

**Background note on Regulatory Developments  
concerning Due Diligence for Responsible Business Conduct**

The role of sustainability initiatives  
in mandatory due diligence

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This document is part of a series of notes considering issues related to the design and implementation of mandatory environmental and social due diligence legislation related to OECD standards on responsible business conduct (RBC).

It contributes to the OECD Due Diligence Policy Hub which presents technical papers, event information, tools and other resources to help policy makers improve the design of legislation and regulation on due diligence for RBC. The hub is managed by the OECD Centre for RBC with a view to helping governments leverage the wide-ranging policy measures at their disposal to promote RBC.

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# Introduction

Sustainability initiatives have steadily proliferated over the last two decades, as companies and governments seek to give consumers and investors greater certainty about the sustainable nature of particular products, companies, supply chains and investments. These initiatives play a critical role in promoting collective action to solve problems, scaling up responsible and sustainable practices, and driving best practices that go beyond legal requirements. However, the resulting landscape is vast and complex, with initiatives varying significantly in their ambition, core activities, scope and composition. While this diversity can be a strength as initiatives focus their resources and expertise, companies and their suppliers can face multiple and at times duplicative or conflicting expectations across different sectors, supply chains and geographies. Many sustainability initiatives are also facing mounting criticism from stakeholders, who see weaknesses in their design, levels of transparency and worker engagement, governance and oversight models—and a corresponding lack of impact.

Sustainability initiatives of different shapes and sizes will—and should—continue to play a role in advancing and scaling up sustainable business practices, and in shaping how companies respond to governments mandating more sustainable activities, investments and supply chains. Growing momentum around mandatory due diligence legislation on responsible business conduct (RBC), particularly in Europe, has brought to the fore debates about the potential role of initiatives in mandatory frameworks—including the extent to which they can inform implementation and enforcement and be used as ‘indicators of compliance’.

**Policy makers can contribute by clarifying the ways in which different types of initiatives can support implementation and enforcement of mandatory due diligence, without undermining companies’ own due diligence responsibilities, creating de facto safe harbours from liability or promoting over-reliance.** Governments can do this by setting clear expectations for initiatives, companies and enforcement authorities and, where appropriate, ensuring that companies and governments have robust processes in place to monitor and verify the credibility of initiatives that they use or rely on.

This background note focuses on the role of sustainability initiatives in mandatory due diligence legislation and discusses:

1. the current landscape of sustainability initiatives;
2. the importance of setting clear disclosure expectations for relevant initiatives in the context of mandatory frameworks;
3. the role that initiatives can play as a tool to support implementation and enforcement of legislation, and key limitations;
4. recommendations for developing a model to assess the credibility of individual initiatives, building on the OECD alignment assessment approach (see Section 4).<sup>1</sup>

### Box 1. What are sustainability initiatives?

Sustainability initiatives are defined and understood differently by different stakeholders<sup>1</sup>. For the purposes of this background note, the term ‘sustainability initiatives’ refers broadly to any multi-stakeholder, government-backed or industry initiative, scheme or programme that provides tools, information, capacity building or otherwise facilitates, sets requirements for, or monitors, audits, verifies, assures, certifies, benchmarks or otherwise assesses business practices, sites or products in relation to sustainability objectives (i.e. objectives related to human rights, social or environmental impacts).

Sustainability initiatives can include government-backed sector dialogues<sup>2</sup>, global framework agreements<sup>3</sup>, private, multi-stakeholder or government-backed due diligence and responsible sourcing initiatives<sup>4</sup>, reporting frameworks<sup>5</sup>, benchmarks<sup>6</sup>, or other initiatives, such as certifications (see Box 4), that focus on supplier, product or site-level assessments. Initiatives can focus on due diligence performance or individual components of due diligence, such as supply chain traceability, site level audits or company reporting. Sustainability initiatives can focus on specific sectors, geographies, sustainability issues, segments of the supply chain, or a combination. They do not include international or national laws or normative frameworks.

Sustainability initiatives differ significantly in their quality, design, core activities, scope, oversight models, governance systems and levels of transparency. For more information, see Section 1, Annex A and Box 4.

Notes:

<sup>1</sup> For example, see the UN Forum on Sustainability Standards definition of Voluntary Sustainability Standards, <https://unfss.org/2021/08/23/better-trade-for-sustainable-development-the-role-of-voluntary-sustainability-standards/>; the ISEAL definition of Sustainability Systems, <https://www.isealalliance.org/defining-credible-practice/sustainability-systems>; and the ITC definition of Sustainability Standards, <https://intracen.org/resources/publications/sustainability-standards-a-new-deal-to-build-forward-better>

<sup>2</sup> For example, the German sector dialogues commissioned by the Federal Ministry of Labour and Social Affairs (BMAS) to support implementation of the German National Action Plan: <https://www.giz.de/en/worldwide/82890.html>

<sup>3</sup> For example, ACT, an agreement between trade unions, brands and retailers in the garment and footwear sector: <https://actonlivingwages.com/>

<sup>4</sup> For example, the London Bullion Market’s Responsible Sourcing Programme, <https://www.lbma.org.uk/responsible-sourcing>; the Responsible Minerals Initiative, <https://www.responsiblemineralsinitiative.org/>; the Responsible Jewellery Council, <https://www.responsiblejewellery.com/about/>; the German Partnership for Sustainable Textiles (PST), the Dutch Agreement on Sustainable Garments and Textiles (AGT), and the Fair Wear Foundation, <https://www.fairwear.org/about-us>

<sup>5</sup> For example, see the Global Reporting Initiative’s updated Universal Standards, and the Task Force for Climate-Related Financial Disclosures (TCFD) recommendations: <https://www.globalreporting.org/> and <https://www.fsb-tcf.org/>

<sup>6</sup> Examples include the benchmarks of the World Benchmarking Alliance (<https://www.worldbenchmarkingalliance.org/>) and KnowTheChain <https://knowthechain.org/>

# 1 The current landscape of sustainability initiatives

**Governments are adopting a range of smart mix policy approaches to promote and enable responsible and sustainable business practices, products, supply chains and investments and measure achievement of Sustainability Development Goals<sup>2</sup>.** They increasingly reference international due diligence standards, including the OECD Guidelines for Multinational Enterprises and OECD due diligence guidance<sup>3</sup> in an effort to ensure that companies use risk-based due diligence to identify, address and report on the negative impacts associated with their activities and value chains. Recent examples of policy measures that reference OECD standards include public procurement tools and documents<sup>4</sup>, trade agreements<sup>5</sup>, investment treaties<sup>6</sup>, sustainable finance legislation<sup>7</sup> and corporate reporting<sup>8</sup> as well as RBC due diligence legislation<sup>9</sup>.

**Policy makers also use and reference a significant variety of sustainability initiatives in this context.** Environmental and social certifications, product labels, responsible sourcing and monitoring and verification systems are referenced in the sustainability chapters of free trade agreements<sup>10</sup>, public procurement policies<sup>11</sup>, product policies, consumer protection, environmental policies<sup>12</sup> and mandatory human rights and environmental due diligence legislation<sup>13</sup>.

