elsewhere, supply chain due diligence was connected to other policy goals. As one example, the European Union's climate change mitigation goals have drawn policymakers' attention to the issue of imported deforestation linked to imports of forest-risk commodities such as timber, beef cattle, soy, cocoa or coffee. The 2010 Timber Regulation prohibited the import of timber associated with illegal logging contributing to deforestation and forest degradation; it built around a hybrid public-private regulatory system where companies could use third-party certification schemes to comply with their risk assessment and mitigation obligations (Berning & Sotirov, 2023; Leipold et al., 2016). A stocktake of the experience from the Timber Regulation and review of VSS found out the perception was that private and hybrid regulation allowed too much leeway to firms while it did not achieve effectiveness targets, so a stronger mandatory regulation was required (Berning and Sotirov, 2023a). European Union's Corporate Sustainability Reporting Directive (CSRD) addresses this issue, laying the ground for greater transparency and accountability throughout supply chain operations by improving and standardising the sustainability information that companies report. It expands the scope of reporting requirements to cover social and environmental impacts; increases the number of sustainability metrics to be reported; mandates companies to incorporate traceability as a core component of their due diligence processes; and requires third-party auditing of sustainability reports. The European Union also adopted



sector focused regulations. A case in point is the Deforestation Regulation, adopted in December 2022, prohibiting the import of products associated with deforestation and forest degradation, requiring companies to establish full traceability in their supply chains and to conduct due diligence on deforestation risk to curtail the demand drivers of commodity-driven deforestation. The Deforestation Regulation is now framed as an important component of the European Union's Green Deal policy package. The United Kingdom's 2021 Environment Act as well as the proposed Fostering Overseas Rule of Law and Environmentally Sound Trade (FOREST) Act in the United States also address commodity-driven deforestation, although both regulations only focus on illegal deforestation.

Another issue of high political priority has been the concern over modern slavery and forced labour embedded in supply chains. In the United States, the 1930 Tariff Act already prohibited the import of goods associated with forced labour, yet the consumptive demand exception excluded goods that were demanded in the United States of America but not locally produced – in fact, exempting tropical commodities. In 2015, the United States of America repealed this exception, empowering Customs and Border Protection (CBP) to halt suspicious imports and ask companies for proof of compliance (Brewer, 2018). Given evidence that forced labour was used as means of suppression of the Uyghur minority in the Xinjiang region in China, the 2022 Uyghur Forced Labor Prevention Act reversed the burden of proof, requiring companies to assume that goods from Xinjiang were associated with forced labour unless they had evidence to the contrary (de Pinieux and Bernaz, 2023). Canada and Mexico subsequently adopted forced labour import prohibitions by due to the United States- Mexico- Canada- Agreement's (USMCA) stipulations of aligning trade rules, while Australia and

New Zealand debated similar measures but to date only aligned themselves with the United Kingdom's rules of requiring reporting on modern slavery issues.

A notable feature of the rise of legally binding due diligence legislation is that it is primarily a developed country trend. While lawmakers in some countries such as Mexico or Brazil have proposed due diligence bills, so far, most countries outside of North America, Europe, or Oceania have preferred to work via soft law approaches while establishing and implementing their own National Action Plans. Many developing countries further perceive the tightening of diligence rules as a threat to global trade and their export markets, and an attempt at exerting extraterritorial influence² (Bose, 2023).

1.2 Typologies of due diligence initiatives

We can identify three different legislative approaches to enhancing environmental and social due diligence in GVCs: *disclosure-based legislation*, mandating that companies report on sustainability-related risks and their approach to reducing them; *due diligence legislation*, which mandates companies to implement procedures to assess, mitigate, and remediate sustainability-related risks in their supply chains, and *trade-based legislation*, which prohibits the import of specific types of goods linked to adverse outcomes (Grabs & Fatimah, 2023 Littenberg et al., 2022). We can further distinguish between *single-issue legislation* that focuses on a narrowly framed issue area (e.g., labour problems such as modern slavery, forced or child labour, or deforestation), and legislation with *broader human rights and environmental scope*. In the following, we provide a brief but non-exhaustive overview of examples of each type, we explain the way they operate and the assumed theory of change.

² Developing countries have also developed their own regulatory constellation towards specific goals, for example CIFOR has studied the complex array of legal arrangements governing land use and deforestation in Peru, Indonesia, Tanzania, Mexico and Viet Nam (<https://forestsnews.cifor.org/40763/how-deforestation-is-tangled-up-in-the-law?fnl=en>).



Disclosure-based legislation focuses on enhancing transparency on company activities by requiring corporate reporting about specified indicators, at specified time intervals, and in specified locations. However, it does not require companies to adopt policies or procedures, trace their supply chains, source responsibly or take other remedial action. The assumed pathway of impact is threefold: First, the additional information may allow stakeholders to make better decisions. This is true for financial shareholders, who may decide to invest or divest from companies depending on their environmental or social performance, but also for civil society stakeholders, who may exert pressure on laggards while recognising leaders in a certain issue area (Testarmata et al., 2020). Second, offering greater information allows benchmarking across industries, showcasing both best practices, and average and outlier performance. This can be important baseline information for policymakers considering more stringent regulatory requirements and might also induce a ‘race to the top’ across industries. Third, improved self-knowledge about own performance may lead decision-makers to voluntarily improve such performance – both for pragmatic (e.g., cost-saving via efficiency improvements) and reputational reasons. This is known as information inductance (Gray et al., 1996).

Disclosure-based legislation is already in force in the European Union, Switzerland, the United Kingdom, Australia, Canada, India, and the state of California, United States of America, and is being proposed in New Zealand. While the United Kingdom, Australian, Canadian, and New Zealand legislation focuses on disclosures of modern slavery and forced labour risks (Canada also includes child labour), the European Union, Swiss, and Indian legislation are more generally focused on Environmental, Social, and Governance disclosures. The European Union recently replaced its 2014 Non-Financial Reporting Directive (NFRD) with the 2023 Corporate Sustainability Reporting Directive, which expands the scope of the NFRD and, inter

alia, requires companies to assess their business model’s compatibility with the Paris Agreement. In the United Kingdom, large companies furthermore must report on climate-related risks and opportunities using the Task Force on Climate-Related Financial Disclosures (TCFD) framework.

Due diligence legislation explicitly or implicitly aligns with the United Nations Guiding Principles on Business and Human Rights and its “Protect, Respect and Remedy” Framework. Businesses are called to map and assess the potential and actual risks of adverse environmental and social impacts occurring in their supply chains and business operations, create processes to prevent or mitigate such risks, take steps to end negative impacts that have been uncovered, and provide access to complaints procedures and adequate compensation to victims. The theory of change here is that the formulation of a positive duty to respect human rights in supply chains and take concrete steps to ensure such respect, alongside the establishment of fines, legal liability, and the right to remedy for victims if such steps were not undertaken, will change the incentive structure of multinational enterprises and encourage them to increase transparency and oversight, and enforce compliance with corporate codes of conduct in their supply chains (Gustafsson et al., 2023).

Enacted due diligence legislation includes the French Corporate Duty of Vigilance Law (2017), the Dutch Law on Child Labour Due Diligence (2019), the Norwegian Law on Transparency (2021), the German Supply Chain Due Diligence Law (2021), and the Swiss Conflict Minerals and Child Labor Due Diligence Provisions (2022). Austria, Spain, and Belgium also tabled national laws, although the proposed legislation failed to pass in Austria, and the process has stalled in Belgium and the Netherlands with an eye on the developments on the European Union Corporate Sustainability Due Diligence Directive (CSDDD) to reduce the risk of conflicting or duplicating legislation. This Directive will now need to be transposed into national law in





Table 1
Due diligence typology, characteristics, and examples

Type of due diligence	Focus	Key characteristics	Examples
Disclosure-based	Transparency on company activities	<ul style="list-style-type: none"> Requires corporate reporting on specified indicators; Does not require adoption of policies or procedures; Aims to improve stakeholder decision-making, benchmarking, and self-knowledge. 	<ul style="list-style-type: none"> - European Union corporate Sustainability reporting Directive (CSDDD) - United Kingdom Task Force on Climate-Related Financial Disclosures (TCFD) - French corporate Duty of Vigilance Law
Legislation	Human rights and environmental impacts in supply chains	<ul style="list-style-type: none"> Aligns with UN Guiding Principles on Business and Human Rights; Requires risk assessment, mitigation, and remediation; Establishes fines, legal liability, and right to remedy for victims. 	<ul style="list-style-type: none"> - Dutch Law on Child Labour Due Diligence - Norwegian Law on Transparency - German Supply Chain Due Diligence Law
Trade-based	Prohibition of goods not meeting human rights or environmental standards	<ul style="list-style-type: none"> Prohibits importation of goods violating specified standards; Aims to shift trade, related demand drivers; Enforced at customs. 	<ul style="list-style-type: none"> - North American Labour-focused Legislation - European Union Deforestation Regulation (EUDR) - United Kingdom Forest Risk Commodity Regulation (UKFRC)

all European Union member states.

In practice, there is greater overlap in regulatory obligations at the beginning of the due diligence chain – regarding risk assessment and mitigation – than at its end. While some regulations spell out necessary steps to take in case adverse impacts are uncovered, others are silent on that matter. Some mention the need to verify compliance, provide third-party assurance of information provided in disclosure reports, and conduct regular monitoring and evaluation activities, but not all refer to due diligence regulations. In addition, only a subset of these laws (France and Germany in a limited fashion), guarantee victims' access to local courts, although legislative proposals currently on the table (Netherlands, Belgium, and the European Union) more prominently address this access,

Finally, *trade-based legislation* prohibits the importation into a jurisdiction of goods that do not meet specified human rights or environmental requirements, in particular a ban on forced labour or deforestation in the supply chain. Although not explicitly

part of these statutes, diligence is implied, since it is considered as a mitigating or aggravating factor if there is a violation. By prohibiting specific goods, these laws on the one hand aim to directly shift trade-related demand drivers (by reducing demand for 'unsustainable' products and increasing that for 'sustainable' products), and on the other hand implicitly mainstream greater traceability, transparency, and due diligence in business practices as it will be difficult to prove legal compliance of products without such visibility of the supply chain. To date, trade-based legislation tends to be single-issue legislation with a focus on labour (North America) or deforestation (European Union, United Kingdom), and tends to be enforced at customs or in collaboration with customs officials, who may detain goods at the border in case of reasonable suspicion, and ultimately may seize and destroy goods.

In sum, due diligence has evolved, ranging from more soft approaches to ensuring primarily human rights in GVCs towards a more complex and diverse landscape of mandatory measures encompassing broader sustainability concerns.





Chapter 2

Mapping the interlinkages between voluntary sustainability standards and due diligence



Mapping the interlinkages between voluntary sustainability standards and due diligence

Due diligence emphasises adherence to substantive sustainability requirements and specific procedures like auditing and grievance mechanisms, similar to those found in VSS systems. This chapter assesses the substantive and procedural overlaps and gaps between VSS and due diligence to understand potential synergies, and draws insights from past research on VSS to inform due diligence measures.

2.1 Substantive dimension

Both VSS and due diligence aim to advance the sustainability agenda - on issues such as climate change and biodiversity loss or human rights - by focusing on GVCs. They often integrate or refer to international conventions and common sustainability concepts. This section explores how VSS and due diligence frameworks integrate or reference international conventions and international standards. It also explores potential gaps in terminology of key sustainability concerns they aim to address.

2.1.1 International conventions in VSS and due diligence measures

References to international conventions and international standards in VSS

VSS often incorporate international conventions' principles and guidelines into their criteria and certification processes. The existing literature shows that VSS

heavily rely on internationally agreed rules and agreements (e.g. Marx, 2019, Marx and Wouters, 2018). VSS frameworks align their criteria with the goals and principles outlined in these conventions, ensuring that certified products adhere to internationally recognised agreements and standards for environmental protection and social responsibility. The first rule of the Forest Steward Council (FSC), for example, explicitly refers to public international law and requires that standard-takers comply with all laws, regulations, treaties, conventions and agreements mentioned in this context, such as the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere or the International Tropical Timber Agreement. Many of the international rules and agreements that VSS refer to have been ratified by and are incorporated in national legislation, thereby blurring the public-private governance distinction in this context. For example, VSS can play an important role in fostering compliance with labour rights in global supply chains (Marx, 2019).³

While VSS and due diligence frameworks overlap, there are gaps between them, and lessons learned from VSS research can be applied to due diligence implementation.

³ In some cases, VSS contribute to enforcing international agreements in countries that have not ratified them. For example, the United States has not ratified the Convention on Biological Diversity (CBD), but several VSS active in the United States refer to the CBD when developing standards in relation to biological diversity (Marx, 2017).

An analysis of the 350 VSS included in the International Trade Centre (ITC) Standards Map (see Box 3) reveals that these VSS frequently refer to international conventions and standards. Indeed, 48 different conventions are mentioned in VSS. Figure 2 depicts the international conventions that VSS most often refer to.⁴ The various conventions of the International Labour Organization (ILO) are most frequently referred to by VSS. Six different ILO Conventions are mentioned by more than 200 VSS, among them the ILO Conventions on forced labour, child labour and equal remuneration. While the ILO Conventions tend to put the focus on promoting the social dimensions of sustainability (including human rights), several environment-related conventions are also frequently referenced in VSS. Among them are the Red List of Threatened Species of the International Union for the Conservation of Nature (IUCN) (mentioned by 68 VSS), the Convention on Biological Biodiversity (CBD) (48 VSS) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (38 VSS).

Figure 2 shows various international standards of the International Organization for Standardization (ISO) that are also very prominent in the context of VSS, among them standards on general requirements for bodies operating product certification systems and other governance requirements for bodies and processes that are relevant in the context of audits and certifications⁵.

Overall, private governance schemes like VSS help enforce fundamental norms of public international law (Marx and Wouters, 2018). Moreover, by referencing these conventions, VSS frameworks provide legitimacy and credibility to their certification

schemes, demonstrating compliance with globally accepted norms for sustainability.

Reference to international conventions and standards in Due Diligence Regulations

The rising number of due diligence regulations also increasingly integrates references to international conventions and international standards to guide corporate actions and responsibilities in addressing sustainability risks. The European Union Corporate Sustainability Due Diligence Directive (CSDDD), for example, emphasises the alignment of due diligence processes with several international standards and guidelines. The directive explicitly requires companies to consider relevant international conventions and frameworks adopted by the European Union when conducting due diligence on environmental, social and governance issues throughout their supply chains.

