

Moving the Needle 16: The puzzle of due diligence - a detailed look at individual accountability

October 11th, 2023

This online seminar was planned amidst a myriad of developments concerning Sustainability actions. While the European Green Deal and Textile Strategy set the framework for the due diligence developments for the garment and textile sector, Germany's supply chain law established clear expectations for Brands and companies operating in Germany with regard to their due diligence obligations and accountability. While many across the supply chain have grown familiar with the terminologies, however given the extent of the consequences, a detailed look for and from Asia was planned via this online seminar.

The session invited speakers and audience to look beyond the big picture of due diligence and dive into a number of different puzzle pieces around accountability based on

- Current status of legislation.
- Open questions of suppliers.
- Accountability of brands based on examples from Germany.
- Accountability of suppliers

The seminar aimed to zoom in and allow participants to spend some time on accountability and deeper understand the implementation actions along with some solutions for brands and suppliers.

Summary

Responsible companies around the world have been long focussed on CSR (Corporate Social Responsibility) that included largely voluntary actions to positively impact their stakeholders. These voluntary initiatives matured into further action of risk mitigation/avoidance from social & environmental issues as consumers, NGOs, and investors reacted to punish the relevant Brand/Retailer. While Due-Diligence guidance has existed from OECD and UN guiding principles, Germany's supply chain law has concrete expectations along with clarity on Accountability for the companies in scope. A similar law exist in France, the EU-wide Directive undergoing triologue negotiations with expectations of concluding prior to March 2024.

While the Due-diligence obligations of the German supply chain law apply to companies operating in Germany, one of the primary focuses is on the suppliers, especially Tier 1. An initiative that looked at the impact for suppliers for this and other European legislative proposals, was the whitepaper titled, [Apparel Supplier Guide](#) (Key Sustainability Legislations in the EU, US, and UK) developed with a group of suppliers and Transformers Foundation. This initiative highlighted the need to look deeper into the Accountability mechanism associated with due diligence requirements.



Lena Markart: Senior legal, GIZ

Lena contributed with her expertise as Senior Legal Counsel, and member of Project „Public and Private Responsibility for Sustainable Supply Chains “ whereby she advises BMZ (German Ministry of Economic Cooperation and Development) in all matters regarding corporate responsibility. Lena shared the background of developments concerning [CSDDD](#) (Corporate Sustainability Due

Diligence Directive). Lena shared ongoing negotiations concerning applicability based on a number of employees and revenue. It was also highlighted that there are supportive guidance frameworks such as [UN Guiding Principles](#) and [OCED Due-Diligence guidelines](#) for multi-national entities, along with ongoing negotiations via the UN Human Rights Council for an [international legally binding instrument to regulate the activities of transnational corporations](#) and other business enterprises.

- a) EU-wide Due Diligence Directive is being finalized that will require companies operating in Europe (above a particular threshold in terms of employees and revenue) to conduct social and environmental due diligence in their supply chains.
- b) International plans for a binding treaty progressing which could support greater alignment of regulatory initiatives.



Florian Woitek-Kießling: Head of Division, Due Diligence Control 2 & 3, BAFA

BAFA (Federal Office for Economic Affairs and Export Control) has a team of around 80 colleagues (with expertise from public services and private sector), which reviews obligations of approximately 1300 companies that are in the scope of German supply chain law this year and will cover approximately 5000 companies from next year. While the applicability is for companies operating in Germany, the requirements trickle into the supply chain. There was an elaboration of expectations in terms of the risk-based approach, complaints mechanism, civil liability, access to remedy, reporting, and enforcement approach. Clarification was shared that the law expects that the burden of risk assessment must NOT be passed on to the supplier.

- a) Positive development of increased transparency.
- b) Monitoring and enforcement approach in place with the BAFA team.



Sajjad Khan: Chair, Apparel and Textile Manufacturer Federation

The history and heritage of textile manufacturing in Leicester were shared and a perspective on how fast fashion has resulted in the worsening of product quality. Approach to rebuild the reputation along with partnerships with universities to address skills, design, economic and social aspects of sustainability, and reporting requirements.

- a) Partnerships with Universities
- b) Ongoing challenges concerning cost and quality related to fast fashion.
- c) Sourcing shifts continue from the UK to North Africa.
- d) Continuous focus on finding the balance between due diligence & reporting requirements as compared to related financial burdens.



Patrick Neyts: Managing Partner, VECTRA International

It was highlighted that obligations from current law in Germany and expected EU-wide Directives will require a natural evolution of the CSR activities of companies, from self-regulation to compliance. The enforcement approach of countries varies, from reporting, and actions via courts, to market access; the underlying principle is almost similar. There was also an emphasis on developments in technology allowing access to better data more efficiently, which could support companies with their obligations in the “Forest of Compliance”.



