

# Annex B. Relevant business frameworks and due diligence laws

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## 1. INTRODUCTION

It is useful for certificate holders to understand the importance of Child Labor Due Diligence (outlined in module 2), and the laws and frameworks related to it because of the environment RA certified farms operate within. Certificate holders and their farms are part of a larger supply chain for many businesses and their products across the world. Some of the businesses buying the crop(s) on RA certified farms are looking for crops and products that are grown and produced in a way that meet global standards and guidance on human rights.

Figure 1 below provides you with an overview of the mandatory and voluntary laws and guidelines developed since the OECD guidelines were created in 1976. In later years there has been a trend towards increased guidance and legislation to encourage businesses to act responsibly and understand its impact. Child labor due diligence system fits these human rights guidelines and are therefore of interest to some of the companies that buy RA certified products.

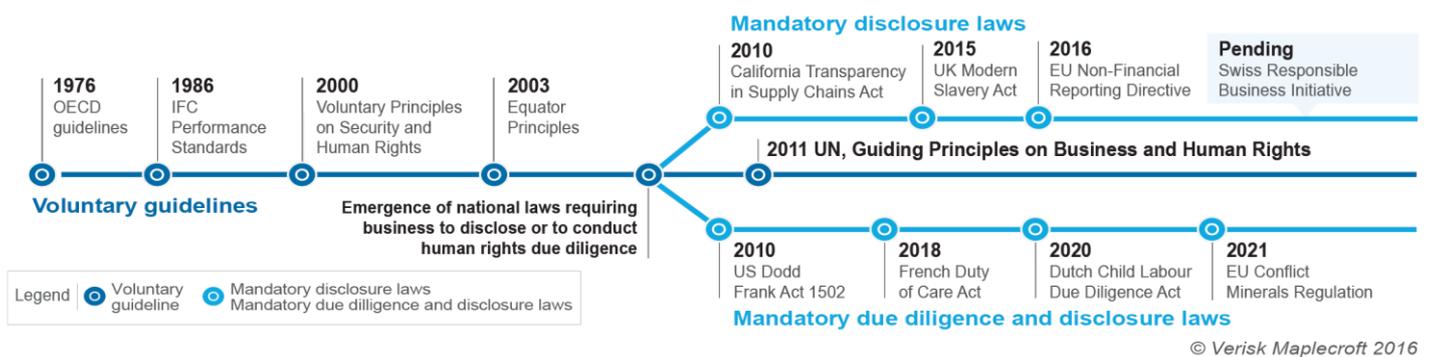


Figure 1. Verisk Maplecroft diagram on mandatory and voluntary guidelines on human rights

This annex will provide a further overview of the due diligence laws and initiatives across the world as well as an overview of the relevant business frameworks and guidance available and relevant to child labor.



## 2. DUE DILIGENCE LAWS AND INITIATIVES ACROSS THE WORD

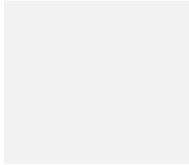
Please note that this list is not exhaustive and is up to date as of June 2018.