The analysis of the CSDDD reveals that it includes references to 30 different international conventions and standards. Almost two thirds of them focus on the social dimension of sustainability, including 6 different ILO Conventions and 13 other conventions such as the United Nations Declaration on the Rights of Indigenous Peoples. Eleven out of the 30 conventions mentioned in the CSDDD put a spotlight on the environmental dimension of sustainability, including the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and the Minamata Convention on Mercury. By integrating these conventions into due diligence frameworks, regulatory bodies aim to ensure that corporate practices align with internationally recognised norms and standards for responsible business conduct.

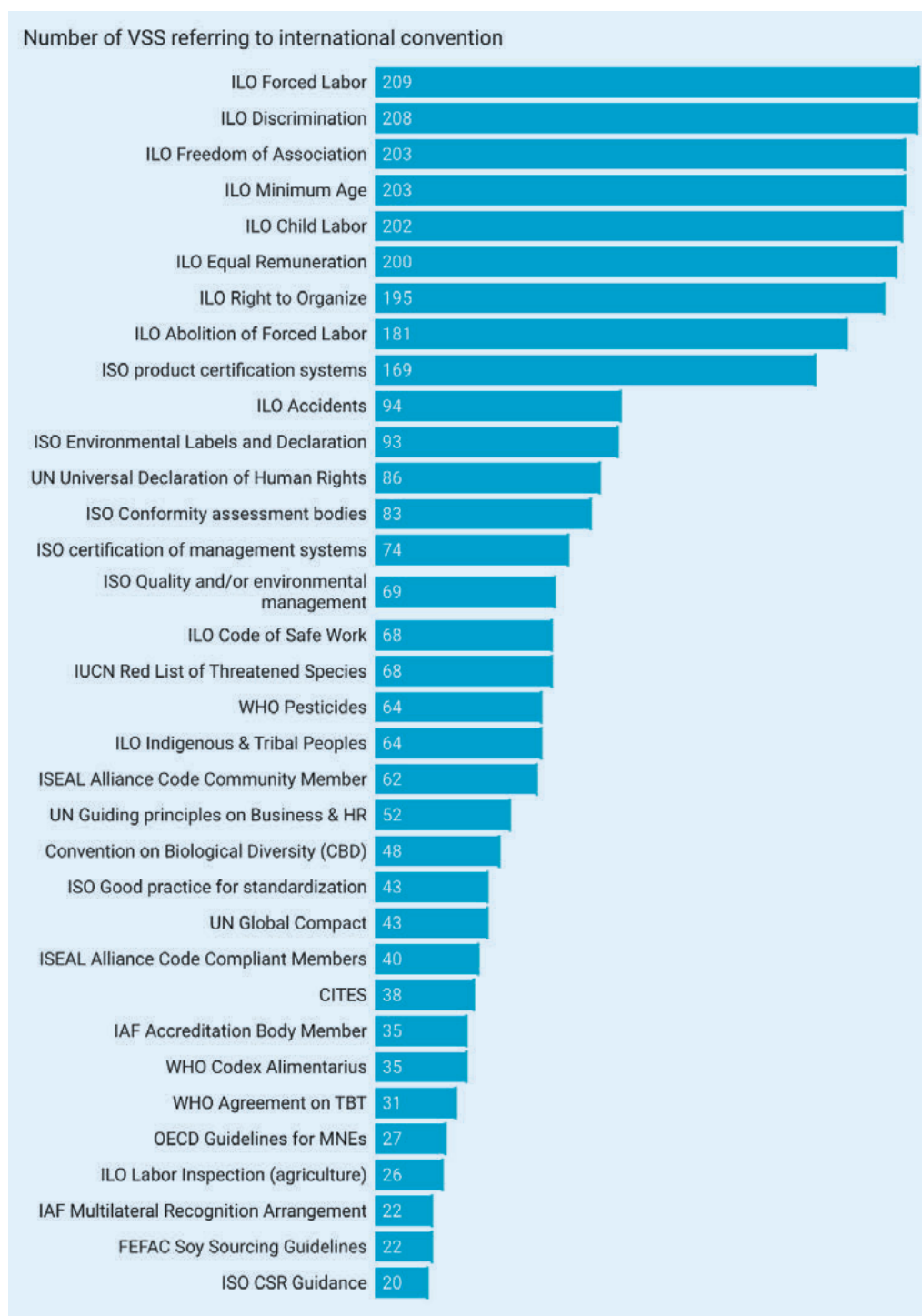
⁴ The figure shows the set of 34 international conventions that appear in more than 20 different VSS. It is worthwhile noting that not all the conventions and standards included in Figure 2 are clear-cut substantive dimensions. Many of the references are to procedural expectations, particularly those in the context of the ISO.

⁵ For instance, on behalf of VSS, accreditation bodies which tend to operate under ISO 17011, may be verifying that certification bodies meet quality assurance criteria, e.g., ISO/IEC 17065:2012 (Requirements for bodies certifying products, processes and services), and ISO/IEC 17021-1:2015 (Requirements for bodies providing audit and certification of management systems). Assurance and certification bodies vary in their use of ISO standards, just like in the design and scope of VSS, depending on the requirements the standard establishing VSS sets.





Figure 2
International standards and conventions most frequently referred to by VSS



Source: Authors based on ITC Standards Map.

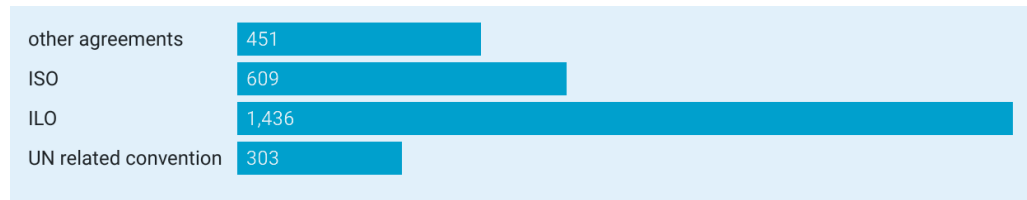




Figure 3

Types of international standards and conventions referred to by VSS

(Number of references across 350 VSS in the ITC Standards Map)



Source: Authors based on ITC Standards Map.

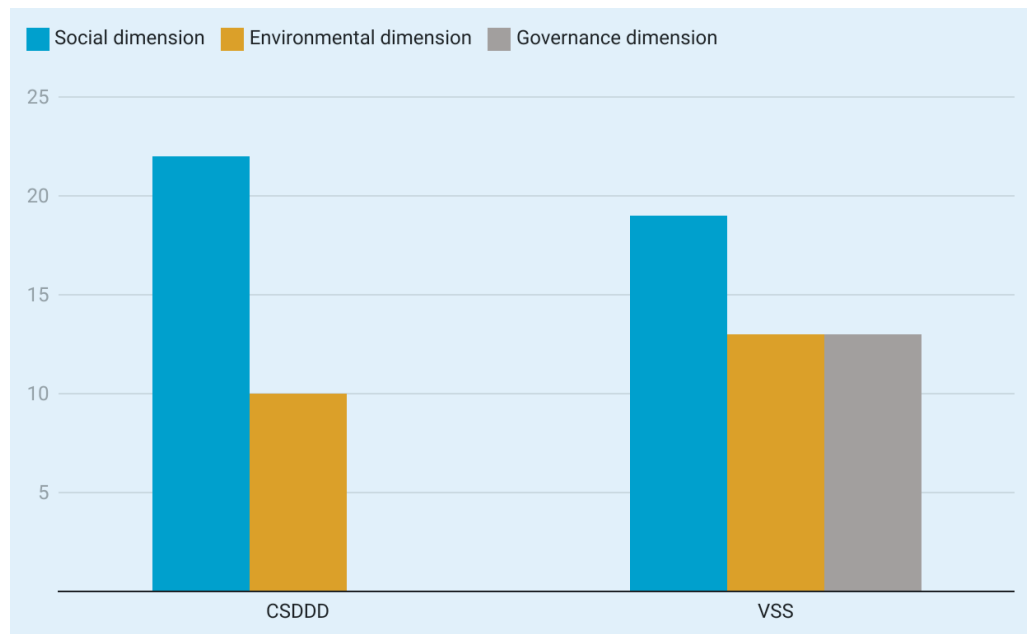
Overall, both VSS and due diligence regulations recognise the importance of international conventions in guiding their objectives and procedures. Figure 4 shows that most international conventions mentioned in VSS and the CSDDD focus on the social dimension of sustainability over the environmental one. However, VSS include more references to the environmental dimension than the CSDDD, both in absolute and in relative terms. In the case of VSS, multiple conventions address governance issues, such as certification bodies or stakeholder engagement.

In terms of further potential synergies, the analysis of reference to international conventions therefore overlaps between VSS and the example of the CSDDD in the substantive dimension. As shown in Table 2, this is, for example, the case for multiple ILO conventions and the UN Universal Declaration of Human Rights but also international environmental agreements. At the same time, Table 2 also reveals some gaps. One example is the IUCN Red List of Threatened Species that is mentioned in the VSS-context but not by the CSDDD.



Figure 4

Social and environmental focus on international conventions in the context of VSS and the Corporate Sustainability Due Diligence Directive (CSDDD)



Source: Authors based on ITC Standards Map.



Table 2
Social International conventions mentioned in VSS and CSDDD: Overlaps and gaps

Item	Convention name	Convention number	VSS	CSDDD
ILO Forced Labor	Forced Labour Convention, 1930	No. 29		
ILO Discrimination	Discrimination (Employment and Occupation) Convention, 1960	No.111		
ILO Freedom of association	Freedom of Association and Protection of the Right to Organise Convention, 1948	No. 87		
ILO Minimum age	Minimum Age Convention, 1973	No. 138		
ILO Worst forms of child labour	Worst Forms of Child Labour Convention, 1999	No. 182		
ILO Equal remuneration	Equal Remuneration Convention, 1951	No. 100		
ILO Right to organise and collective bargaining	Freedom of Association and Protection of the Right to Organise Convention, 1948	No. 87		
ILO Abolition of forced labour	Forced Labour Convention, 1930; Abolition of Forced Labour Convention, 1957	No. 29; No. 105		
ISO product certification systems	-	-		
ILO Convention Accidents and injury	Occupational Safety and Health Convention, 1981	No. 155		
ISO Environmental labels and declarations	-	-		
UN Universal Declaration of Human Rights	-	-		
ISO conformity assessment bodies	-	-		
ISO audit and certification of management systems	-	-		
ISO environmental management systems auditing	-	-		
ILO Code of Safe Work	-	-		
IUCN Red List of Threatened Species	-	-		
WHO classification of pesticides	-	-		
ILO Convention Indigenous & tribal peoples	Indigenous and Tribal Peoples Convention, 1989	No. 169		
ISEAL Alliance Code of Good Practice	-	-		

Note: selection of 20 conventions most frequently mentioned in VSS. Green cells depict reference to the international convention. Yellow cells depict absence of reference to the international convention. In case of a seeming gap, if the CSDDD includes a convention that is similar to one mentioned in the VSS-context, the cell is left blank.

In sum, there are many synergies between VSS and due diligence suggesting that VSS may help companies implement sustainability practices for due diligence requirements. The substantive overlaps in terms of international conventions can also help direct capacity building and technical assistance into the direction of particularly fruitful needs.

2.1.2 Gaps in sustainability concepts

Section 2.1.1 underscored the framework of international conventions that are integrated in both CSDDD as an example of due diligence measure and in VSS. As another example, the European Deforestation-free products Regulation (Regulation 2023/1115,

**Box 2****UNCTAD's analysis on VSS and due diligence: a closer look into the EUDR**

The EUDR came into force on 29 June 2023 to reduce the European Union's contribution to global deforestation and promote sustainable sourcing of forest-risk commodities. The regulation targets seven key "forest-risk" commodities, namely cattle, cocoa, coffee, palm oil, rubber, soya, and wood, as well as their derivative products. According to the regulation, companies involved in producing and trading these commodities will have to fulfil due diligence obligations, meaning that any operator or trader who either places one of such commodities in the European Union's market or exports it from there must be able to prove that the product does not originate from deforested land and has not contributed to forest degradation (after 31 December 2020).

The EUDR provides an illustration of due diligence processes. It requires operators to follow national relevant legislation and collect detailed information, including geolocation data, to show that products comply with the regulation. It also sets out risk assessment requirements as well as mitigation obligations for operators through conducting audits, collecting more information, reporting, working with suppliers, capacity building, etc.

VSS have surfaced as a potential tool for addressing the challenges associated with the implementation of the EUDR. Many VSS set guidelines and criteria for sustainable practices in the production and trade of commodities linked to deforestation (see Table 3). In addition, through their tools for assessing, mitigating, and monitoring deforestation risks, as well as their tools for data collection and traceability, VSS have the potential to support most aspects of due diligence.

As acknowledged in the EUDR, VSS can be used as instruments to conduct risk assessments. VSS comprise systems of assurance based on rigorous assessments through audits by independent third-party organisations to determine whether the certification-seeking entity complies with the requirements of the VSS. These requirements often include supply chain risk assessment as well as risk mitigation obligations. In addition, many VSS are explicitly aligning with EUDR requirements, for example by developing further risk assessment systems which could be leveraged to support companies in compliance with the regulation, such as:

- the automated risk assessment maps for deforestation provided by Rainforest Alliance along with GPS tracking facilities
- the FSC GIS Portal that tracks forest borders including Indigenous Peoples' lands, protected lands, and territories with forest loss and gain
- the RSPO Hotspot Hub, which uses satellite technology to provide near real-time information on detected hotspots and potential fires in palm oil plantations in Malaysia and Indonesia.

