

ISEAL Briefing Note

Corporate due diligence, sustainability standards and certification

Insights and reflections on integrating voluntary sustainability standards into corporate due diligence policies

The rise of mandatory corporate due diligence is driving companies to develop more sustainable and responsible business practices in both their operations and supply chains. This is an encouraging development for ISEAL and our membership, which are mission-driven organizations that seek to achieve the same goals.

With new laws and frameworks coming into force, companies across all sectors are starting to ask what implementation looks like in practical terms. Specifically, many need to know how they can use existing sustainability standards and certification systems, or similar supply chain initiatives, to carry out such due diligence and demonstrate compliance.

This briefing captures broader insights from a project ISEAL implemented with support from the German International Development Agency (GIZ) in 2018-2019, in which we explored the implications and linkages between corporate due diligence processes and voluntary sustainability standards.

By no way exhaustive, the insights in this note are structured around four questions which a company will need to consider when looking at integrating voluntary sustainability standards or other 3rd party initiatives into its due diligence process cycle. This note is based on the main concepts of corporate due diligence as set out in the [OECD Due Diligence Guidance for Responsible Business Conduct](#). It complements the guidance provided by the OECD on how company can work with 3rd party initiatives – this is specifically covered on page 51-53 of the OECD Due Diligence Guidance.

Disclaimer; this note provides insights and advice but should not be considered as legal guidance for companies working towards compliance against specific regulations.

Which due diligence risks and issues does a standard address?

The first question relates to scope: companies need to understand to what degree an external standard covers various criteria or requirements, and how this overlaps with the need to identify and address various due diligence risks.

- Each company faces a set of specific risks and issues. An adequate due diligence process will start with a comprehensive assessment and mapping of these risks across the company's operations and supply chain.
- Most voluntary standards systems cover a fixed set of issues related to a commodity, production process or economic activity, which are updated with every standard revision. These sustainability criteria are often directly related to corporate due diligence risks. Where developed through a robust multi-stakeholder process, voluntary standards can and have set global reference points for acceptable or 'good' practice.
- While the issues identified and included in a standard will likely be the same due diligence risks a company in that sector will need to address, there will almost certainly be additional risks for the company to identify and tackle. Most standards can progressively expand or refine their criteria with each revision to better fit recurring due diligence risks (and for example, align with due diligence frameworks such as the OECD sector guidelines).
- Where there is a clear alignment on risks and issues between a standard systems and companies due diligence risks, a standard becomes a viable tool for companies to integrate. Before doing so however, there are a number of other aspects of the standard system that companies should assess.

What part of a supply chain does a standard cover?

When a standard includes a certain risk or sustainability issue, it might not assess all actors in a company's supply chain against this. Hence, a second question relates to the different supply chain actors that are covered by a standards system.

- Usually standards have been designed to address risks at the production level (farmers, fisheries, factories, mines, etc). Hence, a standard might not address sustainability issues for other actors within a given supply chain - the processors, traders, middle-men, manufacturers or others – for which the company might need to carry out additional due diligence efforts.
- Many certification and standards systems have a chain of custody model or traceability approach, which is critical for downstream actors to understand who they are sourcing from. However, a Chain of Custody standard might only prescribe handling processes, and not include social abuses or environmental issues that could occur across the supply chain
- Many certification standards use a mass-balance model to combine volumes of certified with non-certified materials. For a rigorous due diligence process, all materials or volumes would need to be subjected to some level of risk assessment and management. Standards can adapt to this by ensuring that a minimum level of due diligence is applied against all materials by the operators in a chain of custody.

How effective is the monitoring and verification of risks and impacts?

A key challenge for companies and standards systems alike is identifying exactly which entities in their supply chain are exposed to risks and where actual negative impacts (deforestation, labour exploitation, etc) are occurring.

- The main instruments used for monitoring and detection are site-audits or similar assessments, as well as disputes or incidents flagged by workers and other stakeholders.
- Through certification, standards systems can provide supply chain data and information in a consistent manner. Credible standards are looking at innovative ways to disclose more and better data from their assessments. This data can subsequently be used to better inform company's due diligence efforts.
- Certain issues remain difficult to assess and detect through 'traditional' audits or dispute mechanisms. ISEAL is working with its members to improve the 'diagnostic tools' standard systems can use to better identify both risks and actual non-compliances.
- Companies looking for an effective certification or audit-programme should at a minimum consider the quality, impartiality of audit procedures, while also understanding its limits.
- While many companies are putting in place their own monitoring regimes and programmes, or use for-profit platforms and consultancies to do auditing, these are often a 'black box'. In-house or 'on-demand' programmes that lack impartiality, transparency or rigour should not be considered adequate due diligence approaches.

How does a standard enable prevention, mitigation or remediation?

When adverse impacts have occurred, companies are expected to put in place preventative or mitigating actions, or collaborate in a remediation process.

- At a minimum, a standards systems needs to provide timely and accurate data and information that allows companies to take action.
- When a major non-compliance is detected, a standard system will usually de-certify or expel a producer or company if the problem is not mitigated or prevented within a limited window of time. De-certification can send a clear market signal and allows companies to react and use their leverage appropriately. However, de-certification might not necessarily mean that solutions are in place to remediate or mitigate a given problem from a longer-term, structural perspective.
- Some standards systems have started developing 'remediation pathways' that involve practical solutions to problems such as child labour. Other standards are focussing on facilitating progressive improvements, meaning that producers in their programmes might be facing serious issues, but they are incentivized to progressively address and improve these over time.

The future of voluntary standards as due diligence tools

All of the above issues need to be well understood as companies develop their due diligence policies and consider the role of external standards systems or industry initiatives as part of it. For several steps in the corporate due diligence cycle, these can provide a piece of the solution, but companies will need to use them effectively.

To reiterate, even the most credible and effective standards system cannot replace the need for each company to develop its own due diligence policy and procedures. However, where a credible standards system or industry initiative is available, widely used, and credible, it makes sense that companies should align and build on them, rather than developing parallel approaches in isolation. It is important to reflect on the implications of company's implementing due diligence policies without leveraging sector wide-tools such as multi-stakeholder standards. In such scenario, lack of consistency and coherence in due diligence policies could easily create further fragmentation, confusion along supply chains, adding to the burdens already placed on upstream actors and producers.

The above risks are compounded by the fact that due diligence regulations or frameworks do not mandate or regulate effective and equitable cost-sharing across supply chain actors. It is often unclear who will carry the costs of meaningful due diligence. Tellingly, most suppliers and producers in non-EU countries are not aware of the new due diligence regulations and what these mean for them, which points to the need for more awareness raising.

In the end, the effectiveness of any corporate due diligence legislation in changing harmful practices in supply chains will come from their ability to harness and steer collective market signals and channel investments to the most risky areas and producers.

As due diligence on sustainability and human rights issues becomes mainstream practice among companies, it's important that existing tools for sustainable market transformation, such as credible sustainability standards, become an intrinsic part of this conversation.

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