|                       |   |  | Status  |
|-----------------------|---|--|---|
| <b>Netherlands</b>    | <b>Wet Zorgplicht Kinderarbeid</b> (Law on Duty of Care Child Labor) <b>(proposed bill)</b>                         | Requires companies to hand in a plan that shows that sufficient mechanisms to prevent and remediate child labor are in place for their supply chains.  | Passed by lower house in 2017, at upper house, pending.   |
| <b>France</b>         | <b>Duty of Care law</b><br><br><b>(Legislation since 2017)</b>  | Requires companies to publish annual vigilance plans regarding human rights risks, including impacts linked to their own activities, subcontractors and suppliers. Covers 100-150 large companies and burden of proof falls on victims.                                | Adopted.  |
| <b>United Kingdom</b> | <b>Modern Slavery Act</b><br><br><b>(Legislation since 2015)</b>  | Demands all large companies with turnover higher than £36,000, that operate in the UK market, to provide an annual, board-approved, publicly available statement that describes what they are doing to eliminate modern slavery in their operations and supply chains. | Effective. So far, ±1800 companies have released statements (now searchable on central register). |
| <b>United States</b>  | <b>California Transparency in supply chains act</b><br><br><b>(Federal legislation since 2010)</b>                  | Ensures that companies investigate and publicize where and how their products are produced, making them accountable for their production processes and empowering consumers to make more informed purchases.   | Effective since 2012.   |
|                       | <b>Business Supply Chain Transparency on Trafficking and Slavery Act</b><br><br><b>(proposed bill)</b>              | Similar to California Transparency Act. Mandates companies investigate their supply chains for forced labor and disclose their findings on their websites.   | Unclear when, or if, it will be passed, but repeated consideration shows interest <sup>1</sup> .  |
|                       | <b>Trade facilitation and Trade Enforcement Act – TFTEA</b><br><br><b>(Amendment to Tariff Act 1930 since 2016)</b> | Tariff Act does not allow production with forced labor; amendment removes the exception of “consumptive demand”, giving Customs and Border Protection the ability to prevent imports of goods produced with forced labor.  | Adopted since 2016.   |
| <b>Switzerland</b>    | <b>Responsible Business Initiative</b><br><br><b>(Initiative/petition)</b>  | Coalition of CSOs collected the required 100.000 signatures to request an amendment to the Federal Constitution regarding legally binding corporate  | The initiative is currently at the Federal Council and Parliament. On 14 June                     |

<sup>1</sup> Bill was referred to the House Committee on Financial Services and has been before Congress several times.



|                       |   |  |  |
|-----------------------|---|--|--|
|                       |   | responsibility. The proposed amendment would require companies to review their risks to people and environment, and report on violations identified and taken measures   | 2018, the plenary of the National Council is to decide upon the bill.                            |
| <b>Austria</b>        |   | NeSoVe aims to push for HRDD legislation with Austrian Government in 2017. No further information available. NeSoVe is affiliated with Fairtrade Austria, World Vision Austria, and Suedwind.  |  |
| <b>Sweden</b>         |   | Initial mobilization of CSOs has started around HRDD legislation. More in 2017. Participating NGOs include Amnesty, Swedwatch and FIAN. The national action plan for business and human rights provides more information about Sweden's plan for implementing the UNGPs.             |  |
| <b>Germany</b>        | <b>National Action Plan on Business and Human Rights requirements</b><br><br><b>(Action Plan)</b> | If, by 2020, 50% of the companies with more than 500 employees has not voluntarily put in place due diligence plans, legislation will be adopted. VENRO, CorA and Forum Menschenrechten (CSO networks) are active regarding the <u>promotion of due diligence legislation</u> .      | Action plan adopted in 2016.   |
| <b>Australia</b>      | <b>Australia's Criminal Code</b><br><br><b>(since 1995)</b>                                       | Includes anti-slavery and human trafficking offences. Code includes offences for conduct both inside and outside of Australia. Criminal liability will also arise if an organization provides finance intentionally or recklessly 'to any commercial transaction' involving slavery. | Effective since 1995. (persecutions unknown for multinational companies and their supply chains) |
|                       | <b>Modern Slavery Act</b>   | The Australia Federal Modern Slavery Law requires companies with an annual turnover over \$100,000 AUD to report on the activities they take to assess, prevent and respond to modern slavery in their supply chains.  | November 2018  |
| <b>European Union</b> | <b>Non-Financial Reporting Directive (2014/05/EU)</b>   | Member states are required to oblige "public interest" companies with more than 500 employees to disclose information about policies/practices relating to social and employee matters and respect for human rights and diversity, among others.                                     | Deadline for transposition passed in December 2016.  |
|                       | <b>National Action Plan</b><br><br><b>EU human rights due diligence law</b>                       | In 2011, the EU called on its Member States to develop National Action Plans (NAPs) for the UNGPs' implementation, with the promise to   |  |



shortly deliver one of its own. To date, that promise is yet to be met. In 2020, the EU consulted widely on potential EU human rights due diligence legislation.