In addition, VSS can support the implementation of the EUDR's due diligence obligations through their data collection and traceability systems. The geolocation data requirements of the EUDR will present a massive challenge as they require operators to collect geolocation data from all suppliers, including polygon data for plots larger than 4 hectares used to produce commodities other than cattle. VSS can hence be leveraged as they also increasingly include geolocation data requirements. VSS chain-of-custody requirements (e.g., FSC, Rainforest Alliance, and Fairtrade) and traceability systems, which ensure the integrity of certified products and keep records of their sales along supply chains, can also provide assurance for importers that imported products are coming from a sustainable and legal source, hence reducing the risk of deforestation in the supply chain.



henceforth EUDR) cites in its preamble the SGDs⁶ (2030 Agenda for Sustainable Development – 2015), the Paris Agreement (UNFCCC-IPCC), the UN Convention on Biological Diversity (CBD), and the UN Convention to Combat Desertification, which also serve as foundational stones for VSS guidelines and principles. To tackle climate change and biodiversity loss, the EUDR tries to curb deforestation and forest degradation by imposing rules on traders and operators selling seven raw commodities and their derivatives on the European market.

It is worth mentioning that, in September 2023, 17 countries have sent a letter to the European Union expressing their concerns about the legislation. It included remarks on the lack of recognition of their sustainability efforts and challenges, as well as a call on the European Union to mitigate EUDR's impacts, to act on possible trade disruptions, and address possible negative effects of the 'one-size-fits-all' approach⁷. As a result of international contestation and concern, the European Commission and European Parliament have proposed amendments to the Regulation which currently are under consideration.

Deforestation and forest degradation are also commonly addressed issues in VSS within their environmental criteria. This raises the question whether there are significant substantive differences between them. Is there a fit or a mismatch in their requirements? This section explores insights on the gaps among standards set by VSS and EUDR requirements, hence contributing to understanding whether

VSS can be complementary tools to implement due diligence measures.

To illustrate potential misalignment between the substantive requirements of VSS and EUDR, focus is set on how they address two sustainability concepts: 1) the definitions of forest and deforestation and 2) the issue of legality. We analysed eight VSS (Rainforest Alliance, Fairtrade, 4C, RSPO, RTRS, ProTerra, FSC, and PEFC) regarding alignment and gaps with the EUDR on the definitions of these two concepts.

The EUDR adopts the Food and Agriculture Organization's (FAO) definition used in its Global Forest Resources Assessments, which crucially defines and sets quantitative thresholds for forests⁸. Four out of the eight VSS adhere to the FAO forest definition (see Table 3). Conversely, the remaining four VSS predominantly employ their own definitions of forest, particularly the High Conservation Value (HCV)⁹ framework which is for example used by FSC. This discrepancy means that their requirements related to deforestation are not necessarily aligned.

A second issue relates to the legality aspect. Initially, the production of any of the seven commodities covered by the EUDR must align with relevant national legislation, a requirement shared by seven out of the eight VSS analysed, excluding Fairtrade International, which is only partially aligned. Additionally, the primary requirement is divided into sub-items, which include, among others, land use rights, labour and human rights, and the principle of free, prior and informed consent (FPIC).¹⁰

⁶ "Halting deforestation and restoring degraded forests is an essential part of the SDGs. This Regulation should contribute in particular to meeting the goals regarding life on land (SDG 15), climate action (SDG 13), responsible consumption and production (SDG 12), zero hunger (SDG 2) and good health and well-being (SDG 3). The relevant target 15.2 to halt deforestation by 2020 has not been met, underlining the urgency of ambitious and effective action." (European Commission, 2023)

⁷ <https://www.euronews.com/my-europe/2023/09/20/why-the-global-south-is-against-the-eus-anti-deforestation-law>

⁸ "Land with a canopy cover of more than 10% consisting of trees higher than 5 metres, and covering an area of more than 0.5 hectares" (FAO, 2010).

⁹ <https://www.hcvnetwork.org/>

¹⁰ EUDR preamble (59): "The concept of FPIC of indigenous peoples has been developed over the years following the approval of the International Labour Organisation Indigenous and Tribal Peoples Convention, 1989 (No 169), and it is reflected in the UN Declaration on the Protection of the Rights of Indigenous Peoples. It aims to be a safeguard to ensure that potential impacts on indigenous peoples will be considered in the decision-making process of projects affecting them." (European Commission, 2023)



 **Table 3**
Gap analysis between EUDR requirements and VSS

Standard	EUDR	RA	FT 2017 (1.04.2017_ v.1.5)	FT 2023 (27.09.2023_ v.2.2)	4C v4.0	4C v4.1 (Valid from 01/07/2024)	RSPO	RTRS	ProTerra 4.1	ProTerra 5.0	FSC	PEFC
Scope	All	Coffee, Cocoa	Coffee, Cocoa	Coffee, Cocoa	Coffee	Coffee	Palm Oil	Soy	Soy	Soy	Timber, Rubber	Timber, Rubber
Definition of forest	FAO Definition	+	-	+	±	±	±	+	±	±	±	+
Deforestation-free requirement	Article 2 (8) 'deforestation- free': No deforest. or degradation	+	-	+	±	+	+	+	+	+	+	+
Legality	Prod. in accordance with national legislation	+	±	±	+	+	+	+	+	+	+	+
Vulnerable / Indigenous Rights	FPIC	+	±	±	+	+	+	+	+	+	+	±

Note: (-) not aligned (±) partially aligned (+) fully aligned. Full alignment = VSS requirements do not need any alteration in order to meet EUDR standards. Partially aligned = VSS requirements need minor adjustments to meet EUDR ones. Not aligned = VSS standards do not mention or do not address the EUDR requirement in any way.

FT: Fairtrade International, RA: Rainforest Alliance, RSPO: Roundtable on Sustainable Palm Oil, RTRS: Roundtable on Responsible Soy, FSC: Forest Stewardship Council, PEFC: Programme for the Endorsement of Forest Certification

The changing regulatory landscape – from voluntary to mandatory based – threatens voluntary sustainability initiatives with the risk of redundancy. Thus, initially, it would be in VSS' best interests to align their standards with due diligence measures going beyond the conventions and international standards that serve as guiding principles, in order to maintain their market base and position as relevant actors in the transnational governance scenario¹¹. Due to redundancy risk, and to provide value to users, some VSS have already started to align their operations and standards to provide solutions to those seeking compliance with the EUDR (see Table 3). More specifically, Fairtrade International, 4C, and ProTerra have adapted their standards to be more in line with the EUDR and other upcoming regulations. Currently, other VSS are including the possibility of “add-ons” to their baseline standards to supplement the necessity to align to due diligence measures, but without having to meddle within their basic requirements.

From this analysis, it is evident that while presently some alignment exists between the EUDR and VSS, perhaps stemming

from the international conventions and standards that serve as foundations for both, there remains room for further alignment alongside associated challenges. Notably, these differences exist because of previous stakeholder interactions and deliberations about standards over time within VSS. Ultimately, the decision to align standards does not merely involve technical adjustments, but hinges on the willingness of VSS stakeholders to do so, an issue explained in sections 2.2.4 and 3.3. Even if the EUDR and many VSS requirements stem from a common framework of international conventions and standards, the intricacies of the regulation increase the level of complexity of the alignment process. Therefore, VSS are encouraged to facilitate this process in an inclusive manner, as per section 3.3, while streamlining practical implementation steps with European Union competent authorities. Furthermore, the European Union Commission is yet to clarify crucial implementation details, particularly those concerning cooperation with third countries (Article 30), which will significantly influence *if* and *how* VSS will further adapt to the new regulation

¹¹ This is valid only insofar as it pertains to exports to the European Union. Support for alignment would depend, for example, on where firms export to and the standards applied there, including acceptance of VSS in the relevant markets.



Box 3

ITC's Standards Map Due diligence criteria

ITC Standards Map is a global public tool to navigate the diverse landscape of VSS, serving as neutral and comprehensive database used by companies, consumers, academia, and policymakers. Standards Map covers 350 VSS, applicable to more than 80 sectors and 190 countries, capturing thousands of data points on VSS since 2011.

Standards Map helps to map commonalities, synergies and complementarities of VSS with international standards and regulations – including emerging mandatory due diligence. The changing regulatory landscape embodied in the proliferation of due diligence measures can partly be explained by VSS increasing prominence over time, and is also a cause of current VSS adaptations. The Standards Map strives to reflect these changes while outlining how VSS can support due diligence efforts.

Standards Map has introduced a new section to assess VSS' contributions to the six steps of corporate due diligence: Embed, Identify & Assess, Cease, Prevent and Mitigate, Communicate, and Remediate. VSS' architecture and "peer-learning modus operandi" can be a good convergence point to foster supply chains engagement positively, including with affected stakeholders. The Standards Map database has been mapped to and aligned with the ISEAL Code of Good Practices, with important criteria that highlight VSS credibility and governance models. The database has also evolved to move from a topical issue focus (slavery, forced labour, climate change) to a more holistic and systemic coverage of social and environmental approaches. The Standards Map criteria is also aligned with the OECD Due Diligence Guidance on Responsible Business Conduct and can be a starting base to conduct assessments of VSS such as the OECD Alignment Assessments, which are investigating on the robustness, credibility, public accountability, and systemic issues and how (or not) VSS address them.

<https://standardsmap.org/>

and the changing regulatory scenario. A possible turn in the other direction, whether the EUDR will evolve to further consider VSS' frameworks and considerably broader spectrum of sustainability requirements, is also yet to be seen.

2.2 Procedural dimension

The due diligence process is characterised by distinct steps. This section analyses how VSS can provide support in due diligence implementation through assessing their existing infrastructures on each of the due diligence steps. The section also draws on lessons from academic research on VSS procedural strengths and weaknesses to inform due diligence implementation.

2.2.1 Synergies and gaps: VSS infrastructures and the 6-steps due diligence process

Voluntary sustainability standards can be seen as tools that can support companies in the implementation of due diligence obligations. By virtue of their design, they can present certain synergies with the basic steps of the due diligence process (OECD, 2018) (see Figure 1). Table 4 provides a summary of the VSS infrastructures that align with each of the 6 due diligence steps.

Step 1: Embedding responsible business conduct: VSS often require their adopters to develop policies and management systems for sustainable production practices,



The future of sustainable trade

Due diligence initiatives, voluntary sustainability standards and developing countries

hence embedding their commitment to responsible business conduct into their strategies, policies and activities. In addition, adopting VSS can demonstrate a company's commitment to responsible business conduct.

Step 2: Identifying and assessing adverse impacts: VSS often require certified entities to conduct risk assessments, and VSS often rely on traceability systems to track these risks.

Step 3: Ceasing, preventing and mitigating adverse impacts: VSS often issue corrective action plans following certification, verification audits, or risk assessments. These corrective action plans require companies to address the identified adverse impacts.

Step 4: Tracking implementation and results: VSS often track outcomes through audits (top-down monitoring) which allows them to follow up on the required corrective actions. VSS can also offer complaint systems which allow for bottom-up assessments.

Step 5: Communicating how impacts are addressed: VSS can provide reporting templates to certified entities and can require audit reports to be made publicly available.

Step 6: Providing remediation and grievance mechanisms: VSS often have complaint systems in place which allow a broad range of stakeholders to report adverse impacts, and which can provide avenues for remediation.

Hence, the existing infrastructures and expertise of VSS in organising supply chains, providing traceability, assessing risks, requiring corrective actions, and providing transparency and complaint systems, present strong synergies with due diligence obligations. VSS could therefore be used as tools to support companies in implementing due diligence obligations.

However, ongoing empirical assessments of VSS against due diligence regulations, in particular against the EUDR, highlight that many misalignments remain (see for example Rainforest Alliance, 2023).¹² For example, VSS can be misaligned with the EUDR on aspects such as the definitions of deforestation and forest degradation



Table 4
Due diligence process and VSS infrastructures

Due diligence steps		VSS infrastructures
1. Embed due diligence in policies and management		VSS requirements on policies and management systems related to sustainable production practices VSS adoption demonstrating commitment to responsible business conduct
2. Identify and assess adverse impacts along GVC		VSS risk assessment requirements VSS traceability systems
3. Cease, prevent and mitigate adverse impacts		VSS corrective action plans VSS audits VSS risk assessment requirements
4. Monitor performance on how adverse impacts are addressed		VSS audits (top-down monitoring) VSS complaint systems (bottom-up monitoring)
5. Communicate how adverse impacts are addressed		VSS reporting templates VSS public audit reports
6. Provide remedy and grievance mechanisms		VSS grievance and complaint systems

¹² See also <https://vimeo.com/876152764/57c1b4e30a>



schedules (i.e., audits required only once per certification cycle, which can be longer than the annual assessment required under the EUDR) traceability systems or the deforestation or forest degradation cut-off date (31 December 2020 under the EUDR). While many VSS are adapting their policies to align with the EUDR, companies should still carefully select which VSS to work with and determine how they meet specific due diligence obligations (see also Section 2.1.2).

Research is also being conducted into the position of different actors on the integration of VSS in due diligence regulations, especially during the EUDR negotiations (Berning & Sotirov, 2023 Schleifer & Fransen, 2022). This research suggests that overall, VSS and businesses align in that they favour the recognition of VSS as tools that support the implementation of EUDR requirements. NGOs, on the other hand, tend to oppose this on the grounds that it might weaken or displace companies' responsibilities. Overall, there is consensus that VSS should not be recognised as full proof of compliance with due diligence obligations (so-called "green lane" or "fast access" for certified companies). While VSS can provide support, expertise, and lower costs for companies when implementing due diligence obligations, they should not relieve companies of their due diligence responsibilities; the burden of proof of compliance should remain with the companies (e.g., position notes of Fairtrade International (2021) and Rainforest Alliance (2022)).

Despite significant overlap between due diligence steps and existing VSS infrastructures, the literature on VSS has also highlighted criticisms and challenges that these infrastructures face, related to their auditing systems, their grievance mechanisms, and the involvement of stakeholders in their structures. The next sections draw lessons from the VSS literature to inform due diligence implementation.

