
MEANINGFUL STAKEHOLDER ENGAGEMENT

WITH SMALLHOLDER FARMERS

IN DUE DILIGENCE PROCESSES OF COMPANIES



AUTHORS

Archana Sivaramakrishnan
Dipankar Sen Gupta
Filbert Kavia
Tara Scally

with the support of:

Hannah Conway
Fiona Gooch
Jorge Conesa
May Hylander
Arati Pandya
Mukesh Tiwary

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INTRODUCTION

In today’s international market, characterized by power imbalances and challenging effects of climate change, smallholder farmers face difficulties to make ends meet. The prices they receive for their products often don’t cover the cost of (sustainable) production, leading to malnutrition, unsafe working conditions and sometimes even child or forced labour. International brands that sell the final products, such as clothing or tea, often refuse to assume responsibility for the conditions under which the raw materials for the product are made, even though they should.

International human rights principles and several acts of national and international law—such as the European Union’s Corporate Sustainability Due Diligence Directive (CSDDD)—place the expectation on buyer companies to identify and prevent human rights and environmental risks in their supply chain and fix problems if they do occur. This process, known as human rights and environmental due diligence (hereafter referred to as ‘due diligence’ or ‘HREDD’), should include the involvement of people working in, or influenced by, the value chains of buyer companies—a process known as meaningful stakeholder engagement. In spite of the undisputed importance of stakeholder engagement in HREDD, little research has been done on meaningful stakeholder engagement with smallholder farmers in due diligence processes of buyer companies. This research hopes to fill this gap and pro-

vide policy recommendations to buyer companies, the European Commission and Member States of the European Union (EU) in implementing the recently adopted Corporate Sustainability Due Diligence Directive.

This report presents the findings of field research in India on meaningful stakeholder engagement with smallholder cotton farmers and tea farmers in Tanzania. The first chapter will present information on smallholder farmers, with specific information on the tea and cotton sectors; chapter two will provide a legal basis, with information on both soft law and European legislation on human rights and environmental due diligence; the third chapter will present the research findings, divided into six paragraphs for each due diligence step; and the final chapter will present recommendations based on the findings.

Methodology

The focus of this research is on smallholder tea farmers in the Iringa, Mbeya and Njombe regions in Tanzania and smallholder cotton farmers in the Odisha region in India. The research design for the study included a literature review, followed by collection of qualitative information from smallholder farmers, their representatives and buyer compa-

nies commissioning due diligence assessments/intermediaries engaged in conducting these assessments.

The information was gathered through focus group discussions and key informant interviews. Care was taken to facilitate equal participation by women and men farmers as far as possible. The sample for

Research method	Smallholder cotton farmers	Smallholder tea farmers	Total
Focus group discussions	11	12	23
Key informant interviews	8	12	20

the study was selected through a process of purposive sampling in the tea and cotton growing areas of the country. A two-pronged approach was used to identify and invite smallholder farmers to participate in the study. In India, researchers worked together with a non-profit organization that supports small cotton farmers in the state of Odisha. In Tanzania, researchers collaborated with the Tea Board of Tanzania and the Agricultural Marketing Cooperative Societies (AMCOS) in the Highlands, where 70% of Tanzania's smallholder tea farmers

are based, and in the Northeast of Tanzania at the Usambara ridges, where 30% of smallholder farmers are based.

The number of focus group discussions and interviews that were conducted is shown in the table above.

The smallholder farmers often live and work in rural areas, and they are usually highly dependant on the produce of their land. The next chapter will explain the position of smallholder farmers in further detail.





SMALLHOLDER FARMERS CONTEXT

Smallholder farmers can be described as a family that sustains itself (partly) through the income they generate from their land. Usually, the family also lives on this land. The definition of a smallholder farmer can vary depending on the crop they grow or region where they are based. Generally speaking, those whose farms are smaller than two hectares are usually considered to be smallholder farmers. This chapter explains the characteristics of smallholder farmers, the challenges they face and how they are positioned in global supply chains.

Smallholder farmers: their land and income

Household setup

Smallholder farmers are characterised by the fact that they grow a commodity: produce that might be sold and used as a raw product (such as fresh fruits) or after processing (such as cocoa and sugar used in chocolate). Farmers depend on the produce of their land for their income. Usually, the whole family helps with maintaining the farm, including children, who might help with smaller tasks such as weeding. Some family members might have other (irregular) jobs outside of the farm, some

families reserve a small piece of land to grow their own food for consumption. Land often passes on from generation to generation. When families are big, this might mean that the land is divided and becomes smaller and smaller over time. The high dependency on this small piece of land for a family's livelihood, brings along serious risks described below, such as forced or child labour and unsafe working conditions.

Threat of climate change and land infertility

Farmers around the world, including smallholder tea and cotton farmers are faced with the effects of climate change. Extended dry periods are reducing the productivity of lands and increasing the need for irrigation. This in turn increases the cost of production. At the same time, yields are decreasing because of climate change and ageing of crops. Actions to mitigate the effects of climate change are costly and the price that farmers receive for their produce is rarely enough to cover these costs.

In cotton, pesticides also play a role in fertility. Though cotton occupies only 5% of cultivable land in India, it consumes 50% of the pesticides, causing long term environmental and health hazards for the small-scale cotton farmers. This not only creates health risks for the farmers, but also lowering the fertility of the land. When lower fertility leads to lower volumes of cotton produce, this will lower the farmer's income—creating a vicious circle of poverty.

Income and pricing

The prices for commodities such as tea and cotton,¹ depend on the international stock market. It is not only a question of supply and demand, as speculation on international markets can influence the price of commodities a lot. Low and volatile prices put the livelihoods of smallholder farmers at risk,² as these impede farmers' ability

to earn a living income.³

Because of the negative effects of commodity markets, some countries have decided to set their own minimum prices for products. Ivory Coast and Ghana have done so for cocoa. India has set a minimum price for cotton, called the minimum support price. Though this price has consistently increased over

the years, this amount is often not respected by buyers. The only way for farmers to be guaranteed that they receive the legal minimum price, is to sell their cotton through the government channels known as the mandi. However, the process for this is complicated and time consuming, making it an impossible route for many farmers.

Smallholder cotton farmers sell their cotton through one of three channels: one is a local trader, who buys the cotton at the farm gate, and sells it in turn to the regional ginning unit. The second channel is for the farmer to sell their produce directly to the ginning unit. The third channel is for the farmers to sell their produce to a producer company which is a local company that often buys the cotton from farmers in the region to sell onto the next stage in the supply chain. If selling to a local trader or producer company, both actors will then sell the cotton to the ginning unit. There is a lot of uncertainty around the

Working conditions

Some smallholder farmers in this research hire seasonal workers when it is time to harvest and there is too much work for the farmers alone. They might also call in help from (extended) family members or neighbours. These workers will need to be paid based on the income from the land. However, when the payment for the crop is late and/or low, while we did not find evidence or instances of this in our study, it still generally creates a high risk that human rights are infringed upon. Incidences of unfair recruitment practices, long working hours, breach of occupational safety standards and unequal wages (for example lower wages paid to women and children) are often seen in the cotton value chain in India. Forced labour and child labour exist in cotton production at the farm level in different activities (weeding, picking) as well as in seed production (crossing) and in

Loans

Because the terms of contracts often set late payment dates, in order to cover the costs of inputs or pay seasonal workers, many farmers need to take out loans. These loans are taken on the assumption that once the cropping cycle is complete the payment for the produce can be used to repay the loans. When the payment is delayed, this repayment cycle is disrupted and the farmers have to pay higher interest on the loan. When this is the case, a

price and quantity that will be purchased by the producer company, the traders and the ginning units. The price is determined by the intermediary, often using improper measuring equipment that works in their own favour. Usually, the price offered is below the prevailing market price.

Smallholder tea farmers usually sell their leaves at the weighing sheds (buying centres). Greenleaf clerks employed by factories do the weighing. Then, the leaf is transported to the factories by factory trucks or contracted third parties. The greenleaf is processed at the factory (weathering, cut-tear-curl, fermentation, drying and grading) and packed for auction or direct sale to a buyer. The farmers are paid greenleaf prices set annually at the stakeholders meeting under the sharing ration market price (average of auction, direct and domestic sells). In 2023, the market price sharing ratio was 35% and 65%; in 2024, it is 40% and 60% for smallholders and factories, respectively.

ginning and pressing units. Besides this, health and safety issues also form a risk.

Over 90% of small tea farmers in Tanzania use family labour for farm activities, mainly weeding, plucking and fertilizer application, due to the small size of the farms, averaging 1 hectare per farmer. Farmers with more than 1 hectare usually hire labour to complement the family labour, and the payment is negotiable depending on the type of work and seasonality and is not regulated by the government's labour law. Bigger factories that own estates use hired labour in their estates and factory work. Plucking labourers are not paid a fixed rate per day but are paid per kilogram of greenleaf plucked. The payment is late and low, workers work long hours and lack protective gear for occupational health and safety, creating a high risk to labour and human rights.

significant number (8 out of 10) farmers resort to 'distress sale of produce': farmers sell their produce to a local buyer who is able to make payment quickly, even though this may be at a lower price than they would receive when selling it through other channels. Overall, smallholder farmers have little influence over their sales conditions and pricing. Farmers are at the far end of a supply chain that is characterized by power imbalances.

