Review of G7 Government-led Voluntary and Mandatory Due Diligence Measures for Sustainable Agri-food Supply Chains

OECD

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BETTER POLICIES FOR BETTER LIVES

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Foreword

Consistent with ongoing efforts of the G7 to address environmental and social risks stemming from global agricultural supply chains, Germany, under its G7 Presidency, collaborated with the Organisation for Economic Co-operation and Development (OECD) to compile a selective inventory and a comparative overview of voluntary and mandatory due diligence measures associated with G7 countries and the European Union (EU) for sustainable agricultural supply chains.

The purpose of the review is to create a basis for G7 countries and policy makers to identify common elements across G7 members' policy measures with a view to strengthening the quality and, where possible, coherence of G7 policy responses to promote sustainability in agricultural supply chains and their implementation.

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Executive summary

G7 countries are increasingly taking action in response to growing concerns about environmental and human rights risks and impacts in agricultural supply chains while looking at ways to foster more resilient and sustainable food systems. Responsible business conduct (RBC) due diligence, as outlined in the OECD Due Diligence Guidance for RBC, is a key reference point in this context. It helps companies to identify, prevent, mitigate and account for potential and actual adverse environmental and social risks and impacts of their operations, supply chains and other business relationships.

Due diligence processes can be incentivised through a range of voluntary and mandatory policy measures. This report and the selective inventory (see Annex A) identifies 24 policy measures among G7 countries that can be applied to agricultural supply chains. The report classifies each of the government measures into one of five categories:

- **mandatory measures**: (1) corporate due diligence disclosure measures; (2) trade-based measures; and (3) mandatory due diligence measures.
- **voluntary measures**: (4) government guidances; and (5) government-led partnerships and initiatives.

Ten (42%) of the 24 measures are mandatory, of which three are corporate due diligence disclosure measures, five are trade-based measures and two are mandatory due diligence laws. Fourteen (58%) are voluntary measures: four are government guidances and ten are government-led partnerships and initiatives.

These measures, many of which have been introduced in the last three years, vary significantly in design, scope and objectives. Some of the main variations identified include the following:

- **RBC risk scope**: the measures vary in whether they take a broad or narrow approach to the environmental or human rights risks or impacts that they aim to address. While the majority of measures pre-determine specific risks (e.g., forced labour, deforestation), others take a more overarching approach and apply to a broad scope of risks. Definitions of the issues or risks also vary.
- **Supply chain scope:** while all the measures aim to address risks beyond companies' own operations, they take different approaches when applying due diligence expectations to the supply chain and other business relationships. Some measures focus on specific points or tiers in the chain and others on a broader concept of supply chain or value chain. Terms such as 'supply chains' or 'suppliers' are often undefined.
- **Commodity scope**: over half of the measures pre-define specific commodities in scope of the measures. Commodities are often selected for being associated with a specific risk.
- **Entity scope:** the policy measures also take different approaches for defining the entities in scope of the law. Some measures focus on large multinational enterprises, with specific criteria and thresholds, others also include expectations for small and medium-sized enterprises (SMEs).

The report considers how ten identified **mandatory measures** approach RBC due diligence, with a focus on two key due diligence principles (i.e., risk-based due diligence and stakeholder engagement) and on public reporting expectations. A comprehensive analysis of the 24 policy measures against OECD RBC due diligence standards is outside the scope of this analysis. Additional research and analysis beyond the scope of this high level and inventory-focused analysis is recommended if policy makers wish to understand for example alignment between the measures and the six-step due diligence framework or other key due diligence principles. Overall, the high-level analysis shows that the mandatory measures identified take very different approaches to due diligence, in part because of their core underlying nature and purpose (i.e., corporate due diligence disclosure, conduct-based or trade-based measure) and specific policy aims. Public disclosure is the most commonly shared feature among the mandatory measures, although the nature and level of granularity of information to demonstrate compliance also vary.

Finally, the report considers the **need for future research to understand and address the impacts of the measures as well as lessons learned from implementation (challenges as well as good practices)**, noting that many of the measures were only adopted in the last three years and so it is too early to carry out a comprehensive study of their current or future impacts.

Going forward, fostering greater **policy coherence** around internationally recognised standards on RBC can help to promote greater predictability and effectiveness for companies and their suppliers in agricultural supply chains. It can also help to ensure that policy expectations on due diligence are designed in a way that avoids unintended outcomes such as de-risking and disengagement from higher-risk suppliers and geographies, or companies pushing costs and requirements on to upstream suppliers. Governments have an important **opportunity to coordinate around accompanying measures** to build capacity, create an enabling environment for RBC, and promote engagement and partnership with key producer and consumer countries.

The report Is structured as follows:

- Section 1 considers the background and rationale for the report and selective inventory.
- Section 2 presents an analytical framework to categorise the policy measures.
- Section 3 sets out a comparative review of the policy measures.
- Section 4 briefly discusses the need for future research to understand and address potential impacts of the measures.

1 Background and rationale

This section provides the background and rationale for the review, including the main objectives and the criteria used for selecting measures to be included in the inventory. It also includes a high-level overview of the social, human rights and environmental risks often associated with agricultural supply chains and the activities undertaken by business and policy makers to address these risks.

The FAO defines agri-food systems as those that *encompass the entire range of actors, and their interlinked value-adding activities, engaged in the primary production of food and non-food agricultural products, as well as in storage, aggregation, post-harvest handling, transportation, processing, distribution, marketing, disposal and consumption of all food products including those of non-agricultural origin* (FAO, 2021[1]). This report explores measures to address the social and environmental impacts of activities across agri-food systems and supply chains, both within G7 countries and abroad.

International trade in food and agricultural products has more than doubled since 1995, with emerging and developing economies accounting for one-third of total exports globally. However, the importance of international trade differs depending on the type of agricultural commodity; it is particularly high for tropical commodities but lower for most other agricultural commodities. Where international trade plays a major role, responsible business conduct can be improved not only through policy measures in the country of production, but also through interventions along the length of the supply chain through to the end consumer.

This work aims to provide G7 agricultural policy makers with insights to better understand the design, objectives and mechanisms of national and regional policy measures that seek to promote due diligence to address environmental and social impacts in agricultural supply chains. The OECD applied two criteria to select the measures and compile the inventory (1) the initiative is led, mandated or formally supported by a G7 government (and/or EU), and (2) the initiative has a due diligence component (i.e., either a conduct or disclosure expectation related to RBC supply chain due diligence). The review also aims to help industry actors understand the identified policy measures by highlighting synergies and discrepancies to enable and support effective implementation.

The project was structured in three main phases:

1. Desktop research, interviews and a review of identified due diligence-related policy measures in G7 countries and the EU (see selective inventory in Annex A);
2. An analysis of the identified measures to better understand their commonalities and discrepancies as well as the extent to which they draw on key elements of the OECD-FAO Guidance on Responsible Business Conduct and the Due Diligence Guidance for RBC; and
3. High-level analysis of impacts, challenges and barriers for due diligence implementation, including those related to a lack of harmonisation.

The project included regular and ongoing involvement of an informal consultation group composed of G7 and EU policy makers from agricultural ministries as well as consultations with business associations, civil society organisations and experts. This paper presents the findings from the three phases.

1.1. RBC risks in agri-food systems

1.1.1. Social and human rights risks

Agriculture[1] remains a key source of economic growth in many countries, creating employment for 874 million people worldwide and accounting for nearly 60% of total employment in low-income countries (ILO, 2020[2]). Globally, food systems need to meet the triple challenge of ensuring food security and nutrition for a growing population, providing livelihoods for farmers and others working along food supply chains, and improving the environmental sustainability of the sector (OECD, 2021[3]).

However, the agricultural sector is still associated with severe human and labour rights impacts (Jacobs, Brahic and Olaiya, 2015[4]). The sector accounts for more than 70% of global child labour, over 112 million children (ILO, UNICEF, 2021[5]). Incidences of forced labour are of particular concern in the plantation sector, which dominates as a production system for many tropical agricultural commodities (ILO, 2017[6]). Agriculture remains one of the most hazardous sectors in terms of fatal and non-fatal workplace accidents and occupational diseases – especially in fishing and farming, which are prone to occupational health and safety risks. Globally, 27% of farmers, farmworkers, fishers and agricultural labourers were recorded to have been seriously injured while working (The Lloyd's Register Foundation, 2019[7]). The sector is also associated with gender-based violence and harassment and women are much less likely to have legal title to the land they cultivate; women account for almost 40% of the agricultural workforce worldwide yet only 15% of all landholders are women (FAO, 2018[8]; FAO, 2023[9]).

Agriculture has also been associated with adverse impacts on Indigenous Peoples and the risk of adverse human rights impacts associated with large-scale land acquisitions. Among 39 large-scale agri-business investments analysed by the World Bank and UNCTAD, land tenure was identified as the most common cause of grievances for affected communities, particularly due to disputes over land over which communities had informal land use rights and to a lack of transparency, especially on conditions and process for land acquisition (James Zhan, 2015[10]).

1.1.2. Environmental risks

Agriculture relies heavily on nature and ecosystem services and exerts significant pressures on the planet. Agri-food products pass through a number of stages before they reach the consumer, with different environmental impacts at each stage of the supply chain.

Greenhouse gas (GHG) emissions (both through the emission of gasses such as CO_2, Nitrous Oxide and methane, as well as the depletion of carbon sinks). In 2015, the food system contributed to one-third of total anthropogenic greenhouse gas (GHG) emissions (Crippa et al., 2021[11]). While absolute food-system related annual GHG emissions increased by 12.5% from 16 GtCO2e in 1990 to 18 Gt CO2e in 2015, their relative share in global GHG emissions decreased from 44% in 1990 to 34% in 2015 (Crippa et al., 2021[11]).

Greenhouse gas emissions are not evenly distributed across the supply chain, different geographies, and producers (Deconinck and Toyama, 2022[12]). For example, agriculture and related land-use change make up approximately 71% of food-related emissions (Crippa et al., 2021[11]), with the remainder driven by both downstream (e.g., transport, processing, retail, packaging, waste) and other upstream (fuel production) activities. Notably, 27% of land-use emissions are linked to agricultural products consumed in regions different from their production origin, with embodied trade emissions stemming primarily from low-income countries in the Southern hemisphere whose carbon-rich and biodiverse ecosystems are frequently cleared to facilitate the export of agricultural commodities to wealthier or more densely populated regions (Hong et al., 2022[13]).

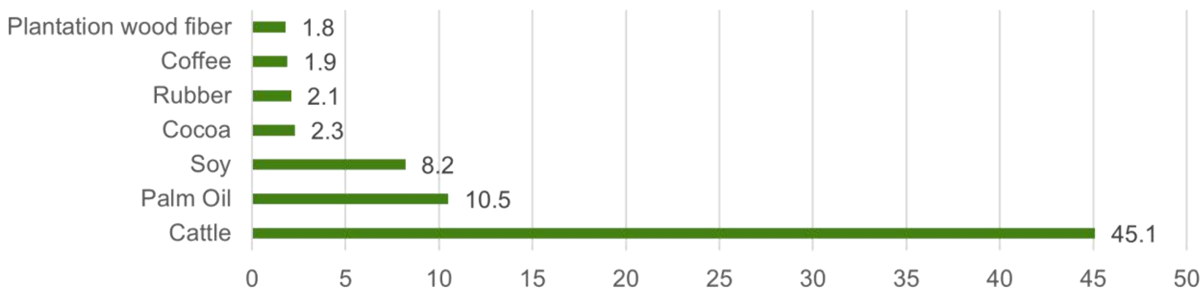
At the same time, food systems are highly vulnerable to climate impacts and associated biodiversity loss, extreme weather events and ecosystem deterioration, which will pose challenges for how food is produced, transported and consumed and have cascading effects on food security, nutrition, poverty and livelihoods.

Water consumption and soil pollution: agriculture is the world’s largest water user, accounting for more than 70% of global water withdrawals (FAO, 2020a[14]) and 78% of global ocean and freshwater eutrophication is caused by agriculture (Poore and Nemecek, 2018[15]). Half of the world’s habitable land is used for agriculture, while excessive use of pesticides and fertilizers leads to soil degradation (Poore and Nemecek, 2018[15]).

Biodiversity loss and deforestation: multiple studies confirm that commercial agriculture is by far the largest driver of deforestation, with a significant and growing share of the commodities produced on recently deforested lands. As the demand for agricultural products grows, agriculture often expands into forests and other valuable ecosystems (FAO, 2020a[14]).

Agri-food products pass through a number of stages during their lifecycle, with different environmental impacts at each stage. A full scoping of the environmental impacts of food systems should therefore consider impacts at each stage, including those indirectly caused by input use (e.g., GHG emissions related to energy used in food production); potential land use impacts (e.g., when greater demand for a product contributes to deforestation); and the role of waste (including food loss and waste, as well as waste of, for example, packaging materials). It should also take into account a broad range of relevant environmental impacts (i.e., not only GHG emissions but also eutrophication, acidification, biodiversity impacts, etc.).