2.2.2 Lessons learned: Shortcomings and performance in the VSS audit market

Beyond the potential fit of VSS with the substantive and procedural requirements of due diligence regulatory requirements, there are several lessons that can be drawn from VSS experiences to-date to further understand how assurance processes on sustainability reporting operate in practice. It is important to remember that the processes of providing assurances can and do have impacts that are separate from the substantive requirements set by due diligence measures, such as the EUDR. Audits and associated oversight mechanisms have various distributional and exclusionary impacts, partly by creating fixed cost requirements (e.g., preparing documentation for meeting audit requirements or facilitating a field visit) that are easier for larger operators to cover than for small and medium enterprises, farmers or smallholders (Auld et al., 2008). This is a concern in cases where the ability to cover fixed cost regulations does not correlate with sustainability performance, as these rules will exclude operators just because they cannot cover the costs of conducting the assurance process (see also section 3.2). This exclusionary quality becomes more pronounced when a voluntary system becomes mandatory. A recent update to Canadian food safety regulations projected that the requirement for an expanded list of food businesses to prepare prevention and control plans (a form of risk and hazard management plan) would impose new and additional planning requirements disproportionately on small businesses (Faveri and Auld, 2023). Importantly, larger businesses often have existing prevention and control plans in place as part of voluntary supply chain initiatives, which makes mandatory requirements easier to meet for them (Adalja and Lichtenberg, 2018).



VSS programmes have decades of experience trying to mitigate these issues through, for instance, group and resource manager approaches, risk frameworks, and participatory assurance processes (Loconto and Hatanaka, 2018). In the organics case, an estimated 2.9 million producers are involved in 5,900 group certificates, in 58 countries (Meinshausen et al., 2019). A consistent feature of these VSS has been the introduction of adaptations to offset the barriers that the fixed costs of audits create. FSC group certification, for instance, provide financial and market benefits to participants. Despite these positive indications, the costs associated with meeting the expectations of VSS and conducting the audit often still exceed the benefits of participating, particularly when the audit-fees are not covered by donors or development agencies (Auld, 2010; Auer, 2012; Bulkan, 2020).

In addition, any attempts to accommodate smaller operators and alleviate audit costs feed into existing concerns over inconsistencies across auditors and individual assessors. The few studies that have looked at auditors (working for specific VSS programmes) have noted statistically significant differences in the ways they interpret rules and record non-compliances (Bishop and Carlson, 2022; Martin et al., 2012), as well as on the timeliness of the assessment process (Renckens and Auld, 2022). The mix of enforcement, incentives, and capacity building recommended (Bulkan, 2020) and used in the governance of these groups can have differential effects on the environmental and socioeconomic outcomes associated with group certification (Depoorter, 2024, Boonaert et al. 2024, Mortara Batistic et al. 2024). Thus, flexibility in the substantive and procedural requirements that are to be met during assurance processes come with risks of inconsistencies, as auditors and assessors play the role of translating general rules into specific requirements on the ground and make judgements about how to fit heterogeneous conditions into standardised rules (Maletz and Tysiachniouk, 2009; Paiement, 2019).

Audits themselves, and who conducts them, can then affect the acceptability, credibility and legitimacy of the VSS. These audience perceptions can vary, with clear trade-offs. Different auditors may be perceived differently by these outside audiences, such that distinct groups trust some more than others and perceive them differently in terms of their effectiveness and efficiency (Carter, 2019). McDermott (2012) documented this in her study of FSC certification in the Canadian province of British Columbia, where environmental groups tended to trust a local non-profit that was seeking to conduct audits whereas firms tended to trust the well-established international technical inspection firms and accounting firms that were seeking to conduct audits. The audit process is also, in many VSS schemes, an additional avenue for stakeholder consultation and contestation (see also sections 2.2.4 and 3.2) where transparency can be critical to who has access to evaluate, judge, and complain about the credibility of the system (Gulbrandsen and Auld, 2016; Schleifer et al., 2019). Representation issues can also arise within audit processes, where certain types of expertise are prioritised and specific conflicts of interest are minimised in ways that limit the representation of auditor organisations and assessors from developing countries. This can further exacerbate the mentioned exclusionary effects experienced by smaller operators (Renckens and Auld, 2022).

2.2.3 Lessons learned: Shortcomings and performance of VSS grievance mechanisms

An increasing number of VSS include grievance mechanisms (GMs) allowing stakeholders, including workers and communities affected by corporate activity, to complain about corporate actors' failures and/or those who are supposed to be monitoring them (e.g. auditors) to adhere to VSS standards. Grievance mechanisms provide 'bottom-up' monitoring systems that allow parties to file a complaint whenever a standard has been breached



and so have the potential to overcome problems identified in top-down monitoring approaches such as audits (Marx, 2014). While VSS GMs therefore have the potential to address problems with traditional monitoring processes, it is important to know how they are functioning in practice to determine if this potential is being realised.

A serious impediment to the study of VSS GMs is the lack of publicly available data on how most GMs function. But studies of GMs, where there is sufficient information to undertake at least some analysis, reveals significant diversity in terms of (1) how accessible the GM is to complainants, (2) how the GM then deals with complaints, and (3) the outcomes which GMs achieve for complainants (Harrison and Wielga, 2023). Scrutinising how GMs perform in these three respects provides lessons about the actions that are necessary to ensure a GM is effective.

In terms of access, extensive outreach is necessary to publicise the GM so potential complainants know about its existence. The actual process of lodging a complaint must then be made genuinely accessible for the people that need to use them (e.g., appropriate languages, assistance to complainants, etc.). In dealing with complaints, GMs must put sufficient resources into the complaints process, conduct credible, timely and independent investigations and deal effectively with reprisals against complainants. GMs must then demonstrate to external audiences that they are providing remedies to complainants where complaints are upheld (e.g., injunctions, financial compensation, etc.) (Harrison and Wielga, 2023; Nomogaia, 2023).

At present, even the best performing GMs only manage to provide satisfactory outcomes for successful complainants in particular cases and contexts. For instance, the Fair Labor Association (FLA) grievance mechanism did address most cases it received in a way that was generally seen as valuable by complainants. But it was associated with limited outreach and thus

was mostly utilised by well-connected trade unions. The FLA relies on those unions to bring cases. Where cases resulted in an effective remedy, the FLA relied on the power of its members (which include large brands such as Nike and Adidas) to pressure factories into compliance with labour standards. Where brands were unwilling or unable to act, remedies were far less likely (Harrison et al., 2024).

Other VSS GMs face even more significant challenges to prove their effectiveness. For instance, where cases are being brought for violations of standards directly against VSS members (rather than against factories producing for VSS members), there are much lower levels of complaints brought and far fewer remedies provided (Harrison and Wielga, 2023). VSS bodies have a real challenge to show that they can run GMs effectively when those GMs target their own member companies.

Several due diligence laws (e.g., the German Supply Chain Due Diligence Act, the European Union Corporate Sustainability Due Diligence Directive and the European Union Regulation on Batteries and Waste Batteries) are now requiring companies to establish or participate in GMs. It is therefore likely that the number of VSS adopting grievance mechanisms will expand, as will the number of companies utilising each VSS GM. However, given the variable quality of VSS GMs, this will not necessarily be a progressive move. On the contrary, it may lead to confusion among workers and communities about the increasing number of GMs available to them, many of which rarely, if ever, provide effective remedies.

Regulatory authorities responsible for due diligence laws that include provisions on GMs should therefore require disclosure of information that allows for scrutiny of Corporate Grievance Mechanisms (CGM) to ensure they are effective. Disclosure requirements should include data that demonstrates (1) how accessible CGMs are, (2) the way complaints are handled, and (3) the remedies provided to rightsholders. This will then allow for



regulatory authorities to demand that poorly functioning GMs improve their practices (Harrison et al., 2024).

2.2.4 Lessons learned: Stakeholders' involvement in developing and revising voluntary sustainability standards

The role of stakeholder consultation

There is broad consensus that stakeholder consultation is an integral component of credibly managing VSS. The principles of inclusivity and consultation are embedded in meta-governance that defines best practice in VSS, principally, the ISEAL Codes and relevant ISO standards (Derkx & Glasbergen, 2014; Fiorini et al., 2019). Perhaps for this reason, there has been nearly universal uptake of procedures that enhance inclusiveness, irrespective of the sector or sustainability goals of the standard setter, albeit with considerable differentiation on how “consultation” is practised from standard to standard (Schönherr, 2022).

Stakeholder consultation addresses several key challenges for VSS. First, standards are often created in developed countries with the intention of governing production practices in developing countries. The resultant poor knowledge of realities “on the ground” can be addressed by including producers and local stakeholders in the design and management of VSS (Coral & Mithöfer, 2023; Depoorter & Marx, 2023). Second, stakeholder consultation helps increase problem-solving capacity by drawing on a larger collective pool of ideas and balancing against powerful actors who might seek to shape VSS in their own self-interest (Locke, 2013; Stevenson, 2016). Third, stakeholder consultation is necessary for the political authority legitimacy of VSS and to secure the buy-in of governed parties (Haack & Rasche, 2021; Nava & Tampe, 2023). Without buy-in from producers and a willingness to change behaviours, the entire VSS ecosystem would collapse. Fourth, the

proliferation of overlapping standards that substitute or compete is driven, at least in part, by the disenfranchisement of particular stakeholder groups who break away to form new standards (Auld, 2014; Lambin & Thorlakson, 2018; van der Ven et al., 2021). In principle, stakeholder consultation can therefore prevent further fragmentation in an already complex landscape. In practice, however, stakeholder consultation seldom achieves all these objectives.

The operationalization of stakeholder consultation matters for equity, inclusion, and relevance

There is scholarly consensus that having a diverse and balanced constituency of stakeholders leads to higher quality standards (Zhang et al., 2024). However, the practice of stakeholder consultation seldom fulfils the principles of diversity and balance. ‘Round tabling’ has emerged as one means of giving stakeholders equal standing during consultations (Ponte, 2014). While ‘round tabling’ is supposed to alter power relations among stakeholders, it cannot fully achieve this outcome (Imbrogiano et al., 2023).

Notwithstanding equal voting power, VSS roundtables tend to prioritise detached, globalised, and scientific knowledge at the expense of localised knowledge or life experiences of the peoples who engage with VSS in their daily lives (Cheyns, 2014). These imbalances are foregrounded when consultations centre around providing input to previously drafted, highly technocratic, sustainability standards through public consultation periods, as is common practice in VSS. Often public comment periods centre around prompts like ‘do you approve of the criteria as written?’ (van der Ven, 2022, 2023). Framing a consultation in this way precludes broader, more structural critiques of VSS. This tendency is exacerbated by the move towards asynchronous, web-based commenting on draft standards that marginalises stakeholder groups who lack the time, interest, or capacity to provide online feedback.



Stakeholder consultation can adversely impact stringency

Extant research on public comment periods in VSS finds that more stakeholders seek to weaken or clarify standards than make them more stringent or difficult to achieve (van der Ven, 2022b, 2023). The variable effects of stakeholder input on VSS highlight a tension between democratising standard setting and strengthening regulatory capabilities (Auld et al., 2015; Riisgaard et al., 2020). Whereas centralised and technocratic forms of governance are most effective at monitoring, verification, and compliance assurance, deliberative processes facilitate relationships, mutual understanding, and commitment among stakeholders (Hatanaka, 2020). Thus, it cannot be reasonably assumed that stakeholder consultation will lead to stronger, more demanding standards.

Stakeholder consultation does not guarantee acceptance in producer countries

One of the primary goals of stakeholder consultation is to secure the buy-in of governed parties, particularly producers in developing countries. Yet existing evidence suggests that efforts to increase democratic legitimacy by consulting VSS stakeholders have at best, an indeterminate effect on buy-in (Schouten et al., 2022). The reasons for this disconnect pertain

to the operationalisation of stakeholder consultation. Even when all parties have equal influence, in principle, structural barriers remain such as language, lack of financial resources, and lack of “expert” knowledge (Bakker et al., 2019; Npueng et al., 2022). Thus, one must be cautious about claims that stakeholder consultation is a precursor to political legitimacy.

Considering the findings from the VSS literature, the following four recommendations can be offered with respect to stakeholder consultation in emerging sustainability due diligence initiatives. First, vary the format and objectives of stakeholder consultation. Allow for both broad, open-ended input as well as more focused feedback on specific elements. Second, adjust the medium of stakeholder consultation. Use in-person and virtual consultations with a view to including vulnerable stakeholders on their own terms. Third, minimise barriers to inclusion by offering consultations in different languages, not allowing certain types of expertise to dominate a conversation, and subsidising participation for marginalised stakeholder groups. Fourth, develop clear policies and procedures for how stakeholder input will be balanced against regulatory stringency. Silo any areas of a program that are vital to maintaining regulatory ‘teeth’.





Chapter 3

Implications for developing countries



Implications for developing countries

Due diligence regulations have important implications for developing countries as they are on the frontline for the implementation of due diligence requirements. Furthermore, developing countries are relatively distanced from the discourse around due diligence, which is more prevalent in developed countries. This chapter assesses potential adverse impacts of due diligence for developing countries and the interactions with VSS.

3.1 Macro-level economic implications for developing countries

By their very nature, due diligence regulations use GVCs to (unilaterally) convey sustainability standards outside the regulator's jurisdictional territory, and as such aim to generate additionality in terms of improved environmental and human rights impact (Bastos Lima and Schilling-Vacaflor, 2024; Marx et al., 2018; Gustafsson et al., 2023b; UNFSS, 2018). While due diligence regulations mainly emerge from developed countries and target companies in the regulator's jurisdiction, due to the structure of GVCs, they carry important extraterritorial trade implications for developing countries. This is especially true for sectors characterised by GVCs in which production and primary processing are predominantly located in developing countries, while higher value segments and consumption take place in developed countries (e.g., coffee and cocoa, garment sector) (Horner, 2016). Similar notions hold for VSS as they also rely on international trade to improve sustainability in GVCs and mostly cover developing country-developed country trade (Bemelmans et al., 2023). Hence, lessons learned from VSS can provide insights on the potential trade effects of due diligence

regulations for developing countries (Depoorter et al., 2024; Marx et al., 2024).

Overall, due diligence regulations carry several intended positive impacts. Foremost, they aim to spread sustainability standards, and as such, are a potential catalyst for environmental and social upgrading in supplier markets (Barrientos et al., 2011; Krishnan et al., 2020). Furthermore, due diligence regulations compel supply chain transparency and traceability systems which allow better monitoring of and acting upon opportunities for technological and efficiency gains, and product quality and safety improvements. In addition, these systems contribute to long-term risk-mitigation (Hoang et al., 2023). Furthermore, by standardising requirements for all importers, due diligence regulations create a level playing field for suppliers from different countries where (otherwise) national environmental and human rights regulations can vastly differ (Smit et al., 2020). As such, due diligence regulations should promote sustainable trade and fair competition.