Smallholders within international supply chains

Many commodity supply chains are controlled by a handful of powerful corporations which secure most of the profit from those supply chains.

Power imbalance

Through their design and power dynamics, the gains from agricultural production and trade are distributed in a very unequal way, to the benefit of large traders, manufacturers and retailers, while squeezing smallholder farmers.⁵ Farmers often get only 5% to 10% of the total value of products sold to consumers, while companies with downstream activities (processing, manufacturing, retailing) capture most of the value added in global agri-food supply chains.⁶ Smallholder tea growers are likely

Even when world commodity prices are high, large transnational corporations and financial investors tend to capture most of the gains.⁴

to receive less than 3%, and often less than 1%. By contrast, international companies that sell the final product receive up to 80% of the retail price.⁷ Seven vertically-integrated tea companies control 85% of tea production through their own factories and estates.⁸ This means that there is a small group of companies with a large amount of power, both financially and in terms of their access to supply chain information.

TEA SUPPLY CHAIN



Power imbalances in the tea sector in Tanzania

The tea supply chain in Tanzania falls into three main categories: production, processing, marketing and consumption levels. At the production level, tea is produced by smallholder farmers and estates, each contributing 50% of the national production. Smallholder production is organized in cooperatives formed with the agricultural marketing cooperative societies (AMCOs) at the grassroots level and aggregated to the cooperatives at the national level, where all AMCOs form one federation nation-wide. These AMCOs/cooperatives sign greenleaf supply agreements with different factories on behalf of farmers. The agreements focus on farm-level activities, including the amount of greenleaf to be supplied, the quality and plucking method required by the factories, minimal use of chemicals in the farms, sustainable standards certification needed for the factories, input loan to be supplied by factories and indicative price set by the government. Tea processing facilities often blend the leaves from smallhold-

er farmers with leaves from tea estates. Nothing is mentioned in the agreements on processing, marketing of processed tea, the price achieved at auction or information on market shares. Communication is always top-down from the factories based on what they want from the farmers without listening to their needs. Processing and marketing are 100% the role of factories without involving the farmers, despite the 50% contribution to the total production. The tea is marketed to different brands and consumers, but all the information from the end market is sent to processors, farmers are not informed. The farmers have been shouting for a long time, requesting market information sharing. However their efforts have been unsuccessful because factories are not ready to share the information due to their privacy and confidentiality policies. The government admitted to the unfair business practices and has initiated a strategic plan to improve the situation, including having a substantial farm-

ers' organization to voice their needs and concerns and allowing future farmers to own their factories. Currently, the government has opened a tea auction in Dar es Salaam, Tanzania, which will create

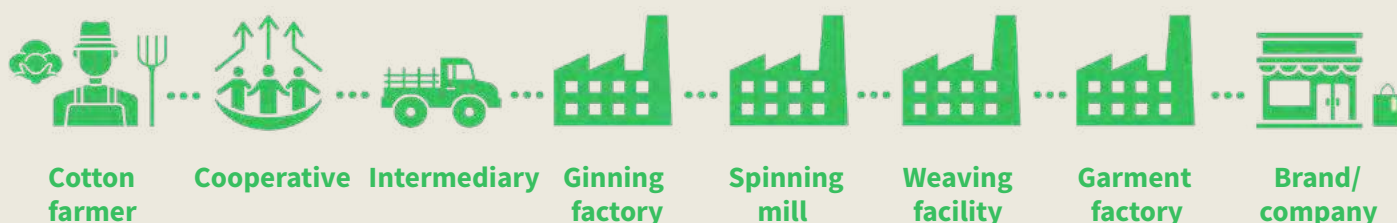
more information sharing with key stakeholders, including the farmers, and will reduce the cost of transportation to the Mombasa Tea Auction in Kenya.

Power imbalances in the cotton sector in India

Smallholder farmers in India mostly operate at the lower end of the value chain. The majority of the cotton farmers are smallholder farmers having landholdings of between 1-2 hectares. This suggests very limited bargaining capacity in relation to market actors like village traders and ginning units. The information around price and attendant quality parameters flows from ginners and local

traders to farmers. This information asymmetry creates a power imbalance in the system. In many cases, the local traders also play the role of money lenders. This creates a situation where the farmers are forced to sell their produce at a lower price compared to the market price or minimum support price set by the government.

COTTON SUPPLY CHAIN



Control points

When a supply chain is characterized by power imbalances, there is often a control point that can be identified. Control point or choke point enterprises have greater visibility and/or leverage over their own suppliers and over business relationships further up the supply chain. They can be recognized by certain characteristics:⁹

- **Point of transformation:** they are located at key points of transformation in the supply chain where traceability or custody of information may be aggregated or lost.
- **Low number of actors:** there are relatively few enterprises at this specific point in the supply chain that process or handle the majority of inputs that are passed onto those further up or down the chain.
- **High leverage:** enterprises located towards the end of a supply chain (downstream) have the greatest amount of leverage over other actors in the chain.
- **Audits occur here:** at these points schemes

and audit programmes already exist to leverage these systems and avoid duplication.

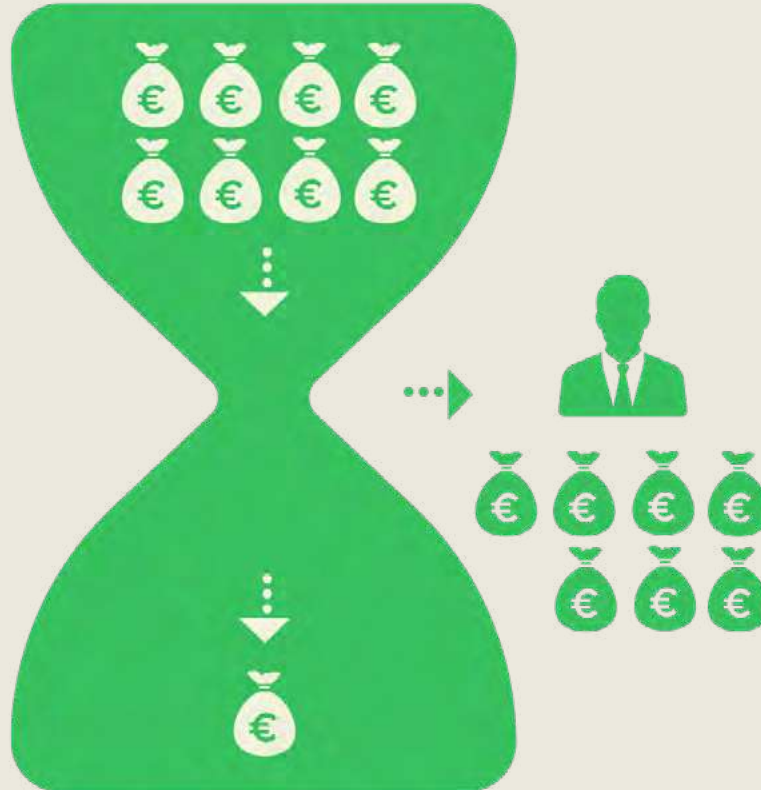
For the purpose of this research, choke points that could be identified are: tea processing facilities, spinning and ginning mills. These enterprises often know which farmers or cooperatives the raw commodities came from. The tracing often stops there and does not continue when the product is being sold to an international buyer. For example, most fashion brands do not know where the cotton in their garments is grown and most tea companies do not know which farmer cooperative supplied the tea leaves. However, they should be aware of this. International business and human rights norms set the expectations on all companies to map and assess their supply chains. On top of that, the EU Corporate Sustainability Due Diligence Directive sets legal obligations on certain companies to conduct this assessment and address the issues that they discover. The next chapter will explain these requirements placed on companies in further detail.

UNEQUAL DISTRIBUTION OF BENEFITS

Consumers



Buyer companies



Smallholder farmers





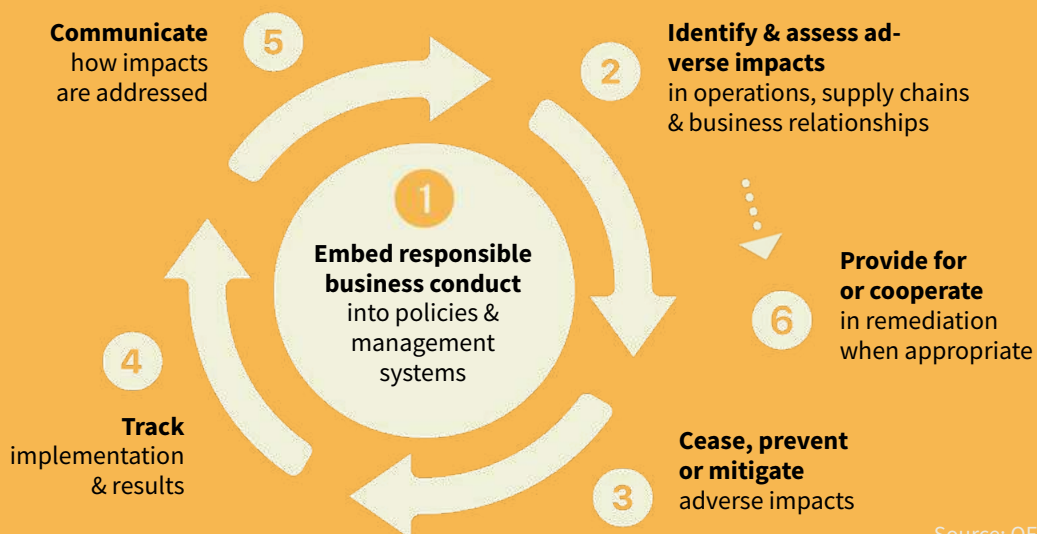
LEGAL CONTEXT

All business enterprises have a duty to respect human rights in their value chains. This is laid down in international guidelines such as the United Nations Guiding Principles on Business and Human Rights (also known as the UNGPs) and the Guidelines of the Organisation for Economic Co-operation and Development (hereafter: the OECD Guidelines).¹⁰ On top of that, certain companies have a legal obligation to respect human and environmental rights as laid down in the EU Corporate Sustainability Due Diligence Directive (CSDDD). This chapter explains what is expected from companies based on these three documents.