Figure 1.1. Total forest replacement by analyzed commodities (2001- 2015, million hectares)



Source: (World Resources Institute, 2021[16])

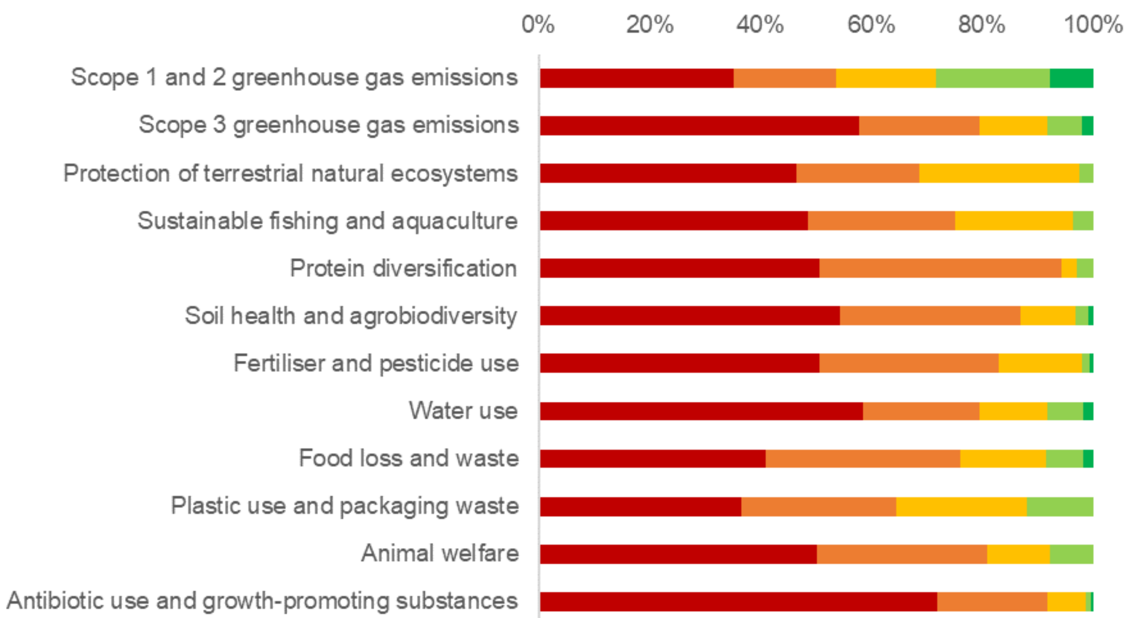
A small group of commodities have received wider attention as recently deforested lands are often used for their production (see Figure 1.1). These include beef, dairy products and leather from cattle, soybeans, palm oil, cocoa, coffee, wood and rubber. Commodities cultivated or grown in an area after it is deforested are considered as "direct drivers" of deforestation. New analysis from the Food and Land Use Coalition (FOLU) estimates that between 2005 and 2017, G7 members (including the EU) were responsible for 30% of tropical deforestation linked to imports of agricultural commodities; this contributed over 2.7 billion tCO2 (FOLU, 2022[17]). Other commodities identified as drivers of deforestation, though on a smaller scale than those listed above, include maize, sugar cane, coconut, tea, rice and avocados. In practice almost any crop or form of pasture has the potential to contribute to deforestation. It is now widely recognised that addressing these environmental pressures will require action not only by agricultural producers, but also by other supply chain actors, consumers, and policy makers.

1.2. Agri-business commitments and action

To respond to these evolving risks and impacts, several industry commitments have been made and private sector initiatives established.[2] Companies increasingly recognise that they have a role to play in the way that business and investment decisions can affect people and the environment through their supply chains. Many enterprises have for example endorsed the New York Declaration on Forests (Forest declaration, 2014[18]) which focuses on eliminating deforestation from the production of agricultural commodities amongst others. International standard setting bodies, such as ISO, and national level counterparts are also increasingly developing environmental and social standards to meet business demand.

However, an evaluation of the world's 350 major food and agriculture enterprises by the World Benchmarking Alliance (WBA) noted that whereas 73% disclose a sustainable development strategy, only 7.4% have set GHG reduction targets aligned with the global temperature goals in the Paris Agreement, and only 11% have defined strategies to address a number of key RBC-related risks and impacts (which broadly correspond to the different dimensions of the OECD-FAO Guidance for Responsible Agricultural Supply Chains). Nearly 55% have no targets related to global deforestation and conversion commitments for high-risk commodity chains. The vast majority lack comprehensive commitments and procedures prohibiting child and forced labour in their operations and supply chain and less than 10% could demonstrate having a full human rights due diligence process in place (World Benchmarking Alliance, 2021[19]).[3]

Figure 1.2. Distribution of firms' environmental scores in WBA Food and Agriculture Benchmark



Note: The World Benchmarking Alliance assigns scores on a five-point scale: 0 (lowest score, here in red), 0.5 (orange), 1 (yellow), 1.5 (light green), 2 (the highest possible score, shown here in dark green). For more information on the WBA Agriculture Benchmark methodology please see https://assets.worldbenchmarkingalliance.org/app/uploads/2021/02/Food-and-Agriculture-Benchmark-methodology-report.pdf
Source: (World Benchmarking Alliance, 2021[19]) taken from (OECD, 2022[20]).

1.3. Policy responses from G7 members

G7 countries are increasingly acting in response to growing concerns about environmental and social risks and impacts in agricultural supply chains and the ability of voluntary initiatives and private-led commitments to prevent, mitigate and remediate those impacts (WEF, 2022[21]).

For example, in June 2021, G7 leaders committed to eradicating forced labour from global supply chains, a call that was reiterated in 2022 and 2023 (G7, 2022[22]) (G7, 2023[23]). They tasked G7 trade ministers with identifying areas for strengthened cooperation and collective efforts to achieve this goal (G7, 2021[24]). At COP26 in November 2021, 141 countries signed the Glasgow Leaders' Declaration on Forests and Land Use, enshrining a global vision of forest conservation and restoration. It constitutes an unprecedented commitment to halt and reverse forest loss and land degradation by 2030, anchored in notions of sustainable development and inclusive rural transformation (COP26, 2021[25]).

At the regional and national level these international commitments are reflected in a variety of policy and regulatory measures aimed at addressing RBC risks. These can range from broad overarching strategies to targeted regulation that addresses a specific issue. For example, the EU Green Deal is a package of policy initiatives, which aims to set the EU on the path to a green transition, with the ultimate goal of reaching climate neutrality by 2050. The package includes initiatives covering the climate, the environment, energy, transport, industry, agriculture and sustainable finance – all of which are strongly interlinked. While at the regional and national level, legislation has been introduced to tackle targeted issues like deforestation and forced labour.

Box 1.1. G7 Sustainable Supply Chains Initiative (SSCI)

In December 2021, the G7 under the UK G7 presidency launched the Sustainable Supply Chains Initiative (SSCI) together with commitments from CEOs from a wide range of agri-food companies headquartered in G7 countries. Support for this initiative has continued under the German G7 presidency in 2022. Today, it brings together 22 global food and agriculture companies that have pledged to improve the environmental, social and nutritional impact of their operations and supply chains globally. Collectively, these companies earn over 500 billion USD in annual global revenue and employ over 2 million people directly, influencing many more through their supply chains and business relationships. The objective of this initiative is to accelerate global progress towards the Sustainable Development Goals (SDGs) and to transform food systems to be more sustainable, inclusive, and resilient (G7 SSCI, 2021[26]).

One year on, in December 2022, companies signed a Statement on Delivering Sustainable Agricultural Supply Chains, in which they recognise the urgency of addressing the challenges of providing food security and nutrition to growing global populations, providing livelihoods to farmers and workers in food supply chains, and addressing environmental concerns including climate change. Companies from G7 countries committed to pursuing sustainable agricultural supply chains and reducing the climate impacts of their business operations and supply chains. They also called on governments to, among other things, create an appropriate forum that can "*further the implementation of the OECD-FAO Guidance for Responsible Agricultural Supply Chains as a means to guide corporate action on addressing impacts*" (G7 SSCI, 2022[27]).

As recognised in the recent OECD Ministerial Declaration on Promoting and Enabling Responsible Business Conduct in the Global Economy, a smart mix of government measures to promote RBC due diligence may include mandatory and voluntary approaches[4] as well as capacity building and other accompanying measures (OECD, 2023[28]). Governments have a wide range of mandatory and voluntary policy tools at their disposal to promote, incentivise or mandate companies to conduct RBC due diligence on their global operations, supply chains and other business relationships. These include trade and investment policy tools, public procurement measures, as well as government guidance or government-led partnerships and initiatives to raise awareness and promote dialogue and collaboration with supply chain actors and other stakeholders. Due diligence processes can also be incentivised through mandatory due diligence, corporate due diligence disclosure requirements (where companies are asked to report on due diligence) or through trade-based measures (where due diligence or 'due care' can help demonstrate or rebut a presumption that a supply chain of a product is associated with a specific risk e.g., forced labour, deforestation) amongst others. These measures are often complementary, self-reinforcing and form part of a wider smart mix of measures.

Notes

[1] RBC risks refer specifically to the risks of adverse impacts with respect to issues covered by the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct — impacts on society (including human rights and labour), governance and the environment.

[2] For example, the BSI standard, BS 25700: Organizational responses to modern slavery - Guidance

[3] The World Benchmarking Alliance Food and Agriculture Benchmark is not a standard setting body but measures and ranks the world's most influential companies on key issues underpinning the food systems transformation agenda.

[4] On 12 December 2022, the OECD Council adopted the Recommendation on the Role of Government in Promoting Responsible Business Conduct. The Recommendation lays out a set of 21 principles and policy recommendations to assist governments, other public authorities, and relevant stakeholders in their efforts to design and implement policies that enable and promote responsible business conduct. A total of 51 countries have adhered to the Recommendation.

2 Analytical framework to categorise due diligence-related policy measures

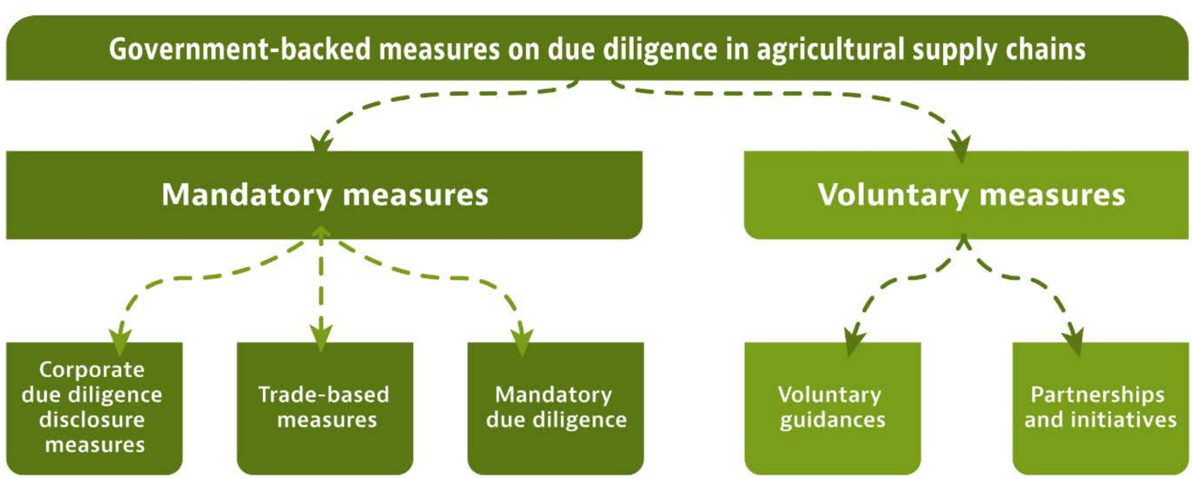
This section outlines the analytical framework used to categorise the different policy measures identified and in scope of the selective inventory (see Annex A), which are compared in more detail in section 3. It also briefly addresses other policy measures and the issue of private, public and multi-stakeholder certifications, labels and other initiatives in the agriculture sector.

2.1. Categorising policy measures in scope of the selective inventory

The selective inventory focuses on the following categories of mandatory and voluntary policy measures to address RBC risks in agriculture supply chains (see Figure 2.1).[1] For the purposes of this paper, we define these as follows:

1. **Mandatory measures:**
    - **Corporate due diligence disclosure measures:** require public disclosure of information on what companies are doing to identify and address environmental and social risks in their operations and supply chains.
    - **Trade-based measures:** prohibit the import, placing on the market, export and/or use of products or commodities associated with adverse social and environmental impacts, subject to demonstration of adequate due diligence or due care.
    - **Mandatory due diligence measures:** require companies to carry out due diligence in relation to specified adverse impacts associated with their operations, suppliers and other business relationships, without introducing prohibitions on the import, export or use of specific products.
2. **Voluntary measures:**
    - **Government guidance**: set out guidance to promote more sustainable and responsible business practices in global agriculture supply chains.
    - **Government-led partnerships and initiatives,** which aim to promote more responsible business practices, including due diligence, and engage with suppliers and smallholder farmers, often through multi-stakeholder dialogue and exchange.

Figure 2.1. Typology of voluntary and mandatory measures identified



Source: OECD

The scope of this review excludes the following: policy measures relating to public procurement, trade and investment policy or sustainable finance and private-sector initiatives, certifications and labelling schemes. In addition, some of the included measures are not specific to the agriculture sector/supply chains and have a more horizontal approaches covering all sectors of the economy without distinctions.

2.1.1. Corporate due diligence disclosure measures

Corporate due diligence disclosure or reporting measures require companies to disclose certain types of risks and impacts they identify and whether they are taking or have taken any action to address them. They expect companies to meet certain standards when disclosing information and, in some cases, require reported information to be audited. However, companies are not held to account for the quality of their due diligence.

California Transparency in Supply Chains Act (2010)
UK Modern Slavery Act (2015)
EU Corporate Sustainability Reporting Directive (2023)

2.1.2. Trade-based measures

Trade-based measures in the context of this paper are understood as actions that prevent or ban companies and/or natural persons from importing, exporting and/or using commodities or products whose production is associated with specific adverse human rights and/or environmental impacts.