**Despite recent examples of initiatives converging and aligning approaches<sup>14</sup>, the last decade has seen a proliferation of multi-stakeholder and industry initiatives across different sectors.** Although official statistics do not exist, the Ecolabel Index, an independent global directory of ecolabels and environmental certification schemes, counts 455 ecolabels and environmental certification schemes.<sup>15</sup> According to a comparison of forty-five initiatives by MSI Integrity in 2017, multi-stakeholder initiatives alone operate in over 170 countries on six continents, engaging over 50 national governments, and regulating 9,000 companies—including 65 Fortune Global 500 businesses with combined annual revenues of US\$ 5.4 trillion.<sup>16</sup> The International Trade Centre's Standards Map contains data on more than 300 standards covering a range of issues.<sup>17</sup>

**However, the landscape is complex and diverse.** While there can be legitimate reasons for divergence – there is no one size fits all when it comes to initiatives and how they are used – this complexity can present significant challenges for governments seeking to identify credible initiatives in the context of RBC policy and mandatory due diligence.

**Initiatives vary significantly in their quality, design, scope and composition.** Many operate across sectors, geographies, risks and supply chain segments; others have much narrower technical, supply chain or geographical focus. Initiatives differ in the extent to which they set requirements for companies at specific points in the supply chain, and whether and how they assess, monitor and verify individual company practices against those requirements. Initiatives vary in what they assess (e.g. due diligence management systems, social compliance against codes of conduct, or specific commodity production) and who (e.g. retailers and brands; financial institutions; production facilities or processors or upstream actors). Where initiatives evaluate sites, company risk management practices or products, they vary considerably in the quality of their assessment methodologies and teams, robustness of their monitoring and oversight systems, levels of independence. Many cross-recognise other third party initiatives, but with limited

transparency about how they do so. Efforts to integrate and align with international due diligence instruments also vary considerably, as do governance models and approaches to transparency and stakeholder engagement. See Annex A for examples of key differences.

### Box 2. Facilitation initiatives versus verification initiatives

Sustainability initiatives tend to play two broad roles in the context of companies' RBC due diligence. First, they can *inform* the due diligence process, acting as facilitators and multipliers by providing companies with collaborative tools, guidance and information to help them scale up effective practice. Second, many initiatives increasingly set requirements for and *assess, monitor or certify* individual company practices or products against those requirements. It can therefore be helpful to distinguish between two broad categories of initiatives. Many initiatives will fall into both of these categories, and carry out very different types of facilitation and verification activities within them (see Annex A)<sup>1</sup>:

- **Facilitation initiatives** refer to initiatives that facilitate or inform companies' risk management and broader due diligence responsibilities, but *do not* monitor, assess, assure, verify or certify company performance. They may, for example, provide **information** (e.g. country-level updates, sector-, product- or site-specific information, such as product or material life cycle assessment data, or chain of custody or other traceability information), **tools** (e.g. reporting templates, living wage assessment ladders, supplier assessment tools) and **guidance** (e.g. guidance on chemical management best practice, establishing grievance mechanisms, improving purchasing practices or supplier assessments) or set environmental or social targets or metrics for companies.
- **Verification initiatives**<sup>2</sup> refer to initiatives that set written requirements for companies or products and monitor, assess, verify, certify, assure or benchmark companies, sites, products, suppliers or other business partners against those requirements.

Notes:

<sup>1</sup> These terms are illustrative only and are not intended to provide categorical definitions. Many of the terms are open to interpretation and used differently by different initiatives and other stakeholders. The OECD is currently working with ITC to develop a typology and glossary of initiatives and their activities.

<sup>2</sup> Verification is understood and defined in different ways (see also Annex A). For the purposes of this paper and in the context of OECD alignment assessments, it covers a broad umbrella for initiatives that carry out a range of assessment activities and have different mechanisms for holding companies accountable. As such, it is intended to capture initiatives that provide assurance and certification as well as those that carry out more ongoing monitoring of company practices.

**A proliferation of initiatives with different standards and approaches to sustainability and supply chain due diligence can create enormous challenges for companies operating globally, particularly those who participate in multiple initiatives across different risks and geographies as part of their due diligence.** A piecemeal approach and lack of standardisation across initiatives also creates confusion for governments, customers, investors, workers and other stakeholders who use initiatives to assess company practices. This confusion is compounded by the fact that many initiatives do not clearly communicate their own scope and limitations, including in the context of due diligence. As a result, there is often very little understanding about what particular initiatives do or what specific audits, certifications or product labels mean. Civil society and other stakeholders have also been increasingly vocal in their concerns about verification initiatives<sup>18</sup>, ranging from criticisms of traditional box-ticking compliance approaches to managing risk against codes of conduct, over-reliance on weak supplier audits; to weak transparency and accountability mechanisms and limited proven impact.<sup>19</sup> These and other concerns have led to frequent allegations of 'white-washing', 'green-washing' and 'label-shopping'.<sup>20</sup>

Without shared expectations for how initiatives should demonstrate their own relevance to mandatory legislation, and clarity about the different roles and responsibilities of governments, companies and initiatives, confusion and criticism will likely grow as new initiatives emerge and others adapt to try to meet the increasing RBC due diligence expectations of governments.

## 2 Setting disclosure expectations for initiatives in the context of mandatory due diligence

**Given the variety in approaches described above and in Annex A, sustainability initiatives vary in how relevant they are to mandatory due diligence frameworks—either as a tool to support company implementation or to assist governments with verifying individual company compliance.** The extent to which a particular initiative can support implementation or enforcement will depend on the specific context: the focus of the individual company's due diligence or the government's enforcement checks (as relevant), and the design and scope of the initiative.

For example, a well designed facilitation initiative may provide strong country-level risk mapping information to support its members, which governments can direct companies to. However, as facilitation initiatives have no or very limited oversight over what companies do in practice, governments cannot draw conclusions about how well the risk mapping information is used by participating companies, and so additional checks will be necessary. In addition, the vast majority of initiatives do not fully integrate a due diligence approach, but rather provide specific information—such as supplier, product or site certifications or supply chain traceability information—that can feed into and inform downstream companies' broader due diligence (see Section 3 on the roles that different types of initiatives can play, and their limitations, in supporting companies' due diligence).

**Greater public transparency by initiatives about what they do (or claim to do) could help both companies and enforcement authorities to cross-check relevant information, for example via risk-based desk-top assessments, or spot checks following complaints or substantiated concerns by third parties.** This type of information could also be helpful where initiatives apply for or are otherwise subject to formal credibility assessments (see Section 4). Governments could also include provisions in the law to ensure that they have the right to challenge representations made regarding the scope, activities and governance aspects of initiatives, and request further information, subject to confidentiality and competitiveness concerns.

**This type of transparency could also help to promote more consistent approaches by initiatives to operationalising due diligence, in turn driving more consistent implementation by participating companies.** Fragmented and piecemeal interpretation of and approaches to due diligence at the level of initiatives can lead to inconsistent expectations for companies, such as different requirements for companies' supplier assessments, risk prioritisation and monitoring, supplier disengagement, stakeholder consultation or the provision of remedy to victims of harm. This inconsistency risks uneven implementation, increasing costs and confusion for companies, and—most importantly—unpredictable outcomes for impacted communities. Greater coherence in approaches can also help to free up financial and human resources to tackle root causes and systemic issues collaboratively, including between initiatives.