Due diligence: the basis

According to the UN Guiding Principles—which can be seen as a base document for business and human rights since it was introduced in 2011—business enterprises should respect human rights. This means that they should avoid infringing upon the human rights of others and should address adverse human rights impacts in which they are involved.¹¹ Addressing adverse human rights impacts requires taking adequate measures in a process known as ‘due diligence’: the process through which enterprises should identify, assess, mitigate, prevent and remedy the actual and potential

adverse impacts of their activities.¹² The process should include assessing actual and potential human rights impacts, integrating findings into management systems and policies, tracking responses and communicating how impacts are addressed.¹³ Both the UN and OECD expect companies to engage with stakeholders in a meaningful way in each step of the due diligence cycle.¹⁴ Additionally, this requirement is now mandatory, as it is part of the EU’s Corporate Sustainability Due Diligence Directive.



EU Corporate Sustainability Due Diligence Directive

In 2022, the European Commission launched a proposal for a Directive on Corporate Sustainability Due Diligence to foster sustainable and responsible corporate behaviour throughout global value chains. At the time of writing this report, the EU Member States have just reached a belated agreement for it to pass. According to the CSDDD, companies should engage effectively with stakeholders. In short, meaningful stakeholder engagement should take place when gathering and assessing information on adverse impacts, developing

corrective actions, monitoring improvements, and remediating adverse impacts.¹⁵ The European Commission will share more details on what meaningful stakeholder engagement will look like in the upcoming period. At the time of writing, the details are still unknown. It is likely that these specifications to the CSDDD will be based on existing guidelines from the UN and OECD. The following paragraphs explain the definitions of meaningful engagement and stakeholders in more detail.

Meaningful engagement

Both the UN and OECD describe that meaningful stakeholder engagement should be a continuous process and that a safe space needs to be created for stakeholders to be able to engage.¹⁶ The OECD adds that stakeholder engagement should be responsive,¹⁷ timely, accessible, appropriate, characterised by two-way communication and depends on the good faith.¹⁸ The UN adds that sufficient information should be shared with stakeholders so that they are able to engage in a meaningful way.¹⁹

Stakeholder engagement can take many forms. Engagement is sometimes placed on a sliding scale from consultation to collaboration, including: informing, consulting, negotiating and responding.²⁰ Examples of engagement methods mentioned by both the UN and OECD are in-person meetings and consultations. The OECD further refers to hearings²¹ and the UN adds online dialogues and formal public reports.²² Which type of engagement is most appropriate will vary depending on the context and the purpose of the engagement.

USE LEVERAGE TO INFLUENCE SUPPLIERS

What if the brand is not engaging with stakeholders directly but other actors in the supply chain are in between? In that case, companies should encourage business partners, including suppliers and sub-contractors, to apply responsible business principles. An enterprise should use its leverage to influence the entity causing the adverse human rights impact to prevent or mitigate that impact. This means, that even if a tea factory or cotton mill is between the brand and the farmers, this does not absolve the brand of their due diligence responsibilities.

Stakeholder and rightsholder

According to the UN, stakeholders include persons or groups who may affect, or could be (directly or indirectly) affected by, the actions of an enterprise or their interlocutors.²³ The OECD Guidelines state that ‘relevant stakeholders are persons or groups, or their legitimate representatives, who have rights or interests related to the matters covered by the Guidelines that are or could be affected by adverse impacts associated with the enterprise’s operations, products or services.’²⁴ The OECD distinguishes a special group of stakeholders: rightsholders. These are individuals whose human rights have been affected by an enterprise’s operations, products or services.²⁵ The CSDDD gives a concrete definition of all the individuals or groups that can fall under the definition of stakeholders: ‘company’s employees, the employees of its subsidiaries, trade unions and workers’ representatives, consumers; and other individuals, groups, communities or entities whose rights or interests are or could be affected by the products, services and operations of that company, its subsidiaries and its business partners, including the employees of the company’s business partners, trade unions and workers’ representatives, national human rights and environmental institutions, civil society organisations whose purpose includes the

Marginalized stakeholders

The OECD notes that vulnerable stakeholders will usually be the most significantly affected by a company’s activities²⁷ and that companies should identify and remove potential barriers to engage with stakeholders in positions of vulnerability and marginalization,²⁸ such as minority groups. No official definition exists for the word ‘minority’. According to the UN, the existence of a minority group can be defined through objective and subjective criteria. Objective criteria focus on the shared characteristics of the group such as ethnicity, national origin, culture, language or re-

protection of the environment, and the legitimate representatives of those individuals, groups, communities or entities’.²⁶

This report will use the word ‘stakeholder’ as this is the word used in the activity describing ‘meaningful stakeholder engagement’. Specifically, this report focuses on smallholder farmers, who are both a stakeholder and a rightsholder, as their human rights are often at risk. At the same time, farmers are crucial partners in the due diligence process of companies, for example by enabling environmentally responsible production by preventing deforestation or adopting less polluting techniques.

Besides the farmers themselves, a broader group of stakeholders can be identified. The farmers’ collectives, tea producers, ginning and spinning facilities covered in this report can be seen as important stakeholders for international buying companies. They play an important role in reaching the farmers and in setting the purchasing practices that make it possible for the farmers to have a decent life and not hinder their human rights. At the same time, the manufacturers are a duty-bearer—they have a duty to respect the rights of their employees and others in the supply chain.

ligion. Subjective criteria focus on two key points: the principle of self-identification and the desire to preserve the group identity.²⁹ Examples may be children, women, indigenous peoples, people belonging to ethnic or other minorities, or persons with disabilities.³⁰ In this research, some cotton farmers are part of minority groups in India, only speaking their local language and living in remote areas far from other parts of the country. Attention should be paid to engaging these stakeholders that often lack influence³¹ and have a higher chance of being overlooked.

Human rights

Smallholder farmers are rightsholders because their labour and human rights are often at risk as a result of the conduct of international buying companies. This chapter explains what these rights are. The human rights that need to be respected can be found in international treaties, the Universal Declaration of Human Rights and the principles concern-

ing fundamental rights set out in the International Labour Organization (ILO)'s Declaration on Fundamental Principles and Rights at Work.³² The CSDDD explicitly refers (in its first Annex) to a list of internationally recognized human rights including the right to a living income and living wage.

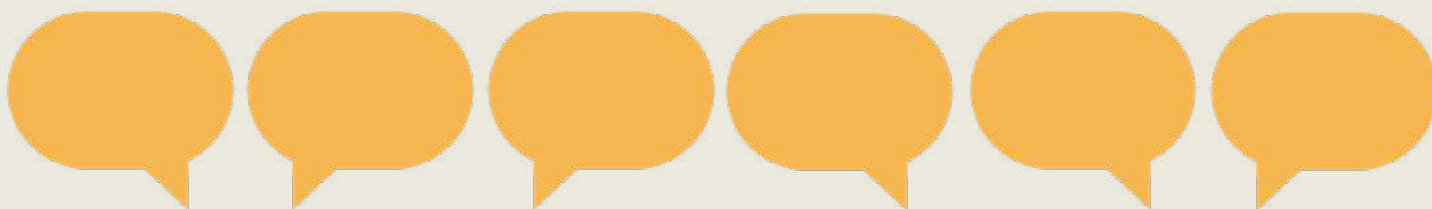
Living wage and living income as human rights

Special attention needs to be placed on the right to a living wage. This is an important right both in itself, as well as an enabling right for other human rights.³³ A living income can be described as the net annual income required for a household in a particular place to afford a decent standard of living for all members of that household. Elements of a decent standard of living include: food, water, housing, education, healthcare, transport, clothing and other essential needs including provision for unexpected events.³⁴ The right to a living income and decent standard of living can be found in several international law documents:

- Article 23 of the Universal Declaration of Human Rights states that 'Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection'
- Article 25 of the Universal Declaration on Human Rights states that (UDHR): 'Everyone has

the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.'

- Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) entails 'the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.'
- Thus, a living income is a human right. Companies are expected to respect and address the human rights presented above as part of their due diligence process.³⁵ However, as the following chapter will show, the human rights of farmers are often not respected and a living income is often far from reality.