Flexible trade-based instruments allow both specific and general bans to be introduced at the discretion of the enforcing authority. They aim at incentivising more responsible corporate conduct and promoting consumption and trade of sustainable products by reducing the market share, for example of importers or exporters that are allegedly causing or connected to harms via their supply chain. They also seek to reorient importers and consumers towards suppliers with higher labour and environmental standards.

For the trade-based measures identified (below), the onus is generally on the importing or exporting company or regulated person to prove that the relevant product or commodity is not associated with specific environmental or social harms, either through establishing and implementing adequate due diligence systems or that it meets a certain risk level (e.g., “negligible” risk of deforestation).

US Lacey Act (amended in 2008)
Japan’s Act on Promotion of Use and Distribution of Legally Harvested and Wood Products (hereafter **Clean Wood Act**) (2016)
US Uyghur Forced Labour Prevention Act (2021)
UK Environment Act (2021)
EU Deforestation Regulation (2023) (replacing the EU Timber Regulation)

2.1.3. Mandatory due diligence measures

More recently, some G7 governments have opted to introduce mandatory due diligence legislation requiring companies to undertake due diligence on human rights and environmental risks in their operations and supply chains. Mandatory due diligence requires companies to adhere to specific standards of conduct when identifying, responding to and reporting on adverse human rights and environmental impacts connected to their operations, suppliers and other business relationships.

The two mandatory due diligence measures in scope of this study are cross-sectoral measures i.e., they apply across sectors and to a wide range of RBC risks and impacts, although their individual scope differs.

French loi sur le devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre (here after **Duty of Vigilance**) (2017)
'Lieferkettensorgfaltspflichtengesetz' **or 'LkSG** (hereafter the **German Supply Chain Act**) (2023)

2.1.4. Government guidances

A number of G7 countries are also opting to develop voluntary guidances, guidelines or codes of conduct to promote more sustainable business practices and supply chains and set out expectations for companies. These often provide detailed recommendations as to how companies are expected to conduct due diligence. They do not have any enforcement or monitoring mechanism.

Japan Introductory guide on environmental due diligence along the value chains: Referencing the OECD Guidance (2020)
EU External Action Service guidance on due diligence to combat forced labour in supply chains (2021)
EU Code of Conduct on Responsible Food Business and Marketing Practices (2021)
Japan Guidelines on Respecting Human Rights in Responsible Supply Chains (2022)

2.1.5. Government-led partnerships and initiatives

Given the cross-jurisdictional nature of agricultural supply chains and the global scale of environmental and social challenges, G7 countries have set up multiple partnerships and initiatives to promote sustainable agricultural supply chains and enhance the collaboration of the supply chains actors in both exporting and importing countries. They can further provide training, capacity-building and awareness raising materials to ensure better uptake of due diligence. However, the partnerships and initiatives in scope of this study do not mandate or hold companies to account for a specific standard of conduct.

German Initiative on Sustainable Cocoa (2012)
German Forum for More Sustainable Protein Feed (2014)
German Forum for Sustainable Palm Oil (2015)
Amsterdam Declaration Partnership (2015)
EU Sustainable Cocoa Initiative (2020)
US Forest Data Partnership (2021)
German Initiative for Sustainable Agricultural Supply Chains (2021)
Canada Sustainable agri-food value chains (part of the Food Systems Summit) (2021)
FACT Dialogue (2021)
French Sustainable Cocoa Initiative (2021)

2.2. Other policy areas and the role of private, public and multi-stakeholder sustainability initiatives

2.2.1. Other policy areas to incentivise due diligence

G7 governments are also increasingly encouraging RBC across relevant policy areas, including in the context of public procurement, trade and investment policy or sustainable finance (OECD, 2022[29]). This is consistent with the OECD Recommendation on the Role of Government in Promoting Responsible Business Conduct, to which all G7 countries and the EU have adhered to.

- **Public procurement**: G7 countries and EU countries spend on average 14% of GDP on public procurement (OECD, 2021[30]). This makes public procurement a potentially powerful tool for achieving social, environmental or other policy objectives and driving more responsible business practices, including in agricultural supply chains (OECD, 2021[31]) (OECD, 2020[32]). Many G7 countries and the EU promote the integration of RBC objectives in public procurement in policy and practice for example by adapting tender specifications and contract clauses. Results from an OECD survey highlighted that 80% of Central Purchasing Bodies (CPBs) have risk management systems that take into account RBC objectives. These risk management systems are most developed for environmental considerations and integrity risks (OECD, 2021[31]).
- **Trade and investments:** Trade and investment policies and agreements are also increasingly used as a lever to encourage RBC (see Box 2.1). A number of G7 countries and the EU include chapters on Trade and Sustainable Development in their trade agreements, which generally include several sustainability provisions and RBC clauses with express references to internationally recognised standards and principles on RBC. To date, twenty-one free trade agreements between G7 countries and third countries include direct reference to internationally recognised OECD standards on RBC, including the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (MNE Guidelines) (ILO, 2023[33]). Bilateral Investment Treaties and Trade preference schemes for developing countries, such as the UK Developing Countries Trading Scheme (DCTS), can include elements of RBC within their terms, such as the power to suspend preferences for serious and systematic violations of human rights and labour rights based on international conventions.

Box 2.1. US Executive Order 14072 on Strengthening the Nation’s Forests, Communities, and Local Economies

On 22 April 2022, the US released an Executive Order to, among other objectives, explore actions to address international deforestation. The Executive Order calls for an evaluation of policy options that could be deployed to tackle national and international deforestation risks, including those linked to “international programming, assistance, finance, investment, trade, and trade promotion” by federal agencies. These measures could include:

(i) Incorporating the assessment of risk of deforestation and other land conversion into guidance on foreign assistance and investment programming related to infrastructure development, agriculture, settlements, land use planning or zoning, and energy siting and generation.

(ii) Addressing deforestation and land conversion risk in new relevant trade agreements and seek to address such risks, where possible, in the implementation of existing trade agreements.

(iii) Identifying and engaging in international processes, as appropriate, to pursue approaches to combat deforestation and enhance sustainable land use opportunities in preparing climate, development, and finance strategies.

(iv) Engaging other major commodity-importing and commodity-producing countries to advance common interests in addressing commodity-driven deforestation; and

(v) Assessing options to direct foreign assistance and other agency programs and tools, as appropriate, to help threatened forest communities transition to an economically sustainable future, with special attention to the participation of and the critical role played by indigenous peoples and local communities and landholders in protecting and restoring forests and in reducing deforestation and forest degradation.

Source: Federal Register / Vol. 87, No. 81 / Wednesday, April 27, 2022 / Presidential Documents

- **Sustainable finance**: To ensure consistency and integrity over sustainability claims and help direct financial flows towards sustainable activities, a number of G7 countries have enacted laws to align ESG frameworks with key sustainability objectives and avoid greenwashing. These include taxonomies that provide classification systems under which economic activities can be considered environmentally sustainable. The EU Taxonomy Regulation for example includes the forestry sector to help investors provide financing for afforestation, conservation forestry, forest management and forest restoration. The EU taxonomy provides a number of screening and technical criteria to assess whether these economic activities are substantially contributing to environmental objectives and further includes a specific “minimum safeguard” criterion, which corresponds to procedures (i.e., due diligence) companies have put in place to aligned with the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct or the UN Guiding Principles on Business and Human Rights (EU Platform on Sustainable Finance, 2022[34]). Investment product labelling is another tool to steer financial flows toward more sustainable activities. For example, the EU’s Sustainable Finance Disclosures Regulation and the UK Financial Conduct Authority’s Sustainability Disclosure Reporting labels for investment products, which may require investor / asset manager due diligence on portfolio companies.

2.2.2. Certifications, labelling and other private and public sustainability initiatives

The selective inventory in Annex A excludes public, private and multi-stakeholder certifications, labelling schemes and other types of sustainability initiatives (often referred to as “voluntary sustainability standards”) from its scope. These are also excluded from the comparative analysis in section 4.

However, it is important to acknowledge that certifications and labelling in particular are widely used in the agricultural sector by governments, industry and civil society to promote more sustainable and responsible business practices. Box 2.2 therefore briefly discusses the current landscape and discusses their use in the identified policy measures.

Box 2.2. Certifications and other sustainability initiatives

The last decade has seen a proliferation of public and private certifications, labels, international framework agreements and other types of sustainability initiatives, including in the agriculture sector. Many of these are product-based, requiring products to meet specific social and/or environmental sustainability criteria and/or aimed at demonstrating conformity with good agricultural practices (UNCTAD, 2020[35]). Others aim to monitor, certify or assess the due diligence of participating companies or their suppliers.

Certifications and other types of sustainability initiatives vary significantly in their geographical reach, risk and commodity scope and supply chain coverage. They also differ in their core aims and activities—

as well as in their assessment and assurance models, governance and oversight systems, levels of transparency and overall credibility. Understandings of OECD RBC due diligence standards and core risk-based due diligence principles also vary considerably (OECD, 2022[36]).

Given the variety of approaches, the extent to which a particular certification or other type of initiative can support due diligence implementation will depend on the specific context. A well-designed certification scheme, for example, may provide useful information on good agricultural practices, conditions of production and harvesting or forest management at a specific point in time. However, companies retain ultimate responsibility for their own due diligence and for how they check, use and build on the information they receive from third party schemes. Many certification schemes do not fully integrate a due diligence approach, but rather provide specific information—such as supplier, product or site information or supply chain traceability information—that can feed into and inform downstream companies' broader due diligence.

Differences between sustainability initiatives can create challenges for companies, particularly those who participate in multiple initiatives across different risks and geographies as part of their due diligence. It can also create uncertainty about what particular certifications or product labels mean (OECD, 2022[36]). The OECD is working to promote greater coherence in how industry, government-led and multi-stakeholder initiatives integrate due diligence through its ongoing Alignment Assessments against OECD RBC Due Diligence Guidance in the agriculture, minerals and garment and footwear sectors, and harmonised alignment and credibility criteria for initiatives across sectors.[1]

1. The OECD MNE Guidelines state that initiatives should be "credible and transparent", and the OECD is developing harmonised alignment and credibility criteria for initiatives across different sectors following a mandate set out in the recent RBC Ministerial Declaration (OECD, 2023[37]). For more information on OECD Alignment Assessments, see: OECD Alignment Assessments of Industry and Multi-Stakeholder Programmes - OECD. The OECD is also developing interactive online "Due Diligence Checker" tools as a self-check for individual companies and initiatives, see for example: OECD Due Diligence Checker (sustainabilitygateway.org). An equivalent tool for the agriculture sector is in progress.

Some of the G7 policy measures listed in this review reference certification schemes or other third party verified schemes as a means to help companies comply with due diligence-related expectations, although they often lack specificity about the role of those schemes in the context of a company's own due diligence and whether companies have a responsibility to check the credibility of the certifications they use.

Table 2.1. Examples of how certification or other third party verified schemes are referenced in identified policy measures

Measures	Certification schemes referenced
Japan Clean Wood Act	The Clean Wood Navi, the Forestry Agency's web portal, cites other sources of information about illegal logging, including forest certification information such as Forest Stewardship Council (FSC), Programme for the Endorsement of Forest Certification (PEFC), Fairwood, a Japanese NGO network, and other certification schemes. The site also lists further studies commissioned to support meaningful compliance.
EU Deforestation Regulation	Article 10 (Risk assessment) – the risk assessment shall take into account a range of criteria, including "complementary information on compliance with this Regulation, which may include information supplied by certification or other third-party verified schemes, including voluntary schemes recognised by the Commission under Article 30(5) of Directive (EU) 2018/2001 of the European Parliament and of the Council 1, provided that the information meets the requirements set out in Article 9 of this Regulation."
EU Code of Conduct on Responsible Food Business and Marketing Practices	Under aspirational objective 7 (Sustainable sourcing in food supply chains), the indicative action has been identified to "Encourage the uptake of scientifically robust sustainability certification schemes for food (incl. fish and fishery products" in order to transform commodity supply chains (3.1.3).
Japan introductory Guide on Environmental Due Diligence along the Value Chains	The guide introduces several examples of certifications and other initiatives in the main chapters as well as on pp.46-51: 5.3 List of references (e.g., ISO26000, ISO 20400, Roundtable on Sustainable Palm Oil [RSPO], Marine Stewardship Council [MSC], Aquaculture Stewardship Council [ASC], Forest Stewardship Council [FSC], Programme for the Endorsement of Forest Certification Scheme [PEFC], Sustainable Green Ecosystem Council [PEFC], and several other Japan-specific initiatives).

Source: OECD

Note

[1] Some measures may fall under more than one category, for example some partnerships and initiatives may develop voluntary guidance for business and a trade-based measure may require demonstration of adequate due diligence or due care.

3 Comparative review of identified policy measures

This section examines key differences and commonalities in policy design and scope of the measures included in this review. The first part of the comparative review focuses on the scope of the measures. The second part of the comparative review focuses on the due diligence process and approaches to enforcement, with a focus on mandatory measures.

While the measures vary in design, scope and objective, several commonalities can be identified in how they promote sustainable agricultural supply chains, as well as the extent to which they reference or draw on the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct or the OECD RBC due diligence guidance and OECD-FAO Guidance on Responsible Agricultural Supply Chains. This analysis can help G7 policy makers and other stakeholders better understand some similarities and differences in approach across the policy measures.