Lessons learned from three decades of research on VSS can shed light on the potential positive trade effects of due diligence regulations. In general, the literature confirms that VSS stimulate exports from certified producers, by reducing transaction costs and information

Due diligence regulations may disproportionately affect economic actors from specific regions, particularly those with high levels of risks.

asymmetries (on environmental and human rights norms) between trading partners, increasing consumer trust and demand, and potentially improving productivity (Bemelmans et al., 2023; Elamin & Fernandez de Cordoba, 2020; Fiankor et al., 2020; Andersson, 2019). In addition, VSS are found to be especially effective in increasing trade between trading partners with large differences in institutional environments. In general, trade between countries with a large gap in institutional capacities involves higher costs, inhibiting trade, compared to countries with similar institutional environments. As VSS can act as surrogate governance institutions by translating sustainability norms and increasing consumer trust due to third-party verification, they are found to help reduce this trade-inhibiting institutional distance between trading partners (Bemelmans et al., 2023; UNFSS 2022; Fiankor et al., 2019).

While similar positive trade effects could be expected for due diligence-compliant products, the mandatory nature of due diligence regulations implies increased procedural costs within GVCs and in some cases directly penalises non-compliance with trade restrictions, in particular for economic actors in developing countries. These trade barriers, in turn, might induce unintended adverse trade effects, such as trade diversion and segregation, which undermine the potential of due diligence regulations to diffuse sustainability standards along GVCs.

From the regulated importer's perspective, *sourcing divergence* is a potential response strategy to evade policy impact (Kolev and Neligan, 2022). To reduce liability risks and the procedural burden associated with due diligence regulations in high-risk GVCs, importers in regulated markets might divert sourcing practices away from high-risk suppliers. Research on VSS has demonstrated that certification mostly happens amongst producers with higher capacities and prior compliance, who in turn benefit from the trade-enhancing effects of certification, often excluding

smallholder producers (Fernandez de Cordoba et al; 2023; Meemken, 2021). As due diligence regulations (often) rely on a risk-based approach, potential exclusionary effects might be even more severe compared to VSS, as, for example, entire high-risk regions might be excluded from high-value GVCs (see more on exclusionary effects in Section 3.2).

From the perspective of suppliers in non-regulated markets, response strategies include *export diversion* and *export segregation*. High compliance costs, legality reasons or lack of resources to set up traceability or due diligence systems might prompt producers to divert exports to less regulated markets. Such *export diversion* effects have, for example, already been observed in the timber sector. After the European Union's Forest Law Enforcement, Governance and Trade (FLEGT) Regulation combating illegal logging entered into force, European imports of tropical timber products decreased and exports were diverted towards emerging economies such as China and India (Masiero et al., 2015; Giurca et al., 2013; Brusselselaers and Buysse, 2018).

Furthermore, *trade segregation* might happen, in which trade flows are segmented and products from low-risk areas and suppliers are destined for exports to regulated markets while products from higher-risk areas or suppliers are directed towards destinations with less stringent regulatory frameworks. Trade segregation can occur at the company level, or the sectoral level with a segmentation of compliant and non-compliant flows coming from different regions. Export segregation has been observed in the literature on VSS, which shows that certified trade flows are mostly destined to satisfy the sustainability demand in developed countries (Bastos Lima and Schilling-Vacaflor, 2024).

Given these unintended trade effects, due diligence regulations might not reach high-risk suppliers or areas, undermining their potential for substantial environmental or social impact in areas with the largest potential for environmental and/or social



upgrading. However, whether and to what extent these trade effects will materialise depends on several aspects. Firstly, the market importance of the regulator's import market determines the jurisdictional reach of due diligence regulations (Bradford, 2020). Suppliers are especially exposed to due diligence regulations when the lion's share of their exports is destined for the regulated market (ITC, 2023). In such cases, suppliers are more strongly compelled to comply

with due diligence regulations, compared to cases where export dependence on the regulated market is less significant. Yet, the existence of important other, non-regulated import markets might provide leeway for trade diversion and segregation strategies, eroding the jurisdiction reach of the regulation. Yet the exit of some companies from regulated markets might in turn decrease competition for other, compliant actors, which can generate higher profits.



Box 4.

UNIDO's GDP-at-risk tracker: Understanding the economic impact of sustainable supply chain legislation

How do sustainability-focused supply chain regulations, such as the European Union's Corporate Sustainability Due Diligence Directive, impact global economies? Which sectors and supply chains stand to benefit the most from interventions aimed at reducing sustainability gaps and preparing for these upcoming regulations? To address these questions, UNIDO is developing an innovative tool designed for macro and meso-level actors, including governments, investment and promotion agencies, and industry associations. This tool will help these stakeholders understand the significance of such legislation for their respective economies and sectors and identify key areas where interventions could be most impactful.

The impact of the emerging supply chain legislations depends on an industry's exposure to those legislations, and its exposure to sustainability shortcomings. The former determines how relevant the legislations are in economic terms and the latter how high the compliance costs will be or how likely an exclusion from the supply chain is.

These exposures, however, do not only depend on direct linkages but also, and importantly, on indirect ones. Exposure to the legislation can stem from direct export linkages to regulated consumer markets (like the European Union), but also through indirect trade relationships through (non-regulated) third countries. Exposure to sustainability shortcomings can stem from shortcomings within the respective industry at hand, but also from shortcomings up- or downstream along the entire supply chain. These can occur within the same industry, other industries within the same country, but also in various other countries that are part of the same supply chain.

To understand these exposures, one needs to trace economic activities and trade linkages across countries and industries and combine those linkages with estimates of sustainability shortcomings. To provide this comprehensive understanding, UNIDO has refined an economic model based on global input-output tables that maps an industry's integration into global supply chains—from the origin of raw materials to the final consumer markets. This model is coupled with a novel database of country-industry sustainability risk indicators, offering insights into where risks are most significant. By linking these two pieces of data, the tool will identify the relevance of supply chain legislation for specific countries and industries and identify where in the chain sustainability shortcomings may occur.

This tool will not only raise awareness about the potential economic implications of new legislation but also guide stakeholders toward industries that would most benefit from targeted support.





Box 5.

European Deforestation-free products Regulation (EUDR) exposure and trade interdependence

Although the EUDR equally targets several forest-risk sectors, their sectoral impact will depend on the market importance of the European Union in the regulated sector. As a result, the EUDR could be expected to have a more significant impact in, for example, the coffee and cocoa sectors, where the European Union remains a dominant consumer market, compared to sectors in which the European Union's market share is less significant and demand from emerging economies is growing, such as the soy or cattle sectors (Bastos Lima and Schilling-Vacaflor, 2024).

For example, in the case of cocoa, the two largest producers in the world, Cote d'Ivoire and Ghana, are strongly exposed to the upcoming EUDR regulations. Respectively, 59 and 52 per cent of the countries' exports are destined for the European Union market, and together they supply over 55 per cent of the European Union's cocoa bean imports (ITC, 2023a). This strong trade interdependence reduces room for trade diversion and segregation, and the EUDR is expected to strongly affect cocoa production in these countries. Yet, potentially delivering important sustainability improvements in a sector often associated with child labour and deforestation (Kalischek et al., 2023; Busquet et al., 2021)

In contrast, soy producers in Brazil, the largest soy producer in the world, for example, are less exposed to the EUDR and can more easily divert or segregate soy products to different regions (e.g., domestic, Asia) or end-product (e.g., feedstock, biodiesel) markets that have less stringent regulations. As such, EUDR-compliant soy runs the risk of becoming a niche product without much sustainability impact on soy-driven deforestation in Brazil (Bastos Lima and Schilling-Vacaflor, 2024; ITC, 2023a).

Secondly, trade diversion or segregation only makes sense for economic actors if the cost of shifting export or sourcing markets is significantly lower than that of complying with new regulations. As such, the regulation of elastic targets where high mobility allows "shopping" for favourable regulations, such as the financial sector, is curbed by the relocation of companies to unregulated markets. In relatively inelastic sectors, i.e. those non-responsive to regulatory changes, often consumer sectors, regulators can more easily rely on markets to externalise regulations and create sustainability impacts (Bastos Lima and Schilling-Vacaflor, 2024; Bradford, 2020). However, even within industries, companies might respond differently to new regulations, since the cost of complying relative to that

of shifting markets is further determined by other factors, such as value chain integration and pre-regulation compliance levels (Hanley et al., 2023; OECD, 2016).

Finally, the divisibility of production according to due diligence requirements determines the potential of trade segregation. When companies cannot divide operations (such as production lines) to place them on different markets, for example, due to technical, legal or economic limitations, they will either need to upgrade all operations in accordance with due diligence requirements, resulting in a further diffusion of compliant products to non-regulated GVCs¹³, or choose to divert all non-compliant products to unregulated markets (Bastos Lima and Schilling-Vacaflor, 2024; Bradford, 2020).

¹³ The externalisation of European Union norms and standards beyond its jurisdiction is also referred to as the "Brussels effect". Bradford (2020) discerns a "de jure Brussels effect" when other countries adopt similar regulations based on European Union standards, leading to the diffusion of norms. Alternatively, the "de facto Brussels effect" regards the diffusion of standards through the streamlining of company operations according to European standards.



While due diligence regulations are unilateral trade measures, governments of countries directly or indirectly impacted by these regulations (especially in developing countries) could adopt different responses to deal with potential trade impacts. One potential response would be to adopt national (due diligence) standards in line with those required in regulated import markets. This would imply a further regulatory diffusion of sustainability standards. This response could potentially materialise under lobbying by compliant firms for stronger regulations in producing countries to avoid competitive disadvantages in international markets (Bradford, 2020; Vogel, 1995). However, such regulatory diffusion might be limited, partly due to diversion in politics, culture, and economic and food security interests (Bastos Lima and Schilling-Vacaflor, 2024). As many developing countries have already voiced their concerns on several due diligence regulations (Weber, 2023), possible responses in the form of socio-political resistance, for example through delaying or threatening to abandon negotiations on trade agreements, or in the form of fragmentation of trade, through increasing trade among developing countries, are likely (Capuzzi, 2023; Clarke, 2024; Bastos Lima and Schilling-Vacaflor, 2024).

Given the implementation costs of due diligence regulation, and potential exclusionary effects, particular attention needs to be paid to vulnerable actors (e.g., indigenous peoples, smallholder farmers, SMEs, etc.) affected by due diligence regulations, especially when they strongly depend on a regulated market for exports (see also the following Section 3.2.1). Accompanying measures focused on creating an enabling environment which supports suppliers in meeting regulations should be implemented alongside due diligence regulations. These accompanying measures could target not only European companies but also other actors such as civil society, trade unions and national environmental and human rights institutions (Holly, 2024). To this end, collaboration and engagement with

affected countries are needed to leave no one behind and ensure fairness.

In addition, engagement with non-regulated markets, especially those representing an important share of global demand, is needed to further diffuse sustainability standards and curtail opportunities for trade diversion and segregation away from regulated markets. The development of legally binding instruments at the international level is also an interesting avenue for the widespread diffusion of sustainability standards.

3.2 Micro-level economic implications for developing countries

3.2.1 Exclusionary effects and lock-in effect of certification

Mandatory due diligence regulations hold the potential to catalyse positive transformations (Jakulevičienė and Gailiūtė-Janušonė, 2020; OECD, 2016). By fostering a culture of transparency, accountability, and responsible business conduct, these regulations can facilitate access to finance, attract foreign investments, foster innovations, and enhance access to new markets. Moreover, they provide opportunities to strengthen governance structures by enforcing compliance with laws, regulations, and international standards. Additionally, due diligence regulations can promote social justice, environmental sustainability, and inclusive development, ultimately leading to mitigating environmental crises and improving socioeconomic sustainability.

However, mandatory due diligence regulations can also present challenges, particularly in developing countries, leading to exclusionary effects. These refer to unintended consequences of policies that result in the limitation of certain individuals or groups from accessing opportunities, resources, or markets. As the trend towards mandatory due diligence is new, little experience of their impact exists. However, academic literature and interviews performed



with stakeholders¹⁴ highlight several factors that could contribute to exclusionary effects, encompassing regulatory, economic, knowledge, and social barriers.

Regulatory barriers may arise from complex regulatory frameworks associated with mandatory due diligence, ranging from complex administrative processes to legal complexities (Acheampong and Maryudi, 2019). These barriers are compounded by geographical variability in regulations, and the often-constrained timeframes for implementation. Lack of awareness, legal expertise, and institutional capacity may exacerbate these barriers, limiting economic participation opportunities for certain actors. Such regulatory barriers could lead to displacement, whereby corporations shift their operations away from specific vulnerable economic actors or regions with weaker regulatory environments to avoid compliance challenges, and thereby undermining initial objectives of due diligence regulations (Bastos Lima and Schilling-Vacaflor, 2024; Kolev and Neligan, 2022; Zhunusova et al., 2022). However, the extent of this displacement remains to be seen, as companies exhibit reluctance to switch suppliers due to costs associated with such changes and stickiness in buyer-supplier relationships (dos Reis et al., 2020).

Economic barriers may arise from the compliance costs of due diligence regulations (Fasterling and Demuijnck, 2013; Elbel et al., 2023; OECD, 2016). For example, producers must invest in identifying and implementing compliant production practices (e.g., conducting risk assessments, management plans, changing production practices and developing suppliers' capacity, establishing a GM, etc), which require substantial investment and recurrent costs. Monitoring compliance over time and reporting also

entails separate costs. The magnitude of these costs depends on supply chain complexities. Limited access to finance, particularly in developing countries, may exacerbate the cost issue, as strict due diligence requirements imposed by financial institutions and investors could impede financing for businesses perceived as high-risk or lacking sufficient documentation (Jakulevičienė and Gailiūtė-Janušonė, 2020).

Knowledge barriers further exacerbate exclusion, as economic actors might face difficulties accessing relevant data and possessing the technical know-how required to navigate due diligence frameworks (Calvão and Archer, 2021). Administrative capacity and infrastructure deficiencies exacerbate these challenges. Additionally, inadequate risk management tools may complicate compliance efforts, leaving businesses ill-equipped to identify and mitigate potential risks associated with their operations.