FINDINGS

This chapter describes the experiences of cotton and tea farmers with meaningful stakeholder engagement in the due diligence processes of companies. When referring to companies in this chapter, this could mean international brands putting tea or garments on the EU market, international buying companies that buy and sell as intermediaries, or retailers selling the finished product. In general, farmers noted that they have had almost no interaction with international companies. The limited encounters with international buyers happen when an auditor of a certification body visits, however these visits are also limited. The following paragraphs will analyse what meaningful stakeholder engagement should look like in the different due diligence steps according to the international norms laid down in the OECD Guidelines and UN Guiding Principles; what the experience of farmers has been with meaningful stakeholder engagement; and what improvements could be made, when comparing these two.

STEP 1:

ESTABLISH STRONG ENTERPRISE MANAGEMENT SYSTEMS FOR RESPONSIBLE SUPPLY CHAINS

According to both the UN³⁶ and OECD, the first step of HREDD is to embed responsible business conduct into policies and management systems and to include stakeholders in this process.

This means:³⁷

- Devise, review and/or update a combination of policies on responsible business conduct.
- Embed responsible business practices into the company's (management) systems.
- Communicate about the policies externally.

Co-creating policy for responsible business conduct

According to the OECD, companies should devise, review and/or update a combination of policies on responsible business conduct, such as labour and human rights.³⁸ Including stakeholders in policy design can be of great value. Stakeholders will know the actual and potential risks that need to be addressed in policies and can provide crucial information. Farmers will be able to provide feedback on whether or not certain policy measures are realistic and feasible.

Participants from both the sectors report that they have not participated in any events of stakeholder engagement organized by the EU buyers. They welcome the idea of engaging with the buyers. They also report that they are not aware of the CSDDD

but agree that it would be useful to them as farmers if meaningful stakeholder engagement were to be initiated as part of the CSDDD.

However, according to the research findings, farmers in the supply chains studied are not currently included in any policy creation or revision. Cotton farmers indicated that they don't know who the international buyers are, but that they would like to know. Tea farmers indicated that they may know the identity of their global buyer, but have not had direct contact with them. They would like to discuss several topics with the buyers, specifically relating to purchasing practices and price setting. One farmer mentions: "We would like to know more about price setting as this will help us on price negotiation."

Purchasing practices

The OECD expects companies to adopt policies on responsible business conduct³⁹ and embed these into management systems and oversight bodies.⁴⁰ To make sure sustainability policies aren't just a box-ticking exercise but bring actual improvements for the rightsholders involved, the company should align these policies with their purchasing practices. Purchasing practices can be described as the full range of activities associated with a company's process of buying goods. This includes cost negotiation, as well as other aspects such as terms of payment, sourcing, duration of contracts, terms for cancellations, risk distribution, etc. According to the OECD, companies should address their purchasing practices as part of their due diligence and engage with their suppliers to understand if and how their purchasing practices may be contributing to harm.⁴¹ Their way of doing business might impede the ability of suppliers and other business relationships to implement responsible business policies. Companies should identify and address the barriers resulting from this.⁴² For example, if a large company requires tight delivery schedules of products, it may lead its suppliers to suddenly increase their workforce to meet the demand and thus generate abuses of (temporary migrant) workers. The company should thus cease its contribution to this adverse impact by, for instance, easing the pressure on its supplier or increasing purchasing prices to take into account the cash flow constraints of its suppliers.⁴³

Farmers want good terms of contract as a minimum requirement. This includes price, volume, payment terms and notice periods.

Cotton farmer

Research⁴⁴ shows that purchasing practices of companies can undermine their requirements of suppliers in terms of working conditions, human rights and the environment.⁴⁵ The interview findings in this research confirm this. Purchasing practices form one of the key factors that farmers would like to speak about to buyers. They indicated that delayed payments and low prices cause human rights risks in their work. One farmer that works with (seasonal) staff or day workers mentions: "The standard requires us to pay minimum wages to workers, provide contracts to workers, this is very challenging for the out growers to comply with because the price of green leaf does not cover these expenses." For some farmers, cotton is their only cash crop, it is an important source of income for the family. When payment is delayed, families struggle to meet daily expenses on food, clothing and school fees. All the participants report that it is difficult to cope with delays in receiving payment for their cotton. As a result of the late payments, many farmers need to take out loans. A cotton farmer explains: "We have taken loans from the bank. The more the payment gets delayed, the more interest we will have to pay to the banks." As described in the 'Smallholder farmers context' chapter, the lack of a living income leads to serious human rights risks for farmers. Farmers have not been able to communicate these insights to companies as part of a meaningful stakeholder engagement process.

Communicating about responsible business policies

Both the UN and OECD report that companies should communicate information about their responsible business policies to suppliers and rightsholders.⁴⁶ Communication should be accessible and understandable for stakeholders. However, as mentioned above, the interviewed farmers in this research did not have any contact with international buyers. They don't know which companies end up using their products, let alone do they have any insight into the policies of these companies and

how this affects them. Whenever farmers do look for more information, through the processing facilities that are in between them and the international buyers, they are denied information. As one farmer stated: "Nobody's willing to share information with us. Whenever we ask anyone, they do not give the correct information. Information should flow both ways." More on communication will be shared in step 5.

Suggestions for improvement

Co-create policies and purchasing practices: Companies should review their policies and purchasing practices, adapting them where necessary so that human rights are not at risk. Stakeholders need to be included in the revision process and kept up to date on any policy changes. A good

functioning responsible business policy is based on the findings within the supply chain. It is therefore paramount that the company sets up a good system for identifying, assessing and tracking human rights risks, which will be discussed in the next step.





STEP 2:

IDENTIFY, ASSESS AND PRIORITIZE RISKS IN THE SUPPLY CHAIN

In this step, companies should engage with farmers and/or their representatives in the scoping, identification and prioritization of human rights risks. Businesses should identify and assess any actual or potential adverse human rights impacts with which they may be involved—either through their own activities or as a result of their business relationships—and involve potentially affected stakeholders in this process in a meaningful way.⁴⁷ This means:

- Broad scoping to identify human rights risks.
- Starting with the significant areas of risk iden-

Scoping/mapping

The OECD notes that companies should carry out a broad scoping/mapping exercise to identify where in the supply chain the most significant human rights risks are likely to be present, and that they should include stakeholders in this process.⁴⁸ It may be difficult for a company to identify and assess suppliers and corresponding rightsholders operating upstream, such as the tea and cotton farmers in this report. However, the OECD makes it clear that this does not diminish

tified, carry out in-depth assessments of prioritized operations, suppliers and other business relationships in order to identify and assess specific actual and potential adverse impacts.

- Assess the enterprise's involvement with the actual or potential adverse impacts identified to determine the appropriate responses (see step 1 on purchasing practices where workers mention that they cannot pay the legal minimum wage because of the purchasing and pricing mechanisms.

the company's responsibility to identify harmful impacts.⁴⁹

Some farmers indicated that they would be interested in sharing feedback with buyers and raising awareness among different actors in the value chain about conditions of production and the situation of small growers. They want international buyers to understand who the farmers are, what their context is and where the farms are located.

In-depth assessments of the most significant areas of risk

After the broad scoping/mapping exercise, companies need to carry out deeper assessments of specific potential and actual impacts, and include stakeholders in this process, according to both the UN and OECD.⁵⁰ If the broad scoping/mapping was not successful, certain risks might not have been identified. However, certain risks should be known by a company regardless of the mapping of their own supply chain. Problems relating to climate change, for example, are in the news frequently, so companies cannot deny being aware of this. They should therefore assess how this is affecting the farmers in their supply chains. Also, child labour and forced labour can be seen as gross human rights violations, making heightened HREDD necessary. Since these are known risks at farms, especially in the cotton sector, companies should

already be aware and should have already investigated their supply chains. Both the effects of climate change and the problems relating to forced and child labour should therefore be a high priority for companies.

Farmers interviewed for this research did not mention any incidences in which they were able to share their concerns surrounding this topic with (international) buyers. Moreover, their problems only seem to get worse over time, instead of getting better. Not including farmers in the scoping/mapping or in-depth assessment phases of due diligence processes means that companies are missing important information about their supply chain. This leads one farmer to say: "It is time to review audit structures, to focus more on gathering farmers feedback."

Assess company involvement

According to the UN and OECD, companies should assess their involvement with actual or potential adverse impacts identified in order to determine the appropriate responses.⁵¹ This research found that international companies usually don't engage with farmers directly, rather there are several steps in between. In that case, companies should try to gain as much knowledge about their supply chains as possible and conduct due diligence on control points to determine whether the tea or cotton facilities they do business with are in turn conducting due diligence.⁵² Companies should also review whether or not their suppliers are able to conduct due diligence. As discussed above, the purchasing

practices of a company might prevent processing facilities from complying with their due diligence obligations, which in turn creates human rights risks further along the supply chain for smallholder farmers.

Interviewees indicated that they often feel mistreated by the local buyers to whom they sell their products, but due to the power imbalances they have no other option than to accept the conditions presented. Farmers feel like they have no other platform to turn to, as they don't know who the international company is that will finally use their product. "Our part ends at the factory gate," says one farmer.

Suggestions for improvement

Include stakeholders in scoping/mapping and assessment: In line with international guidelines, companies should include stakeholders in a meaningful way when scoping/mapping the human rights and environmental risks in their supply chains. Companies should ensure that the right stakeholders are included and legitimately represented so that a complete overview of actual or potential risks can be achieved.