The selective inventory in Annex A identifies 24 mandatory and voluntary measures relating to due diligence for sustainable agricultural supply chains (food and non-food commodities e.g., palm oil, soy, cocoa, rubber, fibre leather). Among these:

- Ten (42%) are **mandatory** measures, of which three are corporate due diligence disclosure measures, five are trade-based measures and two are mandatory due diligence laws.
- Fourteen (58%) are **voluntary** measures: four are government guidances and ten are government-led partnerships and initiatives.

While promoting responsible agricultural supply chains is not a new concern for G7 policy makers, **the past three years have seen a sharp increase in the number of measures introduced by G7 governments. 63% of the measures in scope of this paper were introduced in the past three years (15 out of 24)**. The majority of the trade-based measures, all of the government guidances and 60% of the government-led partnerships and initiatives were introduced in the last three years, with the latter focused on specific commodities and/or risks relevant to agriculture supply chains.

Infographic 3.1. Timeline of measures in scope of the review

Source: OECD

3.1. Comparative review of the scope of the identified policy measures

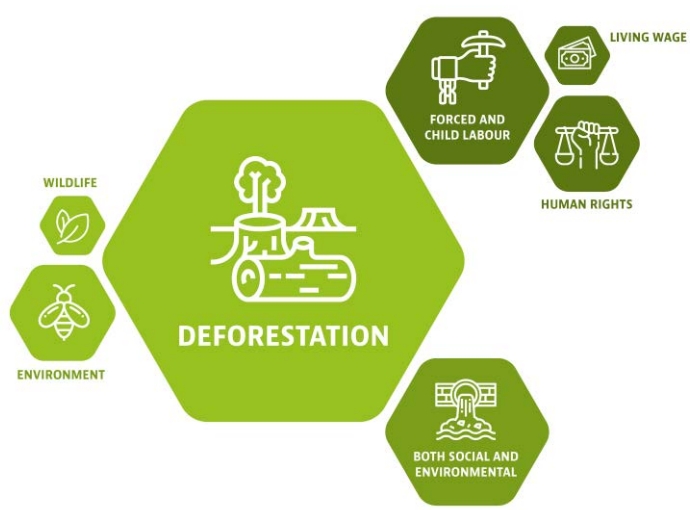
3.1.1. RBC risk scope

All measures in the selective inventory aim to ensure that companies address sustainability or RBC risks or impacts[1] that can occur in their operations and along their supply chains. **The measures vary in whether they take a general or narrow approach to the risks or impacts that they aim to tackle. Seven of the measures (29%) take a cross-cutting approach that addresses a broad range of sustainability risks while the vast majority of measures (17 out of the 24 (71%)) take a more targeted approach, identifying a specific risk.**

- All trade-based measures focus on a specific type of RBC risk (e.g., deforestation, forced labour, illegal tracking of wildlife).[2]
- Two out of three corporate due diligence disclosure measures focus on a specific risk (i.e., forced labour in the UK Modern Slavery Act and California Transparency in Supply Chains Act) while the EU Corporate Sustainability Reporting Directive covers a broad range of environmental, social and governance risks.
- The vast majority of voluntary measures in scope also focus on one or more specified risks (i.e., 75% of the government guidances and all of the government-led partnerships and initiatives).

For measures identified that target specific risks, there seems to be broad convergence around which issues governments consider to be most salient, with the majority of those measures addressing risks related to deforestation[3] and forced labour.[4]

Infographic 3.2. Key RBC risks and their prevalence in the identified policy measures



Source: OECD

Table 3.1 below sets out examples of how some of the relevant risk-specific policy measures define key risks, such as deforestation, forest degradation and forced labour.

Table 3.1. Examples of definitions of risks in identified policy measures

Measures	Definition
EU Deforestation Regulation	**Forest**: Draws on the FAO (2020[38]) definition - land spanning more than 0.5 hectares with trees higher than 5 meters and a canopy cover of more than 10%, or trees able to reach those thresholds in situ, excluding land that is predominantly under agricultural or urban land use (Art. 2). **Deforestation**: the conversion of forest to agricultural use, whether human induced or not. (Art. 2). As such, the EU Deforestation Regulation deviates from the definition of deforestation as established by the FAO (2020[38]), which defines deforestation as the "conversion of forest to other land use", thus including the conversion of forest for non-agricultural purposes such as urban development or infrastructure. **Forest degradation**: structural changes to forest cover, taking the form of the conversion of: (a) primary forests or naturally regenerating forests into plantation forests or into other wooded land; or (b) primary forests into planted forests (Art. 2).
UK Environment Act	**Forest**: an area of land of more than 0.5 hectares with a tree canopy cover of at least 10% (excluding trees planted for the purpose of producing timber or other commodities). This draws on the FAO's definition of forest and includes land that is wholly or partly submerged in water (whether temporarily or permanently) (Schedule 17). **Forest risk commodity**: to be specified in regulations made by the Secretary of State. The regulations may only specify a commodity that has been produced from a plant, animal, or other living organism and where the Secretary of State considers that forest (as per definition above) is being or may be converted to agricultural use for the purposes of it producing the commodity (Schedule 17). Once a commodity has been introduced under the regulations, due diligence requirements will apply to all regulated businesses using that commodity or products derived from it regardless of where it has been grown, whether in forest areas or other ecosystems.
Japan Clean Wood Act	**Legally harvested wood and wood products**: wood from trees harvested in compliance with the laws and regulations of Japan or the country of harvest (Art. 2)
European Commission External Action Service Guidance on Due Diligence to combat Forced Labour	**Forced labour:** defined in line with the **International Labour Organization (ILO) Convention No. 29 on Forced or Compulsory Labour** as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily" (page 2).
UK Modern Slavery Act	**Forced labour**: defined in line with Article 4 of the **Convention for the Protection of Human Rights and Fundamental Freedoms** agreed by the Council of Europe (1950), which states that "forced or compulsory labour shall not include: (a) any work required to be done in the ordinary course of detention imposed […] or during conditional release from such detention; (b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service; (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community; (d) any work or service which forms part of normal civic obligations."
US Uyghur Forced Labour Prevention Act	**Forced labour** has the meaning given in section 1307 of the **US Tariff Act of 1930** (19 USC. 1307) as "all work or service which is exacted from any person under menace of any penalty for its non-performance and for which the worker does not offer himself voluntarily," including forced child labour (section 7, para. (1)A).

Source: OECD

6 of the 24 measures (25%) take a broader and more holistic approach to addressing RBC risks, by requiring or expecting companies to address a range of RBC issues, including human rights, social, governance and/or environmental impacts. However, even within these broader measures, policy makers have taken different approaches to scoping and defining particular risks or impacts. For example:

- The French Duty of Vigilance focuses on human rights and fundamental freedoms, the health and safety of individuals and the environment.
- The German Supply Chain Act focuses on human rights, labour rights, health and safety, and a specific set of environmental risks. The Act takes a prescriptive approach — for example, by defining environmental risks against a list of prohibitions relating primarily to the use of chemicals[5] (i.e., mercury) and through a human rights lens (i.e., rights to the enjoyment of the highest attainable standard of physical and mental health).[6]

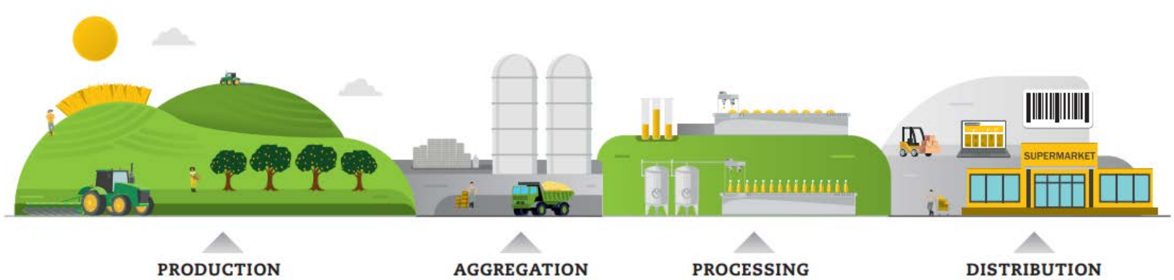
- The EU Corporate Sustainability Reporting Directive focuses on a broader set of sustainability risks and impacts, with the first draft of the European Sustainability Reporting Standards (ESRS) covering sustainability matters related to environment, social and governance.[7]

Overall, there has been limited integration of climate risks and impacts (e.g., relating to greenhouse gas emissions) in the policy measures identified. Broader environmental risks and impacts are covered in both mandatory due diligence measures, though they differ significantly in how prescriptive they are in defining environmental adverse impacts. Climate-related disclosure rules, including on scope 3 emissions, are, however, part of the EU Corporate Sustainability Reporting Directive.

3.1.2. Supply chain scope

While all of the identified measures aim to address risks beyond companies' own operations, they take different approaches when applying due diligence requirements to the supply chain and other business relationships[8] – including the extent to which they expect covered entities to focus on specific points or tiers in the supply chain (e.g., direct suppliers), or to consider impacts associated with a wider group of entities in the supply and/or value chain. The measures also differ in level of detail, with many leaving terms like "supply chain" or "supplier" undefined.

Infographic 3.3. Simplified agriculture supply chain



Source: OECD

Six measures have a broad supply chain approach, i.e., they expect companies to consider the supply chain from production and harvesting to sale, however they do not all define the supply chain's scope. It is also not always clear whether measures focused on the supply chain also apply due diligence or other risk management expectations to the full lifecycle of a product or project, and to downstream as well as upstream entities (i.e., to buyers, distributors or other business relationships that receive or use products or services from the company). Other measures explicitly address both upstream and downstream (e.g., Japan's Guidelines on Respecting Human Rights in Responsible Supply Chains).

Some measures are broader still and apply due diligence expectations explicitly to the full "value chain" (e.g., the EU Corporate Sustainability Reporting Directive and Japan's Introductory Guide on Environmental Due Diligence along the Value Chains). However, these measures do not always define the term.

Table 3.2. Examples of supply chain scope in identified policy measures

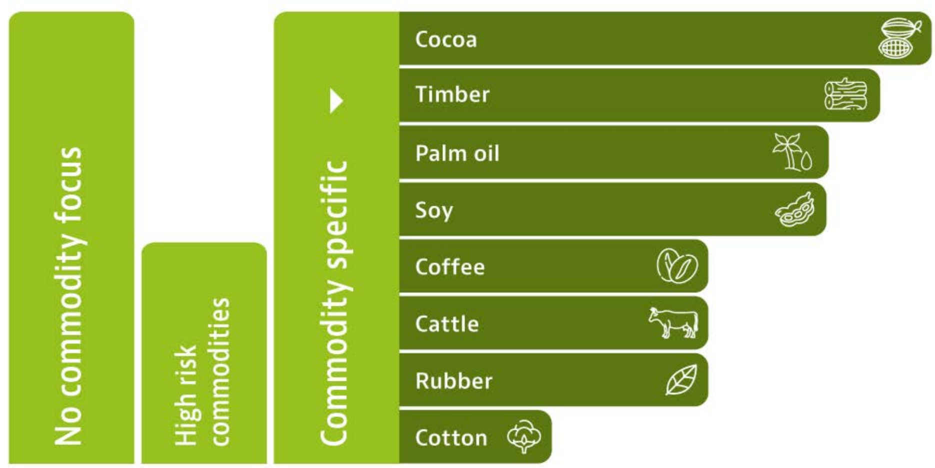
Measures	Definitions
German Supply Chain Act	Defines the supply chain as referring to "all products and services of an enterprise. It includes all steps in Germany and abroad that are necessary to produce the products and provide the services, starting from the extraction of the raw materials to the delivery to the end consumers". However, due diligence expectations vary depending on whether suppliers are direct or indirect.
EU Corporate Sustainability Reporting Directive	Expects reporting to cover information about the undertaking's own operations and "value chain, including, its products and services, its business relationships and its supply chain" The concept of value chain is further defined in the European Sustainability Reporting Standards.
UK Modern Slavery Act	Requires any commercial organisation within the scope of the act to prepare a slavery and human trafficking statement for each financial year covering "any of its supply chains" and "any part of its business" (MSAs. 54(4)(a)(i)), leaving open the extent to which organizations' upstream activities are covered. The statutory guidance issued under section 54(9) further defines supply chains as having "everyday meaning" (UK Secretary of State, 2017) without, however, offering a specific definition of supply chains per se.
Japan's Guidelines on Respecting Human Rights in Responsible Supply Chains	States that "[t]he term "supply chain" as used in the Guidelines refers to "upstream" in relation to the procurement and securing, etc. of raw materials and resources for a business enterprise's products and services, facilities, and software, and also "downstream" in relation to the sale, consumption, and disposal etc. of its products and services. In addition, the term "other business partners" refers to business enterprises other than those within the supply chain that are related to the business enterprise's operations, products, and services. More specifically, for example, these are investment and lending locations, partners of joint enterprises, business operators providing equipment maintenance and inspection, and business operators providing security services, etc."
Japan's Introductory Guide on Environmental Due Diligence along Value Chains	Defines value chain as a series of economic entities or economic actions in all processes from creation to consumption of added value related to a company's business activities. It includes a series of actions and entities related to business activities, such as mining, procurement, production, sales, transportation, use, and disposal of raw materials. This includes upstream and downstream and indirect and direct business relationships, as well as the behaviour of consumers who use the company's products and services.
EU External Action Service Guidance on Due Diligence to combat Forced Labour in Supply Chains	Refers to "all levels of the supply chain" but does not define further.
California Transparency in Supply Chain Act	Expects companies to obtain from direct suppliers a certificate that "materials incorporated into the product comply with the laws regarding slavery and human trafficking of the country or countries in which they are doing business."
French Duty of Vigilance Law	Expects companies' due diligence to cover "activities of subcontractors and suppliers with whom the company has an established business relationship." To date this has been interpreted in an inclusive, rather than exclusive way and as going beyond direct business relationships.
EU Deforestation Regulation	Expectations apply in relation to the "supply chain" but the term is not defined further. However, the Regulation does clarify the roles and expectations for supply chain actors. Article 2: Definitions (15) 'operator' means any natural or legal person who, in the course of a commercial activity, places relevant products on the market or exports them; (16) 'placing on the market' means the first making available of a relevant commodity or relevant product on the Union market; (17) 'trader' means any person in the supply chain other than the operator who, in the course of a commercial activity, makes relevant products available on the market; (18) 'making available on the market' means any supply of a relevant product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge; (19) 'in the course of a commercial activity' means for the purpose of processing, for distribution to commercial or non-commercial consumers, or for use in the business of the operator or trader itself.
US Uyghur Forced Labor Prevention Act	Expectations apply in relation to the "supply chain" but the term is not defined further (although to some degree inferred by the geographic focus i.e., nexus in Xinjiang).
Japan Clean Wood Act	Applies expectations to companies' "domestic supply chain" which includes "timber importers, producers, processors, and distributors (including exporters)" (Forest Trends, 2020[39]). Retailers were included by the amendment made in May 2023 (Japanese Law Translation, n.d.[40]).
Lacey Act	The term supply chain is not used or defined.
UK Environment Act	Expects regulated persons who use forest risk commodities (or products derived from them) in their UK commercial activities to report on their due diligence system but does not use the term "supply chain".