**To help clarify the scope of particular initiatives and what they claim to do, or not do, governments can consider specifying minimum information that different types of initiatives should disclose.**

They can recommend that relevant initiatives publish relevant, accurate and comparable information on, for example:

- **Scope:** the scope of company participation or membership, supply chain segments, covered geographies and relevant risk areas;
- **Core activities:** a clear summary of the initiative's core activities, including any verification activities, with information (where relevant) on the suppliers, products or sites assessed, assessment methodologies and teams;
- **Relevance to the 6-step due diligence framework:** how the initiative's activities inform companies' 6-step due diligence process, and any limitations (see Section 3);
- **Additional information** on the initiative, such as its governance system, monitoring, assurance and oversight models, and approaches to information and external accountability, including stakeholder involvement, continuous review and improvement, and cross-recognition of other initiatives, based on the principles for good governance set out in the OECD Due Diligence Guidance for Responsible Business Conduct.<sup>21</sup>

**Companies using initiatives for the purposes of compliance with due diligence regulation could be required to consult and evaluate the quality of information disclosed by those initiatives and identify any gaps,** or otherwise gather information themselves in order to determine how and when they can use the initiative as a tool to support their own due diligence processes.<sup>22</sup>

### Box 3. Sustainability initiatives and alignment with international due diligence standards

Sustainability initiatives vary significantly in the degree to which they align—and seek to align—with international due diligence standards and good governance principles.<sup>23</sup> While some initiatives, particularly in the minerals sector, have a relatively well developed approach to due diligence because they were established with the specific purpose of aligning with OECD due diligence standards, many initiatives were not designed with this objective in mind, or predate the OECD RBC standards and the United Nations Guiding Principles (UNGPs).

International due diligence standards are designed to drive dynamic, proactive and ongoing risk-based due diligence, yet many initiatives do not fully integrate a risk-based approach and expect more static supplier assessments by downstream companies, or rely on limited and infrequent supplier audits that have proven ineffective at identifying hidden or emerging risks, such as forced labour or discrimination.

Initiatives rooted in 1990s models of social compliance audits, contractual assurances and codes of conduct, for example, tend to be less centred on an ongoing, risk-based due diligence approach. Other initiatives, such as upstream initiatives based on certification systems or supplier audits, may combine detailed environmental, social and economic criteria with chain of custody approaches, but they do not necessarily expect or evaluate comprehensive due diligence by downstream companies (see Box 3 on certifications).

This does not mean that these initiatives are not functioning well, or that they do not address important risks and impacts. However, they should play different roles in supporting companies' due diligence and in the context of mandatory legislation.

# 3

## Role of initiatives in supporting implementation and enforcement of mandatory due diligence

This section discusses the role that different types of initiatives can play in supporting company implementation and government enforcement of mandatory frameworks, and important limitations. It considers how governments can uphold companies' own due diligence responsibilities and avoid creating *de facto* safe harbours from liability.

### Companies' own due diligence responsibilities

**Credible, relevant and well-designed initiatives can and should support companies with specific components of their due diligence, as set out in Annex B.** For example, if a credible initiative provides a company with information for its due diligence, that information should be part of the evidence the company can use to demonstrate effective due diligence. Companies should not be expected to duplicate the information gathering exercise. Similarly, companies should not be expected to duplicate supplier audits, or complaints handling or re-create particular processes such as the setting of appropriate targets, metrics and indicators or traceability systems where a credible initiative already provides them.

Initiatives can inform and facilitate company due diligence across the 6-step framework, but there is a limit to how much of the due diligence process initiatives can take on, regardless of how strong or well-designed they are. Companies have an important role to play under each of the six steps. They retain responsibility for building on and tailoring the information they receive to the specificities of their own supply chains, integrating it into their own risk prioritisation and management processes, identifying gaps and layering on their own dynamic, risk-based monitoring, mitigation, prevention and stakeholder consultation processes.

**As such, and notwithstanding how strong and credible a particular initiative may be, it is important that governments make clear that companies retain ultimate responsibility for their own due diligence in line with international due diligence standards.**<sup>24</sup> Where legislation permits companies to use or rely on information from or activities carried out by an initiative, such as technical health and safety audits, or site-level certifications, it is important that governments also mitigate the risk of companies over-relying on initiatives for their due diligence. For example, governments can require companies to:

- Demonstrate that they have evaluated and understand the scope, activities and credibility of initiatives they use or rely on;
- Demonstrate that they have adequate, risk-based systems in place to cross-check the information they receive from the initiative, adapt it to their own supply chains, build on it in accordance with their own due diligence responsibilities and follow-up on any red flags (e.g. third party allegations against the initiative or its employees);

- Communicate responsibly on the scope and limitations of the use of relevant initiatives as part of their due diligence reporting and communication to affected stakeholders; and
- Disclose relevant information to enforcement authorities on request.

The degree of oversight and monitoring that is appropriate for a company to carry out will vary and should be proportionate, reasonable and risk-based; for example, small enterprises using a credible specialist for a highly technical site-level assessment should not be expected to have the same oversight system as a larger company who relies on an initiative to audit hundreds of suppliers in high-risk contexts and across a wide range of risk areas.

#### Box 4. Certification and company due diligence

Some initiatives provide certification relating to a product, process or company, while others rely on certification from other second or third party certifications through a process of recognition. A certification is a third-party statement or document that states that a particular product, process or company has met a certain standard, i.e. specified conformance requirements<sup>1</sup>. Some product, process and company certifications allow for external communication via on-product labels (e.g. Forest Stewardship Council), or insignia on company letterhead or websites (e.g. B-Corp).

There are a range of different types of certifications that companies use to support their due diligence. There are those that provide **certification regarding particular due diligence risk issues**, such as worker remuneration, or hazardous chemicals (such as Oekotex100), those that provide **certification on company or supplier management systems** (such as SA8000 and BLUESIGN), and certifications that provide **proof of provenance or chain of custody**, such as Textile Exchange's Global Recycled Standard or the Forest Stewardship Council's Chain of Custody certification. Some certifications combine approaches. Certifications may not yet integrate a due diligence risk-based approach, but rather provide an assessment of a product or company against a specific standard—and thus one source of information that can be used for due diligence.

Companies should therefore ensure they understand exactly the scope, activities and governance and oversight mechanisms of the certification, including which precise components of due diligence the initiative is helping to facilitate and what the limitations are (see Section 2). They should communicate responsibly on the scope and limitations of the use of certification as part of their due diligence reporting and communication to affected stakeholders.

See also Annex A and Annex B for some examples of differences between initiatives and the ways that they can inform companies' due diligence.

Notes:

<sup>1</sup> Certification is defined by ISEAL as: "The issuance of a third-party statement that fulfilment of specified conformance requirements have been demonstrated (ISEAL, adapted from ISO 17000)". See [https://www.isealalliance.org/sites/default/files/resource/2018-02/ISEAL\\_Assurance\\_Code\\_Version\\_2.0.pdf](https://www.isealalliance.org/sites/default/files/resource/2018-02/ISEAL_Assurance_Code_Version_2.0.pdf)

*The OECD plans to publish a white paper on the role of certifications in due diligence. The OECD is also piloting assessments of certifications in the garment & footwear and agriculture sectors throughout 2022 and 2023 in the context of its alignment assessments (see Section 4 and Box 5).*

## The risk of creating safe harbours from liability

**An important concern of stakeholders is that governments may over-rely on assurance and other forms of verification initiatives (see Box 2) to police companies or their suppliers, and as a potential indicator of compliance in the context of mandatory due diligence.** Over-reliance by governments on verification initiatives risks creating a de facto safe harbour from liability for companies who participate in relevant initiatives and who hence might be considered low-risk.

**Importantly, participation in an initiative—however credible and well aligned the initiative may be—is not a 100% guarantee of the responsible conduct of an individual company.** It is only one piece of information that governments should consider within a broader set of risk-based indicators and red flag systems when selecting companies for enforcement checks, and evaluating company performance.