### 3. OVERVIEW OF BUSINESS FRAMEWORKS RELEVANT TO CHILD LABOR AND DUE DILIGENCE

The child labor due diligence guidance and process provided in module 2 has been aligned with several normative frameworks, which are further described below:

- OECD Guidelines for Multinational Enterprises
- The UN Guiding Principles on Business and Human Rights (UNGPs)
- The Children's Rights and Business Principles (CRBPs)
- The Sustainable Development Goals (SDGs)
- UNICEF's mapping for the SDGs and the UNCRC

#### 3.1 OECD Guidelines for Multinational Enterprises

The OECD Guidelines for Multinational Enterprises are recommendations addressed by governments to multinational enterprises and were updated in 2011. They provide voluntary principles and standards for responsible business conduct consistent with applicable laws.<sup>2</sup>

In May 2018 the OECD released guidance called; 'OECD Due Diligence Guidance for Responsible Business Conduct' which aims to provide practical support to enterprises on implementation of the OECD Guidelines for Multinational Enterprises. It provides recommendations on due diligence and associated provisions to help address adverse impacts related to workers, human rights, the environment, bribery, consumers and corporate governance, that may be associated with the operations, suppliers and other operations of businesses<sup>3</sup>. The OECD has also developed sectoral guidance to help businesses identify and address the specific risks in their sector. They have developed specific guidance on agricultural supply chains.<sup>4</sup>

#### 3.2 The UN Guiding Principles on Business and Human Rights (UNGPs)

The UNGPs were adopted unanimously in 2011 by the UN Human Rights Council and are the most recognized framework for outlining the responsibilities of governments and businesses with regard to human rights<sup>5</sup>. The UNGPs are founded on three pillars; the state duty to protect against abuse including from business, the corporate responsibility to respect and avoid infringing on rights and address impacts and victims access to effective remedy for business-related human rights abuse:



<sup>2</sup> <http://www.oecd.org/corporate/mne/1922428.pdf>

<sup>3</sup> <http://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>

<sup>4</sup> <http://mneguidelines.oecd.org/OECD-FAO-Guidance.pdf>

<sup>5</sup> [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)



Figure 2. The 3 pillars of the UNGPs

The UNGPs provide guidance to businesses and states on how to respect all human rights, including vulnerable groups such as children. They require businesses to undertake human rights due diligence (HRDD) – the process of understanding, addressing and mitigating risks such as child labor in business operations and supply chains. Child Labor risk assessments on your farm(s) are part of this HRDD and the tool for risk assessments in module 3 of the Child Labor Knowledge Guide is aligned with UNGP guidance. The Danish Institute for Human Rights have developed a useful and clear video explaining the UNGPs: <https://www.youtube.com/watch?v=BCoL6JVZHrA>

### 3.3 The Children's Rights and Business Principles (CRBPs)

The Children's Rights and Business Principles (ten Principles) provide a child rights lens to the global standard on business and human rights established by the UNGPs for implementing the United Nations 'Protect, Respect and Remedy' Framework. The objective of UNICEF's children's rights and business agenda is to promote the corporate responsibility to *respect* and *support* children's rights in the work place, market place and community in conjunction with the government duty to protect and safeguard children's rights.

- **Respect:** Avoiding any infringement of human rights, including children's rights, and addressing any adverse human rights impact with which the business is involved. The corporate responsibility to respect applies to the business's own activities and to its business relationships, linked to its operations, products or services.
- **Support:** In addition to respecting human rights, voluntary actions that seek to advance human rights, including children's rights, through core business activities, strategic social investment and philanthropy, advocacy and public policy engagement, working in partnership and other collective action.

Each principle lays out actions that businesses can take in terms of their corporate responsibility to respect children's rights, as well as suggested actions to support children's rights in the workplace, marketplace and the community. In this way, the Principles aim to help businesses better understand their responsibilities towards children in a variety of contexts, including the employment of young workers, marketing practices, interaction with local communities and operation in emergency situations. The principles are founded on the rights outlined in the CRC and ILO Conventions 182 and 138. A summary of the principles can be found in figure 3 below:



Figure 3. Overview of the CRBPs, UNICEF <sup>6</sup>

### 3.4 The Sustainable Development Goals (SDGs)

The SDGs are a collection of 17 global goals set by the United Nations, businesses and NGOs. The broad goals are interrelated, though each has its own targets to achieve and the total number of targets is 169. The SDGs cover a broad range of social and economic development issues and many businesses have pledged to implement these and take action including on child labor. For example, target 8.7 encourages immediate measures to eradicate forced labor, end modern slavery and human trafficking and the elimination of the worst forms of child labor. The goals are:

<sup>6</sup> <https://www.unicef.org/csr/theprinciples.html>



# SUSTAINABLE DEVELOPMENT GOALS



Figure 4. The Sustainable Development Goals (SDGs)<sup>7</sup>

The SDGs relate closely to children's rights and the issue of child labor. For example, the SDGs set out the goal that by 2030 all boys and girls complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes. They also state the goal of taking immediate and effective measures to eradicate forced labor, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labor, including recruitment and use of child soldiers, and by 2025 end child labor in all its forms. More information on the SDGs and how they link to children can be found below. Alliance 8.7 is a global and multi-stakeholder partnership focused on SDG 8.7 which includes the commitment to eradicate child labor. Launched in 2016, Alliance 8.7 now has 217 partners and operates with 4 Action Groups on the global level, addressing root causes of these human rights violations in the context of conflict and humanitarian crisis, supply chains, migration, and the rule of law and governance.

### 3.5 UNICEF's mapping for the SDGs and the UN CRC

UNICEF has mapped the SDGs and UN Convention on the Rights of the Child (CRC) to encourage an in-depth exploration of the links and synergies between the two frameworks. Firstly, it's important to note that all of the SDGs highlighted in section 2.4 are relevant to children<sup>8</sup>. Below we have highlighted some of the key areas the SDGs and CRC link and provide further guidance on child rights and child labor.

**Goal 1: End poverty in all its forms everywhere** relates to article 2 of the CRC and the right to non-discrimination. It also related to 6.2 of the CRC and 'States Parties shall ensure to the maximum extent possible the survival and development of the child'.

**Goal 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture** relates to article 6 of the CRC; 'States Parties recognize that every child has the inherent right to life and States Parties shall ensure to the maximum extent possible the survival and development of the child'.

**Goal 3: Ensure healthy lives and promote well-being for all at all ages** relates to articles 2 and 6 of the CRC as previously mentioned but also article 17 which says; 'ensure that the child has access to information and material from a diversity of national and international sources,

<sup>7</sup> <http://www.undp.org/content/undp/en/home/sustainable-development-goals.html>

<sup>8</sup> [https://www.unicef.org/agenda2030/files/SDG-CRC\\_mapping\\_FINAL.pdf](https://www.unicef.org/agenda2030/files/SDG-CRC_mapping_FINAL.pdf)



especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health'. It also refers to article 19; 'protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse' this is particularly important to note for agriculture.

**Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities** for all relates to article 28 of the CRC; 'the right of the child to education and with a view to achieving this right progressively and on the basis of equal opportunity'. The CRC also refers to commitments to make primary education compulsory, available and free to all.

**Goal 5: Achieve gender equality and empower all women and girls** relates to article 1 of the CRC; 'recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world'. But it is also particularly relevant to article 19; 'protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse'.

**Goal 6: Ensure availability and sustainable management of water and sanitation for all** relates to CRC article 27 (right to standard of living adequate for child's physical, mental, spiritual, moral and social development) as well as article 32, the right to be protected from exploitation through harmful work, which could include water fetching. Having clean drinking water near children's homes, protects them from walking long distances fetching and carrying water, potentially jeopardizing their health and education.

**Goal 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all** relates to child labor, as goal 8.7 specifically relates to the eradication of child labor in all its forms by 2025 and work directly on the eradication of the worst forms of child labor and forced labor. Goal 8.6 also requires countries to reduce the proportion of youth not in employment, education or training by 2020. These goals relate to CRC article 32 (protection from exploitation) and CRC article 28 and 29 on the promotion of secondary education and the child's development to their fullest potential. The protection of labor rights and promotion of safe and secure working environments (8.8) relates to article 15, children's freedom of association and peaceful assembly.