Source: OECD

3.1.3. Commodity scope

Of the mandatory and voluntary measures in scope of the selective inventory, 14 of 24 (58%) focus on specific commodities, which may include products derived from specified commodities (all the trade-based measures and government-led partnerships and initiatives).[9] Trade-based measures tend to be more selective in commodity scope than mandatory due diligence or disclosure measures. The corporate due diligence disclosure measures, due diligence measures and government guidelines in scope of this paper are broader and do not tend to focus on specific commodities per se.[10]

Infographic 3.4. Commodities in scope of the measures



Source: OECD

For the fourteen measures that specify a focus on one (or more commodities), three out of five trade-based measures target a commodity (or commodities) related to deforestation or timber production.[11] The way these measures target specific commodities differs: measures can focus on a specific commodity directly or focus on specific risk and determine a list of commodities that are targeted specifically to address that risk. Annex A provides the full list of commodities targeted by each measure.

3.1.4. Geographic scope

Most of the policy measures have no direct geographic focus – though in some cases this may be indirectly inferred, for examples where measures target specific commodities or risks. The US Uyghur Forced Labor Prevention Act is the only measure with an explicit geographic focus. However, a number of measures introduce country-specific elements in other ways. For example:

- In the Japan Clean Wood Act, the Forestry Agency of the Ministry of Agriculture, Forestry and Fisheries has created country-specific pages that outline countries' policies on legal forest harvest in order to assist companies with their risk-based prioritization.

- Under the EU Deforestation Regulation, the EU Commission establishes a country benchmarking system consisting of a three-tier classification system (high-risk, low-risk and standard risk) applied to all countries, including EU Member States (see Article 29 of the Regulation).

3.1.5. Entity scope

The policy measures also take different approaches to defining the entities in scope of the law. The corporate due diligence disclosure and mandatory due diligence measures included in the selective inventory target large MNEs and, in the case of the EU Corporate Sustainability Reporting Directive, listed SMEs. Trade-based measures have wider scope, in some cases apply to any business entities—including SMEs—or any natural or legal person that carries out activities covered by the law (e.g., UK Environment Act[12] and US Lacey Act apply to legal and natural persons).

For the mandatory due diligence and corporate due diligence disclosure measures, different thresholds are applied to determine whether an entity is in scope. For large companies, measures apply thresholds such as a minimum number of employees or annual turnover/revenue, in addition to an enterprise "doing business in" the relevant country or region.

Table 3.3. Examples of criteria for determining entities in scope

Measures	Domiciliation	Turnover	Employee threshold
UK Modern Slavery Act	If the entity carries on business in any part of the UK.	An annual turnover above GBP 36 million wherever incorporated or formed	
California Transparency in Supply Chains Act	If the entity is doing business in the state of California	An annual worldwide gross receipts in excess of USD 100 million.	
French Duty of Vigilance Law	Headquartered in France		5 000 employees in the company's direct or indirect French-based subsidiaries and with more than 10 000 employees if including direct and indirect subsidiaries globally.
German Supply Chain Act	Principal place of business in Germany		From Jan 2023: at least 3 000 employees in Germany, including those posted abroad. From 2024: more than 1 000 employees per average per fiscal year.
EU Corporate Sustainability Reporting Directive *(Should exceed at least two of the following criteria)*	All EU listed companies (listed SMEs being covered as of 2026).	Net turnover of EUR 40 million; balance sheet total of EUR 20 million	250 employees on average over the financial year.

Source: OECD

3.2. A comparison of risk-based due diligence and enforcement in mandatory measures

This section considers examples of different approaches to integrating due diligence in the mandatory measures[13] in scope of the selective inventory, using the OECD RBC due diligence framework as a reference point.[14] It does not set out a comprehensive analysis of how the mandatory measures integrate or align with key due diligence principles or the six-step due diligence framework, but rather uses examples to highlight consistencies and inconsistencies between the measures:

- Differences in nature and purpose of mandatory measures.

- Approaches to two key “characteristics” of due diligence: the risk-based approach and stakeholder engagement.
- Public reporting expectations on due diligence.
- Approaches to enforcement.

The voluntary measures identified are outside the scope of the analysis on the basis that they do not set out due diligence conduct or disclosure requirements for companies or establish enforcement mechanisms. However, it is notable that all four of the Government guidances explicitly reference OECD standards on RBC. The EU Code of Conduct on Responsible Food Business and Marketing Practices (2021) sets out broader aspirational objectives and targets, with less of a focus on the RBC due diligence Guidance but references the OECD-FAO Guidance.

3.2.1. Differences in nature and purpose of mandatory measures

The mandatory measures identified take different approaches to due diligence in part because of their core underlying nature and purpose (i.e., corporate due diligence disclosure, conduct-based or trade-based measure). Each category of measure has slightly different aims in how they seek to change company behaviour and incentivise more responsible conduct. For example, and as explained in Section 2

- **Mandatory due diligence measures** establish a direct obligation for companies to conduct specific due diligence obligations based on a pre-determined framework and sanction those companies for non-compliance with those obligations.
- **Corporate due diligence disclosure measures** aim to enhance transparency and incentivise changes in behaviour by requiring companies to disclose information about the steps taken in relation to their due diligence.
- **Trade-based measures** expect companies to demonstrate to authorities’ adequate due diligence processes and/or a specific level of risk in connection with a particular product or supply chain.

Numerous other factors influence the approach of mandatory measures to due diligence, including the level of detail included on the due diligence process, on the information that companies should publicly disclose, and on what constitutes an “appropriate” or “effective” prevention, mitigation or remediation measure. For example, sector-specific or issue-specific legislation tends to result in more specificity on due diligence expectations than horizontal legislation with broader sectoral, risk and geographic coverage.

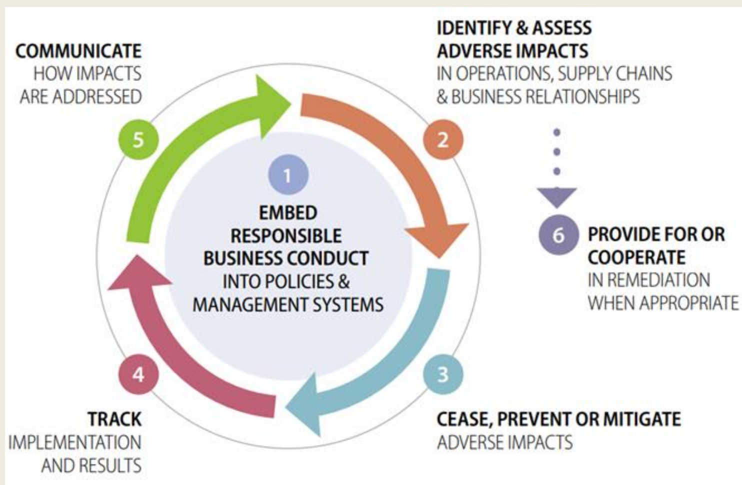
Box 3.1. The OECD Due Diligence framework

The **OECD Guidelines for Multinational Enterprises on Responsible Business Conduct** (the Guidelines) are recommendations from Governments to multinational enterprises on how to act responsibly and enhance their contribution to sustainable development. In 2023 the Guidelines were updated to better reflect current challenges and objectives. The OECD has developed a range of instruments providing further guidance on due diligence for specific sectors and risks issues, as well as at the cross-sectoral level through the OECD Due Diligence Guidance for Responsible Business Conduct.

The OECD-FAO Guidance for Responsible Agricultural Supply Chains was launched in 2016 following a two-year multi-stakeholder consultative process led by the OECD and FAO Secretariats. The OECD-FAO Guidance provides a common framework and globally applicable benchmark to help enterprises operating along agricultural supply chains to identify and mitigate adverse impacts and contribute to sustainable development. In addition, the OECD has developed Handbooks for business to help companies embed specific considerations on RBC risks such as deforestation, child labour and forced labour, into their corporate due diligence procedures.

The **OECD Due Diligence Guidance for RBC** seeks to promote a common understanding among governments and stakeholders on due diligence for responsible business conduct. The OECD MNE Guidelines and Due Diligence Guidance for RBC are aligned with the UN Guiding Principles on Business and Human Rights and the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy.

Figure 3.1. RBC due diligence framework



Source: (OECD, 2018[41])

Although the due diligence process is described in step-by-step fashion, in practice the process of due diligence is ongoing, iterative and dynamic, as several steps may be carried out simultaneously with ongoing feedback loops.

3.2.2. Approaches to two key characteristics of due diligence: the risk-based approach and stakeholder engagement

The OECD Guidelines and RBC due diligence guidance sets out key principles or “characteristics” of due diligence as well as a six-step due diligence framework, elaborated further in the RBC Due Diligence Guidance and the sectoral due diligence guidances. A comprehensive review of the policy measures against all characteristics and the six-step framework is beyond the scope of this report; this section instead focuses on two key characteristics in order to demonstrate some commonalities and differences in how the policy measures approach due diligence.

How do the mandatory measures identified integrate the risk-based approach?

Under the RBC due diligence guidance, multinational enterprises throughout the supply chain are expected to identify, prevent, mitigate and account for how they address actual and potential adverse impacts to people, society and the planet. As it will often not be possible for enterprises to identify or respond to all risks and impacts related to their activities and business relationships simultaneously and with the same degree of effort, enterprises are encouraged to prioritise their most significant risks and impacts first. They are also expected to tailor their due diligence to the nature, severity and likelihood of the risk and impacts they face in practice (see Box 3.2).

The extent to which mandatory measures integrate risk-based principles and expectations set out in the Due Diligence Guidance for RBC depends on numerous factors, as mentioned above. These include the issue and/or sector focus of the measure. Measures with a restrictive scope of risk in effect predetermine and prioritise specific RBC issues over others for companies; they also tailor due diligence requirements to the specific risk(s) in scope of the measure (e.g., deforestation). In these cases, measures may not incorporate additional risk-based requirements for enterprises in line with OECD RBC guidance.

Box 3.2. The risk-based approach under the OECD Guidelines for Multinational Enterprises on RBC and the OECD Due Diligence Guidance for RBC

The OECD MNE Guidelines state that: "*The nature and extent of due diligence, such as the specific steps to be taken, appropriate to a particular situation will be affected by factors such as the context of an enterprise's operations, the specific recommendations in the Guidelines, and should be proportionate to the size of the enterprise, its involvement with an adverse impact and the severity of adverse impacts. In this respect, the measures that an enterprise takes to conduct due diligence should be risk-based, commensurate to the severity and likelihood of the adverse impact and appropriate and proportionate to its context. Where it is not feasible to address all identified impacts at once, an enterprise should prioritise the order in which it takes action based on the severity and likelihood of the adverse impact*" (MNE Guidelines, 2023, Chapter II, Commentary, para. 19).

The risk-based approach is further elaborated in the OECD Due Diligence Guidance for RBC and encompasses two "key characteristics" of due diligence under OECD RBC standards. It is an essential part of ensuring that:

- **Enterprises prioritise the order in which they take action based on the severity[1] and likelihood** of the adverse impact and, on that basis, focus their due diligence on their higher-risk operations and business relationships.
- **The measures an enterprise takes are commensurate to the severity and likelihood of the adverse impact and adapted to the nature of the adverse impact,** which involves tailoring approaches for specific risks and taking into account how these risks affect different groups.

Once the most significant impacts are identified and dealt with, the enterprise should move on to address less significant impacts. The process of prioritisation is also ongoing, and in some instances new or emerging adverse impacts may arise and be prioritised before moving on to less significant impacts (OECD, 2022[42]).