Social barriers may arise from resistance to the implementation of due diligence regulations that are designed and enforced based on other cultural norms and values, without considering the cultural contexts and traditional knowledge or practices of producers in developing countries (Chabana et al., 2017). This might be aggravated by power imbalances, with certain actors having more influence over the policy-making process, institutional design, implementation, and enforcement of the regulation compared to others (Gustafsson et al., 2023; Schilling-Vacaflor and Lenschow, 2023). Moreover, information about regulations, requirements, and compliance procedures may primarily be available in other languages or inadequately communicated to actors in developing countries, creating barriers to understanding and compliance.

¹⁴ We thank Ignacio Antequera and Alexandre Garcia-Devis Flores from GlobalGAP for their insights and discussion.





Box 6

UNECE's journey in promoting traceability and transparency in global supply chains

Since 2021, UNECE and the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), jointly with key public and private sector stakeholders, have been promoting traceability and transparency in global garment and footwear supply chains through The Sustainability Pledge. This initiative helps enterprises establish systems for reporting on their sustainability practices, including the implementation of relevant standards such as those referenced in technical regulations and VSS. By ensuring due diligence, this initiative addresses greenwashing and fosters sustainable production and consumption in a sector where only about 1 percent of textiles are recycled worldwide.¹⁵

With around 110 pledges from about 800 global actors representing leading brands, manufacturers, NGOs, industry associations, and sustainability initiatives in almost 30 countries, UNECE has established a Community of Practice, demonstrating the feasibility and benefits of traceability systems.¹⁶ The pledges underscore these systems' vital role in facilitating circularity, crucial for reducing environmental impacts, fostering resilience, and improving market access, particularly from small enterprises in developing countries.

Key lessons to draw from The Sustainability Pledge:

- Traceability and transparency systems should be grounded in detailed action plans, defining a vision, action-oriented objectives and corresponding activities, a governance structure for overseeing implementation, a budget, and mechanisms for monitoring and communicating progress.
- Progress should be measured against well-defined Key Performance Indicators (KPIs) at corporate, product and material levels, guided by sustainability principles, including alignment with circular economy practices and the integration of diverse stakeholder perspectives, especially small-scale producers, women, home-based and migrant workers, and the youth.
- Focus on ensuring interoperability between the traceability and transparency systems used across borders and throughout supply chain operations. This is critical given the prevalent use of proprietary tools to trace global value chains, with little consideration for the traceability and transparency tools used by national suppliers and customers.

Through collaboration with the **Community of Practice**, UNECE developed policy recommendations, guidelines, and standards to enhance transparency and traceability across the garment and footwear supply and value chains. These were tested in over 20 pilot projects, which utilised advanced technologies like blockchain to trace, among others, cotton, leather, synthetics, cellulose and wool globally, from production to end-use. Further, the standards were designed to ensure interoperability in data exchange, standardising data formats across industries and buyers, to reduce the reporting burden on companies, especially those in developing countries.

Moving forward, UNECE's work on traceability and transparency will be extended to downstream traceability and circularity in critical raw materials and agrifood supply and value chains to advance due diligence in line with emerging technical regulations and VSS.

¹⁵ Ellen MacArthur Foundation estimates, available at: <https://www.ellenmacarthurfoundation.org/articles/wearenext>.

¹⁶ UNECE (2024) The Sustainability Pledge 3-years Monitoring Report, available at: <https://unece.org/trade/documents/2024/06/reports/sustainability-pledge-3-years-monitoring-report-0>.



Who is at risk of exclusion?

Due diligence regulations predominantly target importing companies, with compliance requirements extending across the entire supply chain, encompassing primary producers, midstream entities, manufacturing facilities, and retail businesses. Economic actors that are most at risk of exclusion are groups such as, but not exclusively: small- and medium-sized actors, women, indigenous peoples, vulnerable workers, and informal actors.

While not all due diligence regulations directly target small- and medium-sized actors, many of them are linked to larger companies as customers or suppliers, thus facing similar requirements (Kolev and Neligan, 2022). However, these smaller actors often lack the technical, managerial, and financial capacity to comply effectively, resulting in disproportionate compliance costs that can concentrate market power among larger actors (Maryudi et al., 2020). Moreover, companies may opt to shorten and simplify supply chains, by reducing the sourcing from a large number of small actors, and instead source commodities from larger farms or by expanding their own farms operated by exporting companies (Zhunusova et al., 2022; Kolev and Neligan, 2022).

Moreover, female actors face exclusionary effects in regions where they encounter disparities in endowments, along with sociocultural and institutional gender norms that hinder their participation in formal markets (Carranza et al., 2018). Marginalised communities and indigenous peoples, reliant on natural resources for sustenance, risk exclusion if their traditional practices are not recognised or protected under due diligence regulations (Zhunusova et al., 2022). Vulnerable labourers might also be adversely impacted, as companies might opt for labour-saving production methods or move away from hiring vulnerable workers.

Furthermore, due diligence regulations may inadvertently marginalise actors operating in the informal sector, prevalent in many

developing countries (Ermgassen et al., 2022; Diemel and Hilhorst, 2019; Hilson et al., 2016). Informal businesses often lack formal documentation and influence over governmental policies, which perpetuates their informal status and obstructs their compliance with due diligence requirements and integration into formal markets. Additionally, if due diligence regulations are not effectively enforced or if compliance is perceived as overly burdensome, there is a risk that informal or unregulated sectors may emerge, further exacerbating inequality and undermining the goals of the regulations.

Lock-in effect of VSS

VSS might aggravate the exclusion of vulnerable economic actors through a lock-in effect (Giacomelli, 2021). In this context, lock-in effects refer to companies preferring certified suppliers over non-certified ones, thereby excluding the latter. This preference stems from the assurance of certain responsible sourcing practices and the mitigation of reputational and operational risks. Additionally, market dynamics and competitive advantage exacerbate the lock-in effect by incentivising companies to align with certified suppliers to access markets with growing demand for sustainable products. This strategic positioning not only safeguards market share but also enhances brand reputation and consumer trust, consolidating the dominance of certified suppliers and perpetuating the lock-in effect within supply chains.

In particular, the lock-in effect could lead to the exclusion of certain regions and actors, as the VSS literature highlights that VSS adoption is skewed towards certain “better-off” regions and producers. Overall, VSS adoption is higher in countries with well-functioning governments, supportive national institutions, open economies, high literacy rates, and low suppression of women (Van Kooten et al., 2005; UNFSS, 2020; FAO, 2014). Within countries, VSS adoption is biased towards regions most in need of biodiversity conservation rather than those with the most pressing



poverty alleviation needs (Tayleur et al., 2018). Among actors, VSS adoption is skewed towards larger, more capitalised, and better-skilled producers, as well as those linked to well-functioning vertical

coordination or contract-farming schemes and horizontal coordination arrangements (Schuster and Maertens, 2015; Beghin et al., 2015; Herzfeld et al., 2011).



Box 7

Case study on the potential impact of the European Deforestation Regulation in Peru

The European Deforestation regulation (EUDR), a newly enforced mandatory due diligence regulation, will likely impact numerous developing countries like Peru, which frequently serve as the primary producer of the commodities subject to the regulation. The EUDR requires companies trading in cattle, cocoa, coffee, palm oil, rubber, soya, and wood, along with derived products, to conduct due diligence on the value chain to ensure goods are not sourced from post-31st December 2020 deforestation or forest degradation, or breaches of local laws. Compliance involves recording supplier details and geolocation coordinates of all production lands, with due diligence levels varying based on deforestation risk benchmarks for different countries and regions. Large operators will have to comply by 30th December 2025, while small ones must adhere by 30th June 2026.¹⁷

Within Peru, coffee, cocoa and palm oil producers are expected to be the most affected primary producers by the EUDR. Peru exports a substantial portion of coffee, cocoa, and palm oil to the European Union (49 per cent, 37 per cent, and 18 per cent respectively), which are vital for its total export revenues (1.7 per cent, 0.6 per cent and 0.3 per cent respectively). Within Peru, coffee, cocoa, and palm oil producers are expected to be among the primary producers most affected by the EUDR. Peru exports a substantial portion of its coffee, cocoa, and palm oil to the European Union (49%, 37%, and 18% respectively). While these exports represent a modest share of total EU imports (2.6%, 0.5%, and 0.2% respectively), they are crucial to Peru's total export revenues (1.7%, 0.6%, and 0.3% respectively) and provide significant income for Peruvian farmers, particularly smallholders (ITC, 2023b).

Potential exclusionary effects

In Peru, the EUDR is anticipated to lead to the exclusion of certain vulnerable economic primary producers. The recent nationally representative farm survey conducted by the Peruvian government sheds light on the characteristics of coffee, cocoa and palm oil producers (Figure 5, see Table A1 in Annex for full results) (INEI, 2023). The data reveals the risk of exclusion faced by many coffee, cocoa and palm oil producers. A large proportion are small producers operating on less than 5 hectares of land (87 per cent for coffee, 79 per cent for cocoa and 17 per cent for palm oil). Many are heavily specialised in these commodity productions (62 per cent of area for coffee, 53 per cent for cocoa and 81 per cent for palm oil), and hence exclusion could heavily affect their livelihoods. Many lack membership in farmer organisations or certification, which could aid in meeting regulatory requirements. Additionally, many producers lack property rights, particularly coffee and cocoa producers, making geolocation tracking and legality demonstration challenging. Peruvian legislation on land rights is complex and distinctive. Land titling of forests is prohibited by the Forestry and Wildlife Law, except for agroforestry use in specific areas under certain conditions, and agricultural lands in the Amazon which are naturally covered by forest. Inspection is needed to grant exemptions, which is a complex and costly procedure, slowing down the titling process (Mots and Paino, 2024). Coupled with differences in forest definition between Peruvian laws and EUDR, weak implementation of recent national regulations to strengthen the management of natural capital and forests, and land trafficking, pose a challenge for EUDR compliance, potentially leading to land appropriation, as observed in certain instances (Zhunusova et al., 2022).

.../...

¹⁷ At the time of writing this report, the European Commission has announced a delay in the implementation of the EUDR (approved by the European Council), postponing the full applicability of the EUDR initially planned for 30th December 2024 for large operators and 30th June 2025 for small operators by one year (European Council, 2024).

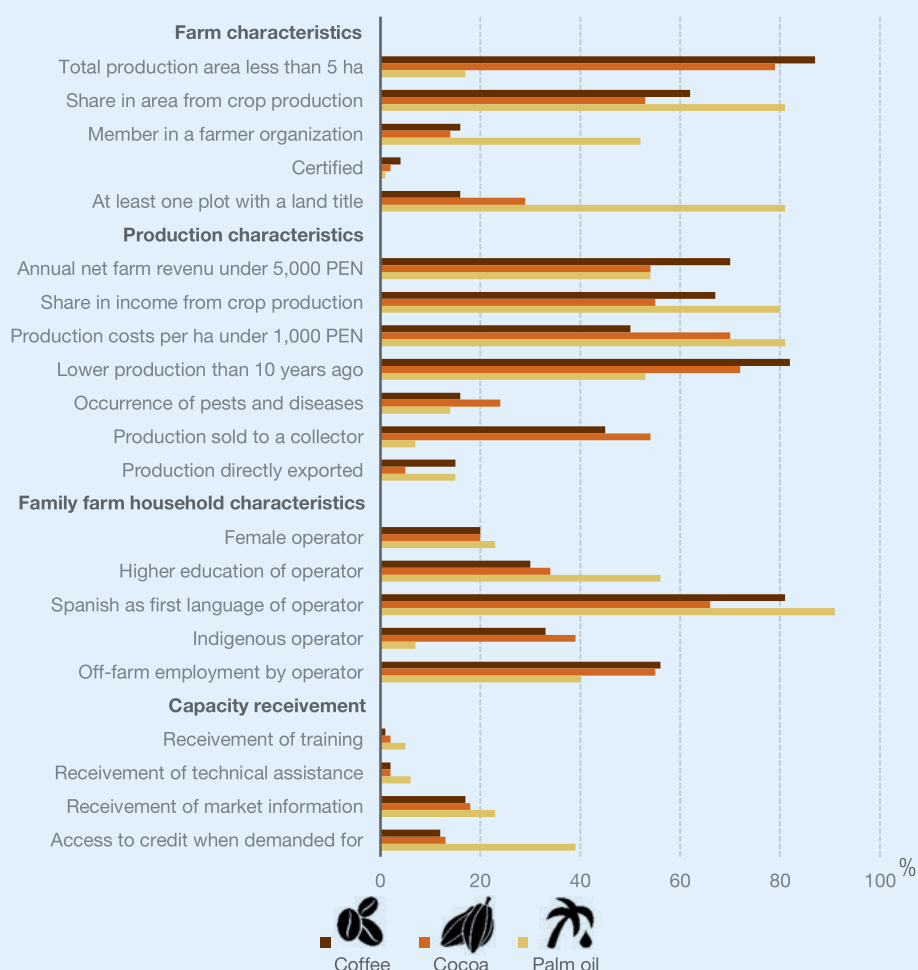


Box 7 (continued)

Additionally, many coffee, cocoa and palm oil producers heavily rely on these commodities for their farm revenue. Many of them, especially coffee and cocoa producers, face already high production costs, which will likely increase with EUDR compliance, as investment costs for compliance have been estimated between €5,000 and €90,000 per operator, whereas recurrent costs are estimated to be 0.3-4.3 per cent of the import value (European Commission, 2023). Moreover, low productivity, over the past decade, much of it due to more frequent pests and diseases, adds to the challenges. Few producers are organised under a direct purchase agreement with an exporter, whereas most producers, especially coffee and cocoa, sell to a collector. This highlights the complex supply chains, especially prevalent for coffee and cocoa, which pose additional hurdles to traceability back to the point of production.

Figure 5 Potential exclusionary effects in Peruvian commodities

Characteristics of Peruvian coffee, cocoa and palm oil producers based on the Peruvian National Agricultural Survey of 2019



Source: Peruvian National Agricultural Survey of 2019.

.../...

Box 7 (continued)

Furthermore, female representation among operators is low and may worsen after the EUDR implementation. Overall, the attainment of higher education among producers is limited, contributing to compliance barriers. Many coffee and cocoa producers belong to local or indigenous communities, whose traditional practices may not align with EUDR stipulations, risking their exclusion. Capacity-building initiatives are also skewed, with lower occurrence among coffee and cocoa producers. In addition, other data sources highlight the high share of informality in the Peruvian agricultural sector. The national agricultural census of 2012 indicates that less than one percent of the country's producers are legally registered businesses, and the national household survey of 2019 reveals that 93 per cent of employment in the agricultural sector is informal (INEI, 2023).