**Where governments seek to reference a company’s participation in particular initiatives as one indicator of responsible business practice, it is important that they have a means to assess initiatives’ credibility and alignment with policy objectives.** Governments can consider tiered (ie. risk-based) approaches, depending on the particular relevance, coverage and significance of individual initiatives. For example, an initiative that covers a high number of companies directly subject to mandatory obligations and supports their due diligence in high-risk contexts across multiple risk areas, should be subject to enhanced checks. Options for tiered assessments by authorities could include:

- **Evaluating and cross-checking companies’ own assessments** of the scope and limitations of relevant initiatives, including their public justifications for any reliance, as already described, and seeking to fill gaps in information and scope (e.g. if the initiative addresses or is aligned only some of the risks or geographies of interest to the government authority, additional checks may be necessary).
- **Requiring particularly relevant or higher-risk initiatives to self-report** against predefined alignment and credibility criteria, with governments (or accredited third parties) carrying out risk-based spot checks of relevant initiatives, including on the basis of initiatives’ own public disclosures (see Section 2).
- **Developing a robust model to evaluate the alignment and credibility of higher risk initiatives or initiatives with particular relevance, such as broad coverage and scope** (see Section 4).

**To avoid over-reliance on a company’s participation in an initiative and de facto safe harbours, legislation should also ensure that governments adopt a comprehensive methodology for carrying out targeted, risk-based enforcement checks of individual companies,** using a range of general and sector-specific red-flag indicators. Examples include evidence of credible third party allegations of misconduct or non-compliance by the relevant company or the initiative it is a member of; evidence of the company’s failure to disclose information to authorities in a timely way; or a pattern of the company sourcing from high-risk categories of suppliers, geographies or trading centres.

**Whether authorities carry out their own credibility assessments of initiatives, or cross-check company assessments and initiative’s self-assessments** (or a combination of these), they should seek to understand the precise scope and activities of initiatives they plan to use and rely on, and their limitations as tools to support the due diligence process (see Annex B). For example, if a company is selected for enforcement checks and uses an upstream initiative to carry out supplier assessments on relevant risks, then the authority should evaluate the company’s public justifications for using the initiative and cross-check the extent to which the company is building on, tailoring and integrating that information into its own more dynamic, ongoing due diligence—and closing any significant scope or other information gaps.

# 4 Identifying credible and aligned initiatives

A robust model to assess the credibility and alignment of initiatives with policy objectives can help governments and companies to understand the precise scope and relevance of individual initiatives in the context of mandatory due diligence, and the specific ways in which they can and cannot credibly support implementation and enforcement. It can also help to enhance credibility and trust in well-designed initiatives that align with the law's objectives and reduce assessment, reporting and benchmarking fatigue, by providing opportunities for mutual recognition agreements and other collaborative activities and efficiencies across aligned and credible initiatives.

This section highlights some key considerations for developing a model to assess verification initiatives (see Box 2), given the particular reliance that governments, investors, consumers and downstream entities tend to place on assurance, certification and other types of verification.

## **Key considerations**

These considerations are based on learnings from OECD alignment assessments (see Box 5). As Section 3 discusses, governments can carry out assessments themselves or via accredited third parties, in addition to considering options such as self-reporting by initiatives or assessments by companies.

Both self-reporting and company assessments would require additional processes to test the credibility of underlying assessments—such as regular and robust spot checks by authorities, and transparency by companies and initiatives about assessment methodologies and outcomes. Governments should consider:

- **Robust assessment methodologies that evaluate not only written standards but also implementation and overall credibility.** Any assessment methodology should ideally incorporate criteria to assess three key components:
  - a) the alignment of initiatives' written standards against international due diligence standards;
  - b) the implementation of those requirements; and
  - c) initiatives' overall credibility, including the adequacy of its governance system, management of conflicts of interest, monitoring, assurance and oversight models, assessment approach and methodology, and approaches to information disclosure and external accountability (including stakeholder engagement, and processes for cross-recognition of other initiatives), based on the Principles for Good Governance in the OECD Due Diligence Guidance for Responsible Business Conduct (RBC)<sup>25</sup> and ISEAL Credibility Principles.<sup>26</sup>

Without a robust methodology—based on desk-top documentation review, shadow assessments and stakeholder interviews—to evaluate not only paper-based standards but also implementation activities and overall credibility, governments cannot draw conclusions about how well initiatives are functioning in practice. Verification initiatives vary significantly, including in the quality of their assessment methodologies, the independence of their assessment and assurance teams, approaches to conflicts of interest and cross-recognition of other third party initiatives (see Annex B). As such, there is a risk that weak, ineffective and non-aligned initiatives are found to be credible.

- **Accurate scoping of the assessment:** Initiatives come in very different shapes and sizes and in many cases initiatives with a limited scope or set of activities can be impactful precisely because they have a narrow focus. As such, it is important that any assessment model is flexible enough to assess initiatives with narrower scope (e.g. a focus on specific risks, activities, geographies or supply chain segments), to allow initiatives to specialise and guard against a one-size-fits-all approach.
- **Assessing initiatives against key due diligence principles, as well as robust due diligence criteria consistent with OECD standards.** Where initiatives claim to integrate a due diligence approach, governments should ensure that assessment criteria include the key over-arching due diligence characteristics set out in OECD RBC standards, as well as detailed criteria that reflect individual steps and sub-steps.<sup>27</sup> These are central to effective due diligence consistent with international standards and are aimed at avoiding box-ticking approaches and ensuring that due diligence is practicable, dynamic, and tailored to companies' most significant risks.

Following completion of an assessment, it is important to ensure that the precise scope and outcomes of the assessment, including specific alignment gaps, are clearly understood by enforcement authorities, initiatives, companies and other stakeholders. Governments should consider:

- **Accurate, timely and transparent communications on scope and assessment outcomes:** Differences in scope and activities between initiatives as well as detailed assessment conclusions, analyses and evidence should be communicated clearly, accurately and publicly by assessment bodies in a timely way, so that stakeholders can track and compare differences and precise alignment gaps. Without this type of clarity and transparency, there is a risk that companies, initiatives and other stakeholders assume that well aligned or credible initiatives are aligned across a broader scope of risks, activities and geographies than may be the case. There is also a risk that governments and regulators draw inaccurate conclusions about the compatibility of individual initiatives with specific policy tools.
- **Clear rules on claims following assessments and a grievance mechanism for complaints handling:** Clear rules for the claims that initiatives and participating companies can and cannot make following an assessment are also critical to ensure that they do not make inaccurate or misleading statements about assessment outcomes. It is important, for example, that stakeholders understand that assessments of initiatives do not evaluate the adequacy of the due diligence of individual companies that participate in the initiative (see Box 5). Governments could carry out spot checks to monitor public claims and a grievance mechanism for relevant stakeholders to raise complaints about individual claims. In order to investigate or follow-up on a complaint or other discovery of an inaccurate claim, it is important that governments are able to challenge the relevant initiative (or company) and request appropriate evidence or information to evaluate the claim.

### **OECD alignment assessments**

The pilot OECD alignment assessment methodology<sup>28</sup>, launched in 2016, has been designed to reflect these recommendations and can serve a helpful model for policy makers (see Box 5). Alignment assessment tools for the minerals, garment & footwear and agriculture sectors provide a comprehensive set of due diligence and credibility criteria which allow the OECD to assess the written standards, implementation activities, governance and overall credibility of initiatives across multiple sectors.