1. Severity is not an absolute concept and is context specific; where the risk of a potential impact is most likely and most severe will be specific to the enterprise, its sector and the nature of its business relationships. Severity is determined according to three factors: **Scale** or the gravity or seriousness of the potential or actual impact, such as the degree of serious impact on workers' health and safety, degree of waste or chemical generation; or loss of life or severe bodily harm caused; **Scope** or the reach or extent of the potential or actual impact, for example the number of individuals that are or will be affected, or the extent of environmental damage or other environmental impact; and **Irremediable character** or its irreversible nature, or any limits on the ability to restore the individuals or environment affected to a situation equivalent to their situation before the adverse impact.

For example, the US Uyghur Forced Labor Prevention Act and the EU Deforestation Regulation pre-determine high-risk factors for companies (e.g., geographies, business entities and commodities) and ask them to focus on a specific risk. They do not include additional expectations for companies to prioritise and tailor their due diligence according to the nature, severity and/or likelihood of risk. However, the EU

Deforestation Regulation includes a separate country benchmarking system intended to guide companies' risk management.[15]

Other measures do integrate risk-based elements and principles into the due diligence expectations, but with varying degrees of specificity and consistency with international standards. For example, measures vary in the degree to which they list severity and likelihood as criteria to inform due diligence and prioritisation decisions. Some corporate due diligence disclosure and mandatory due diligence measures explicitly list severity and/or probability as factors to take into account in prioritisation decisions, either in the text of the law or in statutory guidance (e.g., UK Modern Slavery Act, German Supply Chain Act, French Duty of Vigilance Law) but they tend to vary in level of detail and do not always define severity. Other measures rely on broader concepts of "appropriateness" or "materiality" and are less specific about how companies should prioritise.

Importantly, the identified measures also take different approaches to the role of influence or leverage over a supplier or other business partner in the due diligence process. Under the OECD Due Diligence Guidance on RBC and the UN Guiding Principles on Business and Human Rights, the degree of leverage or influence an enterprise has over a business partner is relevant to how it *responds* to an identified risk or impact but is not relevant to prioritisation decisions. However, some measures lack clarity on the role of influence or leverage; others require due diligence on longer-term or "established" business partners or only in relation to direct or Tier 1 suppliers (OECD, 2022[42]).

How do the mandatory measures identified reflect stakeholder engagement?

Box 3.3. Stakeholder engagement under the OECD Due Diligence Guidance on RBC

Stakeholder engagement is a core element of a risk-based due diligence process under OECD RBC due diligence guidance. Under the MNE Guidelines, enterprises are expected to engage meaningfully with relevant stakeholders or their legitimate representatives as part of carrying out due diligence and in order to provide opportunities for their views to be taken into account with respect to activities that may significantly impact them related to matters covered by the MNE Guidelines (Chapter II, para. 15). Relevant stakeholders are persons or groups, or their legitimate representatives, who have rights or interests related to the matters covered by the Guidelines that are or could be affected by adverse impacts associated with the enterprise's operations, products or services (Commentary to Chapter II, para. 28).

Stakeholder engagement is characterised by two-way, good faith communication and involves the timely sharing of the relevant information needed for stakeholders to make informed decisions in a format that they can understand and access. Meaningful engagement with relevant stakeholders is important throughout the due diligence process. In particular, when the enterprise may cause or contribute to, or has caused or contributed to an adverse impact, engagement with impacted or potentially impacted stakeholders and rightsholders will be important.

Source: (OECD, 2018[41]) (OECD, 2023[43])

Both of the mandatory due diligence measures have direct stakeholder engagement expectations embedded as core requirements, though with differences in emphasis and level of detail:

- The French Duty of Vigilance Law requires the vigilance plan to be "drawn up in conjunction with stakeholders of the company, including as part of multi-stakeholder initiatives within sectors or at local level" and further mandates to establish a grievance mechanism "in consultation with the representative trade union organisations within the company". However, it does not require engagement with relevant stakeholders more broadly during the due diligence process and does not define "stakeholders".

- The German Supply Chain Act requires companies, in establishing and implementing their risk management system, to "give due consideration to the interests of its employees, employees within its supply chains and those who may otherwise be directly affected in a protected legal position by the economic activities of the enterprise or by the economic activities of an enterprise in its supply chains".

The corporate reporting and trade-based measures tend to include limited detail on stakeholder engagement expectations, though stakeholder engagement is sometimes addressed in accompanying guidance. Stakeholders also do not tend to be defined. The EU Corporate Sustainability Reporting Directive requires companies to report information on "*how the undertaking's business model and strategy take account of the interests of the undertaking's stakeholders and of the impacts of the undertaking on sustainability matters*" (Art. 19(2)a, f & 29(2)a, f). Further detail on stakeholder engagement is expected in the EU's future European Sustainability Reporting Standards. The US Customs and Border Protection guidance note to the US Uyghur Forced Labor Prevention Act that "*due diligence system information used to overcome rebuttable presumption may include engagement with suppliers and other stakeholders to assess and address forced labor risk*" (US Homeland Security, 2022[44]).

3.2.3. Public reporting expectations on due diligence

OECD Due Diligence Guidance on RBC recommends that companies communicate externally relevant information on due diligence policies, processes and activities conducted to identify and address actual or potential adverse impacts, including the findings and outcomes of those activities. The Due Diligence Guidance for RBC and sectoral due diligence guidances provide additional detail.

Publication and disclosure of due diligence processes is the most common feature shared by mandatory measures, with eight out of ten (80%) measures mandating businesses to report publicly on their due diligence measures. However, the format and information contained vary significantly between measures.

While penalties related to a business's failure to disclose are part of ensuring businesses meet expectations, mandatory reporting is also intended to enable civil society and market decision makers such as consumers, business to business and government to business buyers and investors to make decisions on their purchasing or investing based on those disclosures, and thereby exerting pressure to deliver improvements.

The two mandatory due diligence laws provide relatively detailed descriptions of what information companies should report on (see Table A B.1 in Annex B). The three corporate due diligence disclosure measures also provide a detailed and granular level of description of what elements of the due diligence processes companies are expected to report on.

While conducting due diligence is not directly mandated in trade-based measures, providing a 'due diligence report' is often required to demonstrate compliance or rebut a presumption that a product has been made by generating a specific risk. The UK Environment Act, the EU Deforestation Regulation and the Uyghur Forced Labour Prevention Act provide (or will provide, pending secondary legislation) information as to what due diligence should or could look like either through the text of the law, through secondary legislation or accompanying Guidance.

Other trade-based measures are less specific about what due diligence information should be reported on and do not mandate any public reporting. For example:

- The US Lacey Act does not refer to due diligence, but rather prohibits the trade of wildlife, fish and plants where the importer in the exercise of "due care"[16] should have known that the goods were illegally taken, possessed, transported or sold. The Act does not define or mandate what due care constitutes in practice.[17]

- Although an additional Guideline was published in 2023 which includes information about how to conduct due diligence and check lists for due diligence, under the Japan Clean Wood Act, it is left up to the company's discretion with regard to how they check the legality of wood products in accordance with the act. In addition, the Japanese Forestry Agency has designed an accompanying guidance, the Clean Wood Navi, to aid companies in meeting the requirements under the Act. This Clean Wood Navi is a web portal that "contains information on the relevant laws and regulations for each producer country, as well as examples of certificates and permits for each" (Forest Trends, 2020[39]).

3.2.4. Approaches to enforcement

This section considers only the mandatory measures identified, which vary substantially in how they approach enforcement, both in terms of (a) which authorities are responsible for enforcement and (b) the regime for sanctioning and holding companies liable for non-compliance.

In terms of which authorities are responsible for enforcement:

- **Trade-based measures are generally enforced by custom and borders agencies**, with authorities able to seize goods that do not meet the law's requirements e.g., the US Customs and Border Protection is the primary authority responsible for enforcement under the US Uyghur Forced Labor Prevention Act. (CBP, 2020[45]). On a yearly basis, the US Customs and Border Protection provides metrics on the number of shipments seized and their value. For example, in 2022, a total of 262 agricultural product shipments were seized of an amount of USD 16 million (CDP, 2023[46]).
- **The two mandatory due diligence measures differ in approach.** The German Supply Chain Act allocates new powers to an existing administrative agency (i.e., the Federal Office for Economic Affairs and Export Control) to enforce its provisions while in France, the Duty of Vigilance Law has no associated enforcement authority and can be enforced through civil court decisions.
- **The corporate due diligence disclosure measures also take different approaches**. Under the California Transparency in Supply Chains Act, the Attorney General has exclusive authority to enforce the Act and may file a civil action for injunctive relief.[18] Under the UK Modern Slavery Act, the Secretary of State can bring civil proceedings in the High Court for an injunction.[19] Finally, nationally competent authorities (likely financial market authorities) will be in charge of supervising enforcement of the EU Corporate Sustainability Reporting Directive once transposed into national law.

Enforcement regimes also vary significantly when it comes to penalty and sanction regimes. For example:

- **Trade-based measures take a variety of different approaches.** The EU Deforestation regulation's penalties range from fines proportionate to the environmental damage, confiscation of revenues gained by the importer and (temporary) prohibitions from exercising the simplified due diligence option offered under the regulation or placing relevant commodities onto the market.[20] Through the Lacey Act, illegal trafficking of wildlife can lead to a civil penalty, criminal penalty or a permit sanction. The Japan Clean Wood Act did not have any enforcement mechanism nor foreseen sanctions, except for revocation of the company's registered status under the "Registered Wood-related Business Entity" until an amendment act was introduced in May 2023, which includes penal provisions for the violation of the act.
- **The two mandatory due diligence measures differ in important ways**, with the French law based on judicial enforcement by competent courts. The court, upon being seized by "any interested person", can order the establishment, disclosure and effective implementation of vigilance measures, including under penalty payment. Judicial enforcement is the sole

enforcement mechanism as there is no supervisory authority to monitor enforcement. Under the German Supply Chain Act, enforcement is based exclusively on administrative enforcement. The administrative supervisor can require that companies take concrete action to fulfil their obligations. Administrative fines of up to 2% of annual turnover can be awarded for failure to comply, as well as prohibition for sanctioned companies to receive government contracts.

- **Corporate due diligence disclosure measures also vary in their penalties.** For the UK Modern Slavery Act and the California Transparency in Supply Chains Act, sanctions will be enforced through injunctions – depending on the proceedings undertaken by the High Court or the Attorney General. In the case of the EU Corporate Sustainability Reporting Directive, specific sanctions will be at the discretion of Member States, which should ensure that there are effective systems of investigations and sanctions to “detect, correct and prevent inadequate execution of the statutory audit and the assurance”.

Notes

[1] RBC risks refer specifically to the risks of adverse impacts with respect to issues covered by the OECD Guidelines for Multinational Enterprises — impacts on society (including human rights and labour), governance and the environment.

[2] The UK Environment Act does have a broad environmental scope but the due diligence component (Schedule 17) only addresses “forest risk commodity”. Under the Schedule, a regulated person must not use a forest risk commodity, or a product derived from a forest risk commodity in their UK commercial activities unless relevant local laws were complied with and must establish and report on a “due diligence system”.

[3] Ten measures focus on deforestation risk. Four measures have their primary focus on deforestation-risk, i.e., the EU Deforestation Regulation, the Fact Dialogue, the Forest Data Partnership, and the Amsterdam Declaration Partnership. Six measures focus on several specific risks, of which deforestation is one. The UK Environment Act covers environment-related risks, with specific attention for deforestation risk. The Initiative for Sustainable Agricultural Supply Chains focuses on the risks of deforestation and living wage in the agricultural supply chain. The Forum for Sustainable Palm Oil covers deforestation, biodiversity loss and human rights. The French, German, and EU Sustainable Cocoa Initiatives both focus on a broad range of environmental and social issues, including deforestation and forced labour.

[4] Four measures focus specifically on forced labour/modern slavery and human trafficking, i.e., the UK Modern Slavery Act, the California Transparency in Supply Chains Act, the US Uyghur Forced Labour Prevention Act (also known as UFLPA) and EU External Action Service guidance on Due Diligence to combat forced labour in supply chains. The French, German, and EU Sustainable Cocoa Initiatives focus on forced labour together with deforestation, amongst others. The German Forum for More Sustainable Protein Feed focuses on sustainable legume production for feed, sustainable value chains and biodiversity loss.

[5] Minamata Convention on Mercury of 10 October 2013.

[6] Article 12 of the International Covenant on Economic, Social and Cultural Rights.

[7] Topical standards on *Environment* include climate change, pollution, water and marine resources, biodiversity and ecosystems and resource use and circular economy. Topical standards on *Social* are broken up into social standards with regard to company's own workforce, their workers in the value chain, affected communities and consumers and end-users.

[8] Note that the OECD Guidelines for MNEs define the term "business relationships" broadly (See Commentary on Chapter II, para. 17): *"The term 'business relationship' includes relationships with business partners, sub-contractors, franchisees, investee companies, clients, and joint venture partners, entities in the supply chain which supply products or services that contribute to the enterprise's own operations, products or services or which receive, license, buy or use products or services from the enterprise, and any other non-State or State entities directly linked to its operations, products or services."*

[9] Government-led partnerships and initiatives all focus on specific commodities, with palm oil, cocoa and soy (all referenced in four times) being the most mentioned commodities amongst the eight measures. Some initiatives focus on one commodity, while others focus on a range of relevant commodities. The Sustainable Cocoa Initiative on cocoa, the Forum on more Sustainable Protein Feed mainly on legumes, including soy, the Forum for Sustainable Palm Oil on palm-oil. The Initiative for Sustainable Agricultural Supply Chains focuses on rubber, soy, palm oil, banana, coffee, cocoa, orange juice, cotton. The Amsterdam Declaration Partnership on cattle, cocoa, coffee, palm oil, rubber, soy, wood, leather as commodities to tackle deforestation-risk. The Fact Dialogue focuses on palm oil, soya, cocoa, beef, and timber. The Forest Data Partnership specifically focuses on forest-risk commodities, being derived from deforestation-risk. The Sustainable Agri-food Value Chains focuses on agri-food.