Stakeholder mapping and assessment through transparency: If a company experiences difficulties in identifying the specific smallholder farmers in their supply chain, they can equip their stakeholders to identify them by letting them know which company uses the commodity they sell. Companies can do this by publishing information about their tier 2 and 3 levels: which spinning, ginning or tea processing factories they work with.



FARMERS TOLD US

The standard requires us to pay minimum wages to workers, provide contracts to workers, this is very challenging for the out growers to comply with because the price of green leaf does not cover these expenses.

We have taken loans from the bank. The more the payment gets delayed, the more interest we will have to pay to the buyers.

Nobody's willing to share information with us. Whenever we ask anyone, they do not give the correct information. Information should flow both ways.

It is time to review audit structures, to focus more on gathering farmers feedback.

Our part ends at the factory gate.



STEP 3:

DESIGN AND IMPLEMENT A STRATEGY TO RESPOND TO IDENTIFIED RISKS IN THE SUPPLY CHAIN

When human rights risks are identified in the supply chain, the company should cease, prevent or mitigate those risks from emerging.

This means:

- Stop activities that are causing or contributing

to adverse impacts.⁵³

- Prevent or mitigate: develop and implement plans, in collaboration with stakeholders, that seek to prevent or mitigate actual or potential adverse impacts on human rights issues.⁵⁴

Stop activities leading to human rights risks

Both the OECD and UN state that when human rights risks have been discovered in the supply chain, companies should stop the activities that are causing or contributing to these risks.⁵⁵ Research findings show that there is a high risk of forced labour and child labour in cotton supply chains.⁵⁶ Textile companies should therefore cease the activities that are contributing to these severe risks. If these impacts are caused by another entity further along the supply chain, such as a ginning facility, the company should take necessary steps to cease or prevent its contribution.⁵⁷ Farmers mention that there is a correlation between the

purchasing practices of their buyers and the working conditions on their farms. It was beyond the scope of this research to assess the causal relationship between the purchasing practices of international brands and the working conditions on farms. However, it seems plausible that the pressure from international brands plays a substantial role in the purchasing practices farmers face. Stakeholders can advise on which actions should be taken to stop a human rights violation from occurring, however, the smallholder farmers in this research have never been consulted about this.

Contractual clauses to prevent human rights violations

To prevent human rights or environmental issues from arising, companies often use contract clauses and codes of conduct. This was verified by the findings of this research. Many of these codes of conduct require that the supplier—in this case a garment factory or tea processor—signs a contract stating that they will make sure certain social and sustainability criteria are met. This results in 'cascade contract clauses', which are intended to make sure that in every step of the supply chain certain criteria are met. The contract is passed on from the garment factory to the weaving facility, to spinning and ginning mills, in the case of clothing. However, in this study we found a consistent lack of written contracts between the farmers and the buyer to whom they were selling (tea factory, producer group or local traders).

Even where cascading contracts are used, there is little evidence that this has led to better environmental or human rights outcomes in supply chains. One of the reasons for this is the inherent power imbalances in one-sided contractual clauses.⁵⁸

Standards are imposed by the most powerful party (generally the buyer) onto the weaker one (generally the supplier) which are not compatible with human rights or environmental standards.⁵⁹ These findings are confirmed by the farmers in this research.

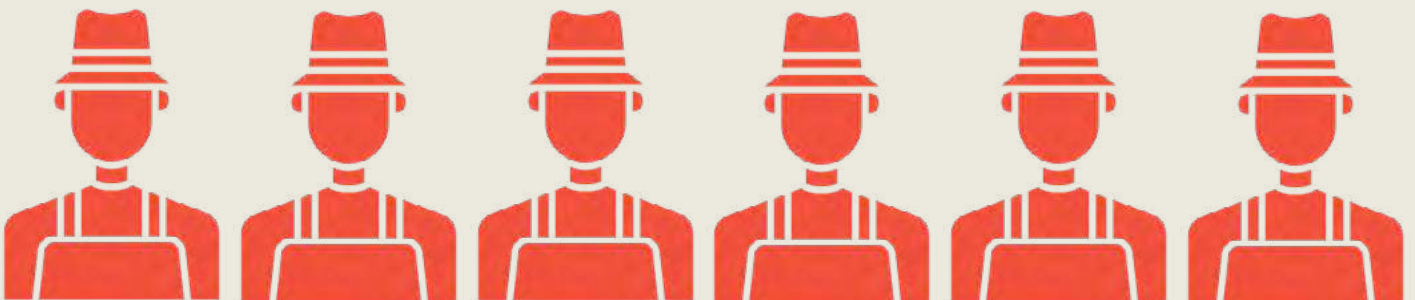
Farmers feel like they aren't always treated fairly by the buyers to whom they sell. Even when they comply to all the sustainability criteria, they don't always receive the payment that should go with this. Farmers have indicated that they would like to get insight into contracts between other actors in their supply chains. Some farmers expressed a desire to see the terms of the transaction written down. This would help them gain a better understanding of the trading process and improve their position to negotiate. It will also help them initiate a grievance procedure in case the agreement is not met. Some farmers believe that business transparency will help them understand the cost of production and the price in the international markets.

Suggestions for improvement

Contracts: There are different ways to use contracts. Companies can impose standards and specifications on farmers with little involvement beyond the contract or they can be more actively involved, particularly through contract farming. In the latter case, both parties enter into a true dialogue in order to co-ordinate production and ensure quality and safety.⁶⁰ Contracts can be a useful method according to the OECD,⁶¹ however, certain principles should be considered and stakeholders should be engaged when setting up the contracts. Companies could look at the Model Contract Clauses (MCC) set up by the American Bar Association Business Law Section and include a strong buyer code. These attempt to integrate the principles contained in the UNGPs and the OECD Due Diligence Guidance into international supply

contracts. Companies should also make sure that farmers have access to information in these contracts and are able to provide their own input to the agreement.

Co-creation with rightsholders: Develop and implement plans in collaboration with farmers to prevent or mitigate actual or potential adverse human rights impacts.⁶² One important way in which this can be done is by integrating findings from impact assessments across relevant internal functions and processes.⁶³ Improving risk identification and assessment methods—and including farmers in this process—will therefore not only benefit compliance under step two of the due diligence cycle, but also under step three, providing valuable information to cease, prevent or mitigate human rights risks.





STEP 4:

VERIFY SUPPLY CHAIN DUE DILIGENCE

To verify whether or not adverse human rights impacts are being addressed, companies should track the effectiveness of their actions using feedback from affected stakeholders.⁶⁴

This means:

- Include stakeholders when monitoring the effectiveness of their own due diligence: monitor and track the implementation and effectiveness

Include stakeholders in monitoring

Stakeholders can provide crucial information about actual and potential human rights risks that should feed into a company's monitoring system. Only by talking to stakeholders will a company know if the policies are generating the intended effects on the ground. To make sure that this process is effective, the monitoring method should be adapted to the context and stakeholders should be equipped to be part of the due diligence process.

In this research, farmers did not recall being part of a monitoring process. They were aware that there are 'farmer diaries' that auditors use but it is unclear to them how these diaries are used and they had not been invited to participate in this process. Monitoring through the farmer diaries is in written form and many farmers can't read or write. So even if they would be invited to provide their feedback, they would not be able to do so. As one farmer puts

Complying with buyers' standards

For the assessment of suppliers, companies often use certification schemes, such as Fairtrade International, Rainforest Alliance or GOTS. Even though these schemes can be useful, they are never a replacement for a company's due diligence process. Companies should keep monitoring their supply chains themselves and stay directly in contact with stakeholders. This was also a specific request from the farmers interviewed for this paper.

Tea farmers shared that the standard required by their buyers instructs them to use manual and cultural methods for weeding, but that they cannot afford to do that as it is expensive when comparing with chemical weeding due to the need for extra labour. The price they receive, simply does not cov-

er the enterprise's own due diligence activities and⁶⁵ include potentially affected stakeholders in this process.⁶⁶

- Assess business relationships: carry out periodic assessments of business relationships to verify that risk mitigation measures are being implemented.⁶⁷

it: "If some of the [monitoring] process is co-designed by smallholder farmers, collectives and the certifying agency, it will be more user friendly and convenient for us." For more information, see step 5 on communication.

Besides choosing the right monitoring method, stakeholders should have access to the right information and knowledge to be able to take part in due diligence processes. Often, farmers are not aware of their rights or the concept of due diligence. They have valuable experiences to share but might need more information to be able to express their knowledge in the most useful way for companies to incorporate the input. One farmer states: "Imagine our two farmers directors with only basic education and limited business skills sitting on the same board as shareholders with proficient business skills, we are there only as rubber stamps."

er a sustainable production method. The standard also restricts women applying chemicals, but some farmers are widows, so they must hire (male) labourers for chemical application, which is an extra cost. Even though there is a grievance mechanism, farmers did not use this to address these problems or they did and it was never fixed. Tea farmers shared that it is difficult to mention grievances to companies because they don't meet with them, rather they meet with audit bodies during the audit process once a year. It is unclear for the farmers where the grievances end up.

The fact that farmers weren't able to share their problems with companies not only means that the engagement with them is lacking, it also prohibits

future meaningful stakeholder engagement from developing. Farmers mentioned that any additional requirements placed on them feel too burdensome when they were not receiving a fair price as a

minimum, stating that: “It is therefore possible that farmers will not see the value in being engaged in consultation unless they can discuss the price they receive.”