The OECD is currently finalising a sector-agnostic Assessment Tool and Methodology. The OECD alignment assessment methodology has also been enshrined into EU law through the EU's 2019 Delegated Act on the methodology and criteria to assess and recognise supply chain due diligence schemes (part of the Regulation (EU) 2017/821 laying down supply chain due diligence obligations for Union importers of tin, tantalum, tungsten, their ores, and gold originating from conflict-affected and high-risk areas).<sup>29</sup>

The robust nature of the OECD's assessment methodology has proven informative and impactful in the minerals sector for example where revisions to written standards and desktop re-assessments have shown significant improvements in alignment of initiatives' standards following the assessment and engagement with initiatives.<sup>30</sup>

However, the assessment methodology is also time consuming and resource-intensive. The OECD is in the process of scaling up the OECD alignment assessments, and is developing tools to drive faster and more agile and efficient assessments as well as options for self-assessments and "due diligence checkers" that will allow companies and initiatives to carry out initial gap analyses as an alternative to full third party assessments. The OECD is also considering ways to make the process more transparent, for example through mandatory publication of assessment tools and analyses, and wider stakeholder consultation.

Governments can build on these challenges and learnings, by recognising the important value of implementation and credibility assessments while also considering ways to make assessments as efficient and impactful as possible.

Options could include targeted or simplified assessment criteria for particular types of initiatives; a greater emphasis on stakeholder consultation; the option of self-reporting by initiatives with targeted, risk-based spot checks by governments or accredited third parties; and public disclosure of completed assessments to promote stakeholder scrutiny and build trust in the assessment process.

See also Section 3 and Section 4 for recommendations on setting clear disclosure obligations for initiatives and requiring companies to evaluate and publicly communicate on initiatives that they use or rely on as part of their due diligence.

### Box 5. Summary of OECD alignment assessments

The OECD alignment assessments constitute three 'core' parts:

1. An assessment of the initiative's written standards for companies (such as requirements that companies or their suppliers are assessed against) against detailed assessment criteria based on the relevant sectoral OECD Due Diligence Guidance or the cross-sectoral RBC guidance ('**Standards Assessment**')
2. An assessment of the initiative's practical implementation of its written standards, including the adequacy of the initiative's monitoring, oversight and accountability mechanisms for participating companies and the due diligence activities the initiative itself carries out ('**Implementation Assessment**')
3. An assessment of the initiative's overall credibility, including the adequacy of its governance system, management of conflicts of interest, assurance and oversight models, assessment approach and methodology, and approaches to information and external accountability, including stakeholder involvement, continuous review and improvement, and cross-recognition of other initiatives, based on the principles for good governance set out in OECD RBC guidance ('**Credibility Assessment**')

Assessments are based on extensive desktop research, qualitative interviews and shadow assessments (passive observation of audits and assessments), as well as consultation with external stakeholders. Initiatives are evaluated as being fully, partially, or not aligned. Based on its review, the OECD develops a findings report, which is shared with the initiative and selected stakeholders prior to publication.

**Importantly, the alignment assessments focus on the initiative and do not evaluate or draw conclusions about the adequacy of the due diligence of companies that participate in the initiative.**

# 5 Conclusion

Trends towards mandatory due diligence have given new urgency to debates about the role of sustainability initiatives in the due diligence process. They have also increased pressure on many initiatives to better integrate RBC due diligence guidance and address longstanding stakeholder concerns about their effectiveness, governance and oversight systems and overall credibility. Initiatives that can demonstrate alignment with policy makers' objectives and a willingness to address issues related to scope, implementation and overall credibility can and should play an important role in promoting effective implementation and in driving best practice. While initiatives have a clear responsibility to demonstrate that they are fit for purpose, companies and governments also have an important role to play in evaluating the credibility of the initiatives they use and rely on.

Governments should recognise the important potential of initiatives to scale and promote RBC, including their ability to incentivise practices that go beyond strict legal requirements. However, they must also guard against over-reliance on initiatives by companies and governments. This means setting clear expectations for initiatives to be eligible as a tool for implementation and enforcement—and requiring companies and authorities to understand and check the precise scope and activities of the initiatives they rely on. It also means ensuring that assessments of initiatives—by companies, governments or other stakeholders—go beyond desk-based mapping or benchmarking against publicly available information, and understanding how initiatives operate in practice: the extent to which they implement core due diligence characteristics and steps; the adequacy of their monitoring, assurance and oversight mechanisms; and the robustness of their governance systems and overall credibility—as set out in OECD alignment assessments.

# Annex A. The current landscape of initiatives

## Differences in composition and governance

Initiatives differ significantly in composition and thus in their models for decision-making. Some are multi-stakeholder, with different levels of involvement by governments, industry, individual companies, financial institutions, unions, academics or CSOs; others are exclusively industry-driven or NGO-led. Some initiatives have member companies; while others, such as international framework agreements<sup>31</sup>, are based around contractual agreements between stakeholders. Others carry out independent third party assessments of non-member companies and their suppliers or other business relationships. Even within these categories, the roles given to stakeholders vary, from including stakeholders in equitable decision-making processes and/or governance structures, to limiting them to informal advisory roles. The nature of corporate participation also varies significantly.

## Differences in sector, commodity, value chain and risk scope

Among other factors, initiatives vary in their industry (e.g. garment only, or sector agnostic), commodity (e.g. palm oil), issue or risk (e.g. forced labour, or water usage), tier in the supply chain (own operations; upstream; production/processing facilities; full supply chain); and geographic scope. The nature and size of membership or other participating organisations also vary considerably—ranging from a small number of stakeholders to initiatives with over 5 000 member companies. Corporate participants themselves vary in their size and position in the supply chain. Some initiatives will include a broad membership base across the supply chain, but only accredit one point in the chain (e.g. gold refiners).

## Differences in core activities

Initiatives range from those that act as collaborative learning and information sharing platforms and develop best practice standards, guidance and tools, to those that monitor, verify, certify, assure, accredit or benchmark the practices of individual companies, their suppliers, and/or the sustainable nature of particular products. See Section 2 and Box 2 of this note, which distinguishes between facilitation and verification initiatives.

## Differences in standards and integration of due diligence

Initiatives differ significantly in the extent and ambition to which they set requirements for companies and/or suppliers, and how. Degrees of alignment with international due diligence standards for example vary significantly. Some initiatives, particularly in the minerals sector, were established with the specific purpose of aligning standards and practices with the OECD due diligence standards. Others may be less aligned with a due diligence approach and so place less emphasis on key due diligence elements and principles (see Box 3).

## Differences in assessment and assurance methods of verification initiatives

As explained in Section 2, verification initiatives refer to initiatives that set written requirements for companies or products and monitor, assess, verify, certify, assure or benchmark companies' activities or products against those standards. They vary in what they assess (e.g. due diligence management systems, social compliance against codes of conduct, or specific commodity production) and who (e.g. retailers and brands; financial institutions; production facilities or processors or upstream actors). They also vary in the quality and independence of their assessment and assurance teams, assessment methodologies, and to what extent they hold participating companies, or their own members, to account for under-performance.