[10] Taking into consideration that the agricultural-lens of the study may influence this finding, and that RBC-related regulations and policies may not always have pre-selected commodities by design.

[11] The UK Environment Act, the EU Deforestation Regulation, and the Japan Clean Wood Act.

[12] The Forest Risk Commodities Scheme under the UK environment Act is less likely to apply to SMEs because of the definition of "regulated person" (including the requirement to meet conditions in relation to turnover) in para. 7 of Schedule 17. Para. 7 also expressly excludes natural persons (individuals). However, SMEs could be impacted is under Schedule 17, para. 7(1)(b), if the SME is "a subsidiary of another undertaking which meets [the turnover] conditions".

[13] The OECD MNE Guidelines state that: "Where enterprises have large numbers of suppliers, they are encouraged to identify general areas where the risk of adverse impacts is most significant and, based on this risk assessment, prioritise suppliers for due diligence".

[14] A comprehensive alignment assessment of whether specific measures align with the international standards is, however, outside the scope of this paper.

[15] The country benchmarking is based on an assessment which includes the following criteria: a) rate of deforestation and forest degradation b) rate of expansion of agriculture land for relevant commodities c) production trends of relevant commodities and of relevant products and may also take into account additional information as contained in Article 29.4.

[16] "Due" care is a legal principle that means the degree of care at which a reasonably prudent person would take under the same or similar circumstances. The Lacey Act does not define nor mandate any requirements to constitute due care. U.S. importers have discretion to determine how to best verify the

legitimacy of their supply chain going back to where the plant material was taken, and the legality of transactions thereafter, and to abide by plant protection and conservation laws in the U.S. and abroad (USDA, 2023[54]).

[17] For certain products, a person is required to file an import declaration – a Lacey Act Declaration – upon importation that contains the scientific name of any plant (including the genus and species of the plant) contained in the importation, a description of the value of the importation, the quantity, including the unit of measure, of the plant and the name of the country from which the plant was taken. The Animal and Plant Health Inspection Service (APHIS) lists the products that require a Lacey Act declaration in the Harmonized Tariff Schedule chapter and continuously evaluates this list (CBP, 2020[45]).

[18] Injunctive relief, also known as an injunction, is a remedy which restrains a party from doing certain acts or requires a party to act in a certain way.

[19] See Injunctive relief. It is worth noting that this enforcement measure has never been used in practice.

[20] Without prejudice to the obligations of Member States under Directive 2008/99/EC of the European Parliament and of the Council.

4 Further research: Supporting policy coherence and effective implementation

This section highlights the importance of greater policy coherence around internationally recognised standards on RBC and explores areas for further research to understand potential impacts and implementation needs.

As highlighted in other sections, there is considerable variation in the scope and the due diligence approach used by the 24 policy measures identified in this review. As such, the potential impacts of each measure on businesses and relevant stakeholders in the agriculture sector will likely differ significantly. However, as set out in Section 3, many of the policy measures identified were adopted in the last three years and so it is too early to evaluate their implementation and impacts comprehensively. The wider RBC policy landscape itself also remains a nascent field, particularly when compared to other fields that are both complex and highly regulated (e.g., tax legislation, accounting rules, anti-money laundering legislation and laws on food and product safety and occupational health and safety). As such, a comprehensive assessment of the impacts of the measures is outside the scope of this report and requires further monitoring and research into the costs, benefits and consequences of the identified government measures.

In the absence of such a comprehensive assessment, policy makers nevertheless have an important opportunity to: (a) harmonise and coordinate policy measures relating to RBC due diligence; and (b) develop appropriate accompanying measures to ensure that implementation is effective and achieves the intended policy goals, and that unintended consequences are identified and avoided.

4.1. Policy coherence and harmonisation around international OECD standards on Due Diligence and RBC

It is important to recognise that the implementation and impact of mandatory or voluntary policy measures will depend significantly on the design of the measures themselves - including their scope, the extent to which they align with core principles and expectations of the OECD instruments and whether or not they are supported by effective complementary or accompanying measures to incentivise and support responsible and sustainable business conduct (see Subsection 4.1.1).

Policy coordination and harmonisation around international OECD standards on due diligence and RBC can help reduce complexity for companies and their suppliers by setting consistent expectations across different jurisdictions; this can be particularly important for SMEs and companies whose operations and supply chains span multiple jurisdictions. Greater consistency with international OECD standards on due diligence and RBC can also help to ensure that the expectations are flexible, proportionate and risk-based for companies and their suppliers, reflecting their own circumstances (e.g., their size and the context of their operations) and the risks they face in practice. OECD instruments on RBC have been carefully calibrated to give companies this type of flexibility and to guard against unintended consequences such as disengagement from smaller suppliers or higher-risk geographies and sectors. They are designed to ensure an approach that balances different needs and objectives, so that risk-based due diligence leads to positive outcomes for people, society and the environment – including through engagement along the supply chain and a focus on demonstrating improvement over time against targets.

In contrast, fragmented or inconsistent policy approaches can lead to confusion and uncertainty for companies and their suppliers as well as uneven implementation across different markets and potential loopholes or blind spots. For example, in the context of the EU’s Deforestation Regulation, the EU’s impact assessment highlighted the importance of policy coherence across G7 members to avoid market leakage (whereby demand-side approaches may otherwise incentivise a shift in goods to markets without comparable measures), and recommended alignment on, among other things, commodity coverage, approach, cut-off dates and timeframes. It also noted the importance of cooperation with producing and consumer countries, as well as with international organizations, to address leakage risks and to achieve the goal of halting global deforestation (European Commission, 2021[47]). In many cases, RBC risks occur in the supply chains of commodities that are destined for domestic markets, that may be less influenced by measures imposed by export markets. However, international standards and measures can play a role in influencing domestic supply chains by supporting the cost, access to and quality of due diligence by providing supporting tools, guidance and services to businesses in developing economies.

The recent OECD Ministerial Declaration on Promoting and Enabling Responsible Business Conduct in the Global Economy, adhered to by 50 governments and the EU, highlighted the importance of cooperation and coordination on RBC policy measures to promote alignment with OECD Due Diligence guidance for RBC. It acknowledged the relevance of a smart mix of voluntary and mandatory approaches, including capacity building and other accompanying measures (OECD, 2023[37]). The OECD Recommendation on the Role of Government in Promoting Responsible Business Conduct also recommends that adherent governments coordinate their policies and activities relevant to RBC, by promoting coherence across domestic government agencies and bodies to facilitate alignment and synergies between policies and practices, including through the use of co-ordination mechanisms to facilitate coherent policies across ministries, public agencies, and levels of government, including cross-sectoral plans (OECD, 2022[29]).

4.1.1. Accompanying measures

Notwithstanding the need for future research on the impacts of the policy measures in scope of this review, policy makers can adopt accompanying measures to promote implementation and address potential barriers (such as resource and capacity constraints) and address potential unintended consequences (such as blanket disengagement) of relevant policies. Accompanying measures are critical for ensuring that demand-side policies on responsible supply chains are effective in achieving their intended outcomes and do not impose unfair burdens or costs on upstream suppliers, particularly SMEs or smallholders in the agriculture sector. It is notable that between 2000–2018, 68% of worldwide agriculture-driven deforestation took place as a result of small-scale farming; 71% of deforestation due to cropland expansion was linked to small-scale farming (FAO, 2023[48]). Many of these smallholders, as well as their informal networks of traders and agents, will likely be impacted directly or indirectly by existing and emerging policy measures on deforestation, for example.

Governments can consider a range of accompanying measures to build capacity, create an enabling environment for RBC, and promote engagement and partnership with key producer and consumer countries on relevant policy measures. Comprehensive research and recommendations on appropriate accompanying measures across the 24 policies are outside the scope of this report and require further research, including to address divergences from OECD instruments on RBC. Future research could include the development of a framework to identify and measure the costs and benefits of due diligence-related policy measures and provide recommendations on complementary measures to address barriers to implementation and any unintended impacts of the policy measures. International cooperation and partnership with relevant producing, trade and consumer markets in the agriculture sector will remain critical to build capacities, share information and promote harmonisation and potential recognition between jurisdictions.

Box 4.1. The role of development co-operation in sustainable supply chains measures

RBC is not a new topic for development co-operation actors and donor agencies, which have started integrating RBC in their activities as well as in their programming. OECD data shows that such support is often allocated to specific projects that support the implementation of OECD standards on Due Diligence and RBC, for example by providing training to companies on the implementation of Due Diligence or supporting governments in the establishment of an enabling framework for RBC. For example, the government of Japan has partnered with UNDP to launch a Global Business and Human Rights Project to promote responsible business and respect for human rights in 17 countries (UNDP, 2022[49]). The European Union (EU), in partnership with the ILO, OHCHR and OECD has implemented programmes in Asia and Latin America and the Caribbean to help create enabling policy environments for RBC and build capacities on RBC for both policy makers and local businesses (OECD, 2022[50]).

Current regulatory developments on RBC are raising new questions, including how to ensure implementation while avoiding negative impacts, such as conflicting due diligence requirements, disengagement from regions perceived as “high-risk”, and cascading the cost of due diligence onto smaller businesses. When conducting risk-based due diligence aligned with international standards, these potential side-effects can be mitigated. The risk-based approach is carefully designed to ensure that businesses tailor their due diligence to the nature, severity and likelihood of the risk and impacts, and where they are located in the supply chains. It incentivises businesses to meaningfully engage with suppliers and work collaboratively in mitigating identified risks and impacts – including through joint stakeholder initiatives that can to pool knowledge, increase leverage and scale-up effective measures while also sharing cost of due diligence among supply chain actors (OECD, 2021[51]).

These regulatory developments are increasingly addressing such risk by embedding capacity building and financial support for smallholder farmers, SMEs and other businesses in third countries. Such measures can take the form of technical assistance to governments, access to financial support, provision of trade and customs data, or facilitation of joint stakeholder initiatives to help companies fulfil their obligations. These can be leveraged and complimented through ODA that addresses sustainable agriculture and supply chains.

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Annex A. Selective inventory of government due diligence measures for sustainable agricultural supply chains

Name of the measure (and date of adoption)	RBC risk scope	Entity scope	Commodity scope	Enforcement	Reference to international OECD standards on Due Diligence and RBC
Mandatory measures					
Corporate due diligence disclosure measures					
California Transparency in Supply Chains Act (2010)	Modern Slavery and Human Trafficking	If the entity is doing business in the state of California (and) an annual worldwide gross receipts in excess of USD 100 million.	N/A	The Attorney General has exclusive authority to enforce the Transparency in Supply Chains Act and may file a civil action for injunctive relief	No
UK Modern Slavery Act (2015)	Modern Slavery and Human Trafficking	If the entity carries on business in any part of the UK and has an annual turnover above GBP 36 million, wherever incorporated or formed	N/A	If an entity fails to produce a statement, the Secretary of State can seek an injunction requiring compliance. Failure to comply with the injunction would be contempt of court, punishable by an unlimited fine. The Modern Slavery Statement Registry, although a voluntary system at the moment, is an important tool for transparency.	No
EU Corporate Sustainability Reporting Directive (2023)	ESG/ Sustainability risks	All EU listed companies (listed SMEs being covered as of 2026) and/or Net turnover of EUR 40 million; balance sheet total of EUR 20 million and/or 250 employees on average over the financial year.	N/A	EU Member States set their own enforcement and penalty rules under the directive	Reference to OECD Guidelines and Due Diligence Guidance, ILO MNE Declaration and UNGPs.

Name of the measure (and date of adoption)	RBC risk scope	Entity scope	Commodity scope	Enforcement	Reference to international OECD standards on Due Diligence and RBC
Trade-based measures					
US Lacey Act (2008, last amended)	Wildlife trafficking	The US Lacey Act applies to both individual and enterprises without specific scope or threshold and establishes a general prohibition to import or introduce a number of species, plants, and wildlife.	Wildlife, fish, and plants	Any person who engages in conduct prohibited by any provision of the Lacey Act and in the exercise of due care should know that the fish or wildlife or plants were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty, or regulation may be assessed a (i) civil penalty, (ii) criminal penalty or (iii) a permit sanction by the Secretary	No
Japan's Act on the Promotion of Use and Distribution of Legally Harvested Wood and Wood Products (known as the Clean Wood Act) (2016)	Illegal harvesting	The Japan Clean Wood Act defines "Wood-related Business Entity" that are covered under the act as "a person engaged in the business of manufacturing, processing, importing, exporting or selling (excluding sale to consumers) the Wood and Wood Products, the business of constructing buildings and other structures using wood or any other business using the Wood and Wood Products which are specified by an Ordinance of the competent ministries".	Timber products	Failure to comply with the provisions of the Act can result in the revocation of registered status for businesses that are registered. (art. 14) Amendment act was promulgated in May 2023, which includes penal provisions for the violation of the order regarding due diligence activities such as information collection. https://www.japaneselawtranslation.go.jp/outline/76/905R415.pdf	No
US Uyghur Forced Labour Prevention Act (2021)	Forced Labour	The US UFLPA applies to all entities that source goods that are "mined, produced, or manufactured, wholly or in part" in Xinjiang or if their supply chain has a nexus with Xinjiang (US CBP, 2021). The US Department of Homeland Security also provides a the "UFLPA Entity List", to help companies identify high-risk entities suspected of being engaged in forced labour activities	High-risk commodities including polysilicon, tomatoes and cotton provided by CBP's operational guidance (Appendix A)	The US Custom and Border Protection and the Office of Trade and the Office of Field Operation are the primary entities responsible for enforcing the Uyghur Forced Labor Prevention Act.	Reference to OECD Due Diligence Guidance for RBC and UNGPs in CBP's accompanying guidance.