Suggestions for improvement

Include stakeholders in monitoring: The findings make it clear that stakeholders should be involved in monitoring the effectiveness of due diligence procedures. Monitoring cannot be left to a certification body alone. It is a company’s own responsibility to set up a functioning system, of which certification can be one piece. Stakeholders should play a central role in tracking the effectiveness of due diligence processes and should be equipped to do so in a way that is meaningful for them.

Make sure there is an enabling environment for meaningful stakeholder engagement to take place: Smallholder farmers will need the time and financial resources to be able to take part in engagement processes. If farmers are struggling to survive, living hand to mouth, they will not have the capacity to engage in a meaningful way. This risks a check-the-box type of engagement that the UNGP and OECD warn to prevent.



FARMERS TOLD US

If some of the [monitoring] process is co-designed by small holder farmers, collectives and the certifying agency, it will be more user friendly and convenient for us.

Imagine our two farmers directors with only basic education and limited business skills sitting on the same board as shareholders with proficient business skills, we are there only as rubber stamps.

It is therefore possible that farmers will not see the value in being engaged in consultation unless they can discuss the price they receive.

We want to know where our cotton goes!

We want more user friendly compliance mechanisms around record keeping and information sharing.



STEP 5:

REPORT ON SUPPLY CHAIN DUE DILIGENCE

To account for how they address their human rights impacts, companies should communicate this externally, particularly when concerns are raised by or on behalf of affected stakeholders.⁶⁸

This means:

- Improve transparency: stakeholders and especially rightsholders should have access to information relevant to them.⁶⁹
- Communicate with stakeholders in an appropriate manner.⁷⁰

What to communicate: transparency to improve power imbalances

According to the UN, reporting on due diligence means providing a measure of transparency and accountability to stakeholders, especially individuals or groups who may be impacted by the company's actions.⁷¹ The OECD defines that this includes information on due diligence policies and processes, the activities conducted to identify and address actual or potential adverse impacts—including the findings and outcomes of those activities—and the assessments and prioritization of risks.⁷² Having access to the right information is an important and necessary precursor to meaningful engagement. It allows stakeholders to be able to participate in

engagement processes on a more informed basis, thus helping to address the power imbalances.⁷³ Some farmers indicated that they would like to have a better understanding of the supply chain they are part of, stating, “we want to know where our cotton goes!” Additionally, information is lacking about most steps in the due diligence cycle: farmers don't know how companies map and assess the risks in tea or cotton supply chains, they are not informed about the risk prioritization or monitoring systems and, as we shall see in the next section, communication surrounding grievance mechanisms is lacking.

How to communicate: appropriate communication

Communication can take a variety of forms, including in-person meetings, online dialogues, consultations, formal public reports or hearings.⁷⁴ The type of communication that is chosen will vary from case to case. Whatever form is chosen, information should be shared in an easily accessible, user friendly, timely, accurate, clear and complete way, according to the OECD.⁷⁵

The farmer diaries mentioned above are an example of communication that isn't fitting the international guidelines. In India, many cotton farmers cannot read or write and even if they can write, they might not speak the right language. Most farmers don't understand English, and some might come from different regions, speaking different languages. The language that is used should therefore be chosen carefully. The method used is also important. Some farmers expressed that

they would like to meet company representatives face-to-face, though this might be a challenge. Smallholder farmers are often located spread out over an area, meaning that it will take them a lot of time to travel to an in-person meeting. This time detracts from their working hours, affecting their income, which is already low. Some farmers suggest that companies could therefore combine their stakeholder engagement with regular in-person meetings that farmers have already planned or use digital methods on mobile phones. The most appropriate method will vary depending on the case in question, the company and the context, but the rightsholder should always be central in this process. In the words of one farmer: “We want more user friendly compliance mechanisms around record keeping and information sharing.”

Suggestions for improvement

Knowledge and information: Make sure farmers are aware of their human and labour rights and the means to claim these rights: how they can meaningfully engage with companies as part of their due diligence process. Farmers must also be equipped with necessary information about the supply chain and the actors within it, so that open and transpar-

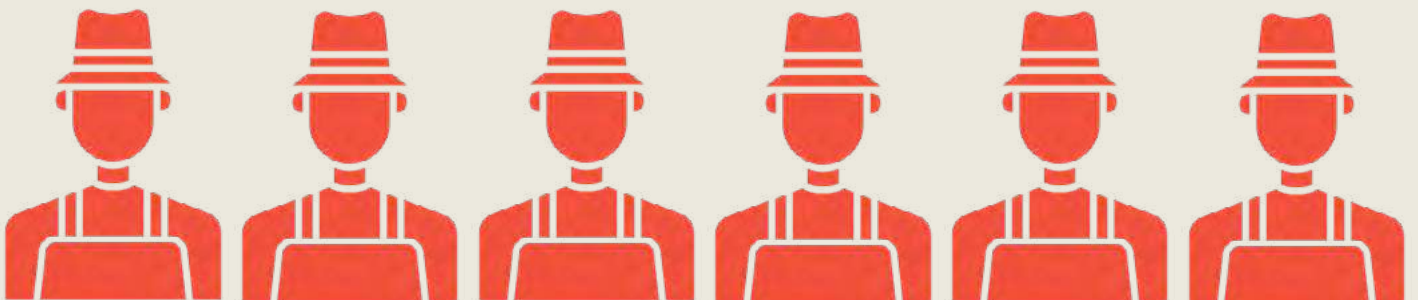
ent communication is possible.

Communicate in an appropriate form: Make sure the correct language and method is used, and that communication is two-way and continuous. Engage farmers when setting up the communication channels to make sure the method works for them.

If the information
would be in Odia, at
least our children could
read it to us.



Cotton farmer





STEP 6: REMEDICATION

Where human rights violations have taken place, a company should provide for, or cooperate in, remediation through legitimate processes.⁷⁶ One method through which this can be done is a grievance mechanism in which impacted stakeholders and rightsholders can raise complaints and seek to have them addressed with a company.⁷⁷ Many dif-

ferent types may exist, such as complaints procedures, hotlines or a whistle-blowing process. Whatever mechanism is chosen, to provide remediation in an effective way, it should meet certain core criteria set by the UN and supported by the OECD.⁷⁸ The experiences from farmers in this research do not seem to match these criteria.

Principle	Explanation	Farmer experience
Legitimate	Enable trust from the stakeholder groups for whose use they are intended and be accountable for the fair conduct of grievance processes.	Some farmers feel that the remediation processes they have seen are only on paper and have not been operationalized, and that a majority of the farmers involved are not aware of these processes.
Accessible	Be known to all stakeholder groups for whose use they are intended and provide adequate assistance for those who may face particular barriers to access.	Most farmers indicate that there is no functioning grievance mechanism in place—either it does not exist or they are not aware of it.
Predictable	Provide a clear and known procedure with an indicative time frame for each stage and clarity on the types of process and outcome available, as well as means of monitoring implementation.	Farmers have mentioned that in the few instances when they could give feedback, it was unclear how their input was used and they did not see any changes in their situation.
Equitable	Seek to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms.	Farmers feel that even if they would have access to a process to address grievances, they don't have sufficient knowledge about the supply chain or due diligence processes to engage meaningfully.
Transparent	Keep parties to a grievance informed about its progress and provide sufficient information about the mechanism's performance to build confidence in its effectiveness.	Farmers have mentioned that in the few instances they were able to give feedback, it was unclear how their input was used and they did not see any changes in their situation.

<p>Rights-compatible</p>	<p>Ensure that outcomes and remedies are in accordance with internationally recognised human rights.</p>	<p>One smallholder tea cooperative did have experience with a grievance mechanism that was connected to a certification scheme. A formal procedure is in place where farmers can report their feedback to service providers. This includes whistleblowing and memos. However, according to the farmers, these mechanisms do not serve to address challenges faced by farmers.</p>
<p>A source of continuous learning</p>	<p>Draw on relevant sources to identify lessons for improving the mechanism and preventing future grievances and harms.</p>	<p>Farmers have not been able to provide input on how current grievance mechanisms are working. It does not seem like stakeholder engagement is part of a continuous improvement cycle of the grievance mechanism.</p>
<p>Based on engagement and dialogue</p>	<p>Consult the stakeholder groups for whose use they are intended on the design and performance of grievance mechanisms, and focus on dialogue as the means to address and resolve grievances.</p>	<p>The farmers were clear that they wanted to be consulted about grievance mechanisms, but currently they are not.</p>

Suggestions for improvement

Functioning grievance mechanism: Companies should make sure their grievance mechanism complies with the criteria of UN Guiding Principle 31. Companies should engage small-

holder farmers in the design of their grievance mechanisms to make sure that they are aware of the process and that it works for them.





RECOMMENDATIONS

The findings above have shown that the smallholder farmers in this research have little positive experience with meaningful stakeholder engagement. Drawing from their experience and suggestions, this chapter will give recommendations for buyer companies and governmental institutions on implementing due diligence processes.

RECOMMENDATION 1:

Lay the groundwork for meaningful engagement by educating smallholder farmers about what the CSDDD is, what the obligations for EU companies are, and consulting with them to co-create stakeholder engagement mechanisms that work for them.