**Goal 10: Reduce inequality within and among countries** aims to increase and sustain income of the bottom 40 percent of the population relates to the pre-ambles and guiding principles of the CRC, that all children are equal and have the right to life, survival and development and to live in dignity. The use of social protection policies to help advance the most disadvantaged including women is related to CRC article 26, the right to benefit from social security, including social insurance.

**Goal 12: Ensure sustainable consumption and production patterns** includes the achievement of environmentally sound management of chemicals and all wastes throughout their life cycle, which relates to article 24 of the CRC on state parties' duties to combat disease and malnutrition, taking into consideration the dangers and risks of environmental pollution. The use of pesticides in agriculture can directly harm children working or living on farms, so Goal 12 is relevant to children working in agriculture, contributing to making it safer.

**Goal 13: Take urgent action to combat climate changes and its impacts & Goal 14 on conservation and sustainable use of the oceans, seas and marine resources & Goal 15: Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat deforestation, and halt and reverse land degradation and halt biodiversity loss** are all relevant to CRC articles on children's health, right to life and access to information, awareness and education on issues of climate change, conservation of biodiversity on water and land. This also directly impacts children's future livelihoods and as such their future work opportunities.

**Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels** includes the reduction of violence, including against children and as such relates to children's right to life, survival and development and their protection from exploitation and abuse, as well as their right to recovery and reparations from abuse.

**Goal 17: Strengthen the means of implementation and revitalize the global partnership for sustainable development** through collaboration; this is relevant to global supply chains



sourcing from countries where the SDGs are not on track and require further resources to meet the goals. As such, engaging on the SDGs and Children's Rights with buyers, importers, retailers can boost their contributions to the SDGs and your local farmers' community to contribute to the realization of children's rights, including the right to education, protection, leisure and development.

### 3.6 Approaches to child labor

The table below provides an overview of the type of child labor approaches that are being used by the various actors:

Figure 5. Approaches to child labor

| Companies  |
|--|
| <ul style="list-style-type: none"> <li>• Moving away from zero-tolerance to continuous improvement models</li> <li>• Moving away from child labor focus to overall human rights framework</li> <li>• Implement human rights due diligence approach</li> <li>• Supply chain-based Child Labor Monitoring and Remediation Systems</li> <li>• Collaborating increasingly directly with NGOs on community-based monitoring and remediation systems</li> <li>• Moving away from crop / supply chain approach to area-based approach</li> <li>• Increasing interest in paying living wage</li> <li>• Long term collaborations with NGOs on child rights</li> </ul>   |
| NGOs   |
| <ul style="list-style-type: none"> <li>• Increasingly, partnerships with companies in community based human rights, development and child labor programs as well as more supply chain-based initiatives (training, policies)</li> <li>• Child Labor Monitoring Committees (CLMs) with UN agencies, companies and governments</li> <li>• Awareness raising on child labor and promotion of education</li> <li>• Community based child protection committees</li> <li>• Research, advocacy and accountability frameworks (Cocoa Barometer, Coffee Barometer)</li> <li>• Community based development committees</li> <li>• Access to finance and livelihood creation (micro-finance, village saving schemes, loan associations)</li> <li>• Area-based Child Labor Free Zones</li> <li>• Women Empowerment Programs</li> </ul> |
| At governmental level  |
| <ul style="list-style-type: none"> <li>• National Action Plans</li> <li>• Strengthening legal frameworks and law enforcement</li> <li>• National Child Labor Monitoring Systems (CLMSs)</li> <li>• Improving access to education</li> <li>• Improving quality of education</li> <li>• Labelled or conditional cash transfer programs for school attendance</li> <li>• Providing affordable, quality technical and vocational training and job placements</li> <li>• Birth registration campaigns</li> </ul>  |
| At international governmental policy level   |
| <ul style="list-style-type: none"> <li>• New human rights due diligence and reporting legislations and initiatives</li> <li>• Alliance 8.7: Sustainable Development Goal 8.7 on ending forced and child labor</li> <li>• ILO Decent Work Agenda</li> <li>• SDG 4.3 on providing technical and vocational training and job placements</li> </ul>  |