Name of the measure (and date of adoption)	RBC risk scope	Entity scope	Commodity scope	Enforcement	Reference to international OECD standards on Due Diligence and RBC
UK Environment Act (2021)	Deforestation	The UK Environment Act covers “regulated persons”, defined as a person (other than an individual) who carries on commercial activities in the UK. Secondary legislation will be added to specify a certain turnover threshold for companies to be in scope.	Forest-risk commodities	Further regulation the Secretary of State may provide additional information on enforcement, including on the establishing of an enforcement authority and sanctions (Schedule 17, part 2).	No
EU Deforestation Regulation (2023)	Deforestation	The EU Deforestation Regulation applies to all EU to “traders” and “operators” that “place relevant products on the market or exports them”.[1] The regulation further defines “operators” as natural or legal person who, in the course of a commercial activity, places relevant products on the market or exports them; and “traders” as person in the supply chain (other than the operator) who, in the course of a commercial activity, makes relevant products available on the market.	Article 2 relevant commodities’ means cattle, cocoa, coffee, oil palm, rubber, soya, and wood; ‘relevant products’ means products listed in Annex I that contain, have been fed with or have been made using relevant commodities	The EU Deforestation regulation sees penalties ranging from fines proportionate to the environmental damage, confiscation of revenues gained by the importer and (temporary) prohibitions from exercising the simplified due diligence option offered under the regulation or placing relevant commodities onto the market	No
Mandatory due diligence					
French Corporate Duty of Vigilance Law (2017)	Human rights, fundamental freedoms, health and safety and the environment	Headquartered in France and 5 000 employees in the company's direct or indirect French-based subsidiaries and with more than 10 000 employees if including direct and indirect subsidiaries globally.	N/A	Judicial enforcement is the sole enforcement mechanism (art 3). The court, upon being seized by "any interested person", can order the establishment, disclosure and effective implementation of vigilance measures, including under penalty payment.	No (Reference to UNGPs and OECD MNE Guidelines in Parliamentary work).
German Supply Chain Act (2023)	Human rights and specified environmental risks	Their ‘principal place of business’ in Germany and At least 3 000 employees in Germany, included those posted abroad.	N/A	The German Supply Chain Act allocates new powers to an existing administrative agency (i.e., the Federal Office for Economic Affairs and Export Control) to enforce its provisions.	No

Name of the measure (and date of adoption)	RBC risk scope	Entity scope	Commodity scope	Enforcement	Reference to international OECD standards on Due Diligence and RBC
Voluntary Measures					
Government Guidances					
Japan's Introductory Guide on Environmental Due Diligence along the Value Chains: Referencing the OECD Guidance (2020)	Environmental risks	Japanese businesses	N/A		OECD Due Diligence Guidance for RBC
EU Code of Conduct on Responsible Food Business and Marketing Practices (2021)	Broad sustainability risks	A deliverable of the EU Farm to Fork Strategy and an integral part of its action plan. It sets out the actions that the actors 'between the farm and the fork', such as food processors, food service operators and retailers, can voluntarily commit to undertake to tangibly improve and communicate their sustainability performance.	Unspecified		Reference to the OECD-FAO Guidance
EU Guidance on due diligence to combat forced labour in supply chains (2021)	Forced labour	EU companies	N/A		OECD Guidelines, Due Diligence Guidance for RBC, UNGPs and ILO Tripartite Declaration
Japan's Guidelines on Respecting Human Rights in Responsible Supply Chains (2022)	Human rights and labour rights	Japanese businesses	N/A		OECD Guidelines, Due Diligence Guidance for RBC, UNGPs and ILO Tripartite Declaration
Partnerships and initiatives					
German Initiative on Sustainable Cocoa (2012)	Deforestation, biodiversity loss, human rights		Cocoa		
Forum for Sustainable Palm Oil (2013)	Deforestation, biodiversity loss and human rights.		Palm oil		
Forum for More Sustainable Protein	Sustainable legume production, sustainable value chains,		Protein feed (soy)		

Name of the measure (and date of adoption)	RBC risk scope	Entity scope	Commodity scope	Enforcement	Reference to international OECD standards on Due Diligence and RBC
Feed (FONEI) (2014)	biodiversity loss, deforestation (and land conservation)				
Amsterdam Declaration Partnership (2015)	Deforestation		Cattle, cocoa, coffee, palm oil, rubber, soy, wood, leather		
EU's Sustainable Cocoa Initiative (2020)	Sustainability risks, including child labour and child trafficking, the protection and restorations of forests, and to ensure a living income for cocoa farmers.		Cocoa		
Forest Data Partnership (2021)	Deforestation		Forest risk commodities		
Initiative for Sustainable Agricultural Supply Chains (2021)	Living wage and deforestation		Rubber, soy, palm oil, banana, coffee, cocoa, orange, cotton		
Sustainable agri-food value chains (part of the Food Systems Summit) (2021)	Environmental, social, and economic impacts		Unspecified		
FACT Dialogue (2021)	Deforestation, environmental, social and economic impacts		Forest Risk Commodities including palm oil, soya, cocoa, beef, and timber		
France's Sustainable Cocoa Initiative (2021)	Forced labour and deforestation		Cocoa		

Annex B. Due diligence reporting expectations

Table A B.1. Due diligence information to be publicly disclosed in mandatory due diligence measures

Measures	Information	Publication
French Duty of Vigilance Law (2017)	The vigilance plan should include the following information: • A risk mapping meant for their identification, analysis and prioritisation. • Regular evaluation procedures regarding the situation of subsidiaries, subcontractors or suppliers with whom there is an established commercial relationship, in line with the risk mapping. • Appropriate actions to mitigate risks or prevent severe impacts. • An alert and complaint mechanism relating to the existence or realisation of risks, drawn up in consultation with the representative trade union organisations within the company. • A system monitoring implementation measures and evaluating their effectiveness	Both the vigilance plan and the report concerning its effective implementation should be included in companies consolidated non-financial report on a yearly basis
German Supply Chain Act (2022)	The report should include: • whether the enterprise has identified any human rights and environment-related risks or violations of a human rights-related or environment-related obligation, and if so, which ones, • what the enterprise has done to fulfil its due diligence obligations with reference to the measures described in sections 4 to 9; this also includes the elements of the policy statement pursuant to section 6 (2) as well as the measures taken by the enterprise as a result of complaints pursuant to section 8 or section 9 (1), • how the enterprise assesses the impact and effectiveness of the measures, • what conclusions it draws from the assessment for future measures.	The enterprise must prepare an annual report on the fulfillment of its due diligence obligations in the previous financial year and make it publicly available free of charge on the enterprise's website no later than four months after the end of the financial year for a period of seven years.

Table A B.2. Due diligence information to publicly disclosed in disclosure-based measures

Measures	Information	Publication
California Transparency in Supply Chains Act (2010)	In its **supply chains disclosure**, a company must disclose to what extent, if any, it: 1. Provides company employees and management, who have direct responsibility for supply chain management, training on human trafficking and slavery, particularly with respect to mitigating risks within the supply chains of products. 2. Engages in verification of product supply chains to evaluate and address risks of human trafficking and slavery. The disclosure shall specify if the verification was not conducted by a third party. 3. Conducts audits of suppliers to evaluate supplier compliance with company standards for trafficking and slavery in supply chains. The disclosure shall specify if the verification was not an independent, unannounced audit. 4. If it maintains internal accountability standards and procedures for employees or contractors failing to meet company standards regarding slavery and trafficking	The Act requires companies subject to the law to disclose information on their website or, if a company does not have a website, through written disclosures.
The UK Modern Slavery Act (2015)	The **Modern Slavery Statement** may include information about: 1. The organization's structure, its business, and its supply chains. 2. Its policies in relation to slavery and human trafficking. 3. Its due diligence processes in relation to slavery and human trafficking in its business and supply chains; the parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk; its effectiveness in ensuring that slavery and human trafficking is	Organisations in scope of the Act must prepare a slavery and human trafficking statement for each financial year of the organisation. It must publish the slavery and

	not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate. 4. The training about slavery and human trafficking available to its staff." (Act, part 6, 54(5))	human trafficking statement on that website, and include a link to the slavery and human trafficking statement in a prominent place on that website's homepage. (Act, par 6 (1) & (7))
EU Corporate Sustainability Reporting Directive (2023)	**Sustainability reporting** shall contain a description of 1. The due diligence process implemented by the undertaking with regard to sustainability matters (art. 19a & 29a). 2. The principal actual or potential adverse impacts connected with the undertaking's own operations and with its value chain, including its products and services, its business relationships and its supply chain, actions taken to identify and monitor those impacts; (art. 19a & 29a) 3. Any actions taken by the undertaking to prevent, mitigate, remediate or bring an end to actual or potential adverse impacts, and the result of such actions. 4. How the undertaking's business model and strategy take account of the interests of the undertaking's stakeholders and of the impacts of the undertaking on sustainability matters" (Art. 19(2)a, f & 29(2)a, f) Note the Commission Delegated Regulation adopted on 31 July 2023 which specifies the European sustainability reporting standards that certain companies should use to prepare their sustainability reporting (EC, 2023[52]).	Reporting on sustainability matters needs to be part of the management report. (Art. 19 & 29)

Sources: (State of California Department of Justice, 2010[53])

Table A B.3. Due diligence information to publicly disclosed in trade-based measures

Measures	Information	Publication
Uyghur Forced Labour Prevention Act (2021)	The Act itself does not provide information on due diligence steps to implement. Accompanying guidance however lists information that a company can provide as part of its 'due diligence system': 1. Engagement with suppliers and other stakeholders to assess and address forced labor risk. 2. Mapping of the supply chain and assessment of forced labor risks along the supply chain from raw materials to production of the imported good 3. Written supplier code of conduct forbidding the use of forced labor and addressing the risk of use of Chinese government labor schemes. 4. Training on forced labor risks for employees and agents who select and interact with suppliers. 5. Monitoring of supplier compliance with the code of conduct 6. Remediation of any forced labor conditions identified or termination of the supplier relationship if remediation is not possible or is not timely completed. 7. Independent verification of the implementation and effectiveness of the due diligence system	US UFLPA requires importers of any size to respond to Customs and Border Protection requests demonstrating that the goods are not produced wholly or in part by forced labour in Xinjiang, China.
UK Environment Act (2021)	Annual report on due diligence system: A regulated person in relation to a forest risk commodity who uses that commodity, or a product derived from that commodity in their UK commercial activities must, for each reporting period, provide the relevant authority with a report on the actions taken by the person to establish and implement a due diligence system in relation to that commodity as required by paragraph 3 (Schedule 17, part 1.4). The relevant authority must make reports under this paragraph available to the public in the way, and to the extent, specified in regulations made by the Secretary of State.	A regulated person under the Act must provide the (still to be determined) relevant authority with an annual report no later than 6 months after the end of the reporting period to which it relates. Following, the relevant authority makes these annual reports public. (Schedule 17, part 1.4)
EU Deforestation Regulation (2023)	The due diligence statement should include the following information in order for a company to place relevant products on the EU market: 1. a summary of the information referred to in Article 9(1), points (a) a description, including the trade name and type of the relevant products as well as, in the	Operators shall make available a due diligence statement to the competent authorities through *the*

	case of relevant products that contain or have been made using wood, the common name of the species and their full scientific name; the product description shall include the list of relevant commodities or relevant products contained therein or used to make those products;(b) the quantity of the relevant products; for relevant products entering or leaving the market, the quantity is to be expressed in kilograms of net mass and, where applicable, in the supplementary unit set out in Annex I to Council Regulation (EEC) No 2658/87 (20) against the indicated Harmonised System code, or, in all other cases, the quantity is to be expressed in net mass or, where applicable, volume or number of items; a supplementary unit is applicable where it is defined consistently for all possible subheadings under the Harmonised System code referred to in the due diligence statement; (c) the country of production and, where relevant, parts thereof. 2. the conclusions of the risk assessment carried out pursuant to Article 10 (Risk assessment) and measures undertaken pursuant to Article 11 (Risk mitigation) and a description of the information and evidence obtained and used to assess the risk. 3. where applicable, a description of the process of consultation of indigenous peoples, local communities and other customary tenure rights holders or of the civil society organisations that are present in the area of production of the relevant commodities and relevant products.	*information system*. These statements shall be electronically available and transmittable (Art. 4(2)). This information system containing the due diligence statements made available pursuant to Article 4(2) shall be established and maintained by the Commission.

Review of G7 Government-led Voluntary and Mandatory Due Diligence Measures for Sustainable Agri-food Supply Chains

This report aims to provide G7 agricultural policy makers with insights to better understand the design, objectives and mechanisms of national and regional, voluntary and mandatory due diligence-related measures. The report creates a fact-based selective inventory for policy makers to identify common elements across the measures with a view to strengthening, where possible, coherence of G7 policy responses to promote responsible business conduct in agricultural supply chains. The inventory also aims to help companies understand different national and regional standards by highlighting synergies and, where applicable discrepancies, to enable and support effective implementation.

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