In most instances, the smallholder farmers in this study were not aware of the new due diligence measures and what these will mean for them. There is also a lack of awareness about the supply chains that they are selling to (e.g. where their produce goes and how the supply chain functions). Before stakeholder engagement mechanisms are designed, a thorough consultation with farmers should be developed which both educates them about meaningful stakeholder engagement within the CSDDD and gathers their views and input about what kind of engagement would work for them. The farmers in our study were clear that they wanted to be consulted about particular issues. These included:

- Price received for produce and premium payments (in the case of organic certification). This information combined with expected sales volumes will help improve farmers information/awareness of the possible income they will earn.
- Purchasing practices, terms and conditions.
- Grievance redressal information.
- Training in production methods.
- Accessibility of information and forms, as well as language/literacy barriers when accessing information.
- Transparency and communication across the supply chain.
- Traceability of produce for smallholder farmers, so that they can see where their produce ends up at the retail level.

Smallholder farmers are not a homogeneous group, so buyer companies should make sure to fit the process to specific stakeholders. In this research, there were different opinions within different farmer groups about exactly what they wanted

to be consulted about and the degree of importance that each of those issues held. These can also differ at different moments in time, as the circumstances and conditions of the farmers may change over time.

The process of communication along the value chain with all stakeholders will be paramount for the success of CSDDD implementation—therefore awareness raising, education and co-creation of stakeholder engagement mechanisms must be a continual process.



RECOMMENDATION 2:

A living income for smallholder farmers and other vulnerable people within the value chain should be factored into buyer company risk policies.

This is absolutely crucial and was the number one issue for the smallholder farmers in this study. ‘Meaningful’ dialogue with key rightsholders such as farmers will only be meaningful if they are able to discuss and resolve concerns which exist around price, since this is their main concern.

There is clearly a hierarchy of needs for the farmers: if they are receiving a fair price, they may be interested to engage on other issues such as environmental or contractual issues. If they do not receive a fair price, all other issues are eclipsed.

The OECD Guidelines stipulate that meaningful stakeholder engagement only works if all parties are willing to engage openly and collaboratively. It is possible that smallholder farmers will not see the value in being engaged in consultation unless they can discuss the price they receive. A discussion that sidelines their main concern will be considered as a time-wasting activity, taking farmers away from more remunerative activities which can contribute to their income, particularly if farmers are expected to participate for free.



RECOMMENDATION 3:

Retailers and other concerned businesses should ensure all necessary departments are involved in due diligence systems, including those that set quality, price, volume/weight and payment parameters for products purchased.

Many of the concerns and grievances that smallholder farmers expressed in our research were about the terms of trade and purchasing practices. If the relevant departments are not engaged in the due diligence process, stakeholder engagement cannot be meaningful because it cannot address some of the contractual/purchasing practice issues that farmers may raise.

As the farmers were so focused on purchasing practices and price, this could suggest that when companies undertake stakeholder engagement they must factor in these priorities in risk assessments and ensure that these issues are not de-prioritized where they pose significant barriers or problems for farmers.

By involving the necessary departments, buyer companies/brands should communicate with colleagues internally so that they change practices to stop undermining the human rights of cotton farmers, and instead adopt purchasing practices which enable an improved realization of human rights by farmers. This should relate to pricing, payment terms, communication, supplier selection and supply chain management policies.



RECOMMENDATION 4:

Communication should be two-way (buyer company to farmers and farmers to buyer company) and frequent, to build trust between the farmers and actors further down the supply chain.

This should include a mechanism whereby farmers can convene meetings and communication forums with buyer companies and other actors along the supply chain to discuss issues, and should also include a working grievance mechanism.

Both sets of smallholder farmers expressed that they would like to have a direct line of communication with the buyer company. This would allow them to articulate their concerns (including those outlined above). The cotton farmers explain that this would also allow the buyer company to understand the circumstances of the farmers. The tea farmers echo this, saying that there are costs related to complying with the standards that they would like the buyer company to be aware of. Tea farmers in the study said that there is no sufficient forum in which they can negotiate with their immediate buyers (tea factories) nor with international buyer companies. This demonstrates the lack of power to communicate and to be consulted that many smallholder farmers in value chains face.

Companies whose processes have built-in mechanisms for smallholder farmers to convene meetings, engage in dialogue on their own terms and keep an open, two-way channel of communication will gain a richer understanding of their supply chain and be more effective at problem solving, while also empowering farmers.





RECOMMENDATION 5:

Responsibility lies with the buyer company to maintain communication with smallholder farmers, and should not be shifted solely to intermediaries or third parties.

The role of civil society organizations: Some of the smallholder farmers in the study had received help from civil society organizations (CSOs) that provided training on adapting to standards and organizing into collectives. In some cases, CSOs were able to share some of the farmers' views with the local buyer and farmers felt supported by these CSOs. However, some of the farmers expressed a desire to communicate with the buyer company themselves, in order to be in a stronger, more empowered position within the supply chain, however, they recognized that they needed to be equipped with the tools to do this.

Therefore, while CSOs can play some role in capacity building and facilitating communication, ultimately the gold standard is one where the smallholder farmers have a dialogue with those directly involved in the value chain, i.e. the buyer company, and that farmers are equipped with the tools they need (such as communication in the local language) to do this.

The role of certification bodies: Certification bodies are a service provider to the buyer companies/brands in supply chains which commission the use of a particular certificate. They do not directly sell or buy the product as it travels along the supply chain. So, while they may undertake their own due diligence processes, they are not a proxy for implementing due diligence obligations of buyer companies under the CSDDD. Communication and consultation should be between farmers (rightsholders) and the buyer companies responsible for implementing the CSDDD (duty-bearers), since it is only those making the decisions about what to buy, who to buy from, and when and how to buy, who can ultimately adjust these decisions to respond to the farmers/rightsholders' priorities.



RECOMMENDATION 6:

Supplier lists should be published by buyer companies to enable transparency for smallholder farmers.

There is an absence of two-way communication between the smallholder farmers at one end and the buyer companies at the other end.

Buyer companies/brands have been able to commission consultants or hire staff to trace who they are buying from and set out their expectations for the standards they want achieved at the production stages of their supply chains. On the other hand, there is no communication channel for the smallholder farmers to connect with the buyers and express their demands and share their perspectives.

A lack of reciprocity creates roadblocks for greater cooperation by the farmers in the due diligence process. There was a general lack of understanding at the farmer level about who they are selling to and the buying process at the other end of the value chain.

For cotton farmers, published lists could include ginners and for tea farmers they could include the processing factories. This would enable farmers in the supply chain to see which companies end up buying their produce. This could also have a positive knock-on impact for women farmers. For example, women cotton farmers said that transparency in the transactions between farmers and immediate buyers gave them an understanding of how much income they are receiving, which empowers their position within their own households. Where these lists are published and how they are communicated are also important. Buyer companies should make these lists accessible in the local language. Perhaps printed copies should also be disseminated in case access to the internet is a barrier.



RECOMMENDATION 7:

**Recognize and address information gaps that smallholder farmers identify through communication channels and audits.
Do this on a continual basis.**

In some cases where smallholder farmer representatives are invited to fora where they can discuss their concerns (such as annual stakeholder meetings of the Tanzania Tea Board), they do not have the key information required to advocate for the changes they need. The information required includes the price of the product further along the supply chain including the point of retail, the identity of the buyer company, and the forecast volumes and standards expected to be met in production.

Transparency is a practice that must have a tangible effect within a supply chain in order to benefit smallholder farmers. Farmers are growing both tea and cotton as cash crops and are aiming to meet their minimum basic needs with the sales of their crops. Transparency about the price received for products at various points in the supply chain, purchasing practices (including contracts where possible) and traceability of a product along the supply chain are just as important as transparency over processes and policies on human rights and the environment.



RECOMMENDATION 8:

Ensure that engagement and communication is inclusive.

Factors such as literacy, language and gender should be built into stakeholder engagement mechanisms and should be context specific.

Gender, literacy and language were all barriers for some of the smallholder farmers we interviewed to differing degrees. Even within one commodity value chain in one region of one country, the accessibility needs of farmers differed greatly. This suggests that an assessment of accessibility barriers/needs by buyer companies is crucial as a foundational step in designing meaningful stakeholder engagement.

For the cotton farmer groups interviewed, we found that producer companies where the membership is individual-based and not farm-based, the man of the household usually represents the farm. In both tea and cotton farmer groups, we found that women are often not involved in decision making. This is despite them being involved in many of the agricultural operations. As a result, women are not privy to many of the discussions regarding marketing of produce. They also may not have any control over the proceeds from the sale of the produce.

In our cotton interviews, we found that when members are literate or have literate family members who can read documents for them, cotton farmers tended to find that information in the local language (Odia) was most accessible and widely understood. The government-run schools use Odia as the language of instruction. English is taught only at the upper primary level and the level of English learnt at school is too basic for them to gain enough fluency to properly read and understand business communications. This was not mentioned by Tanzanian tea farmers who do not belong to a minority group and speak the national language of Kiswahili.



RECOMMENDATION 9:

Buyer companies should set up a plan for meaningful stakeholder engagement and start as soon as possible.