Some verification initiatives inform or facilitate specific due diligence steps or activities (e.g. through upstream supplier assessments, certifications or traceability systems); others seek to evaluate companies' due diligence across the entire 6-step framework. In all cases, the extent to which they do so, and the quality and nature of these assessments varies significantly. For example:

- **Nature and quality of assessment standards and levels of assurance:** Some verification initiatives track, monitor and evaluate company or supplier due diligence across the entire 6-step framework, or across specific steps or sub-steps. Many of these initiatives retain in their membership or participation non-performing or under-performing companies (or their business partners) for some time, and categorise companies by levels of performance while working with them to improve standards. Other initiatives use company or product certifications aimed at guaranteeing or assuring certain minimum standards of behaviour or product characteristics for a fixed period of time, but do not carry out more ongoing or proactive, risk-based monitoring of companies or suppliers. See Box 4 on the role that certifications play in company due diligence. Audit, assessment and assurance methodologies and standards, and the quality of assessors, also vary significantly between initiatives.
- **Independence of and oversight over assessors:** Verification initiatives vary in the quality and frequency of their auditing and other assessment methodologies, as well as the expertise and knowledge of assessment teams or third party certification bodies. Levels of oversight by initiatives over third party auditors and their assessments also differ. Some initiatives have established independent third party verification systems (e.g. the use of independent auditors/assessors in the minerals and agricultural sector). In contrast, initiatives may rely on self-declarations, self-assessments and internal, or first party, audits. Assessments can also be conducted by a second party, when buyer staff members audit supply chain suppliers.

**Horizontal and vertical reliance and recognition between initiatives:** Initiatives also differ in the extent to which they rely on and/or recognise, or allow participating companies to rely on, other initiatives as part or full evidence for compliance with specified requirements. They also differ in the degree to which they themselves evaluate, or expect participating companies to evaluate, the alignment and credibility of those initiatives and the information (e.g. supplier audits) received from them.

## Differences in oversight and levels of transparency

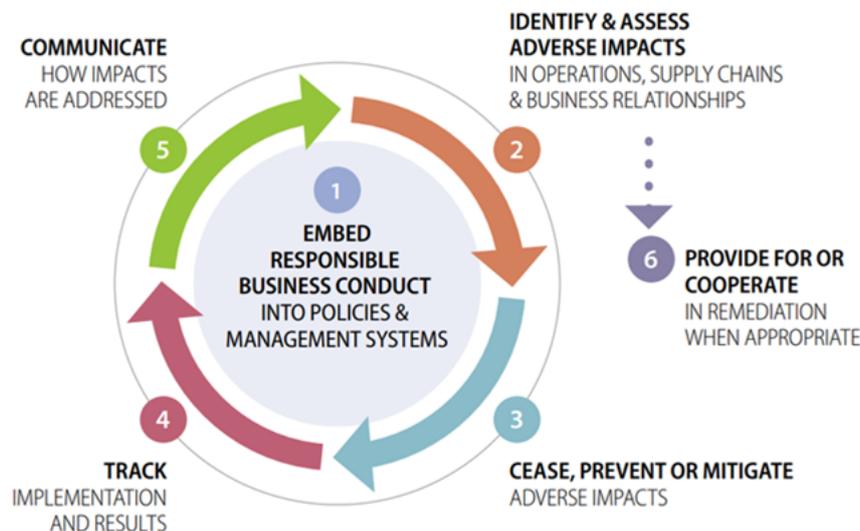
Initiatives adopt very different models for oversight and transparency—with varying degrees of stakeholder input. Some initiatives have limited oversight mechanisms (e.g. no or limited oversight of audits carried out by third party accredited auditors); others have systems for independent oversight over company assessments, or multi-stakeholder oversight of the initiative and its standards and implementation.

The type of information that initiatives publish about their own activities and their members also varies significantly (e.g. information on fees or decision-making; or the use of up-to-date lists and information on the performance of members, including sanctioned or non-conforming members).

## Annex B. Different roles that initiatives can play in the OECD due diligence process

Under OECD RBC due diligence standards, each enterprise in a business relationship has its own responsibility to identify and address adverse impacts. As such, individual companies are expected to play a role at each step of the due diligence process. When they use information, guidance or tools from, or activities carried out by, multi-stakeholder or industry initiatives, companies retain responsibility for checking the information they receive, building on and adapting it to the specificities of their own operations and supply chains, and for ensuring that the initiative or other source of information is credible. They should identify which elements of due diligence a particular initiative is helping it to fulfil, and communicate responsibly on the scope and limitations of the initiative as part of their due diligence reporting and communication to affected stakeholders.<sup>32</sup>

Figure 1. The due diligence process and supporting measures



Source: OECD Due Diligence Guidance for Responsible Business Conduct.

The primary role envisaged for initiatives in the OECD due diligence guidance is in fostering collaboration and helping companies meet their own responsibilities through quality due diligence, although in practice the role that initiatives play is far more diverse (see Annex A).<sup>33</sup> When looking at the OECD due diligence guidance, both facilitation and verification initiatives (see Box 2) can concretely support companies across many of the Steps. Many initiatives will carry out both facilitation and verification activities that can support company due diligence.

For example:

- **Step 1:** An initiative may provide companies with a template RBC due diligence policy (or policies) however companies retain responsibility for adopting the policy and adapting it over time to the specificities of their most significant risks. They also retain responsibility for embedding their own RBC due diligence policies into their management systems, and incorporating them into engagement with business partners and contractual relationships (Steps 1.2 and 1.3 of the OECD Due Diligence Guidance for RBC).
- **Step 2 (risk scoping):** An initiative may provide companies with sector, country, commodity or other specific risk information (e.g. labour risks by country for a particular sector or product or material life cycle assessment data). Companies should integrate this into their own comprehensive risk scoping exercise, and build on and tailor it to the specificities of their own supply chains and operations. For example, they should consider other risk factors (business-model or product-specific as well as regional or supplier-specific) and red flag indicators that allow it to respond to risks that are not flagged by the initiative, check for gaps in information, and integrate information from other sources.
- **Step 2 (risk assessments):** An initiative may provide chain of custody or other traceability information for a specific commodity, and carry out audits or other assessments of suppliers or other business partners on behalf of companies. However, supply chain traceability and supplier audits are sub-components of due diligence. Companies retain responsibility for meeting the more comprehensive, dynamic and proactive risk-based assessments of prioritised suppliers under Step 2, including in consultation with stakeholders—and initiatives can provide them with best practice and tools to do so. Companies also have a responsibility to check the credibility of third party supplier audits or other assessments that they rely on. The extent to which the company should be layering on its own assessments, engaging directly with business partners, carrying out site visits and consulting with stakeholders will depend on factors such as:
  - a) the adequacy of the audit process (e.g. its frequency, scope of on-site interviews and data points) and credibility of the audit standard (e.g. quality of red flag indicators; incorporation of off-site worker interviews or participatory methods to identify hidden risks such as child labour or forced labour)
  - b) the knowledge and expertise of the audit teams (e.g. including local language skills)
  - c) any significant changes in the company's own circumstances or business activities
  - d) any gaps in information or other red flags
- **Step 3:** An initiative may provide companies with a policy on responsible disengagement, supplier-specific corrective action plans following an audit or other assessment, or a template risk mitigation and prevention plan. However, companies have a responsibility to ensure that the policy or corrective action plan is fit for purpose, and that it feeds into its own broader, more comprehensive prevention and mitigation plans across operations and supply chains.
- **Step 4:** Initiatives can help companies to track risk prevention and mitigation activities and outcomes (including via site-specific audits), resolution of complaints, and the effectiveness of remediation measures, but companies retain ultimate responsibility for addressing and remediating adverse impacts effectively; tracking whether their own due diligence processes and strategies are working or not; and demonstrating progress and outcomes against specific targets and objectives via their public reporting.
- **Step 5:** While initiatives can provide templates for public reporting or make available public reports via their website, it remains the responsibility of the individual company to report on its due diligence processes and measures taken, its identified areas of significant risks, the significant adverse impacts or risks it identified, prioritised and assesses, the prioritisation criteria, actions taken to prevent or mitigate those risks, and outcomes, and to publish the report.