Potential lock-in effects

In recent decades, Peru has witnessed a surge in producers adopting VSS, ranking 11th globally in terms of certified area (ITC, 2024). Although VSS do not serve as proof of EUDR compliance, there is a risk of a lock-in effect, where European Union-importing companies prioritise certified suppliers to mitigate risks. Certified farms differ on several fronts from non-certified farms, as detailed by the recent nationally representative farm survey (Figure 6, Table A1 for full results) (INEI, 2023).

The survey reveals that, on average, certified farms exhibit larger areas and are more likely to be members of farmer organisations and to possess land titles.

Certified farms also have, on average, higher incomes, lower production costs, and higher productivity, facing a lower occurrence of productivity decline over the past decade, but higher occurrence of pests and diseases. A large percentage of certified producers have a direct purchase agreement with an exporter, which limits their supply chain complexity. Many of the certified farms receive a price premium and directly export their produce.

Additionally, certification adoption is more skewed towards male operators, those with higher education levels, speaking Spanish as first language, and non-indigenous groups compared to non-certified family farms. Certified farms are also more likely to receive capacity building on average. In addition, previous research showed that certified producers are geographically clustered in Peru (Meemken, 2021), potentially excluding certain regions.

The Peruvian government has implemented initiatives to support sustainable agricultural practices and certification for Peru's own Organic standard. However, support for other VSS has traditionally been limited, as these standards are voluntary market-driven instruments. This approach may be shifting, however, as compliance with certain VSS increasingly becomes essential for access to EU and US markets.

The above observations highlight the risk of excluding certain vulnerable economic actors in Peru, aggravated by a lock-in effect towards certified farms due to EUDR implementation. Mitigation measures will be vital to facilitate an inclusive transition towards sustainable production within European Union commodity supply chains.

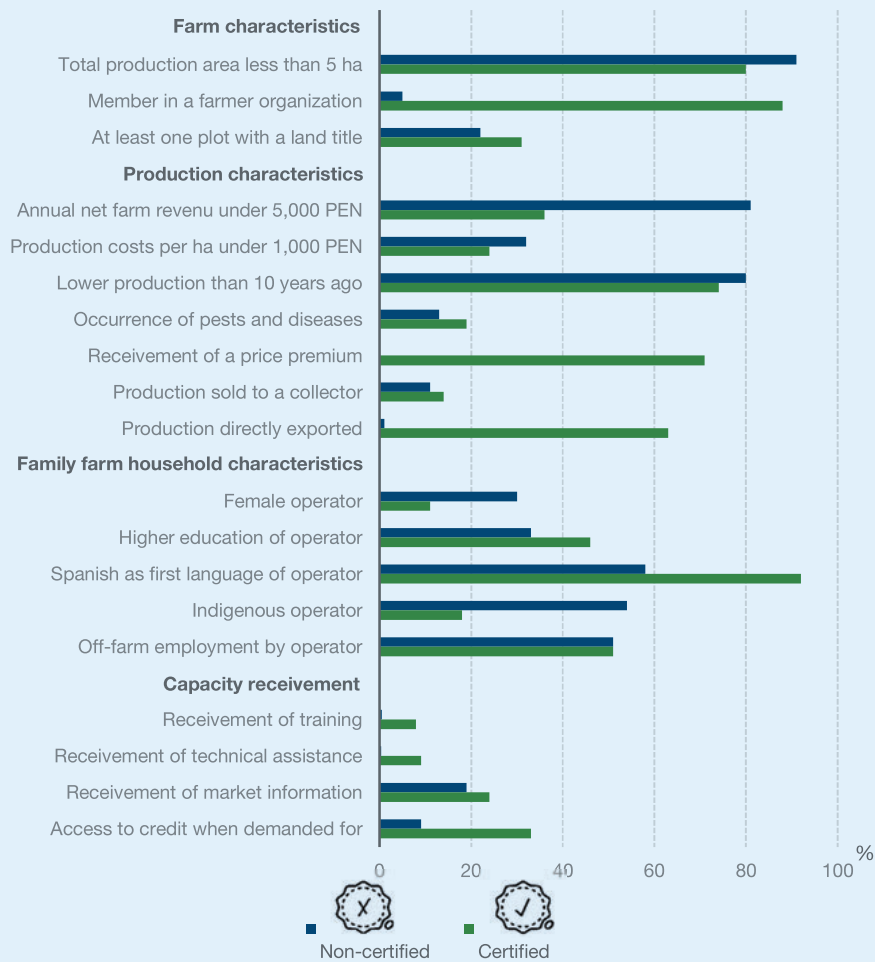
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Box 7 (continued)

Figure 6
Potential lock-in effects for Peruvian commodity producers

Characteristics of Peruvian certified vs. non-certified producers based on the Peruvian National Agricultural Survey of 2019



Source: Peruvian National Agricultural Survey of 2019.

Enabling uptake of mandatory due diligence

The above studies highlight that due diligence regulations may disproportionately affect economic actors from specific regions and with specific characteristics, particularly those with high risk levels. This exclusion from global markets can hinder economic and development opportunities for vulnerable economic actors. Moreover, if regulatory requirements are overly rigid or inflexible, they may fail to account for the diverse circumstances and capacities of businesses operating in developing countries, leading to unintended consequences such as market distortions or reduced investment. Overall, careful consideration of the potential exclusionary effects and strategies to mitigate them is essential in designing and implementing due diligence regulations that affect developing countries.

To mitigate exclusionary effects, several approaches could be considered. First, due diligence setters should consider the underlying root causes driving the risk of exclusion (Franken and Schütte, 2022). ‘Do not harm’ policies could be strategically combined with ‘do good’ policies, providing incentives for inclusive transitions, and supporting alternatives that meet local development needs sustainably (Bastos Lima and Schilling-Vacaflor, 2024). Second, capacity building and support for non-certified and marginalised actors in high-risk regions might mitigate exclusion (Brandi, 2017). This could entail providing access to technical assistance, training, resources, and finance to enhance their ability to meet due diligence requirements and compete in global markets. For instance, improving access to finance could prevent compliance costs from becoming a barrier to inclusion, ensuring that operators who meet compliance standards are not excluded simply because they cannot afford the associated costs. Third, fostering flexibility in due diligence requirements can enhance inclusivity by accommodating diverse production systems and sustainability

practices, ensuring that regulations are practical and relevant, and enabling actors with limited resources to participate, for example via continuous improvement approaches or national interpretations, like those employed by many VSS. These standards often require producers to meet essential criteria initially and work towards meeting additional criteria over a period of 3-6 years, and include national adaptations to certain criteria to better fit local contexts. Fourth, jurisdictional or landscape approaches have been proposed to minimise displacement effects and ensure a comprehensive approach to sustainability (Zhunusova et al., 2022). These government-led multi-stakeholder processes bring together actors within certain administrative or agroecological regions to work toward shared sustainability goals, helping to integrate diverse actors and reduce leakage effects within the region. Fifth, regular, and robust impact assessments could inform policy about both direct and indirect impacts of regulations (Sellare et al., 2022). Timely and adequate action can then be taken to minimise unintended effects. Finally, collaboration among stakeholders—including governments, NGOs, businesses, and local communities—will be crucial for promoting sustainable development and equitable market access. While larger buyers, such as multinational corporations, often prefer established suppliers who already meet compliance standards, this preference can create unintended market access barriers for smaller or new suppliers, especially those who lack the resources to comply with VSS or regulatory requirements. Addressing these barriers requires the active willingness of buyers to engage with new suppliers and offer pathways to compliance. Shared knowledge, resources, and best practices, along with meaningful participation in decision-making, can help foster collective action toward inclusive, sustainable development and fairer access to global markets (Mancini et al., 2021).

To address the lock-in effect, standard-setting organisations can promote outcomes-based approaches that recognise



diverse sustainability practices to encourage broader participation. Creating incentives for diversification of supplier bases by rewarding companies that source from a wider range of producers, including non-certified ones, can help break the lock-in effect and promote inclusivity within supply chains. Moreover, regulatory adjustments that strike a balance between risk management and market access are necessary to ensure that certification requirements do not inadvertently exclude certain economic actors.

3.2.2 Costs of compliance and price premiums

The introduction of new mandatory due diligence regulations can significantly impact economic actors in developing countries, affecting their operation costs, prices, and production volumes, and potentially reduce the benefits derived from international trade. However, it is important to acknowledge that these effects can vary depending on the specific nature of the regulations, sectors involved, supply chain complexity, and socio-economic context of the countries involved.

Increase in operation costs

As noted above, due diligence regulations typically entail various investment and recurrent costs. These additional operation costs can pose a considerable burden on producers or other economic actors along the supply chain, particularly those with limited resources, and may affect the competitiveness of products from developing countries in the global market. In addition, there is a risk that compliance requirements shift costs from buyers to suppliers, because documenting compliance is at the expense of the participating supplier, and because of unequal power relations and fierce competition in the end-customer market in global value chains (Schleper et al., 2022). Moreover, there are also concerns about superficial compliance as a strategy to reduce costs, which may result in underlying issues not

being addressed (Monciardini et al., 2021; Schilling-Vacaflor and Gustafsson, 2023).

For certified producers, studies show that these already face high investment, labour and input costs that are not always compensated by price and yield improvements (Boonaert and Maertens, 2023; Beuchelt and Zeller, 2011). Additional due diligence requirements might further increase their production costs.

Uncertain price effect

Due diligence regulations may lead to price changes for compliant actors. Initially, a shortage of compliant products could drive up prices. Additionally, if compliant actors face a rise in operation costs, they may seek to pass these costs on to consumers through higher prices. However, this might be challenging, depending on the power dynamics of supply chains and competitors' capacity to absorb the additional costs more effectively. Without inadequate attention to these issues, this might likely result in supplier squeezing and ultimately an erosion of the initial price increase (Anner, 2020; Radley and Vogel, 2015). Non-compliant actors might face price changes too, as they will potentially sell to other markets with laxer restrictions. As the supply of commodities for export to these markets increases, non-compliant actors may have to settle for a lower price, in addition to losing out on a price premium (Zhunusova et al., 2022).

Due diligence regulations may also alter price premiums for certified products. Review studies have shown that certified producers in general receive higher prices for their produce (Meemken, 2020). However, the introduction of new due diligence regulations might jeopardise this price premium by establishing a level playing field for all producers seeking to export to specific markets, particularly if the new due diligence requirements include similar requirements as the VSS. Such a scenario might create challenges for VSS, given that price premiums serve as a primary incentive for VSS adoption and compliance, alongside facilitating market



access, and may exacerbate exclusionary effects (Carter and Siddiki, 2021; Galati et al., 2017). However, the extent to which the new due diligence rules will mirror VSS requirements remains to be seen.

Uncertain volume effect

Furthermore, the introduction of due diligence regulations may affect production volumes in developing countries. Higher costs and potential changes in price premiums could incentivise actors to reconsider their production strategies. Some actors may opt to reduce production volumes or exit certain markets altogether if the regulatory requirements become too burdensome or if the economic returns diminish. This could have ripple effects across supply chains, affecting employment, income generation, and rural development. Economic actors who can comply with the due diligence regulations might in the short-term face challenges due to supply chain disruptions (FAO, 2023), whereas in the long term, some due diligence practices might contribute to the sustainability of production systems, potentially enhancing yield over time through more efficient resource utilisation and reduced risks of supply chain disruptions.

Whether due diligence regulations will affect the volume of certified produce will depend on the magnitude of overlap in their requirements. If the overlap is large, some certified producers might opt to drop-out of certification.

Maintaining economic viability

Overall, due diligence regulations may result in a narrower profit margin for compliant actors, both certified and non-certified, particularly if they are unable to pass on the increased costs to consumers. The latter depends on the power dynamics along the supply chains. Therefore, actors may face challenges in maintaining or increasing their revenue streams, impacting their economic viability and livelihoods. Policymakers, industry stakeholders, and development partners need to collaborate to ensure that these regulations are designed and

implemented in a manner that balances environmental and social objectives with the economic realities of actors in developing countries. This may involve a fair distribution of costs and rewards along the supply chains, for example via collective minimum prices. The European Union has experimented with this concept through pilot programs that allow producer organisations and buyers to establish minimum prices for sustainably produced goods, ensuring that farmers receive a fair income that covers their production costs. (European Parliament and Council of the European Union, 2021). Such frameworks can be incorporated into legislative measures aimed at promoting sustainable agricultural practices. Additionally, various stakeholders, including governments, international organisations, NGOs, and the private sector, can play a vital role in providing support mechanisms, financial incentives, and capacity-building initiatives. These efforts could include targeted grants, training programs, and access to financial services, enabling actors to navigate the transition towards compliance while safeguarding their livelihoods by reaching a living income and promoting inclusive development (Zhunusova et al., 2022).

3.3 Fostering inclusiveness

Due diligence approaches put significant emphasis on involving stakeholders. Several due diligence measures explicitly include requirements on stakeholder engagement. For example, Article 13 of the CSDDD is titled 'Meaningful engagement with stakeholders' and stipulates that EU Member States must ensure that companies take appropriate measures to carry out effective engagement with stakeholders. It then goes on to detail what this precisely means in the context of the CSDDD. Inclusive stakeholder approaches are hence crucial but also challenging. Research on stakeholder engagement in VSS, also discussed in section 2.2.4, can shed light on some of the challenges for due diligence regulations.



Global value chains and sustainable development

In GVCs, lead firms and investors typically receive far more value than the suppliers of raw materials and producers of goods. Defined broadly, “suppliers and producers” are a very diverse stakeholder group that includes tiny family enterprises as well as large multinational firms; individual workers as well as unionised employees; people living below the poverty line as well as highly profitable businesses. Reflecting the central theme of this report, it here refers to businesses in developing countries and the individuals or enterprises that are most vulnerable or marginalised in those places. Since suppliers and producers are more likely to be in developing countries (and lead firms and investors in developed countries), this dynamic can contribute to global inequality, perpetuate poverty, and create barriers to more sustainable production (de Bakker, Rasche, & Ponte 2019). One of the causes and consequences of this situation is the asymmetric bargaining power between producers and suppliers (often less developed regions) and other stakeholders (Bennett, 2025).