Daniel Weiss: Head of Program Green Economy, Adelphi

There was increased emphasis that along with discussions about the various Due-Diligence laws amongst experts, increased effort should be invested in engaging with suppliers in international supply chains to improve their level of understanding. The availability of toolkits and templates was shared, along with an example of a workshop with suppliers in Pakistan. An example of a checklist to support manufacturers in conducting risk assessment and preparedness for due diligence laws was also shared.

Key takeaways

- 1) Expectation from Due-Diligence law is for the organizations in scope to own the accountability for social & environmental risk assessment of the supply chain, NOT simply passing on the burden to suppliers.
- 2) In addition to the due diligence law in Germany and France, the EU-wide directive is expected to be finalized by March 2024.
- 3) Guidance, Tools, Frameworks, and checklists exist to support Brands/Retailers and suppliers.
- 4) Using Technology and Data, along with existing frameworks can be useful in implementing procedures to comply with due diligence obligations while achieving desired performance.
- 5) Crucial to engage with the supply chain on the ground.

To learn more, watch the recording of Technical Seminar 16: The puzzle of due diligence - a detailed look at individual accountability. For more online seminars on similar topics, check out the [Asian Dialogues Series](#).

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Author:

Rakesh Vazirani

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Registered offices Bonn and Eschborn, Germany

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Alsharq

FABRIC Asia
No. 27, Street 302, Boeung Keng Kang 1
Phnom Penh, Cambodia

On behalf of:

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lisa.ramershoven@giz.de
www.giz.de

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From Compliance and Performance in ESG

Asian Dialogues Webinar

Speaker: Patrick Neyts, CEO, VECTRA International



VECTRA
INTERNATIONAL



Don't Panic!

The changes may seem daunting, but they are a **natural evolution** and you have doing this for a **LONG** time.

Previously : **Self-Regulation**

- Voluntary companies commitments = **Code of Conduct (Audits)**
- Corrective Action Plan (**CAP**)
- Company/Brand **self-policing** = norm.



Now: **Compliance**

- Commitments have become **legal requirements**.
- **Issue resolution** is legally guided.
- External oversight and **enforcement mechanisms** in place.

Compliance varies across the globe, but **ALL** based on same core OECD principles

- **Norway:** Focuses on due diligence with enforcement through the courts.
- **France:** Emphasizes public reporting and accountability.
- **United States:** Controls market access and verification upon entry.



**Don't panic. Your responsibilities haven't fundamentally changed.
There's a logical framework to navigate through these changes.**

How? Focus on your performance

To thrive in this evolving landscape, harness the power of **your** performance.



The Challenge?

- Timeliness of reporting
- Accuracy and relevance
- Variation of the details

The Answer: Data-Driven Performance Management

- This ensures **pro-active** continuous **improvement**, **near-real-time** reporting meeting requirements, **AND** helps you ***adapt and be competitively successful***

Audit and CAP

- Focus on **minimum requirements**
- Leaves you **vulnerable** to falling behind
- **No visibility** on potential issues.



Performance ensure compliance

- Data is the lifeblood of modern supply chain management.
- Identify strengths, weaknesses, and areas for improvement = > USP
- Offers near real-time insights into your performance **AND OPPORTUNITIES**



Remember, your goal isn't to comply; it is to excel as a ***reliable business***.

TIP: Keep it simple within your business management

We advise strongly you **NOT** to panic **AND** *build on your history* of “compliance” with **insight and financial acumen** and to **evolve** in a **systemic successful approach** ensuring *compliance while enhancing business performance*.



Our perspective: A Hybrid Perspective

We can support you in your **unique journey** *empowering you* to comply **AND** enhance **not only your ESG** but your *business performance*



Our Unique Approach --> Client Independence

Our mission as **systemic transformation companion** is to guide companies through the journey beyond tomorrow and to **enable** them to **operate** in harmony between social justice and ecological integrity in a **future-proof** manner.



adelphi was founded in 2001:
Europe's leading think-and-do tank and independent consultancy on **climate, environment and development.**



With its **brand phiyond**, adelphi offers sustainability transformation **services for corporate clients** since 2023.

combined



over **1,500 projects** have been implemented



on behalf of **280 organisations**



more than **350 employees**



has a large network of over **100 project partners**

About us:

- We are **globally networked strategists**, world-improving **advisors** and courageous **visionaries**.
- Like no other consulting firm, we are familiar with the regulatory issues.
- We think **systemically** and **solution-oriented**.
- We are **impact-oriented**.
- Our work increases the **decision-makers' competence to act**.

GERMAN SUPPLY CHAIN DUE DILIGENCE ACT

DUE DILIGENCE IN FIVE STEPS

TOOLKIT FOR INTERNATIONAL SUPPLIERS



5-step guidance model



Templates for suppliers (e.g. for policies)



On-site workshop approach with suppliers
(drawn from experience with GIZ in
Pakistan)

GERMAN SUPPLY CHAIN DUE DILIGENCE ACT

HOW TO PREPARE AS SUPPLIER

Example | Guidance model



Step 1: Develop a company strategy

Evaluate your existing company principles and see how you can align them with the new requirements. Adjust your company policy statement accordingly.