- **Step 6:** Initiatives can provide joint grievance mechanisms, and are often very effective in doing so, but it remains the individual responsibility of the company to commit to providing for or cooperating in remediation in accordance with OECD standards. It is also the company's ultimate responsibility to ensure that any third party grievance mechanism aligns with core criteria of legitimacy, accessibility, predictability, equitability, transparency and dialogue-based engagement, and that grievances are adequately managed and remediation is effective.

## Notes

<sup>1</sup> For more information on OECD alignment assessments and related methodologies and tools, see <https://www.oecd.org/corporate/industry-initiatives-alignment-assessment.htm>

<sup>2</sup> International Trade Centre, 'Linking Voluntary Standards to Sustainable Development Goals', 2020: <https://www.intracen.org/publication/Sustainable-Development/>

<sup>3</sup> The OECD Guidelines for Multinational Enterprises, the OECD Due Diligence Guidance for Responsible Business Conduct and the OECD sector-specific due diligence guidance. See <https://www.oecd.org/investment/due-diligence-guidance-for-responsible-business-conduct.htm>.

<sup>4</sup> Examples include a supplier questionnaire to be used by all public buyers and performance clauses in Norway: <https://anskaffelser.no/verktoy/maler/contract-performance-clauses-safeguarding-basic-human-rights-supply-chain>; standard contract conditions used in Swedish Regions (forthcoming) and Denmark (sustainability clauses used by the Danish Police), and a supplier code of conduct in Finland: <https://vm.fi/hankinnat-sosiaalinen-kestavyys>.

<sup>5</sup> As at March 2022, the ILO's Labour Provisions in Trade Agreements Hub lists 18 trade agreements referring to the OECD Guidelines for Multinational Enterprises, the OECD Principles of Corporate Governance and/or the OECD Due Diligence Guidance for the Minerals Sector: <https://www.ilo.org/LPhub/>

<sup>6</sup> See OECD consultation paper on Business Responsibilities and Investment Treaties, Sections 8.2 and 8.3, in particular Section 8.3.2: <https://www.oecd.org/daf/inv/investment-policy/Consultation-Paper-on-business-responsibilities-and-investment-treaties.pdf>

<sup>7</sup> For example, the EU Sustainable Finance Disclosure Regulation (EU) 2019/2088 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02019R2088-20200712> and the EU Taxonomy for sustainable activities [https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/eu-taxonomy-sustainable-activities\\_en](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/eu-taxonomy-sustainable-activities_en)

<sup>8</sup> For example, the EU Non-Financial Reporting Directive 2014/95/EU and the European Commission's proposal for a Corporate Sustainability Reporting Directive (CSRD), April 2021, available at: [https://ec.europa.eu/info/business-economy-euro/company-reporting-and-auditing/company-reporting/corporate-sustainability-reporting\\_en](https://ec.europa.eu/info/business-economy-euro/company-reporting-and-auditing/company-reporting/corporate-sustainability-reporting_en).

<sup>9</sup> For example, Regulation (EU) 2017/821 laying down supply chain due diligence obligations for Union importers of tin, tantalum, tungsten, their ores, and gold originating from conflict-affected and high-risk areas, available at: [https://trade.ec.europa.eu/doclib/cfm/doclib\\_section.cfm?sec=796](https://trade.ec.europa.eu/doclib/cfm/doclib_section.cfm?sec=796); Norway's 'Act relating to enterprises' transparency and work on fundamental human rights and decent working conditions (Transparency Act)' (2021): <https://www.regjeringen.no/contentassets/c33c3faf340441faa7388331a735f9d9/transparency-act-english-translation.pdf>; the European Commission's proposal for a Directive on Corporate Sustainability Due Diligence, 23 February 2022: [https://ec.europa.eu/info/business-economy-euro/doing-business-eu/corporate-sustainability-due-diligence\\_en](https://ec.europa.eu/info/business-economy-euro/doing-business-eu/corporate-sustainability-due-diligence_en), and the European Commission's proposal for a new Batteries Regulation, December 2020: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020PC0798>

<sup>10</sup> For example, the European Free Trade Association (EFTA) and Indonesia have concluded a Comprehensive Economic Partnership Agreement (CEPA), which includes concessions made by Switzerland linking tariff reductions on Indonesian palm oil imports with supply chain certificates from four accepted sustainability standards. See [https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik\\_Wirtschaftliche\\_Zusammenarbeit/Wirtschaftsbeziehungen/Freihandelsabkommen/partner\\_fha/partner\\_weltweit/indonesien.html](https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/Freihandelsabkommen/partner_fha/partner_weltweit/indonesien.html). However, concerns have been raised about these certifications, see for example: <https://www.swissinfo.ch/eng/are-the-sustainability-criteria-in-the-swiss-trade-deal-with-indonesia-toothless-/46383574>.

According to the International Trade Centre, 19 free trade agreements included reference to sustainability standards in 2019: <https://www.intracen.org/publications/Sustainability-Standards-T4SD/> (note that ITC define sustainability standards broadly, to include authoritative international instruments and standards).

<sup>11</sup> Public buyers increasingly draw on certificates and labels to translate sustainability objectives into tender criteria, following strict legal frameworks on their use. See Guide for referencing standards in public procurement in Europe (JIS Action 11), <https://ec.europa.eu/docsroom/documents/33421>. Given the plethora of standards and need to ensure that they do not unduly limit competition and access to procurement opportunities, governments increasingly provide guidance to public buyers in identifying and applying labels in their tenders, for example <https://www.kompass-nachhaltigkeit.de/en/>. Some countries have government-issued certifications, like Mexico for wood certified by the Ministry of Environment and Natural Resources. For these and other examples see <https://www.oecd.org/gov/integrating-responsible-business-conduct-in-public-procurement-02682b01-en.htm>

<sup>12</sup> For example, the role of voluntary international and national schemes have been strengthened in the EU's recast Renewable Energy Directive (EU) 2018/2001 (RED II), as a way of verifying compliance with the law's sustainability criteria. As of March 2022, the Commission has recognised 13 voluntary certification schemes. See [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2018.328.01.0082.01.ENG&toc=OJ:L:2018:328:TOC](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2018.328.01.0082.01.ENG&toc=OJ:L:2018:328:TOC) and [https://energy.ec.europa.eu/topics/renewable-energy/biofuels/voluntary-schemes\\_en](https://energy.ec.europa.eu/topics/renewable-energy/biofuels/voluntary-schemes_en).

<sup>13</sup> For example, Regulation (EU) 2017/821 laying down supply chain due diligence obligations for Union importers of tin, tantalum, tungsten, their ores, and gold originating from conflict-affected and high-risk areas and its accompanying Delegated Regulation 2019/429 set out a process for recognising third party supply chain due diligence schemes under the law: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019R0429>. Certification and verification systems have also been integrated into the European Commission's proposal for a Regulation on Deforestation-free Products. See [https://ec.europa.eu/environment/publications/proposal-regulation-deforestation-free-products\\_en](https://ec.europa.eu/environment/publications/proposal-regulation-deforestation-free-products_en) and European Commission report, 'Study on Certification and Verification schemes in the Forest Sector and for Wood-based Products', July 2021: <https://op.europa.eu/en/publication-detail/-/publication/afa5e0df-fb19-11eb-b520-01aa75ed71a1/language-en>

<sup>14</sup> For examples of recent efforts to converge and align, see <https://slconvergence.org/> in the garment sector, the merger of Rainforest Alliance and UTZ certification in the agriculture sector <https://www.rainforest-alliance.org/utz/> and the work of the ISEAL Alliance: <https://www.isealalliance.org/>.