Meaningful stakeholder engagement can seem like an intimidating process to apply to all sectors and all supply chains in all countries in the perfect way, implementing all the above recommendations. However, meaningful stakeholder engagement is a continuous process so buyer companies should start from where they are, learn from the process and implement these learnings as they go along. Small steps are better than no steps at all.





ENDNOTES

- 1 Ravi, A., T. Praveen Kumar, and Ms Arshiya Anjum. "Derivatives And Price Risk Management: A Case Of Indian Commodity Cotton Futures And Spot Prices In India." *Journal of Positive School Psychology* (2022): 9391-9397.
- 2 Fairtrade International (2013) Powering Up Smallholder Farmers p.4.
- 3 Oxfam (2021) Living Income: From Rights to reality, p.6.
- 4 UNCTAD (2012) Trade and Development Report, p.13.
- 5 Oxfam – Not In This Together.
- 6 Oxfam – Ripe for Change.
- 7 Agritrade, Executive Brief: Tea Sector, 2011, <http://agritrade.cta.int/en/Agriculture/Commodities/Tea/Executive-Brief-2011-Tea-sector> in Fairtrade International (2014 Powering Up Smallholder Farmers).
- 8 Agritrade, Executive Brief: Tea Sector, 2011, <http://agritrade.cta.int/en/Agriculture/Commodities/Tea/Executive-Brief-2011-Tea-sector>; Buying matters – Consultation: Sourcing fairly from developing countries, February 2006, www.responsible-purchasing.org, p.5 in Fairtrade International (2014 Powering Up Smallholder Farmers).
- 9 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, p.69.
- 10 The OECD Guidelines are the most comprehensive set of government-backed recommendations on what constitutes RBC. Originating from 1976, they have been revised several times, most recently in 2023.
- 11 UNGP Guiding Principle 1.
- 12 Commentary to UN Guiding Principle 1 and UN Guiding Principle 15.
- 13 UN (2011) Guiding Principles on Business and Human Rights, Principle 17.
- 14 UN (2011) Guiding Principles on Business and Human Rights, Principle 18 and OECD (2023) Guidelines for Multinational Enterprises on Responsible Business Conduct, Guideline 28).
- 15 See art. 13 CSDDD for more information.
- 16 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, p. 49, OECD (2023) Guidelines for Multinational Enterprises on Responsible Business Conduct, Commentary 14 on Chapter II: General Policies. and UN (2011) Guiding Principles on Business and Human Rights, Principle 21.
- 17 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, p. 49.
- 18 OECD (2023) Guidelines for Multinational Enterprises on Responsible Business Conduct, Commentary 25 on Chapter II: General Policies.
- 19 UN (2011) Guiding Principles on Business and Human Rights, Principle 21b.
- 20 OECD (2017) Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p. 20.
- 21 Guidelines for Multinational Enterprises on Responsible Business Conduct, Commentary 28 on Chapter II: General Policies.
- 22 UN (2011) Guiding Principles on Business and Human Rights, Commentary to Principle 21.
- 23 UNGP United Nations High Commissioner for Human Rights. The Corporate Responsibility to Respect Human Rights: An Interpretative Guide, p.8.
- 24 OECD (2023) Guidelines for Multinational Enterprises on Responsible Business Conduct Commentary to Guideline 28.
- 25 UN (2012) The Corporate Responsibility to respect Human Rights - an Interpretive Guide, p.8.
- 26 Art. 3 para. 1n CSDDD.
- 27 OECD (2018) Due Diligence Guidance for Responsible Business Conduct p.51.
- 28 OECD (2023) Guidelines for Multinational Enterprises on Responsible Business Conduct, Commentary 28 on Chapter II: General Policies.

- 29 UN (2010) Resource Guide and Toolkit Marginalised Minorities, p.7.
- 30 UN (2012) The Corporate Responsibility to respect Human Rights - an Interpretive Guide p.11.
- 31 OECD (2017) Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, p.48.
- 32 UN (2011) Guiding Principles on Business and Human Rights, Principle 12.
- 33 OECD/FAO (2016) Guidance for Responsible Agricultural Supply Chains, p.49.
- 34 The Living Income Community of Practice. More information available at <https://www.living-income.com/>.
- 35 While the human rights enshrined in the Declaration and in Treaties, such as the ICESCR, are addressed to states, companies may negatively impact the enjoyment of the rights they contain. Therefore, enterprises (also) have an important role to play in supporting the realisation of these rights (OECD/FAO (2016) Guidance for Responsible Agricultural Supply Chains, p. 55).
- 36 UN (2011) Guiding Principles on Business and Human Rights, Principle 15 and 16.
- 37 For the purpose of this research, a selection has been made of the OECD Guidelines and UN Guiding Principles that relate to the research findings and that apply to meaningful stakeholder engagement. For a complete overview, please consult the original documents.
- 38 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, Guideline 1.1 and 1.1a.
- 39 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, Guideline 1.1.
- 40 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, Guideline 1.2.
- 41 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, Guideline 1.3e and OECD Forum on Due Diligence in the Garment and Footwear Sector 2019 Session Note Monitoring Purchasing Practices, p.2.
- 42 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, Guideline 1.3e.
- 43 OECD/FAO (2016) Guidance for Responsible Agricultural Supply Chains, p.37.
- 44 Mark Anner, 'Squeezing workers' rights in global supply chains: Purchasing practices in the Bangladesh garment export sector in comparative perspective' (2019) 27:2 Review of International Political Economy 320; Human Rights Watch, Paying for a Bus Ticket and Expecting to Fly: How Apparel Brand Purchasing Practices Drive Labour Abuses (2019); Mark Starmanns 'Purchasing practices and low wages in global supply chains empirical cases from the garment industry' (2017); Business & Human Rights Resource Centre, 'Wage theft and pandemic profits' (2021); Worker Rights Consortium 'Fired, Then Robbed' (2021) WRC Research Report.
- 45 ETI, Fair War, a.o. - The Common Framework for Responsible Purchasing Practices, p.3.
- 46 UN (2011) Guiding Principles on Business and Human Rights, Commentary to Principle 16 and OECD (2023) Commentary on Chapter III: Disclosure, Commentary 32.
- 47 UN (2011) Guiding Principles on Business and Human Rights, Guiding Principle 18.
- 48 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, Guideline 2.1.
- 49 OECD (2018) Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear sector, p. 60.
- 50 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, Guideline 2.2 and UN (2011) Guiding Principles on Business and Human Rights, Principle 18b.
- 51 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, Guideline 2.3 and UN (2011) Guiding Principles on Business and Human Rights, Principle 18.
- 52 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, p.69.
- 53 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, Guideline 3.1 and UN (2011) Guiding Principles on Business and Human Rights, Commentary to Principle 19.
- 54 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, Guideline 3.2(f) and UN (2011) Guiding Principles on Business and Human Rights, Principle 19.
- 55 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, Guideline 3.1 and UN (2011) Guiding Principles on Business and Human Rights, Commentary to Principle 19.

- 56 In tea the risk is low as the sector is full regulated with labour laws during recruitment, one of the requirements during recruitment to submit the copy of National Identity which reflect the age and tea.
- 57 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, Guideline 3.1h.
- 58 Martijn Scheltema (2023) European Model Clauses, third draft, p.2.
- 59 Martijn Scheltema (2023) European Model Clauses, third draft, p.2.
- 60 OECD/FAO (2016) Guidance for Responsible Agricultural Supply Chains, p.19.
- 61 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, p.69.
- 62 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, Guideline 3.2(f).
- 63 UN (2011) Guiding Principles on Business and Human Rights, Principle 19.
- 64 UN (2011) Guiding Principles on Business and Human Rights, Principle 20.
- 65 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, Guideline 4.1(a).
- 66 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, Guideline 4.1c.
- 67 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, Guideline 4.1b.
- 68 UN (2011) Guiding Principles on Business and Human Rights, Principle 21.
- 69 UN (2011) Guiding Principles on Business and Human Rights, Commentary to Principle 21.
- 70 OECD (2023) Guidelines for Multinational Enterprises on Responsible Business Conduct, p. 21, Guideline 5.1c.
- 71 UN (2011) Guiding Principles on Business and Human Rights, Commentary to Principle 21.
- 72 OECD (2023) Guidelines for Multinational Enterprises on Responsible Business Conduct, p.21, Guideline 5.1 and Commentary 32 on Chapter III: Disclosure.
- 73 OECD watch (2023) Meaningful Stakeholder Engagement 2.0.?: Tracing Developments in the Revised 2023 OECD Guidelines for Multinational Enterprises. Available at: <https://www.oecdwatch.org/meaningful-stakeholder-engagement-2-0-tracing-developments-in-the-revised-2023-oecd-guidelines-for-multinational-enterprises/>
- 74 OECD (2023) Guidelines for Multinational Enterprises on Responsible Business Conduct, Commentary 28 on Chapter II: General Policies and UN (2011) Guiding Principles on Business and Human Rights, Commentary to Principle 21.
- 75 OECD (2023) Guidelines for Multinational Enterprises on Responsible Business Conduct, Guideline 5.1 and Commentary 39 on Chapter III: Disclosure.
- 76 UN (2011) Guiding Principles on Business and Human Rights, Principle 22.
- 77 OECD (2018) Due Diligence Guidance for Responsible Business Conduct, Guideline 6.2.
- 78 UN (2011) Guiding Principles on Business and Human Rights, Commentary to Principle 22 and 31.



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