VSS aim to contribute to sustainable development by creating a context in which producers’ insights, ideas, and interests are more equitably included. Research on producer inclusion examines what this means, why it matters, and strategies for addressing challenges. As described below, these insights can inform a more inclusive approach to corporate sustainability due diligence.

What does it mean to “include” producers in “standards-setting”?

The VSS literature generates strong consensus that meaningful producer inclusion extends beyond “making space for producer voices” (Bennett, 2017, 2025). Inclusion means producers are co-architects of systems, structures, and processes. It also means that the functioning and results of these systems, structures, and processes are evaluated and held accountable to producers (Schouten, Toonen, & Leeuwerik, 2022).

Research is also clear that the domain of “standards-setting” extends far beyond the negotiation of written standards. Standards-setting is shaped by broader governance structures, such as the board of directors, membership assemblies, and advisory councils, whose strategic plans can influence the scope of standards-setting and who are often empowered to approve or reject standards changes (Bennett, 2017). The efficacy of standards-setting is also greatly contingent on downstream decisions related to implementation guidelines, verification procedures, thresholds for sanctions, grievance mechanisms, appeals processes, and capacity building (Dentoni, Bitzer, & Schouten, 2018).

Why does it matter whether producers are included?

At the most basic level, producer inclusion matters because self-determination is a human right and a cornerstone of sustainable development (UN 1948, 1992). Additionally, in VSS producer inclusion may also lead to more stringent and comprehensive rules (Kalfagianni & Pattberg, 2013), increase benefits experienced by producers (Grabs et al., 2021), and improve translation of standards to varied contexts and values (Jaffee & Howard, 2016 Sun, 2022). Although inclusive governance may not increase acceptance of standards in less developed countries (Schouten, Toonen, & Leeuwerik, 2022), it may increase credibility among civil society groups concerned with producer empowerment (Bennett, 2016).

Research highlights the importance of including producers early, in the initial stages of the first standards-setting process, as opposed to waiting to invite them into standards-revision processes. This is for several reasons: initial governance structures and processes can be enduring (Auld 2014) revision processes may favour more powerful stakeholders (van der Ven, 2022) and initially inclusive structures may be eroded by informal modes of exclusion (Nelson & Tallontire, 2014).



What challenges producer inclusion in standards setting?

VSS research identifies several challenges related to producer inclusion that should be considered when developing due diligence measures. First, standards-setting is not isolated to a single group or process within an institution but instead is influenced by numerous governance bodies and translated through many policies and processes (Marx, 2014). Second, producers are one of many stakeholder groups that organisations must balance (Schleifer, Fiorini, & Fransen, 2019). Third, producers are diverse, and their interests may conflict (Bennett, 2017). Fourth, representatives of stakeholder groups may be unevenly resourced to advocate for their positions (van der Ven, 2022). Fifth, logistical decisions, such as which language to use and where to locate headquarters, may create additional barriers to participation (Schouten, Toonen, & Leeuwerik, 2022). Finally, an institution's overall design may be better suited to facilitate competition among interests than to solve complex problems and provide public goods (Cheyns & Riisgaard, 2014).

What approaches may improve producer inclusion?

Drawing on insights from the VSS literature, the following recommendations can be offered with respect to including producers in emerging corporate sustainability due diligence initiatives. First, in terms of **scope**, adopt inclusive practices at all levels of governance, including the board of directors, other high-level governance bodies, standards-setting committees, implementation teams, and grievance bodies. Second, regarding **influence**, reserve votes - not just seats - for multiple producer groups (e.g., smallholder farmers, union leaders) and require that they are filled. Consensus should be reached regarding relevant decisions. Third, for **representation**, support groups of producers in developing their own process for identifying a representative. Develop and enhance fair representation systems. Fourth, increase producers' **capacity** by offering training, resources, translation, and support staff prioritising producer preferences when selecting meeting locations/time zones, modes of communication, and systems for sharing information and offering support to offset opportunity costs of participation. Lastly, to achieve **clarity**, establish transparent expectations about which types of reforms, priorities, and values are outside of the realm of negotiation.





Chapter 4

Conclusions and recommendations



Conclusions and recommendations

A significant shift in sustainable trade initiatives is occurring with the emergence of due diligence measures, varying in background, scope and objectives. These new (contested) instruments potentially reshape the landscape of sustainable trade, including VSS, with which they share common grounds. While VSS are impacted by due diligence measures, these latter can learn lessons from VSS on potential socio-economic effects in particular for developing countries. This conclusion summarizes the main lessons that due diligence measures can learn from VSS and provides recommendations for the way forward.

4.1 Conclusions

Chapter 1 took stock of various examples of due diligence measures, going over how they emerged and how they evolved. It then identified three types of due diligence measures: due diligence legislation, disclosure-based legislation, and trade-based legislation. The discussion of the different types of due diligence measures makes clear that some due diligence measures will have direct trade effects since they restrict access to markets if companies do not comply with due diligence obligations. Other due diligence measures will have a more indirect trade effect through GVCs.

Chapter 2 mapped the similarities between VSS and due diligence measures in terms of substantive focus (sustainability concerns that are addressed) as well as procedures, such as audits and grievance mechanisms, which need to be put in place to ensure compliance with sustainability commitments. To assess the substantive similarities between VSS and due diligence measures, the report focused on international conventions and commitments. Both VSS and due diligence measures extensively refer to a series of human rights treaties and labour rights conventions as well as

environmental agreements. However, the analysis also shows, to a certain degree, that there are differences between VSS and due diligence measures in terms of how they integrate international commitments, as exemplified by the CSDDD and EUDR. The alignment between both, even if desirable, might not be entirely possible due to the multi-stakeholder nature of VSS and the resulting complexity of standard revision.

Regarding the procedural dimension, an overview of the due diligence process and VSS infrastructures was provided. First, attention turned to the use of audits, on which VSS and due diligence measures both rely to ensure compliance. Yet, research on VSS has shown that not all producers are equally able to bear the costs of audits, and that this is a concern in situations in which producers are practising in ways consistent with the regulations but cannot afford to demonstrate compliance. Additionally, the report reflected on aspects of representation and legitimacy perceptions regarding auditing firms. Next, the chapter explored lessons learned from VSS-research about grievance mechanisms that constitute another important procedure to foster compliance with sustainability commitments. Studies on the topic showed wide diversity on accessibility to complainants using

If proper and sufficient supporting and incentivising mechanisms are not in place and effective, due diligence measures might not achieve their well-intentioned sustainability goals.



grievance mechanisms, how grievances are dealt with, and the outcomes achieved for complainants. Due diligence measures are going to require companies to set up grievance mechanisms, which may increase the use of VSS as they offer grievance mechanisms. Lastly, the chapter shed light on VSS stakeholder consultations. It demonstrated how the way consultations are operated matters for equity, inclusion, and relevance, with the caveats that they can adversely impact standard stringency, and that they do not necessarily guarantee VSS acceptance in producer countries. These findings have important implications for due diligence measures which need to involve stakeholders.

Chapter 3 examined possible implications of due diligence measures for developing countries. Section 3.1 focused on the macro-economic trade effects and demonstrated how regulated importers might adopt different response strategies to due diligence regulations. By including findings from the VSS literature, it showed that there are risks of export diversion and export segregation, in which companies decide to either source from or export to less regulated regions, with possible significant effects on trade for developing countries. Section 3.2 analysed possible exclusionary effects of due diligence measures. Barriers may arise from the regulatory complexity, from the economic costs associated with complying with regulations, or from lack of knowledge or access to regulation related resources. It also considered uncertainty factors regarding price and volumes, thus recommending relevant institutions to provide capacity and support to ensure no actors are excluded. Section 3.3 reviewed aspects related to producer inclusiveness in standard setting in VSS, identifying what it entails, why it matters, what are barriers to inclusion, and concludes by recommending measures to foster inclusiveness.

4.2 Recommendations

Many implications for policy have been highlighted throughout this report. Below, some of the main overarching recommendations are summarized.

First, due diligence measures add one layer of sustainability commitments targeted at companies which require harmonisation. While the analysis reveals that there is significant overlap with VSS, the report also provides evidence that VSS and due diligence measures are not fully aligned. This becomes evident when one compares the international conventions and treaties included in both measures. The partial alignment between VSS and due diligence measures may result in greater fragmentation of mandatory and voluntary regulatory frameworks, with negative consequences for the actors involved. Therefore, discussing and addressing this fragmentation should have high priority on the policy agenda.

Second, given the implementation costs of due diligence regulations, and potential exclusionary effects, particular attention needs to be paid to vulnerable actors affected by due diligence regulations, especially those in developing countries who strongly depend on a regulated market for exports and are likely unable to pay the costs of demonstrating compliance with the rules. Accompanying measures are to be carried out and financed by governments imposing due diligence measures, including implementation support to developing countries, and should be focused on creating an enabling environment which supports suppliers in meeting regulations implemented alongside due diligence regulations. These accompanying measures could be provided not only to companies directly targeted by the regulations, but also to other actors such as civil society, trade unions and national environmental and human rights institutions. To this



end, collaboration and engagement with affected countries is needed in order to leave no one behind and ensure fairness. Special attention should be paid to avoid that these measures do not create unnecessary burdens and are proportional to the objective the rule wants to attain.

Third, due diligence regulations will have implications on costs and value distribution along global value chains. These implications, their direction and size are still unclear and will depend on several factors, including compliance of economic actors and potential exit from regulated markets. Nonetheless, due diligence regulations are expected to have important effects. Hence, policymakers, industry stakeholders, and development partners need to collaborate to ensure that these regulations are designed and implemented in a manner that ensures a fair distribution of costs and benefits along the supply chains, including smallholders in developing countries, for example via collective minimum prices, recently experimented within the European Union. In addition, this may involve providing support mechanisms, financial incentives, and capacity-building initiatives to help actors navigate the transition towards compliance while safeguarding their livelihoods by reaching a living income and promoting inclusive development.

Fourth, given the potential negative effects on producers in developing countries, governments introducing due diligence regulations should have inclusiveness measures at the forefront when designing such policies. In particular, the participation of producers and stakeholders from

developing countries in sustainability due diligence initiatives must be assured.

This can be done by adopting inclusive practices at all levels of governance to involve stakeholders and producers from developing countries. Dialogue and partnership among partners are needed in defining the criteria that will be used to assess compliance. To ensure the voices of those actors impacted by the due diligence measures are heard, barriers to inclusion should be minimised by supporting and empowering producer groups in developing countries in terms of representation, as well as producers' capacity by offering training, resources, translation and participation in meetings. This step also involves reducing the costs of noncompliance in a way that does not trigger permanent exclusion from the supply chain, but rather initiates a process to help fix the root cause of the noncompliance following a principle of good faith. Critically, fostering and enhancing existing initiatives should be recognised and prioritised to avoid duplication of efforts.

Lastly, it is of utmost necessity to emphasise that, given the current structure of many GVCs, the actors most likely to be affected by due diligence initiatives often are workers, producers and SMEs in developing countries. If proper and sufficient supporting and incentivising mechanisms are not in place and effective, due diligence measures risk that their well-intentioned goals will not be achieved and might even create adverse effects, hence missing out on the present opportunity to foster sustainability through supply chains.



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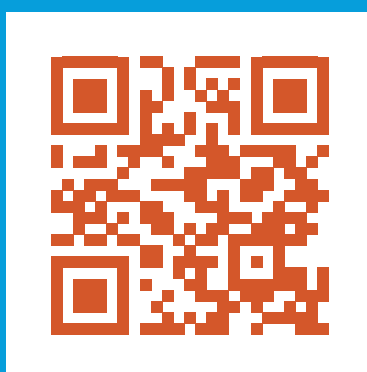
Annex

Table A1

Characteristics of Peruvian coffee, cocoa and palm oil producers and certified vs non-certified producers based on the Encuesta Nacional Agropecuaria of 2019, PEN stands for the Peruvian Sol

	Potential exclusionary effects			Potential lock-in effects	
Producers	Coffee 	Cocoa 	Palm oil 	Non-certified 	Certified 
Number of observations in the survey	2 033	1 881	139	26 945	410
Total number of producers in Peru	210 846	136 162	3 115	2 108 088	19 415
Farm characteristics					
Total area (ha)	7	15	49	6	22 *
Total agricultural area (ha)	3	5	27	2	12 *
Total area less than 5 ha (%)	63	47	4	79	69 *
Total agricultural area less than 5 ha (%)	87	79	17	91	80 *
Share in area from crop production (%)	62	53	81	NA	NA
Member in a farmer organisation (%)	16	14	52	5	88 *
Certified (%)	4	2	1	NA	NA
At least one plot with a land title (%)	16	29	81	22	31 *
Production characteristics					
Annual net farm revenue (2019 PEN)	1 007	6 513	41 058	1 113	342 092 *
Annual net farm revenue under 5,000 PEN (%)	70	54	18	81	36 *
Share in income from crop production (%)	67	55	80	NA	NA
Production costs (2019 PEN per ha)	2 056	1 254	675	6 433	4 237 *
Production costs per ha under 1,000 PEN (%)	50	70	81	32	24 *
Yield (kg/ha)	652	592	9 143	8 356	11 437 *
Lower production than 10 years ago (%)	82	72	53	80	74
Occurrence of pests and diseases (%)	16	24	14	13	19
Reception of a price premium (%)	NA	NA	NA	0	71 *
Production sold to a collector (%)	45	54	7	11	14
Production directly exported (%)	15	5	15	1	63 *
Household characteristics of family farms					
Female operator (%)	20	20	23	30	11 *
Higher education of operator (%)	30	34	56	33	46 *
Spanish as first language of operator (%)	81	66	91	58	92 *
Indigenous operator (%)	33	39	7	54	18 *
Off-farm employment by operator (%)	56	55	40	51	51
Capacity reception					
Reception of training (%)	1	2	5	0.5	8 *
Reception of technical assistance (%)	2	2	6	0.4	9 *
Reception of market information (%)	17	18	23	19	24 *
Access to credit when demanded for (%)	12	13	39	9	33 *

Note: Sampling weights are used to calculate the mean values among groups. NA stands for not applicable. Significant differences between the mean of certified and non-certified farms are indicated by * p < 0.05.



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