<sup>15</sup> See <https://www.ecolabelindex.com/ecolabels/>.

<sup>16</sup> MSI Integrity, 'The New Regulators? Assessing the Landscape of Multi-Stakeholder Initiatives', 2017: <https://msi-database.org/report>.

<sup>17</sup> ITC Standards Map: <https://www.standardsmap.org/en/home>.

<sup>18</sup> See Section 2 and Box 2 on the difference between 'facilitation initiatives' and 'verification initiatives'.

<sup>19</sup> Academics, research and civil society organisations have carried out extensive research on the topic of monitoring and certification schemes, particularly in the garment and agriculture sector. See for example: R. Locke et al, 'Does monitoring improve labour standards', 2007: [https://eprints.lse.ac.uk/59405/1/Qin\\_et\\_al\\_Does-monitoring-improve-labor-standards\\_2007.pdf](https://eprints.lse.ac.uk/59405/1/Qin_et_al_Does-monitoring-improve-labor-standards_2007.pdf); R. Locke et al, 'Virtue out of Necessity? Compliance, Commitment, and the Improvement of Labour Conditions in Global Supply Chains', 2009: <https://journals.sagepub.com/doi/10.1177/0032329209338922>; International Institute for Environment and Development (IIED), 'Pro-poor certification', 2012: <http://speri.dept.shef.ac.uk/wp-content/uploads/2018/11/Global-Brief-1-Ethical-Audits-and-the-Supply-Chains-of-Global-Corporations.pdf>; University of Sheffield, 'Ethical Audits and the Supply Chains of Global Corporations', 2018: <http://speri.dept.shef.ac.uk/wp-content/uploads/2018/11/Global-Brief-1-Ethical-Audits-and-the-Supply-Chains-of-Global-Corporations.pdf>; IISD, State of Sustainability Initiatives Review: Standards and Policy Reduction', 2021: <https://www.iisd.org/publications/ssi-review-standards-poverty-reduction>. For civil society reports, see: MSI Integrity, 'Not Fit For Purpose', 2020: <https://www.msi-integrity.org/not-fit-for-purpose/>; Greenpeace, 'Destruction Certified', 2021: [b1e486be-greenpeace-international-report-destruction-certified\\_finaloptimised.pdf](https://www.greenpeace.org/international/report-destruction-certified-final-optimised.pdf); Changing Markets, 'False promise of certification', 2018: [https://changingmarkets.org/wp-content/uploads/2018/05/False-promise\\_full-report-ENG.pdf](https://changingmarkets.org/wp-content/uploads/2018/05/False-promise_full-report-ENG.pdf); Clean Clothes Campaign, 'Fig Leaf for Fashion: How social auditing protects brands and fails workers', 2019: [Fig Leaf for Fashion - summary briefing — Clean Clothes Campaign](https://www.cleanclothescampaign.org/en/fig-leaf-for-fashion-summary-briefing-clean-clothes-campaign); Joint civil society paper, 'Requirements for effective multi-stakeholder initiatives to strengthen corporate due diligence: Recommendations from the perspective of civil society', 2020: <https://www.germanwatch.org/en/18894>.

<sup>20</sup> ECCHR and others, 2021 [https://www.ecchr.eu/fileadmin/Publikationen/ECCHR\\_BfdW\\_MIS\\_AUDITS\\_EN.pdf](https://www.ecchr.eu/fileadmin/Publikationen/ECCHR_BfdW_MIS_AUDITS_EN.pdf); Changing Markets, 'False promise of certification', 2018 [https://changingmarkets.org/wp-content/uploads/2018/05/False-promise\\_full-report-ENG.pdf](https://changingmarkets.org/wp-content/uploads/2018/05/False-promise_full-report-ENG.pdf)

<sup>21</sup> See OECD Due Diligence Guidance for Responsible Business Conduct, Box 3, p.52.

<sup>22</sup> The OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, for example, states "when an enterprise engages in an initiative in order to collaborate on the steps of the due diligence process, the enterprise should identify which aspects of due diligence the initiative is helping it to fulfil and which

components the enterprise will need to pursue on its own. It is also recommended that initiatives which intend to facilitate collaboration on due diligence: clearly articulate which components of due diligence the initiative is helping to facilitate (e.g. identification of sector risks, prioritisation of risks, etc.); and demonstrate that its approaches align with the recommendations in this Guidance. In this regard the initiative may seek to be reviewed by an advisory group of experts and stakeholders to determine the extent to which the initiative supports due diligence in alignment with the Guidance. Introduction, p.32: <https://www.oecd.org/industry/inv/mne/responsible-supply-chains-textile-garment-sector.htm>

<sup>23</sup> The UN Guiding Principles on Business and Human Rights, ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the OECD MNE Guidelines and accompanying Due Diligence Guidance. For broad good governance and credibility principles, see the OECD Due Diligence Guidance for RBC, Box 3, p.52 and ISEAL's Credibility Principles. For information on OECD alignment assessments, see Section 4 and <https://www.oecd.org/corporate/industry-initiatives-alignment-assessment.htm>.

<sup>24</sup> For example, see the UNGPs and the OECD Due Diligence Guidance for Responsible Business Conduct, p.17.

<sup>25</sup> See OECD Due Diligence Guidance for Responsible Business Conduct, Box 3, p.52. The OECD is in the process of finalising an updated set of credibility criteria, based on these principles. See Box 5.

<sup>26</sup> See <https://www.isealalliance.org/defining-credible-practice/iseal-credibility-principles>

<sup>27</sup> See OECD Due Diligence Guidance for Responsible Business Conduct, Overview, p.16-19.

<sup>28</sup> For more information on OECD alignment assessments and related methodologies and tools, see <https://www.oecd.org/corporate/industry-initiatives-alignment-assessment.htm>

<sup>29</sup> See [https://policy.trade.ec.europa.eu/development-and-sustainability/conflict-minerals-regulation/legal-texts-and-other-documents\\_en](https://policy.trade.ec.europa.eu/development-and-sustainability/conflict-minerals-regulation/legal-texts-and-other-documents_en)

<sup>30</sup> See the alignment assessments for the minerals sector, <http://mneguidelines.oecd.org/industry-initiatives-alignment-assessment-minerals.htm>.

<sup>31</sup> For example, see the ILO report on International Framework Agreements, 2018: [https://www.ilo.org/sector/Resources/publications/WCMS\\_631043/lang--en/index.htm](https://www.ilo.org/sector/Resources/publications/WCMS_631043/lang--en/index.htm). See also IndustriALL's list of global framework agreements with individual multinational corporations: <https://www.industriall-union.org/global-framework-agreements> and ACT, an agreement between trade unions, brands and retailers in the garment and footwear sector: <https://actonlivingwages.com/>

<sup>32</sup> OECD Due Diligence Guidance for Responsible Supply Chains in the Garment & Footwear Sector, Introduction, p.32.

<sup>33</sup> OECD Due Diligence Guidance for Responsible Business Conduct, p.19 and Annex, Q12, p.51.