- ▶ Familiarize yourself with international reference documents to be able to communicate with your customers on equal footing
- ▶ Review your existing corporate policies and adapt these as needed. In doing so, make sure to pay attention to the requirements for a policy statement as set out by the LkSG.
- ▶ Also remember to make your own suppliers aware of the issue. Especially if – as a direct supplier – your customers ask you to consider sustainability issues in the deeper supply chain and to pass on requirements

GERMAN SUPPLY CHAIN DUE DILIGENCE ACT

HOW TO PREPARE AS SUPPLIER

Example | Guidance model



Step 2: Perform a risk analysis (not obligatory but a good practice to support process)

Get an overview of your business activities and conduct a risk analysis.

- ▶ Focus on your main business activity first and look at existing data sources e.g. already available risk assessments for environmental and human rights issues.
- ▶ Prepare overview of topics that may be relevant for your company (and for your customers) in line with customers' information requirements
- ▶ Refer to recommended sustainability standards (certificates, labels, etc.) and their performance classifications to respond to queries from customers (e.g. in the context of self-disclosures).

GERMAN SUPPLY CHAIN DUE DILIGENCE ACT

HOW TO PREPARE AS SUPPLIER

Example | Guidance model



Step 3: Take action

Further specific points of action for consideration

- ▶ **Complete self-assessment** to create transparency and communicate competence and performance to your customer
- ▶ **Assign internal responsibility** to trained sustainability officer as person in charge and primary contact person for buyers
- ▶ **Collect and provide documentation** (e.g. Evidence of codes and certificates of management systems) strengthen the credibility of your self-disclosure
- ▶ **Identify hotspots** (in terms of risks) in your business operations and your own supply chain
- ▶ **Prepare your employees** for upcoming audit
- ▶ **Implement training** for employees and management personnel to follow established codes of conduct and standards, if not already done

GERMAN AND EUROPEAN DUE DILIGENCE ACT

WHERE DO YOU STAND AS A SUPPLIER?

Example | Guidance model

Ready for supply chain due diligence?

- How familiar are you with the main human rights reference instruments and requirements? How do you make sure that you keep up-to-date?
- Have you reached out to your customers who are directly affected by due diligence laws to discuss the topics mentioned?
- To which extent have you already addressed these in your business? Which ones are you ready to share with your customer? Which ones would you be hesitant to share?
- Do your existing corporate policies and practices match these (new) requirements?
- Have you gathered existing information on human rights and environmental risks (e.g. including compliance related information) in your own facility and, ideally, also on those of your own direct suppliers?
- Do you have social and environmental certificates or other evidence (e.g. recognized sustainability reports) to provide indication to buyer about your level conformance?
- Do you have an existing informal or formal complaint channels? In which area(s) would you expect a possible complaint? If there have not been (m)any complaints so far, why do you think that is?



GERMAN SUPPLY CHAIN DUE DILIGENCE ACT

HOW TO PREPARE AS SUPPLIER

Example | Template

Due diligence compass | Practical help 10 | Phase 1: Policy statement

Developing a policy statement: examples and tips

Guidelines

The policy statement is an important guidance document for your business activities and for your employees alike. It conveys the basic values of the corporate philosophy, states what your company and employees stand for and highlights how these principles are being pursued together. This practical guide provides some practical examples from companies to showcase how other organisations put the key requirements of a policy statement into practice.

Why is it important to develop a policy statement?

- **Public commitment:** Your company communicates internally and externally that it recognises and assumes responsibility.
- **Internal orientation and motivation:** Employees have a clear orientation for their actions.
- **Basis for external communication:** External communication enables constructive exchange with stakeholders and creates trust.

Towards a policy statement: A step-by-step approach

Creating a profound policy statement is a collaborative effort. Follow a step-by-step approach to design and create the policy statement:

- Designate a staff member who is entrusted with the conceptual design and integration of the policy statement into the corporate strategy.
- If necessary, establish a cross-departmental team to oversee the implementation of the policy statement in day-to-day corporate activities. Teams should include representatives from sustainability/environmental management, human resources, purchasing, communications and quality management. Management should also be involved in the process.
- If you have not yet carried out a risk analysis, it may make sense to formulate and formalise the policy statement only after the initial results are available. This makes the policy statement more company-specific. It also promotes understanding among everyone involved in the company.
- In particular, involve employees from the departments who are supposed to implement the content of the policy statement into day-to-day corporate processes.

GERMAN SUPPLY CHAIN DUE DILIGENCE ACT HOW TO PREPARE AS SUPPLIER

Example | Workshop



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Offices

Alt-Moabit 91
10559 Berlin

T +49 (30) 8900068-0
F +49 (30) 8900068-10

Landwehrstraße 37
80336, München

T +49 (30) 8900068-140
F +49 (30) 8900068-1



Let's take the next step
in your transformation
to sustainable business
together!



Daniel Weiss
Partner
M +49 176 63737756
E weiss@adelphi.de

